

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

DATE: February 8, 2022
TIME: 4:30 PM
PLACE: Historic Train Depot, 115 S. Dickerson Street
BOARD MEMBERS PRESENT: Mayor Olivia Dawson
Mayor Pro-tem Wilfred Robbins
Bill George, James Malloy, Vernon Harrell, Jan Dawson
STAFF PRESENT: James Gantt, Town Manager
Kristin J. Wells, Town Clerk
Zachary Rivenbark, Town Attorney
Wendy Pope, Finance Officer
Kimberly Rivenbark, Deputy Town Clerk
Jim Hock, Police Chief
Alan Moore, Public Works Director
Jessica Gray, Permitting Technician
Tiffany Byrd, Deputy Finance Officer
Cody Suggs, Parks & Recreation Director
Andrea Correll, Planning Director
MEDIA PRESENT: None
INVOCATION: Commissioner James Malloy
PLEDGE OF ALLEGIANCE: All

The meeting was called to order by Mayor Dawson at 4:30 PM and the invocation was led by Commissioner Malloy.

Approval of Agenda

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

Approval of Consent Agenda

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

- A. Approval of the January 3, 2022 Special Meeting Minutes
- B. Approval of the January 11, 2022 Regular Meeting Minutes
- C. Approval of the January 11, 2022 Closed Session Minutes
- D. Approval of the January 25, 2022 Special Meeting Minutes
- E. Resolution 2022-03 Making a recommendation to the Pender County Board of Commissioners regarding the ETJ seat on the Town of Burgaw Planning & Zoning Board
- F. Ordinance 2022-01 Amending the FY 2021-2022 budget to recognize insurance proceeds from police car damages
- G. Ordinance 2022-02 Amending the FY 2021-2022 budget to recognize insurance proceeds from the damage to sewer main on East Wilmington Street
- H. Ordinance 2022-03 Amending the FY 2021-2022 budget to cover the costs related to unexpected repairs at the Depot and Community House

Due to length, the above mentioned resolution and ordinances are on file in the clerk's office.

SPECIAL PRESENTATIONS/REQUESTS

Courthouse Avenue Project Update & Parking Study Review – Gary Warner, WithersRavenel

Gary Warner with WithersRavenel presented the findings of the recent parking study completed for the Courthouse Avenue improvement project. *Report is on file in the clerk's office.* Mr. Warner advised his staff stayed in town on a Tuesday and a Saturday to count cars and take reports throughout the day. Overall, there is currently not a parking issue, but is something to prepare for in the future. Mr. Warner reviewed options to look at in the future for addressing parking issues. One of the options was a pay-to-park program. A member of the public, Cathy Guidry, asked how would a pay-to-park program help free up parking downtown besides discouraging people from coming. Mr. Warner said it would help with maintenance requirements and encourages a turnover rate that is good for businesses. Another member of the public asked where we are now on maintenance costs versus what is being proposed. Commissioner Harrell commented on the business owners and residents that park on Fremont Street on a regular basis. He asked Mr. Warner if there are any particular ways to encourage them to move. Mr. Warner said parking meters is one way and having conversations with business owners to provide a place for them to park is another.

DEPARTMENTAL ITEMS

Parks, Recreation & Tourism Department – *Cody Suggs, Parks & Recreation Director*

Farmers Market – Discussion

Mr. Suggs advised the Tourism Development Authority (TDA) would like to hold a Farmers Market on the first Saturday of the month beginning in April 2022. On behalf of the TDA, Mr. Suggs asked the board for approval of closing Fremont Street between Wright Street and Walker Street from 7:00 AM to 12:30 PM on the first Saturday of each month beginning in April. Mr. Suggs said staff has reached out to immediate businesses in the affected street closure area and advised those businesses are closed on Saturday. Commissioner Harrell made a comment that he has spoken to several business owners on Fremont Street and everyone he spoke with were encouraged and said the Farmers Market would be a good addition to town. Commissioner Harrell made a motion to approve the requested street closure. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Sponsorship opportunity for Cape Fear Community College Day

Mr. Suggs reminded the board that Cape Fear Community College came in the past to request assistance of declaring a Cape Fear Community College Day, but has since been rescheduled due to Covid-19. Mr. Suggs advised the Cape Fear Community College Day is coming up again (date to be determined) and said there is an opportunity for the town to be a sponsor of the event. Commissioner Harrell said Cape Fear Community College is a big asset to our town and provides opportunities for young people and brings the young people into downtown. Commissioner Harrell said he would be interested in being a sponsor. Commissioner Malloy agreed with Commissioner Harrell and would like the board to consider being a sponsor. Commissioner Harrell made a motion to pay the sponsorship of \$1,000 (the canopy and information booth sponsorship package). The motion was seconded by Commissioner Robbins and carried by unanimous vote. It was the consensus of the board to allow Mr. Suggs to coordinate with the school in regards to the sponsorship, logo, advertisement, etc.

