

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

DATE: March 13, 2018
TIME: 4:00 PM
PLACE: Burgaw Municipal Building
BOARD MEMBERS PRESENT: Mayor Kenneth Cowan
Mayor Pro-tem Wilfred Robbins
Commissioners Jan Dawson, Bill George, Vernon Harrell and James Murphy
STAFF PRESENT: Joseph Pierce, Town Manager
Sylvia W. Raynor, Town Clerk
Robert Kenan, Town Attorney
Alan Moore, Director of Public Works
Jim Hock, Chief of Police
Jim Taylor, Fire Chief
Wendy Pope, Finance Officer
Karen Dunn, Planning Administrator
Kim Rivenbark, Community Development Coordinator
Kristin Wells, Deputy Clerk
Zachary White, Parks/Recreation Coordinator
MEDIA PRESENT: None

The meeting was called to order by Mayor Kenneth Cowan at 4:00PM. The invocation was delivered by Chaplain Nick Smith. The Pledge of Allegiance was said by all.

Approval of Agenda

After discussion, Commissioner Dawson made a motion to approve the agenda with the addition of a closed session. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Approval of Consent Agenda

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.

- **Minutes of February 13th regular and closed sessions**
- **Ordinance 2018-02 Amending 2017-2018 Pay and Classification Plan**

**ORDINANCE 2018-02
AMENDING FISCAL YEAR 2017-2018 ANNUAL BUDGET
Change to Pay Classification Plan**

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2017-2018 on June 13, 2017; and

WHEREAS, the Board of Commissioners approved an updated Pay Classification Plan on August 8, 2017; and

WHEREAS, the Town has updated the Pay Classification Plan to include a new maximum salary range for the Building Code Administrator position; and

WHEREAS, the Pay Classification Plan in the budget ordinance will need to be amended to reflect the changes to the Building Code Administrator position.

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

The FY 2017-2018 Pay Classification Plan be altered to reflect the following changes as attached.

TOWN OF BURGAW
 BUDGET YEAR 2017-2018
 ATTACHMENT II
 PAY CLASSIFICATION PLAN

<u>POSITION</u>	<u>MINIMUM</u>	<u>MAXIMUM</u>
TOWN MANAGER	88,932	124,505
TOWN CLERK	42,966	62,329
FINANCE OFFICER	57,655	80,717
PERSONNEL TECH/DEPUTY TOWN CLERK	36,751	51,451
CUSTOMER SERVICE REPRESENTATIVE	33,151	46,411
ACCOUNTING TECHNICIAN	33,013	46,218
BUILDING CODE ADMINISTRATOR	43,676	78,317
COMMUNITY DEVELOPMENT COORDINATOR	32,069	44,897
PLANNING ADMINISTRATOR	45,740	64,036
POLICE CHIEF	60,028	84,039
DETECTIVE SERGEANT	39,432	55,205
PATROL SERGEANT	39,432	55,205
CORPORAL	37,298	52,217
CORPORAL - CRIME DIVERSION OFFICER	37,298	52,217
PATROL OFFICER	36,000	50,400
POLICE ADMINISTRATIVE ASSISTANT	31,382	43,935
PUBLIC WORKS DIRECTOR	56,525	79,135
ASSIST. DIRECTOR OF PUBLIC WORKS	38,086	53,320
PUBLIC WORKS ADMINISTRATIVE ASSISTANT	31,382	43,935
FOREMAN	33,236	46,530
UTILITY TECHNICIAN	30,426	42,596
MECHANIC	31,734	44,428
MAINTENANCE WORKER I	26,029	36,441
MAINTENANCE WORKER II	27,859	39,003
FIRE CHIEF	55,673	77,942
FIRE FIGHTER	30,741	43,037
PARKS & RECREATION COORDINATOR	29,899	41,859

Adopted this the 13TH day of March 2018.

SPECIAL PRESENTATION BY NCDOT

Representatives from NC Department of Transportation will present an updated design for improvements along NC 53 & US 117 Business (Walker Street and Wilmington Street)

There were several representatives from NCDOT and CALYX Engineering to present an overview of the updated design for the Wilmington/Walker Street improvements. David Leonard, NCDOT Division Engineer began with a PowerPoint presentation. He advised the scope of the project is to improve the intersection of Wilmington/Walker Streets at a cost of approximately \$1.65 million dollars and to go to construction in June 2020. Mr. Leonard advised based on the feedback received from the public the favored design is the traditional intersection improvements instead of the proposed roundabout. Mr. Leonard's PowerPoint included detailed pictures of the design. Mr. Leonard advised the NCDOT recommendation is to go with the traditional intersection improvements. He advised if the Board is in agreement they could then have CALYX, the engineering firm to begin to make detailed plans for the improvements. There was much discussion regarding pedestrian signals, bulb-outs, a stop light at Wright and Wilmington, safety issues for school children crossing the streets and crosswalks. After a lengthy discussion, Mr. Leonard advised they need some kind of written support or resolution showing support for the plan in order to get started on the final design. Commissioner George made a motion to move forward on this project with the traditional intersection improvements as recommended by NCDOT. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Commissioner Robbins re-emphasized the need for a stop light at the Wright/Wilmington intersection due to safety concerns along that corridor. Mr. Leonard said if there is a proven need for a stop light it is possible that funding could be included in the current project. The Board was advised that traffic studies would have to be done in order to determine if a stop light is needed.

PROCLAMATION & SPECIAL REQUESTS

Arbor Day Proclamation – Mayor Cowan

ARBOR DAY PROCLAMATION

Whereas, In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

Whereas, the holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

Whereas, Arbor Day is now observed throughout the nation and the world, and

Whereas, trees can reduce the erosion of our precious topsoil by wind and water, lower our heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife, and

Whereas, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

Whereas, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and

Whereas, trees, wherever they are planted, are a source of joy and spiritual renewal,

NOW, THEREFORE, I, Kenneth T. Cowan, Mayor of the Town of Burgaw, do hereby proclaim March 16, 2018 as Arbor Day in the Town of Burgaw, and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and further, I urge all citizens to plant and care for trees to gladden the heart and promote the well-being of this and future generations.

