

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

DATE: January 10, 2017
TIME: 4:00 PM
PLACE: Burgaw Municipal Building
BOARD MEMBERS PRESENT: Mayor Eugene Mulligan
Mayor Pro-tem Wilfred Robbins
Commissioners Jan Dawson, Bill George and James Murphy
BOARD MEMBERS ABSENT: Commissioner Vernon Harrell
STAFF PRESENT: Chad McEwen, Town Manager
Sylvia W. Raynor, Town Clerk
Robert Kenan, Town Attorney
Anthony Colon, Director of Public Works
Louis Hesse, Building Inspector
Jim Hock, Chief of Police
Wendy Pope, Finance Officer
Kim Rivenbark, Interim Planning Administrator
Kristin Wells, Deputy Clerk
Allen Wilson, Fire Administrator
MEDIA PRESENT: None
INVOCATION: Nick Smith, Chaplain
PLEDGE OF ALLEGIANCE: All

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

Approval of Agenda

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

Approval of Consent Agenda

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

- **Minutes of the December 13, 2016 regular and closed sessions**

SPECIAL REQUESTS

Request for Maintenance of Alley - *Robert Kenan*

Mr. Kenan advised he is here to speak about the alley between 205 E Fremont Street (Perez property) and 207 E Fremont Street (Kenan property). He advised the alley belongs to the town, not to the adjoining property owners. Mr. Kenan presented photographs of the alley area immediately between the asphalt pavement and the sidewalk that shows numerous potholes that are holding water and is causing the sidewalk to be covered in mud and debris. He also stated that the concrete curbing is broken in several places. He commented that neither property owner has any obligation to maintain the alley but he has purchased and spread rocks within the driveway at his expense to benefit the tenants at 207 East Fremont Street.

Mr. Kenan requested that the Board consider funding for the improvement of the area between the asphalt pavement of Fremont Street and the sidewalk by having concrete pads laid and poured to eliminate mud and debris from causing potential for slipping for pedestrians using the sidewalk. Mr. Kenan also asked that the Board consider

striping the parking areas along the 200 block of East Fremont Street as well as Cowan Street alongside the bank building on the corner of Fremont and Cowan in order to have clearly marked parking along the street. It was mentioned in discussion that the contractor would be in town probably before the next meeting to do the striping along Fremont Street on the new pavement and that it would be convenient to have this striping request taken care of at the same time. Mr. McEwen advised there is not enough money left in contingency from the paving project so they would have to get a quote and conduct a phone poll in order to have the jobs done at the same time. Commissioner Robbins made a motion to have Mr. McEwen get a quote for the requested striping and to poll the Board for a decision. The motion was seconded by Commissioner Dawson and carried by unanimous vote. Mayor Mulligan advised Mr. Kenan's request for the repair of the asphalt pavement and sidewalk would be discussed at the next meeting after Mr. McEwen gets a quote for the cost.

DEPARTMENTAL ITEMS

Fire Department – Allen Wilson, Fire Administrator

Volunteer Incentive Program Update

Mr. Wilson stated at the end of FY 2015-2016 the board funded a program for six months that was geared to increase volunteer membership, volunteer participation, and attempt to maintain response readiness. He said the board asked for an update at the end of six months in order to determine if the program was successful and to discuss funding it for the remainder of FY 2016-2017 along with any needed adjustments.

Mr. Wilson informed the Board the program has been a success. He said there have been few shifts uncovered and few responses with less than two personnel. He advised to this date the department has not recorded a no-response call. He advised there has been an increase in membership, adding seven new members and they expect to add three additional members in January.

Mr. Wilson advised the program is providing a framework to reward time dedication and increase participation, but it has fallen short to provide adequate coverage for weekend day time duty and minimum personnel for fire company operations. He said the department is requesting the board consider funding the current program for an additional six months to finish out FY 2016-2017 and for subsequent years. He also said in order to overcome the shortfalls the department is also requesting consideration for expansion of the part-time firefighter program for one firefighter on Saturday and Sunday from 7:00 AM through 7:00 PM, and expansion of the volunteer incentive program from two personnel per on-call shift to three personnel per on-call shift.

Mr. Wilson presented a PowerPoint presentation with much detail regarding their request (copies on file in the clerk's office).

