

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

DATE: July 14, 2015
TIME: 4:00 PM
PLACE: Burgaw Municipal Building
BOARD MEMBERS PRESENT: Commissioners Jan Dawson, Wilfred Robbins, Charles Rooks and Elaine Tyson
BOARD MEMBERS ABSENT: Mayor Eugene Mulligan, Mayor Pro-tem Howard Walker
STAFF PRESENT: Chad McEwen, Town Manager
Sylvia W. Raynor, Town Clerk
Robert Kenan, Town Attorney
Anthony Colon, Utility & Compliance Specialist/ORC
Bill Fay, Director of Public Works
Ashley Loftis, Finance Officer
Rebekah Roth, Planning Administrator
Jim Hock, Chief of Police
Kristin Wells, Deputy Clerk
Allen Wilson, Fire Administrator
MEDIA PRESENT: Bill Walsh, Star News
INVOCATION: Commissioner Wilfred Robbins
PLEDGE OF ALLEGIANCE: All

The meeting was called to order by Commissioner Wilfred Robbins at 4PM.

Procedural Items

Due to the absence of both the Mayor and Mayor Pro-tem it was necessary for the Board of Commissioners to appoint someone to conduct the meeting today. After receiving some procedural pointers from Attorney Kenan, Commissioner Dawson made a motion to appoint Commissioner Robbins as Acting Chairman of today's meeting. The motion was seconded by Commissioner Tyson and carried by unanimous vote. Commissioner Rooks made a motion to authorize Commissioner Robbins in his capacity of Acting Chairman to sign the minutes of this meeting, and any ordinances, resolutions or agreements that may require a signature after approval. The motion was seconded by Commissioner Tyson and carried by unanimous vote. (For clarification, Commissioner Robbins will be referenced as Chairman Robbins in the minutes of this meeting.)

Approval of Agenda

Chairman Robbins asked if there are any requests for amendments to the agenda. There being no requests for amendments to the agenda, Commissioner Rooks made a motion to approve the agenda as presented. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

Approval of Consent Agenda

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

- Minutes of the June 09, 2015 regular session

SPECIAL REQUEST

Burgaw Dixie Youth – Request for funding

Mr. McEwen advised the Board that Jennifer Federonko with Burgaw Dixie Youth Softball had contacted him regarding a request for a donation from the town to help with expenses incurred during the girls' softball tournament that will be held in late July in Burgaw. He said that she would have a representative present today, but no one is present. He advised the Board that he informed Ms. Federonko the maximum donation is usually \$100 unless the Board desired to do more. There being no representative present, he asked the Board what they desire to do with this request. After a brief discussion, Commissioner Rooks made a motion to contribute \$100 to Burgaw Dixie Youth for the tournament as discussed. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

DEPARTMENTAL ITEMS

Finance – Ashley Loftis, Finance Officer

Resolution 2015-25 Approving Surplus of Police Car

Background

Ms. Loftis advised the Town has obsolete property that needs to be included in our surplus items. She said the Town wishes to sell one (1) 2008 Ford Crown Victoria VIN# 2FAFP1V6X134507 by auction through GovDeals. This vehicle was being used as the park around vehicle and is now obsolete. The exterior paint is chipping off and it has many mechanical issues that cannot be fixed. The vehicle was taken to several auto repairs shops, including the dealership, multiple times to resolve the mechanical issues but no resolution was found. Ms. Loftis advised the recommendation is the approval of the resolution authorizing the above-referenced item to be declared a surplus item and the Town Manager to dispose of said property by auction through GovDeals.

After a brief discussion, Commissioner Rooks made a motion to approve Resolution 2015-25 as presented. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

RESOLUTION 2015-25 AUTHORIZING DISPOSAL OF SURPLUS VEHICLE

WHEREAS, the Town of Burgaw, North Carolina is the legal owner of (1) 2008 Ford Crown Victoria which was used as a park around vehicle by Burgaw Police Department; and

WHEREAS, said vehicle has been in service for several years but is limited in use due to mechanical issues with the vehicle; and

WHEREAS, the Burgaw Police Department will be replacing this vehicle with another police vehicle already in use; and

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

WHEREAS, the vehicle is valued at more than \$1,000.00; and

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

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

1. *The Board of Commissioners does hereby decommission the one (1) 2008 Ford Crown Victoria above issued to the Burgaw Police Department and does hereby declare it to be surplus property;*
2. *In accordance with GS 160A-270 said vehicle shall be advertised electronically on www.govdeals.com for public sale.*

ADOPTED this fourteenth day of July, 2015.

Personnel – Kristin Wells, Deputy Clerk/Personnel Technician

Resolution 2015-26 Amending Current Personnel Policy – Police Department Positions

BOC MINUTES

JULY 14, 2015

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Ms. Wells advised Resolution 2015-26 and the amended job descriptions and amended organizational chart reflect the recent changes approved by the Board regarding the reorganization of the police department. Approval of this resolution will bring the personnel policy into compliance with the Board's recommendations. After a brief discussion, Commissioner Tyson made a motion to approve Resolution 2015-26 as presented. The motion was seconded by Commissioner Rooks and carried by unanimous vote.

