

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

DATE: March 11, 2014
TIME: 4:00 PM
PLACE: Burgaw Municipal Building
BOARD MEMBERS PRESENT: Mayor Eugene Mulligan
Mayor Pro-tem Howard Walker
Commissioners Jan Dawson, Wilfred Robbins, Charles Rooks and Elaine Tyson
STAFF PRESENT: Chad McEwen, Town Manager
Sylvia W. Raynor, Town Clerk
Robert Kenan, Town Attorney
Rebekah Roth, Planning Administrator
Bill Fay, Director of Public Works
Louis Hesse, Building Inspector
Ashley Loftis, Finance Officer
Montrina Sutton, Chief of Police
Kristin Wells, Deputy Clerk
Allen Wilson, Fire Administrator
MEDIA PRESENT: Andy Pettigrew – The Pender Post
INVOCATION: Nick Smith, Chaplain
PLEDGE OF ALLEGIANCE: All

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

Approval of Agenda

Mayor Mulligan requested approval of the agenda. There being no requests for amendments, Commissioner Dawson made a motion to approve the agenda as presented. The motion was seconded by Commissioner Walker and carried by unanimous vote.

Approval of Consent Agenda

Mayor Mulligan requested approval of the consent agenda. There being no requests for amendments, Commissioner Robbins made a motion to approve the consent agenda as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote. The consent agenda and the following items were approved:

- A. Minutes of the February 19, 2014 Regular meeting and Closed Session

PROCLAMATION – Appreciation of Amos Lanier for Eagle Scout Project

Mayor Mulligan read a proclamation of appreciation for Amos Lanier for the completion of his Eagle Scout project which included landscaping and illumination of the recently renovated old jail.

PROCLAMATION – Arbor Day

Mayor Mulligan read a proclamation declaring March 21, 2014 as Arbor Day in Burgaw.

DEPARTMENTAL ITEMS

Finance – Ashley Loftis, Finance Officer

Resolution 2014- 03 Approving Audit Contract

Ashley Loftis, Finance Officer advised at the conclusion of the FY 12-13 audit, our contract with Thompson, Price, Scott, Adams & Co ended. At this point we decided to submit a Request for Proposal (RFP) to a list of firms provided by the Local Government Commission (LGC). These firms have experience in conducting municipal audits in years past. Proposals were accepted until February 28th.

Ms. Loftis advised the proposals received were evaluated based on experience, qualifications of personnel, audit approach, and lastly cost. Two firms submitted proposals while several other firms respectively declined to submit a proposal.

	<u>FY 13-14</u>	<u>FY 14-15</u>	<u>FY 15-16</u>
Thompson, Price, Scott, Adams & Co., P.A	\$12,150	\$12,150	\$12,150
Carr, Riggs, Ingram CPA's	\$16,320	\$16,700	\$17,100

Ms. Loftis informed the Board after careful review of these quotes she feels that the best fit for the Town of Burgaw audit would be Thompson, Price, Scott, and Adams. She advised their proposal came in \$1,100 under budget compared to the current year's budgeted amount of \$13,250.

The recommendation is the approval of the resolution approving a contract with Thompson, Price, Scott, Adams & Co., P.A. for the Town of Burgaw's annual financial & compliance audit.

After a brief discussion, Commissioner Robbins made a motion to approve Resolution 2014-03 as presented. The motion was seconded by Commissioner Walker and carried by unanimous vote. Commissioner Robbins mentioned taking another look at hiring a different firm when the three year contract expires.

**RESOLUTION 2014-03
RESOLUTION APPROVING A CONTRACT WITH THOMPSON, PRICE, SCOTT, ADAMS, CO., PA FOR ANNUAL
AUDIT**

WHEREAS, the Town is required by the Local Government Commission (LGC) to conduct an annual financial audit; and

WHEREAS, an audit for fiscal year 2013-2014 will be due by October 31, 2014; and

WHEREAS, requests for proposals were issued for financial and compliance audit services and proposals received were evaluated initially on experience and qualifications of personnel and, secondarily, on audit approach and costs; and

WHEREAS, two proposals were received as follows:

	<u>FY 13-14</u>	<u>FY 14-15</u>	<u>FY 15-16</u>
Thompson, Price, Scott, Adams & Co	\$12,150	\$12,150	\$12,150
Carr, Riggs, & Ingram CPA's	\$16,320	\$16,700	\$17,100

NOW THEREFORE, BE IT RESOLVED BY THE TOWN OF BURGAW BOARD OF COMMISSONERS THAT:

The audit contract for the 2013-2014 audit and preparation of financial statements is awarded to Thompson, Price, Scott, Adams & Co., P.A. in the amount of \$12,150 (a decrease of \$1,100 from FY 2012-2013).

Adopted this 11th day of March 2014.

Resolution 2014- 04 Approving Phone Tree Contract

Ms. Loftis advised during the budget workshop for the FY 13-14 budget the implementation of a phone tree system (emergency notification system) was established as a priority. During this process, the Town budgeted \$3,000 for this project. We solicited quotes for quite some time and received five quotes. We found that this phone tree system will be very easy to use by Town staff and be extremely beneficial to Town citizens.

Ms. Loftis advised each of the quotes received outlined what their product offers, any additional features, the cost of initial implementation, and the yearly maintenance cost. She advised after careful review of these quotes, she feels that the best fit for the Town of Burgaw would be CodeRED. Ms. Loftis advised this is the same emergency notification system that Pender County uses.

After a brief discussion, Commissioner Tyson made a motion to approve Resolution 2014-04 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**RESOLUTION 2014-04
RESOLUTION APPROVING A CONTRACT WITH CodeRED FOR THE TOWN OF BURGAW PHONE TREE**

WHEREAS, the Town of Burgaw wishes to implement an emergency notification system (phone tree); and

WHEREAS, the emergency notification system will allow the Town to have the capability of notifying Town residents in the event of an emergency or non-emergency situation; and

WHEREAS, pursuant to the these wishes quotes were received from various companies that offer an emergency notification system to municipalities; and

WHEREAS, one of the companies submitted a quote that came in under budget at \$2,520; and

WHEREAS, the emergency notification system will not require a monthly maintenance fee, only the annual license cost with CodeRED of \$2,520.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN OF BURGAW BOARD OF COMMISSONERS THAT:

The contract for an emergency notification system (phone tree) be awarded to CodeRED in the amount of \$2,520 as well as an annual license fee of \$2,520.

Adopted this 11th day of March 2014.

Planning –*Rebekah Roth, Planning Administrator*

Resolution 2014-05 Consideration of a Resolution of Support for the Mountains-to-Sea Trail route through Pender County and Town of Burgaw and requesting the designation of the Osgood Canal Greenway & Trail as a permanent section of the Mountains-to-Sea Trail

Rebekah Roth, Planning Administrator advised for the past several months, representatives from the Friends of the Mountains-to-Sea Trail and area planners, interested citizens, and organizations have worked to develop a hiking and biking route through Pender County. The route through Pender County is part of a new route through southeastern North Carolina that includes Sampson, Bladen, Pender, and Onslow Counties. Part of the Pender County trail will incorporate the Osgood Canal Greenway and Trail and position Burgaw as a point of interest and restocking post.

Ms. Roth advised Kate Dixon, Executive Director of Friends of the Mountains-to-Sea Trail, is requesting the town pass the attached Resolution of Support for this proposed route. She is also asking we send a copy of this resolution to the North Carolina Division of Parks and Recreation and Pender County’s Legislative Delegation to inform them of the town’s interest in having the Osgood Canal Greenway and Trail permanently designated as a segment of the Mountains-to-Sea Trail.

After a brief discussion, Commissioner Robbins made a motion to approve Resolution 2014-05 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**RESOLUTION 2014-05
RESOLUTION OF SUPPORT FOR THE MOUNTAINS-TO-SEA TRAIL ROUTE THROUGH PENDER COUNTY AND TOWN OF BURGAW AND REQUESTING THE DESIGNATION OF THE OSGOOD CANAL GREENWAY & TRAIL AS A PERMANENT SECTION OF THE MOUNTAINS-TO-SEA TRAIL**

WHEREAS, the Town of Burgaw has extraordinary natural, cultural, and historic features including the Osgood Canal Greenway and Trail, the Burgaw Train Depot, Pender County Courthouse, and a welcoming downtown with stores, restaurants, and historic homes;

WHEREAS, the Town of Burgaw would like to highlight these natural, cultural, and historic features for the enjoyment, health, and economic benefit of its citizens and visitors;

WHEREAS, the Mountains-to-Sea Trail runs 1,000 miles from the Great Smoky Mountains to the Outer Banks to showcase North Carolina’s natural, rural, cultural, and historic features;

WHEREAS, North Carolina's Mountains-to-Sea Trail is a unit of the State Park System created and maintained in partnership with local, state, and federal governments and citizen groups;

WHEREAS, the North Carolina State Parks designates official sections of the Mountains-to-Sea Trail but has not yet designated many miles of trail in the Coastal Plain;

WHEREAS, Friends of the Mountains-to-Sea Trail (FMST) provides a "current" route of back roads and trails between the State Park-designated sections of the Mountains-to-Sea Trail so that people can hike across the state;

WHEREAS, FMST is developing a new "current" route for the trail through Sampson, Bladen, Pender, and Onslow counties that will use existing trails and back roads to help people explore this special part of North Carolina;

WHEREAS, the "current" route being developed by FMST will take hikers through downtown Burgaw on the Osgood Canal Greenway and Trail starting in late summer 2014; and

WHEREAS, the Town of Burgaw is interested in having State Parks designate the Osgood Canal Greenway as a permanent section of the Mountains-to-Sea Trail;

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

Section 1: The Board of Commissioners welcomes Mountains-to-Sea Trail hikers to our Town when FMST publishes directions for the new "current" route in late summer 2014.

