

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

**DATE:** October 14, 2014  
**TIME:** 4:00 PM  
**PLACE:** Burgaw Municipal Building  
**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  
Bill Fay, Director of Public Works  
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  
Bill Walsh, Star News  
**INVOCATION:** Nick Smith, Chaplain  
**PLEDGE OF ALLEGIANCE:** All

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

**Approval of Agenda**

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

**Approval of Consent Agenda**

Mayor Mulligan asked if there were any requests for amendments to the consent agenda. Commissioner Rooks requested to remove item "B – Street Lining Plan" from the consent agenda for discussion. There being no further requests for amendments Commissioner Rooks made a motion to approve items A and C on the consent agenda. The motion was seconded by Commissioner Dawson and carried by unanimous vote. The consent agenda and the following items were approved:

- A. Approval of Minutes of the regular meeting and closed session of September 09, 2014**
- C. Ordinance 2014-22 Amending FY 14-15 Budget to Provide Funding for Powell Bill repaving**

*ORDINANCE 2014-22  
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 has budgeted \$86,000 for the repaving of streets within Town; and

WHEREAS, the Town of Burgaw Infrastructure Committee created an itemized paving priority list and presented this list to the Board of Commissioners on September 9, 2014; and

WHEREAS, the Town Board of Commissioners approved the funding for the paving by utilizing the budgeted \$86,000 first, then appropriating General Fund fund balance of \$67,778.75 provided by movie revenues, and finally appropriating Powell Bill Restricted fund balance of \$155,572.83.

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	\$67,778.75
10-3910-20-900	Powell Bill Fund Balance Appropriated	\$155,572.83

INCREASE BUDGETED EXPENDITURE

Account Number	Account Description	Amount
10-20-5600-740	Capital Outlay	\$223,351.58

Adopted this the 14th day of October 2014.

**B. Resolution 2014-35 Street Lining Plan** (This item was removed from the consent agenda for further discussion)

Commissioner Rooks stated that although this item was discussed at last month’s meeting, upon further review he advised he has concerns that approval of the resolution by the Board will make the placement of fog lines on the streets a requirement upon paving. Commissioner Rooks said he is asking to have the fog line requirement removed from the resolution because he feels it is unnecessary. After a brief discussion, Commissioner Rooks made a motion to approve Resolution 2014-35 with an amendment to remove the fog lines requirement from the resolution. The motion was seconded by Commissioner Robbins and carried by unanimous vote. The amended resolution is below.

RESOLUTION 2014-35  
STREET LINING PLAN

WHEREAS, the Town of Burgaw is responsible for the maintenance of town roads within its corporate limits; and  
 WHEREAS, citizens of the town have requested the Town of Burgaw Board of Commissioners re-line some roads within the town’s jurisdiction; and  
 WHEREAS, the Town of Burgaw Board of Commissioners does not have an established plan for the re-lining of streets once they have been paved; and  
 WHEREAS, the Town of Burgaw Infrastructure Board desires to establish a plan for the re-lining of streets after they have been paved; and  
 WHEREAS, the Planning Administrator has developed a street lining plan taking into account whether a town maintained street connects with state-maintained roads and the amount of traffic it bears; and  
 WHEREAS, the Town of Burgaw Board of Commissioners voted to approve the street lining plan at their September 9, 2014 meeting;

NOW THEREFORE BE IT RESOLVED THAT THE TOWN OF BURGAW BOARD OF COMMISSIONERS DOES HEREBY APPROVE the attached street lining plan.

Adopted this fourteenth day of October, 2014.

*Attachment to Resolution 2014-35*

TOWN OF BURGAW  
STREET LINING PLAN (amended)

Upon repaving of town-maintained roads within the Town of Burgaw corporate limits, the town will require street lining as described below:

Street Name	Type of Thoroughfare (as identified on 1995 Thoroughfare Study)	Center Lines Required
E. Wallace St.	Major	Yes
W. Bridgers St.	Major	Yes
Progress Dr.	Major	Yes
Fremont St. (east of Smith)	Minor	Yes
Fremont St. (west of Smith)	Minor	Yes

Hayes St.	Minor	Yes
Dudley St.	Minor	Yes
N. Dickerson St.	Minor	Yes
S. Wright St.	Minor	Yes

Streets not listed on this plan will not be striped after paving.

**SPECIAL PRESENTATION**

**Pender Early College – Valerie Ryan**

Valerie Ryan, Honors Biology Teacher at Pender Early College advised her students have created a plan to enhance the walking experience on the Osgood Canal Greenway Trail by placing identifying markers along the trail that would educate the walkers on the plant and animal species indigenous to the area. After thorough review of the plans, Ms. Ryan advised the project would require \$1250.00 in funding from the town in order for the plaques to be purchased for the trail. After discussion, Commissioner Robbins made a motion to approve the request for funding the purchase of the signs as requested in the amount of \$1250.00 with half the cost to be taken from the tree board line item and half to be taken from the general fund. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**El Puente Request – Dr. Alex Daniels**

Dr. Alex Daniels advised he is here on behalf of Irene Edwards with El Puente regarding a request to use the community house for a Wednesday night Zumba class in lieu of the Tuesday morning class that has now been canceled due to lack of participation. He advised daytime participation has dropped off since school started back and they would like to offer an evening class to draw more participants. Dr. Daniels requested use of the community house facility on Wednesday evening from 6PM to 7PM beginning on October 29<sup>th</sup>. Mayor Mulligan commented that any conflicting rentals would bump out the Zumba classes the same as the Tuesday night yoga classes since this is a complimentary use plan. Commissioner Robbins commented that he feels these activities should be routed through the parks and recreation committee before coming before the Board. He said he has no problem with the request but feels that the parks and recreation committee should be involved. All commissioners were in agreement that the parks and recreation committee should be involved in the process. Commissioner Tyson expressed concern about the fact that the complimentary use agreement that was approved in the summer has not yet been signed and doesn't understand how they can keep asking for more when they won't sign the agreement. Commissioner Tyson stated that Ms. Edwards desires to have the policy changed to accommodate her desires instead of following the policy as written for everyone else. There was much discussion regarding Ms. Edward's refusal to store the yoga supplies in the designated area in the community house. Commissioner Rooks said our policy states there is a designated place for Ms. Edwards to put the yoga supplies and the Board of Commissioners has already approved that policy and there should not be any issues with her signing the agreement. Commissioner Rooks stated that the Board has approved the policy and that Dr. Daniels has asked for a change of date; he said if this Board does not have a problem with that then change the date and require her to sign the contract by the end of this month or there will be no contract. Commissioner Rooks made a motion to change the date as requested and have Ms. Edwards sign the contract and get it back to us by the end of the month. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

**DEPARTMENTAL ITEMS**

**Public Works – Bill Fay, Director of Public Works**

**Discussion Item – Proposed amendments to the Debris Collection Policy**

Mr. Fay advised he continues to battle with commercial entities placing excessive debris by the street to be picked up by public works. He cited a specific issue on North Dickerson Street that is over and above the capabilities of

public works to manage while continuing to take care of the remainder of the town. He advised he would like for the Board to consider amending and strengthening the policy to make commercial entities responsible for their actions regarding debris management. The current policy states that maintenance related yard debris removal is acceptable but the case cited above involves land clearing with tree removal. Mr. McEwen advised maintenance needs to be defined in a clear and concise manner. Mr. Fay advised he would like to set a limit of six cubic yards or for clarification a pickup truck load. After a very lengthy discussion, it was the consensus of the Board to have Mr. McEwen bring back a draft proposal at the next meeting.

**ITEMS FROM ATTORNEY – *Robert Kenan***

None.

