TOWN OF BURGAW BOARD OF COMMISSIONERS
REGULAR MEETING (RESCHEDULED)

DATE:	January 16, 2024
TIME:	4:30 PM
PLACE:	Burgaw Town Center 108 E Wilmington St
BOARD MEMBERS PRESENT:	Mayor Olivia Dawson Mayor Pro-tem James Malloy Commissioner Bill George Commissioner Michael Pearsall Commissioner William Rivenbark
BOARD MEMBERS ABSENT:	Commissioner Jan Dawson

1. Call to Order

The meeting was called to order by Mayor Dawson.

2. Invocation

The invocation was led by Commissioner Malloy.

3. Pledge of Allegiance

The Pledge of Allegiance was said by all.

4. Approval of Agenda

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

5. Approval of Consent Agenda

*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.

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

A. **Approval of the November 14, 2023 Regular Meeting Minutes**

6. Special Requests/Presentations

A. Pender High School JROTC Recognition

Cody Suggs, Director - Parks, Recreation & Tourism Department

Mr. Suggs recognized and presented a donation to Pender High JROTC for their assistance during recent events.

7. Departmental Items

A. Public Works Department

Alan Moore, Public Works Director

- There were no new updates to provide at the meeting. No questions or comments were made by the board.

B. Police Department

Jim Hock, Police Chief

- Holiday events were successful.
- Sergeant Byrd completed his Associates Degree from Cape Fear Community College.
- 12 out of 18 officers within the department have some sort of degree.
- Department training records for the year 2023 have been submitted to the state.

C. Planning Department

Gilbert Combs, Planning Director

- There were no new updates to provide at the meeting. No questions or comments were made by the board.

I. Resilient Coastal Communities Program Update

Mr. Combs gave a brief overview of the NC Resilient Coastal Communities Program. He advised there is a public workshop scheduled for January 30, 2024 from 5:30-7:30 PM at the Burgaw Town Center. This workshop would allow time for the public to share concerns about flooding and other weather-related hazards affecting their homes and learn more about what Burgaw is doing to prepare for the future.

D. **Parks, Recreation & Tourism**
Cody Suggs, Parks & Recreation Director

- Mr. Suggs gave an update on the West Side Trail expansion project. He said there will need to be a modification done to a storm water permit for Pender Memorial Park and it will need to be engineered.
- Staff is working on the plans for the digital sign to go at the corner of Wilmington Street and Walker Street next to the Burgaw Town Center.
- The NC Blueberry Festival annual pancake breakfast will be held on February 10, 2024 at the Burgaw Fire Department. Mr. Suggs advised the festival association plans to also use the depot kitchen for take out plates. They will pay the cleaning fee as usual.

I. **Burgaw Incubator Kitchen Cleaning Policy Amendments**
Cody Suggs, Director - Parks, Recreation & Tourism Department

Mr. Suggs explained the request for amending the policy for the town's incubator kitchen. He said the town has supplied cleaning materials in the past for the kitchen tenants, but they seem to run out quickly. Mr. Suggs said he has worked with the health department on revising the policy so that the tenants are required to bring their own cleaning supplies, such as Clorox, etc. The town would continue to provide trash bags and paper towels. Mr. Suggs said this revision would take place in February if approved by the board. Commissioner Pearsall asked if a checklist of materials needed would be provided to the tenants. Mr. Suggs said these checklists are within the tenants' health department paperwork. After some discussion by the board, Commissioner Rivenbark made a motion to approve the amendments without the "warning" verbiage. The board agreed to go straight to "fining" if there was a violation. The motion was seconded by Commissioner George and carried by unanimous vote.

II. **Public Funding Request: The 1865 Society of Pender County, LLC**
Cody Suggs, Director - Parks, Recreation & Tourism Department

Commissioner Malloy recused himself from the meeting prior to the discussion of this item at 4:50 PM.

