

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

DATE: September 12, 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, Vernon Harrell and James Murphy
STAFF PRESENT: Sylvia Blinson, Interim Town Manager
Sylvia W. Raynor, Town Clerk
Robert Kenan, Town Attorney
Alan Moore, Director of Public Works
Louis Hesse, Building Inspector
Jim Hock, Chief of Police
Wendy Pope, Finance Officer
Karen Dunn, Planning Administrator
Kristin Wells, Deputy Clerk
Zachary White, Parks/Recreation Coordinator
Clay Jasper, Interim Fire Administrator
MEDIA PRESENT: None
INVOCATION: Nick Smith, Chaplain
PLEDGE OF ALLEGIANCE: All

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

Approval of Agenda

Commissioner George made a motion to approve the agenda with the addition of a closed session regarding personnel and attorney client privilege. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

Approval of Consent Agenda

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

- o Minutes of August 08, 2017 regular session and August 15, 2017 closed session
- o Resolution 2017-23 Approving amendments that reflect changes made in the Personnel Policy at the August 08, 2017 BOC meeting

**RESOLUTION 2017-23
AMENDING THE CURRENT PERSONNEL POLICY**

WHEREAS, the Town of Burgaw Board of Commissioners approved the use of the Personnel Policy on September 11, 2012; and

WHEREAS, on August 8, 2017 the Board of Commissioners approved a reclassification of the Permitting Technician position to a Community Development Coordinator position; and

WHEREAS, the abovementioned changes resulted in a necessary name change from Permitting Technician to Community Development Coordinator in Article XIV Organizational Chart and Article 5, Section 12 Compensatory Time for FSLA Exempt Employees.

NOW THEREFORE, BE IT RESOLVED THAT the Town of Burgaw Board of Commissioners hereby amends the Personnel Policy to reflect the changes stated above.

Adopted this twelfth day of September, 2017.

- Ordinance 2017-15 Amending the FY 17-18 budget to provide funding for salary increases

**ORDINANCE 2017-15
AMENDING FISCAL YEAR 2017-2018 ANNUAL BUDGET
Increasing Revenues and Expenditures**

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2017-2018 on June 13, 2017; and

WHEREAS, the Town of Burgaw Board of Commissioner approved the salary increase of the Maintenance Worker I, the Utility Technician, the Public Works Administrative Assistant and the Police Department Administrative Assistant in July 2017; and

WHEREAS, the Town of Burgaw Board of Commissioner approved the salary increase of various Town positions that were outside of the newly created minimum salary ranges in August 2017; and

WHEREAS, general fund and a water/sewer fund balance appropriations are needed to increase budgeted salaries accounts in multiple departments for these pay increases.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT: The FY 2017-2018 budget be altered to reflect the following changes:

INCREASE BUDGETED REVENUE

Account Number	Account Description	Amount
10-3900-00-900	Fund Balance Appropriated	\$19,886.50
31-3900-91-900	Water Fund Balance Appropriation	\$8,044.58
32-3900-91-900	Sewer Fund Balance Appropriation	\$30,111.30

INCREASE BUDGETED EXPENDITURE

Account Number	Account Description	Amount
10-5300-10-020	Salaries	\$1,273.31
10-5000-80-020	Salaries	\$326.27
10-5010-80-020	Salaries	\$489.40
10-5400-40-020	Salaries	\$1,223.50
10-5500-10-020	Salaries	\$1,223.50
10-5100-10-020	Salaries	\$5,882.00
10-6200-80-020	Salaries	\$2,730.32
10-5600-20-020	Salaries	\$1,925.20
10-5800-30-020	Salaries	\$4,813.00
31-8140-91-020	Salaries	\$8,044.58
32-8200-91-020	Salaries	\$21,484.43
32-8210-91-020	Salaries	\$8,626.87

Adopted this the 12TH day of September 2017.

Special Presentation

Commissioner Jan Dawson presented a proclamation honoring Angela Beacham owner/operator of Little Town Learning Center in celebration of the thirtieth year anniversary of the daycare.