ITEMS FROM THE ATTORNEY – *Zachary Rivenbark, Town Attorney*

Attorney Rivenbark stated he only had items for closed session.

ITEMS FROM MANAGER – *James Gantt, Town Manager*

Resolution 2022-04 Adopting the Americans with Disabilities Act (ADA) Transition Plan

Mr. Gantt advised the board had received the Americans with Disabilities Act (ADA) Transition Plan documents in their agenda packets prior to the meeting for review. He advised the plan was conducted by a consultant the town hired and is a requirement by NC DOT in order to continue to receive funds for programs, etc. Mr. Gantt said having the transition plan is required but there are no set penalties for not completing everything within the plan. The plan is to make town officials aware of the issues and to begin fixing some of the issues. Mr. Gantt gave a brief overview of some of the issues and said Public Works staff has already been fixing some of the smaller ones. Commissioner

Harrell made a motion to approve Resolution 2022-04 as presented. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

RESOLUTION 2022-04

RESOLUTION ADOPTING THE AMERICANS WITH DISABILITIES ACT (ADA) TRANSITION PLAN

WHEREAS, The Town of Burgaw is committed to providing programs and services that are accessible to persons with disabilities, and

WHEREAS, Title II of the Americans with Disabilities Act (ADA) applies to State and local government entities and protects qualified individuals with disabilities from discrimination on the basis of disability in services, programs, and activities provided by State and local government entities, and

WHEREAS, Title II of the ADA mandates that a public entity with more than 50 employees develop a transition plan which describes how that public entity will ensure its facilities, services, programs, and activities are accessible, and

WHEREAS, the Town has solicited public comments on its proposed ADA Transition Plan.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Town of Burgaw hereby adopts the Town of Burgaw Americans with Disabilities Act (ADA) Transition Plan.

Adopted this 8th day of February, 2022.

Review of the contract with the NC Department of Transportation Rail Division regarding the Annual Maintenance of the Abandoned Railroad Right of Way

Mr. Gantt advised the contract with NC DOT Rail Division regarding the annual maintenance of the abandoned railroad right of way is coming up for renewal on June 30, 2022. He said he wanted to bring the contract back to the board to see if there were any changes that needed to be made. Mr. Gantt also said they are currently paying the town \$12,000 per year with the length of the contract being five years. Mr. Gantt suggested the board to leave the price as it is now at \$12,000 per year. Commissioner Harrell asked about the possibility of mowing the railroad right of way with sheep and requested Mr. Gantt to look into that. Mr. Gantt said if this is a feasible possibility, he will bring it back to the board for discussion. Otherwise, the board was in agreement to keep the contract as is for renewal in June.

Update on current town projects

Mr. Gantt advised there are no major updates to give regarding current projects.

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

Resolution 2022-05 Adopting Rules of Procedure

Mayor Dawson asked the board if anyone had questions pertaining to the rules of procedure. Commissioner Harrell asked for clarification that adoption of the resolution is basically to have a guideline to follow. Mr. Gantt confirmed that is correct and by it being a resolution, it is not enforceable by law. Commissioner Dawson made a motion to approve Resolution 2022-05 as presented. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

RESOLUTION 2022-05

RESOLUTION ADOPTING RULES OF PROCEDURE

WHEREAS, the Board of Commissioners of the Town of Burgaw desires to adopt for themselves, Rules of Procedure to incorporate general principles of parliamentary procedure to provide efficient and equitable procedures to follow in and out of public meetings.

WHEREAS, these Rules of Procedure are adopted with the following principles in mind:

1. The board must act as a body.
2. The board should proceed in the most efficient manner possible.
3. The board must act by at least a majority.
4. Every member must have an equal opportunity to participate in decision making.
5. The board's rules of procedure must be followed consistently.
6. The board's actions should be the result of a decision on the merits and not a manipulation of the procedural rules.

WHEREAS, staff, using the UNC School of Government publication, "*Suggested Rules of Procedure for a City Council*", fourth edition, as a guide, has prepared the Rules of Procedure for consideration by the Board of Commissioners; and

WHEREAS, the Board of Commissioners has reviewed and discussed the Rules of Procedure and finds it advisable to adopt for the Board of Commissioners of the Town of Burgaw, North Carolina;

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

- Section 1. That the Board of Commissioners hereby adopts the Rules of Procedure which is hereby made a part of this Resolution for the Board of Commissioners of the Town of Burgaw, North Carolina.
- Section 2. The failure of board or any other person to adhere to the Rules of Procedures shall not affect the validity of any meeting or action taken by the board.
- Section 3. To the extent there is conflict or any discrepancy between the Rules of Procedure and the NC General Statutes, case law, or local ordinances (collectively "law"), the law shall prevail.
- Section 4. That the Rules of Procedure for the Board of Commissioners of the Town of Burgaw shall be in full force and effect from and after the date of its adoption.

