

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

DATE: November 10, 2015
TIME: 4:00 PM
PLACE: Burgaw Municipal Building
BOARD MEMBERS PRESENT: Mayor Eugene Mulligan
Mayor Pro-tem Howard Walker
Commissioners Jan Dawson, Wilfred Robbins, Charles Rooks and Elaine Tyson
STAFF PRESENT: Chad McEwen, Town Manager
Robert Kenan, Town Attorney
Anthony Colon, Utility & Compliance Specialist/ORC
Bill Fay, Director of Public Works
Louis Hesse, Building Inspector
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: Howard Walker, MPT
PLEDGE OF ALLEGIANCE: All

Mayor Mulligan recognized the Pender High School Theater Arts Team for their recent success in the regional playoffs and for their advancement to the state playoffs for competition.

Approval of Agenda

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

Approval of Consent Agenda

A. Approval of minutes of October 13, 2015 regular and closed session meetings

Mayor Mulligan called for a motion to approve the consent agenda. Commissioner Robbins made a motion to approve the consent agenda. Commissioner Dawson seconded the motion. Mayor Mulligan then said there were a few little things he wants to discuss (regarding the minutes). Commissioner Robbins then withdrew his motion to approve the consent agenda until Mayor Mulligan completes his comments. Mayor Mulligan then made the following statements regarding amendment of the minutes of the October 13, 2015 meeting.

- *I would like for the minutes to reflect that Commissioner Robbins asked for the Building and Grounds Committee to address as to whether it was appropriate for the MIA flag to fly at the flag pole at the depot along with the American flag.*
- *I would like the minutes to reflect that Attorney Kenan said that one of the reasons that he did not write the letter to Mr. Cowper as requested by the Board was because he was on vacation.*
- *Furthermore in the minutes under the heading "Items from the Commissioners", Commissioner Robbins brought a concern from a citizen about lines on Fremont Street; into the discussion it was revealed that center lines had been painted on the street against the policy and wishes of the Board. Commissioner Rooks commented that it was obvious that somebody had done something wrong; the Town Manager took responsibility saying that in previous meetings he was confused about the Board's decisions. I countered the Board that in reviewing the minutes of the previous Board meeting that deliberations showed no ambiguity on this issue and that there was no ambiguity in the adopted policy on the same issue was clear (none of this was reflected in the minutes of the last Board meeting).*

- *Furthermore upon questioning by a citizen about the future work on Fremont Street a timeline and cost was given to a citizen by the Town Manager.*

Mayor Mulligan advised he has no further amendments to the minutes and a requested a motion to approve the minutes as amended above.

Commissioner Robbins said “what you’re saying is those are not in the minutes?” Mayor Mulligan said “yes, it’s just a clarification of what was said, it’s not that anything here was contradictory, just they weren’t put in the minutes and I think the minutes should reflect the actions of an agency. Commissioner Robbins commented “okay”.

Commissioner Robbins made a motion to approve the minutes as amended. The motion was seconded by Commissioner Dawson. Commissioners Walker, Robbins and Dawson voted “yes”. Commissioner Tyson voted “no”. Commissioner Rooks said he abstained because he doubts that every single word that is said in a meeting is included in the minutes. He said he understands a need sometimes for clarification or correction but he disagrees with how this is being handled. Mayor Mulligan said this was brought up before we approve minutes because once we approve the minutes then none of this happened. He said he feels the things he brought up were important and he would like to see them recorded. He said the minutes are supposed to be a reflection of what happened as opposed to a summary. He reiterated that these amendments are important to him. Mr. McEwen said that he would suggest that if you (the Board) are going to pin him down on a timeline about that project that it is tentative because there are a lot of factors that can determine whether or not that project is a six month, nine month or twelve month project. Mayor Mulligan said “all I am trying to do is to be sure that the pertinent details of the last month’s meeting are recorded in the minutes of last month’s meeting, nothing more, nothing less”. Speaking to Mr. McEwen, Mayor Mulligan said you are entitled to be wrong and I’m quite sure I am going to be wrong on plenty of occasions as well and things will change. For example, something changed with the Building and Grounds Board but in the meantime that has been satisfied, it doesn’t change the fact that he requested to have it in the minutes or requested it in the meeting and I just want those things recorded in the minutes.

Commissioner Rooks said that in the future it would be good to contact the clerk (we’ve had everything since last Friday) and give the clerk a chance to review the recording and make corrections rather than bring it up like this in a meeting. He said (to the Mayor) that’s what my request is because we are now going by what you’re recommending that goes in there, not what is documented on the tape. Commissioner Rooks said he is questioning the procedure that we are going through here to make corrections. He said its proper to bring it up, how it is being handled could be done a little differently. Commissioner Rooks said he did not vote so it doesn’t matter now.

Commissioner Dawson asked how Commissioner Walker voted. Commissioner Walker said he voted in favor of the amendments. The motion to amend the minutes was carried.

SPECIAL PRESENTATION

Life Saving Award Presentation – Allen Wilson, Fire Administrator

Allen Wilson, Fire Administrator advised we are here today to recognize Lieutenant Earl Brown, Firefighter Robert Pate and Pender County Fire Marshal Tommy Batson for their actions during a residential structure fire on December 3, 2014. The quick and courageous actions of these three firefighters resulted in a life saved. Mr. Wilson advised when Burgaw Firefighters arrived on the scene there was heavy smoke coming from the front of the residence and an interior fire attack was taking place. Lieutenant Brown, Firefighter Pate and Fire Marshal Batson conducted a search of the residence and found and removed an unconscious victim. The victim was placed in the care of Pender County EMS on scene and was revived. By the time the fire was under control, the victim was refusing any further medical treatment. Mr. Wilson stated these three men are well deserving of receipt of the Burgaw Fire Department Life Saving Medal. Chief William George presented the awards to each firefighter.

DEPARTMENTAL ITEMS

Planning Department – Rebekah Roth, Planning Administrator

Consideration of the proposed 2015 Burgaw Bicycle and Pedestrian Transportation Plan

Rebekah Roth, Planning Administrator gave a lengthy overview of the proposed Burgaw Bicycle and Pedestrian Transportation Plan. (A copy of the complete plan is on file in the Clerk's office.) Her presentation included priorities for the plan as well as maps, graphs and charts designating locations of the plan and proposed timelines in completing the plan. She advised the Planning Board and the Parks and Recreation Committee have reviewed the plan and recommend approval by the Board of Commissioners.

Commissioner Rooks asked how this plan was initiated. He asked if the citizens of the town requested this plan and how did we get started in this program. Ms. Roth advised it came from several sources including the land use plan requirements for more pedestrian/bicyclist infrastructure as well as requests from the citizens. At that point she advised she went ahead and asked for authorization for the process to go ahead and start working on this. Mr. McEwen said the benefit of doing the plan is so that the state can see that we have a viable plan and this is not just a whim to be asking for the money. He said this shows we have a plan, we have had public input, the elected officials have approved it and it has been a long term project. He said it gives us a better chance of funding. Ms. Roth said this gives us something to work from but if anything comes up later that is too cost prohibitive or needs to be changed, this is not beholding the Board to exactly what we are looking at today.

Commissioner Walker asked if Ms. Roth has a percentage number of students that walk to school. She said she does not have a number of students that are walking to school but according to 2013-2014 school transportation records there are approximately 182 students picked up within a one mile radius of the schools. She advised basically students are not walking to school very much at this point.

Commissioner Robbins asked Ms. Roth to define a bicycle rodeo. Ms. Roth advised a bicycle rodeo teaches children to use their bikes safely. She advised that typically stations are set up to train students the proper way for stopping, looking both directions and crossing safely; how to take care of their bikes; how to make sure that the bike helmets fit correctly and other safety items.

Mayor Mulligan asked if there are any restrictions on the walking trail. Ms. Roth advised bicycles are allowed on the Osgood Canal Greenway and Trail.

Commissioner Robbins said he is concerned about the timeline which can be as much as ten years. He asked Ms. Roth if she will be coming during budget time to start implementing certain phases of this plan. Ms. Roth advised she will be asking for budgeted items beginning with the upcoming budget season. She advised there will be some things done in phases so budgeting will be done in increments.

There being no further discussion, Mayor Mulligan asked for a motion to approve Resolution 2015-43. Commissioner Dawson made a motion to approve Resolution 2015-43 Adopting the 2015 Burgaw Bicycle and Pedestrian Transportation Plan. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

RESOLUTION 2015-43 ADOPTING THE 2015 BURGAW BICYCLE AND PEDESTRIAN TRANSPORTATION PLAN

WHEREAS, the Town of Burgaw understands the importance of its transportation system in maintaining the quality of life of its residents; attracting visitors, new businesses, and industry; and encouraging physical activity, promoting healthy living, and reducing the risk of chronic illness; and

WHEREAS, it is the town's goal to create and maintain a comprehensive transportation network that will ensure the safe and efficient movement of people and goods, regardless of mode of travel; provide appropriate access to employment, housing, services, and recreation; and reduce the need of residents to rely on automobile travel; and

WHEREAS, a safe and comprehensive bicycle and pedestrian transportation network will increase the public health, safety, and general welfare of the town's residents; and

WHEREAS, the Burgaw 2030 Comprehensive Land Use Plan, adopted in 2013, established as one of its primary transportation goals to increase the use and effectiveness of alternative transportation modes, such as walking and biking; and

WHEREAS, as the town's demographics change and infrastructure needs grow, the town needs a plan on how to implement bicycle and pedestrian amenities in a cost-effective and strategic manner; and

WHEREAS, at their 2014 strategic planning session, the Town of Burgaw Board of Commissioners directed staff to begin work on a town-wide bicycle and pedestrian plan; and

WHEREAS, Town of Burgaw residents and property owners participated actively in the information-gathering, recommendation development, and final plan development phases of the planning process; and
WHEREAS, the Town of Burgaw Parks and Recreation Committee reviewed the proposed plan at their October 12, 2015 meeting and voted to recommend approval to the Board of Commissioners; and
WHEREAS, the Town of Burgaw Planning and Zoning Board reviewed the proposed plan at their October 19, 2015 meeting and voted to recommend approval to the Board of Commissioners; and
WHEREAS, the Town of Burgaw Board of Commissioners reviewed the proposed plan at their November 10, 2015 meeting and desire to adopt its findings;
NOW THEREFORE BE IT RESOLVED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS TO ADOPT THE 2015 TOWN OF BURGAW BICYCLE AND PEDESTRIAN TRANSPORTATION PLAN EFFECTIVE NOVEMBER 10, 2015.

Consideration of the proposed 2015 Tree Program Work Plan

Ms. Roth advised each year, the Buildings and Grounds Boards, in its capacity as the Tree Board, and the Board of Commissioners must approve an annual tree program work plan for submittal for Tree City USA recognition. The proposed work plan includes several components, including:

- Tree Planting
- Tree Pruning
- Tree Removal
- Tree Care
- Tree Education, and
- Other.

Ms. Roth advised the items in the proposed work plan have been discussed with the Public Works Director, and the Board of Commissioners has budgeted \$2,000 for tree program activities not covered by the operations budget of Public Works.

Commissioner Robbins commented that there is much to do on the list for just \$2,000. Ms. Roth advised some of the items listed will be paid out of other budgeted line items.

Mr. McEwen advised the dead tree at Johnson Park has been cut down and a portion of the \$2,000 will be used to replace the tree. He advised it could cost as much as \$500.00. Ms. Roth suggested that tree could be our Arbor Day tree thereby saving the cost of planting two trees. Commissioners Robbins and Dawson spoke in favor of Ms. Roth's suggestion.

Mayor Mulligan asked why no trees have been planted in the median on Dickerson Street at the railroad right of way. Mr. McEwen advised NCDOT will not allow trees to be planted there.

Karen Harding asked for a report on the proposed 2014-2015 tree work plan and what did not get accomplished. Ms. Roth advised she does not have that at this time. She advised there were some things that were not done due to circumstances not under our control such as the tree education program and the replacement education program. She advised she needs to gather information from public works regarding work done on the public right of way. She said the other items on the 2014-2015 plans were completed.

Commissioner Dawson made a motion to approve Resolution 2015-44 adopting the 2015 Tree Program Work Plan. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

RESOLUTION 2015-44 ADOPTING THE 2015 TREE PROGRAM WORK PLAN

WHEREAS, the Town of Burgaw aims to preserve and enhance the town's tree canopy; and
WHEREAS, to further this aim, the town has participated in the Tree City USA program since 2010; and
WHEREAS, to continue participation in the Tree City USA program, the Buildings and Grounds committee, acting as the Tree Board, and the Board of Commissioners need to adopt an annual tree program work plan; and
WHEREAS, this tree program should comprehensively address tree plantings, care, education, and maintenance; and
WHEREAS, staff has prepared a proposed 2015 tree program work plan for the 2015-2016 fiscal year; and
WHEREAS, the Board of Commissioners finds that the proposed work plan accurately reflects the tree care priorities of the town for this fiscal year and are supported by budgeted funds;

NOW THEREFORE BE IT RESOLVED THAT THE TOWN OF BURGAW BOARD OF COMMISSIONERS ADOPTS THE 2015 TREE PROGRAM WORK PLAN.

ADOPTED this the 10th day of November 2015.

