

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

**DATE:** April 13, 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, Vernon Harrell, and James Murphy  
**STAFF PRESENT:** James Gantt, Town Manager  
Kimberly Rivenbark, Deputy Town Clerk  
Zachary Rivenbark, Town Attorney  
Wendy Pope, Finance Officer  
Andrea Correll, Planning Director  
Jim Hock, Chief of Police  
Clay Jasper, Deputy Fire Chief  
Alan Moore, Public Works Director  
Jayna Donaldson, Recreation Leader  
**STAFF PRESENT BY PHONE:** Cody Suggs, Parks and Recreation Director  
**MEDIA PRESENT:** Unknown  
**INVOCATION:** Nick Smith  
**PLEDGE OF ALLEGIANCE:** All

The meeting was called to order by Mayor Cowan at 4:32 PM and the invocation was led by Reverend Smith.

**Approval of the Agenda**

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

**Approval of Consent Agenda**

Commissioner 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 February 16-17, 2021 Special Meeting Minutes
- B. Approval of the March 9, 2021 Regular Meeting Minutes
- C. Approval of the March 9, 2021 Closed Session Minutes

**SPECIAL PRESENTATIONS/REQUESTS**

**Courthouse Avenue Improvement Project**

Gary Warner from WithersRavenel presented the Courthouse Avenue Streetscape Master Plan (*the master plan is on file in the Clerk's Office*). Mr. Warner explained to the board the cost difference between the two Phases. To complete Phase One, Dees Park, it will cost approximately \$633,531. This will include the shelter, fountain, and screening. Phase Two, Courthouse Avenue, will cost approximately \$2,405,114. Phase Two includes addressing the overhead powerlines and upgrading the waterline through Courthouse Avenue as well as providing additional fire hydrants. Due to the nature of this project, it can only be divided in two phases. If the project could be completed as a whole, the cost will run approximately \$2,760,180. The cost is less to complete as a whole project rather than in phases due to the duplication of services such as permitting efforts and mobilization of contractors. Mr. Warner went on to discuss with the board the next steps. He discussed the possibility of seeking grant funds as well as financing.

Commissioner Robbins questioned how long the project would take given the go ahead for construction. Mr. Warner explained that not including the time that Duke Power would require regarding the overhead powerlines, the design phase would take approximately 6 to 9 months with another 9 months to complete the construction of the

entire project. Phase one alone could be designed in approximately 3 months and take 5 months to complete construction.

Commissioner George expressed concern regarding Fire Department access to all buildings along Courthouse Avenue and wanted to make sure that no landscape will create a hindrance for fire response. Mr. Warner stated that when it comes to design, fire response will be considered, and the fire department will be involved with the design.

Commissioner Robbins inquired as to the next steps in the process. Mr. Warner stated that since now the Town has a Master Plan, the Town will need to consider funding sources and how much the Town could contribute to the project. Commissioner Robbins felt that the Town is in good financial position to move forward with the project.

Karen Harding, a citizen, inquired as to why would the infrastructure be constructed last. She felt that the sidewalk along Courthouse Avenue is the most pressing concern because it is uneven and unsafe. Mr. Warner stated that there is no reason why Phase Two could not be done first but did recommend the Park first to help build excitement and keep citizens involved in the entire project. Also, if the park is built first, Courthouse Avenue could remain open. If Courthouse Avenue were constructed first then when it comes time to construct the park, Courthouse Avenue would then have to be temporarily closed during that construction.

Mr. Warner further explained that the board would need to adopt this Master Plan at their next meeting and begin the process of looking for funding sources and that his firm could be hired to help with the grant writing process.

## **DEPARTMENTAL ITEMS**

### **Planning Department – Andrea Correll, Director**

Ms. Correll presented Ordinance 2021-08, Naming the Board of Adjustment to serve as the Housing Appeals Board. She stated that she has talked with each member individually and they are all interested in serving in this role.

After a brief discussion, Commissioner Harrell made a motion to adopt Ordinance 2021-08. The motion was seconded by Commissioner George and carried by unanimous vote.

