

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

**DATE:** January 08, 2013  
**TIME:** 4:00 PM  
**PLACE:** Burgaw Municipal Building  
**BOARD MEMBERS PRESENT:** Mayor Kenneth T. Cowan  
Mayor Pro-tem Howard Walker  
Commissioners Jan Dawson, Wilfred Robbins and Elaine Tyson  
**BOARD MEMBERS ABSENT:** Commissioner Charles Rooks  
**STAFF PRESENT:** Chad McEwen, Town Manager  
Sylvia W. Raynor, Town Clerk  
Robert Kenan, Town Attorney  
Rebekah Costin, Planning Administrator  
Bill Fay, Director of Public Works  
Louis Hesse, Building Inspector  
Ashley Loftis, Finance Officer  
Bill King, Chief of Police  
**MEDIA PRESENT:** Andy Pettigrew – The Pender Post-Voice  
**INVOCATION:** Bryant Crosson, Chaplain  
**PLEDGE OF ALLEGIANCE:** All

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

**Approval of Agenda**

Mayor Cowan asked if there were any requests for amendments to the agenda. Commissioner Dawson requested a closed session to discuss personnel at the end of the meeting. There being no further amendments, Commissioner Robbins made a motion to approve the agenda as amended. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

**Approval of the Consent Agenda**

Mayor Cowan asked if there were any requests for amendments to the consent agenda. There being no requests for amendments, Commissioner Dawson made a motion to approve the consent agenda as presented. The motion was seconded by Commissioner Tyson and carried by unanimous vote. The consent agenda and the following items were approved:

- A. Minutes of the December 11, 2012 regular meeting and closed session
- B. Resolution 2013-01 Approving Application for NCDENR Grant for Stormwater Master Plan

**RESOLUTION 2013-01  
APPROVING APPLICATION FOR NCDENR DIVISION OF WATER RESOURCES GRANT  
FOR THE CREATION OF STORMWATER MASTER PLAN FOR BURGAW CREEK WATERSHED**

**WHEREAS**, the Town Council for the Town of Burgaw desires to sponsor a stormwater master plan to identify drainage improvements that will help mitigate future flooding in Town. In addition, this feasibility study (stormwater master plan) will help prioritize drainage projects and provide cost estimates to assist with planning and budgeting the future improvements.

**NOW, THEREFORE, BE IT RESOLVED THAT:**

- 1) The Town Council requests the State of North Carolina to provide financial assistance to the Town of Burgaw for a town-wide stormwater master plan, in the amount of \$30,000 or 50 percent of the study costs (or non-federal portion), whichever is the lesser amount;
- 2) The Town Council assumes full obligation for payment of the balance of the study costs (or non-federal portion);

- 3) The Town Council will comply with all applicable laws governing the award of contracts and the expenditure of public funds by local governments.

Adopted by the Town Council for the Town of Burgaw this eighth day of January, 2013.

## **DEPARTMENTAL ITEMS**

### **Police Department**

#### **Resolution 2013-02 Approving Purchase of New Patrol Vehicles**

Bill King, Chief of Police advised Resolution 2013-02 approves the purchase of two patrol cars that were budgeted for in the current year's budget. Chief King advised patrol cars #20 and #21 are due for replacement. He is recommending the purchase of two 2013 Dodge Charger V8 Police Packages for a total of \$59,972.98. After a brief discussion, Commissioner Dawson made a motion to approve Resolution 2012-02 as presented. The motion was seconded by Commissioner Walker and carried by unanimous vote.

#### **RESOLUTION 2013-02 RESOLUTION TO PURCHASE NEW PATROL VEHICLES**

**WHEREAS**, the Town of Burgaw has always tried to provide the best police protection by keeping the Police Department equipped with reliable equipment; and

**WHEREAS**, patrol vehicles #20 and #21 owned by the Town of Burgaw Police Department are due for replacement consistent with the police department's five year police vehicle replacement plan; and

**WHEREAS**, the Town of Burgaw Board of Commissioners desires to retain its commitment to maintaining the same level of police protection by purchasing two new police vehicles; and

**WHEREAS**, the Burgaw Police Department has information on purchasing two new 2013 Dodge Charger V8 Police Packages; and

**WHEREAS**, the total amount for the purchase of two new 2013 Dodge Charger V8 Police Packages, including equipment is \$59,972.98.

**NOW, THEREFORE, BE IT RESOLVED** that the mayor or manager is hereby authorized to enter into an agreement to purchase two new 2013 Dodge Charger V8 Police Packages including equipment for an amount not to exceed \$59,972.98.