**ITEMS FROM MANAGER – *Chad McEwen***

Mr. McEwen asked if the Board would consider moving item 12 to item 10 in order to prevent Mr. Carter Hubard with W K Dickson from having to sit through the upcoming public hearings before this item comes up. The Board agreed to allow item 12 to be heard at this time.

**Resolution 2014-38 Approving a Contract with W. K. Dickson & Company, Inc. for the Development of a Stormwater Master Plan for the Town of Burgaw**

Mr. McEwen advised in July, the Town received notice that our application for financial assistance for the development of a stormwater master plan had been approved. The grant awarded by the NC Division of Water Resources will cover \$25,000 of the estimated \$48,000 required to complete the stormwater master plan.

Mr. McEwen informed the Board that W.K. Dickson & Co., Inc. has developed a proposal, based on input from town staff as well as the Infrastructure Committee that includes the evaluation of 7 known flooding areas within town. These areas are shown in Attachment C2 and include many of the traditional flooding areas along Burgaw Creek and Osgood Canal.

The contract will require the Town to cover all expenses (\$48,000) and then file for reimbursement with the Division of Water Resources for the grant amount of \$25,000.

Carter Hubard with W. K. Dickson advised this is a 50/50 matching grant. He briefly reviewed the areas that will be studied as well as the steps to be taken to design the plan. He advised the end goal is to come up with a plan that will enable the town to go back to the Division of Water Resources after the plan is complete to apply for grant funds to improve some of the areas that cause the most flooding issues.

There was much concern regarding the I-40 area which seems to be the main problem with flooding in the area. Mr. Hubard advised that once this plan has been developed it will become an important tool for negotiation with the state regarding the I-40 flooding issues.

After a very lengthy discussion, Commissioner Rooks made a motion to approve Resolution 2014-38 as presented. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

**RESOLUTION 2014-38**

**Resolution Approving a Contract with W.K. Dickson & Co., Inc., for the Development of a Stormwater Master Plan for the Town of Burgaw**

**WHEREAS**, the Town has identified the need to evaluate certain areas within the Osgood Canal and Burgaw Creek watersheds to determine the factors that lead to flooding during high rainfall events, and

**WHEREAS**, in working with W.K. Dickson, the Town has determined 7 areas of town within these watersheds that experience flooding, and

**WHEREAS**, in an effort to address the factors that lead to the flooding, the Town applied for and was awarded a grant from the North Carolina Department of Environment and Natural Resources Division of Water Resources, and

**WHEREAS**, the total grant amount awarded is \$25,000; and

**WHEREAS**, W.K. Dickson has submitted a proposal in the amount of \$48,000 to develop a stormwater master plan for these areas and determine improvements that will help mitigate future flooding, and

**WHEREAS**, this master plan will be required in order to receive any future state grant funding to help with infrastructure improvements to address the flooding as well as efforts to obtain assistance from the NCDOT to address flooding areas near state maintained roads.

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

**SECTION 1.** The contract submitted by W.K. Dickson, Co., Inc., in the amount of \$48,000 is hereby approved based on the submitted scope of services. Since the grant is based on a reimbursement the Town will appropriate \$48,000 from the general fund balance with \$25,000 being reimbursed by the North Carolina Department of Environment and Natural Resources Division of Water Resources.

**SECTION 2.** The Town of Burgaw Board of Commissioners hereby authorizes the Mayor or Town Manager to execute the required contract with W.K. Dickson, Co., Inc., for the stormwater master plan.

Witness my hand and the corporate seal of said Town of Burgaw this the fourteenth day of October, 2014.

**Resolution 2014-39 Approving a Business Improvement District Grant in the Amount of \$4,143.90 to Karen Harding for the Purposes of Constructing a Two Bedroom Apartment at 119-A South Wright Street**

Mayor Mulligan requested to delay item 11 and move on to item 13 in order for his wife (Karen Harding) to not have to sit through the public hearings which will follow this item. Mayor Mulligan also stated that he is recusing himself from this portion of the meeting and turning it over to Mayor Pro-tem Walker.

Mayor Pro-tem Walker advised that item 13 regards a Business Improvement District Grant that was approved by the Board several months ago. He turned the issue over to Mr. McEwen for further information.

Mr. McEwen advised the Town has received a grant application from Karen Harding for a proposed two bedroom apartment at 119-A South Wright Street. The proposed apartment is on the second floor and is within the footprint of the approved Business Improvement District (BID).

He informed the Board that Ms. Harding has already received the necessary approvals from the Planning and Inspections Department and a letter outlining the terms of the grant have been sent to her for review and comment. At the point in time, an unconditional certificate of occupancy is issued to Ms. Harding for the apartment, the grant funds will be transferred from the Town's General Fund directly to the Town's Water and Sewer Fund-Impact Fee Revenue line item as required by the Business Improvement District guidelines approved by the Board of Commissioners in June of this year. Although the funds will not be transferred on behalf of the applicant until the issuance of the certificate of occupancy, the funds will be considered encumbered upon the Board's approval of the grant application and attached resolution.

Commissioner Rooks asked what happens if Ms. Harding does not comply with the grant agreement; does she become ineligible. Mr. McEwen advised when this resolution is signed, the funds are encumbered and there is a condition that a certificate of occupancy must be issued by June 30, 2015; if that is not the case then basically Ms. Harding would be required to start the grant process over. He advised funds would not be carried over from year to year.

There being no further discussion, Mayor Pro-tem Walker asked for a motion on Resolution 2014-39. Commissioner Robbins made a motion to approve Resolution 2014-39 as presented. The motion was seconded by Commissioner Rooks and carried by unanimous vote.

**RESOLUTION 2014-39**  
**Resolution Approving a Business Improvement District Grant in the Amount of \$4,143.90 to Karen Harding for the Purposes of Constructing a Two Bedroom Apartment at 119-A South Wright Street**

**WHEREAS**, the Town of Burgaw Board of Commissioners approved the establishment of a Business Improvement District (BID) on July 1, 2014, and

**WHEREAS**, the BID was established pursuant to NCGS 160A-535-544 and Article 23 *Municipal Service Districts* to assist with urban area revitalization as defined in NCGS 160A-536 (b) , and

**WHEREAS**, as established, the BID is designed to mitigate the financial burden caused by water and sewer impact fees within the defined district, and

**WHEREAS**, as established, the BID guidelines provide for grants paid by the Town for incurred water and sewer impacted related to redevelopment efforts within the defined district, and

**WHEREAS**, the Town has received a grant application from Karen Harding for the purposes of constructing a two bedroom apartment at 119-A South Wright Street in the amount of \$4,143.90, and

**WHEREAS**, the grant application submitted by Mrs. Harding appears to meet the requirements outlined within the Business Improvement District Report prepared as part of the BID consideration process conducted by the Town of Burgaw Board of Commissioners, and

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

**SECTION 1.** The grant application and funding requested by Karen Harding is hereby approved contingent upon the following terms and conditions;

- 1) Applicant must complete proposed new construction of the two bedroom apartment by June 30, 2015. Completion is defined by the applicant receiving an unconditional certificate of occupancy from the Town's Building Inspections Department.
- 2) Grant funds provided as part of the BID are provided for the sole purposes of paying incurred water and sewer impact fees related to the proposed new development activity within the downtown area.
- 3) Funds will be paid from the Town's General Fund directly to the Town's Water and Sewer Fund-Impact Fee Revenue line item upon the issuance of the unconditional certificate of occupancy from the Town's Building Inspections Department
- 4) Funds appropriated and subsequently paid as part of this grant process are only eligible for the above referenced property. Grant funds are nontransferable in regard to the above referenced property and/or the above referenced applicant.