This thirteenth day of March in the year 2018.

Mayor Kenneth T. Cowan

Commissioner Robbins made a motion to approve the Arbor Day Proclamation. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

Spring Festival Request – Ross Harrell, Pender Spring Festival Committee

Ross Harrell appeared before the Board with requests for the Spring Festival on Saturday, May 5 and the street dance on Friday, May 4. He advised the requests are the same as last year and briefly reviewed the list. Mr. Harrell was requesting \$1500 from the town to help defray some the costs of putting on the festival. Mr. Harrell advised that in the past the county has allowed use of the rest rooms in the courthouse but they are no longer allowing use of the county facilities for festivals and events. Mr. Harrell asked if the town would consider providing two portable toilets as well as the usual \$1500.

Mayor Cowan asked Mr. Harrell if they have asked Pender County for any funding. Mr. Harrell advised he has not been able to get on the agenda but there is a possibility that some of the county departments may have some funds available. He also commented that he is trying to get some money appropriated by the county in next year's budget.

Commissioner Dawson stated that since we have new auditors she would like for Mr. Harrell to present an itemized statement to the town regarding how town funds are spent on the festival so there will be a proper record of expenditures.

After much discussion, Commissioner Robbins made a motion to appropriate \$1500 with \$1,000 coming from the town and \$500 coming from the TDA. The motion was seconded by Commissioner George and carried by unanimous vote. Commissioner Harrell made a motion to order one regular and one handicap accessible portable toilet to be invoiced to the town for use at the Spring Festival. The motion was seconded by Commissioner George and carried by unanimous vote.

Blueberry Festival Request – *Olivia Dawson, Blueberry Festival Coordinator*

Ms. Dawson presented the following requests for the 2018 Blueberry Festival.

- All peddlers, privilege licenses, and zoning permits for vendors, exhibitors, and participants properly approved by the festival are waived for the day of the festival
- Fremont Street between Walker Street and Cowan Street is closed from 12:00 am on June 16, 2018 through 11:00 pm on June 16, 2018
- Fremont Street between Wright Street and Walker Street is closed from 11 am on June 15, 2018 through 11:00 pm on June 16, 2018
- Fremont Street between Wright Street and Dickerson to be closed to incoming traffic at 6pm
Fremont Street between Wright Street and Dudley Street is closed from 12:00 am on June 16, 2018 through 11:00 pm on June 16, 2018
- Wright Street between Fremont Intersection and Wilmington Street is closed to incoming traffic at 3pm and closed to all traffic at 5pm on June 15, 2017 through 11:00 pm on June 16, 2018
- Wright Street between Satchwell Street and Wilmington Street closed from 6 pm on June 15, 2018 through 11:00 pm on June 16, 2018
- Walker Street between Fremont Street and Wilmington Street is closed from 5 pm on June 15, 2018 through 12:00 am on June 16, 2018
- Dickerson Street between Satchwell and Wilmington Street is closed from 6 pm on June 15, 2018 through 11:00 pm on June 16, 2018
- Courthouse Avenue between Wright Street and Dickerson Street is closed from 6 pm on June 15, 2018 through 11:00 pm on June 16, 2018

Commissioner Robbins questioned why Fremont Street is closed to incoming traffic at 6PM and if that is for Friday evening. Ms. Dawson advised it is for Friday to incoming traffic only. Commissioner Dawson asked if all the businesses have been contacted about the streets being closed. Ms. Dawson advised they have not been contacted but they can be. Commissioner Dawson asked that all businesses be notified of street closings. Commissioner Harrell requested that signs be posted to notify the public that businesses are still open after the streets have been closed at 3PM on Friday. Commissioner Robbins was opposed to Fremont Street being closed at 6PM between Wright and Dickerson. After much discussion regarding impact on businesses and safety issues, this item was tabled until Ms. Dawson can make contact with the businesses downtown regarding the street closings. She was asked to come back next month to present her findings.

DEPARTMENTAL ITEMS

Finance – Wendy Pope, Finance Officer

Resolution 2018-02 Consideration of Financing of New Fire Engine

Ms. Pope advised during the February 13, 2018 Board of Commissioners meeting, the Commissioners gave the authority to the Town Manager to enter into a contract with C.W. Williams for the purchase of a new fire engine. Also, at this time it was approved to seek financing for this purchase. She advised the contract with C.W. Williams was entered into on February 20, 2018. Contract terms state that the total cost, with the prepayment discount, is \$599,009 with \$280,238 due after the chassis is inspected and approved by the Burgaw Fire Department, which will

take place in the summer of 2018. The remaining balance will be due when the truck arrives in Rocky Mount for finishing, which will take place in winter 2018-2019.

Ms. Pope advised Four County EMC has offered to seek funding through the USDA REDG Revolving Loan Program. The Town would enter into a financing agreement with Four County in the amount of \$300,000 for ten years at 0% interest and would be secured with a lien on the purchased equipment. She said if the Board chooses to finance with Four County, the remaining \$299,009 will need to be financed with a third party or the Board may consider using Fund Balance for the difference.