**Adopted this eighth day of January, 2013.**

Chief King advised Resolution 2013-03 approves the purchase of surveillance equipment for the police department. He advised this item was also a budgeted expense for this fiscal year. He advised he will be ordering the Silver Package surveillance equipment for an amount not to exceed \$6,000.00. After a brief discussion regarding how the equipment will be used, Commissioner Robbins made a motion to approve Resolution 2013-03 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

#### **RESOLUTION 2013-03 RESOLUTION TO PURCHASE SURVEILLANCE EQUIPMENT**

**WHEREAS**, the Town of Burgaw has always tried to provide the best police protection by keeping the Police Department equipped with reliable equipment; and

**WHEREAS**, the surveillance equipment owned by the Town of Burgaw Police Department has become inoperative and in need of replacement; and

**WHEREAS**, the Town of Burgaw Board of Commissioners desires to retain its commitment to maintaining the same level of police protection by purchasing new equipment for the police to conduct surveillance; and

**WHEREAS**, the Burgaw Police Department has information on purchasing new surveillance equipment; and

**WHEREAS**, the total amount for the purchase of the new Silver Package surveillance equipment is \$6,600.00.

**NOW, THEREFORE, BE IT RESOLVED** that the mayor or manager is hereby authorized to enter into an agreement to purchase new Silver Package surveillance equipment, for an amount not to exceed \$6,600.00.

**Adopted this eighth day of January, 2013.**

## **Items from Attorney**

Attorney Kenan advised he has no items at this time but will have something for closed session.

## **Items from the Manager**

### Discussion – Application for Rental of Community Building

Mr. McEwen advised that per the Board's request, an application has been drafted for the rental of the community building. He advised he has attempted to address as many issues as possible with the application. There was a very lengthy discussion regarding alcohol use in the building, rate structure, addressing damage to the building both inside and outside, who will be responsible for inspections after use, time limits, age limits, etc. Mayor Cowan commented that maybe we need a committee to come up with recommendations for the Board's review. Upon completion of the discussion, it was the consensus of the Board to appoint a committee to discuss these issues further. Commissioners Tyson and Robbins volunteered to serve on a temporary committee to discuss guidelines for the use of the community building. Mr. McEwen advised he will make contact with them at a later date to set up a meeting.

### Discussion – Naming of New Park

Mr. McEwen advised he has been informed that the Burgaw Rotary Club has suggested that the new park near the Cape Fear Community College campus be named "Burgaw Rotary Park". There being no opposition to the proposed name, Mr. McEwen said we will move forward with plans to complete the park including naming the park "Burgaw Rotary Park".

### Discussion – Letter from Blueberry Festival Executive Committee

Mr. McEwen advised the Blueberry Festival Executive Committee has sent a letter to the Board requesting use of the extra office at the new public works building for the blueberry festival coordinator's use for a \$250.00 per month rental fee. The Committee is also offering a \$1,000.00 donation to the Town towards the renovation of the community building in exchange for the use of the community building for the hospitality room during the festival. There was much discussion regarding the number of years the festival committee would desire to use the community building on the day of the festival. Mr. McEwen advised the committee would like to reserve the building on festival day for ten years for the 1k donation. There was a lengthy discussion regarding allowing the Committee to reserve the room for that many years for a one time contribution. After much discussion, Mayor Cowan suggested that they move forward and that the festival reserve the building and pay the going rate one year at a time.

### Discussion – "Revolution" Filming in Town

Mr. McEwen advised that the series "Revolution" plans to be in town filming either January 23 or February 6 in the downtown area predominantly on the court house square.

### Strategic Planning Session

Mr. McEwen informed the Board that it is time to plan a strategic planning session. He asked the Board if they desire to have the usual type of strategic planning session or if they would like to do something different this year. After a brief discussion, it was the consensus of the Board to have Mr. McEwen seek a facilitator from the School of Government for a date yet to be determined during the third week of February.

### Mass Casualty Event at Pender Memorial Hospital

Chief Bill King advised he has been informed that a mass casualty event has been planned by hospital staff for late January and they desire to shut down Fremont Street for the event. The conversation led Chief King to believe that they planned to go forward with their exercise without going through the proper authority for permission. Chief King informed the hospital staff that no street may be shut down without the Town's permission. Chief King said he advised hospital staff they need to make contact with the Town Manager ASAP regarding this event.

