

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

DATE: August 14, 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
Sylvia W. Raynor, 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, Community Development Coordinator
Kristin Wells, Deputy Clerk
Zachary White, Parks & Recreation Coordinator
MEDIA PRESENT: None
INVOCATION: Nick Smith, Chaplain
PLEDGE OF ALLEGIANCE: All

The meeting was called to order by Mayor Kenneth Cowan at 4:00PM. The invocation was delivered by Chaplain Nick Smith. The Pledge of Allegiance was said by all.

Approval of Agenda

Ms. Raynor announced two amendments to the agenda by adding agenda item 18, Consideration of Adoption of Resolution 2018-14 Adopting a Statement Regarding the Consistency of the Scotch Bonnet Solar, LLC Rezoning Request with the Burgaw 2030 Comprehensive Land Use Plan, and agenda item 19, Consideration of Approval of Ordinance 2018-09 Approving an Amendment to the Town of Burgaw Zoning Map Rezoning 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. Commissioner Harrell made a motion to approve the agenda with the amendments stated by Ms. Raynor. The motion was seconded by Commissioner George and carried by unanimous vote.

Approval of Consent Agenda

Commissioner Robbins made a motion to approve the consent agenda as presented. The motion was seconded by Commissioner Dawson. Commissioners Robbins, Dawson, George and Murphy voted "aye". Commissioner Harrell abstained. Motion carried. The consent agenda and the following items were approved:

- Minutes of the July 10, 2018 regular meeting and closed session
- Minutes of the July 19, 2018 special meeting and closed session
- Minutes of the August 6, 2018 special meeting and closed session
- Resolution 2018-11 Supporting Pender County Farmers
- Resolution 2018-12 Surplus Backhoe, Utility Truck and Compressor

DEPARTMENTAL ITEMS

Finance – Wendy Pope, Finance Officer

Approving of Ordinance 2018-08 Amending Pay Classification Plan to Reflect Changes to Building Code Administrator Position

Ms. Pope explained the Pay Classification Plan needs to be updated to reflect recent position changes that were previously approved during the FY 18-19 budget process. The maximum salary range for the Building Code Administrator also needs to be amended. Commissioner George made a motion to approve Ordinance 2018-08 as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

ORDINANCE 2018-08

**AMENDING FISCAL YEAR 2018-2019 ANNUAL BUDGET
Change to Pay Classification Plan**

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 Board of Commissioners approved an updated Pay Classification Plan on July 10, 2018; and

WHEREAS, the Town has updated the Pay Classification Plan to include a new maximum salary range for the Building Code Administrator position; and

WHEREAS, the Pay Classification Plan in the budget ordinance will need to be amended to reflect the changes to the Building Code Administrator position.

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

The FY 2018-2019 Pay Classification Plan be altered to reflect the following changes as attached. (On file in the Clerk's office)

Adopted this the 14TH day of August 2018.

Parks and Recreation – Zachary White, Parks and Recreation Coordinator

Special Event Application

Mr. White presented a new Special Event Application and requested approval of same by the Board of Commissioners. Commissioner Robbins asked about the sixty day period for submitting applications. Mr. White explained this is sufficient time for events to be presented to the board for approval of closing streets, etc. Events that can be approved by town personnel, must be submitted no less than 30 days prior to the event date. After brief discussion, Commissioner Robbins made a motion to approve the application as presented with the amendment of requiring applications to be “submitted by the agenda deadline prior to the event” instead of “at least 60 days”. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

ITEMS FROM ATTORNEY – Zachary Rivenbark, Town Attorney

Attorney Rivenbark announced the closing on the purchase of the property located at 312 South Wright Street has been completed. The Town of Burgaw now owns this property.

Attorney Rivenbark stated he and Mr. Hesse have been in conversation regarding properties around town that need to be cleaned up or demolished. The current property in process is the abandoned house on Ashe Street beside the tennis courts. Mr. Hesse has attempted to make contact with the owner and has until August 17, 2018 to respond regarding this property. If the owner does not respond prior to the deadline, Attorney Rivenbark will present a resolution to the board at the September 11, 2018 meeting requesting a force of clean up on behalf of the town. The town would bare the expense of cleaning up or demolishing the property and then place a lien on the property. If the property owners do not pay it, the town will foreclose on the property. Attorney Rivenbark said he currently has two properties he is looking into and Mr. Hesse has six more on the list.

