

**TOWN OF BURGAW
BOARD OF COMMISSIONERS MEETING
BURGAW MUNICIPAL BUILDING
OCTOBER 13, 2015
4:00 PM**

AGENDA

1. **Call to Order – Mayor Eugene Mulligan**
2. **Invocation –Chaplain Nick Smith**
3. **Pledge of Allegiance – All**
4. **Approval of Agenda**
5. **Approval of Consent Agenda**
 - A. **Approval of minutes of the September 08, 2015 regular meeting and closed session**
 - B. **Ordinance 2015-22 Amending the FY 15-16 Budget for Funding to W. K. Dickson for their Assistance in Completion of the NC Division of Water Resources Development Project Grant**
 - C. **Ordinance 2015-23 Amending the FY 15-16 Budget for Funding to Burgaw Rotary Club for a Hole Sponsorship at their Annual Golf Tournament**

**Items under Consent are generally of a routine nature. The Board may take action to approve/disapprove all items in a single vote. Any item may be withheld from a general action, to be discussed and voted upon separately at the discretion of the Board.*

6. **SPECIAL PRESENTATION – Presentation to family of William C. James, Sr.**
7. **SPECIAL REQUEST – Paula Williams-James – Daughters of the American Revolution**

DEPARTMENTAL ITEMS

Fire Department

8. **Truck Replacement Request – Allen Wilson, Fire Administrator**

Planning Department

9. **Discussion regarding the waiving of a condition to the Walmart commercial planned building group conditional use permit requiring a new traffic count – Rebekah Roth, Planning Administrator**

ITEMS FROM ATTORNEY

10. **To be announced**

ITEMS FROM MANAGER

11. **Approval of the Agreement with the North Carolina Department of Transportation Regarding the Construction of the Sidewalk along South Walker Street to the Pender Adult Services Facility**
12. **Resolution 2015- 40 Consideration of Approving a Business Improvement District Grant in the Amount of \$4,143.90 to Karen Harding for the Purpose of Constructing a Two Bedroom Apartment at 119-A South Wright Street**
13. **Discussion – Draft release for use of exercise equipment in Fire Department**
14. **Other items from the Manager to be announced**

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

15. **To be announced**
16. **BREAK (5:30 or thereabout)**

There will be a five minute break in order to allow citizens to sign-up for Public Forum and Public Hearings.

17. PUBLIC FORUM

The Public Forum is for non-public hearing items only. Speakers must sign in, step to the podium when recognized, state your name and residence address and limit remarks to three (3) minutes per speaker.

PUBLIC HEARINGS

Public Hearing #1 – Kim Rivenbark, Permitting Technician

18. **Consideration of an application for a conditional use permit for an Automobile Sales, New and Used use to be located at 1638 NC Hwy 53 E**

Public Hearing #2 – Rebekah Roth, Planning Administrator

19. **Consideration of an amendment to the Town of Burgaw Code of Ordinances, Chapter 4 Animals and Fowl regarding skinning and butchering of game**
20. **Ordinance 2015-24 Amending the Town of Burgaw Code of Ordinances Chapter 4, Animals and Fowl, Regarding Skinning and Butchering of Game**

Public Hearing #3 - Robert Kenan, Attorney

21. **Consideration of an ordinance to amend the Town of Burgaw Code of Ordinances to designate alternate public forum to exercise free speech during festivals located within the corporate limits of the town**
22. **Ordinance 2015-25 Amending Town of Burgaw Code of Ordinances to Designate Alternate Public Forum to Exercise Free Speech During Festivals Located Within the Corporate Limits of the Town**

Public Hearing #4

23. **Consideration of a budget amendment to the FY 2015-2016 Town of Burgaw schedule of fees regarding a cost increase related to residential debris removal - Ashley Loftis, Finance Officer**
24. **Ordinance 2015-26 Amending Schedule of Fees Regarding Fees Associated with the Removal of Vegetative Debris, Construction Debris and Demolition Debris - Ashley Loftis, Finance Officer**
25. **Resolution 2015-41 Approving Amendments to the Yard Waste, Bulky Item and Debris Collection Policy – Bill Fay, Director of Public Works**

Public Hearing #5

26. **Consideration of a budget amendment to the FY 2015-2016 Town of Burgaw schedule of fees regarding a cost increase related to customer deposits, hydrant meter fees and water for cleaning/repair fees - Ashley Loftis, Finance Officer**
27. **Ordinance 2015-27 Amending Schedule of Fees Related to Customer Deposits, Hydrant Meter Fees and Water for Cleaning/Repair Fees - Ashley Loftis, Finance Officer**
28. **Resolution 2015-42 Approving Amendments to the Town's Utility Policy – Chad McEwen, Town Manager**

CLOSED SESSION – Pursuant to NCGS 143-318.11 paragraph (a) item (3) attorney/client privilege

ADJOURNMENT

CONSENT AGENDA

5. Approval of Consent Agenda

- A. Approval of minutes of the September 08, 2015 regular meeting and closed session**
- B. Ordinance 2015-22 Amending the FY 15-16 Budget for Funding to W. K. Dickson for their Assistance in Completion of the NC Division of Water Resources Development Project Grant**
- C. Ordinance 2015-23 Amending the FY 15-16 Budget for Funding to Burgaw Rotary Club for a Hole Sponsorship at their Annual Golf Tournament**

**Items under Consent are generally of a routine nature. The Board may take action to approve/disapprove all items in a single vote. Any item may be withheld from a general action, to be discussed and voted upon separately at the discretion of the Board.*

ITEM 5A

Consent Agenda

- A. Approval of Minutes of September 08, 2015 regular meeting and closed session**

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

DATE: September 08, 2015
TIME: 4:00 PM
PLACE: Burgaw Municipal Building
BOARD MEMBERS PRESENT: Mayor Eugene Mulligan
Mayor Pro-tem Howard Walker
Commissioners Jan Dawson, Wilfred Robbins, Charles Rooks and Elaine Tyson
STAFF PRESENT: Chad McEwen, Town Manager
Sylvia W. Raynor, Town Clerk
Robert Kenan, Town Attorney
Joshua Barton, Public Administration Fellow
Anthony Colon, Utility & Compliance Specialist/ORC
Bill Fay, Director of Public Works
Louis Hesse, Building Inspector
Ashley Loftis, Finance Officer
Kim Rivenbark, Permitting Technician
Rebekah Roth, Planning Administrator
Jim Hock, Chief of Police
Kristin Wells, Deputy Clerk
Allen Wilson, Fire Administrator
MEDIA PRESENT: Bill Walsh, Star News
INVOCATION: Nick Smith, Chaplain
PLEDGE OF ALLEGIANCE: All

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

Approval of Agenda

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

Approval of Consent Agenda

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

- A. Approval of minutes of the August 11, 2015 regular and closed sessions**
- B. Ordinance 2015-19 Amending the FY 15-16 budget for funding to the Pender Arts Council for building improvements**

**ORDINANCE 2015-19
AMENDING FISCAL YEAR 2015-2016 ANNUAL BUDGET
Increasing Revenues and Expenditures**

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2015-2016 on June 9, 2015; and
WHEREAS, the Town of Burgaw agreed to appropriate film revenues generated by filming at the old EMS Building to Pender Arts Council; and
WHEREAS, this money will be used to make improvements to the building for the purpose of handicap accessibility; and
WHEREAS, the Town of Burgaw will require a General Fund fund balance appropriation to cover the expense to complete the building improvements by the Pender Arts Council.
NOW THEREFORE, BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT:

Section 1: The FY 2015-2016 budget be altered to reflect the following changes:

INCREASE BUDGETED REVENUE

Account Number	Account Description	Amount
10-3900-00-900	Fund Balance Appropriated	\$2,000

INCREASE BUDGETED EXPENDITURE

Account Number	Account Description	Amount
10-7050-80-150	EMS Building- M&R Building & Grounds	\$2,000

Approved: September 08, 2015

DEPARTMENTAL ITEMS

Fire Department - *Allen Wilson, Fire Administrator*

Request to Purchase Exercise Equipment – Mr. Wilson advised the fire department is requesting to purchase new exercise equipment to be placed in the exercise room in Town Hall. He reminded the Board that the equipment that was in this space was too large, which limited its use. He advised the equipment was sold earlier this year and the room has been repainted. Mr. Wilson said just like before, the exercise room and equipment will be available for all town employees and elected officials. He advised the plan is to purchase a used (but in great shape) weight rack (Smith Machine), associated weight plates, dumbbell rack, kettle bells and rack, Bo-Flex Max Trainer (hybrid elliptical machine), and light commercial treadmill. Mr. Wilson said the project cost is \$8,000.00. He informed the Board that the Fire Department will use its FY 2014 – 2015 Fund Raising Revenue of \$4,440.00; the remainder will be paid for out of Non-departmental reserves.

After a discussion regarding who would be allowed to use the equipment, Mr. McEwen advised that a policy will be written and approved by the Board to govern the use of the equipment. He advised that for now approval of the funding is what staff needs to move forward with the purchase.

Commissioner Robbins made a motion to approve the request to allow the fire department to move forward with the purchase of the exercise equipment. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Finance Department – *Ashley Loftis, Finance Officer*

Ordinance 2015-20 Fund Balance Appropriation for Fire Department Exercise Equipment

Ms. Loftis advised approval of this ordinance will appropriate the necessary funding to purchase the exercise equipment discussed in the previous item.

Commissioner Robbins made a motion to approve Ordinance 2015-20 as presented. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

ORDINANCE 2015-20
AMENDING FISCAL YEAR 2015-2016 ANNUAL BUDGET
Increasing Revenues and Expenditures

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2015-2016 on June 9, 2015; and
WHEREAS, the Town of Burgaw Fire Department is requesting funding of new exercise equipment for the Town Hall exercise room; and
WHEREAS, this equipment will be available to all Town staff and elected officials and have an estimated cost of \$8,000; and
WHEREAS, the Burgaw Fire Department plans to purchase a used (but in great shape) weight rack (Smith Machine), associated weight plates, dumbbell rack, kettle bells and rack, Bo-Flex Max Trainer (hybrid elliptical machine), and light commercial treadmill; and
WHEREAS, the Town of Burgaw Fire Department will utilize the fund raising money from raffle tickets in the amount of \$3,940 and the funds received from the sale of the old equipment in the amount of \$500; and

WHEREAS, this will require a general fund fund balance appropriation to utilize the monies received from fundraising and the sale of equipment and the remaining funds of \$3,560 will be paid out of Non-Departmental Reserve.

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

Section 1: The FY 2015-2016 budget be altered to reflect the following changes:

INCREASE BUDGETED REVENUE

Account Number	Account Description	Amount
10-3900-00-900	Fund Balance Appropriated	\$4,440

INCREASE BUDGETED EXPENDITURE

Account Number	Account Description	Amount
10-6000-00-590	Non-Departmental Reserve	\$4,440

Adopted this the 8TH day of September 2015.

Planning Department – Rebekah Roth, Planning Administrator

Discussion Item - Consideration of deer skinning and butchering within the Town of Burgaw corporate limits

Ms. Roth presented the following background material regarding the skinning and butchering of deer in the town limits:

Background. At the August 11, 2015 Board of Commissioners meetings, two residents of the town informed the board during the public forum of an issue they had with their neighbor. The neighbor had built a platform for skinning and butchering deer in his back yard, immediately adjacent to the complainant's yard.

The town does not currently have any ordinances prohibiting or regulating this type of activity. Our code of ordinances does state that "any accumulation of animal or vegetable matter, rubbish, or discarded items that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes, or vermin of any kind which are or may be dangerous or prejudicial to the public health" is considered a nuisance. If the neighbor's use of his property for skinning and butchering deer were to cause odors or vermin due to leaving animal remnants, this ordinance could apply. However, it would not prohibit him from the activity.

Other Jurisdictions. Staff has reviewed the codes of 90 municipalities across North Carolina and has contacted other jurisdictions through the planning listserv. Only two municipalities were found to have prohibitions or regulations on this type of activity. Laurinburg prohibits any butchering within the city, and Raeford states that "the dressing or butchering of an animal in the view of neighbors with the public at large" is a public nuisance.

Eight jurisdictions either prohibit some slaughtering or require that animal carcasses be disposed of within a certain amount of time. One city, Sanford, specifically allows the slaughter and skinning of deer if it is taken by bow and arrow during an authorized hunting season.

Town Ordinance Possibilities. An ordinance prohibiting or limiting this activity could either be made part of the general code, subject to general penalties, or the nuisance ordinance. Violation of the general code is considered a misdemeanor, and violation of the nuisance ordinance requires written notice to the offender, a time period for remedy, and allows the town to abate the nuisance. As a result of these penalties, prohibitions against butchering, limitations of its location of it, or requirements for removing carcasses would be most effective in the general code, not the nuisance ordinance.

Policy and Finance Recommendation. The Policy and Finance Board met on Thursday, August 27, 2015 and discussed the issue. After reviewing potential remedies to the situation, they decided to recommend that the Board of Commissioners hold a public hearing on a potential code amendment that would:

- Specifically address the skinning and butchering of game;
- Limit the time that the carcass could be within the town limits to 15 hours;
- Specify that the carcass could not be buried or otherwise disposed of within town limits, including a prohibition of any animal matter being placed in roll carts, dumpsters, or other trash receptacles; and
- Place a \$50 daily fine if someone is found in violation.

Upon completion of the presentation by Ms. Roth, Mayor Mulligan asked the Commissioners for their comments regarding the information that has been provided. Commissioner Robbins requested to hear public comments before the Board makes any comments. Although this was not a public hearing, a number of persons were allowed to speak at length regarding their feelings about the skinning and butchering of deer in town. Mildred and Charles Hughes who initially filed the complaint about the neighbor's plans to skin deer on his property appealed to the Board to not allow said activity in town. Debbie Yount also spoke in support of the Hughes family's concerns. Michael Peterson, the neighbor of the Hughes' family and the person who proposes to skin deer on his property spoke at length in defense of his actions and requested that the Board continue to allow deer skinning in town. Vic French spoke at length in favor of the rights of hunters to be able to continue to skin deer in town and also questioned if there is an ordinance created against said actions, will it also include small game such as fish, turkeys, etc. Mr. French

commented that it is unfair to take action that affects the entire population of the town because of a dispute between two neighbors.

There was a lengthy discussion among the Commissioners regarding how to make this situation more fitting for both parties. All Board members shared sentiments with both sides and agreed that some further regulation is necessary to prevent future issues from arising. The major concerns included the time frame for the remains to be left on the property, a method to catch drainage from the animal and to find a way to screen the deer skinning platform from the neighbor's sight. After much discussion the Board agreed to create an ordinance that addresses visual and health concerns in regards to skinning and butchering deer in the town limits.

Commissioner Rooks made a motion to hold a public hearing at the October meeting to consider an ordinance that would limit the time that a carcass could be within the town limits to 5 hours; specify that the carcass could not be buried or otherwise disposed of within town limits, including a prohibition of any animal matter being placed in roll carts, dumpsters, or other trash receptacles; require a catch mechanism with plastic bags or similar material to be in place during the skinning/butchering of an animal; that a temporary screening method such as a tarp may be used during the skinning/butchering of the animal to shield the view of the neighbors and enforce a \$50 per day fine if someone is found in violation. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Discussion Item - Abatement of Nuisance at 303 N. Wright Street

Ms. Roth advised that on July 13, 2015, the planning department received a complaint about an overgrown yard at 303 N. Wright St. Upon investigation, she found that the conditions of the property met the definition of a nuisance, due to "the uncontrolled growth of noxious weeds or grass on a developed lot to a height in excess of 24 inches, causing or threatening to cause a hazard detrimental to the public health or safety." She advised this has been the fifth official complaint regarding a nuisance at this address since 2007, and since 2011, the nuisance has been abated upon notice from the town each time we received a complaint. The property owner lives at a different address in the town and, according to the water department, has always paid his water bill on time. She advised staff is requesting the board consider whether to authorize funding for nuisance abatement of this property.

After much discussion Commissioner Dawson made a motion to approve an expenditure of up to \$250.00 to abate the nuisance at 303 N Wright Street. The motion was seconded by Commissioner Rooks. Commissioners Dawson, Rooks, Robbins and Walker voted "aye"; Commissioner Tyson abstained. Motion carried.

Public Works Department – Bill Fay, Director of Public Works

Discussion Item – Proposed Amendments to Debris Policy

Mr. Fay advised the proposed debris policy was discussed at the August Board meeting and the Policy/Finance Board meeting and he is recommending the policy as presented. There was much discussion regarding the changes that have been presented. Concern was expressed about the pickup of amounts larger than allowed by policy. Mr. Fay said the resident could arrange to have oversized loads picked up and pay an extra charge or the load could be split up and picked up over a two week time period.

Ashley Loftis advised that during the Policy/Finance meeting the last paragraph of the proposed debris policy was changed to read "*A minimum of one hour shall be charged for all services provided pursuant to this fee schedule. All associated fees shall be invoiced by the town and must be paid prior to collection.*" (This verbiage was not included in the copy that was presented to the Board in the agenda packet.)

After discussion, Commissioner Robbins made a motion to approve the guidelines in the proposed debris policy. The motion was seconded by Commissioner Dawson and carried by unanimous vote. Mr. McEwen reminded the Board that the approval of this policy will require a public hearing at the next Board meeting due to the fee schedule change in the policy. He also advised the policy will be approved by resolution at that time as well.

ITEMS FROM ATTORNEY – Robert Kenan

Teal Briar Properties – Letter

Attorney Kenan advised this item involves ongoing issues at the Teal Briar subdivision. He advised there have been numerous requests from the residents to have improvements made to the streets in the subdivision. He reminded the Board that at the last meeting he was requested to do a title search of the unsold Teal Briar property which is about thirty acres to determine if there are any liens or judgements on the property. He advised he found there are no judgements but there is a lien for a maximum original amount of one million dollars. Attorney Kenan advised that currently Lee Cowper owns the deed of trust on the property.

