

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

DATE: December 08, 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
BOARD MEMBERS ABSENT: Commissioner Elaine Tyson
*Commissioners elect Bill George and Vernon Harrell joined the meeting after their oaths of office were administered
*Commissioner Rooks departed the Board upon the swearing in of new Commissioners
STAFF PRESENT: Chad McEwen, Town Manager
Sylvia W. Raynor, Town Clerk
Robert Kenan, Town Attorney
Anthony Colon, Utility & Compliance Specialist/ORC
Bill Fay, Director of Public Works
Louis Hesse, Building Inspector
Ashley Loftis, Finance Officer
Sylvia Blinson, Interim 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: Nick Smith, Chaplain
PLEDGE OF ALLEGIANCE: All

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

OLD BUSINESS

Approval of Old Business Agenda

Mayor Mulligan asked for a motion to approve the old business agenda. Commissioner Dawson made a motion to approve the old business agenda. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Approval of Old Business Consent Agenda

Mayor Mulligan commented that last month in error we reopened the public meeting after a closed session which we hold in another room and unfortunately we didn't check diligently enough to see if there were any members of the public waiting to be part of the open session; unfortunately the doors were locked and the lights turned off and we didn't realize that there were members of the public there for the open session. Mayor Mulligan advised he consulted with the NC League of Municipalities today and they said that any vote that was taken during that meeting could be either ratified now or accepted in the minutes. Attorney Kenan advised if the Board accepts these minutes, they can move forward. Mayor Mulligan advised they will take steps to insure that this does not happen again. He apologized to anyone who was left standing outside and will be very careful to make sure it never happens again.

Commissioner Robbins made a motion to approve the old business consent agenda as presented. The motion was seconded by Commissioner Walker and carried by unanimous vote.

The consent agenda and the following items were approved:

- A. Minutes of the November 10, 2015 regular and closed sessions**
- B. Ordinance 2015- 29 Budget Ordinance Amendment for Fire Truck Loan Proceeds**

ORDINANCE 2015-29
AMENDING FISCAL YEAR 2015-2016 ANNUAL BUDGET
Increasing Revenues and Expenditures

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

WHEREAS, the Town of Burgaw approved the purchase of a new fire tanker in the amount of \$240,000 by the Burgaw Fire Department; and

WHEREAS, financing for this purchase was provided through Four County EMC; and

WHEREAS, the terms of this financing are 10 years at 0% interest with quarterly payments of \$6,000; and

WHEREAS, the Town of Burgaw would like to recognize \$240,000 from loan proceeds into the FY 15-16 budget, therefore, additional revenue and expenditure must be recognized.

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

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

INCREASE BUDGETED REVENUE

Account Number	Account Description	Amount
10-3920-00-900	Loan Proceeds	\$240,000

INCREASE BUDGETED EXPENDITURE

Account Number	Account Description	Amount
10-5300-10-740	Capital Outlay	\$240,000

Adopted December 08, 2015

Presentation of 2014-2015 Audit – Greg Adams

Greg Adams with Thompson, Price, Scott, Adams & Co. PA presented the results of the FY 2014-2015 audit for the Town of Burgaw. Mr. Adams presented all required communications to the Board and advised everything is in order. He presented a summary of the audit report and offered to take questions from the Board. After a brief question and answer session, Mr. Adams thanked Ashley Loftis and the staff for their cooperation during the audit process. The complete audit report is on file in the clerk’s office.

Commissioner Rooks made a motion to approve the audit as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Citizens Committee appointment – Promotions/Special Events

Mayor Mulligan advised Jakim Friant has applied for a position on the Promotions/Special Events Committee and that he is the only applicant we have after advertising the position as requested by the board last month. Mayor Mulligan nominated Jakim Friant to the Promotions/Special Events committee. Commissioner Robbins made a motion to appoint Jakim Friant to the Promotions/Special Events committee. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

PLANNING ITEM

Consideration of a written Findings of Fact and Conclusions of Law document for the conditional use permit public hearing held at the November 10, 2015 meeting – Rebekah Roth, Planning Administrator

Rebekah Roth advised the Board that after every conditional use permit hearing the town is required to provide an official written document to the applicant outlining basically the board's reasoning for either issuing or denying the permit. She said as years go by this process gets more and more complicated. She advised that the Board has not turned down a conditional use since we started going through this type of document. Ms. Roth said that because there has been no denial of a conditional use permit plus the fact that the Board needs to express their reasoning for voting "no" on certain standards, she wanted the Board to have an opportunity to review the Findings of Fact and Conclusions of Law document to be sure that it is in keeping with your reasoning for this process. Ms. Roth advised that staff has reviewed the recording and the notes to describe as accurately as possible the Board's reasoning behind the decision. She advised the copy included in the packet is a draft and the Board may make changes if necessary. She said a final copy will be submitted to the applicant in order to start the appeals time.

Commissioner Robbins asked Ms. Roth to explain the appeals process. Ms. Roth advised after the applicant receives the written decision outlining the Board's views, the applicant will have thirty days to appeal it to the court of appeals. She said although this was a quasi-judicial case it can be appealed just as anything that can be appealed in a regular court case.

Commissioner Robbins asked what happens now that this has been heard but if there is an appeal we will have new board members and how does that affect this situation. Ms. Roth said from her understanding the appeals court judge can make a ruling based on the evidence, uphold your decision or they could require that it be heard by the Board again but that would be a rare circumstance. She said that generally what she has heard is the decision has been either upheld or overturned. Attorney Kenan advised it doesn't go to the court of appeals, it will go to the superior court and it would be heard there. He said the order that you find is binding upon this current board and the order that is in place is representative of the facts and conclusions of law that were made by the Board that evening as well as the ultimate decision. Attorney Kenan said those fact and conclusions of law can be challenged if the applicant decides to do so within the thirty day time period from the time that this order is served on the applicant.

Commissioner Robbins said someone asked him after the meeting was over what effect this has on him since he was acting chair and he voted. He said as a general rule according to Robert's Rules the chairman does not vote. Attorney Kenan advised that generally the chairman does not vote, but there is nothing in the law or in the Code of Ordinances that would prohibit a board member from participating in voting on that matter. Commissioner Robbins said he explained to the person questioning him that since the vote was unanimous; it wouldn't have mattered any way.