After discussion regarding the financing for the remaining \$300,000, Commissioner George made a motion to approve Resolution 2018-02 approving financing \$300,000 with Four County and for the remaining \$300,000 to be taken out of fund balance to cover the purchase of the fire engine. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

**RESOLUTION 2018-02
RESOLUTION FOR FINANCING OF NEW FIRE ENGINE**

WHEREAS, the Town of Burgaw Board of Commissioners approved to enter into a contract with C.W. Williams to construct a new fire engine; and

WHEREAS, during this approval the Board of Commissioners also approved the requesting of proposals for financing on this apparatus; and

WHEREAS, a response has been received from Four County Electric Membership Corporation; and

WHEREAS, the proposal from Four County Electric Membership Corporation offered 10 year financing at 0% interest rate with no prepayment penalty and 1% administrative fee along with the Town covering the attorney and recording fee.

NOW, THEREFORE, BE IT RESOLVED that the Town Manager is hereby authorized to enter into an agreement with Four County Electric Membership Corporation to finance the purchase of a Fire Engine from C.W. Williams in an amount not to exceed \$300,000 with anticipated delivery as soon as possible.

Adopted this thirteenth day of March, 2018.

Parks and Recreation – Zachary White, Parks and Recreation Coordinator

Update on planned events

Mr. White advised he has had a lot of positive feedback regarding the Summer on the Square event. He advised he has reached over 10,000 people with the flyer that was posted on facebook. Mr. White advised 9600 people have viewed the Easter Egg Scramble flyer.

Courthouse Avenue property update on demolition plans

Mr. White advised he has received a quote for \$11,400 to demolish the office building owned by the town on Courthouse Avenue. He said he has also received a quote for \$6,600 to remove the asbestos from the building before demolition. He said that is a total of \$18,000 for removing the building and putting sand on the lot after demolition. The Board requested that Mr. White get some more quotes for the demolition. The Board was in agreement to move forward with the asbestos abatement part of the project. Commissioner Robbins made a motion to approve \$7,000 for the asbestos abatement. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

Skate Park Update

Mr. White advised he has learned there is no insurance surcharge for having a skate park; it will be covered the same as everything else. He said there is more liability to have a skate park because of the probability of injuries and lawsuits. He said the design can mitigate the probability of lawsuits because there are certain things you should not put in a skate park. He said other items to consider are whether to have staff, hours of operation and what type of safety equipment will be required. He said this is the basic information that he currently has. Mr. White advised a

skate park has not been mentioned in our master plan or in the Pender Memorial Park master plan. He advised his job is to go off the masterplan because that is what the citizens wanted.

Public Works – Alan Moore, Director of Public Works

Discussion regarding continuing part-time employment for Arthur Williams

Mr. Moore advised he is requesting to extend Arthur Williams' work time through the end of this fiscal year. If this request is granted, Mr. Williams would continue to work 15 hours per week at \$15.00 per hour. Commissioner George made a motion to extend Arthur Williams contract for the remainder of the fiscal year (through June 30, 2018). The motion was seconded by Commissioner Dawson and carried by unanimous vote.

BREAK 5:30PM – 5:43PM

PUBLIC FORUM

Adrian Carroll, former owner of Old Carolina Eatery, advised he owned an ice cream cooler full of ice cream that had to be removed from the premises of the restaurant so he made arrangements to have the cooler picked up by some members of the fire department. The members of the fire department moved the cooler to one of their homes on the condition that the cooler was not to go back to the restaurant. Mr. Carroll learned that ten days later the cooler was back in the restaurant with the old ice cream in it and being sold. Mr. Carroll said he was told that Commissioner George made that happen. Commissioner George advised that Linda Brown, owner of the building came to his house and wanted to know (because he is on the Fire Department) if the fire department had been asked to move an ice cream cooler with ice cream in it and if it was donated to the fire department. Commissioner George said Ms. Brown met him at the Fire Department to determine where the ice cream cooler was but it was not there when they arrived. Commissioner George advised that Jonathan Paluck had made arrangements to move the ice cream cooler and took it to his grandparent's house. Commissioner George said he advised Ms. Brown that he would meet her at Food Lion where Mr. Paluck works so she could talk to him about the cooler. He advised he introduced Ms. Brown to Mr. Paluck and he left and went home. Mr. Carroll said those two conspired with Ms. Brown to get his cooler back in her building. Mr. George said he doesn't know because he left before Ms. Brown and Mr. Paluck began to talk about the cooler. Mr. Carroll advised he has a list of names and whoever gave the cooler back to Ms. Brown will have to answer to it.

John Corcoran had signed up to speak but wanted to wait until the Osgood Canal project is discussed.

Karen Harding had signed up to speak but said she wanted to speak when her item comes up for discussion.

ITEMS FROM ATTORNEY – Robert Kenan, Attorney

Status of Pender Memorial Hospital and Osgood Canal Stormwater Improvements project regarding easements

Attorney Kenan advised that the easement was revised with a gabion wall and submitted to the Corcoran's by the Planning Department and a deadline was given as of last Wednesday to have that easement executed and that easement has not been executed. He said he received an email that was sent to the Planning Department by the Corcorans who made a number of changes to the easement which in reviewing those proposed changes are not acceptable and he cannot not make those recommendations or let the town accept those recommendations by the Corcorans simply because it will only benefit them and not the town. He said his recommendation based on the time line for the project and through the monies being received via grants is to proceed with condemnation of that easement which requires appraisal and adoption of a resolution to move forward with condemnation. He reviewed the steps that are required for a condemnation procedure. Mayor Cowan said the Board has heard the recommendation and asked what the pleasure of the board is. Commissioner Harrell asked what the Corcorans are asking for. Attorney Kenan presented copies of the easement amended by the Corcoran's and Attorney Kenan read each amendment. Attorney Kenan said the purpose of an easement is not for the benefit of the Corcorans but for the benefit of the public and the storm water improvements. He said the town needs access to the easements to make

improvements as well as to repair and maintain the actual easement. The Corcorans are proposing that you only maintain the gabion wall, they also want you to do only improvements that benefit them and not the general public and so that does not benefit the town at all by going with their proposals. Attorney Kenan said he recommends that the Board proceeds with the condemnation because as he told them in January, February and again today there are time limits and as a result by waiting for the easements, submitting for bids, awarding a contract and mobilization it will be September and there will not be enough time to complete the project by the deadline. He advised the Board they need to move forward or end up paying back the grant monies.