Mr. Suggs briefly explained the funding request submitted by The 1865 Society of

Pender County, LLC. Karen Malloy, President, spoke to the board and requested $3,000 instead of $2,500 as listed on the request. She advised there are forty (40) participants in the spelling bee that is planned for the event. Mr. Suggs advised there is an agreement for the applicant regarding the responsibility of ordering port-a-johns; this is not the responsibility of the town. After brief discussion, Commissioner Rivenbark made a motion to approve the funding request in the amount of $3,000. The motion was seconded by Commissioner Pearsall. Motion carried.

Commissioner Malloy returned to the meeting at 4:55 PM.

E. **Fire Department**
Jim Taylor, Fire Chief

- There were no new updates to provide at the meeting. No questions or comments were made by the board.

F. **Finance Department**
Wendy Pope, Finance Officer

- Finance staff is currently working on W-2's and 1099's.

G. **Facilities & Grounds Department**
Damon Stanley, Facilities & Grounds Director

- Working on the restroom facility at Dees Park and the architect has requested a site survey, so this will be scheduled soon.

H. **Building Inspections Department**
Louis Hesse, Building Code Administrator

- No major issues with current projects in town.
- Currently working on 15 minimal housing issues.

8. 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. Remarks should be limited to three (3) minutes per speaker.

Vernon Harrell, 108 N. McRae Street, reminded the board of the planning meeting that was postponed in November 2023. He requested the board to consider rescheduling this meeting.

Ross Harrell, 111 N. Wright Street, spoke on behalf of the Spring Fest 2024 committee and asked for funding of $2000 plus $600 for the rental of the port-a-johns. He advised an application has been submitted to Mr. Suggs. Mr. Harrell said he also had a list of finances from last year's festival and gave it to Ms. Pope. Attorney Rivenbark confirmed with Ms. Pope there is funding available for this request and she advised there was sufficient funding available. Commissioner George made a motion to approve the funding request of $2,600 for the 2024 Spring Fest. The motion was seconded by Commissioner Rivenbark and carried by unanimous vote.

John Westbrook, 410 E. Fremont Street, spoke about an accident that almost occurred at Wilmington Street and Wright Street. He asked the town to consider reaching out to NC DOT to request the speed limit be reduced from 35 MPH to 25 MPH near the intersection.

Karen Harding, 318 S. Walker Street, spoke about the Courthouse Ave street scape master plan and asked the board why the town is proposing to spend money on public restrooms between two main sites in town, the courthouse and depot. Ms. Harding voiced her opposition to public toilets in the pocket park on Courthouse Avenue.

9. Public Hearings

A. **Rezoning: Timberly Lane - Penderline, LLC**
Gilbert Combs, Planning Director
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).

This public hearing is a continuation from the December 2023 meeting.

Mayor Dawson declared the public hearing continued at 5:45 PM.

Mr. Combs reviewed the revised plan proposed by Penderline, LLC. *Presentation on file in the Clerk's office.*

Leo Andrades, with Penderline, LLC, spoke regarding the project. He said this is the fourth meeting in front of the town Planning Board and Board of Commissioners. Mr. Andrades lives in Burgaw and loves his community. He stated there have been other projects with much higher density approved than the one being proposed by Penderline, LLC. He added this location does have sewer capacity, unlike some of the other projects that have already been approved. Mr. Andrades said he and his business partner, Andrew Smith, felt townhomes were the best fit for the location. He said there have been several business owners that have spoken in support of the project. He commented on the concern voiced from the board previously regarding the number of units being proposed. Mr. Andrades said this project is a huge tax base for the town.

Andrew Smith, with Penderline, LLC, spoke about the changes to the project. He reminded the board their reasoning behind going with a conditional district rezoning request verses other options. He said the board can apply conditions to the project. He said town staff has recommended approval of the project. Mr. Smith reviewed the town's goals in the 2030 Land Use Plan and said there are several goals this project accomplishes.

Commissioner Malloy asked Mr. Smith if he was willing to remove units labeled #1, #40, #21, #22, #23, #24, #17, #18, #19, and #20 (units closer to the back of the property). Mr. Smith asked why those specific units. Commissioner Malloy voiced his concern regarding wet lands and flooding in the area. Commissioner Pearsall said he wants to focus on the rezoning first. There was discussion about the buffer standards and were explained by Mr. Combs.