**RESOLUTION 2015-26
AMENDING THE CURRENT PERSONNEL POLICY**

WHEREAS, the Town of Burgaw Board of Commissioners approved the use of the Personnel Policy on September 11, 2012; and

WHEREAS, the Town of Burgaw Board of Commissioners approved a reduction in force in the Police Department for the positions of Police Major and Police Captain effective May 4, 2015;

WHEREAS, because of the approval of a reduction in force, the Police Administrative Assistant job description shall be amended to reflect the following:

"...this position reports directly to the Police Chief, but also reports to and assists the Patrol Sergeant and Detective Sergeant during daily operations;"

WHEREAS, the Town of Burgaw Personnel Policy shall be amended to reflect the Police Administrative Assistant's supervisor in Section XIV, Organizational Chart;

WHEREAS, the Town of Burgaw Board of Commissioners approved amending the job title "Detective" to "Detective Sergeant" and the job title of "Sergeant" to "Patrol Sergeant" on June 9, 2015;

WHEREAS, because of the job title amendments, the Patrol Sergeant job description shall be amended to reflect the following:

"...this position reports directly to the Police Chief;" and

WHEREAS, the Town of Burgaw Personnel Policy shall be amended to reflect the amendment of job titles and the Patrol Sergeant's supervisor in Section XIV, Organizational Chart.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT the Town of Burgaw Board of Commissioners hereby amends the Personnel Policy to reflect the changes stated above.

Adopted this 14th day of July 2015.

**Due to length of the above mentioned job descriptions, said documents can be found on file in the clerk's office.*

Planning - Rebekah Roth, Planning Administrator

Abatement of Nuisance at 408 W. Ashe St.

Ms. Roth advised on June 2, 2015, the planning department received a complaint about an overgrown yard at 408 W. Ashe St. Upon investigation, we found that the conditions of the property met the definition of a nuisance, due to "the uncontrolled growth of noxious weeds or grass on a developed lot to a height in excess of 24 inches, causing or threatening to cause a hazard detrimental to the public health or safety."

Ms. Roth advised per the requirements of the town's nuisance ordinances, we sent a notice of violation both first class with Affidavit of Mailing and certified, return receipt to the address listed in the Pender County tax office. She said the certified mailing was returned to us on June 27, 2015 as unclaimed; however, we have not received a returned first class mailing. The address listed with the tax office is the physical address of the house, so we cannot tell if it has been received by the property owner. Ms. Roth also advised there has been no active water account for this address since December 2014, but it does appear that household goods are still located under the carport. She informed the Board that no useful information on the property owners can be found through standard web searches.

Ms. Roth said while the abatement deadline was June 19, 2015, the yard still has not been mowed. The ordinance reads that "if any person, having been ordered to abate a public nuisance, fails, neglects, or refuses to abate [...] within the time period established by the written notice of the violation [...] the town manager or his designee shall cause such condition to be removed or otherwise remedied by having employees of the town or an independent contractor employed by the town go upon such premises and remove or otherwise abate such nuisance." However,

no money has been budgeted to pay for nuisance abatement, and the Board of Commissioners will need to authorize funding to pay for it. She said the last time we had nuisance abatement quoted by a private contractor it would have cost \$250 to mow the property. Because we have no valid address, that we know of, for the owner of this property, we would likely have to place a lien on the property in order to recoup our expense. She advised staff is requesting the board consider whether to authorize funding for nuisance abatement of this property.

After discussion, Commissioner Rooks made a motion to direct Public Works to mow the grass at 408 W. Ashe Street one time front and back and send the bill to the property owner. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Resolution 2015-27 Public Administration Fellowship Program and Job Description

Ms. Roth advised during this past year's budget process, the Town Manager and Planning Administrator began discussing the possibility of a temporary part-time position to provide professional level support for a variety of town and departmental projects, including the tree program, implementation of the Bicycle and Pedestrian Plan, set-up of the Utility Cloud program, and assisting with the water meter conversion. All of these projects involve multiple departments, namely administration, public works, and planning; however, there is not enough current need to warrant a new full-time position.

Ms. Roth informed the Board that the idea for a Public Administration Fellowship is based on a similar program between New Hanover County and the UNCW Master of Public Administration (MPA) program. The town would be able to get a temporary part-time (19 hours per week) professional-level employee in return for professional experience, mentoring, and a \$10/hour wage. Unlike an internship, this position is a longer-term commitment, with a one-year timeline that can be renewed for a total of two years.

Ms. Roth advised the attached program description and job description outline the way the program will work and the responsibilities of the fellow. The Planning Administrator will offer general supervision, mentoring, and performance evaluation in coordination with the Town Manager and Public Works Director. The fellow will be responsible for a variety of operational tasks and special projects. It is anticipated that the first portion of the fellowship will involve more shadowing and operational tasks; however, as the fellow gains experience, he or she will be able to integrate town projects with his or her classwork and learning goals. It is expected that the fellow will have an expressed desire to work in local government after graduation.

