

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

**DATE:** November 08, 2016  
**TIME:** 4:00 PM  
**PLACE:** Historic Burgaw Depot  
**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, Director of Public Works  
Louis Hesse, Building Inspector  
Jim Hock, Chief of Police  
Wendy Pope, Finance Officer  
Kim Rivenbark, Permitting Technician  
Kristin Wells, Deputy Clerk  
Allen Wilson, Fire Administrator  
Monterai Adams, Administrative Fellow  
**MEDIA PRESENT:** None  
**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 requested to strike Item 7 (Dog Park) and the first part of Item 8 (Burgaw Yoga Request) from the agenda. Commissioner Harrell made a motion to approve the agenda as amended. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**Approval of Consent Agenda**

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

- Minutes of the October 11, 2016 Regular and Closed Sessions

**SPECIAL REQUESTS**

**Alison Boyce - Pender Arts Council – Mural Project for Spring 2017**

Ms. Boyce advised the Pender Arts Council is organizing a spring community mural project that will hopefully begin in April or May of 2017. She advised Denae' Brissonnet (artist) has been contacted and she will be working on the mural which will represent the Burgaw community. Ms. Boyce advised the mural will be painted on the east side of the arts council building located at 108 East Wilmington. She advised schools and other community groups will be allowed to be involved in the process. She presented several pictures of murals done by the artist in other cities around the world.

Ms. Boyce advised she is asking on behalf of Pender Arts Council for approval of the project as well as financial assistance in the amount of \$3600. She advised they will be receiving \$1600 from the 21<sup>st</sup> Century Grant from Pender County Schools which leaves a request for \$2,000 from the Town. She said the project dates are April 17 – May 14, 2017.

Commissioner Robbins asked if it would help to put a smooth surface on the side of the building to paint on instead of the corrugated siding that is there now. Ms. Boyce said it would make the painting look better to be on a flat surface but the artist can work on the corrugated surface if necessary. She advised she would like to explore that idea further.

Mayor Mulligan asked for a motion in support of the planned mural project. Commissioner Robbins made motion to support the project as presented. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

Commissioner Robbins made a motion to take \$2,000 from General Fund fund balance to help pay for the mural project. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

Mayor Mulligan asked how we will handle the improvements to the wall before the painting. Mr. Hesse said he will look into the options.

### **Noah Harrell – Parks and Recreation Committee - Discussion regarding West Side Trail and Parks**

Noah Harrell, Chairperson of the Parks and Recreation Committee advised they have some suggestions that they are asking that the Board to consider regarding the proposed west side trail and parks. He advised the first suggestion is that the connector between the middle school and the ball park should be Hayes Street instead of Clark Street for safety reasons. He suggested that black top be used for the trail instead of cement because it is easier on people that will be walking or running on the trail. He also suggested that the sidewalk along Fremont Street would be a good idea because it would connect the center of the west side to downtown. There was much discussion regarding how to go about placing the trail along Hayes Street and Mr. McEwen reminded the Board that Hayes Street is about three years down the road from being resurfaced so they would need to work out the details carefully. Mr. McEwen asked the Board to clarify the prioritization of the connector by making a motion to that effect. Commissioner Harrell made a motion to reprioritize Hayes Street as the connector with the sidewalk instead of Clark Street. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Mayor Mulligan commented about the parking situation at the Pender Memorial Park and the danger of cars being parked everywhere and children running in and out of traffic between cars during events. He said he would like for Mr. McEwen to talk with the county about the lot that was given to the town and maybe use it for parking to alleviate the parking problems in the area. There was also mention that the county might erect the new playground equipment on the town's lot and use the other area for parking. Commissioner Harrell made a motion to authorize the Town Manager to contact the county in regards to improving the parking at Pender Memorial Park. The motion was seconded by Commissioner Dawson and carried by unanimous vote. Mr. McEwen advised he will send a formal letter to the Pender County manager regarding this issue.

### **DEPARTMENTAL ITEMS**

#### **Finance – Wendy Pope**

#### **Discussion Item – Consideration of a change to the Utility Delinquent Notice mailed to customers who have balance due after payment due date of 10th**

Ms. Pope said as a reminder to our water/sewer/trash customers, we mail a Utility Delinquent Notice to those customers that have not paid their utility bill by the due date of the 10<sup>th</sup> of the month. The notice is usually printed and mailed on the 11<sup>th</sup>, one day past the due date. On average, over 200 notices are printed, folded, stuffed and metered to complete this reminder process. Not only is there a dollar cost associated (roughly 0.50 cents per) but it takes about 3 hours of the customer service representative's time to complete all of the steps.

Ms. Pope advised she would like clarification from the Board as to what they feel is the intent of the Utility Delinquent Notice. She asked is it a second notice to help the customer avoid the \$35 late fee or is it a shut-off notice to help the customer avoid having their water turned off? She also commented that a second notice is more costly, as it will need to be printed and mailed on the 11<sup>th</sup> to ensure the customer has enough time to make payment

before late fees are added on the 16<sup>th</sup>. She said her preference is a shut-off notice that would be printed and mailed on the 16<sup>th</sup>, after late fees are added, to ensure the customer has enough time to make payment before disconnection on the 21<sup>st</sup>. She also advised all of this information is on the reverse side of all utility bill cards initially mailed.

After a brief discussion regarding the best method of giving notice and shutting off water, Commissioner Harrell made a motion to change the notice to a notice of disconnect on the 16<sup>th</sup> of the month, allow one forgiveness per year for the late fee and offer the incentive of forgiveness of the late fee if the customer signs up for automatic draft. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**Planning – Kim Rivenbark**

**Consideration of the proposed 2016 Tree Program Work Plan (tabled from October 11, 2016 meeting and amended at Building/Grounds meeting)**

Ms. Rivenbark advised each year, the Buildings and Grounds Board, in its capacity as the Tree Board, and the Board of Commissioners must approve an annual tree program work plan for submittal for Tree City USA recognition. The proposed work plan includes several components, including:

- Tree Planting
- Tree Pruning
- Tree Removal
- Tree Care
- Tree Education, and
- Other

The items in the proposed work plan have been discussed with representatives from Public Works, and the Board of Commissioners has budgeted \$2,000 for tree program activities not covered by the operations budget of Public Works. The Buildings and Grounds Committee approved the attached plan at their October 20, 2016 meeting. It differs slightly from the draft plan presented to the Board of Commissioners in October, as it adds tree re-staking and replacement due to the hurricane and specifies the work that should be completed for the tree inventory.