There being no further discussion, Commissioner Dawson made a motion to approve the order denying the conditional use permit for an alcohol and/or substance use treatment facility as presented. The motion was seconded by Commissioner Rooks and carried by unanimous vote. (See order below)

**IN THE MATTER OF AN APPLICATION
BY M RECOULLEY CONSTRUCTION CO. FOR A CONDITIONAL USE PERMIT
FOR AN ALCOHOL AND/OR SUBSTANCE ABUSE TREATMENT FACILITY, RESIDENTIAL (MORE THAN 6
RESIDENTS)**

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DENIAL OF A CONDITIONAL USE PERMIT**

On November 10, 2015, the Town of Burgaw Board of Commissioners held a public hearing at the Town of Burgaw Board Room located at 109 N. Walker St. to consider an application for a conditional use permit submitted by M Recoulley Construction Co. The applicant petitioned the Town for a conditional use permit for an "Alcohol and/or Substance Abuse Treatment Facility, Residential (more than 6 residents)" use in the O&I zoning district to be located at 126 Worth Beverage Drive, Burgaw, North Carolina which said property is located within the Town of Burgaw corporate limits.

The following witnesses submitted testimony to the Board of Commissioners or requested information from the applicant during the course of the hearing:

- Rebekah Roth, Town of Burgaw Planning Administrator
- R. 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 H. Faison III, Judge of the Fifth Judicial District, State of North Carolina
- Elizabeth Herring, Town of Burgaw resident

- Vernon Harrell, Town of Burgaw resident and Town of Burgaw Commissioner-Elect
- Karen Harding, Town of Burgaw resident
- Hugh B. Highsmith, II., representative of Pender Progress Corporation
- Richard V. Biberstein, Jr. authorized agent of Pender Progress Corporation Legal
- Carl W. “Trey” Thurmond, III., attorney for Pender County
- Rick Benton, Wilmington Business Development
- Ted Proukou, Executive Director of Pender County Safe Haven

In making the findings of fact and reaching the conclusions of law below, the board has considered, in addition to arguments offered at the hearing, the following documents, exhibits, and reports:

- 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;

And thereby finds the following facts:

GENERAL FINDINGS OF FACT

1. The subject property is located at 126 Worth Beverage Drive, Burgaw, North Carolina and is owned by Frank Crisafulli and Michael Crisafulli, as evidenced by a deed recorded in Deed Book 3433, at Page 10 in the Office of the Pender County Register of Deeds, and such subject property is further identified by Pender County Parcel Number 3228-58-9847-0000. The subject property is currently used as an accounting office.
2. 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 Worth Beverage Drive, (North Carolina Department of Transportation maintained road) and industrial zoned properties.
3. The subject property is located within the O&I, Office & Institutional, zoning district.
4. The proposed use is listed as a conditional use requiring technical review in *Section 4-9: Table of Permitted Uses* of the Town of Burgaw Unified Development Ordinance. (NOTE: At a public hearing held after this public hearing on

November 10, 2015, the Town of Burgaw Unified Development Ordinance was reorganized, moving the Table of Permitted Uses to Section 8-2. All ordinance references included in this document and exhibits are to the Town of Burgaw Unified Development Ordinance prior to the hearing on November 10, 2015.)

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.

Findings of Fact

1. In order to be granted a conditional use permit, Section 14-19 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 response to standards included in Exhibit 4 states, “The use will meet these provisions because it is located in an O&I District where the use is listed as a Conditional Use and the use is designed and regulated in a manner that it will not endanger public health, safety, or general welfare. The design and rules of the Institutional Use are such that residents will be observed by trained professional staff 24 hours seven days a week 365 days per year. Residences are all oriented so that the only entrances/exits are all in view of the staff office building. Residents under treatment may only leave the facility accompanied and transported by staff until they earn the right to regulated leave (with drug/alcohol testing before leaving and upon return.) Please see the Project Narrative for further explanation.”
3. Rebekah Roth presented in the staff report and during the public hearing that, according to the application, 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.
4. Mr. Grimes testified that in other communities, the program has been operated with the support and coordination with area businesses and non-profit organizations, including churches.
5. Judge Faison, who has served as Drug Treatment Court judge for 13 years and DWI Treatment Court judge for 5 years, testified that this type of program had been successful in New Hanover County and had been a good partner with the courts.
6. Ms. Herring testified that she had experienced increased crime after a family care home located in her residential neighborhood.
7. Mr. Grimes testified that if a resident had to leave the program, each case would be handled individually. The client may return home or be placed in a different treatment program with or without her children. If she had nowhere else to go, facility management would take her to a homeless shelter.
8. Mr. Grimes testified that the resident would make the decision as to where to live after leaving treatment. Graduates would have follow-up care, and the majority of clients would be from the area; namely, New Hanover, Pender, and Onslow counties; but Trillium covers a 27 county area.
9. Mr. Grimes testified school-aged children would attend local schools during the school year. If needed, a local child specialist would be used.
10. Mr. Grimes testified that there would be windows but no doorways in the rear of the facility’s buildings. Alarms had been placed at other facilities.
11. Mr. Grimes testified that the annual client numbers varied. Robeson Health Care aimed for a minimum 4-month stay for residents, but some clients stayed for a shorter period of time.
12. Mr. Grimes testified that Burgaw was chosen as a potential location because funding was based on a regional area, and Robeson Health Care had found that the program works better in smaller communities. Burgaw also had the needed services.
13. Ms. Harding testified that the local school system already had problems with performance and high-poverty populations. She asserted that the facility would be a burden on tax payers providing school and social services.
14. Mr. Grimes testified that the facility would be hiring from the area and spending money in the community.
15. Mr. Recoulley testified that he would be paying property taxes and that children in the program would not be receiving free and reduced lunch services. He asserted that tax payer money would be saved by removing the children from foster care.
16. Mr. Grimes testified that residents would not be seeking full time jobs, and they may volunteer.
17. Mr. Harrell asserted that there would be cost savings for tax payers and unmeasured benefits of the treatment program rather than residents being part of the Department of Social Services and criminal justice system.
18. Mr. Harrell testified that the program would serve people currently living in the community.
19. Mr. Benton testified that the industrial properties across the street would result in potential harm and hazards to the facility residents due to negative externalities of the industrial land use, including high levels of noise, potential odors, constant heavy truck traffic, and potential for material spills/leaks, by-products or other process issues that could harm residential users.

20. Mr. Biberstein testified that heavy trucks would cause safety issues for the facility.
21. Mr. Recoulley testified that heavy trucks travelled along other roads within town already.
22. Mr. Biberstein testified that small things decide where an industry will locate.
23. Mr. Benton testified that a potential tenant is interested in the shell building. He asserted that the potential tenant was not aware of the conditional use permit application for the proposed facility, but in his opinion, would be opposed.
24. Mr. Proukou testified that the types of activities that would be taking place in the proposed facility were already taking place in other locations in the town.
25. Mr. Proukou testified that there was a high demand for this type of facility, and it would serve Burgaw and Pender County residents.
26. Mr. Harrell testified that the proposed buffer would prevent children and residents from getting into the street and that a fence could be installed.
27. Mr. Hall testified that a fence would be installed if this were a safety issue.
28. Mr. Grimes testified that parents in the program were not allowed to let children be outside without their supervision.