Tree Program Annual Work Plan—FY 2015-2016

Component	Action	Month(s) Accomplished	Responsible Party	Report
Tree Planting	Tree in honor of Wayne Briley	November-December 2015	Town Manager	
	Tree for Arbor Day	March 2016	Planning & Public Works	
Tree Pruning	As determined by Tony's Tree Service survey	TBD	Public Works	
	Downtown Hollies in preparation for holiday lights	October-November 2015	Public Works	
	Prune trees on railroad right-of-way	TBD	Public Works	
Tree Removal	As determined by Tony's Tree Service survey	TBD	Public Works	
Tree Care	Develop regular tree care maintenance schedule & budget	December 2015	Planning & Public Works	
	Mulch and fertilize public trees	March-May 2016	Public Works	
Tree Education	Arbor Day—ceremony, tree giveaway, etc.	March 2016	Planning & Public Works	
Other	Tree Care Training for Public Works Employee(s)	TBD	Public Works	
	Develop partnerships to ensure arborist review of development proposals	November-December 2015	Planning	
	Upgrade specimen tree preservation and mitigation regulations	February 2016	Planning	

ITEMS FROM ATTORNEY – Robert Kenan, Attorney

Mr. Kenan advised the Board that the letter included in their packet was sent to Mr. Lee Cowper per the Board's request. He advised that as of this time he has received no written, telephone or electronic response from Mr. Cowper regarding the town's request for him to subordinate his lien from first lien position to second lien position on the remaining unsold Teal Briar properties.

Commissioner Robbins asked what will happen at Teal Briar if we can't do anything about the infrastructure. He asked what we can do. Attorney Kenan commented that the Town can take over the infrastructure by eminent domain. Mr. McEwen said we would be paying him (Mr. Cowper) for the streets and water/sewer that he refuses to give to us thereby relieving him of any liability. Attorney Kenan explained that when taking property by eminent domain, a value must be set on the property with any improvements that will be done. Commissioner Robbins asked "what kind of improvements?" Attorney Kenan replied "the value of the water/sewer and streets and whatever improvements need to be done out there".

Commissioner Rooks asked if we have any recourse. Mayor Mulligan said it comes down to an issue between the homeowners association and Mr. Cowper and we are just trying to help. Mayor Mulligan said Mr. Cowper's best avenue is to ignore us. Attorney Kenan said he agrees with Commissioner Rooks who commented previously that they (the owners) don't want to do anything.

Commissioner Robbins asked if we (the Town) can ask Mr. Cowper to give us the infrastructure and that we will take it as is if he will just give it to us. Commissioner Rooks said he thought one of the things we were trying to require was that that a survey is done to see what the potential cost of the upgrades would be before we accept the infrastructure. He said we could have been receiving Powell Bill funds on the streets if we had them in the beginning but we will never get funds until we have possession of the streets. The property owners are paying taxes; they should at least be able to get the streets paved. Commissioner Rooks said continuing down the same path we have been on is accomplishing nothing.

Mayor Mulligan asked Attorney Kenan if we must have Mr. Cowper's approval to go in and assess the infrastructure in Teal Briar. Attorney Kenan advised yes because it would be improvements to their property and we would need to seek their permission to do that.

Commissioner Rooks said we cannot force the owner to do anything but he thinks this Board needs to take a stand, make a move and spend some money to correct the problem or we will continue down this same path for the next ten years.

Mr. McEwen reminded that Board that the cost of a conditions assessment will be about \$20,000 out of the Town's pocket with no guarantee of any return on the cost. Commissioner Robbins said if something goes wrong out there with a water or sewer line we are going to repair it anyway. Mr. McEwen said we are doing that now. Commissioner Rooks said we are already doing what needs to be done without having control over it.

Attorney Kenan said at the last meeting they had with the owners of the property, they were not objecting to the Town taking over the infrastructure, they were only objecting to the amount of money they may have to pay us if we did take over the infrastructure. He said he does not feel they will be opposed to the Board approaching them about taking over the infrastructure at no additional expense to the owner. Commissioner Robbins said the owners say they don't have any money and we are going to be in the same situation five years from now that we are in now. Attorney Kenan said instead of giving money for it, we need for them to deed the infrastructure over to the Town so that we will become the actual owners of the infrastructure.

Mr. McEwen said he feels that all legal options need to be exhausted before the Town takes any action because we don't know what's really out there and how much it will cost the Town to make the repairs to the infrastructure. Mr. McEwen asked "have we exhausted all legal options in this situation?" Attorney Kenan said it is really the property owner's problem and it is between them and the homeowner's association. It is not our issue. He said if we want it we can either accept as it is or file an eminent domain procedure to take it and if we do that we (the Town) will be paying the owners for the value of improvements whatever that value may be.

Commissioner Rooks asked what are we accomplishing by not accepting the infrastructure if we are already doing what we would do if we did accept it; why not go ahead and accept it. Commissioner Dawson asked if Mr. Fay could go out there and look at it and give us his opinion. Commissioner Rooks asked if we can do our own in house assessment. There was a very lengthy discussion regarding the problems that we are aware of such as storm water runoff, Inflow & Infiltration, issues with the lift station etc. Commissioner Tyson asked if we pay an engineer to go out there and assess the issue are we then going to pay the cost of the repairs as well. Mr. McEwen said the Town shouldn't pay an engineer. Commissioner Tyson said she cannot see spending the money and then not doing anything. Commissioner Rooks asked if we could do the work and place a second lien on the property. Attorney Kenan said if the property sells for less than the first lien, then the town's lien is wiped out.

Mayor Mulligan suggested we put this off until next month. He said the property owner has only had ten days to respond to the letter. Attorney Kenan advised there has been ample time for a response and that they just refuse to communicate with us. Commissioner Robbins asked if the Town Manager would sit down with Bill Fay and his staff to determine if they have the abilities to come up with some idea of what we are facing out there rather than just saying we will come back and talk about it again. Commissioner Tyson agreed with Commissioner Robbins' idea to have staff give a preliminary review of the situation and report back to the Board. Mr. McEwen agreed to have Mr. Fay and his staff review the situation. Commissioner Rooks said we understand that this is not a professional opinion but maybe they can give us some idea of what we are looking at out there.

After much discussion, Commissioner Robbins asked "where do we go now?" Mr. McEwen said he will meet with Bill Fay and Anthony Colon and see what they can come up with regarding an assessment. He also requested that until this review of the situation is done that no more letters to be sent to the owners. Commissioner Rooks asked that Mr. McEwen check on the stormwater permit as well. Commissioner Rooks requested that this item be placed on the agenda for the December meeting.

ITEMS FROM MANAGER – Chad McEwen, Town Manager

Resolution 2015-45 Approving a Contract with Brandon Hesse Related to Repairs at the Town Garage Building

Mr. McEwen advised as part of the current Capital Improvement Plan interior and exterior repairs to the town garage facility were prioritized for the current fiscal year. The approved budget for 2015-2016 includes \$25,000 for these capital improvements at the garage. The specific improvements are as follows:

- 1) Repair and replace as needed existing insulation in the ceiling and add v-barrier for additional r-value
- 2) Repair and replace as needed insulation along front of the building around bay doors
- 3) Install 12 bollards
- 4) Repair and replace jambs and headers for 3 overhead doors
- 5) Installation of three new overhead doors within the existing open bays
- 6) Install 6 inch gutters and downspouts along the front of the building

Mr. McEwen advised he is comfortable to award this contract to Brandon Hesse. Mr. McEwen advised that he and Mr. Fay will supervise Mr. Hesse during this project. He advised that Mr. Hesse has done some repair work at the community house and the depot and he has done an excellent job on each task he has been given.

Commissioner Robbins asked if the two thousand dollar difference in the quote and the recommendation is for the bollards. Mr. McEwen advised the additional bollards are \$1900 bringing the total quote to about \$2,000.

Mayor Mulligan asked if there is any reason we couldn't do the bollards ourselves. Mr. McEwen said we could do all this work ourselves but that would take away from public works doing all the other jobs that they must do on a daily basis.

Commissioner Robbins asked if this item was budgeted. Mr. McEwen advised it was budgeted at \$25,000.

Mr. McEwen advised the recommendation is the approval of the proposal of \$22,875 from Brandon Hesse for the improvements and repairs to the town garage as outlined above.

There being no further discussion, Commissioner Rooks made a motion to approve Resolution 2015-45 as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

**RESOLUTION 2015-45
RESOLUTION APPROVING A CONTRACT WITH BRANDON HESSE
RELATED TO REPAIRS AT THE TOWN GARAGE BUILDING**

WHEREAS, the Town of Burgaw owns and operates a garage on McRae Street for the purposes of maintaining and repairing town vehicles and equipment; and

WHEREAS, significant repairs and improvements to this facility have been prioritized by the Board of Commissioners; and

WHEREAS, these improvements include the following;

- 1) Repair and replace as needed existing insulation in the ceiling and add v-barrier for additional r-value
- 2) Repair and replace as needed insulation along front of the building around bay doors
- 3) Install 12 bollards
- 4) Repair and replace jambs and headers for 3 overhead doors
- 5) Installation of three new overhead doors within the existing open bays
- 6) Install 6 inch gutters and downspouts along the front of the building, and

WHEREAS, based on the repairs and improvements listed above, the town requested quotes from three contractors. The quotes received were as follows:

- 1) G&G Builders, Inc.- \$40,851*
- 2) DL Jordan- \$27,830*
- 3) Brandon Hesse-\$20,975

*No price included for 12 bollards as requested

WHEREAS, in addition to the price above, the town will cover any cost related to the rental of a lift for the purposes of installing the insulation and gutters.

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

SECTION 1. The Town of Burgaw Board of Commissioners hereby approves a contract with Brandon Hesse for an amount not to exceed \$24,121, which includes a 15% contingency above the quoted price provided.

SECTION 2. The Town of Burgaw Board of Commissioners hereby authorizes the Mayor or Town Manager to execute the required contract with Brandon Hesse for the repairs listed above to the town garage.

ADOPTED this the 10th day of November, 2015.

MIA/POW Flag Issue

Mr. McEwen advised the issue of the MIA/POW flag has come up and staff is in a quandary as to where the Board wants us to go with that. He advised that Ms. James was here last month and the plan was for the Buildings and Grounds Board to meet and discuss the issue but when the clerk called her, Ms. James advised she wasn't well and was going to drop the issue for now. Commissioner Robbins suggested leaving the item on the agenda for the next Building and Grounds meeting. Louis Hesse commented that Ms. James is planning to run the POW/MIA flag up the flag pole at the Veteran's Day ceremony on Wednesday. Commissioner Rooks said "the ceremony is tomorrow, do they need permission to raise the flag?" Commissioner Rooks made a motion to allow the raising of the POW/MIA flag on the flag pole at the depot on Veteran's Day but for a final decision on continued use of the flag to be brought back at a later date after the Building and Grounds Board meets. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Springhill Press – map

Mr. McEwen advised Springhill Press will be doing an official Pender County Tourism map and they have asked if the Town would like to do an advertisement in their map brochure. He advised there will be an online version of the map as well as 20,000 hard copies that will be circulated through Pender County Tourism. He said the cost is \$395.00. Mr. McEwen advised Jim Fouche, Chair of the Promotions and Special Events Committee has polled his committee members and they are in agreement to move forward with the advertisement in the map brochure. Mr. McEwen said the \$395 will be taken from the Promotions and Special Events Promotions line item.

Commissioner Rooks asked where the pamphlets will be displayed. Mr. McEwen advised they will be displayed in the typical places such as rest stops, chambers of commerce and other tourism offices.

Mayor Mulligan asked what sort of detail would be on the map. Mr. McEwen advised it will be a county map with highlights such as the Karen Beasley Sea Turtle Rescue, the Blueberry Festival, Spring Fest, the Depot, and the Civil War Trail etc. He said it will be tourist related high points in the county.

Commissioner Rooks asked if the committee responsible for that money that is being appropriated, is alright with it. Mr. McEwen advised Mr. Fouche received four positive responses in support.

Mayor Mulligan asked if the money could come from the Tourism Development Authority. Commissioner Robbins advised that money comes from the room occupancy tax.

Commissioner Dawson asked who will actually work with the mapping representative. Mr. McEwen advised that Tammy Proctor, Pender County Tourism Director will be working with the mapping representative from Springhill Press.

Mr. McEwen advised when he spoke with the sales representative today, she advised she has one ad left and it is ours if we want it. He told her that he would have to take it to the Board for approval and if the space is still available and the Board approves it then we will take it.

Commissioner Rooks said that since we have a committee that serves in this capacity, they have funds appropriated and they approve of the expenditure that we would be doing the right thing by approving the request. Commissioner Rooks made a motion to approve the request to purchase the ad in the amount \$395.00 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Community Video Program

Mr. McEwen advised we have been approached by CGI Communications who is also working with Pender County and Pender Memorial Hospital regarding a video vignette of the town. He advised this is a short video clip that would be created and added to our website and would showcase the points of interest in the town. He advised this is an impressive end product that is available for viewing on some of the towns they have already done this for. He said there is no cost to the town. Mr. McEwen said that when the video pops up on the screen there will be commercial ads paid for by Tourism Development Authorities, County Tourism offices, non-profits, the hospital and the business community. He said since there is no cost he would like for us to enter into the contract for it to be placed on our website assuming the finished product is acceptable to the Board.

Commissioner Robbins said assuming it's not going to cost anything he thinks it's a good idea.

