

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

DATE: September 13, 2016
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: Chad McEwen, Town Manager
Sylvia W. Raynor, Town Clerk
Robert Kenan, Town Attorney
Anthony Colon, Assistant Director of Public Works
Louis Hesse, Building Inspector
Jim Hock, Chief of Police
Wendy Pope, Finance Officer
Rebekah Roth, 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 Mulligan at 4:00PM.

Approval of Agenda

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

Approval of Consent Agenda

A. Approval of Minutes of the August 9, 2016 regular meeting

AMENDMENT TO MINUTES: Mayor Mulligan said he would like to make an amendment to the minutes of the August 9, 2016 BOC meeting. He said with regards to the special use permit the Mayor Pro-tem, Commissioner Robbins as a voting member of the Board does not lose his privilege to have a vote when he takes over chairmanship of the Board. He advised that any votes that were held would have to be recorded as a “yes” for Mayor Pro-tem Robbins. Mayor Mulligan asked for a motion to amend the minutes per his request. Commissioner Dawson said she would make that motion to amend the minutes. Commissioner Harrell said he would second the motion. Motion carried by unanimous vote.

Commissioner Harrell made a motion to approve the minutes of the August 9, 2016 regular meeting as amended. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

CLOSED SESSION

Closed Session Pursuant to GS 143-318.11 paragraph (a) (5) negotiating price for the acquisition of real property by purchase

Mayor Mulligan advised in regards to the scheduled closed session that one of the parties is not present; therefore he is requesting to move the closed session to the end of the agenda making that Item 25. Commissioner Dawson made a motion to move the closed session to the end of the agenda as requested by Mayor Mulligan. The motion was seconded by Commissioner Murphy and carried by unanimous vote.

SPECIAL PRESENTATIONS, REQUESTS & DISCUSSIONS

Presentation: Leigh Robertson, Diaper Bank of Lower Cape Fear

Leigh Robertson, Program Director of the Diaper Bank of the Lower Cape Fear was present to inform the Board and those present of a need in the area for diapers for children. Diaper Bank of the Lower Cape Fear covers New Hanover, Brunswick and Pender Counties. One out of three families in our state face diaper needs which means that they don't have enough money to provide diapers for their children. Diapers are not provided by any type of public assistance in our country. Diapers can cost up to one hundred dollars per month which is a large amount for a struggling family to cover. The diaper bank is here to bridge the gap and help these families fill the need for diapers so they can better take care of their children and provide the other things they need to sustain them. This organization works with other non-profits that are already working with families living in poverty and the diaper bank provides them with diapers to distribute to their families. Since their beginning they have distributed around 50,000 diapers. Ms. Robertson's purpose for being here today is to share this need with those present and for them to help spread the word in the community regarding this project. September is Diaper Need Awareness Month and Ms. Robertson encouraged everyone to spread the word to the community organizations that may be able to help with this project and rally support around this issue.

Discussion: Senior Center Sidewalk - Karen Collette, Chad Kimes and Patrick Riddle - NCDOT Representatives

Mayor Mulligan had a list of questions for Ms. Collette, Mr. Kimes and Mr. Riddle.

1. What is the status of the sidewalk to the senior center and what is the reason for the delays?

Mr. Riddle advised the contracts will be let at the Wilmington office and as far as he knows we are still set for September 29th. At that time they will find out if there is enough money or if they will need more. He also said when contractors begin projects like this there are a large number of methods and procedures that must be followed and if they don't follow those procedures there will be an audit with penalties that will have to be paid back and that is not where we want to be. Mr. Riddle said currently this is all funded with contingency funds and there is no federal money tied up in this. He said there is a lot work being done in the area now and it should slow down by the time we are ready to start. He advised if everything goes well with the bidding process we could begin work within a month. He said the availability date is probably early November and possibly with a finish date in April.

Ms. Collette said if the bids come back higher than \$305,000 there will be a decision to be made by the Board which is to let it or not. She said the town will be responsible for any amount above the \$305,000.

2. What is the status on the redesign of the Walker/Wilmington Streets improvements?

Mr. Riddle advised that project has now come to the division office and that's where it will be handled. He advised the designers are moving forward with the project. He said whether or not it will be a roundabout or something else will be coming forward during the project development. He said it is currently scheduled on their spreadsheet. Mr. Kimes advised at this point the design is only at scoping and once a functional design is chosen we will come back and show the Board a functional design. Mr. Riddle commented that they wanted to include the bulb-outs in the scope if they can be added. Mayor Mulligan said we could have the discussion about the bulb-outs at another time.

3. Why are the right-of-ways not being maintained by NCDOT?

Ms. Collette said we are doing all that we can do with the funding that we have. She said they have a very high vacancy rate and they don't foresee being able to cover the expense of filling the vacancies. She said with the decrease in employees comes a decrease in equipment. She advised they are now only mowing four times per year as opposed to eight times a year previously. She said priorities have shifted and have taken away from mowing. Ms. Collette advised they are doing all they can within the allotted funding. She advised that if the town is interested, they can do the mowing and be reimbursed for the four times per year that the state would have done it and the remaining costs for mowing could be borne by the town.