Conclusions of Law

As a result of this evidence, the Board of Commissioners unanimously finds that the proposed use does not meet the requirements of this standard. The commissioners' conclusions are as follows:

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.

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

Findings of Fact

1. In order to be granted a conditional use permit, Section 14-9 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 Rebekah Roth, all requirements of the Unified Development Ordinance have been met except:
 - a. No provisions have been specified for placement and screening of a dumpster and recycling receptacle, which shall be required per Town of Burgaw policy;
 - b. The site plan does not show provisions for street yard landscaping, though it does show a proposed type I buffer; and
 - c. The site plan does not show the location of fire hydrants or include curb and guttering.
3. The Ordinance Requirements Report includes information that
 - a. No signage is currently proposed;
 - b. Only licensed facilities are allowed; and
 - c. The site plan does not indicate the number of protected trees that will be retained, though the lot is heavily wooded and some trees will likely need to be removed.
4. As indicated in the email correspondence included in Exhibit 17, Town staff and Walton Engineering staff have discussed potential requirements for NCDOT driveway permit, infrastructure improvements, fire hydrant installation, and solid waste facilities.

Conclusions of Law

As a result of this evidence, the Board of Commissioners finds that the proposed use meets the requirements of this standard, provided the following conditions:

1. A dumpster and recycling receptacle to serve the development's needs shall be required.
2. Placement and screening of the solid waste receptacles must be approved by the Planning Administrator prior to issuance of a building permit.
3. 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.
4. 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.
5. A tree removal permit must be issued by the Planning Administrator prior to the issuance of a building permit.

6. If fewer than 33 protected trees will be retained, the difference must be a minimum of 12 feet in width and consist of trees and shrubbery covering at least 50% of its area.
7. 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.
8. Fire hydrants, as specified by the Fire Marshal, shall be required.
9. Curbing and guttering shall be required at the street.
10. 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.

Findings of Fact

1. In order to be granted a conditional use permit, Section 14-9 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 response to standards included in 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 provided 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.”
3. The subject property is not located in a flood zone.
4. A wetlands delineation performed by Walton Engineering finds no wetlands on the portion of the site proposed for development.
5. A type I buffer is proposed along the front of the property and the portions of the side lots behind residential structures.
6. Mr. Benton testified that the proposed use would adversely affect the use of the industrial properties as it would create considerable risk to potential purchasers and industrial clients of the shell building due to a residential use being directly across the street and due to potential land use and public safety and health issues that could result or be claimed by the residents of the proposed facility.

Conclusions of Law

As a result of this evidence, the Board of Commissioners unanimously finds that the proposed use does not meet the requirements of this standard. The commissioners’ conclusions are as follows:

Commissioner Roops: 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 recruitment, 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.

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.

Findings of Fact

1. In order to be granted a conditional use permit, Section 14-9 of the Town of Burgaw Unified Development Ordinance requires that the applicant prove that “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.”

2. The Compliance with Town of Burgaw’s Adopted Plans document (Exhibit 14) outlines the proposal’s conformity with the Burgaw 2030 Comprehensive Land Use Plan:
 - a. The proposed facility will be located off Worth Beverage Drive, an area with water and sewer infrastructure but little current development, and Land Use Goal 1’s aim is to promote infill development and revitalization of areas with existing infrastructure.
 - b. The facility, employees, and residents will use local services and shop at local businesses according to the application, and Economic Development Goal 1’s aim is to support the profitability and sustainability of existing businesses and industries.
 - c. The proposed facility will provide 9 to 11 new jobs, one of which for a program director who will live in Burgaw to be near the facility, according to the applicant, and Economic Development Goal 2’s aim is to attract businesses and industries that will enhance the economic health and livability of the town.
 - d. Redevelopment of this tract will likely include the loss of many mature trees. Until the protected trees are flagged and a tree removal permit submitted, the total number is unknown, and Environmental Protection Goal 4’s aim is to preserve and enhance the town’s tree canopy.
 - e. This property is designated as Mixed Use Transition on the Future Land Use Map. Mixed use transition areas are designated for land uses that serve to buffer residential areas from intensive commercial, industrial, and institutional areas. Recommended land uses for this are include offices, small-scale multi-family residential, small-scale mixed use developments, adaptive reuse of historic structures, educational, neighborhood scale commercial, and non-neighborhood residential.
3. The response to standards in 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.”
4. Ms. Roth testified that 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.
5. Ms. Roth testified that 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.
6. Mr. Thurmond, representing the Pender County commissioners, testified that the county has worked with Pender Progress Corporation and Four County Electric Membership Corporation on economic development and industrial recruitment through the development of the shell building across the street from the proposed facility.
7. Mr. Thurmond testified that the purpose of the shell building is to get industries to take a look at industrial properties in the Burgaw area and was concerned about the proposed facility’s impact on the shell building.
8. Mr. Benton provided evidence of his expertise in industrial development and planning. He testified that he is now retired but served in local government for over 30 years as a planning director, city manager, and county manager. He has participated in the drafting of 3 city and 1 county comprehensive plan and 2 city and 2 county land use ordinances. He has worked in partnership with 3 county economic development commissions and currently works as a contract consultant with Wilmington Business Development. He was the Pender County Manager when the County Commissioners, Pender Progress, Four County EMC, the Town of Burgaw, and Wilmington Business Development agreed to partner and invest in the industrial shell building.
9. Mr. Benton testified that \$1.6 million had been invested in the shell building property, which has generated interest from industries.
10. Mr. Benton testified that the proposed facility is actually for a multi-family residential based land use including residences for women and children, not just an office or institutional use.
11. Mr. Benton testified that the 2030 Comprehensive Land Use Plan states “the town should be vigilant in stemming residential encroachment into industrial areas to avoid the industry-residential conflicts.”
12. Mr. Benton testified that the proposed facility was in conflict with the Land Use Plan’s Economic Development Goal 1, which includes policies to “consider the impacts of the town’s policies when making decisions regarding development

ordinances, etc.” and “develop partnership with other organizations such as Pender County to promote and market the town’s businesses and industries.”

