

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

DATE: December 12, 2023
TIME: 4:30 PM
PLACE: Burgaw Town Center, 108 E. Wilmington Street
BOARD MEMBERS PRESENT: Mayor Olivia Dawson
Mayor Pro-tem Wilfred Robbins
Bill George, Jan Dawson, and Vernon Harrell
Commissioners Elect William Rivenbark and Michael Pearsall
STAFF PRESENT: James Gantt, Town Manager
Kristin J. Wells, Town Clerk
Kimberly Rivenbark, Deputy Town Clerk
Wendy Pope, Finance Officer
Jim Hock, Police Chief/Assistant Town Manager
Louis Hesse, Building Code Administrator
Alan Moore, Public Works Director
Cody Suggs, Parks & Recreation Director
Gilbert Combs, Planning Director
Jim Taylor, Fire Chief
Damon Stanley, Facilities & Grounds Director
Jayna Augst, Recreation Coordinator
Jessica Gray, Community Development Coordinator
Zachary Rivenbark, Town Attorney
MEDIA PRESENT: None
INVOCATION: Reverend Nick Smith
PLEDGE OF ALLEGIANCE: All

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

SPECIAL PRESENTATION

Mayor Dawson presented a plaque to outgoing Commissioners Vernon Harrell and Red Robbins recognizing their years of service to the town.

ORGANIZATIONAL MEETING

The Oath of Office was administered to newly elected Board of Commissioners. The oath was administered by Town Clerk Kristin Wells for Commissioner Elect William E. (Bill) George, III. The Honorable Judge James Faison administered the oath to Commissioner Elect William G. Rivenbark and Commissioner Elect Michael D. Pearsall.

BREAK 4:46-4:59 PM

Election of Mayor Pro-tem – Board of Commissioners

Commissioner George made a motion to nominate Commissioner Malloy to serve as Mayor Pro-tem. The motion was seconded by Commissioner Dawson and carried by unanimous vote. The oath was administered by Mayor Dawson to Commissioner Malloy as Mayor Pro-tem.

Appointment of Council of Governments (COG) Representative and Alternate Representative

Commissioner George made a motion to appoint Commissioner Dawson to continue serving as the Council of Governments Representative. The motion was seconded by Commissioner Malloy and carried by unanimous vote. Commissioner Rivenbark made a motion to appoint Commissioner George to continue to serve as the alternate. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

Approval of Agenda

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

DEPARTMENTAL ITEMS

Public Works Department – *Alan Moore, Director*

Resolution 2023-27 Water Shortage Response Plan

Mr. Moore gave a brief overview of the water shortage response plan that should be adopted by the board periodically. There being no comments by the board, Commissioner Rivenbark made a motion to approve Resolution 2023-27 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Departmental Updates – *Department Heads*

Public Works Department – *Alan Moore, Director*

- Advised there was nothing new to report.

Facilities & Grounds Maintenance – *Damon Stanley, Facilities & Grounds Director*

- Recently met with a representative from the NC League of Municipalities regarding an inventory of town facilities.
- Will be having a meeting on December 18, 2023 regarding the proposed restroom facilities at Dees Park.

Planning Department – *Gilbert Combs, Director*

- Advised there was nothing new to report.

Parks, Recreation & Tourism Department – Cody Suggs, Director

- Busy with Christmas events.
- Pender County School Board is reviewing the information for the fireworks proposed in front of the middle school on New Year's Eve.
- Mr. Suggs and Ms. Augst will be attending a Parks & Recreation Conference soon.
- Gave an update on the West Side Trail project.

Fire Department – Jim Taylor, Fire Chief

- Ten members assisted with the parade.
- Thanked Tommy Lindsay and Joe Talarico for mechanic assistance recently.
- Welcomed new member Brad Robinson.

Building Inspections Department – Louis Hesse, Building Code Administrator

- A lot of commercial construction currently happening.
- New residential constructions.
- Gave an update on minimal housing progress.

Finance Department – Wendy Pope, Finance Officer

- Recently worked on a time clock conversion.

Human Resources – Kimberly Rivenbark, Human Resources Director

- Gave an update on currently employment opportunities in Public Works.

Police Department- Jim Hock, Police Chief

- Captain Fuller graduated from National Academy on December 8, 2023.
- Officer Kling advanced to Master Police Officer.
- Sergeant Williams and Corporal Padgett have both received their Bachelor of Science in Public Safety with a concentration of Administration from Western Carolina.
- Sergeant Byrd has received an Associates Degree in Public Safety Administration from Cape Fear Community College.
- Christmas parade was a success and thanked Pender County Sheriff's Office, Surf City Police Department, and Public Works staff for their assistance.