## Tourism Development Authority Bill – Mathematical Error

Mr. McEwen advised it was recently discovered that there is an error in the mathematics of the Tourism Development Authority (TDA) bill ratified in Senate Bill 1431 in the 2005 session of the NC General Assembly. According to the approved document one third of the TDA members must be affiliated with businesses or entities that collect the occupancy tax and three fourths of the members must be active in the promotion of travel and tourism. Mr. McEwen advised that since the fractions don't add up it is confusing as to whether the TDA should be a three member board or a four member board. He advised that correction of the fractions would clarify the intent of the bill. Attorney Kenan advised that the legislature needs to change the three fourths fraction to two thirds to correct the problem.

After a brief discussion, Commissioner Robbins made a motion to request the Town's legislative delegation to the NC General Assembly to sponsor a local act to amend Senate Bill 1431 adopted in session 2005 of the NC General Assembly to amend section 2 of the bill to strike three fourths of members and replace with two thirds of members. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

### **Items from the Mayor and Board of Commissioners**

Commissioner Robbins asked Bill King, Chief of Police how school safety is being addressed. Chief King briefly reviewed the current practices in protecting the students in the three schools in town. He advised Burgaw Middle School has a School Resource Officer. He advised his department directs traffic at the Burgaw Elementary School each morning. He advised he and his officers visit the school periodically each day. Commissioner Walker commented that the gates are locked each day after drop off of students. Chief King said he has not received any concerns regarding the Pender Early College but he advised he will check with the principal to determine if there any needs.

Commissioner Dawson asked Bill Fay, DPW how often leaves are cleaned from ditches. Mr. Fay advised he doesn't have a set schedule for routine ditch cleaning. He advised he will continue to strive to get the ditches cleaned. Mr. Fay said he plans to use the new equipment with the vacuum to clean the leaves out of the ditches.

Commissioner Tyson asked if the Burgaw Methodist Church can put tile in the ditch without closing the alley. Mr. McEwen advised Mr. Fay met with William Rivenbark yesterday regarding this issue. He said our typical policy has been to close the alley, but he said he understands that will not be required in this case and that the ditch can be tiled without a formal alley closure. Mr. McEwen advised he does have concerns about the project. He said there needs to be a contractor on this project to be sure that the grade and the catch basin are right. He also said the existing fifteen inch tile midway of the ditch will have to be removed in order to keep water from backing up into the new tile. After a brief discussion, Mr. McEwen advised if it is the pleasure of the Board the church will be instructed to start with removing the existing 15 inch pipe and from that point all pipe will connect from there to the catch basin on Bridger Street thereby filling in the entire area with no open ditch existing south of the area where the 15 inch pipe currently exists. Mr. McEwen advised that Mr. Fay will follow up with the contractor and keep track on the project.

Commissioner Tyson commented that she doesn't feel that the Pender Post-Voice is giving the town good coverage as the paper of record. Commissioner Tyson stated that although the editor of the paper was present at the December Board of Commissioners meeting, there was no coverage reported in the following weeks regarding actions taken at that meeting. Andy Pettigrew, Editor of the Pender Post-Voice and disagreed with her comments. After a brief discussion, Mr. Pettigrew asked to be on the agenda for the February meeting.

Commissioner Tyson also asked the Board to give consideration to using the website (when it is up and running) for public notices instead of paying the newspaper for an ad that the public is obviously not reading. She said that although the garbage pickup notice was run in the paper for several weeks prior to the holidays, there was garbage out all over town on the wrong days indicating that the public is not reading the notices. Mr. Pettigrew commented that circulation is less during holidays than any other time because people are out of their usual routine.

### **BREAK**

Mayor Cowan called for a break at 5:15 PM. The meeting reconvened at 5:25 PM.

## Mayor's Comments

Mayor Cowan commented that he would like to see the community get involved with the community building and at some point down the road would like for the Board to consider a citizen's committee for the community building. He advised there has been much interest in the building and would like to keep it a community building.

**PUBLIC FORUM** – No speakers.

## PUBLIC HEARING

### Consideration of Amendments to the Town of Burgaw Code of Ordinances Chapter 14, Article II, Nuisances

Mayor Cowan declared the public hearing open at 5:26 PM.

Rebekah Costin, Planning Administrator presented the following background material regarding the proposed amendment to the Code:

**Background.** Over the past four years, I have noticed some recurring issues with the town's nuisance ordinance. These issues and the attached amendments are detailed below and have been discussed by the Sanitation and Drainage Committee.

