

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

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

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

OLD BUSINESS

Approval of Minutes of the November 12, 2013 Regular Meeting and Closed Session

Mayor Cowan asked if there were any requests to amend the minutes of the November 12, 2013 regular meeting and the minutes of the November 12, 2013 closed session. There being no requests for amendments, Commissioner Robbins made a motion to approve the minutes as presented. The motion was seconded by Commissioner Rooks and carried by unanimous vote.

SPECIAL PRESENTATIONS

Mayor Cowan presented a plaque of appreciation to Elder Bryant Crosson for his service as Chaplain for the last two years.

Howard N. Walker, Jr., Mayor Pro-tem spoke at length regarding out-going Mayor Cowan's many accomplishments during his years as a Commissioner and Mayor. MPT Walker presented a plaque of appreciation to Mayor Cowan.

Chad McEwen, Town Manager presented a letter from Senator Bill Rabon thanking Mayor Cowan for a job well done as Mayor. Mr. McEwen also read a letter of appreciation from Congressman Walter Jones and presented a flag that was flown over the Capitol Building in Washington DC on December 2nd in honor of Mayor Cowan.

Mayor Cowan gratefully acknowledged all those that supported him during his years on the Board and gave his regards to those present for all the best in the future.

ORGANIZATIONAL MEETING

The Oath of Office was administered to newly elected Commissioners Jan Dawson and Howard N. Walker, Jr. by the Honorable Judge James Faison.

The Oath of Office was administered to newly elected Mayor Eugene Mulligan by the Honorable David Williams, Chairperson of the Pender County Commissioners.

Election of Mayor Pro-tem – Board of Commissioners

Commissioner Robbins nominated Commissioner Walker to serve as Mayor Pro-tem. The motion was seconded by Commissioner Rooks and carried by unanimous vote.

Appointment of Council of Governments (COG) Representative – Board of Commissioners

Commissioner Robbins nominated Commissioner Walker to serve as the Cape Fear Council of Governments representative. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

FIVE MINUTE BREAK

Mayor Mulligan called for a five minute break at 4:25PM. The meeting reconvened at 4:31PM.

NEW BUSINESS

Approval of Agenda

Mayor Mulligan advised the next item of business is approval of the agenda. Upon request for approval of the agenda, Attorney Robert Kenan advised Attorney Kent Harrell has approached him and requested to be included on the agenda in order to present a petition to the Board. There being no objection, Mr. Harrell's request was approved as Item 11A on the agenda. There being no further amendments, Commissioner Rooks made a motion to approve the agenda as amended. The motion was seconded by Commissioner Walker and carried by unanimous vote.

Presentation of Petition by Attorney Kent Harrell

Attorney Kent Harrell advised for the record his address is 217 Oxbow Landing, Burgaw NC. Attorney Harrell advised he was asked to attend the meeting today to present a petition that has been signed by approximately fifty residents of the Town. He advised the petition requests that the Board of Commissioners investigate Mayor Mulligan's status to hold elective office in the Town of Burgaw. The concern is that Mayor Mulligan doesn't live in town. The citizens are asking that the Board conduct an investigation to determine if in fact Mayor Mulligan resides within the city limits of Burgaw and will therefore be qualified to hold the office. Attorney Harrell presented the petition to the Town Clerk.

Commissioner Rooks commented that at some point in time the Board will need to have discussion and decide if we (the Board) are going to recognize the petition. Commissioner Rooks advised he did not sign the petition and did not know anything about it. Commissioner Rooks asked Attorney Kenan what the legal position of the Board is in this circumstance. Attorney Kenan advised the Board may take action on the petition, delay action on the petition or not take action at all. He advised the Board they don't have to do anything today if they don't want to.

Mayor Mulligan asked for comments, discussion or a motion from the Board. Commissioner Rooks advised he prefers to table the item today, to not act in haste and have a Board discussion at a future date. Commissioner Robbins commented that this is the first time he has heard of it and added that residency is a difficult thing to prove or disprove. He said this cannot be decided on a whim and he is not ready take action on this item today.