There was a lengthy discussion regarding the public administration fellow's involvement in the management of the incubator kitchen, the depot and the community house as well as the selection process of the fellow. After much discussion, Commissioner Rooks made a motion to approve Resolution 2015-27 as presented. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

RESOLUTION 2015-27 APPROVING A JOB DESCRIPTION FOR A PUBLIC ADMINISTRATION FELLOW

WHEREAS, the Town of Burgaw Manager, Public Works Director, and Planning Administrator have determined a need for additional professional-level staffing to assist with new and ongoing departmental projects; and

WHEREAS, the University of North Carolina at Wilmington (UNCW) Master of Public Administration (MPA) program is desirous of entering into partnerships with local governments to provide students with professional-level work experience and mentoring; and

WHEREAS, the Town of Burgaw Policy and Finance Committee recommended funding for a Public Administration Fellow for the 2015-2016 Fiscal Year; and

WHEREAS, the Town of Burgaw Board of Commissioners voted at their June 9, 2015 regular meeting to adopt a 2015-2016 Fiscal Year budget that included funding for the Public Administration Fellow position; and

WHEREAS, the Town Manager, Planning Administrator, Public Works Director, Personnel Technician, and UNCW MPA Program Director have worked to develop a fellowship program and job description that meet the needs of the town and public administration students;

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

SECTION 1: The attached job description for a Public Administration Fellow is hereby approved.

SECTION 2: This position will be considered open upon approval of this resolution and town staff will seek to fill this position with the most qualified applicant.

Adopted this 14th day of July 2015.

Job Description:

CLASS TITLE: PUBLIC ADMINISTRATION FELLOW

PURPOSE OF CLASS: Under general supervision of the Planning Administrator, the public administration fellow is responsible for providing entry-level professional support for the Town Manager, Planning Department, and Public Works Department. This position is temporary part time and is non-exempt under the Fair Labor Standards Act (FLSA).

PRIMARY TASKS:

- Assists Town Manager, Planning Administrator, and Public Works Director in daily departmental operations and functions
- Collects and interprets data for studies, reports, and recommendations as needed
- Prepares presentations for town boards and citizen groups as needed
- Researches, develops, and writes policy documents as directed
- Provides reports (written and oral) on assigned projects
- Assists in the implementation of Town and departmental projects
- Participates in and organizes community outreach efforts as directed
- Assists with the of Burgaw Incubator Kitchen, Burgaw Historic Depot, Community House, and administration of other special departmental projects
- Attends staff, committee, and board meetings as required
- Performs other duties as assigned

WORKING CONDITIONS:

- Work is generally sedentary requiring some light physical activity and fieldwork. Must be able to lift up to 30 lbs. Must possess visual acuity, hearing, touching, and the use of arms, hands, and fingers as needed to operate a computer terminal.

KNOWLEDGE, SKILLS, AND ABILITIES:

- General knowledge of local government functions and organization
- Knowledge of computer applications, including Microsoft Office and internet applications
- Ability to manage multiple, high-priority assignments
- Ability to work in a team atmosphere
- Ability to participate in and coordinate public meetings
- Strong interpersonal skills and ability to communicate effectively verbally and in writing
- Attention to detail in composing, typing, and proofing materials, establishing priorities, and meeting deadlines
- Strong research and analytical skills

EDUCATION AND EXPERIENCE

- Enrolled and working toward a Master of Public Administration (MPA) degree at UNCW
- Requires a desire to work in local government following completion of the MPA degree

ITEMS FROM ATTORNEY – Robert Kenan, Attorney

Attorney Kenan advised he has no items to discuss with the Board. Commissioner Rooks asked if this is the proper time to discuss Attorney Kenan's statements that have been placed on the table. With all Board members in agreement to discuss the matter, Commissioner Rooks commented that Attorney Kenan's statements are very detailed but he inquired as to why these statements are not being received by the Board on a monthly basis for review and discussion. He advised that in the past Attorney Kenan had agreed to submit monthly statements. Attorney Kenan advised he would try to do a better job of getting the statements. It was suggested that either monthly or quarterly statements be submitted and available for the Board's review before a Board meeting in the event that any discussion is necessary. Commissioner Rooks stated that he would like to receive a monthly statement that is included with the agenda packet for review by the Board. Attorney Kenan agreed to comply with the request for monthly statements.

Ashley Loftis, Finance Officer advised a fund balance appropriation is necessary to pay the invoices in question not only due to the statements being received after the close of the fiscal year but also because that line item is over budget. Chairman Robbins advised the Board will need to take action to pay the statement that has been presented today. Ms. Loftis advised a fund balance appropriation of \$10,123.06 is necessary. She advised that entire amount is not strictly from the attorney because there were other overages in the administrative department. Ms. Loftis advised Attorney Kenan's invoice overage was in the amount of \$4,087.99 and the remaining overages were miscellaneous overages due to the governing body.

After much discussion, Commissioner Tyson made a motion to table this item until the August meeting in order to allow the finance officer to bring back a breakdown of all the items included in the overage. The motion was seconded by Commissioner Rooks and carried by unanimous vote.

