

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

**DATE:** October 9, 2018  
**TIME:** 4:00 PM  
**PLACE:** Burgaw Municipal Building  
**BOARD MEMBERS PRESENT:** Mayor Kenneth Cowan  
Mayor Pro-tem Wilfred Robbins  
Commissioners Jan Dawson, Bill George, Vernon Harrell and James Murphy  
**STAFF PRESENT:** Joseph Pierce, Town Manager  
Kristin J. Wells, Town Clerk  
Zachary Rivenbark, Town Attorney  
Alan Moore, Public Works Director  
Louis Hesse, Building Code Administrator  
Jim Hock, Police Chief  
Jim Taylor, Fire Chief  
Wendy Pope, Finance Officer  
Karen Dunn, Planning Administrator  
Kim Rivenbark, Deputy Clerk  
Zachary White, Parks & Recreation Coordinator  
Chad Staradumsky, Community Development Coordinator  
**MEDIA PRESENT:** None  
**INVOCATION:** Reverend William Smith  
**PLEDGE OF ALLEGIANCE:** All

The meeting was called to order by Mayor Kenneth Cowan at 4:00PM. Mayor Cowan read a State of Emergency Declaration that was issued prior to the meeting for the approach of Hurricane Michael expected to impact the area. The invocation was delivered by Reverend William Smith. The Pledge of Allegiance was said by all.

**Approval of Agenda**

Mayor Cowan requested an amendment to the agenda to recognize two members of the Planning Board prior to the Special Presentations and to allow them to make a few remarks. Commissioner Dawson made a motion to approve the amended agenda. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

**Approval of Consent Agenda**

Commissioner Harrell said he would like to remove Item B “Resolution 2018-15 Adopting a Statement of Inconsistency of the Scotch Bonnet Solar, LLC Rezoning Request with the Burgaw 2030 Comprehensive Land Use Plan” from the consent agenda. Commissioner Robbins was not in favor of removing this item. Commissioner Harrell said he felt like this item needed further discussion. Commissioner Robbins commented the board had already discussed this issue at the previous board meeting. Commissioner Harrell commented he does not believe the Scotch Bonnet Solar is inconsistent with the land use plan.

Commissioner Robbins made a motion to approve the consent agenda as presented. The motion was seconded by Commissioner Dawson. Commissioner Robbins, Dawson, George and Murphy voted “aye.” Commissioner Harrell voted “nay.” Motion carried four to one.

- A. Approval of the August 14, 2018 regular meeting minutes.
- B. Resolution 2018-15 Adopting a Statement of Inconsistency of the Scotch Bonnet Solar, LLC Rezoning Request with the Burgaw 2030 Comprehensive Land Use Plan

**RESOLUTION 2018-15  
ADOPTING A STATEMENT REGARDING THE INCONSISTENCY OF THE SCOTCH BONNET SOLAR,  
LLC REZONING REQUEST WITH THE BURGAW 2030 COMPREHENSIVE LAND USE PLAN**

**WHEREAS**, applicant Scotch Bonnet Solar, LLC – Veronica Gunter are requesting the rezoning of a of a +/- 26 acre portion of Parcel ID: 3228-88-1880-0000 located at 1051 US Hwy 117 S from R-20 to I-1 – CZ - 1 Conditional Zoning District to construct a 5MW solar photovoltaic facility; and

**WHEREAS**, Town of Burgaw planning staff have reviewed the proposed rezoning for consistency with the Burgaw 2030 Comprehensive Land Use Plan and presented their findings to the Town of Burgaw Planning Board and Town of Burgaw Board of Commissioners; and

**WHEREAS**, the Town of Burgaw Planning and Zoning Board voted at their July 19, 2018 meeting to recommend the adoption of a draft consistency statement to the Board of Commissioners; and

**WHEREAS**, the Town of Burgaw Board of Commissioners reviewed the staff report and draft consistency statement at their August 14, 2018 meeting and find the requested rezoning with proposed conditions to be inconsistent with the Burgaw 2030 Comprehensive Land Use Plan, unreasonable, and not in the public interest; and

**WHEREAS**, the Town of Burgaw recognizes agriculture and forestry as integral parts of the town’s economic and environmental health; and

**WHEREAS**, agricultural and forestry lands contribute to the small town character of the community; and

**WHEREAS**, the Town of Burgaw seeks to preserve, maintain, and support agriculture and forestry within its zoning jurisdiction;

**NOW THEREFORE BE IT RESOLVED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT** the proposed conditional rezoning is inconsistent with the Burgaw 2030 Comprehensive Land Use Plan and Future Land Use Map because the subject property is designated as Rural Character on the Burgaw 2030 Future Land Use Map. Properties in this land use category are intended to remain rural in nature, with low density and a primarily agricultural character. The I-1-CZ-1 Light Industrial Conditional Zoning District does not maintain the rural character of the community and does not preserve, maintain, and support agriculture within Burgaw’s zoning jurisdiction.

**Adopted** this 9<sup>th</sup> day of October, 2018.

## **SPECIAL PRESENTATIONS AND REQUESTS**

Planning Board members, Reverend William Smith and Reverend James Malloy spoke in regards to the recovery efforts after Hurricane Florence. Mayor Cowan and Pender County Emergency Management Director Tom Collins also commented regarding the relief efforts.

