



TOWN OF FUQUAY-VARINA
BOARD OF COMMISSIONERS REGULAR MEETING
FEBRUARY 4, 2019

CALL TO ORDER

Mayor John W. Byrne called the regular meeting of the Fuquay-Varina Board of Commissioners to order on February 4, 2019 at 7:03 p.m.

Commissioners Present: Blake Massengill (Mayor Pro-Tem)
Bill Harris
Marilyn Gardner
Jason Wunsch
Larry Smith

Commissioners Absent: None

Others Present: Town Manager Adam Mitchell
Assistant Town Manager Mark Matthews
Town Clerk Rose Rich
Town Attorney James Adcock

INVOCATION AND PLEDGE OF ALLEGIANCE

Pastor Jeff Jones, Hilltop Baptist Church provided the invocation and Mayor Pro-Tem Blake Massengill led the Pledge of Allegiance.

APPROVAL OF THE MINUTES

The January 22, 2019 minutes of the regularly scheduled and special called meeting of Town Board of Commissioners were presented and recommended for approval.

MOTION: Mayor Pro-Tem Massengill
SECOND: Commissioner Harris
MOTION RESULT: Passed Unanimously (4-0)

At this time, the Town Board took a brief recess at 7:07 pm to allow for professional photographs to be taken of the new Town Board. The Board reconvened the meeting at 7:15 pm.

PRESENTATIONS

Agenda Item No. 4.A: Oath of Office - Larry W. Smith - Town Commissioner

Mayor John W. Byrne administered the oath of office of Commissioner to Larry Wayne Smith. Commissioner Smith will fill the unexpired term of former Commissioner Charlie Adcock. The term expires December 31, 2019. The Mayor and each member of the Town Board welcomed Commissioner Smith and expressed their gratitude for his willingness to serve in this capacity. Commissioner Smith gave a few brief comments and stated that he was honored to be a member of the Town Board.

Agenda Item No. 4.B: Recognition - Captain Joe Carter, Fuquay-Varina Fire Department - 2018 NC Auto Dealers Association Hometown Hero Award Recipient and 2018 Fuquay-Varina Fire Department Employee of the Year

Fire Chief Anthony Mauldin and Mayor Byrne recognized Captain Joe Carter for being named the 2018 NC Auto Dealers Association "Hometown Hero" and for being chosen as the 2018 Fuquay-Varina Fire Department Employee of the Year. Mayor Byrne stated that it is the exceptional Fire Department employees, such as Captain Carter, that helped the Town earn its insurance rating of a "2" of which there are very few municipalities in the state that have earned that rating.

PUBLIC COMMENTS:

There were no public comments from members of the audience.

ITEMS TABLED FROM PREVIOUS MEETING:

There were no items tabled from a previous meeting.

PUBLIC HEARINGS:

Agenda Item No. 7.A: Zoning Map Amendment - Mauldin-Watkins Surveying, PA - 313 S Fuquay Ave - PIN 0666060493 - REZ-2018-24

Purpose – To consider a requested zoning map amendment for a total of 0.64 acres, located at 313 S Fuquay Avenue, from the Office & Institutional (O&I) Zoning District to the Town Center Residential (TCR) Zoning District.

Staff Comments – Town Manager Mitchell entered the agenda abstract and supporting documents for this agenda item into the official record of the Town. He then provided general information about the zoning map amendment for REZ-2018-24 to include information pertaining to general property data features, current zoning, requested zoning, surrounding land uses, relation to the land use plan, transportation considerations with respect to the Town’s Community Transportation Plan, utilities, and the required neighborhood meeting. Town Manager Mitchell recommended approval citing a number of reasons including that the Planning Board unanimously recommended approval.

Public Hearing – The public hearing was opened. Wayne Mauldin of Mauldin-Watkins Surveying, 131 N. Broad Street, spoke in favor of the zoning map amendment on behalf of Ed and Jeanne Ridpath (the property owners). He stated that the amendment would allow the owners to replace a shed that was damaged by a large limb falling on it. No one chose to speak in opposition to the proposed zoning map amendment. The hearing was closed.