Attorney Kenan advised that if the town desires to enter into some kind of agreement with the owners to take over certain responsibilities at Teal Briar he would suggest that the town consider approaching Lee Cowper Investments and asking them to subordinate their deed of trust which is the first lien against the property and subordinate it to the second lien position which would allow the town to be in a first lien position in order to enter into any kind of agreements to take over any aspects of improvements. He advised the town would then hold the deed of trust to secure those obligations and if they default it we could foreclose and we could be in first lien position. He said if the town moves forward with the needs assessment and does any improvements, the town could collect a portion of the sale price of the remaining lots, but only if the town is in the first lien position.

Justin Rojas and John Hoyt, residents of Teal Briar spoke at length regarding the issues they are facing with poorly maintained infrastructure within the subdivision and pleaded with the Board to take action to move forward with some effort to make improvements in the neighborhood.

After much discussion, Commissioner Robbins made a motion to authorize Attorney Kenan or the Town Manager to approach Lee Cowper Investments to ask if they would be willing to subordinate the deed of trust to the second lien to allow the town to be in a first lien position. The motion was seconded by Commissioner Tyson and carried by unanimous vote. The Board requested that this item be placed on the October agenda for further discussion. (Items from the Attorney will be continued after the public forum/public hearings.)

INTRODUCTION OF NEW STAFF MEMBERS

Chief Jim Hock introduced three new staff members, Officers Kaitlin McKee and Kevin Robertson and Administrative Assistant Robbie Ballard. Mayor Mulligan also introduced Joshua Barton, Public Administration Fellow from UNCW; he will be helping us as well as gaining experience in working in local government.

BREAK – Mayor Mulligan called for a break at 5:40PM. The meeting reconvened at 5:50PM.

PUBLIC FORUM

Speakers:

Michael Peterson, 111 West Bridgers Street thanked the Board of Commissioners and Town Manager for their support regarding the deer skinning issue and said let's move forward and get things settled in the public hearing next month.

Tammy Proctor, Director of Pender County Tourism advised they have an opportunity to host an events and festivals consortium and she is asking on behalf of Pender County Tourism and the NC Blueberry Festival for complimentary use or a reduced rate for use of the depot for one day. She advised this consortium will bring in people from all over the area that manage festivals and events. She said this event should bring in fifteen to twenty five people. Mayor Mulligan explained that recently there have been several requests for free use of the depot but the rules must be the same for everyone. He asked Kim Rivenbark who coordinates the depot rentals to review the fee schedule. Ms. Rivenbark advised there is a reduced rate for non-profits which would mean the rental fee will be \$250.00 for one day and there is a \$240.00 refundable deposit required as well. After a brief discussion, Ms. Proctor said the abovementioned fees are acceptable and she was advised to speak with Ms. Rivenbark to secure a date.

Deborah Peterson, 111 West Bridgers Street thanked the Board for their support regarding the deer skinning issue. She asked if having a petition signed by supporters that are unable to attend the public hearing would help their situation. Mayor Mulligan advised it would not hurt but he said he feels that we have come to a good understanding of the situation, that all parties understand the situation and that the Board has found a good compromise regarding the issue. He advised Ms. Peterson that if she wants to bring by a signed petition for the public hearing in October it will be okay.

PUBLIC HEARINGS

Public Hearing # 1 - Consideration of an application for a conditional use permit for an "Automobile Sales, New and Used" use to be located at 200 US Hwy 117 S (PIN 3229-74-3072-0000) within the Town of Burgaw – Kim Rivenbark, Permitting Technician

Mayor Mulligan declared the public hearing open at 5:57PM. Attorney Kenan administered the oath to Kim Rivenbark and Lewis Dew in order for them to submit evidence during the hearing.

Mayor Mulligan asked for disclosures from the Board. Commissioner Robbins advised he visited the site.

Ms. Rivenbark presented the following evidence:

Applicant Lewis Dew has applied for a conditional use permit for an "Automobile Sales, New and Used" use to be located at 200 US Hwy 117 S (PIN 3229-74-3072-0000) within the Town of Burgaw corporate limits in the vacant building next to Walgreens.

The following evidence was submitted to the Board of Commissioners in the staff report prior to the meeting:

- Exhibit 1: Copy of Application
- Exhibit 2: Site Plan
- Exhibit 3: Landscape Plan
- Exhibit 4: Aerial Photo
- Exhibit 5: Zoning Map
- Exhibit 6: Flood Map
- Exhibit 7: Future Land Use Map
- Exhibit 8: Photo of Existing Site

Discussion:

Lewis Dew thanked the Board for taking the time to hear his request. He advised this will be the fifth location of his automobile sales business and he looks forward to having a successful business.

Commissioner Robbins asked if a bicycle rack will be one of the requirements at this location. He commented that in the past bicycle racks have been required at new businesses. Mr. Dew advised he will be willing to install a bike if that is a requirement.

There being no further discussion, Mayor Mulligan closed the public hearing at 6:01PM.

Mayor Mulligan stated the Board will now review the findings of fact as required.

All standards were approved by a vote of "yes" by Commissioners Walker, Robbins, Dawson, Tyson and Rooks.

Standard 1. The use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved.

As a result, the Board of Commissioners finds that the proposed use meets the requirements of this standard.

Standard 2. The use meets all required conditions and specifications.

As a result, the Board of Commissioners finds that the proposed use meets the requirements of this standard.

Standard 3. The use will not adversely affect the use or any physical attribute of adjoining or abutting property or the use is a public necessity.

As a result, the Board of Commissioners finds that the proposed use meets the requirements of this standard.

Standard 4. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Town of Burgaw Unified Development Ordinance, Burgaw 2030 Comprehensive Land Use Plan, and NC Highway 53 Corridor Study.

As a result, the Board of Commissioners finds that the proposed application meets the requirements of this standard, provided the following condition:

- *A bike rack shall be installed as approved by the Planning Administrator*

THEREFORE, on the basis of the foregoing, **IT IS ORDERED** that the application for a conditional use permit for a "Auto Sales, New and Used" use to be located at 200 Hwy 117 South (PIN 3229-74-3072-000) be **GRANTED**, subject to the following **CONDITIONS TO THE APPLICATION**:

- *A bike rack shall be installed as approved by the Planning Administrator.*

ORDERED this 8th day of September, 2015.

MOTION: Upon completion of the findings of fact, Commissioner Robbins made a motion to approve the conditional use permit for "Automobile Sales, New and Used" as presented with conditions as approved above. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

Public Hearing # 2 - Consideration of a conditional use permit application for a "Restaurant, Limited Service" use to be located at 801 NC Hwy 53 East (PIN 3229-56-8556-0000) within the Town of Burgaw – Rebekah Roth, Planning Administrator

Mayor Mulligan opened the public hearing at 6:05PM. Attorney Kenan administered the oath to Rebekah Roth, Bob Lach, Rhett Pollock and Harold Pollock.

Mayor Mulligan commented that all have probably visited the site when you can't help but see it as you drive by it.

Ms. Roth advised Hamilton Designs, LLC has petitioned the town for a conditional use permit for a "Restaurant, Limited Service" use in the B-2 zoning district to be located at 801 NC Hwy 53 East within the Town of Burgaw corporate limits.

The following evidence was presented to the Board of Commissioners in a staff report dated August 25, 2015:

- Exhibit 1: Application showing requested use
- Exhibit 2: Map packet showing site plans
- Exhibit 3: A1.0, Floor Plan
- Exhibit 4: A4.0 and A4.1, Exterior Elevations
- Exhibit 5: Architectural Design Elements
- Exhibit 6: Monument Sign Plans
- Exhibit 7: Land Title Survey
- Exhibit 8: Zoning Map
- Exhibit 9: Aerial Map
- Exhibit 10: Flood Map
- Exhibit 11: Site Photographs, taken by Rebekah Roth on July 15, 2015
- Exhibit 12: Ordinance Requirements Report, prepared by Planning Staff
- Exhibit 13: Compliance with Town of Burgaw Adopted Plans Report, prepared by Rebekah Roth
- Exhibit 14: Executive summary of traffic impact analysis

- Exhibit 15: Copy of NCDENR Erosion Control Letter of Approval with Modifications and Performance Reservations, dated June 30, 2015
- Exhibit 16: Aerial photo of McDonald's property
- Exhibit 17: Public Works utility location comments

Ms. Roth reviewed the standards for evaluation as presented in the agenda packets. She advised that all standards have been met as requested by staff. Upon completion of her review the floor was opened for discussion.

Commissioner Robbins asked if the bike rack is in the plans. Ms. Roth advised the bike rack is in the plans.

Commissioner Robbins expressed concern about the requirement for the fire hydrant. Allen Wilson, Fire Administrator advised there needs to be a hydrant between the two exiting hydrants and with the turn lane and the sidewalk there is no place to put it across the street. He also advised in the event of a fire at the restaurant with the hydrant across the street they would have to pull hoses across NC Hwy 53 and block the traffic in both directions.

Commissioner Robbins asked if the location of the fire hydrant will in any way impede the flow of traffic to and from the restaurant. Mr. Wilson advised it should not have any effect on traffic; he also said he has spoken with the engineer and advised him that anywhere they see fit to place a hydrant on the property is okay as long as it is in the public right of way and does not impede traffic.

Rhett Pollock, Attorney for the applicant Hamilton Designs, LLC advised Mr. Lach has a map that addresses the items that have been previously mentioned by Ms. Roth. The map is color coded and shows much detail that clarifies the plans. Mr. Lach presented a copy of the map to each Commissioner. Mr. Pollock and Mr. Lach reviewed the details of the map with the Board.

Mr. Lach addressed the issue with the signage. He advised per the town's guidelines, Taco Bell is allowed the one sign on the front. He said they are requesting two additional signs, one on each side. The reason for this request is that the two signs on the side are part of the national Taco Bell theme and they desire to comply with the national standard. He commented that they have gone over and above the requirements put forth by the Town and would ask that the Town allow them this request for extra signage. Commissioner Rooks said he doesn't have a problem with the extra signs since it is commonly what this restaurant chain requires.

There being no further discussion, Mayor Mulligan closed the public hearing at 6:27PM and called for the review of the finding of facts. The following standards were reviewed.

All standards were approved by a vote of "yes" by Commissioners Walker, Robbins, Dawson, Tyson and Rooks.

SPECIFIC FINDINGS OF FACT AND CONCLUSIONS OF LAW

Standard 1. The use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved.

As a result, the Board of Commissioners finds that the proposed use meets the requirements of this standard, provided the following condition:

- *The land adjacent to the proposed turn lane taper from the McDonald's property line east shall be dedicated to NCDOT for future use for a full-width turn lane.*

Standard 2. The use meets all required conditions and specifications.

As a result, the Board of Commissioners finds that the proposed use meets the requirements of this standard, provided the following conditions:

- *A fire hydrant, the location of which must be approved by the Town of Burgaw Fire Marshal and Public Works Director, shall be installed on site.*
- *The location of water lines and sewer clean outs must be approved by the Town of Burgaw Public Works Director.*
- *The cross access drive proposed for the western property line shall align with the existing cross access location on the McDonald's site.*

Standard 3. The use will not adversely affect the use of or any physical attribute of adjoining or abutting property OR the use is a public necessity.

As a result, the Board of Commissioners finds that the proposed use meets the requirements of this standard.

Standard 4. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Town of Burgaw Unified Development Ordinance, Burgaw 2030 Comprehensive Land Use Plan, and NC Highway 53 Corridor Study.

As a result, the Board of Commissioners finds that the proposed use meets the requirements of this standard.

**Before the final vote, Ms. Roth commented to the Board that she wants to clarify that this is the plan with the removal of the second cross access to Bojangles which was not required by the town's ordinances and not desired by the applicant. She wanted this to be reflected in the minutes.*

THEREFORE, on the basis of the foregoing, **IT IS ORDERED** that the application for a conditional use permit for a "restaurant, limited service" use (with an amendment to the site plan removing the southeast cross access) to be located at 801 NC Hwy 53 East (PIN 3229-56-8556-0000) be **GRANTED**, subject to the following **CONDITIONS TO THE APPLICATION**:

- *The land adjacent to the proposed turn lane taper from the McDonald's property line east shall be dedicated to NCDOT for future use for a full-width turn lane.*
- *A fire hydrant, the location of which must be approved by the Town of Burgaw Fire Marshal and Public Works Director, shall be installed on site.*
- *The location of water lines and sewer clean outs must be approved by the Town of Burgaw Public Works Director.*
- *The cross access drive proposed for the western property line shall align with the existing cross access location on the McDonald's site.*

ORDERED this 8th day of September, 2015.

MOTION: Commissioner Dawson made a motion to approve the application for a conditional use permit for a "Restaurant, Limited Service" use as approved with conditions above. The motion was seconded by Commissioner Walker and carried by unanimous vote.

Public Hearing # 3 - Consideration of Amending the Code of Ordinances regarding reduction of the required number of members on the Town of Burgaw Parks and Recreation Committee from seven members to five members – Chad McEwen, Town Manager

Mr. McEwen advised over the last several months the Parks and Recreation Committee has experienced issues with obtaining a quorum at their meetings. Currently the seven member board must have at least four members present in order to have a meeting. By changing the number of members from seven to five we will reduce the quorum requirement to three members.

The recommendation is the approval of the attached ordinance reducing the number of members on the Parks and Recreation Board from seven to five members.

Mayor Mulligan commented that part of the reason for the Parks and Recreation committee having quorum problems is due to job responsibilities that take the members out of town for long periods of time and quorum requirements cannot be met. He feels that reduction in numbers will help with this problem.

Commissioner Robbins said that maybe when applicants agree to be on these volunteer committees, they should take job responsibilities into consideration and when the Board of Commissioners is making appointments we should find out if the applicant will be able to put in the time to serve on the committees. He commented that they are all good people and he appreciates them but we need commitment to serve on the committees.

There being no further discussion, Commissioner Robbins made a motion to approve Ordinance 2015-21 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

ORDINANCE 2015-21

Ordinance APPROVING the Amendment of the Town of Burgaw Code of Ordinances Chapter 2, Article IV Boards, Commissions & Committees, Division 2- parks and Recreation Committee

WHEREAS, the Town wishes to amend the Code of Ordinances as it relates to the number of members the Parks and Recreation Committee shall have; and

WHEREAS, the amendment is requested by the Board of Commissioners in order to help address past quorum issues the Parks and Recreation Committee have experienced.

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

SECTION 1. In regards to the Parks and Recreation Committee, Division 2 Sections 2-212 of the Town of Burgaw Code of Ordinances is hereby amended as follows:

Section 2-212. Composition, terms, vacancies, and compensation.

The Parks and Recreation Committee shall be composed of a five (5) member body consisting of residents of the Corporate Limits of the Town of Burgaw.

ADOPTED this the 8th day of September, 2015.

ITEMS FROM ATTORNEY CONTINUED – Robert Kenan

Discussion - Public Address draft ordinance

Attorney Kenan reminded the Board that at last month's meeting there was discussion regarding an individual that has notified an attorney that his free speech rights were violated when he was voicing his religious opinions to the public in attendance at the Blueberry Festival. Attorney Kenan advised the Board referred this issue to the Policy/Finance Board which had requested a draft ordinance to set a designated place for an individual to express his freedom of speech rights during a festival event in which certain areas downtown have been set aside by permit for festivals and events. Attorney Kenan said he has drafted an ordinance that sets aside a designated area on the west side of the railroad bed near the Family Dollar for expressing free speech during times that the court house square is reserved for festivals and special events. (Draft ordinance printed below)

(DRAFT)

ORDINANCE 2015-

ORDINANCE TO AMEND TOWN OF BURGAW CODE OF ORDINANCES TO DESIGNATE ALTERNATE PUBLIC FORUM TO EXERCISE FREE SPEECH DURING FESTIVALS LOCATED WITHIN THE CORPORATE LIMITS OF THE TOWN

WHEREAS, the Pender County Courthouse Square is a traditional public forum, which is open to the general public to exercise each individual's right of free speech pursuant to the First Amendment to the United States Constitution; and

WHEREAS, at certain limited times during a calendar year, festivals are held on the grounds of the Pender County Courthouse Square and the sidewalks and streets located within the immediate area to the Pender County Courthouse Square; and

WHEREAS, during these festivals, the festival committee who is sponsoring the festival shall have received prior authorization from the Town of Burgaw and the County of Pender to utilize the Pender County Courthouse Square and the adjacent sidewalks and streets for the utilization of these public areas during designated times for the purpose of having and conducting their festival activities; and

WHEREAS, in order to eliminate any conflicts as to the priority over the use of the public areas utilized during a festival and to avoid any infringement on an individual's right to exercise their right of free speech during a festival, the Town of Burgaw believes that it is in the best interest of the public that an alternate public forum be designated during a festival for a person to go to and exercise their right of free speech;

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

I. Amend the Town of Burgaw Code of Ordinances to add Section 24-30 as follows:

Sec. 24-30. – Designation of Alternate Public Forum to Exercise Free Speech

During any festival where the Pender County Courthouse Square is utilized for festival activities, the western portion of the block located between West Bridgers Street and West Wilmington Street and immediately adjacent to North Dudley Street shall be designated as the alternate public forum for any individual who desires to exercise their right of free speech pursuant to the First Amendment to the United States Constitution from 7:00 a.m. on the day before the commencement of the festival until 7:00 p.m. on the day after the commencement of the festival. The designation of this alternate public forum shall be effective only when the Pender County Courthouse Square and the sidewalks and streets located within the immediate area to the Pender County Courthouse Square have been authorized by the Town of Burgaw's governing body to be utilized for festival activities pursuant to a request by an organized festival committee. Unless otherwise preempted by an ordinance of the County of Pender, a resolution of the governing body of the County of Pender, federal or North Carolina law, the Pender County Courthouse Square is acknowledged as a public forum where members of the public can exercise their right to free speech.