Mayor Mulligan asked if the attorney has reviewed the contract. He asked if there is anything in the contract that puts a time limit on us or compels us to have this on the website. Mr. McEwen said "no". Commissioner Rooks said "so they are not compelling you to use the video but yet they are selling the ads to be on it". Attorney Kenan advised the Pender County is currently participating in this now and CGI is selling the ads around the screen. Mr. McEwen advised the company has made their money on the product whether it plays or not.

Mayor Mulligan asked if we have considered the technological implications of having this video on the website. Mr. McEwen advised it won't be a problem for us but if a viewer does not have high speed internet, the video may not stream properly. Mr. McEwen said he can check on all those issues to make a determination if this works with our website.

After a brief discussion regarding possible content issues, it was the consensus of the Board to table this item.

Purchase of Fire Truck

Mr. McEwen advised we are still working with Mr. Rick Biberstein and Mr. Jimmy Smith regarding the financing of the fire truck. He said they have asked for us to front the full purchase amount of the truck and then use the loan proceeds from Four County to reimburse the town and then the town will send final payment to C. W. Williams for the truck. He advised that if you do approve that game plan we will appropriate another \$132,506 which would be due at closing. We have already appropriated \$91,776 but when we get the loan proceeds from Four County when they receive the closing from CW Williams we will get the full loan amount and we would basically reimburse ourselves for the full amount that we have paid for the truck. We are getting zero percent financing for the truck. He advised these are additional steps that we did not anticipate and were not told in the beginning. He said at the end of the day we will have a fire truck with a zero percent loan. The request is for the Board to verbally vote and approve a fund balance appropriation of \$132,506 due at closing which is to be determined and upon closing we would remit whatever payment is due to CW Williams.

Commissioner Rooks commented that he is disappointed that these changes have been thrown in midstream. He asked if this was done by Four County. He said he realized we had an issue with the fact that the chassis had to be paid for before CW Williams could accept it so that threw a change in it. He asked if that change created the other changes. Allen Wilson, Fire Administrator advised that Mr. Biberstein will not allow Four County to release any money until we have ownership paperwork and Mr. Biberstein will not allow Four County to write two different checks, one to the Town to reimburse us for what we have already paid and one to CW Williams for the remainder of the truck. Commissioner Rooks said he guesses we have to jump through the hoops to get the zero percent interest. Mr. McEwen advised that if the Board approves this item, Ms. Loftis will bring back an ordinance at next month's meeting to formally approve the fund balance appropriation. Mr. Wilson added that this final decision regarding the requirement for payment up front came about today.

Commissioner Rooks made a motion to approve an appropriation in the amount of \$132,506 for the remaining balance of the tanker truck to be taken from the General Fund fund balance with the understanding that the town will be totally reimbursed when the loan proceeds are distributed to us. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

BREAK – Mayor Mulligan called for a break at 5:18PM. The meeting reconvened at 5:34PM.

After the break Chief Jim Hock introduced Patty Benjamin as the new administrative assistant in the police department.

PUBLIC FORUM

There were no speakers present for the public forum.

PUBLIC HEARINGS

Public Hearing #1- *Rebekah Roth, Planning Administrator*

Consideration of an application for a conditional use permit for an alcohol and/or substance abuse treatment facility to be located at 126 Worth Beverage Drive

Mayor Mulligan announced that he has had a conversation with the applicant and he will be recusing himself from the public hearing. He advised that Commissioner Robbins will conduct this public hearing in Mayor Pro-tem Walker's stead.

Commissioner Robbins declared the public hearing open at 5:36PM. He read the list of attendees that had signed in to speak at the meeting. Attorney Kenan administered the oath to the following persons who wished to speak at the hearing:

- Rebekah Roth, Town of Burgaw Planning Administrator
- Kent Harrell, attorney for the applicant, Law Office of R. Kent Harrell
- Monty Recoulley, applicant, M Recoulley Construction Co.
- Bart Grimes, Clinical Director, Robeson Health Care Corp
- Tim Hall, Chief Behavioral Health Officer, Robeson Health Care Corp.
- Mark Walton, engineer for applicant, Walton Engineering
- James Faison III, District Court Judge
- Elizabeth Herring, Town of Burgaw resident
- Vernon Harrell, Town of Burgaw resident
- Karen Harding, Town of Burgaw resident
- Hugh Highsmith, representative of Pender Progress Corporation
- R.V. Biberstein, authorized agent of Pender Progress Corporation Legal
- Trey Thurman, attorney for Pender County
- Rick Benton, Wilmington Business Development
- Ted Proukou, Executive Director of Pender County Safe Haven

Rebekah Roth, Planning Administrator presented the following background material:

GENERAL INFORMATION

Applicant:	M Recoulley Construction Co.
Property Owner:	Frank Crisafulli et al
Site:	126 Worth Beverage Dr.
Current Zoning:	O&I, Office & Institutional
Size:	2.15 acres
Existing Land Use:	accountant's office

Summary

The applicant is applying for a conditional use permit for an alcohol and/or substance abuse treatment facility to be located at 126 Worth Beverage Dr., the current site of an accounting office. The subject property is bordered on the north by a multi-family development, to the east and west by vacant O&I zoned properties, and to the south by a state road and industrially zoned properties.

Ms. Roth advised the following evidence was presented for review by the Board before the meeting today:

- a. The application submitted on September 15, 2015 to the Town of Burgaw Planning Administrator (Exhibit 1);
- b. A project narrative prepared by the applicant's engineer submitted on September 15, 2015 with the application (Exhibit 2);

- c. Site plan submitted on September 15, 2015 with the application (Exhibit 3);
- d. Town of Burgaw zoning information and responses to the permit standards submitted on September 15, 2015 with the application (Exhibit 4);
- e. Example rules and consequences for the facility submitted on September 15, 2015 with the application (Exhibit 5);
- f. State licensure requirements for the facility submitted on September 15, 2015 with the application (Exhibit 6);
- g. Letter from Michael McNeil, Chief of Police for the Lumberton Police Department, dated May 21, 2015 submitted on September 15, 2015 with the application (Exhibit 7);
- h. A zoning map of the subject and adjacent properties from the Town of Burgaw ArcGIS database (Exhibit 8);
- i. An aerial photograph of the subject and adjacent properties from the Town of Burgaw ArcGIS database (Exhibit 9);
- j. A map depicting the Future Land Use Map land use classification designation as included in the Burgaw 2030 Comprehensive Land Use Plan from the Town of Burgaw ArcGIS database (Exhibit 10);
- k. A flood map of the subject and adjacent properties from the Town of Burgaw ArcGIS database (Exhibit 11);
- l. Wetlands determination information for the portion of the property proposed for development submitted on October 14, 2015 by Allen Thornton of Walton Engineering (Exhibit 12);
- m. An Ordinance Requirements Report prepared by Planning Administrator Rebekah Roth (Exhibit 13);
- n. A Compliance with Town of Burgaw Adopted Plans report prepared by Rebekah Roth (Exhibit 14);
- o. A copy of an email from Allen Thornton regarding office building location with attachment of revised site landscaping plan submitted on September 30, 2015 (Exhibit 15);
- p. Photographs of the subject and surrounding properties taken by Rebekah Roth on September 21, 2015 (Exhibit 16);
- q. Email correspondence between Allen Thornton of Walton Engineering and town staff between September 8 and 18, 2015 (Exhibit 17);
- r. Architectural plans for residential buildings submitted by Bart Grimes of Robeson Health Care at the Town of Burgaw Planning and Zoning Board's technical review on October 15, 2015 (Exhibit 18);
- s. Email from Bart Grimes outlining statements he had made at the Town of Burgaw Planning and Zoning Board's technical review submitted on October 20, 2015 (Exhibit 19);
- t. A document outlining the verbal testimony of Rick Benton given at the public hearing, submitted to the board during the hearing on November 10, 2015;

Ms. Roth presented the following Standards for Review that will be considered today:

Standards for Review

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. All information included in this report includes both staff review and planning board technical review findings.

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.

- While facility residents are under treatment for alcohol and/or substance abuse, facility rules prohibit the use of controlled substances, require residents to report prescription medications, and are designed to ensure that no criminal acts are perpetrated on the property.

Staff and Planning Board Recommendation:

Unless additional evidence is presented at the public hearing, the applicant has provided sufficient evidence that this standard has been met in the judgment of staff and planning board.

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

Evidence:

- Exhibit 13 outlines the requirements of Section 12-9 of the Town of Burgaw Unified Development Ordinance, evidence provided in the application package, and potential issues that will need to be discussed by the board.
- Exhibit 4 states, "The applicant and agent have worked diligently with local Burgaw officials to see that all required conditions are met. This includes the Planning Department, the Fire Marshall, and the Public Works Director."
- Exhibit 17 outlines potential requirements for NCDOT driveway permit, infrastructure improvements, fire hydrant installation, and solid waste facilities with the responses of Allen Thornton of Walton Engineering.

Staff and Planning Board Recommendation:

Based on the application and additional evidence, staff and planning board recommend the following conditions:

- A dumpster and recycling receptacle to serve the development's needs shall be required.
- Placement and screening of the solid waste receptacles must be approved by the Planning Administrator prior to issuance of a building permit.
- If a sign is ever installed at this location, a sign permit shall be required, and any signage shall be limited to one monument sign a maximum of six feet in height and 32 square feet in size.
- A copy of the facility license(s) shall be provided to the planning department within 30 days of issuance of the certificate of occupancy and must remain in effect at all times.
- A tree removal permit must be issued by the Planning Administrator prior to the issuance of a building permit.
- If fewer than 33 protected trees will be retained, the difference must be made up in new trees a minimum of 4" in caliper of the same species or similar species approved by the Planning Administrator.

- The proposed type I buffer along the front of the development must be a minimum of 12 feet in width and consist of trees and shrubbery covering at least 50% of its area.
- All new vegetation planted in the type I buffer along the front of the development must be listed in the approved tree and vegetation list and be approved in advance by the Planning Administrator.
- Fire hydrants, as specified by the Fire Marshal, shall be required.
- Curbing and guttering shall be required at the street.
- A revised site plan showing all required amendments and improvements must be approved by the Planning Administrator, Fire Marshal, and Public Works Director prior to issuance of a building permit.

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 4 states:
 “The use will not adversely affect the use of or any physical attribute of adjoining or abutting property. The use is located in an O&I District where it is listed as a Conditional Use, and it is abutted to the rear by **Seven Oaks**, a subsidized housing development.
 O&I Districts are defined in the Town of Burgaw Unified Development Ordinance as follows: F) O&I Office and Institutional District. The O&I Office and Institutional district is defined as certain land uses with structures that provide office space for professional services and for certain institutional functions and residential accommodations, usually medium or high-density in nature. This district is usually transitional in nature and as such **may be situated between business and residential districts**, and the regulations are designed to permit development of the permitted functions and still protect and be compatible with nearby residential districts. Although the primary role of this district is to provide office space for professional service and/or certain institutional uses as designated in Section 4-9 of this Ordinance, both multi-family and single family may be allowed. All O&I Office and Institutional Districts, with a total area of less than four (4) acres, shall serve as transitional zones between high intensity and low intensity land uses.
 Also, the use will not adversely affect the use of property in the I-1 District across Worth Beverage Drive from the site. In fact, the proposed use is also allowed as a Conditional Use in the I-1 district. A similar facility, **PORT Human Services** already exists in an I-1 district on Progress Drive, approximately 3,000 feet from the proposed use.”
- The subject property is not in a flood zone.
- A wetlands delineation performed by Walton Engineering finds no wetlands on the portion of the site proposed for development.
- A type I buffer is proposed along the front of the property and the portions of the side lots behind residential structures.

Staff and Planning Board Recommendation:

Unless additional evidence is presented at the public hearing, the applicant has provided sufficient evidence that this standard has been met in the judgment of 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 14 outlines the applicable portions of the Burgaw 2030 Comprehensive Land Use Plan (subject property not covered by NC 53 Corridor Study).
- Exhibit 4 states, “The location and character of the use as planned will be in harmony with the area in which it is to be located. As discussed above, the use is abutted to the rear by Seven Oaks, a subsidized housing development and reasonably near PORT Human Services. The area is a mixture of Industrial, Institutional, and Residential Uses. There is a residential subdivision to the east of the proposed use, also located in an O&I District. Since the O&I District allows a mixture of uses including Residential Occupational and Institutional, the proposed use is consistent with the Town of Burgaw Unified Development Ordinance.
 Also, the proposed use is currently separated from residential development by wooded areas, except for **Seven Oaks**, a subsidized housing development.
 The proposed use has been designed in conformance with the Regulations, Information Requirements, and **Standards** of Article 14 of the Burgaw Unified Development Ordinance.”
- Both the zoning district and future land use designation for this site highlight the transitional nature of the property between the industrial and residential areas of town. The property is surrounded by either industrially or O&I zoned properties.
- Permitted uses in the O&I district include: professional offices, rescue squads, art galleries, banks, call centers, churches, educational facilities, day care centers, day spas, medical facilities, single family dwellings, funeral homes, libraries, medical equipment and supply stores, museums, law enforcement offices, and outpatient substance abuse treatment.

Staff and Planning Board Recommendation:

Unless additional evidence is presented at the public hearing, the applicant has provided sufficient evidence that this standard has been met in the judgment of staff and planning board.