ITEMS FROM ASSISTANT MANAGER – Jim Hock, Assistant Town Manager

Chief Hock gave an update on the Public Works facility expansion.

BREAK 5:21 PM – 5:33 PM

PUBLIC FORUM

John Westbrook, 410 E. Fremont Street, spoke about the Amtrak Train Station that is being proposed by the state. He encouraged the board to show their support. Mr. Westbrook also reminded the board that something needs to be done at the intersection of Wright Street and Wilmington Street due to accidents.

PUBLIC HEARINGS

Public Hearing #1 – *Gilbert Combs, Planning Director*

Consideration of a text amendment to the Unified Development Ordinance requested by Joel Garner to amend Section 8.14 Table of Permitted Uses, Special Uses and Special Requirements and Section 8.15 Use Standards to allow ‘Nursery, Garden Center and Farm Supply Store’ in the R-20 and R-12, Residential districts and add use standards.

Mayor Dawson declared the public hearing open at 5:38 PM.

Mr. Combs presented the text amendment requested by Joel Garner. Mr. Combs encouraged the board to focus on the particular text amendment, not site specific. *Presentation materials on file in the Clerk’s office.*

Mr. Garner spoke to the board in regards to the requested text amendment request. He advised his family moved to Burgaw in June 2023 and was not aware of any municipal ordinances related to businesses in residential homes. He said the benchmarking done in the presentation is unfair. He said most of the time he only has one employee on site, but sometimes three during the busiest time of the year. Mr. Garner said he does not have customers at his house; his business is online only. Commissioner George asked what kind of equipment was being stored in Mr. Garner’s driveway. Mr. Garner said it was extra fencing materials that Lowe’s is supposed to be picking up. Commissioner Rivenbark asked Mr. Garner to clarify if he does or does not have a nursery. Mr. Garner said it can be called a nursery. Commissioner Pearsall commented on the fact that Mr. Garner left Wilmington because of issues concerning his business and asked Mr. Garner why he didn’t find out more information in Burgaw before he moved here. Mr. Garner said he was not aware of municipal ordinances.

After discussion, Mr. Garner asked the board for some time to move his business if the text amendment request is denied. Commissioner George asked how much time would be needed. Mr. Garner said he has the most cash on hand from his business between May and September.

Public Comments

Jack Sandlin, 318 S. Bennett Street, advised he has lived in Burgaw for thirty years and mows Mr. Garner's lawn. He said he sees nothing wrong with what Mr. Garner has at his residence.

Hugh Frasier, 512 NC Highway 53 East, said this is a slippery slope for everyone. If this is allowed for this residence, it is allowed for everyone in this zone. These are the rules and this is how he feels about it.

Other comments by staff

Attorney Rivenbark asked Mr. Combs to explain how the town is complaint driven for home occupations. There is no way of knowing unless a complaint is received. In this case, a complaint was received.

Attorney Rivenbark and Mr. Combs agreed if the board approved the text amendment request, it would set a precedent for future property owners.

Mayor Dawson declared the public hearing closed at 6:23 PM.

There being no further discussion, Commissioner Dawson made a motion to deny the request as recommended by the Planning Board. The motion was seconded by Commissioner Rivenbark and carried by unanimous vote.

Resolution 2023-28 Adopting a statement of consistency regarding text amendments of the Town of Burgaw Unified Development Ordinance requested by Joel Garner to amend Section 8.14 Table of Permitted Uses, Special Uses and Special Requirements and Section 8.15 Use Standards to allow 'Nursery, Garden Center and Farm Supply Store' in the R-20 and R-12, Residential districts and add use standards.

No action taken on this item since consideration was denied.

Ordinance 2023-32 A requested text amendment of the Town of Burgaw Unified Development Ordinance requested by Joel Garner to amend Section 8.14 Table of Permitted Uses, Special Uses and Special Requirements and Section 8.15 Use Standards to allow 'Nursery, Garden Center and Farm Supply Store' in the R-20 and R-12, Residential districts and add use standards.

No action taken on this item since consideration was denied.