While GS 160A-193 grants municipalities the authority to abate nuisances, Burgaw's code actually falls under its general police powers. I have attached a copy of our existing ordinance along with the proposed amendments—it spells out the types of situations that are deemed public nuisances and the procedures that the town has to take in order to remedy them.

**Issue 1:** The first issue I have encountered with our current ordinances involves the types of situations that are considered nuisances. The majority of complaints I get are for overgrown yards. Our current ordinances state that any heavy growth of weeds or noxious vegetation over 24 inches in height is considered a nuisance. By the letter of the ordinance, this would apply to any lot within the town's corporate limits. The result of this is that (1) I spend a lot of time sending letters and some money abating yards where people have not mowed in a couple of months and (2) I get complaints for overgrown fields, wooded lots, and other large expanses of property, including the golf course. It is difficult to convince property owners that such lots are really a public nuisance, and the town does not have the type of money budgeted that could actually abate a large field or the golf course.

Administratively, these situations can cause difficulty. I have sought to address these issues by specifying that only uncontrolled growth that threatens the public health and safety is a public nuisance and by clarifying which properties this would apply to. With these changes, I would be better able to spend my time and budgeted funds targeting properties that truly threaten the public health and safety, getting to other properties if time and funds allow.

*At the December 5, 2012 Sanitation and Drainage Committee meeting, committee members indicated that wooded lots, fields, etc., even those that were formerly used for residential purposes should not be considered public nuisances. So the proposed ordinance only includes overgrowth issues on developed lots that are causing or threatening to cause a hazard detrimental to the public health or safety. The committee also indicated that the burden of proof should be on the complainant. I have included that in section 14-31 regarding investigation, saying that the burden of proof would be on the complainant if the investigator did not find a public health or safety issue upon investigation (which has generally been required for all complaints to determine merit).*

**Issue 2:** The second issue I have encountered regards providing notice. The ordinance requires I send a certified letter to notify the respondents that they must abate the nuisance within 15 days of the date of the notice. However, many people will not accept certified letters from the town, and the post office holds certified letters for two full weeks before sending it back to me. If I have not received the return receipt for the letter, I am reluctant to proceed with abatement because I have no way of knowing if notice has been given—the property owner has those full two weeks to pick up the letter. If the respondent lives out of state, this process can take three weeks, much longer than the time period ordered for abatement. Then I have to advertise and post the property and give another 15 days for abatement.

There is not much that can be done to completely solve this issue, but I have tried by specifying that both certified mailings and first-class mailings are required for notice. First-class mailings are returned much more quickly if an address is invalid, and many jurisdictions use them as notification because if they are not returned, it can be assumed that they were accepted by the respondent. Requiring certified mailings in addition covers the bases if indeed the respondent accepts them.

I have also given a little more leeway in terms of the time period. First, some public nuisance may be of immediate danger and should be rectified more quickly than within 15 days. Other nuisances, such as those for drainage issues or standing water, may require engineering work that would require a time period much longer.

I have also added a section regarding chronic violators, based on a statute that has been passed since our nuisance code was last amended.

*The Sanitation and Drainage committee agreed that the notice as stated above would be sufficient, especially since the address used is the one listed for the property owner in the tax records. Finding addresses for tenants may be more problematic, so the steps above are often necessary.*

**Issue 3:** The third issue involves finding someone to abate the nuisance. Our ordinance requires that the abatement be put out to bid in order to ensure a fair price. However, this is not always practical. For instance, last year I had two lawn maintenance companies come to inspect a property and give a bid. Before we could hire either one of them to abate the nuisance, the property owner decided to go in there and clear the property. The nuisance was abated, but neither company responded to my next request to get a bid to abate. If the town could just have reputable companies on call who could be assured the job as long as the price is reasonable, which we should be able to assess, it may be better for the contractors and for the town. I have removed the requirement that a town employee supervise the work. While in many cases for abatement, I may have to get an administrative warrant and supervision will be necessary, codifying this may cause more administrative trouble than required.

*The Sanitation and Drainage committee agreed that requiring an abatement job be put out to bid would be unnecessary.*

**Issue 4:** The next issue I have encountered involves getting the bill paid. I have sent out bills for two lawns mowed at Teal Briar, and both were returned because the tax record addresses were no longer correct. We have no allowance for someone who we don't have an address for. The

change I suggest would allow posting the property and putting a statement in the newspaper as sufficient notice for payment as well because we cannot put a lien on the property until we have sent them a bill.