#### **ORDINANCE 2021-08 AMENDING THE TOWN OF BURGAW CODE OF ORDINANCES CHAPTER 6, BUILDINGS AND BUILDING REGULATIONS, ARTICLE III, DIVISION 4, HOUSING APPEALS BOARD**

**WHEREAS**, the Town of Burgaw (hereinafter “the Town”) is a municipal corporation organized under the laws of North Carolina, invested with the powers enumerated in Chapter 160D of the North Carolina General Statutes, and

**WHEREAS**, the Town of Burgaw Code of Ordinances Chapter 6 Building and Building Regulations, Article III, Division 4, Housing Appeals Board outlines the composition and responsibilities of the Town’s Housing Appeals Board; and

**WHEREAS**, the Town of Burgaw Board of Commissioners desires that the Board of Adjustment act as the Housing Appeals Board; and

**WHEREAS**, the Board of Adjustment’s role as the Housing Appeals Board is not outlined in the current code of ordinances;

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

**SECTION 1.** The Town of Burgaw Code of Ordinances Chapter 6, Building and Building Regulations, Article III, Division 4, Housing Appeals Board now reads:

##### ***Section 6-119. Creation; composition.***

*The Town of Burgaw Board of Adjustment will also serve as the Town of Burgaw Housing Appeals Board in coordination with designated town staff and/or consultants who will serve as ex officio members. The housing appeals board shall consist of five members to serve for three-year staggered terms.*

##### ***Section 6-120. Duties and responsibilities.***

The housing appeals board shall have the duties specified in NC G.S. 160D-1208 and 160D-305; The Town of Burgaw Unified Development Ordinance Section 3.4; and:

(a) The housing appeals board shall fix a reasonable time for hearing appeals, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter, and, to that end, it has all the powers of the public officer, but the concurring vote of four members of the board is necessary to reverse or modify any decision or order of the public officer. The board also has power also in passing upon appeals, when unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(b) Every decision of the housing appeals board is subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the board, but not otherwise.

**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 April, 2021.

### Finance Department – Wendy Pope, Director

### Ordinance 2021-09, Amending the FY 20-21 budget to recognize revenue received from the filming of “This Country”

Ms. Pope presented Ordinance 2021-09 stating that this is to accept the revenues generated from the filming of “This Country”.

There being no comments by the board, Commissioner George made a motion to adopt Ordinance 2021-09. The motion was seconded by Commissioner Murphy and carried by unanimous vote.

ORDINANCE 2021-09  
**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 cover expenses related to personnel and other costs the Town incurred; and

**WHEREAS**, the Town of Burgaw would like to recognize \$64,842.88 of revenues from LGTV Set Up 5 Productions, Inc, therefore additional revenues and expenditures 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                   | \$53,010.38   |
| 10-3620-80-500        | Depot Rental Revenue           | \$ 5,682.50   |
| 10-3800-80-330        | Community House Rental Revenue | \$ 6,150.00   |

**INCREASE BUDGETED EXPENDITURE**

| <u>Account Number</u> | <u>Account Description</u>     | <u>Amount</u> |
|-----------------------|--------------------------------|---------------|
| 10-4200-00-450        | Contract Services              | \$ 1,414.13   |
| 10-5000-80-150        | Depot Buildings & Grounds      | \$ 5,682.50   |
| 10-5050-80-160        | M&R Equipment                  | \$ 3,000.00   |
| 10-5100-10-020        | Police Salaries                | \$43,636.25   |
| 10-5300-10-040        | Fire Dept Overtime             | \$ 960.00     |
| 10-6950-80-150        | Comm House Buildings & Grounds | \$ 6,150.00   |

Adopted this the 13<sup>th</sup> day of April 2021.

### **Resolution 2021-04, Authorizing the disposal of surplus property**

Ms. Pope presented Resolution 2021-04 stating that this is authorizing the disposal of certain items from Public Works due to age and high repair costs and also to list those items online on Govdeals.

There being no comments by the board, Commissioner Harrell made a motion to adopt Resolution 2021-04. The motion was seconded by Commissioner Murphy and carried by unanimous vote.