**SECTION 2.** Upon the satisfaction of the above described terms and conditions, the Town Finance Officer is instructed to make the necessary transfer of \$4,143.90 from the Town's General Fund-Special Appropriations line item to the Town's Water and Sewer Fund-Impact Fee Revenue line item.

**SECTION 3.** Following the Board of Commissioner's approval of this resolution and the issuance of the unconditional certificate of occupancy the amount of \$4,143.90 within the Special Appropriations line item shall be considered encumbered until June 30, 2015.

Witness my hand and the corporate seal of said Town of Burgaw this the fourteenth day of October, 2014.

**BREAK** - Mayor Mulligan called for a break at 5:07PM. The meeting reconvened at 5:23PM.

Mayor Mulligan advised we will return to item 10 after completion of the public hearings.

## **PUBLIC FORUM**

There were no speakers for the public forum.

## **PUBLIC HEARINGS**

### **Public Hearing #1 Consideration of a requested text change amendment to Article 7: Regulations for Signs to allow larger signs – Rebekah Roth, Planning Administrator**

The public hearing was opened at 5:24PM.

Ms. Roth presented the following background information regarding public hearing #1:

**Background.** Last year, when applying for a conditional use permit (CUP) for their project on Hwy 53 East, Walmart proposed attached signs that were larger than currently allowed. Their CUP was issued with the condition that the signage for the development not be permitted under the CUP; instead, they would have to apply for a sign permit separately and must meet all ordinance requirements applicable on the day of issuance for the sign permit.

Greg Stellmon of Harrison French and Associates, the architecture firm for the Walmart project, has applied for an amendment to the ordinance that would permit larger attached and freestanding signs for conditional use projects in the B-2 district (see attached application). Some other changes requested include:

- Allowing multiple wall signs. Currently, our ordinance only allows one identification wall sign. Additional signs, such as *Pharmacy*, *Grocery*, etc. that are not technically considered identification signs, do not have specified standards.
- Providing a formula for determining sign area based on façade size. Mr. Stellmon's formula results in maximum sign sizes approximately 10% of the building façade.
- Establishing maximum/minimum sign area for each building size range, most likely to accommodate multiple signs.
- Allowing larger and, in some cases, taller freestanding signs than currently allowed depending on the size of the structure.
- Increasing setback requirements for freestanding signs, which were reduced within the past two years to accommodate business owners along highways with wide rights-of-way.

**Planning Department Recommendation.** Several portions of the requested text change amendment may be useful for the town to consider. Buildings in the B-2 district can vary widely in size, and one-size-fits-all sign maximums may not be appropriate. Scaling the size of a sign to the size of a building makes sense and is used by many municipalities across North Carolina, based on a survey of 34 other NC towns and cities.

There are potential administrative issues with the requested amendment. The formula for the allowed sign area for attached signs may be confusing, the maximum/minimum sign area portion is not clearly defined, façades between 2001 and 2500 square feet are not included in the chart, and the formula for façades over 5001 square feet is unclear.

Because of the administrative need for the sign ordinance to be easy for applicants to understand, simple to administer, and fair for all business owners, the planning department recommends an alternative to the requested text change that would:

- Apply to all structures in the non-residential portions of town. Except for building size, which is taken into account by the new formula, there are no major differences regarding sign needs between permitted and conditional uses.
- Retain existing freestanding size maximums, height maximums, and setback requirements. Of the North Carolina municipalities surveyed, 60% set sign size maximums the same as or smaller than Burgaw's current requirements. Due to the generally slow speed of traffic through town (45 mph or less) and the visibility of existing signs adhering to these standards, staff does not see a major reason to increase the size allowance for freestanding signs. In addition, due to the flat topography of the area, maximum height allowances are also recommended to remain unchanged.
- Accommodate secondary signs and potentially allow larger attached identification signs by setting the total attached sign maximum to 10% of façade area. This will be clear for applicants and administrative purposes and takes into account structure size.

**Planning Board Recommendation.** At their September 18, 2014 meeting, the Planning Board voted to recommend approval of the staff recommended alternative upon finding that it is consistent with the Burgaw 2030 Comprehensive Land Use Plan, is reasonable, and is in the public interest.

The board found that the applicant's requested amendment is not consistent with the Land Use Plan's economic development goals since it was not applicable to existing businesses and its complicated formula contradicts the goal to ensure clear and efficient administrative procedures, policies, and ordinances. It also found that it was not in the public interest to provide different sign standards for conditional uses or to increase the complexity of sign size allowances.

Commissioner Dawson asked if typically only one large sign is allowed. Ms. Roth stated that currently only one large identification sign is allowed.

There being no further discussion, Mayor Mulligan closed the public hearing at 5:27PM.

### **Statement Regarding the Consistency of the Proposed Amendment to the Sign Ordinance with the Burgaw 2030 Comprehensive Land Use Plan**

The board finds that the proposed amendment to the sign ordinance is consistent with the Burgaw 2030 Comprehensive Plan's economic development goals in that it supports the profitability and sustainability of existing businesses and industries and ensures clear and efficient administrative procedures, policies, and ordinances that will attract and retain the type of enterprises necessary to achieve the town's vision. It also finds that the proposed amendment is reasonable because it provides for signage in scale with a structure, rather than setting a standard for all structures regardless of size. Moreover, the board finds that the proposed amendment is in the public interest as it will allow larger signage, contributing to the economic prosperity of the town.

Commissioner Tyson made a motion to approve the consistency statement as presented (above). The motion was seconded by Commissioner Robbins and carried by unanimous vote.

### **Ordinance 2014-23 Approving an Amendment to Article 7: Regulations for Signs to Allow Larger Attached Signs**

Commissioner Robbins made a motion to approve Ordinance 2014-23 as presented. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

#### **ORDINANCE 2014-23 APPROVING AN AMENDMENT TO ARTICLE 7: REGULATIONS FOR SIGNS**

**TO ALLOW LARGER ATTACHED SIGNS**

**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**, applicant Greg Stellmon of Harrison French and Associates has applied for an amendment to the sign ordinance to allow larger signs for some developments in the B-2 zoning district by establishing different sign standards for uses requiring a conditional use permit; and

**WHEREAS**, the Town of Burgaw Planning and Zoning Board has determined that while the goals of the requested ordinance is reasonable because it provides for signage in scale with a structure instead of setting a standard for all structures regardless of size, it is not in the public interest to provide different sign standards for conditional uses or to increase the complexity of sign size allowances; and

**WHEREAS**, the Planning and Zoning Board voted at their September 18, 2014 meeting to recommend the approval of a staff alternative amendment that would apply to all non-residential zoning districts; and

**WHEREAS**, the Town of Burgaw Board of Commissioners finds that the recommended amendment is consistent with the Burgaw 2030 Comprehensive Land Use Plan's economic development goals in that it supports the profitability and sustainability of existing businesses and industries and ensures clear and efficient administrative procedures, policies, and ordinances that will attract and retain the type of enterprises necessary to achieve the town's vision; and

**WHEREAS**, the Town of Burgaw Board of Commissioners finds that the proposed amendment is reasonable because it provides for signage in scale with a structure, rather than setting a standard for all structures regardless of size; and

**WHEREAS**, the Board of Commissioners finds that the proposed amendment is in the public interest as it will allow larger signage, contributing to the economic prosperity of the town;

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

**SECTION 1:** The Town of Burgaw Unified Development Ordinance *Article 7: Regulations for Signs* is amended as attached.

**SECTION 2:** This amendment to the Unified Development Ordinance becomes effective immediately upon adoption of this ordinance on this, the 14<sup>th</sup> day of October 2014.