### **Life Saving Awards – *Jim Taylor, Fire Chief***

Fire Chief Taylor recognized Firefighter Brent Stophel, Firefighter Clay Jasper, and Captain Jay Paluck with Life Saving Awards in response to an incident that occurred on April 5, 2018 on Stag Park Road. Their efforts were contributed directly in saving the life of James Swisher. Mr. and Mrs. Swisher briefly spoke and thanked the firefighters for their assistance.

### **Blueberry Festival Request – *Olivia Dawson, Blueberry Festival Coordinator***

Ms. Dawson presented the festival road closures for the 2019 festival. Commissioner Dawson does not have any issues with the closures and the board can look at making modifications closer to the festival if necessary.

## **DEPARTMENTAL ITEMS**

### **Finance – *Wendy Pope, Finance Officer***

#### **Approving Ordinance 2018-10 Amending the FY 18-19 budget to provide funding for incomplete purchases in prior Fiscal Year**

Ms. Pope explained the reason for the amendment as described in the ordinance below. Commissioner Dawson made a motion to approve Ordinance 2018-10 as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

#### **ORDINANCE 2018-10**

##### ***AMENDING FISCAL YEAR 2018-2019 ANNUAL BUDGET Increasing Revenues and Expenditures***

**WHEREAS**, the Town of Burgaw Board of Commissioners passed an ordinance

adopting a budget for FY 2018-2019 on June 12, 2018; and

**WHEREAS**, the Town of Burgaw Board of Commissioners approved the purchases of F350 truck for Public Works, new traffic signals and installation by Terry Spell, security access control for Fire Department, and gun mounts and window tint for Police Department; and

**WHEREAS**, purchase orders were created for the purchases in FY 17-18, however the purchases were not completed by the end of the prior fiscal year due to conflicts with the suppliers; and

**WHEREAS**, the purchase orders have been closed at the change of fiscal years; and

**WHEREAS**, a general fund fund balance appropriation is needed to authorize the completion of these purchases in FY 18-19.

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

The FY 2018-2019 budget be altered to reflect the following changes:

**INCREASE BUDGETED REVENUE**

Account Number	Account Description	Amount
10-3900-00-900	Fund Balance Appropriated	\$46,231.08

**INCREASE BUDGETED EXPENDITURE**

Account Number	Account Description	Amount
32-8200-91-740	Capital Outlay	\$34,160
10-5300-10-330	Supplies	\$853.95
10-5700-20-740	Capital Outlay	\$4,890
10-5100-10-740	Capital Outlay	\$6,327.13

**Adopted** this the 9<sup>th</sup> day of October 2018.

**Approving Ordinance 2018-11 Amending the FY 18-19 budget to recognize revenues received from Selective Insurance to cover repairs due to lightning strikes.**

Ms. Pope explained the reason for the amendment as described in the ordinance below. Commissioner Harrell made a motion to approve Ordinance 2018-11 as presented. The motion was seconded by Commissioner George and carried by unanimous vote.

**ORDINANCE 2018-11**

***AMENDING FISCAL YEAR 2018-2019 ANNUAL BUDGET  
Increasing Revenues and Expenditures***

**WHEREAS**, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2018-2019 on June 12, 2018; and

**WHEREAS**, the Town was subject to lightning damage during storms on or around June 7, 2018; and

**WHEREAS**, the damage required that two AMI meter gateways and SCADA equipment be replaced ; and

**WHEREAS**, the Town has received \$20,842.50 to help cover the cost of the equipment; and

**WHEREAS**, the Town of Burgaw would like to recognize \$20,842.50 from this settlement into the FY 18-19 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 2018-2019 budget be altered to reflect the following changes:

**INCREASE BUDGETED REVENUE**

Account Number	Account Description	Amount
31-3730-91-800	Insurance Settlements	\$20,842.50

**INCREASE BUDGETED EXPENDITURE**

Account Number	Account Description	Amount
31-8140-91-740	Capital Outlay	\$20,842.50

Adopted this the 9<sup>th</sup> day of October 2018.

**Parks and Recreation – Zachary White, Parks and Recreation Coordinator**

**Proposal of Part-time Recreation Leaders**

Mr. White presented a proposed job description for Recreation Leader, which would be a part-time position within the Parks and Recreation Department. Mr. White advised this position would replace the current yoga and dance instructors that provide classes at the Burgaw Community House. This proposal would make these type of positions town employees rather than contract employees as they are currently classified. Commissioner Harrell asked how the pay structure would be determined. Mr. White advised the hourly rate for the position as Recreation Leader would be \$15/hour. Mr. White advised the current instructors are receiving \$30/class. It has been determined the instructors are at the facility prepping for classes, instructing, and dismantling for a total estimated time of two hours per evening. It was clarified these employees would not receive benefits because they are part-time employees. They would, however, be covered under the town’s workers’ compensation coverage.