#### **RESOLUTION 2021-04 AUTHORIZING DISPOSAL OF SURPLUS PROPERTY**

**WHEREAS**, the Town of Burgaw, North Carolina is the legal owner of:

- (1) 2002 Chevy Trailblazer with a VIN# 1GN0T13522261495
- (1) 2003 Ford F150 with a VIN# 2FTRX17W44CA08975
- (1) GEHL 753Z Excavator, PIN# AC03633
- (1) SRECO Sewer Jetter

**WHEREAS**, said equipment has been in service as Public Works vehicles and equipment, and due to high mileage, age, high maintenance and repair costs, it has been deemed inefficient to retain possession; and

**WHEREAS**, North Carolina General Statutes 160A-268 allows municipalities to surplus and dispose of property by adopting a resolution authorizing the sale; and

**WHEREAS**, it has been determined that each of these assets retain value; and

**WHEREAS**, the following regulations are designed to secure for the Town of Burgaw the fair market value for the property and to accomplish the disposal efficiently and economically; and

**WHEREAS**, pursuant to Article V Section 231 of the Town of Burgaw Code of Ordinances, the Town Manager may dispose of personal property when the item(s) has a value of less than \$5,000, is no longer required for the conducting of public business, and the interest of the Town is best served by the proposed disposal;

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

- 1. The Board of Commissioners does hereby decommission Burgaw Public Works' 2002 Chevy Trailblazer, 2003 Ford F150, GEHL excavator and SRECO Sewer Jetter and does hereby declare this equipment to be surplus property;*
- 2. The Town of Burgaw will submit specifications of the vehicles and equipment to GovDeals for sale.*

**ADOPTED** this 13<sup>th</sup> day of April, 2021.

### **Police Department – Jim Hock, Chief of Police**

#### **Golf Cart Ordinance Discussion**

Chief Hock stated that this is a continuation of last meeting's discussion. The Police Department has received a couple of phone calls regarding the use of golf carts in town. Chief Hock presented the ordinance for discussion.

Commissioner Dawson asked if there are current issues around town with golf cart use. Chief Hock stated that he does not believe that it is an issue but the town does have a small presence of golf carts. The Police Department currently handles golf cart issues on a one on one, as needed basis. Attorney Rivenbark informed the board that golf carts are not allowed on public streets, however the Town does not have any enforcement capabilities without an ordinance in place. Law enforcement can only ask that a golf cart not be driven, but without extenuating circumstances, such as alcohol, the Police Department cannot write a citation.

After a brief discussion, the board requested Chief Hock bring this ordinance back to the board if golf carts become an issue in Town.

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

Attorney Rivenbark stated that he is expecting an easement from Stephen Owens on the McNeil and Bickett Street easements that he has been working on. Attorney Rivenbark has also spoken with the Town Manager and the Public Works Director regarding obtaining an easement for the ditch that runs to the canal behind Carl Hardison's building across from the old laundromat that is now a pocket park. The property owner is in agreement to give the Town the easement and Horace Thompson did perform a survey. Attorney Rivenbark also stated that he received the list of easements to obtain regarding the sewer line along Highway 117 last week and he will begin to work on those.

### **Cemetery Damage Discussion**

Commissioner Robbins requested that the Board speak with Dayna Corcoran regarding the broken monument belonging to her grandfather, Col. Anthony Caputo, in the cemetery prior to break. Ms. Corcoran stated that her grandfather was buried in the Burgaw Cemetery in 2017 and the first damage to the headstone was notice in the Spring of 2019. At that time, Ms. Corcoran stated that she had contacted Ms. Wells regarding the damage and was told that the Town is not responsible for damage to monuments in the cemetery. More damage was noticed in December of 2020. Ms. Corcoran contacted Ann Debnam from Quinn McGowan and was told that the headstone could not be repaired. Ms. Corcoran has requested that the town pay for the replacement cost of the headstone which is valued at \$538.50.

Mr. Gantt explained to the Board that the cemetery ordinance does not allow the town to take responsibility for damage to headstones and therefore the issue has been brought to the board to make the determination if the town will pay to replace it.

Commissioner Robbins made a motion that the town pay for the replacement of the headstone. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

Attorney Rivenbark informed the board that there is a need for a budget amendment to allot the money to come from the general fund. Commissioner Robbins made a motion for a budget amendment to allot \$538.50 from the general fund. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

Mayor Cowan inquired with Attorney Rivenbark as to if this sets a precedent. Attorney Rivenbark stated yes it does but he believes that the town has a moral or ethical obligation to fix a possible accident or mistake. Commissioner Harrell also stated to Ms. Corcoran that in replacing the headstone that the headstone be placed level with the ground to try to prevent damage in the future.

