

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

DATE: November 14, 2017
TIME: 4:00 PM
PLACE: Burgaw Municipal Building
BOARD MEMBERS PRESENT: Mayor Eugene Mulligan
Mayor Pro-tem Wilfred Robbins
Commissioners Jan Dawson, Bill George, Vernon Harrell and James Murphy
STAFF PRESENT: Sylvia Blinson, Interim Town Manager
Sylvia W. Raynor, Town Clerk
Robert Kenan, Town Attorney
Alan Moore, Director of Public Works
Louis Hesse, Building Inspector
Jim Hock, Chief of Police
Jim Taylor, Fire Chief
Wendy Pope, Finance Officer
Karen Dunn, Planning Administrator
Kim Rivenbark, Community Development Coordinator
Kristin Wells, Deputy Clerk
Zachary White, Parks/Recreation Coordinator
MEDIA PRESENT: None
INVOCATION: Nick Smith, Chaplain
PLEDGE OF ALLEGIANCE: All

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

Introduction of newly appointed Town Manager Joseph Pierce

Mayor Mulligan introduced Joseph Pierce who has been appointed Town Manager and will begin his service with the town on November 27th. Mr. Pierce spoke briefly and was welcomed by all.

Approval of Agenda

Commissioner Robbins made a motion to approve the agenda as presented. The motion was seconded by Commissioner Dawson. Motion carried.

Approval of Consent Agenda

Commissioner George made a motion to approve the consent agenda. The motion was seconded by Commissioner Harrell. Motion carried. The consent agenda and the following items were approved.

- **Minutes of October 9, 2017 Regular Meeting and Approval of Minutes of Closed Sessions of October 3rd, 4th, 9th and 17th, 2017**
- **Resolution 2017- 28 Request to Appoint Map Review Officers**

**RESOLUTION 2017-28
REQUEST TO APPOINT MAP REVIEW OFFICERS**

WHEREAS, the Town of Burgaw must review maps and subdivisions; and
WHEREAS, the Pender County Board of Commissioners must approve the appointment of the Town's Map Review Officers.

NOW THEREFORE BE IT RESOLVED that the Town of Burgaw Board of Commissioners is hereby requesting that the Pender County Board of Commissioners approve the appointment of Karen H. Dunn, Town of Burgaw Planning Administrator, and Kimberly A. Rivenbark, Community Development Coordinator as the map review officers for the Town of Burgaw in accordance with NCGS 47-30.2.

Adopted this the fourteenth day of November, 2017.

SPECIAL PRESENTATION

Carter Hubard, W. K. Dickson Engineering presentation and update Re: Pender Memorial Hospital Stormwater project

Mr. Hubard advised he has been working on the Pender Memorial Hospital Stormwater project since 2012 and looking at opportunities to improve the drainage system for the town. He spoke at length giving a review of the project and what has been done up to this point. He advised the first part of the project is in regards to the flooding of the parking lot at the hospital during heavy rains. He advised the second part of the project will be the upsizing of the existing culverts at South Cowan Street and East Fremont Street in order to improve the drainage and prevent flooding. Mr. Hubard advised the project has been designed; has been through review meetings with the town; permits have been submitted; request for a no-rise has been submitted and the concurrence from the State of North Carolina has been received. He advised they have received the letter of a no-rise dated July 31, 2017 stating that the project will have no impact to the level of the floodway once completed meaning that the basin flow is not going to impact downstream properties. The next step is having all permits and easements and being able to bid the project. Mr. Hubard advised the project is on schedule.

Upon completion of Mr. Hubard's review, there was a very lengthy question and answer session from the Board and the audience. There were many questions regarding the flow of water through the system, questions regarding the risk of flooding when the project is completed as well as questions regarding the easements needed to proceed with the program. Mr. Hubard discussed at length the differences between flood zones and floodways and how this project will affect the citizens that live along the canal where flooding is common. There was much discussion regarding the easements including the fact that Dayna Corcoran advised that she and her husband do not plan to sign the easements because they believe that according to the easement agreement there are rights for the town but no rights for the property owner. There were also several complaints regarding the fact that there was no notice that the survey was beginning and surveyors were on their property without proper notice.

After much discussion, Mr. Hubard advised that he would be happy to show a hydraulic profile and to discuss that further. He advised this is a process and an approved method. He advised everything is documented on how we have prepared for this project and it is public information available to anyone who desires to study this further. Mr. Hubard reiterated that this project study shows that it doesn't "rise" the water due to this project. He said this is a first step in improving the situation.