Commissioner Robbins made a motion to approve the Tree Program Annual Work Plan for FY 2016-2017 as amended by the Buildings and Grounds Board. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**Tree Program Annual Work Plan—FY 2016-2017**

Component	Action	Timeline	Responsible Party
Tree Planting	Tree for Arbor Day	March 2017	Planning & Public Works
	Replacement of trees lost in hurricane, if applicable	TBD	Public Works
Tree Pruning	As determined by Tony’s Tree Service survey	TBD	Public Works
	Downtown Hollies in preparation for holiday lights	October-November 2016	Public Works
	Park and railroad right-of-way pruning as needed	TBD	Public Works
Tree Removal	As determined by Tony’s Tree Service survey	TBD	Public Works
Tree Care	As indicated on tree care maintenance schedule	Ongoing	Public Works

	Re-staking trees damaged due to hurricane	October-November 2016	Public Works
Tree Education	Arbor Day—ceremony, tree giveaway, etc.	March 2017	Planning
	Tree care public education event	March 2017	Planning
Other	Upgrade landscaping, tree preservation, & mitigation regulations	Spring 2017	Planning
	Flagpole for Tree City USA flag	Spring 2017	BOC & Public Works
	Begin work on tree inventory by mapping and developing maintenance program for trees on railroad right-of-way and along Hwy 117	Spring 2017	Planning

### Consideration of a major subdivision plat application for Hardison Subdivision

#### Background information:

Hardison PCL has applied for preliminary subdivision plat approval for a 128-lot single-family subdivision. The proposed subdivision will be located behind White Tractor off Hwy 117 Bypass, and the original site plan was approved as part of a conditional rezoning in 2015.

While the applicant is requesting preliminary plat approval for the entire subdivision, it is intended to be developed in four phases. During each phase, the developer intends to install all streets and utilities, but each lot will be developed separately. The applicant does anticipate that the sidewalks will be built as each lot is developed (as was done at Village on 18) instead of constructing the sidewalks in advance in order to reduce the risk of sidewalk damage due to construction vehicles. This plan would have an effect on when the town would take over streets and whether bonding would be required and may need to be addressed as conditions to the approval of the preliminary plat.

The planning board reviewed the preliminary plat at their October 20 meeting and recommended approval with the proposed conditions.

#### The following information was presented in the Commissioner’s packets regarding the proposed subdivision:

##### Review of Conditional Zoning District and Administrative Amendments

On March 19, 2015, the Town of Burgaw Board of Commissioners approved a conditional rezoning of the subject property to R7-CZ1 for a single-family residential subdivision. The approved conditional zoning district is very similar to the base R-7 zoning district but permits fewer uses.

The approved zoning district allowed single-family residential with accessory structures, accessory uses, home occupations, public electrical utility stations, temporary recreational vehicles, stormwater retention ponds, yard sales, and any use required by federal or state law.

The attached Ordinance 2015-04 outlines the original approved conditional zoning district, including the approved master plan. Two administrative amendments have been approved since the original approval—one that reduces the side setback to 12 ft. (the setback allowed in the conventional R-7 zoning district) and one that modifies the master site plan after engineering determined that fewer lots and a street re-alignment were necessary to accommodate on-site stormwater.

##### Comments and Concerns with Developer Responses

The proposed preliminary plat has been submitted for comments to representatives from the town planning, building inspections, fire, and public works departments. It has also been reviewed by the town manager. The applicant has submitted a driveway permit application to NCDOT for review, but comments from the NC Department of Environmental Quality are not available as of the writing of this report. The applicant’s engineer is prepared to address any concerns regarding stormwater and drainage and is reaching out to NCDEQ for comments.

The following comments and concerns cover areas of zoning compliance, infrastructure, and subdivision layout. These items will need to be discussed during the planning board review to determine if conditions to the preliminary plat approval will be recommended to the Board of Commissioners.

##### Conditional Zoning Compliance

- It is unclear on the plat if the 5 feet of vegetative buffer required by the conditional zoning approval is included in the common area behind lots 1-11. At the planning board review, David L. Menius, the subdivision’s engineer, stated that the

buffer would be included in the common area behind lots 1-11, and a note to that effect would be placed to specify that requirement.

- The conditional zoning approval requires that drainage areas be included in common areas. There are locations on the preliminary plat where drainage swales are proposed, but those swales are not located in common areas or proposed for easements. Mr. Menius attested that those drainage swales would be added to the HOA common area.
- There are wetland portions shown on platted lots. It is unclear whether these portions are included in the fill areas or must be maintained. If they are to be kept wetlands, they must be included in the common area to ensure accessory structures; additions, etc. do not encroach. This will specifically affect Lot 12. The wetland area on that map is an area of wetland that needs an updated jurisdictional delineation. If a delineated wetland, this area can be included in the common area or the developer will place restrictions on the deed for that property that prohibit any accessory structures that would be prohibited. Fences could be allowed.

#### **Water and Sewer Utilities**

- The Public Works Director, Anthony Colon, has determined that the existing lift station at Hwy 117 has sufficient capacity for Phase I but must be upgraded for development beyond that point. The developer understands this and that the upgrades required after Phase I will be developed will be of sufficient capacity to service the entire subdivision.
- The Fire Marshal, Allen Wilson, has determined that the development will need one additional fire hydrant, and the hydrants will need to meet the town's specifications. Mr. Menius has affirmed that this will be done.

#### **Streets**

- Diggs Drive aligns with Linda Lane, so it must have the same name according to the town's subdivision standards. The developer has no objections.
- Both Hunter and Cole are used as names for other Pender County streets and should not be repeated per Pender County E-911 requirements and the town's subdivision standards. New names will need to be provided for those streets. The developer has no objections.
- The right-of-way widths are consistent with the NCDOT Subdivision Standards, which must be complied with per the town's ordinance. Conflicting right-of-way standards are included in the ordinance, which requires an additional ten feet of right-of-way. Non-municipal utilities are proposed to be located in easements outside of the right-of-way.
- Sidewalks dead-end at the temporary turnarounds provided for the street stubs. Sidewalk access needs to be provided for all lots, and provisions need to be in place regarding whose responsibility it will be to extend sidewalks and realign streets when the temporary turnarounds are no longer necessary. The developer had proposed an alternate t-turnaround design if approved by the Fire Marshal. Following a discussion with the Fire Marshal, the developer has stated that he will retain the original proposed turnarounds. The town will need to insure that future developers extend the required sidewalks and a plan will need to be determined for the abandoned turnaround area.