**Public Hearing #2 Consideration of a requested text change amendment to Section 4-9: Table of Permitted Uses and Section 4-10: Notes to the Table of Permitted Uses to allow single family residential uses and accessory apartments in the rear of commercial structures in the B-1 zoning district – Rebekah Roth, Planning Administrator**

The public hearing was opened at 5:28PM.

Mr. Roth presented the following background information regarding public hearing #2:

**Background.** Applicants Harbham and Valiben Odedra own the house located at 104 S. Dickerson St., across from the Depot. Until a few years ago, the house was used as a residence but was converted to office space in February 2010. Because single family dwellings are not allowed in the B-1 zoning district, the house lost its grandfathered status as a residence. The Odedras would like to have more flexibility in the use of their property and are requesting an amendment to the ordinance to allow mixed use and residential occupancy in the B-1 zoning district (see attached application).

The B-1 Central Business District's purpose, according to the UDO, is "to provide for concentrated development of appropriate uses within the central portion of Burgaw with emphasis on large scale stores and specialized shops serving a retail trading area... The B-1 Central Business District shall encompass the central fire district as described in Section 6-6 of the Town of Burgaw Code of Ordinances as well as some of the immediate residential and commercial uses in the National Register Historic District."

As indicated in this purpose statement, the B-1 district includes primarily commercial properties with a few residential structures, many of which have been converted to office space. In the past, the town has aimed to encourage commercial uses downtown, especially in storefronts. While experts indicate that downtown residential is important for a thriving central business district, residential use is currently limited to accessory upstairs apartments.

**Planning Department Recommendation.** There are two portions to the Odedras' request—to allow mixed uses and to allow single family dwellings. Currently, the ordinance allows accessory apartments on the second floor of a commercial structure. Because there are several structures that are only one story but have space behind the storefront, it may be appropriate to allow accessory apartments in the rear of structures. For single family dwellings, staff does not recommend the construction of new single family residences without a conditional use permit. Allowing them as a use-by-right may change the character of downtown. Residential occupancy of existing residential structures, however, is in keeping with the historic development pattern. Because state and federal regulations require that group homes of six or fewer residents be treated as single family residences, those uses are also proposed to be modified.

**Planning Board Recommendation.** At their September 18, 2014 meeting, the Planning Board recommended the approval of the requested text change amendment. They found it was consistent with the Burgaw 2030 Comprehensive Land Use Plan because residential uses support the profitability of existing businesses. The board also found the request was reasonable and in the public interest because it reflected the historic development pattern of the downtown area and provided more housing opportunities for residents, more potential tenants for property owners, and more potential customers for business owners.

The board also considered live/work units, which are small commercial enterprises similar to home occupations where a tenant can both live and work. However, they were uncomfortable allowing a mix of uses without the fire safety features required for accessory apartments.

Mayor Mulligan commented to the applicant that they need to be mindful that when this property is converted to residential there will be noise, traffic, events across the street at the depot etc. and that there won't be any special accommodations regarding noise issues just for that residence.

The public hearing was closed at 5:31PM.

**Statement Regarding the Consistency of the Requested Text Change Amendment to Allow More Residential Uses Downtown with the Burgaw 2030 Comprehensive Land Use Plan**

The board finds that the requested text change amendment is consistent with the Burgaw 2030 Comprehensive Land Use Plan because residential uses downtown support the profitability and sustainability of existing businesses and industries and encourages a greater mix of uses. The board also finds that the requested text change amendment is reasonable because it reflects the historic development pattern of the downtown area and is in the public interest because it provides more housing opportunities for residents, more potential tenants to land owners, and more potential customers to business owners.

There being no further discussion, Commissioner Dawson made a motion to approve the statement of consistency (above). The motion was seconded by Commissioner Robbins and carried by unanimous vote.

**Ordinance 2014-24 Approving a Text Change Amendment to Sections 4-9 and 4-10 of the Unified Development Ordinance to Allow Single Family Dwellings and Accessory Apartments in the Rear of Structures**

Commissioner Tyson made a motion to approve Ordinance 2014-24 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**ORDINANCE 2014-24  
APPROVING A TEXT CHANGE AMENDMENT TO SECTIONS 4-9 AND 4-10 OF THE UNIFIED DEVELOPMENT  
ORDINANCE TO ALLOW SINGLE FAMILY DWELLINGS  
AND ACCESSORY APARTMENTS IN THE REAR OF STRUCTURES**

**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 zoning map on December 12, 2000; and

**WHEREAS**, applicants Harbham and Valiben Odedra have requested an amendment to the ordinance to allow mixed use and residential occupancy in the B-1 zoning district; and

**WHEREAS**, the ordinance currently allows accessory apartments on the second floor of a structure but not in the rear; and

**WHEREAS**, single family dwellings are not allowed even though several existing single family structures are located in the B-1 district; and

**WHEREAS**, the Town of Burgaw Planning and Zoning Board recommended the approval of the requested text change amendment at their September 18, 2014 meeting; and

**WHEREAS**, the Town of Burgaw Board of Commissioners finds that the requested text change amendment is consistent with the Burgaw 2030 Comprehensive Land Use Plan because residential uses downtown support the profitability and sustainability of existing businesses; and

**WHEREAS**, the Town of Burgaw Board of Commissioners finds the requested amendment is reasonable because it reflects the historic development pattern of the downtown and is in the public interest because it provides more housing opportunities for residents, more potential tenants to land owners, and more potential customers to business owners;

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

**SECTION 1.** The Unified Development Ordinance Section 4-9 and 4-10 is amended as follows:

**Section 4-9: Table of Permitted Uses**

Uses <sup>24</sup>	PUD	O&I	B-1
Alcohol and/or Substance Abuse Rehabilitation Facilities (six or fewer residents) <sup>8</sup>	X	X	X <sup>29</sup>
Dwelling, Single-Family	X	X	X <sup>29</sup>
Family or Group Care Home (six or fewer residents) <sup>8</sup>	X	X	X <sup>29</sup>
Mental Health Facility, Inpatient (six or fewer residents) <sup>8</sup>	X	X	X <sup>29</sup>

**Section 4-10: Notes to the Table of Permitted Uses**

BOC MINUTES

OCTOBER 14, 2014

<sup>3</sup>**Accessory Apartment.** Includes secondary dwelling unit(s) either (1) inside of or added to an existing single-family dwelling or (2) on any floor except for the ground floor of or behind a commercial use in the B-1 or PUD zoning districts. An accessory apartment is a complete, independent living facility equipped with a kitchen and with provisions for sanitation and sleeping. Accessory Apartment also includes guest houses, mother-in-law suites, and a separate dwelling that is attached to the principal dwelling. Adequate water and sewer or an approved septic system shall be available for all accessory apartments. Manufactured homes may not be used as accessory apartments. Side and rear setbacks for any detached accessory apartment shall be a minimum of ten (10) feet.

<sup>29</sup>**Single-Family Dwellings in the B-1 District.** Single family residential occupancy is only permitted as a use-by-right in structures originally designed and constructed as a single-family dwelling. New construction of single family dwellings shall require a conditional use permit to ensure compatibility with the surrounding land uses.

**SECTION 2:** This amendment of the Unified Development Ordinance becomes effective immediately upon adoption of this ordinance on this, the 14<sup>th</sup> day of October, 2014.

**Public Hearing #3 Consideration of a requested text change amendment to Sections 2-2, 4-9, 6-3, and 14-20 of the UDO to add *Entertainment Establishment, Event Venue, and Recreation Center* uses to the ordinance – *Rebekah Roth, Planning Administrator***

The public hearing was opened at 5:32PM.

Ms. Roth presented the following background regarding public hearing #3.

**Background.** Applicant Esther Sims is requesting an amendment to allow uses similar to her family-friendly lounge and entertainment venue business. The town currently does not have a use category that would cover this type of use; there is nothing listed in the ordinance regarding either indoor recreation (other than adult businesses, bars and nightclubs, billiard rooms, bingo parlors, and cinemas) or event venues.