Upon completion of the presentation Mr. Wilson presented the following outline regarding options for the Board's review. Option 1 continues the current program as is. Option 2 continues the current program and adds additional funds for increasing the part-time personnel for Saturday and Sunday coverage. Option 3 continues the current program and adds additional funding for increasing the on-call shift personnel to three firefighters per shift. Option 4 continues the current program and adds funding for both additional programs.

- *Option 1: \$25,000.00 (continues the current program only)*
- *Option 2: \$31,000.00 (continues the current program and adds 1 part-time firefighter on Saturday and Sunday from 7:00 AM until 7:00 PM)*
- *Option 3: \$31,000.00 (continues the current program and adds 1 additional on-call shift)*
- *Option 4: \$37,000.00 (continues the current program and adds both of the additional programs)*

He asked the Board that as they consider this request to please note that the program is working. Department membership is rising, overall participation is increasing, turnout times have decreased, and no non-responses have been recorded. He said the department is witnessing an increase in activity by many of its members and we are starting to see better camaraderie with all volunteers and staff.

Commissioner Robbins commented that we started this program to get the results that Mr. Wilson has presented and that it costs much less than paying full time firefighters.

Mayor Mulligan commented that this presentation proves the incentive program that was put in place has been effective. There was much discussion regarding response to specific situations.

Commissioner Dawson asked how much of the \$25,000 appropriated for the first half of this fiscal year has been used. Mr. Wilson advised approximately \$22,000 has been used leaving approximately \$3,000 in unused funds.

Commissioner George said he is ready to make a motion. Commissioner George made a motion to approve option 4. The motion was seconded by Commissioner Robbins. Mayor Mulligan commented that once we do this we need to remember that there has been substantial increase in the fire department budget over the last couple of years and this just adds to it. There being no further discussion, the motion carried by unanimous vote.

Commissioner Robbins made a motion to appropriate \$34,000 from fund balance to cover this program until the end of the fiscal year. The motion was seconded by Commissioner George and carried by unanimous vote. Commissioner Robbins asked Mr. Wilson for an update on the program in six months. Mr. Wilson agreed to bring this forward as requested.

Planning – Kimberly Rivenbark, Interim Planner

Hardison Subdivision Preliminary Plat

Ms. Rivenbark advised she has presented (in the agenda packets) a summary of everything that has occurred regarding this subdivision on the planning board level since October. She advised she has also provided a summary of revisions that were made for this meeting. She said those revisions include renaming two streets: Diggs Drive will replace Linda Lane and Clifford Drive will replace Russell Drive. The sidewalk that will go out to US Hwy 117 will be on the south side of Diggs Drive and will be separated from the street by a ditch. The final revisions are the amenity plans. She said there are three gathering spaces with a playground area with swings, a play tower etc. in phase one; phase two will have a trail with benches for a seating area; phase three will have a trail with an obstacle course for exercise.

Mayor Mulligan addressed Dean Hardison, Developer and thanked him for the revisions made per the Board's request. He commented to Mr. Hardison that there may be an issue with phase four in that there will be an ongoing maintenance problem with having to bleed the water lines on a regular basis in that area. Mayor Mulligan referred to Mr. Colon for input on this issue. Mr. Colon advised that he has reviewed the plans and he believes this can be handled by flushing the water lines every six months. He advised his opinion is based on new data provided by the developer.

There being no further discussion, Commissioner Dawson made a motion to approve the preliminary plat for the Hardison Subdivision as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

ITEMS FROM ATTORNEY

None.

ITEMS FROM MANAGER

Mr. McEwen advised he has received a change order request for the extension of a water line along Bodenheimer Street by Mr. Donald White's property. He advised this is the contractor's change order that is working on the water re-hab project and we would like to capitalize on the unit pricing that we received on that project and do a change order. He advised this cost will come from the water/sewer fund balance. Mr. McEwen said the total amount required for this item is \$14,670.00.

Commissioner Dawson made a motion to approve the change order in the amount of \$14,670.00 as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Commissioner Dawson made a motion to appropriate \$14,670.00 from water/sewer fund balance for the change order discussed above. The motion was seconded by Commissioner Murphy and carried by unanimous vote.