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

**Christmas Parade Street Closures**

Mr. White presented the request for street closures for the Annual Christmas Parade which will be held on Saturday, December 8, 2018 at 5:30 PM. Mr. White and the Pender County Tourism will be the contact for the event this year. The fee schedule will be the same as the 2017 parade and the application will be posted on the county and town websites as well as social media. Commissioner Dawson made a motion to approve the following street closures for the 2018 Christmas Parade. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Approved street closures for the 2018 Christmas Parade:

- Streets surrounding the Courthouse Square at 4 pm
- Wright Street from Fremont Street to Williams Street at 5 pm
- Williams Street from Wright Street to Dickerson Street at 5 pm
- Industrial Drive from Progress Drive to Dickerson Street at 4 pm
- Fremont Street from Wright Street to Dickerson Street at 5 pm
- Dickerson Street from Fremont Street to Industrial Drive at 5 pm

**Planning – Karen Dunn, Planning Administrator**

**Approval of Resolution 2018-16 Requesting the NCDOT fund and install pedestrian head traffic signals at the intersection of US Hwy 117 Business (S. Walker Street) and Fremont Street**

Ms. Dunn gave an overview of the request as described in the resolution below. Commissioner Robbins asked if the pedestrian heads would be on both sides. Ms. Dunn advised they would be located on the west side of Fremont Street and cross on the north side from the courthouse to the church and the east side crossing Fremont Street. They will not be on the south side of the intersection on Walker Street. There will be three crossings and there will be lights on each side of the crosswalk. Ms. Dunn advised NCDOT has estimated the project to cost approximately \$49k. Commissioner Harrell made a motion to approve Resolution 2018-16 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**RESOLUTION 2018-16**

**RESOLUTION REQUESTING THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FUND AND INSTALL PEDESTRIAN HEAD TRAFFIC SIGNALS AT THE INTERSECTION OF US 117 BUSINESS (S WALKER STREET) AND FREMONT STREET IN HISTORIC DOWNTOWN BURGAW**

**WHEREAS**, over the past decade, the Town of Burgaw Board of Commissioners has increased investment in road, pedestrian and multi-use infrastructure;

**WHEREAS**, because the town's demographics are changing and infrastructure needs are growing, the town has adopted several plans with community input and support to implement road improvements, bicycle and pedestrian amenities in a cost-effective and strategic manner;

**WHEREAS**, due to limited funding for such projects, the Burgaw Bicycle and Pedestrian Plan, Burgaw 2030 Comprehensive Land Use Plan, the NC 53 Corridor Study, the Burgaw Parks and Recreation Plan, the Pender County Comprehensive Transportation Plan, and the Cape Fear Regional Bicycle Plan all outline community priorities so the town can coordinate infrastructure projects with other local and regional projects and activities to increase safety and mobility throughout the region;

**WHEREAS**, the US 117 Business (S Walker Street) corridor is a gateway for residents and tourists into historic downtown Burgaw, while also providing pedestrian modes of transportation for daily Pender County Seat government business around the Pender County Courthouse;

**WHEREAS**, the North Carolina Department of Transportation Traffic Safety Unit, Mobility and Safety Division has made "Vulnerable User Funds" available that can be used for pedestrian improvement project submittals in Division 3;

**WHEREAS**, the Town of Burgaw has developed a prioritized list of proposed pedestrian improvement projects to submit to the North Carolina Department of Transportation for potential funding including the US 117 Business (S Walker Street) and E Fremont Street intersection:

**NOW THEREFORE BE IT RESOLVED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT** the Board committedly supports and requests the North Carolina Department of Transportation fund and install pedestrian head traffic signals at the intersection of US 117 Business (S Walker Street) and E Fremont Street existing crosswalks. See attached map.

**Adopted** this 9<sup>th</sup> day of October 2018.

**Approval of Resolution 2018-17 Support of the Town of Burgaw highway, pedestrian and multi-use infrastructure improvement projects to install pedestrian-activated rectangular rapid flashing beacons along the Osgood Canal Greenway at US Hwy 117 (Timberly Lane), NC Hwy 53 East (East Bridgers Street), and East Wilmington Street**

Ms. Dunn gave an overview of the request as described in the resolution below. Each pair costs \$16,951, with a total of \$50,853 for the installation. Commissioner Harrell made a motion to approve Resolution 2018-17 as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

**RESOLUTION 2018-17**

**SUPPORT OF THE TOWN OF BURGAW HIGHWAY, PEDESTRIAN AND MULTI-USE INFRASTRUCTURE IMPROVEMENT PROJECTS TO INSTALL PEDESTRIAN-ACTIVATED RECTANGULAR RAPID FLASHING BEACONS ALONG THE OSGOOD CANAL GREENWAY AT US 117 (TIMBERLY LANE), NC HIGHWAY 53 E (E BRIDGES STREET), AND E WILMINGTON STREET**

**WHEREAS**, the Town of Burgaw envisions a healthy, active community where it is easy and safe for all residents and visitors to access neighborhoods, shopping, services, schools, employment, and recreation by foot or bicycle;

**WHEREAS**, the 2015 Bicycle and Pedestrian Plan was developed with the input of existing advisory boards, community members, and town staff;

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

**WHEREAS**, the NC 53 Corridor Study was conducted in an effort to address travel safety and aesthetic improvement of the NC Highway 53 corridor in Burgaw, NC from its intersection with US Highway 117 Bypass to just west of the central business district;

**WHEREAS**, the traffic is a mix of passenger vehicles, pedestrians, and a high volume of large trucks often conflicting with pedestrians crossing the streets;

**WHEREAS**, the Town of Burgaw understands the importance of its transportation system in maintaining the quality of life of its residents and attracting visitors, new businesses, and industry;