SECTION 2: The Town of Burgaw will inform the North Carolina Division of Parks and Recreation and Pender County's Legislative Delegation of our interest in having the Osgood Canal Greenway permanently designated as a segment of the Mountains-to-Sea Trail.

ADOPTED this the 11th day of March 2014.

ITEMS FROM ATTORNEY

Discussion – Public Funding of Non-Profits

Attorney Kenan advised at last month's meeting Commissioner Rooks asked for information about public funding of private organizations. He advised that public generated funds (tax revenue) should be spent for public purpose. He advised that support for little league baseball/softball teams and other such organizations should be supported with income from non-tax sources. He recommended using film revenues (or other non-tax sources) to support such non-profits. Attorney Kenan also said if the town is giving funds to a non-profit and that donation exceeds \$1000 that entity will have to produce financial records to show proof of where the funds are spent. Mr. Kenan advised there would need to be a separate line item set up that would designate donations from a non-tax revenue line item. There was a lengthy discussion regarding this issue.

ITEMS FROM MANAGER

Resolution 2014-06 Approving Job Description for Public Works Administrative Assistant

Mr. McEwen advised the large number of departments in the public works division generates a lot of paperwork that generally must be taken care of by the Public Works Director. He said in speaking with Bill Fay, Public Works Director, it has been determined that an administrative assistant in the office would be of great benefit to the department as well as to the town. Mr. McEwen informed the Board there are currently four vacancies in the public works department and that this position will fill one of those four vacancies. The attached job description shows the tasks that are necessary to the department and currently those tasks are being handled by the Public Works Director along with the many other duties he has. Mr. McEwen advised this position will work at the Public Works facility. After a brief discussion, Commissioner Robbins made a motion to approve Resolution 2014-06 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**RESOLUTION 2014-06
APPROVING A JOB DESCRIPTION FOR A
PUBLIC WORKS ADMINISTRATIVE ASSISTANT**

WHEREAS, The Town of Burgaw Public Works Department is a vital part of the day to day operations of the Town; and

WHEREAS, It has become necessary to require administrative assistance in the Public Works Department due to the overload of paperwork and phone inquiries received on a daily basis; and

WHEREAS, The presence of an administrative assistant in the Public Works office on a full time basis would help alleviate the stress on the Public Works Director of trying to maintain an office presence while attempting to take care of field work and supervise staff that are away from the Public Works site; and

WHEREAS, Currently the Public Works Department has four vacancies and is in the process of advertising two of the four vacant maintenance positions; and

WHEREAS, It has been determined that it will be in the best interest of the Public Works Department and the Town of Burgaw to fill one of the four vacancies with an administrative assistant in order to more efficiently serve the public in the future.

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

Section 1: The attached job description for a Public Works Administrative Assistant is hereby approved.

Section 2: This position will be considered open upon approval of this resolution and the Public Works Director will seek to fill this position with the most qualified applicant.

Adopted this eleventh day of March, 2014.

**Attachment to Resolution 2014-06
CLASS TITLE: PUBLIC WORKS ADMINISTRATIVE ASSISTANT**

PURPOSE OF CLASS: Under general supervision, performs a variety of routine typing, receptionist, and general clerical and secretarial tasks; performs administrative support for the department; performs related work as required. Pursuant to the Town's Organizational Chart, this position reports directly to the Public Works Director.

PRIMARY TASKS:

- Prepares and maintains a variety of reports and forms using Microsoft Word, Excel, and Outlook.
- Types routine correspondence such as letters, memoranda, articles and other materials relating to specialized fields of work.
- Acts as receptionist in receiving, assisting, and directing callers, making appointments, and answering the telephone.
- Organize and maintain the Backflow program within the department.
- Processes invoices and prepares them for payment; ability to submit them to the Finance Department in a timely manner.
- Prepares time sheets, leave slips, and calculates time cards for bi-weekly payroll.
- File and maintain various department records.
- Manages work order system, creates work orders and enters information into database.
- Communicates via phone, email, and fax with Town Hall Administration Department.
- Provides specific technical information regarding department's/town's functions to the public and other employees.
- Handles requests for service, complaints and other public contact work.
- Dispatch calls using a two-way radio.
- Inventories and orders supplies required office supplies.
- General clerical duties including photocopying, fax, and mailing.
- Performs other duties as required.

EQUIPMENT OPERATED:

- Computer terminal, telephone, copier, scanner, fax machine, two-way radio, adding machine, and other assigned office equipment.

WORKING CONDITIONS:

- Work is generally sedentary requiring some light physical activity. Must be able to lift up to 30 lbs. Must possess visual acuity, hearing, touching and the full use of arms, hands and fingers to compile computer data, and to perform clerical task operating a computer terminal.

EDUCATION:

- Graduation from an accredited high school; supplemental with computer operating, typing, and office practice courses preferred.

EXPERIENCE:

- Some experience of a general office clerical nature required; or any equivalent combination of education and experience that provides the required knowledge, skills and abilities.

KNOWLEDGE, SKILLS AND ABILITIES:

- Thorough knowledge of vocabulary, grammar, English, spelling, office management procedures, record keeping, filing systems, secretarial and bookkeeping practices and procedures.
- Knowledge of the forms, terminology, methods and procedures used in a Public Works Department.
- Knowledge of Town policies regarding sanitation pick-up, yard debris pick up schedule, general maintenance procedures, etc.
- Skill in operation of a computer, calculator, and other office machines.

- Skill in maintaining filing systems for a variety of Public Works records.
- Initiative, good judgment and ability to budget time wisely.
- Ability to deal courteously with citizen phone calls, complaints, etc.
- Ability to maintain effective working relationships with other employees.
- Skill in written and verbal communication.
- Skill in planning and organizing.
- Skill in problem assessment and problem solving.
- Attention to detail and accuracy.
- Ability to be a team player, flexible, and adaptable.
- Ability to coordinate a variety of clerical duties simultaneously.

SPECIAL REQUIREMENTS:

- Valid driver's license.

Resolution 2014-07 Approving Contract Amendment 3 with Kimley Horn and Associates Related to Phase 2 of the Sanitary Sewer Rehabilitation Project

Mr. McEwen advised as a result of A.C. Schultes missing substantial completion deadline (December 20, 2013) as well as the final completion deadline (January 20, 2014) additional engineering services and resident project representative services beyond the original scope of the contract are required. These additional services constitute the attached contract amendment (Amendment No. 3 is on file in the clerk's office).

Mr. McEwen said in order to collect these incurred liquated damages and the additional expenses due to the liquidated damages the Town plans to deduct expenses off each future pay request in order to prevent have to collect the lump sum payment of liquidated damages and additional expense at the end of the contract.

Mr. McEwen informed the Board the additional engineering services requested in Amendment 3 to the Engineering contract will either be deducted from monies due the Contractor in accordance with the Contract Documents, or used to pay for additional engineering services related to additional work requested by the Town to spend the construction contingency budget (approximately \$150,000). The money budgeted for each is as follows:

1. \$12,000 for additional engineering services *during the construction period* due to the Contractor's errors, omissions or failure to conform to the requirements of the Contract Documents. This will be deducted from monies due the Contractor. He has indicated he is in agreement with this amount.
2. \$77,000 for additional engineering services *after the construction period* for work that was not completed within the time set forth in the Contract.

Mr. McEwen advised this will predominantly be deducted from monies due to the Contractor as liquidated damages. A small portion of this may be used to pay engineering fees for additional work added to the Contract at the request of the Town. These fees will be reimbursed by USDA Rural Development from the additional construction budget.

Chris Ford, Engineer was present to answer questions. After a brief discussion, Commissioner Rooks made a motion to approve Resolution 2014-07 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

RESOLUTION 2014-07

Resolution Approving Contract Amendment 3 with Kimley Horn and Associates Related to Phase 2 of the Sanitary Sewer Rehabilitation Project

WHEREAS, additional construction administration as well as resident project representative services are required due to A.C. Schultes inability to meet the substantial and final completion deadlines (December 20, 2013, January 20, 2014 respectfully) as specified in the contract for Phase 2 of the Sewer Rehabilitation Project; and

WHEREAS, these additional services are estimated to cost approximately \$89,000; and

WHEREAS, these additional costs are expected to be paid by A.C. Schultes prior to any final pay request being processed by the USDA Rural Development or the Town of Burgaw; and

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

Section 1: A contract amendment in the amount of \$89,000 is hereby approved with Kimley Horn and Associates for additional construction administration as well as resident project representative services are required due to A.C. Schultes inability to meet the substantial and final completion deadlines (December 20, 2013, January 20, 2014 respectfully) as specified in the contract for Phase 2 of the Sewer Rehabilitation Project.

SECTION 2. The Board hereby authorizes the Mayor or Town Manager to execute the necessary contract amendment related to the above referenced project.

ADOPTED this the 11th day of March, 2014.

Discussion Item – Filling reserve WWTP tanks

Mr. McEwen advised there are several reserve tanks at the old wastewater treatment plant three of which will be used for emergency storage and the remaining tanks have no purpose. He said all the tanks are holding water and are very deep and present a liability. He said this property is subject to our liability insurance and could present a risk if safety precautions are not taken. He advised they keep the gate locked and also have a barbed wire fence but he would like to consider filling those tanks that are not needed for emergency storage. Mr. McEwen and Mr. Fay have discussed filling the tanks that will not be used for storage with fill dirt. He advised they also have discussed putting ladders inside the remaining tanks that will be used for storage and leaving a couple of feet of water in the bottom in the event that someone does fall in the water will help break the fall and they will be able to get out with the ladder.