Commissioner Harrell wanted to hear from the Corcorans. Mayor Cowan asked Mr. Corcoran if the gabion wall is what he is interested in. Mr. Corcoran said he is not interested in the gabion wall. He said he wants to limit this easement to this one project and it was never their intention to get a gabion wall; that was just something the engineers proposed. He said he does not want the bank of the canal to erode and he does not want the trees cut down. He doesn't want a tractor on the easement; only hand trimming and cutting of trees. He said he will sign an easement for this project but not for any project that may affect that area in the future. He said he is not interested in giving the town cart-blanche to come in there to do what they want. He said we cannot sign this unless the town is liable for any and all damages that may occur. Mr. Corcoran spoke at length and repeated several times all the reasons that he does not want to sign this easement. He said he feels that this document is not for this one project. He said in his opinion the town is only doing this project because they got a grant and that it is not a necessary project. Commissioner Dawson said that is not true because we have drainage issues and a number of people have come before the board and asked for them to do something for the drainage problems in the town. She said that is why the grant was applied for. Mayor Cowan said to the Board "we have discussed this issue for three months and if you want to do away with the grant; it's time to make a decision because we have had two sets of engineers down here, apparently we have not satisfied Mr. Corcoran so make a decision". He said the attorney has given you recommendation.

Commissioner Harrell said if we could come to an agreement with the Corcoran's he believes the easement could be signed quickly. He said we are trying to come up with final wording for what is reasonable for the Corcorans and the town. Mr. Corcoran said the way that easement was written no one would sign it. Attorney Kenan said this is the same easement that all the other property owners have signed and that the Corcorans are the only ones that have not signed. He advised he cannot make limitations for this project only because there will be a time that there will have to be work done in order to continue making improvements. He said writing this easement the way the Corcoran's want it to be written will tie the hands of the town for future boards and he cannot recommend that.

Commissioner Robbins said he is not a lawyer but he doesn't see a problem by limiting the easement to this project. Commissioner Harrell said the Corcoran's have more invasion in their property than any other property owners along the project route. He said we are trying to help their situation. Attorney Kenan said the easement as written limits the scope to maintain the stormwater improvements. Commissioner Robbins suggested that Attorney Kenan and Mr. Corcoran go to another room and try to work this issue out tonight. After much more discussion among the Board and Mr. Corcoran regarding the fact that Mr. Corcoran wants to limit the easement to this project, Attorney Kenan once again reminded the Board that the language states that the easement is for operating a storm water facility. It's not for all these other things that Mr. Corcoran keeps talking about. It is only limited for storm water improvements and that's it. Mr. Corcoran kept insisting that specifics be listed in the easement.

Commissioner Harrell said he thinks we are getting close to an agreement and wanted Attorney Kenan and Mr. Corcoran to settle this tonight. He asked if the issues requested by Mr. Corcoran could be included in the easement in order to settle this matter. Attorney Kenan advised he could not do it tonight because he must be present through the remainder of the meeting. The Board wanted to take a break and let Attorney Kenan and Mr. Corcoran work this out tonight. Commissioner Harrell said it looks we are down to two issues and asked if this can be written into the easement. Attorney Kenan said I'll write anything into the easement you want because it sounds like to me you are not listening to my advice so I'll do whatever you want. It's your liability and you are tying the hands of future boards. I'll do whatever you want, I just want the minutes to reflect that so when you have problems or when future boards have problems and need to look at this they will see that this board here made those decisions, not based on my advice but based on your own decisions. Commissioner Robbins said that's fine with me. We'll suffer the consequences and history can be the judge. We need to get this done.

After an hour and fifteen minutes of discussion with no resolution to the situation, Mayor Cowan called for a break until further notified.

BREAK: 6:37PM – 6:53PM

Mayor Cowan declared the meeting back in session at 6:53PM. He advised we are going to finish the agenda items and continue the discussion with the Attorney and the Corcoran's until 9:00AM on Monday, March 19th, 2018 here in the board room. Mayor Cowan advised the entire Board needs to be present. Attorney Kenan requested for each Board member to see him before they leave in order to get a copy of the easement in question.

ITEMS FROM MANAGER – *Joseph Pierce, Town Manager*

Review of draft ordinance regarding a Parks and Recreation Advisory Board

Mr. Pierce advised per the Board's request, he and Zachary White have drafted an ordinance for a Parks and Recreation Advisory Board. He advised this is a draft only and is being presented for review by the Board. He advised this draft essentially combines the Parks and Recreation Committee and Promotions and Special Events Committee into one advisory board. He advised there is a recommendation of five members as opposed to a seven member board. He said that was a request by Zachary White due to the problems in the past of getting a quorum with a seven member board. He said the rationale is that having fewer members on the board presents a higher likelihood of having a quorum. He also advised the member's terms have not been staggered; they all begin with one date and end on another date three years later. He advised that will make appointments easier to keep track of. He reviewed the entire document and advised this is debatable and the Board may make any changes deemed necessary before moving forward to a public hearing at the April BOC meeting. Mr. Pierce said his request is to call for a public hearing at the April 10, 2018 Board of Commissioners meeting to consider approval of this recommendation regarding the establishment of a Parks and Recreation Advisory Board.