DEPARTMENTAL ITEMS

Finance – Wendy Pope, Finance Officer

Resolution 2017-24 Authorizing Disposal of Surplus Town Property

Ms. Pope advised that currently, the Town has the following obsolete property that needs to be included in our surplus items: One (1) 1993 Ford F600; Two (2) Mosquito Sprayers. She advised the recommendation is the approval of the resolution authorizing the above-referenced items to be declared surplus items and the Town Manager to dispose of said property by auction through GovDeals. There being no discussion, Commissioner

Dawson made a motion to approve Resolution 2017-24 Authorizing Disposal of Surplus Town Property. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

**RESOLUTION 2017-24
AUTHORIZING DISPOSAL OF SURPLUS PROPERTY**

WHEREAS, the Town of Burgaw, North Carolina is the legal owner of (1) 1993 Ford F600 and (2) Mosquito sprayers; and

WHEREAS, said vehicle has been in service for several years but, due to wear and tear, it has been deemed obsolete; and

WHEREAS, the mosquito sprayers were in operation, however have been taken out of service due to the purchase of a new mosquito sprayer; and

WHEREAS, North Carolina General Statutes 160A-268 allows municipalities to surplus and dispose of property by adopting a resolution authorizing the sale; and

WHEREAS, it has been determined that each these items retain value; 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.

WHEREAS, pursuant to Article V Section 231 of the Town of Burgaw Code of Ordinances, the Town Manager may dispose of personal property when the item(s) has a value of less than \$5,000, is no longer required for the conduct of public business, and the interest of the Town is best served by the proposed disposal;

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

1. *The Board of Commissioners does hereby decommission one (1) 1993 Ford F600 and two (2) mosquito sprayers and does hereby declare them to be surplus property;*
2. *The Town of Burgaw will submit specifications of the 1993 Ford F600 and the mosquito sprayers to GovDeals.com for sale at on-line auction.*

ADOPTED this twelfth day of September, 2017.

Parks/Recreation – Zachary White, Parks/Recreation Coordinator

Discussion Items: Boo Bash, Dog Park Fundraiser, Ghost Walk Road Closures, Update on Tennis Courts

Boo Bash - Mr. White advised he has been working on a children's event for Halloween. He advised it will be called the 1st Annual Burgaw Boo Bash which will include trick or treat with Town staff, meet and greet an owl, and a number of spooky activities. Children are encouraged to come in costume. No scary costumes will be allowed. This will be a free event at the Depot. He advised he asked the Special Events and Promotions Committee to recommend to the Board of Commissioners that \$600 come out of the Special Events and Promotions budget for this event.

Commissioner Harrell made a motion to allow the Promotions/Special Events Committee to give \$600.00 to the Boo Bash. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Dog Park Fundraiser – Mr. White advised he would like the Board of Commissioners to allow him to pursue a fundraising campaign for a Dog Park. In the 2016 Parks and Recreation Master Plan, design and install a Dog Park is one of the short term recommendations. He said dog parks allow off-leash exercise and social activity with other dogs. But dog parks are not just for dogs, humans also enjoy socialization and meeting other dog owners. After a lengthy review of the benefits of having a dog park he advised that his fundraising campaign team will be members of the Parks and Recreation Committee. He asked the Board to consider providing a 75% match of the funds that the committee raises for a dog park. He is looking at locating the Dog Park to Ashe Street Park across the canal. He says he thinks we can build a suitable dog park for under \$10,000.

Commissioner Harrell asked if we are talking about the property generally referred to as the Hood Property. Mr. White advised "yes". He also said the Ashe Street property which is in the same vicinity is a possibility. He said there are no issues with the fact that this is flood property but we would need a no rise certificate to put in a bridge to cross the canal. Mayor Mulligan requested that Mr. White put together some design concepts. Commissioner

Robbins said he would like to see a design showing the fencing, parking areas and other necessities as well as how it will affect the neighborhood before moving forward.