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

Commissioner Robbins asked about the status of the trash cans on the courthouse square. Mr. McEwen advised the last discussion he had with county staff was that those are county trash cans; the county manager is going to have those cans put back on the square and they will be maintained by the county.

Commissioner Robbins asked if there has been any response from Senator Rabon regarding the sidewalk to the senior center. Mr. McEwen said he has left messages with his staff and has not heard anything yet. He commented that he is sure it is a busy time for the senator and he is usually good about getting back to him.

Commissioner Robbins asked about any progress regarding street closure for a two day blueberry festival. Mr. McEwen advised that is being handled by the festival committee. Mayor Mulligan advised he has spoken with several businesses along Fremont Street and only the bar and a restaurant have concerns about the closing. Pete Cowan was in the audience and advised the festival committee has not yet made a definite decision regarding a two day festival. He advised they have heard some push back from some of the downtown businesses. He also said that the lack of available hotel rooms in the area is a problem and doesn't help with the possibility of having a two day festival. He asked the Board to bear with them until a decision is made and he will let them know their plans.

Commissioner Dawson thanked Public Works for the work they did on the lines at Little Town Learning Center.

Mayor Mulligan commented that since Chief Hock came on there has been a lot work done to make positive changes in the department. He complimented Chief Hock on the work that has been done and especially the visibility that has been seen with the officers. He advised there is a lot of stuff going on behind the scenes and asked Chief Hock to speak about that. Chief Hock advised that Corporal Byrd recently started in a new position as a Crime Diversion Officer. He advised the apartment complexes have made some security upgrades and Corporal Byrd has held several meet and greets with residents and children to create a relationship with the tenants. Chief Hock presented a press release that detailed a recent arrest in the Durham Village complex in which a subject was arrested and charged with 115 charges related to the theft and sale of firearms as well as numerous drug charges. He advised this subject is under a 2.1 million dollar bond in the Pender County jail. Chief Hock advised that Corporal Byrd and Sergeant Flewellin were instrumental in the investigation that led up to the arrest of this subject.

Mayor Mulligan asked Chief Hock if the police department could open the restrooms at the park at their change of shift because there have been complaints from walkers/runners about not having access to the restrooms early in the morning. Chief Hock said change of shift is 6AM and 6PM and that is not the best time to be opening the rest rooms mainly because on coming officers have to get their computers, do their vehicle checks and have a brief meeting with the off going officer thereby making it impossible for them to open the doors at 6:00 AM and lock the doors at 6:00 PM. Chief Hock said they have had numerous requests to open and close at different times and the Board will have to find a time to set the open/close time. He said currently Mr. Colon opens the doors when public works comes in and the police department locks them at dusk or whenever calls permit it. After discussion, Chief Hock advised he could have his officers open the doors at 5AM and lock the doors around 8PM. The Board was in agreement with this plan.

Mayor Mulligan advised he has received an application from Patrick Rivenbark for the tree committee. He reviewed Mr. Rivenbark's qualifications and asked the board if they would consider appointment of Mr. Rivenbark to the tree committee. Commissioner Dawson made a motion to appoint Mr. Rivenbark to the tree committee. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Mayor Mulligan said about three months ago we asked Attorney Kenan to do a preparation of conditional use permits for us and now that we have a new planner, he feels this document will no longer be necessary. He said Ms.

Dunn is a planner and this document is a public hearing for conditional use should be open to the public and the items contained in this document are things that are in our UDO and just rules and procedures for Commissioners which we know and rules that would regard the permit that would be covered by the planner. Attorney Kenan said to Mayor Mulligan that he doesn't have a problem with what the Board wants to do but your vote wasn't made when the planner was leaving, it was made based on you and Commissioner Harrell's concern about the hearing on the Dees Tourist Home back in the summer. The vote was not based on Ms. Roth's departure but on the bed and breakfast issue. Attorney Kenan said he just wanted to clarify that. Mayor Mulligan said he doesn't feel this document is necessary anymore. Attorney Kenan advised he doesn't have any problem with not doing the report but you need to make sure your planner puts detailed regulations in the staff report for the specific use being considered. Mayor Mulligan suggested that the Attorney meet with Policy/Finance and make a decision based on that meeting.

BREAK – Mayor Mulligan called for a break from 5:15 to 5:30.