Commissioner Harrell requested the number of members be increased from five to seven, although he understands the rationale but at the same time we are also dissolving two boards which have more than that number of members on them now and he feels that in limiting citizens input that we are losing a valuable asset. Commissioners Dawson and Robbins agreed with Commissioner Harrell's recommendation. Commissioner Robbins commented that there should be a statement that reads that the Parks and Recreation Coordinator should be responsible for getting the minutes from the secretary and then send those minutes to the Town Clerk which will see that the Board receives the minutes in a timely manner. This request was based on issues in the past in getting minutes from the past committees to the Board in the time stated in the ordinance.

Commissioner Harrell made a motion to call for a public hearing at the April 10, 2018 Board of Commissioners meeting with the addition of having a seven member board. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Discussion: Police Vehicle

Chief Hock advised per the Board's request last month he spoke with Mr. Highsmith at Fairway Ford regarding a price on a comparable Ford vehicle to the Dodge vehicle spoken about last month. He said Mr. Highsmith was very appreciative that he had inquired about a vehicle but advised that a comparable Ford vehicle would be \$7,000 more than the Dodge vehicle. Chief Hock said it is his recommendation that we go with the Dodge for the sake of accomplishing the same task at a lesser price. Chief Hock said the Dodge vehicle will be \$37,871.00. He asked the Board what they would like to purchase and where the money can be appropriated from. Commissioner Dawson made a motion to appropriate \$37,871.00 from fund balance to purchase the Dodge vehicle as requested by Chief Hock. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Consideration of Changing the May 8 Meeting Date Due to Primary Elections

Mr. Pierce advised primary elections will be held on May 8th in the board room. He is requesting that the May 8th meeting be changed to Tuesday, May 15th. The Board was also advised there will be a budget workshop on

Thursday, May 10th. Commissioner Robbins made a motion to change the May 8th Board meeting to May 15th. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

Commissioner Robbins asked Mr. Moore about the paving. Mr. Moore advised the paver is planning to pave the third week of April.

Commissioner Robbins asked about the blueberry sculpture for which the town has paid half of the cost to Craig Brown, Blacksmith to create. Ms. Pope that is all she knows about it. She has no other records of payment. Commissioner Robbins advised he would like to find out the status of this project.

Commissioner Dawson asked about placing a street light on Dickerson Street between Bridgers Street and Ashe Street. She said it is very dark in that area. She asked that Duke Energy be contacted about putting street lights in that area. Karen Harding advised a street light on Cowan has been out about a year.

Commissioner Harrell asked how the Wilmington Street project is coming along. Ms. Dunn advised we have the plans drawn by Mark Walton. She said they plan to put much of what Mr. Walton has drawn into the DOT project such as the bulb outs and the improvements along Walker Street. She said she will have that conversation with Michael Bass to try to get as much as they can of Mr. Walton's project included. Ms. Dunn said the owner of Piggly Wiggly has not signed an easement yet. She advised she has spoken with Jessie Leonard about the pedestrian lights and some other issues as well and will have more information later.

Karen Harding, Fill in Floodway

Karen Harding wanted to speak either during the items from the manager or the board and asked if she could speak now. She advised she was addressed with a letter about fill being put on her property and she addressed it at the last meeting and was sent another letter. She said she has nothing to add other than the fill was on her property when she bought it. Then she said "no, I take it back, the fill was there when I bought the property and as far as I can tell the fill was actually on town property". She said she did not have the property surveyed when she bought it and she is just going by the picture and eyeballing it. She said she is not exactly sure where her property lines are. She then said the fill was on the town property prior to her purchasing the property. She said all this stuff about her needing permits, that she has broken all kinds of rules; any of that is untrue.

Kim Rivenbark, Flood Plain Administrator said the problem is not where the fill initially was, it's where it got moved to. It was moved into the floodway. Ms. Rivenbark said she has spoken with Mr. Mulligan regarding the issue and he told her that he had moved the fill to the location in question. Ms. Harding said there is a lot of confusion because there is a lot of mulch that would be in this. She said they have been taking the mulch away and putting around their higher level property. Mayor Cowan asked Ms. Harding if the mulch is hers. She said that is a gray area as well. She said she didn't want to throw anybody under the bus. She said the issue is not the mulch. Ms. Harding said she got a letter regarding fill that was placed in the floodway without a no-rise certificate. She said the fill was not on her property. Mayor Cowan asked if it is on her property now. She said guessing by the sight line; yes it is on the property now. She said she didn't put it there, she didn't put it there to begin with and she didn't move it and she doesn't want it.

Mayor Cowan asked Ms. Rivenbark to explain the situation. Ms. Rivenbark advised there are several piles of mulch that are located in the 100 year flood zone. Those are not the concern because she can write a permit to cover those piles of mulch. She advised the issue is the mound of dirt that Ms. Harding says was on town property when the house was purchased. Ms. Rivenbark advised a Google truck drove by in January of 2014 and the pile of dirt was not in the right of way. She advised in December of 2016 when they drove the Google truck by there was a mound of dirt that was located more than likely in the town's right of way. She advised according to Mr. Mulligan he moved that dirt and put that dirt around the trees and those trees are located in the floodway. That is the concern and that mound of dirt needs to come back out of the floodway.

Ms. Rivenbark said as far as the letters that Ms. Harding has received, there have been several. Ms. Rivenbark said she mailed a letter in January asking that the fill be moved by January 29th; that was not done. She said we tried to make a connection to meet with Ms. Harding but the first attempt to meet had to be canceled due to illness with staff; multiple attempts followed but were canceled on Ms. Harding's behalf. Ms. Rivenbark advised a second mailing took place on February 14th and was an order to schedule a hearing with the Town Manager and the Flood Plain Administrator within ten days of the date of that letter; we received no word from Ms. Harding. A third letter was mailed out on March 1 ordering a hearing to take place on Monday, March 12 at 9AM in the town manager's office and neither Ms. Harding nor Mr. Mulligan arrived for that hearing. The Town Manager and the Flood Plain Administrator had the hearing and from that hearing there is a new deadline. She advised there will be an order sent out and the deadline is to remove that dirt from the floodway within a sixty day timeframe of the date of the letter or be found guilty of NCGS 143-215.58. Mr. Pierce said on the face this is a pile of dirt but the ramifications from that are that the Town could be found in violation and if we don't do something about this the entire town could lose the right to have flood insurance. That is the bigger issue at hand here, not just a pile of dirt; it is a matter of the entire town suffering for lack of action on our part. Ms. Rivenbark said when the state came down and did their CAV visit we drove down Cowan Street, the representative saw the dirt and agreed that is a violation and we cannot let this drop.