II. That this ordinance shall become effective at 12:01 a.m., on _____ 2015.

After a lengthy discussion regarding freedom of speech rights and actions that can or cannot be taken in the situation at hand, Commissioner Rooks made a motion to hold a public hearing for the purpose of approving the draft ordinance as presented. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

BREAK – Mayor Mulligan called for a five minute break at 6:55PM. The meeting reconvened at 7:00PM.

ITEMS FROM MANAGER – Chad McEwen**Resolution 2015-31 Consideration of Approving a Contract with W. K. Dickson for the Development of a Water Resources Development Project Grant Application for Fremont Street and Pender Memorial Hospital Stormwater Improvements near Osgood Canal**

Mr. McEwen advised a few years back the Town received a grant to do a stormwater conditions assessment of Osgood Canal and Burgaw Creek. He said the study was completed by W.K. Dickson in May 2015 and adopted by the Board at the June Board of Commissioners meeting. The study identified and prioritized the replacement of the pipes underneath Fremont Street as the most imminent improvement needed. The Water Resources Development grant requires a 50-50 match from the local government and the project has an estimated cost of \$576,000. This project would address the needed stormwater improvements around the hospital as well as replacing the pipes under Fremont Street. In order to offset expense to the town, Mr. McEwen advised he asked Pender Memorial to be a co-applicant in the application which will result in additional points for the application. He said Ruth Glaser, Administrator at Pender Memorial feels that the hospital will be able to provide financial assistance for the project if the grant application is awarded funding. Mr. McEwen said he informed Mrs. Glaser that without the hospital's financial assistance it was unlikely that any improvements could be done around the hospital. Mr. McEwen advised that in the event that we receive the grant and the hospital fails to agree to provide financial assistance we would likely limit the improvements to the Fremont Street pipes only.

Mr. McEwen said in addition, he has spoken with Skip Green to see if any of the NC Department of Commerce economic development grants could be used to offset our share of the costs. Mr. McEwen advised the recommendation is the approval of the proposal from W.K. Dickson for \$5,000 for the Water Resources Development Grant Application.

After a brief discussion, Commissioner Robbins made a motion to approve Resolution 2015-31. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

RESOLUTION 2015-31**Resolution Approving a Contract with W.K. Dickson & Co., Inc., for the Development and Submittal of a construction grant application to the Division of Water Infrastructure**

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

WHEREAS, in May of 2015, W.K. Dickson, completed a Stormwater Master Plan for several known flooding and drainage areas within Burgaw, and

WHEREAS, in an effort to address the factors that lead to the flooding, the Town wishes to apply for a construction grant to address two of the most imminent areas of flooding in Burgaw, and

WHEREAS, given the historical knowledge W.K. Dickson has regarding the Stormwater Master Plan and the flooding issues in Burgaw, we have requested they provide the Town with a proposal regarding the development and submittal of an application to the Division of Water Resources; and

WHEREAS, W.K. Dickson has submitted a proposal in the amount of \$5,000 to develop and submit the required information for the Division of Water Resources grant application.

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

SECTION 1. The contract submitted by W.K. Dickson, Co., Inc., in the amount of \$5,000 is hereby approved based on the submitted scope of services.

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

Witness my hand and the corporate seal of said Town of Burgaw this the eighth day of September, 2015.

Discussion Item – Proposed Changes to the Town’s Utility Policy

Mr. McEwen advised the Policy and Finance Committee has reviewed the proposed revisions to the Utility Policy which outline the procedures that are to be followed in regard to water and sewer services for our customers. He said the revised policy includes several amended sections as well as several new sections that establish procedures for how the following issues will be addressed:

- 1) Procedures for closing accounts in deceased individuals names
- 2) Filling of swimming pools
- 3) Leak adjustments
- 4) Meter errors
- 5) Hydrant and tank fillings

Mr. McEwen said that initially the intention was to only add the procedures regarding how the Town would handle closing accounts in deceased individual’s names. However, upon reviewing the Utility Policy to determine where the new section should be added it was realized that several sections warranted amending.

Mr. McEwen informed the Board that if the new Utility Policy is acceptable we will prepare a resolution for consideration of approval at the October meeting. He also said a public hearing will be required at the October meeting to approve the rate change proposals within the policy. (Due to the length of the policy, it is on file in the clerk’s office.)

There was much discussion regarding the method of commercial trucks using the hydrants for fill points, clarification of the disconnection procedures, increase in payment of deposits without a credit check, deposits for cleaning and repair was printed as \$100 and should have been \$125, methods to inform customers of the changes in the policy and billing times and procedures. After clarification of the abovementioned issues, Commissioner Rooks made a motion to place the ordinance changes in the utility policy on the October agenda as a public hearing item. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

Discussion Item – Purchase of New Time Card System

Mr. McEwen advised due to issues with the current time card system utilized by the police, fire and public works departments we are planning on purchasing a new digital time card system that would include a module for the police and fire departments to share as well as one for the public works department. The TimeTrak System is easily integrated into the finance software currently utilized by the Town and uses a biometric system (fingerprint) to register employee clock in and clock out. Mr. McEwen advised the proposal is to purchase the time card system with non-departmental reserve funds.

There was much discussion including pros and cons regarding the proposed time card system. After a lengthy review of this item, Commissioner Rooks made a motion to approve funding in the amount of \$3,245 from non-departmental reserves for the purchase of a time card system. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

Discussion Item – Sidewalk Repairs along Wright Street at Little Town Learning Center and Cowan Street at Pender County Library

Mr. McEwen advised the Town has received two requests regarding sidewalk repairs at the two locations referenced above. He advised both issues have been reviewed by the Policy/Finance Board and their recommendations are as follows:

Little Town Learning Center Request - Mr. McEwen said the Little Town Learning Center request involves the end result of the removal of a cedar tree that had been planted several years ago within the Wright Street right of way as part of a buffer between the Little Town property and the property to the south. He said the cedar tree’s limbs were growing over into the sidewalk and the roots were lifting the sidewalk adjacent to the driveway for Little Town. The condition of the sidewalk does present a trip hazard. Little Town has complained several times about the issue.

Mr. McEwen advised the decision was made by the Infrastructure Board to recommend the replacement of 25 feet of sidewalk near the area of the Little Town driveway. In addition the stump will be removed and dug out. Bill Fay is working on estimates for the work. It is anticipated that the work will not exceed \$3,500.

Pender County Library Request - Mr. McEwen advised that recently, the Town received two requests for sidewalk repairs/additions near the Pender County Library. He advised the first request was from the Pender County Library requesting repairs to the sidewalk along the Cowan Street sidewalk in front of the library. He said there does appear to be several uneven panels which trap water during rain events as well as sediment that washes down off the library property. The panels do not present a trip hazard but since they hold water they do impair the public ability to use them. It is estimated that approximately 120 ft. of sidewalk is unlevel. Compounding the problem with the sediment is the fact that the trees adjacent to the sidewalk appear to be shading out the grass and exposing the bare dirt. During a rain event this dirt washes down onto the sidewalk.

Mr. McEwen advised the Library is also requesting the extension of the sidewalk along Cripple Creek to the intersection of Cowan and Wilmington Streets. He said this request involves the addition of approximately 250 feet of sidewalk (from Cripple Creek to Cowan Street). The extension of this sidewalk presents several challenges. First, due to the width of Wilmington Street, the right of way is very narrow behind the curb on the south side of the street. It is possible that additional right of way would be needed from the Library in order to accommodate the proposed sidewalk. In addition several existing utility structures and established trees are in area of the proposed sidewalk. These conflicts would have to be addressed prior to the construction of the sidewalk. Mr. McEwen advised addressing these issues could be expensive.

Mr. McEwen said based on the information provided above, the following recommendations were made by the Infrastructure Board:

Cowan Street

1. The Infrastructure Board decided to recommend the replacement of the sidewalk along Cowan Street (approximately 120") but asked that the county install some monkey grass or other ground cover as well as some pine straw adjacent to the sidewalk to help stabilize the sloped area between the two large oak trees.

Wilmington Street

The Infrastructure Board determined as for the request to add a sidewalk along Wilmington Street several concerns and challenges were raised. First, the edge of the right of way is only a few feet off the back of the curb along that stretch of Wilmington Street. In addition, several trees and power poles present obstacles to the installation of the sidewalk. The committee stated they would consider adding the sidewalk under the following terms:

1. The County must have the area along the south side of Wilmington Street from the back of Cripple Creek to the corner of Cowan surveyed and convey a 15'-20' easement to the Town in order to accommodate the installation of the sidewalk. This 15'-20' area will provide the flexibility needed to adjust the path of the sidewalk in order to accommodate the presence of the existing trees and power poles.
2. The County must provide 50% of the funding needed to construct the sidewalk along Wilmington Street.

Mr. McEwen advised the recommendation is the replacement of the sidewalk area along Wright Street adjacent to the Little Town Learning Center Driveway as well as the sidewalk along Cowan Street adjacent to the Pender County Library.

There was a lengthy discussion regarding the repair of the sidewalk along Cowan Street adjacent to the library. Commissioner Rooks expressed concern about the erosion and discussed ways to repair it in order to prevent the problem in the future.

After much discussion, Commissioner Rooks made a motion to approve the recommendation to replace the area of sidewalk along S Wright Street adjacent to Little Town as recommended above and to approve the repair of the sidewalk along Cowan Street in front of the Pender County Library contingent upon Pender County taking care of the erosion problem. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

Mayor Mulligan advised a team comprised of members of various advisory boards of the town will be playing in the annual Rotary Golf Tournament and there is a \$400.00 registration fee. He asked since the team will be representatives of the town if the town could sponsor the team. After a brief discussion regarding funding, Commissioner Robbins made a motion to appropriate \$400.00 from fund balance to cover the registration fee for the

golf team playing in the Rotary golf tournament. The motion was seconded by Commissioner Walker and carried by unanimous vote.

Commissioner Robbins asked if an inquiry has been made regarding the “bump” in the intersection of NC Hwy 53 and US 117. Mr. McEwen advised that he sent an email to Robert Butler with NCDOT but has not had any response.

Commissioner Robbins also asked about the status of his request from last month’s meeting regarding the placement of a stop light at the intersection of Wright and Wilmington Streets. Mr. McEwen advised Robert Vause suggested that we send a formal request to Katie Hite, Division Traffic Signal Engineer who would start the process of studying the situation to see if the numbers reflect a need for a light.

Commissioner Robbins asked if there is any news regarding the sidewalk to the senior center. Mr. McEwen advised he recently spoke with the contract manager and reminded him that we still need to get that amended contract from NCDOT.

Commissioner Robbins commented the Pender Early College rated at 192 in its class nationwide. He advised there has been much media attention and he feels that some kind of appreciation needs to be presented to the school on behalf of the Town at the next meeting. Mayor Mulligan asked Commissioner Robbins to meet with Mr. McEwen to determine an appropriate recognition for Pender Early College’s accomplishment.

Commissioner Dawson congratulated Allen Wilson on his recent designation as a Chief Fire Officer by the Center for Public Safety Excellence.

Commissioner Tyson inquired about the status of the plaque for Mr. James’ family and the tree to be planted in honor of Wayne Briley. Mr. McEwen advised the plaque is in the clerk’s office and that Mrs. James was out of town this week so we will put that item on agenda for the October meeting. He advised he has spoken with Mr. Kilroy who informed him that he County is going to be doing some major landscaping improvements on the court house square in the fall and Mr. Kilroy requested that the tree planting be incorporated into that event.

Commissioner Tyson asked about the repairs on the pavement on Bridgers Street in front of the churches. Mr. McEwen said he was informed by Norris Construction that they will come back in September to make the repairs. Mr. McEwen advised the understanding he has with Norris Construction is that they will take out the westbound lane and the east bound on either side of the intersection and do a full patch. He also said he informed Norris they need to smooth out the transition on Wright Street heading north. He advised Norris has repaired the place on Smith Street but they did not repair the place on the Penderlea Hwy and they will be required to take care of that one as well.

Commissioner Rooks commented that recently he needed to go to the Time Warner store in Wilmington and when he searched for the address on Google maps he was directed to three former addresses of locations that are now closed but the current Mayfair address did not come up on Google maps. Commissioner Rooks requested that since Time Warner services this area that someone contact them and ask them to get this addressing issue straightened out in order to prevent this type of inconvenience for other customers.

Commissioner Rooks asked if NCDOT plans to come back to mark the parking places on the sides of the new pavement on East Wilmington Street. Mr. McEwen said that they plan to have all the striping done when their larger striping jobs are done in the area. Mr. McEwen said he will touch base with NCDOT again regarding this issue.

Mayor Mulligan requested that next time the Infrastructure Board meets that they discuss plans to prioritize the placement of sidewalks across the railroad right of way.

CLOSED SESSION – 8:04PM

Commissioner Robbins made a motion to go into closed session pursuant to NCGS 143-318.11 paragraph (a) item (3) attorney/client privilege. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

OPEN SESSION RECONVENED – 8:11PM

Commissioner Dawson made a motion to reconvene to open session. The motion was seconded by Commissioner Tyson and carried by unanimous vote.

Settlement Agreement with A C Schultes

Upon returning to open session, Commissioner Rooks made a motion to approve the settlement agreement with A. C. Schultes as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Discussion – Vehicle purchase for Fire Department

Mr. McEwen advised the truck that Allen Wilson drives for the Fire Department is not in use at this time because it requires major repair. He advised there have been a number of major repairs made on the truck over the last couple of years and it appears that the best option may be replacement of the truck. Mr. McEwen said they have explored financing options with Four County EMC but he is waiting for a final answer. He advised they have been looking at vehicles with several dealers. Mr. McEwen said he would like to wait to see if Jimmy Smith comes up with something and if not he will bring it back to the Board possibly in a special meeting if needed to determine financing for a new truck. There was much discussion regarding this issue. Mr. McEwen advised this is mainly an informational item at this time and he will keep the Board informed of the progress on this issue. The Board recommended in the meantime that Mr. Wilson drive the Mercury Mountaineer which is currently not being used by any department.

ADJOURNMENT

There being no further business, Commissioner Rooks made a motion to adjourn. The motion was seconded by Commissioner Tyson and carried by unanimous vote. The meeting adjourned at 8:22PM.

Eugene Mulligan, Mayor

Attest: _____
Sylvia W. Raynor, Town Clerk

ITEM 5B

Consent Agenda

- B. Ordinance 2015-22 Amending the FY 15-16 Budget for Funding to W. K. Dickson for their Assistance in Completion of the NC Division of Water Resources Development Project Grant**

ORDINANCE 2015-22

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

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2015-2016 on June 9, 2015; and

WHEREAS, the Town of Burgaw agreed to move forward with the preparation of a North Carolina Division of Water Resources Development Project grant application; and

WHEREAS, the Town approved W.K. Dickson to assist the Town in preparing this application to address the needed stormwater improvements around the hospital as well as replacing the pipes under Fremont Street; and

WHEREAS, W.K. Dickson submitted a proposal for grant application services in the amount of \$5,000; and

WHEREAS, the Water Resources Development grant requires a 50-50 match from the local government with a total estimated project cost of \$576,000; and

WHEREAS, the Town of Burgaw will require a water and sewer fund fund balance appropriation to cover the expense to complete the Water Resources Development Project grant by W.K. Dickson.

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

Section 1: The FY 2015-2016 budget be altered to reflect the following changes:

INCREASE BUDGETED REVENUE

Account Number	Account Description	Amount
31-3900-91-900	Fund Balance Appropriated	\$2,500
32-3900-91-900	Fund Balance Appropriated	\$2,500

INCREASE BUDGETED EXPENDITURE

Account Number	Account Description	Amount
31-8140-91-450	Water – Contracted Services	\$2,500
32-8200-91-450	Sewer – Contracted Services	\$2,500

Adopted this the 13TH day of October 2015.

Attest:
 Sylvia W. Raynor, Clerk

Eugene Mulligan, Mayor

Ordinance 2015-22 Amending the FY 15-16 budget for funding to W.K. Dickson for their assistance in completion of the North Carolina Division of Water Resources Development Project grant

Background

The Town decided at the September 8, 2015 Board of Commissioners meeting to move forward with completing the North Carolina Division of Water Resources Development Project grant. This grant is a 50-50 matching grant that will provide funding for the stormwater drainage improvements at Pender Memorial Hospital that were identified in the Stormwater Master Plan along with replacing the pipes under Fremont Street. The total estimated project cost is \$576,000. W.K. Dickson has submitted a proposal for \$5,000 to assist the Town in completion of this application.

This \$5,000 expenditure is a non-budgeted item in the FY 2015-2016 budget and therefore requires a water and sewer fund fund balance appropriation.

Recommendation

The recommendation is the approval of the ordinance authorizing the appropriation of \$5,000 to cover the expense to W.K. Dickson in relation to this project.

Board Action

Approval of Motion/Recommendation_____

Denial of Motion/Recommendation_____

Table Decision on Motion_____

ITEM 5 C

- C. Ordinance 2015-23 Amending the FY 15-16 Budget for Funding to Burgaw Rotary Club for a Hole Sponsorship at their Annual Golf Tournament**

Ordinance 2015-23 Amending the FY 15-16 budget for funding to Burgaw Rotary Club for a hole sponsorship at their annual golf tournament

Background

The Town decided at the September 8, 2015 Board of Commissioners meeting to sponsor a hole at the Burgaw Rotary Club's Annual Golf Tournament. The cost of the hole sponsorship is \$400.