#### **Stormwater, Drainage, and Erosion Control**

- Staff questions the functioning of the large wetlands that is proposed to replace the retention pond that was used as part of the golf course and incorporated into previous subdivision plans. Specifically, how will the wetlands function regarding drainage and erosion control? (See the comments from Building Inspector, Louis Hesse.) Mr. Menius stated that the existing retention pond will be retained, but it has been delineated as a jurisdictional wetland area. At the planning board meeting, he answered the board's concerns regarding the functioning of the stormwater system and the potential for drainage issues.

#### **Common/Open Space**

- Even though the town has required drainage and stormwater infrastructure be included in the development's open space, because some of these areas are located behind residential lots, there should be some differentiation between recreational open space areas and those controlled by the HOA for stormwater purposes to discourage potential conflicts of use.

#### **Staff Recommendation**

Staff does recommend the approval of the preliminary plat subject to the following conditions and any that may result from the discussion of concerns outlined above:

- Because the preliminary plat covers all four planned development phases, each phase must have a separate final plat and must be developed consecutively unless receiving prior approval from the Board of Commissioners.
- After the final plat approval of each phase, the developer must take the following actions prior to any further development activity:
  - Post a surety performance bond, letter of credit or cash security, or combination thereof equal to 1.5 times the entire cost, as estimated by the subdivider and approved by the Board of Commissioners, of repairing any subdivision roads dedicated to the town that are proposed to be used by construction vehicles for the next phase of development; and
  - Conduct a tree survey and obtain tree removal permits for that phase of development.
- After the final plat approval for Phase I, the developer must also meet with town staff for approval of the utility upgrades required for Phases II-IV of development before any further development activity can take place.
- If the name of the subdivision is changed, the name must be approved by the Board of Commissioners prior to the final plat approval of Phase I and must be included on the final plat for each phase.
- Diggs Dr. must be renamed Linda Lane, and duplicate street names must be changed with new names approved by the Board of Commissioners and Pender County E-911 prior to final plat approval of Phase I.
- A tree survey shall be conducted for each individual phase of development with specimen trees marked and an estimated density determination for other regulated trees, as approved by the Planning Administrator.
- An additional fire hydrant shall be required on Diggs between Russell and Hunter, as approved by the Town of Burgaw Fire Marshal, and all hydrants must meet Town of Burgaw specifications.
- The developer shall hire a third party engineer/soil technician, approved by the Public Works Director, to perform special inspections to insure road subsoil capacities and to certify asphalt mix, curb and gutter concrete strength and that roads are constructed to specification.

- Drainage swales shall be included in HOA common areas.
- If the property to the east is developed prior to the completion of Phase II and dedication of streets and rights-of-way to the town, the applicant shall allow the developer of the adjoining property to install sidewalks along Hunter Dr. south of Diggs.
- The signed preliminary plat should show the square footage of each individual residential lot.
- Street lights shall be required in accordance with the Town of Burgaw's street light ordinance and shall be LED or meet other technical requirements adopted by the town at the time of installation.

**The following additional recommendations were presented by staff at today's meeting:**

- *Acceptance of the public rights of way, streets, sanitary sewer, storm sewer, and water lines must be approved by the Board of Commissioners through resolution and upon the completion of a designated phase. All streets shall be built according to NCDOT specifications. No street shall be accepted by the Town that is being used for construction traffic. No conveyance of storm sewer system will be accepted by the Town which exists outside of paved road surface.*
- *Curb and gutter shall extend along all streets that are to be dedicated to the Town.*
- *A 6-foot tall privacy fence made of treated lumber and a minimum 5-foot vegetative buffer shall be placed along the rear of lots 1-11.*
- *Sidewalks shall extend around entire cul-de-sac on Grice Drive, Coles Court, and Hunter Drive. Sidewalks shall also extend down the entire main entry road, Diggs Drive, to Hwy 117.*
- *Sidewalks shall be installed prior to Final Plat approval for Phase 1 on Diggs Drive from Hwy 117 to Grice Drive and continue on Grice Drive to the property lines at lots 1 and 26.*
- *Prior to issuance of CO for properties that are adjacent to common areas, sidewalks shall extend across the common area to the next buildable lot property line.*
- *The proposed woodchip trails shall be constructed of permeant materials such as asphalt, and the material shall be approved, in advance, by the Planning Administrator.*
- *The proposed trail in Phase 1 and Phase 2 shall be completed prior to Final Plat approvals for those phases.*
- *The trail proposed for Phase 1 should extend between lots 39 and 40 to connect to the sidewalk along Clifford Drive.*
- *The common area behind lots 101-103, 111-116, 121-128, and beside lot 110 should be removed from the open space calculations.*
- *Trees that are not in building footprints, driveway footprints, utility easements, and street placement shall be retained.*

Upon completion of Ms. Rivenbark's presentation she advised the engineer and the developer are present if there are any questions for them. Luke Menius, Engineer with Stroud Engineering and Dean Hardison, property owner and developer introduced themselves to the Board.

Mr. Menius advised the new recommendations that have been presented tonight are new to them and will have significant impacts on the project in regards to permitting and costs as well as the functionality of the design. He asked that the Board consider only the recommendations presented by planning staff and consider taking the additional recommendations off the table noting that some of those overlap.

Mayor Mulligan commented that the additional recommendations answer many of his questions regarding the issues that he has with the project as proposed. He reviewed the issues that he feels are important in the additional recommendations.

Mr. Menius responded by an in depth discussion regarding the additional cost of the new recommendations. He said at this time he doesn't even have a response to these new recommendations and feels that we need to table this item if we cannot move forward without these recommendations.

After a seventy five minute discussion regarding the new recommendations and original proposed plans which touched on every aspect of the subdivision, Mr. Menius and Mr. Hardison were in favor of taking the new recommendations and the original proposal back to the drawing board to incorporate the numerous suggestions that had been discussed. They advised they would bring their amended proposal back to another meeting with changes for review. The board was in agreement to allow the applicant to make revisions and come back in December.

Commissioner Harrell made a motion to table this item until the December 13<sup>th</sup> Board of Commissioners meeting. The motion was seconded by Commissioner George and carried by unanimous vote.