4. *Who is responsible for water draining from a DOT drain that is backing up on private property?*

Ms. Collette advised it is the responsibility of the property owner. She spoke at length regarding civil law that says that the lower property owner is subservient to the upper property owner. She said that when it rains if you are not responsible to build a container around your property, it naturally flows from you to me. She said at that point I can hold the water so it doesn't back up on you or I can relay it to the next downstream property owner. She advised years ago DOT was able to keep ditches and drains clean far outside of their right-of-way but now environmental restrictions have persuaded us to go back to civil law which says "keep on your property". She said due to those restrictions and lack of equipment and manpower it has become the responsibility of the downstream property owners. In regards to a comment about the size of the pipe being the problem, Ms. Collette said that all she can say is that NCDOT is to "standard" and if there is a fifty year rain event it's going to flood anyway.

Ms. Collette said she will be glad to have the hydrogeologist meet with whoever wants to meet to discuss the areas that have been mentioned today.

There was much more discussion about the sidewalk project mentioned in question #1 but it was recommended that the project be bid before any of the questions could be answered.

DEPARTMENTAL ITEMS

Fire Department

Request for transfer of fundraising funds - Allen Wilson, Fire Administrator

The fire department is requesting transfer of the fund raising funds generated by the department in fiscal year 2015-2016 in the amount of \$3,156.50 which was the total net profits from various fund raisers and donations. This money will be utilized to hold an eightieth anniversary open house event in October as well as finishing off the kitchen remodel with small appliances, kitchen utensils, etc.

Commissioner George made a motion to grant the \$3,156.50 as requested. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Finance Department

Ordinance 2016-13 Funding of Fire Department 80 Year Anniversary Open House – Wendy Pope, Finance Officer

Approval of Ordinance 2016-13 will grant the funds to the fire department as requested above. Commissioner George made a motion to approve Ordinance 2016-13 as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

ORDINANCE 2016-13
AMENDING FISCAL YEAR 2015-2016 ANNUAL BUDGET
Increasing Revenues and Expenditures

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2016-2017 on June 14, 2016; and

WHEREAS, the Town of Burgaw Fire Department is requesting funding for their 80 Year Anniversary Open House and new kitchen equipment; and

WHEREAS, the Town of Burgaw Fire Department will utilize the fund raising money from raffle tickets, donations and community yard sale collected in FY 2015-2016 in the amount of \$3,156.50; and

WHEREAS, this will require a general fund fund balance appropriation to utilize the monies received from fundraising in the amount \$3,156.50.

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

Section 1: The FY 2016-2017 budget be altered to reflect the following changes:

INCREASE BUDGETED REVENUE

Account Number	Account Description	Amount
10-3900-00-900	Fund Balance Appropriated	\$3,156.50

INCREASE BUDGETED EXPENDITURE

Account Number	Account Description	Amount
10-5300-10-340	Firemen's Expense	\$3,156.50

Adopted this the 13TH day of September 2016.

Ordinance 2016-14 Funding for Additional Audit Services by Thompson, Price, Scott, Adams & Company, PA – Wendy Pope, Finance Officer

The requested amount will cover expenses related to additional audit work required for our June 30th year end review. The Town of Burgaw was chosen by the office of the State Auditor to join a sample group to insure that we as well as other members of the state are in compliance with governmental accounting standards board statement 67 and 68. These two statements focus on accounting specifically for public pension funds and participating employers. This request is outside the scope of our normal audit work so it is not included in the budgeted amount that has been approved. Approval of Ordinance 2016-14 will appropriate the additional funding needed for this service.

Commissioner George made a motion to approve Ordinance 2016-14 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

ORDINANCE 2016-14
AMENDING FISCAL YEAR 2016-2017 ANNUAL BUDGET
Increasing Revenues and Expenditures

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2016-2017 on June 14, 2016; and

WHEREAS, the Town of Burgaw has been selected as part of the Office of State Auditor's work on auditing LGERS Pension accounts; and

WHEREAS, the Town of Burgaw will require a separate engagement with our Auditors, Thompson, Price, Scott, Adams & Co, and therefore additional fees will be incurred which were not in the original budget; and

WHEREAS, this will require a general fund fund balance appropriation to budget for audit fees for this ancillary service.

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

Section 1: The FY 2016-2017 budget be altered to reflect the following changes:

INCREASE BUDGETED REVENUE

Account Number	Account Description	Amount
10-3900-00-900	Fund Balance Appropriated	\$2000

INCREASE BUDGETED EXPENDITURE

Account Number	Account Description	Amount
10-4200-00-450	Contract Services	\$2000

Adopted this the 13TH day of September 2016.

Planning Department

Resolution 2016-33 Consideration of a petition to close the alley between the 300 blocks of E Bridgers and E. Ashe Streets – Rebekah Roth, Planning Administrator

Russell and Ann Ramsey have petitioned the town to close the alley between the 300 block of East Bridgers Street and East Ashe Street. It appears that some residential encroachment has occurred and the town has considered similar requests in the past. The Board must decide if they would like to hold a public hearing, in order to do so Resolution 2016-33 must be adopted. If approved the public hearing will be held on November 08, 2016. Mr. McEwen advised that he recommends that if the Board does approve the closing of the alley that part of the stipulation would be that the town retains all utility easements existing and future.

Commissioner Harrell made a motion to approve Resolution 2016-33 as presented. The motion was seconded by Commissioner George and carried by unanimous vote.