**WHEREAS**, it is NCDOT's goal to work with communities to determine safe and viable options for high levels of pedestrian traffic;

**WHEREAS**, the Osgood Canal Greenway and Trail crossings at the intersections of E Wilmington St., Hwy 53 and Timberly Lane have been identified as areas of safety concern for residents due to high vehicle speeds and lack of recognition of the pedestrian crossing, especially for drivers heading east;

**WHEREAS**, safe and efficient bicycle and pedestrian networks are important to resident quality of life, both because they provide an alternative transportation mode and additional recreational opportunities;

**NOW THEREFORE BE IT RESOLVED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT** the Board is in approval to install and maintain pedestrian-activated rectangular rapid flashing beacons along the Osgood Canal Greenway at US 117 A (Timberly Lane), NC Highway 53 E (E Bridges Street), and E Wilmington Street.

**Adopted** this 9<sup>th</sup> day of October 2018.

Ms. Pope requested approval of a fund balance appropriation in the amount of \$50,853 to fund the purchase and installation of the rectangular rapid flashing beacons along the Osgood Canal Greenway at US Hwy 117 (Timberly Lane), NC Hwy 53 East (East Bridgers Street), and East Wilmington Street. Commissioner Robbins made a motion to approve the fund balance appropriation as stated by Ms. Pope. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

There was brief discussion regarding the installation of the rapid flashing beacons at the crosswalks on the recently installed sidewalk on South Walker Street. There was also brief comment regarding the status of the crosswalk in front of the Department of Social Services. Ms. Dunn advised she has spoken with Pender County Assistant Manager Chad McEwen and NCDOT about this since it is a county issue.

**ITEMS FROM ATTORNEY – Zachary Rivenbark, Town Attorney**

Attorney Rivenbark advised the easement for the lift station on Hwy 53 at the Williams property has been signed and will be recorded. The survey is now correct from previous issues that were discovered and it is not necessary the town move the lift station that is located on the property.

**ITEMS FROM MANAGER – Joseph Pierce, Town Manager**

**Approval of Ordinance 2018-12 Amending FY 18-19 annual budget in the amount of \$34,000 from the fund balance line item 10-3900-00-900 to the Non-Departmental Reserve line item 10-6000-00-590.**

Mr. Pierce gave an overview of the request as described in the ordinance below. Commissioner Dawson made a motion to approve Ordinance 2018-12 as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

**ORDINANCE 2018-12**

***AMENDING FISCAL YEAR 2018-2019 ANNUAL BUDGET  
Increasing Revenues and Expenditures***

**WHEREAS**, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2018-2019 on June 12, 2018; and

**WHEREAS**, the Town of Burgaw has purchased the property at 212 S. Wright Street in the total amount \$33,710.34; and

**WHEREAS**, a General Fund fund balance appropriation is necessary to replenish the funds advanced from Non-departmental reserve account in fiscal year 2018-2019.

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

The FY 2018-2019 budget be altered to reflect the following changes:

**INCREASE BUDGETED REVENUE**

<b>Account Number</b>	<b>Account Description</b>	<b>Amount</b>
10-3900-00-900	Fund Balance Appropriated	\$34,000

**INCREASE BUDGETED EXPENDITURE**

Account Number	Account Description	Amount
10-6000-00-590	Non-Departmental Reserve	\$34,000

Adopted this the 9<sup>TH</sup> day of October 2018.

**Approval of the proposal for McKim & Creed to conduct and provide a Preliminary Engineering Report**

Mr. Pierce advised he recently met with Steve Smith with the US Department of Agriculture (USDA) to discuss support for water and waste water infrastructure along the Hwy 117 Corridor. Mr. Pierce said there is potential growth in this area and the town should be prepared for installing infrastructure if necessary. Commissioner Robbins asked about the fast growth along the corridor. Mr. Pierce advised several properties have been purchased with the anticipation of development. The town does not have the current infrastructure to support growth in this area. Mr. Pierce advised the town is looking into a USDA loan and one of the first steps in doing so is to acquire a Preliminary Engineering Report. McKim & Creed Engineer Tony Boahn submitted a proposal for this assessment at an expense of \$20,000 with a projected completion time of 75 days after notice to proceed.

Commissioner Harrell made a motion to approve the proposal as presented with the fund balance appropriation of \$20,000 for the cost of the Preliminary Engineering Report. The motion was seconded by Commissioner George and carried by unanimous vote.

**Approval of the proposal for McKim & Creed to conduct and provide an Environmental Report**

Along with the abovementioned Preliminary Engineering Report, an Environmental Report is also required. Mr. Pierce advised this report is required by the USDA to determine whether the project has a potential of significantly impacting the quality of the human environment. McKim & Creed Engineer Tony Boahn submitted a proposal for this assessment at an expense of \$20,000 with a projected completion time of 75 days after notice to proceed.

Commissioner Dawson asked if the System Development Fees could be used for the expenses associated with the two reports. Mr. Pierce and Ms. Pope advised the System Development Fees cannot be used towards this purpose. Ms. Pope advised if a loan is obtained to install the infrastructure, the System Development Fees can be used to make loan payments. Commissioner George asked about the impact on our service with Wallace. Mr. Pierce advised it would increase our flow capacity but we have plenty of capacity available.