**BREAK – 6:10PM – 6:20PM**

**PUBLIC FORUM – Speakers:**

**Douglas Krynicki** appeared before the Board to request that the Board give Dr. Benjamin Akiwumi an extension of at least six months instead of the ninety days given to vacate the medical office on Court House Avenue that was recently purchased by the Town and slated to be the location for a splash pad. He advised that ninety days does not give Dr. Akiwumi the time needed for relocation, renovation and to continue to see his patients during transition. Mr. Krynicki advised without an extension, Dr. Akiwumi will probably have to relocate to Wilmington and leave a void for the low income patients without insurance that he sees at his practice here.

Mayor Mulligan responded by advising that the Board will take this request into consideration but logistically it will possibly conflict with our building plans and our timeline. He said he is sure the Commissioners will do everything possible to accommodate the doctor within the timeline we have.

Mr. McEwen advised the Board needs to have a scoping meeting in December in order to set goals and proposed costs.

Commissioner Harrell asked if extending the ninety days for another thirty days would hold us up with our situation. Mr. McEwen said that would push us to February 28<sup>th</sup> and there is no way we could get the building demolished and a splash pad built before springtime. He said he just wants the Board to understand the more we move the date, the less likely the splash pad will be constructed and ready for use by summer. Commissioner Harrell stated that this would be a discussion item at the December meeting.

**PUBLIC HEARINGS – *Kim Rivenbark***

**Public Hearing 1**

**Consideration of a petition to close the alley between the 300 blocks of E. Bridgers and E. Ashe Streets**

The public hearing was opened at 6:29PM.

Ms. Rivenbark advised on August 11, 2016, applicants Russell and Ann Ramsey of 212 N. Cowan St. submitted a petition to close the alley located between the 300 blocks of E. Bridgers and E. Ashe Streets. At their September 13, 2016 regular monthly meeting, the Board decided to pass the Resolution of Intent. The Planning Department has provided all required notices in accordance with GS 260A-299.

Mayor Mulligan advised there is no one signed in to speak at this hearing. There being no further comments, Mayor Mulligan closed the public hearing at 6:30PM.

Commissioner George made a motion to approve Ordinance 2016-18 as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

**ORDINANCE 2016-18  
DECLARING THE CLOSURE OF THE PUBLIC ALLEY BETWEEN THE 300 BLOCKS OF EAST BRIDGERS AND  
EAST ASHE STREETS WITHIN THE TOWN LIMITS OF BURGAW**

**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**, the Town of Burgaw wishes to close the public alley between the 200 blocks of East Bridgers and East Ashe Streets since this alley does not appear to serve a public purpose; and

**WHEREAS**, the Town of Burgaw feels that closing this alley will not deprive any adjacent property owner with reasonable means of ingress and egress to their property and that reasonable precautions have been taken to prevent this from occurring; 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**, pursuant to NCGS 160A-299(a), the Town has published noticed once a week for four successive weeks prior to the public hearing in a newspaper of general circulation in the area; and

**WHEREAS**, pursuant to NCGS 160A-299(a), the Town has provided proper notice to the adjacent property owners, including a copy of the notice of intent stating the town’s intentions to close the ally, which was sent via certified mail to all property owners adjoining the public alley; and

**WHEREAS**, pursuant to NCGS 160A-299(a), the Town prominently posted noticed of the proposed alley closing in at least two places along the alley included in the notice of intent;

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

**SECTION 1.** Pursuant to NCGS 160A-299, the public alley between the 300 blocks of East Bridgers and East Ashe Streets is hereby closed.

**SECTION 2.** Upon the approval of the adoption of this ordinance, the real property consisting of the subject alley shall be divided in a manner pursuant to NCGS 160A-299(c).

**SECTION 3.** Pursuant to NCGS 160A-299(a), a copy of this ordinance shall be filed in the Office of the Pender County Register of Deeds.

**SECTION 4.** Pursuant to NCGS 160A-299(f), the Town of Burgaw reserves the right, title, and interest to any utility improvement or easement within the alley ordered for closure.

**ADOPTED BY THE TOWN BOARD OF BURGAW, THIS EIGHTH DAY OF NOVEMBER, 2016**

**Public Hearing 2**

**Consideration of a text amendment to the Town of Burgaw Unified Development Ordinance Sections 6-2, 8-2, and 8-4 adding Wine Shop uses as a use-by-right in the B-1 and B-2 zoning districts**

The public hearing was opened at 6:31PM.

Ms. Rivenbark advised on September 6, 2016, Barbra Dee applied for a Text Change Amendment petitioning the town to allow wine shops as a permitted use in the B-1 zoning district. She advised that staff and planning board are recommending definitions for a bar and a wine shop as defined below:

**Section 6-2: Definitions of Basic Terms**

**Bar:** *An establishment used primarily for the service of beer, wine, or liquor by the drink to be consumed on the premises and where food or packaged liquors may be sold only as accessory to the primary use. Interior live entertainment, pool tables, and other indoor recreation are customary accessory uses.*

**Wine Shops:** *An establishment engaged in selling malt beverages and wine for consumption off the premises and regularly and customarily educating consumers through tasting, classes, and seminars about the selection, serving, and storing of wines and includes the sale of malt beverages and unfortified wine for consumption on the premises in accordance with a wine shop permit issued by the state Alcoholic Beverage Control Commission.*

Ms. Rivenbark also advised they are recommending that wine shops be a permitted use in the B-1 and B-2 district (as shown in the table below).

**Section 8-2: Table of Permitted Uses**

Uses <sup>9</sup>	NAICS	RA	R-20	R-12	R-7	R-7MH	PUD <sup>2</sup>	O&I	B-1	B-2	I-1	I-2	C/P
<i>Wine Shop</i>									X	X			

Ms. Rivenbark advised the recommendation is that the following standards be applied to the wine shops use:

**Section 8-4: Use Standards**

**X. Wine Shop.** *No wine shop shall be allowed to operate past 9 PM, provide live entertainment, or allow the consumption of alcoholic beverage outdoors.*

**Y. Yard Sales.**

Although Ms. Rivenbark noted that Ms. Dee was present, shortly thereafter it was determined that Ms. Dee had left the building prior to the public hearing and was not present for the hearing. Ms. Rivenbark advised that Ms. Dee stated at the Planning Board meeting that these are not recommendations that she would like to see in place; she is against those because she wants to have live entertainment and drinking on her outdoor patio.