**RESOLUTION 2016-33
DECLARING THE TOWN OF BURGAW'S INTENT TO CLOSE THE PUBLIC ALLEY BETWEEN THE 300
BLOCKS OF EAST BRIDGERS AND EAST ASHE STREETS**

WHEREAS, NCGS 160A-299 authorizes the Town of Burgaw Board of Commissioners to close street rights-of-way and public alleys provided certain procedures are followed; and

WHEREAS, pursuant to NCGS 160A-299, the public alley above is not under the authority and control of the North Carolina Department of Transportation; and

WHEREAS, the Town of Burgaw considers it advisable to conduct a public hearing for the purpose of giving consideration to the closing of the public alley between the 300 blocks of East Bridgers and East Ashe Streets;

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

SECTION 1. A public hearing will be held on November 8, 2016 during the public hearing portion of the regular Board of Commissioners meeting, which starts at 5:30 PM, in the banquet/meeting room of the Historic Burgaw Depot located at 115 S. Dickerson St. in Burgaw, NC for the purpose of discussing the proposed alley closing.

SECTION 2. Pursuant to NCGS 160A-299(a), the Town shall publish this Resolution of Intent once a week for four consecutive weeks in a newspaper of general circulation in the area.

SECTION 3. Pursuant to NCGS 160A-299(a), the Town shall transmit by certified mail to each owner of property abutting upon that portion of said alley a copy of this Resolution of Intent.

SECTION 4. Pursuant to NCGS 160A-299(a), the Town shall prominently post notice of the proposed alley closing in at least two places along the alley included in this Resolution of Intent.

ADOPTED BY THE TOWN BOARD OF BURGAW, THIS 13TH DAY OF SEPTEMBER, 2016

Consideration of draft Findings of Fact and Conclusions of Law for Bed & Breakfast Conditional Use Permit
– *Rebekah Roth, Planning Administrator*

At the August 9, 2016 meeting the Board voted to approve a conditional use permit for a bed and breakfast with four guest rooms and one accessory apartment to be located at 115 N. Cowan Street. For the decision to be effective it must be reduced to writing and filed with the town clerk. The required written document must outline the pertinent facts the Board based its decision on and the Board's conclusions. Before the Mayor Pro-tem can sign the document the Board must review the information to make sure it accurately reflects the decision made by the Board.

Mayor Mulligan turned the meeting over to Mayor Pro-tem Robbins since Mayor Mulligan was recused from the hearing on August 9.

Mayor Pro-tem Robbins conducted the portion of the meeting regarding the conditional use permit for 115 N. Cowan Street.

Ms. Roth said she has spoken with Commissioner George regarding the reason for his conclusion that standard four had not been met and he indicated that the reasoning was because the proposed use was not consistent with the residential nature of the neighborhood. She advised that is one of the items that must be added to the draft. She also said that during the discussion regarding the minutes, it was indicated that the Mayor Pro-tem still had a vote during this meeting and does it need to be indicated with the conclusions of law that he basically affirmed that the standard had been met or should be kept as is. Attorney Kenan said it should be kept as is except for the actual vote itself.

Mayor Pro-tem Robbins said if my vote was a yes vote or a no vote, were we following Roberts Rules of Order? It was brought up by the Mayor at the beginning of the meeting about my vote and even though I didn't vote I was conducting the meeting and there was no tie; was I supposed to vote yes or no? Attorney Kenan advised "yes" based on the statute. He advised because MPT Robbins is a member of the governing body (and not the mayor) then he can participate in all matters and in all votes of the Board. So yes you would have needed to have participated in that vote.

Attorney Kenan instructed the Board to review the draft for any inconsistencies with respect to the findings of fact and conclusions of law that are different from what the board voted on at the last meeting. MPT Robbins polled each board member for their findings. Commissioners George, Harrell, Dawson and Murphy found no inconsistencies in the draft document. Commissioner Dawson then asked if MPT Robbins is now considered a yes vote, do the findings of fact have to be modified to include his vote. Ms. Roth said that is what she was clarifying with the attorney; he said no, because all he would be voting on is would be the final decision.

Attorney Kenan then advised MPT Robbins he would have to take a vote of the Board as to whether or not they approve the findings of fact with the amendment based on Commissioner George's reason for stating that standard had not been met.

MPT Robbins called for a motion to approve the findings of fact as presented with the amendment by Commissioner George for his conclusion that standard four had not been met because the proposed use was not consistent with the residential nature of the neighborhood. Commissioners Dawson, Harrell and Murphy voted "aye". Commissioners George and Robbins voted "nay". Motion carried 3-2. (Documents are on file in the clerk's office.)

Mayor Pro-tem Robbins turned the meeting back over to the mayor.

Discussion regarding proposals for professional engineering services for 2016 sidewalk and intersection capital improvements – *Rebekah Roth, Planning Administrator*

Per the discussion at the August 9th meeting Ms. Roth has discussed the sidewalk and infrastructure capital improvements that were a part of this year's Capital Improvement Plan (CIP) that were exempted from the Mini-Brooks Act in April with Mr. Riddle with NCDOT. Based on his experience with similar projects the cost estimates we received from engineering firms in July were not out of line. Mr. Riddle was surprised that the estimates were not higher because of some of the drainage improvements that would have to be put into place for the two bulb-outs. However we did learn that because we are not proposing to use state or federal funds NCDOT pre-approval of engineering firms is not required and local firms can be used. A new request for proposals is required and will need Board approval before sending out RFP's.