Attorney Kenan advised there should be at least eight no trespassing signs posted on the fence. Commissioner Rooks said he would like to see a diagram of which tanks need to be filled in and which tanks will be left open for use. Mayor Mulligan suggested arranging a time for board members to visit the plant to see for themselves what can be done.

Discussion – Damaged fire hydrant

Mr. McEwen advised that a fire hydrant at the intersection of Smith Street and Bridgers Street was knocked over. He advised he has received three quotes. He advised he would like permission to go ahead and hire T. A. Loving to do the repairs even though their quote is \$900 higher than Skipper because T. A. Loving is currently in town working on the sewer re-hab project. He said T. A. Loving can get on this project right away and it will be at least two weeks before Skipper can be here. Mr. McEwen advised the fire hydrant is in such condition that it could be hit by another vehicle and possibly further damage the hydrant or the water main. He asked the Board if they would consider approving a contract with T. A. Loving in the amount of \$10,302.50 to be taken out of the water/sewer fund. He said he will bring back a resolution next month for formal adoption.

After a brief discussion, Commissioner Robbins made a motion to approve a contract with T. A. Loving in the amount of \$10,302.50 for the repair of the fire hydrant at Smith and Bridgers Streets. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

Nuisance Property Discussion

Mr. McEwen advised there continues to be issues with foreclosed properties and lack of maintenance for those properties. He said there is a property located on NC Hwy 53 that is in foreclosure and there are tree limbs down around the house; it is very unsightly and the adjacent property owners have complained. Mr. McEwen said the banks don't respond to the letters from the town and nothing ever gets done until the house is sold. There was much discussion regarding the issue but no solution to the problem was offered.

BREAK

Mayor Mulligan called for a break at 5:10PM. The meeting reconvened at 5:18PM.

ITEMS FROM MAYOR

Consideration of Request for pedestrian improvements from Burgaw Elementary School to the Pender County Library

Mayor Mulligan advised he has received a request from Burgaw Elementary School to repair the sidewalks along a route from the school to the Pender County Library as well as a provision for a crosswalk at Wilmington and Wright

Streets. After much discussion, Commissioner Dawson made a motion to refer this issue regarding pedestrian improvements from Burgaw Elementary School to the Pender County Library to the infrastructure board for further review. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

Continuation of Discussion Regarding Spring Festival Committee Request

Mayor Mulligan advised it is necessary to continue the discussion regarding Spring Festival Committee requests to further define the needs for town support of the festival. Mr. McEwen advised he has a copy of the events application that was completed by Ross Harrell which details the requests of the committee. Vernon Harrell was present on behalf of the Spring Festival Committee. Mr. McEwen advised the application lists the following requests for the Spring Festival: \$1,000 grant from the town, use of the depot dock for the square dance, three officers for the 5k run, street closures with barricades (map included), two to three police officers for Friday (square dance) and Saturday 5k, two officers for the festival, trash cans and recycling containers, stage and picnic table delivery and electricity on the courthouse square.

Commissioner Tyson questioned whether or not the committee would have to pay the fee for use of the depot dock. Commissioner Robbins suggested donation of the use of the depot dock since the Blueberry Festival is allowed to use it at no charge.

There being no further discussion, Commissioner Robbins made a motion to approve the following requests for the Spring Festival; use of dock space at depot for square dance on Friday evening at no charge, \$1000 contribution, up to five police officers, coordinate with Waste Industries for delivery of 12 garbage roll carts, delivery of stage and picnic tables and coordination of turning on electricity on square and for town to pay electric bill. The motion was seconded by Commissioner Walker and carried by unanimous vote.

ITEMS FROM BOARD OF COMMISSIONERS (This item was moved to the end of the meeting.)

PUBLIC FORUM

Monique Kirby, 114 N Cowan Street asked the Board to consider pushing this meeting back an hour in order for the public to have more time to get settled before having to come to the meeting.

Vernon Harrell deferred until the roundabout discussion later on the agenda.

PUBLIC HEARINGS

Public Hearing #1 Continuation of public hearing of February 11, 2014 in regards to consideration of an amendment to the official Town of Burgaw Zoning Map. Pender County, is requesting rezoning of a 34 acre tract located between Worth Beverage Drive and US Hwy 117 from R-20 to I-1 – Rebekah Roth, Planning Administrator

Rebekah Roth, Planning Administrator reviewed the following background information.

General Information. Applicant Kyle Breuer, on behalf of Pender County, has requested the rezoning of approximately 34 acres from R-20 (Residential) to I-1 (Light Industrial). The tract fronts both US Hwy 117 and Worth Beverage Dr. Along 117, it is across the street from and immediately adjacent to property zoned R-20. On the Worth Beverage Dr. side, it is adjacent to both I-1 zoned tracts and O&I properties (Creekside subdivision). Currently, the subject tract has one residential structure fronting US Hwy 117.

Zoning District Information

The R-20 Residential zoning district is established by the Unified Development Ordinance (UDO) as a district in which the principal use of land is for low density residential uses.

The I-1, Light Industrial, zoning district is defined by the UDO as “intended to provide for industrial and other uses which would not be inherently obnoxious and yield only very minimal noise, odor, smoke, light, vibration, dusts, or the use of dangerous chemicals and/or materials. Adequate buffering between uses is limited to support the environmental protection of the district and the surrounding areas of Burgaw.”

(A list of all uses currently allowed in the R-20 and I-1 districts is attached.)

Analysis. In considering this request, the Planning Board considered the following items (in no particular order):

- Best use of the property

- Financial impacts on the town
- Potential impacts on adjacent properties
- Conformity to the Burgaw 2030 Comprehensive Land Use Plan
- Spot zoning and other legal issues

Best use of the property

The subject tract is not located in any floodplain. In addition, the property does not include hydric soils or potential wetlands. Town water and sewer is available off Worth Beverage Drive, and county utilities are accessible along US Hwy 117. Due to these factors, its size, and its location both in the industrial area and along a major corridor, this property is suitable for more intensive development.

Financial impacts on the town

The rezoning of this property will not require additional infrastructure or services. If any of the uses allowed in the I-1 zoning district are developed, they will be able to either request annexation from the town or pay double water/sewer rates for town utilities. At the Planning Board meeting, County staff indicated that the County intends to request annexation from the town. However, the County only currently plans to purchase a portion of the existing property; the remainder (about 10 acres) will be retained by the current owner, William Harvey McLean, who does not intend to request annexation for that portion.

Potential impacts on adjacent properties

The majority of the adjacent properties are vacant or residential. It is possible that rezoning this tract to I-1 will open up intensive uses near residences, especially along US Hwy 117 and the rear of the Creekside subdivision. The town would require buffering or other ways of mitigating any potential impacts on any conditional uses; however, we do not currently have regulations in place to require buffers for all uses permitted as a use-by-right.

Conformity to the Burgaw 2030 Comprehensive Land Use Plan

I have attached a list of all of the goals, policies, and actions of the comprehensive land use plan pertinent to this proposed rezoning. The recommendations of the land use plan are somewhat contradictory. On the one hand, the plan aims to promote infill development in areas with existing infrastructure; on the other hand, it supports the preservation of existing agricultural lands. The land use category indicated for the property seeks to retain rural character; however, this tract is adjacent to a major highway and does not have environmental concerns, like other properties in the Rural Character land use category.

Spot zoning and other legal issues

Because of the adjacent industrially zoned tract, spot zoning is not a concern. There are no other legal issues with this proposed rezoning.

Other

In the attached narrative provided by Pender County, the applicant requests that the rezoning take effect contingent on a successful voluntary annexation.

Planning Department Recommendation

Based on the best use of the property and surrounding uses, an I-1 zoning designation would likely be beneficial to the town as a whole, especially on the portion fronting Worth Beverage Dr. However, because this is not in strict conformance to the Future land Use Map, the Board should consider a potential amendment to the land use plan if this land is rezoned.

Planning Board Review. At their January 16, 2014 meeting, the Town of Burgaw Planning and Zoning Board approved the following statements.

Statement Regarding the Compliance of a Proposed Amendment to the Town of Burgaw Official Zoning Map with the Burgaw 2030 Comprehensive Land Use Plan

The proposed rezoning conforms to the following portion of the Burgaw 2030 Comprehensive Land Use Plan:

- Encourage development in areas where the necessary infrastructure—roads, water, sewer, etc.—are available, planned, or can be most cost effectively provided and extended to serve existing and future development (Land Use Goal 1, Policy 1)

However, it is not in conformity with the following portions of the Burgaw 2030 Comprehensive Land Use Plan:

- To preserve existing agricultural and forest lands (Agriculture and Forestry Goal 1)
- Future Land Use Map designation of Rural Character land use category, which only recommends low-density residential, agricultural, forestry, and recreational land uses

Planning Board Recommendation Regarding a Proposed Amendment to the Town of Burgaw Zoning Map

The Town of Burgaw Planning and Zoning Board recommends approval of the proposed rezoning of property 3228-8801880-0000, excepting the 10 acres retained by Mr. McLean, from R-20 to I-1, contingent on the county providing a survey map of the property they are purchasing to the Board of Commissioners before they hear the request.

Pender County has submitted a surveyed plat depicting the approximately 32 acres they are intending to purchase, as requested by the Planning Board (see attached plat and zoning map showing the Planning Board’s recommended rezoning). Only this portion is designated for rezoning in the attached Ordinance.

The County’s request to have the rezoning be contingent on the annexation was discussed at the Planning Board meeting. Approval of the rezoning cannot be contingent on a specific condition, but we can delay the date on which the rezoning, if approved, will go into effect. If an annexation is denied, either the property owner or the town would be able to initiate the process to revert the property to the existing zoning, if desired. As a note, town staff does consider it in the town’s best interest to keep industrially-zoned tracts within the municipal limits. The Ordinance attached does specify that the rezoning will go into effect on April 8, 2014, the earliest possible date an annexation would go into effect.