13. Mr. Benton testified that the proposed facility was in conflict with the Land Use Plan’s Economic Development Goal 2, which aims “to attract business and industries that will enhance the economic health and vitality of the town” and includes policies of “cultivating partnerships with other organizations to market the Town’s economic assets and to actively recruit new businesses and industries: and “ensure the town’s zoning and development codes can accommodate appropriate business and industries.”
14. Mr. Biberstein testified that Pender Progress planned to invest in a new shell building when the existing one was sold, ultimately resulting in heavy industry all along Worth Beverage Dr.
15. Mr. Walton testified that Windsor Fiberglass was located directly across the street from the PORT Human Services facility in town.
16. Mr. Biberstein testified that Pender Progress had not opposed the application for the PORT Human Services facility because the industry was already constructed.
17. Ms. Roth testified that a conditional use permit for a day care center had been approved for the property immediately adjacent to the subject property several years before.
18. Mr. Thurmond testified that the permit had been approved prior to the construction of the shell building.
19. Mr. Harrell testified that the proposed facility was not multi-family; it was an institutional use. This type of facility was also allowed with a conditional use permit in the I-1 district, according to the Town of Burgaw Unified Development Ordinance.
20. Mr. Harrell testified that the PORT Human Services facility is located on an industrially zoned property, and grant funding for the facility was sought by the county, including Mr. Benton and Mr. Thurmond.
21. Mr. Harrell testified that residential uses were already located across from the shell building.
22. Mr. Benton advised the board to review the appropriateness of current zoning ordinances.

Conclusions of Law

As a result of this evidence, the Board of Commissioners unanimously finds that the proposed use does not meet the requirements of this standard. The commissioners’ conclusions are as follows:

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.

Standard 5. The facility shall not 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.

Findings of Fact

1. In order to be granted a conditional use permit for an “Alcohol and/or Substance Abuse Treatment Facility, Residential (more than 6 residents)” use, Section 14-20 of the Town of Burgaw Unified Development Ordinance requires that the applicant prove that “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.”
2. The applicant provided sample rules and consequences for the program, including prohibitions on alcohol and substance abuse and limitations on travel for program participants, with the application (Exhibit 5).
3. The applicant has proposed each resident having her own roll cart for trash disposal.
4. Ms. Roth testified that town and Waste Industries policies would require roll carts be taken to the street on trash days, resulting in a minimum of nine total carts.
5. Ms. Roth testified that town staff will require a dumpster and recycling receptacle to 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.

Conclusions of Law

As a result of this evidence, the Board of Commissioners unanimously finds that the proposed use does not meet the requirements of this standard. The commissioners’ conclusions are as follows:

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 a residential setting.

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

Findings of Fact

1. In order to be granted a conditional use permit for an “Alcohol and/or Substance Abuse Treatment Facility, Residential (more than 6 residents)” use, Section 14-20 of the Town of Burgaw Unified Development Ordinance requires that the applicant prove that “the facility shall be operated in a manner that will provide adequate supervision of all residents.”
2. In the application narrative (Exhibit 2), the applicant 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 Techs 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.”
3. State licensure requirements, as outlined in Exhibit 6, include:
 - a. This type of facility is defined as a 24-hour residential recovery program in a professionally supervised residential facility which provides trained staff who work intensively with individuals with substance abuse disorders who provide or have the potential to provide primary care for their children.
 - b. Each individual and child admitted to a facility shall receive services as appropriate to his or her needs from a qualified professional who has responsibility for the client’s treatment program. Each individual and child shall receive age-appropriate, therapeutic professional services.
 - c. A minimum of one staff member shall be present in the facility with an individual at all times unless the designated qualified professional has documented in the individual client plan certain clearly delineated instances in which the client may be without supervision. In the case of multi-unit facilities which are licensed under the same license, a staff person shall be on the facility premises at all times when an individual is on the premises unless the designated qualified professional has assessed and documented in the individual client plan certain clearly delineated instances in which the client may be without supervision.
 - d. A minimum of one staff member shall be present when one or more children are in the facility. In the case of multi-unit facilities which are licensed under the license, a staff person shall be on the facility premises at all times when one or more children are in the facility. In circumstances when the child’s parent is not present, the staff member must be in the unit with the child or children.
4. Mr. Walton testified that the site is designed where the supervisor can see all duplex entrances from the facility’s office.
5. Mr. Grimes provided in a written statement (Exhibit 19) that “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.”
6. Mr. Grimes testified that residents would receive instruction on parenting and life skills.
7. Mr. Grimes testified that there would be no sleeping shifts.

Conclusions of Law

Based on the evidence, the Town of Burgaw Board of Commissioners finds that the proposed use meets the requirements of this standard.

BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, IT IS HEREBY ADJUDGED, DECREED AND ORDERED AS FOLLOWS:

1. That the applicant’s application for a conditional use permit for an alcohol and/or substance abuse treat facility (more than six residents) is denied.

Adopted and entered on this the 8th day of December, 2015.

TOWN OF BURGAW

ITEMS FROM MANAGER – Old Business – *Chad McEwen, Town Manager*

Resolution 2015-47 Approving a Contract with CGI Communications for the Creation of a Community Video

Mr. McEwen advised last month he presented a resolution regarding a contract with CGI Communications for creation of a community video. He said there were concerns regarding the arrangement that we would be entering into with CGI Communications. He advised he has spoken with CGI representatives and acquired a copy of the contract and added the underlined bold sections. He said one question was about the town's ability and role in developing and editing the video in order to make sure that it is not a cart blanche ability from CGI to develop a video as they see fit. He advised the town would be involved in each draft and the final draft prior to being posted on our web site. He said they don't have access to our website and they don't post the video. CGI creates the video and they coordinate with our website management company VC3. He advised that VC3 is familiar with CGI and has worked with them in incorporating videos into various municipal websites. Mr. McEwen said Pender County is currently working with CGI as is Pender Memorial Hospital.

Mr. McEwen advised the recommendation is the approval of the revised contract with CGI Communications. He said CGI has reviewed and approved the revised language in the proposed contract.

Mayor Mulligan asked if there is any link back into the computer system within the town. Mr. McEwen advised "no". Mayor Mulligan asked if the town has any control on the sort of content that is advertised on our website. Mr. McEwen said his understanding is that if you buy an ad through CGI, there will be logos around the screen during a portion of the video for local businesses that purchase ads and if you click on that ad it will link you to that business website.

There being no further discussion, Commissioner Robbins made a motion to approve Resolution 2015-47 as presented. The motion was seconded by Commissioner Walker and carried by unanimous vote. (Contract is on file in the clerk's office.)