Discussion – Mayor Pro-Tem Massengill made comments about the large limb falling on and damaging the petitioner’s shed. He stated that WRAL News has often shown the damaged shed as part of their news story, and he is happy that the Ridpaths will be able to replace the shed. Commissioner Gardner stated that the Ridpath’s home is one of the most historic in our district, and that she was grateful that they restored the home.

Recommendation – Approve REZ-2018-24, a zoning map amendment at 313 S Fuquay Avenue, from the Office & Institutional (O&I) Zoning District to the Town Center Residential (TCR) Zoning District. The proposed zoning map

amendment is consistent with the 2035 Community Vision Land Use Plan and is reasonable and in the best interest of the public for the reasons identified by management and staff.

MOTION: Mayor Pro-Tem Massengill
SECOND: Commissioner Wunsch
MOTION RESULTS: Passed Unanimously (5-0)

Agenda Item No. 7.B: Zoning Map Amendment - Gala Construction, LLC -
419 Washington Street - PIN 0656794216 - REZ-
2018-21

Purpose – To consider a requested zoning map amendment for a total of 0.10 acres, located at 419 Washington Street, from the Residential Medium Density (RMD) Zoning District to the Town Center Residential (TCR) Zoning District.

Staff Comments – Town Manager Mitchell entered the agenda abstract and supporting documents for this agenda item into the official record of the Town. He then provided general information about the zoning map amendment for REZ-2018-21 to include information pertaining to general property data features, current zoning, requested zoning, surrounding land uses, relation to the land use plan, transportation considerations with respect to the Town’s Community Transportation Plan, utilities, and the required neighborhood meeting. Town Manager Mitchell recommended approval citing a number of reasons including community character conditions offered by the petitioner and noted on the plot plan as well as that the Planning Board unanimously recommended approval.

Public Hearing – The public hearing was opened. No one chose to speak in favor of, or in opposition to the proposed zoning map amendment for REZ-2018-21. The public hearing was closed.

Discussion – Mayor Pro-Tem Massengill stated that he thought that there was already a house constructed on the proposed property. Planning Director Samantha Smith stated that there is a house across the street from the property, but not on the proposed property.

Recommendation – Approve REZ-2018-21, a zoning map amendment at 419 Washington Street, from the Residential Medium Density (RMD) Zoning District to the Town Center Residential (TCR) Zoning District. The proposed amendment is consistent with the 2035 Community Vision Land Use Plan and is reasonable and in the best interest of the public for the reasons identified by management and staff.

MOTION: Commissioner Harris
SECOND: Mayor Pro-Tem Massengill
MOTION RESULTS: Passed Unanimously (5-0)

Agenda Item No. 7.C: Zoning Map Amendment - Gala Construction, LLC -
220 and 228 Bridge St - PIN 0656790100 and
0656699194 - REZ-2018-25

Purpose –To consider a requested zoning map amendment for a total of 0.25 acres, located at 220 and 228 Bridge Street, from the Town Center Residential (TCR) Zoning District to the Town Center Residential (TCR) Zoning District.

Staff Comments – Town Manager Mitchell entered the agenda abstract and supporting documents for this agenda item into the official record of the Town. He then provided general information about the zoning map amendment for REZ-2018-25 to include information pertaining to general property data features, current zoning, requested zoning, surrounding land uses, relation to the land use plan, transportation considerations with respect to the Town’s Community Transportation Plan, utilities, and the required neighborhood meeting. Town Manager Mitchell advised that the Town Board had previously zoned the property TCR with the understanding that the property would be divided into two buildable lots. It was after the action taken by the Board that the surveyor for the petitioner recognized that a permanent sewer utilities easement bisects the property and as a result only one buildable lot is achievable therefore necessitating an amendment to the plot plan and a zoning map amendment reflecting the same. Town Manager Mitchell recommended approval citing a number of reasons including community character conditions offered by the petitioner and noted on the plot plan as well as that the Planning Board unanimously recommended approval.