It was the consensus of the Board for Ms. Roth to move forward with the revised request for proposals.

Charles Rooks was present and asked if he could speak regarding the proposed bulb-outs at Wright and Wilmington Streets. Mr. Rooks stated that school buses can barely turn the intersections the way they are now and that the addition of bulb-outs will make it more difficult. He said he assumes the bulb-outs are there to reduce the width of the crosswalk area. He said it looks like a hazard without the bulb-outs there and he is just asking consideration be given to the safety hazards to school buses entering and exiting that area.

After discussion regarding all the issues that could arise with the addition of bulb-outs, it was suggested that Ms. Roth speak with those persons who route the buses and determine which way these buses are turning. Ms. Roth said all that would be included in the engineering process.

There was also discussion about putting a stoplight at the Wright/Wilmington intersection which in the past has been turned down by NCDOT. It was recommended that proposals be made and presented to NCDOT during the planning process for the improvements at the intersection of Walker and Wilmington Streets.

Mayor Mulligan said we will pick this discussion up at the next meeting after we check with the Board of Education regarding the bus routes.

BREAK 5:20PM – 5:35PM

PUBLIC FORUM

Charles Rooks, 105 N Bennett Street, thanked all the members of the Board for their services. He said the fund balance is the result of good work of the previous commission and the management of the funds by the Town. He said he feels that the taxes match our budget and to reduce our taxes because we have a fund balance is not a good reason. Mr. Rooks said he is concerned about the spending of our fund balance and the reasons that we use to spend that fund balance. He said fund balance can be used on projects such as infrastructure whether it's water or sewer or the upgrade of roads which is badly needed. Mr. Rooks said he knows there are plans to spend extra money on the roads and water and sewer. He commented that he has asked Mr. McEwen recently about inflow and infiltration (I&I) that the town continues to deal with and now every time we send sewer to Wallace they are billing us for all of this, where in the past we could absorb some of it. Maybe we need to spend more money on infrastructure for this I & I. Debt service can be paid for with fund balance. All this is coming about because of conversations I have heard and plans that the Town is considering money for a splash pad. I know very little about it other than just having briefly seen a plan. He said he understands this committee that is recommending this, I'm sure that they have their reasons but I think there are thousands of people in Burgaw that don't even know about it or don't think we need it. He said it is kind of like buying a new boat for recreation, it's nice if you don't have any debt or any infrastructure needs. He said he hopes the town will look heavily at the cost of operation of such a structure. He also said he thinks the location you propose to purchase is not the sightliest place, so are we going to put requirements on property owners adjoining to it to spend a bunch of money to upgrade the back of all those businesses. Mr. Rooks said he just wants to go on the record that he is opposed to it and maybe we need some signatures to sway consideration. He also said he understands you want to apply for grant money, well guess what, grant money is my tax dollars and the cost of operation of this facility and the headaches and problems it's going to cause I think we need to really look at it real hard before we make that final decision. Thank you.

Mayor Mulligan said the tax cut was not because we had such a large fund balance it was because we were collecting more money than necessary. Compared with other towns our cost per hundred is exorbitant. He said our estimated tax collection excess was over 130k. That was the reason for the consideration for the three cent tax reduction. I agree with you completely in regards to I&I. As for debt service we eliminated all debt that we wanted to eliminate and for strategic reasons we have not eliminated debt on fire equipment because of concerns as to whether the fire service may be taken over by the county in the future. The only large debt we will have now is the large debt we incurred when doing the last water/sewer remediation. The splash pad was brought to us by the citizens and they are seeking funding themselves. The location that was chosen is one that the previous board picked to beautify the downtown and it would attract more people to downtown. He said he has not heard any objection to it at those board meetings.

Mr. Rooks asked if it has already been decided to build the splash pad regardless of cost. Mayor Mulligan said we are moving towards it insofar as we have an agreement to purchase the property. He said that is following up on what another board started to do several years ago because this board felt it would be good to take control of this piece of property. We have not conclusively decided on the splash pad but we are definitely working towards it. Mayor Mulligan told Mr. Rooks that he is one of the few that he has heard from that is against the splash pad. Mr. Rooks said everyone he has talked to were either unaware of it or opposed to the splash pad.

Red Robbins, 104 N Cowan Street advised he is speaking on behalf of his wife, June, who could not be present tonight. Mr. Robbins said the public works had to remove a hazardous tree on Cowan Street in front of his house about a month ago. They did a very good job of removing the tree. He advised the town has a tree at 108 N. Cowan that is beginning to deteriorate and he is asking for public works to take a look at it and make a decision as to whether or not we need to trim it back like we did in the past. He said it may have another twenty to thirty years or so of life left in it but it needs some trimming at the top. Mr. Robbins said pruning will help regenerate new growth. Anthony Colon, Assistant Public Works Director, said he will get someone to look at it.

Joseph D. White, 409 S Bodenheimer Street thanked Public Works for the outstanding job they did when they came out and checked out his water and the drainage issue. He said he still has a serious problem with the water pressure. He advised in the mornings when everyone is getting prepared for work and school he has no water pressure. He said the problem is a three inch line on Hayes Street that turns into a one inch line on his street. He said there have been a number of repairs made on the line over the years. He said he thinks there is a pipe that has deteriorated and because of the break he is getting dirty water. He said this is a hazard and it needs to be taken care of quickly. He said he sees water lines being put in on the other side of town but there is nothing going on in his neighborhood.