Ghost Walk Road Closures – Mr. White advised the Ghost Walk committee has requested that Dickerson Street in front of the Depot be closed, that Courthouse Avenue be closed and that Wright Street from Fremont to Wilmington St. be closed on October 13th and 14th starting at 5pm on Dickerson St. and 6pm on Wright St. to 11pm for pedestrian safety. He advised they would also like to close Fremont Street between Walker Street and Wright Street from 6pm until 11pm as well. He advised all business owners will be informed of these closures and will be encouraged to stay open late to accommodate the ghost walkers. After some discussion, Commissioner Robbins made a motion to close Dickerson Street in front of the depot starting at 5pm and Courthouse Avenue, Wright Street from Fremont to Wilmington Street and Fremont Street between Walker Street and Wright Street from 6pm to 11pm on Friday, October 13th and Saturday October 14th for the Ghost Walk event. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Update on Tennis Court Construction – Mr. White advised the work at the tennis courts has begun. He said there are a few things that have come about that need attention. He said the pickle ball lines were taken out of the proposal due to the USDA grant conflict of interest. He advised pickle ball is a rapidly growing trend that shows no signs of slowing down. He said pickle ball lines can be installed for \$375.00 per set. After discussion there was an interest in going ahead with the pickle ball lines while the project is being done. Commissioner Dawson made a motion to include the pickle ball lines on both courts at a cost of \$750.00 with funds to be taken from fund balance. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

Commissioner Harrell inquired about the drainage issue at the courts. Mr. White advised the contractor plans to slope the drainage to the left of the courts toward the bigger ditch. He advised public works will clean out the ditch. He advised the extra rocks found on the courts will help with the drainage.

Mr. White advised there is a drainage issue at the entrance and he needs to know if they want the contractor to tear out the sidewalk and put in a drainage pipe or do we wait and do it on our own. The Board requested that Mr. White get a price from the contractor and relay it to them in the weekly update before moving forward. He also said during this process he would like to put a concrete slab there for a bike rack.

ITEMS FROM ATTORNEY – *Robert Kenan, Attorney*

Performance Agreement for MOJO Music

Attorney Kenan advised this item is an incentive agreement with MOJO Music regarding providing grant incentives for the shell building on Worth Beverage Drive. He advised this program provides that the town will reimburse MOJO's property tax up to \$7,500 for a period of ten years as long as they provide satisfactory proof to the town that they are employing at least a minimum of fifty full time employees per year. The agreement also provides that the town will reimburse MOJO for its impact fees as well as the contract services fees to be paid to Skip Green & Associates for assistance with seeking the job creation grant.

Mayor Mulligan questioned whether the tax incentive applies to town taxes and he also asked if we have the cost associated with Skip Green & Associates. Attorney Kenan advised he was never provided that information so he cannot answer these questions. Mayor Mulligan commented that he recalls the discussion regarding the tax incentive and impact fees but does not recall any discussion regarding reimbursement to Skip Green & Associates. He said he would like to have a number for that reimbursement.

After some discussion, Mayor Mulligan asked if waiting to approve this item would create any issues for MOJO. Attorney Kenan advised it may hold up MOJO's reimbursement for their impact fees. Ms. Pope advised MOJO has already sent an invoice for reimbursement of their impact fees. Mayor Mulligan said we can certainly allow the impact fee reimbursement since it was part of the original agreement. He also said he has no problem with the town's portion of the property taxes but he would like to see a number on the cost associated with Skip Green & Associates. He asked the Board to consider tabling this item until next month's meeting.

Commissioner Harrell made a motion to table approval of the incentive grant program until the October meeting. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Commissioner Robbins made a motion to allow reimbursement to MOJO for their impact fees. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

Discussion Item – West Satchwell Street

Attorney Kenan advised he has researched adjoining deeds around the Durham Village Apartments to determine if that part of Satchwell Street is a part of the town street system. He said he found a map from 1943 that shows from Durham Street west that the street has been platted but never dedicated to the town for public use therefore that portion is not part of the town streets for maintenance purposes which was discussed at the last meeting. Attorney Kenan advised the Board they could vote to adopt that portion of West Satchwell Street that runs between Durham Village Apartments and Village Park Mobile Home Park to be dedicated for public use and then the street can be added to the Powell Bill map to begin receiving funds for maintenance of the street. He advised that can be brought to the next Board meeting in the form of a resolution to be added to the town’s street system. Mayor Mulligan stated that this item can be added to the October agenda for discussion and approval.