**Planning Department Recommendation.** Taking into account Ms. Sims' request, potential impacts of the use, and the example of other municipalities, the planning department recommends the attached text change amendment that would provide for recreation facility uses, entertainment establishment uses, and event center uses. Both entertainment establishment and recreation center uses are included since one is for intermittent use and the other is for regularly scheduled use. The proposed amendment also outlines parking regulations for these uses. It is recommended that the number of spaces required for recreation centers be reduced since the square footage required for those types of uses does not necessarily correlate with the number of customers.

The uses are broken up between indoor use only and outdoor use. Outdoor use would require a conditional use permit given the potential for greater impact on adjacent properties through lighting and noise. Ms. Sims does state in her business plan that she intends to have an outdoor smoking area. If an area were designated for smokers that would also be used for the principal use, a conditional use permit would be required.

As a note, due to concerns about the serving of alcohol, the recommended text change does require that entertainment establishments and recreation centers that serve alcohol must get a conditional use permit for a bar. This may affect existing businesses that offer entertainment as an accessory use and serve alcohol.

**Planning Department Recommendation.** At their September 18, 2014 meeting, the Planning Board recommended approval of the proposed amendment. They found that it was consistent with the Burgaw 2030 Comprehensive Land Use Plan's economic development goal to attract businesses and industries that will enhance the economic health and livability of the town and to ensure that the town's ordinances can accommodate appropriate businesses. They also found that the request was reasonable because the uses were similar to existing uses and in the public interest because of the greater opportunities for new businesses.

There was much discussion regarding the fact that this change could affect existing businesses that offer entertainment as an accessory use and serve alcohol.

The public hearing was closed at 5:34PM.

**Statement Regarding the Consistency of the Requested Text Change Amendment to Add Entertainment Establishments, Event Venues, and Recreation Centers to the Unified Development Ordinance with the Burgaw 2030 Comprehensive Land Use Plan**

The board finds that the requested text change amendment is consistent with the Burgaw 2030 Comprehensive Land Use Plan's economic development goal to attract businesses and industries that will enhance the economic health and livability of the town and to ensure that the town's zoning and development codes can accommodate appropriate businesses and industries. The board also finds that the requested text change is reasonable because the uses requested are similar in nature and impact to uses already permitted. Moreover, the board finds that the requested amendment is in the public interest because it allows greater opportunities for new businesses to be established and provides for the expansion of existing businesses.

Commissioner Robbins made a motion to approve the statement of consistency as presented (above). The motion was seconded by Commissioner Rooks and carried by unanimous vote.

BOC MINUTES  
OCTOBER 14, 2014

**Ordinance 2014-25 Approving a Text Change Amendment to add Entertainment Establishment, Event Venue, and Recreation Center uses to the Unified Development Ordinance**

Commissioner Robbins made a motion to approve Ordinance 2014-25 with an amendment that states that “for primary uses if alcohol is to be served permits for bar use must be issued”. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

**ORDINANCE 2014-25  
APPROVING A TEXT CHANGE AMENDMENT TO ADD ENTERTAINMENT ESTABLISHMENT, EVENT VENUE,  
AND RECREATION CENTER USES TO THE UNIFIED DEVELOPMENT ORDINANCE**

**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 zoning map on December 12, 2000; and

**WHEREAS**, the town currently does not have use categories that cover general entertainment establishment, event venue, or recreation center uses; and

**WHEREAS**, the applicant Esther Sims has requested the addition of the uses to accommodate her business; and

**WHEREAS**, at their September 18, 2014 meeting, the Town of Burgaw Planning and Zoning Board voted to recommend the approval of the requested amendment; and

**WHEREAS**, the Town of Burgaw Board of Commissioners finds that requested text change amendment is consistent with the Burgaw 2030 Comprehensive Land Use Plan’s economic development goal to attract businesses and industries that will enhance the economic health and livability of the town and to ensure that the town’s zoning and development codes can accommodate appropriate businesses and industries; and

**WHEREAS**, the Town of Burgaw Board of Commissioners also finds that the requested amendment is reasonable because the uses requested are similar in nature and impact to uses already permitted; and

**WHEREAS**, the Town of Burgaw Board of Commissioners finds that the requested amendment is in the public interest because it allows greater opportunities for new businesses to be established and provides for the expansion of existing businesses;

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

**SECTION 1:** The Unified Development Ordinance is amended as attached.

**SECTION 2:** This amendment to the Unified Development Ordinance becomes effective immediately upon adoption of this ordinance on this, the 14<sup>th</sup> day of October, 2014.

*Attachment to Ordinance 2014-25*

**Section 2-2: Definitions of Basic Terms**

**Entertainment Establishment.** A place of business providing a venue for live entertainment including, but not limited to, concert halls, performing arts venues, and live music. This type of use may be either a primary use of a facility, a combined use, or an accessory use. Accessory uses may include offices, concessions, and snack bars. For primary uses, if alcohol is to be served, permits for a bar use must be issued.

**Event Venue.** A facility for meetings and gatherings, such as reunions, conventions, private parties, and other similar ceremonies.

**Recreation Center.** A place of business providing regularly scheduled recreation or entertainment activities including, but not limited to, skating rinks and bowling alleys. For primary uses, if alcohol is to be served, permits for a bar use must be issued.

**Section 4-9: Table of Permitted Uses**

Districts in which particular uses are permitted as a use-by-right are indicated by “X.” Uses not specifically listed in the Table of Permitted Uses are prohibited. Districts in which particular uses are permitted as a use-by-right with certain conditions are indicated by “X” with a reference to a footnote to this table.

Districts in which particular uses are permitted as a conditional use upon approval of the town Board of Commissioners are indicated by “C.” Conditional uses that will require an additional technical review by the planning board prior to a public hearing in front of the Board of Commissioners will be designated by “Ct.” See the Table of Regulations for Conditional Uses, Section 14-20, for details of each conditional use.

A conditional use permit shall be required when use of a property comprises two (2) or more principal uses, at least one of which requires a conditional use permit.

Districts in which particular uses are prohibited are indicated by a blank. Parties wishing to add, amend, or delete uses to the Table of Permitted Uses may submit an application for Text Change Amendment to the Planning Administrator for review by the Planning Board and Board of Commissioners.

Any land use listed in the Table of Permitted Uses that incorporates or utilizes a drive-in facility must have its site design plan and proposed traffic circulation and parking plan approved by the Town of Burgaw. Those plans must be approved prior to construction of the drive-in facility.

Descriptions of each zoning district are defined in Section 4-1 with the individual lot, setback, and dimensional requirements included in Section 14-7.