Adopted this 8th day of February, 2022.

Other items from Mayor and Board of Commissioners

Commissioner Harrell said he has been asked by members of the public to have handouts available when the board is considering issues with detailed information. He asked for information to be displayed on the screens or have handouts available during future meetings.

Commissioner Harrell commented on advertising for food establishments in the downtown area during events. He said we have food trucks at events but it would be good to advertise for the local downtown food establishments as well. Attorney Rivenbark suggested to include every restaurant in town that wanted to be included. Mr. Suggs commented it will be hard to include every restaurant in town on a flyer. Commissioner Harrell clarified he is requesting advertisement for the restaurants within walking distance of downtown events. Attorney Rivenbark suggested to list a generic advertisement such as "food will be available at our downtown restaurants." Mr. Suggs and Commissioner Harrell agreed this is reasonable.

Commissioner Harrell gave a handout with listed concerns of issues with the upcoming EMS building renovation. He said his main concern is that the kitchen is at the front of the building and there would be an issue with taking the garbage out, etc. Mr. Gantt said there can be an exterior door added to the side of the building in the kitchen. There being no further discussion, Commissioner Harrell asked for the list of concerns to be looked at during the design.

BREAK 5:23 PM-5:35 PM

PUBLIC FORUM

Rick Butler, 215 North Smith Street, spoke on behalf of the Pender County Arts Council and asked why the painting has to be removed from the side of the EMS building. He asked the town to leave the artwork alone during construction.

Karen Malloy, 513 North Wright Street, spoke on behalf of the Pender County Arts Council and said the council unanimously passed a resolution to ask the town to do what they can in preserving the mural during renovation. There were brief comments made by the board to clarify the building will be brick and there has been no decision made on the future of the mural at this time.

Charles Rooks, 105 North Bennett Street, commented on why the town would spend so much money on the EMS building when there are so many other things that need to be done in town. He said the only positive thing about renovating the building is the mural coming down.

John Westbrook, 410 East Fremont Street, gave a handout to the board members showing a tree drawing on the courthouse square. He would like to dedicate one of the trees to Judy Futch and asked what process would need to be done. Commissioner Harrell commented that he spoke to Mr. Suggs about this being an excellent project to fall under the Adopt-a-Tree program with Parks, Recreation & Tourism. Commissioner Harrell said the town should support this idea. Mr. Westbrook also said spending \$1.5 million dollars to renovate a building is misuse of funds when there is so much else that needs to be done downtown. He said he would leave the wall with the mural and tear down the rest of the building and make a large parking lot.

Everette Durham, 208 South Walker Street, commented that he has spoken to several people about the EMS building renovation. He said he understands the tax value is \$69k and the town is about to spend \$1.5 million. Mr. Durham asked Attorney Rivenbark if he could make any type of request to the board to reopen discussion about the project so that input from the citizens of Burgaw can be heard. Attorney Rivenbark said the board can reconsider any decision they make at any time with a simple majority vote. Commissioner Harrell said he tried to stop the spending of the \$1.5 million at the last board meeting but three out of five board members voted against it and agreed to move forward with the project.

PUBLIC HEARINGS

Public Hearing #1 – *Andrea Correll, Planning Director*

Consideration of a map amendment to the 2030 Future Land Use Map

Mayor Dawson declared the public hearing open at 5:50 PM.

Ms. Correll explained this request is basically a clean-up item, as described in Resolution 2022-06.

There were no speakers signed up for Public Hearing #1. Mayor Dawson declared the public hearing closed at 5:58 PM.

Resolution 2022-06 Adopting a Future Land Use Map amendment to the Burgaw 2030 Comprehensive Land Use Plan

Commissioner Robbins made a motion to approve Resolution 2022-06 as presented. The motion was seconded by Commissioner Harrell and carried by unanimous vote. *Due to length, Resolution 2022-06 is on file in the clerk's office.*

Public Hearing #2 – *Andrea Correll, Planning Director*

Consideration of a conditional zoning amendment to the official Town of Burgaw Zoning Map to rezone +/- 1.236 acres located at 405 E. Wilmington St. further identified as tax reference number 3229-43-7701-0000 requesting rezoning from C/P Conservation/Preservation District & R-12 to C/P Conservation/Preservation District Office and Institutional to enable the existing apartment building built in the 1970s to become conforming.

Mayor Dawson declared the public hearing open at 5:58 PM.