This \$400 expenditure is a non-budgeted item in the FY 2015-2016 budget and therefore requires a general fund fund balance appropriation.

Recommendation

The recommendation is the approval of the ordinance authorizing the appropriation of \$400 to cover the expense to Burgaw Rotary Club in relation to the hole sponsorship at their annual golf tournament.

Board Action

Approval of Motion/Recommendation _____

Denial of Motion/Recommendation _____

Table Decision on Motion _____

ORDINANCE 2015-23

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

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2015-2016 on June 9, 2015; and

WHEREAS, the Town of Burgaw agreed to sponsor a hole and team at the Burgaw Rotary Club's Annual Golf Tournament; and

WHEREAS, the cost for a hole and team sponsorship is \$400; and

WHEREAS, the Town of Burgaw will require a general fund fund balance appropriation to cover the expense to sponsor a hole and team at the Burgaw Rotary Club Gold Tournament.

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

Section 1: The FY 2015-2016 budget be altered to reflect the following changes:

INCREASE BUDGETED REVENUE

Account Number	Account Description	Amount
10-3900-00-900	Fund Balance Appropriated	\$400

INCREASE BUDGETED EXPENDITURE

Account Number	Account Description	Amount
10-4100-00-570	Governing Body - Miscellaneous	\$400

Adopted this the 13TH day of October 2015.

Attest: _____
Sylvia W. Raynor, Clerk

Eugene Mulligan, Mayor

DEPARTMENTAL ITEMS

Fire Department

- 8. Truck Replacement Request – *Allen Wilson, Fire Administrator***



Burgaw Fire Department

Administrative Memorandum



To: Town of Burgaw Board of Commissioners

From: Allen Wilson, Fire Administrator/Fire Marshal

Date: September 23, 2015

Subject: Request to replace current fire department pickup due to extensive repair cost

The purpose of this memorandum is to request approval to replace the fire department pickup truck. As you were made aware at the last board meeting, the fire department pickup is in need of major repair. I have taken it to the Ford Diesel Repair Shop at Capital Ford in Wilmington. The cost estimate to repair the truck is \$3,996.61. This truck has Ford's 6.0 liter engine that has a history of major repair problems. We have spent \$5,250.26 on this truck for various repairs since I came here in August of 2013. I have also been made aware of various other issues that have needed repair just before my arrival. We have two options; we can fix it, or we can trade it in and replace it with a smaller half ton gas engine truck, which would suit the fire department better and save on fuel and maintenance costs in the long term. We have received several quotes (based on state contract pricing) for new trucks and trade-in values. I have listed them below.

Dealer	Make	Price	Trade	Total Owed
Fairway Ford	Ford F150	\$33,259	\$10,000	\$23,259
Safe Way Chevrolet	Chevrolet Silverado	No response		
Bob King GMC	GMC Sierra	\$34,183	\$12,000	\$22,183
Jeff Gordon Chevrolet	Chevrolet Silverado	No response		
Capital Ford	Ford F150	\$32,346	\$12,000	\$20,346
Sir Walter Chevrolet	Chevrolet Silverado	\$29,267	\$15,000	\$14,267

Sir Walter Chevrolet in Raleigh has the lowest price on the truck and the highest offered trade-in value. Sir Walter still needs to see and evaluate the truck, but I do not expect much difference in trade-in, if any at all. I have compared the different manufactures to each other and they are comparable. The Ford has a few more standard features, which may be why the price is higher. I did contact the Chevrolet Dealership and they ran numbers on a Silverado with many of the same features and it still came out over a thousand dollars cheaper.

Based on the significant price difference, I feel we should move forward and have the current pickup evaluated by Sir Walter Chevrolet in Raleigh, NC, and if the trade-in value stands or does not increase the overall purchase price more than the other dealers, then we purchase the Chevrolet from them. The Fire Department is requesting a fund balance appropriation if \$15,000.00 for the purchase of this vehicle.

Respectfully,

Allen Wilson

DEPARTMENTAL ITEMS

Planning Department

9. **Discussion regarding the waiving of a condition to the Walmart commercial planned building group conditional use permit requiring a new traffic count – *Rebekah Roth, Planning Administrator***

Planning Item

Discussion regarding the waiving of a condition to the Walmart commercial planned building group conditional use permit requiring a new traffic count.

Background. On March 18, 2014, the Board of Commissioners placed a condition on the conditional use permit for the Walmart commercial planned building group that would require a new traffic count be conducted six months after the store opening to ensure the project's traffic improvements were sufficient to handle the additional traffic generated by the use. The store opened on May 20, 2015, and this traffic count will be required in November unless the condition is waived by the Board of Commissioners due to changing circumstances. Since the store opening, the Bojangle's across the street has also opened, so it is no longer possible to determine what traffic has been generated by Walmart and what has been generated by Bojangle's.

Based on the outcome of this discussion, staff will inform representatives of Walmart whether a traffic count will be required.

ITEMS FROM ATTORNEY

10. To be announced

ITEMS FROM MANAGER

- 11. Approval of the Agreement with the North Carolina Department of Transportation Regarding the Construction of the Sidewalk along South Walker Street to the Pender Adult Services Facility**
- 12. Resolution 2015- 40 Consideration of Approving a Business Improvement District Grant in the Amount of \$4,143.90 to Karen Harding for the Purpose of Constructing a Two Bedroom Apartment at 119-A South Wright Street**
- 13. Discussion – Draft release for use of exercise equipment in Fire Department**
- 14. Other items from the Manager to be announced**

Discussion Item**Approval of the Agreement with the North Carolina Department of Transportation
Regarding the Construction of the Sidewalk along South Walker Street to the Pender
Adult Services Facility****Background**

The Town of Burgaw has been awarded \$306,000 to complete the construction of the sidewalk to the Senior Center. As part of the appropriation from the NC General Assembly, the project and associated funds must be administered through NCDOT and their applicable policies and specifications.

The attached agreement outlines the terms of the agreement between the Town of Burgaw and NCDOT regarding how the project will be administered but most importantly who is responsible for funds required to complete the project in excess of the \$306,000 appropriated by the General Assembly. As stated in the agreement, the Town will be responsible for the proceeds needed to complete the job if the project exceeds the \$306,000 appropriated. Pursuant to the latest draft of the agreement, in the event that the project exceeds this amount DOT will order all work to stop and obtain written approval from the Town prior to proceeding with any further work. The Town would proceed with the knowledge that all work approved as part of the written approval would be paid for by the Town.

Recommendation

The recommendation is the approval of the agreement so long as the Board is comfortable with the stated terms (particularly the highlighted section on page two).

Board Action

Approval of Motion/Recommendation _____

Denial of Motion/Recommendation _____

Table Decision on Motion _____

NORTH CAROLINA
PENDER COUNTY

SIDWALK AGREEMENT

DATE: 9/28/2015

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

AND

WBS Element: 44493

TOWN OF BURGAW

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and Town of Burgaw, hereinafter referred to as the "Municipality".

WITNESSETH:

WHEREAS, the Department has plans to make certain improvements under WBS 44493 in Pender County; and,

WHEREAS, the Department and the Municipality have approved the construction of said Project with responsibilities for the Project as hereinafter set out.

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows

SCOPE OF THE PROJECT

1. The Project consists of the installation of concrete sidewalk along West Satchwell Street to US 117 Business (Walker Street) & along US 117 Business (Walker Street) from West Satchwell Street to the Pender Senior Center (hereinafter the "Project").

PHASES OF THE WORK

2. The Department shall be responsible for all phases of the project, including planning, design, right of way, utilities, construction and contract administration. All work shall be done in accordance with Departmental standards, specifications, policies and procedures.

AKB

FUNDING

3. The Department shall be responsible for the cost of the Project up to a maximum amount of \$306,000. The estimated cost is \$306,000. Costs which exceed this amount shall be borne by the Municipality.
4. Upon completion of the project, the Department shall bill the Municipality for all costs above \$306,000 as herein stated by submitting an itemized invoice to the Municipality. Reimbursement shall be made by the Municipality within sixty (60) days of the date of the invoice. The Department shall charge a late payment penalty and interest on any unpaid balance due in accordance with G.S. 147-86.23.
5. Should it be determined by the Department prior to completion of the work, that the cost of the project will exceed the total estimated cost of \$306,000, the Department shall cease all work and obtain written authorization from the Municipality to incur costs above the estimated cost of \$306,000 and to proceed with the work. The Municipality is not responsible for any expenditure by the Department over \$306,000 for which advance written authorization from the Municipality has not been obtained. Upon completion of the Project, the Municipality shall reimburse the Department any underpayment within sixty (60) days of invoicing by the Department. The Department shall charge a late payment penalty and interest on any unpaid balance due in accordance with G.S. 147-86.23.
6. In the event the Municipality fails for any reason to pay the Department in accordance with the provisions for payment herein above provided, North Carolina General Statute 136-41.3 authorizes the Department to withhold so much of the Municipality's share of funds allocated to said Municipality by the General Statutes of North Carolina, Section 136-41.1 until such time as the Department has received payment in full under the reimbursement terms set forth in the Agreement.

MAINTENANCE

7. The Municipality, at its own expense, shall be responsible for all liability and maintenance responsibilities for the sidewalk upon completion and acceptance of the project.

ADDITIONAL PROVISIONS

8. If changes or revisions are needed, a Supplemental Agreement will be prepared.

9. It is the policy of the Department not to enter into any agreement with another party that has been debarred by any government agency (Federal or State). The Municipality certifies, by signature of this Agreement, that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Department or Agency.
10. To the extent authorized by state and Federal claims statutes, each party shall be responsible for its respective actions under the terms of this agreement and save harmless the other party from any claims arising as a result of such actions.
11. All terms of this agreement are subject to available departmental funding and fiscal constraints.
12. This Agreement contains the entire agreement between the parties and there are no understandings or agreements, verbal or otherwise, regarding this Agreement, except as expressly set forth herein.
13. The parties acknowledge that the individual executing the Agreement on their behalf is authorized to execute this Agreement on their behalf and to bind the respective entities to the terms contained herein and that he has read this Agreement, conferred with his attorney, and fully understands its contents.
14. A copy or facsimile copy of the signature of any party shall be deemed an original with each fully executed copy of the Agreement as binding as an original, and the parties agree that this Agreement can be executed in counterparts, as duplicate originals, with facsimile signatures sufficient to evidence an agreement to be bound by the terms of the Agreement.
15. By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST:

TOWN OF BURGAW

BY: _____ BY: _____

TITLE: _____ TITLE: _____

DATE: _____

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Approved by the local governing body of the Town of Burgaw on _____ (Date)

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

(SEAL)

(FINANCE OFFICER)

Federal Tax Identification Number

Remittance Address:

Town of Burgaw

Attention: Mr. Chad McEwen, Town Manager

109 N. Walker Street

Burgaw, NC 28425

DEPARTMENT OF TRANSPORTATION

BY: _____
(CHIEF ENGINEER)

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____

Consideration of Resolution 2015-40 Approving a Business Improvement District Grant in the Amount of \$4,143.90 to Karen Harding for the Purposes of Constructing a Two Bedroom Apartment at 119-A South Wright Street

Background

Last year the applicant, Karen Harding, applied for and was awarded a BID grant in the amount of \$4,143.90 for the above referenced property. Pursuant to the resolution that approved the grant last year, the applicant had until the end of the fiscal year (June 30, 2015) to receive an unconditional certificate of occupancy. Since the grant expired, the applicant was required to reapply for BID funds.

Recommendation

Pursuant to the attached resolution, the recommendation is the approval of the BID grant to Karen Harding in the amount of \$4,143.90 for the construction of a two bedroom apartment located at 119-A South Wright Street.

Board Action

Approval of Motion/Recommendation_____

Denial of Motion/Recommendation_____

Table Decision on Motion_____

RESOLUTION 2015-40**APPROVING A BUSINESS IMPROVEMENT DISTRICT GRANT IN THE AMOUNT OF \$4,143.90 TO KAREN HARDING FOR THE PURPOSES OF CONSTRUCTING A TWO BEDROOM APARTMENT AT 119-A SOUTH WRIGHT STREET**

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

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

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

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

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

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

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

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

- 1) Applicant must complete proposed new construction of the two bedroom apartment by June 30, 2016. Completion is defined by the applicant receiving an unconditional certificate of occupancy from the Town's Building Inspections Department.
- 2) Grant funds provided as part of the BID are provided for the sole purposes of paying incurred water and sewer impact fees related to the proposed new development activity within the downtown area.
- 3) Funds will be paid from the Town's General Fund directly to the Town's Water and Sewer Fund-Impact Fee Revenue line item upon the issuance of the unconditional certificate of occupancy from the Town's Building Inspections Department

- 4) Funds appropriated and subsequently paid as part of this grant process are only eligible for the above referenced property. Grant funds are nontransferable in regard to the above referenced property and/or the above referenced applicant.

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

Witness my hand and the corporate seal of said Town of Burgaw this the thirteenth day of October, 2015.

Attest: _____
Sylvia W. Raynor, Town Clerk

Signed: _____
Eugene Mulligan, Mayor

Discussion Item

Discussion Regarding the Release of Liability for Users of the Fitness Room

Background

During the discussion regarding the purchase of the new fitness equipment that is being purchased by the Town the need for a release of liability was discussed for all users (current employees, active fireman, and elected officials). Please find the attached release of liability that has been drafted.

Recommendation

The recommendation is the approval of the attached release

Board Action

Approval of Motion/Recommendation _____

Denial of Motion/Recommendation _____

Table Decision on Motion _____



TOWN OF BURGAW FITNESS ROOM RELEASE

In consideration of my use of the exercise equipment and facilities provided by the Town of Burgaw, I expressly agree and contract, on behalf of myself, my heirs, executors, administrators, successors and assigns, that the company and its insurers, employees, officers, directors, elected officials, and associates, shall not be liable for any damages arising from personal injuries (including death) sustained by me, on, or about the premises, or as a result of the use of the equipment or facilities, regardless of whether such injuries result, in whole or in part, from the negligence of the Town of Burgaw.

By the execution of this agreement, I accept and assume full responsibility for any and all injuries, damages (both economic and non-economic), and losses of any type, which may occur to me, and I hereby fully and forever release and discharge the Town of Burgaw, its insurers, employees, officers, directors, elected officials, and associates, from any and all claims, demands, damages, rights of action, or causes of action, present or future, whether the same be known or unknown, anticipated, or unanticipated, resulting from or arising out the use of said equipment and facilities.

I expressly agree to indemnify and hold the company harmless against any and all claims, demands, damages, rights of action, or causes of action, of any person or entity, that may arise from injuries or damages sustained by me.

I agree to be solely responsible for my personal safety and well-being while utilizing said equipment and facilities. I understand that the Town of Burgaw does not provide supervision, instruction, or assistance for the use of said facilities and equipment.

I agree to comply with all rules imposed by the Town of Burgaw regarding the use of the facilities and equipment. I agree to conduct myself in a controlled and reasonable manner at all times, and to refrain from using any equipment in a manner inconsistent with its intended design and purpose.

I understand that the facilities and equipment are solely for the use of current town employees, active fire department volunteers, and current elected officials.

I understand and acknowledge that the use of exercise equipment involves risk of serious injury, including permanent disability and death.

I understand and agree that the company is not responsible for property that is lost, stolen, or damaged while in, on, or about the premises.

I understand and agree that my use of the facilities and equipment is only to be undertaken on my own personal time outside my normal or scheduled working hours, and that my use of the facilities and equipment is not within the course or scope of my employment.

I understand and agree that my use of the facilities and equipment may be revoked if I fail to adhere to the terms of this release and the any other rules of use adopted by the Town of Burgaw.

I HAVE READ THE FOREGOING WAIVER AND RELEASE OF LIABILITY AND VOLUNTARILY EXECUTED THIS DOCUMENT WITH FULL KNOWLEDGE OF ITS CONTENT.

Date: _____

Signature: _____

Print Name

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

15. To be announced

16. BREAK (5:30 or thereabout)

There will be a five minute break in order to allow citizens to sign-up for Public Forum and Public Hearings.

17. PUBLIC FORUM

The Public Forum is for non-public hearing items only. Speakers must sign in, step to the podium when recognized, state your name and residence address and limit remarks to three (3) minutes per speaker.

PUBLIC HEARINGS

Public Hearing #1 – *Kim Rivenbark, Permitting Technician*

18. Consideration of an application for a conditional use permit for an Automobile Sales, New and Used use to be located at 1638 NC Hwy 53 E

Public Hearing #2 – *Rebekah Roth, Planning Administrator*

19. Consideration of an amendment to the Town of Burgaw Code of Ordinances, Chapter 4 Animals and Fowl regarding skinning and butchering of game
20. Ordinance 2015-24 Amending the Town of Burgaw Code of Ordinances Chapter 4, Animals and Fowl, Regarding Skinning and Butchering of Game

Public Hearing #3 - *Robert Kenan, Attorney*

21. Consideration of an ordinance to amend the Town of Burgaw Code of Ordinances to designate alternate public forum to exercise free speech during festivals located within the corporate limits of the town
22. Ordinance 2015-25 Amending Town of Burgaw Code of Ordinances to Designate Alternate Public Forum to Exercise Free Speech During Festivals Located Within the Corporate Limits of the Town

Public Hearing #4

23. Consideration of a budget amendment to the FY 2015-2016 Town of Burgaw schedule of fees regarding a cost increase related to residential debris removal - *Ashley Loftis, Finance Officer*
24. Ordinance 2015-26 Amending Schedule of Fees Regarding Fees Associated with the Removal of Vegetative Debris, Construction Debris and Demolition Debris - *Ashley Loftis, Finance Officer*
25. Resolution 2015-41 Approving Amendments to the Yard Waste, Bulky Item and Debris Collection Policy – *Bill Fay, Director of Public Works*

Public Hearing #5

26. Consideration of a budget amendment to the FY 2015-2016 Town of Burgaw schedule of fees regarding a cost increase related to customer deposits, hydrant meter fees and water for cleaning/repair fees - *Ashley Loftis, Finance Officer*
27. Ordinance 2015-27 Amending Schedule of Fees Related to Customer Deposits, Hydrant Meter Fees and Water for Cleaning/Repair Fees - *Ashley Loftis, Finance Officer*
28. Resolution 2015-42 Approving Amendments to the Town's Utility Policy – *Chad McEwen, Town Manager*

PUBLIC HEARINGS

Public Hearing #1 – *Kim Rivenbark, Permitting Technician*

- 18. Consideration of an application for a conditional use permit for an Automobile Sales, New and Used use to be located at 1638 NC Hwy 53 E**

Public Hearing #1. Consideration of an application for a conditional use permit for an Automobile Sales, New and Used use to be located at 1638 US Hwy 53 E.

