

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

DATE: September 10, 2013
TIME: 4:00 PM
PLACE: Burgaw Municipal Building
BOARD MEMBERS PRESENT: Mayor Kenneth T. Cowan
Mayor Pro-tem Howard Walker
Commissioners Jan Dawson, Wilfred Robbins, Charles Rooks and Elaine Tyson
STAFF PRESENT: Chad McEwen, Town Manager
Sylvia W. Raynor, Town Clerk
Robert Kenan, Town Attorney
Rebekah Costin, Planning Administrator
Bill Fay, Director of Public Works
Louis Hesse, Building Inspector
Ashley Loftis, Finance Officer
Montrina Sutton, Chief of Police
Allen Wilson, Fire Administrator
MEDIA PRESENT: Stephanie Bowens, Star News
INVOCATION: Bryant Crosson, Chaplain
PLEDGE OF ALLEGIANCE: All

The meeting was called to order by Mayor Kenneth Cowan at 4:00PM.

Approval of Agenda

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

Approval of Consent Agenda

Mayor Cowan asked if there were any requests for amendments to the consent agenda. Commissioner Rooks requested to pull Item B from the consent agenda for discussion during items from the Board. There being no further requests, Commissioner Rooks made a motion to approve the consent agenda as amended above. The motion was seconded by Commissioner Walker and carried by unanimous vote. The consent agenda and the following items were approved:

- Minutes of the August 13, 2013 regular and closed sessions

DEPARTMENTAL ITEMS

Police Department

Resolution 2013-30 Authorizing Disposal of Surplus Handguns

Jason Godwin, Captain of Burgaw Police Department presented a request for approval of a resolution authorizing disposal of ten Sig Sauer .40 caliber handguns. Capt. Godwin advised the handguns will be sold to Craig's Firearm Supply, Inc. In turn, Craig's Firearm Supply, Inc. will order twelve new Glock handguns to replace those that are being sold. He also advised that although this was not a budgeted line item, a generous trade in allowance was offered and Chief Sutton decided to take advantage while the offer stands. He advised cost overage will come from non-departmental funds. After a brief discussion, Commissioner Rooks made a motion to approve Resolution 2013-30 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**RESOLUTION 2013-30
AUTHORIZING DISPOSAL OF SURPLUS HANDGUNS**

WHEREAS, the Town of Burgaw, North Carolina is the legal owner of eight (8) Sig Sauer/ P226, .40 caliber handguns and two (2) Sig Sauer/P229, .40 caliber handguns, for a total of ten (10) handguns which were used as police service equipment; and

WHEREAS, said guns have been in service for ten years and it is recommended that handguns be replaced at the ten year service point, and

WHEREAS, upon purchase of twelve (12) new handguns, the ten (10) current handguns will no longer be used by the Police Department and should be declared surplus equipment of the Town of Burgaw; and

WHEREAS, the Chief of Police certifies that these weapons are not necessary or useful as evidence in a criminal trial; and

WHEREAS, North Carolina General Statutes 160A-267 allows municipalities to dispose of property by private sale at a negotiated price by adopting a resolution; and

WHEREAS, the handguns are worth less than \$ 5000.00; and

WHEREAS, the following regulations are designed to secure for the Town of Burgaw the fair market value for the handguns 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 ten (10) handguns listed above issued to the Police Department and does hereby declare them to be surplus police equipment;*
2. *The Town of Burgaw has complied with the purchase contract with Craig's Firearm Supply Inc. Police Distributor (purchaser), as it pertains to these weapons and they have been used solely for the purpose of law enforcement.*
3. *In compliance with the purchase contract and Federal law, the weapons may now be resold by the purchaser.*
4. *In accordance with GS 160A-267 a notice summarizing the contents of the resolution or order shall be published once after its adoption and no sale shall be consummated thereunder until 10 days after its publication.*

ADOPTED this tenth day of September, 2013.