Mayor Mulligan asked what happens if Ms. Corcoran doesn't give us an easement. Attorney Kenan advised condemnation proceedings would have to be started. He advised the amount of property to be taken would have to have value put on it after which a thirty day demand letter would go out to the owners letting them know that the town is preparing to start eminent domain proceedings. After the thirty days the town will file a complaint and pay the bid deposit; when the bid deposit is paid that is the actual taking of the property. At that point the town can move forward with its project. Mayor Mulligan asked what qualifies the town to take the property. Attorney Kenan advised it is done by the North Carolina Statutes which provides the town the ability to condemn property for public purposes which includes stormwater. Attorney Kenan advised an appraiser will have to be engaged to determine the value of the property to be taken and then a resolution to authorize the condemnation would need to be adopted. After some discussion, it was recommended that a copy of the timeline on the project be sent out to the Board and that the engineer and the planner meet with the Corcoran's to walk the property and discuss the issues further.

DEPARTMENTAL ITEMS

Finance – Wendy Pope, Finance Officer

Consideration of adopting Resolution 2017-29 Authorizing Disposal of Surplus Property

Ms. Pope advised that currently, the Town has a dump truck that needs to be included in our surplus items. She said the Town wishes to sell the following item by the best possible method: *One (1) 1998 Ford F700 dump truck VIN# 1FDNF80C9WVA29842 Odometer: 28,209.* She said the truck has some mechanical problems and needs work. The

recommendation is the approval of the resolution authorizing the above-referenced item to be declared surplus and to allow the Town Manager to dispose of said property by auction.

Commissioner George made a motion to approve Resolution 2017-29 as presented. The motion was seconded by Commissioner Robbins. Motion carried.

**RESOLUTION 2017-29
AUTHORIZING DISPOSAL OF SURPLUS PROPERTY**

WHEREAS, the Town of Burgaw, North Carolina is the legal owner of (1) 1998 Ford F700; and

WHEREAS, said vehicle has been in service for several years but, due to wear and tear, it has been deemed obsolete; and

WHEREAS, North Carolina General Statutes 160A-268 allows municipalities to surplus and dispose of property by adopting a resolution authorizing the sale; and

WHEREAS, it has been determined that this vehicle retains value; and

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

WHEREAS, pursuant to Article V Section 231 of the Town of Burgaw Code of Ordinances, the Town Manager may dispose of personal property when the item(s) has a value of less than \$5,000, is no longer required for the conduct of public business, and the interest of the Town is best served by the proposed disposal;

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

1. *The Board of Commissioners does hereby decommission one (1) 1998 Ford F700 and does hereby declare the vehicle to be surplus property;*
2. *The Town of Burgaw will submit specifications of the 1998 Ford F700 for sale at on-line auction.*

ADOPTED this fourteenth day of November, 2017.

Parks and Recreation – Zachary White, Parks & Recreation Coordinator

Backyard Adventures Trailhead Grant – Mr. White reported that the town has received a \$750.00 grant from the National Parks Service and Blue Cross/Blue Shield of North Carolina. He advised brochures will be located at Rotary Park under the shelter. The brochures are guides for parents and caretakers to help children locate and identify birds, trees, flowers and colors in nature. He advised this grant associates the town with a national program called “Kids in Parks”. He said this program is spread across the state and the nation and is a great educational tool for teaching children.

Report on Community House Exercise Classes

Mr. White advised Commissioner Robbins asked him to provide an update on the exercise classes at the community house. He presented a brief PowerPoint presentation regarding his findings. He said there are four instructors, one which teaches Dance2Fit and three yoga instructors. He said Dance2Fit is offered on Monday and Wednesday and Yoga is offered on Tuesday and Thursday with all classes being in the evening. He advised the dance class averages 15 to 20 per class and the yoga averages 2-7 per class. He advised they have waivers that have been completed but they are not filed in a secure location. Attorney Kenan advised he has reviewed the waiver forms and the health information being in an unsecured location is a violation of the federal HIPPA law which protects the individual’s private health information. He suggested that the town create a form with basic contact information and eliminate any health questions so we are not required to protect that information. He said the responsibility and liability waiver does not include the Town and we need to revise that to include the Town because the contract employees that are providing the classes are working on behalf of the town and they are paid by the Town. He said changing the forms to reflect his recommendations and having just one form would be sufficient.

Mr. White advised there needs to be more communication with town staff when classes are canceled. He said that invoicing finance for instructor’s pay needs to be timelier. He also advised a donation jar was found in the community house and reminded the board that policy does not allow donations or charges for any event held in the

community house. He said he is not saying that anyone at these classes is taking up money but just wanted them to know about the donation jar.

Mr. White recommended that the instructors submit weekly attendance reports to him. He said having this information lets him know how many are attending and that information is helpful when applying for grants. He said if a class is canceled it would be best if town staff is alerted first so it can be put on the town facebook page and in order to advise people of the cancellation when they call the staff. He recommended that all participants sign a Board of Commissioners approved blanket waiver for all parks and recreation activities. Mr. White also advised he is planning to put the information about the classes and times on the website.