Standard 5. The facility shall be operated in a manner that is compatible with the neighborhood and shall not be detrimental to adjoining property owners because of traffic, noise, refuse, parking, or other activities.

Evidence:

- Exhibit 5 outlines the rules and consequences for the program, including prohibitions on alcohol and substance use and limitations on travel for program participants.
- The applicant proposes each resident having their own roll cart. Town and Waste Industries policies would require roll carts to be taken to the street on trash days (a minimum of 9 total carts).

Staff and Planning Board Recommendation: A recommendation has been included under Standard 2 to require a dumpster and recycling facilities that will serve the entire community to ensure trash is picked up regularly and to prevent potential issues from many roll carts sitting on the street waiting for pick-up on trash days. Unless additional evidence is presented at the public hearing, the applicant has provided sufficient evidence that this standard has been met in the judgment of staff and planning board.

Standard 6. The facility shall be operated in a manner that will provide adequate supervision of all residents.

Evidence:

- Exhibit 2 states, "Women in the program will be routinely tested for drugs and alcohol. They will not be allowed to leave the facility without being accompanied by a staff member until they earn the right. Even then, approved leave will be limited to 48 hours and they will be tested before leaving and upon return. No visitors will be allowed until the privilege is earned, and even then only close family members are allowed to visit, with supervision by RHCC Behavioral Health Technicians the entire visit.

The facility will be staffed with trained professionals 24/7/365. All housing units will be in plain view of the facility office, with entrance and exit only via the front door. There will be no entrances/exits in the rear of the duplexes."

- Exhibit 6 outlines the supervision requirements for state licensure.
- The site is designed where the supervisor can see all duplex entrances from the facility's office.
- Exhibit 19 states, "Rounds are made on the 2nd and 3rd shift every 2 hours for mainly safety purposes. The apartments are entered by the staff and the residents are looked in on. They address issues as they arise if any. 1st shift does apartment checks looking for cleanliness and/or maintenance issues that need to be addressed as well as observing parenting skills. Staff will focus on residents that appear to be struggling in a particular area and those issues are addressed in a therapeutic manner."

Staff and Planning Board Recommendation:

Unless additional evidence is presented at the public hearing, the applicant has provided sufficient evidence that this standard has been met in the judgment of staff and planning board.

Commissioner Robbins asked the Board of Commissioners if they had any questions at this time.

Commissioner Walker asked Ms. Roth in her opinion how this situation will affect the children psychologically such as being picked up from the facility by the school buses. Ms. Roth advised the purpose of the program is for women who are not currently parenting their children and rather than the women going back into a home after treatment, this is a transitional area designed as a residential living situation so staff can have a close eye on the mothers and how they interact with their children to make sure the children are not going into a dangerous situation.

Commissioner Robbins said that the people that will be living there have been referred to as residents and he asked if they will be considered as permanent residents of the town. Ms. Roth advised that from the information that has been provided by the applicant the women will stay no longer than a one year period however state funding has generally kept it a much shorter period of time. She said they will be here for a short period of time while being treated and then they will leave and return to life wherever they were previously.

Commissioner Robbins said he sees this as four different houses with residents living there. Ms. Roth advised each building is a duplex which will hold eight people in treatment with each one having as many as two dependent children.

Commissioner Robbins advised he will now call on each person that signed in to speak and received an oath to speak.

Kent Harrell advised he is here as counsel to the applicant Monty Recoulley and he supports the application. He asked Mr. Recoulley to come forward and talk to the Board about the project itself in order to give the Board a better understanding of what this entails.

Monty Recoulley advised he lives in Wilmington and he will be the builder for the project and one of the owners. He said we are proposing four duplexes with a fifth one being offices and a counseling center. He advised there is an elevation that shows masonry up to the first window with siding continuing with architectural shingles. He said the buildings are designed to appear to be residential not institutional because the program tries to get the residents into a situation that appears to be residential so that when they go back into the real world there won't be a jarring of

their experience. He reiterated this is an institutional setting but made to appear residential. He advised each resident can only have two children with them and some will only have one. No child can be over the age of twelve. He said the children are supervised. He advised they will only be disturbing less than twenty five percent of the site. The remainder will be left in trees. He advised the ecology will not be disturbed to a large extent.

Commissioner Robbins asked Mr. Recoulley if he would entertain questions from the Board at this time. Mr. Recoulley advised he will take questions.

Commissioner Tyson asked if there will be a play area for the children. Mr. Recoulley advised there will be a play area but he cannot give a description because the play area is provided by the program.

Commissioner Rooks asked Mr. Recoulley if he or the owners have experience running this type of facilities. Mr. Recoulley advised "we don't run the facility". Commissioner Rooks asked who will be running the facility. Mr. Racoulley advised Robeson Health Care will be running the facility and they have seven other facilities in south east North Carolina. He advised the group in charge is called "Trillium" and that is the managed care organization that is in charge of Medicare for twenty six counties. They actually receive the money from the state and oversee Robeson Health Care. He said Robeson Health Care has the "hands on" experience to run this facility and that's why they have been selected to run the program. He also said the lady that will be running this facility is a graduate of the program having been through treatment with her daughter; she went to Pembroke University and earned her bachelor's degree and then earned her master's degree. He said she will be moving to Burgaw to live here.

Attorney Kent Harrell introduced Bart Grimes, Clinical Director from Robeson Health Care. During Mr. Grimes' presentation he gave a very lengthy overview of the treatment program, how the facility is managed and what is expected of the patients while in residence. (Due to the extreme length of the presentation not all of that overview is included in this summary.) He advised Robeson Health Care is a multi-million dollar health federally qualified health care center. He advised they operate seven health care centers across the state of North Carolina along with six residential substance abuse treatment programs. He said we have been operating since 1985 with the residential programs starting in 1989. He advised they have a total of eighty seven residential beds. He said they can serve probably up to 150 children at their sites. He said it is very important for you (the Board) to have your questions answered.

Mr. McEwen asked if 87 beds mean patients or does that include children. Mr. Grimes said they refer to it as beds because the children are technically not clients, they live with their mother. He said the number 87 refers to patient beds. He said some of facilities are two bedroom apartments and some are one bedroom. He said the actual case load would be 87.

Mr. Grimes advised the facility is designed to look like a residential living situation in order to expose women and their families to what it looks like to work and live in a community, running a household preparing meals, shop and have a budget. He advised by being able to help patients improve on those life skills they have better outcomes. He advised there is twenty four hour supervision and there are no sleep shifts. All employees are awake and working twenty four hours. He also advised clients are not allowed to leave the facility. He said it is not a locked facility and the expectation is that they are there and supervised at all times. He advised they provide transportation for the patients to meet their needs. He said the patients have to earn passes to leave the facility under allowed circumstances.

Commissioner Tyson asked who recommends the ladies for treatment and what screening process is required for admission. Mr. Grimes said referrals can come from a multitude of places such as a probation officer, Department of Social Services, a hospital or a physician. Commissioner Tyson asked who receives the request for admission. Mr. Grimes said the referral comes to their program for review by a professional. He said the referral is interviewed over the phone and then in person and if they meet criteria they can be admitted within a day or two.

Commissioner Walker asked if any males are allowed to visit the patient. Mr. Grimes advised visitors are limited to family and no boyfriends, brothers, uncles or friends of the family. He advised the father of a child can pick up his child for a visit with all visits being arranged ahead of time.

Commissioner Robbins asked where the money comes from. Mr. Grimes advised the money comes from several sources including federal grant money as well as Medicaid reimbursement for services provided.

Commissioner Dawson asked who checks on the staff in these facilities and how often are they checked to make sure they are doing their jobs properly. Mr. Grimes advised the programs are run by a program manager which in this case will be a licensed clinical social worker and a former participant in the program. He said he will be a direct line supervisor.

Commissioner Robbins asked if there will be any local help hired. Mr. Grimes said they anticipate hiring most everyone locally. He said this will include four levels of staff as required by the state.

Mr. McEwen said if this is not a locked facility and the clients cannot leave the facility, if they break the rules what action is taken; does it become a police issue to remove someone from the facility. Mr. Grimes said it is very much like a hospital and if the patient becomes disruptive law enforcement could be called if necessary. He said that tends not to happen. He said they try to establish relationships with other facilities that patients can be transferred into if they cannot adhere to the rules here. He also advised the clients are drug tested on a regular basis.

Mark Walton, Engineer for the project advised he is present to answer questions. He advised he feels that most of the questions related to his field were answered at the planning board level but he is willing to take questions if necessary.

Tim Hall, Chief Behavior Health Vice President of Robeson Healthcare advised they have been able to provide assistance to women in North Carolina that have made poor decisions in their early life and we are giving them an opportunity to make improvements. He advised funding has been provided for eight beds in this area. He advised on behalf of Robeson Healthcare he is pleased to have the opportunity to come in and follow through on this project. He thanked the Board for the opportunity.

Commissioner Tyson asked if there are no more than six residents why does the paperwork say eight. Ms. Roth said that must be a typo and Mr. Hall advised there are eight beds. He said that does not include the children.

Judge James Faison, Drug Court Judge in New Hanover County advised he has been presiding over drug treatment court in New Hanover County for thirteen years and DWI court for five years. He advised both programs are provided for persons addicted to alcohol and drugs. Judge Faison said he is here tonight to speak about the concept of the proposed substance abuse facility. He advised this treatment facility is an excellent alternative for incarceration. He advised the similar facilities in New Hanover County are used as transitional, therapeutic types of treatment. He briefly reviewed the treatment facilities and the role they play in the rehabilitation of the patients. Judge Faison said the proposed facility for Burgaw would be an excellent partner for the court system to help those individuals that need treatment.

Elizabeth Herring, 804 Linda Lane, Burgaw, NC advised she is speaking mainly due to her widowed status. She said she has lived in Burgaw since 1958 and she has been widowed for 25 years. Ms. Herring advised she has a situation in her neighborhood that is not good. She said she has people under her carport bothering things. She advised across the street in a rental house there is a young man living there that has a leg iron on. She said the man told her that he lives in Wallace and he showed her the leg iron. She asked him if he why he is here if he lives in Wallace. She said he may not have anything to do with this situation but widows have a problem with things like this. If this proposed facility is not properly supervised at night what is to keep them from roaming around? This man has been in her yard. She said she is very leery of things like this, she lives alone and she must take care of herself. She said she does not approve of this facility and does not think we need to invite things like this to town when we have a town full of widows that are so afraid at night. She said when she reported this to the police she was told to be sure and keep her doors and car locked because this person was arrested for breaking in cars. How do you think that makes a widow feel when she is told to stay in the house, lock your doors and lock your car because someone could come in at any time? She said she does not feel safe with this and she does not feel safe with her situation. She said in her opinion, we just don't need this facility.

Vernon Harrell, 108 N McRae Street, Burgaw advised he has several questions. Commissioner Robbins requested that those present answer Mr. Harrell's question according to their expertise on the subject matter. (The answers came from random members of the audience that were not recognized each time they spoke, therefore the speakers are not identified in the following conversation.)

- Is there any information about the clients that are coming here; is there any information regarding the patients that will be in the facility?
Response: Are you referring to alcohol and drug or criminal? Harrell: Yes, alcohol and drug.
Response: There are no statistics on the patients or on relapse rates; it depends on how success is defined.
- You indicated earlier that at some point, there would be some people that will be kicked out of the program. What will happen to those people?
Response: It would be handled individually based on the strengths and weaknesses of the resident. The resident may return home or go to a different treatment program with or without children. There are many different situations that will be based on individual circumstances.
- If someone is evicted from the program and they have nowhere to go, what happens to them?
Response: They would be taken to a homeless shelter.
- What is the next step for those residents that graduate from the program?
Response: Graduates will have follow up care and make their own decisions as to where to live.
- What area will clients be drawn from?
Response: This area including Pender, New Hanover and Onslow counties.
- Is there any evidence that the facility will create any burden for local law enforcement?
Response: There is no evidence that shows heavy law enforcement burden. The facility is very well supervised. There are no sleeping facilities for staff. Each shift is a fully awake, working shift.
- Will the children be attending school while living in the facility?
Response: School age children will attend local schools.
- Will there be counselors available for the children if they should be having trouble at school.
Response: If needed, local child specialist in the community would be used. Staff will be involved in the child's life when they are here; they interact with the teachers, school counselors, and principals in order to make the school experience beneficial to the child.
- Will there be job training or placement made available for the residents.
Response: If there are resources in the community that provide job training, those resources will be used.
- I only see one way in or out of the residences; does that create a problem if there is a fire or an emergency?
Response: There are windows in the rear but no doorways in rear; standards meet fire codes. There are street entrances as well as the front door.
- Is there a fence involved in the facility?
Response: We are not planning a fence at this time.
- How many clients would use the facility on an annual basis?
Response: It varies based on the length of stays; we try for a minimum of four months and hope for eight months. Some stay for shorter periods of time.
- Is Port Human Services which is also in the neighborhood a potential conflict in the area; will the two facilities have any sort of negative effect on each other?
Response: No conflict between the two, Port is an adolescent facility. There is a separation requirement between the two facilities so there is over 2500 feet between Port Human Services and this proposed facility.

Karen Harding, 318 South Walker Street, Burgaw asked several questions.

- Why was Burgaw chosen for this site?
Response: The state and federal money that goes into these programs has been allocated for different regions of the state. Beds were previously allocated and used in Wilmington but there were problems with keeping beds filled as well as other issues. We have found that smaller

communities work better for these types of facilities. This community fits our model and provides the needed services such as schools, hospitals etc.

