

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

DATE: April 12, 2016
TIME: 4:00 PM
PLACE: Burgaw Municipal Building
BOARD MEMBERS PRESENT: Mayor Eugene Mulligan
Mayor Pro-tem Wilfred Robbins
Commissioners Jan Dawson, Bill George, Vernon Harrell, James Murphy
STAFF PRESENT: Chad McEwen, Town Manager
Sylvia W. Raynor, Town Clerk
Robert Kenan, Town Attorney
Anthony Colon, Assistant Director of Public Works
Bill Fay, Director of Public Works
Louis Hesse, Building Inspector
Jim Hock, Chief of Police
Wendy Pope, Finance Officer
Rebekah Roth, Planning Administrator
Kristin Wells, Deputy Clerk
Allen Wilson, Fire Administrator
MEDIA PRESENT: None
INVOCATION: Nick Smith, Chaplain
PLEDGE OF ALLEGIANCE: All

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

Approval of Agenda

Mayor Mulligan asked if there were any requests for amendments to the agenda. There being no amendments requested, Commissioner Harrell made a motion to approve the agenda as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Approval of Consent Agenda

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

- A. Minutes of the March 12, 2016 regular meeting and closed session;
Minutes of the March 11, 2016 special meeting**
- B. Resolution 2016-09 Declaring Spring Festival Day in Burgaw**

**RESOLUTION 2016-09
DECLARING SPRING FESTIVAL DAY IN BURGAW**

WHEREAS, it has become “tradition” for the first Saturday in May to be set aside for the Pender County Spring Fest; and

WHEREAS, this festival will bring together the citizens of the Town of Burgaw and Pender County to celebrate the cultural heritage of the area; and

WHEREAS, many talented and skilled Pender County citizens will display and sell their handmade crafts, homemade foods and homegrown plants.

NOW THEREFORE BE IT RESOLVED by the Town of Burgaw Board of Commissioners that Saturday, May 7, 2016 shall be declared “Spring Festival Day” and that the following changes and directives shall be placed in effect during Spring Festival events only:

- Wright Street between Fremont Street and Wilmington Street shall be closed on Friday, May 6, 2016 between the hours of 6:00PM and 9:00PM for the street dance.
- Wright Street shall be closed between Fremont Street and Wilmington Street and Fremont Street shall be closed between Walker Street and Wright Street (keeping the intersection of Fremont and Wright open to turning traffic) during the Spring Festival on Saturday, May 7, 2016 between the hours of 6:00 AM and 4:00 PM only.
- In addition the street closure related to Wright Street will also result in Courthouse Avenue being closed on Friday, May 6, 2016 between the hours of 6:00PM and 9:00PM and Saturday, May 7, 2016 between the hours of 6:00 AM and 4:00 PM.

Adopted this 12th day of April, 2016.

SPECIAL REQUESTS

Pender Historical Society – *Jeannette Jones*

Jeannette Jones appeared before the Board on behalf of the Pender Historical Society to request use of the Community House at no charge for the 2016 Annual Christmas House and Tree Tour to be held on Saturday, December 3rd. Ms. Jones is requesting to reserve the building for December 2 for set up, December 3 for the actual tour, December 4 there will be no activity due to the room being filled with trees and December 5 for removal of the trees. After a brief discussion regarding confirmation of dates, time and availability of the building, Commissioner Dawson made a motion to approve Ms. Jones' request to use the Community House at no charge for December 2 -5 for the Christmas tree display. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

North Carolina Blueberry Festival – *Olivia Dawson*

Olivia Dawson appeared before the Board on behalf of the NC Blueberry Festival to present a check to the Burgaw Fire Department and to propose street closures for the day of the festival. Ms. Dawson presented a check to the fire department in appreciation of the use of the fire department facility as well as volunteer support for the annual pancake breakfast. Ms. Dawson presented a request for street closures that includes a change from last year regarding Fremont Street between Wright and Dudley; she is requesting closure for that area from 6PM on June 17th through 12:00AM on June 19th. Ms. Dawson assured the Board that all businesses that will be affected by this closure have been contacted and are okay with the change. After a brief discussion, Commissioner Robbins made a motion to approve the street closures as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote. (A formal resolution regarding all Blueberry Festival requests will be placed on the May 10th agenda for approval.)

Daughters of the American Revolution – *Margaret Williams*

Margaret Williams appeared before the Board on behalf of the Daughters of the American Revolution (Battle of Moore's Creek Chapter) to request use of the depot dock on Friday, November 11, 2016 for the Veteran's Day observance. She advised the observance is typically held at the flag poles at the north end of the depot and she is requesting use of the dock only in the event of inclement weather. She is also requesting use of the dock at no charge. After a brief discussion, Commissioner Robbins made a motion to approve the request as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Parks/Recreation Committee – *Noah Harrell*

Noah Harrell, Chairperson of the Parks and Recreation Committee appeared before the Board to request that the Board of Commissioners include the Yoga/Zumba program in next year's budget. Mr. Harrell was advised this item has been placed in the draft budget for the FY 16-17 budget and will be reviewed during the budget workshop. No action was taken on this item.

DEPARTMENTAL ITEMS

FIRE DEPARTMENT/EMERGENCY MANAGEMENT – *Allen Wilson, Fire Administrator*

BOC MINUTES

APRIL 12, 2016

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Resolution 2016-10 Adopting the Southeastern NC Regional Hazard Mitigation Plan

Mr. Wilson advised he is presenting for approval a resolution to formally adopt the Regional Hazard Mitigation Plan for Pender, New Hanover and Brunswick Counties. He informed the Board we are required to have an “All-Hazards” Mitigation Plan on file that has been approved by the Federal Emergency Management Agency and the North Carolina Emergency Management Office. Mr. Wilson said our current plan expires this year as does the other municipalities’ and counties’ individual plans. He advised Pender County Emergency Management spearheaded a program to secure grant funding to develop a Regional Hazard Mitigation Plan for all three counties and their municipalities. Each county and municipality is in the process of adopting the plan.

After a brief discussion, Commissioner George made a motion to approve Resolution 2016-10 as presented. The motion was seconded by Commissioner Murphy and carried by unanimous vote.

**TOWN OF BURGAW
RESOLUTION 2016-10
ADOPTING THE SOUTHEASTERN NC REGIONAL HAZARD MITIGATION PLAN**

WHEREAS, the citizens and property within Pender County are subject to the effects of natural hazards and man-made hazard events that pose threats to lives and cause damage to property, and with the knowledge and experience that certain areas of the county are particularly vulnerable to flooding, high winds, droughts/heat waves, and severe winter weather; and

WHEREAS, the County and participating municipal jurisdictions desire to seek ways to mitigate the impact of identified hazard risks; and

WHEREAS, the Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Legislature of the State of North Carolina has in Part 6 of Article 1A of Chapter 166A of the North Carolina General Statutes, stated in Item 19.41(b)(2): “For a state of emergency declared pursuant to G.S. 166A-19.20(a) after the deadline established by the Federal Emergency Management Agency pursuant to the Disaster Mitigation Act of 2002, P.L. 106-390, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act;” and

WHEREAS, Section 322 of the Federal Disaster Mitigation Act of 2000 states that local governments must develop an All-Hazards Mitigation Plan in order to be eligible to receive future Hazard Mitigation Grant Program Funds and other disaster-related assistance funding and that said Plan must be updated and adopted within a five year cycle; and

WHEREAS, the County and its participating municipal jurisdictions have performed a comprehensive review and evaluation of each section of the previously approved Hazard Mitigation Plan and have updated the said plan as required under regulations at 44 CFR Part 201 and according to guidance issued by the Federal Emergency Management Agency and the North Carolina Division of Emergency Management.