Discussion Item – Easement requested by Bob Handler, Pleasant Hill, LLC

Attorney Kenan advised he was approached by Jimmy Smith on behalf of Bob Handler who is requesting that the town provide a formal written easement for a sewer line that runs across his property on Worth Beverage Drive. He advised that when the line was put in Mr. Handler refused to sign the papers but has now decided he wants that easement. Attorney Kenan advised that the improvements have been there for about ten years and the town definitely has the right to use the area where the proposed easement is defined on the map but he recommends that the formal written easement would be in the best interest of the town. He requested that the Board consider authorizing a written easement for the sewer line across the Mr. Handler’s property. Commissioner Dawson made a motion to authorize Mr. Kenan to draw up an easement for the infrastructure across Mr. Handler’s property. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

ITEMS FROM MANAGER - Sylvia Blinson, Interim Town Manager

Ordinance 2017-16 Approving the Capital Project Ordinance for the West Clark Street Water & Sewer Main Improvements

Ms. Blinson advised the Town of Burgaw has received “authorization to construct” from the NC Department of Environmental Quality Division of Water Resources to proceed with installation of approximately 1,295 feet of 6-inch water main, fire hydrants, valves and associated appurtenances along South Smith Street and West Clark Street. She advised the estimated cost of the construction of the water and sewer improvements is \$156,000. The amount proposed for the construction phase of the project is in addition to the amount the Town has paid for engineering design and permitting in the amount of \$15,800. McKim and Creed has also submitted a change order to increase costs of engineering design and permitting by \$4,000, thereby increasing the first phase project costs to \$19,800. She advised the recently Board agreed to the use of McKim and Creed as the general contractor of the project so that the Town would have available several cost saving advantages in using the engineering firm to lead the construction as well. After a brief discussion regarding the contract, Commissioner George made a motion to approve Ordinance 2017-16 as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

ORDINANCE 2017-16
ADOPTION OF CAPITAL PROJECT ORDINANCE
For
WEST CLARK STREET WATER AND SEWER MAIN IMPROVEMENTS

BE IT ORDAINED by the Town of Burgaw Board of Commissioners that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1. The project authorized is for the installation of approximately 1,295 feet of 6-inch water main, fire hydrants, valves and associated appurtenances along South Smith Street and West Clark Street to be funded by water and sewer reserve funds and accumulated impact fee reserves.

Section 2. The officers of this unit are hereby directed to proceed with the capital project within the terms of the grant documents and the budget contained herein.

Section 3. The following amounts are appropriated for the project:

Design/Build – Contract	\$ 156,000
Contingency	<u>\$ 23,400</u>
Total	<u>\$ 179,400</u>

Section 4. The following revenues are anticipated to be available to complete this project:

Water Retained Earnings	\$ 50,000
Sewer Retained Earnings	\$ 50,000
Impact Fee Retained Earnings	<u>\$ 79,400</u>
Total	<u>\$ 179,400</u>

Section 5. The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy the requirements of state regulations.

Section 6. Funds may be advanced from the General Fund for the purpose of making payments as due.

Section 7. The Finance Officer is directed to report, on a quarterly basis, on the financial status of each project element in Section 3.

Section 8. The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 9. Copies of this capital project ordinance shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this twelfth day of September, 2017.

Discussion Item: Potential tenant for bank building

Ms. Blinson advised there has been some interest expressed by NCDMV Licensing Division and NC Highway Patrol to lease the bank building owned by the town located downtown on Fremont Street. Louis Hesse, Building Inspector advised the DMV is very interested but they have asked about some up-fits to the building. He said they have asked for the HVAC unit to be replaced, counters to be removed, replacement of a door, upgrade of restrooms to handicap accessible and also removal of wallpaper and painting to be done. Mr. Hesse spoke in great detail of all the work that would need to be done to bring the building into compliance with the State's request. He advised it would take at least \$21,000.00 to do what has been requested. Representatives from NCDMV were present to answer questions and advised that they could do a three year lease for \$25,000 per year with the possibility of renewal at the end of three years. There was a lengthy discussion regarding the up-fits requested as well as the stipulations set forth by the State and the standard state contract. The Board was informed that the State does no maintenance on their leased property and that would be the responsibility of the town. At that point having considered all options, the Board was in agreement to table this item until the next meeting in order to have the opportunity to review the standard state contract and to acquire additional information before making any decisions.