Planning – Karen Dunn, Planning Administrator

Consideration to adopt the proposed 2017 Tree Program Work Plan

Ms. Dunn advised this is the eighth consecutive year that the Town has applied to be a Tree City USA. She advised each year the Tree Board (consisting of the Building and Grounds Board) approves the Annual Tree Program Work Plan which has been presented to the Board in their agenda packets. She advised the application requires that we have a tree board or department; a tree care ordinance; a community forestry program; and an Arbor Day observance and proclamation. Ms. Dunn said for this upcoming year she and Zach White will be working together to create some fun community events for the Arbor Day Celebration. She advised approval of the tree program work plan is required in order to submit the application by December 4th.

Commissioner Robbins made a motion to approve the 2017 Tree Program Work Plan as presented. The motion was seconded by Commissioner Dawson. Motion carried.

Police Department – Jim Hock, Chief of Police

Consideration of Resolution 2017-30 Adopting a Policy for Mutual Aid Assistance with other Law Enforcement Agencies

Chief Hock advised the Town of Burgaw, as well as many other counties and municipalities, depend on mutual aid assistance of other law enforcement agencies to staff special events and law enforcement operations. We utilize other agencies for events such as our Blueberry Festival and Christmas Parade. We in return provide officers to other agencies for their festivals and activities. Chief Hock advised this recommended resolution is to update the Town of Burgaw's Mutual aid Assistance process. The last known resolution was adopted in November 2002 under Resolution 2002-65. The updated resolution gives the opportunity for the Town of Burgaw to agree to mutual aid assistance when specifically agreed upon between the Chief of Police and other Department Heads. The Mutual Assistance Agreement will be filled out specifically for individual agencies and be signed by the department heads.

Commissioner Harrell made a motion to approve Resolution 2017-30. The motion was seconded by Commissioner Dawson. Motion carried.

**RESOLUTION 2017-30
ADOPTING A POLICY FOR MUTUAL AID ASSISTANCE
WITH OTHER LAW ENFORCEMENT AGENCIES**

WHEREAS, pursuant to North Carolina General Statutes GS160A-288 and GS 90-95.2, the governing body of a city or county may adopt appropriate guidelines, for the purpose of mutual aid assistance with other municipal and county law enforcement agencies; , and

WHEREAS, pursuant to said laws, the law enforcement assistance to be rendered authorizes lending officers to work temporarily with officers of the requesting agencies, including in an undercover capacity, and lending equipment and supplies; and

WHEREAS, it is deemed to be in the best interest of the Town of Burgaw to adopt a reasonable policy and guidelines whereby reciprocal law enforcement assistance can both be rendered to and obtained from other governmental jurisdictions; and

WHEREAS, such reciprocal assistance is necessary for effective law enforcement for the protection of the citizens of the Town of Burgaw,

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

1. The Chief of Police is hereby authorized to enter into mutual assistance arrangements with other municipal and county law enforcement agencies, provided that the head of the requesting law enforcement agency makes such a request in writing.
2. The Chief of Police is hereby authorized to permit officers of the Burgaw Police Department to work temporarily with the Officers of the requesting agency, including in an undercover capacity; and the Chief of Police may lend such equipment and supplies to the requesting agencies as he/she deems advisable.
3. The Chief of Police is hereby authorized to request officers of other law enforcement agencies to work temporarily with officers of the Burgaw Police Department including in an undercover capacity; and the Chief of Police may borrow such equipment and supplies from other law enforcement agencies as he/she deems advisable.
4. All such requests and authorizations shall be in accordance with North Carolina General Statutes 160A-288 and 90-95.2, as applicable.
5. While working with a requesting agency, an officer shall, have the same jurisdiction, powers, rights, privileges and immunities including those relating to the defense of civil actions and payment of judgments as the officers of the requesting agency in addition to those he/she normally possesses.
6. While on duty with the requesting agency, an officer shall be subject to the lawful operational commands of his/her superior officers in the requesting agency, but shall, for personnel and administrative purposes, remain under the control of his/her own agency, including for purposes of pay. An officer shall furthermore be entitled to Worker's Compensation and the same benefits to the extent as though he/she were functioning within the normal scope of his/her duties.
7. The Chief of Police is hereby authorized to enter into mutual assistance agreements with other law enforcement agencies in accordance with such reasonable arrangements, terms, and conditions as may be agreed upon between the respective heads of the law enforcement agencies.

Adopted, this the fourteenth day of November, 2017

ITEMS FROM ATTORNEY

Attorney Kenan advised he has all easements for the drainage project except for the county (which have been approved by the county board but still need to be signed) and the Corcoran's easements which have been discussed here tonight. He asked the Board if they desire to move forward with an appraisal for the Corcoran easements to determine the value of those particular easements so if we do decide to move forward with condemnation proceedings we will have that information. It was the consensus of the Board to wait on getting the appraisals until after the engineer meets with the Corcorans.