Mayor Cowan asked Ms. Harding if she can move the dirt. Ms. Harding said she doesn't want to be liable for the dirt. She said she is in no way accountable to this pile of fill that was placed on town property years before she had any association with the property. It sat there for a number of years, nothing was done about it and now it is an urgent matter. Ms. Rivenbark said it became an issue when the dirt was moved from the 100 year floodway to the flood plain. Once again Ms. Harding said it was a private sale and she doesn't know where her property lines are. Mayor Cowan said to the Board this is mighty small issue to be spending this much time on it and asked them what they wanted to do about it. He asked how much dirt is there. Ms. Rivenbark said it is not a huge amount, but her concern is that the state is aware of it. Mayor Cowan said to Ms. Rivenbark that he is not questioning that she has not done her job because he thinks she has and she has documented it well along the way. Commissioner George said we don't need to be liable for the people of this town losing their flood insurance. Commissioner Harrell asked if this is a dump truck load of dirt. Ms. Rivenbark said FEMA does not differentiate between a shovel load and a dump truck load so any amount of dirt is a concern. She said this is maybe a half dump truck load. Ms. Harding stated that she pulled debris out of that pile such as chunks of concrete supposedly from the sidewalk job.

Mayor Cowan said to Mr. Pierce that he is sure he can take care of this. Mr. Pierce stated that the question lies if it is on private property and he did not want to set precedent by going on their property. Mayor Cowan told Mr. Pierce he is sure he can get an easement to get the dirt off. Attorney Kenan advised if it is the position of this board to do that then both property owners will need to sign a release releasing the town from any liability regarding removing that dirt. That is a prerequisite before you go on the property and the board needs to vote on that and give clear direction to the Town.

Commissioner Dawson made a motion to remove the dirt that is within the flood way located on the property owned by Karen Harding and Eugene J. Mulligan and prior to the removal of said dirt that the property owners, Karen Harding and Eugene J. Mulligan execute and deliver to the Town of Burgaw a release that releases and indemnifies the town and its employees from all liability arising out of the removal of the dirt from the property owner's property. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

Sidewalk to Senior Center

Mayor Cowan inquired about the status of the sidewalk to the Senior Center. Ms. Dunn advised signs have been put out, they are mobilizing their equipment and material on the lay down yard and we should see some action soon. Mayor Cowan asked Ms. Dunn to put in the next update a revised timeline as to when the sidewalk will be completed. Ms. Dunn advised May 4th is the contractor's time line.

Discussion – Bank Building

Chief Hock advised there has been discussion recently about the possibility of retrofitting the old bank building on Fremont Street and turning it into a police department. He said it would benefit the police department as well as the

town hall in that it would create much needed space. He said being in the same building with town administrative staff and fire department is great however we are bursting at the seams for space. He stated we are just looking at the pluses and minuses to see what the Board would like to do. He advised there is approximately 2,000 sq. ft. in the current police department as opposed to almost 3,800 sq. ft. in the bank building. He said there is much potential for growth down the road. He said the location is great being so close to the court house and downtown. He commented it would be a great location to be there during festivals and events. Chief Hock said the vault would make a great evidence room. He said the benefit to the fire department would be equally as good because it would give the fire department more space for staffing and emergency situations.

Chief Hock said it will cost money to retrofit the bank building but it could be made into a functional building. The first step is to determine that the building is structurally sound because emergency services buildings must be at a certain level. He advised that NC State University has an architecture program and someone has a contact to possibly look into getting some help from them for this retrofit program. He advised he will move forward to look into this further only if it is the pleasure of the Board. He reviewed a list of issues that he is aware of that will have to be remedied.

Mayor Cowan asked each board member if they are interested in pursuing the request by Chief Hock to retrofit the bank building for a police department. All were in agreement to look into it and find out what needs to be done and what the cost would be.

PUBLIC HEARING – *Joseph Pierce, Town Manager*

Public Hearing: Consideration of rescinding Ordinance 2013-31 which will dissolve the following sub-boards of the Town of Burgaw Board of Commissioners: *Policy and Finance, Infrastructure and Buildings and Grounds.*

Mayor Cowan declared the public hearing open at 7:39 PM.

Mr. Pierce advised at the February 13th Board of Commissioners meeting the Board agreed to hold a public hearing to rescind the ordinance that created the Building and Grounds Board, the Infrastructure Board and the Policy and Finance Board. Dissolving these boards will decrease redundancy in the governing process by streamlining the decision making meetings to be heard by the full board instead of being presented to one of the abovenamed boards and then repeated to the full board for a final vote. Mr. Pierce advised that most of these boards are actually functions of the town manager. He said the one board that needs to remain is the Tree Board because of the requirements to maintain standing in the Tree City USA program. Mr. Pierce advised most of the issues handled by these boards can be taken care of by staff members. Mr. Pierce said his recommendation in the interest of the validity, usefulness and efficiency of staff use of time and in the interest of the Board's use of time, he is asking for a motion to dissolve the buildings and grounds board, the infrastructure board and the policy and finance board and make it a function of the manager and to leave the responsibilities of the tree board to the planning board.