ITEMS FROM MANAGER – Chad McEwen, Town Manager

Resolution 2015-28 Governing Body Resolution – North Carolina Interlocal Risk Management Agency

Mr. McEwen advised the Board in order to become a member of the NC Interlocal Risk Management Agency (NCIRMA) with regards to the town's workers compensation insurance with the NC League, the Board will need to pass a resolution to join the NCIRMA pool, have the authorized person sign/date the interlocal agreement and return it to the League's underwriting staff. He reminded the Board that going with the League's workers compensation insurance will result in a savings of approximately \$20,000 in this fiscal year. After a brief discussion, Commissioner Rooks made a motion to approve Resolution 2015-28 as presented. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

**Governing Body Resolution # 2015-28
of the
TOWN OF BURGAW, NORTH CAROLINA**

WHEREAS, certain municipalities and other units of local government of the State of North Carolina, as defined in G.S. 160A-460(2), have agreed to create the North Carolina Interlocal Risk Management Agency and have agreed to pool the risks of their workers' compensation liabilities and payment of claims for employers' liability coverage pursuant to, and to be governed by, the provisions of North Carolina General Statutes 160A-460 *et seq.* (Part 1 of Article 20 of Chapter 160A);

NOW, THEREFORE, BE IT RESOLVED that the above named unit of local government elects to become a member of the North Carolina Interlocal Risk Management Agency upon the terms and conditions stated in the "Interlocal Agreement for a Group Self-Insurance Pool For Workers' Compensation Risk Sharing," with such future policy renewals constituting a continuing ratification of this decision to be a member of the Agency and to abide by the terms and conditions of the Interlocal Agreement.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the duly authorized officials of the above named unit of local government are directed to execute in the name of said unit the "Interlocal Agreement for a Group Self-Insurance Pool for Workers' Compensation Risk Sharing," a copy of which is attached to and made a part of this Resolution.

I certify that this is a true and correct copy of this Resolution, duly adopted by the governing body on the 14th day of July, 2015, as it appears of record in its official minutes.

TOWN OF BURGAW

By: Wilfred L. Robbins, Acting Chairperson

ATTEST: Sylvia W. Raynor, Town Clerk

Discussion item - Regarding the possible appropriation of general fund fund balance to cover interim costs related to the purchasing of Rosenbauer Tank Truck for the Fire Department.

Mr. McEwen advised the Board recently approved the purchase of a tanker truck for the fire department with a loan through the Rural Economic Development Loan and Grants program administered by Four County EMC. He advised that in order to keep the process going it has become necessary for the town to provide funds in the amount of \$91,000 to secure a title for the truck before the loan proceeds will be released. He also advised that C. W. Williams Company will not put the body on the truck without a title. Mr. McEwen said this process is similar to interim financing which has been used on past projects when necessary. Mr. McEwen stated that he has requested in writing a commitment from Mr. Jimmy Smith with Four County EMC that the town will be refunded for this money when the financing kicks in. After much discussion, Commissioner Rooks made a motion to approve the appropriation of \$91,000 from the General Fund fund balance for the continuation of construction of the truck contingent upon Jimmy Smith providing verification of a reimbursement in the amount of \$91,000 in writing on letterhead with original signatures and approved by the Town Attorney. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Discussion Item – Chamber Sponsorship for annual membership meeting and shrimparoo

Mr. McEwen advised the Chamber of Commerce has requested that the town sponsor the Annual Membership meeting and shrimparoo on August 20th. Mr. McEwen advised that only \$500 is budgeted this year for all chamber events. After a brief discussion, Commissioner Tyson made a motion to approve giving the Chamber of Commerce \$500 for their annual event. The motion was seconded by Commissioner Rooks and carried by unanimous vote.

Discussion Item – Letters regarding AMI meter conversion

Mr. McEwen referenced the letters that will be sent out to the apartment complexes that will be switched over to master meters. He commented that the Board has recently received a draft copy of a letter for review in their weekly update. Mr. McEwen advised he needs direction regarding whether or not to waive the deposit for the master meter for each complex. He informed the Board that the deposit for multifamily complexes is \$150.00 per unit which could have considerable impact on the owners of the larger complexes. Mr. McEwen advised the second problem in this situation is that we are billing the individual customers for garbage and recycling pickup and that billing needs to be coordinated between the property owner and Waste Industries. Mr. McEwen also advised that Mayor Mulligan wants the owners of the complex to understand that the Town does not provide curbside service for pickup of vegetation and trash etc. Mr. McEwen was asked what they are supposed to do with the trash; he advised the complex will have to coordinate with a vendor to remove those items.

After a lengthy discussion regarding the abovementioned issues, Commissioner Rooks made a motion to approve the draft letter as presented that will be mailed to all owners of multifamily complexes in the town regarding master meter requirements. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Discussion Item – Sidewalk to Senior Center

Mr. McEwen advised NCDOT has approved funding for the sidewalk to the Senior Center. He advised that a new requirement by NCDOT is that each municipality must pay \$5000 for a project fee which will be applied toward the project. Mr. McEwen advised that if the Board approves this project a fund balance appropriation will be brought back next month for approval by the Board.

After a brief discussion, Commissioner Dawson made a motion to approve the appropriation of \$5,000 to move forward with the locally administered project for the sidewalk to the Senior Center. The motion was seconded by Commissioner Rooks and carried by unanimous vote.

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

Commissioner Dawson thanked Allen Wilson, Fire Administrator for the prompt fire inspections.

Commissioner Tyson asked Mr. Wilson if all the fire vehicles/equipment is in good working order now. Mr. Wilson said that everything is good and that one fire truck is currently in the shop for a paint job.