ITEMS FROM MANAGER

Tennis Courts Funds - Sylvia Blinson, Interim Town Manager informed the Board that we have money that was appropriated last year to re-hab the tennis courts in the amount of \$68,346.83. She advised the work was not completed prior to June 30th so the money went back into fund balance. We are requesting that the money be removed from fund balance so the tennis courts project can be finished in this current fiscal year. Commissioner Dawson made a motion to grant Ms. Blinson's request. The motion was seconded by Commissioner George. Motion carried.

Grant Monies for Tennis Program - Ms. Blinson advised between the US Department of Agriculture and NC State Parks we are being given \$640.00 to help with the tennis program. She advised as a part of this funding we must pay the tennis instructor. She said we have already received a check for \$240.00 and the cost of the classes is \$240.00 therefore we have the funds to pay the instructor for the six classes he is teaching. The remaining \$400.00 is for the town's use to continue those programs. Commissioner George made a motion to increase revenues by \$640.00 and to increase expenditures by \$640.00 in the recreation program with \$240.00 to be used to pay the contract tennis instructor and the remaining \$400.00 to be used for another program or to buy supplies. The motion was seconded by Commissioner Harrell. Motion carried.

NC Wildlife Commission Request - Ms. Blinson advised the NC Wildlife Commission has made contact and informed us there is a rare bird, a Loggerhead Shrike, inhabiting an area on the donated land on South Smith Street adjoining the Pender Memorial Park. She advised Wildlife officials have requested permission to go on that property in order to tag and study this bird. She advised there is an agreement that would have to be signed before they go on

the property. Commissioner Harrell made a motion to approve the NC Wildlife Commission's request to allow them to use the town property for the purpose of studying the bird. The motion was seconded by Commissioner Robbins. Motion carried.

Street Closures for Christmas Parade and Live Nativity - Ms. Blinson advised Chief Hock would like to address the Board concerning street closures for an upcoming event. Chief Hock advised there has been an application turned in for the Christmas Parade on December 9. He said the street closure requests are the same as last year but there has been a change of plans for the annual live nativity at the Presbyterian Church. Harold Pollock has notified Chief Hock that the church will hold its live nativity on the same night as the Christmas parade one hour before the parade starts. Chief Hock advised we would use the same street closures as usual and close down Fremont Street from Cowan Street to Walker Street thirty minutes earlier than normal. Commissioner Dawson made a motion to approve the street closing as presented by Chief Hock. The motion was seconded by Commissioner Harrell. Motion carried.

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

Commissioner Dawson thanked Alan Moore for the work on the streets paving list and advised she would like for us to go ahead and move forward with the paving. After much discussion, it was the consensus of the Board to wait until December to make a final decision because there was some question about one bidder and whether or not it was responsible and also there was a request to discuss adding North McRae Street to the list. Mr. Moore advised he is waiting for a bid on that street to come in.

Commissioner Robbins advised he has been asked by the Promotions/Special Events Committee for the Board to appropriate \$175.00 to pay a Santa for the tree lighting event on November 24th. After discussion, it was the consensus of the Board to have Ms. Pope write a check to Santa from the Promotions/Special Events line item.

Commissioner Robbins inquired about the nuisance abatement issue on North Wright Street that was discussed last month. Mr. Hesse advised the owner had planned to try to repair the structure but found it to be too expensive and now they have decided to tear it down. They were required to have an asbestos survey done and found there is asbestos in the structure. Mr. Hesse advised the results have come back and he is hopeful this can be taken care of shortly.

Commissioner Robbins advised he has spoken with Thurman Mosely regarding the nuisance property next to the tennis courts on Ashe Street. Mr. Hesse advised this property is a high priority as well. Commissioner Robbins said it is not fair to the property owners to have to live with this in their back yards as well as being beside our newly renovated tennis courts. Commissioner Robbins asked the other members of the Board to take a look at this property.

Commissioner Robbins advised he cannot understand why we have to have two polling places for our municipal elections. He said we have to pay the costs and the legislators need to be told that we don't need two polling places for 500 voters. He said this is also a problem in other small municipalities.

BREAK 5:30 – 5:45

PUBLIC FORUM

Tammy Proctor, Pender County Tourism Director appeared before the Board to request use of the depot for next year's Ghost Walk. She spoke about the success of this year's event and thanked everyone for all their help during the accident that occurred on the day of the event. Ms. Proctor requested to reserve the depot for October 12 and 13, 2018 for the Ghost Walk. She said securing the depot for the event is crucial because of the new policy that disallows use of the court house for such events. After a brief discussion, Commissioner Robbins made a motion to allow Pender County Tourism use of the depot on October 12 & 13, 2018 and charge only the cleaning fee as well as the security deposit which will be refunded. The motion was seconded by Commissioner George and carried by unanimous vote.