PUBLIC FORUM

Allen Wilson advised he is present on behalf of Cub Scouts Pack 247 to request use of the fire bay for the Pinewood Derby on Sunday, February 5th. Commissioner Robbins made a motion to allow the Cub Scouts use of the fire bay for the Pinewood Derby as requested. The motion was seconded by Commissioner George and carried by unanimous vote.

Charles Rooks, 105 N Bennett Street thanked the Board of Commissioners and town staff for making Burgaw a great place to live. Mr. Rooks advised he is here to talk about a splash pad which he did in the past and was told that he is the only opposition that has been heard so he took his lashes and went home. He said he understands that a significant amount of support has been found and a committee was created to start planning the splash pad. He said at that time he understood that the estimated cost was approximately \$180,000. Now he understands that there is a much higher number which has caused him great concern so he looked into the minutes of the last board meeting and gathered information that has been approved by the Board which states that the estimate for the splash pad with contingency is \$511,738 and the estimate for the Courthouse Avenue streetscaping is \$272,400. He advised these two numbers came directly from the December 13th minutes. He advised that is an extremely large amount of money for this town to be spending and that inspired him to put together a petition and in three days he has collected sixty eight signatures of citizens that are opposed to the town spending that much money on the this project. He said there is a significant number of individuals present tonight in support of this petition. He presented the petition to the town clerk to be placed on record.

Mr. Rooks advised the basic concerns are the excessive cost, the unknown liability of having a splash pad, the unknown cost of operation of such a facility and the fact that it is seasonal with use for only a few months. He said the people that he has spoken to feel this is an excessive spending of tax dollars and how can we justify it. Mr. Rooks said other projects such as street paving, drainage, water and sewer upgrades should certainly have a higher priority. He said he would request that a public hearing be held on cost of construction and operation before any further decisions are made. He thanked the Board for their time and advised he is trying to make the public aware of this project.

Everett Durham, 208 South Walker Street said he wants to approach the same issue but wants to approach it differently. He said in the last couple of days he has spoken to five different communities that have splash pads. He said he cannot find any negatives regarding the splash pads from any managers that he spoke to but the one thing that they all say is that when considering an investment of this type in the half million dollar range they (the managers) feel that is extremely out of whack. He said the town of LaGrange has a very nice water park that was built for less than \$100,000. They also did much of the work themselves. Mr. Durham said there are other costs that must be considered such as the water must be monitored every day, it has to be tested every day for health department reasons, must be fenced and locked each day and there are considerable maintenance figures that go with it such as the padding that keeps people from slipping which is directly related to liability insurance. Mr. Durham said that each contact he made said the splash pad is not a bad thing but it has a value and no one indicated that that value would even approach a \$400,000 cost. Mr. Durham asked the Board that when they consider the splash pad when it comes time to vote please be very cognizant of the fact that you are spending my money, and your money;

you are spending the town's money and you have an obligation to spend our money wisely. He said \$700,000 is not a wise investment. Be smart about our money.

Michael Peterson, 111 West Bridgers Street complained about the flooding on West Bridgers Street and the stopped up drains that need to unclogged. He said nothing is being done. He also commented that the "no thru trucks" signs are not being enforced on Bridgers Street because large trucks are coming through his neighborhood on a regular basis. He advised the water meter lid on the sidewalk at the corner of Bridgers and Dickerson Streets does not fit properly and it is a trip hazard.

Mr. McEwen advised the pipe in the alley has been blown out but the problem is the outfall in the alley and they cannot get a piece of equipment in there to do the job. Attorney Kenan also advised that one portion of the alley has been closed. There was much discussion regarding what can and cannot be done. Mayor Mulligan advised Mr. Peterson they will look into this situation and get back to him.

Elaine Tyson, 609 South Bickett Street, advised she is proud of Burgaw and the Board and Staff of the town but she is concerned about the amount of money proposed to be spent on the splash pad. She advised spending \$700,000 plus on a splash pad when there are streets, sidewalks and infrastructure needs that should be taken care of instead. She advised she is disappointed that the Commissioners would even consider spending that much money when there are so many other things in town that \$700,000 could be spent on so all citizens could see it and make use of it instead of limiting it to one group. She also has concerns about the liability that will be incurred with the splash pad. Ms. Tyson said she sees this as babysitter for parents that can drop their kids off to play and come back later to pick them up. She advised there are a lot of things to be considered and she hopes before the final decision is made that everyone will be able to voice their concerns about the money that will be spent.