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

Miscellaneous Items from the Board Members

Commissioner George commented that Dr. Ben Akiwumi has passed away and that we should acknowledge that he was an excellent physician, a good person and that he is appreciated for his contribution to the community.

Commissioner Robbins advised he has been asked by some members of the promotions/special events committee for a \$200 appropriation for the Christmas Ginger Bread House promotion. Commissioner Robbins made a motion to appropriate \$200 from the Promotions/Special Events budget line item for the Ginger Bread House for the Christmas Tree Lighting. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Commissioner Robbins asked Commissioner Harrell about the status of the "Our Town, Our Schools" program. Commissioner Harrell advised the program is evolving.

Commissioner Robbins asked what needs to be done regarding putting more crosswalk signs in town. He asked that each Commissioner look around town and bring back recommendations to the full Board not just the infrastructure regarding possible locations that need crosswalk signs.

Commissioner Dawson said she has the list of paving priorities and wants to get pricing on paving streets before it gets too cold. Mayor Mulligan said before we do that we must get a list from each Commissioner and combine their priorities. He advised this list has been sent out previously but only a couple were turned in. Commissioner Robbins asked that as a follow up to the paving that another copy of the paving priorities be sent to each Commissioner to choose their priorities and then submitted to the town manager and public works director.

Mayor Mulligan asked Mr. Moore to spray weed killer around downtown and to set a timeline for edging of the walking trail and sidewalks.

Review of Applications for Promotions/Special Events Committee

Mayor Mulligan advised we have applications from Mike Taylor and Olivia Dawson for appointment to the Promotions/Special Events Committee. Commissioner Robbins made a motion to appoint Olivia Dawson for a three year term and Mike Taylor for a two year term. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

BREAK 5:25 – 5:40

PUBLIC FORUM

Robert Kenan requested that the issues with the paving on Bridgers Street that has continued since the last paving be looked into and repaired and that the use of the underlayment for that project be discontinued in the future.

PUBLIC HEARINGS – *Karen Dunn, Planning Administrator*

Public Hearing #1: Consideration of approving Ordinance 2017-17 to authorize the sale of malt beverages, unfortified wine, fortified wine and mixed beverages beginning at 10:00AM on Sundays at licensed premises.

The public hearing was opened at 5:42.

Ms. Dunn advised the NC General Assembly passed an omnibus bill affecting a number of state laws regulating alcoholic beverages (SL 2017-87 (S155)) at the end of its 2017 legislative session. Section 4 of the bill – commonly known as the “Brunch Bill” – enacts new statutes authorizing cities and counties to adopt ordinances allowing the sale of alcoholic beverages beginning at 10:00am on Sundays. She reminded the Board that at last month’s meeting they decided to bring this issue back in the form of a public hearing.

There were no speakers signed in to speak on this issue.

Commissioner Harrell asked what type of businesses in Burgaw would be affected by the passage of this ordinance. Ms. Dunn said in Burgaw it applies mainly to retail and to any restaurants that are open for brunch and sell alcohol. There being no further discussion, the public hearing was closed at 5:45PM.

Commissioner Robbins made a motion to approve Ordinance 2017-17 as presented. The motion was seconded by Commissioner Murphy. Commissioners Robbins, Murphy and Harrell voted “aye”. Commissioners Dawson and George voted “nay”. Motion carried three to two.