Commissioner Rooks made a motion to table discussion on the petition until the next regular meeting and give Mayor Mulligan an opportunity to inform the Board of his position. He said Mayor Mulligan signed the affidavit at the Board of Elections stating his residency and he would ask the Mayor to show the Board what justifies him being a town resident and the Board will discuss it at the next Board meeting. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Approval of Consent Agenda

Mayor Mulligan asked for a motion on the consent agenda. Commissioner Dawson made a motion to approve the 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. Resolution 2013-43 Approving Meeting Schedule for 2014

RESOLUTION 2013-43

RESOLUTION TO ADOPT THE REGULAR MEETING SCHEDULE OF THE BURGAW TOWN BOARD OF COMMISSIONERS FOR 2014

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 2014 is hereby adopted by the Town of Burgaw Board of Commissioners:

Tuesday	January 14, 2014	4:00 PM
Tuesday	February 11, 2014	4:00 PM
Tuesday	March 11, 2014	4:00 PM
Tuesday	April 8, 2014	4:00 PM
Tuesday	May 13, 2014	4:00 PM
Tuesday	June 10, 2014	4:00 PM
Tuesday	July 8, 2014	4:00 PM
Tuesday	August 12, 2014	4:00 PM
Tuesday	September 9, 2014	4:00 PM
Tuesday	October 14, 2014	4:00 PM
Monday	November 10, 2014	4:00 PM
Tuesday	December 9, 2014	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 10, 2013

B. Resolution 2013-44 Approving Incorporation of 2013 Municipal Election Abstract into Minutes of December 10, 2013 Meeting

RESOLUTION 2013-44

APPROVING INCORPORATION OF 2013 MUNICIPAL ELECTION ABSTRACT INTO MINUTES OF DECEMBER 10, 2013 MEETING

WHEREAS, a municipal election was held on Tuesday, November 5, 2013; and

WHEREAS, a Mayor and two 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 10, 2013 Board of Commissioners meeting to be preserved in perpetuity as a record of said election.

Adopted this tenth day of December, 2013.

*Attachment on file in clerk's office.

SPECIAL PRESENTATION

Acquisition of Onslow Container Service - Mark Myers, Director of Sales and Marketing, Waste Industries

Mark Myers advised he is present to ask for assignment regarding the current contract for solid waste collection within the Town. He advised on November 22, 2013 Waste Industries acquired Onslow Container Service (OCS). He further informed the Board that the OCS contract is assignable and he is present to ask the Board's consent to assignability. Mr. Myers advised there will be no changes in the contract except for the name. He advised he has already provided a performance bond and a certificate of insurance to the town manager. After some discussion, Mr. McEwen advised Attorney Kenan has drafted a revised version of the consent to assignment document for the Board's review. Mr. McEwen advised the revised version of the consent to assignment has been reviewed and approved by Waste Industries staff.

Commissioner Rooks made a motion to approve the "consent to assignment" agreement with Waste Industries, Inc. The motion was seconded by Commissioner Tyson and carried by unanimous vote. (Agreement on file in the clerk's office.)

ITEMS FROM ATTORNEY – *Robert Kenan*

None.

ITEMS FROM MANAGER – *Chad McEwen*

Resolution 2013-45 Requesting Pender County Maintain All Court Facilities and Operations within the Central Business District of Downtown Burgaw

Mr. McEwen advised he was directed by the Board to draft a resolution to be presented to the Pender County Board of Commissioners requesting that the County maintain all court facilities and operations within the central business district. After review of the resolution by Mr. McEwen, Commissioner Rooks made a motion to approve Resolution 2013-45 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

RESOLUTION 2013-45

RESOLUTION REQUESTING PENDER COUNTY MAINTAIN ALL COURT FACILITIES AND OPERATIONS WITHIN THE CENTRAL BUSINESS DISTRICT OF DOWNTOWN BURGAW

WHEREAS, the Pender County Courthouse is the physical and architectural centerpiece of the Town of Burgaw's National Historic District, and

WHEREAS, the utilization of the Pender County Courthouse by the court system helps insure that the building will continue to contribute to the National Historic District as well as the sense of place that is distinct to downtown Burgaw, and

WHEREAS, furthermore the presence of the Pender County Courthouse and Basden Judicial Annex generates a significant amount of commerce for the downtown businesses, restaurants, shops, and offices, and

WHEREAS, the recent decision to construct a new sheriff's department and jail complex along US 117 has raised concerns among downtown merchants, business owners, residents, and the Town of Burgaw Board of Commissioners regarding the future possibility that the court system may also eventually relocate out of the downtown area, and

WHEREAS, the Town of Burgaw Board of Commissioners feels the relocation of the court system from downtown Burgaw would result in a significant negative impact on the existing businesses in the downtown area, and

WHEREAS, furthermore this relocation would significantly impact the abilities of property owners to recruit tenants for available commercial space, and

WHEREAS, these impacts would result in reductions in both sales tax revenues and property taxes collected by both the Town of Burgaw and Pender County associated with the businesses and properties within the downtown area.