Public Hearing #2 – Jessica Gray, Community Development Coordinator

Consideration of a text amendment to the Unified Development Ordinance requested by staff to amend Chapter 4 Public Hearing, Permits and Approvals, Section 5.4.B Notice of Hearing, Section 6.1.1 Text Amendment, and Section 10.13 Major Subdivision to clarify the requirements for public notice, expand the range of mailed notifications, and amend the deadline for complete application submissions.

Mayor Dawson declared the public hearing open at 6:23 PM.

Ms. Gray presented the requested text amendment by staff as described in Ordinance 2023-33.

There being no discussion, Mayor Dawson declared the public hearing closed at 6:28 PM.

Resolution 2023-29 Adopting a statement of consistency regarding text amendments to the Town of Burgaw Unified Development Ordinance requested by staff to amend Chapter 4 Public Hearing, Permits and Approvals, Section 5.4.B Quasi-judicial Procedure, Section 6.1.1 Text Amendments and rezonings, and Section 10.13 Major Subdivisions to clarify the requirements for public notice, expand the range of mailed notifications, and amend the deadline for complete application submissions.

Commissioner Rivenbark made a motion to approve Resolution 2023-29 as presented. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

Ordinance 2023-33 A text change amendment to the Town of Burgaw Unified Development Ordinance requested by staff to amend Chapter 4 Public Hearing, Permits and Approvals, Section 5.4.B Quasi-judicial Procedure, Section 6.1.1 Text Amendments and rezonings, and Section 10.13 Major Subdivisions to clarify the requirements for public notice, expand the range of mailed notifications, and amend the deadline for complete application submissions.

Commissioner Dawson made a motion to approve Ordinance 2023-33 as presented. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

Public Hearing #3A – Gilbert Combs, Planning Director
This public hearing is a continuation from November 14, 2023.

Consideration of a conditional district rezoning from R-12, Residential to R-7(CZ), Residential Conditional District for a multifamily project containing 40 3-bedroom townhomes located on Timberly Lane (PIN: 3229-36-9052-0000).

Mayor Dawson declared the public hearing continued at 6:29 PM.

Before Mr. Combs presented the request, Andrew Smith asked to be recognized and requested a continuation of the hearing. Commissioner Dawson made a motion to grant the request to continue Public Hearing #3A. The motion was seconded by Commissioner George and carried by unanimous vote.

Resolution 2023-24 Adopting a statement of consistency regarding an amendment of the official zoning map of the Town of Burgaw requested by Andrew Smith of Penderline, LLC to rezone property located on North Timberly Lane (PIN: 3229-36-9052-0000) from R-12, Residential to R-7 (CZ) Residential District Conditional Zoning for a multifamily project containing 40 3-bedroom townhomes.

No action taken on this item since Public Hearing #3A was continued.

Ordinance 2023-30 A map amendment of the official zoning map of the Town of Burgaw requested by Andrew Smith of Penderline, LLC to rezone property located on North Timberly Lane (PIN: 3229-36-9052-0000) from R-12, Residential to R-7 (CZ) Residential District Conditional Zoning for a multifamily project containing 40 3-bedroom townhomes.

No action taken on this item since Public Hearing #3A was continued.

Public Hearing #3B – Gilbert Combs, Planning Director
This public hearing is a continuation from November 14, 2023.

Consideration of a special use permit request for multifamily residential in an R-7(CZ), Residential Conditional Zoning District for 40 3-bedroom townhomes located on Timberly Lane (PIN: 3229-36-9052-0000).

No action taken on this item since Public Hearing #3A was continued.

Resolution 2023-25 Resolution for a Special Use Permit for property located on North Timberly Lane (PIN: 3229-36-9052-0000) to allow a multifamily project containing 40 3-bedroom townhomes in the R-7 (CZ), Residential District Conditional Zoning.

No action taken on this item since Public Hearing #3A was continued.

ITEMS FROM ASSISTANT MANAGER – Continued

Commissioner Dawson asked for an update on the improvement projects at the cemetery. Since Mr. Stanley is now the Facilities & Grounds Director, his team has worked on improving the looks of the cemetery. Once the team gets a plan together on removal of trees, etc., Mr. Stanley will present his recommendation to the board.

ITEMS FROM MANAGER – James Gantt, Town Manager

FY 2024-2025 Budget Calendar

Mr. Gantt advised a copy of the proposed FY 2024-2025 budget calendar was included in the agenda packets for review. The board agreed to add February 27-28, 2024, 9:00 AM to 12:00 PM each day, for the Strategic Planning Retreat. They also agreed to add May 1, 2024 from 9:00 AM to 12:00 PM for Budget Work Session. There being no further comments, Commissioner Dawson made a motion to approve the proposed budget calendar. The motion was seconded by Commissioner Rivenbark and carried by unanimous vote.