ITEMS FROM ATTORNEY

None

ITEMS FROM MANAGER

Resolution 2013-31 Approving a Contract with Onslow Container Company (OCS)

Chad McEwen, Town Manager advised with the recent approval of the changes to residential recycling service, OCS had requested the town consider an extension of the overall contract that covers both solid waste and recyclables collection. He presented copies of the proposed agreement to the Board that covers these services and extends the term, as requested by OCS and discussed at the last Board meeting, through August 2018 (due to length of document, copies on file in the clerk's office). After much discussion, Commissioner Rooks made a motion to approve Resolution 2013-31 as presented. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

**RESOLUTION 2013-31
Resolution Approving a Contract for Solid Waste and Recycling Services with Onslow Container Service (OCS)**

Whereas, OCS has been providing solid waste and recycling services to the Town of Burgaw since 2006, and

WHEREAS, the Town of Burgaw has received excellent service from OCS since 2006, and

Whereas, recently the Town converted from the 18 gallon recycling bins to the 64 gallon recycling roll carts, and

WHEREAS, in order to reduce the pass through cost incurred by the town residents due to this conversion, the Town agreed to consider extending the term of the overall contract with OCS for an additional 5 years, and

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

Section 1: The Board of Commissioners hereby approves the attached agreement with Onslow Container Services (OCS) for solid waste and recycling services.

SECTION 2: The Board of Commissioners hereby authorizes the Town Manager and/or Mayor to execute the attached agreement.

ADOPTED this the 10th day of September 2013.

Discussion: Crosswalk on Cowan Street between Pender County Library and Annex

Mr. McEwen advised Mayor Cowan has received a letter from Mike Taylor, Pender County Librarian regarding a request for installation of a crosswalk on Cowan Street between the main library and the new annex. Mr. Taylor has advised that he feels foot traffic will be heavy from the library to the annex and for safety purposes a crosswalk should be installed. Mr. McEwen advised that since Southern Asphalt is about to mobilize to begin paving work for the town he asked for an estimate for the installation of a crosswalk as requested. The bid for installation of the crosswalk was \$6,975.00. After a brief discussion, Commissioners Rooks and Robbins stated that they are in favor installing a crosswalk but they feel that Pender County should pay half the cost of the crosswalk. Commissioner Tyson made a motion to approve payment of 50% of the cost of installation of the crosswalk between the Pender County Library and the annex with the remaining 50% being funded by Pender County. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Discussion: Cooper's Pointe Lift Station

Mr. McEwen advised he has received notice from the NRP Group regarding the Cooper's Pointe Lift Station which was supposed to be brought up to standard and turned over to the town. He said the letter from NRP advises that they are unable to meet the requirements necessary to turn over the lift station to the town for management. Mr. McEwen reminded the Board of the history of the lift station including several previous serious violations. Mr. McEwen advised he has met with Attorney Kenan, Bill Fay, Roy Cottle and Lisa Greer regarding the current issues with the lift station. There was much discussion about the maintenance of the lift station and keeping Cooper's Pointe within the guidelines of our sewer use ordinance. Mr. McEwen advised a letter will be sent to NRP stating that the Town will not be responsible for the maintenance of the lift station and they (NRP) will still be held accountable to the State and the Town. He said the letter will also advise NRP of the penalties that can be imposed if they do not comply with the rules. He advised the Board he wanted to let them know that this issue will be closely monitored by town staff. There was brief discussion among the Board members. No action was taken on this item.

Movie Night on the Square

Mr. McEwen advised Friendly Community Church and Moore's Creek Battle Ground are planning a family movie night on the court house square. Moore's Creek will provide the screen. They are requesting support services from the Police Department and Public Works. The tentative date is October 5 starting around 7:30PM. After a brief discussion, there was no opposition from the Board to allow this event provided all requirements are met.

ITEMS FROM THE MAYOR AND BOARD OF COMMISSIONERS

Resolution 2013-29 Authorizing the Filing of an Application for Drinking Water State Revolving Funds

Commissioner Rooks had requested to pull this item from the consent agenda for discussion. Commissioner Rooks stated that he does not recall committing funds at the last Board meeting regarding this item. Mr. McEwen advised as set forth in the previous month's discussion, the town will be applying for a 0% interest twenty year term loan with State Revolving Funds for the full balance of the project. Commissioner Rooks was concerned about remaining costs. Mr. McEwen advised there will not be any remaining costs because if the 0% interest loan doesn't cover certain portions of the project then that portion will be eliminated from the project in order to stay within the one million dollar funded amount. He also advised approval of Resolution 2013-29 is a requirement before we move forward with this item. After a brief discussion, Commissioner Dawson made a motion to approve Resolution 2013-29 as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

RESOLUTION 2013-29
RESOLUTION BY BOARD OF COMMISSIONERS OF THE TOWN OF BURGAW

WHEREAS, The Federal Safe Drinking Water Act Amendments of 1996 and the North Carolina Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of drinking water system improvements, and

WHEREAS, The Town of Burgaw has need for and intends to construct water improvements and meter replacements that will include installation of 1,300 radio read meters, the replacement of approximately 7,000 feet of existing undersized water mains and the installation of a new emergency generator with automatic transfer switch;

WHEREAS, The Town of Burgaw intends to request state (loan or grant) assistance for the project,

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

That Town of Burgaw, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State (loan or grant) award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the Town of Burgaw to make scheduled repayment of the loan, to withhold from the Town of Burgaw any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Chad McEwen, Town Manager, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application and related attachments on behalf of the **Applicant** with the State of North Carolina for a (loan or grant) to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the tenth day of September, 2013 at Burgaw, North Carolina.