Mayor Mulligan advised no one has signed up to speak at this public hearing. He asked for comments from the Commissioners.

Commissioner Robbins asked if the planning board recommended that the wine shop could not operate after 9:00PM. Ms. Rivenbark advised this was a recommendation that Ms. Roth had put together and the planning board approved it. She said currently we allow bars with conditional uses in this area. It was recommended to Ms. Dee that she should apply for a bar if she wanted these items but this was not something that she wanted. She did not want to have a bar; she wanted to have a wine shop. She said Ms. Roth put together these standards and defined the difference between a bar and wine shop.

Commissioner Harrell asked for the reason for not allowing live entertainment. Ms. Rivenbark advised bars typically allow live entertainment. She said Nifty Place had live entertainment when it was open and she does not know if it ever caused any issues. She said Ms. Roth and the Planning Board wanted to define a distinct difference between a wine shop and a bar. Chief Hock commented that he was not aware of any issues with Nifty Place.

Commissioner Robbins noted that he was not aware of any problems at Nifty Place. Ms. Rivenbark asked if live entertainment consists of one or two individuals or do we mean an entire band playing. If this band sets up on her patio how does that affect the neighbors? She advised we are also not talking about just Ms. Dee's property, we are talking about all properties that are within the B-1 and B-2 district so what is appropriate for her property may not necessarily be appropriate for everyone else's property. She also said it needs to be defined as to whether this is allowed inside, outside or both. She said if we allow as a use by right, we are allowing anybody to come in and open a wine shop where you can sell by the glass inside. She said Ms. Roth was trying to make a clear distinction from a wine shop from a bar where you would have live entertainment or a band or people drinking outside where that can be controlled by a conditional use permit and make it specific to that property where you would not want to just open up to anybody having these bands on just any property across town.

Commissioner Harrell said essentially we established a wine shop definition with those restrictions but the owner of a wine shop could apply for a conditional use permit to go above those restrictions. Ms. Rivenbark advised "yes".

Mayor Mulligan asked why the closing time is 9:00PM. Ms. Rivenbark advised she is not sure why Ms. Roth applied that time for the standards. Commissioner Robbins commented that she could come back for a conditional use; is that correct? Ms. Rivenbark said "yes" if she applied for a bar. She said if someone applies for a bar they must state the hours of operation, it is more specific in regards to what you are selling or anything of that nature. Commissioner Dawson asked if there are Alcohol Law Enforcement (ALE) restrictions that apply. Ms. Rivenbark said with a wine shop permit forty percent of sales must be by glass and the other sixty percent must be sealed bottles. She said she is unaware of how ALE monitors those licenses as far as difference between a bar and wine shop.

Mayor Mulligan said he feels that the live entertainment on the inside should be allowed.

Attorney Kenan said that maybe the best thing is to not worry about it as being a permitted use but make it as a conditional use and that way it comes before the Board and it gets the scrutiny that it needs and if there is something special that applicant wants to do this board can consider it. He said the better thing is to not consider the wine shop as a permitted use but as a conditional use. Ms. Rivenbark said if you wanted to make a wine shop as a conditional use you may as well just keep it as a bar.

Ms. Rivenbark said the recommendation should state that a wine shop cannot provide live entertainment outside. She said if all the other standards are okay we will just amend it with that change.

The public hearing was closed at 6:44PM.

Commissioner Dawson made a motion to amend the standards to state that wine shops may not provide live entertainment outside. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

**Resolution 2016-45 Adopting a Statement of Consistency regarding a requested Text Change Amendment of the Town of Burgaw Unified Development Ordinance to add Wine Shop as a Permitted Use**

Commissioner Harrell made a motion to approve Resolution 2016-45. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**RESOLUTION 2016-45  
ADOPTING A STATEMENT OF CONSISTENCY REGARDING A REQUESTED TEXT CHANGE AMENDMENT OF THE TOWN OF BURGAW UNIFIED DEVELOPMENT ORDINANCE TO ADD WINE SHOP AS A PERMITTED USE**

**WHEREAS**, applicant Barbra Dee has requested the town amend the Town of Burgaw Unified Development Ordinance to include wine shops as a permitted use; and

**WHEREAS**, planning staff has reviewed the proposed text change amendment for consistency with the Town of Burgaw 2030 Comprehensive Land Use Plan and has presented those findings to the Town of Burgaw Planning Board and the Town of Burgaw Board of Commissioners; and

**WHEREAS**, the Town of Burgaw Planning and Zoning Board voted at their October 20, 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 November 8, 2016 meeting and find the proposed text change amendment to be consistent with the Town of 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 Town of Burgaw 2030 Comprehensive Land Use Plan because allowing wine shops as a permitted use will support existing businesses and attract new businesses that will enhance the economic health and livability of the town. The board also finds that the proposed text change amendment is reasonable and in the public interest because it mitigates possible negative effects on adjacent properties and clearly differentiates between wine shop uses and bars.

**Adopted this 8<sup>th</sup> day of November 2016.**

**Ordinance 2016-19 Approving a Text Change Amendment to allow Wine Shops to be added to the Town of Burgaw Unified Development Ordinance**

Commissioner Harrell made a motion to approve Ordinance 2016-19 with the agreed upon changes. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**ORDINANCE 2016-19  
APPROVING A TEXT CHANGE AMENDMENT TO ALLOW WINE SHOPS TO THE TOWN OF BURGAW 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 official zoning map on December 12, 2000; and

**WHEREAS**, the town has been requested to allow wine shops as a permitted use in the B-1 and B-2 zoning districts; and

**WHEREAS**, one of the types of ABC board permits that individuals can obtain is for a wine shop; and

**WHEREAS**, the Town of Burgaw Unified Development Code does not have a comparable use; and

**WHEREAS**, at their October 20, 2016 meeting, the Town of Burgaw Planning and Zoning Board voted to recommend approval of allowing wine shops as a permitted use; and

**WHEREAS**, the Town of Burgaw Board of Commissioners finds the proposed amendment consistent with the Burgaw 2030 Comprehensive Land Use Plan because allowing wine shops as a permitted use will support existing businesses and attract new businesses that will enhance the economic health and livability of the town. The board also finds that the proposed text change amendment is reasonable and in the public interest because it mitigates possible negative effects on adjacent properties and clearly differentiates between wine shop uses and bars; and