- The facility is to be located in an outer area of the town, basically in a field. You are not actually in a community nor are you giving the residents much exposure to the community by putting the facility in the chosen area.

Response: Ideally the exposure will be within them. They will interact as a small community within their facility but will have access to other needed resources. It is not our desire to have the facility embedded within another community if we don't have to.

- You said the last program had problems and you couldn't fill beds.

Response: That wasn't us. That was a previous provider that was inexperienced with that program. The landlord made the cost very high for them to stay there.

- We have heard how this is going to benefit the developer, benefit Trillium and Robeson Health Care, all those places are funded by tax payer monies. How is it going to benefit the Burgaw resident, the Burgaw taxpayer, how does that work when you put at risk children into a school system that is full to the brim without these children? We just received a report that our elementary and our middle school at this stage are not meeting state standards. Is this the best location to pile it on? How are we as a community supposed to absorb that? If they are in our schools for a year, we as taxpayers must fund them. We don't have a lot of employment here and that's one of the problems we have because our people are traveling to New Hanover County for employment so how does that help those women. If they come here and they go on our Social Services programs does that become the Pender County taxpayer's burden; are we bringing issues from twenty seven counties into our county for us to be the provider for those clients that you are benefiting from. How is Burgaw being helped in this situation?

Response: Our goal is to be productive and for our program to be successful and not be a burden on the community. We don't want that to happen.

- One final question: the county has already taken tax dollars and put it into an industrial building over there. I would like to hear from some County people as to again the tax payer is already paying for one thing and now you are asking us to pay for something and is there a conflict there? Is that going to hurt our chances of that industrial area becoming viable?

Response: I cannot address that issue. We do have a budget of about \$750,000, we will be hiring from this area, and the dollars will be going to the local businesses. There are property taxes and impact fees that will be paid. This is not grant money. There will not be free lunches for schools. There will be a savings of approximately \$1,000 per child when you take them out of foster care. We will be saving money and we will be spending money. If we can maintain the family unit in providing Mom with substance abuse treatment that she needs to keep her family intact, avoid DSS involvement with the substantial cost that comes with foster care programs, keep her in this community where she can benefit her entire family unit. Those are costs that you cannot measure. The alternative to that is continuing in the substance abuse issue ultimately results in incarceration. The cost of DOC is upwards of \$20,000 per year. We are looking at saving the family unit and that is a benefit to the community. There are people in our community that need help. We can make a difference in this community through this type of facility. This not just a money making endeavor for Robeson Health Services, this is a program that can change lives in Burgaw.

Rick Biberstein stated he is one of four representatives of Pender Progress. He advised that he would like to yield his position to Mr. Hugh Highsmith. Mr. Biberstein said the representatives of Pender Progress have an organized presentation they would like to share. To clarify, Commissioner Robbins named the four representatives present on behalf of Pender Progress which were Rick Biberstein, Hugh Highsmith, Rick Benton and Trey Thurman.

Hugh Highsmith, 705 E Hayes Street, Burgaw, advised he is President of Pender Progress which is a non-profit organization established in 1979 by a group of local business men for the purpose of attracting industry to our industrial park. Mr. Highsmith said we currently have a shell building on Worth Beverage Drive which is unsold. It is a joint project with Pender Progress, Four County Electric Membership Corporation and Pender County. Mr. Highsmith asked Trey Thurman, Pender County Attorney to present our position on the proposed facility.

Trey Thurman, Pender County Attorney advised we are here to support our partners, Pender Progress and Four County. He advised this issue was brought to our attention by Jimmy Smith with Four County. Mr. Thurman advised the issue is the impact that this facility will have on the industrial park and our board voted very simply to support what Pender Progress and the experts that we rely on with Four County. He said the shell building is unsold and that is an issue but it was built to get industry to take a look at it. Mr. Thurman said we are in full support of this proposed facility, but we just think it is a bad location because of the impact it will have on the industrial park and the shell building. He said that is the reason that we are here asking that it not be located there. He said it will negatively affect what happens with the industrial park and what happens to our shell building that will attract business to Burgaw to provide a tax base and jobs for the area.

Rick Benton advised he is retired but he served in local government for thirty years including serving as a planning director, city manager and a county manager. After a brief review of his work experience, Mr. Benton advised he was serving as Pender County Manager when Pender County partnered with Pender Progress, Four County EMC, Town of Burgaw and Wilmington Business Development to construct a shell building in the industrial park. Mr. Benton said he currently works as a contract consultant with Wilmington Business Development. Mr. Benton advised industrial uses are intentionally set apart from office and institution and particularly residential land uses because of the potential negative impacts from industrial use. Negative impact includes such things as noise, odor, heavy truck traffic and potentially dangerous industrial processes and by-products. Mr. Benton advised the proposed project with multi-family residential uses is on the same cul-de-sac (Worth Beverage Drive) as the industrial shell building being marketed for industrial use. Mr. Benton stated that the proposed facility is in conflict with the Land Use Plan's Economic Development Goal which aims to attract business and industries that will enhance the economic health and vitality of the town. Mr. Benton advised the shell building is directly across the street from the proposed substance abuse facility and there is room for expansion for the shell building on adjoining property. Mr. Benton read at length several portions of the town's land use plan which evidences conflict and would support denial of the proposed facility. Mr. Benton advised based on the evidence and information that he has provided it is apparent to him that the evidence does not support findings in the positive for the standards that you (the Board) must find to grant the conditional use permit. Mr. Benton reviewed at length standards that would have to be met and pointed out the conflicts that he sees between the placement of the proposed facility and the standards set forth in the 2030 Comprehensive Land Use Plan. Mr. Benton stated that he suggests that the Board reconsider zoning issues and land uses associated with existing districts particularly industrial zoning districts and office and institutional districts.

Rick Biberstein, 808 E Bridgers Street, Burgaw advised he first became involved in industrial recruiting in the 1960's when the Electronics Components Plant located here and has been involved ever since including serving on the Wilmington Industrial Development Board which is now the Wilmington Business Development Board. He advised he has been actively involved in Pender Progress since its founding. He said we are here to protect the interests of the industrial park. He said this is the third phase of the industrial park. He said the shell building was built to attract industry to the area. He said once this building is sold, we plan to build another shell building. He said they are very concerned about preserving this park which is across the street from the proposed substance abuse facility. He said there is a potential for heavy industrial use along the road. Mr. Biberstein said the objection is not to the project, it is to the location. He said in summary, we find the proposed project is incompatible with the industrial park and it will adversely affect the use of the park and it is not in harmony with the park and it is not compatible with the neighborhood that the industrial park is a part of.

Commissioner Walker asked Ms. Roth if any of the abovementioned issues were addressed at the planning board level. Ms. Roth advised no because they did not have evidence at the planning board level. She advised at that point we only had the applicant's evidence. She said she is not an economic development expert and cannot look at evidence on her own, the evidence that we looked at the Planning Board meeting was the evidence that was in the application packet and the town's ordinances and standards.

Commissioner Dawson asked when Port Human Services was located there was there opposition at that time from Pender Progress. Ms. Roth said she wasn't sure because she was not here when Port Human Services came. Mr. Biberstein advised that Pender Progress did not oppose Port Human Services because of the distance from it plus the land there. He said if it had been located across the street they would have opposed it, but it was far enough removed

so that it doesn't present a problem when an industrial prospect comes in and looks across the street and sees a multi-family residential use.

Ted Proukou, 3772 NC Hwy 53 E, Burgaw advised he is here because he is the Director of Safe Haven of Pender County. Mr. Proukou said approximately twenty five years ago Judge Gary Trawick and a handful of volunteers had the wisdom to put together an agency to assist the victims of domestic violence and sexual assault. He said he would assume that there were probably meetings like this that went on back then. He said they were ahead of their time and domestic violence and sexual assault were in their infancy in the societal field. Mr. Proukou said in regards to the governance, the protocols, and the operation, I could have answered ninety five percent of the questions you asked them (the applicants). He said although the mission is different this is a state of the art agency that knows what they are doing. At the first meeting he told them they have a serious flaw in their program and their plan. They asked what and he said he could fill the facility in two weeks and yet they are going to serve a multi-county area. Mr. Proukou said "it's not going to work". He mentioned the proliferation Ms. Herring talked about and what she has to deal with in her neighborhood. He commented that he has been in Safe Haven for thirteen years the proliferation in illicit drugs, prescription drugs, alcohol abuse, violence; it's not the same climate as thirteen years ago. He said thirteen years ago we housed maybe 80 people in a year, now it's a 150 people. He said it's not the same job I took thirteen years ago. He said with this project you are going take the people off the street and you're going to give them a chance. He said they are here, they are in Burgaw, and they are in Pender County. They are our friends, our neighbors, they are our family, and they are here. The protocols, the governance, the state of the art, social services, and the need are here; where to be, I can't help you with that.

Kent Harrell said the proposed facility was not multi-family; it is an institutional use that will help people. He also said that Port Human Services is located in an industrially zoned property and grant funding for the facility was sought by the county including Mr. Benton and Mr. Thurman. He also stated that residential uses were already located across from the shell building.

Rick Benton advised the Board to review the appropriateness of the current zoning ordinances.

Commissioner Robbins asked if anyone has any further questions.

Commissioner Rooks said to Attorney Kent Harrell "you referenced in standard one, that the use will not materially endanger the public health". Commissioner Rooks stated this facility will not have a fence around it; you will have kids that have to be monitored heavily, so you can't tell me that it is not a danger to public health of the people living in this facility on an industrial road. Commissioner Rooks said from his standpoint I try to rationalize everything before making a decision; please explain to me why I don't consider it being a public health danger. Attorney Harrell's response was that there is a vegetative buffer required across the front of the property, so it is not an open area where a child can run out there. It is not a fence but there is a buffer to prevent free flow out into the street. Mr. Harrell said if the fence is a concern, the fence could be made a condition. There was also a comment that the children would not be outside unsupervised at any time. Commissioner Rooks said there is a hazard there regardless of what you do.

There being no further testimony, discussion, or comments, Commissioner Robbins closed the public hearing at 7:33PM and advised the Board will consider the findings of fact.

Commissioner Robbins said during this entire hearing he has heard the term "residents". He said let's be clear in defining the people that will be living here and in his opinion they are bonafide "residents". He asked if that is a correct assumption. He said that is the way he sees it. He said these people are family units that will be living in these four homes within this facility. He advised he has no further comments.

Commissioner Robbins advised it is time to move to the findings of fact. Commissioner Rooks asked Commissioner Robbins what will determine whether this petition/conditional use passes; what vote. Commissioner Robbins said at the very end there will be a final vote on the issuance of the permit. He advised a Board member will have to make a motion to issue the permit no matter how the findings of fact come out. Commissioner Robbins said he stands to be corrected there and asked Attorney Kenan if he is correct in saying that the vote can go one way or another. Attorney Kenan advised a majority vote determines the issue.

Findings of fact

Commissioner Robbins read the following findings of fact.

*(Note from Planner) In approving the conditional use permit, the Planning Board may recommend and the Town Board of Commissioners may designate such conditions in addition to any such required by the Unified Development Ordinance. Each of these additional conditions imposed must be based on bringing the project into compliance with the four findings of fact or additional standards as outlined by the Ordinance and on substantial, competent, and material evidence entered into the record.

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 Rooks, Tyson, Dawson, Walker and Robbins voted “no”.

Additional Conditions:

- a.
- b.

2. The use meets all required conditions and specifications.

Commissioners Rooks, Tyson, Dawson, Walker and Robbins voted “yes”.

Additional Conditions:

- a. A dumpster and recycling receptacle to serve the development’s needs shall be required
- b. Placement and screening of the solid waste receptacles must be approved by the Planning Administrator prior to issuance of a building permit.
- c. If a sign is ever installed at this location, a sign permit shall be required, and any signage shall be limited to one monument sign a maximum of six feet in height and 32 square feet in size.
- d. A copy of the facility license(s) shall be provided to the planning department within 30 days of issuance of the certificate of occupancy and must remain in effect at all times.
- e. A tree removal permit must be issued by the Planning Administrator prior to the issuance of a building permit.
- f. If fewer than 33 protected trees will be retained, the difference must be made up in new trees a minimum of 4” in caliper of the same species or similar species approved by the Planning Administrator.
- g. The proposed type I buffer along the front of the development must be a minimum of 12 feet in width and consist of trees and shrubbery covering at least 50% of its area.
- h. All new vegetation planted in the type I buffer along the front of the development must be listed in the approved tree and vegetation list and be approved in advance by the Planning Administrator.
- i. Fire hydrants, as specified by the Fire Marshal, shall be required.
- j. Curbing and guttering shall be required at the street.
- k. A revised site plan showing all required amendments and improvements must be approved by the Planning Administrator, Fire Marshal, and Public Works Director prior to issuance of a building permit.

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 Rooks, Tyson, Dawson, Walker and Robbins voted “no”.

Additional Conditions:

- a.
- b.

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 Rooks, Tyson, Dawson, Walker and Robbins voted “no”.

Additional Conditions:

- a.
- b.

5. The facility shall be operated in a manner that is compatible with the neighborhood and shall not be detrimental to adjoining property owners because of traffic, noise, refuse, parking, or other activities.