ORDINANCE 2017-17 TO AUTHORIZE THE SALE OF MALT BEVERAGES, UNFORTIFIED WINE, FORTIFIED WINE, AND MIXED BEVERAGES BEGINNING AT 10:00 A.M. ON SUNDAYS AT LICENSED PREMISES

WHEREAS, on June 29, 2017, the North Carolina General Assembly enacted Senate Bill 155, entitled “An Act to Make Various Changes to the Alcoholic Beverage Control Commission Laws”; and

WHEREAS, Section 4 of Ratified Senate Bill 155 authorizes city and county governments to adopt an ordinance to allow alcohol sales beginning at 10 am on Sundays; and

WHEREAS, Ratified Senate Bill 155 was signed into law by Governor Roy Cooper on the 30th day of June, 2017 and became effective on that date (Session Law 2017, Chapter 87); and

WHEREAS, by enacting Senate Bill 155, North Carolina joins 47 other States in allowing alcohol service before noon on Sunday; and

WHEREAS, Sunday morning alcohol service will allow the hospitality community and retail merchants in our community to meet the needs of their customers; and

WHEREAS, Sunday morning alcohol service will benefit our small business community, bring people into business districts earlier in the day, and generate increased tax revenues; and

WHEREAS, our community has a diverse and growing population with different religious beliefs, each of which has various times and multiple days for worship;

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

Section 1. Pursuant to the authority granted by S.L. 2017-87 any establishment located in the corporate limits of and holding an ABC permit issued pursuant to G.S. 18B - 1001 is permitted to sell beverages allowed by its permit beginning at 10 A.M. on Sundays.

Section 2. All laws and clauses of law in conflict herewith are repealed to the extent of any such conflict.

Section 3. This ordinance becomes effective immediately upon adoption of this ordinance on this, the twelfth day of September, 2017.

Public Hearing #2: The purpose of the hearing is to receive public comment regarding consideration of an application for a Conditional Use Permit to construct a full service restaurant at 500 US-117 in Burgaw. Applicant, Boddie-Noell Enterprises, LLC/Reggie Barnacascel is proposing to tear down and rebuild the Hardee’s Restaurant, currently zoned Highway Business and Gateway Overlay District (B-2 GA).

Ms. Dunn advised this public hearing is to Consider a Conditional Use Permit Application for a “Restaurant, Full Service” Use to be Located at 500 US 117 Bypass N. Applicant Boddie – Noell Enterprises, LLC/Reggie Barnacascel has applied for a conditional use permit to reconstruct the Hardee’s restaurant with drive-thru window to be located on a property (PIN 3229-56-3496-0000 and 3229-56-2597-0000) at the intersection of NC Hwy 53 East and US Highway 117 Bypass N within the Town of Burgaw corporate limits.

The public hearing was opened at 5:45PM.

Attorney Kenan administered the oath to those speakers signed in, Reggie Barnacascel and Mike Stocks as well as Karen Dunn, Alan Moore, Louis Hesse and Jim Hock.

Mayor Mulligan asked for Board disclosures regarding site visits, ex-parte communications, specialized knowledge, bias and conflict of interest. There were no disclosures.

Ms. Dunn presented the staff report to include the findings of fact and all background materials regarding the proposed Conditional Use Permit (all materials on file in planning office). Upon completion of her review the floor was opened for comments.

Reggie Barnacascel advised he was here for questions, if anyone has questions.

Commissioner Robbins asked what the current seating capacity is and what will it be when the new building is built. Mr. Barnacascel advised current capacity is roughly 32-34 and will increase to 68.

Mayor Mulligan asked about the list of recommendations by the staff and recommended that Mr. Barnacascel speak about those requirements.

Mr. Barnacascel said the requirements for 75% masonry are very seldom done at that percentage. He advised the last forty buildings he has built have been done by their standard prototype and that this is a little bit different for them. He said the back of the building is mainly an insulated metal panel which is a cooler which makes it somewhat difficult to put brick façade on it. After a poll of the Board it was the consensus of the Board to require that the building constructed at 75% masonry like the other buildings in the area.

There was a lengthy discussion regarding the expansion of the NC 53 corridor and all the issues that could be created. Ms. Dunn advised she has spoken with NCDOT officials and was not able to get any answers regarding future changes that may affect travel in the area. In the end this is a DOT issue and does not affect this construction.

Mayor Mulligan asked about the sidewalk along 117. Mr. Barnacascel asked if it will be a walkable sidewalk. Mike Stocks said the reason they did not put sidewalks on the plan is because it leaves nowhere for the person to go when they arrive at the end. After discussion, the Board was polled on this item and the majority determined that the sidewalk should be put in.