Uses <sup>24</sup>	PUD	O&I	B-1	B-2	I-1
Entertainment Establishment (indoor only)	X		X	X	
Entertainment Establishment (with outdoor use)	C		C	C	
Event Venue (indoor only)	X	C	X	X	C
Event Venue (with outdoor use)	C		C	C	C
Recreation Center (indoor only)	X		C	X	

**Section 6-3: Minimum Parking Requirements**

Assemblies (Assembly Hall, Armory, Stadium, Coliseum, Entertainment Establishment, Event Venue)	One (1) parking space for every four (4) seats (one seat is equal to two feet of bench length) or one (1) space for every 200 square feet if seats not provided
Recreation Center	One (1) space for every 100 200 square feet of floor area, not including storage areas

**Section 14-20: Regulations for Conditional Uses  
Entertainment Establishment (with outdoor use) (PUD, B-1, B-2)**

Detailed Regulations

- Noise and/or music on Entertainment Establishment premises shall not be audible on any adjacent residentially used property after 10 pm.
  - A type I or II buffer shall be required along all lot lines adjoining residentially zoned or used lots.
- Additional Required Information for Application
- Size and location of all outdoor areas used for principal use
  - Lighting plan
  - List of all services to be provided
  - Security/management plan
  - Hours of operation
  - Specifications for buffer, if required

**Event Venue (with outdoor use) (PUD, B-1, B-2, I-1)**

Detailed Regulations

- Noise and/or music on Entertainment Establishment premises shall not be audible on any adjacent residentially used property after 10 pm.
  - A type I or II buffer shall be required along all lot lines adjoining residentially zoned or used lots.
- Additional Required Information for Application
- Size and location of all outdoor areas used for principal use
  - Lighting plan
  - List of all services to be provided
  - Security/management plan
  - Hours of operation
  - Specifications for buffer, if required

**Public Hearing #4 Consideration of a proposed text change amendment to Article 5. Supplementary Use Regulations of the UDO to establish design standards for planned building groups and attached dwellings. (Item tabled at September 9, 2014 Board of Commissioners meeting) - Rebekah Roth, Planning Administrator**

The public hearing was opened at 5:35PM.

**Public Hearing 4. Consideration of a proposed text change amendment to Article 5. Supplementary Use Regulations of the UDO to establish design standards for planned building groups and attached dwellings. (Item tabled at September 9, 2014 Board of Commissioners meeting.)**

Ms. Roth presented the following background information regarding public hearing #4:

**Background.** Over the past few years, several properties were developed along Hwy 117 and Hwy 53. Three of these properties required conditional use permits for planned building groups, and the Board of Commissioners attempted to require high-quality architecture and design. However, without design standards as a tool, the ability of the town to require particular designs was uncertain, and even with the design recommendations of the Burgaw 2030 Comprehensive Land Use Plan, the town had to negotiate with developers for quality development.

In a response to board concerns regarding development along Highway 53 and 117, planning staff has drafted design standards that would apply to planned building groups and multi-family developments. The proposed amendment will provide design standards for large developments (planned building groups include all buildings over 7,000 square feet in the O&I, B-1, and B-2 districts and new construction or expansion in the B-1 district), but it will not provide design standards to smaller units or be as likely to affect small businesses. The proposed standards would also ensure quality development for multi-family units, regardless of whether a conditional use permit is required. In order to balance the community's need for high quality development without burdening the developer with too many regulations, the proposed standards focus on elements that would promote cohesion with the existing development pattern and provide options for architectural concerns.

The vacancy standards at the end are based on similar standards of the City of Fayetteville, which has never enforced them. Staff has included them because of past concerns about the ongoing maintenance of large commercial projects. NCGS 160A-439 outlines the ability of municipalities to order maintenance of commercial structures, but the proposed vacancy standards do not comply with this statute. Instead, they seem to tie maintenance requirements to compliance with the design standards ordinances. In addition, the proposed amendment would also tie maintenance requirements to any approved designs, include the ones for Walmart. This may be desirable for the town, but it could leave the town open for legal challenges since it is not authorized outright in the general statutes or in any court precedents.

**Planning Department Recommendation.** It is the planning department's recommendation to approve the proposed amendment.

**Planning Board Recommendation.** At their August 21, 2014 meeting, the Planning Board recommended approval of the proposed text change amendment to *Article 5: Supplementary Use Regulations* to establish design standards. However, they recommended the vacancy standards be removed if the town attorney finds them to be legally questionable.

**Board of Commissioners Review.** The Board of Commissioners originally heard this item at their September 9, 2014 meeting. In order to give the town attorney sufficient time to determine the legal advisability regarding the vacancy standards, the Board tabled the item until this meeting.

Upon completion of the presentation, Attorney Kenan advised that the proposed recommendation is newly charted water which means the vacancy standards have not been tested by the law in the courts so if this were approved by the Board and someone were to challenge the ordinance there is the potential for a lawsuit.

Commissioner Dawson commented that she was more interested in design standards for commercial development on major corridors and not for residential development to which a large portion of the amendment is dedicated to. Ms. Roth advised this would affect multifamily and that it would be very difficult to enforce any standards on single family residential.

After much discussion, Commissioner Dawson recommended having a workshop with design professionals and residents to come up with a plan that works. She said some of the proposed guidelines are more stringent than intended.

Commissioner Rooks agreed that we are going too far with restrictions. He advised he would vote against the document now because it is too complex.

Commissioner Tyson agreed with Commissioner Rooks.

Commissioner Robbins agreed with Commissioner Dawson that we need to re-tweak the guidelines.

Commissioner Walker commented that the guidelines need to be simplified.

After much discussion, it was the consensus of the Board to have Ms. Roth schedule a public meeting with Board of Commissioners members, Planning Board members and the public participating in a charrette during which time these guidelines will be reviewed.

The public hearing was closed at 5:46PM.

Commissioner Tyson made a motion to table any action on Ordinance 2014-26 until a discussion meeting can be scheduled and input can be heard. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**Public Hearing #5 Consideration of a budget amendment to the Depot Event Center Fee Schedule – Ashley Loftis, Finance Officer**

The public hearing was opened at 5:47PM.

Ms. Loftis advised at the September 24, 2014 Board of Commissioners meeting, Depot Event Center Coordinator Kim Rivenbark presented a draft amended fee schedule for the Depot Event Center. The Policy and Finance Committee had reviewed the proposed amendments at their August 19, 2014 meeting and recommended approval. The Board of Commissioners determined that a public hearing for the budget amendment should be scheduled for their October meeting.

Ms. Loftis stated the primary changes to the fee schedule include clarifying the times of day included in the rental on weekends and reducing the price for the conference room. Ms. Rivenbark reviewed the conference room rental rates for other facilities and found our fees to be high for the amenities offered.

All Commissioners were in agreement with the amendment.

The public hearing was closed at 5:48PM.

**Ordinance 2014-27 Amending Fiscal Year 2014-2015 Annual Budget Change to Schedule of Fees**

Commissioner Robbins made a motion to approve Ordinance 2014-27 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

ORDINANCE 2014-27

*AMENDING FISCAL YEAR 2014-2015 ANNUAL BUDGET  
Change to Schedule of Fees*

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2013-2014 on June 10, 2014; and

WHEREAS, the Schedule of Fees in the budget ordinance included several fees for the rental of the Burgaw Depot; and

WHEREAS, the Town has concerns that the rental fee for the Conference Room was too high in comparison to facilities in the surrounding area; and

WHEREAS, this issue was presented to the Town of Burgaw Policy and Finance committee for review and a recommendation was made by the committee to amend this fee as well as to clarify the times of day included in the rental on weekends; and

WHEREAS, the Town Board of Commissioners approved these changes at the September 5, 2014 Board of Commissioners meeting.

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

The FY 2014-2015 Schedule of Fees be altered to reflect the following changes as attached.

Adopted this fourteenth day of October, 2014

*Attachment to Ordinance 2014-27*

**FACILITIES**

**Depot Rental**

**Banquet Room:**

**Private/Commercial**

<b>Monday-Thursday</b>	\$75/hour (2 hour minimum)
<b>Friday-Sunday (8am – 12am)</b>	\$600 per event day
<b>Security Deposit (Refundable)</b>	\$250

**Public/Non-Profit\***

<b>Monday-Thursday</b>	\$50/hour (2 hour minimum)
<b>Friday-Sunday (8am – 12am)</b>	\$250 per event day
<b>Security Deposit (Refundable)</b>	\$240

**Depot Rental (cont.)**

<b>Conference Room:</b>	
Private/Commercial	\$50 \$35/hour (2 hour minimum)
Public/Non-Profit*	\$25 \$15/hour (2 hour minimum)
<b>Dock Area:</b>	
Private/Commercial (8am – 12am)	\$100 per event day
Public/Non-Profit* (8am – 12am)	\$50 per event day
Cleaning Deposit (Non-refundable)	\$25
<b>Open Area</b>	\$25
<b>Reserving the day before an event for decorating:</b>	
Monday-Friday(if available)	\$15 per hour
Saturday or Sunday (if available)	\$25 per hour

\*Non-profits must show proof of 501c(3) tax exempt status. All discounted events must contribute to the purpose and/or mission of the organization.