Commissioner Harrell made a motion to approve the proposal as presented with the fund balance appropriation of \$20,000 for the cost of the Environmental Report. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**Request of street closure and personnel assistance for benefit concert**

Mr. Pierce advised Mr. White has received a request from Pender County Emergency Management to close Fremont Street between Wright Street and Walker Street from 11:00 AM on Saturday, November 10, 2018 until 12 midnight on Sunday, November 11, 2018, to host a benefit concert for the recent Hurricane Florence relief efforts. They also requested assistance from the police department as well as public works in the set-up of the event. The power will also need to be turned on where the blueberry stage is usually set up. Commissioner Dawson asked if the county had been approached in regards to the availability of the Courthouse Square. Mr. Tom Collins, Pender County Emergency Management Director, advised they have confirmed the availability with the county. He also said there will not be a charge for attending the concert and donations would be accepted. He advised there would be a few food vendors and there would be recognition of the first responders. Mayor Cowan asked if there was a budget set for this event and Mr. Collins advised it was \$10,000 but hope to fund a lot of the costs through sponsorships. There was discussion regarding law enforcement presence and alcohol sales. Ms. Dawson advised there is a possibility for a contained area for alcohol sales. Mr. White advised he will keep the staff and board advised as plans are made for the event.

Commissioner Robbins made a motion to support and approve the requests as proposed above as well as appropriate \$2,000 from the general fund balance for the town to become a monetary sponsor. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**Approval of Ordinance 2018-13 Amendment to the Capital Project Ordinance 2017-05 for Pender Memorial Hospital and Osgood Canal Flooding and Storm Water Mitigation Project**

Mr. Pierced advised there needs to be an amendment to the amount specified on Ordinance 2017-05 due to the elimination of the construction of the gabion wall as part of the project. He said three bids were received for the project and East Coast Contracting was the low bidder at \$1,005,170.70. The gabion walls were deleted from the project. Therefore, the new total from East Coast Contracting was \$988,252. The original construction costs were estimated at \$772,390, leaving a difference of \$215,862. Carter Hubbard, an engineer with WK Dickson & Co., Inc., spoke in response to the change in pricing. There was much discussion regarding the project. Mr. Pierce advised he has a meeting scheduled to meet with Ruth Glaser, Hospital Administrator for Pender Memorial Hospital, in hopes they would be able to assist in funding the difference. The board advised they wanted to wait on approval of the amendment until after Mr. Pierce meets with Ms. Glaser.

#### **Approval of the creation of a Deputy Fire Chief position**

Mr. Pierce advised Fire Chief Jim Taylor will be deployed with the National Guard beginning November 1<sup>st</sup> for a duration of one year. Mr. Pierce advised he had already spoken with the board members prior to this meeting in regards to creating a permanent full-time Deputy Fire Chief position. The Deputy Fire Chief will act as Fire Chief during the absence of Chief Taylor. Mr. Pierce said Chief Taylor will not be paid for a year beginning November 1<sup>st</sup>, so these funds will be used for the Deputy Fire Chief for the remainder of the fiscal year. Additional funding, upon the return of Chief Taylor in October 2019, for the Deputy Fire Chief position will be determined for the next fiscal year during budget preparations. Mr. Pierce advised staff has reviewed the salary range and job description for the position. Mr. Pierce requested approval of the job description, amendment to the Pay Classification Plan with a salary range of \$47,962-\$66,978, and amendment to the Personnel Policy's Organizational Chart.

Commissioner George made a motion to approve the above request. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

#### **Comments from John Westbrook regarding the Courthouse Avenue park project**

It was by the consensus of the board to allow Mr. Westbrook to give a brief update on his progress with the Courthouse Avenue park project. Mr. Westbrook advised he has met with a couple of engineers regarding the proposals of the design of the park. He hopes to have the budget for the survey and the design for the street and alley by the next board meeting.

**BREAK 5:24 PM – 5:37 PM**

#### **PUBLIC FORUM**

##### **Speakers:**

**Elaine Tyson**, 609 South Bickett Street, spoke in regards to the parks in town. She does not believe there is a need for another park in Burgaw. She stated the town currently has over nine parks/green spaces. She commented she does not understand why the town would want to spend \$300k-\$400k on constructing another park in town, especially in the location on Courthouse Avenue. She said there is more of a need to upgrade the downtown area and clean up the appearances of the businesses. She would like to see the commissioners encourage, if not enforce, the property owners to upgrade their properties. She commented the town needs to update their properties as well.

Ms. Tyson also commented in regards to food not being provided to the people who were stuck in town during the recent hurricane. She was disappointed in the fact the commissioners did not step up as like the county when providing food during a time of need.

Ms. Tyson's final comment was in regards to Piedmont Natural Gas. She requested the town contact the Piedmont Natural Gas representative and see if they can come in and answer questions as to why certain residences cannot get service. Mayor Cowan requested Mr. Pierce to reach out to the representative.

**Robert C. Kenan, Jr.**, 211 East Fremont Street, thanked the town staff for their service and efforts during the recent hurricane. Mr. Kenan commented on the flooding issue after Hurricane Florence. He would like to see the board reach out to the US Senators and NC Congressmen for assistance in funding improvements at the Interstate 40 and Burgaw Creek area. He would also like to see improvements at any culvert where the Osgood Canal crosses.