**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 6-2: Definitions of Basic Terms**

***Bar:** An establishment used primarily for the service of beer, wine, or liquor by the drink to be consumed on the premises and where food or packaged liquors may be sold only as accessory to the primary use. Interior live entertainment, pool tables, and other indoor recreation are customary accessory uses.*

***Wine Shops:** An establishment engaged in selling malt beverages and wine for consumption off the premises and regularly and customarily educating consumers through tasting, classes, and seminars about the selection, serving, and storing of wines and includes the sale of malt beverages and unfortified wine for consumption on the premises in accordance with a wine shop permit issued by the state Alcoholic Beverage Control Commission.*

**Section 8-2: Table of Permitted Uses**

Uses <sup>9</sup>	NAICS	RA	R-20	R-12	R-7	R-7MH	PUD <sup>2</sup>	O&I	B-1	B-2	I-1	I-2	C/P
Wine Shop									X	X			

**Section 8-4: Use Standards**

*X. Wine Shop.* No wine shop shall be allowed to operate past 9 PM, provide live entertainment outdoors, or allow the consumption of alcoholic beverage outdoors.

*Y.* Yard Sales.

**SECTION 2.** This amendment becomes effective immediately upon adoption of this ordinance on this, the 8<sup>th</sup> day of November 2016.

**Approved: November 08, 2016**

**Public Hearing 3**

**Consideration of an amendment to the official Town of Burgaw Zoning Map rezoning the former golf course parcel from PUD-1 to R-7, R-12, and R-20**

The public hearing was opened at 6:49PM.

Ms. Rivenbark advised Ed Scott with Burgaw Development Group has applied to rezone the former golf course property from PUD-1 to a conventional residential district. He has requested R-7, R-12 and R-20. She advised staff has included recommendations in the packet for each section. She reviewed each parcel that Mr. Scott has asked to have rezoned. Ms. Rivenbark said there is a deed restriction placed on this property that states it can only be used as a golf course and club house. She advised because of this deed restriction the Planning Board is recommending that this rezoning request be tabled until the deed restriction issues are resolved. They have also recommended that the Board of Commissioners stay enforcement of the unpermitted church that is currently operating out of the club house until such time as the property is rezoned.

Ms. Rivenbark advised there is representation present from the church but there is no representation present on behalf of Mr. Scott. She noted that neither Mr. Scott nor his representative is present tonight. She informed the Board that he has not been present at either of the planning board meetings and has not had any communication with planning staff. She said she has sent Mr. Scott updates from the planning board recommendations but there has been no response from him since the end of July. She advised there are three options for this property. She said it can be rezoned and the church can come back and apply for a conditional use permit to continue. She advised the Board can table the rezoning until such time as Mr. Scott decides to do something about the deed restriction. She said the Board can deny the request which would essentially make the church illegal in that building. She said her request for tonight is that there is an answer for the church regarding their status in the building.

Sherry Manley presented pictures to the Board taken from the front and back of her house depicting the flooding issues in the neighborhood. She advised that she and her neighbors are concerned that eventually the property will be rezoned and they already have a major flooding problem that they feel will be exacerbated by more development. She requested that the town consider the drainage issues in the area before allowing further development. She spoke at length about the flooding problems in the area. Ms. Manley also commented that when she bought her property her deed stipulated that she is a member of a Homeowner’s Association (HOA). She advised that some of her

neighbor's deeds don't mention anything about an HOA. Ms. Manley advised there has never been an active HOA in that neighborhood. She said there is no one taking responsibility for trying to alleviate the flooding problem. In closing, Ms. Manley stated "we just want the Board's help to protect our neighborhood from any further issues with flooding".

Commissioner Dawson advised she agrees with everything Ms. Manley has said. She then asked what can be done for the church if we deny the rezoning.

Attorney Kenan advised that federal law basically says you cannot exclude any religious center from any zoning jurisdiction unless it is determined to be a health and safety risk. He said that our ordinance does not allow churches in the current district, but since the town's ordinance is pre-empted by federal law which means that we would have to allow a church unless there is some reason based on health or safety issues. After discussion it was determined that the Board could authorize use of that facility as a church by a motion and a vote.

The public hearing was closed at 7:01PM.

Commissioner Dawson made a motion to allow the use as a church at 1104 Club Way since federal law pre-empts the town's ordinances being imposed to enforce the restriction that churches are not allowed within the PUD zoning jurisdiction of the town. The motion was seconded by Commissioner Murphy and carried by unanimous vote.

In regards to the requested rezoning, Commissioner Dawson made a motion to deny the rezoning request. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

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

Attorney Kenan advised the Board of the following:

- Brenda Allen has filed a dismissal of the petition for certiorari which basically terminates the review of your prior ruling in the conditional use permit that was heard in May.
- The Town is now the owner of the property formerly owned by Dees Properties, LLC on Court House Avenue.
- November 9<sup>th</sup> is the tentative closing date of the purchase of the property on the corner of Wallace and Cowan Streets assuming that the last two owners come in and sign the deed.
- The purchase of the property at 104 East Fremont Street is scheduled to close on November 15<sup>th</sup>. He advised the survey has been done and there is an encroachment which we knew about from some information provided by the sellers that the building where Dr. Davis' office sits encroaches slightly over onto the property. He advised we will get permanent title insurance coverage for that encroachment.

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

##### **Consideration of the Approval of the Grant Contract with the North Carolina Department of Environmental Quality for the Pender Memorial Hospital Flooding and Stormwater Mitigation Project**

Mr. McEwen advised the Town has received a grant from NC DEQ in the amount of \$347,000 for the stormwater and flooding mitigation efforts at Pender Memorial and Fremont Street. These funds will be used in conjunction with the grant funds received from the Golden LEAF Foundation and Pender Memorial Hospital to address the flooding condition that exist on the PHM campus as well as flooding at the Fremont and Cowan Street crossings along Osgood Canal. Mr. McEwen advised the NC DEQ grant contract requires a matching requirement equal to the grant amount of (\$347,000). He said the Golden LEAF funds awarded may be used to meet this matching obligation. He said the request is to approve the grant agreement.