**Public Hearing #6 Consideration of Amendment of Chapter 37, Article 1 of the Town of Burgaw Code of Ordinances that provides for criminal history background checks for all final applicants for employment with the Town of Burgaw (to comply with current state requirements) – Montrina Sutton, Police Chief**

The public hearing was opened at 5:49PM.

Chief Sutton advised Ordinance 2014-28 provides for criminal history background checks for all final applicants for prospective employment with the Town of Burgaw. The original ordinance was adopted in 2012 by a former Board of Commissioners. It has recently come to the attention of the police department that the ordinance has not been approved by the N.C. State Bureau of Investigations.

Chief Sutton advised the ordinance adopted by the Board of Commissioners was presented to the SBI for review and she was informed that the ordinance needs to have some corrections and additions in order to be compliant with current SBI requirements. She stated that once the ordinance has been amended by the board, and resubmitted to the SBI the approval process will follow. The Town of Burgaw will then be able to perform criminal history background checks on final applicants for employment with the Town of Burgaw.

All Commissioners were in agreement with the amendment. Attorney Kenan recommended that there are some acronyms that need to be spelled out in the ordinance for clarification. He identified the acronyms and requested that the amendment be made in the motion. The identified acronyms are as follows: CHRI – Criminal History Record Information; CIIS – Criminal Information Identification Section.

The public hearing was closed at 5:50PM.

**Ordinance 2014-28 Amending the Town Of Burgaw Code of Ordinances Chapter 37, Article I, That Provides For Criminal History Background Checks for All Final Applicants for Prospective Employment with the Town Of Burgaw to Comply With Current State Requirements**

Commissioner Rooks made a motion to approve Ordinance 2014-28 as amended. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

ORDINANCE 2014-28

AMENDING CHAPTER 37, ARTICLE 1 OF THE TOWN OF BURGAW CODE OF ORDINANCES THAT PROVIDES FOR CRIMINAL HISTORY BACKGROUND CHECKS FOR ALL FINAL APPLICANTS FOR EMPLOYMENT WITH THE TOWN OF BURGAW TO COMPLY WITH CURRENT STATE REQUIREMENTS

WHEREAS, as a course of its business the Town of Burgaw employs individuals for full and part time positions within the Town departments and the administration of the Town; and

WHEREAS, in order to insure that the Town does not hire an individual who has been previously convicted of a drug, gambling, property criminal offense or a crime against a person it is prudent that the Town through its Town Manager or designee conduct and perform a criminal background check for all final applicants for employment in any full time or part time position with the Town; and

WHEREAS, such criminal history background checks can be performed by the Town of Burgaw through its Police Department and their use of the North Carolina State Bureau of Investigation Division of Criminal Information Network;

WHEREAS, in order for the Town to perform such criminal history background checks on any final applicant for employment in any full time or part time position with the Town the Town of Burgaw Board of Commissioners must adopt a policy and procedures for the performance of such criminal history background checks; and

WHEREAS, prior to denial or termination of employment based upon Criminal History Record Information received from the criminal justice agency, the non-criminal entity shall verify the existence of a record by either obtaining a certified public record or by submitting a fingerprint card of the individual to the Criminal Information Identification Section for verification that the Criminal History Record Information record belongs to the individual.

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

I. Chapter 37 of the Burgaw Code of Ordinances is hereby amended to add Article I as follows:

ARTICLE I. CRIMINAL HISTORY BACKGROUND CHECK FOR INITIAL EMPLOYMENT WITH TOWN

Section 37-1. Authorization for Performance of Criminal History Background Check

The Town Manager or designee with the assistance of a certified North Carolina State Bureau of Investigation Division of Criminal Information Network operator within the Town of Burgaw Police Department may conduct and perform a criminal history background check on each final applicant for employment with the Town for any full time or part time position.

Section 37-2 Criminal History Background Check Precondition of Employment

As a precondition of a final applicant's prospective employment with the Town, the applicant shall cooperate with Town's ordinances, policy and procedures for the Town obtaining a criminal history background check. Failure of an applicant to cooperate with the Town's ordinances, policy and procedures for the Town regarding a criminal history background check of the applicant shall result in applicant's application for prospective employment with the Town being terminated and the Town having no further obligation to consider applicant for employment.

Section 37-3 Cooperation of Final Applicant for Employment to Provide Certain Documentation for Criminal History Background Check

Each final applicant for employment with the Town of Burgaw shall provide to the Town Manager or their designee prior to the performance of the criminal history background check the following documents:

- (a) a valid issued state driver's license or identification card;
- (b) a certified copy of the applicant's birth certificate;
- (c) applicant's social security number; and
- (d) one set of applicant's finger prints.

Section 37-4 Ineligibility for Employment.

Any criminal history background check resulting in a final applicant for employment being convicted of the hereinafter classification of crimes shall disqualify such final applicant from employment with the Town.

- (a) a criminal offense under Articles 5, 5A, 5B, 5D and 5F, Chapter 90 of the North Carolina General Statutes;
- (b) a criminal offense under Article 37, Chapter 14 of the North Carolina General Statutes;
- (c) a criminal offense under Articles 16, 16A, 17, 18, 19, 19A, 19B, 19C, 19D, 20, 20A and 21, Subchapter V, Chapter 14 of the North Carolina General Statutes; and
- (d) a criminal offense under Articles 6, 7A, 8, 10 10A, 13 and 13A, Subchapter III, Chapter 14 of the North Carolina General Statutes.

Section 37-5 Requirement of Criminal History Background Check for Employment of Town Manager and Town Clerk

Any final applicant for employment as Town Manager or Town Clerk shall be subject to a criminal history background check required for any final applicant for employment with the Town as required pursuant to Sections 1 through 4 of this Article. The Board of Commissioners shall designate which appointed official of the Town shall perform a criminal history background check of any final applicant for employment as Town Manager or Town Clerk.

Section 37-6 Criminal History Background Check Not a Public Record

Any criminal history background check obtained for an applicant for employment shall be privileged, confidential and not a public record as defined pursuant to Chapter 132 of the North Carolina General Statutes and shall retained in the prospective employee's personnel file.

Section 37-7 Adoption of a Policy and Procedures for the Performance of Criminal History Background Checks

The Board of Commissioners upon the advice and consultation with the Town Manager and the Town Police Chief may adopt a policy and procedures for the Town Manager or their designee to perform criminal history background checks on each final applicant for prospective employment with the Town

II. That this amendment to Chapter 37 of the Town of Burgaw Code of Ordinances shall become effective upon its adoption and shall apply to all final applicants for prospective employment with the Town.

Witness my hand and the corporate seal of said Town of Burgaw this the 14th day of October, 2014.

## **ITEMS FROM THE MANAGER CONTINUED**

### **Resolution 2014-36 Approving a Contract with American Property Experts for Grinding at the Town's Vegetative Debris Site**

Mayor Mulligan stated that Commissioner Dawson has asked to be recused from discussion on this item. Commissioner Robbins made a motion to recuse Commissioner Dawson from this discussion. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

Mr. McEwen advised the debris generated by the two ice storms this year as well as the normal debris collected over the last several years has created the need to grind the vegetation at the town vegetative debris site. Although we have a standing contract with established unit pricing with DRC Services to handle debris removal and disposal related to natural disaster, we received a lower unit price from American Property Experts (\$2.20/cy) as opposed to the quoted price from DRC Services (\$2.66/cy).