Chairman Robbins welcomed Jim Hock, Chief of Police and commented that we are glad to have him with us.

Chairman Robbins commented that he would like to acknowledge the accomplishments of Billy James who recently passed away. He advised Mr. James was instrumental in downtown revitalization and in sprucing up downtown in general. He said Mr. James started the pumpkin patch project with proceeds from the sale of pumpkins being used for the purchase of trees to be planted on the court house square and he was also involved in getting the General Pender statue moved to the east side of the court house. Chairman Robbins advised he felt that Mr. James should be acknowledged and recognized for his accomplishments.

Chairman Robbins commented on how good the town looked for the blueberry festival. He said he received numerous comments regarding how clean the town. He also commented on the good job by done by all involved. Chairman Robbins said the festival could not be done without the town’s support. He also advised a debt of

gratitude is owed to Mr. McEwen who has chaired the festival for several years and is stepping down this year as chair.

Commissioner Tyson advised that she would like to have a plaque made in memory of Mr. Billy James and his contributions to the town to be presented to Mrs. James at a Board meeting. Chairman Robbins advised he and Commissioner Rooks will meet with Mr. McEwen and work on getting that done.

BREAK – Chairman Robbins called for a break at 5:23PM. The meeting reconvened at 5:30PM.

PUBLIC FORUM

There were no speakers present for the public forum.

PUBLIC HEARINGS

Public Hearing 1 – *Rebekah Roth, Planning Administrator*

Consideration of a Conditional Use Permit Application for a Telecommunications Tower to be located at 1501 NC Hwy 53 West. Applicant US Cellular has applied for a conditional use permit for a telecommunications tower to be located at 1501 NC Hwy 53 West (PIN 3219-71-3285-0000) within the Town of Burgaw corporate limits.

Commissioner Rooks requested to be recused from this public hearing due to a financial interest in the subject at hand. Commissioner Tyson made a motion to recuse Commissioner Rooks from Public Hearing #1. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Chairman Robbins declared the public hearing open at 5:38PM.

Attorney Kenan administered the oath to the following persons who will be testifying during the hearing:

- Rebekah Roth, Town of Burgaw Planning Administrator
- Michael Doran, Maguire Development Corporation, Consultant for US Cellular
- Stanley Sams, Ward & Smith PLLC, Attorney for US Cellular

Commissioner Tyson asked if there is anything in the PowerPoint presentation that has not been presented to the Board in their packets. Ms. Roth advised all evidence has been previously presented to the Board. Commissioner Tyson then requested that since the Board has reviewed all evidence and there is no public present, that Ms. Roth does not review the entire presentation. Ms. Roth advised she will start with standards and staff recommendations.

Rebekah Roth, Planning Administrator advised the applicant is applying for a conditional use permit for a 190-foot monopole to be located at 1501 NC Hwy 53 West, the site of Rooks Farm Service. The proposed tower would be located on the same property as the existing grain bins and will be across the street from the residential Tealbriar subdivision. The following exhibits were previously presented to the Board of Commissioners and have been reviewed by the Board members.

- Exhibit 1: Copy of application**
- Exhibit 2: Statement of Support of Application**
- Exhibit 3: Engineering Statement regarding potential for interference with other services**
- Exhibit 4: Statement regarding collocation availability**
- Exhibit 5: Affidavit regarding consideration of other towers and/or structures**
- Exhibit 6: Line-of-sight photo simulations of proposed pole from four directions**
- Exhibit 7: Site plan cover page (T-1)**
- Exhibit 8: Site plan (C-1)**
- Exhibit 9: Tower elevation (C-2)**
- Exhibit 10: Compound detail (C-3)**
- Exhibit 11: Fence details (C-8)**
- Exhibit 12: Zoning map**
- Exhibit 13: Aerial photograph**
- Exhibit 14: Future Land Use map**

- Exhibit 15: Flood map**
- Exhibit 16: Ordinance Requirements Report**
- Exhibit 17: Land Use Plan Report**
- Exhibit 18: Copy of Coates' Canon Blog: Can We Top Off Our Tower**
- Exhibit 19: Photographs of existing site, taken 06-09-2015**
- Exhibit 20: Letter from Design Engineer, Robert E. Baucom, P.E.**
- Exhibit 21: Copy of project ground lease (financial information redacted by applicant)**

Ms. Roth presented the following information to the Board:

STANDARDS FOR REVIEW

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

Evidence:

- Exhibit 2 states that “the Facility will be designed and constructed to meet all applicable governmental and industry safety guidelines. The Applicant will comply with the FCC and FAA rules concerning construction requirements, safety standards, interference protection, power and height limitations, and radio frequency standards. The Facility will NOT interfere with any other radio devices such as TV’s, radios or other cellular phones. Furthermore, the Applicant is licensed and regulated by the Federal Communications Commission (“FCC”), which imposes strict health, safety, and interference standards. The proposed Facility will comply with all rules and guidelines that regulate such installations including FCC guidelines with regards to human exposure to RF emissions. The FCC is the governing body that has jurisdiction over this area (RF emissions). It is therefore the belief of the Applicant that the Proposed Facility will be operated so that the public health, safety, and welfare will be protected.”
- Exhibit 20, Letter from Design Engineer Robert E. Baucom P.E., states the pole, excluding the lightning rod, will be “designed to collapse within a radius of 50 feet.”
- There are no buildings or road rights-of-way currently located within the fall zone radius.
- Exhibit 20 also states that the monopole will be designed for a Basic Wind Speed of 130 mph with no ice and 30 mph with ½” radial ice.
- At the June 18, 2015 Planning Board technical review, Stanley Sams testified for US Cellular that current contact information shall be posted on-site at all times per FCC requirements.