Speakers:

Kyle Breuer, Pender County Planner Director said the county is seeking to rezone this tract to the I-1 Industrial Zoning District for the purpose of construction of a jail and law enforcement center. He advised that the transport of inmates to other counties is the largest concern of the county thereby necessitating the construction of a larger jail

facility in order to house all inmates here in the county. Mr. Breuer advised he would answer any questions regarding the rezoning and Dr. Duval could answer other questions.

Vernon Harrell spoke on behalf of Victoria Teal who is an adjacent property owner of the proposed rezoning. He advised he read a letter from Mrs. Teal last month and summarized it by saying that she objects to the location of a jail in this situation. He advised Mrs. Teal feels there are better locations in the county or around the town and it will have a serious detriment to the value of her property.

Jay Milam, owner of Creekside development, commented he has a huge investment on his property that he is trying to market. He said there are enough obstacles in marketing the property without having a jail adjacent to the property. He said he feels there could be better uses for the property. He said that is prime real estate that could increase Burgaw's tax base if marketed properly and grow Burgaw. He commented that Pender County and Pender Progress has invested heavily in the shell building (Worth Beverage Drive) to bring industry to Burgaw and that he doesn't know many industries that want to be located next to a jail. He reiterated that he feels there could be a much better use of the property.

Jason Bradshaw, representing the McLean family who owns the property being purchased by Pender County said he asked for a zoning map and learned that the Creekside development is zoned O&I and was purchased during a foreclosure on the property. Mr. Bradshaw said the Creekside property owners were very well aware that this property has always been seen as an industry type of property and they want to change that to go along with their property in St. Helena which is already I-1. He commented that he didn't realize there would be so much opposition to the rezoning and that was the reason they did not attend the February meeting. He said whether the county buys it or not, they (the McLean's) don't see anything other than industry going there.

John Westbrook provided an aerial view of Burgaw and began to point out the locations of the prison, the location of the proposed Walmart and the location of the proposed jail and maybe a courthouse. He said who wants to be surrounded by a jail or have a jail as the gateway to Burgaw. Mr. Westbrook said the proposed location of the jail is incompatible with the entire town. He said the state owns a large piece of land adjacent to the prison that would be more appropriate for a jail. Mr. Westbrook suggested going vertical with the jail by and keeping it downtown. He also expressed concerns about the possibility of moving the court system from downtown.

Rochelle Whiteside, 315 W Bridgers Street advised she certainly would not want a jail in her backyard. She said the zoning would be "industrial" but an industry in your backyard would feel very different than a jail in your backyard. She said she agrees with Mr. Westbrook that she would like to see the jail kept downtown. She said she has spoken with friends that are lawyers and she has learned that transporting prisoners from the jail to the courthouse is a fragile situation and the least amount of transport that you have like that, the safer you are. She said it is much safer to go across the street than to transport them for miles. She asked the Board to think about alternatives and commented that a jail is not industry.

Dr. Mickey Duvall, Pender County Manager advised he would like to address some questions that had been asked. He said he had been asked what would happen to the existing jail when they move out. He advised the county has formed a building and space committee to begin to look at overall space needs for the entire county. In regards to when they would move into a new jail, he advised it would be 2017-2018 before the new facility would be completed. Dr. Duvall advised when he came on board the county was looking heavily at the McLean site which was the preferred site. He advised they had looked at other sites but always came back to this one site and were able to strike a deal on this site. He advised the Pender County Board of Commissioners has done due diligence in finding a site and they feel the McLean site best meets the needs of the county. He also commented that due to wetlands and some poor soils, the roads would have to be designed around those areas with the building being on a strict footprint that is not yet available.

Commissioner Rooks asked if the state property behind the prison is a potential property. Dr. Duvall advised they have started conversations with state officials but it is not fiscally responsible. He advised the site is very wet and the soils are less supportive for a foundation than the soils on the McLean site.

There being no further discussion, Mayor Mulligan closed the public hearing at 6:04PM.

Ordinance 2014-04 Approving an amendment to the Town of Burgaw Official Zoning Map rezoning a portion of a property located between Worth Beverage Drive and US Highway 117 (PIN 3228-88-1880-0000) from R-20 to I-1

Mayor Mulligan asked for a vote on Ordinance 2014-04. Commissioner Rooks made a motion to deny the request for rezoning. The motion was seconded by Commissioner Walker and carried by unanimous vote.

Public Hearing #2 Consideration of a text change amendment to the Town of Burgaw Code of Ordinances Chapter 16, Article II, Section 16-38 Fire Prevention and Protection Code to clarify the open burning policy – Allen Wilson, Fire Administrator

Mayor Mulligan opened the public hearing at 6:05PM.

Allen Wilson, Fire Administrator reminded the Board that this issue regarding the open burning policy was discussed at last month's meeting. He said at that time it was the decision of the board for him to revisit the open burning policy and come back to the Board with a recommendation. Mr. Wilson advised the current code section that addresses open burning does require text change due to the name change of the North Carolina Department of Environmental Health and Natural Resources to the North Carolina Department of Environment and Natural Resources (NCDNER). He said he has also added the "or its successor" per Mr. Kenan's recommendation. Mr. Wilson advised that having done further research it is his opinion that the current regulation under NCDNER is sufficient and does not need changing. He said it does not allow open burning of brush in communities such as Burgaw that offer brush pickup service. However, this is not the same as burning an open field as the discussion lead to in the meeting. The current regulation allows for other types of burning such as an "agricultural field" at times and within current permitting regulations through the town and the North Carolina Forestry Service for agricultural benefit. Mr. Wilson advised he feels no other change is necessary.

After a brief discussion, Mayor Mulligan closed the public hearing at 6:11PM.

Commissioner Rooks made a motion to Approve Ordinance 2014-08 as presented. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

**ORDINANCE 2014-08 APPROVING AMENDMENT TO THE TOWN OF BURGAW
CODE OF ORDINANCES CHAPTER 16, ARTICLE II, SECTION 16-38**

WHEREAS, the current language of Chapter 16, Article II, Section 16-38 of the Town of Burgaw Code of Ordinances has adopted the opening burning laws set forth by the North Carolina Department of Environmental Health and Natural Resources; and

WHEREAS, the North Carolina Department of Environmental Health and Natural Resources has changed their name to the North Carolina Department of Environment and Natural Resources, and

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

Section 5: Sec. 16-38. - Open burning; permit. North Carolina Department of Environment and Natural Resources (NCDENR) (or its successor) regulates open burning and what materials may be burned. The town has adopted this regulation to parallel the existing regulation governing open burning and the establishment of a permitting system.

Section 6: The Town of Burgaw Code of Ordinance sections above shall become effective immediately upon approval of this ordinance this **eleventh day of March 2014**.

Public Hearing #3 Consideration of a text change amendment to the Town of Burgaw Code of Ordinances Article III, Chapter Fourteen regarding "Abandoned and Junked Motor Vehicles" – Montrina Sutton, Chief of Police

Mayor Mulligan opened the public hearing at 6:13PM.

Chief Sutton deferred this item to Attorney Kenan. Attorney Kenan advised this item is in response to Commissioner Robbins' request from last month regarding the towing of abandoned vehicles in town. Attorney Kenan advised the town has a current ordinance under chapter 14 that deals with abandoned vehicles that was

adopted in 1996. He advised since that time in 2006 the Legislature approved some additional ordinances that deal with abandoned motor vehicles and junked motor vehicles and how to handle those situations. Attorney Kenan said based on those provisions he has drafted this ordinance for consideration by the Board. He briefly reviewed the amendments to the ordinance.

Commissioner Robbins commented that he has read the ordinance and it does not seem this ordinance is addressing an abandoned vehicle. His concern was that the situation he was talking about involved a car that was legally parked in a public parking spot by an owner that had intent to return at an unspecified time to retrieve his vehicle. Attorney Kenan reviewed the section of the ordinance that pertains to affixing a notice to the vehicle that states that it will be removed by the town on a specified date if the vehicle is not claimed. After a very lengthy discussion, Commissioner Rooks said he thinks the ordinance addresses the problem that caused the issue in the beginning.

Mr. McEwen recommended changing all references to "Planning Director" to "Planning Administrator". Attorney Kenan advised under Article III it reads "to amend Town of Burgaw Code of Ordinances, Chapter 14, Article III to delete Sections 14-62 through 14-67" it should be changed to read "to amend Town of Burgaw Code of Ordinances, Chapter 14, Article III to delete Sections 14-62 through 14-87".

There being no further discussion, Mayor Mulligan closed the public hearing at 6:24PM.

Commissioner Rooks made a motion to approve Ordinance 2014-09 as amended above. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

ORDINANCE 2014-09

ORDINANCE TO AMEND ARTICLE III, CHAPTER FOURTEEN OF THE CODE OF ORDINANCES TO PROVIDE FOR ADDITIONAL ORDINANCES REGARDING ABANDONED AND JUNKED MOTOR VEHICLES

WHEREAS, North Carolina General Statute §160A-303 and §160A-303.2 authorizes municipalities to regulate the removal and disposal of junked and abandoned motor vehicles within a municipalities' jurisdiction; and

WHEREAS, the Town of Burgaw has previously adopted Ordinance No. 1996-6 on August 12, 1996 to regulate abandoned and junked motor vehicles within its jurisdiction; and

WHEREAS, a request from a member of the Town's governing body has been made for the Town's Board of Commissioners to consider amending the Town's Code of Ordinances, in accordance with North Carolina stator law for the abandonment and junked motor vehicles, to allow the town to have greater police powers in towing abandoned and junked motor vehicles within the town's corporate limits;

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

I. To amend Town of Burgaw Code of Ordinances Chapter 14, Article III, Section 14-61 to add the following definitions

Aesthetic junked motor vehicle: As defined in N. C. Gen. Stat. sec. 160A-303.2, a motor vehicle on public or private property that does not display a current license plate and that:

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- (3) Is more than five years old and appears to be worth less than \$100.00.

