

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

DATE: January 13, 2015
TIME: 4:00 PM
PLACE: Historic Burgaw Depot
BOARD MEMBERS PRESENT: Mayor Eugene Mulligan
Mayor Pro-tem Howard Walker
Commissioners Jan Dawson, Wilfred Robbins, Charles Rooks and Elaine Tyson
STAFF PRESENT: Chad McEwen, Town Manager
Sylvia W. Raynor, Town Clerk
Robert Kenan, Town Attorney
Anthony Colon', Utility and Compliance Specialist/ORC
Bill Fay, Director of Public Works
Michael Garrison, Police Captain
Louis Hesse, Building Inspector
Ashley Loftis, Finance Officer
Rebekah Roth, Planning Administrator
Montrina Sutton, Chief of Police
Kristin Wells, Deputy Clerk
MEDIA PRESENT: Andy Pettigrew, Pender Post - Voice
INVOCATION: Nick Smith, Chaplain
PLEDGE OF ALLEGIANCE: All

The meeting was called to order by Mayor Eugene Mulligan at 4:00PM.

Mayor Mulligan introduced Michael Garrison, newly appointed Police Captain. Captain Garrison gave a brief overview of his job experience.

Mayor Mulligan also extended his appreciation on behalf of the town for the assistance from Four County Electric during the holiday season. Four County Electric put up and then removed lights and banners for the town for Christmas.

Approval of Agenda

Mayor Mulligan asked if there were any requests for amendments to the agenda. There being no requests for amendments, Commissioner Rooks made a motion to approve the agenda as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Approval of Consent Agenda

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

- A. Minutes of the December 09, 2014 regular meeting and closed session**
- B. Resolution 2015-01 Approving "NC Deferred Comp" (457b) Qualified Defined Contribution Plan**

**RESOLUTION 2015-01
APPROVING "NC DEFERRED COMP" (457b)
QUALIFIED DEFINED CONTRIBUTION PLAN**

WHEREAS, the Town of Burgaw wishes to provide a qualified defined contribution plan to the employees of the Town of Burgaw.

WHEREAS, the State of North Carolina has established the North Carolina Public Employee Deferred Compensation Plan, a qualified governmental Deferred Compensation Plan under Internal Revenue Code 457(b) for public employees of North Carolina.

NOW THEREFORE BE IT RESOLVED that the Town of Burgaw Board of Commissioners has adopted the North Carolina Public Employee Deferred Compensation Plan also known as "NC Deferred Comp" under the terms of the Plan Document and the Third-Party Administrator Agreement. All employees shall become eligible to defer compensation after being employed with the Town of Burgaw.

Signed this 13th day of January, 2015.

DEPARTMENTAL ITEMS

Finance – Ashley Loftis, Finance Officer

Ms. Loftis advised on October 14, 2014 the Town Board discussed and approved the funding of a project that was presented by the Pender Early College Honors Biology students. With this project the students will be researching and providing information to walkers on the Osgood Canal Greenway and Trail about the indigenous plants and animals that are in our area. This information will be provided via identifying markers that will be placed strategically along the Trail. The Town Board of Commissioners agreed to provide the funding of these markers. The funds used to purchase these markers will be split between the Tree Board expenditure line (\$650) and a fund balance appropriation (\$650).

Ms. Loftis advised the recommendation is the approval of the ordinance authorizing the fund balance appropriation of \$650 from the General Fund to cover this expense.

There being no discussion, Commissioner Dawson made a motion to approve Ordinance 2015-01 as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Ordinance 2015-01 Amending FY 2014-2015 Budget for Pender Early College Honors Biology Class Project for Osgood Canal Greenway and Trail

**ORDINANCE 2015-01
AMENDING FISCAL YEAR 2014-2015
ANNUAL BUDGET**

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2014-15 on June 10, 2014; and

WHEREAS, the Town of Burgaw wishes to fund the cost of additional signage along the Osgood Canal Greenway and Trail; and

WHEREAS, the signage will be provided through the Pender Early College Honors Biology students; and

WHEREAS, these signs will be placed along the walking trail to provide additional identifying makers to educate walkers along the trail on the many species of plants and animals that are indigenous to this area; and

WHEREAS, funding of \$1,250 for this project will be paid partially through the Tree Board line item (\$650) and by a supplemental appropriation of Fund Balance (\$650) into the appropriate line item as needed.