Mr. White said his second concern is that his parents don't have access to natural gas at their home. He said it is right there on the corner and the gas company won't go any further with the line. He said no one on that side of town has natural gas and we are spending thousands of dollars per year to have gas brought in. He said he pays taxes and feels like he should have access to natural gas like others do. He said he would like to have that looked into.

Anthony Colon, Assistant Public Works Director, advised one of the problems is that a one inch line is coming off of a six inch line and that one inch line cannot serve all those residents at peak time. He advised based on NC State regulations, public works cannot upgrade the line themselves. He said the state requires that an engineer sign off on the project and the state will have to permit the project to replace that line.

After a brief discussion, Commissioner Robbins made a motion to have the Town Manager pursue estimates for the addition of a line to accommodate Mr. White's request to repair the water problem in his neighborhood. The motion was seconded by Commissioner George and carried by unanimous vote.

After much discussion regarding Mr. White's request for natural gas in his neighborhood, Mayor Mulligan advised the town will look into the issue and see what we can find out.

PUBLIC HEARING – *Rebekah Roth, Planning Administrator*

Consideration of a text change amendment to Article 3, Chapter IV of the UDO modifying the timeline and process for conditional use permit requests.

The public hearing was opened at 6:04PM.

Ms. Roth advised at the July meeting the Board voted to change the date that your meeting packets are sent to you and you also requested that the town attorney include a written legal review of conditional use permit applications after considering the staff report. This created a little bit of a conflict when it came to current ordinance required time lines for conditional use permits that don't require technical review. Basically I would need to complete the staff report much earlier shortening an already short period to actually consider the application in order to get it to the attorney in time for a legal review. To provide sufficient time for staff to consider conditional use permit requests, develop a staff report and to allow the town attorney sufficient time to prepare a legal review, the proposed ordinance amendment will move back the deadline for the applications for conditional use permits that don't require technical review basically is going to be the same deadline regardless of whether it requires technical review or it doesn't require technical review. It will be the last Friday of the month, the next month you would either have the planning board meeting or you would have staff review and then you would be on the next month's board of commissioners agenda basically taking a four calendar week process to about five and half to six and a half weeks depending on where that last Friday of the month fell. The planning board did recommend approval of this at their meeting last month and have approved a consistency statement finding that the amendment is consistent with the land use plan, it's reasonable and in the public interest because it allows for sufficient staff, board and legal review of conditional use permit applications.

Mayor Mulligan said originally all these same pieces went to the planning board, correct? Ms. Roth advised correct. She said we changed that because we didn't feel there was a need there for it and that it would shorten the time that a citizen applying for a conditional use permit would have to wait. It was partially to shorten the time period for you and also because since the public hearing for a CUP is quasi-judicial it was a question about exactly what the Planning Board's process was so originally we went with everything going straight to the Board of Commissioners. We soon found that there were some applications that were so complex that additional review was necessary and we

decided to re-institute a planning board technical review because previously they had their own semi-quasi-judicial process and we just clarified the function of the planning board. If you wanted all conditional use permits to go through a planning board technical review it would still be the same time period that we are proposing now.

Mayor Mulligan said would it not stand to reason that instead of going to a technical review by the attorney that we would go back to a technical review by the Planning Board at which the attorney attends and achieve the exact same thing.

Ms. Roth said if that's your pleasure that's a possibility but that could not be approved tonight based on the advertising for the ordinance changes that would have to go back to the planning board and then come back to you for another public hearing if that is what you decide to do instead. The reason why this is being proposed is because we are in the process of re-writing our zoning ordinance at the moment and part of the things that we are going to be considering is does the planning board need to be included in all CUP's or only certain ones and rather than making that wholesale change now just waiting until we have a discussion to make a wholesale change. This a quick fix for an issue that happened last summer.

Mayor Mulligan asked how many of these issues have we had.

Ms. Roth advised for instance, we almost got a conditional use permit application last month where I would have had a week to send this out for technical review, to prepare a staff report and get it to the Board in enough time. Right now I have two weeks and depending on the application it may not be very complex or there may be plenty of time but if that had been Walmart then we would have been in real trouble. It is kind of a roll of the dice as to what we get as an application.

Commissioner George said he likes what the Mayor was saying about letting the Planning Board do the technical review and then bring it back to the Board.

Mayor Mulligan asked for an explanation of the process. Commissioner Dawson said it is the time frame.

Ms. Roth said she would prepare the amendment; it would go to the planning board at their October meeting and come back to you at the November meeting for a public hearing. The only issue would be is if we get an application for conditional use permit in the meantime, I could consider having only a week to review it. She said she is not anticipating any conditional use permit application so that may not be an issue.

Commissioner George asked if we can make a motion to get this started.

Ms. Roth advised yes, but you need to go ahead and approve the consistency statement and approve the text change amendment, but we can take it back to the planning board for their October meeting.

Commissioner Harrell said essentially the text change would be a stop gap measure to get us through to the point that we would essentially would take all conditional use permits through the planning board.