Mr. McEwen said it is estimated that between 6,000-8,000 cubic yards of material will need to be ground at the debris site. At \$2.20 at yard the total expense would be \$18,100 (includes a \$500 mobilization fee). Due to the second ice storm and the subsequent disaster declaration a large portion of the grinding cost will be reimbursed. We anticipate disaster declaration reimbursements for grinding, labor cost related to debris collection, and equipment usage related to debris collection will cover the majority of the total grinding cost.

In order to pay the vendor for the services related to the grinding we are requesting a general fund fund balance appropriation of \$18,100. Once the reimbursement is received it will post as revenue for FY14-15 and will fall out at the end of the fiscal year into the general fund fund balance. The total of all storm related expenses for the ice that was submitted for reimbursement to the NC Department of Public Safety was \$55,918.90, of which the state reimburses 75%.

All Commissioners were in agreement to accept the proposal as presented.

Commissioner Rooks made a motion to approve Resolution 2014-36 as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

#### **RESOLUTION 2014-36 Resolution Approving a Contract with American Property Experts for the Grinding of Vegetation at the Town's debris Site off Piney Woods Road**

WHEREAS, the Town of Burgaw owns and operates a state permitted vegetative debris collection site off Piney Woods Road; and

WHEREAS, periodically the volume of material collected at this site requires the Town to contract with a vendor to grind the debris for a fee; and

WHEREAS, the Town solicited informal bids from American Property Experts and DRC Services for grinding services; and

WHEREAS, the bids received per cubic yard are as follows:

- 1) DRC Services- \$2.66
- 2) American Property Experts- \$2.20

WHEREAS, it is estimated that between 6,000 and 8,000 cubic yards of material are present at the site, and

Whereas, pursuant to the proposed contract with American Property Experts, final quantities will be determined prior to commencement of work.

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 a contract with American Property Experts for an amount not to exceed \$18,100. Quantities will be determined and agreed to by the Town and American Property prior to commencement of work.

SECTION 2. The Town of Burgaw Board of Commissioners hereby approves the appropriation of an amount not to exceed \$18,100 from the general fund fund balance upon the completion of the work described in the attached contract with American Property Experts.

Section 3. The Town of Burgaw Board of Commissioners hereby authorizes the Mayor or Town Manager to execute the required contract with American Property Experts for the grinding of the material at the vegetative debris site off Piney Woods Road.

ADOPTED this the 14 day of October, 2014.

### **Resolution 2014-37 Approving a Service Agreement with Facility Dude for Work Order Management and Scheduled Maintenance Software**

Mr. McEwen advised with the current finance software provided by Edmunds and Associates a work order module is available at a cost of \$2,400 a year. We currently use this module for all public works work orders. He said unfortunately this module is very one dimensional and only available on a few computers which means only a few employees can generate and process work orders. He also said the current Edmunds software doesn't provide any follow up detail regard to status of work orders submitted.

Mr. McEwen said we were recently approached by a company called Facility Dude regarding software they have developed for asset and facility management. Although the software from Facility Dude serves the same basic function as the module within Edmunds, several other benefits are available that aren't present with the current software. For example, the Maintenance EDGE program provided by Facility Dude allows not only normal work orders to be entered and processed (i.e. water account disconnects and reconnects, meter rereads, pot holes, limbs down etc.) but allows for work orders for scheduled maintenance to be entered and generated at the predetermined time automatically.

Mr. McEwen advised given the limitations of the software we are currently paying for through Edmunds, he feels our needs would be better met by switching to Facility Dude, especially since the program's cost roughly the same amount annually.

Mr. McEwen advised the pro-rated cost of the program through the end of the fiscal year is \$2,208. For subsequent years the software will cost approximately \$2,422 a year. If approved, no fund balance appropriation is anticipated to be needed.

All Commissioners were in agreement regarding the proposal for the purchase of the Facility Dude software. There being no further discussion, Commissioner Rooks made a motion to approve Resolution 2014-37 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

#### **RESOLUTION 2014-37**

#### **Resolution Approving a Service Agreement with facility Dude for Work Order Management and Scheduled Maintenance Software**

**WHEREAS**, although the current finance software utilized by the Town contains a work order module, the Town doesn't have an efficient work order and scheduled maintenance software system, and

**WHEREAS**, an efficient system of entering and monitoring work orders and scheduled maintenance is an extremely valuable tool for all departments, particularly the public works department, and

**WHEREAS**, our current system only allows a few user to enter work order, and

**WHEREAS**, our current system does not provide for any monitoring or cost evaluation of issued or completed work orders or scheduled maintenance of town assets; and

**WHEREAS**, on several occasions, Town staff has met with and reviewed the Maintenance EDGE software available from Facility Dude and determined the software is preferable to the current software utilized through our finance software, and

**WHEREAS**, when evaluating the new software from Facility Dude it was determined that the cost was roughly the same amount we are currently paying from the current software utilized through our finance software, and

**WHEREAS**, the submitted service agreement with Facility Dude can be cancelled anytime without penalty.

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

**SECTION 1.** The proposed service agreement with Facility Dude is approved with the pro-rated amount of \$2,208 with an anticipated annual cost of \$2,422 every year after (based on a population of 3,928).

**SECTION 2.** The Town of Burgaw Board of Commissioners hereby authorizes the Mayor or Town Manager to execute the required service agreement with Facility Dude for the Maintenance EDGE software.

Witness my hand and the corporate seal of said Town of Burgaw this the fourteenth day of October, 2014.

## **ITEMS FROM MAYOR**

Mayor Mulligan said that Commissioner Rooks suggested to him that we look into having some of our public works members become volunteer firemen. He further stated that he thinks it is an excellent idea and something we should explore. Commissioner Rooks stated that he sees a financial benefit in having public works serve as fire fighters and to make it a requirement that they become certified fire fighters. Commissioner Rooks stated that there is only a limited amount that full time paid firefighters can do and he feels that public works personnel could serve in both capacities. Commissioner Rooks said he sees it as a big financial burden to keep adding full time firefighters when there are limitations in what they can do in a day's time. There was much discussion regarding this issue with no decision being made.

### **Committee Appointments for Promotions and Special Events and Parks and Recreation**

Mayor Mulligan recommended that Jennifer Feehan be appointed to the Promotions and Special Events Committee.

Commissioner Robbins made a motion to appoint Jennifer Feehan to the Promotions and Special Events Committee. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

Mayor Mulligan recommended that JoAnne Casey Summers be appointed to the Parks and Recreation Committee.

Commissioner Tyson commented that Ms. Casey-Summers' husband serves on that committee and she feels that spouses should not serve on a committee at the same time. It was the consensus of the Board that a husband and wife should not be allowed to serve on the same committee and for that reason this appointment was not made. Mayor Mulligan advised he has not yet spoken with the other eligible applicants and has no further recommendation.

## **ITEMS FROM BOARD OF COMMISSIONERS**

Commissioner Robbins asked who makes the CodeRed calls. He said for clarification he thinks the caller should identify him/herself and state that they are calling on behalf of the Town. Mr. McEwen said he will speak to staff about this.

## **CLOSED SESSION**

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

## **OPEN SESSION RECONVENED**

There was no action taken in closed session.

## **ADJOURNMENT**

Commissioner Rooks made a motion to adjourn. The motion was seconded by Commissioner Robbins and carried by unanimous vote. The meeting adjourned at 6:40PM.

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Eugene Mulligan, Mayor

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