Upon completion of Ms. Costin's presentation there was a lengthy discussion regarding eminent threat to property in emergency situations and/or public health and safety issues caused by nuisance properties. There was also discussion about the actual cost of the nuisance abatement. Mr. McEwen said it has become routine for the town to go through the process and still have to call a contractor to come and clean up the property because the owner expects that to be done. It was suggested that an administrative fee be added to the cost of the nuisance abatement process in order to cover the town's expenses for actual cost as well as administrative costs.

There was also a very lengthy discussion regarding the difference in developed lots and undeveloped lots as referenced in the ordinance.

There being no further discussion, Mayor Cowan declared the public hearing closed at 5:50 PM.

Commissioner Dawson made a motion to approve Ordinance 2013-01 including an amendment to include an administrative fee equaling 25% of the actual cost to abate the nuisance. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

**ORDINANCE 2013-01  
AMENDING THE TOWN OF BURGAW CODE OF ORDINANCES  
CHAPTER 14, ENVIRONMENT, ARTICLE II, NUISANCES**

**WHEREAS**, the Town of Burgaw (hereafter "the Town") is a municipal corporation organized under the laws of North Carolina, invested with the powers enumerated in Chapter 160A of the North Carolina General Statutes; and

**WHEREAS**, the Town of Burgaw Code of Ordinances Chapter 14, Article II defines certain conditions as nuisances and outlines procedures for investigating and abating said notices; and

**WHEREAS**, the current nuisance ordinances do not provide for the efficient and expeditious abatement of nuisances;

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

**SECTION 1.** The Town of Burgaw Codes of Ordinances Chapter 14, Environment, Article II, Nuisances now reads,

***Section 14-31. What constitutes a nuisance***

*The existence of any of the following conditions on any lot or parcel of land within the corporate limits of the Town of Burgaw is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:*

- a) *The uncontrolled growth of noxious weeds or grass on a developed lot to a height in excess of 24 inches, causing or threatening to cause a hazard detrimental to the public health or safety. Developed lots do not include areas which customarily have growth, such as predominantly forested areas with numerous trees, planted areas required for screening or buffering purposes, or fields.*
- b) *Any accumulation of animal or vegetable matter, rubbish, or discarded items that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes, or vermin of any kind which are or may be dangerous or prejudicial to the public health.*
- c) *Any accumulation of rubbish, trash, or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, or vermin of any kind that may be dangerous or prejudicial to the public health.*
- d) *An open place of collection of water for which no adequate drainage is provided and where insects tend to breed or that is likely to become a nuisance or a menace to public health.*
- e) *Any accumulation of hazardous refuse or concentration of combustible items such as mattresses, boxes, paper, automobile tires or tubes, garbage, trash, refuse, brush, old clothes, rags, or any other combustible materials or objects of a like nature.*
- f) *Any open place of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind.*
- g) *Any dilapidated furniture, appliances, machinery, equipment, building materials, or any similar items not enclosed in a structure with functional doors.*
- h) *Any furniture, appliances, or other products of any kind or nature openly kept that have jagged edges of metal or glass or areas of confinement.*
- i) *Any motor vehicle located on private property that is wholly or partially dismantled and any related motor vehicle parts and tools not enclosed in a garage with functional doors, when not actively being repaired.*
- j) *Any improper or inadequate drainage on private property that causes flooding, interferes with the use of, or endangers in any way, the streets, sidewalks, parks, or other public property of any kind.*
- k) *Any condition that blocks, hinders, or obstructs, in any way, the natural flow of branches, streams, creeks, surface waters, ditches, or drains to the extent that lots or properties are not free from standing water.*
- l) *Any litter or refuse that is scattered, discarded, cast, thrown, blown, placed, swept, or deposited in a persistent, continuous, or ongoing manner so as to accumulate in any open space. The owner or occupant of any property or dwelling unit shall exercise reasonable diligence at all times to keep the exterior of such property or dwelling unit clean of litter, and other used or waste materials from being*

scattered, discarded, cast, thrown, blown, placed, swept, or deposited on such premises in a persistent, continuous, or ongoing manner, and shall prevent from drifting or blowing to adjoining premises any such matter by removing it or ensuring that the same is placed in approved refuse containers or other appropriate location for collection.

- m) Any accumulation of trash and/or garbage that is the result of overflowing or improperly closed trash or garbage containers.
- n) Any other condition specifically declared to be a danger to the public health, safety, morals, or general welfare of inhabitants of the town and a public nuisance by the Board of Commissioners.

