

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

DATE: August 13, 2019
TIME: 4:00 PM
PLACE: Burgaw Municipal Building
BOARD MEMBERS PRESENT: Mayor Kenneth Cowan
Mayor Pro-tem Wilfred Robbins
Commissioners Jan Dawson, Bill George, Vernon Harrell, James Murphy
STAFF PRESENT: James Gantt, Town Manager
Kristin J. Wells, Town Clerk
Zachary Rivenbark, Town Attorney
Alan Moore, Public Works Director
Louis Hesse, Building Code Administrator
Daniel Fuller, Detective Sergeant
Clay Jasper, Deputy Fire Chief
Wendy Pope, Finance Officer
Tiffany Byrd, Deputy Finance Officer
Kim Rivenbark, Deputy Clerk/Interim Planning Administrator
Chad Staradumsky, Community Development Coordinator
Cody Suggs, Parks & Recreation Director
MEDIA PRESENT: None
INVOCATION: Commissioner Bill George
PLEDGE OF ALLEGIANCE: All

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

Approval of Agenda

Mayor Cowan requested the board to amend the agenda by moving item #7 *Special Presentation, Tourism Development Authority Updates* until after the closed session. Commissioner Dawson made a motion to approve the agenda as amended. The motion was seconded by Commissioner Murphy 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 George and carried by unanimous vote.

- A. Approval of the July 9, 2019 regular meeting minutes
- B. Approval of the July 9, 2019 closed session minutes
- C. Ordinance 2019-15 Amending the FY 19-20 budget to provide funding for incomplete purchases in prior Fiscal Year

**ORDINANCE 2019-15
AMENDING FISCAL YEAR 2019-2020 ANNUAL BUDGET
Increasing Revenues and Expenditures**

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2019-2020 on June 11, 2019; and

WHEREAS, the Town of Burgaw Board of Commissioners approved the purchase and installation of pedestrian-activated rectangular rapid flashing beacon crossing systems; and

WHEREAS, purchase orders were created for the purchase in FY 18-19, however the purchases were not completed by the end of the prior fiscal; and

WHEREAS, the purchase orders have been closed at the change of fiscal years; and

WHEREAS, a general fund fund balance appropriation is needed to authorize the completion of these purchases in FY 19-20.

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

The FY 2019-2020 budget be altered to reflect the following changes:

INCREASE BUDGETED REVENUE

Account Number	Account Description	Amount
10-3900-00-900	Fund Balance Appropriated	\$40,839.58

INCREASE BUDGETED EXPENDITURE

Account Number	Account Description	Amount
10-5700-20-740	Capital Outlay	\$40,839.58

Adopted this the 13th day of August 2019.

Special Presentation – Recognition of the Burgaw Dixie Youth SweeTees Team attending the World Series

Mayor Cowan read and presented the following proclamation recognizing the accomplishments of the Burgaw Dixie Youth SweeTees Team.

**TOWN OF BURGAW
MAYOR'S PROCLAMATION
HONORING THE BURGAW SWEETEEES ALL-STAR TEAM**

WHEREAS, the Burgaw Dixie Youth SweeTees All-Star Team consists of 5 and 6 year old girls who have worked hard to become undefeated North Carolina State Champions; and

WHEREAS, the team held fundraising events with local support from businesses and the community to raise enough money for 12 families to travel to the World Series held in Alexandria, Louisiana; and

WHEREAS, the Town of Burgaw Board of Commissioners provided financial support in the amount of \$300 to help with travel expenses; and

WHEREAS, the team played 3 games, came in 5th place overall, and won the Sportsmanship Award, which shows the girls and their families truly represented Burgaw and North Carolina during the World Series Tournament; and

WHEREAS, special recognition is due all team members, managers, coaches and the surrounding community of friends and family who have given generously of moral support.

NOW, THEREFORE, I, Kenneth T. Cowan, by virtue of the authority vested in me as Mayor of the Town of Burgaw, and on behalf of our Board of Commissioners and all our citizens, do hereby extend this expression of our pride in your accomplishment, and congratulate the Burgaw Dixie Youth SweeTees All-Star Team for becoming North Carolina State Champions, and for showing good sportsmanship and inspired team play on behalf of our community. Congratulations on a job well done!