Public Hearing – The public hearing was opened. No one chose to speak in favor of, or in opposition to the proposed zoning map amendment for REZ-2018-25. The public hearing was closed.

Discussion – There was no discussion from members of the Town Board regarding this matter.

Recommendation – Approve REZ-2018-25, a zoning map amendment at 220 and 228 Bridge St, from the Town Center Residential (TCR) Zoning District to the Town Center Residential (TCR) Zoning District. The proposed amendment is consistent with the 2035 Community Vision Land Use Plan and is reasonable and in the best interest of the public for the reasons identified by management and staff.

MOTION: Mayor Pro-Tem Massengill
SECOND: Commissioner Wunsch
MOTION RESULTS: Passed Unanimously (5-0)

Agenda Item No. 7.D: Zoning Map Amendment - Alliance Behavioral Healthcare - 400 W Ransom St - PIN 0656759298 - REZ-2018-26

Purpose -To consider a requested zoning map amendment for a total of 5.0 acres, located at 400 W Ransom St, from the Office & Institutional Conditional Zoning District (O&I-CZD) to the Office & Institutional Conditional Zoning District (O&I-CZD) and corresponding land use plan amendment from Town Center Residential (TCR) to Civic & Institutional (CIV).

Staff Comments - Town Manager Mitchell entered the agenda abstract and supporting documents for this agenda item into the official record of the Town. He then provided general information about the zoning map amendment for REZ-2018-26 to include information pertaining to general property data features, current zoning, requested zoning, surrounding land uses, relation to the land use plan, transportation considerations with respect to the Town's Community Transportation Plan, utilities, the required neighborhood meeting and the request to amend the land use plan.

The petitioner requested the following conditions be made applicable to the use of the subject property:

All uses of the property, including specifically (i) Juvenile and Adult Detention Facility, (ii) Correctional Facility or (iii) Methadone Clinic, are prohibited, without zoning changes, with the exception of:

- I. Ambulatory healthcare
- II. Hospital/medical center
- III. Medical support facility

The petitioner requested the following conditions applicable to the site-specific standards of the subject property:

- I. Limit to use for individuals under the age of 21 and their families. Such use shall not preclude family counseling or other related services
- II. Maintain fencing around patient courtyard
- III. Provide psychiatric security windows in all patient treatment rooms
- IV. Provide security cameras at entrances/exits
- V. The entrance used for secure transfers of individuals who have been determined to meet involuntary commitment criteria shall be screened from public view with an opaque landscape buffer consisting of evergreen shrubs a minimum size planting of six (6) feet high at time of planting, or hard surface materials to create a private entrance screened from view by the public with the exception of the asphalt driving surface and associated curb and gutter.

- VI. Provide 24/7 on-site security while operating as a licensed crisis facility.
- VII. Maintain an opaque landscape buffer adjacent to the sidewalk, a minimum size of six (6) feet at the time of planting, or hard surface materials a minimum of eight (8) feet in height around perimeter of the patient courtyard, with the exception of required exit doors.
- VIII. Prohibit outdoor recreation that would create loud or disturbing noise after 8:30 PM and before 9 AM. Such prohibitions shall not preclude reasonable outdoor therapeutic activities not creating unreasonable noise.

Public Hearing – The public hearing was opened. Those speaking in favor of the zoning map amendment for REZ-2018-26 are as follows: Carol Wolff, 715 Softree Lane, Durham, attorney speaking on behalf of Alliance Behavioral Health Care, Lynne Nelson, 6617 Bentwinds Lane, Nicole Cole, 9221 Calabria Drive, Raleigh, Chris Thompson, Ft. Mills, SC, Michelle R. Heggie, 5425 Maggie Run Lane, Rick Shrum, VP and Chief Strategy Officer for WakeMed Health & Hospitals, 3000 New Bern Avenue, Raleigh, Richard Hayner, Director of the Wake County Southern Regional Center, who resides at 611 Coley Farm and Michael Slack, 2973 Silver Creek Circle. Those speaking in favor of the proposed zoning map amendment expressed that there is a need for a facility of this type in this area. It was also mentioned that this facility will create 60 new jobs and that Alliance Behavioral Health Care will be investing \$7 million into renovating the facility. No one chose to speak in opposition to the proposed zoning map amendment. The hearing was closed.