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

INCREASE BUDGETED REVENUE

Account Number	Account Description	Amount
10-3900-00-900	Fund Balance Appropriated	\$650.00

INCREASE BUDGETED EXPENDITURE

Account Number	Account Description	Amount
10-6000-00-650	Tree Board	\$650.00

Adopted this the 13th day of January 2015.

Resolution 2015-02 Authorizing Disposal of Surplus Equipment – Spectrum Detroit Diesel Auto Transfer Switch

Ms. Loftis advised the Town has obsolete property that needs to be included in our surplus items. She advised the Town desires to sell one (1) Spectrum Detroit Diesel Auto Transfer Switch by auction through GovDeals. After a very brief discussion, Commissioner Robbins made a motion to approve Resolution 2015-02 as presented. The motion was seconded by Commissioner Rooks and carried by unanimous vote.

**RESOLUTION 2015-02
AUTHORIZING DISPOSAL OF SURPLUS EQUIPMENT**

WHEREAS, the Town of Burgaw, North Carolina is the legal owner of (1) Spectrum Detroit Diesel Auto Transfer Switch which was used to power the generator at the Wastewater Treatment Plant; and

WHEREAS, the Wastewater Treatment Plant was decommissioned in 2012; and

WHEREAS, said auto transfer switch is no longer useful to the Town; and

WHEREAS, North Carolina General Statutes 160A-270 allows municipalities to dispose of property by public auction by adopting a resolution; and

WHEREAS, the auto transfer switch is valued at more than \$500.00; and

WHEREAS, the following regulations are designed to secure for the Town of Burgaw the fair market value for the vehicle and to accomplish the disposal efficiently and economically.

NOW, THEREFORE, BE IT RESOLVED by the Town of Burgaw Board of Commissioners that:

1. *The Board of Commissioners does hereby decommission the one (1) Spectrum Detroit Diesel Auto Transfer Switch above issued to the Town and does hereby declare it to be surplus property;*
2. *In accordance with GS 160A-270 said equipment shall be advertised electronically on www.govdeals.com for public sale.*

ADOPTED this thirteenth day of January, 2015.

ITEMS FROM ATTORNEY – Robert Kenan

None.

ITEMS FROM MANAGER – Chad McEwen

Resolution 2015-03 Approving a General Prequalification Policy Related To Construction or Repair Work for Which the Town Of Burgaw Intends To Prequalify Prospective Bidders

Mr. McEwen advised in recent months we have discussed the need for the Town to develop a more objective process for hiring contractors related to capital projects. Like most governmental entities, the Town has traditionally hired the contractor that was deemed the “lowest responsible bidder.” Until recently the bidding laws in the state made it very difficult for governmental entities to employ any means of formal evaluation regarding a prospective bidder’s technical qualification, financial aptitude to complete a project, safety record, and/or litigation experience related to the inability to complete the contractual obligations of a project.

Mr. McEwen informed the Board that recently, the General Assembly ratified HB 1043 which is described as “an act to clarify the statutes related to the use of prequalification in public construction contracting” which becomes law Oct. 1, 2014, and applies to contracts awarded on or after this date. Specifics of the bill require two levels of approval by the governing body:

1. The board shall adopt an objective prequalification policy applicable to all construction or repair work for which the governmental entity intends to prequalify bidders and;
2. The board shall adopt the assessment tool and criteria for that specific project.

Mr. McEwen advised by developing the attached guidelines it is anticipated that we can eliminate the obligation of settling for the lowest responsible bidder. Although price will always constitute a major component in any project, we will now have the ability to quantify who we deem “responsible” based on relevant criteria.

Mr. McEwen reminded the Board that following the November meeting, they requested that the Mayor, Bill Fay and Louis Hesse meet with him to discuss the prequalification guidelines. He advised the attached revised guidelines are the result of the meeting (due to length of document, attachments are on file in the clerk’s office).

After a lengthy discussion, Commissioner Robbins made a motion to approve Resolution 2015-03 as presented. The motion was seconded by Commissioner Walker and carried by unanimous vote.