IN WITNESS WHEREOF I have hereunto set my hand and the seal of said Town of Burgaw this the thirteenth day of August, 2019.

DEPARTMENTAL ITEMS

Parks & Recreation Department – Cody Suggs, Director

Request for depot reservations and street closures for the 2019 Ghost Walk event

Mr. Suggs presented the requested depot reservations for rehearsals on behalf of Pender County Tourism for the annual 2019 Ghost Walk event, as described below. Mr. Suggs advised the depot would remain available for rentals

during the day time hours. Commissioner Dawson made a motion to approve the depot reservations as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Oct. 5th (estimated time 2-5pm) Potential Staging rehearsal. This rehearsal is just the actors and they are staging their scenes and running their lines. I request temporary access to the Museum area for Rochelle Whiteside's Haunted Train scene. We also will be rehearsing the finale on the platform.

Oct. 7th from 5:30pm-Until, Partial Dress rehearsal. Each vignette will rehearse on their own until a director gets there to approve their scene. I will only need access to the Museum area and the platform again.

Oct. 9th from 5:30pm-Until, Full Dress rehearsal. We will be using as much staging, lighting and props as possible. In addition to accessing the Museum Area and the Platform, I request we also be granted permission to use the main room for storage of set pieces, props, costumes and equipment that will be for the show on the 11th.

Oct. 10th, all remaining set pieces, costumes and equipment will be moved to the train depot.

Oct. 11th, Showtime! This date has already been reserved for full use. Volunteers that are helping with set up will need to be able to get inside the Train Depot to remove and set up staging equipment. We want to start setting up at 2pm, 3pm at the latest. After the show ends everything will be moved back to the train depot for overnight storage.

Oct. 12th Showtime! Same as above except we will not store anything in the Train Depot that night.

Mr. Suggs reviewed the requested street closures as requested below. Commissioner Harrell stated he has concerns with closing Dickerson Street and that results in Courthouse Avenue being a dead end. He stated Courthouse Avenue, or at least a portion beginning at the alley, needs to be closed at the same time Dickerson Street is closed. After brief discussion, Commissioner Harrell made a motion to approve the street closures as presented, with the addition of closing Courthouse Avenue at the alley-way that runs between NC Highway 53 and Fremont Street. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Closure of Dickerson Street at 5:00pm from NC Highway 53 to Fremont Street
Closure of Wright Street at 5:45pm from NC Highway 53 to Fremont Street.
Closure of Courthouse Avenue at 5:45pm from Wright Street to Dickerson Street
Closure of Fremont Street at 5:45pm from Walker Street to Wright Street
Alley-way between NC Highway 53 & Courthouse Avenue.

Request for Street Closure for the 2019 New Year's Eve Blueberry Drop event

Mr. Suggs presented the request to close Fremont Street between Wright Street and Walker Street between the hours of 11:00 AM and 12:00 midnight on December 31, 2019 for the annual Blueberry Drop event. Commissioner Robbins asked why the street had to be closed so early in the day. Mr. Suggs explained the time line for the stage and band set up. Commissioner Dawson made a motion to approve the street closure as presented. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

ITEMS FROM THE ATTORNEY – Zachary Rivenbark, Town Attorney

Attorney Rivenbark stated he and Mr. Suggs met with Rochelle Whiteside and James Malloy with the Arts Council in regards to the Complimentary Use Policy. He commented he should have a vague Complimentary Use Policy to present to the board soon. He stated a new Complimentary Use Policy would need to be done after the renovations to address anything that needs to be added regarding storage, allowed space to use, etc.

Attorney Rivenbark advised he has two other items for closed session; one being a personnel matter and one being the potential purchase of real property.

ITEMS FROM THE MANAGER – James Gantt, Town Manager

Resolution 2019-19 Approving a Financing Agreement with First Bank

Mr. Gantt gave an overview of Resolution 2019-19 regarding a financing agreement for a portion of the new fire engine previously approved by the board. Since the funding through USDA/Four County has not been awarded yet, town staff researched other funding options since the fire engine will be delivered soon. Mr. Gantt advised if the USDA funding is eventually awarded to the town, there is no pay-off penalty with First Bank. Commissioner Harrell asked why the 10 year loan versus the 7 year loan. Mr. Gantt advised it was to keep the payment lower, with hopes in getting the USDA funding. Commissioner George made a motion to approve Resolution 2019-19 as presented. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

RESOLUTION 2019-19

Resolution Approving Financing Terms

WHEREAS: The Town of Burgaw (the "Town") previously approved the purchase of a new Fire Engine via contract with C.W. Williams, (the "Project"), and the Finance Officer has now presented a revised proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The Town hereby determines to finance the Project through First Bank. The amount financed shall not exceed \$298,582.00, the annual interest rate shall not exceed 2.69%, and the financing term shall not exceed ten (10) years from closing.