Mr. Kenan also requested the board file a formal complaint with the Utilities Commission regarding the response of restoring services after Hurricane Florence. He commented Duke Energy and AT&T were extremely slow to respond after the storm. He also commented the board should include a complaint regarding Piedmont Natural Gas in addition to Ms. Tyson's comment above.

Mr. Kenan's final comment was in regards to Bridgers Street between Burgaw Methodist Church and Burgaw Baptist Church. He stated the road is atrocious and is getting worse. He wanted to know when the board plans to fix the street. Mr. Moore advised it is scheduled to be done before the end of the month.

**PUBLIC HEARING – Karen Dunn, Planning Administrator**

**Consideration of an application for Conditional Use Permit for Planned Building Group to be located at Parcel ID: 3229-65-7085-0000**

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

- Karen Dunn, Town of Burgaw Planning Administrator
- Nick Heatherly, O'Reilly Representative

The public hearing was opened at 5:55 PM.

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

General Information

Applicant:	O'Reilly Automotive Stores, Inc. 233 S. Patterson Springfield, MO 65801
Property Owner:	O'Reilly Automotive Stores, Inc.
Site:	US Highway 117 N
Current Zoning:	B-2, Highway Business
Size:	1.03 acres
Existing Land Use:	Undeveloped

History/Site Description

Applicant O'Reilly Automotive is petitioning the town for a conditional use permit to construct an auto parts store on US Highway 117 Bypass N. The subject parcel is zoned B-2 Highway Business District and is surrounded completely by commercially zoned property. To the south of the property lies Pender Coin Laundry. The lot abuts Cardinal Metalworks, Inc. to the rear and is adjacent to Duke Energy Progress Electric Station to the north.

Evidence presented included:

- Exhibit 1: Application showing requested use
- Exhibit 2: Map packet showing site plans, elevations and wall sign
- Exhibit 3: Aerial Map
- Exhibit 4: Zoning Map
- Exhibit 5: Ordinance Requirements Report, prepared by Karen Dunn
- Exhibit 6: Compliance with Town of Burgaw Adopted Plans report, prepared by Karen Dunn
- Exhibit 8: Future Land Use Map
- Exhibit 9: Staff Report

*Note: Exhibit 7 was omitted in error*

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

Upon completion of Ms. Dunn's presentation, the person that signed up to speak was given an opportunity to speak.

Mr. Heatherly briefly spoke in regards to attempting to contact the adjacent property owner, AT&T. Mr. Heatherly advised he didn't have anything further to add unless the board had questions.

Commissioner Harrell asked for clarification on the easement. Mr. Heatherly advised he is trying to obtain information on the ten-foot easement next to the highway. Attorney Rivenbark commented it sounds like it is a utility easement, but has not been requested to research this matter.

The public hearing was closed at 6:08 PM.

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

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

#### Specific Findings of Fact and Conclusions of Law

##### **Standard 1. The use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved.**

1. In order to be granted a conditional use permit, Section 3-10 of the Town of Burgaw Unified Development Ordinance requires that the applicant prove that "the use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved."
2. The property is currently an undeveloped parcel in B-2 Highway Business District surrounded by B-2 parcels.
3. Auto Parts Stores are a permitted use in B-2 Highway Zoning District.
4. NCDOT is reviewing the driveway permit application and evaluating ingress, egress and turn lane requirements at US 117 North. CUP approval is contingent upon NCDOT driveway approval and permit.
5. CUP approval is contingent upon stormwater system NCDEQ review and permit approval.
6. CUP approval is contingent upon applicant obtaining Sedimentation and Erosion Control approval/permit from NCDEQ.
7. Burgaw Police Chief Jim Hock has no concerns or comments with this project as currently proposed.
8. As a result, the Board of Commissioners finds that the proposed application meets the requirements of this standard, provided the following conditions:
  - a. CUP approval is contingent upon applicant receiving NCDOT driveway approval and permit.
  - b. CUP approval is contingent upon applicant receiving stormwater system NCDEQ review and permit approval and conformance with Burgaw UDO Article 13.
  - c. CUP approval is contingent upon applicant obtaining Sedimentation and Erosion Control approval/permit from NCDEQ.
  - d. Changes to the site plan as the result of NCDEQ requirements will require an amendment to the conditional use permit.

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

1. In order to be granted a conditional use permit, Section 3-10 of the Town of Burgaw Unified Development Ordinance requires the applicant prove that "the use meets all required conditions and specifications."
2. According to the Town of Burgaw Building Inspector, Louis Hesse, there are no issues with compliance at this time. The applicant will be required to obtain all building and trades design review and permits prior to construction.
3. The Public Works Director, Alan Moore, reviewed utility site plan sheets and is satisfied with applicant's design for proposed water and sewer hook-up to the town's utilities.
4. According to the Ordinance Requirements Report submitted by Karen Dunn, the site plans submitted on August 27, 2018 are in compliance with *Section 16-6: Design Standards for Planned Building Groups—Commercial and/or Office/Institutional*, including required design features, transparency, composition, materials, colors, mechanical screening and equipment.