Unless additional evidence to the contrary is presented at the public hearing, the standard has been met in the judgment of planning staff and planning board.

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

Evidence:

- Exhibit 16 outlines the requirements of Section 12-9 of the Town of Burgaw Unified Development Ordinance, evidence provided in the application package, and additional information needed in order to determine if the proposed tower meets the ordinance standards.
- The ordinance allows some increases of tower height without further town review in accordance with federal regulations (see Exhibit 18 for more information).
- Existing driveway will be used by applicant. No NCDOT driveway permit required.
- At the June 18, 2015 Planning Board technical review, the town attorney, Robert Kenan expressed a concern that the project may not be constructed in a timely fashion, as has occurred in other locations in Pender County.

Based on this information, planning staff and planning board recommend the following conditions:

- If the height of the approved monopole is ever increased, even if not considered a substantial modification and subject to further review, the existing setbacks must be greater than or equal to the engineered fall zone.
- No buildings or structures unrelated to the telecommunications tower may be built within the required tower setbacks.
- An approval of a conditional use permit shall provide the applicant with a two year vested right. If construction of the approved tower and associated facilities has not commenced during the vesting period, the permit shall become null and void.
- The applicant shall place a bond in accordance with the requirements of Section 12-9 of the Town of Burgaw Unified Development Ordinance for a period of five years. The bond shall remain in full force and effect at all times, and approval of any required renewal shall occur no later than five calendar years from the date of initial approval.

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

Evidence:

- Exhibit 2 states that “the design and construction of the Proposed Facility does not create any substantial adverse effect, including value and injury (public safety) to the surrounding properties. The Proposed Facility will comply with all applicable structural engineering requirements and, if approved, could be reviewed by the Town of Burgaw Inspection Department at any time. The Facilities will be unstaffed and typically required one or two routine visits a month by a service technician. Hence, the Facility will not have a material impact on parking or traffic.”

- Exhibit 2 also states, “As mentioned the area around the parent parcel is primarily business related as well as the parent parcel having tall grain bins on the parcel. It could be stated that the parcel being zoned I-1 is the ‘Best Use’ for the parcel as a telecommunication site. Furthermore, the granting of the CUP shall not cause injury to health, morals or the welfare in this district or surrounding areas, because wireless communications facilities are becoming more integrated into the landscape and are viewed as a necessity rather than a necessary hardship. The site will be designed to meet all Federal, State and Local codes that regulate such facilities. To the contrary, it will improve wireless service which promotes public safety, economic development and the overall general welfare of the area.”
- Exhibit 2 also states that “there is not any hard evidence that telecommunication structures influence the value of property.”

Unless additional evidence to the contrary is presented at the public hearing, the standard has been met in the judgment of planning staff and planning board.

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

Evidence:

- Exhibit 17 outlines the applicable portions of the Burgaw 2030 Comprehensive Land Use Plan and NC Hwy 53 Corridor Study.
- Exhibit 2 states that “the Applicant believes this new structure would be in harmony with the surrounding area and the land uses near the subject property in part because of the fact that a monopole is located on a parcel that already has large 50’+ feet grain bins and supporting equipment that are and have been a natural part of the view shed of this parcel and has not been an issue in this area to date. The granting of the zoning relief being sought will not affect the normal and orderly development of the surrounding area To the contrary, reliable utility networks such as electric, gas, water, and wireless networks are essential to the development and well-being of every community.”
- Exhibit 2 also states, “Telecommunication structures are allowed in this zoning district and further the applicant believes this new structure as with the existing structures on the parcel would be in harmony with the surrounding area and the land uses near the subject property. This is due to the fact that a tower is located in a primarily business district to the West and East and farm land to the north with a pocket of residential to the North west. There is also a considerable amount of wetlands to the south of the parent parcel that may remain undeveloped strictly due to the fact that it is a wetland. The traveling public (NC Hwy 53/I 40/3mi.) also relies on wireless communications not only for ‘convenience’ but they also depend on it for public safety. This location is necessary due to the location of the surrounding sites (towers) and the I-40.”

Unless additional evidence to the contrary is presented at the public hearing, the standard has been met in the judgment of planning staff and planning board.

Discussion:

Stanley Sams, Attorney for US Cellular commented that he is mainly here to answer questions. He commented that he is okay with the conditions imposed by the permit. He also referenced the five year bond period and said that something shorter such as “up to five years” would be sufficient.