Ms. Roth advised potentially depending on what was decided during the ordinance rewrite. It sounds like what is being proposed instead of doing a stop gap measure let's just go ahead and have all conditional use permits go through the planning board.

Commissioner Dawson asked how extensive will the rewrite of the UDO be.

Ms. Roth said we would have to change the section that differentiates between conditional use permits that don't require technical review and those that do and we would have to change the table of permitted uses to take away that designation as well. It would just be changing different parts of the ordinance.

Commissioner Dawson asked if it will it take several months. Ms. Roth said it will take several months to finish the rewrite of the zoning portion. She said she is hoping to get the re-write to the planning board some time in November and maybe have it in place by the end of the year.

Mayor Mulligan said so your recommendation is to go ahead and approve this consideration of the text change amendment to article 3, chapter 5 of the UDO as a stop gap until we make the actual change to Planning board review. She said at this point we don't know what will be conditional use and what isn't and it may be that planning board review is not required because we are thinking of separating out the site plan review. That is one of the reasons why I originally proposed a stop gap as opposed to requiring technical review for every application.

There were no speakers signed up for the public hearing.

The public hearing was closed at 6:13PM.

Commissioner Harrell made a motion to approve Resolution 2016-34 and Ordinance 2016-15 as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

**RESOLUTION 2016-34
ADOPTING A STATEMENT OF CONSISTENCY REGARDING A PROPOSED AMENDMENT TO MODIFY
THE TIMELINE AND PROCESS FOR CONDITIONAL USE PERMIT REQUESTS**

WHEREAS, at their July 12, 2016 meeting, the Town of Burgaw Board of Commissioners voted to change the date that their meeting packets were sent out and requested the town attorney provide a legal review of any conditional use permit staff report; and

WHEREAS, these new requirements conflicted with the timeline and process for conditional use permits not requiring technical review as set out in the Town of Burgaw Unified Development Ordinance; and

WHEREAS, planning staff has prepared a text amendment that would resolve the conflict, provide more time for staff and board review, and create deadlines consistent with other planning application deadlines; and

WHEREAS, the Town of Burgaw Planning and Zoning Board voted at their August 18, 2016 meeting to recommend the adoption of a draft consistency statement to the Board of Commissioners; and

WHEREAS, the Town of Burgaw Board of Commissioners reviewed the staff report and draft consistency statement at their September 13, 2016 meeting and find the proposed amendments to be consistent with the Burgaw 2030 Comprehensive Land Use Plan, reasonable, and in the public interest:

NOW THEREFORE BE IT RESOLVED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT the proposed text change amendment is consistent with the Burgaw 2030 Comprehensive Land Use Plan and reasonable and in the public interest because it encourages quality and controlled growth by allowing sufficient time for staff, legal, and board review of conditional use permit applications.

Adopted this 13th day of September 2016.

**APPROVING AN AMENDMENT TO THE TOWN OF BURGAW UNIFIED DEVELOPMENT ORDINANCE
MODIFYING THE TIMELINE AND PROCESS FOR CONDITIONAL USE PERMIT REQUESTS**

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

WHEREAS, the Town of Burgaw Board of Commissioners adopted the Unified Development Ordinance (UDO) and official zoning map on December 12, 2000; and

WHEREAS, at their July 12, 2016 meeting, the Town of Burgaw Board of Commissioners voted to change the date that their meeting packets were sent out and requested the town attorney provide a legal review of any conditional use permit staff report; and

WHEREAS, these new requirements conflicted with the timeline and process for conditional use permits not requiring technical review as set out in the Town of Burgaw Unified Development Ordinance; and

WHEREAS, planning staff has prepared a text amendment that would resolve the conflict, provide more time for staff and board review, and create deadlines consistent with other planning application deadlines; and

WHEREAS, at their August 18, 2016 meeting, the Town of Burgaw Planning and Zoning Board voted to recommend approval of the amendment modifying the timeline and process for conditional use permits; and

WHEREAS, the Town of Burgaw Board of Commissioners finds that the proposed text change amendment is consistent with the Burgaw 2030 Comprehensive Land Use Plan and reasonable and in the public interest because it encourages quality and controlled growth by allowing sufficient time for staff, legal, and board review of conditional use permit applications

NOW THEREFORE BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT SECTION 1. The Town of Burgaw Unified Development Ordinance is amended as follows:

Section 3-10: Conditional Use Permit

C. Procedures

- a. For conditional use permits not requiring a technical review, a completed application and the accompanying plans shall be submitted to the Land Use Administrator at least *by the last Friday of the month two months before* the regular monthly Board of Commissioners meeting at which it is to be heard. For conditional use permits requiring technical review, the completed application and accompanying plans shall be submitted to the Land Use Administrator by the last Friday of the month preceding the Planning Board meeting at which the technical review shall take place. All applications for conditional use permits shall include all of the requirements pertaining to it as specified in this section.
- b. Prior to the Board of Commissioners meeting at which the public hearing will be held, the Planning Administrator shall give notice of a public hearing in the newspaper of record for two (2) consecutive weeks prior to the date of the public hearing. The Planning Administrator shall provide the Board of Commissioners with a complete staff report no fewer than *fifteen (15) calendar days* prior to the public hearing.

SECTION 2. This amendment becomes effective immediately upon adoption of this ordinance on this, the 13th day of September 2016.