ITEMS FROM MANAGER – Joseph Pierce, Town Manager

Information Pertaining to the Blueberry Statue

Mr. Pierce has made contact with Craig Brown to request the status on the statue. Mr. Brown advised the statue is complete, has been powder coated and ready to be assembled. He is waiting on the pedestal construction. Mr. Pierce advised he requested pictures, but to date, he has not received them. Mr. Hesse is working on coordinating of the construction of the pedestal. Mr. Pierce advised there was \$1,000 contingency built into the project. Commissioner

Dawson asked what the pedestal would be constructed of; Mr. Hesse advised it would be brick, similar to the town sign on Hayes Street.

Authority to Pursue Water and Wastewater Infrastructure Capital Funding Options

Mr. Pierce gave an overview of his request regarding pursuing funding options for the installation of water and wastewater infrastructure along the Hwy 117 corridor in anticipation of new residential development. There are grants available through the NC Department of Environmental Quality Division of Water Infrastructure's Funding Programs. Commissioner Robbins asked what the needs are for the project to be estimated at \$3 million. Mr. Pierce advised this would cover a water tower, well, services, pump station, lines, etc. to tie into the main system. Mr. Pierce advised the town is possibly looking at 500-600 residences being developed on the Hwy 117 corridor near South Walker Street. Mayor Cowan commented there is a meeting scheduled with USDA regarding guidance and funding for this project. Mayor Cowan and Mr. Pierce advised we want to be proactive and ready for developers that may approach the town. Commissioner Robbins commented he would like to be made aware in the future of the town hiring engineers for such projects as this. Ms. Dunn advised there have been inquiries regarding development behind Creekside and other areas off of Hwy 117 near the south end of Walker Street. One developer has already closed on the property behind the State Employees Credit Union at the end of Rhodes Ave.

Mayor Cowan asked Ms. Dunn how many current commercial projects are in progress. Ms. Dunn advised O'Reilly's Auto will be presented at the next Planning Board meeting, Auto Zone is looking at the property beside Advance Auto, McDonald's renovation, and there has been some discussion about a Dunkin Donuts going at the property between Scotchman and Dollar Tree.

Mr. Pierce asked the board to give him and the town staff authority to pursue funding options for new infrastructure on Hwy 117 corridor. After discussion, Mr. Pierce will be actively seeking grants and will poll the board regarding costs.

Approval of Resolution 2018-13 Appointment of the Town Manager as Map Review Officer

Mr. Pierce asked the board to approve the appointment of the Manager as an alternative map review officer for the Planning Department. In small municipalities, it is not uncommon for the Town Manager to be appointed as an alternate review officer. The map review officer reviews each map and plat for compliance before the map or plat is presented to the register of deeds for recording. Commissioner Harrell made a motion to approve Resolution 2018-13 as presented. The motion was seconded by Commissioner George and carried by unanimous vote.

RESOLUTION 2018-13 REQUEST TO APPOINT MAP REVIEW OFFICER

WHEREAS, the Town of Burgaw must review maps and subdivisions; and

WHEREAS, the Pender County Board of Commissioners must approve the appointment of the Town's Map Review Officer.

NOW THEREFORE BE IT RESOLVED that the Town of Burgaw Board of Commissioners is hereby requesting that the Pender County Board of Commissioners approve the appointment of Joseph Pierce, Town of Burgaw Town Manager, as a map review officer for the Town of Burgaw in addition to Karen Dunn and Kimberly Rivenbark in accordance with NCGS 47-30.2.

Adopted this the fourteenth day of August, 2018.

Paving on East Bridgers Street

Mr. Pierce advised he received an estimate regarding the paving of East Bridgers Street between North Walker Street and North Wright Street, and go through intersection about 150 feet towards the parsonage side of the intersection. He advised the total estimate is approximately \$59,280 from Southern Asphalt and will be an expenditure out of Powell Bill funds. Commissioner George asked how long this pavement will last. The last time it was done, it did not last long. Mr. Pierce advised it should last longer than four years.

Mayor Cowan advised he and Mr. Pierce have spoken about hiring an engineer to monitor paving projects. Commissioner Robbins agrees and stated it is not too early to be thinking about paving for next fiscal year. Commissioner Robbins made a motion to approve the request and appropriate the funds for the paving of East Bridgers as stated above. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Comments regarding the paving of Giles Marshburn Road

Mayor Cowan asked Mr. Moore for the amount he received for paving Giles Marshburn Road. Mr. Moore stated it will be approximately \$109k. Mayor Cowan commented this road does not have the required right-of-ways and if we are going to look at paving this road, we need to have an engineer look at it. Commissioner Robbins commented the ditches on this road need improvement. There was brief discussion regarding the easements. Attorney Rivenbark will look into the easements on Giles Marshburn Road.