RESOLUTION 2015-03

Resolution Approving a General Prequalification Policy Related to Construction or Repair Work for which the Town of Burgaw Intends to Prequalify Prospective Bidders

WHEREAS, the Town of Burgaw wishes to develop and implement general prequalification guidelines consist with ratified House Bill 1043 (Session 2013); and

WHEREAS, the attached prequalification policy and guidelines establish an objective means for evaluating the competency of prospective bidders for projects the Town deems as requiring prequalification status; and

WHEREAS, the attached policy will help insure the Town has the mechanisms in place to eliminate prospective bidders who have a documented history of less than acceptable technical qualifications related to the proposed project, circumstances that are cause for questions regarding the financial aptitude of the contractor to complete the proposed project, unacceptable safety records, and/or litigation experience related to the inability to complete the contractual obligations of a project.

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

SECTION 1. The Town of Burgaw Board of Commissioners hereby approves the attached general prequalification guidelines. (Attachments on file in the Clerk’s office)

ADOPTED this the thirteenth day of January, 2015.

Discussion Item – Regarding additional construction improvements at town hall

Mr. McEwen advised following the New Year’s holiday repairs began on the Town Hall building related to the damaged sustained a few months ago as a result of a car hitting the front on the building. He advised that initially we discussed the possibility of adding a few improvements as part of the repairs. The Board asked that the cost estimates for these additions be brought back to the Board for consideration following the start of the repairs. These additions are described below.

- 1) Conversion of the existing waiting room into a new elected official’s office. The addition of this office will address the concerns that have been voiced regarding the elected officials not having a space within the building as well as insure that the conference room is retained for that purpose.
- 2) Expand the front vestibule and relocate the waiting room within this space.
- 3) Re-orient the front window so that it faces Walker Street. Also install a raised platform for the Customer Service Representative’s work station.

Mr. Hesse asked the contractor to provide a change order for the proposed additions. Mr. McEwen advised the quote for the change order came in at \$35,761.

Mr. McEwen advised the Board that we need direction regarding the change order and whether or not the Board desires to proceed with the change or just repair the building back to its original state.

There was a lengthy discussion regarding the repairs and the proposed renovations. Mr. McEwen advised that the contractor included a raised platform for the customer service representative work area at no additional cost. (This

was one of the items discussed in the proposed renovations plan.) Commissioner Rooks and Tyson both commented that this is an excessive amount of money for renovations and they feel the conference room should be retained with a desk for the elected officials and a conference table for meetings. Commissioner Robbins mentioned that there was discussion at last year's CIP meeting regarding future improvements of the town hall on a large scale. He advised that we should talk about those issues at a later date. Upon completion of discussion, no action was taken on this item, thereby leaving the town hall to be repaired back to its original state before the accident.

Discussion Item – Regarding Pender Arts Council's plan to heat the bay area of the former EMS building

Mr. McEwen advised in the initial conversation with the Arts Council regarding the use of the EMS Building the eventual plan to heat the bay areas was discussed. The comment was made at the Board meeting that if the Arts Council decided to pursue this plan, the Board of Commissioners would need to provide approval prior to the space being heated and/or cooled.

Mr. McEwen advised recently the Arts Council converted the building to natural gas. He said the heaters were converted and connected as part of the conversion. Mr. McEwen asked for a representative of the Arts Council to come to the January meeting to discuss the plan for heating the bay area so the Board can consider the request. Rochelle Whiteside was present on behalf of the Arts Council. Ms. Whiteside advised the heat in the bay would only be used if there is an important event there.

Mr. McEwen advised he feels the justification for requiring the Arts Council to come back to the Board prior to heating the space was to make sure that ground rules as to the use were established in order to help insure that the Town would not be responsible for excessive gas bills since the utilities are in the Town's name.

Commissioner Robbins made a motion to allow the Arts Council to turn on the heat in the bay area of the old EMS building. The motion was seconded by Commissioner Dawson. Commissioner Rooks asked for discussion before the vote. Commissioner Rooks said the lease is clear that the town will pay up to \$15,000 for utilities per year for the Arts Council and he doesn't understand why we have to vote when it is clear that the Arts Council will be responsible for any amount over the \$15,000. There being no further discussion, Mayor Mulligan called for a vote on the motion. The motion was carried unanimously.

Discussion Item – Regarding the purchase of digital information sign

Mr. McEwen advised the Building and Grounds Committee met as requested by the Board of Commissioners and discussed the proposal to purchase a digital informational sign including design, location, and use of the sign. He presented a proof from Stewart Sign Company which reflects the changes discussed at the Committee meeting, except for having the digital portion of the sign above the "Town of Burgaw". He advised according to the sign company, this model doesn't allow for that type of format change. Mr. McEwen advised the estimated cost of the sign is \$17,266. This price does not include installation which could run from another \$1500 if the metal pedestal is used to as high as \$4,000 if a masonry base is installed.