Mr. Stocks advised the upgrade of the sewer line to six inches is okay.

It was determined that the existing crape myrtles will be put in an island and preserved.

Chief Hock requested a light to be placed in area that would be dark. Mr. Stocks and Chief Hock came to agreement on the placement of the light.

There was concern about the menu boards being screened because of ordinance requirements. After much discussion and a poll of the Board it was determined that there would be no screening for the menu board.

The public hearing was closed at 6:59PM.

FINDINGS OF FACT

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 four standards. Each board member shall determine whether or not the plan as presented will meet each standard as based on evidence presented in open meeting with a "yes" finding, indicating the standard is met, or a "no" finding, indicating the standard has not been met. If a board member determines that the standard has not been met, he or she will state for the record the evidence upon which that determination is based. A majority vote will determine if the standard has been met for the purpose of granting or denial of a conditional use permit.

In approving the conditional use permit, the Planning Board may recommend and the Town Board of Commissioners may designate such conditions in addition to any such required by the Unified Development Ordinance. Each of these additional conditions imposed must be based on bringing the project into compliance with the four findings of fact or additional standards as outlined by the Ordinance and on substantial, competent, and material evidence entered into the record.

Findings of Fact

All Commissioners voted in the affirmative on each item.

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.
YES 5 NO 0

Additional Conditions:

- a. Applicant shall use US 117 Bypass N as construction entrance/exit
- b. Conditional Use Permit subject to NCDENR review and permit approval. Any changes to the site plan as the result of NCDENR requirements would require an amendment to the conditional use permit

2. Use meets all required conditions and specifications.
YES ___5___ NO ___0___

Additional Conditions:

- a. The utility plan must be reviewed and approved by the Public Works Director prior to construction. Upgrade sanitary sewer from building to manhole to a six inch line.
 - b. Existing hydrants to remain and need to be noted on utility plans as such.
 - c. A solid waste plan, including specifications/materials for dumpster screenings, must be approved by the Planning Administrator prior to occupancy.
 - d. Crape Myrtles located on the site or in the NCDOT right of way shall be retained and protected throughout construction
 - e. Street Yard Landscaping: Overhead and underground utilities shall be considered at time of planting and reviewed by the Planning Administrator prior to planting.
 - f. A modified landscaping plan must be approved by the Planning Administrator prior to planting.
 - g. Add one additional light fixture near driveway to Pender Landing Shopping Center
 - h. Lighting fixtures shall be full cut off
 - i. Add 18% more masonry materials to rear elevation
 - j. Conditional Use Permit subject to approval of all applicable federal, state, and local agency approvals
 - k. Two tracts shall be recombined.
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.

YES ___5___ NO ___0___

Additional Conditions:

- a. Applicant shall use US 117 Bypass drive as construction entrance and exit.
4. The use will be in harmony with the area and general conformity with town plans.

YES ___5___ NO ___0___

Additional Conditions:

- a. A bicycle rack shall be installed prior to occupancy in a location approved by the Planning Administrator.
- b. Install a sidewalk along US 117 N to promote non-vehicular access to and from the Pender Landing Shopping Center along and across the NC 53 Corridor.
- c. All building façades shall be composed of masonry materials (75%) to comply with the GA- Gateway Overlay District requirements.
- d. Any freestanding sign must be a monument sign on masonry base.
- e. A separate sign permit shall be issued for the signs.

Commissioner Harrell made a motion to approve the Conditional Use Permit to construct a full service restaurant at 500 US-117 in Burgaw. The motion was seconded by Commissioner George and carried by unanimous vote.

Commissioner Dawson made a motion to go into closed session pursuant to GS 143.318.11 paragraph (a) item (3) Attorney/Client Privilege and paragraph (a) item (6) personnel. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

CLOSED SESSION – 7:11PM

OPEN SESSION RECONVENED – 8:00PM

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

Commissioner Harrell made a motion to move the date of the October regular Board of Commissioners meeting to October 9, 2017 at 4:00PM due to another obligation of some of the Commissioners. The motion was seconded by Commissioner Murphy 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 8:05PM.

Eugene Mulligan, Mayor

Attest: _____
Sylvia W. Raynor, Town Clerk