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

Planning Board Vacancy

There is one vacant seat on the Planning Board that needs to be filled. Deborah Fedoronko of 106 North Wright Street and James Malloy of 513 North Wright Street both applied for the vacancy. Commissioner Harrell commented that it is time to make a decision. Commissioner Murphy made a motion to appoint James Malloy to fill the vacancy. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Commissioner Murphy commented he has received a phone call regarding mosquito spraying on Bodenheimer Street. Mr. Moore advised mosquito spraying is being done every Thursday evening. Commissioner Dawson suggested that Public Works spray that particular area.

Commissioner Robbins asked about the status of the cross walk signs. Ms. Dunn advised the town is in the preparation stage of having encroachments and other pertinent documents signed. She advised Terry Spell is the low bid for NCDOT and because they have already gone through the process, the town will not need to go through the bidding process. She advised the estimate is approximately \$16k per pair installed. Ms. Dunn advised the two signs that will be installed on Walker Street are part of the NCDOT project.

Commissioner Robbins advised Mr. White one of the pecan trees at Pecan Park has died. Mr. White will look into having this replaced.

Commissioner Robbins wants to look into revising the Debris Policy. He and Commissioner Dawson commented there are issues regarding what is being picked up, when it is being picked up and the amount being picked up. There were comments made about changing pick up to two times a week rather than one time and the possibility of adding a second dumpster at Public Works. After discussion, Mr. Pierce and Mr. Moore will work on revising the policy and bring it back to the board.

Commissioner Robbins said he would like to go ahead and decide what we are going to do with the building the town has recently purchased on South Wright Street. Attorney Rivenbark commented the building has not been legally determined to be condemned by an engineer at this point. He recommended to the board to have an engineer inspect the property due to the possibility of asbestos. After discussion Mr. Hesse will inspect the building and request bids for demolishing the building. Commissioner Robbins made a motion to appropriate \$1,000 for asbestos testing. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Jim Taylor arrived at the meeting at 4:51PM.

Commissioner Dawson asked about the drainage on the new sidewalk on South Walker Street. Ms. Dunn advised she has sent an email to Trevor Carrol asking if the project has been closed. Ms. Dunn will provide the board with any response.

Commissioner Harrell asked the status on the Courthouse Avenue project. Mr. Pierce advised no significant progress has been made, but has spoken with Engineer Tim Hines regarding a drawing. Mayor Cowan commented the estimate for improving the street and sidewalk on Courthouse Avenue with asphalt and cement would be approximately \$75k. This amount does not include restructuring of the high sidewalks on this street. Commissioner Harrell commented he had received complaints from some of the business owners on Courthouse Avenue regarding drainage issues and the sidewalks.

John Westbrook was present and Commissioner Robbins asked Mayor Cowan and the other members of the board if Mr. Westbrook could present his Courthouse Avenue plan while talking about the subject under Commissioner Harrell's items.

Prior to Mr. Westbrook speaking, Mayor Cowan asked Mr. Pierce to explain the plans for Giles Marshburn Road to the Clayton's that were present at the meeting. Mr. Pierce advised the town has an estimate cost of around \$109k to pave the road. Mr. Clayton asked if the project would include speed bumps. It was advised the engineer would have to assess the necessity of speed bumps.

Mr. Westbrook presented the conceptual plans for the Courthouse Avenue park as he did at the June 12, 2018 board meeting. He presented detailed aspects of the park design, as well as the proposed changes for the street and sidewalks. Since the last time he presented, he has added the possibility of a mural. Commissioner Robbins mentioned the idea of an amphitheater in this area. Commissioner Harrell wants to see the street and sidewalks improved and would like to see costs for the designs presented by Mr. Westbrook. Commissioner Harrell made a motion to allow Mr. Westbrook to come up with a plan for the street and sidewalks for Courthouse Avenue and provide cost estimates for same. The motion was seconded by Commissioner Robbins and carried by unanimous vote. Mayor Cowan asked Mr. Westbrook to submit his plan and cost estimates to Mr. Pierce.