There being no discussion, Commissioner Robbins made a motion to approve the grant contract with NC DEQ as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**Resolution 2016-43 Consideration of Amending the Town of Burgaw Personnel Policy to Reflect the Amended Fair Labor Standards Act (FLSA) Effective December 1, 2016**

Mr. McEwen advised approval of Resolution 2016-43 will change several positions that are currently considered exempt and reclassify them based on new Fair Labor Standards Act thereby changing those positions to nonexempt position meaning they are eligible to receive overtime beyond a 40 hour work week. He advised there are several sections in our personnel that must be amended in order to accommodate this new law as well as six different job descriptions that are affected by the change.

Commissioner Harrell made a motion to approve Resolution 2016-43 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**RESOLUTION 2016-43  
Amending the Town of Burgaw's Personnel Policy**

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

**WHEREAS**, the Board of Commissioners wishes to amend the Personnel Policy based on the U.S. Department of Labor's newly amended Fair Labor Standards Act (FLSA) overtime rule effective December 1, 2016, as described in the attachment released by the U.S. Department of Labor.

**WHEREAS**, the Town of Burgaw's positions previously classified as "exempt" and covered under the former FLSA guidelines, must now be reclassified as "non-exempt" and are eligible for overtime pay at the rate of one time and a half after reaching 40 actual hours worked during a standard work week.

**WHEREAS**, the Town of Burgaw Board of Commissioners wishes to amend the following job descriptions by changing their classification from "exempt" to "non-exempt."

- Personnel Technician/Deputy Clerk
- Customer Service Representative
- Accounting Technician
- Public Works Administrative Assistant
- Permitting Technician
- Utility & Compliance Supervisor/ORC

**WHEREAS**, the Town of Burgaw Board of Commissioners wishes to amend Article V, Section 12 by removing the above named positions from the Town of Burgaw's list of "exempt" positions.

**WHEREAS**, the Town of Burgaw Board of Commissioners wishes to amend Article V, Section 11 to accurately reflect the time recording process for all "non-exempt" employees.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT** the Town of Burgaw Board of Commissioners hereby amends the Personnel Policy to reflect the changes stated above.

**Adopted this 8<sup>th</sup> day of November 2016.**

**\*Due to length of attachment, document is on file in the clerk's office.**

Mayor Mulligan asked if there are any department heads whose salary is below the \$47,476.00 threshold and if so would we need to make any adjustments to those salaries. Mr. McEwen said it will be necessary to make some changes to accommodate in certain situations. He advised he would recommend a change in the personnel policy in Article 5, Section 9 of the FLSA by adding item 4 that would say to the effect that in instances where hiring ranges span below and above the exemption range, the employee will be classified individually based on their salary at the time. He requested to bring this item back next month on the consent agenda for the next meeting.

**Resolution 2016-44 Consideration of Approval of a Resolution Amending the Job Description for the Public Works Administrative Assistant**

Mr. McEwen advised he is recommending some additional duties for the Public Works Administrative Assistant to assist with utilities. He said the amendment provided in the packet reflects the duties to be changed in the job description for the Public Works Administrative Assistant which includes assigning work orders to the appropriate Public Works staff and ensures they are completed in a timely manner and communicating with town administration

and customers as needed regarding work order related issues. This position will also be assigned with overseeing and reviewing the utility software to monitor customer's water usage on a daily basis and correspond with customers and town administration regarding any issues detected by the system. These changes will allow greater time and attention to be committed to auditing utility billing codes and account information as well as proactively monitoring alerts on new water software.

Commissioner Harrell made a motion to approve Resolution 2016-44 as presented. The motion was seconded by Commissioner George and carried by unanimous vote.

**RESOLUTION 2016-44**  
**Amending the Town of Burgaw's Personnel Policy**

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

**WHEREAS**, the Town Manager recommends amending the Public Works Administrative Assistant's job description as attached.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT** the Town of Burgaw Board of Commissioners hereby amends the Personnel Policy to reflect the changes attached.

**Adopted this 8<sup>th</sup> day of November 2016.**

**\*Due to length of attachment, document is on file in the clerk's office.**

**Discussion Item – Surplus of 2010 Dodge Charger (tabled from October 11, 2016 meeting)**

Mr. McEwen advised this is a proposal to surplus the former police car (2010 Dodge Charger). He said the basis for keeping the car was that it would be used by the person in the Parks and Recreation position. He said his concern with that is most of the administrative staff do not have a town issued vehicle. He said the personnel policy reflects that those employees are to receive the IRS standard rates for mileage reimbursement. Mr. McEwen advised he feels that the individual who fills the Parks and Recreation position should follow this policy as well and thus should not have a town issued vehicle. He said this car has not been driven regularly for almost a year and it has not been needed. He said he would like to go ahead and surplus that vehicle because it has considerable value compared to most vehicles we sell. The vehicle is a 2010 Dodge Charger with 58,000 miles and is in good shape. According to Kelly Blue Book the vehicle has a private sale value of \$9,224. He said his recommendation is to put it on GovDeals with a minimum bid of \$7,000.

Commissioner Harrell said he doesn't know why this has been brought up again because he thought this matter was settled when the parks/recreation position was discussed and that the car was going to be used for that position. He said he would like to have access to a vehicle if he is going out of town because his personal car is not dependable. He said this vehicle would allow a means for the parks/recreation position to carry equipment as needed. He said he doesn't think holding on to the car for another three to four months until we fill the position is going decrease the value.

Mayor Mulligan said he agrees with Commissioner Harrell because his personal vehicles are not dependable and there are conferences that he would like to attend but he needs a dependable vehicle. He said he would like to keep the car for the proposed parks/recreation position and make it available to town board members as needed.

Commissioner Dawson commented that the previous "staff car" did not get driven like it should have and fell into disrepair from lack of use.

Commissioner Robbins said the car cannot be both an employee car and a car for use by others.

Commissioner Murphy asked what the condition of the car is. Chief Hock gave a review of the history of the car and advised it had pretty much been parked for about a year. He said it appears to be in good working condition.

Commissioner George said he is inclined to get rid of the car.

Mr. McEwen said his concerns are with the consistency of the personnel policy. He said all the employees go here and there in their personal cars and no one turns in their mileage for trips around town because it is aggravating to have to keep up with mileage for short trips across town. He said if the board desires to keep the car, don't make it specific to one employee, change the personnel policy allowing employees to either do mileage or use the town provided vehicle and elected officials may do the same. The Board was in agreement to go along with that idea but Mr. McEwen said he will have to review the personnel policy to see what needs to be changed.