Mayor Cowan closed the public hearing at 7:45 PM.

Commissioner Harrell commented there is one other committee that will be affected by this change and that will be the towing appeals committee. He said he wanted to make sure everything is cleaned up.

Ordinance 2018-03 Rescinding Ordinance 2013-31 and Associated Sub-boards of the Board of Commissioners

Commissioner Dawson made a motion to rescind Ordinance 2013-31 to include the towing appeals committee. The motion was seconded by Commissioner Robbins. Commissioners Dawson, Robbins, George and Murphy voted "aye". Commissioner Harrell voted "nay". Motion carried four to one.

**ORDINANCE 2018-03
RESCINDING ORDINANCE 2013-31 AND ASSOCIATED SUB-BOARDS
OF THE BOARD OF COMMISSIONERS**

WHEREAS, on February 11, 2014 the Town of Burgaw Board of Commissioners adopted Ordinance 2013-31 approving reorganization of the committees of the Board of Commissioners thereby creating a Building and Grounds Board, an Infrastructure Board and a Policy and Finance Board made up of elected officials; and

WHEREAS, the current Board of Commissioners has determined that having these sub-boards has created a more complex system resulting in more meetings and time consumption for both the Board and staff; and

WHEREAS, the Board desires to reduce redundancy and increase efficiency in the governing process by dissolving the Building and Grounds Board, the Infrastructure Board and the Policy and Finance Board.

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

Section 1: The Building and Grounds Board, the Infrastructure Board and the Policy and Finance Board are hereby dissolved and to remove all references to the abovementioned Boards from the Code of Ordinances.

Section 2: Ordinance 2013-31 is hereby rescinded in its entirety.

Section 3: This amendment shall become effective immediately upon adoption of this ordinance on this the thirteenth day of March, 2018.

Approved: March 13, 2018

CLOSED SESSION

Commissioner Dawson made a motion to go into closed session pursuant to GS 143-318.11 paragraph (a) item (3) Attorney/Client Privilege. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

OPEN SESSION RECONVENED

Commissioner Robbins made a motion to go out of closed session. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

Upon returning to open session at 8:50PM, Commissioner Dawson made a motion to continue this meeting until Monday, March 19th at 9:00AM. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

MEETING RECONVENED ON MONDAY, MARCH 19, 2018 AT 9:00

Board Members Present: Mayor Cowan, Commissioner Dawson, Commissioner George, Commissioner Harrell, Commissioner Murphy and Commissioner Robbins

Staff Present: Joseph Pierce, Town Manager; Sylvia Raynor, Town Clerk; Robert Kenan, Town Attorney; Kristin Wells, Deputy Clerk; Jim Hock, Chief of Police; Karen Dunn, Planning Administrator; Kim Rivenbark, Flood Plain Administrator;

Others Present: Carter Hubard, Engineer for W. K. Dickson; Ruth Glaser, President of Pender Memorial Hospital

Mayor Cowan called the meeting to order at 9:00AM and recognized Attorney Kenan for the continuation of the meeting from Tuesday, March 13, 2018.

Attorney Kenan commented that you (the Board) wanted to come here today to negotiate this easement between the Corcoran's and the town. He advised he reviewed some agreements regarding this project. He advised the Board that they have before them the grant agreement between the Town and the Department of Environmental Quality for the State of North Carolina. He advised the state is giving the town \$347,000 towards this project. He said on the first page under paragraph 5 it reads that the grantee shall complete the project as described in attachment B and in accordance with the approved budget. He referenced a flagged document that is Resolution 2016-01 that was

adopted on January 12, 2016. He said under paragraph 7 it says the Town Board of Commissioners will assure the project is open for use by the public on an equal basis with no restrictions. He said in item 9 the Town Board of Commissioners accepts responsibility for the operation and maintenance of the completed project. Attorney Kenan said based on your own ordinance and grant agreement whenever you executed it between yourselves and the State of North Carolina to accept the \$347,000 you first of all agreed that you would perform all the maintenance and have all of the control over the actual project. Secondly, you also agreed that you would not have any restrictions on the use of the project and that the use would be open to the public for everyone. Based on your discussions last week that is contrary to this grant agreement. If you agree to anything other than doing the gabion wall with the Corcoran's then you will be in violation of your own resolution and your own grant agreement and it's going to trigger you to potentially lose \$347,000 towards that million dollar project. Attorney Kenan said he wanted to make the Board aware of that this morning before we get involved in any negotiations so you know what your contractual position is with respect to this grant. He advised with that said he would answer any questions the Board may have before we move on.

Commissioner Robbins asked how this can be open to the public with no restrictions. Attorney Kenan said basically that means that the project has to be available to all members of the public without any restrictions. Attorney Kenan said he thinks it means that you cannot place any restrictions or give one person preference over the use of that easement over another member of the public. He said that is the way he understands that provision. Carter Hubard commented that the purpose of a storm drainage project is to benefit all of the public. Mayor Cowan said this project is being completed for the benefit of everybody. Attorney Kenan advised that if you are not going allow it for the use equally of all the public then you will be in violation of the grant agreement which means you would have to pay back the \$347,000 or self-fund it or apply for some loans. Commissioner Harrell said he cannot see how giving the Corcoran's use of their land in a continued fashion when possible would restrict the public's use of a flood control project, but at the same time I don't see the Corcorans here and I don't think this is something that we need to go into. Commissioner Robbins said he wasn't nit-picking the words; he just couldn't understand it. Attorney Kenan said don't get hung up on paragraph seven because it is paragraph nine that will get the grant taken away from you. Attorney Kenan said paragraph nine means that if you concede control over that area to the Corcorans then you are basically in violation of your resolution and your grant agreement and looking at losing the funding. Attorney Kenan said he is making the Board aware of it but is not advising you what to do because that is the Board's responsibility and liability to make those decisions.

Commissioner George asked if we can build the gabion wall. Attorney Kenan advised you can agree to build the wall as part of the easement; that doesn't impact anyone, doesn't violate the grant agreement if you build the wall. But, you have to have control over the easement and you have to have the right to do the maintenance and the repairs and replacement of any of the improvements there whenever it's required. He said he doesn't think that is what the Corcoran's want you to do. They want you to basically go to them anytime that you need to do any kind of maintenance or any kind of improvements within the easement and ask their permission in which they will consider giving to you or withholding it. He said that is not going to happen if you accept this grant agreement and the monies. You can do the wall and that is all you can do and if they are not willing to accept that then you need to move on to condemnation.

Mayor Cowan asked what the benefit of a gabion wall is. Carter Hubard said the benefit of a gabion wall is that it allows the stream bank to be a hardened structure so the slope can be steeper and can be constructed along the same path that we are on now but it doesn't take the soil slope to come back at an angle to keep the erosion and to keep the channel intact. It requires less room to construct; it is an expense to put in the stone structure along that bank; it just keeps that width of disturbance because you don't have to build back that slope. It allows that slope to be more vertical. He said we are showing it with the ability to retain those trees with the easement but you cannot guarantee that the trees are going to be there and allow them to continue to grow and to continue to be there because we have to go back and maintain that wall and we must be able to get in there. He said maintenance occurs when there is a break in the wire fabric and it must be mended and the stone has to be put back in place. He said the lifespan of the wall is high but the downside is the expense.

Commissioner Robbins asked if the statement in the agreement that allows the general public to go in there means that anyone can go in there. Attorney Kenan said it means that it can be maintained. He said in order to do the maintenance you need a permanent easement as has been surveyed here.

Commissioner Dawson asked if anyone has heard from the Corcorans as to why they are not here. Mr. Pierce advised he received an email from Mr. Corcoran stating that his work schedule would not allow him to be here. Commissioner Dawson said she thought they agreed on Tuesday that they would be here on Monday morning. Mr. Pierce said that is correct. Mr. Pierce also advised he asked Mr. Corcoran if he would have a representative here to speak on his behalf and received no response from Mr. Corcoran.

Mayor Cowan asked Ms. Dunn based on her numbers if the out of pocket expenses for the gabion wall would be approximately \$22,375. He said that would be \$15,000 for the wall and \$7,375 involved in the reappearances of the engineers. Is that correct? Ms. Dunn asked Mr. Hubbard if the drawing they have is sufficient to build the wall or if it will be more detailed. Mr. Hubbard advised this is an exhibit to explain what the gabion wall looks like and how it fits in with the stream and channel. He said to revise our construction documents it requires more drafting and engineering work to get ready for bidding. Ms. Dunn said that would be an additional \$1,000 would be needed to revise the plan. Ms. Dunn advised the \$7,375 was reallocated within the grant because there were a number of line items that ended up not being needed. It would have been used in contingency funds but because of all the public involvement and visits from the engineers that money was reallocated from another scope of the project that was not used.

Mayor Cowan asked the Board if they desire to authorize the town attorney to move forward with the condemnation since the Corcorans are not here. Commissioner Harrell said he would like to include the gabion wall in the construction. Commissioner Harrell made a motion to move forward with the condemnation and to include the gabion wall in the construction of the project. The motion was seconded by Commissioner George and carried by unanimous vote.

Attorney Kenan advised the Board that it will be at least June before we get the easements provided that they don't file a relief to slow it up.

Mayor Cowan said since we don't have an extension on this grant, and it probably won't be completed by the time line we just discussed by the expiration of this grant, where is this going? Ms. Dunn said she has filed one extension previously and on Friday resubmitted the extension requesting until June 30, 2019 to complete this project. She said they have not processed her previous request so this new request will go into Golden Leaf's process for an extension. She said she has not received that okay yet but it is in process. Mayor Cowan asked when the project was originally set to be completed. Ms. Dunn advised November of 2018 and we are about five months behind schedule. She commented that she asked the engineer when we can go out to bid and was advised with moving forward there may be a process where we can start the letting process and getting the documents ready to go out to bid now that the condemnation is going forward. She advised we can take a parallel path of getting those documents going in addition to those documents related to the condemnation.

Attorney Kenan advised Mayor Cowan that the clerk and manager have requested a clarification on the motion for the condemnation because it is not exactly clear. He advised we also need a separate motion to authorize the hiring of a professional real estate appraiser to appraise the two easements that are within the proposed easements for the Corcorans.

Commissioner Dawson made a motion to condemn the easements as stated within the proposed easement agreement between the town and John and Dayna Corcoran that are shown on exhibits A and B of the proposed easement agreement and to authorize the hiring of a professional real estate appraiser to appraise the two easements for a price not to exceed \$1,000. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Ms. Dunn asked how the wall will be funded because it is not part of the original grant. Mr. Pierce advised when we know the dollar amount of the wall we will make a motion to fund it.

Resignation of Town Attorney

Attorney Kenan announced to the Board that he is terminating the attorney/client relationship between himself and the town effective today at 9:35AM. He said he wishes the town and staff the best of luck. He said he has been

representing the town for almost eighteen years and today is his last day and he appreciates the opportunity. Mayor Cowan thanked Attorney Kenan for his service. Attorney Kenan advised he will take care of contacting Phil Eakins for the appraisal. He also advised the Board they will need to find another attorney to handle the condemnation.

ADJOURNMENT

There being no further discussion, Commissioner Harrell made a motion to adjourn. The motion was seconded by Commissioner Dawson and carried by unanimous vote. The meeting adjourned at 9:45AM.

Kenneth T. Cowan, Mayor

Attest: _____
Sylvia W. Raynor, Town Clerk