Authorizing official: The Chief of Police or the Planning Administrator or their respective designee.

Junked motor vehicle: As defined in N. C. Gen. Stat. sec. 160A-303, the term junked motor vehicle is a vehicle that is an abandoned motor vehicle that also:

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self-propelled or moved in the manner in which it was originally intended to move; or
- (3) Is more than five years old and worth less than \$100.00; or
- (4) Does not display a current license plate.

II. To amend Town of Burgaw Code of Ordinances Chapter 14, Article III to add Sections 14-62 through 14-77 as follows:

Sec. 14-62. Administration.

(a) *Responsibilities of city departments.* The Chief of Police and the Planning Administrator for the town shall be responsible for the overall administration and enforcement of this Article III. The Chief of Police shall be responsible for administering the removal and disposition of vehicles determined to be "abandoned" on the public streets and highways within the town and on property owned or operated by the town and shall further be authorized to designate such vehicles as abandoned vehicles as described herein. The Chief of Police shall further be responsible for administering the removal and disposition of vehicles designated as abandoned motor vehicles on private property, junked motor vehicles and aesthetic junked motor vehicles. The Planning Administrator shall be responsible for designating a motor vehicle as an abandoned motor vehicle located on private property, a junked motor vehicle, or an aesthetic junked motor vehicle as defined in this article.

(b) *Right to contract.* The town may contract with private tow truck operators or towing businesses, to remove, store, and dispose of abandoned, junked and aesthetic junked motor vehicles in compliance with this article and applicable state laws. Nothing in this chapter shall be construed to limit the legal authority or power of officers of the town's police department in enforcing other laws or in otherwise carrying out their duties.

(c) *Right to inspect on private property.* Duly authorized officials of the town shall have the right, upon presentation of proper credentials and identification, to enter any premises within the jurisdiction of this article during daylight hours to determine if any vehicle violates the provisions of this article and post said vehicle with a notice as authorized herein.

Sec. 14-63. Abandoned Vehicle Unlawful; Removal Authorized.

(a) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned as the term is defined herein.

(b) Upon investigation, the proper authorizing officials as defined herein may determine that a vehicle is an abandoned vehicle pursuant to the provisions set forth in this article and order the vehicle removed.

(c) Once a motor vehicle has been designated as an abandoned motor vehicle on the public streets and highways within the town and on property owned or operated by the town, such designation shall be a valid determination for a 12-month period and shall require no additional notice beyond the initial notice to cause its immediate removal.

Sec. 14-64. Junked Motor Vehicle Unlawful; Removal Authorized.

(a) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle to leave or allow the vehicle to remain on the property after it has been declared a junked motor vehicle by the proper authorizing official as set forth in this article.

(b) Upon investigation, the planning and development director may determine and declare that a motor vehicle is junked. If the planning and development director determines that the vehicle is junked, the planning and development director may then determine that the vehicle is a health or safety hazard and order the vehicle removed if one or more of the following conditions apply:

(1) A breeding ground or harbor for mosquitoes, insects, snakes, rats or other pests, or being used for storage in a manner which may attract such pests; or

(2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height; or

(3) A point of collection of pools or ponds of water; or

(4) A point of concentration or source of leaking of concentrated gasoline, oil or other flammable or explosive materials; or

(5) So situated or located that there is a danger of it failing or turning over; or

(6) One which is a source of danger for children through entrapment in areas of confinement that cannot be opened from the inside, or from exposed surfaces of metal, glass or other jagged materials; or

(7) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass.

Sec. 14-65. Aesthetic Junked Motor Vehicle Regulation; Removal Authorized.

(a) It shall be unlawful for the registered owner or person entitled to the possession of an aesthetic junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which an aesthetic junked vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.

(b) Upon investigation, the planning and development director may order the removal of an aesthetic junked motor vehicle as defined herein after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss to the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following among other relevant facts may be considered:

(1) Protection of property values;

- (2) Promotion of tourism and other economic developments opportunities;
- (3) Indirect protection of public health and safety which may be indicated when one or more of the following conditions exist:
 - a. A breeding ground or harbor for mosquitoes, insects, snakes, rats or other pests, or being used for storage in a manner which may attract such pests; or
 - b. A point of heavy growth of weeds or other noxious vegetation over eight inches in height; or
 - c. A point of collection of pools or ponds of water; or
 - d. A point of concentration or source of leaking of concentrated gasoline, oil or other flammable or explosive materials; or
 - e. So situated or located that there is a danger of it falling or turning over; or
 - f. One which is a source of danger for children through entrapment in areas of confinement that cannot be opened from the inside, or from exposed surfaces of metal, glass or other jagged materials; or
- (4) Preservation of the character and integrity of the community; and
- (5) Promotion of the comfort, happiness and emotional stability of area residents.

Sec. 14-66. Removal of Abandoned, Junked or Aesthetic Junked Motor Vehicle; Pre Towing Notice Requirements.

- (a) Except as set forth in Section 14-67 below, an abandoned, junked or aesthetic junked motor vehicle which is to be removed shall be towed only, after notice to the registered owner or person entitled to possession of the vehicle.
- (b) Notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice stating that the vehicle will be removed by the town on a specified date, no sooner than seven days after the notice is affixed, unless the vehicle is moved by the owner or legal possessor prior to that time. In the case of an aesthetic junked motor vehicle, pre-towing notice shall be effectuated in the same manner as for abandoned or junked motor vehicles, except the notice shall further advise the registered owner or person entitled to possession of the right to a pre-towing hearing as described hereinafter in Section 14-70 of this article.

Sec. 14-67. Exceptions to Prior Notice Requirement.

Prior notice need not be given to remove an abandoned or junked motor vehicle if the police chief or the planning and development director determine there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the police chief or the planning and development director in the appropriate daily records. Circumstances justifying the removal of such vehicles without prior notice includes:

- (1) *Vehicles abandoned on the streets:* For vehicles left on the public streets and highways, the Town Board of Commissioners hereby determines that immediate removal of such vehicles may be warranted when they are:
 - a. Obstructing traffic; or
 - b. Left upon a street or highway in violation of a law or ordinance prohibiting parking; or
 - c. Parked in a no stopping or standing zone; or
 - d. Parked in loading zones; or
 - e. Parked in bus zones.
- (2) *Other abandoned or junked motor vehicles:* With respect to abandoned or junked motor vehicles left on town-owned property other than the streets or highways, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the police chief or the planning and development director make written findings that a special need exists for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles that represent an imminent threat to life or property.

Sec. 14-68 Removal of Vehicles; Post-Towing Notice Requirements.

- (a) Except as set forth herein, any abandoned, junked or aesthetic junked motor vehicle which has been removed may, as directed by the police chief, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the town. Whenever such a vehicle is removed, the police chief shall immediately notify the last known registered owner of the vehicle of the following:
 - (1) A description of the vehicle; and
 - (2) The place where the vehicle is stored; and

- (3) The violation with which the owner is charged, if any, or the reason(s) for removal; and
 - (4) The procedure the owner must follow to have the vehicle returned to him; and
 - (5) The procedure the owner must follow to request a probable cause hearing on the towing.
- (b) The authorizing official as set forth herein shall, if feasible, give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in subsections (1) through (5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his agent.
- (c) If the vehicle is registered in North Carolina, notice shall be given within 24 hours. If the vehicle is not registered in North Carolina, notice shall be given to the registered owner within 72 hours from the removal of the vehicle.
- (d) Whenever a motor vehicle is towed under the provisions of this article, and such vehicle has neither a valid registration nor registration plates, the police chief shall make reasonable efforts including checking the vehicle identification number to determine the last known registered owner of the vehicle. Provided, however, the provisions of this section shall not apply to aesthetic junked motor vehicles for which the owner has exercised the right to appeal prior to the towing of the vehicle in accordance with Section 14-70 of this article.

Sec. 14-69. Prerequisites to Removal of Abandoned or Junked Vehicles on Private Property.

- (a) In the case of abandoned or junked motor vehicles left on private property without the consent of the owner, occupant or lessee, the vehicle may be removed by the town only after the following conditions are met:
- (1) The owner, occupant or lessee of the real property upon which the vehicle is located submit to the town a written request that the vehicle be removed, which written request shall contain a certification that the vehicle has remained on said property without consent in excess of seven days.
 - (2) The owner, occupant or lessee pay any required pre-towing fees or charges at the time of removal.
 - (3) The owner, occupant or lessee agree to indemnify the town against any loss, expense (including attorney fees) or liability incurred because of the removal, storage or sale thereof.
- (b) This section shall apply only in those instances when an abandoned or junked vehicle remains on private property without the consent of the owner, occupant or lessee of the real property.

Sec. 14-70. Right to Pre-Towing Hearing.