### **Other items from the Manager**

#### **Resolution 2016-47 Designation of Applicant's Agent – Hurricane Matthew**

Mr. McEwen advised approval of Resolution 2016-47 authorizes the town to apply for reimbursement as well as state assistance in categories A and B which is debris and protective measures in regards to damage incurred during Hurricane Matthew. He advised we have substantial cost in those two fields. He said reimbursement percentages will be 75% from FEMA and 25% eligible costs from the state. He advised the Board will need to approve the resolution and the attached agreement in order to move forward with reimbursement requests.

Commissioner Dawson made a motion to approve Resolution 2016-47 and the agreement as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote. (Documents are on file in the clerk's office.)

#### **Timberly Lane – Flowable Fill**

Mr. McEwen advised that hopefully we have a resolution to the issue of flowable fill which is basically pumped concrete for Timberly Lane. The contractor has lowered the price to \$13,725.00. He advised we are only going to do Timberly Lane; we are not doing Fremont. He said the only reason we are doing Timberly Lane is because NCDOT is requiring us to do so because of the possibility of the line collapsing and causing problems for the road. He said if approved the funds will come out of contingency to cover the cost.

Commissioner Dawson made a motion to approve the request for \$13,725.00 from contingency funds to cover the cost of flowable fill for the Timberly Lane pipe. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

#### **Street Closures**

Mr. McEwen advised that they are requesting closure of Wright and Fremont Streets for the tree lighting on November 25.

Commissioner Robbins made a motion to approve the closing of Wright and Fremont Streets during the tree lighting on November 25. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Chief Hock asked for approval of street closures for the Christmas parade, same route as last year.

Commissioner Dawson made a motion to approve street closings for the Christmas parade, same route as last year. The motion was seconded by Commissioner Harrell.

### **ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS**

Commissioner Harrell expressed concern that the information regarding the Eye on Water is not getting out to the customers because so few have signed up for it. Mr. McEwen advised that letters were sent to every customer, it is on the website and in the newspaper and we are preparing to put door hangers at the homes of those customers that have been flagged for a possible leak. He advised this will notify the customer that they need to address their water leak and on the back of the notice there will be instructions on how to sign up for Eye on Water. He said other than repeating those steps there is no other way to get people to utilize that tool. Ms. Pope also advised there are handouts at the customer service window that can be picked when a customer comes in to pay their bill. She advised they can

hand out a copy with the customer's receipt as well. Mayor Mulligan asked that all possibilities regarding getting customers to sign up for this program be explored.

Commissioner Dawson asked when Fremont Street will be paved. Mr. McEwen advised they will start milling tomorrow and they should be here for the duration until all planned paving is done.

Commissioner Dawson asked about the manhole at Little Town Learning Center. Mr. Colon advised everything is good; it has been cleaned out and is performing as it should.

Commissioner Dawson asked when the sidewalk project will be let. Mr. McEwen advised November 17 is the last date he heard.

Commissioner Robbins asked why Christmas decorations are being put up so early. Mr. Colon said it is a matter of scheduling priorities and manpower to get all the jobs done that are needed at this time. He advised he is concentrating on getting the cemetery cleaned for Veteran's day and in between times is working on Christmas in order to have everything on go for the tree lighting ceremony.

Commissioner Robbins said he would like to propose that we cease calling the splash pad a project because it is a park. He said he would like to name that project "Dees Park". He said he feels it is fitting that it is named after the Dees family for all they have contributed to the downtown in years past. Commissioner Robbins made a motion to name the splash pad site "Dees Park" and that hereafter the project shall be referred to as "Dees Park". The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Commissioner George said if there is any way possible to work with Dr. Akiwumi we need to do because he is a good doctor and we don't want to lose him. He said he is an asset to the community and a lot of people depend on him for health care. Mr. McEwen said he was advised by Mr. Krynicki that Dr. Akiwumi needs a minimum of six months in order to get all requirements for a medical practice established in a new location.

Mayor Mulligan said he thinks it is time to start discussing the plans for the splash pad and get some idea about the scope of work and the cost estimates for the project. Mayor Mulligan said we can make these decisions at the December meeting.

Mayor Mulligan asked what is to be done with the marker for former Commissioner Gene Brown that was damaged by the recent hurricane. It was recommended by Commissioners Dawson and George at the buildings and grounds meeting that the stone be moved to the plaza at the railroad right of way. Commissioner Harrell said he is opposed to that because the plaza was intended for people that contributed to the tree plantings on the right of way. Mr. McEwen said there are other options such as under the holly tree at the town hall, somewhere along the trail or at Johnson Park. There was much discussion about this with no decision other than having the stone removed, repaired and stored until such time as the board makes a decision about the location of the marker.

Mayor Mulligan asked Mr. Colon to check out a complaint about a hole in the driveway at the senior center.

Mayor Mulligan asked Mr. Hesse to give the Board an update on the condominiums that burned. Mr. Hesse advised he has met with Mr. Jordan and informed him that he would be receiving a certified letter to the effect of the results of the meeting. He advised the letter has been sent but has not been signed for yet, nor is Mr. Jordan responding to phone calls and texts. Attorney Kenan advised we need to do a publication in the newspaper to start proceedings against Mr. Jordan for not responding to the town's requirements. He advised Mr. Jordan has had ample time to take care of the issues. He said it is time to move forward. Attorney Kenan advised Mr. Hesse to get him something in writing and he will get it in the newspaper.

#### **Discussion Item – Building and Grounds Board meeting results – Commissioner Dawson and Commissioner George**

Commissioner Dawson advised that the Building and Grounds Board is recommending that the Planning Board act as the Tree Board and provide recommendation to the Building and Grounds Board which would bring it back to the

Board of Commissioners. The reason this decision was made was because it would be necessary to change the Code of Ordinances as well as the Unified Development Ordinance if there was to be a separate tree committee appointed. Commissioner George added that this recommendation was made because the Planning Board works with landscaping in their meetings in regards to plans, buffers, etc. and they make decisions regarding trees and what types and placement of trees as well. He said that is a good selection of citizens to make recommendations regarding trees.

Commissioner Harrell made a motion to accept the recommendation by the Buildings and Grounds Board to have the Planning Board members act as the Tree Board. The motion was seconded by Commissioner George and carried by unanimous vote.

**ADJOURNMENT**

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

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Eugene Mulligan, Mayor

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