Information Technology Department

Live Streaming Proposal Additional Cost Summary- Erik Harvey, Information Technology Administrator

Mr. Harvey advised he is present to answer any questions regarding a live streaming proposal requested by the Board. Commissioner Harrell asked about the cost of archiving the board meetings. Mr. Harvey advised the town currently has one piece of equipment for storing the files but in addition to that you have a laptop that may also store additional data and video. We own the equipment we need except for the computer that will capture and stream the video. Mr. Harvey also said that to answer Commissioner Harrell's question (from a previous meeting) regarding integrated voice recognition software (IVR), he has looked into that issue and in his professional opinion that software is just not mature enough at this time to meet our needs. He said he has researched IVR extensively and could not find a cost effective solution for us.

Mayor Mulligan asked the board members if they have looked at the county site. Commissioner Dawson and Commissioner Harrell advised they have viewed the site. Mayor Mulligan said according to information on the screen the average number of viewers for six months was twenty four people. He said we only have three thousand people in town and who is going to watch these meetings that will cost \$16,000 to live stream. He asked the Board how cost effective is it going to be? Commissioner Dawson said we asked Erik to check on this because we did get requests from some citizens and he was kind enough to get the information for us. Commissioner Harrell said the other part of the discussion that we had was the relief of the town clerk providing minutes. I personally like the minutes detailed with discussion included, but spending thirteen thousand dollars to get detailed minutes; I don't see it. At this point we are getting reduced minutes because of the motion that was passed last time and I personally don't see the point in spending this money.

There was no action taken on this item.

ITEMS FROM ATTORNEY – Robert Kenan, Attorney

Attorney Kenan advised the Supreme Court has overruled the collection of impact fees by municipalities in the State of North Carolina. The synopsis of the case is that the impact fee ordinance is collecting monies to provide for future needs of the system for water or sewer system or both that you cannot do that because the statutes do not explicitly allow municipalities to do that. He advised the law for counties is different because they do have provisions to collect those impact fees. As a result and as of right now the town cannot collect impact fees to utilize for any use by the town. He said he is not asking the board today to terminate the ordinance, I'm just asking you to suspend the enforcement of that ordinance because there may be some movement in the legislature next year by the League of

Municipalities to give you the same power that the counties have to collect monies through impact fees to provide for future expansions. He advised he is asking the Board to vote to suspend the enforcement pending possible new legislation next year. He advised this case came out on August 19, 2016.

Commissioner Harrell made a motion to suspend enforcement of Division 2 Impact Fees of Article III of Chapter 36 of the Code of Ordinances. The motion was seconded by Commissioner Murphy and carried by unanimous vote.

ITEMS FROM MANAGER – Chad McEwen, Town Manager

Consideration of the Approval of the Grantee Acknowledgment and Agreement Related to the Golden LEAF Foundation Grant – Pender Memorial Hospital/Osgood Canal Project

Mr. McEwen advised the first item is consideration of the Golden Leaf Grantee Acknowledgement form related to the grant we received in the amount of \$478,000 related to storm water improvements at the hospital, Fremont Street and Cowan Street. The grant agreement is pretty straightforward. He advised he has placed the PMP or Project Management Plan in front of each commissioner that outlines benchmarks for success that our project will be measured against which are primarily private investment, creation of new health care jobs, increased wages created based on those jobs and new public infrastructure dollars spent. He advised he was concerned when he originally saw the requirement regarding the creation of twenty seven new health care jobs since the town does not control how many jobs are created around the hospital and medical offices. Golden Leaf traditionally has grants with clawback clauses where they have established these benchmarks if you don't meet them they can take our entire portion of their money back. This is one of the few grants that they administer statewide that doesn't have a clawback clause. He said he has met with them on two occasions and with Ruth Glaser on two occasions because she had the same concerns that he had about the job creation requirements. He advised all the possible circumstances have been explained to the Golden Leaf representatives and they understand the issue with job creation. He said they were appreciative of us letting them know all this and they (Golden Leaf) are still willing to grant the money.

Mr. McEwen said his recommendation is to accept the agreement and move forward with the grant in addition to the money we received from the state and work towards developing a capital project ordinance and get that project permitted and designed. He also recommended the following revisions to the agreement:

- I am going to ask that Golden LEAF start our grant period in November rather than the award date of August 4, 2016. This will give us a couple more months on the grant term and I don't foresee us spending any more prior to November.
- Also I have expressed my concerns to Golden LEAF that the 12 month term is not practical given the engineering, permitting, and bidding process involved with this project. They have agreed to expand this date as needed.

There being no further discussion, Commissioner Harrell made a motion to approve the Grantee Acknowledgement and Agreement as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Response from Insurance Company – Use of Fire Hydrant Spray for Children's Play

Mr. McEwen referenced a copy of an email from Wells Insurance regarding the use of fire hydrants for children to play in the spray in the summer. The insurance company basically has said that if there is an occurrence such as injury, property damage etc. they will not accept any responsibility because that is not the design function of a fire hydrant or any other component that may be used. Therefore, if a child or an employee is injured the claim will be denied because that will not be in the normal capacity of their responsibilities.

Commissioner Harrell commented that he would still like to pursue the use of fire hydrants for the children to play in the water and as far as it not being a regulated piece of equipment that is easy to come by. He said he knows lots of special effects people that have that regulated piece of equipment; it's just a matter of manpower and the potential for some sort of mishap.