Pete Cowan said as a citizen of the town (and we all love this town) I expect this Board to spend our money prudently. He said we heard discussion about the splash pad when it was \$100,000 to \$150,000 but when it got to be an estimated \$772,000 it is obviously a moving target. He made comparisons to renovations to the depot in the amount of \$400,000 and the community house which cost about \$60,000 to renovate. He said we restored the old jail at \$50,000. He said you can see what we got for that amount of money and I can relate to that because those are facilities but I don't know how many of us will use the splash pad. However it is not necessarily for our use and I don't oppose having something for young people within reason. He asked the board to make a recommendation that will make sense because the numbers that have been quoted tonight makes no sense. Mr. Cowan said the citizens need to come to the meetings but despite changing to night meetings the citizens still do not attend unless there is something of interest to them on the agenda. He asked the board to consider that just like you are spending your money as well as mine and everybody else here. Spend it wisely.

Karen Harding, 318 South Walker Street she said she concurs with the people that have been up here, we love to spend our money prudently. She said there are people that are rolling in their graves because there was \$400,000 spent on the depot but we decided it was a good investment. She said she believes the splash pad is a good investment; I think the numbers that you are using are out of line and a lot of other costs have been rolled into that. She commented that when Mr. Cowan was mayor he wanted that building to be purchased and she sees no reason why this is any different. She said twenty two very responsible mamas came here and asked for this splash pad and I do not see it as something that is allowing people to relieve themselves of their parental obligations. She said we have spent money on infrastructure and roads and we have a ton of money so either we are grossly overtaxed or we need to make plans as to how to use this money because sitting in the bank does no taxpayer any good. She said if you are not interested in adding to our infrastructure and adding things to our community to make it a lovely place to live then by all means stop taking it.

Mayor Mulligan said he feels the numbers are high and doesn't know how accurate the numbers are. He spoke at length regarding the plans for the Dees property as well as the streetscaping on Courthouse Avenue. He said the reason we decided to put the splash pad downtown was to kill two birds with one stone; to beautify the area and add the splash pad thereby bringing people into downtown and to provide another facility for the citizens of all ages to enjoy.

Commissioner Robbins said this concept is not new having been brought up about a year and a half ago. He said about every two months there was talk among board members and much research about a location. He advised if other locations had worked out the splash pad would probably have been built. He said this has been a work in progress and he too believes this amount is high and we have to start looking at grants to build the splash pad.

Charles Rooks said he obtained a copy of the minutes of the December 13th meeting which contains specific estimates and specific plans for placement of the pad and a pavilion and the pursuit of underground utilities etc. He said to him it seems that a plan is already approved and the Board is planning to move forward. He said that is the reason he got up in arms about the situation. He said after the fact it is too late for us to be talking to you, so he is just asking that the Board listens to what has been said today.

Mayor Mulligan responded by saying that he is not making any excuses and he doesn't know because he has guesstimates about all this. He said if this comes in at \$700,000 for a splash pad, he will be against it. He said we probably should have a public hearing before we commit to do this at all but we have to have factual information.

Pete Cowan asked if these numbers do not change, assuming those numbers stay there does this board feels that is an acceptable charge and cost for this project?

Commissioner Dawson said she doesn't think any of us are prepared to spend that kind of money. We want to look diligently at PARTF grants and see what we can do to help pursue this project. She said she is not on board to spend that kind of money.

Commissioner Robbins said he would be on board to spend the two hundred and something for rejuvenation and revitalization of Courthouse Avenue. He said he is not backing up from that. It needs something done to it.

Pete Cowan asked about underground utilities and if that has been looked into. Mr. McEwen advised he has an appointment with Duke Energy this week to get further information regarding underground utilities. He commented that underground utilities will be a large part of the cost of the streetscaping.

Karen Harding mentioned that they have a good idea what the cost of the splash pad will be; it's all the stuff they are doing around it that is increasing the number.