Verizon Water Tower Lease Discussion

Mr. Gantt advised Verizon is interested in entering into a lease agreement with the town to install a cellular tower on the town's water tank near the prison. Attorney Rivenbark has reviewed the

agreement and his comments were presented to the board in the proposed agreement. Mr. Gantt briefly reviewed the highlights of the agreement. The board commented this should help with current service issues and no one was opposed to the proposal.

Resolution 2023-30 Accept Grant Funding for the Storm Water Master Plan Update Project

Commissioner George made a motion to approve Resolution 2023-30 as presented. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

Updates on Current Town Projects

Mr. Gantt gave an update on the digital agenda software that staff has been working on. The plan is for staff to utilize the software for the January meeting. The board will be trained with iPads in the coming weeks.

Mr. Gantt said the engineer for the Burgaw Town Center parking lot is currently working on the plans and once they are ready, the project will be bid out. Commissioner Dawson voiced her concerns on how long this project has taken. Mr. Gantt said the engineer has had some personal matters that has put him behind, but should be wrapping up the plans soon.

Mr. Gantt commented on the recent sidewalk projects and advised the sidewalk in front of First National Bank is complete. The Wright Street sidewalk project is also done. Mr. Moore said the sidewalk that was damaged in front of Robert Kenan's office will be done soon. Commissioner Dawson requested the contractor also look at the driveway/sidewalk area in front of Lion's Crest's new facility on Wright Street.

The camera and access control project at the parks are almost complete. There are a few issues that are being addressed, but the cameras are now recording.

Mr. Gantt advised the state is converting to a new radio system by mid-2025 and all of the public safety radios will have to be replaced. The county has approached the municipalities with a proposal to the county commissioners where the county buys the radios in bulk and each town pays back the county over ten years. Mr. Gantt advised the cost for Burgaw would be approximately \$70k per year. After some discussion, there was no opposition voiced by the board in regard to this proposal.

Staff is in the process of getting the lettering ordered for the front of the Burgaw Town Center.

Mr. Gantt met with NC DOT recently regarding the parking spaces they striped with the recent repaving of Dickerson Street in front of The Pender House and Harrell's Funeral Home. There was concern that some of the on-street parking has been taken away with the new striping. NC DOT said the re-striping was done based on NC DOT guidelines, which are different from when the street was originally striped years ago. Mr. Gantt will work with the property owners on issues such as parking for funerals, etc.

There was brief discussion on the stormwater master plan update.

Mr. Gantt advised he and Ms. Wells met with the two new commissioners to hold an orientation and go over pertinent information.

Mr. Gantt said there is a meeting planned with Pender County regarding the Health & Human Services building.

Mr. Gantt said there have been several IT issues recently and is trying to assist with these issues.

Mr. Gantt advised Commissioner George has coordinated having a piano donated to have at the depot.

ITEMS FROM ATTORNEY – Zachary Rivenbark, Town Attorney

Attorney Rivenbark stated he only had items for closed session.

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

Resolution 2023-31 Resolution to adopt the regular meeting schedule of the Burgaw Town Board of Commissioners for year 2024

The meetings for the year 2024 have been proposed to continue being held on the second Tuesday of each month beginning at 4:30 PM, except for the month of June. Due to the NC Blueberry Festival activities during the second week of the month, the town Board of Commissioners meeting will be held on the third Tuesday. Commissioner Malloy made a motion to approve Resolution 2023-31 as presented. The motion was seconded by Commissioner Rivenbark and carried by unanimous vote.

Other items from the Mayor and Board of Commissioners

There was brief discussion on the ethics class the newly elected officials will need to take. Mr. Gantt and Ms. Wells will coordinate this.

CLOSED SESSION – 7:37 PM

Commissioner Dawson made a motion to go into closed session pursuant to NC GS 143-318.11(a)(3) Attorney/Client Privilege and NC GS 143-318.11(a)(6) Personnel. The motion was seconded by Commissioner George and carried by unanimous vote.

OPEN SESSION – 9:11 PM

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

ADJOURNMENT

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

The meeting was adjourned at 9:11 PM.

G. Olivia Dawson, Mayor

Attest: _____
Kristin J. Wells, Town Clerk