2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The Town shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Town hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the First Bank financing described above. The Town intends that funds that have been advanced, or that may be advanced, from the Town's general fund, or any other Town fund related to the project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this 13th day of August, 2019.

Other items from the Manager

Emergency Watershed Protection Program Update

Mr. Gantt advised he has had a phone conference call to complete the final paperwork to receive funding. Once this step is complete, staff will bid out the project to hire an engineer. The town will pay for the design and construction costs, and then the program will reimburse the town. Mr. Gantt advised this entire project should be no cost to the town. Commissioner Robbins asked for a detailed timeline. Mr. Gantt advised he cannot say a specific timeline because the program administrators do not know at this point. He said they are meeting on a regular basis and moving forward with the project. Commissioner Robbins made comments about the town's current Osgood Canal Drainage Improvement Project on the south end of the canal, and hopes the watershed program makes the north end project a priority.

Review of Tealbriar

Mr. Gantt advised he is currently working with W.K. Dickson to do a review of Tealbriar's roads and storm drainage. He said they will provide a memorandum within the next month on their review of the condition of roads and storm drainage in the area. Mr. Gantt advised he will also have the engineer review Village on 18 as well.

Hiring of a Planning Director

Mr. Gantt advised he has hired a new Planning Director, Andrea Correll. She has been with the Town of Swansboro for about three years and has extensive history in planning, with a master's degree in planning as well. He advised she will be starting in about thirty days.

Guardrails for the Osgood Canal Drainage Improvement Project

Mayor Cowan asked the status of the guardrails installation at the canal. Mr. Moore advised the guardrail on Campbell Street is currently being installed. Mr. Gantt advised the ones on Fremont Street should be installed soon thereafter. The guardrail on Campbell Street is wood, and the ones on Fremont Street will be metal.

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

Commissioner Murphy commented about a property that looks bad near the intersection of North Wright Street and Ashe Street. Mr. Hesse will look into this.

Commissioner Robbins asked the status on the "drive like your kids live here" signs he requested at last month's meeting. Mr. Gantt advised he and Chief are working on this and the pricing will be about \$4 each.

Commissioner Robbins requested the board consider placing a bench in front of Model Cleaners on South Wright Street. He said it would be a good idea for the town to honor the couple that started the cleaners thirty plus years ago, Charles and Joyce Brown, by placing their names on the bench. He commented Ms. Brown passed away a few years ago, but Mr. Brown visits periodically. Commissioner George made a motion to place a bench in front of the cleaners with the names on it. The motion was seconded by Commissioner Robbins and carried by unanimous vote. Mr. Gantt advised he and staff will make sure this gets done.

Commissioner Robbins asked for an update on the Courthouse Avenue streetscaping project. Mr. Gantt advised this was discussed briefly in the last month's meeting during closed session and the project was put on hold until progress was made on future development in the area. Mr. Gantt advised there will be further discussion regarding this issue in the closed session during the meeting. Commissioner Robbins commented the board has been discussing this project for a long time and it's time to move forward.

Commissioner Dawson commented about a washout area near the new culvert on Fremont Street and asked Mr. Moore to look at this. She also mentioned in the same area there is a tree that was planted during the landscaping of the canal project that is very close to the pavement on the walking trail, and asked if they have replaced the dead trees on Cowan Street. Mr. Moore will look at both the washout area and the tree issues related to the canal project. Commissioner Robbins suggested they wait to replace the dead trees in November. Mr. Gantt advised he will reach out to the project manager in regards to waiting for cooler weather to replace the trees.