With respect to aesthetic junked motor vehicles, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is an aesthetic junked motor vehicle, such appeal shall be made to the chairperson of the towing appeals committee as hereinafter defined, in writing, within seven (7) days of the posting of the notice required in Section 14-66 of this article. Further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided. Written appeals may be hand delivered to the Town Manager whose office is located at the Burgaw Town Hall, 109 North Walker Street, Burgaw, North Carolina and having the written appeal stamped with a notice of receipt, with a copy of the receipt provided to the appealing party. Notice may also be mailed to the chairperson at the following address:

Town of Burgaw
Town Manager's Office
109 North Walker Street
Burgaw, NC 28425

The date of postmark shall be utilized in determining the timeliness of the appeal. The chairperson of the towing appeals committee shall notify the owner or the person entitled to possession and the Planning Administrator of the time and place of the hearing, which shall be held within seven (7) days of receipt of the written appeal. The issues before the committee are: (1) whether the vehicle in question is an aesthetic junked motor vehicle and (2) if the vehicle is an aesthetic junked motor vehicle, is removal warranted under the provisions of the ordinance. The committee shall render a written decision within three (3) days after hearing the case. The committee's written decision shall order the Planning Administrator to proceed with the removal of the vehicle or return the vehicle to the owner or person entitled to possession. Any aggrieved party may appeal the committee's written decision to the Pender County District Court within ten (10) days of the date of the written decision. In the absence of a timely appeal, the committee's decision is final and the authorizing official may proceed to carry out the provisions of this article.

Sec. 14-71. Towing Appeals Committee.

There is hereby created a three-member towing appeals committee for the Town of Burgaw. The committee shall consist of the Town Manager and the two (2) Board of Commissioners serving on the Policy and Finance Committee. The chairman of the Policy and Finance Committee shall serve as the chairperson of the committee and have overall responsibility for the proper functioning of the committee, the committee's jurisdiction shall be limited to hearing appeals from the Planning Administrator that a vehicle is an aesthetic junked motor vehicle.

Sec. 14-72. Right to Probable Cause Hearing; Post Towing.

When a vehicle is removed pursuant to the provisions of this article and for which there has been no appeal for a pre-towing hearing, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the Pender County Small Claims Magistrate within seven (7) days of the date shown on the notice required in Section 14-68 of this article. The magistrate shall set the hearing within 72 hours of receipt of the request and shall otherwise proceed in accordance with N. C. Gen. Stat. sec. 20-219.11. The only issue at this hearing is whether probable cause existed for the towing. If the magistrate finds probable cause did exist, the tower's lien continues. If no probable cause is found, the tower's lien is extinguished. Any aggrieved party may appeal the magistrate's decision to the Courts of General Justice located in Pender County, North Carolina within ten (10) days of the date of the decision.

Sec. 14-73. Redemption of Vehicle During Proceedings.

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or the towing business having custody of the vehicle. If no probable cause is found as set forth in Section 14-72 above, then the owner shall be entitled to a full refund of any funds paid by the owner to the tow truck operator or the towing business. Upon regaining possession of such vehicle, the owner or person entitled to possession of such vehicle shall not allow or engage in further violation of this article.

Sec. 14-74. Sale and Disposition of Unclaimed Vehicle.

Any abandoned junked or aesthetic junked motor vehicle which is not claimed by the owner or other party entitled to possession may be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in accordance with Article 1 of Chapter 44A of the North Carolina General Statutes.

Sec. 14-75. Protection Against Criminal or Civil Liability.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, junked or aesthetic junked motor vehicle, for disposing of such vehicle as provided in this article and by North Carolina law.

Sec. 14-76. Exceptions.

- (a) Nothing in this chapter pertaining to abandoned or junked motor vehicles shall apply to any motor vehicle that:
- (1) Is located in an enclosed building; or
 - (2) Is on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise; or
 - (3) Is in an appropriate storage place or depository maintained in a lawful place and manner in the town.
- (b) Nothing in this chapter pertaining to aesthetic junked motor vehicles shall apply to any motor vehicle that:
- (1) Is located in a bona fide automobile graveyard or junkyard as defined in N. C. Gen. Stat. sec. 136-43; or
 - (2) Is used on a regular basis for business or personal use.

Sec. 14-77. Unlawful Removal of Impounded Vehicle.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the town any vehicle which has been impounded pursuant to the provisions of this article unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

III. To amend Town of Burgaw Code of Ordinances, Chapter 14, Article III to delete Sections 14-62 through 14-87 that are as follows:

Sec. 14-62. Duty of Owner.

It shall be the duty and responsibility of the owner of any abandoned or junked motor vehicle to cause the removal thereof immediately and to pay all costs incident to such removal. It shall be unlawful for any person to allow such motor vehicle owned by him to remain after notice has been given to such person to have the vehicle removed.

Sec. 14-63. Liability of Persons Acting Under Article Provisions.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of any abandoned, lost or stolen motor vehicle for disposing of the vehicle as provided in this article.

Sec. 14-64. Certain Vehicles Exempted.

Nothing in this article shall apply to any vehicle in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, nor to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the town.

Sec. 14-81. Generally.

Any junked or abandoned motor vehicle may be removed by the town to a storage garage or area, provided, that no such vehicle shall be removed from private property without the written request of the owner, lessee or occupant of the premises unless the town or a duly authorized town official or employee has declared such vehicle to be a health or safety hazard.

Sec. 14-82. Indemnification of Town By Person Requesting Removal.

Any person requesting the removal of a junked or abandoned motor vehicle from private property shall indemnify the town against any loss, expense or liability incurred because of the removal, storage or sale of such vehicle.

Sec. 14-83. Notice.

When any junked or abandoned motor vehicle is removed, the town shall give written notice of the removal to the registered owner at his last known address according to the latest registration certificate or certificate of title on file with the state department of motor vehicles. Such notice shall inform the owner of the possible sale or other disposition that can be made of the vehicle under this article. Notice need not be given to the registered owner of the vehicle when such vehicle does not display a license plate and the vehicle identification numbers have been removed or defaced so as to be illegible.

Sec. 14-84. Redemption By Owner.

The owner of an abandoned or junked motor vehicle may regain possession of any vehicle removed by the town pursuant to the provisions of this article by paying to the town all reasonable costs incidental to the removal and storage of such vehicle.

Sec. 14-85. Sale of Abandoned Vehicles.

(a) After holding an unclaimed abandoned motor vehicle for 30 days, the town shall sell or dispose of it as provided by this section.

(b) If the vehicle appears to be worth less than \$100.00, the town may dispose of the vehicle as a junked motor vehicle as provided by [Section 14-86](#).

(c) If the vehicle is worth \$100.00 or more, it shall be sold at public auction. Twenty days' written notice of the sale shall be given to the registered owner at his last known address, the holders of all liens of record against the vehicle and the state department of motor vehicles. Any person having an interest in the vehicle may redeem it at any time before the sale by paying all costs accrued to date.

(d) The proceeds of the sale shall be paid to the town treasurer who shall pay to the appropriate officers or persons the cost of removal, storage, investigation, sale and liens in that order. If the owner of such vehicle does not claim the remainder of the proceeds 60 days after the sale, the funds shall be deposited in the town's general fund, and the owner's rights therein shall be forever extinguished.

Sec. 14-86. Sale of Junked Vehicles.

(a) After holding an unclaimed junked motor vehicle for 15 days, the town may destroy it or sell it at private sale as junk.

(b) Within 15 days after final disposition of a junked motor vehicle, the town shall notify the state department of motor vehicles that the vehicle has been determined to be a junked motor vehicle and disposed of as such. Such notices shall contain as full and accurate a description of the vehicle as can be reasonably determined.

(c) Any proceeds from the sale of a junked motor vehicle, after all costs of removal, storage, investigation and sale and satisfying any liens of record on the vehicle have been deducted therefrom, shall be held by the town for 30 days and paid to the registered owner upon demand. If the owner does not appear to claim the proceeds within 30 days after disposal of the vehicle, the funds shall be deposited in the town's general fund and the owner's rights therein shall be forever extinguished.

Sec. 14-87. Vehicles Not Displaying License Plate or Legible Identification Numbers.

Sections [14-85](#) and [14-86](#) shall not apply when the vehicle does not display a license plate and the vehicle identification numbers have been removed or defaced so as to be illegible. Such vehicles may be destroyed or sold at private sale, without regard to value, after being held for 48 hours.

IV. **That this ordinance shall become effective at 12:01 a.m., March 12, 2014.**

Public Hearing #4 Consideration of amending the Town of Burgaw Code of Ordinances Chapter 2, Article IV Boards, Commissions & Committees – Chad McEwen, Town Manager

Mayor Mulligan opened the public hearing at 6:25PM.

Mr. McEwen advised pursuant to the directions of the Board of Commissioners at the February Board meeting, a new ordinance regarding the creation of the Promotions and Special Events Committee as well as a Parks and Recreation Committee is included. These two committees would consist of 7 citizen members who would appoint

their own chairman, vice chairman, and secretary. The committees would not require staff support. Mr. McEwen presented the following information as an overview of the proposed committees.

In regard to the Promotions and Special Events Committee their primary focus would be the promotion and coordination of the specific events like the Christmas tree lighting, Christmas Parade, and Movie Night on the Courthouse Square. The Promotions and Special Events Committee would not be vested with the authority to obligate town funds or resources for these events with the permission of the Town of Burgaw Board of Commissioners. The Promotions and Special Events Committee would not have any responsibility or obligations to the Spring Festival or Blueberry Festival. In addition, the Promotions and Special Events Board would be tasked with the responsibility of developing and overseeing new events in Town.

In addition, the Promotions and Special Events Board would create and oversee and marketing campaign for the Depot and Community House as well as any special events held in Town.

In regard to the Parks and Recreation Committee their primary focus would be the development of future parks and recreation capital projects as well as special events related to parks and recreation. In addition, the Parks and Recreation Committee would be responsible for developing and administering recreational programs for Town residents.

The Promotions and Special Events Committee and Park and Recreation Committee would have no responsibility or oversight related to operational, policy, or maintenance responsibilities as they related to the Depot, Community House, and/or any Town park facilities. This responsibility would still fall under the oversight of the Town through the Board of Commissioners.