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

Section 1: The Town of Burgaw Board of Commissioners hereby respectfully requests the Pender County Board of County Commissioners express, through resolution, their commitment to the continued use of the current Pender County Courthouse and Basden Judicial Annex.

SECTION 2: The Town of Burgaw Board of Commissioners hereby respectfully requests the Pender County Board of Commissioners express, through resolution, their commitment to exhaust all possible future expansion opportunities in downtown Burgaw prior to exploring any future expansion plans which would result in any court facilities being constructed.

ADOPTED this the 10th day of December, 2013.

Discussion Item – Replacement to fill Chaplain's position

Mr. McEwen informed the Board that he is currently seeking a replacement for Chaplain Crosson who recently resigned his position. Mr. McEwen advised he has spoken with someone interested in filling the position of Chaplain. He advised he anticipates an answer within the next few days.

Eagle Scout Project Request

Amos Lanier stated that he is a Life Scout in Troop 242 here in Burgaw. Mr. Lanier advised he is currently working on his Eagle Scout Project. He said he would like to put in flower beds, sod and exterior lighting at the old jail site which is currently being renovated by the town. Mr. Lanier advised he feels that the town is doing a great thing in restoring the building and he would like to be a part of it. He asked the Board to consider allowing him to do this work on the old jail grounds. After a brief discussion, it was the consensus of the Board to allow Mr. Lanier to go ahead with his project to include submittal of a site plan to be reviewed and approved by the appropriate town staff. The Mayor and Board thanked Mr. Lanier for his interest in the old jail renovation project.

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

Commissioner Robbins inquired about the status of the HOA situation at Teal Briar. Mr. McEwen advised he has made contact with Adam Nicholson who handles Mr. Vincent's projects. Mr. Nicholson advised Mr. McEwen that they are committed to solving the problems. Mr. Nicholson said there is no money to address the issues at Teal Briar but when he receives the letter mailed from the Town he will sit down with Mr. Vincent and the partners to see what can be done. There was a brief discussion regarding the issues at Teal Briar.

Commissioner Robbins commented "hats off" to all who decorated the town for Christmas. He said everyone did a wonderful job and the town looked great.

Commissioner Dawson commented about a dip in the street (Smith Street) that was patched during recent construction. Bill Fay advised the area has only been patched and will eventually be repaved with a permanent surface. There was much discussion regarding the sewer re-hab project and the issues caused by disturbance of the pavement.

BREAK (4:55PM – 5:05PM)

PUBLIC FORUM – There were no speakers present for public forum.

PUBLIC HEARING

Public Hearing: Consideration of amending the Town of Burgaw Code of Ordinances regarding the reorganization of committees of the Board of Commissioners to include creation of new committees and dissolution of certain boards and committees that will become obsolete due to the reorganization – Chad McEwen, Town Manager

Mayor Mulligan opened the public hearing at 5:07PM.

Mr. McEwen advised at the last Board of Commissioner’s meeting, the Board instructed the Town Manager to develop an ordinance that would reorganize all existing committees and boards of the Town (excluding the Tourism Development Authority, Planning Board, and Board of Adjustment) into fewer more condensed, subject matter related committees. By completing this reorganization it is anticipated that several issues will be addressed. First, the reorganization will improve the efficiency of the review process for issues that are considered by the new Boards. Second, it is anticipated that this reorganization will assist with the individual productivity of the new Boards. Finally, the reorganization is designed to address certain areas where an advisory board is needed but currently doesn’t exist such the Town owned buildings and property (including the Community House, Old Jail, Old EMS building, Town Hall, etc.) and Parks and Recreation.