Nancy Aycock Rivenbark, owner of Cripple Dance Studio presented a letter to the Board and advised she is here to revisit the issue of replacing the sidewalk in front of her business. She advised she is aware that this is a transition period regarding the elections process and the town manager transition in the town and respects that issue. She said it has been nine months since she was promised that the sidewalk was going to be replaced and has yet to have any improvements except for the grinding down of the rough places leaving an unattractive sidewalk. She said the lady that fell was finally compensated at Ms. Rivenbark's expense through her insurance but with no help from the town or the state. She reminded the Board that she removed all of the outside vegetation in order to make the area more accessible. She said her building now looks bare, needs painting and has a very unattractive ground down sidewalk. She commented that she is here to ask what can be done to solve this situation.

Mayor Mulligan commented that Ms. Rivenbark is correct and he apologized that the town has not done anything to correct this situation. Karen Dunn advised she is working with Mark Walton for the final of the plans that will be going to NC DOT for the sidewalk improvements that will be included in the project. Ms. Dunn said this plan will be presented at the December meeting. She advised there will be a meeting in January regarding the roundabout and that may factor into this situation as well. Ms. Rivenbark said all she is asking for is for the sidewalk along the full block from her building to the Presbyterian Church to be replaced. Mayor Mulligan asked Ms. Rivenbark to bear with us because we still have to get the encroachment from NC DOT. He said after that is done, hopefully we will see some action. (Ms. Rivenbark's letter is on file in the clerk's office.)

Mike Pearsall wanted to thank Chief Hock and Louis Hesse for their actions to make his neighborhood safer by having more police patrols and the action to get more street lights in the area. He also requested that the Board put in speed humps at the intersections of Bodenheimer and Satchwell Streets. After discussion, Mayor Mulligan recommended that the infrastructure board meet and discuss this issue further.

Pete Cowan advised the first annual Burgaw Community Christmas Celebration will be held at the Middle District Baptist Association building located at 1825 NC Hwy 53 West. He advised this event is sponsored by the Blueberry Festival. He said that approximately fifteen local churches are participating as well as a special presentation by Snyder Memorial Baptist Church. Mr. Cowan advised this event will start at 6:30 and should be over in a couple of hours. He said he is looking forward to seeing everyone there.

PUBLIC HEARINGS

Public Hearing #1: Consideration of amending the Fats, Oils and Grease (FOG) Ordinance to remove the variance fee from the ordinance and to amend the FY 2017-2018 Budget to reflect changes in the fee schedule related to the adoption of the FOG ordinance. Alan Moore, Director of Public Works

The public hearing was opened at 6:21PM.

The following background material was presented: At the October 09, 2017 Board of Commissioners meeting Ordinance 2017-19 Fats, Oils and Grease Regulations (FOG ordinance) was approved. This ordinance sets forth regulations regarding fats, oils and grease in the wastewater collection system.

After discussion the Board agreed to approve the Fats, Oils & Grease Ordinance but not Ordinance 2017-20 amending the schedule of fees to include additional fees related to the enforcement of the FOG ordinance. There was some hesitancy among the Board members to assess a \$250 Variance Fee which seemed to be excessive. The Board tabled the fee schedule change until the November 14th meeting in order for more research to be done regarding variances and variance fees in other jurisdiction.

In preparing for this meeting, we discovered that in Ordinance 2017-19, Section 10.0 Variances, Item 1.4 there is a requirement for the \$250 variance fee to be assessed. Furthermore the fee schedule for other fines and fees is also included in the ordinance as well in Section 11.0 Enforcement. With the fees included in the ordinance, each time a fee needs to be changed the FOG Ordinance would have to be amended. It would be more efficient to have all fees set forth in the fee schedule instead of the FOG Ordinance. At budget time when the fee schedule is set any changes would be made in the fee schedule instead of the FOG ordinance.

Mayor Mulligan commented that the only change here is to remove the variance fees. There being no discussion the public hearing was closed at 6:22PM.

Commissioner Dawson made a motion to approve Ordinance 2017-22 as presented. The motion was seconded by Commissioner Harrell. Motion carried.

**ORDINANCE 2017-22
APPROVING AN AMENDMENT TO ORDINANCE 2017-19
FATS, OILS AND GREASE REGULATIONS**

WHEREAS, The Town of Burgaw Board of Commissioners approved Ordinance 2017-19 Fats, Oils and Grease Regulations at their October 9, 2017 regular meeting; and

WHEREAS, The approved ordinance included fees for variances and violations; and

WHEREAS, at that same meeting the Board delayed action on the proposed fees for variances and violations until such time as further research could be done to insure that the fees are in accordance with other jurisdictions; and

WHEREAS, it would be more efficient to have all fees set forth in the fee schedule instead of the Fats, Oils and Grease Ordinance in order to adjust the fee schedule at the time the annual budget is set to avoid having to amend the Fats, Oils and Grease Ordinance each time a fee change is necessary.

NOW THEREFORE BE IT ORDAINED by the Town of Burgaw Board of Commissioners that all fees for variances and violations shall be removed from the Fats, Oils and Grease Ordinance and said fees shall be set forth in the Town of Burgaw Schedule of Fees to be maintained in the annual budget process.