Commissioners Rooks, Tyson, Dawson, Walker and Robbins voted “no”.

Additional Conditions:

- a.
- b.

6. The facility shall be operated in a manner that will provide adequate supervision of all residents.

Commissioners Rooks, Tyson, Dawson, Walker and Robbins voted “yes”.

Additional Conditions:

- a.
- b.

Upon completion of the findings of fact, Commissioner Tyson said she is not opposed to the project but she is opposed to the location of the project. Commissioner Tyson made a motion that the application for a conditional use permit not be granted. The motion was seconded by Commissioner Rooks. Commissioner Rooks said he thinks the project is a great idea but it is not in the right location; they need to find another location. The motion carried by unanimous vote.

Attorney Kent Harrell asked Attorney Robert Kenan if in the denial of a special use permit when there is a “no” vote on specific findings isn’t the Board supposed to make findings in support of their no vote for the record. Attorney Kenan asked Attorney Harrell if he wanted to go through and have specific findings on each one of these six items. Attorney Harrell asked that we have specific findings for the record.

Attorney Kenan then advised the Board of Commissioners that he would need to poll the Board and go back through those six items and give specific findings of fact for the records. Each standard was read again and the specific findings were recorded as follows:

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 Rooks, Tyson, Dawson, Walker and Robbins voted “no”.

Specific findings:

Commissioner Rooks: *This standard has not been met because the public health and safety of the people entering the facility would be endangered due to industrial traffic.*

Commissioner Tyson: *This standard has not been met because of the heavy industrial traffic.*

Commissioner Dawson: *This standard has not been met because the children living in the facility would not be safe.*

Commissioner Walker: *This standard has not been met because the children living in the facility would not be safe.*

Commissioner Robbins: *This standard has not been met because the children living in the facility would not be safe due to the industrial setting.*

2. The use meets all required conditions and specifications.
Commissioners Rooks, Tyson, Dawson, Walker and Robbins voted “yes”.

Specific findings:

Commissioner Rooks: *This standard has been met because the required additional conditions seem reasonable and satisfactory. Based on my information the plans that were submitted in addition to the additional conditions met all the required uses and conditions of the town’s ordinances.*

Commissioner Tyson: *All recommendations have been met and that is why I voted yes.*

Commissioner Dawson: *The recommendations of the planning board and planning staff have been met.*

Commissioner Walker: *The planning board did their job.*

Commissioner Robbins: *The conditions and specifications were all met by the planning board and all questions answered sufficiently as far as the technical aspects of it.*

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 Rooks, Tyson, Dawson, Walker and Robbins voted “no”.

Specific findings:

Commissioner Rooks: *This standard has not been met because this type of facility being located next to an industrial zoned property would affect the use of the industrial property, and the proposed use is not a public necessity.*

Commissioner Tyson: *This standard has not been met because the proposed facility would affect industrial property, and the use is not a public necessity.*

Commissioner Dawson: *This standard has not been met due to the location of the proposed site next to an industrial area.*

Commissioner Walker: *This standard has not been met because the subject property is too close to properties intended for the planned expansion of industry.*

Commissioner Robbins: *This standard has not been met because the proposed facility would affect industrial recruitment and the existing residential uses.*

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 Rooks, Tyson, Dawson, Walker and Robbins voted “no”.

Specific findings:

Commissioner Rooks: *This standard has not been met because the proposed use is not in harmony with the adjacent industrial zoned properties.*

Commissioner Tyson: *This standard has not been met because the proposed use is not in harmony with the area.*

Commissioner Dawson: *This standard has not been met because the proposed use is not in harmony with the adjacent properties.*

Commissioner Walker: *This standard has not been met because the proposed use does not take into account the provisions of the Burgaw 2030 Comprehensive Land Use Plan.*

Commissioner Robbins: *This standard has not been met because the proposed use is not in harmony with the area.*

5. The facility shall be operated in a manner that is compatible with the neighborhood and shall not be detrimental to adjoining property owners because of traffic, noise, refuse, parking, or other activities.
Commissioners Rooks, Tyson, Dawson, Walker and Robbins voted “no”.

Specific findings:

Commissioner Rooks: *This standard has not been met because the proposed use is not compatible with the neighboring industrial uses.*

Commissioner Tyson: *This standard has not been met because the proposed use is not compatible with the neighboring industrial uses.*

Commissioner Dawson: *This standard has not been met because the proposed use is not compatible with industrial traffic.*

Commissioner Walker: *This standard has not been met because the proposed use may attract unwanted guests at night and no fence was included in the plan.*

Commissioner Robbins: *This standard has not been met because the proposed use is not compatible because it consists of four homes in an industrial setting.*

6. The facility shall be operated in a manner that will provide adequate supervision of all residents.
Commissioners Rooks, Tyson, Dawson, Walker and Robbins voted “yes”.

Specific findings:

Commissioner Rooks: *Based on testimony I have reason to believe there will be adequate supervision.*

Commissioner Tyson: *Everyone that spoke convinced me there will be adequate supervision.*

Commissioner Dawson: *All three shifts will be awake shifts.*

Commissioner Walker: *Night supervision.*

Commissioner Robbins: *All three shifts are awake shifts, there will be no sleeping of staff; this leads me to believe there will be adequate supervision of the residents.*

Attorney Kenan advised that concludes the specific findings of fact. Commissioner Robbins asked Mr. Kenan to get those prepared by the clerk and get them back to Attorney Harrell. Commissioner Robbins said this concludes the public hearing at this time.

Mayor Mulligan called for a five minute break at (7:54PM)

Public Hearing #2 – Rebekah Roth, Planning Administrator

Consideration of a text change amendment that would re-organize the Unified Development Ordinance.

The public hearing was opened at 8:03PM. The following background information was presented by Rebekah Roth, Planning Administrator:

Background. Since the Unified Development Ordinance (UDO) was initially adopted in December 2000, there have been 117 text change amendments, some of which included changes to several portions of the UDO. While individually these changes may not be complicated, collectively, they have caused our ordinances to become quite complicated, and in some cases, contradictory. In addition, it has become increasingly difficult for citizens, developers, and staff to find all ordinances relevant to a specific project. Some of the issues with the town's UDO include:

- Changes have been made to one portion of the ordinance but not to others, leading to several different procedures for the same type of project. Example: Manufactured housing parks are considered Planned Building Groups and are designated as conditional uses. However, the UDO outlines a procedure for the approval of manufactured housing parks that is not consistent with the one for other conditional uses and does not follow the legal requirements for quasi-judicial hearings.
- Information is “hidden” in part of the ordinance where you would not expect it to be. Example: The definition for “additions” includes a description of the regulations with which it must comply.
- The procedures for certain types of processes are listed in several different portions of the ordinance. Example: Last year, when the Board of Adjustment met to hear a variance request, information had to be taken from three sections of the ordinance to cover all of the regulations pertaining to the process and hearing procedures.
- Information is not consistent. Example: There are three different portions of the UDO outlining the requirements for improvement or performance bond, each with conflicting requirements.

Proposed Reorganization. In order to streamline the development ordinance and make information easier to find and less likely to become contradictory over the course of time, staff is recommending the UDO be reorganized.

All ordinance information remains unchanged. The only changes to the UDO include:

- The location of the information has changed. The proposed reorganization separates procedures from zoning standards from development standards.
- Titles and headings have been reworded to reflect the regulations changed in particular sections.
- References have been changed or removed when possible to reduce the possibility of future conflicts.

- Typos have been corrected.

Recommendation. At their September 17, 2015 meeting, the Town of Burgaw Planning and Zoning Board voted to recommend approval of the reorganized Unified Development Ordinance and adopted the following statement regarding the amendment's consistency with the Burgaw 2030 Comprehensive Land Use Plan:

The board finds that the proposed text change amendment is consistent with the Burgaw 2030 Comprehensive Land Use Plan because it will improve and streamline the delivery of services, ensure that technical information is available in understandable form, and create a format where development ordinances will be easily accessible to town staff and the public. The board also finds that the proposed text change amendment is reasonable and in the public interest because cumulative text amendments over the past fifteen years have led to a complicated and contradictory document and the proposed reorganization will clarify and streamline development and zoning guidelines.

Because of the length of the proposed reorganized development ordinance (329 pages), only the revised Table of Contents is included in your packet. A draft of the proposed reorganized UDO with references to where the same information can be found in the current UDO can be found at www.townofburgaw.com/current-development-activity.

Upon completion of her presentation, Ms. Roth stated that she would take questions. Commissioner Dawson thanked Ms. Roth and said this is really good idea. Commissioner Robbins commented that it will make things a lot easier when someone comes in. There being no further discussion, Commissioner Dawson made a motion to approve Resolution 2015-46 adopting a Statement of Consistency Regarding a Proposed Amendment to Reorganize the Town of Burgaw Unified Development Ordinance. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

RESOLUTION 2015-46

ADOPTING A STATEMENT OF CONSISTENCY REGARDING A PROPOSED AMENDMENT TO REORGANIZE THE TOWN OF BURGAW UNIFIED DEVELOPMENT ORDINANCE

WHEREAS, the Town of Burgaw Planning and Zoning Board and town staff have been considering reorganizing the Town of Burgaw Unified Development Ordinance to improve the ability of town staff, developers, and residents to find information; and

WHEREAS, planning staff has reviewed the proposed reorganization 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 September 17, 2015 meeting to recommend the adopting 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 November 10, 2015 meeting and find the proposed reorganization 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 will improve and streamline the delivery of services, ensure that technical information is available in understandable form, and create a format where development ordinances will be easily accessible to town staff and the public. The board also finds that the proposed text change amendment is reasonable and in the public interest because cumulative text amendments over the past fifteen years have led to a complicated and contradictory document and the proposed reorganization will clarify and streamline development and zoning guidelines.

Adopted this 10th day of November 2015.

Commissioner Tyson made a motion to approve Ordinance 2015-28 approving an Amendment to Reorganize the Town of Burgaw Unified Development Ordinance. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

ORDINANCE 2015-28

APPROVING AN AMENDMENT TO REORGANIZE THE TOWN OF BURGAW 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 official zoning map on December 12, 2000; and

WHEREAS, since the original adoption, there have been 117 text change amendments, some of which included changes to several portions of the UDO; and

WHEREAS, cumulatively, these amendments have caused the development ordinances to become complicated and, in some cases, contradictory; and

WHEREAS, it has become increasingly difficult for citizens, developers, and staff to find all ordinances relevant to a specific project; and

WHEREAS, the Town of Burgaw Planning and Zoning Board and town staff have been reorganizing the UDO to improve the ability of town staff, developers, and residents to find information; and
WHEREAS, at their September 17, 2015 meeting, the Town of Burgaw Planning and Zoning Board voted to recommend approval of the proposed reorganization of the UDO; and
WHEREAS, the Town of Burgaw Board of Commissioners finds that the proposed reorganization is consistent with the Burgaw 2030 Comprehensive Land Use Plan because it will improve and streamline the delivery of services, ensure that technical information is available in understandable form, and create a format where development ordinances will be easily accessible to town staff and the public; and
WHEREAS, the Board of Commissioners finds that the proposed reorganization is reasonable and in the public interest because cumulative text amendments over the past fifteen years have led to a complicated and contradictory document and the proposed reorganization will clarify and streamline development and zoning guidelines;
NOW THEREFORE BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT:
SECTION 1: The Town of Burgaw Unified Development Ordinance be reorganized as attached.
SECTION 2: This amendment of the Unified Development Ordinance becomes effective immediately upon adoption of this ordinance on this, the 10th day of November 2015.