Mr. McEwen advised the proposed new Boards are as follows along with their respective subject matters:

Buildings and Grounds Board

Governmental Buildings and Grounds
Parks and Recreation
Tree Board Responsibilities
Cemetery
Christmas Decorations and Events

Infrastructure Board

Streets
Water and Sewer
Stormwater
Sanitation and Drainage

Policy and Finance Board

Finance
Ethics
Safety

Mayor Mulligan asked Mr. McEwen if the Buildings and Grounds Board includes the Depot. Mr. McEwen advised that Buildings and Grounds includes all publicly owned property by the Town. Mayor Mulligan asked if he is talking about the buildings and grounds or if he talking about the functions of the Depot. Mr. McEwen advised this includes every aspect of all the buildings including maintenance, policy related to those buildings and all components regarding the public buildings and grounds.

Commissioner Rooks stated that he understands that these proposed boards are to meet and come back to the full Board with recommendations. Mr. McEwen advised that is correct. Mr. McEwen advised the ordinance states that these proposed boards are advisory in nature only.

Chris Walker advised he owns and operates a commercial business downtown. Mr. Walker asked the Board to be slow and deliberate in the decision to consolidate the boards and committees as proposed. He advised that he has

done research on other comparable towns and stated that all their boards have no commission or council members on them. Mr. Walker said if the boards and committees are consolidated and council members are placed on the boards the public is left out. He said we have a new mayor now that the majority of the citizens have voted for him and a lot of local businesses got excited about the opportunities and supported him. Mr. Walker said he feels there is an opportunity to get more citizens involved and bring in more opinions before the Board of Commissioners that can help them with their jobs as elected officials. Mr. Walker said that the Board of Commissioners has had to pull double duties and triple duties because of a lack of volunteers. He said he is also aware that several volunteers have never been selected to serve on committees, etc. He reiterated his request to consider more public input before allowing consolidation of the boards and committees.

Karen Harding asked if those persons serving on boards will be reappointed or scrapped altogether. Mr. McEwen advised the Board of Commissioners will make that determination. He advised that per the proposed ordinance the Tree Board, Depot Board and Recreation Commission will be rescinded. He advised the actual membership will be composed of members of the elected body with that membership to be determined by the elected body.

Commissioner Rooks asked what attendance of citizen committees has been like in the past. Mr. McEwen advised there have been some issues with certain boards when meetings either had to be postponed due to lack of a quorum and occasionally getting everyone together on a certain date to hold a meeting has been an issue. Commissioner Rooks asked if the people appointed to the committees have to be commissioners. Mr. McEwen advised the way the ordinance is written the members must be elected officials but the Board may change that if they desire.

Mayor Mulligan commented that we are appointing advisory boards, sitting on them ourselves and taking our own advice. Commissioner Tyson stated that all committee meetings are open to the public and the public is allowed input in these meetings. She said it is difficult to get people to serve on boards and to attend.

Commissioner Robbins suggested that we postpone this decision and allow Mayor Mulligan to come back with a proposal and if it is better than this one, then we will take a look at it. Commissioner Robbins also commented that there has been a problem with getting the people to stay and work on these boards and it seems that when things are done it is still left up to the Town Board to get it done. He agreed with comments made previously by the clerk regarding the fact that the meetings are open to the public. He said the committee meetings in the past have been very open and cordial in a relaxed atmosphere. He advised he has no problems tabling this issue until a later date.

Commissioner Rooks stated that we must have functioning committees. He asked if the boards that are currently will continue to function until new committees are in place. Mr. McEwen said none of the boards in place will be affected if the ordinance is not approved.

Commissioner Rooks asked Mayor Mulligan to bring any recommendations that he might have and be prepared to present at the next meeting. Mayor Mulligan advised he will meet with the town manager and discuss the issue prior to the next meeting and bring back a proposal.

There being no further discussion, Mayor Mulligan closed the public hearing at 5:21PM.

Commissioner Robbins made a motion to table any action on Ordinance 2013-31 until the January board meeting. The motion was seconded by Commissioner Rooks and carried by unanimous vote.

CLOSED SESSION

Commissioner Dawson made a motion to go into closed session pursuant to GS 143-318.11 paragraph (a) item (6). The motion was seconded by Commissioner Tyson and carried by unanimous vote.

OPEN SESSION RECONVENED

Commissioner Tyson made a motion to reconvene to open session. The motion was seconded by Commissioner Dawson and carried by unanimous vote. There was no action taken in closed session.

ADJOURNMENT

There being no further business, Commissioner Rooks made a motion to adjourn. The motion was seconded by Commissioner Dawson and carried by unanimous vote. The meeting adjourned at 5:47PM.

Eugene Mulligan, Mayor

Attest: _____
Sylvia W. Raynor, Town Clerk