Commissioner Pearsall stated he would like to recuse himself from the meeting at 6:41 PM.

There was discussion on what could be constructed on the property as it is zoned today, verses what would be allowed if the rezoning took place. Mr. Combs explained the differences.

Mr. Smith spoke about the wetlands survey that he had done on the property. After some discussion, Commissioner Malloy said he is not against the project, but would like the units to be reduced by ten (10). Commissioner George requested Mr. Smith to eliminate the eight (8) units in the back of the property.

Public Comments

Rochelle Whiteside, 315 W Bridgers Street, encouraged the board to think about the town and how we want it to feel and look. She said we have a planning board for a reason and should follow their recommendation.

Sarah Smith, 511 Timberly Lane, said she was never contacted to see how she felt about the project. Ms. Smith spoke highly against the project.

Joan Stomski, 511 Timberly Lane, asked the board not to approve the rezoning. She said it is not the right time and place for this project.

Cameron Smith, 511 Timberly Lane, said he is not against growth for Burgaw, but is opposed to the rezoning.

Andrea Williams, 215 Murray Town Road, does not approve of the project.

Tony Jacques, 207 S. Walker Street, is opposed to the rezoning. He advised the board to be careful with growth. He thinks this project will have a negative impact on the town.

Eugene Mulligan, 318 S. Walker Street, said we need to look at the professionals and if they say it will work, then it is okay.

Angela Hammers, 318 E. Wallace Street, said she lives close to project and requests the board to pay attention to the flooding issues in the area.

Jacob Bolin, 3703 Horsebranch Road, spoke about his concerns with affordable housing. He said he has no problem with the development.

Continued discussion

Mayor Dawson asked Mr. Combs why the Planning Board recommended denial. Mr. Combs said most of the people here were at the Planning Board and voiced their concerns. The Planning Board members heard comments about flooding, etc. and recommended denial based on comments from the public.

Mr. Smith spoke in response to the public comments. He said he would remove the 8 units at the back if it makes the project move forward.

Commissioner Malloy said he may not be an engineer, but look at data regarding flooding. His concern is flooding, removing trees, etc. He said if the project negatively affects the town, he will not support it.

Commissioner Rivenbark said he has been here 37 years and does not like to hear the disrespect of his constituents and questioning their integrity. Commissioner Rivenbark made a motion to deny the project and move forward. The motion was seconded by Commissioner George and carried by unanimous vote. Commissioner George stated he agreed with denial because of the Planning Board's recommendation.

Commissioner Pearsall returned to the meeting at 7:30 PM.

Mayor Dawson called for a 5-minute break at 7:30 PM.

I. **Resolution 2023-24: Statement of Consistency**
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 consideration was denied.

II. **Ordinance 2023-30: Zoning Map Amendment**
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 consideration was denied.

B. **Special Use Permit: Timberly Lane - Penderline, LLC**
Gilbert Combs, Planning Director
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).

This public hearing was not heard due to denial of Public Hearing #9A.

C. **FY 2024-25 Budget: Early Citizen Input**
James H. Gantt, Town Manager
Early Citizen Input on the FY 2024-2025 Budget

Mayor Dawson declared the public hearing open at 7:38 PM.

John Westbrook, 410 E. Fremont Street, said this is a beautiful town, and appreciates what the town is doing. He wants the board to look at the future. He said parking for downtown is important. Streetscaping for downtown is important, as well. Mr. Westbrook said we need to look at the future with the rail coming back through Burgaw. He also commented on hiring a grant writer as a new staff member. In addition, he added the town needs a pedestrian and bike system.

Eugene Mulligan, 318 S. Walker Street, spoke about past actions of the board regarding the purchase and sell of the former Bank of America building. He also commented on the amount of money in the town's fund balance and why there was a need for a loan for the renovation of the former EMS building. Mr. Mulligan also voiced his concern about the town's website not being updated with audit information, minutes, etc.

Mayor Dawson declared the public hearing closed at 7:58 PM.