**RESOLUTION 2015-47
RESOLUTION APPROVING A CONTRACT WITH CGI COMMUNICATIONS FOR THE CREATION OF A
COMMUNITY VIDEO**

WHEREAS, the Town of Burgaw wishes to expend more effort in the areas of marketing and branding the attributes of the Town; and

WHEREAS, the Town of Burgaw has been approached by CGI Communications regarding the prospects of creating a video highlighting these local attributes, which include public facilities such as the Depot, Community House, Historic District, Parks, and the Osgood Trail; and

WHEREAS, CGI Communications has proposed to create a promotional video for the Town at no cost in exchange for the ability to sell advertisement space within the video which will ultimately be displayed on the Town's website, and

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 the attached contract with CGI Communications.

SECTION 2. The Town of Burgaw Board of Commissioners hereby authorizes the Mayor or Town Manager to execute the required contract with CGI Communications.

ADOPTED this the 8th day of December, 2015.

Discussion Item – Teal Briar Findings

Mr. McEwen advised last month the Board requested that Bill Fay and Anthony Colon go out and look at the infrastructure at Teal Briar. Mr. Fay advised we are essentially maintaining the water/sewer system in Teal Briar by default. He said there have been no issues with the water system beyond typical service lines issues; there has not been any problem with main lines. Mr. Fay advised on the sewer side there were issues that were addressed during the sewer re-hab project (Phase II). He said there was infiltration at some manholes; the manholes were repaired and lined. He also advised they found a tap that was letting out water causing infiltration. He said that problem was repaired but there still is an issue in the area and it may be a different tap than the prior one. Mr. Fay said all in all the sewer system seems to be in good shape. Mayor Mulligan asked where the town's responsibility starts. Mr. Fay said our responsibility starts when the sewer leaves the subdivision and enters into the town's lift station. He said the same goes for the water. Mr. Fay said the town owns the water meter but other than that we have no

responsibility there. Mr. McEwen said over the years the town has defaulted and taken care of situations in Teal Briar even though it is not our responsibility.

Mr. McEwen advised the roads are a completely different situation in that they are deteriorating at a rapid pace. Mr. McEwen said Mr. Fay doesn't have too much concern about accepting the water and sewer but he does have concerns about taking over the streets (essentially right of way). Mr. Fay advised there are issues with drainage that is contributing to the deterioration of the roads and until they get the drainage issues solved he is not comfortable with accepting the roads.

Mayor Mulligan asked if the streets can be separated from the water and sewer. Mr. McEwen said the owner would have to give us a right of way for the purposes of water and sewer. He said that Mr. Vincent would probably tell us to have it surveyed, but he is not going to pay for that survey. Commissioner Rooks asked why a survey would have to be done. Mr. McEwen said that we don't have any as builts of anything in the development. He said when the economy fell apart we were pushing to get those as builts. He advised the street rights of way, water and sewer system and stormwater system as builts were the items that would have been required.

Mayor Mulligan said we seem to keep going round and round on this item; he said he thinks this needs to go to the infrastructure board and let them hash it out and come up with a resolution. Commissioner Robbins said we can send it to the committee but the committee will send it right back and this has been ongoing for several years now. He said it's not going to go away. He said we are doing repairs out there anyway. Commissioner Robbins said we need to go ahead and admit there is something wrong on both sides and go ahead and take it over somehow. Commissioner Rooks said the streets in town are paved with Powell Bill money and then tax money is used if Powell Bill money is not enough. He said the drainage issue is going to continue. Commissioner Rooks said he agrees with Commissioner Robbins. Commissioner Rooks said we have been kicking this can down the road and getting nothing done. The roads continue to deteriorate and these residents are citizens of the Town of Burgaw. He asked for a legal explanation from Attorney Kenan regarding what the town can legally do in this situation. Attorney Kenan said if the owner of the development does not want to turn over the infrastructure the towns only option is to take over the property by eminent domain. He advised if the town files eminent domain the town will be required to pay for the improvements that will be done. Commissioner Rooks said he is not in favor of paying for anything but we have not pursued asking the owner to turn it over to the town at no cost. Commissioner Rooks said he is in favor of the manager and attorney contacting Mr. Vincent again and offering to take over the water, sewer and streets at no cost but not the drainage because there is a permit on the drainage. He said this situation will not improve unless we do so. He said we are doing repairs out there and we have citizens out there.

Commissioner Rooks made a motion to have the manager and attorney make contact with the owner and offer to take over the infrastructure at no cost. The motion was seconded by Commissioner Robbins.

Vernon Harrell asked if the drainage is an issue with the homeowners or is it with the developer. Mayor Mulligan said it is his understanding the issue is with the homeowners association (HOA). He said they (the homeowners association) are not taking care of their responsibility. Commissioner Rooks asked if the stormwater permit has been checked. Mr. McEwen advised the stormwater permit is in the developer's name. Mr. McEwen explained there is a swale in between several houses that drains the water off the roads. He said in regards to the lots that are adjacent to the swale, their property lines run to the bottom of that swale and the HOA bylaws say those property owners are responsible for maintaining that swale and making sure there is positive fall to the stormwater system. He said the stormwater system in the development is not a pond system, it is a ditch system. He advised the stormwater permit and the responsibility of maintaining the stormwater system, absent the swales, is still the responsibility of the developer. Mayor Mulligan asked how we can make the homeowners keep the ditches cleaned out if we take over the infrastructure. Mr. McEwen advised there is a condition in the bylaws of the HOA that they maintain the drainage; he said the town cannot enforce the conditions of the HOA bylaws. He said we will be beholden to the HOA to do their fair share and if they don't we would have start legal action against them. Karen Harding suggested holding an infrastructure board meeting with the leaders of the HOA and set up a criteria of what they need to do, maybe they could convince the community if they showed some progress then the town would be willing instead just drawing a blank check and taking care of all it; make them show that they are willing to take part in the solution.

Commissioner Rooks said he would be glad to withdraw his motion if you want to have further discussion with them. Mayor Mulligan said he sees the point but he hates to rush in to reduce the liability on property owners that are not willing to help themselves. Commissioner Robbins said have they not said time and time again that two or three have tried to unite that HOA. Mayor Mulligan said so why are we taking on their liability? Commissioner Robbins said they are tax payers in Burgaw and they will always be tax payers here and we have been fixing it anyway. Commissioner Rooks said we don't have the authority to do what we have been doing, so the only thing we are going to do is make it legal for us to be doing what we have been doing. He commented that drainage is the responsibility of the property owners but when it affects our roads it becomes a liability. He said he feels that we would make some progress by showing the homeowners that we have done our part by taking over the water, sewer and streets. He said the stormwater permit people should be able to put some pressure on somebody out there to comply with the rules of the permit. Commissioner Rooks said his motion stands. Mayor Mulligan asked Commissioner Rooks to re-state his motion. Commissioner Rooks made a motion to have the town manager and town attorney make contact with the developer and request that he donate or give the infrastructure for the water, sewer, streets and right of way to the town at no cost to the town. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Other old business from the Manager

Mr. McEwen informed the Board that Mr. Joseph Harrell recently passed away and prior to his death, Mr. Harrell had taken out an insurance policy in the amount of \$19,000 to be payable upon his death to the town for long term maintenance and repair of the depot. He advised today a check was received in the amount of \$20,011 (interest included) from Mr. Harrell's estate. Mr. McEwen advised those proceeds will be posted and at the end of the year they will fall out and become a restricted fund in the budget for the long term maintenance of the depot.