## **BREAK 5:26 PM – 5:36 PM**

## **PUBLIC FORUM**

Doug Krynicki of the Blueberry Festival came to request a road closure. He stated that the Blueberry Festival would like to do what they could to help the blueberry farmers since they would not be having the Blueberry Festival again this year. He requested the closure of Fremont Street between Wright and Walker Streets be closed on Friday June 18, 2021 beginning at 5PM until Saturday June 19, 2021 at 8PM. The road may open earlier if the blueberry farmers sell out prior to 8PM on Saturday. Sales of the blueberries would begin at 8AM on Saturday morning.

Following a brief discussion, Commissioner Robbins made a motion to close Fremont Street from Wright to Walker Streets on Friday, June 18, 2021 at 5PM until Saturday, June 19, 2021 at 8PM. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

Elaine Tyson, 609 S Bickett Street, questioned if the board has had any discussions regarding the speeding on Bickett Street or of any discussions on possibly moving a stop sign to Kristi Circle. Mr. Gantt stated that equipment has been purchased to give statistical data regarding speed, the type of vehicle, and time of day. That data can be used analyze where adjustments can be made around town but stop signs cannot be used for the purpose of speed control. Mr. Gantt informed the board that the speed limit on Bickett Street is 35mph so lowering the speed limit

could be an option, but he is currently reviewing a number of other options and the best way to address the concerns. Ms. Tyson stated that others in the neighborhood have the same concern.

## **ITEMS FROM THE MANAGER**

### **Resolution 2021-05 Adopting the Southeastern NC Regional Hazard Mitigation Plan**

Mr. Gantt stated that Pender, New Hanover, Onslow, and Brunswick Counties hired a firm to create a Regional Hazard Mitigation Plan and this plan has to be updated every 5 years, and it is now time to update the plan. The plan is approximately 1,000 pages long and covers all types of disasters, either natural or man-made, and is a requirement for FEMA reimbursement from disasters. Mr. Gantt gave his recommendation to adopt the plan.

After a brief discussion, Commissioner Harrell made a motion to approve Resolution 2021-05 to Adopt the Southeastern NC Regional Hazard Mitigation Plan. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

#### **RESOLUTION 2021-05 ADOPTING SOUTHEASTERN NC REGIONAL HAZARD MITIGATION PLAN**

WHEREAS, the citizens and property within the Town of Burgaw are subject to the effects of natural hazards that pose threats to lives and cause damage to property; and

WHEREAS, the Town of Burgaw desires to seek ways to mitigate the impact of identified hazard risks; and

WHEREAS, the Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Legislature of the State of North Carolina has enacted General Statute Section 166A-19.41 (*State emergency assistance funds*) which provides that for a state of emergency declared pursuant to G.S. 166A-19.20(a) after the deadline established by the Federal Emergency Management Agency pursuant to the Disaster Mitigation Act of 2000, P.L. 106-390, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act; and

WHEREAS, Section 322 of the Federal Disaster Mitigation Act of 2000 states that local governments must develop a Hazard Mitigation Plan in order to be eligible to receive future Hazard Mitigation Grant Program Funds and other disaster-related assistance funding and that said Plan must be updated and adopted within a five-year cycle; and

WHEREAS, the Town of Burgaw has performed a comprehensive review and evaluation of each section of the previously approved Hazard Mitigation Plan and has updated the plan as required under regulations at 44 CFR Part 201 and according to guidance issued by the Federal Emergency Management Agency and the North Carolina Division of Emergency Management.

WHEREAS, it is the intent of the Town of Burgaw Board of Commissioners to fulfill this obligation in order that the Town will be eligible for federal and state assistance in the event that a state of disaster is declared for a hazard event affecting the Town;

NOW, THEREFORE, be it resolved that the Town of Burgaw Board of Commissioners hereby:

1. Adopts the Southeastern NC Regional Hazard Mitigation Plan.
2. Agrees to take such other official action as may be reasonably necessary to carry out the proposed actions of the Plan.
3. Appoints Town Manager to assure that the Hazard Mitigation Plan is reviewed annually and every five years as specified in the Plan to assure that the Plan is in compliance with all State and Federal regulations and that any needed revisions or amendments to the Plan are developed and presented to the Town of Burgaw Board of Commissioners for consideration.
4. Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the Hazard Mitigation Plan.