10. Items from Assistant Manager

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

A. **Public Works Expansion Project Update**

11. Items from Manager

A. **Digital Agenda Project**

Mr. Gantt advised Ms. Wells is currently using the new agenda software and things seem to be much smoother than entering items manually. Staff will be trained on how to submit agenda items soon. The board will receive town issued iPads soon to utilize the new software digitally for the meetings.

B. **Town Hall Campus Parking Lot Update**

Mr. Gantt advised the contractor has the plans from the engineer and will have the pricing back to him by February 1, 2024. He will bring this item back to the board at the February meeting.

C. **Storm Water Master Plan Project**

Staff is currently working with the firm to complete the bidding process and hopes to have everything completed within the next couple of weeks.

D. **FY 2024-25 Budget Update**

Department Heads have submitted their CIP requests and Mr. Gantt and Ms. Pope are working through those to have ready for the board by February.

12. Items from Attorney

Attorney Rivenbark said Mr. Joel Garner, resident/business owner on McNeil Street, is being fined $100 per day and is still not in compliance. He said he assumes Mr. Garner is still conducting business. Attorney Rivenbark stated Mr. Garner met with Mr. Combs recently and requested if the board could waive his fines up to a certain point. Attorney Rivenbark said he does not recommend the board doing this. He recommended that the board should authorize the Attorney to send a letter and give Mr. Garner a certain amount of days to come into compliance, or if not, the Town Planner will have the authority to issue a stop work order (stated in the town code). Attorney Rivenbark said if that still does not work, and the board thinks this issue is serious enough, he requests the board to allow him to pursue a preliminary injunction against Mr. Garner to get a court order to force him to stop operating his business out of his residence. Mr. Combs said Mr. Garner has sent an email to him; Mr. Combs shared the email with the board. Mr. Combs explained what Mr. Garner needs to do to be in compliance.

After discussion, Commissioner Rivenbark stated he is not in favor of reducing the fines, and would be in favor of increasing it to cease this immediately. He said this has gone on for too long and it needs to stop. Commissioner Rivenbark made a motion to authorize Attorney Rivenbark to send a letter as soon as possible stating he must come into compliance immediately upon receipt of the letter or a stop work order would be issued by the town. If that does not work, the Attorney will pursue a preliminary injunction and move forward from that point. The motion was seconded by Commissioner Pearsall and carried by unanimous vote.

13. Items from Mayor and Board of Commissioners

Commissioner Rivenbark advised there are some street lights out around town. Mr. Gantt and Chief Hock will work with staff on checking which ones need attention.

A. **Beautification Committee Updates**
Mayor Dawson and Commissioner Dawson, Members of the Beautification Committee

Mayor Dawson advised the Beautification Committee decided not to display the large Santa this past Christmas due to its deteriorating condition. The committee has decided to sell the Santa with plans to purchase a new one before Christmas 2024. The committee is also looking at future needs related to Christmas decor, including electrical outlets for lights, etc.

B. **Parking on South Dickerson Street**

Mayor Dawson spoke about the restriping and paving on Dickerson Street in front of The Pender House and Harrell's Funeral Home. There has been concern voiced from the two business owners about the on-street parking being eliminated. Mr. Gantt advised it is a state-owned street and when they repaved it, they brought it up to current NC DOT standards. Mr. Gantt advised he is still waiting to hear back from NC DOT on scheduling a meeting with the business owners in the area.

14. Closed Session

A. **Pursuant to NC GS 143-318.11(a)(3) Attorney/Client Privilege**

Commissioner Rivenbark made a motion to go into closed session at 8:08 PM. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

The board agreed to return to open session at 9:00 PM.

Upon returning to open session, there was brief discussion on parking issues. Mr. Gantt also advised the board that the town's current IT staff member, Erik Harvey, will be resigning from the town as of February 5, 2024. There was discussion on what to do for IT needs in the future. Mr. Gantt will look into options and bring back further information to the board.

15. Adjournment

Commissioner Rivenbark made a motion to adjourn the meeting at 9:15 PM. The motion was seconded by Commissioner George and carried by unanimous vote.