SPECIAL PRESENTATION

Special presentation for outgoing Board of Commission members Charles Rooks and Elaine Tyson

Mayor Mulligan advised Commissioner Tyson is absent due to family illness and unfortunately could not be present today.

Mayor Mulligan presented a plaque of appreciation to Commissioner Charles Rooks and thanked him for his service to the town as a Commissioner. Upon acceptance of the plaque, Commissioner Rooks thanked the Board members and the citizens for their support during his tenure on the Board.

ORGANIZATIONAL MEETING

The Oath of Office was administered to the following newly elected Board members:

Commissioner Elect Vernon W. Harrell – *Oath administered by the Honorable Judge James Faison*

Commissioner Elect Wilfred L. "Red" Robbins – *Oath administered by Sharon Willoughby, Pender County Register of Deeds*

Commissioner Elect William E. "Bill" George, III – *Oath administered by Sylvia W. Raynor, Town Clerk*

BREAK 5:05PM – 5:15PM

Election of Mayor Pro-tem – Board of Commissioners

Mayor Mulligan requested a nomination for the Mayor Pro-tem. Commissioner Robbins nominated Commissioner Howard Walker to serve as Mayor Pro-tem. The motion was seconded by Commissioner Bill George and carried by unanimous vote.

Oath of Office for Howard N. Walker, Jr., Mayor Pro-tem – *Oath administered by Mayor Eugene Mulligan*

Appointment of Council of Governments (COG) Representative

Mayor Mulligan requested a nomination for the Council of Government representative. Commissioner Dawson said she would like to nominate Commissioner Howard Walker if he is willing to accept the appointment. Commissioner Walker advised he is willing to accept the nomination for the Council of Governments representative. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

Appointment of Board members to Policy/Finance Board, Infrastructure Board and Buildings/Grounds Board

Mayor Mulligan announced the following appointments to the sub-committees of the Board of Commissioners:

Policy/Finance Board – *Commissioner Walker, Commissioner Harrell*
Buildings/Grounds Board – *Commissioner Dawson, Commissioner George*
Infrastructure Board – *Commissioner Robbins, Commissioner Harrell*

Commissioner Robbins made a motion to approve the appointments to the boards as presented. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

PUBLIC FORUM

David Dunn, 301 S. Bickett Street, advised he has an issue with the recently approved utility billing policy in regards to the section on “Suspected Meter Errors”. Mr. Dunn read an excerpt from the October 2015 minutes regarding said policy. Mr. Dunn took issue with the wording regarding the meter testing requirements. He said he doesn’t feel it is reasonable to expect a customer to pay a \$200 fee and the cost of testing the meter that they didn’t have any to do with. Mr. McEwen briefly explained the meaning of the policy including the fact that the \$200 administrative fee is designed to be a deterrent to prevent unnecessary meter replacements just because someone feels their bill too high. Mr. McEwen advised the purchase price of replacing meters and labor costs to do the work will result in unnecessary cost to the town. Mr. McEwen said it is not the intent of the policy for the town to go and randomly choose to pull and test meters and pass the cost on to the customer. He said the policy states this action will be taken “if the town determines that a leak may exist”. Mr. Dunn said he feels the wording needs to be changed for clarification. After a suggestion that this item be taken to a board for review and a very lengthy exchange regarding what could/should be done, Mr. McEwen said he believes this issue can be settled by changing one sentence. He asked the Board if we could take five minutes and change the wording. Mayor Mulligan asked Mr. McEwen to bring this item back at the end of the meeting.

NEW BUSINESS

Approval of New Business Agenda

Mayor Mulligan requested to amend the new business agenda by adding a presentation by Noah Harrell, Chair of the Parks and Recreation Committee immediately following the presentation by Jim Fouche, Chair of the Promotions/Special Events Committee. Mayor Mulligan requested a motion to approve the new business agenda as amended. Commissioner Harrell made a motion to approve the new business agenda as amended. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Approval of New Business Consent Agenda

Commissioner Robbins made a motion to approve the consent agenda as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote. The consent agenda and the following items were approved:

- A. Resolution 2015-48 Approving Meeting Schedule for 2016**

**RESOLUTION 2015-48
RESOLUTION TO ADOPT THE REGULAR MEETING SCHEDULE OF THE BURGAW TOWN BOARD OF
COMMISSIONERS FOR 2016**

WHEREAS, General Statute 160A-71 allows a board to fix a time and place for regular meetings; and

WHEREAS, General Statute 143-318.12 (a) requires the Board of Commissioners schedule of regular meetings to be kept on file with the Town Clerk.

NOW, THEREFORE, BE IT RESOLVED that the following meeting schedule for the calendar year of 2016 is hereby adopted by the Town of Burgaw Board of Commissioners:

Tuesday	January 12, 2016	4:00 PM
Tuesday	February 9, 2016	4:00 PM
Tuesday	March 8, 2016	4:00 PM
Tuesday	April 12, 2016	4:00 PM
Tuesday	May 10, 2016	4:00 PM
Tuesday	June 14, 2016	4:00 PM
Tuesday	July 12, 2016	4:00 PM
Tuesday	August 9, 2016	4:00 PM
Tuesday	September 13, 2016	4:00 PM
Tuesday	October 11, 2016	4:00 PM
Tuesday	November 8, 2016	4:00 PM
Tuesday	December 13, 2016	4:00 PM

BE IT FURTHER RESOLVED THAT all meetings shall be held in the meeting room of the Burgaw Municipal Building unless otherwise posted.

Adopted: December 08, 2015

B. Resolution 2015-49 Approving Incorporation of 2015 Municipal Election Abstract into Minutes of December 08, 2015 Meeting

**RESOLUTION 2015-49
APPROVING INCORPORATION OF 2015 MUNICIPAL ELECTION ABSTRACT
INTO MINUTES OF DECEMBER 8, 2015 MEETING**

WHEREAS, a municipal election was held on Tuesday, November 3, 2015; and

WHEREAS, three Board of Commissioners members were duly elected at said election; and

WHEREAS, upon having opened, canvassed and judicially determined the original returns of the election in the precincts, the Pender County Board of Elections has presented an abstract of votes containing the number of legal votes cast in each precinct for each office for the most recent municipal election for the Town of Burgaw.