Mayor Mulligan expressed concern that only one company was contacted. Mr. McEwen advised that Stewart Signs is the largest digital sign company of this type in the country. He advised that he could gather prices from others if necessary.

Mr. McEwen informed the Board that the Committee discussed the location of the sign and agreed that the best location would be on the vacant corner lot at Wilmington and Walker Streets. He said one challenge that was discussed with this location was the roundabout project and ironically enough during the Committee meeting he received an email which announced that the roundabout project was approved for funding under the State Transportation Improvement Plan (STIP) with right of way acquisition scheduled for 2018. He advised that given the Town has already obtained all the rights of way, the construction timeline may be moved forward.

Mayor Mulligan commented that he feels if the sign is placed on the corner and there may be a reason to move it, the brick foundation should not be constructed until a later date.

There was a lengthy discussion regarding the placement of the sign, visibility issues, right of ways, etc. Commissioners Dawson and Robbins (members of the Building and Ground Board) advised they chose the corner of Walker and Wilmington Streets for the location because there is more traffic there than in front of the town hall.

Commissioner Tyson asked if the use for the sign has changed since these discussions were started several months ago. She advised in the beginning the use was to be for government meetings and events. Commissioner Robbins said he envisions the sign being used for any town event including meetings, festivals, exercise classes etc.; basically any event going on in town. Commissioner Rooks asked how inclusive we will be with the sign. Commissioner Robbins said they haven't discussed that yet but a policy will need to be set. Commissioner Walker asked who will be responsible for changing the sign. He was advised town staff will take care of the changes.

Commissioner Rooks advised it is a hard sell for him to spend this much money on a sign unless it is utilized to the nth degree. He said it will create more work for the staff. He said he is not in favor of putting the sign in the right of way although he does feel the corner lot is a better choice than in front of the town hall. He said is concerned about visibility at the corner and wants to be sure the sign can be seen from Walker Street or Wilmington Street.

Commissioner Robbins advised the committee does not want the sign in the right of way because they do not want to have to move it when the roundabout is put in. There was much discussion about landscaping and a barrier to protect the sign.

Commissioner Rooks advised before he makes a decision to move forward with the purchase of a sign, he would like to see a map with detail showing the location of the sign and the right of way lines. Commissioner Rooks made a motion to table this item until the next meeting in order to give staff time to come up with a map as requested. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Other items from the Manager

Mr. McEwen advised there will be a welcoming reception for Randell Woodruff, Pender County Manager on January 20, 2015 at 9AM at the Pender County Commissioners meeting room.

Mr. McEwen advised he would like to transfer hire lag funds from the garage line item to parks in the amount of \$8,112.00 in order to continue employment of the temporary employee in public works. He advised this amount would continue the temporary employee's employment until the end of the fiscal year. Mr. McEwen advised the addition of this temporary position has been beneficial to the town due to the tasks that are being accomplished that the crew normally has no time or manpower to do. Mr. McEwen advised the budget guidelines require him to inform the Board of transfers of this type but no motion is necessary.

Mr. McEwen asked the Board if they desired to have the strategic planning again this year or if they would like to skip a year or two. After discussion, Commissioner Rooks advised he feels that it is not needed every year, but could be beneficial in the years there new elected officials on the board. Mr. McEwen advised he will schedule a Capital Improvement Plan (CIP) meeting only this year.

ITEMS FROM THE MAYOR

Mayor Mulligan advised he would like to reshuffle the standing boards. Mayor Mulligan advised he would like to make the following nominations for the boards:

Policy/Finance:	Commissioner Dawson, Commissioner Robbins
Infrastructure:	Commissioner Rooks, Commissioner Tyson
Building/Grounds:	Commissioner Dawson, Commissioner Walker

Commissioner Rooks made a motion to approve the board reassignments as presented by Mayor Mulligan. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Mayor Mulligan asked if the agenda packet could be put on the website. The Clerk advised there are issues with the capability of the current server regarding scanning of large documents and transferring of large documents. After a brief discussion, Mayor Mulligan asked staff to look into a solution to the problem.

ITEMS FROM THE BOARD OF COMMISSIONERS

Commissioner Robbins advised there is a historical marker leaning on South 117 at the city limits. He asked that someone straighten the sign.