5. Section 16-5 of the Unified Development Ordinance (UDO) requires that all storage and other accessory buildings shall be located behind the primary building or shall be architecturally compatible with the primary building. The solid waste receptacle is located in the rear side yard and is in compliance on revised site plans submitted on 8-27-18. Proposed walls are masonry CMU materials “architecturally compatible” with the primary building.
6. Burgaw UDO Article 9. *Off-Street Parking and Loading* includes the following requirements: Dimensions for 90 degree angle parking are 8 feet in width, 8 feet of curb length, and 19 feet deep.
7. Burgaw UDO *Section 9-3 - Minimum Parking Requirements* requires one (1) space for every 400 square feet of leasable area, plus one space for each employee on the maximum work shift for Automobile Parts and Accessory Sales. For a 7,225 Square foot building with eight (8) employees, 26 spaces are required.
8. The submitted site plan shows 39 total automobile spaces are provided (37 regular automobile spaces and 2 handicap accessible automobile spaces).
9. A minimum of one loading space is required for all buildings to be occupied by any activity requiring the receiving or distribution by vehicles of material or merchandise.
10. The submitted site plan shows one loading space will be provided to the right of the building.
11. *Section 11-3: Tree Preservation and Replacement during Development* requires the total number of protected trees to be retained are 15 per acre, with any difference being made up with new trees (1.155 acres X 15 per acre = 18 total trees to be retained or planted on site).
12. Applicant has not identified existing trees to remain or be removed.
13. *Section 11-5: B. Street Yard Landscaping* includes the following requirements: For every 30 linear feet of frontage or fraction thereof, the street yard shall contain:
  - 1 tree 8 feet in height OR 3 flowering trees 5 feet in height; and
  - 5 shrubs
14. Site plan shows 176’ street frontage with the required 18 flowering trees and 30 shrubs. The street yard shown on the site plan is 12’ in width and within a Southern Bell easement.
15. The revised 8-27-18 site plans meet the standards of *Section 11-5 C. Parking Facilities Landscaping* with the exception of the proposed 126’ perimeter strip along south parking area. The perimeter strip requires two (2) additional evergreen shrubs.
16. The site plans are in compliance with *Section 16-14: Standards for Planned Building Groups in O&I, B-1, and B-2 Districts*.
17. Size and proposed location of signs: Building façade is 1848 sq. ft. 10% = 184.8 sq. ft. maximum. Proposed wall sign is 115 sq. ft. Any proposed freestanding sign shall be no greater than 75 square feet in size and meet the required 25’ maximum height requirements. Proposed freestanding pole sign is 25’ high and 75 square feet. (Site plans shall be revised deleting “ground” sign label on Plan Sheets SG 1.2 and SG 1.3)
18. As a result, the Board of Commissioners finds that the proposed application meets the requirements of this standard, provided the following conditions:
  - a. Tree Preservation and Replacement: Applicant shall preserve or plant 18 trees with a minimum caliper of 2 inches on the site. Add seven (7) additional trees to the site.
  - b. Crepe Myrtle trees along US 117 shall be preserved and may be calculated as required preserved trees
  - c. Street Yard Landscaping: Applicant shall contact Southern Bell to determine whether the easement and/or street yard landscaping will be affected by the proposed landscaping location. Any revisions to the landscaping plan shall be reviewed and approved by the Planning Administrator.
  - d. Parking Facilities Landscaping: Applicant shall plant two (2) additional evergreen shrubs in the 126’ perimeter strip along south parking area.
  - e. Signs: Applicant shall revise Sheets SG 1.2 and SG1.3 deleting “ground” sign and replace with “freestanding” sign.
  - f. A separate sign permit shall be issued for the signs.

**Standard 3. The use will not adversely affect the use of or any physical attribute of adjoining or abutting property or the use is a public necessity.**

1. In order to be granted a conditional use permit, Section 3-10 of the Town of Burgaw Unified Development Ordinance requires that the applicant prove that “the use will not adversely affect the use or any physical attribute of adjoining or abutting property or the use is a public necessity.”
2. The use is not a public necessity.
3. The subject parcel is zoned B-2 Highway Business District, is located on US Highway 117 N, and is surrounded completely by commercially zoned property.
4. No evidence was presented that indicated this use would affect the use or any physical attribute of adjacent properties.
5. As a result, the Board of Commissioners finds that the proposed application meets the requirements of this standard.

**Standard 4. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Town of Burgaw Unified Development Ordinance, Burgaw 2030 Comprehensive Land Use Plan, and NC Highway 53 Corridor Study.**

1. In order to be granted a conditional use permit, Section 3-10 of the Town of Burgaw Unified Development Ordinance requires that the applicant prove that “the 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 site for the proposed auto parts store is zoned B-2, Highway Business, is surrounded by other properties zoned B-2, and is across the street from other commercial development
3. Conformity with the Burgaw 2030 Comprehensive Land Use Plan and Burgaw Pedestrian and Bicycle Plan is outlined in the Compliance with Town of Burgaw Adopted Plans document.
4. As a result, the Board of Commissioners finds that the proposed application meets the requirements of the standard, provided the following conditions:
  - a. Due to the heavy traffic volume and speed limit of US 117 Bypass, staff does not recommend installing a sidewalk or bike rack at this location.