Attachment to Ordinance 2015-28

Reorganized UDO Table of Contents

Part I. Administration

Article 1. General Provisions

Section 1-1: Title

Section 1-2: Authority

Section 1-3: Jurisdiction

Section 1-4: Effective Date

Section 1-5: Relationship to Existing Zoning and Subdivision Ordinances

Section 1-6: Relationship to Coastal Area Management Act (CAMA) Land Use Plan

Section 1-7: No Use or Sale of Land or Buildings Except in Conformity with Ordinance Provisions

Section 1-8: Fees

Section 1-9: Severability

Section 1-10: Computation of Time

Article 2. Administrative Bodies

Section 2-1: Board of Commissioners

Section 2-2: Planning and Zoning Board

Section 2-3: Board of Adjustment

Section 2-4: Land Use Administrator

Article 3. Review and Approval Procedures

Chapter I. Common Requirements

Section 3-1: Common Requirements

Section 3-2: Reserved

Chapter II. Administrative Approvals

Section 3-3: Staff Administered Permits and Decisions

Section 3-4: Reserved

Chapter III. Legislative Approvals

Section 3-5: Amendments to the Unified Development Ordinance and Official Zoning Map

Section 3-6: Conditional Zoning Amendments

Section 3-7: Planned Unit Development (PUD) Rezoning

Chapter IV. Quasi-Judicial Approvals

Section 3-8: Hearing Procedures for Appeals and Applications

Section 3-9: Site and Development Plans

Section 3-10: Conditional Use Permit

Section 3-11: Variance

Section 3-12: Appeals

Section 3-13: Interpretations

Chapter V. Subdivision Approvals

Section 3-14: Applicability of Subdivision Regulations

Section 3-15: Minor Subdivisions

Section 3-16: Major Subdivision

Section 3-17: Plat Requirements

Section 3-18: Required Certifications

Section 3-19: Improvement Guarantees

Chapter VI. Approved Permits and Developments

Section 3-20: Permit Amendments and Modifications

Section 3-21: Administration of Permit Provisions during Development

Section 3-22: Responsibilities of Permit Holder

Chapter VII. Vested Rights

Section 3-23: Establishment of a Zoning Vested Right

Section 3-24: Approval Procedures and Approval Authority

Section 3-25: Duration

Section 3-26: Termination
Chapter VIII. Annexations
Section 3-27: Voluntary Annexation
Article 4. Nonconforming Situations
Section 4-1: Purpose and Intent
Section 4-2: Continuation of Nonconforming Situations
Section 4-3: Nonconforming Lots of Record
Section 4-4: Extension or Enlargement of Nonconforming Situations
Section 4-5: Change in Kind of Nonconforming Use
Section 4-6: Abandonment or Discontinuance of Nonconforming Situations
Section 4-7: Completion of Nonconforming Projects
Article 5. Enforcement
Section 5-1: Complaints Regarding Violations
Section 5-2: Persons Liable
Section 5-3: Procedures upon Discovery of Violations
Section 5-4: Penalties and Remedies for Violations
Section 5-5: Permit Revocation
Section 5-6: Judicial Review
Article 6. Definitions
Section 6-1: Word Interpretation
Section 6-2: Definitions of Basic Terms
Section 6-3: Interpretation of Zoning District Boundaries

Part 2. Zoning Districts and Uses
Article 7. Zoning District Established
Chapter I. Zoning Districts
Section 7-1: Conventional Zoning Districts
Section 7-2: Overlay Zoning Districts
Section 7-3: Floating Zoning Districts
Chapter II. Official Zoning Map
Section 7-4: Zoning Map is a Part of this Ordinance
Section 7-5: Replacement of the Official Zoning Map
Section 7-6: Maintenance of the Official Zoning Map
Article 8. Zoning District Regulations
Section 8-1: Dimensional Requirements
Section 8-2: Table of Permitted Uses
Section 8-3: Reserved
Section 8-4: Use Standards
Section 8-5: Regulations for Conditional Uses
Part 3. Development Standards
Article 9. Off-Street Parking and Loading
Section 9-1: Exemptions
Section 9-2: General
Section 9-3: Minimum Parking Requirements
Section 9-4: Driveways
Section 9-5: Off-Street Loading Requirements
Article 10. Signs
Section 10-1: Purpose and Intent
Section 10-2: Applicability
Section 10-3: Definitions
Section 10-4: Permits
Section 10-5: Fees
Section 10-6: Sign Standards
Section 10-7: Permitted Sign Standards by Zoning District
Section 10-8: Multi-Tenant Developments
Section 10-9: Nonconforming Signs
Article 11. Landscaping
Section 11-1: General
Section 11-2: Planting on Public Property
Section 11-3: Tree Preservation and Replacement during Development
Section 11-4: Property Clearing for Non-Developmental Purposes
Section 11-5: Landscaping
Section 11-6: Maintenance
Section 11-7: Exemptions
Article 12. Buffer Strips
Section 12-1: Purpose
Section 12-2: Application
Section 12-3: Types of Buffers
Section 12-4: Location

Section 12-5: Existing and Planted Vegetation
 Section 12-6: Maintenance
 Article 13. Stormwater Discharge Control
 Section 13-1: General Provisions
 Section 13-2: Stormwater Discharge Control Preliminary and Design Plans
 Section 13-3: Ownership, Inspection, and Maintenance
 Section 13-4: Miscellaneous Provisions
 Section 13-5: Sedimentation Pollution Control
 Section 13-6: Stormwater Drainage
 Section 13-7: Retention Pond Facility Requirements
 Section 13-8: Detention and Wet Retention Facilities
 Article 14. Flood Damage Prevention
 Chapter I. Statutory Authorization, Findings of Fact, Purpose, and Objectives
 Section 14-1: Statutory Authorization
 Chapter II. Definitions
 Section 14-2: Definitions
 Chapter III. General Provisions
 Section 14-3: Lands to Which this Ordinance Applies
 Section 14-4: Basis for Establishing the Special Flood Hazard Areas
 Section 14-5: Establishment of a Floodplain Development Permit
 Section 14-6: Compliance
 Section 14-7: Abrogation and Greater Restrictions
 Section 14-8: Interpretation
 Section 14-9: Warning and Disclaimer of Liability
 Section 14-10: Penalties for Violations
 Chapter IV. Administration
 Section 14-11: Designation of Floodplain Administrator
 Section 14-12: Floodplain Development Application, Permit, and Certification Requirements
 Section 14-13: Duties and Responsibilities of Floodplain Administrator
 Section 14-14: Corrective Procedures
 Section 14-15: Variance Procedures
 Chapter V. Provisions for Flood Hazard Reduction
 Section 14-16: General Standards
 Section 14-17: Specific Standards
 Section 14-18: Reserved
 Section 14-19: Standards for Floodplain with Established Base Flood Elevations
 Section 14-20: Standards for Riverine Floodplains with BFE without Established Floodways or Non-Encroachment Areas
 Section 14-21: Floodways and Non-Encroachment Areas
 Section 14-22: Standards for Areas of Shallow Flooding (Zone AO)
 Part VI. Legal Status Provisions
 Section 14-23: Effect on Rights and Liabilities under the Existing Flood Hazard Prevention Ordinance
 Section 14-24: Effect upon Outstanding Floodplain Development Permits
 Section 14-25: Effective Date
 Section 14-26: Adoption Certificate
 Article 15. Subdivision Standards of Design
 Section 15-1: General
 Section 15-2: Suitability of Land
 Section 15-3: Natural Assets
 Section 15-4: Name of Subdivision
 Section 15-5: Water and Sewerage System
 Section 15-6: Streets
 Section 15-7: Blocks
 Section 15-8: Lots
 Section 15-9: Easements
 Section 15-10: Other Requirements
 Section 15-11: Construction Procedures
 Section 15-12: Reimbursement of Subdivider by Town for Improvement Costs Over and Above Those Required to Serve a Subdivision
 Article 16. Residential Cluster Development
 Section 16-1: Purpose and Intent; Definition
 Section 16-2: Dimensional Standards
 Section 16-3: Additional Provisions
 Article 17. Planned Building Group Regulations
 Chapter I. Commercial and/or Office/Institutional
 Section 17-1: Standards for Construction or Expansions in B-1 District
 Section 17-2: Standards for Planned Building Groups in O&I, B-1, and B-2 Districts
 Chapter II. Residential Attached Units
 Section 17-3: Standards for Apartments, Condominiums, and Townhomes
 Article 18. Planned Unit Development (PUD)

Section 18-1: Intent
 Section 18-2: Development Standards
 Section 18-3: Required Legal Instruments
 Article 19. Wireless Telecommunications Facilities
 Section 19-1: Authority
 Section 19-2: Purpose
 Section 19-3: General Provisions
 Section 19-4: Interference with Public Safety Communications
 Section 19-5: Definitions
 Section 19-6: Approvals Required for Wireless Facilities and Wireless Support Structures
 Section 19-7: Administrative Review and Approval Process
 Section 19-8: Conditional Use Permit Process
 Section 19-9: General Standards and Design Requirements
 Section 19-10: Miscellaneous Provisions
 Section 19-11: Liability Insurance
 Section 19-12: Wireless Facilities and Wireless Support Structures in Existence on the Date of Adoption of this Ordinance
 Section 19-13: Abandonment, Obsolescence, and Financial Responsibility
 Section 19-14: Enforcement
 Section 19-15: Penalties
 Section 19-16: Reservation of Authority to Inspect Wireless Telecommunications Facilities
 Article 20. Adult or Sexually Oriented Business
 Section 20-1: Purpose and Intent
 Section 20-2: Determination of an Adult or Sexually Oriented Business
 Section 20-3: Conditional Use Permit
 Section 20-4: Buffers
 Section 20-5: Buffer Requirements and Other Sensitive Uses
 Section 20-6: Determination of Buffer Distance
 Section 20-7: Signage
 Section 20-8: Prohibition of Minors in Sexually Oriented Business
 Section 20-9: Injunction of Sexually Oriented Business
 Section 20-10: Civil Penalties
 Article 21. Manufactured Home Parks
 Section 21-1: Compliance
 Section 21-2: Preliminary Plan
 Section 21-3: Permit and Certificate of Compliance
 Section 21-4: Standards

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

Mayor Mulligan advised there is a vacancy on the Promotions and Special Events Committee due to the resignation of Jennifer Feehan. Mayor Mulligan is recommending the appointment of Jakim Friant to the committee to fill the vacancy. He advised Mr. Friant has been attending the meetings for approximately one year and he has shown great interest in being a part of this committee. He advised his expertise is internet and technology. Mayor Mulligan advised the Committee voted unanimously to recommend Mr. Friant's appointment to the committee. Mayor Mulligan stated that his application is before the Board at this time and he is open for questions.

Commissioner Tyson said this seat has only been open for a week. She asked Mayor Mulligan if he thinks that if he holds the seat open a little longer that he will get more applications. Mayor Mulligan commented "I certainly can if you think that's a good idea." She said "I'm just asking."

Commissioner Robbins said why don't we hold it open for another month especially since there will be an opening on the Parks/Recreation Committee as well since one of the members just got elected. Mayor Mulligan said he thinks that Commissioner Elect Harrell is planning on staying on the Parks/Recreation Committee. Commissioner Robbins said that the ordinance would have to be changed before Mr. Harrell could remain on the committee. Mayor Mulligan said we can advertise two positions at the same time. Commissioner Tyson commented that since we recently reduced the number of members on the Parks and Recreation Committee we could also reduce the number of members on the Promotions/Special Events Committee as well. Mayor Mulligan said he was considering expanding the number of committee members because we have more present than there are on the committee. Mayor Mulligan said he doesn't feel that we need to restrict the numbers on that committee. Vernon Harrell said if you are going to be advertising for a position on Promotions/Special Events Committee you may as well go ahead and advertise for a Parks/Recreation position as well and I will resign so long as I am allowed to continue to attend the meetings. Mayor Mulligan said everybody is allowed to attend the meetings; they are open meetings. Mr. Harrell verbally stated that he is resigning from the Parks/Recreation Committee upon his installation as a Commissioner.

Mr. Harrell was informed that he would have to put his resignation in writing. He said that would allow him to attend one more Parks/Recreation Committee meeting. The Board instructed the clerk to advertise the position.

Commissioner Rooks said the discussion today regarding Teal Briar brought something to mind. He said he is aware that we have guidelines in place now for development so we will not repeat the problems that we have at Teal Briar. Commissioner Rooks said we have a problem at Creekside. He said the owner gave up rights to the water and sewer and was asked to consider giving up the streets, but then we want to put these burdens on him about a bond and the development is basically new. Commissioner Rooks said he sees the burden of this bond as being unnecessary. He said there are new roads in the development. He said the new owner has been there for two years and we have already lost those two years for Powell Bill money. Commissioner Rooks said why not encourage the owner to go ahead and give us the roads so we can start getting the revenue and then that would be complete out there. You have the water and sewer and can get the streets. Commissioner Rooks said he just doesn't see a reason for delaying taking over those streets and taking care of that one situation. Ms. Roth advised the state legislature recently passed a law that restricts the use of maintenance funds; she said we can place a bond for infrastructure but not for their maintenance. Commissioner Dawson interjected that those roads were questionable as to how they were built. Commissioner Rooks said he was told that our Public Works Director at the time was on sight during construction and it was said that the roads were constructed adequately. Commissioner Dawson said the reason we didn't take them over when new owners purchased the development was because they couldn't account for the conditions. Commissioner Rooks said there was somebody that could have spoken up but didn't. Bill Fay, Director of Public Works said there is some deterioration on those roads already and there is some significant settling in and where some sewer lines cross the roads so I think the decision has to be made that if you take them over now and start getting Powell Bill money, the longer you wait you have at least 104 available lots in there and that's 104 times concrete trucks and lumber trucks are going to run down there. He said by the time that place is built, the roads are going to be destroyed and we will be in the same situation that we are with Teal Briar. Commissioner Rooks said "that's another point of view; I just brought it up for discussion". Mr. Fay commented that you either adopt the roads now and start gaining the benefit of the Powell Bill money or wait until down the road when they are destroyed and you have to try and get the developer to fix them before we can take them over. Commissioner Rooks said we are taking tax money to do road repairs anyhow and he sees it as avoiding a problem later down the road. Mr. McEwen asked in regards to the known areas being referred to, do we just accept them or do we ask them to repair them? Commissioner Rooks said he is just bringing this up for discussion so we can decide if we want to take action on it or do we want to wait ten years from now. Mr. McEwen that would be learning the lesson of Teal Briar but only if the developer is willing to address the issues that are out there. Commissioner Rooks said he thinks the bond was the big thing with the developer. Attorney Kenan said do you want to treat the developer the same there as you treat the developer at Teal Briar which means if you accept their infrastructure at Teal Briar with no cost input then you also accept the infrastructure at Creekside with no cost input from the developer. Commissioner Rooks said he is bringing this up to avoid problems down the road. He said is not asking for a decision now, he just brought it up for this Board to look at it. The Board instructed Mr. McEwen to call Milam and Ballard to see if they have any interest in this issue.

Commissioner Tyson said she has a comment regarding the Promotions/Special Events Committee and the Parks/Recreation Committee about something that was on the Burgaw Events Facebook page. She said she doesn't know who writes the information on that page because no one seems to want to tell who writes it, but the comment was made on there that this Board does not provide them with anything that they ask for. She advised at a regular meeting Jim Fouche came and presented a plan for monies that the Promotions/Special Events Committee wanted and they asked for \$10,000 for a budget request. She when they met, the finance committee approved \$5,000 for the budget. Other than that I don't know of anything that the Promotions/Special Events Committee has come to the Board for. She advised that Parks/Recreation recommended the bike and pedestrian plan and we have approved that tonight. Commissioner Tyson said she doesn't know where that comment is coming from. She said the by-laws of those committees were created by this Board as an ordinance so those committees need to follow those by-laws. She advised she attended one of the Promotions/Special Events Committee meetings and they advised her that they did not know that. She said they are doing a great job and she wishes they would come to the Board more and tell us what they are doing. Commissioner Tyson said she would recommend to the Board that they go back and write an amendment to the ordinance to include an attendance policy like they do for the Planning Board. She said she takes offense at their comments about this Board not giving them anything or not helping them. She said they did not even know that they had \$5,000 in the budget until she told them on the night that she attended their meeting.

CLOSED SESSION 8:31PM

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

OPEN SESSION RECONVENED 9:28PM

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

Mayor Mulligan said for the record he is recommending that we offer Mr. McEwen a one year contract, that's not to say that I don't think that he shouldn't get a two year contract; it's just to say that I would like to set up a situation where he's given a two year contract on the off year of an election; it could be possible that the majority of the board members that are in this room now would be giving him a two year contract until the next election. He said in my opinion, I think it would be a good idea to give him a one year contract so it is an off election year then you three new board members at the end of this year get to assess him and they can offer a two year contract which would then throw over the next election to a year past the next election so as to give the new commissioners coming in time to assess and get used to him. That would be my recommendation.

Commissioner Dawson said she thinks we should give him a two year contract simply because it will take him at least a year and they will have another year to be working with him. I don't like one year contracts. I think we should always go with at least a two year contract.

Commissioner Tyson said she thinks he should get a two year contract. We do it in November and we have done that way ever since I have been on the Board. I think a two contract is better.

Commissioner Rooks said he feels Mr. McEwen is deserving of a two contract. I think a one year contract does not show our true support and I prefer going with a two year contract.

Commissioner Walker advised he agrees with two years.

Commissioner Robbins said to Mayor Mulligan that he does not understand his reasoning for the request for a one year contract. Commissioner Robbins said there was a possibility that for this election year that three completely different people could have been elected that knew nothing about anything that was going on and it was all politically motivated and they could come in and fire the manager. He said in 2007 three new people came in at the same.

Mayor Mulligan said outgoing people could do the same thing. Mayor Mulligan said statistics state that town managers lose their jobs 75% of the time three months before an election or three months after an election. There is an inherent liability in that as well because you are talking about having new board members with a new manager that possibly has no experience or an interim manager and all that sort of thing. You are now going to make a decision for a majority of a board that going to go for the next two years. I agree that Mr. McEwen is deserving of a two year contract; this will always be an issue, this is not an issue with Mr. McEwen, it is an issue with the structure of what we are doing here. He said to allow the duly elected representatives have their say as to a town manager after a full year of dealing with him I think is fairer than both being in financial peril and in their own peril that they are practically compelled to have him for one year at least to give them a chance to understand, to learn the system, the process of government, learn the manager, how well he does his job and the majority of the Board is going to have the manager for a year and then if two more come on (the board) they again will have him for a full year and so it just seems like a more rational way to do it. He said basically Mr. McEwen just happens to be the guy that's here and that's basically it.

Commissioner Rooks said if it wasn't a manager of Mr. McEwen's ability, we might not be sitting here saying we are going to give him a two year contract. We are not obligating any group of Commissioners to do more.

Commissioner Robbins said they can fire the manager. Mayor Mulligan said firing is a financial peril to the town. Commissioner Robbins said sure it is but they could do it. Commissioner Robbins said Mr. McEwen is evaluated every year so why not next year at this time re-do the contract. That's not saying that next year we couldn't come in here and redo the contract if it is acceptable. Commissioners Dawson, Rooks, and Tyson said right now we are the majority. Commissioner Dawson said we will still be the majority because it will be Commissioner Robbins, Commissioner Walker and herself. Commissioner Robbins said that's right. He also commented that he still doesn't comprehend what Mayor Mulligan is trying to say. Commissioner Rooks said he doesn't see what it is accomplishing. Mayor Mulligan said you are making decisions for people that won't be here next month. Commissioner Rooks said he is making decisions because I am a board member. Mayor Mulligan said "yes of course, you are the vote". Mayor Mulligan said I have made my suggestion; I am putting it on the record that I am saying this and I don't have a vote. Commissioner Robbins said I am just saying that I don't comprehend it, I'm sorry. Mayor Mulligan said you are the board, you make the decisions. Commissioner Robbins said fortunately Burgaw has always been blessed with having good people to run, good people that are elected that have made good sound decisions and I hope that it continues. We all will not be here and this is the last time we will all work together and there will be different people twenty years from now but historically Burgaw has always had a lot of good people. I wish I could understand why you want to do it and XYZ but I just cannot understand it.

Mr. McEwen asked if this is an effort to get his contract off the election schedule. Mayor Mulligan said "yes". He then said in a month's time there will be two different commissioners here and how they feel in a year's time that will be up to them. If in a year's time if you have a two year contract and the two new board members have changed their mind we as the town are in financial peril, that's who I look out for the citizens of town and finances. If you have a two year contract and next year your evaluation is bad and the two new commissioners convince one of the other commissioners that you need to go; now we have to pay you severance and that is on and on and on. All I am saying is if we did it one year now and two years every other year after that that is the only reason. Commissioner Rooks said there is no guarantee that they will want to do it two years on the next election. Mayor Mulligan said you are perfectly entitled to make the decisions; you are on the board for ad infinitum and let's see what happens next year. That's my explanation. Commissioner Robbins said it is clearer to me. Mayor Mulligan said but you totally disagree? Commissioner Robbins said yes. He said I understand about the election cycle but there again what's to say to them they don't want to do two years or they could do three years. It changes from year to year. Next meeting everything could change. You never know in politics and that's what this is. I understand where you are coming from but I think we need to go with a two year contract.

Commissioner Robbins made a motion to continue with a two year contract for Mr. McEwen. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Mr. McEwen asked the Board to make a clarification in his contract as to whether he gets the cost of living adjustment (COLA). He said he doesn't want to get the COLA when the other employees get it. He said he wants the Board to put in his contract that he does not get the COLA. He said it has been done both ways but he wants it clarified whether he does or does not get the COLA. He said he has always been under the impression that he does not get the COLA on July 1. Commissioner Rooks asked what has been done in the past. Mr. McEwen said one year the board said no COLA then the next year it was not specified and then he got the COLA. He said it just needs to be clarified. He said he is reviewed differently than the other employees and he doesn't feel he should get the COLA. He said is not spelled out in his contract. He said his contract needs to reflect whether he does or does not get the COLA. Mr. McEwen said the board has been very generous with his pay increases and it doesn't seem right for him to get the COLA afterward.

Commissioner Robbins made a motion to not give the town manager a COLA increase each year along with the other town employees and that it shall be specified in his contract that he does not receive a COLA. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Commissioner Rooks said to Attorney Kenan that he not aware that we were violating people's right in regards to the letter received from Mr. Kilroy about the free speech ordinance recently passed by the board. Attorney Kenan said he had a discussion with Mr. Kilroy before the letter was sent. Mayor Mulligan said "so where are we?" Attorney Kenan said let him say his peace and let it go.

Commissioner Tyson said it bothers her that there was so much contention and I don't know where you got the information about the minutes because none of us did. She asked if he listened to the tape and if that is where he got his information. He said he remembered the transactions. She said to Mayor Mulligan if you have a problem with Mr. McEwen or any department head that you go to the Board. Mayor Mulligan said the minutes are to reflect what happens in that meeting and I have every right and entitlement to say that. Commissioner Tyson said it was the way you said it. Mayor Mulligan said you can interpret it any way you like. It intrigues me that you telling me how to do my job appeared in the minutes when Mr. McEwen admitted not to doing his job, there was no comment from the Commissioners. That's fine but it will be put on the record and we are going to hold this in public not behind closed doors. I am not going to come and see the clerk on the quiet and say hey what's going on here. I spent from 8:00AM Monday till 3:00PM Monday with the manager in Wallace doing town business, I left the depot at 8:00PM on Monday night with the Parks and Recreation Board and spent a great deal of work between researching what was going on in Wallace and what was going to go on in this meeting tonight and so I was a little busy to go and see the Town Clerk. That notwithstanding I am the only person that has ever received any comment about my correction of the minutes. He said the minutes are not a summary of the meeting, the minutes are the public record of what went on and the essence of that meeting is supposed to be captured in the public record. I was not going after Mr. McEwen. I spoke to him this afternoon and told him to keep his head down because I am going to make a point by making sure this is recorded in the minutes so that we do not repeat mistakes. An actual fact in his explanation for why he was confused was the fact that he said a lot of discussion went on. I went back and I read all the minutes. I read the minutes of the infrastructure board meeting and at the time I asked Mr. Rooks did you discuss this at the infrastructure meeting and he said we discussed that road and we decided they were not going to be lined until paved. Commissioner Rooks interjected that what he remembers was that it was brought up at what may have been an infrastructure meeting but it was brought up and recommended to the board that we not paint the lines. Commissioner Rooks said I am not doubting that but I think with all the discussion and carrying on, my interpretation is that Mr. McEwen thought that we still wanted to go ahead and paint the lines on Fremont because we had so many people concerned about the safety on Fremont Street and that is the reason I think he had them painted. Mayor Mulligan said that's the point. The point is that it is not reflected in the minutes and if it were reflected in the minutes it would not be a bone of contention at all. What's in the minutes of the infrastructure board was that it was not discussed. You said it was discussed. What was in the minutes of the other board meetings was that there was no ambiguity whatsoever about whether they would or wouldn't be, it was every single time this street was discussed in the minutes it said no lining on the pavement. Now there was lots of discussion, but that must be reflected in the minutes and then that would give us insight into the fact that maybe there was confusion but in the record of all the minutes of all those meetings none of that happened. The minutes said "don't do it, don't do it, don't do it". We came along last week and we have a meeting, we bring it to the attention of the board that Mr. McEwen did something we said not to do and if it's not recorded in the minutes then that means it didn't happen. Those are not minutes, they are summaries and I will not have summaries in for minutes. We need to be able to go back, look at minutes and reflect on decisions that were made, who made them and most importantly why and that's why I brought it up today to make sure that this was recorded. I was stunned that none of the other Commissioners made a point of correcting. Commissioner Dawson said to be quite honest she was partially confused because she left with the understanding that we were not going to do the fog lines. Commissioner Tyson said that was also her understanding as well. Commissioner Rooks said that was at the last meeting. He said that David Dunn was the one that was so concerned about the safety and wanting the fog lines on it; the yellow lines had already been done.

Commissioner Rooks said to Mayor Mulligan that the whole thing is how it was presented at the meeting. You had corrections that were legitimate that's not a problem. I think if I was bringing up and recommending that things be added to the minutes because they had been left out I wouldn't have been quite as directive and basically trying to put blame on Mr. McEwen. Mayor Mulligan said "I didn't try to put blame on Chad". Commissioner Rooks said then why do you keep bringing it up? Mayor Mulligan said because it has to be recorded. Commissioner Rooks said well fine, it's been voted and amended. Mayor Mulligan said I wasn't the one that brought it up, Ms. Tyson brought it up. Commissioner Tyson said I didn't bring that up, I said if you have a problem with Chad you need go to the Board rather than yell and scream at him. Mayor Mulligan said I don't have a problem with Chad. I have already told Chad I don't have a problem with him. Commissioner Dawson said she thinks it is a problem with the minutes being recorded properly. Commissioner Rooks said if there are mistakes in the minutes we have always made corrections in them. Mayor Mulligan said that's what I did. Commissioner Dawson said clerks cannot do verbatim minutes, but they can get a good summary. Mayor Mulligan said do you not think the fact that that was actually said in public session is a recordable fact in the minutes?

Commissioner Tyson said we agree that it needed to be in the minutes but you need to go back and listen to how you said it, it's not what you say, it's how you say it and you were very dogmatic about the way you said it. Mayor Mulligan said he had this very same conversation with Chad about our tone when we address things. Both of us do the same thing. The manner in which we express ourselves when we are on point, and it seems when I saw Chad do it in Wallace I thought man he is going after him hard but that is just the way Chad talks when he is making a point and it may very be the way I speak when I make a point as well. I am not from around here, I am not a southern boy, I am not a shrinking violet, I speak my mind and that's just the way I am, I'm sorry.

Commissioner Tyson said she wanted to tell everyone that she has enjoyed so much working with everybody. Commissioners Robbins, Dawson and Walker thanked Commissioners Tyson and Rooks for a job well done.

ADJOURNMENT

Commissioner Rooks made a motion to adjourn. The motion was seconded by Commissioner Dawson and carried by unanimous vote. The meeting adjourned at 9:58PM.

Eugene Mulligan, Mayor

Attest: _____
Sylvia W. Raynor, Town Clerk