PUBLIC HEARING – Kimberly Rivenbark, Interim Planner

Consideration of an application for a conditional use permit for an Automobile Sales, New and Used use to be located at 113 US Hwy 117 N. Applicant Rance Shawn Brown has applied for a conditional use permit for an "Automobile Sales, New and Used" use to be located at 113 US Hwy 117 N (PIN 3229-64-4864-0000) inside the Town of Burgaw corporate limits.

Attorney Kenan administered the oath to Kimberly Rivenbark, Rance Brown and Stella Murphy who would be testifying during the hearing.

Mayor Mulligan asked for any disclosures by the Board members. Commissioner Robbins advised he has visited the site.

Mayor Mulligan opened the public hearing at 6:13PM.

Kimberly Rivenbark presented the following background information to the Board:

GENERAL INFORMATION

Applicant:	Rance Shawn Brown 318 Cricket Drive Rocky Point, NC 28457
Property Owner:	Lanier, Bertice L.
Site:	113 US Hwy 117 N
Current Zoning:	B-2
Size:	0.98 Acres

Existing Land Use: Commercial

Summary

The applicant is applying for a conditional use permit for an “Automobile Sales, New and Used” use to be located at 113 US Hwy 117 N, in the building formerly used by Burgaw Quick Lube.

HISTORY/SITE DESCRIPTION/ANALYSIS

The property was permitted for auto sales from 2001 to 2005. Since 2005, the property has been permitted for auto repair and was operated by Burgaw Quick Lube. The applicant has been issued a permit to operate auto repair and would like to add auto sales to his business.

STANDARDS FOR REVIEW

In reviewing the permit application, the Town of Burgaw Board of Commissioners shall find as a specific finding of fact and reflect in their minutes if the permit will comply with the following standards based on the evidence presented at the hearing.

As a note, the following evidence has been reviewed by town staff: copy of application; site plan; landscape plan; aerial photo; zoning map; future land use map; photos of existing site.

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.

Evidence:

- The Applicant has included a site plan indicating the proposed placement of 5 to 20 cars for sale, parked on an existing concrete pad.
- The hours of operation will be 7:30am to 5:30pm Monday through Friday and as needed on Saturday.
- Applicant proposes the use of 3 existing flood lights located on the property on Hwy 117.
- The applicant proposes the use of 3 entrances to the property. Two of the existing driveways are located off of East Bridgers Street. The third entrance is off of Hwy 117 by use of the Dollar General driveway (the property owner has an easement with Dollar General)

Staff Recommendation:

Unless additional information is presented at the public hearing, the evidence provided in the application indicates this standard has been met.

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

Evidence:

Buffering and Screening

- Residentially zoned property abuts the rear of the property. The property directly behind the structure is owned by the same property owner and is currently wooded. The remaining 35 feet of the property line to the south abuts a residential property, and the property line is heavily wooded.

Setbacks

- The applicant has submitted a site plan indicating that all vehicles will be located outside of the state right-of-way. The office for the business will be located inside of the existing structure.

Landscaping

- Based on the landscaping plan submitted by the applicant, the applicant’s proposal does not appear to meet all requirements.
 - A perimeter landscape is required for the display area.
 - The minimum width of such strip shall be twelve (12) feet.
 - For every thirty (30) linear feet or fraction thereof the perimeter landscape strip shall contain one(1) canopy tree of at least eight (8) feet in height, and a continuous row of at least six (6) evergreen shrubs at least eighteen (18) inches in height.

Staff Recommendation:

Based on the application and additional evidence, staff recommends the following conditions:

- The applicant shall install perimeter landscaping along the display area. If future expansion of display area occurs, then the applicant shall extend the perimeter landscape to encompass all display areas.
- Plans showing the placement and type of these shrubs and trees shall be approved by the planning administrator prior to vehicle display on the property.
- The applicant shall install a type I or II buffer, as approved by the planning administrator prior to installation, if the property directly behind the structure is ever developed as residential property.

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

Evidence:

- The use is not a public necessity.
- This property is not located in the special flood hazard area.
- There is no evidence indicating that this use will affect the use or any physical attribute of adjoining or abutting property.

Staff Recommendation:

Unless additional information is presented at the public hearing, the evidence provided in the application indicates this standard has been met.

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 Hwy 53 Corridor Study.