BREAK 5:26 PM - 5:39 PM

PUBLIC FORUM

Speakers:

Ben Horrell, Student Pastor at Burgaw Baptist Church, requested a portion of North Wright Street to be closed for the Teen Revival event to be held on August 18, 2018 on the Courthouse Square. He is requesting to close North Wright Street between Wilmington Street and Fremont Street from 6:00 PM to 9:00 PM. Chief Hock has no concerns. Commissioner Harrell made a motion to close North Wright Street between Wilmington Street and Fremont Street between 6:00 PM and 9:00 PM on Saturday, August 18, 2018 for the Teen Revival event. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Connie Ives, 650 Ed Cowan Road, spoke on behalf of her mother who resides within the corporate limits of town regarding a leaking toilet and a high water bill. Ms. Ives has concerns regarding adjustments for leaking toilets and asked if the town had the technology to notify residents when there is a leak detected. Ms. Pope explained the town's procedure when a leak is detected. She also commented all utility customers have the ability to access Eye On Water and set up an account with parameters to receive notification of leaks via phone or email. Ms. Ives asked how this information can be sent out to the other residents so they are made aware. Ms. Pope explained letters were mailed to all residents when the new water meter system was installed in year 2016.

Charles Rooks, 105 North Bennett Street, thanked the Town of Burgaw, the commissioners, and the staff for all they do for the town.

Additional comments from the Mayor

Mayor Cowan commented on behalf of the North Carolina Blueberry Festival in regards to the money given back the schools after the festival.

PUBLIC HEARING – *Karen Dunn, Planning Administrator*

Consideration of an application for Conditional District Rezoning of a +/- 26 acre portion of Parcel ID: 3228-88-1880-0000 from R-20 to I-1-CZ 1 Conditional Zoning District

Mayor Cowan declared the Public Hearing open at 5:54 PM.

Ms. Dunn advised an application has been received from Scotch Bonnet Solar, LLC for the purpose of constructing a 5MW, approximately 35 acre solar photovoltaic facility on two parcels located in Pender County and identified as PIN 3228-88-1880-0000 in the town of Burgaw ETJ and a +/- 9 acre portion of PIN 3228-77-7693-0000 in the Village of St. Helena. The tract located within the Town of Burgaw ETJ is zoned R-20. Scotch Bonnet submitted an

application requesting the establishment of an I-1 (Light Industrial) Conditional Zoning district on approximately 26 acres of parcel 3228-88-1880-0000 in the town of Burgaw ETJ for the purposes of constructing the project.

After Ms. Dunn gave an overview of the rezoning request, Karen Kemerait, Attorney with Smith, Moore, Leatherwood from Raleigh, briefly spoke on behalf of the applicant, Scotch Bonnet Solar, LLC.

April Montgomery, with a consulting firm from Sanford, North Carolina, that supports solar farms, gave an overview of the application submitted on behalf of Scotch Bonnet Solar, LLC. Ms. Montgomery gave a detailed explanation on the equipment, maintenance, designs, and operations of solar farms. Ms. Montgomery advised a solar project does not endanger public health or safety; there are no hazardous materials in these projects that are dangerous or would leak into the soil. Ms. Montgomery also stated Scotch Bonnet Solar, LLC is required to file a storm water plan with NCDEQ and get a soil erosion control permit from NCDEQ; these will be filed with the town prior to obtaining building permits.

Commissioner Harrell asked the life span for this facility. Ms. Montgomery advised the land contracts allow them to be on the property up to 40 years with conditions to decommission the project after that time frame and restore it to the manner in which they found it. Commissioner Harrell also commented about removing a portion of the trees in the wetland area of the project and asked how they plan to keep them from growing again over the 40 year life span. Ms. Montgomery advised this would be done by selective pruning, which is required by the core standards and town standards.

Commissioner Dawson asked why the particular property in discussion was selected for the project. Ms. Montgomery stated there is a Duke Energy distribution line that runs along the property and the land owners were willing to work with Scotch Bonnet Solar, LLC.

Commissioner Robbins asked if the land was currently listed under Pender County taxes as agriculture use. Ms. Dunn advised it is. Commissioner Robbins commented if so then everything is deferred and this property is considered an agricultural farm. Commissioner Robbins stated this property is being requested to be turned into industrial use. Ms. Montgomery stated this would be use of a solar farm. Commissioner Robbins asked if a solar farm was classified as a farm with the NC Department of Agriculture. Ms. Montgomery stated it was not. Commissioner Robbins stated the request is to change the use of the land.

Mayor Cowan stated the tax situation would change if the rezoning request was approved. Ms. Montgomery agreed and stated once agricultural was lifted as a classification for the property, the county would reassess differently.

There was brief discussion in response to Mayor Cowan's comments regarding helicopters and the Stag Air Park runways. Ms. Kemerait advised a glare report is provided with the documents and it was determined to be zero glare for the area. Mayor Cowan commented he would like for the hospital and VitaLink to be made aware of this project. Ms. Kemerait stated there would be no problem in doing so.