Commissioner Robbins expressed concerns regarding the findings on the stormwater master plan. He advised some of the findings he doesn't understand and some are disturbing. Mr. McEwen advised he too finds the results disturbing and looking at the results it is easy to see why the town floods during heavy rains. Mr. McEwen briefly reviewed some of the results and methods used in the findings. He commented that although the results are negative, it proves there are problems that need to be addressed. He advised he expects a completed draft of the overall report in March.

Commissioner Dawson asked Ms. Roth to make contact with Jason Turner with Soil and Water Conservation in regards to a small amount of available funding that could possibly be used for the greenway, etc.

Commissioner Tyson asked for an explanation as to when and who can use the town seal without permission of the Board. After clarification of which seal she referring to, the official document seal or the town logo, it was determined that she was inquiring about the town logo. Attorney Kenan advised that since the town logo is not copyrighted it could be used by anyone. Commissioner Tyson then asked if there is a dollar amount that an elected official can spend without permission from someone. Attorney Kenan advised the only amount authorized is based on what is in the line item in the budget unless the Board authorizes an exception or it is something that will require a purchase order. Commissioner Tyson said in the future anything that goes out as a representation of the town that is sent out to various entities within the town and the county that everyone's name is included and no name is left off the list. She said she thinks it looks bad when someone's name is left off a list of a mass mailing that comes from a representative of the town.

BREAK

There being no further discussion, Mayor Mulligan called for a break at 5:15PM.

MEETING RECONVENES

The meeting reconvened at 5:30PM.

PUBLIC FORUM

Speakers:

Norwood Blanchard, owner of the old Family Dollar Store building at the east end of Fremont Street appeared before the Board to ask for the town's help regarding damages caused to the asphalt on his parking lot by the sewer contractor hired by the town. He advised the contractor also caused a large sink hole between his property and the car wash. Mr. Blanchard advised he is not asking the town to do the repairs but for the town to assist him in finding a resolution to the problem. Mr. Blanchard advised he never gave the contractor permission to be on his property.

In response, Mr. McEwen presented copies of an email from Chris Ford, Engineer regarding the contract with the contractor which makes the damages the responsibility of the contractor, not the Town. Attorney Kenan advised the contract clearly states that the contractor shall assume full responsibility for any damages to any such land or areas resulting from the performance of the work. Attorney Kenan also advised according to the contract it is the responsibility of the contractor to settle any claim with the parties claiming the damage thereby removing any responsibility from the town.

Mr. McEwen advised in regards to the sink hole, it appears that a pipe may have collapsed from the pressure of new piping and catch basins. Commissioner Rooks commented that the cause of the sink hole needs to be determined and who is responsible for the pipe that runs through the property.

After a very lengthy discussion, it was the consensus of the Board that public water is probably running through the pipe and they requested that public works staff look at the sink hole possibly running the camera down the pipe and make a determination as to what is causing the problem. They were instructed to let Mr. Blanchard know the results of their findings.

Shirley Andrews, 712 E Bridgers Street Extension appeared before the Board to request help with an overgrown property that impairs visibility when exiting her driveway onto the street. She advised she has contacted the town several times over the last couple of years regarding the field beside her house to see if the property owner could be forced to mow the property to improve visibility. She said she has cut some of the grass but is afraid that she will get in trouble for cutting the grass on someone else's property.

After much discussion and review of the map of the property, the Board advised the property is bordered by a right of way that is the responsibility of NCDOT. The map of the property shows a twenty foot right of way which could be cleaned and not interfere with the property owner. Ms. Andrews said she has contacted NCDOT and has received no help. After more discussion, the Board requested that Bill Fay measure and mark the right of way on Bridgers Street Extension and let Ms. Andrews know where the right of way ends so that she will know how much can be mowed without getting on private property.

Karen Harding, 318 S Walker Street presented a list of questions for the infrastructure board regarding concerns she has about the proposed meter replacement project. Ms. Harding read the list of questions to the Board and asked that the Infrastructure Board respond to her request. She advised her contact information is on the document and she will be awaiting their response. She presented the list to the clerk; document is on file in the clerk's office.