Evidence:

- The subject property is adjacent to and across from commercially zoned tracts, and abuts residentially zoned property.
- The site for the proposed business is currently zoned Highway Business and is designated as Commercial Growth in the Burgaw 2030 Comprehensive Land Use Plan.
- This property is not covered by the NC Highway 53 Corridor Study.

Staff Recommendation:

Based on the application and additional evidence, staff recommends the following conditions:

- The board may wish to consider requiring the installation of a bike rack.

SPEAKERS

Stella Murphy advised she owns a piece of property across the street from the back of the property in question; she said she would like to know if there was going to be a buffer of Leyland cypress trees or something similar across that open area at the back of the property where the business will be. Commissioner Robbins advised Ms. Murphy that a screen will be required between the residential and business property so her concerns will be addressed by the ordinance.

Rance Brown advised this is the second time he has looked into operating a business out of this building. He said he has spent 35 years in the new car dealership business so he knows the business. He advised this property is currently permitted for car repairs only but he is proposing to have a used car lot there because the road frontage is ideal for such a business. He said he will only have used cars and a repair facility on the property. He advised he has made many improvements on the building including painting, remodeling and the addition of illuminating the three flood lights along Hwy 117 at a considerable cost which have not been used since 2004. He advised he is willing to conform to all the regulations required in this use. He said he has met all the minimum requirements to operate a used car sales lot in regards to comprehensive insurance, garage liabilities, surety bonds and attending required dealer courses in order to sell used cars.

Commissioner George asked Mr. Brown if he plans to do any body work. Mr. Brown advised only mechanical repairs will be done in his shop. He said there will be no work on large diesel trucks, race cars or anything with excessive noise.

Mayor Mulligan asked Commissioner Robbins if he thinks we should require a bicycle rack since that is usually a part of a conditional use for a business. Mr. Brown advised he will put in a bicycle rack.

Commissioner Dawson inquired about the recommendation for fencing. Ms. Rivenbark advised the reason she is recommending fencing for a thirty five foot span behind the structure is that the large triangular piece of property in that area is in common ownership with the building owner. Mr. Brown advised he has no problem with putting a fence across that area.

Mayor Mulligan asked Mr. Brown if he plans to use the grassy area to display cars. Mr. Brown advised he does not plan to use the grassy area for display of cars. Mr. Brown said he has every intention to meet the town's requirements.

There being no further discussion, Mayor Mulligan closed the public hearing at 6:31PM.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Mayor Mulligan advised it is time to review the finding of fact. He read the following findings and asked each Board member to vote on each finding.

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.

Evidence:

- The Applicant has included a site plan indicating the proposed placement of 5 to 20 cars for sale, parked on an existing concrete pad.
- The hours of operation will be 7:30am to 5:30pm Monday through Friday and as needed on Saturday.
- Applicant proposes the use of 3 existing flood lights located on the property on Hwy 117.
- The applicant proposes the use of 3 entrances to the property. Two of the existing driveways are located off of East Bridgers Street. The third entrance is off of Hwy 117 by use of the Dollar General driveway (the property owner has an easement with Dollar General)

Commissioner Murphy – yes

Commissioner Robbins – yes

Commissioner Dawson – yes

Commissioner George - yes

Staff Recommendation:

Unless additional information is presented at the public hearing, the evidence provided in the application indicates this standard has been met.

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

Evidence:

Buffering and Screening

- Residentially zoned property abuts the rear of the property. The property directly behind the structure is owned by the same property owner and is currently wooded. The remaining 35 feet of the property line to the south abuts a residential property, and the property line is heavily wooded.

Setbacks

- The applicant has submitted a site plan indicating that all vehicles will be located outside of the state right-of-way. The office for the business will be located inside of the existing structure.

Landscaping

- Based on the landscaping plan submitted by the applicant, the applicant's proposal does not appear to meet all requirements.
 - A perimeter landscape is required for the display area.
 - The minimum width of such strip shall be twelve (12) feet.
 - For every thirty (30) linear feet or fraction thereof the perimeter landscape strip shall contain one(1) canopy tree of at least eight (8) feet in height, and a continuous row of at least six (6) evergreen shrubs at least eighteen (18) inches in height.