Mr. Richard Kirkland, Appraiser with Kirkland Appraisals from Raleigh, spoke as a witness to the project in regards to appraising the property and what affects it may have to surrounding properties.

Attorney Rivenbark advised the board this is not a quasi-judicial hearing.

There was brief discussion regarding other solar projects across the state in regards to Mr. Kirkland's report.

Ms. Kemerait stated an affidavit from Brent Niemann, professional engineer with Strata Solar, LLC was included in the application and advised he is present for any questions specific to the project.

In conclusion, Ms. Kemerait asked Mr. Kirkland's appraisal report and affidavit and Mr. Niemann's affidavit be submitted as evidence.

There were two speakers who signed up to speak during the Public Hearing.

Mr. Charles Rooks, 105 North Bennett Street, advised he has concern with the town's Land Use Plan and the fact this particular property is deemed agricultural property. He commented he has a concern with taking cleared land to construct this type of project when farmers as himself are not allowed to clear land for agricultural purposes. He said cleared land is hard to find for farming. He commented he is not against solar farms, but wants the board to consider keeping this type of land that surrounds Burgaw, classified as agricultural.

Mr. Charles White, 601 Lee Drive, asked for clarification of the type of buffer on the north side of the proposed project. Ms. Montgomery explained the land owners requested a right-of-way along this side and have presented a type three landscape buffer as required in the town's UDO. Mr. White commented he owns land adjacent to the south side of the property in St. Helena. He advised he attended the St. Helena meeting in regards to this project as well. He stated he is not opposed to a solar farm as long as it doesn't affect your neighbor. He asked St. Helena for an eight foot buffer along his property. He believes this project will affect his property in the future. He has not received any response from the applicant in regards to adding a buffer to the south side like the town is requiring on the north side, as required by the town's UDO. Ms. Veronica Gunter responded to Mr. White's issues in regards to the side of the property in St. Helena.

Mayor Cowan asked Ms. Montgomery to briefly clarify the buffers that are planned for the project. Ms. Montgomery stated the applicant would install a type three buffer, which according to the town's requirement, is twenty feet on center, fifteen foot depth and twenty feet on center staggering evergreens. Commissioner Robbins asked what the size and variety would be initially planted. Ms. Montgomery said they have not specified the variety at this time. Ms. Dunn cited the town's UDO in reference to a type three buffer.

Ms. Kemerait made additional statements to Mr. Rooks' comment regarding the type of zoning for the property in question. She stated the property is not zoned as agricultural and it is zoned as R-20 and it has a clear agricultural use on the property. She commented the property to the east will not be part of the solar farm and will remain as agricultural use. Commissioner Dawson commented twenty six of the thirty four acres will be utilized. Ms. Kemerait stated this is correct. Commissioner Dawson advised that will take away almost all of the agricultural use on this property. Ms. Kemerait stated the property is currently zoned as R-20, not agricultural.

Ms. Kemerait made additional statements in response to Mr. White's comments regarding the buffer on the south side of the property. She stated this is an issue between Mr. White and the Village of St. Helena. She also commented in response to his concern with property values, referencing Mr. Kirkland's report included in the application. Ms. Kemerait stated NCGS 160A-393 makes it very clear that evidence regarding property values must come from a certified real estate appraiser.

Attorney Rivenbark reminded the board once again this is not a quasi-judicial hearing and they may consider any evidence and any testimony from anyone.

Commissioner Dawson commented the town has a Land Use Plan and it clearly states the property in question is rural in character, low density and primarily agricultural nature, which is what the property is currently being utilized as at this time. She commented she is not in objection to the solar farm, but her concern is not utilizing other properties in the county because there is a lot that is available to be developed for this type of use. She believes it is a detriment to the local agriculture and there is a lot of agriculture in our area.

There being no further comments, Mayor Cowan closed the public hearing at 6:57 PM.

Commissioner Robbins made a motion to deny the application to rezone the property from R-20 to I-1-CZ 1. The motion was seconded by Commissioner George. Commissioners Murphy and Dawson voted "aye". Commissioner Harrell voted "nay". Motion carried.

ADJOURNMENT

Commissioner Dawson made a motion to adjourn. The motion was seconded by Commissioner Robbins and carried by unanimous vote. The meeting was adjourned at 7:00 PM.

Kenneth T. Cowan, Mayor

Attest: _____
Kristin J. Wells, Town Clerk