Approved this fourteenth day of November, 2017.

Commissioner Harrell made a motion to approve Ordinance 2017-20 as presented. The motion was seconded by Commissioner Robbins. Motion carried.

**ORDINANCE 2017-20
AMENDING FISCAL YEAR 2017-2018
ANNUAL BUDGET
Change to Schedule of Fees**

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

WHEREAS, the Board of Commissioners has adopted Ordinance 2017-19 approving Fats, Oils and Grease Regulations for non-residential users; and

WHEREAS, the Schedule of Fees in the budget ordinance will need to be amended to reflect changes set forth by the adoption of Ordinance 2017-19 approving Fats, Oils and Grease Regulations; and

WHEREAS, the Town Board of Commissioners approved these changes on November 14th, 2017.

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

The FY 2017-2018 Schedule of Fees be altered to reflect the following changes as attached.

Fats, Oils & Grease (FOG) Violations Appendix B

FINES OF VARIOUS ANNUAL INFRACTIONS OF FOG ENFORCEMENT

Minor Violations

	1st Offense	2nd Offense	3rd Offense	4th Offense and Up
Failure to submit records	Warning	\$100.00	\$200.00	\$500.00
Inspection hindrance	Warning	\$100.00	\$200.00	\$500.00
Failure to maintain on-site records	Warning	\$100.00	\$200.00	\$500.00

Moderate Violations

	1st Offense	2nd Offense	3rd Offense	4th Offense and Up
Failure to maintain interceptor in proper working order			\$500.00	\$750.00 \$1000.00 \$2500.00

Failure to clean interceptor as required \$250.00 \$350.00 \$500.00 \$1,000.00

Major Violations

Source of sewer blockage (minimum) \$500.00
Source of sanitary sewer overflow (minimum) \$1,000.00
Falsification of Records \$1,000.00

**if residence or food handling facility is source of sanitary sewer blockage or overflow, a fine of not less than \$500 and not more than \$10,000 will be assessed, plus remediation costs. Additional fees may be imposed by the State of North Carolina.*

Approved this fourteenth day of November, 2017.

Public Hearing #2: To receive public comment regarding consideration of an application submitted by Greg Walsh/Over the Top Consignment Shop for a conditional use permit to operate an Automobile/Trailer rental business at 675 US-117 South in Burgaw. Karen Dunn, Planning Administrator

The public hearing was opened at 6:23PM.

Attorney Kenan administered the oath to the following individuals that have signed up to speak at this hearing:

- Karen Dunn, Town of Burgaw Planning Administrator
- Greg Walsh, Over the Top Consignment applicant
- Craig Sanderson, U-Haul, AFM Route 878001
- Tony Luft
- Janice Marshburn, adjacent property owner

Ms. Dunn presented extensive background regarding this hearing including but not limited to the following:

GENERAL INFORMATION

Applicant: Greg Walsh
1556 US HWY 117 S
Burgaw, NC 28425
Property Owner: George Shevchuk
Site: 675 US Highway 117 S
Current Zoning: B-2, Highway Business
Size: 2.95 acres
Existing Land Use: Over the Top Consignment store

HISTORY/SITE DESCRIPTION

Applicant Greg Walsh is petitioning the town for a conditional use permit to operate a U-Haul Automobile/Trailer Rental business and placement of one cargo storage container at 675 US Highway 117 S. This property is currently the site of Over the Top Consignment Store and was formally Armor of God Ministries Food Bank and Second-hand and Swap Shop Sales from 2011 and Healthy Home Farmer from 2007.

Evidence presented included: Exhibit 1: Application showing requested use; Exhibit 2: Map packet showing site plans; Exhibit 3: Zoning Map; Exhibit 4: Aerial Map; Exhibit 5: Future Land Use Map; Exhibit 6: Site photographs taken by Karen Dunn on October 23, 2017; Exhibit 7: Staff Report, prepared by Karen Dunn; Exhibit 8: Ordinance Requirements Report, prepared by Karen Dunn; Exhibit 9: Compliance with Town of Burgaw Adopted Plans report, prepared by Karen Dunn; Exhibit 10: Email from Craig Sanderson, U-Haul Representative

Ms. Dunn advised the standards for evaluation of the Conditional Use Permit are the four findings of fact. Those standards were reviewed by Ms. Dunn in depth.

Upon completion of Ms. Dunn's presentation, those persons that signed up to speak were given an opportunity to speak.

Janice Marshburn, lives adjacent to the property. She advised her main concern is that the property is kept in good order as it was by the previous tenant. She advised that currently the property is not being kept orderly because there

are rugs hanging on the fence and items scattered across the grounds. She said she doesn't want their property to hurt the value of the neighboring properties.