Ms. Correll asked for continuation of Public Hearing #2 to February 16, 2022 at 9:00 AM due to a technical error. Commissioner Harrell made a motion to continue the public hearing. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Public Hearing #3 – Andrea Correll, Planning Director

Consideration of a conditional zoning amendment to the official Town of Burgaw Zoning Map to rezone +/- 0.351 of an acre or +/-15,308 sq. ft. located at 312 A&B South Campbell St. further identified as tax reference number 3229-52-1486-0000 from R-12 to Office & Institutional to enable the existing apartment duplex built in the 1970s to become conforming.

Mayor Dawson declared the public hearing open at 5:59 PM.

Ms. Correll asked for continuation of Public Hearing #3 to February 16, 2022 at 9:00 AM due to a technical error. Commissioner Robbins made a motion to continue the public hearing. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

Public Hearing #4 – Andrea Correll, Planning Director

Consideration of a text amendment to the Unified Development Ordinance requested by staff, to amend Section 9.26.7 Permitted Sign Standards by Zoning Districts (C) and (D) deleting the projecting and awning standards and referring to the NC Building Code.

Mayor Dawson declared the public hearing open at 5:59 PM.

Ms. Correll introduced Jessica Gray as the Permitting Technician in the Planning and Inspections Departments for the town, as she will be the one presenting Public Hearing #4.

Ms. Gray said she has been administering the façade grant and in working with downtown business owners, she came across some things that need to be addressed in the Unified Development Ordinance. She briefly explained the request as described in Ordinance 2022-06.

Mayor Dawson declared the public hearing closed at 6:03 PM.

Commissioner Harrell commented the Planning Board has recommended this change.

Resolution 2022-09 Adopting a statement of consistency regarding text amendments of the Town of Burgaw Unified Development Ordinance requested by staff to section 9.26.7 (C) and (D) Permitted Sign Standards to delete the projecting and awning standards in this subsection and refer to the NC Building Code.

Commissioner Harrell made a motion to approve Resolution 2022-09 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

RESOLUTION 2021-09

ADOPTING A STATEMENT OF CONSISTENCY REGARDING TEXT AMENDMENTS OF THE TOWN OF BURGAW UNIFIED DEVELOPMENT ORDINANCE REQUESTED BY STAFF TO SECTION 9.26.7 (C) AND (D) PERMITTED SIGN STANDARDS TO DELETE THE PROJECTING AND AWNING STANDARDS IN THIS SUBSECTION AND REFER TO THE NC BUILDING CODE.

WHEREAS, the Applicant, Town of Burgaw Staff, has requested the Town amend the Town of Burgaw Unified Development Ordinance to amend Section 9.26.7 Permitted Sign Standards (C) and (D) to remove the projecting and awning standards in this subsection and refer to the NC Building Code and has presented those findings to the Town of Burgaw Planning Board; and

WHEREAS, Planning staff has reviewed the proposed text change amendments 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 Board, at their January 20, 2022, meeting, recommended the adoption of the Draft Comprehensive Plan Consistency Statement to the Board of Commissioners; and

WHEREAS, the Town of Burgaw Board of Commissioners reviewed the Staff Report and Draft Comprehensive Plan Consistency Statement at their February 8, 2022 meeting and found the proposed text change amendments to be consistent with the Town of Burgaw 2030 Comprehensive Land Use Plan, being reasonable, and in the public interest; and

NOW THEREFORE BE IT RESOLVED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT the proposed Unified Development Ordinance text amendments are consistent with the Town of Burgaw 2030 Comprehensive Plan by specifically preserving and enhancing the livability of the Town, while keeping standards encouraging quality and controlled growth that enhances and maintains the community's character.

Adopted this 8th day of February 8, 2022.

Ordinance 2022-06 Approving a requested text change amendment by staff of the Town of Burgaw Unified Development Ordinance to section 9.26.7 (C) and (D) Permitted Sign Standards to delete the projecting and awning standards in this subsection and refer to the NC Building Code.

Commissioner Robbins made a motion to approve Ordinance 2022-06 as presented. The motion was seconded by Commissioner Harrell and carried by unanimous vote. *Due to length, Ordinance 2022-06 is on file in the clerk's office.*

Public Hearing #5 – James Gantt, Town Manager

Early Citizen Input on FY 2022-2023 Budget

Mayor Dawson declared the public hearing open at 6:04 PM.

Mr. Gantt said this public hearing is give citizens an opportunity to give input on the upcoming FY 2022-2023 budget year. No one signed up to speak.

Mayor Dawson declared the public hearing closed at 6:04 PM.

CLOSED SESSION – 6:04 PM

Commissioner Dawson made a motion to go into closed session pursuant to NC GS 143-318.11(a)(5) acquisition of real property and NC GS 143-318.11(a)(6) personnel. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

OPEN SESSION – 6:59 PM

Commissioner Robbins made a motion to go back into open session. The motion was seconded by Commissioner Malloy 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 was adjourned at 6:59 PM.

Attest: _____
Kristin J. Wells, Town Clerk

G. Olivia Dawson, Mayor