Staff Recommendation:

Based on the application and additional evidence, staff recommends the following conditions:

- The applicant shall install perimeter landscaping along the display area. If future expansion of display area occurs, then the applicant shall extend the perimeter landscape to encompass all display areas.
- Plans showing the placement and type of these shrubs and trees shall be approved by the planning administrator prior to vehicle display on the property.
- The applicant shall install a type I or II buffer, as approved by the planning administrator prior to installation, if the property directly behind the structure is ever developed as residential property.

Commissioner George – yes
Commissioner Dawson – yes with condition of fencing - 35 feet of six foot tall privacy fence with additional screening
Commissioner Robbins – yes
Commissioner Murphy – yes

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.

Evidence:

- The use is not a public necessity.
- This property is not located in the special flood hazard area.
- There is no evidence indicating that this use will affect the use or any physical attribute of adjoining or abutting property.

Staff Recommendation:

Unless additional information is presented at the public hearing, the evidence provided in the application indicates this standard has been met.

Commissioner George – yes
Commissioner Dawson – yes
Commissioner Robbins – yes
Commissioner Murphy - yes

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 Hwy 53 Corridor Study.

Evidence:

- The subject property is adjacent to and across from commercially zoned tracts, and abuts residentially zoned property.
- The site for the proposed business is currently zoned Highway Business and is designated as Commercial Growth in the Burgaw 2030 Comprehensive Land Use Plan.
- This property is not covered by the NC Highway 53 Corridor Study.

Staff Recommendation:

Based on the application and additional evidence, staff recommends the following conditions:

- The board may wish to consider requiring the installation of a bike rack.

Mayor Mulligan advised this is where we will add in the bicycle rack. (Mr. Brown had testified that he would install a bike rack.)

Attorney Kenan advised Mayor Mulligan that based on the memorandum that was sent to the Board that they must take into consideration the detailed use requirements in Article 8, Zoning District Regulation, Automobile Sales, New and Used (B-2, I-1).

The following detailed regulations were read:

- The lot for the proposed Automobile Sales, New and Used use shall meet the minimum yard requirements for the zoning district or shall be a minimum of fifteen thousand (15,000) square feet in size.
- Customer and employee parking and vehicles on display shall not be located in any required street yard or public right of way and may not impede vehicular or pedestrian traffic or sight distance triangles, if applicable.

- All vehicular display areas shall conform to landscaping requirements as set forth in Article 11 of this ordinance for parking areas.
- All vehicles shall be operable, suitable for driving and ready for sale. Vehicles failing to meet these criteria shall not be allowed. No vehicles with visible damage or missing parts shall be allowed.
- No outdoor public address system shall be permitted which can be heard beyond the boundaries of the property.
- On-site loading and unloading areas shall be of a sufficient size to ensure that no such loading and unloading will occur in any public right-of-way or impede ingress, egress, or internal circulation.
- A type I or II buffer shall be required along all lot lines adjoining residentially zoned or used lots.

Commissioner Dawson requested to add the additional abovementioned detailed regulations from Article 8 to Standard 4.

Commissioner George – yes
Commissioner Dawson – yes
Commissioner Robbins – yes
Commissioner Murphy - yes

Commissioner Robbins made a motion to approve the conditional use permit as presented and discussed with all the conditions and additions added here within. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

CLOSED SESSION 6:46PM

Commissioner Dawson made a motion to go into closed session pursuant to GS 143-318.11 (a) (3) Attorney/Client Privilege and GS 143-318.11 paragraph (a) item (6) personnel. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

OPEN SESSION RECONVENED 7:58PM

Commissioner Robbins made a motion to return to open session. The motion was seconded by Commissioner Murphy and carried by unanimous vote.

Commissioner Robbins made a motion to hire Arthur Williams part time at \$15.00 per hour through June 30, 2017 and to include \$8100 appropriated from Water/Sewer fund balance to cover his salary. The motion was seconded by Commissioner George and carried by unanimous vote.

ADJOURNMENT

Commissioner George made a motion to adjourn. The motion was seconded by Commissioner Dawson and carried by unanimous vote. The meeting adjourned at 8:00PM.

Eugene Mulligan, Mayor

Attest: _____
 Sylvia W. Raynor, Town Clerk