Applicant Brandon Carl Piner has applied for a conditional use permit for an "Automobile Sales, New and Used" use to be located at 1638 US Hwy 53 E (PIN 3320-70-8564-0000) outside the Town of Burgaw corporate limits.

GENERAL INFORMATION

Applicant: Brandon Carl Piner
325 Old Blakes Bridge Rd
Burgaw, NC 28425

Property Owner: Casey E R Estate

Site: 1638 US Hwy 53 E

Current Zoning: B-2 with C/P on rear portion

Size: 9.77 Acres

Existing Land Use: Commercial

Summary

The applicant is applying for a conditional use permit for an "Automobile Sales, New and Used" use to be located at 1638 US Hwy 53 E, located on the east side of the building also occupied by Lopez Tires and Destination Community Church



Hearing Agenda

1. Swearing in of all persons wishing to present evidence (required for quasi-judicial hearings)
2. Board disclosure of site visits, ex parte communication, specialized knowledge, bias, and conflicts of interest, if necessary
3. Opening of hearing
4. Presentation of staff report by Planning Administrator
5. Presentation of evidence by applicant & cross-examination
6. Presentation of evidence by citizens & cross-examination
7. Comments and questions from Mayor and Commissioners
8. Closing of public hearing
9. Discussion by Mayor and Commissioners
10. Findings of fact for standards of evaluation
11. Final vote on issuance of permit

Exhibit 1: Copy of Application

Exhibit 2: Site Plan

Exhibit 3: Site Plan 2

Exhibit 4: Landscape Plan

Exhibit 5: Letter from Mr. Piner regarding right-of-way

Exhibit 6: Aerial Photo

Exhibit 7: Zoning Map

Exhibit 8: Flood Map

Exhibit 9: Future Land Use Map

Exhibit 10: Photo of Existing Site

HISTORY/SITE DESCRIPTION/ANALYSIS

Currently, the property is the site of a residential structure occupied by Mr. Leddell Casey and the subject commercial structure. The west side of the building is occupied by a grandfathered "Tire Repair Shop" and Destination Community Church that was granted a Conditional Use Permit on April 9, 2013. The proposed auto sales business will be located in the small office that is on the east side of the building, and parking for the cars for sale will be in the fenced-in lot on the east side of the building.

STANDARDS FOR REVIEW

In reviewing the permit application, the Town of Burgaw Board of Commissioners shall find as a specific finding of fact and reflect in their minutes if the permit will comply with the following standards based on the evidence presented at the hearing.

As a note, the attached evidence has been reviewed by town staff. As of October 5, 2015, there is no additional information to include with the agenda packet. All information and exhibits have been submitted in the Staff Report that was delivered on Tuesday September 29, 2015. Additional copies of exhibits are available in the planning office if needed.

Standard 1. The use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved.

Evidence:

- The Applicant has included a site plan indicating the current planned placement of 5 to 10 cars for sale, all parked inside the fenced in area of the property.
- The hours of operation will be 9:00am to 6:00pm Monday through Saturday.
- Applicant has stated that he will install an exterior light on the side of the building and may potentially install a light on the existing pole on the property.
- Per staff conversations with NCDOT, the applicant will need to obtain a driveway permit and may or may not be required by NCDOT to pave the driveway.

Staff Recommendation:

Staff has determined that additional information and consideration is needed for the following items:

- The applicant has stated that he will install one exterior light on the side of the building. Additional evidence is needed to determine if one exterior light will provide adequate lighting.

Based on the application and additional evidence, staff recommends the following conditions:

- Applicant shall acquire an NCDOT driveway permit prior to issuance of a building permit, if required, or prior to opening business.

Standard 2. The use meets all required conditions and specifications.**Evidence:**Buffering and Screening

- There is no residentially used or zoned lot to the east of the property, so no additional buffering or screening is required.

Setbacks

- The applicant has submitted a site plan indicating that all vehicles will be located outside of the state right-of-way. The office for the business will be located inside of the existing nonconforming structure.

Landscaping

- Based on the landscaping plan submitted by the applicant, the applicant's proposal does not meet all requirements.
 - A perimeter landscape is required for the display area.
 - The minimum width of such strip shall be twelve (12) feet.
 - For every thirty (30) linear feet or fraction thereof the perimeter landscape strip shall contain one(1) canopy tree of at least eight (8) feet in height, and a continuous row of at least six (6) evergreen shrubs at least eighteen (18) inches in height.

Staff Recommendation:

Staff has determined that additional information and consideration is needed for the following items:

- The applicant has not indicated the exact display area for the cars to determine the location of needed perimeter landscaping.

Based on the application and additional evidence, staff recommends the following conditions:

- The applicant shall install perimeter landscaping along the display area. If future expansion of display area occurs, then the applicant shall extend the perimeter landscaping to encompass all display areas.
- Plans showing the placement and type of these shrubs shall be approved by the planning administrator prior to vehicle display on the property.

Standard 3. The use will not adversely affect the use of or any physical attribute of adjoining property, or the use is a public necessity.

Evidence:

- The use is not a public necessity.
- This property is located in the floodway.
 - The applicant has proposed installing a fence to screen the rear of the property. The proposed fencing may require a flood development permit.
- There is no evidence indicating that this use will affect the use or any physical attribute of adjoining or abutting property.

Staff Recommendation:

- The applicant may choose, if desired, to plant a vegetative buffer along the rear of the property instead of the proposed fencing.

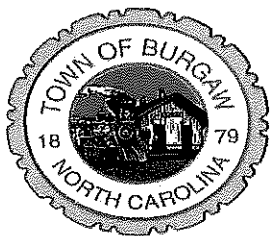
Standard 4. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Town of Burgaw Unified Development Ordinance, Burgaw 2030 Comprehensive Land Use Plan, and NC Hwy 53 Corridor Study.

Evidence:

- The site for the proposed business is currently zoned Highway Business and is designated as Rural Transition in the Burgaw 2030 Comprehensive Land Use Plan. By definition, the Rural Transition designation highlights lands that are in proximity to developed areas and would be prime for development if not for environmental concerns such as floodway.
- The subject property is adjacent to commercially zoned tracts and across from vacant residentially zoned tracts.
- This property is not covered by the NC Highway 53 Corridor Study, which only covers the portion of Hwy 53 from Smith St to the area around the intersection with Hwy 117.

Staff Recommendation:

- Unless additional information is presented at the public hearing, the evidence provided in the application indicates this standard has been met.



Conditional Use Check Sheet: Findings of Fact and Additional Conditions

A. FINDINGS OF FACT

In reviewing the permit application, the Town Board of Commissioners shall find as a specific finding of fact and reflect in their minutes if the permit will comply with the following four standards. Each board member shall determine whether or not the plan as presented will meet each standard as based on evidence presented in open meeting with a "yes" finding, indicating the standard is met, or a "no" finding, indicating the standard has not been met. If a board member determines that the standard has not been met, he or she will state for the record the evidence upon which that determination is based. A majority vote will determine if the standard has been met for the purpose of granting or denial of a conditional use permit.

In approving the conditional use permit, the Planning Board may recommend and the Town Board of Commissioners may designate such conditions in addition to any such required by the Unified Development Ordinance. Each of these additional conditions imposed must be based on bringing the project into compliance with the four findings of fact or additional standards as outlined by the Ordinance and on substantial, competent, and material evidence entered into the record.

1. The use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved.

Yes _____

No _____

Additional Conditions:

- Applicant shall acquire an NCDOT driveway permit prior to issuance of a building*
- a. *permit, if required, or prior to opening business.*
 - b. _____

2. The use meets all required conditions and specifications.

Yes _____

No _____

Additional Conditions:

- The applicant shall install perimeter landscaping along the display area. If future expansion of display area occurs, then the applicant shall extend the perimeter*
- a. *landscaping to encompass all display areas.*
 - b. *Plans showing the placement and type of these shrubs shall be approved by the planning administrator prior to vehicle display on the property.*

3. The use will not adversely affect the use of or any physical attribute of adjoining or abutting property OR the use is a public necessity.

Yes _____

No _____

Additional Conditions:

- The applicant may choose, if desired, to plant a vegetative buffer along the rear of the*
a. *property instead of the proposed fencing.*

b. _____

4. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Town of Burgaw Unified Development Ordinance, Burgaw 2030 Comprehensive Land Use Plan, and NC Highway 53 Corridor Study.

Yes _____

No _____

Additional Conditions:

a. _____

b. _____

PUBLIC HEARINGS

Public Hearing #2 – *Rebekah Roth, Planning Administrator*

- 19. Consideration of an amendment to the Town of Burgaw Code of Ordinances, Chapter 4 Animals and Fowl regarding skinning and butchering of game**
- 20. Ordinance 2015-24 Amending the Town of Burgaw Code of Ordinances Chapter 4, Animals and Fowl, Regarding Skinning and Butchering of Game**

Public Hearing #2**Consideration of an amendment to the Town of Burgaw Code of Ordinances Chapter 4, Animals and Fowl regarding skinning and butchering of game.**

Based on a discussion at the September 8, 2015 Board of Commissioners meeting, the Board decided to hold a public hearing regarding a potential change to the Town of Burgaw Code of Ordinances that would:

- Specifically address the skinning and butchering of game;
- Require that the skinning and butchering be screened so as not to be visible on adjacent property and the public right-of-way and must be conducted in such a manner as to ensure no offal was left on the ground;
- Limit the time that the carcass could be within the town limits to 5 hours;
- Specify that the carcass and offal could not be buried or otherwise disposed of within town limits, including a prohibition of any animal matter being placed in roll carts, dumpsters, or other trash receptacles; and
- Place a \$50 daily fine if someone is found in violation.

The attached code amendment would include those provisions in the Animal and Fowl portion of the town code, which deals with items such as dead animals, bird sanctuary provisions, and keeping hogs and swine.

Background. At the August 11, 2015 Board of Commissioners meeting, two residents of the town informed the board during the public forum of an issue they had with their neighbor's plans to skin and butcher deer in his back yard, immediately adjacent to the complainant's yard. Staff researched the provisions other municipalities across the state had for this type of activity, and the policy and finance board discussed the matter and recommended a change to the town code that would address this issue. The item was discussed by the board, the complainants, their neighbor, and other town residents at the September 8, 2015 board meeting.

ORDINANCE 2015-24**AMENDING THE TOWN OF BURGAW CODE OF ORDINANCES CHAPTER 4,
ANIMALS AND FOWL, REGARDING SKINNING AND BUTCHERING OF GAME**

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;

WHEREAS, the Town of Burgaw Code of Ordinances Chapter 4 outlines a variety of provisions regarding animals, including disposition of dead animals, bird sanctuary provisions, and keeping hogs and swine; and

WHEREAS, the Town of Burgaw Board of Commissioners desires that the skinning and butchering of game within the corporate limits be regulated so as to reduce the negative effects of this common practice on adjacent property owners and other town residents;

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

SECTION 1. The Town of Burgaw Code of Ordinances Chapter 4, Animals and Fowl, now includes:

Section 4-7. Skinning and butchering of game.

The skinning and butchering of game, including wild animals and birds, is allowed on residential properties; provided that all skinning and butchering be screened so as not to be visible on adjacent property and the public right-of-way and must be conducted in such a manner as to ensure no offal is left on the ground. All carcasses and offal must be removed from the town limits within five hours of initially being brought to the property and shall not be buried or otherwise disposed of within town limits. Specifically, no carcasses or offal shall be placed in roll carts, dumpsters, or other trash receptacles. Any person found in violation of these provisions shall be subject to a fine of \$50 per day in violation.

SECTION 2. This amendment to the Town of Burgaw Code of Ordinances becomes effective immediately upon adoption of this ordinance on the 13th day of October 2015.

Attest: _____ Signed: _____

Sylvia W. Raynor, Clerk

Eugene Mulligan, Mayor

PUBLIC HEARINGS

Public Hearing #3 - *Robert Kenan, Attorney*

- 21. Consideration of an ordinance to amend the Town of Burgaw Code of Ordinances to designate alternate public forum to exercise free speech during festivals located within the corporate limits of the town**
- 22. Ordinance 2015-25 Amending Town of Burgaw Code of Ordinances to Designate Alternate Public Forum to Exercise Free Speech During Festivals Located Within the Corporate Limits of the Town**

Consideration of an ordinance to amend the Town of Burgaw Code of Ordinances to designate alternate public forum to exercise free speech during festivals located within the corporate limits of the town

At the August Board of Commissioners meeting there was discussion regarding an individual who has notified an attorney that his free speech rights were violated when he was voicing his religious opinions to the public in attendance at the Blueberry Festival. Attorney Kenan was directed to draft an ordinance for review regarding this issue.

At the September Board of Commissioners meeting, Attorney Kenan presented a draft ordinance in regards to setting aside a designated area on the west side of the railroad bed near the Family Dollar for expressing free speech during times that the court house square is reserved for festivals and special events. This ordinance has been reviewed and recommended by the Policy/Finance Board and was also discussed at length at the September Board of Commissioners meeting.

Ordinance 2015-25 is attached.

ORDINANCE 2015-25**ORDINANCE TO AMEND TOWN OF BURGAW CODE OF ORDINANCES TO DESIGNATE ALTERNATE PUBLIC FORUM TO EXERCISE FREE SPEECH DURING FESTIVALS LOCATED WITHIN THE CORPORATE LIMITS OF THE TOWN**

WHEREAS, the Pender County Courthouse Square is a traditional public forum, which is open to the general public to exercise each individual's right of free speech pursuant to the First Amendment to the United States Constitution; and

WHEREAS, at certain limited times during a calendar year, festivals are held on the grounds of the Pender County Courthouse Square and the sidewalks and streets located within the immediate area to the Pender County Courthouse Square; and

WHEREAS, during these festivals, the festival committee who is sponsoring the festival shall have received prior authorization from the Town of Burgaw and the County of Pender to utilize the Pender County Courthouse Square and the adjacent sidewalks and streets for the utilization of these public areas during designated times for the purpose of having and conducting their festival activities; and

WHEREAS, in order to eliminate any conflicts as to the priority over the use of the public areas utilized during a festival and to avoid any infringement on an individual's right to exercise their right of free speech during a festival, the Town of Burgaw believes that it is in the best interest of the public that an alternate public forum be designated during a festival for a person to go to and exercise their right of free speech;

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

I. Amend the Town of Burgaw Code of Ordinances to add Section 24-30 as follows:

Sec. 24-30. – Designation of Alternate Public Forum To Exercise Free Speech

During any festival where the Pender County Courthouse Square is utilized for festival activities, the western portion of the block located between West Bridgers Street and West Wilmington Street and immediately adjacent to North Dudley Street shall be designated as the alternate public forum for any individual who desires to exercise their right of free speech pursuant to the First Amendment to the United States Constitution from 7:00 a.m. on the day before the commencement of the festival until 7:00 p.m. on the day after the commencement of the festival. The designation of this alternate public forum shall be effective only when the Pender County Courthouse Square and the sidewalks and streets located within the immediate area to the Pender County Courthouse Square have been authorized by the Town of Burgaw's governing body to be utilized for festival activities pursuant to a request by an organized festival committee. Unless otherwise preempted by an ordinance of the County of Pender, a resolution of the governing body of the County of Pender, federal or North Carolina law, the Pender County

Courthouse Square is acknowledged as a public forum where members of the public can exercise their right to free speech.

II. That this ordinance shall become effective at 12:01 a.m., on October 14, 2015.

Witness my hand and the corporate seal of said Town of Burgaw this the thirteenth day of October, 2015.

Attest: _____ Signed: _____
Sylvia W. Raynor, Clerk Eugene Mulligan, Mayor

PUBLIC HEARINGS

Public Hearing #4

- 23. Consideration of a budget amendment to the FY 2015-2016 Town of Burgaw schedule of fees regarding a cost increase related to residential debris removal - *Ashley Loftis, Finance Officer***
- 24. Ordinance 2015-26 Amending Schedule of Fees Regarding Fees Associated with the Removal of Vegetative Debris, Construction Debris and Demolition Debris - *Ashley Loftis, Finance Officer***
- 25. Resolution 2015-41 Approving Amendments to the Yard Waste, Bulky Item and Debris Collection Policy – *Bill Fay, Director of Public Works***

Public Hearing #4

Consideration of a budget amendment to the 2015-2016 Town of Burgaw Schedule of Fees to provide fees for debris removal.