Tony Luft (speaking on behalf of U-Haul) advised this business has been in operation for a few months but the location was changed from Fremont to this location. He said this area needs U-Haul trucks but it is not convenient to build a center here because the demand is not as high as larger towns. He said he understands Ms. Marshburn's concerns. He said as far as U-Haul is concerned the business will be kept organized and neat. He said there will not be any oil changes or mechanical work on the trucks except for maybe a tire change on a trailer. He said if there are any issues Mr. Walsh would be called first and then Mr. Luft should be called.

Commissioner Robbins said he shares Ms. Marshburn's concern because the property looks different than it looked several months ago. He said it needs to be kept neat and tidy.

Commissioner Dawson asked if conditions can be placed on the appearance of the property in regards to neatness. Ms. Dunn advised this would fall under outdoor storage which is not permitted in B-2 and is actually separate from this CUP. Commissioner Dawson said she wants the property kept neat.

Commissioner Harrell commented to Mr. Luft that several people have made positive comments about the U-Haul business being in Burgaw.

Greg Walsh advised he is the operator of the business. He said initially storage containers were going to be rented out to vendors but it was determined that usage is not allowed. He then commented that he does not plan to have any storage container on the property including the one that he wanted for his personal storage.

Commissioner Harrell asked Mr. Walsh if he is renting the entire property. Mr. Walsh advised not right now. He has no intentions of doing anything with the wooded area.

The public hearing was closed at 7:05PM.

Mayor Mulligan reviewed the finding of fact based on the public hearing and the evidence presented.

All Board members voted "yes" on all four findings of fact. (Findings below)

SPECIFIC FINDINGS OF FACT AND CONCLUSIONS OF LAW

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.

1. In order to be granted a conditional use permit, Section 3-10 of the Town of Burgaw Unified Development Ordinance requires that the applicant prove that "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."
2. The property's current use is a Consignment Shop located in a B-2 Highway Business Zoning District.
3. Applicant is proposing a U-Haul truck and trailer rental business as a secondary use with a maximum of eight (8) trucks and eight (8) trailers for rent. Trucks will range in size from 10', 15', 17' 20' and 26' while trailers range from 4x8, 5x8, 5x9 and 6x12's.
4. Daily traffic generated by this business will be minimal.
5. The Applicant has included a site plan indicating the proposed placement of up to eight (8) trucks and up to eight (8) trailers for rent parked in the rear of the property behind the existing building screened from the public right-of-way in a fenced and gated area.
6. The proposed hours of operation will be 10:00am to 6:00pm Monday through Saturday and 11:00am – 6:00pm on Sunday.
7. A designated drop off location for afterhours drop offs will be set up in front of the gate where a key drop box will be placed for all customers to utilize after hours.
8. Applicant proposes the use of five (5) existing security lights located on the property as shown on the lighting plan.

9. The property has two existing driveways on US 117 S. No changes are being proposed to the existing driveways, parking areas, or buildings.
10. Police Chief Jim Hock has no safety concerns regarding the proposed truck and trailer rental use and hours of operation at this site.
11. As a result, the Board of Commissioners finds that the proposed application meets the requirements of this standard, provided the following conditions:
 - a. *The proposed hours of operation shall be 10:00am to 6:00pm Monday through Saturday and 11:00am – 6:00pm on Sunday.*
 - b. *The truck/trailer rental business shall have a maximum of 8 trucks and 8 trailers for rent.*
 - c. *Applicant may display one truck and one trailer only in the left side yard out of the public road right-of-way.*
 - d. *All other vehicles and trailers shall be parked in the fenced rear yard as indicated on the site plan submitted by the applicant.*

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

1. In order to be granted a conditional use permit, Section 3-10 of the Town of Burgaw Unified Development Ordinance requires that the applicant prove that “the use meets all required conditions and specifications.”
2. According to the Ordinance Requirements Report submitted by Karen Dunn,
 - a. Buffering and Screening: The right side of the property abuts residentially zoned property and is heavily wooded. The rear of the property is heavily wooded and abuts office and institutional zoned property that is vacant. The left side yard abuts property owned by the same property owner and is zoned B-2 with two existing commercial buildings.
 - b. Setbacks: The applicant has submitted a site plan indicating that the lot for the proposed Automobile and/or Trailer Rental use meets the minimum yard requirements for the B-2 district or shall be a minimum of fifteen thousand (15,000) square feet in size.
 - c. All vehicles will be located outside of the state right-of-way. The office for the business will be located inside of the existing structure.
 - d. Off-Street Parking and Loading: The applicant has provided a sketch of existing driveways and parking on the site. The proposed use will not require additional customer parking spaces. Ample overflow parking and loading areas are available to the rear of the existing building. With the exception of the applicant’s request to display one or two trucks and trailers, the trucks and trailers are proposed to be parked behind the existing building screened from the public right-of-way and adjacent properties.
 - e. Tree Preservation and Replacement: The proposed use will not require any new clearing, grading, or removal of existing trees.
 - f. Regulations for Conditional Uses for Automobile and/or Trailer Rental (B-2): The lot is 2.95 acres. The front building setback is approximately 60’ to the public right-of -way of US 117 S. The left side setback is 40’. The right side setback is 148’. The rear setback is +33’. The applicant has requested to display two trucks and two trailers in the left side yard. A lighting plan showing five existing security lights was submitted with the application. A designated drop off location for after-hours drop offs will be set up in front of the gate where a key drop box will be placed for all customers to utilize after hours.
 - g. Signs: Three attached signs have been requested by applicant. Sufficient information has not been provided to review proposed signs.
3. As a result, the Board of Commissioners finds that the proposed application meets the requirements of this standard, provided the following conditions:
 - a. *The property has existing trees and vegetation in the NCDOT right-of-way and front yard and shall be preserved.*
 - b. *Automobile and/or Trailer Rental customer and employee parking and vehicles and trailers on display shall not be located in a required street yard or public right-of-way and may not impede vehicular or pedestrian traffic or sight triangles.*
 - c. *Absolutely no sales or rental of any cargo storage containers or other storage units on this property.*
 - d. *Applicant shall apply for a separate permit for all signs.*