After a thorough review of the ordinance, Mayor Mulligan asked if the committees could meet more frequently than quarterly. He was advised as long as the committee meets the advertising requirements for open meeting they may meet more often.

Commissioner Dawson suggested a five member committee instead of seven member committee.

Commissioner Robbins requested that a draft of the minutes of each committee meeting be given to the town clerk within two weeks after their respective meetings.

SPEAKERS:

Rochelle Whiteside commented that she has learned from her teaching career that investment by stakeholders makes a big difference. She read several excerpts from journals pertaining to the subject. She said the more people thinking in terms of what we want our community to be, the better. She said she applauds the idea.

Vernon Harrell advised he was taken aback when he heard the vote at the last meeting to take a vote to abolish most of the advisory boards. He said it is a minimal amount of input from the public that is being gathered by the commissioners. He said it is essential for members of the community to be invited to take part in government. He said we are not just taxpayers; we are people who want to help the town progress and to invest our time and efforts to do so. He said he feels this is an essential part of government and would be very disappointed if these committees are not put together.

Karen Harding advocated for a larger board (seven members) because she feels it is easier to get a quorum and more members get more done.

FURTHER DISCUSSION

Commissioner Tyson commented that the Christmas parade is listed on the ordinance and that is under the purview of the Chamber. Mr. McEwen said the implication is that this committee will coordinate that event of behalf of the town with the Chamber.

Mayor Mulligan asked Mr. McEwen to discuss their conversation regarding a line item. Mr. McEwen advised the ordinance says these committees will not have expenditure authority, but Mayor Mulligan requested itemized line items for these committees so that if they want to hire a consultant for feasibility studies etc. instead of having to ask the Board to appropriate fund balance. Mayor Mulligan commented that the final decision on any expenditure would be left up to the Board of Commissioners.

Commissioner Tyson said she is in agreement with Commissioner Dawson that the committees should have five members instead of seven. She also stated that these meetings are and always will be open to any member of the public that wants to come and that public outside the appointed committees can participate in events etc.

Commissioner Robbins said he understands Commissioners Dawson and Tyson for recommending a five member committee and he added that if seven members do not work out we can always go to five members.

There being no further discussion, Mayor Mulligan closed the public hearing at 6:40PM.

Commissioner Robbins made a motion to approve Ordinance 2014-10 with the following amendments: to change section 2-13 and 3-13 to read “*shall hold a minimum of quarterly meetings*” and to change section 2-13 and 3-13 by adding an item “3” to each section to read “*Within two weeks of the Parks and Recreation Committee meeting, the committee shall present to the Town Clerk a full and complete draft of the minutes of the meeting to be disseminated to the Board of Commissioners for review in the weekly update*”. The motion was seconded by Commissioner Rooks and carried by unanimous vote.

ORDINANCE 2014-10

ORDINANCE APPROVING THE AMENDMENT OF THE TOWN OF BURGAW CODE OF ORDINANCES CHAPTER 2, ARTICLE IV BOARDS, COMMISSIONS & COMMITTEES, DIVISION 2- PARKS AND RECREATION COMMITTEE AND DIVISION 3 PROMOTIONS AND SPECIAL EVENTS COMMITTEE

WHEREAS, the Town wishes to create a Special Events Committee and Parks and Recreation Committee; and

WHEREAS, these committees shall consist of seven (7) citizen members who shall appoint a chairman, vice chairman, and secretary consisting of their respective membership; and

WHEREAS, the mayor shall serve as a non-voting ex-officio member; and

WHEREAS, the Promotions and Special Events Committee and Parks and Recreation Committee would have no responsibility or oversight of any operational or maintenance responsibilities related to the Depot, Community House, and/or any Town park facilities. This responsibility would fall under the oversight of the Town through the Board of Commissioners; and

WHEREAS, the Promotions and Special Events Committee shall have the primary responsibility of promoting and coordinating specific events like the Christmas tree lighting, Christmas Parade, and Movie Night on the Courthouse Square as well as any special events held in Town; and

WHEREAS, the Promotions and Special Events Committee shall have the primary responsibility of creating and overseeing a marketing campaign for the Depot and Community House; and

WHEREAS, the Promotions and Special Events Committee would not be vested with the authority to obligate town funds or resources for these events without the permission of the Town of Burgaw Board of Commissioners; and

WHEREAS, the Promotions and Special Events Committee would not have any responsibility or obligations to the Spring Festival or Blueberry Festival; and

WHEREAS, the Parks and Recreation Committee shall have the primary responsibility of developing plans for future parks and recreation capital projects as well as special events related to parks and recreation; and

WHEREAS, the Parks and Recreation Committee would be responsible for developing and administering recreational programs for Town residents; and

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

Section 1: All prior ordinances and/or resolutions regarding the Tree Board (Chapter 34 Article II. Tree Board of the Town of Burgaw Code of Ordinance) and Depot Board (Chapter 2 Article VI. Depot Board) are hereby rescinded.

SECTION 2. In regards to the Parks and Recreation Committee, Division 2 Sections 2-211 through 2-230 of the Town of Burgaw Code of Ordinances are hereby rescinded and replaced with the following:

Section 2-211. Created

There is created a committee to be known as the Parks and Recreation Committee.

Section 2-212. Composition, terms, vacancies, and compensation.

The Parks and Recreation Committee shall be composed of a seven (7) member body consisting of residents of the Corporate Limits of the Town of Burgaw. Appointments to the Parks and Recreation Committee shall be based on the following criteria;

- 1) Members shall nominated by the Mayor and appointed by majority vote of the Board of Commissioners

- 2) Members shall serve two and three year terms which shall be determined by the Board of Commissioners upon appointment.
- 3) Members of the Parks and Recreation Committee shall not be compensated for their participation in the Committee. However, members may be reimbursed for verified expenses incurred as part of their service to the Committee.
- 4) The Mayor shall serve as a non-voting ex-officio member of the Parks and Recreation Committee.

Section 2-213. Appointment of officers and meetings

The Parks and Recreation Committee shall appoint from its membership a chairman, vice chairman, and secretary. The secretary shall serve as clerk to the Committee and shall be responsible for taking accurate minutes in regard to meetings of the Parks and Recreation Committee. Town staff shall serve in no official capacity or have any attendance obligations to the Parks and Recreation Committee meetings.

The Parks and Recreation Committee shall hold a minimum of quarterly meetings on the first Tuesday in January, April, July, and October. Two weeks prior to the meeting the secretary shall provide the Town Clerk with the following information pursuant the open meetings law;

- 1) An agenda for the upcoming meeting
- 2) Time and location of the scheduled meeting
- 3) Within two weeks of the Parks and Recreation Committee meeting, the committee shall present to the Town Clerk a full and complete draft of the minutes of the meeting to be disseminated to the Board of Commissioners for review in the weekly update.

Section 2-214 Powers and Duties

The Parks and Recreation Committee shall only have the authority vested by this ordinance and shall serve in an advisory capacity only. The Parks and Recreation Committee shall have the primary responsibility of developing plans for future parks and recreation capital projects as well as special events related to parks and recreation. In addition, the Parks and Recreation Committee shall be responsible for developing and administering recreational programs for Town residents. The Parks and Recreation Committee shall have no responsibility or oversight of any operational or maintenance responsibilities related to any Town park facilities. This responsibility shall fall under the oversight of the Town through the Board of Commissioners.

The Parks and Recreation Committee shall have no authority to enter into contracts or incur or obligate any Town resources without the express approval of the Board of Commissioners.

Section 2-215. Report to the Board of Commissioners.

The Chairman of the Parks and Recreation Committee shall make a report on the activities of the Parks and Recreation Committee at the December meeting of the Board of Commissioners. The report shall include an accounting of all recreation programs administered by the Committee as well as any proposed parks and recreation capital needs proposed for the upcoming fiscal year.

SECTION 3. In regard to the Promotions and Special Events Committee, Division 3 Sections 2-211 through 2-215 of the Town of Burgaw Code of Ordinances are hereby added as follows:

Section 3-211. Created

There is created a committee to be known as the Promotions and Special Events Committee.

Section 3-212. Composition, terms, vacancies, and compensation.

The Parks and Recreation Committee shall be composed of a seven (7) member body consisting of residents of the Corporate Limits of the Town of Burgaw. Appointments to the Promotions and Special Events Committee shall be based on the following criteria;

- 1) Members shall nominated by the Mayor and appointed by majority vote of the Board of Commissioners
- 2) Members shall serve two and three year terms which shall be determined by the Board of Commissioners upon appointment.
- 3) Members of the Promotions and Special Events Committee shall not be compensated for their participation in the Committee. However, members may be reimbursed for verified expenses incurred as part of their service to the Committee.
- 4) The Mayor shall serve as a non-voting ex-officio member of the Promotions and Special Events Committee.

Section 3-213. Appointment of officers and meetings

The Promotions and Special Events Committee shall appoint from its membership a chairman, vice chairman, and secretary. The secretary shall serve as clerk to the Committee and shall be responsible for taking accurate minutes in regard to meetings of the Promotions and Special Events Committee. Town staff shall serve in no official capacity or have any attendance obligations to the Promotions and Special Events Committee meetings.

The Promotions and Special Events Committee shall hold a minimum of quarterly meetings on the first Tuesday in January, April, July, and October. Two weeks prior to the meeting the secretary shall provide the Town Clerk with the following information pursuant the open meetings law;

- 1) An agenda for the upcoming meeting
- 2) Time and location of the scheduled meeting
- 3) Within two weeks of the Promotions and Special Events Committee meeting, the committee shall present to the Town Clerk a full and complete draft of the minutes of the meeting to be disseminated to the Board of Commissioners for review in the weekly update.