At the September 8, 2015 Board of Commissioners meeting, Public Works Director Bill Fay presented a revised Yard Waste, Bulky Item and Debris Collection Policy. The Policy and Finance Committee had reviewed the proposed amendments at their August 27, 2015 meeting and recommended approval. The Board of Commissioners determined that a public hearing for the budget amendment should be scheduled for their October meeting.

The primary changes to the fee schedule include increased cost for debris removal by Public Works as well as clarification for what type of construction and demolition debris will be picked up by Public Works.

ORDINANCE 2015-26

***AMENDING FISCAL YEAR 2015-2016
ANNUAL BUDGET
Change to Schedule of Fees***

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2015-2016 on June 9, 2015; and

WHEREAS, the Schedule of Fees in the budget ordinance included several fees for the removal of debris; and

WHEREAS, the Town has concerns that the fees associated with the removal of vegetative debris along with construction and demolition debris are not adequate in relation to the Town's cost; and

WHEREAS, this issue was presented to the Town of Burgaw Policy and Finance committee for review and a recommendation was made by the committee to amend this fee as well as to clarify the type of construction and demolition debris to be picked up; and

WHEREAS, the Town Board of Commissioners approved these changes at the September 8, 2015 Board of Commissioners meeting.

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

The FY 2015-2016 Schedule of Fees be altered to reflect the following changes as attached.

Adopted this the 13TH day of October 2015.

Attest: _____
Sylvia W. Raynor, Clerk

Eugene Mulligan, Mayor

**TOWN OF BURGAW
SCHEDULE OF FEES
FISCAL YEAR 2015-2016**

(ATTACHMENT I)

GENERAL

Copies – black and white	\$.05 each
Copies – color	\$.15 each
CD	\$1.00 each

UTILITIES

Utility Deposit (water, sewer)	\$0 - \$150.00 Based on Credit History \$250 without verifiable identification
Residential Credit Check	\$5.00
Commercial Deposit	
<u>Gal. Mth. Usage</u>	<u>Deposit</u>
0-3000 gals.	\$125.00
3001-9000 gals.	\$250.00
9001-25000 gals.	\$700.00
25001-50000 gals.	\$1250.00
50001-100000 gals.	\$2500.00
100000-**	\$2500.00 min
Master Meter Deposit	\$150.00 Per Unit in Multi-Family Complexes
Irrigation Deposit	\$25.00

Water Rate (inside city limits, incl. bulk)

0-2000 gals.	\$ 9.26
2001-3000 gals.	.00463 per gal
3001-9000 gals.	.00493 per gal
9001-20000 gals.	.00507 per gal
20001- gals.	.00522 per gal

(outside city limits, incl. bulk)

0-2000 gals.	\$18.54 per gal
2001-3000 gals.	.00927 per gal
3001-9000 gals.	.00987 per gal
9001-20000 gals.	.01015 per gal
20001- gals.	.01044 per gal

Sewer Rate (inside city limits)	\$ 18.46 .009229 per gal
(outside city limits)	\$ 36.94 .001846 per gal

Solid Waste	\$17.75 (residential: 1 roll cart & recycling roll cart)
	\$34.75 (residential: 2 roll carts & recycling roll cart)
	\$34.00 (commercial roll cart & recycling bin)*

*Commercial customers may request recycling roll cart service in addition to their trash roll cart, for a total solid waste fee of \$34.75.

**Vegetative/Construction/Demolition Debris
pickup generated by services of a contractor
town trash customers**

Labor	\$30.00 \$40.00 per hour
Backhoe	\$40.00 \$50.00 per hour
Dumptruck	\$25.00 \$40.00 per hour

Resolution 2015-41 authorizing a change of the Vegetative Debris Policy to a Yard Waste, Bulky Item and Debris Collection Policy. Policy includes changes to fee schedule and provides volume limits for the collection of yard waste and other items.

Background

Burgaw Public Works collects yard waste, bulky items and C&D debris weekly to maintain Burgaw's appealing appearance. Recently multiple truckloads of debris are being put out for collection with the expectation that it will be collected by Public Works. Trash and other items that will fit into roll carts are also being put out for collection and the Friday collection is being used as an extra trash day.

Recommendation

The recommendation is for the approval of the attached policy.

Board Action

Approval of Motion/Recommendation _____

Denial of Motion/Recommendation _____

Table Decision on Motion _____

RESOLUTION 2015-41

YARD WASTE, BULKY ITEM AND DEBRIS COLLECTION POLICY

WHEREAS, the Town of Burgaw prides itself on maintaining the town and providing an appealing appearance for citizens, businesses, visitors, etc.; and

WHEREAS, the Town of Burgaw has for many years provided for the collection of yard waste, bulky items and other debris; and

WHEREAS, the Town of Burgaw desires to provide a revised policy for collection and disposal of yard waste, bulky items and other debris for all Town customers; and

WHEREAS, the Town of Burgaw's current policy needs to be changed to provide more efficient service to all the citizens of town; and

WHEREAS, recently there have been circumstances in which the intent of the current policy has been abused causing a strain on resources.

NOW THEREFORE BE IT RESOLVED by the Town of Burgaw Board of Commissioners that the attached yard waste, bulky item and debris collection policy is hereby approved.

ADOPTED this the thirteenth day of October, 2015.

Attest: _____
Sylvia W. Raynor, Town Clerk

Signed: _____
Eugene Mulligan, Mayor

Yard Waste, Bulky Item and Debris Collection Policy
October 2015

The Town of Burgaw will collect yard waste and bulky items from town trash customers (excluding multi-unit apartment complexes) at properties located within the town limits of Burgaw once a week, normally each Friday.

Yard Waste

*The Town of Burgaw will collect up to 5 cubic yards of yard waste generated by town trash customers from routine **maintenance** of vegetation at properties located within the town limits of Burgaw. An additional charge will apply for collection of large quantities of yard waste exceeding 5 cubic yards (4 X 4 X 8 feet). Yard waste is defined as bushes, clippings, vines, foliage, and/or limbs with a caliper size smaller than 8 inches in diameter. Trees and limbs smaller than 8 inches in diameter must be cut in lengths no longer than 8 feet in order to be collected by the town. At the Public Works Director's discretion, limbs and trees larger than stated above may be collected by the town based on the town's personnel and equipment capabilities pursuant to the fee schedule below. These services must be coordinated with the Public Works Director prior to the items being brought to the right of way.*

*Vegetative debris resulting from **land clearing** will not be collected and disposed of by the town regardless of the type or size of vegetation or who generated the debris.*

All yard waste eligible for collection must be placed along the right of way, out of the street, in an orderly fashion. Town employees shall not be responsible for raking the right of way in order to remove any remaining debris that is not removed by mechanized means. Mixed waste will not be collected.

Bulky Items

The Town of Burgaw will collect large items such as a furniture, mattresses, and appliances on the same day as yard waste.

Bulky item collection is intended for the occasional disposal of large items that will not fit into a roll cart but is not intended for a whole house clean out.

***MULTI-UNIT APARTMENTS ARE RESPONSIBLE FOR THE REMOVAL OF YARD WASTE
AND BULKY ITEMS FROM THEIR PROPERTY.***

***YARD WASTE AND BULKY ITEM COLLECTION IS NOT AN EXTRA TRASH DAY. ITEMS
THAT WILL FIT IN TRASH AND RECYCLE ROLL CARTS MUST BE PUT IN ROLL CARTS
FOR COLLECTION.***

Construction and Demolition (C&D) Debris Collection

The Town of Burgaw will collect debris, in accordance with this policy, generated by town trash customers. An additional charge will apply for Town collection of large quantities of C&D debris exceeding 2-1/2 cubic yards (2 X 4 X 8 feet), about the size of a pickup truck load. The Town of Burgaw will not collect any construction and demolition (C&D) debris generated by a contractor. Under no circumstances, is C&D debris to be placed in a roll cart, dumpster, or other refuse receptacle provided by the Town's solid waste provider.

Special Pick-Up

A customer may request a "Special Pick-Up" to have additional waste materials such as larger amounts of yard waste, household debris, furniture, "white goods," etc. removed. A special pick-up will be charged back to the customer based on the collection and disposal cost of the material. No additional fee will be charged for lesser amounts of yard waste or other items, and Christmas tree collection will remain free of charge.

Fee Schedule for Debris Removal

For services in excess of what is described and provided above, the Town, at the discretion of the Public Works Director, may pick up vegetative debris pursuant to the following charges:

<i>Labor</i>	<i>\$40.00 hr.</i>
<i>Backhoe</i>	<i>\$50.00 hr.</i>
<i>Dump truck</i>	<i>\$40.00 hr.</i>

All hourly charges shall be pro-rated and a minimum of 1 hour shall be charged for all services provided pursuant to this fee schedule. All associated fees shall be invoiced by the town and must be paid prior to collection.

PUBLIC HEARINGS

Public Hearing #5

- 26. Consideration of a budget amendment to the FY 2015-2016 Town of Burgaw schedule of fees regarding a cost increase related to customer deposits, hydrant meter fees and water for cleaning/repair fees - *Ashley Loftis, Finance Officer***
- 27. Ordinance 2015-27 Amending Schedule of Fees Related to Customer Deposits, Hydrant Meter Fees and Water for Cleaning/Repair Fees - *Ashley Loftis, Finance Officer***
- 28. Resolution 2015-42 Approving Amendments to the Town's Utility Policy – *Chad McEwen, Town Manager***

PUBLIC HEARINGS

Public Hearing #5

Consideration of a budget amendment to the FY 2015-2016 Town of Burgaw schedule of fees regarding a cost increase related to customer deposits, hydrant meter fees and water for cleaning/repair fees - *Ashley Loftis, Finance Officer*

At the September 8, 2015 Board of Commissioners meeting, Town Manager Chad McEwen presented a revised Utility Policy. The Policy and Finance Committee had reviewed the proposed amendments at their August 27, 2015 meeting and recommended approval. The Board of Commissioners determined that a public hearing for the budget amendment should be scheduled for their October meeting.

The primary changes to the fee schedule include increased security deposit for customers who do not have a social security number, new fees for bulk water purchases through hydrant meter rental and tank fillings and an increase in cost for water for cleaning/repairs.

ORDINANCE 2015-27

***AMENDING FISCAL YEAR 2015-2016
ANNUAL BUDGET
Change to Schedule of Fees***

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2015-2016 on June 9, 2015; and

WHEREAS, the Schedule of Fees in the budget ordinance included several fees pertaining to customer deposits with no social security deposits and fees related to water and sewer; and

WHEREAS, the Town has revised its Utility Policy to now include a high utility deposit for customers with no social security number, bulk water purchases through hydrant meter rental and tank fillings as well as the penalty for unauthorized use of the water and sewer system; and

WHEREAS, this revised policy was presented to the Town of Burgaw Policy and Finance committee for review and a recommendation was made by the committee to amend this policy and associated fees; and

WHEREAS, the Town Board of Commissioners approved these changes at the September 8, 2015 Board of Commissioners meeting.

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

The FY 2015-2016 Schedule of Fees be altered to reflect the following changes as attached.

Adopted this the 13TH day of October 2015.

Attest: _____
Sylvia W. Raynor, Clerk

Eugene Mulligan, Mayor

**TOWN OF BURGAW
SCHEDULE OF FEES
FISCAL YEAR 2015-2016**

(ATTACHMENT I)

GENERAL

Copies -- black and white	\$0.05 each
Copies -- color	\$0.15 each
CD	\$1.00 each

UTILITIES

Utility Deposit (water, sewer)	\$0 - \$150.00 Based on Credit History \$250 \$300 without verifiable identification
Residential Credit Check	\$5.00
Commercial Deposit	
<u>Gal. Mth. Usage</u>	<u>Deposit</u>
0-3000 gals.	\$125.00
3001-9000 gals.	\$250.00
9001-25000 gals.	\$700.00
25001-50000 gals.	\$1250.00
50001-100000 gals.	\$2500.00
100000-**	\$2500.00 min
Master Meter Deposit	\$150.00 Per Unit in Multi-Family Complexes
Irrigation Deposit	\$25.00

Water Rate (inside city limits, incl. bulk)

0-2000 gals.	\$ 9.26
2001-3000 gals.	.00463 per gal
3001-9000 gals.	.00493 per gal
9001-20000 gals.	.00507 per gal
20001- gals.	.00522 per gal

(outside city limits, incl. bulk)

0-2000 gals.	\$18.54 per gal
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Sewer Rate (inside city limits)	\$ 18.46 .009229 per gal
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Solid Waste	\$17.75 (residential: 1 roll cart & recycling roll cart)
	\$34.75 (residential: 2 roll carts & recycling roll cart)
	\$34.00 (commercial roll cart & recycling bin)*

*Commercial customers may request recycling roll cart service in addition to their trash roll cart, for a total solid waste fee of \$34.75.

**Vegetative/Construction/Demolition Debris
pickup generated by services of a contractor**

Labor	\$30.00 per hour
Backhoe	\$40.00 per hour
Dumptruck	\$25.00 per hour

Bulk Water Purchase:

Hydrant Meter Rental:	
Administrative Fee	\$50.00
Daily Hydrant Meter Rental Rate	\$10.00 per day
Monthly Hydrant Meter Rental Rate	\$300.00 per month
Bulk Rate	\$10.40 per 1,000 gal (\$0.0104 per gal)
Violation for misuse of hydrant meter	\$250.00 per day per violation
Replacement Costs:	
Hydrant Meter	\$1,000.00
RPZ Backflow	\$900.00
"S" Tube	\$300.00
Gate Valve	\$100.00
Hydrant Wrench	\$50.00

Tank Filling:

Administrative Fee**	\$10.00 per filling
Filling Station Rate***	\$25.00 per 1,000 gal

Low Flow Device Credit	\$25.00 toilet
	\$20.00 shower, faucet

Connection Fees

		(Inside city limits)		(Outside city limits)	
		<u>Water</u>	<u>Sewer</u>	<u>Water</u>	<u>Sewer</u>
	¾"	\$ 950	N/A	\$1,900	N/A
	1"	\$1,100	N/A	\$2,200	N/A
Turbo	2"	\$1,500	N/A	\$3,000	N/A
Compound	2"	\$1,500	N/A	\$4,000	N/A
	4"		\$650		\$1,300

Additional tap fee \$250 if bore is involved

Meter Purchase (installed)	¾"	\$250.00
	1"	\$400.00
	2"	\$1,300.00

Irrigation Meter Connection	\$300.00 Connection from existing service ¾"
	\$400.00 Connection from main line ¾"

Administrative Fee (amended 9/12/06)	\$35.00 Charge for non-payment or disconnect
	\$200.00 Charge for meter testing

Temporary Connect/Disconnect Fee	\$10.00 \$30.00 Clean-up water - 3 day limit
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Inactive Account Fee	\$25.00 (3 months or less)
	\$50.00 (greater than 3 months)

Returned Check Fee	\$25.00
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Impact Fee* (based on 360 gal/day)	\$4.89 water	\$10.00 Sewer
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Unauthorized use of water/sewer system	\$1,000 per day plus \$75 Administrative Fee
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* See attached water/sewer fee schedule (as adopted April 12, 2011)

**Administrative fee must be paid prior to each tank filling. Fee will not be pro-rated based on amount of water purchased.

***Town will not pro-rate the rate if less than 1,000 gallons are purchased.

Consideration of Resolution 2015-42 Regarding Amendments to the Town's Utility Policy

Background

The Policy and Finance Committee has reviewed the attached proposed revisions to the Utility Policy which outline the procedures that are to be followed in regard to water and services for our customers. The revised policy includes several amended sections as well as several new sections that establish procedures for how the following issues will be addressed:

- 1) Procedures for closing accounts in deceased individuals names
- 2) Filling of swimming pools
- 3) Leak adjustments
- 4) Meter errors
- 5) Hydrant and tank fillings

Initially the intention was to only add the procedures regarding how the Town would handle closing accounts in deceased individual's names. However, upon reviewing the Utility Policy to determine where the new section should be added it was realized that several sections warranted amending.

Recommendation

The recommendation is the approval of Resolution 2015-42.

Board Action

Approval of Motion/Recommendation _____

Denial of Motion/Recommendation _____

Table Decision on Motion _____

RESOLUTION 2015-42

RESOLUTION APPROVING AMENDMENTS TO THE TOWN'S UTILITY POLICY

WHEREAS, the Town wishes to update and amend its adopted policy regarding the utilization of the Town's water and sewer system and associated services, and

WHEREAS, these new and amended policies will help improve efficiency as it relates to delivery of these services, and

WHEREAS, these new and amended policies will provide the public with clear conditions and guidelines regarding these services, and

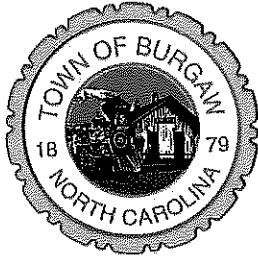
NOW THEREFORE BE IT RESOLVED by the Town of Burgaw Board of Commissioners that:

SECTION 1. The attached amendments to the Town of Burgaw Utility Policy are hereby approved.

Witness my hand and the corporate seal of said Town of Burgaw this the thirteenth day of October 2015.

Attest: _____
Sylvia W. Raynor, Town Clerk

Signed: _____
Eugene Mulligan, Mayor



TOWN OF BURGAW

UTILITY POLICY

REQUEST FOR SERVICE

Any customer requesting services will complete an application and agreement for services. The customer will provide:

- a. Photo identification, and social security number (for collection purposes)
- b. NC GS 105A-3 (c)) or Federal Tax ID in the case of a business account.
- c. Signature on the application.
- d. Online credit check. The current cost to the applicant is \$5.00.
- e. The customer may pay a deposit of \$300.00 and waive the credit check.

Customers requesting same day service must complete the application process before 2:00 pm in order for Public Works employees to provide service.