Commissioner Dawson asked how long it will take to construct the tower. Mr. Sams advised it should take approximately ninety days for construction. Commissioner Dawson also asked if there are any plans for landscaping around the enclosed area. Mr. Doran advised there are no plans for landscaping inside the enclosed area. Mr. Sams advised that given the surroundings and that particular site that landscaping would not be a necessity unless it is something that the Board desires. Commissioner Dawson commented that if Fremont Street is ever opened behind the property, that a buffer would be beneficial. She advised that would be the only thing that should be considered. Mr. Doran advised that if that street right of way ever opens, upon notification by the town landscaping could be put in place to create a buffer between the tower and the street. Commissioner Dawson asked how the monopole would collapse if it were to fall. Mr. Sams advised the poles are engineered to collapse if stresses are exceeded. He advised the tower is constructed to fall on itself if stresses are exceeded. Mr. Doran advised the tower will fall in an approximately forty foot area with the remainder of the tower collapsing on top of it.

Chairman Robbins commented that in the packet there was reference about the tower being in the center of a grid. He asked if they have a picture of the grid. Mr. Doran presented a view of the grid on his computer.

Chairman Robbins asked if there is any tax value on a cell tower. Mr. Doran advised the building permit would trigger the tax department to determine a value based on the permit. Since the land is a ground lease, only the tower and equipment would be valued.

Chairman Robbins asked about making additions to the height of the tower. Ms. Roth said as long as the additions are not considered a substantial modification meaning any increase larger than ten percent. She advised per the ordinance the tower can be increased by nineteen feet without additional approvals.

Conditional Use Check Sheet

In reviewing the permit application, the Town of Burgaw Board of Commissioners shall find as a specific finding of fact and reflect in their minutes if the permit will comply with the following standards based on the evidence presented at the hearing. As a note, the evidence presented today has been reviewed by town staff and the Town of Burgaw Planning Board.

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

*Commissioners Tyson and Dawson voted "Yes". Vote carried.

2. The use meets all required conditions and specifications.

*Commissioners Tyson and Dawson voted "Yes". Vote carried.

Additional Conditions:

- a. If the height of the approved monopole is ever increased, even if not considered a substantial modification and subject to further review, the existing setback must be greater than or equal to the engineered fall zone.
- b. No buildings or structures unrelated to the telecommunications tower may be built within the required tower setbacks.
- c. An approval of a conditional use permit shall provide the applicant with a two year vested right. If construction of the approved tower and associated facilities has not commenced during the vesting period, the permit shall become null and void.
- d. The applicant shall place a bond in accordance with the requirements of Section 12-9 of the Town of Burgaw Unified Development Ordinance for a period of up to five years. The bond shall remain in full force and effect at all times, and approval of any required renewal shall occur no later than five calendar years from the date of initial approval.
- e. If the portion of Fremont Street with right-of-way to the rear of the structure is ever constructed, the applicant shall be required to provide vegetative screening sufficient to buffer the view of the equipment enclosure within six months from time of notification by the town.

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

*Commissioners Tyson and Dawson voted "Yes". Vote carried.

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

*Commissioners Tyson and Dawson voted "Yes". Vote carried.

On the basis of the foregoing, it is ordered that the application for a conditional use permit for a telecommunications tower use to be located at 1501 NC Hwy 53 West (PIN 3219-71-3285-000) be granted subject to the abovementioned conditions to the application.

Chairman Robbins closed the public hearing at 5:59PM.

Public Hearing 2 – Rebekah Roth, Planning Administrator

Consideration of a Text Change Amendment to Article 5 of the Unified Development Ordinance to add access management provisions for properties in the Gateway Overlay District

Chairman Robbins declared the meeting open at 6:00PM. (Commissioner Rooks returned after being recused from the first public hearing.)

Rebekah Roth, Planning Administrator presented the following background information:

Background. At their May 21, 2015 meeting, the Planning Board discussed adding additional access management standards for properties in the Gateway Overlay (GA) district, given the traffic issues and safety concerns in that area of town.

The Town has required cross access during the conditional use permit process for the past two developments in this area. Cross access can be a good tool to reduce the amount of turning movements from drivers visiting multiple businesses.

Currently, the town can require cross access to mitigate safety concerns during the conditional use process; however, there are no standards in place for developments that don't require a conditional use permit. Those developments' site plans are reviewed by staff for compliance with the Unified Development Ordinance, and if a development standard is not specified by the ordinance, staff can request it but has no authority to require it.

Based on the planning board's discussion at the May meeting, staff prepared a text change that would require cross access drives for all new development in the GA district.

Planning Board Recommendation. At their June 18, 2015 meeting, the Planning Board recommended adoption of the attached amendment.

In addition, the board adopted 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 will encourage quality and controlled growth that will enhance and maintain the community's character and will assist in ensuring the safety of all modes of transportation. The board also finds that the proposed text change amendment is reasonable and in the public interest because additional regulations are necessary to reduce the negative impacts of new development on traffic and safety along the only direct route residents and emergency responders have to reach I-40.

Staff Recommendation. Staff recommends the approval of the attached amendment with the addition of the portion shown in purple that was not discussed by the Planning Board. This revision is to the Design Standards portion of the ordinance, which pertains primarily to building design. As a result, the applicability of this requirement may be unclear unless more precise language is added to ensure the standard would only apply to new development or redevelopment (including new parking lot layout).

Commissioner Rooks asked if NCDOT has a minimum distance that they require cross access from their right-of-way. Ms. Roth advised it will be a part of the driveway permit process according to NCDOT standards.