Mr. McEwen said so I am clear, you want us to approach the apartment complexes about getting their permission to hook onto a fire hydrant and spray water for the tenants? Commissioner Harrell said that is his desire. Commissioner George said it is not his desire; Commissioners Dawson and Robbins agreed that they too are opposed. At that time, Mayor Mulligan called for a motion. Commissioner Harrell said he is making a motion for it. Motion died for lack of a second.

Request regarding condemnation settlement on Coston Road

Mr. McEwen said when we ran the sewer line to Wallace we had to go around Coston Road and around the canal. It involved some condemnations. He said the property was appraised and the money was posted at the court house for the property owners to pick up. He said there was one property owner that did not claim his money therefore the courts send the money back to us in August of 2014. The property owner has now come forward and asked for his money. He advised we processed a check in the amount of \$1,349.00 from the water/sewer fund balance for this individual last week and mailed it to him to clear out this account. Mr. McEwen said he wanted to inform the Board of the action taken.

Non-departmental Reserves spent on Generator

Mr. McEwen advised we spent \$634.00 to repair the generator and the funds were taken from the non-departmental reserves. He advised this is for informational purposes because he is required to notify the Board of expenditures from the non-departmental reserves fund.

Paving List

Mr. McEwen reminded the Board of the paving list that was presented last month and reviewed the streets that are currently designated for work for this year. He asked the Board if they desire to do anything with some of the remaining streets some of which need work. Commissioner Robbins advised he is content with the list. Commissioner Dawson advised to take care of the high priority streets.

Southern Asphalt Quote

Mr. McEwen advised Southern Asphalt has looked at changing the parking pattern at the Sheriff's office and there is an area that is about five spaces wide and six to eight feet deep that needs to be milled and resurfaced. He gave three options for repair with milling and resurfacing being the favored option among the Board members. He said it will look better and we will not have to go back in there to work on it after the paving and striping is done. He said the cost is \$11,286.50. It was the consensus of the Board to repair the space by milling and resurfacing.

Commissioner Robbins made a motion to appropriate fund balance to mill and resurface the area referenced above in the amount of \$11,286.50. The motion was seconded by Commissioner Murphy and carried by unanimous vote.

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

Commissioner Harrell said he has had complaints about the condition of the rest rooms at Hankins Park and the grass was also very tall. Also he has had complaints about the long grass cuttings left on the lawn at the cemetery and that the rear of the cemetery is not mowed as often as the front. Anthony Colon, Assistant Public Works Director responded by saying they have had some vandalism at the park and he has pictures of the rest rooms that are too disturbing to share. He said they have no control over the rest rooms over the weekend and that seems to be when the problems occur. He said a lady did contact him and she was very upset and he understood when he saw what she had seen in the rest rooms. Mr. Colon also spoke about having limited staff to do the mowing and take care of all the other situations that arise in public works. After some discussion it was the consensus of the Board to start locking the rest rooms at Hankins and Rotary Parks at dusk and reopening at dawn to prevent more vandalism from happening.

Commissioner Harrell asked Mr. Colon how the water meter situation is going in regards to the resizing of the lids. Mr. Colon advised consideration that we are only three months into this we are doing fairly well. He said complaints are very minimal and we are finally getting to the point that we are “there”.

Commissioner Dawson said in regards to the canal she has spoken with the town manager and he said that you will get someone in there as soon as possible to pull out what has been cut. Mr. Colon advised they will take care of it.

Mayor Mulligan said someone needs to pull the ivy off the railing on Cowan Street because there is concern that it may be poison ivy.

Mayor Mulligan said that due to difficulty in finding qualified workers he is suggesting that we increase the entry level salary of the Maintenance Worker I position to \$24,000 or \$11.53 per hour. He said that doesn't sound like much but we have an excellent benefit package. He said we cannot fill these positions at \$20,000 per year. He said he would like for this to go to policy/finance for discussion. Commissioner Robbins said he sees no need for this to go to policy/finance if that is your recommendation, it can go to the town manager and let him bring it back with all the pros and cons. He said we can make the decision at the next meeting. Commissioner Harrell said he doesn't have any problem putting it in the manager's hands and at the same time he doesn't see any problem with it himself. Mr. McEwen said we need to look at salaries for anyone who has been here for a year or two who would not be at that level and move them up to some degree.

Planning Board and Parks and Recreation Committee Appointments

Commissioner George made a motion to appoint Kenneth “Pete” Cowan to the Planning Board. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Commissioner Harrell made motion to appoint Debra Kesecker to the Park and Recreation Committee. The motion was seconded by Commissioner George and carried by unanimous vote.

BREAK 7:08 – 7:15

CLOSED SESSION 7:16PM

Commissioner Dawson made a motion to go into closed session pursuant to GS 143-318.11 paragraph (a) item (5) negotiating price for the acquisition of real property by purchase and item (6) personnel. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

OPEN SESSION RECONVENED 8:22PM

Commissioner George made a motion to hold a public hearing to change the fee schedule to add a \$3.00 fee for over the phone utility bill payments. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

ADJOURNMENT

Commissioner George made a motion to adjourn. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

The meeting adjourned at 8:25PM.

Eugene Mulligan, Mayor

Attest: _____
Sylvia W. Raynor, Town Clerk