Account information changes - Any changes of account information, mailing address or account name should be made in writing by the account holder to avoid mistakes.

- a. Notwithstanding the exception below, all residential utility accounts must be in the name of an individual who is at least 18 years of age who residents at the address associated with the account.
- b. For rental property (residential and commercial), the owner of the property may be allowed to keep the utilities in their name despite not occupying the property associated with the account.
- c. Upon the death of any utility customer, a surviving spouse must transfer the service into their name within 90 days of the date of death. In the event that service is not transferred within 90 days, the Town reserves the right to discontinue service and apply the deposit (if applicable) to all outstanding balances owed to the Town in the name of the deceased individual's estate.
- d. Under circumstances where service is transferred into the name of a surviving spouse, no new credit check or deposit will be required, however, all held deposits will be transferred into the name of the surviving spouse.

- e. Unless otherwise provided by this section, existing service may not be continued in the name of a deceased person unless provided by Section 2 (c). In the event that no surviving spouse resides at the address of service the account will be closed 90 days after the date of death. Any deposit held by the Town, shall be applied to any outstanding balance. Any remaining portion of the deposit shall be mailed to the address associated with the account.

Business accounts – Business accounts are required to provide a Federal Tax ID and signature of an officer if it is a corporation or the social security number and signature of the owner of an unincorporated business.

The Town may decline service to any applicant if the owner of the property or the applicant has delinquent water accounts at any location with the Town.

CUSTOMER DEPOSITS

Deposits for residential customers are determined by the online credit check and range from 0 to \$150.00 based on the results. The fee for the credit check and the deposit must be paid in full prior to services being connected. If a credit check cannot be completed because a social security number is not provided, the deposit will be \$300.00.

Business deposits are based on anticipated usage of the business or similar business:

<u>Gal. Mth. Usage</u>	<u>Deposit</u>
0-3000 gals.	\$125.00
3001-9000 gals.	\$250.00
9001-25000 gals.	\$700.00
25001-50000 gals	\$1250.00
50001-100000 gals.	\$2500.00
100000-**	\$2500.00 min

** Deposits for high volume users will be determined on a case by case basis based on the best information available. For existing businesses that change ownership or discontinue service in one name and reestablish service in other name, the deposit will be based upon the average monthly usage over the last 12 months of service. For new businesses, deposits will be based on the anticipated usage, as determined by town staff, based on any existing similar uses present in the Town of Burgaw. Similar uses used for comparison will be determined based on the nature of the business conducted, number of employees, square footage of business, as well as other factors that are typically present with similar uses. Deposits may also be based on usage of similar businesses outside the Town of Burgaw.

Note: All previous balances associated with an existing business must be paid in full prior to the establishment of a new account in the event of a business relocating within Burgaw.

Master meter deposits for multi-family complexes are \$150.00 per unit. All newly constructed multi-family complexes are required to be on a master meter for the entire complex

Irrigation meter deposits are \$25.00.

All deposits are maintained by the Town until termination of service.

BILLING PROCEDURES

Water meters will be read every month by Town employees. The reading dates will vary slightly from month to month due to weekends, holidays and inclement weather. The optimum monthly billing period is 30 days; however, it may range from 27 to 33 days. Readings will begin on the 10th day of the month when possible.

After meters have been read the Customer Service Representative will upload readings to the utility billing system.

The readings will then be reviewed for excessive use, manually read meters that are unusually high or low, and meters that have not been read. The Customer Service Representative will then prepare a list of meters to be re-read and/or examined for leaks by the meter readers. The Customer Service Representative will make adjustments and corrections as needed before bills are prepared.

Bills are mailed before the first day of the month.

All bills are payable upon receipt and are due by the 10th day of the month. The town has a grace period until the 15th day of the month at 5:00 pm. If the 15th falls on a weekend, all fees are due the prior business day before 5:00 pm. On the 16th or next business day, an administrative fee of \$35.00 is imposed on all delinquent accounts. All fees must be paid in full before the 21st day of the month to avoid disconnection of service.

Failure to receive bill in mail does not excuse responsibility for timely payment or prevent disconnection.

BILLING ADJUSTMENT PROCEDURES

LEAKS

Usage charges questioned within six months of billing may be eligible for adjustments to water and /or sewer charges. Adjustments are made for inside and outside city limit customers with water & sewer service with the Town of Burgaw.

Adjustments are made on high bills due to identifiable water leaks that do not enter the sanitary sewer system.

The following outlines the procedures for making adjustments:

- a. The customer's account is averaged for four months (or history available) for an average consumption. If no history is available, the customer will be required to pay a minimum bill for that month and billed based on usage for future bills, until four months after repairs have been completed for an adjustment on the beginning month's charges.
- b. If a leak is indicated by high usage during a particular month, only the prior two (2) months are eligible for adjustment. These adjustments will be made pursuant to this policy.
- c. The leak has been discovered and repaired. Adjustments are allowed only if a preventive repair has been made to the source of the water leak.
- d. Adjustments made to an account for repairs will not exceed more than two per calendar year.
- e. Documentation of leak and repair may consist of plumber's bill, recent receipts for plumbing repair parts or Town staff verification in writing.
- f. When a leak is confirmed to have not entered the sanitary sewer system, the applicable sewer charge is calculated based on the process described above for calculating the four month average consumption. When applicable, the current bill will reflect any sewer charge adjustments.

Except in extenuating circumstance, no consideration will be given to usage not questioned within six months of billing.

FILLING OF SWIMMING POOLS

The Town will provide adjustments to customer's utility bills related to the filling of swimming pools according to the terms below. All inquiries regarding the filling of swimming pools should be directed to the Town's Customer Service Representative.

- a. The customer must notify the Town's Customer Service Representative prior to beginning the filling of the pool.
- b. All water utilized as part of the pool fill up will be charged on a per gallon basis according to the Town's approved fee schedule.
- c. Customer must provide the Town with hard copies or digital files of the meter reading prior to and immediately following the completion of the filling of the swimming pool as well as pictures of the filled pool.
- d. Customer must provide the town with verification of the pools dimensions. Verification includes, but is not limited to, shop drawings or technical specifications of the pool, aerial photo of the pool along with dimensions and depth information, etc.
- e. The sewer charges will be adjusted by the amount of the usage between pool fill-up meter readings. However, 360 gallons a day of usage will be deducted from the

adjusted amount in order to account for the domestic sewer that is used at the residents during the filling process.

- f. Adjustments will not be made on pools less than 1,000 gallons.
- g. Adjustments made for a leak in the pool after initial fill-up will be done only if the owner produces a receipt from materials bought for repair or plumber's receipt.
- h. Pools with maintenance problems will be considered on a case-by-case basis.

SUSPECTED METER ERRORS

Upon the determination by the Town that a meter error may exist, the Town will remove the water meter for accuracy testing. The accuracy of the meter will be tested and verified by a qualified third party of the Town's choosing. In the event that the meter test at an accuracy level of 100% or less, the customer shall pay the full cost of the meter testing plus a \$200 administrative fee to cover the cost of removing and reinstalling the tested meter. Any meter tested which indicates a reading over 100% will result in a credit being applied towards future billing to the active account. If the account is inactive, a refund will be issued to the customer.

DELINQUENCY PROCEDURES

A list of delinquent customers will be prepared after 5:00 pm on or around the 15th day of the month and the administrative fee will be imposed on those accounts.

- a. On or around the 11th, the Town will mail delinquency notices to all customers who have not paid their current bill.
- b. On or around the 21st, drop box payments will be processed and a shut off list prepared. Any customer who has not paid all fees by 8:00 am on the 21st will be cut off, unless a payment arrangement was made prior to the 15th. The shut off list will be reviewed by the Customer Service Representative and the Finance Office or Town Clerk prior to it being sent to Public Works before 10:00 am on the shut off day. Accounts will not be shut off on Fridays or the day before a holiday.
- c. The Public Works Department will work from the shut off list and record the meter reading for each meter, shut off service and send the list of meter readings to the customer service clerk. The Public Works Department does not collect money. All accounts scheduled for shut off must be disconnected.
- d. As payments are received by the Customer Service Representative, work orders will be sent to Public Works to reconnect paid accounts. However, all disconnects on the shut off list will be completed prior to Public Works conducting any reconnections.
- e. After 2 business days, if customer has not paid for service to be reconnected, a list of delinquent accounts will be sent to Public Works. This list will include meter readings from the day of shut off. Public Works will record the current

meter reading for each meter on the new list and send to the customer service representative. If the readings indicate usage, Public Works will lock or pull the meters.

- f. Reconnection of service will occur between the hours of 11:00 am and 5:00 pm on the day meters are shut off for non-payment and between 8:00 am and 4:00 pm on regular work days. Meters will not be reconnected until all fees have been received. If delinquent bills are paid after 3 pm, the Town will try to reconnect service by 5 p.m. No reconnects will be done after 5:00 p.m.

WAIVER OF ADMINISTRATIVE FEE

The assessment of the administrative fee as referenced above may be waived under the following circumstances:

- a. The administrative fee can be waived once a year on request by the customer prior to the 15th at 5:00 pm, if the account has not been delinquent in the previous 12 months.
- b. The administrative fee can be waived for a customer with a good history of paying before the due date, who is willing to have future payments made by bank draft.
- c. The administrative fee can be waived by the Town Manager based on extenuating circumstances.

DISCONNECTION OF SERVICE

The Town may disconnect utility service for one of the following reasons:

- a. Failure of the customer to pay bills for utility service as required by this policy.
- b. Failure of the customer to allow Town employees access to meters at reasonable hours for the purpose of reading or maintenance and repair.
- c. Upon discovery of meter tampering including unauthorized connection for service, bypassing the meter or altering its function.
- d. Failure of the customer to repair plumbing systems after being advised by Public Works of leaks which result in excessive water use.
- e. Emergency repair and maintenance as required by Public Works.
- f. Service may be terminated due to a returned check if repayment and returned check fees are not paid within 7 days.

The customer should request disconnection of service. The customer can call or come into the Town Hall to submit a disconnect order. The following information will be required upon

request: name on the account, address to terminate, customer's SSN or verification of SSN (last 4 digits), date of termination, forwarding mailing address for final billing. Until service is requested by a new customer at that location, the current customer will be responsible for any water consumed until disconnection.

Water service can be discontinued by the customer or by the Town. The water meter will be turned off and locked after disconnection for any reason has occurred. Service will only be restored when a new customer has made proper application for service at that location and all fees and deposits have been made.

BULK WATER PURCHASE: HYDRANT METER

In order to provide for the bulk water purchase from the Town, the following procedures shall apply for person(s), firms, or corporations that request over 10,000 gallons of water or requires temporary access to water for a period of less than one (1) year. Customers requiring temporary water access for more than one (1) year must have a permanent water service installed at that location. All appropriate permits and fees must be paid for by the contractor and in accordance with Town policy. For bulk water purchases of less than 10,000 gallons please reference the next section of this policy. All customers will be required to complete a hydrant meter service application (appendix A) for the use of fire hydrant metering devices.

The use of a hydrant meter shall be contingent upon strict adherence to the following requirements and conditions:

Failure to comply with the conditions below will result in the immediate suspension of hydrant meter privileges.

- a. An RPZ backflow and/or air gap is required during all hydrant usage pursuant to this policy. Only Town of Burgaw hydrant meters with approved backflow assembly provided by the town may be used to obtain water from a fire hydrant in the Town service area.
- b. Hydrant meter assemblies are subject to availability.
- c. Customer will be billed on a monthly cycle by Town of Burgaw billing for all water usage and rental fees at the current applicable outside Town rate per the Town fee schedule. The customer will send their readings to Town Hall by the 7th day of each month. Readings can be sent by fax to 910-259-6644, by e-mail to customer.service@townofburgaw.com, by mail to Town Hall at 109 N. Walker St., Burgaw, NC 28425, or bring the hydrant meter to Public Works at 207-B S. McRae Street to be read.
- d. Customers will be charged additional fees, as described below, if the returned equipment is damaged or equipment is missing.
- e. Customers will be allowed to rent the hydrant metering devices by the day or month.
- f. Non-refundable rental rates for the hydrant meter and backflow preventer assembly are listed in the table below, no pro-rating will be allowed on monthly accounts.

- g. In addition to the rental charge, the customer is responsible for paying for the actual amount of water used (consumed) and will be billed by the Town based on the meter readings for the rental period.
- h. Absolutely no discharge into the sewer collections or storm water systems is allowed.
- i. Rental and consumption charges shall be billed monthly or at the end of the applicable rental period, whichever comes first.
- j. Rental rates are for the actual time customer has the meter, regardless of usage, and will be billed monthly.
- k. No meter shall be used unless temperature is 35 degrees Fahrenheit or above and rising. When temperature falls to 35 degrees Fahrenheit, hydrant shall be closed and the hydrant meter shall be disconnected from the hydrant. Failure to comply may be subject to a fine.
- l. Customers shall be trained in proper usage prior to issuance of a hydrant meter assembly. At no time shall the customer tamper with the meter. Use of water withdrawn from fire hydrants will be used only for the specific purposes stated on this application and only at the locations described on this application.
- m. At no time shall any hydrant meter/backflow assembly be disassembled, repaired or altered by anyone other than Town of Burgaw staff.
- n. At no time shall any hose be left connected to a fire hydrant that is not connected to a hydrant meter assembly.
- o. Only use an approved hydrant wrench. Do NOT use a pipe wrench, crescent wrench, etc.
- p. Before installing the hydrant meter, open the hydrant slowly and let the water flow for approximately 30 seconds to clear the line of debris.
- q. When opening a hydrant, turn the wrench slowly counterclockwise until the wrench stops turning, then back off $\frac{1}{4}$ turn.
- r. Make sure you regulate the water flow by turning your hydrant meter's gate valve,
- s. NOT by partially opening the hydrant or adjusting the ball valves on either side of the backflow. No pipe wrench is to be used.
- t. A hydrant must be turned completely on or it will drain. The draining is through a valve under ground level and will damage the area surrounding the hydrant and/or the hydrant itself.
- u. Large 3" hydrant meters shall NOT be connected directly to the hydrant. You must use the "S" tube or a fire hose to attach the hydrant meter to the hydrant. However, 5/8" hydrant meters can be directly connected to the hydrant.
- v. Do not leave your hydrant meter on the ground. The hydrant meter should be supported and no less than 12" off the ground at its lowest point to allow for proper backflow prevention and drainage. The customer is responsible for providing the materials to support the hydrant meter.
- w. The fire hydrant or hydrant meter should NOT be left on overnight or unattended. Customer is responsible for ensuring the meter and hydrant are secured when not in use. Customer shall be responsible for all water registered through meter in the event that meter is cut on by someone other than customer.
- x. When closing a hydrant, turn the wrench slowly clockwise until the wrench stops turning, then back off a quarter turn.
- y. Be sure to replace and tighten all hydrant caps hand tight after use.

- z. Do NOT let anyone drive over or place materials on the fire hose connecting the hydrant meter to the hydrant. It may cause severe damage to the hydrant meter, hydrant, and water lines in the area.
- aa. Report all broken fire hydrants IMMEDIATELY; call Public Works at (910) 259-2901 or Town Hall at (910) 663-3445.
- bb. Customer shall ensure that the meter is registering and that no leaks are present. Any broken or leaking meters/backflow shall be returned immediately to the Town of Burgaw for repair.
- cc. Any damage to the Town's fire hydrants and/or potable water system caused by negligent use of a fire hydrant may result in a fine as described below. Lessee will also be held liable for all Town costs for the repair and/or replacement of all related water mains and devices.

Administrative Fee	\$50.00
Daily Hydrant Meter Rental Rate	\$10.00 / Day
Monthly Hydrant Meter Rental Rate	\$300.00 / Month
Bulk Rate	\$0.0104 / Gallon \$10.40/per 1000 gal

Penalties

Only Town of Burgaw hydrant meters with approved backflow assembly provided by the town may be used to obtain water from a fire hydrant in the Town service area. The use of any hydrant meter assembly other than those provided by the Town of Burgaw will be subject to a fine. Continued use of a hydrant meter, when usage readings are not being registered will be considered a violation and will be subject to a fine in the amount of \$250.00 per day, per violation. It is the responsibility of the customer to notify Public Works at 910-259-2901 or Town Hall at 910-663-3445 when the meter is not registering or recording water usage. All hydrant meter assemblies are the property of the Town of Burgaw Public Works Department. Failure to return the hydrant meter assembly at the end of the rental period will be considered theft of Town property and will be prosecuted to the fullest extent of the law (see following page for current replacement rates).

Hydrant Meter	\$1,000.00
RPZ Backflow	\$900.00
"S" Tube	\$300.00
Gate Valve	\$100.00
Hydrant Wrench	\$50.00
Total Replacement	\$2,350.00

Water Restrictions

All hydrant meter usage may be subject to immediate recall or return in the event of the implementation of water restrictions.

BULK WATER PURCHASE: TANK FILLING

In order to provide for the bulk water purchase from the Town, the following procedures shall apply for person(s), firms, or corporations that request under 10,000 gallons of water. All customers will be required to contact Town Hall to prepay and/or provide credit card information and complete a hydrant meter service application for the use of fire hydrant metering devices. Filling station is located at Burgaw Fire Department.

- a) Filling station and hydrant meter assemblies are subject to availability. The party wishing fill a tank pursuant to this policy will be required to supply all necessary fittings to accommodate a 3" hose.
- b) Filling of a tank must be coordinated with the fire department and is subject to their availability.
- c) An RPZ and/or air gap must be present while filling. Tanks without an air gap will not be filled.
- d) All tank fillings will be conducted by town staff.

Administrative Fee	\$10.00/per tank filling*
Filling Station Rate	\$25.00/1,000 gal.**

*Administrative fee must be paid prior to each tank filling. Fee will not be prorated based on amount of water purchased.