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

The attached copy of the Municipal General Election Abstract of Votes for the Town of Burgaw shall be entered into the minutes of the December 8, 2015 Board of Commissioners meeting to be preserved in perpetuity as a record of said election. *(Copy of abstract on file in the clerk's office)*

Adopted this eighth day of December, 2015.

Fire Department

Presentation of roster of newly elected officers for the fire department - motion for approval required for the record

Allen Wilson, Fire Administrator advised the purpose of this item is to request approval of the newly elected officers for the fire department. He advised the fire department has conducted its biennial election of officers. Mr. Wilson advised the following officers were elected by the membership and their respected positions. He also informed the Board the term for each office is two years.

Allen Wilson, Fire Chief
Timothy "Clay" Jasper, Deputy Chief
George "Tommy" Garriss, Assistant Chief
Johnny "Ben" Head, Captain
Phillip "Brent" Stophel, Captain
Earl Brown, Lieutenant
Jared "Nick" Smith, Lieutenant
Andrew "Jay" Paluck, Lieutenant

Mr. Wilson requested a vote of approval from the Board. There being no discussion, Commissioner George made a motion to accept the officers as elected. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

COMMITTEE PRESENTATIONS

Presentation by Promotions and Special Events Committee

Jim Fouche, Chairman of the Promotions and Special Events Committee thanked the elected officials and the staff for the work they do. Mr. Fouche advised most recently the committee aided in promotion of Halloween activities as well as the Christmas tree lighting after Thanksgiving. He advised there will be a presentation regarding a proposed splash pad at the January meeting. Mr. Fouche advised the committee submitted a budget and a marketing plan for the depot. He said these items may be revisited in the next budget process, particularly a website promoting the depot. He thanked the board for voting in Jakim Friant as a committee member. Mr. Fouche asked the Board to take a look at the current ordinance that governs the Promotions and Special Events committee to try and implement it based on what your intent is. He said it is very clear that we are an advisory committee and that we don't have any authority but then you ask us to do things like coordinate, create, oversee and unless we can clear that sometimes we are not exactly sure what the limits are and who we work with. He asked the Board to look at the ordinance and clearly define the responsibilities.

Commissioner Dawson commented on the great job done by the committee especially on the tree lighting event.

Commissioner Robbins asked Mr. Fouche if the committee has used any of the \$5000 that has been budgeted for their use this year. Mr. Fouche advised "not yet". Commissioner Robbins said if they are not going to use it this year, it is possible that the \$5000 can be rolled over into next year's budget to add another \$5000 to make the \$10,000 they originally asked for. Mr. Fouche said the \$10,000 was to support a marketing campaign for the depot and the community house. He said they did not realize until later that they only received \$5,000 in this year's budget. Mr. Fouche said this item can be revisited. He said this has been a learning process for all involved.

Mayor Mulligan asked Mr. Fouche if he writes the checks and if he comes up with a plan to select a website builder, do you go to the individual and employ him to create a website and write a check or do you bring that to town board and say this is the person we want to hire and this is what it will cost; how does that work? Mr. Fouche said that is part of the ambiguity. He said our main mission is to advise. He said we would advise that a web page or something like that be created for the depot. He said we would do some legwork to see what it would cost but the ambiguity comes in because are we are getting into an area that the staff has purview over or should we be expected to call up a

vendor and ask how much will you charge us to do this, what are the technicalities and let me see your contract and then the committee evaluates the contract. Mr. Fouche said he is not sure that it is within their purview to do that.

Mayor Mulligan said we need to get together with the Policy/Finance Board and possibly even have an executive board meeting as opposed to a board of commissioners meeting as a retreat so we can sit down and iron out all these things so it makes it easier for us and easier for you. Mr. Fouche advised we need to get rid of the ambiguity in the ordinance. Monique Kirby, committee member stated that she agrees with what Mr. Fouche has said. She feels that there needs to be some clarification of the process.

Presentation by Parks and Recreation Committee

Noah Harrell, Chair of the Parks and Recreation Committee thanked the Board for funding the yoga classes and providing the community house. He said the classes have been very popular. He also thanked Rebekah Roth for her work on the bike and pedestrian plan. He said next year we will be bringing a few items for review such as municipal outdoor basketball courts, a recreation center (further into the future), improving cross walk awareness for both pedestrians and drivers mainly along the walking trail and a potential walking film tour in town. Mr. Harrell said those are some of the projects we will be bringing before the board in the near future.

Mayor Mulligan advised we will be advertising for a replacement member on the Parks and Recreation Committee due to the resignation of Vernon Harrell. Mayor Mulligan asked that the members of the Parks and Recreation Committee also try to seek out a new member to fill this position.

ITEMS FROM ATTORNEY – NEW BUSINESS – *Robert Kenan*

None.

ITEMS FROM MANAGER – NEW BUSINESS – *Chad McEwen*

Mr. McEwen advised he has the rewritten portion of the Utility Billing Policy that was discussed earlier. Mr. McEwen read a revised draft of the policy that was referenced in Mr. Dunn's discussion during the abovementioned public forum item. After hearing the draft amendment, the Board was in agreement with the amendment and the following motion was made.

Commissioner Harrell made a motion to amend the utility policy as adopted during the October 13, 2015 meeting of the Board of Commissioners to strike in its entirety the section captioned "Suspected Meter Errors" and replacing with the following provisions:

Upon receipt of a request to test a water meter for a suspected malfunction, the Town may remove the meter for testing. The property owner or resident requesting the testing will first post a \$200 administrative fee with the Town to cover the cost of removing and testing the meter. The accuracy of the meter will be tested and verified by a third party of the Town's choosing.

In the event that the meter tests at an accuracy level of 100% or less the property owner or resident shall forfeit the administrative fee. Any meter tested which indicates a reading over 100% will result in a credit being applied towards future billing to an active account. If the account is inactive, a refund will be issued to the customer.

The motion was seconded by Commissioner Dawson and carried by unanimous vote.

ITEMS FROM MAYOR

Mayor Mulligan advised he has received a letter from Ruth Glaser, Administrator of Pender Memorial Hospital regarding a site plan requesting the addition of two cross walks on Satchwell Street. Mayor Mulligan referred this item to the infrastructure board for review. It was the consensus of the Board to allow the infrastructure board to review the request by Ms. Glaser.