THEREFORE, on the basis of the foregoing, IT IS ORDERED that the application for a conditional use permit for a “Planned Building Group” Automobile Parts and Accessory Sales use to be located on US Highway 117 North. (PIN 3229-65-7085-0000) be GRANTED, subject to the following CONDITIONS TO THE APPLICATION:

1. CUP approval is contingent upon applicant receiving NCDOT driveway approval and permit.
2. CUP approval is contingent upon applicant receiving stormwater system NCDEQ review and permit approval and conformance with Burgaw UDO Article 13.
3. CUP approval is contingent upon applicant obtaining Sedimentation and Erosion Control approval/permit from NCDEQ.
4. Changes to the site plan as the result of NCDEQ requirements will require an amendment to the conditional use permit.
5. Tree Preservation and Replacement: Applicant shall preserve or plant 18 trees with a minimum caliper of 2 inches on the site. Add seven (7) additional trees to the site.
6. Crepe Myrtle trees along US 117 shall be preserved and may be calculated as required preserved trees.
7. Street Yard Landscaping: Applicant shall contact Southern Bell to determine whether the easement and/or street yard landscaping will be affected by the proposed landscaping location. Any revisions to the landscaping plan shall be reviewed and approved by the Planning Administrator. All planted and retained living material, required to meet the provisions of this ordinance, shall be maintained by the owner of the property on which the material is located per Burgaw UDO Section 11-6: Maintenance.
8. Parking Facilities Landscaping: Applicant shall plant two (2) additional evergreen shrubs in the 126’ perimeter strip along south parking area.
9. Signs: Applicant shall revise Sheets SG 1.2 and SG1.3 deleting “ground” sign and replace with “freestanding” sign.

10. A separate sign permit shall be issued for the signs.
11. Due to the heavy traffic volume and speed limit of US 117 Bypass, no installation of a sidewalk and bike rack is recommended at this location.

Commissioner Robbins made a motion to approve the Conditional Use Permit as presented in the findings of fact. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

## **OTHER ITEMS**

### **Discussion regarding the recent hurricane**

Per the request of Mayor Cowan, Mr. Pierce gave an overview of his perspective of Hurricane Florence and the measures the staff took before, during and after the storm. Comments were made in regards to the town having their own emergency operations center during storm events, looking into designing a kitchen area possibly in the old EMS building, more space for sleeping quarters, etc. Commissioner George made a request the town look into installing air conditioning in the fire bay for times it is needed during disasters, etc. Mr. Hesse commented on the ratings for the town buildings. Mayor Cowan requested Mr. Pierce to look into drafting a strategic plan for upgrading town facilities to accommodate the necessities mentioned above.

### **Introduction of new employees**

Mr. Hesse introduced Chad Staradumsky as the new Community Development Coordinator for the town. Mr. Staradumsky has a lot of prior experience from the Town of Oak Island with planning and inspections. Ms. Dunn advised the town has hired part time Administrative Fellow, Sam Shores, which is currently in the MPA program at UNCW.

## **ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS**

**Commissioner George** thanked the town staff for a job well done during the recent hurricane.

**Commissioner Harrell** commented he agreed with Commissioner George and thanked all of the town staff for their efforts during the recent hurricane.

**Commissioner Harrell** also showed his appreciation for the citizens that helped keep storm drains clear during the hurricane. He commented this shows we come together as a community and we are here to help each other.

**Commissioner Harrell** requested that Ms. Dunn look into bringing food trucks to town. He believes they are good for business and events, but wants the town to have control over them. Mr. White advised he brought up this topic at a previous meeting and would like to see the town move forward with revising its ordinance. Ms. Dunn commented this is noted as "mobile food vendors" in the ordinance and are not allowed on public right-of-ways. Commissioner Harrell does not want to cause too much competition for tax paying businesses in town. Attorney Rivenbark advised he is willing to assist with setting limitations, etc. Mr. White advised he will continue to look into this.

**Commissioner Harrell** commented a few residents have come to him complaining about vehicles blocking the sidewalk on the 200 block of North Dickerson Street. He requested Chief Hock to remind people to keep vehicles off of sidewalks.

**Commissioner Dawson** asked how many employees' homes were damaged during the hurricane. She would like for us to concentrate on helping the town staff in some way.

**Commissioner Dawson** thanked Mr. Moore for what he and Public Works did during the hurricane. She also advised there are a few street signs down. She requested these be ordered and put back up.

**Commissioner Dawson** asked Mr. Moore if there is anything the town can do to keep vehicles off of the streets at the time the street sweeper is in use. Ms. Pope advised she can do a CodeRed call and put information in the paper.

**Commissioner Dawson** advised Mr. White the committee needs to get together soon to discuss the annual Christmas tree lighting event.

**Commissioner Robbins** thanked the staff for everything done during the hurricane. He also thanked Commissioner Dawson for being at the Pender County EOC. He thanked Chief Taylor for his service in the National Guard.

**Mayor Cowan** commented on the outstanding performance by the town staff during the hurricane. He thanked Public Works for the efforts in maintaining the storm water. He also thanked the Police and Fire personnel for their service. He commented he received a call from the CEO of Med-1 (mobile hospital after the hurricane) and received compliments of the town staff and involvement. Chief Hock also advised officers from Pineville Police Department came in to help relieve the town's officers and thanked them for their service.

#### **ADJOURNMENT**

Commissioner Harrell made a motion to adjourn. The motion was seconded by Commissioner Dawson and carried by unanimous vote. The meeting was adjourned at 6:47 PM.

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Kenneth T. Cowan, Mayor

Attest: \_\_\_\_\_  
Kristin J. Wells, Town Clerk