Commissioner Walker commented that traffic is backing up on North Wright at the elementary school. He said the gate is not being opened to allow parents to drive onto the school property and non-school traffic is being held up if they are traveling on North Wright Street. Mr. McEwen advised he will check into the matter to try to get the traffic situation cleared up.

Commissioner Robbins briefly discussed a letter received from Judge Gary Trawick and Robert Kilroy, Clerk of Court regarding the impact on the downtown area upon the proposed relocation of the jail and court systems to a new facility. A copy of the letter is on file in the clerk's office.

Commissioner Robbins asked if there were any solutions to the situation with the planters downtown. Mr. McEwen advised he has no consensus from the tree board as to what to do. Mike Taylor reviewed some of the options discussed by the tree board. Mr. McEwen commented that maybe the town should pay someone to do soil testing before planting anything else in those areas. He advised he will look into options for soil testing and planting.

Commissioner Rooks asked what the town needs to do to get out of the kitchen supervision at the incubator kitchen. Mr. McEwen advised we have reached out to Randy Gore and Mr. Gore's response was that is not a question he wanted us to ask. Mr. Gore feels the kitchen has been deemed a success story and if it is abandoned it will look bad on the town. Commissioner Rooks commented that he feels it has become too much of a burden on the staff.

Commissioner Tyson stated that Monique Kirby says she is certified and can run the kitchen. Ms. Costin advised she doesn't know if Ms. Kirby has her kitchen manager's certification but she did approach the town and offered to help. Ms. Costin said that staff needs to know the basics before turning it over to an outsider.

Commissioner Rooks mentioned the drainage issues at the weir located at the Teal Briar entrance off of Henry Brown Road. He said the weir is full of debris and needs to be cleaned. He requested that someone from the town contact NCDOT and request that they do some maintenance at that location. He also asked that someone contact the homeowner's association and request that they do their part in keeping it clean. Mr. McEwen stated that we have tried to get some maintenance done but attempts have been futile. He also said the HOA will not address anything. Attorney Kenan commented that DENR should be contacted since there is a stormwater management agreement in place.

Commissioner Rooks commented that the weekly update referenced a \$40,000 PARTF surplus and he wanted to know where the money would go. Mr. McEwen said the original application stated that the net overage money would go back to Fund Balance. He advised that money could help with the canal stabilization.

Commissioner Tyson asked how often the DWI trailer is used. Captain Godwin said it is currently being used once per month. There was also much discussion regarding the cost of the trailer and the fact that the grant did not cover the full amount as originally proposed.

Break – Mayor Cowan called for a break at 5:10PM. The meeting reconvened at 5:23PM.

Public Forum – There were no speakers for public forum.

PUBLIC HEARINGS

Public Hearing #1

Consideration of a proposed text change amendment to *Article 7, Regulations for Signs of the Unified Development Ordinance* regarding freestanding sign setbacks

Mayor Cowan declared the public hearing open at 5:24PM.

Rebekah Costin, Planning Administrator advised currently, the Unified Development Ordinance requires all freestanding identification signs to be set back from the right-of-way, and most must be set back a minimum of 10 ft. She said this has not proven to be an insurmountable obstacle for signs associated with new developments, but it has caused difficulty for applicants trying to place new signs at existing structures, especially within the B-2 zoning district.

Ms. Costin commented that while some existing roads within the town may have narrower rights-of-way, the UDO requires new streets to be built with a minimum 60 ft. right-of-way, and Hwy 117 has a 150 ft. right-of-way. Depending on the pavement width required, the amount of land on one side of a street varies from 10 ft. of right-of-way to about 55 ft. of right-of-way along Hwy 117. This would mean that signs have to be set back up to 65 ft. from the road along Hwy 117, which has caused issues for some new businesses. Many existing businesses have signs that actually do not meet these setback requirements, so new businesses are disadvantaged by the requirement to meet the 10 ft. setback.