Commissioner Dawson asked the status of paving Giles Marshburn Road. Mr. Moore advised the paving should begin soon after Labor Day. Mr. Gantt advised staff will know about a week ahead of time when the contractors will be coming. He said they have all of the town's requested streets on their list to begin in September. Commissioner Robbins commented about the paving of South Cowan in result of the canal project. He said the board talked about it, but never made a decision. Mr. Gantt advised staff has been working with the engineers regarding those areas and they plan to fix those issues. He also advised there is contingency funds left in the project line item that could be spent towards to the paving of those areas.

Commissioner Dawson asked about the removal of one of the parking spaces at the corner of South Dudley Street and West Fremont Street as requested at last month's meeting. Mr. Moore advised this project is on his list. Commissioner Dawson commented this needs to be taken care of soon.

Commissioner Harrell asked the status of the drainage improvements on Bridgers Street between North Wright Street and North Dickerson Street. Mr. Moore advised they are finishing the project, curb and gutter has been poured, and the street would be closed another day so it could cure. He advised paving would be done in the near future.

Commissioner Harrell asked if there had been any progress made on the tax incentive he suggested at last month's meeting. Mr. Gantt advised he has done some research on this, but have not had the time to tackle it just yet.

Commissioner George voiced his concerns about speeding on East Wilmington Street. Sergeant Fuller will relay the concern to Chief Hock.

Other Comments

Mr. John Westbrook asked about the agenda item for the Tourism Development Authority updates. Mayor Cowan advised this item was moved until after closed session. Mr. Westbrook commented about the letter he copied the board on regarding a TDA matter. He said if the closed session is about the letter, that concerns him. Commissioner Robbins commented that would not be discussed. Mayor Cowan commented Mr. Westbrook will have time to speak after the closed session.

CLOSED SESSION

Commissioner Harrell made a motion at 4:42 PM to go into closed session pursuant to NCGS 143-318.11 paragraph (a) item (3) Attorney/Client Privilege and NCGS 143-318.11 (a) (6) Personnel . The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Commissioner Harrell made a motion at 5:24 PM to go back into open session. The motion was seconded by Commissioner George and carried by unanimous vote.

BREAK 5:25 – 5:32 PM

PUBLIC FORUM

Karen Harding, 318 South Walker Street, commented about the two cross walks on South Walker Street being dangerous and suggested to install crosswalk signs. Attorney Rivenbark advised this is a state maintained road and he and Mr. Staradumsky have been working on getting a NC DOT encroachment agreement to put up the rapidly flashing beacons that were previously approved. Mr. Staradumsky advised the encroachments have been approved and the item on the consent agenda was for reallocating the money in this year's budget since the project was not completed in FY 18-19. Ms. Rivenbark advised the signs for South Walker Street are being handled by the state and the timeline is unknown at this time.

SPECIAL PRESENTATION

Tourism Development Authority Updates

Mr. Westbrook presented the signage system approved in the Tourism Development Authority's FY 19-20 budget. He gave the estimates for the signage system to the board members. At the request of Mr. Westbrook, Ms. Wells gave each board member the FY 19-20 TDA budget ordinance. Mr. Westbrook shared his thoughts and ideas on the anticipated project, included two billboard designs and a new wayfinding system. Mr. Westbrook commented the decision on the signage system is up to the TDA, but thought it was extremely important to share the ideas and receive input from the town board. Attorney Rivenbark advised the board may ask questions, but not to provide input because the TDA is an independent board and it would appear the town board would have a say in how they operate. Commissioner George and Robbins commented Mr. Westbrook has done a good job on the project.

PUBLIC HEARING #1

Consideration of an amendment to the official Town of Burgaw Zoning Map rezoning a 19.12 and 11.09 acre tracts located along Hwy 117 N across from Ed Cowan Road from RA to R-12.

Mayor Cowan opened the Public Hearing at 6:04 PM.

Ms. Rivenbark presented the request for rezoning. *Documents are on file in the Clerk's office.*

Ms. Rivenbark stated she received a letter from adjacent property owner, Larry Henderson, expressing his concern with hunting on his property. *A copy of the letter was given to each board member prior to the public hearing.* Ms. Rivenbark advised she has spoken with Chief Hock regarding the hunting laws. She stated she has reached out to Mr. Henderson advising he would still be able to hunt on his property, but would not be able to shoot a firearm within 100 feet of a residence that may be built on the property in discussion.