Section 3-214 Powers and Duties

The Promotions and Special Events Committee shall only have the authority vested by this ordinance and shall serve in an advisory capacity only. Promotions and Special Events Committee shall have no responsibility or oversight of any operational or maintenance responsibilities related to the Depot and Community House. This responsibility would fall under the oversight of the Town through the Board of Commissioners.

The Promotions and Special Events Committee shall have the primary responsibility of promoting and coordinating specific events like the Christmas tree lighting, Christmas Parade, and Movie Night on the Courthouse Square as well as any special events held in Town. The Promotions and Special Events Committee shall have the primary responsibility of creating and overseeing a marketing campaign for the Depot and Community House.

The Promotions and Special Events Committee shall have no authority to enter into contracts or incur or obligate any Town resources without the expressed approval of the Board of Commissioners.

Section 3-215. Report to the Board of Commissioners.

The Chairman of the Promotions and Special Events Committee shall make a report on the activities of the Promotions and Special Events Committee at the December meeting of the Board of Commissioners. The report shall include an accounting of all promotional activities conducted by the Committee in regard to the Depot and Community House as well as information regarding any other special event which the Committee participated in during the preceding calendar year.

ADOPTED this the 11th day of March, 2014.

BREAK – Mayor Mulligan called for a five minute break at 6:43PM to give all present the opportunity to sign in to speak. The meeting reconvened at 6:50PM.

SPECIAL PUBLIC INFORMATION SESSION REGARDING THE PROPOSED ROUNDABOUT PROJECT IN BURGAW

At the request of the Board a public information session was placed on the agenda for the public to have input on the proposed roundabout project. Mr. McEwen presented the following information regarding the proposed roundabout.

PHASE 1 TIMELINE

- In 2005 a proposed route for the NC Highway 53 Bypass was presented by NCDOT. In regard to this proposed route, the Town, NCDOT and the affected property owners could not reach a consensus and subsequently the focus shifted to efforts to improve the existing NC Highway 53 corridor.
- In 2006, the Town and NCDOT hired Kimley-Horn and Associates to conduct a design charrette to attempt to address many of the issues that existed along the existing Highway 53 Corridor through town. In late 2006, the Town and NCDOT endorsed the preliminary designs that resulted from the charrette.
- In 2007, the Town obtained funding to proceed with surveying, engineering and right of way acquisition associated with Phase 1 of the NC 53 Corridor Improvement Plan. As shown on the attached design (on file in the clerk's office) Phase 1 included the following improvements:
 - Construction of a “free flow” right lane with median heading north at the intersection of Walker and Wilmington Streets
 - Construction of a roundabout at Wilmington and Walker Streets
 - Intersection and sight distance improvements at Wilmington and Wright Streets
- In 2012, all engineering has been completed by Kimley Horn and Associates
- In 2012, concurrence from the NC Department of Archives State Historic Preservation was received. Findings included that the proposed project had no negative impact of historic courthouse square or larger historical district.
- In 2012, DENR issued permit related to Phase 1 of the NC 53 Corridor Study as described.
- In 2013, all necessary easements have been obtained from Pender County, Burgaw United Methodist Church and the Town of Burgaw on behalf of NCDOT.
- November 2013, Town receives notification the project is eligible for \$600,000 of federal highway safety funding due to the safety issues that are present in the project area.

Upon completion of Mr. McEwen's presentation, Mayor Mulligan gave the public an opportunity to speak regarding the roundabout project.

John Westbrook presented a picture of his concept of what the roundabout should look like. He reviewed the technicalities of the plan that he had drawn several years ago. He commented that the roundabout should be aesthetic as well as functional. He also said that what has been approved will work functionally but will not be an aesthetic enhancement. He advised it will be a scar on downtown as well as having a major impact on Wright Street. He said if you cannot do it right, then don't do it.

Vernon Harrell spoke on behalf of Charles Harrell. He read the following letter from Mr. Harrell:

March 11, 2014

To the Town of Burgaw Board of Commissioners,

I am opposed to the construction of a roundabout in downtown Burgaw. I do not feel it will be an improvement to our town. I still feel, as I have in the past that the NC 53 corridor would most benefit from a by-pass. Short of that, I do not see the benefit to the town of a roundabout. I most object to the amount of money the town is being asked to spend. I feel that if the Department of Transportation sees a need to improve traffic flow in this manner, then the funds should come from their budget, not the town. We have many more pressing needs than this highway project.

Thank you for your consideration.

Charles M. Harrell, Sr.

*Original letter on file in clerk's office.

Vernon Harrell also commented that the roundabout will make that corridor the most dangerous intersection in town because of all the free flowing trucks. He advised the roundabout will not help any kind of foot traffic in town. He asked if the choke points are still in the plan that will slow down the traffic. Mr. McEwen advised the choke points are still in the plan. He briefly reviewed those points again.

Gentry Sessoms advised he has worked for firms that proposed roundabouts and he has also worked for firms that had to go in and fix them afterwards. He commented that things that are being proposed do not constitute smart growth design from an urban design aspect. He said roundabouts don't work. He said Burgaw is a bedroom community. He said those are the things that should be built upon; not trying to be Wilmington but offer a refuge from Wilmington; a nice place to live but still have access to Wilmington or Wallace. He read several statistics regarding roundabouts.

Chris Walker asked if the 600k is tied specifically to this design or just to the safety issues of the traffic flowing on 53 through town. Mr. McEwen said his understanding is that the approved design was tied to existing conditions and proposed solution. Mr. McEwen said they would fund to the level of 600k because of the existing conditions. Mr. Walker suggested using to paint to improve the intersection as well as adding a crosswalk as requested by the school and do away with the roundabout that would be an eyesore.

Rochelle Whiteside said she agrees with what Mr. Walker said. She said you depend on the traffic light at Walker and Wilmington to have the opportunity to cross at Wilmington and Wright and without that light drivers won't have that chance. She said she likes the idea of taking out the roundabout and still having a big intersection that's useable. She said she is always in favor of something that makes our town prettier and more aesthetic and pleasing to look at.

Mayor Mulligan asked if I-140 was open when the roundabout was initially proposed and has the opening of I-140 decreased traffic in our intersection. Mr. McEwen said NCDOT has not seen any net decrease in truck volume.

Mayor Mulligan thanked Mr. McEwen for the informational presentation. Mayor Mulligan advised there would not be any decision made on this issue but it has given all who are present food for thought. He advised the public that if they had other questions to feel free to talk to their Commissioners and we will see where we go from there.

Commissioner Rooks asked if the 600k is tied directly to this plan and if it is not tied to this plan it would more than correct the problems at the intersection. He said it has been said that we need 400-500k to put with it to get this roundabout and he is not interested in spending that much money on a state road. He commented that when the intersection was improved twenty years ago if it had been done properly we wouldn't be having this problem.

Commissioner Rooks commented that no one present here tonight has spoken in favor of a roundabout. He said he would propose that we look at alternatives. Mr. McEwen said if the Board wants to change the priority he would go back to NCDOT but we will have to pay for any engineering that would be necessary for another project. Rebekah Roth commented that the roundabout project is currently on the transportation improvement project (TIP) list for consideration of funding within the next two years. Mr. McEwen said because there are three projects tied to Burgaw currently on the TIP list, there will never be any funding for either because the projects are competing against each other. He said our best route for funding is special appropriation from our local legislative delegation or federal funding. Mr. McEwen stated he has no confidence that the TIP will fund anything for NC 53 or the corridor study. There was a lengthy discussion regarding options for improvement but no decisions were made.

ITEMS FROM COMMISSIONERS

Commissioner Robbins asked if the kiosk sign on NC 53 had been moved. Mr. McEwen advised it has been moved.

Commissioner Dawson asked when the paving would be done on the area at Walker and Bennett Streets. Mr. Fay was unable to give a definite answer due to ongoing issues with the contractor. Mr. McEwen recommended that Mr. Fay ask Schultes to install cold patch on these areas that are so bad if they are not planning to pave these areas this week.

Commissioner Robbins stated there is a Burgaw historic district sign leaning on US 117 S that needs to be stood upright.

Commissioner Rooks said he heard there was an issue with a generator during a recent power outage. He asked Mr. Fay if this issue has been addressed. Mr. Fay advised there was a starter issue on the generator at Penderlea Hwy lift station during one of the storms. He advised Tony Matthews was able to purchase a starter locally and get the generator repaired. He also commented that a former employee made an error in judgment and turned off the generator when it was running and doing what it was designed to do and when the employee tried to start it up it did not work.

ITEM FROM THE MANAGER

Mr. McEwen advised he has one more item that he failed to mention. He advised that originally when planning for the old jail space, we had planned to use the two back rooms for records storage. Administration was planning to use one room for records and the Police Department was planning to use the second room for evidence storage. He said Chief Sutton has requested use of the old office at the wastewater treatment plant for evidence storage, thereby freeing up one room at the old jail. The blueberry festival committee is requesting that they be allowed to use that room for office space for the same amount that the blueberry festival is currently paying for at the public works building with the understanding that they will split the utilities with the tourism office. He said it makes sense that the tourism department and the blueberry festival office be in the same building. Mr. McEwen said he will have to go back to the county and discuss this with them. After a brief discussion, Commissioner Robbins made a motion to approve the relocation of the blueberry office to the old jail upon terms and conditions being worked out with Pender County in accordance with the memorandum of understanding between the town and the county. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

ADJOURNMENT

Commissioner Tyson made a motion to adjourn. The motion was seconded by Commissioner Dawson and carried by unanimous vote. The meeting adjourned at 8:45PM.

Eugene Mulligan, Mayor

Attest: _____
Sylvia Raynor, Town Clerk