Commissioner Rooks asked if the Planning Board had any issues with this request. Ms. Roth advised the Planning Board had no issues and felt like this was necessary in cases where new development happens and doesn't go through the conditional use permit process.

There being no further discussion, the public hearing was closed at 6:05PM. Commissioner Dawson made a motion to approve Resolution 2015-29 as presented. The motion was seconded by Commissioner Tyson. Commissioners Dawson and Tyson voted "aye" and Commissioner Rooks voted "nay". Motion carried.

Resolution 2015-29 Adopting a Statement of Consistency – To Require Cross Access for New Developments and Site Redevelopments in the Gateway Overlay District

**RESOLUTION 2015-29
ADOPTING A STATEMENT REGARDING THE CONSISTENCY OF A PROPOSED TEXT CHANGE AMENDMENT
TO REQUIRE CROSS ACCESS FOR NEW DEVELOPMENTS
AND SITE REDEVELOPMENTS IN THE GATEWAY OVERLAY DISTRICT**

WHEREAS, the Town of Burgaw Planning and Zoning Board has been considering amending existing access management requirements for development in the Gateway Overlay district; and

WHEREAS, Town of Burgaw planning staff have reviewed the proposed text change 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 June 18, 2015 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 July 14, 2015 meeting and find the proposed text change amendment 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 is consistent with the Burgaw 2030 Comprehensive Land Use Plan because it will encourage quality and controlled growth that will enhance and maintain the community's character and will assist in ensuring the safety of all modes of transportation. The board also finds that the proposed text change amendment is reasonable and in the public interest because additional regulations are necessary to reduce the negative impacts of new development on traffic and safety along the only direct route residents and emergency responders have to reach I-40.

Adopted this 14th day of July, 2015.

Commissioner Dawson made a motion to approve Ordinance 2015-15 as presented. The motion was seconded by Commissioner Tyson. Commissioners Dawson and Tyson voted "aye"; Commissioner Rooks did not vote. Motion carried.

Ordinance 2015-15 Approving an Amendment to the Town Of Burgaw Unified Development Ordinance Requiring Cross Access for New Developments and Site Redevelopments in the Gateway Overlay District

**ORDINANCE 2015-15
APPROVING AN AMENDMENT TO THE TOWN OF BURGAW UNIFIED DEVELOPMENT ORDINANCE
REQUIRING CROSS ACCESS FOR NEW DEVELOPMENTS AND SITE REDEVELOPMENTS
IN THE GATEWAY OVERLAY DISTRICT**

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

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

WHEREAS, the Town of Burgaw Planning and Zoning Board has been considering amending existing access management requirements for development in the Gateway Overlay district; and

WHEREAS, cross access drives can be a good tool to reduce the amount of turning movements from drivers visiting multiple businesses; and

WHEREAS, the Planning and Zoning Board voted at their June 18, 2015 meeting to recommend the approval of the proposed amendment to require cross access easements in the Gateway Overlay district; and

WHEREAS, the Town of Burgaw Board of Commissioners finds that the proposed amendment is consistent with the Burgaw 2030 Comprehensive Land Use Plan because it will encourage quality and controlled growth that will enhance and maintain the community's character and will assist in ensuring the safety of all modes of transportation; and

WHEREAS, the Board of Commissioners finds that the proposed amendment is reasonable and in the public interest because additional regulations are necessary to reduce the negative impacts of new development on traffic and safety along the only direct route residents and emergency responders have to reach I-40;

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

SECTION 1: The Town of Burgaw Unified Development Ordinance Article V, Part IV be amended as attached.

SECTION 2: This amendment to the Unified Development Ordinance becomes effective immediately upon adoption of this ordinance on this, the 14th day of July 2015.

Section 5-18: Design Standards for Gateway Overlay District

G. Cross Access. For all new developments or redevelopment (including changes to the parking lot layout of an existing business), cross access drives a minimum of twenty (20) feet in width are required to provide at least one connection with all lines that are coincident for at least sixty (60) feet with another lot zoned for non-residential use. If applicable, the connection shall align with a connection that has been previously constructed or designed on an adjacent property.

Cross access shall not be required if significant natural features, vehicular safety factors, existing cross access provisions, and/or existing infrastructure obstructions exist.

Cross access must be built to the property line (or lease line) and may not be blocked off, parked in, or otherwise "obstructed." A cross access easement must be recorded with the Pender County Register of Deeds on the final plat for property involving a subdivision or by separate instrument when no plat is proposed.

Adopted this fourteenth day of July, 2015.

CLOSED SESSION

Commissioner Dawson made a motion to go into closed session pursuant to GS 143-318.11 (a) (1) to prevent disclosure of privileged or confidential information and GS 143-318.11 (a) (3) Attorney/Client Privilege. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

OPEN SESSION RECONVENES

Approval of Closed Session Minutes of the June 9, 2015 Board of Commissioners meeting

Commissioner Tyson made a motion to approve the closed session minutes of the June 9, 2015 Board of Commissioner meeting.

ADJOURNMENT

There being no further business, Commissioner Dawson made a motion to adjourn. The motion was seconded by Commissioner Rooks and carried by unanimous vote. The meeting adjourned at 6:37PM.

Wilfred L. Robbins, Acting Chairperson

Attest: _____
Sylvia W. Raynor, Town Clerk