Mayor Mulligan presented a handout to the Board members and Mr. McEwen. Mayor Mulligan advised he has been studying the salaries and the personnel policy. He said it occurs to him that the policy of the town is being broken. He referenced the handout that he presented to the Board and the manager and said there are examples of four employees with raises they have received within certain time frames; he said the rest is self-explanatory. Mayor Mulligan said the town policy is Section 7; page 13 'merit and reclassification'. He asked the board to peruse that. Commissioner Robbins said "I see numbers and percentages, but I don't see it, without knowing which department". Mayor Mulligan said the department is not important but basically the pay increases in section 7 of your town policy states that employees who have served the Town of Burgaw in a permanent position for twelve (12) months or greater shall be eligible to receive not more than a six percent (6%) increase in salary as a result of pay grade reclassification/promotion or be paid at the minimum of the new pay grade; these are examples of where that policy was not followed. He said it was a breach of the policy from what he can see. He said he is trying to find out and what we can do about it.

Attorney Kenan commented that handing out this document and even with me reviewing it, I don't quite understand it. He said since the manager is the head personnel director of the town this needs to go to him. Mr. McEwen advised it would have been nice if it had gone to me before the meeting. Attorney Kenan advised Mayor Mulligan he needs to have discussion with the manager as to who employees a, b, c & d are and to let Mr. McEwen review that before anything can be stated by the manager back to the board. He said out of fairness to Mr. McEwen he needs time to review this as well as out of fairness to the Board for them to understand it. Attorney Kenan said the information presented doesn't make sense to him. He said (speaking to Mayor Mulligan) it said it may be in your case because you have reviewed it and studied it but just handing it to the Board and asking for comments without some additional information will be very difficult for this board to discuss it.

Commissioner Harrell asked if this is something that would need to go before the finance committee. Mayor Mulligan said certainly the finance committee should have a look at it and I don't understand the attorney's objection; I don't know that the identity of the particular positions makes any difference to the information. Commissioner Robbins said he disagrees because we did some restructuring in the police department this past year and if this has to do with that we did raise salaries. Mayor Mulligan said for what it's worth none of these employees are police personnel. He commented that even as a board, we are not allowed to break our own rules, are we, unless we change them. Commissioner Robbins said he agrees with Commissioner Harrell that maybe this needs to go to the policy/finance board for review. Commissioner Robbins said he doesn't know how we could attack this now without knowing the where and why, I see your point and I think it needs to go to the policy/finance board. Mr. McEwen asked Mayor Mulligan if there is a reason why this wasn't shared with him prior to the meeting so he could look at these numbers and employees. Mayor Mulligan said no particular reason, it's just information. I would like to know why this happened because it seems a breach of town policy. He said he has only done this research in the last couple of days and printed it up this morning. He said to the Board, if you would like to refer this to policy/finance, if someone would like to make that motion, please do so.

Commissioner Robbins made a motion to send this item to the policy/finance board if that's what the other board members would like to do. He also commented he cannot see the way it is presented that the Board could take any action or discuss it any further because we don't know what we are discussing. The motion was seconded by Commissioner Harrell and carried by unanimous vote. The Policy/Finance Board meeting was scheduled for Tuesday, December 15th at 10:00 AM.

ITEMS FROM BOARD OF COMMISSIONERS

Commissioner Robbins mentioned the long range planning session that we normally have and commented that in the past it has been combined with another session which makes for a long day. Mr. McEwen advised that last year we had only a CIP meeting instead of the combined CIP and strategic planning that we had two years ago. He said that having both meetings in one day is too much. He suggested that we should be looking at dates.

Mayor Mulligan said he had suggestions from several people on different boards that it might be a good idea to have a retreat for Commissioners, Planning Board, Parks/Recreation and Promotions/Special Events. Commissioner Robbins suggested having two meetings, one in the morning and one in the evening. He also said if you bring in all

these boards it will take longer to get it done. He suggested that we do a strategic planning session with the Board of Commissioners and staff and pick another time to have a meeting with the other boards and committees. After discussion it was the consensus of the board to meet with the advisory boards on Tuesday, February 2 at 6PM to 8:30PM.

Commissioner Robbins said he feels that it would be very patriotic if the town puts up a POW/MIA flag at the depot and that the tree city flag could be moved over to the town hall property. After discussion, Commissioner Robbins made a motion to place a POW/MIA flag to honor our country, the fallen soldiers, soldiers that have not returned and the ones in the future that will not return and that the flag shall be flown on the flag pole at the depot beside the American flag and that the Tree City flag will be moved to the town hall property and allow the maintenance staff and planning/ zoning staff to choose an appropriate location for the Tree City flag. The motion was seconded by Commissioner Walker and carried by unanimous vote.

Commissioner Robbins requested that Chief Hock follow up on Ms. Elizabeth Herring's situation on Linda Lane. Chief Hock said he has met with Ms. Herring to let her know that we are aware of the gentleman that she was speaking of and he has been in contact with Probation and Parole. He advised this subject is abiding by his rules and regulations for his parole. He is complying with everything. He advised Ms. Herring is not happy with his presence in her neighborhood but she acknowledges that she sees the officers come down there. She has Chief Hock's contact information and she will make contact if she has any concerns.

Commissioner Dawson thanked Bill Fay, PW Director for removing the dead tree from the walking trail. She also advised that her agenda packet was not delivered until Saturday night. She advised that she had been away sporadically during the time the patrol officers attempted to deliver the packet and they missed her each time. She made arrangements with Chief Hock regarding a delivery method that works for her schedule.

Commissioner Harrell advised he is interested in establishing an adopt-a-green space program in town for town residents dealing with town properties. Most residents do it as a natural course of events adopting a place right in front of their house between the sidewalk and the curb. He advised he would like for people or groups to be able to adopt green space that is currently taken care of by the town which would save the town money in upkeep and also allow people to get more involved in their surroundings. He advised this is something that we would have to lay some groundwork for but he would like to pursue that in the future. Mayor Mulligan advised this item will be referred to the Buildings and Grounds Board for further discussion. Mayor Mulligan asked when the next meeting will be held. He was advised the board meets on an as needed basis. There being no items on the Buildings/Grounds Board agenda at this time, Commissioner Harrell advised he is willing to wait until a later date when there may be other items to discuss since this is not a critical issue. Commissioner Robbins agreed that Commissioner Harrell's recommendation is a good idea and that we should not let any item go longer than a couple of months without meeting with the proper board. Mayor Mulligan recommended consideration of holding quarterly meetings of the boards whether or not there is an imminent need or not. He said this should be discussed at the next meeting.

ADJOURNMENT

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

The meeting adjourned at 6:25PM.

Eugene Mulligan, Mayor

Attest: _____
Sylvia W. Raynor, Town Clerk