PUBLIC HEARING – *Rebekah Roth, Planning Administrator*

Public Hearing 1. Consideration of a Conditional Use Permit for “Motor Vehicle Towing Service (with on-site storage of up to 10 vehicles)” for Avery Watts to be Located at 201 Hwy 117 North. Applicant Avery Watts is petitioning the town for a conditional use permit to allow a motor vehicle towing operation on a property in the B-2, Highway Business, zoning district. The subject property is 201 Hwy 117 North.

Rebekah Roth, Planning Administrator and Avery Watts, Applicant was sworn in by Attorney Robert Kenan.

Mayor Mulligan asked if there were any Board disclosures to be made. There being no disclosures, Mayor Mulligan opened the public hearing at 6:15PM.

Ms. Roth presented the hearing agenda and the following background information:

Hearing Agenda.

1. Swearing of all persons wishing to present evidence (required for quasi-judicial hearings)
2. Board disclosure of site visits, ex parte communication, specialized knowledge, bias, and conflicts of interest, if necessary
3. Opening of hearing
4. Presentation of general information and staff report by Planning Administrator
5. Presentation of evidence by applicant & cross-examination
6. Presentation of evidence by citizens & cross-examination
7. Comments and questions from Mayor and Board of Commissioners
8. Closing of public hearing
9. Discussion by Mayor and Board of Commissioners
10. Findings of fact for standards of evaluation

GENERAL INFORMATION

Applicant: Avery Watts
306 E. Ashe St.
Burgaw, NC 28425

Site: 102 Hwy 117 North
Owner: Wholesale Auto Supplies (registered agent John Comantale)
Current Zoning: B-2, Highway Business
Size: 1.05 acres
Existing Land Use: Two buildings occupy site, current and grandfathered uses include retail, church, and auto repair

HISTORY/SITE DESCRIPTION

Applicant Avery Watts is petitioning the town for a conditional use permit to operate a motor vehicle towing operation out of the existing auto repair shop in the rear of one of the two commercial buildings located at 102 Hwy 117 North. Currently, the property is the site of a retail operation, a church, and the auto repair shop. All three uses are pre-existing.

This property is located at the corner of Hwy 117 Bypass and E. Wilmington St. Extension. It is located beside a laundromat and backs up to Cardinal Metal Works. Dollar General is located across Hwy 117 and a vacant lot is across E. Wilmington St.

APPLICATION EVIDENCE

- Site Plan
 - Proposed towing operation is in the rear of the church structure, adjacent to the retail structure
 - General parking shall be available in the rear across from the auto repair shop
 - Some of the existing park area will be used for a fenced-in towed vehicle yard 40' x 45' in size (1,800 square feet)
 - Applicant is proposing fencing the towed vehicle yard with a 6' tall privacy fence with gates on both sides to allow through movement if necessary for tow truck
 - Existing motion lights are installed at the two rear corners of the auto repair shop
 - Applicant intends to install security cameras at same locations
 - Northern-most driveway along Hwy 117 will be designated as entrance
 - Applicant will use one roll cart for solid waste that will be kept indoors and rolled to the curb on pick-up days
 - Operation will include storage of no more than 10 motor vehicles
- Applicant has stated there shall be no towing of tractor trailers, tankers, and/or any other vehicle carrying a hazardous material
- Applicant intends to use existing sign structure(s)
- Services, as listed on the submitted business card, include unlocking cars, roadside service, transport services, and collateral recovery

ADDITIONAL EVIDENCE

Included in this packet are the following pieces of evidence

- Zoning Map
- Aerial Map
- Site Photographs
- Flood Map
- Screen shot of business's Facebook page, which lists minor repairs, parking lot enforcement, and detailing as services in addition to those listed on business card
- Copy of zoning permit for automotive repair services uses

STANDARDS FOR EVALUATION

In reviewing the permit application, the Town 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.

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.

Staff Recommendation: This use will not involve the use of any hazardous materials, will not increase the amount of traffic, is not in a floodplain, and will not involve the towing of tractor trailers, tankers, and/or any other vehicle carrying a hazardous material. Unless additional evidence to the contrary is presented at the public hearing, this standard has been met in staff's judgment.