**Town will not pro-rate the rate if less than 1,000 gallons are purchased.

Water Restrictions

All tank filling services are subject to immediate discontinuance in the event of the implementation of water restrictions.

UNAUTHORIZED WATER AND SANITARY SEWER SYSTEM USAGE

Any person(s), firms, or corporations using unmetered water, illegally discharging into the Town's sanitary sewer system, or the Town's stormwater collections system may be subject to a penalty of up to \$1,000.00 per day, \$75.00 administrative fee and applicable water consumption charges.

COLLECTION REMEDIES

Once it is determined that a person(s), firms, or corporation is responsible for a delinquent billing amount related to the authorized or unauthorized receipt of water and/or sewer services from the Town of Burgaw, the following statute of limitations shall be adhered to:

- a. Pursuant to North Carolina General Statute 25-2-725, the Town may demand payment(s) for water service for four (4) years retroactively from the date that the delinquency occurred or was discovered.

- b. Pursuant to North Carolina General Statute 1-52, the Town may demand payment(s) for sewer service for three (3) years retroactively from the date that the delinquency occurred or was discovered.
- c. Pursuant to North Carolina General Statute 105A, the Town may submit a claim in the name of the responsible party of the delinquent account to the state's debt setoff program.

RETURNED CHECK OR BANK DRAFT

The Town charges a fee of \$25.00 for returned check or bank drafts. After one returned check or bank draft, the Town may accept only certified checks, money orders or cash for payment of the account.

TRANSFER OF SERVICE

Customers may transfer service from one location to another as long as current bills are not past due. Deposits will be transferred to the new account if the present account is paid in full.

DEPOSIT REFUNDS

After an account has been closed by customer request or terminated by Town policy, the deposit is applied to any outstanding bills or fees. Remaining funds are refunded to the customer after the current billing period is complete. No interest will be paid upon deposited amounts.

CLEANING AND REPAIR

The Town will turn service on for three days, for the purpose of cleaning and repairs to an unoccupied dwelling. The current charge is \$30.00. If service will be required for a longer time, the Town will require that the service be placed in the name of the owner. A credit check will be required of individuals and a \$125.00 deposit for rental properties.

Appendix A

Town of Burgaw
Public Works Department
(910) 259-2901 public.works@townofburgaw.com

Hydrant Meter Check Out Application

Name: _____ DL# _____ Company _____

Address: _____

Phone: _____ Credit Card # _____

Hydrant Meter: _____ Serial #: _____

Date: _____ End Reading: _____

Return Date: _____ Begin Reading: _____

Total Used: _____ gallons

Backflow included: Yes No Type: _____
Serial #: _____

"S" tube: Yes No Gate Valve: Yes No

Cost:	Hydrant Meter	\$ 1,000.00
	RPZ Backflow	\$ 900.00
	"S" tube	\$ 300.00
	Gate Valve	\$ 100.00
	Hydrant Wrench	\$ 50.00

A replacement fee of \$2,350 will be charged if above equipment is not returned. In order to insure that the equipment is returned a credit card number will be collected at the time of application. A hydrant wrench must be utilized to open the hydrant. Any other device used on the hydrant will cause damage to the hydrant and could result in a violation. The valve must be opened fully in order to ensure proper use of the hydrant.

Check out
Customer Signature: _____ Date: _____

Town Signature: _____ Date: _____

Check in
Customer Signature: _____ Date: _____

Town Signature: _____ Date: _____

CLOSED SESSION – Pursuant to NCGS 143-318.11 paragraph (a) item (3) attorney/client privilege

ADJOURNMENT

MONTHLY DEPARTMENTAL REPORTS

Burgaw Fire Department

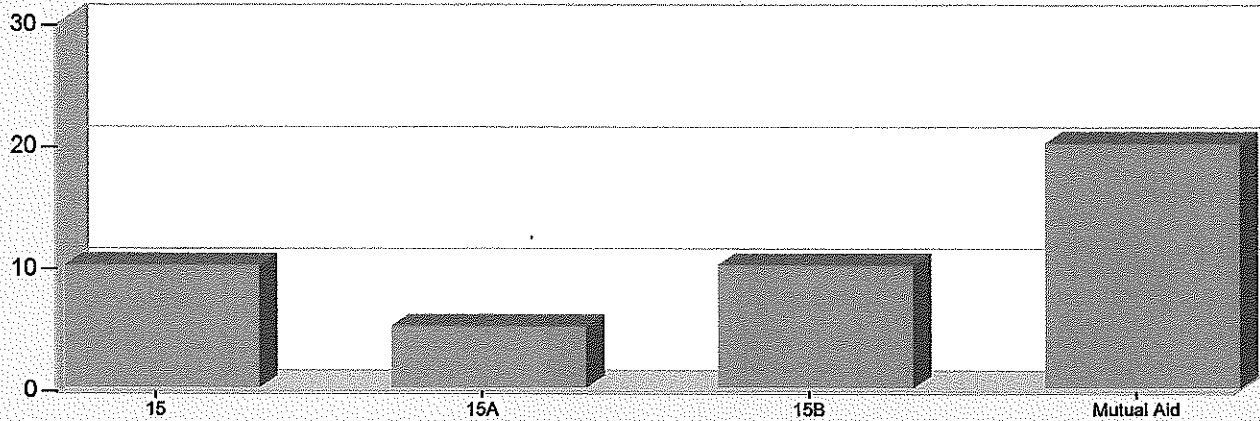
Burgaw, NC

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Incident Type Count per Zone for Date Range

Start Date: 09/01/2015 | End Date: 09/30/2015



ZONES	INCIDENT TYPE	COUNT
15 - Burgaw		
	131 - Passenger vehicle fire	1
	463 - Vehicle accident, general cleanup	3
	551 - Assist police or other governmental agency	1
	745 - Alarm system activation, no fire - unintentional	5
	<i>Total Incidents for 15 - Burgaw:</i>	<i>10</i>
15A - St Helena		
	443 - Breakdown of light ballast	1
	463 - Vehicle accident, general cleanup	2
	611 - Dispatched & cancelled en route	1
	745 - Alarm system activation, no fire - unintentional	1
	<i>Total Incidents for 15A - St Helena:</i>	<i>5</i>
15B - Pender Central		
	311 - Medical assist, assist EMS crew	2
	463 - Vehicle accident, general cleanup	2
	561 - Unauthorized burning	1
	611 - Dispatched & cancelled en route	3
	653 - Smoke from barbecue, tar kettle	1
	745 - Alarm system activation, no fire - unintentional	1
	<i>Total Incidents for 15B - Pender Central:</i>	<i>10</i>
Mutual Aid - Maple Hill Fire Department		

Zone information is defined on the Basic Info 3 screen of an incident.
Only REVIEWED incidents included.

ZONES	INCIDENT TYPE	COUNT
	111 - Building fire	2
	<i>Total Incidents for Mutual Aid - Maple Hill Fire Department:</i>	2
Mutual Aid - Pender EMS & Fire		
	611 - Dispatched & cancelled en route	1
	<i>Total Incidents for Mutual Aid - Pender EMS & Fire:</i>	1
Mutual Aid - Penderlea Fire Department		
	111 - Building fire	2
	121 - Fire in mobile home used as fixed residence	1
	131 - Passenger vehicle fire	1
	611 - Dispatched & cancelled en route	2
	<i>Total Incidents for Mutual Aid - Penderlea Fire Department:</i>	6
Mutual Aid - Rocky Point Fire Department		
	463 - Vehicle accident, general cleanup	1
	611 - Dispatched & cancelled en route	10
	<i>Total Incidents for Mutual Aid - Rocky Point Fire Department:</i>	11
Total Count for all Zone:		45

Zone information is defined on the Basic Info 3 screen of an incident.
Only REVIEWED incidents included.

Burgaw Fire Department

Burgaw, NC

This report was generated on 10/5/2015 1:28:34 PM



Completed Inspections for Inspection Type for Date Range

Inspection Type: All Types | Start Date: 09/01/2015 | End Date: 09/30/2015

ID	OCCUPANCY	ADDRESS	DATE	INSPECTOR	NOTES
Inspection Type: Annual					
54	Burgaw Elementary School	400 N Wright ST	09/14/2015	Wilson, Allen W	
206	VACANT	606 US Hwy 117 BYP N	09/15/2015	Wilson, Allen W	
156	Subway Of Burgaw	602 US Hwy 117 BYP N #C	09/15/2015	Wilson, Allen W	
301	Vacant	602 N US Hwy 117 #H	09/15/2015	Wilson, Allen W	
300	Realty World	602 N Hwy 117 HWY #E	09/15/2015	Wilson, Allen W	
302	Silhouette Beauty	602 N Hwy 117 HWY #J	09/15/2015	Wilson, Allen W	
37	VACANT	1100 NC 53 HWY W	09/15/2015	Wilson, Allen W	
29	Rooks Lawn & Garden Center	1501 W Hwy 53 HWY	09/15/2015	Wilson, Allen W	
108	Nash Equipment	1190 W Hwy 53 HWY	09/16/2015	Wilson, Allen W	
193	Pender County Humane Society	1407 NC 53 HWY W	09/21/2015	Wilson, Allen W	
309	Campbell Oil	1979 NC 53 HWY W	09/21/2015	Wilson, Allen W	
280	American Skins	140 Industrial DR	09/22/2015	Wilson, Allen W	
227	Harold's Auto Service	1020 W Wilmington ST	09/23/2015	Wilson, Allen W	
243	Burgaw Mini Storage	1744 NC 53 HWY W	09/23/2015	Wilson, Allen W	
310	M&M Discount Auto	1010 W Wilmington ST	09/23/2015	Wilson, Allen W	
312	Bryan's Heating & Air	903 W Wilmington ST	09/23/2015	Wilson, Allen W	
Total # Inspections for Annual : 16					

Inspection Type: Attempted Inspection

91	LL Building Products, Inc	295 McKoy RD	09/15/2015	Wilson, Allen W	
280	American Skins	140 Industrial DR	09/16/2015	Wilson, Allen W	
311	Dunn Funeral Home	810 W Wilmington ST	09/23/2015	Wilson, Allen W	
Total # Inspections for Attempted Inspection : 3					

Inspection Type: Courtesy Inspection

91	LL Building Products, Inc	295 McKoy RD	09/15/2015	Wilson, Allen W	
Total # Inspections for Courtesy Inspection : 1					

Locked inspections only.

ID	OCCUPANCY	ADDRESS	DATE	INSPECTOR	NOTES
Inspection Type: Day Care Inspection					
127	Creative Beginnings	1565 NC Hwy 53 West	09/16/2015	Wilson, Allen W	Total # Inspections for Day Care Inspection : 1
Inspection Type: Fire Protection System Inspection					
237	Bojangles	831 NC 53 HWY E	09/02/2015	Wilson, Allen W	Total # Inspections for Fire Protection System Inspection : 3
236	Pender County Administration Building	805 S Walker ST	09/03/2015	Wilson, Allen W	
118	Cape Fear Community College	100 E Industrial DR	09/03/2015	Wilson, Allen W	
Inspection Type: Plan Review					
289	Pender County Probation Office	310 W Williams ST	09/03/2015	Wilson, Allen W	Total # Inspections for Plan Review : 4
	Site Plan Review	109 N Walker ST	09/16/2015	Wilson, Allen W	
127	Creative Beginnings	1565 NC Hwy 53 West	09/16/2015	Wilson, Allen W	
3	Pender County Arts Council	108 E Wilmington ST	09/25/2015	Wilson, Allen W	
Inspection Type: Pre-Plan					
118	Cape Fear Community College	100 E Industrial DR	09/01/2015	Jasper, Timothy C	
139	Burgaw Motel	605 N Hwy 117 HWY	09/03/2015	Jasper, Timothy C	
237	Bojangles	831 NC 53 HWY E	09/03/2015	Jasper, Timothy C	
290	MOJO Music	513 S Dudley ST	09/03/2015	Jasper, Timothy C	
291	Mojo Tone	126 Industrial DR	09/03/2015	Jasper, Timothy C	
292	Harts Florist	203 W Fremont ST	09/14/2015	Jasper, Timothy C	
130	Walton Engineering	201 W Fremont ST #A	09/14/2015	Jasper, Timothy C	
293	Second Chance Thrift Shop	203 S Dickerson ST	09/14/2015	Jasper, Timothy C	
294	VACANT	115 W Fremont ST	09/14/2015	Jasper, Timothy C	
28	Beautiful You	117 W Fremont ST	09/14/2015	Jasper, Timothy C	

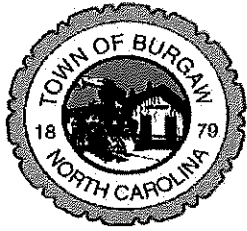
Locked inspections only.

ID	OCCUPANCY	ADDRESS	DATE	INSPECTOR	NOTES
Inspection Type: Pre-Plan					
295	Ahn Nail Spa	113 W Fremont ST	09/14/2015	Jasper, Timothy C	
34	Brown's Minute Mart	201 US Hwy 117 BYP S	09/15/2015	Jasper, Timothy C	
303	Lil Red Barn	205 W Fremont ST	09/15/2015	Jasper, Timothy C	
296	Creations Beauty Salon	201 W Fremont ST #B	09/15/2015	Jasper, Timothy C	
299	Jacqueline A. Newton Attorney at Law	101 W Fremont ST	09/15/2015	Jasper, Timothy C	
297	Brown Dog Coffee Company	103 W Fremont ST #A	09/15/2015	Jasper, Timothy C	
298	Rochelle Furniture Co.	111 W Fremont ST	09/15/2015	Jasper, Timothy C	
308	Country Kids	115 S Wright ST	09/17/2015	Jasper, Timothy C	
111	The Nifty Place	102 W Fremont ST	09/17/2015	Jasper, Timothy C	
307	Old Farm Shed	205 S Wright ST	09/17/2015	Jasper, Timothy C	
115	China King	112 W Fremont ST	09/17/2015	Jasper, Timothy C	
113	Harvey's Deli & Tavern	108 W Fremont ST	09/17/2015	Jasper, Timothy C	
72	Ronald's Barbershop	207 S Wright ST	09/17/2015	Jasper, Timothy C	
306	Hair Studio 116	209 S Wright ST	09/17/2015	Jasper, Timothy C	
33	Curves	213 S Wright ST	09/17/2015	Jasper, Timothy C	
102	Just Framing	207 S Wright ST #B	09/17/2015	Jasper, Timothy C	
74	Lawrence Boehling, Attorney at Law	203 S Wright ST	09/17/2015	Jasper, Timothy C	
84	VACANT	Worth Beverage DR	09/18/2015	Jasper, Timothy C	
37	VACANT	1100 NC 53 HWY W	09/18/2015	Jasper, Timothy C	
40	Town of Burgaw Waste Treatment Facility	304 E Wallace ST	09/23/2015	Jasper, Timothy C	

Locked inspections only.

ID	OCCUPANCY	ADDRESS	DATE	INSPECTOR	NOTES
Inspection Type: Pre-Plan					
314	Stovers Auctions	302 S Dickerson ST	09/23/2015	Jasper, Timothy C	
313	JD's Detail Shop	205 S Dudley ST	09/23/2015	Jasper, Timothy C	
171	VACANT	200 US Hwy 117 BYP S	09/29/2015	Jasper, Timothy C	
189	Twice the Ice	209 US Hwy 117 BYP S	09/29/2015	Jasper, Timothy C	
					Total # Inspections for Pre-Plan : 34
Inspection Type: Reinspection					
86	Ashe Gardens	300 W Ashe ST	09/15/2015	Wilson, Allen W	
140	Smart Start	600 Timberly LN	09/15/2015	Wilson, Allen W	
133	Port Human Services	316 Progress Drive EXT	09/15/2015	Wilson, Allen W	
135	Seven Oaks Apartments	205 Progress DR	09/15/2015	Wilson, Allen W	
285	Performance Automotive	1255 Penderlea HWY	09/22/2015	Wilson, Allen W	
					Total # Inspections for Reinspection : 5
Inspection Type: Safety					
315	Safety Inspection	Main	09/24/2015	Wilson, Allen W	
					Total # Inspections for Safety : 1
Inspection Type: Special Hazard					
60	Friendly Community Baptist Church	1730 US 117 HWY N	09/04/2015	Wilson, Allen W	
60	Friendly Community Baptist Church	1730 US 117 HWY N	09/15/2015	Wilson, Allen W	
					Total # Inspections for Special Hazard : 2
					GRAND TOTAL FOR ALL INSPECTIONS : 70

Locked inspections only.



Monthly Report
Burgaw Police Department
September 2015
Chief Jim Hock



Total Number of Events Reported	3,400
Total Number of Business Checks	2,514
Downtown Walk /Business Checks for Z5	970
Individual Business Checks	1543
Total Number of Investigations	80
Investigations/Follow Ups	29
Larceny	9
Missing Person/Runaway	0
B&E	3
Domestic	10
Narcotics	3
Juvenile Call	5
Suspicious Person/Vehicle	21
Total Number of Arrests	19
Total Charges by Arrest	77
Assaults	6
Burglary/Larceny	7
Drug Violations	6
DWI (Alcohol/Drugs)	2
All Others	56
Total Number of Citations(State and Warning)	67
Total Number of Charges by Citation	29
Speeding	3
DWI	1
Failure to Stop	1
Other Misdemeanors	5
Other Infractions	4
Additional Miscellaneous	15
Total Number of Accident Reports	13
Total Number of Funeral Escort	6
Total Number of Stop and Talk	25
Total Fire/EMS Assists	72
Total Other Officer/Agency Assists	57
Total Citizen Assists	37

Comments:
