

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

DATE: March 9, 2021
TIME: 4:30 PM
PLACE: Historic Train Depot, 115 S. Dickerson Street
BOARD MEMBERS PRESENT: Mayor Kenneth Cowan
Mayor Pro-tem Wilfred Robbins
Commissioners Jan Dawson, Bill George, James Murphy, Vernon Harrell
STAFF PRESENT: James Gantt, Town Manager
Kristin J. Wells, Town Clerk
Zachary Rivenbark, Town Attorney
Wendy Pope, Finance Officer
Tiffany Byrd, Deputy Finance Officer
Andrea Correll, Planning Director
Kimberly Rivenbark, Deputy Town Clerk
Jim Hock, Police Chief
Alan Moore, Public Works Director
Clay Jasper, Deputy Fire Chief
Cody Suggs, Parks & Recreation Director
MEDIA PRESENT: Unknown
INVOCATION: Bryant Crosson
PLEDGE OF ALLEGIANCE: All

The meeting was called to order by Mayor Cowan at 4:30 PM and the invocation was led by Reverend Crosson.

Approval of Agenda

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

Approval of Consent Agenda

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

- A. Approval of the January 12, 2021 Regular Meeting Minutes
- B. Approval of the January 12, 2021 Closed Session Minutes
- C. Approval of the February 9, 2021 Regular Meeting Minutes
- D. Approval of the February 9, 2021 Closed Session Minutes
- E. Ordinance 2021-04 Amending the FY 2020-2021 budget to reflect a fund balance appropriation to pay for identifying areas of inflow and infiltration by smoke testing sewer lines
- F. Ordinance 2021-05 Amending the FY 2020-2021 budget to recognize revenues from LGTV Set Up 5 Productions, Inc.

**ORDINANCE 2020-04
AMENDING FISCAL YEAR 2020-2021 ANNUAL BUDGET
Increasing Revenues and Expenditures**

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2020-2021 on June 9, 2020; and

WHEREAS, the Town of Burgaw engaged McKim & Creed to install flow meters as a way to measure the waste water flow in the main four lines close to pump station 1; and

WHEREAS, the study was not able to narrow the focus to only certain waste water lines; and

WHEREAS, the Town of Burgaw would like McKim & Creed to move forward with the next step of identifying areas of inflow and infiltration by smoke testing sewer lines; and

WHEREAS, a W&S Fund fund balance appropriation is necessary to pay for the study at the proposed cost of \$49,500.

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

Section 1: The FY 2020-2021 budget be altered to reflect the following changes:

INCREASE BUDGETED REVENUE

<u>Account Number</u>	<u>Account Description</u>	<u>Amount</u>
30-3900-91-900	Water/Sewer Appropriation	\$49,500

INCREASE BUDGETED EXPENDITURE

<u>Account Number</u>	<u>Account Description</u>	<u>Amount</u>
30-8200-91-458	Prof Svcs – Engineering	\$49,500

Adopted this the 9th day of March 2021

**ORDINANCE 2020-05
AMENDING FISCAL YEAR 2020-2021 ANNUAL BUDGET
Increasing Revenues and Expenditures**

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2020-2021 on June 9, 2020; and

WHEREAS, the General Fund has received revenue from the filming of “This Country” and the Board of Commissioners would like to recognize a portion of this revenue to purchase a Kubota excavator; and

WHEREAS, the Town of Burgaw would like to recognize \$91,150 of revenues from LGTV Set Up 5 Productions, Inc, therefore additional revenue and expenditure must be recognized.

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

Section 1: The FY 2020-2021 budget be altered to reflect the following changes:

INCREASE BUDGETED REVENUE

<u>Account Number</u>	<u>Account Description</u>	<u>Amount</u>
10-3690-10-800	Film Revenue	\$ 91,150

INCREASE BUDGETED EXPENDITURE

<u>Account Number</u>	<u>Account Description</u>	<u>Amount</u>
10-5800-30-740	Capital Outlay	\$ 91,150

Adopted this the 9th day of March 2021.

SPECIAL PRESENTATIONS/REQUESTS

2021 Arbor Day Proclamation

Mayor Cowan read the following proclamation and proclaimed March 19, 2021 as Arbor Day in Burgaw. Mr. Suggs advised the board a small Arbor Day celebration will be held at Rotary Park on March 19, 2021 at 10:00 AM. The Rotary Club will be fulfilling one of the requirements under the Adopt-A-Park program by assisting with the planting of four (4) Live Oak trees. Mr. Suggs also said the tree giveaway event will take place on March 19, 2021 between 5:00 PM and 6:30 PM.

Arbor Day Proclamation

Whereas. In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

Whereas, the holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

Whereas, Arbor Day is now observed throughout the nation and the world, and

Whereas, trees can reduce the erosion of our precious topsoil by wind and water, lower our heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife, and

Whereas, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

Whereas, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and

Whereas, trees, wherever they are planted, are a source of joy and spiritual renewal,

NOW, THEREFORE, I, Kenneth Cowan, Mayor of the Town of Burgaw, do hereby proclaim March 19, 2021 as **Arbor Day** in the Town of Burgaw, and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and

Further, I urge all citizens to plant and care for trees to gladden the heart and promote the well-being of this and future generations.

Dated this ninth day of March in the year 2021.

DEPARTMENTAL ITEMS

Parks & Recreation Department – *Cody Suggs, Director*

Parks & Recreation departmental name change

Mr. Suggs advised the Burgaw Tourism Development Authority (TDA) and the Parks & Recreation Department have been working together on various events and said Riley Jordan, part-time Parks & Recreation employee, has been assisting the TDA on marketing, etc. Since there has been a partnership established between the two, Mr. Suggs requested a formal name change of the Parks & Recreation Department to become “Parks, Recreation & Tourism Department.” Mayor Cowan commended the TDA and Parks & Recreation Department on a job well done.

Commissioner George made a motion to approve the requested departmental name change. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Ordinance 2021-06 Amending the Town of Burgaw Code of Ordinances to reflect changes to Chapter 24, Special Events, Parades and Demonstrations

Mr. Suggs advised the Planning Department has been reviewing the Town of Burgaw Code of Ordinances and noticed an amendment was needed to *Chapter 24 under Special Events, Parades and Demonstrations*. Mr. Suggs advised he, as the Parks & Recreation Director, has been handling the Special Events Permits since he has been working for the town. In the years past, Special Event Permits were submitted to the Police Chief for approval. To formally amend this process, Mr. Suggs requested the board to change “Police Chief” to “Parks & Recreation Director” in the following ordinance.

There being no comments by the board, Commissioner Dawson made a motion to approve Ordinance 2021-06 as presented. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

Due to the length of Ordinance 2021-06, it is on file in the Clerk’s office.

Police Department – *Jim Hock, Police Chief*

Golf Cart Regulation Discussion

Chief Hock advised the Police Department has received a few inquiries regarding golf cart regulations in town. He said he wanted to bring the discussion up with the board to see if they were interested in establishing golf cart regulations in town. Chief Hock said if a local jurisdiction doesn't have an ordinance, then golf carts are not permitted. Mayor Cowan asked Chief Hock his opinion regarding the regulations. Chief Hock said in some areas it could be beneficial, but his concern is when golf carts are on the same roads as vehicles. There were comments regarding the golf carts having to be DMV approved. Chief Hock said the golf carts just need to have the safety features that originally came with the golf cart. He said the owner would have to register and verify safety measures, etc. Chief Hock said there needs to be some sort of visible sticker, documentation, etc. showing safety measures have been checked and they have liability insurance. Chief Hock said it is really based on how the town wanted to write its ordinance. Mayor Cowan, Commissioner Harrell and Commissioner George agreed they need to be road ready. It was the consensus of the board to allow Chief Hock to pursue reviewing additional ordinances and bring something back to the board. Attorney Rivenbark stated he would like to meet with Chief Hock to discuss this matter.

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

Attorney Rivenbark stated he had a few items for closed session. Also, he gave an update to the changes of the Tourism Development Authority membership. Attorney Rivenbark said Representative Carson Smith and himself have drafted a bill for the increase in membership for the Burgaw Tourism Development Authority. Attorney Rivenbark said the bill is drafted to change Burgaw's TDA membership to five (5) members when there is only one (1) occupancy tax collector. He said we currently only have one (1) motel and this change would expand the membership. Attorney Rivenbark said if and when the town got another motel or bed and breakfast, we would revert back to the old statute, which would increase the membership to six (6), one-third of the membership must collect the occupancy tax. If there continues to only be one (1) occupancy tax collector in town, the new statute will allow five (5) members. Attorney Rivenbark said Representative Smith does not expect any issues and thinks it will get through the current session.

ITEMS FROM THE MANAGER – *James Gantt, Town Manager*

Ordinance 2021-07 Amending the Town of Burgaw Code of Ordinances, adding Chapter 8, Article IV, Mobile Food Service

Mr. Gantt advised the board previously had complaints about food trucks and wished to adopt an ordinance regulating mobile food vendors in town. He said staff was waiting for the new Unified Development Ordinance to be adopted so that the town code would be consistent. Mr. Gantt said as part of the ordinance, there is a yearly permit fee of \$250 and the mobile food vendor would have to apply for the permit prior to operating in town. The mobile vendor would have to show proof of written permission from property owners to be on private property. Mr. Gantt said they would not be allowed in streets or rights-of-way and would have to have approval from the health department for operating.

Commissioner Harrell said he noticed under section "M" that a food truck should be positioned at least three (3) feet away from fire hydrants. He asked if this was sufficient space for the fire department. Mr. Gantt confirmed this is adequate space. Commissioner Robbins asked if a food truck set up at the Family Dollar parking lot or Everett Durham's parking lot, would have to have the permit. Mr. Gantt said that is correct, unless a special event was approved, such as Blueberry Festival, etc. Commissioner Robbins also commented on a complaint recently received regarding people coming to town to sell goods. Commissioner Robbins said he knew the state did away with business licenses a while back, but there is direct competition with our brick-and-mortar businesses. Mr. Gantt said the sale of fruits and vegetables is a lot of times exempt from the ordinance because it is things hand grown, but if it is yard sale type items, the town could adopt ordinances that regulate these types of sales. Mr. Gantt said it also could depend on the zoning district. It was clarified that a food truck would have to get a permit to operate in town, but a person selling fruits, vegetables, or seafood, would not.

Commissioner Robbins asked what the penalty was if a food vendor was set up in town and did not have a permit. Mr. Gantt said the penalty would be one half of the permit fee. Mr. Gantt said we will ask them to get a permit before charging a penalty. Commissioner Robbins made a motion to approve Ordinance 2021-07 as presented,

including the permit fee of \$250 to be added to the Schedule of Fees. The motion was seconded by Commissioner George and carried by unanimous vote.

Due to the length of Ordinance 2021-07, it is on file in the Clerk's office.

Trash Receptacle Discussion

Mr. Gantt advised he and Attorney Rivenbark are still working on this topic and will bring it back next month.

Update on current town projects

Courthouse Avenue Improvement Project: Mr. Gantt advised staff has received the draft plan from WithersRavenel and is reviewing it internally. He said he hopes to have this sent out to the board for the next board meeting. Commissioner Robbins requested the board receive the plan way before the next meeting.

EMS Building Renovations: Mr. Gantt advised the town did not receive any bids for this project. He said we are readvertising the project and targeting particular contractors to see if there is any interest.

Emergency Watershed Protection Program: Mr. Gantt advised the project is moving along well, but the design is not completed. Data is being collected and is moving forward. Mr. Gantt said the cost of the project is going to exceed the amount allocated by USDA, so data is being collected and will go back to USDA for funding the additional costs.

US Highway 117 Sewer Project: Mr. Gantt said the design is about 70% complete and the permits are being prepared.

Other item from Manager

Mr. Gantt said staff has received a complaint regarding damage to a headstone in the Burgaw Cemetery. He said the town ordinance does not currently allow payment in these cases and the headstones are the responsibility of the owners. Mr. Gantt said the complaint was received by Dayna Corcoran. Attorney Rivenbark said if the town can prove they caused the damage, the town has an obligation to pay for it. Ms. Corcoran was present at the meeting and advised to the board her grandfather's headstone was damaged. She said the first damage was noticed in spring of 2019 and spoke to Kristin Wells about that. The second damage was noticed this past Christmas and reached out to Ms. Wells. Mr. Gantt said we have looked at this matter, but according to the town ordinance, staff can not move forward with resolving the matter without board direction. Commissioner Robbins requested this matter be tabled until the next meeting so the board members can visit the cemetery.

Mayor Cowan asked Mr. Gantt about the upcoming smoke testing. Mr. Gantt said he does not have a schedule yet.

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

Commissioner George commented on the fence beside the old wastewater treatment plant. He asked if this area of the canal is part of the Emergency Watershed Protection project. Mr. Gantt confirmed the area between the blueberry statue and US Highway 117 along the canal is being addressed. There were comments made on the county's part of the project. Mr. Gantt will reach out.

Commissioner Murphy commented on bad potholes near the area of Hayes Street and Fremont Street. Mr. Moore said he will take a look at the area.

Commissioner Robbins asked Mr. Moore to give the board a street paving priorities list earlier than usual so they can go out and look at the streets.

Commissioner Dawson asked the status on the two (2) abandoned houses near the elementary school. Mr. Hesse said with the new ordinance, there will need to be new letters. He said Stephanie Moore, Permitting Technician, will be

handling the paperwork side from now on. Commissioner Dawson asked Mr. Hesse to ask Ms. Moore the status. There were comments on one of the owners that has recently passed away.

Commissioner Dawson asked Mr. Hesse for a status of the repairs of the lamp posts near Hardee's. Mr. Hesse said they were just fixed and are on now.

Commissioner Harrell commented on the sixty plus re-reads for water meters each month from the Public Works reports. He asked Mr. Moore if this is a problem with the meter or certain circumstances with reading problems. Mr. Moore said there is a gateway that is currently down. Mr. Gantt said there are about 1,400 meters that are read each month.

Commissioner Harrell asked the board if they would consider providing any type of feedback to the television production that recently finished in town. Mayor Cowan asked Commissioner Harrell what he has heard from the downtown merchants. Commissioner Harrell said it has been mixed, but more people on the happy end than upsetting end. Commissioner Robbins said he heard more people were glad they were gone; he said they were everywhere for months and an inconvenience. Commissioner Robbins said they were quick to correct things that went wrong.

BREAK 5:22 PM – 5:31 PM

PUBLIC FORUM

Leon "Happy" Hughes Wade III, 418 Jasmine Way, said he is representing himself and his wife regarding a concern in Creekside. Mr. Wade advised he has gone through minutes back to April 11, 2011 regarding Creekside. He said the roads are terrible and seems the board has had plenty of opportunities to do the right thing for the tax paying citizens in Creekside, but have failed several times. Mr. Wade spoke about bonds not being issued and the board broke their own ordinance in regards to the streets not being built to NCDOT standards. He said the residents in the Creekside community are tax paying citizens and the streets need to be fixed. Upon the completion of Mr. Wade's comments, Attorney Rivenbark advised the board that Creekside is a private development with private streets and because of the threatened lawsuit, he asked the board not to comment or ask any questions. He said the board may choose to discuss this matter in closed session if they so desired.

Elaine Tyson, 609 South Bickett Street, stated she had three (3) issues to bring before the board. The first item she spoke of was drainage on Bickett Street near Whrens Street. Ms. Tyson asked if any money was allotted in the budget for cleaning out ditches. Attorney Rivenbark stated the town has acquired two (2) easements, and currently waiting for a third one to be signed, to clean out the ditch running between Bickett Street and US Highway 117. He also said the town is working on obtaining easements on the other side of the street for cleaning of a ditch between Bickett Street and McNeil Street. The second issue Ms. Tyson spoke about was natural gas. She said in 2019, she asked the board to reach out to Piedmont Natural Gas to see about running natural gas down Bickett Street. Ms. Tyson said at that time, the Town Manager was instructed by the board to contact Piedmont Natural Gas, but she said she never heard anything back about this. Ms. Tyson asked again for the board to reach out and ask Piedmont Natural Gas to come to a board meeting and explain the issue with not running gas to residents on certain streets. The third issue Ms. Tyson commented on was speeding issues on Bickett Street. She said a car ran her off the road next to the lift station on South Bickett Street. She requested a stop sign at Whrens Street or Kristi Circle, or place speed bumps, to slow down traffic.

CLOSED SESSION – 5:45 PM

Commissioner Robbins made a motion to go into closed session pursuant to NCGS 143-318.11(a)(3) Attorney/Client Privilege. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

OPEN SESSION – 6:39 PM

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

ADJOURNMENT

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

The meeting was adjourned at 6:40 PM.

Kenneth T. Cowan, Mayor

Attest: _____
Kristin J. Wells, Town Clerk