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

Staff Recommendation:

- The proposed use of the property meets all detailed regulations listed for motor vehicle towing services in the B-2 zoning district:
 - It will involve the towing of no more than 10 vehicles.
 - Auto repair will be done in the existing auto repair shop.
 - No structure, outside storage area, or outside activity area is within a distance of 30 feet from any residentially zoned or used lot.
 - All towed vehicles will be stored within an opaque fence 6 feet in height.
 - All equipment will be stored within an enclosed building.
 - The use will not include the towing of tractor trailers, tankers, and/or any other vehicle carrying hazardous material.
- The proposed fence meets all required setbacks.
- Minimum parking requirements are not specified for motor vehicle towing operations; as such, the ordinance leaves the determination of parking requirements to the Land Use Administrator. As this type of use entails little drop-in parking, spaces for employees and at least one customer space would likely be needed.
- According to the provisions of the sign ordinance, the applicant may use an existing structure, as long as it is not enlarged or changed in any way to make it more nonconforming. This property, however, has several abandoned signs which must be

removed if not used by an existing tenant, according to the provisions of the ordinance, which considers them abandoned and illegal.

Based on this information, I recommend the following conditions to ensure that the applicant's proposal meets all town requirements:

- A minimum of 3 parking spaces (2 for employees and 1 for customers) shall be designated in the existing parking area through the use of parking stops, striping, or other approved method prior to use of the site for towing services.
- Any sign not used by an existing tenant must be removed within 60 days of the issuance of this permit.

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

Staff Recommendation: As this use is not a public necessity, this standard must be met. Based on the proposed ingress and egress, location of storage facility, and type of lighting proposed by the applicant, unless additional evidence to the contrary is presented at the public hearing, this standard has been met in staff's judgment.

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.

Staff Recommendation:

- 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.
- The site is not covered by the NC Hwy 53 Corridor Study.
- The site is adjacent to and across the street from existing commercial uses and is currently permitted for an automotive repair use.

Unless additional evidence to the contrary is presented at the public hearing, this standard has been met in staff's judgment.

Commissioner Rooks initiated a lengthy discussion regarding Standard 2 related to the towing of vehicles with hazardous materials on board. Commissioner Rooks wanted clarification on this item because he does not want Mr. Watts to commit to a rule that technically the town should not be requiring him to commit to because in everyday life a percentage of the vehicles he tows will have some hazardous materials on board. Commissioner Rooks said if it is not a requirement of this town then he feels we are putting a requirement on Mr. Watts that will be difficult for him to comply with. Ms. Roth advised this is a requirement of the ordinance and she has always interpreted hazardous materials as something like nuclear waste, chemical hazardous material, etc. Commissioner Rooks advised his reason for bringing this issue up is to keep Mr. Watts from having to violate the rules to operate his business. After much discussion, Ms. Roth stated that the ordinance is up for interpretation by the planning administrator and if they can rely on her interpretation in this case then we can work on modifying the ordinance at a later date. Commissioner Rooks advised he is fine with that suggestion and we can work on the ordinance later.

Mayor Mulligan asked Mr. Watts if he would like to make any comments. Mr. Watts advised he is trying to establish a towing business here and would like to get on the highway patrol rotation to be able to assist local law enforcement. He advised there is often a shortage of tow trucks on rotation in this area and it is his desire to assist in these situations as they arise.

There being no further discussion, Mayor Mulligan closed the public hearing at 6:35PM.

FINDINGS OF FACT

Mayor Mulligan read each of the Standards as listed below. The response from each Commissioner is documented below each Standard.

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.

Commissioner Walker, *Yes*; Commissioner Robbins, *Yes*; Commissioner Dawson, *Yes*; Commissioner Tyson, *Yes*; Commissioner Rooks, *Yes*

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

Commissioner Walker, *Yes*; Commissioner Robbins, *Yes*; Commissioner Dawson, *Yes*; Commissioner Tyson, *Yes*; Commissioner Rooks, *Yes*

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

Commissioner Walker, *Yes*; Commissioner Robbins, *Yes*; Commissioner Dawson, *Yes*; Commissioner Tyson, *Yes*; Commissioner Rooks, *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.

Commissioner Walker, *Yes*; Commissioner Robbins, *Yes*; Commissioner Dawson, *Yes*; Commissioner Tyson, *Yes*; Commissioner Rooks, *Yes*

Commissioner Rooks made a motion to approve the Conditional Use Permit for Motor Vehicle Towing Service for Avery Watts. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

ADJOURNMENT

There being no further business, Commissioner Dawson made a motion to adjourn. The motion was seconded Commissioner Robbins and carried by unanimous vote. The meeting adjourned at 6:37PM.

Eugene Mulligan, Mayor

Attest: _____
Sylvia W. Raynor, Town Clerk