She said the primary reason for the existing setback requirements is to protect the public right-of-way in case of a sign falling and to not interfere with sight triangles at intersections. The proposed amendment seeks to address both of these issues by requiring signs to be located outside the public right-of-way and intersection sight triangles, but only signs that are capable of falling into the right-of-way are required to be setback further from the property line.

Ms. Costin also commented that in some areas of town, rights-of-way are contested, including areas of Hwy 53, so property lines may go to the middle of the road. In order to ensure that signs are setback an adequate distance on

properties without designated rights-of-way, the proposed amendment would also set a minimum setback of 10 feet from the edge of pavement in addition to locating said signs out of the right-of-way.

Commissioner Robbins asked what kind of signs were at a risk of falling across the roadway. Ms. Costin said the pole signs that are wider at the top than at the bottom pose a larger risk of falling into the roadway. Amendment of this ordinance would address these issues.

There being no further discussion, Mayor Cowan declared the public hearing closed at 5:26PM.

Commissioner Tyson made a motion to approve Ordinance 2013-20 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

ORDINANCE 2013-20
APPROVING A TEXT CHANGE AMENDMENT TO ARTICLE 7
REGULATIONS FOR SIGNS OF THE UNIFIED DEVELOPMENT ORDINANCE

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 zoning map on December 12, 2000; and

WHEREAS, new businesses are disadvantaged by current setback requirements for freestanding signs; and

WHEREAS, the Town of Burgaw desires to protect the public right-of-way and to keep the right-of-way and sight triangles free from encroachment of existing signs while removing said disadvantage; and

WHEREAS, the Town of Burgaw Planning and Zoning Board has found that the attached text change amendment is in compliance with the Burgaw 2030 Future Land Use Plan; and

WHEREAS, at the Town of Burgaw's Planning and Zoning Board meeting on August 15, 2013, the Planning and Zoning Board voted to recommend approval of the attached text change amendment; and

WHEREAS, the Town of Burgaw Board of Commissioners finds that the attached text change amendment is consistent with the economic development goals of the Burgaw 2030 Comprehensive Land Use Plan;

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

SECTION 1. The Unified Development Ordinance is amended as attached.

SECTION 2. This amendment to the Unified Development Ordinance (UDO) becomes effective immediately upon adoption of this ordinance on this, the 10th day of September, 2013. (Aforementioned attachment on file in clerk's office.)

Public Hearing #2

Consideration of a proposed text change amendment to Section 4-1, Article 5 and Article 14 of the Unified Development Ordinance Planned Unit Development zoning districts

Mayor Cowan declared the public hearing open at 5:27PM.

Rebekah Costin, Planning Administrator advised At the March 21, 2013 Planning Board meeting, the board recommended approval of a text change amendment to these portions of the Unified Development Ordinance. The public hearing on this proposed text change was held at the July 9, 2013 Board of Commissioners meeting. At this meeting, the attorney for one of the existing PUD-zoned properties indicated that the amount of information required at the initial conditional rezoning in the proposed process would prove burdensome for developers. He indicated that a more general rezoning would be preferable from a developer standpoint, and the Board of Commissioners decided to table the item until their August 13, 2013 meeting and send the matter back to the planning board for more review.

Ms. Costin advised at the July 18, 2013 Planning Board meeting, the board requested that planning staff meet with Mr. Rick Biberstein, attorney for the property owner. She said we met on July 25 and had a conference call with Kyle Breuer, director of planning and inspections for Pender County, to get more information on the county's

process for similar development. Both Mr. Biberstein and Ms. Costin agreed that setting the PUD zoning district up for rezoning plus later site plan review may be a compromise that would fix the current issues with the PUD process while being more workable for developers of large pieces of property.

Ms. Costin said the proposed text change amendment establishes PUD as a floating district that is rezoned, subject to general standards, the current uses listed in the Table of Permitted Uses, current sign regulations, etc. The actual development plan would then go through a new Master Development Plan review process that is based on the county's process.

As a note, in order to focus on only the issues of the PUD zoning district, I have removed the provisions of the conditional zoning process from the text change. However, I still feel that this type of zoning process would add a lot of flexibility, especially for infill development, and do plan to bring this back for Planning Board review at a later date.

Following a brief question and answer session by the Board, Attorney Rick Biberstein (who was signed up to speak) commented that this text change amendment was exactly what his client wanted.

There being no further discussion, Mayor Cowan declared the public hearing closed at 5:29PM.

Commissioner Rooks made a motion to approve Ordinance 2013-10 as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Ordinance 2013-10 (tabled at July 09, 2013 meeting) Approving Text Change Amendment to Section 4-1, Article 5 and Article 14 of the Unified Development Ordinance Regarding Planned Unit Development Zoning Districts

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 zoning map on December 12, 2000; and

WHEREAS, the town's current ordinances regarding Planned Unit Development districts do not adequately address the town's needs; and

WHEREAS, the Town of Burgaw desires to establish a Planned Unit Development procedure that would create a legislative PUD rezoning process; and

WHEREAS, the attached text change amendment establishes the Planned Unit Development district as a floating conventional district and outlines a Master Site Development Plan process; and

WHEREAS, the Town of Burgaw Planning and Zoning Board has found that the attached text change amendment is in compliance with the Burgaw 2030 Future Land Use Plan; and

WHEREAS, at the Town of Burgaw's Planning and Zoning Board meeting on August 15, 2013, the Board voted to recommend approval of the attached text change amendment; and

WHEREAS, the Town of Burgaw Board of Commissioners finds that the attached text change amendment is consistent with the goals of the Burgaw 2030 Comprehensive Land Use Plan;

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

SECTION 1: The Unified Development Ordinance is amended as attached.

SECTION 2. This amendment to the Unified Development Ordinance (UDO) becomes effective immediately upon adoption of this ordinance on this, the 10th day of September, 2013.

Public Hearing #3 (continued from July 9, 2013 meeting)

Consideration of an amendment to the Town of Burgaw Official Zoning Map rezoning all Planned Unit Development (PUD) districts

Mayor Cowan reminded the Board this public hearing is already open because it was continued from the July 09, 2013 meeting.

Rebekah Costin, Planning Administrator advised at the May 16, 2013 Planning Board meeting, the board recommended approval of an amendment to the town's official zoning map that would rezone all existing PUD-zoned properties to R-20, R-7, or O&I. Due to questions regarding the initial PUD rezonings and the status of these PUDs at the July 9, 2013 Board of Commissioners public hearing on this matter, the BOC has requested that the Planning Board clarify these matters.

Ms. Costin advised this matter was discussed at the July 18, 2013 Planning Board meeting, and she presented information on the timeline of the existing PUD-zoned properties, from the late 1980s when the original country club/golf course PUD was approved until the 2008 approvals of the Wilson Ki and Laney-Hardison tracts.

Ms. Costin advised planning staff has researched Board of Commissioner minutes from 1980 to 2009, and the first reference to the original PUD was in 1988. She could never find mention of an initial zoning. The process at that point in time appears to have consisted of someone requesting a rezoning and providing conceptual information of the final development. As the project was developed, approvals were made based on whether or not the project agreed with that original concept plan. The planning department does have some concept plans, but the town minute books do not include a copy of the plans approved by the Board of Commissioners.

Ms. Costin advised all of the property shown on the map presented as blue and green stripes is in the original Buccaneer Country Club project, which first appeared in the minutes in 1988 and continued through the 1990s when it was bought by a different set of developers and became the Coastal Country Club Community (map on file in the clerk's office). At that point, the maps on file in the planning department still show the golf course surrounded by residential development. It was at this point when the land where the condominiums were ultimately built was added to the approved PUD plan. The developers associated with Coastal Country Club built the condos and developed Village on Eighteen. Sometime after that, it was sold to Burgaw Development Group. It was during that time that the Coopers Point tract and the property to its east were added to the PUD and sold to NRP so they could develop the Coopers Point apartment complex.

Ms. Costin advised around the time Chad McEwen became planner, the Wilson Ki and Laney-Hardison PUDs were applied for, and they have vesting until the end of the year. The Wilson Ki and Laney-Hardison PUDs were required to have their own open space on-site so they can be stand-alone PUDs. All the others are relying on the golf course for their open space according to the original PUD concept plan. According to the existing PUD ordinance, there is a certain amount of open space required, and this open space determines the maximum density of residential development. The residential portions of the PUD that were constructed were allowed density that would not have been allowed otherwise because of the open space provided by the golf course. If these residential areas are rezoned as proposed, density requirements would not be an issue because the proposed rezoning would allow multi-family and smaller lots.

Ms. Costin informed the Board a major reason why staff is initiating this rezoning is to disconnect properties no longer in common ownership or operating under valid restrictive covenants/HOA bylaws still tied together in terms of zoning by a concept/development plan approved many years ago and not included in town minute books. Unless this is done, the town, developers, and adjacent property owners will remain uncertain as to how these properties may be developed or redeveloped.

Ms. Costin advised there are property owners who have expressed concern about the rezoning of their properties to a conventional zoning district because of currently vested plans or possible future development. For one, Mr. Rick Biberstein, attorney to the owner of the golf course, has requested that the golf course property in common ownership of Burgaw Development Group remain a PUD zoning district on its own. The Planning Board voted at their August 15, 2013 meeting to recommend approval of the proposed rezoning, with all Burgaw Development Group property remaining its own PUD zoning district. While, the proposed text change amendment regarding Planned Unit Development zoning districts would allow this property to remain zoned PUD, Ms. Costin stated she still has reservations regarding the appropriateness of mixed use development on the tract and she is concerned that the property is not contiguous.

Attorney Rick Biberstein advised Mr. Scott of Burgaw Development Group would like for his development to be zoned as a Planned Unit Development while he is attempting to market it.

Commissioner Rooks asked for clarification if the present proposal is to make the changes as depicted on a map referenced as "Planning Board Recommended Zoning" but to leave the property that Mr. Biberstein represents as it is (map on file in clerk's office). Ms. Costin replied "yes".

After a brief discussion, Mayor Cowan declared the public hearing closed at 5:46PM.

Commissioner Rooks made a motion to approve Ordinance 2013-11 as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

**Ordinance 2013-11 (continued item from July 9, 2013 meeting)
Approving an Amendment to the Town of Burgaw Official Zoning Map**

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 zoning map on December 12, 2000; and

WHEREAS, existing Planned Unit Development (PUD) zoned properties are not in compliance with the Town of Burgaw Unified Development Ordinance; and

WHEREAS, it is desirable to rezone existing PUD-zoned properties to the R-20, R-7, or O&I conventional zoning districts to assure appropriate future development; and

WHEREAS, *the Town of Burgaw desires to retain the PUD zoning designation for all property owned by Burgaw Development Group; and*

WHEREAS, the Town of Burgaw Planning Board has found that the attached amendment to the Town of Burgaw Official Zoning Map is in compliance with the Burgaw 2030 Future Land Use Plan; and

WHEREAS, at the Town of Burgaw's Planning and Zoning Board meeting on May 16, 2013, the Board voted to recommend approval of the attached amendment to the Town of Burgaw Official Zoning Map;

WHEREAS, the Town of Burgaw Board of Commissioners finds that the attached text change amendment is consistent with the economic development goals of the Burgaw 2030 Comprehensive Land Use Plan;

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

SECTION 1: The Town of Burgaw Official Zoning Map is amended as attached.

SECTION 2. This amendment to the Town of Burgaw Official Zoning Map becomes effective immediately upon adoption of this ordinance on this, the 10th day of September, 2013.

Other Business

Louis Hesse, Building Inspector requested to address the Board regarding the renovation at the old jail. Mr. Hesse advised the stucco job is going well. He stated that the sycamore tree roots are pushing up the front sidewalk and will probably do the same to the new ramp that will be put in place. He advised Jackie Barnhill has recommended that the tree be removed because there are more negatives than positives in leaving the tree. He also advised there is a pecan tree on the property that he is recommending to preserve. He commented that he wanted to get the Board's permission before removing the sycamore tree. After a brief discussion, it was the consensus of the Board to allow the removal of the sycamore tree but to leave the pecan tree in place.

CLOSED SESSION

Commissioner Tyson made a motion to go into closed session pursuant to GS 143.318-11 (a) (3) for the purpose of attorney/client privilege. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

OPEN SESSION RECONVENED

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

BOC MINUTES

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Upon reconvening to open session, Commissioner Tyson made a motion to appropriate fund balance to pay out of pocket expenses incurred on June 16, 2013 in the amount of \$1397.15 to be paid out of the General Fund in exchange for Barbara Rooks to provide the town a general release of all known and unknown claims arising from this event. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

CLOSING COMMENTS

Mayor Cowan stated that he has asked Commissioner Tyson and Commissioner Robbins to work with him to provide some feedback on the plight of the downtown area regarding curb appeal and deterioration of the area.

There being no further business, Mayor Cowan requested a motion to adjourn.

ADJOURNMENT

Commissioner Dawson made a motion to adjourn. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

The meeting adjourned at 6:10 PM.

Kenneth T. Cowan, Mayor

Attest: _____
Sylvia W. Raynor, Town Clerk