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.

1. In order to be granted a conditional use permit, Section 3-10 of the Town of Burgaw Unified Development Ordinance requires that the applicant prove that “the use will not adversely affect the use or any physical attribute of adjoining or abutting property or the use is a public necessity.”
2. The use is not a public necessity.
3. The perimeter of the property is heavily wooded providing a natural buffer/screening to adjacent properties.
4. As a result, the Board of Commissioners finds that the proposed application meets the requirements of this standard, provided the following conditions:
 - a. *Applicant shall maintain existing perimeter vegetation on the site.*
 - b. *Trucks and trailers shall be located in the rear yard behind the existing building.*

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 Highway 53 Corridor Study.

1. The subject property is adjacent to office, institutional, and commercially zoned tracts, and is heavily wooded where it abuts residentially zoned property.
2. The site for the proposed business is currently zoned Highway Business and is designated as Commercial Growth in the Burgaw 2030 Comprehensive Land Use Plan.
3. This property is not covered by the NC Highway 53 Corridor Study.
4. As a result, the Board of Commissioners finds that the proposed application meets the requirements of the standard, provided the following conditions:
 - a. *Any freestanding sign must be a monument sign.*
 - b. *Maintain landscaping to buffer parking areas, outside storage, display areas, etc.*

THEREFORE, on the basis of the foregoing, IT IS ORDERED that the application for a conditional use permit for an “Automobile/Trailer Rental” use to be located at 675 US HWY 117 S. (PIN 3229-70-8883-0000) be GRANTED, subject to the following CONDITIONS TO THE APPLICATION:

1. The proposed hours of operation shall be 10:00am to 6:00pm Monday through Saturday and 11:00am – 6:00pm on Sunday.
2. The truck/trailer rental business shall have a maximum of 8 trucks and 8 trailers for rent.
3. Applicant may display one truck and one trailer only in the left side yard out of the public road right-of-way.
4. All other vehicles and trailers shall be parked in the fenced rear yard as indicated on the site plan submitted by the applicant.
5. The property has existing trees and vegetation in the NCDOT right-of-way and front yard and shall be preserved.
6. Automobile and/or Trailer Rental customer and employee parking and vehicles and trailers on display shall not be located in a required street yard or public right-of-way and may not impede vehicular or pedestrian traffic or sight triangles.
7. Absolutely no sales or rental of any cargo storage containers or other storage units on this property.
8. Applicant shall apply for a separate permit for all signs.
9. Applicant shall maintain existing perimeter vegetation on the site.
10. Trucks and trailers shall be located in the rear yard behind the existing building.
11. Any freestanding sign must be a monument sign.
12. Maintain landscaping to buffer parking areas, outside storage, display areas, etc.

Commissioner Robbins made a motion to approve the Conditional Use Permit as presented in the findings of fact. The motion was seconded by Commissioner Murphy. Motion carried.

CLOSED SESSION

Commissioner Harrell made a motion to go into closed session pursuant GS 143.318.11 paragraph (a) item (6) Personnel. The motion was seconded by Commissioner Robbins. Motion carried.

OPEN SESSION RECONVENED

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

Commissioner Dawson made a motion to approve a contract with Joseph Pierce for the town manager's position to include an annual salary of \$88,932 and a cell phone stipend of \$68.48 per month. The motion was seconded by Commissioner Harrell. Motion carried.

Commissioner Dawson made a motion to increase the annual salary for the Parks and Recreation Coordinator to \$29,899. The motion was seconded by Commissioner Robbins. Motion carried.

ADJOURNMENT

Commissioner Dawson made a motion to adjourn. The motion was seconded by Commissioner Harrell. Motion carried. The meeting adjourned at 7:55PM.

Eugene Mulligan, Mayor

Attest: _____
Sylvia W. Raynor, Town Clerk