### **Update on Town Projects**

**Smoke Testing:** Mr. Gantt stated that smoke testing was progressing well. No major issues had been found as of the time of the meeting that would explain the major inflow into our system. Only minor issues that are easy to address have been found so far.

**Emergency Watershed Protection Project:** Mr. Gantt stated that he should have a final cost estimate this week for review. Six cost estimates with different types of construction methods were performed. It appears that a more permanent long-term solution will cost more than the money the town was allotted by the USDA. It is possible to go back to the USDA to ask for more money.

**US Highway 117 Sewer Project:** Mr. Gantt stated that the design work is still being completed and he did receive the list of easements at the end of March and alignment issues are being addressed.

**Sewer Investigation:** Mr. Gantt stated that McKim and Creed is investigating a sewer issue between the Middle School and East Satchwell Street trying to find elevations and to detect issues. Little Town Learning Center has been having sewer back up issues.

**EMS Building Renovations:** Mr. Gantt stated that the deadline for the second round of bids are due June 4, 2021.

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

#### **Police Advisory Board Appointments**

Chief Hock stated that we have received eight applications for the Police Advisory Committee. Background checks have been completed on all but one applicant due to that applicant not returning the background release form. Commissioner Dawson stated that the board wanted a diverse group and at this point, she does not feel that the town has received enough applications to create a diverse board. She requested to table the appointments for now and continue to advertise and revisit this topic at the June Meeting. The board agreed to readvertise the positions and discuss again at the June Meeting. Attorney Rivenbark stated that there is nothing wrong with seeking additional applications from the public regardless of any background, race, creed, religion, sexual orientation, etc.

Mr. Gantt stated that the town will continue to advertise the position by Social Media, Newsletter, and can do a Code Red Call if requested. Commissioner Harrell requested Mr. Gantt do a Code Red call to help with the advertisement.

Commissioner Harrell inquired as to how the Police Advisory Board could hold an emergency meeting if needed. Mr. Gantt stated that the board could call a Special Meeting with a 48-hour public notice.

#### **Other Items from the Mayor and Board of Commissioners**

Commissioner Robbins reported that along the sidewalk by the old Dees Tourist Home on the Highway 53 side, there is a large piece of metal that sticks up over the sidewalk and could pose a trip hazard.

Commissioner Robbins commended the fire department for the great job they did in regards to the fire on Satchwell Street and how quickly they responded. He also thanked Mr. Gantt for the communication and keeping the board informed on the situation.

Commissioner Dawson requested of the Town Manager that Mr. Suggs and Mr. Malloy go around the neighborhood of the Lions Club building and inquire about placing a basketball court on that property and see if the neighbors would be for or against a court on that property. Attorney Rivenbark stated that in review of the contract with the Lions Club from 1970, the Lions Club owns the building and the town owns the property it sits on. If the town wanted the building, it would have to be purchased from the Lions Club for fair market value.

Commissioner Harrell expressed his thanks to Mr. Gantt for his communication.

Attorney Rivenbark advised the board that he will not be in person at the May Board of Commissioners meeting but would be attending by Microsoft Teams call.

Mayor Cowan reported a number of small potholes or chipped asphalt along Robinwood and requested Mr. Moore look at this area. Mr. Moore informed the board that Robinwood is on the paving list.

Mayor Cowan stated that the Blueberry Festival has hired an additional employee and would like to get back into the old jail. The Blueberry Festival has one room in the jail and will make a request for an additional room. He stated that when the building was repaired from Hurricane Florence, the town had a record room and now that room is being used by Pender County Tourism and he did not recall that being brought to the board. He stated that the Festival may ask to utilize the conference room and put a couple of desks in that room since it is not used very often.

#### **CLOSED SESSION – 6:18 PM**

Commissioner Robbins made a motion at 6:18 PM to go into closed session pursuant to NCGS 143-318.11 paragraph (a) item (3) Attorney/Client Privilege. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

#### **OPEN SESSION – 6:35 PM**

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

Attorney Rivenbark noted that the board came out of Closed Session regarding the acquisition of property.

#### **ADJOURNMENT**

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

The meeting adjourned at 6:35 PM.

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Kenneth T. Cowan, Mayor

Attest: \_\_\_\_\_  
Kimberly Rivenbark, Deputy Town Clerk