WHEREAS, it is the intent of the Pender County Board of Commissioners to fulfill this obligation in order that the county will be eligible for federal and state assistance in the event that a state of disaster is declared for a hazard event affecting the County; and

WHEREAS, the Town of Burgaw actively participated in the planning process of the Southeastern NC Regional Hazard Mitigation Plan and has fulfilled all their part of the multi-jurisdictional planning elements required by FEMA;

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

1. Adopts the Southeastern NC Regional Hazard Mitigation Plan; and
2. Separately adopts the sections of the plan that are specific to the Town of Burgaw; and
3. Vests the Town Manager with the responsibility, authority, and the means to:
 - (a) Inform all concerned parties of this action.
 - (b) Cooperate with Federal, State and local agencies and private firms which undertake to study, survey, map, and identify floodplain or flood-related erosion areas, and cooperate with neighboring communities with respect to management of adjoining floodplain and/or flood-related erosion areas in order to prevent aggravation of existing hazards.
4. Appoints the Town Manager to assure that, in cooperation with Pender County, the Hazard Mitigation Plan is reviewed annually and every five years as specified in the Plan to assure that the Plan is in compliance with all State and Federal regulations and that any needed revisions or amendments to the Plan are developed and presented to the Town of Burgaw Town Council for consideration.
5. Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the 2016 Southeastern NC Regional Hazard Mitigation Plan.

Adopted this twelfth day of April, 2016.

PLANNING – Rebekah Roth, Planning Administrator

Resolution 2016-11 Exempting Engineering for 2016 Sidewalk and Intersection Capital Improvements, Bicycle and Pedestrian Plan, and West Side Trail & Parks Project from the Mini-Brooks Act as Provided by North Carolina General Statutes 143-64.31 and 143-64.32

Ms. Roth provided the following background information.

Earlier this year, the Board of Commissioners identified three sidewalk projects as part of the Capital Improvement Plan (CIP) process:

- A sidewalk extension along Wilmington St. across the railroad right-of-way,
- Intersection improvements on the west side of the Wilmington & Wright St. intersection,
- Intersection improvements at the Dickerson St. & Wilmington St. intersection, and
- Extending the sidewalk along E. Wilmington St. from Cripple Creek to Cowan St.

These projects will require engineering and encroachment agreements with NCDOT. In addition, the town will also need engineering estimates for the recommendations of the 2015 Bicycle and Pedestrian Plan adopted in November and the upcoming West Side Trail & Parks Project in order to apply for grants or other funding.

In North Carolina, the General Statutes 143-64.31 and 143-64.32 (commonly referred to as the “Mini-Brooks Act”) require the selection of professional services (engineers, architects, and surveyors) to be based on Qualification Based Selection (QBS) as opposed to the lowest responsive and responsible bidder requirement. Waiving the Mini-Brooks Act allows us to determine cost of services prior to selection and provides the Town with greater flexibility during the selection process. In addition the waiver of the Mini-Brooks Act will often force interested firms to provide you with their lowest bid for two reasons. First, the waiver allows you to consider price during the earliest phases of the selection process rather than after the selection of the firm has been made as is the case under a QBS process. Second, only projects that are estimated to be below \$50,000 for professional services may be waived under the Mini-Brooks Act. Waiving the Mini-Brooks Act informally tells any interested firms that the Town has determined a maximum financial obligation for the proposed project as it relates to professional services.

The estimated cost of the engineering for these projects is less than \$50,000 collectively, but staff intends to solicit proposals for the projects separately.

Ms. Roth advised the recommendation is the approval of Resolution 2016-11 which exempts the Town from the Mini-Brooks Act as provided by North Carolina General Statutes 143-64.31 and 143-64.32.

Mayor Mulligan asked if the intersection improvements on the west side of Wilmington Street, Wright Street and Dickerson Street are bulb-outs. Ms. Roth advised that is correct. Mayor Mulligan also commented that he had conversation with Mr. McEwen regarding extending the sidewalk along East Wilmington Street from Cripple Creek to Cowan Street. Mayor Mulligan said his thought was that instead of extending the sidewalk all the way to Cowan Street to only extend it from Cripple Creek to the first sidewalk that goes toward the library which would help us with the engineering and easement. Mr. McEwen asked if he is referring to the section along the side of the library. He said that section may be outside of the right of way but we are going to exempt it assuming that it is outside. He also commented that just stopping it at the angle sidewalk that leads up to the library should satisfy access down Wilmington Street to the library.

Commissioner Harrell asked if the Hayes Street crossing at the railroad would be included. Ms. Roth advised that was not included in the bicycle and pedestrian plan but was brought up again in the meeting on Saturday for the west side trail and parks project. She said at this point the only thing that we are requesting engineering for is just for cost estimates so we can pursue funding.

John Westbrook said he walks to work occasionally and to have to walk to the library and back down again seems a little strange to him. Mayor Mulligan said this is a cost saving issue. Mr. Westbrook also asked if there is a plan to put some parking back along Wilmington Street adjacent to the court house annex as well as his building when the bulb-outs are put in. Mayor Mulligan said that item will probably be sent to the infrastructure board for review and it can be discussed in detail at that time.

After discussion, Commissioner Harrell made a motion to approve Resolution 2016-11 as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Resolution 2016-11

RESOLUTION EXEMPTING THE ENGINEERING FOR 2016 SIDEWALK AND INTERSECTION CAPITAL IMPROVEMENTS, BICYCLE AND PEDESTRIAN PLAN, AND WEST SIDE TRAIL & PARKS PROJECT FROM THE MINI-BROOKS ACT AS PROVIDED BY NORTH CAROLINA GENERAL STATUTES 143-64.32

WHEREAS, the Town of Burgaw proposes to enter into a contract for design engineering and NCDOT permitting for four sidewalk and intersection projects identified through the 2016 Capital Improvement Plan process; and

WHEREAS, the Town of Burgaw also intends to enter into contracts to obtain engineering estimates for the 2015 Bicycle and Pedestrian Plan and West Side Trail & Parks Project to facilitate funding requests; and

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

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

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

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

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

Section 1. The engineering design and encroachment process work for the four sidewalk and intersection capital improvements identified through the 2016 Capital Improvement Plan process is hereby exempted from the provisions of G.S. 143-64.31;

Section 2. The engineering work to provide cost estimates for the recommendations of the 2015 Bicycle and Pedestrian Plan and West Side Trail & Parks Project is hereby exempted from the provisions of G.S. 143-64.31; and

Section 3. This resolution and associated Mini-Brooks exemption shall be made effective upon adoption.

ADOPTED this the 12th day of April, 2016.

FINANCE – Wendy Pope, Finance Officer

Resolution 2016-15 Authorizing the Pender County Tax Collector to Advertise Tax Liens

Ms. Pope advised pursuant to General Statute 105-369(a), the Tax Collector must notify the governing body of the total amount of unpaid taxes for the current fiscal year that are liens on real property. Upon receipt of the Tax Collector's report, the governing body must order the tax collector to advertise the tax liens. She advised the recommendation is the approval of the resolution authorizing the Pender County Tax collector to advertise the outstanding 2015 taxes on real property in the amount of \$55,300.69 as liens on these properties.

Commissioner Dawson made a motion to approve Resolution 2016-15 as presented. The motion was seconded by Commissioner George and carried by unanimous vote.

**RESOLUTION 2016-15
REPORT OF UNPAID TAXES**

WHEREAS, the Pender County Tax Collector has reported outstanding Town of Burgaw taxes of \$55,300.69 which are a lien on real property for 2015; and

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

NOW THEREFORE BE IT RESOLVED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT the Pender County Tax Collector is ordered to advertise the tax liens for the outstanding 2015 taxes pursuant to General Statute 105-369(a).

Approved: April 12, 2016

Ordinance 2016-07 Amending the FY 15-16 budget to Recognize Tax Collection Proceeds received from Pender County Finance Department

Ms. Pope advised Pender County Finance has completed a reconciliation of tax monies collected to payouts made during the years to Volunteer Fire Departments throughout the County. This reconciliation encompasses multiple fiscal years and is due to some accounting entries over the past several years not processed correctly.

In order to bring the Pender Central VFD account up-to-date as of June 30, 2015, the County will wire to the Town of Burgaw \$33,695.69 on Friday, April 8, 2016.

Ms. Pope advised a budget ordinance is required to recognize these funds as revenue into the current fiscal year. The recommendation is the approval of the ordinance to recognize the \$33,695.69 into the FY 15-16 budget to cover the appropriate expenditures.

Mr. McEwen suggested that the abovementioned funds be restricted in the general fund for use by the fire department.

Commissioner Harrell made a motion to approve Ordinance 2016-07 with funds being restricted in the General Fund for use of the fire department. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

ORDINANCE 2016-07
AMENDING FISCAL YEAR 2015-2016 ANNUAL BUDGET
Increasing Revenues and Expenditures

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2015-2016 on June 9, 2015; and

WHEREAS, Pender County Finance Department has completed a reconciliation of tax collected versus payouts and found accounting errors in posting those tax collections; thereby paying inaccurate amounts to various Volunteer Fire Departments; and

WHEREAS, the Town of Burgaw would like to recognize \$33,695.69 from Pender County into the FY 15-16 budget, therefore, additional revenue and expenditure must be recognized.

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

Section 1: The FY 2015-2016 budget be altered to reflect the following changes:

INCREASE BUDGETED REVENUE

Account Number	Account Description	Amount
10-3650-10-500	Contribution from Pender Central	\$33,695.69

INCREASE BUDGETED EXPENDITURE

Account Number	Account Description	Amount
10-5300-10-740	Capital Outlay	\$33,695.69

Approved: April 12, 2016

ITEMS FROM ATTORNEY – Robert Kenan

None.

ITEMS FROM MANAGER – Chad McEwen

Resolution 2016-12 Approving a Contract with ELJ, Inc. Related to the Water System Rehabilitation Project (Contract 1)

Mr. McEwen advised Contract 1 on the water system rehabilitation project involves the replacement of 7,200 linear feet of water mains (this has now been changed to 6,600 linear feet due to further study), the installation of a new permanent generator at the North Smith Street well, and the paving of the west bound lane of East Fremont Street from Cowan Street to US 117 bypass. In addition, Contract 1 includes the conversion of Durham Village, Allen

Village, Northwoods Apartments, Seven Oaks Apartments, and Westside Apartments. A sealed bidding process was used for Contract 1 and the following bids were received:

- 1) TA Loving Company- \$1,084,445
- 2) Jacksonville Mechanical, Inc.- \$733,990
- 3) ELJ, Inc.- \$689,950

Mr. McEwen advised ELJ Inc. was selected as the lowest responsible bidder for the project and the contract has been approved by the North Carolina Division of Environmental Quality which administers the State Revolving Fund (SRF) loan program.

Mr. McEwen advised that Contract 1 and the associated loan/grant proceeds from the SRF program will not cover the cost of paving the eastbound lane of Fremont Street. Right now the total cost of paving Fremont from Cowan to 117 is \$231,834.60. Our plan is to split this cost 50-50 between the loan/grant with SRF and Powell Bill. The share of the cost for paving Fremont Street that is to be covered by Powell Bill (\$115,917.30) will be handled as a separate contract with Southern Asphalt. The contributions of Powell Bill proceeds towards the project are reflected in the amended Capital Project Ordinance.

Mr. McEwen advised the recommendation is the approval of Resolution 2016-12 approving the tentative award of Contract 1 to ELJ, Inc. related to the Water System Rehabilitation Project.

Mayor Mulligan asked if the reduction in linear feet in the bid from 7,200 to 6,600 affects the bid by ELJ, Inc. Mr. McEwen advised it does not. He said it was originally bid as 7,200 linear feet and during the bid process we realized that there were dual water lines on the street and we had the engineer issue an addendum to all the bidders to bore and connect in with the other water line and not replace that dual line on the opposite side of the street. He advised that reduced it from 7,200 feet to 6,600 feet. He advised all bidders bid on the 6,600 linear feet. Mayor Mulligan said we are replacing the dual line because it is in bad shape and the one we are tying into is in good shape. Mr. McEwen said the lines on Fremont are either in bad shape or undersized for the service area. He also said we have done a full evaluation to our water lines and these are the most critical ones that need attention. Mayor Mulligan asked if the line on the other side of the street that we are tying into is fine. Mr. McEwen said that is correct and that is a newer line than the others.

Commissioner Harrell made a motion to approve Resolution 2016-12. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

RESOLUTION 2016-12
RESOLUTION APPROVING A CONTRACT WITH ELJ, INC. RELATED TO THE WATER SYSTEM
REHABILITATION PROJECT (CONTRACT 1)

WHEREAS, the Town has been awarded a \$1,387,200 grant/loan package for the Water System Rehabilitation Project by the North Carolina Department of Environmental Quality; and

WHEREAS, the Town has adopted a Capital Project Ordinance for the Water Distribution System Rehabilitation Project (Ordinance 2016-01) which includes two separate contracts; and

WHEREAS, Contract 1 involves the replacement of approximately 6,600 linear feet of existing water mains and related services, a permanent generator at the North Smith Street well, and paving of the westbound lane of Fremont Street from US 117 Bypass to Cowan Street; and

WHEREAS, the Town of Burgaw solicited sealed bids for Contract 1; and

WHEREAS, on January 7, 2016, the Town of Burgaw received and opened three bids that were submitted for Contract 1; and

WHEREAS, the following bids were received:

- 4) TA Loving Company- \$1,084,445
- 5) Jacksonville Mechanical, Inc.- \$733,990
- 6) ELJ, Inc.- \$689,950

WHEREAS, following a review of all bids submitted for Contract 1, Mike Apke with McGill and Associates (the engineer of record for the Water Rehabilitation Project) has provided the Town with a Letter of Recommendation of Tentative Award and Certified Bid Tabulation; and

WHEREAS, the Letter of Recommendation of Tentative Award recommended Contract 1 be awarded to ELJ, Inc.; and

WHEREAS, the North Carolina Department of Environmental Quality has issued the Town an Authority to Award for Contract Approval letter dated March 28, 2016 for Contract 1.

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

SECTION 1. The Town of Burgaw awards Contract 1 to ELJ, Inc. in the amount of \$689,950.00 based on the design specifications and submitted bid outlined above.

SECTION 2. Pursuant to the requirements of NCGS 160A-499.4 (b) (4) this resolution shall serve as the required public notice of the Town's plans to commence a construction project.

SECTION 3. The Town Manager or Mayor is hereby authorized to execute all contracts related to the contract with ELJ Inc.

Witness my hand and the corporate seal of said Town of Burgaw the twelfth (12th) day of April, 2016.

Resolution 2016 -13 Approving a Contract with Vanguard Utility Services, Inc. Related to the Water System Rehabilitation Project (Contract 2)

Mr. McEwen advised Contract 2 on the water system rehabilitation project involves the replacement of all touch read water meters with AMI (Advanced Metering Infrastructure) systems. A sealed bidding and pre-qualified bidding process was used for Contract 2 and the following bids were received:

- 1) Vanguard Utility Services, Inc.-\$123,129.61
- 2) Pedal Valves- \$247,375.95
- 3) MatchPoint, Inc.- \$132,791.00

Mr. McEwen advised Vanguard Utility Services, Inc. was selected as the lowest responsible bidder for the project and the contract has been approved by the North Carolina Division of Environmental Quality which administers the State Revolving Fund (SRF) loan program.

Mr. McEwen advised the recommendation is the approval of the attached resolution approving the tentative award of Contract 2 to Vanguard Utility Services, Inc. related to the Water System Rehabilitation Project.

Commissioner George made a motion to approve Resolution 2016-13. The motion was seconded by Commissioner Dawson. Commissioners George, Dawson, Murphy and Robbins voted "aye". Commissioner Harrell abstained. Motion carried with four "ayes" and one "abstained" which counts as a yes.

RESOLUTION 2016-13 RESOLUTION APPROVING A CONTRACT WITH VANGUARD UTILITY SERVICES, INC. RELATED TO THE WATER SYSTEM REHABILITATION PROJECT (CONTRACT 2)

WHEREAS, the Town has been awarded a \$1,387,200 grant/loan package for the Water System Rehabilitation Project by the North Carolina Department of Environmental Quality; and

WHEREAS, the Town has adopted a Capital Project Ordinance for the Water Distribution System Rehabilitation Project (Ordinance 2016-01) which includes two separate contracts; and

WHEREAS, Contract 2 involves the installation of new AMI water meters as well as the installation of meter settings at certain sensitive users in Town; and

WHEREAS, the Town of Burgaw solicited sealed bids for Contract 2; and

WHEREAS, on January 7, 2016, the Town of Burgaw received and opened three bids that were submitted for Contract 2; and

WHEREAS, the following bids were received:

- 1) Vanguard Utility Service, Inc.- \$123,129.61
- 2) Pedal Valve - \$247,375.95
- 3) MatchPoint, Inc.- \$132,791

WHEREAS, following a thorough review of all bids submitted for Contract 2, Mike Apke with McGill and Associates (the engineer of record for the Water Rehabilitation Project) has provided the Town with a Letter of Recommendation of Tentative Award and Certified Bid Tabulation; and

WHEREAS, the Letter of Recommendation of Tentative Award recommended Contract 2 be awarded to Vanguard Utility Service, Inc.; and

WHEREAS, the North Carolina Department of Environmental Quality has issued the Town an Authority to Award for Contract Approval letter dated March 28, 2016 for Contract 2.

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

SECTION 1. The Town of Burgaw awards Contract 2 to Vanguard Utility Service, Inc. in the amount of \$123,129.61 based on the design specifications and submitted bid outlined above.

SECTION 2. Pursuant to the requirements of NCGS 160A-499.4 (b) (4) this resolution shall serve as the required public notice of the Town's plans to commence a construction project.

SECTION 3. The Town Manager or Mayor is hereby authorized to execute all contracts related to the contract with Vanguard Utility Service, Inc.

Witness my hand and the corporate seal of said Town of Burgaw the twelfth (12th) day of April, 2016.

Ordinance 2016-05 Adoption of Amended Capital Project Ordinance for Town of Burgaw Water Distribution System Rehabilitation Project

Mr. McEwen advised on February 9, 2016 the Town of Burgaw Board of Commissioners approved an original Capital Project Budget for the Town of Burgaw Water Distribution System Rehabilitation in the amount of \$1,387,200.

We have received Authority to Award from NC Division of Water Infrastructure in which total project costs should not exceed \$1,381,817; therefore the Capital Project Ordinance has been amended to reflect this change.

Also, Section 5 of the Ordinance has been added so that we may appropriate Powell Bill funds into the Capital Project so that paving of the east bound travel lane of Fremont Street will take place concurrently.

He advised the recommendation is the approval of the amended capital project ordinance to recognize all revenues we anticipate receiving, as well as cover all expenditures needed to complete the capital project.

Commissioner Dawson made a motion to approve Ordinance 2016-05. The motion was seconded by Commissioner George. Commissioners Dawson, George, Murphy and Robbins voted "aye". Commissioner Harrell abstained. Motion carried with four "ayes" and one "abstained" which counts as a yes.

ORDINANCE 2016- 05 ADOPTION OF AMENDED CAPITAL PROJECT ORDINANCE FOR TOWN OF BURGAW WATER DISTRIBUTION SYSTEM REHABILITATION PROJECT

BE IT ORDAINED by the Town of Burgaw Board of Commissioners that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following amended capital project ordinance is hereby adopted:

Section 1. The project authorized is the rehabilitation of approximately 6,600 LF of water main, a new emergency generator at a well site, and the conversion of the Town's water meter system to an AMI system to be financed by State Revolving Fund Loan

Section 2. The officers of this unit are hereby directed to proceed with the capital project within the terms of the grant documents and the budget contained herein.

Section 3. The following amounts are appropriated for the project:

Engineering (McGill and Associates)	\$ 73,500
Construction – Contract 1 (ELJ)	\$ 689,950
Construction – Contract 2 (Vanguard)	\$ 123,130
Equipment (Meters, Setters, Gateways, and Supplies)	\$ 407,132*
Closing Costs (2% Administrative Fee)	\$ 27,094
Contingency	61,011
	<u>\$ 1,381,817</u>

*Includes \$25,744 of sales tax that will be reimbursed to Town

Section 4. The following revenues are anticipated to be available to complete this project:

NC Clean Water State Revolving Fund Loan \$ 1,381,817

Section 5. In an effort to capitalize on unit pricing, the East Bound lane of Fremont Street will also be paved during this project time; reserved Powell Bill funds will be advanced to the Capital Project fund to cover additional expenses related to paving, lane markings, and other accompanying requirements for improving the East Bound travel lane.

Powell Bill revenues transferred to Capital Project Fund \$115,917

Section 6. The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy the requirements of the grantor agency, the grant agreements and state regulations.

Section 7. Funds may be advanced from the General Fund for the purpose of making payments as due. Reimbursement requests should be made to the grantor agency in an orderly and timely manner.

Section 8. The Finance Officer is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and on the total grant revenues received or claimed.

Section 9. The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 10. Copies of this capital project ordinance shall be furnished to the Clerk, to the Governing Board, and to the Budget Officer and the Finance Officer for direction in carrying out this project.

Section 11. Pursuant to North Carolina General Statute 160A-499.4, the Town of Burgaw, by way of this capital project ordinance, provides the required public notice prior to construction as required in NCGS 160A-499.4 (b) (4)

Section 12. All prior expenditures, including engineering services and the purchase of the meters and associated supplies, will be reimbursed to the Town utilizing loan proceeds.

Adopted this twelfth day of April, 2016.

Other items from the Manager

Capital Priorities Proposed for this Year

Mr. McEwen presented the Board with a list of Capital Priorities proposed for 2016-2017 that could be purchased out of this year's budget thereby lightening the burden for next year. He said he is only asking for review today and that action can be taken at a later date. The list included the following items: Finance Server – Cost \$3,327.31; Web Filter – Cost \$2,500; Well House Rehabilitation – Estimated Cost \$32,000; Safety Upgrades at Pump Station 1 and 2 – Cost \$25,000. Mayor Mulligan asked why these items were not in the packet. Mr. McEwen advised he was waiting for numbers to come in so he could present accurate numbers for consideration. He said again he is not expecting a decision today but just wanted the Board to be aware of this.

Tree Issues

Mr. McEwen advised there is a large dead tree in the alley behind the police department that needs to be removed. He advised he has received a quote to remove the tree in the amount of \$1600. He said he is asking the Board to consider a general fund appropriation not to exceed \$1600 to remove the tree. Commissioner George made a motion to approve a general fund appropriation not to exceed \$1600 to remove the dead tree behind the police department. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Mr. McEwen advised there are four dead crape myrtles at S. Walker Street and US 117. He advised there is \$900 left in the tree board budget. He advised we can get those four trees in a comparable size for \$150.00 each. He advised the same vendor will plant both the crape myrtles and the oak tree at Johnson Park. Mayor Mulligan expressed concern about planting trees at this time of year and asked if we should wait. Commissioner Robbins advised it is okay to plant now as long as they are kept watered. There was a lengthy discussion regarding the proper way to take care of the trees. After much discussion, Commissioner Dawson made a motion to move forward with the planting unless the arborist at the extension office says we should wait. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

Wilmington Business Development

Mr. McEwen provided the Board copies of information regarding the progress of Wilmington Business Development (WBD) 2015 progress report. He advised WBD followed up and asked if there were any comments or questions from the Board regarding the report. Mr. McEwen said he recently sent this information out in the weekly update and wanted to know if there are any comments, concerns or questions that the Board wants to pass along to WBD. Mayor Mulligan commented that we pay WBD \$13,000 per year to promote Burgaw. He said last year they did a great service by coming to a public hearing and defending the shell building from a conflicting land use that had been proposed for the industrial park. Mayor Mulligan also commented that he speaks to Mr. Satterfield on occasion and he knows that he is active in a couple of things in regards to the shell building and in keeping some of our existing industry in place. Commissioner Robbins asked if the WBD has been included in the budget or was it pulled out. Mr. McEwen said he puts WBD funding in the budget every year unless he is told otherwise. He said there have been comments that have gone back to WBD and they want to quantify what they are doing and keep that dialog about what they are doing open with the Board. Commissioner Dawson said she thinks they should be keeping us (the Board) abreast of what they are doing. Mayor Mulligan said this is a discussion we can have further in the budget process.

Proposal for Live Streaming Board Meetings

Mr. McEwen also advised he had put the proposal for streaming the board meetings in the weekly update. He advised he would like some feedback from the Board members as to their thoughts about the proposal. He reminded the Board that this was not discussed at the CIP meeting but it is a priority item and needs to be discussed. He advised the proposal is \$12,633.38. There were many questions regarding this item and the further expense that will be related to the installation of the system to include maintenance costs to keep it on the website. He said this is not a turnkey operation and there will be more expense involved. Mayor Mulligan asked Mr. McEwen to get the complete cost of the system including any annual costs that might be involved.

Fire Department Incentives

Mr. McEwen advised that Commissioner George, Allen Wilson and the Fire Board have met to discuss ways to incentivize the volunteers not only to adjust the compensation for the existing volunteers but also as a recruitment tool for new volunteers. He advised they came up with a three prong approach. One involves the quarterly per call incentive stipend provided to the volunteers who respond; currently we budget \$10,000 for that program. He advised that averages out per call anywhere from \$1.24 to \$3.94 per call. He said it depends on how many calls are in that quarter. Mr. McEwen said one suggestion is to up that amount to \$20,000 which would increase the payout per call to around \$5.78 and that is contingent to how many calls are within the quarter. He advised there are other numbers to \$30,000 or \$40,000 which just ups the numbers per call accordingly. Mr. McEwen advised another recommendation is the station stand by duty time where volunteers will be paid \$25.00 per shift to be available in case there is a call. That would include being available every night and all day Saturday and Sunday. He advised the estimated cost for this program would be \$23,400. Mr. McEwen advised the final recommendation is reimbursement of approved equipment purchase. He advised the third request is a reimbursement program for incidental items purchased by the fire fighters that are related to their efforts and responsibilities as a volunteer fire fighter. He said this is a reimbursement program that will be capped at \$150.00 per member with an estimated cost of \$4500. Mr. McEwen said these are items that need to be discussed by the full board but also at the policy/finance board meeting this week as well. He advised he just received these items yesterday. Allen Wilson spoke regarding the efforts put forth by the parties involved in putting together the incentive packages and thanked the Commissioners for their consideration of the incentive packages that have been proposed. Commissioner George commented that the small amount currently received by a fire fighter does not even pay for the gas used to come to the fire and return home. He then called on Nick Smith to explain to the Board what happens when the fire call comes in and what the fire fighter must do. Nick Smith presented a lengthy description of what steps a fire fighter takes from start to finish when there is a fire call. Mr. Smith also thanked the Board for their support in all things fire fighter related.

Upon completion of Mr. Smith's presentation, Mayor Mulligan said there is no doubt that we have to do something to incentivize the fire department, but it will have to be taken on at the budget meetings.

Commissioner George made a motion to earmark the \$33,695.69 received from the county for part of this program and to be left at the discretion of the fire department board to disperse it in the way that will be most effective. Commissioner Dawson said she doesn't have a problem seconding that but she is a little confused. She asked which

compensation package Commissioner George prefers. Commissioner George said his motion allows the fire board prioritize what we want to do. Commissioner Dawson said we need to know what to do. Allen Wilson said the fire board wants all three programs to work together which would equal \$37,900 per year. Mayor Mulligan commented that he and the other commissioners have not had time to review this material. Commissioner Robbins said that he agrees with Commissioner George is fundamentally trying to do but he is also looking for a long term solution. Commissioner Robbins said this thirty three thousand dollars could be earmarked for the incentive plan and we could come up with another five thousand dollars in this year's budget. He said he wants to make sure this will be ongoing and not just a one shot deal. Commissioner Robbins said he would second Commissioner George's motion that we earmark that \$33,695.69 for the incentive program for this year. Commissioner Robbins said that does not relieve the finance committee of studying this item and bringing it back to the Board for a long term solution.

Mayor Mulligan asked if there is any more discussion. Commissioner Harrell said he has no discussion on the motion but there are some things he would like to clear and we can discuss them in the policy/finance meeting. He advised the biggest concern he has is requiring the volunteers to sign up for the \$25.00 per shift. He said he wants make sure this will satisfy the need.

Commissioner Dawson said when talking about the additional monies that the fire fighters use to purchase miscellaneous equipment such as the suspenders, she asked Mr. Wilson if he is saying if the typical suspenders that come with the turn outs are not comfortable. Mr. Wilson responded by saying that the fire department purchases standard safety and gear equipment. He said we cannot put a menu out there and say pick what you want. He said different people are comfortable with different items. He said the fire fighter goes out and purchases what they want and then they could be reimbursed up to a certain amount. Mr. Wilson said he realizes that they just received this information today and the fire department would have to set up an approved list of expenses that are eligible for reimbursement.

Attorney Kenan said he has a question about the money that Commissioner George said he wants to use to transfer for this incentive program. Attorney Kenan advised earlier in the meeting the Board voted to put the \$33,695.69 into a restricted fund and asked if they now want to move that money from a restricted fund to the incentive line item for the fire department. Commissioner George said the money is restricted to the fire department. Attorney Kenan said he understands but are you moving the funds into the line item for incentives. He advised this is more of a budgetary thing for the finance officer so she needs a little direction on that. Commissioner George said he would add that to the motion. Mayor Mulligan asked if someone would craft a motion to include the additional verbage. Attorney Kenan advised the Board should go back to Ordinance 2016-07 which was approved earlier in this meeting and where the funds were recognized and amend that vote to state that the funds were restricted for the fire department incentives program line items.

Commissioner Dawson asked if this is going into this current year's budget or the 16 17 budget. Mr. McEwen commented that the money is already restricted to the fire department. He said the board just heard about it today and we have three months left in this budget so there is no way to put in the line item for this year. He said his intention on bringing this to the board was to introduce it, if you want it put in now its fine but there is not enough time to put it in this fiscal year and spend it on incentives. Mayor Mulligan said he feels this document needs to be studied and it needs to be reviewed by policy/finance before we make any final decisions. Allen Wilson said we still need time to develop this plan and get policies and procedures in place before it is activated. Mayor Mulligan asked at this stage what do we have to do and if Commissioner George needs to withdraw his motion and deal with this item through the budget process. Commissioner George said he is not withdrawing his motion; he wants the money for this program; the program is going to be dealt with through the fire department board to set policy for the fire fighters to get this money. He said he wants an incentive program that works. Commissioner Robbins asked if we can appropriate that money for next fiscal year. Mr. McEwen said that is essentially what has been done already since the money is restricted for fire department use.

*After a very lengthy discussion, Commissioner George amended his motion to amend the previous decision on Ordinance 2016-07 to reflect that proceeds from Pender County for Pender Central Fire District shall be used in FY '16'17 for an incentive based program for the fire department. Commissioner Robbins seconded the amended motion and the motion carried by unanimous vote.

BREAK – 5:30PM – 5:40PM

PUBLIC FORUM – No speakers.

PUBLIC HEARING – *Rebekah Roth, Planning Administrator*

Consideration of an amendment to the Town of Burgaw Unified Development Ordinance to bring the town’s regulations into legal compliance regarding protest petitions, performance guarantees for subdivisions, manufactured home park development, uses not listed on the Table of Permitted Uses, addressing of new structures, and reasonable accommodations procedures and to clarify ordinance provisions for permit approvals.

The public hearing was opened at 5:42PM. Ms. Roth presented the following background information:

Background. In 2013, the Burgaw 2030 Comprehensive Land Use Plan was adopted by the Board of Commissioners based on a 2 ½ year planning process. This plan included many recommended policies and actions that would require changing the town’s development ordinance. In addition, changing legislation and new legal opinions also are requiring the town to make amendments to our ordinance.

At the planning board’s November meeting, board members and staff discussed the need for a revision of the existing Unified Development Ordinance (UDO). The town has been amending the ordinance piecemeal for several years to address areas of concern highlighted by the Board of Commissioners or recommended by the Burgaw 2030 Comprehensive Land Use Plan. This has resulted in several small changes, each requiring its own public hearing (21 since the land use plan’s adoption in 2013). More large-scale changes were not tackled because of the need for a reorganization of the UDO, which was completed in November.

Staff proposed a wholesale revision of the ordinance to address concerns regarding the number of public hearings and logistics for large-scale amendments. However, the planning board was concerned about the time frame for such a process and the difficulties of paying sufficient attention to detail if presented an entire new ordinance for review. As a result, the planning board requested that staff prepare a plan to “chunk” the UDO revision into four parts.

In January 2016, the planning board approved a phasing plan, and the first phase of the revision would bring the UDO into compliance with a variety of legal requirements. This is the most pressing issue with the current zoning and development ordinances. Due to some recent legislation and court decisions, the town’s ordinances need to be amended in the following areas.

Removing Provisions for Protest Petitions

On July 17, 2015, a bill (SL 2015-160) passed the NC Legislature that eliminated protest petitions, the formal path that North Carolina homeowners could protest development in their communities, for any zoning ordinance changes initiated on or after August 1. Prior to that date, if 20% of the owners included in the rezoning or 5% of owners inside a 100-foot buffer around a proposed development signed a petition, the city council had to approve any zoning changes by ¾ of the members of the board instead of the simple majority vote for any other zoning decision. Under the new law, citizens can still submit comments to municipal governing bodies for consideration. Section 3-5 is amended to remove the provisions for protest petitions and adds a section reflecting the language regarding written statements included in the state legislation. Section 3-6 has also had protest petition language removed.

Revising the Requirements for Subdivision Performance Guarantees

Session Law 2015-187, also passed by the state legislature this past year, modified the performance guarantee provisions of the subdivision statute. Section 3-19 has been amended to reflect the new language.

Ensuring Manufactured Home Parks Follow the Same Process as Other Conditional Uses

While the UDO includes manufactured home parks as a type of planned building group requiring a conditional use permit, Article 19 outlines a subdivision approval process for this type of project. In this amendment, that article has been removed, and a new chapter has been added to the planned building group standards section. Existing standards that conflict with other codes have been removed, and the changes have been reviewed by the building inspector, fire marshal, and public works director.

Adding Language Regarding Uses Not Listed in the Table of Permitted Uses

Along with many other jurisdictions across the state, the town has always held that uses not listed on our table of permitted uses were prohibited, and if someone wanted them to be allowed, they had to go through the text change amendment process. A 2014 decision by the NC Supreme Court in *Byrd v. Franklin County*, though, reversed a court of appeals decision, agreeing with the dissenting opinion, which “reject[s] the notion that a zoning ordinance may prohibit uses not explicitly allowed.” The School of Government recommends that local governments include a list of prohibited uses, regularly update their Tables of Permitted Uses, and outline a process for evaluating whether a proposed use should be treated the same as the most nearly similar use. While upcoming ordinance revisions will clarify and update the Table of Permitted Uses, Section 8-2 has been amended to add a provision regarding unlisted uses and guidance for evaluating the similarity of uses.

Adding Language to Ensure a Smooth Transition to County Addressing Changes

Pender County planning staff are working on an amendment to the county’s development ordinance that would remove their addressing provisions from the county code and move them to the development ordinances. Just like for the town, items in the county’s code are applicable to all properties in the jurisdiction, and items in the development ordinances are only applicable to properties in the county’s planning jurisdiction. This move would mean that the county’s addressing ordinances would no longer apply to the town’s ETJ. Since the town’s addressing would not apply to those areas either, an amendment to our development code is required to make sure this area is covered. Section 8-3 has been amended to include an addressing section that outlines which areas would be addressed by which ordinance. The town clerk, county E-911 addressing coordinator, and Pender County planning staff have reviewed the proposed amendment.

Including Reasonable Accommodations Procedures

Both the Federal Fair Housing Act (FHA) and the Americans with Disabilities Act (ADA) prohibit discrimination against persons with disabilities, including by not making a reasonable accommodation to our rules, policies, practices, or services, when such accommodation is necessary to afford a person an equal opportunity to the use and employment of a dwelling. In order to protect themselves from lawsuits or Department of Justice investigations, local government jurisdictions have been advised to include a procedure to consider reasonable accommodations. The town does not have such a procedure in place currently. Sections 2-3 and 3-8 have been amended to add consideration of requests for reasonable accommodation to the duties of the Board of Adjustment. Section 3-11 outlines the reasonable accommodations process. A definition of the term has been added to Section 6-1, and Section 8-1 includes new language that allows the planning administrator to approve minor dimensional exceptions for handicap accessibility features.

Clarifying Assorted Ordinance Provisions

In addition to the preceding amendments, several small changes to the ordinance have been included to clarify some of its provisions. These amendments include:

- Updating Board of Adjustment meeting dates (Section 2-3);
- Clarifying when pre-submittal meetings are required (Section 3-1);
- Specifying other departments' role in the approval of zoning permits (Section 3-3);
- Clarifying the zoning administrator's role in making ordinance interpretations and moving the guidelines for notifying the public of those interpretations from Section 3-12 to Section 3-3; and
- Clarifying how conditional use permits, which cover a particular property, will affect future uses in a multi-tenant structure (Section 3-10).

Planning Board Recommendation. At their March 17, 2016 meeting, the Planning Board voted to recommend approval of the proposed text change amendment and to recommend the following consistency statement:

The board finds that the proposed text change amendment is consistent with the Burgaw 2030 Comprehensive Land Use Plan because it supports the town's vision to continually improve government efficiency and effectiveness to ensure a high level of service for the entire community. The board also finds the proposed text change amendment is reasonable and in the public interest because it brings the ordinance into conformance with recent legislation and court decisions and clarifies the ordinance's regulations.

There was no discussion other than the mention of a typo in the attachment in need of correction.

The public hearing was closed at 5:50PM.

Resolution 2016-14 Adopting a Statement Of Consistency Regarding a Proposed Amendment to Bring the Town's Regulations into Legal Compliance and Clarify Ordinance Provisions for Permit Approvals

Commissioner Harrell made a motion to approve Resolution 2016-14. The motion was seconded by Commissioner George and carried by unanimous vote.

**RESOLUTION 2016-14
ADOPTING A STATEMENT OF CONSISTENCY REGARDING A PROPOSED AMENDMENT
TO BRING THE TOWN'S REGULATIONS INTO LEGAL COMPLIANCE
AND CLARIFY ORDINANCE PROVISIONS FOR PERMIT APPROVALS**

WHEREAS, recent legislation and court decisions have caused some provisions of the Town of Burgaw Unified Development to be out of legal compliance; and

WHEREAS, new ordinance language is required to ensure manufactured home parks follow the same procedure as other conditional use permits, to ensure that the town's extraterritorial jurisdiction is covered by an addressing ordinance, and to establish reasonable accommodation procedures required by federal legislation; and

WHEREAS, the town desires to clarify ordinance provisions for permit approvals; and

WHEREAS, planning staff has reviewed the proposed amendments for consistency with the Burgaw 2030 Comprehensive Land Use Plan and presented their findings to the Town of Burgaw Planning Board and Town of Burgaw Board of Commissioners; and

WHEREAS, the Town of Burgaw Planning and Zoning Board voted at their March 17, 2016 meeting to recommend the adoption of a draft consistency statement to the Board of Commissioners; and

WHEREAS, the Town of Burgaw Board of Commissioners reviewed the staff report and draft consistency statement at their April 12, 2016 meeting and find the proposed amendments to be consistent with the Burgaw 2030 Comprehensive Land Use Plan, reasonable, and in the public interest;

NOW THEREFORE BE IT RESOLVED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT the proposed text change amendment is consistent with the Burgaw 2030 Comprehensive Land Use Plan because it supports the town's vision to continually improve government efficiency and effectiveness to ensure a high level of service for the entire community. The board also finds the proposed text change amendment is reasonable and in the public interest because it brings the ordinance into conformance with recent legislation and court decisions and clarifies the ordinance's regulations.

Adopted this 12th day of April 2016.

Ordinance 2016-06 Approving an Amendment to bring the Town's Regulations into Legal Compliance and Clarify Ordinance Provisions for Permit Approvals

Commissioner Dawson made a motion to approve Ordinance 2016-06. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

ORDINANCE 2016-06 APPROVING AN AMENDMENT TO BRING THE TOWN'S REGULATIONS INTO LEGAL COMPLIANCE AND CLARIFY ORDINANCE PROVISIONS FOR PERMIT APPROVALS

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

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

WHEREAS, recent legislation and court decisions have caused some provisions of the Town of Burgaw Unified Development Ordinance, namely those regarding protest petitions, subdivision performance guarantees, and uses unlisted on the Table of Permitted Uses, to be out of legal compliance; and

WHEREAS, the town desires to add new ordinance language to ensure manufactured home parks follow the same procedure as other conditional use permits, to ensure that the town's extraterritorial jurisdiction is covered by an addressing ordinance, and to establish reasonable accommodation procedures required by federal legislation; and

WHEREAS, the town desires to clarify provisions for permit approvals setting a regular date for Board of Adjustment meetings, specifying when pre-submittal meetings are required, clearly stating that the review of other town departments may be required for zoning permit approval, outlining the administrator's role in making interpretations, and establishing how conditional use permits apply to multi-tenant properties; and

WHEREAS, at their March 17, 2016 meeting, the Town of Burgaw Planning and Zoning Board voted to recommend approval of the proposed amendments to bring the ordinance into legal compliance and to clarify provisions for issuing permits; and

WHEREAS, the Town of Burgaw Board of Commissioners finds the proposed amendment consistent with the Burgaw 2030 Comprehensive Land Use Plan because it supports the town's vision to continually improve government efficiency and effectiveness to ensure a high level of service for the entire community; and

WHEREAS, the Board of Commissioners finds that the proposed text change amendment is reasonable and in the public interest because it brings the ordinance into conformance with recent legislation and court decisions and clarifies the ordinance's regulations;

NOW THEREFORE BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT the attached amendment becomes effective immediately upon adoption of this ordinance on this, the 12th day of April 2016.

(Due to length of document, attachment is on file in the clerk's office.)

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

Appointment: Tourism Development Authority (TDA)

Commissioner Robbins said that because there are two applications for the Tourism Development Authority (TDA) he is hereby tendering his resignation on the TDA. He advised the two applicants we have can bring a lot of good. Mayor Mulligan advised Kenneth "Pete" Cowan and John L. Westbrook have applied for the position. Commissioner George made a motion to appoint Mr. Cowan and Mr. Westbrook to the TDA. The motion was seconded by Commissioner Harrell. Mr. Cowan commented that personally he feels it would be great to have a member of the Board of Commissioners on the TDA. He advised if a member of the Board would like to serve he will withdraw his application. After a brief discussion, the motion carried by unanimous vote.

Commissioner Robbins said it is the duty of the Board of Commissioners to appoint a chairperson. Commissioner Robbins made a motion to appoint Kenneth Cowan as chairman of the TDA. The motion was seconded by Commissioner George and carried by unanimous vote.

Appointment: Parks & Recreation Committee

Mayor Mulligan advised there are currently no applicants for this position.

Appointment: Mayor Pro-tem

Commissioner Dawson made a motion to appoint Commissioner Robbins as Mayor Pro-tem. The motion was seconded by Commissioner George and carried by unanimous vote.

Appointment: Council of Governments Representative (COG)

Commissioner Harrell made a motion to nominate Commissioner Dawson as the Council of Governments representative. The motion was seconded by Commissioner Murphy and carried by unanimous vote.

Appointment: Policy/Finance Board Member

Mayor Mulligan appointed Commissioner Murphy to the Policy and Finance Board.

Other items from the Mayor and Board of Commissioners

Pender Post-Voice News Box

Commissioner Harrell said he would like to revisit the news box in the Post. He said he feels like we are lacking advertisement in some situations that we need it. He said we would benefit from having a regular ad in the paper and we would get more response to our appeals for committee members.

*Commissioner Harrell made a motion to have a regular news box in the Pender Post with the understanding that we set parameters for what we will regularly put in the box when we aren't using it for essential town announcements and to pay by the month beginning on May 1, 2016 with an appropriation from the General Fund in the amount of \$600 to cover the cost through the remainder of FY 15-16. The motion was seconded by Commissioner Robbins. Commissioners Harrell, Robbins, Dawson and Murphy voted "aye". Commissioner George voted "nay". Motion carried four to one. (See * below regarding Commissioner George's change of vote on this matter.)

Splash Pad - Proposed Locations

Commissioner Dawson asked Mr. McEwen if he has checked with Cape Fear Community College and whether or not they would be interested in increasing their area in regards to the splash pad. Mr. McEwen advised he is still working on it and he is also working on other sites as well. He advised he has received an answer as to whether or not they are receptive to giving more land.

Commissioner Robbins asked if there has been any inquiry regarding use of the corner of Wallace Street and N Walker Street for the splash pad. Mayor Mulligan advised he has asked Commissioner Murphy to look into this since the property belongs to Mt. Pisgah Church.

Mayor Mulligan asked if there have been any information from NCDOT regarding the inquiries about using the railroad right of way for the splash pad. There being no information, he advised we will have to follow up on that.

Commissioner Robbins commented that all the pruning that has taken place looks good. He said the lessons from the arborist have paid off.

Commissioner Robbins said he keeps hearing about the tourist home on Cowan Street and asked if that has been approved. Ms. Roth advised she received an application for a conditional use permit yesterday. She advised she will have the staff report out in a couple of weeks and will be on the May agenda for a hearing. Commissioner Robbins advised there has been a lot of hearsay about the possible changes but the neighborhood has many concerns about the proposed project.

Commissioner Robbins said the revitalization of Court House Avenue has been approved. He asked Mayor Mulligan if he has appointed a committee. Mayor Mulligan advised John Westbrook has agreed to chair the committee and Barbara Dee, Noah Harrell, Adrian Carroll, Michael Brown and Melissa Yarborough have expressed interest in being a part of the committee.

Commissioner Robbins said he feels it is appropriate for the town to honor the late Charles Harrell in some way. Commissioner Robbins suggested that the town purchase a bench with his name on it and put it in a prominent place in town. Commissioner Harrell said his nephew would like to make the bench since he is making benches for his senior project at school. Commissioner Harrell will ask his nephew to contact Mr. McEwen regarding a materials list for the project.

Commissioner Robbins said we have mentioned a reception or something to honor former Commissioner Howard Walker. Commissioner Robbins asked that the town clerk work on this project and bring back information to the Board regarding an event to honor Mr. Walker.

Commissioner Robbins asked if a new piece of playground equipment could be purchased for Harrell Memorial Park. He feels the park needs a little sprucing up. Mayor Mulligan suggested that someone speak with Meg Smith to get some ideas from her since she is involved in a group of mothers with small children. Mr. McEwen was asked to call Ms. Smith and bring back information to the next meeting.

Commissioner Murphy advised he will speak to the pastor and officers of Mt. Pisgah Church regarding the splash pad. He asked if there will be any liability to the church if the splash pad is put on their property. Mayor Mulligan said the town will assume all liability whether we lease the land or purchase it.

*Commissioner George stated that he would like to rescind his motion regarding the news box and change his vote to a yes.

CLOSED SESSION

Commissioner Robbins made a motion to go into closed session at 6:35 PM pursuant to GS 143-318.11 paragraph (a) item (6) personnel and GS 143-318.11 paragraph (a) item (3) attorney/client privilege. The motion was seconded by Commissioner Murphy and carried by unanimous vote.

OPEN SESSION RECONVENED

Commissioner Dawson made a motion to go out of closed session at 7:30 PM. The motion was seconded by Commissioner George and carried by unanimous vote.

Commissioner Dawson made a motion to approve Sylvia Raynor's employment contract as written. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

ADJOURNMENT

There being no further business, Commissioner Harrell made a motion to adjourn. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

The meeting adjourned at 7:30PM.

Eugene Mulligan, Mayor

Attest: _____
Sylvia W. Raynor, Town Clerk