#### **Section 14-32. Investigation**

The town manager or his designee, upon notice of the existence of any of the conditions described in section 14-31, shall cause to be made by the appropriate town official such investigation as may be necessary to determine whether, in fact, such conditions exist as to constitute a public nuisance as described in section 14-31. The burden of proving that such conditions exist as to constitute a public nuisance as described in section 14-31 may be on the complainant if town investigation does not find conditions are hazardous to the public health or safety.

#### **Section 14-33. Notice and order to abate nuisance**

- a) If a determination is made that such condition constituting a public nuisance exists, the code enforcement officer shall notify in writing the property owner and occupant of the property, if applicable, by certified and first class mail of such conditions and shall order the abatement thereof within fifteen (15) days of such notice, unless such time frame is determined to be impracticable by the town manager due to the nature of the nuisance.
- b) If after due diligence, a respondent's address cannot be determined, then the required notice shall be published at least once in a newspaper having general circulation in the town and posted conspicuously on the property where the condition exists. The notice shall order the abatement of the public nuisance within fifteen (15) days of such notice, unless such time frame is determined to be impracticable by the town manager due to the nature of the nuisance. Informal notice to the property owner or occupant may also be issued, but written notice as described above shall be required before the town may abate said nuisance.
- c) The town may notify a chronic violator of the town's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the town shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The annual notice shall be served by certified mail to the owner of the property as listed by the tax collector. A chronic violator is a person who owns property whereupon, in the previous calendar year, the town gave notice of violation at least three times under any provision of the public nuisance ordinance.

#### **Section 14-34. Appeal**

At any time before the expiration of the abatement period specified in subsection 14-33, the respondent may request a hearing before the town manager to appeal the finding of the town official that a public nuisance exists. Upon completion of the hearing, the town manager shall consider the evidence before him and shall confirm or revoke the initial order or issue a final order that differs from the initial order.

A request for a hearing in accordance with this section must be in writing and must be filed with the town manager. The town manager shall fix a time and place for the hearing, and the initial abatement order shall be temporarily suspended pending the hearing. The hearing shall be held by the town manager within thirty (30) calendar days following receipt of the request for hearing by office of the town manager. After the hearing, the individual affected by the order shall be given the opportunity to present evidence to refute the findings that supported that abatement order.

#### **Section 14-35. Abatement of nuisance by town**

If any person, having been ordered to abate a public nuisance, fails, neglects, or refuses to abate or remove the condition constituting the nuisance within the time period established by the written notice of violation or at the appeal hearing, if applicable, the town manager or his designee shall cause such condition to be removed or otherwise remedied by having employees of the town or an independent contractor employed by the town go upon such premises and remove or otherwise abate such nuisance.

#### **Section 14-36. Cost of removal charged to owner**

The actual cost incurred by the town in removing or otherwise remedying a public nuisance plus 25% of actual cost levied as an administrative fee shall be charged to the owner of such lot or parcel of land, and it shall be the duty of the code enforcement officer to mail a statement by certified and first-class mail of such charges to the owner or other person in possession of such premises with instructions that such charges are due and payable within thirty (30) days of such notice. If mail is not accepted or is returned, the code enforcement officer shall post the statement on the subject property with instructions that such charges are due and payable within thirty (30) days of such notice.

#### **Section 14-37. Creation of lien**

If charges for the removal or abatement of the public nuisance are not paid within thirty (30) days of mailing the statement of charges or of posting the subject property, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes.

#### **Section 14-38. Provisions of chapter cumulative**

The procedures set forth in this chapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, and this article shall not prevent the town from proceeding in a criminal action or civil proceeding against any person violation the provisions of this chapter, as provided in Section 1-6.

**SECTION 2. This amendment to the Town of Burgaw Code of Ordinances becomes effective immediately upon adoption of this ordinance on this the 8<sup>th</sup> day of January 2013.**

**CLOSED SESSION**

Commissioner Dawson made a motion to go into closed session pursuant to NCGS 143-318.11 (a) (3) attorney/client privilege and NCGS 143-318.11 (a) (6) personnel. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

**OPEN SESSION RECONVENED**

Upon returning to open session, Commissioner Dawson made a motion to award Chad McEwen, Town Manager a 5% pay increase in light of a good evaluation with said increase being retroactive to January 01, 2013. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

**ADJOURNMENT**

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

The meeting adjourned at 6:00 PM.

Signed: \_\_\_\_\_  
Kenneth T. Cowan, Mayor

Attest: \_\_\_\_\_  
Sylvia W. Raynor, Town Clerk