Commissioner Robbins commented he has concerns with the rezoning and not knowing what will go on the property. He said he is in favor of more housing and the need and desire for good housing in Burgaw, but not knowing what is going on the property during a rezoning request is a huge concern.

Commissioner Dawson asked why the R-20 zoning district was not considered instead of the R-12, because it would be much more compatible to the area and the land use plan.

Jimmy Fentress, with Stroud Engineering, 102 B Cinema Drive, Wilmington, spoke in regards to the proposed project and stated the size of lots were taken into consideration in regards to low density. He said there are costs associated with this type of project, such as tapping into the Wallace sewer line, annexation into the town, etc. He said the drainage system would be considered low density. Mr. Fentress stated the developers intention is to build the roads, pump station, etc. to the town's standard.

Commissioner Dawson has concerns with the rezoning to R-12 instead of R-20. Mr. Fentress stated there would only be about 50 lots, which the overall property would be considered low density. He said the lots would have 75 foot road frontage. Commissioner Dawson asked if the applicant would consider coming back to request rezoning to R-20 instead of R-12.

Mayor Cowan clarified the applicant would have to submit plans for what they plan to build on the property. Ms. Rivenbark stated this was correct and it would be taken to the Planning Board, then to the Board of Commissioners for approval.

Stephen Owens, Premium Partners, LLC, stated this project is ultimately based on economic viability.

Commissioner George voiced his concerns regarding the roadway and access by fire and rescue vehicles. Mr. Owens stated this issue was brought to our attention after the plans were submitted, but has been corrected by eliminating a lot. Mr. Fentress stated this would be addressed with the preliminary plat review.

Attorney Rivenbark reminded the board the project being discussed is a potential plan, and this matter is only to rezone the property and all permitted uses must be considered.

Commissioner Robbins asked for clarification on spot zoning. Attorney Rivenbark stated it is not considered spot zoning. He wanted to make sure the board was aware of what they were discussion today, and not the proposed subdivision.

Mr. Fentress spoke about the municipal utilities leading properties along the corridor to higher density use and should improve the economic viability along the same corridor. Mayor Cowan stated this was one of the reasons for the Wallace sewer line.

Commissioner Robbins asked why the original plan was not presented to the Planning Board. Mr. Fentress stated the issue was to go back and revise the plan. He stated they were going to delay it a month, and at the Planning Board level, they had the momentum with the straight rezoning. They felt like that was good enough and would have been easier for the applicant.

Mayor Cowan closed the public hearing at 6:35 PM.

Resolution 2019-20 Adopting a statement regarding the consistency of the Premium Partners, LLC rezoning request with the Burgaw 2030 Comprehensive Land Use Plan

Commissioner Harrell made a motion to adopt the statement as presented. The motion was seconded by Commissioner Murphy. Commissioners Dawson, Robbins and George opposed. Motion failed.

Commissioner Robbins stated he needs to see a plan before approving the request. Commissioner George stated he needs more reassurance concerning the road access.

Ms. Rivenbark advised a statement regarding consistency or inconsistency to the Land Use Plan must be adopted. She presented the board with an inconsistency statement since the consistency statement did not pass.

Mr. Fentress asked if he could come back to the board with a plan and stop the process where we are because they do not want to be denied the rezoning with what has been presented right now.

Ms. Rivenbark and Attorney Rivenbark stated if the applicant withdraws their rezoning request, they would need to start over by taking a plan to the Planning Board, then to the Board of Commissioners upon recommendation from the Planning Board.

Mr. Fentress stated on behalf of Premium Partners, LLC, they are withdrawing their application for this hearing.

Since the applicant withdrew their application, there was no need to proceed to "Ordinance 2019-16 Approving an amendment to the Town of Burgaw Zoning Map Rezoning a 19.12 acre and 11.09 acre tracts parcel ID: 3320-50-3383-0000 and 3320-50-6183-0000 located on US Hwy 117 N and across Hwy 117 from Ed Cowan Road from RA to R-12 residential zoning district" as listed on the agenda for this meeting.

ADJOURNMENT

Commissioner Dawson made a motion to adjourn. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

The meeting was adjourned at 6:42 PM.

Kenneth T. Cowan, Mayor

Attest: _____
Kristin J. Wells, Town Clerk