Discussion – Mayor Pro-Tem Massengill asked about the impact that a previous action by the Town of Fuquay-Varina Board of Adjustment with respect to Alliance Behavioral Health Care will have on this zoning map amendment as it relates to possible appeals or the filing of a new lawsuit. Town Manager Mitchell asked the Town Attorney to respond to the question. Town Attorney James Adcock stated that the petitioner could offer a condition tonight that upon approval of REZ-2018-26, to release, waive and quit claim any legal claim rights or remedies related to the appeal of the zoning administrator before the Board of Adjustment (BOA AP 2018 01) and also any legal or equitable claims related to the prior zoning classification and permitted uses of the property. Mayor Pro-Tem Massengill asked if the petitioner is willing to waive rights as stated by the Town Attorney. Carol Wolff, the attorney representing Alliance Behavioral Health Care, stated that she believes that her client would be thrilled to move on, but that she is not in the position to make that statement on behalf of her client until she confers with their Board of Directors. She stated that as far as she knows, Alliance Behavioral Health Care does not intend proceed with an appeal. She offered to draft a letter stating that they do not intend to appeal any prior decisions, and she could discuss it with them in the upcoming week and get back with the Town Board on their decision. Town Manager Mitchell stated that the Town Board could take action by amending the recommended motion to approve with the added condition as presented by the Town Attorney, subject to the submittal of certification from Alliance

Behavioral Health Care stating that they do not wish to appeal any prior decisions and waive any legal or equitable claims related to the prior zoning classification and permitted uses of the property. He clarified that if Alliance Behavioral Health Care does not submit the certification, then approval of the proposed zoning map amendment for REZ-2018-26 would not be valid.

Commissioner Harris stated that it is exciting to know that this facility is coming to Fuquay-Varina, and that he supports the zoning map amendment with the conditions as presented including the condition recommended by Town Attorney Adcock.

Commissioner Larry Smith also stated that he supports this zoning map amendment.

Commissioner Wunsch stated that he sees the need for more staff, beds and doctors for these types of facilities.

Commissioner Gardner stated that she is the parent of a child who could have used this type of service, and that there is an increasing need for this type of facility in the area. She fully supports approval of the proposed zoning map amendment.

Mayor Byrne also expressed his support of the zoning map amendment.

Recommendation – Approve REZ-2018-26, a zoning map amendment at 400 W Ransom St, from the Office & Institutional Conditional Zoning District (O&I-CZD) to the Office & Institutional Conditional Zoning District (O&I-CZD) and approve the corresponding land use plan amendment from Town Center Residential (TCR) to Civic & Institutional (CIV). The proposed zoning map amendment with the corresponding land use plan amendment is consistent with the 2035 Community Vision Land Use Plan, and both are reasonable and in the best interest of the public for the reasons identified by management and staff. The Town Board also added that this approval is subject to the petitioner certifying in writing that they will release, waive and quit claim any legal claim rights or remedies related to the appeal of the zoning administrator before the Board of Adjustment (BOA AP 2018 01) and also any legal or equitable claims related to the prior zoning classification and permitted uses of the property.

MOTION: Mayor Pro-Tem Massengill
SECOND: Commissioner Gardner
MOTION RESULTS: Passed Unanimously (5-0)

It was the general consensus of the Town Board that the Town Manager, Planning Director, and Town Attorney would work with the petitioner to verify that the certification letter meets the intent of the Town Board's discussion and motion.

Agenda Item No. 7.E: Voluntary Annexation Petition - Beverly Smith Dupree - 1320 Phelps West Road - PIN 0656078584 - ANX-2018-22

Purpose – To consider an annexation ordinance extending the corporate limits of the Town of Fuquay-Varina following the receipt of a petition for voluntary annexation of property owned by Beverly Smith Dupree, located at 1320 Phelps West Road, containing a total of 1.252 acres.

Staff Comments – Town Manager Mitchell entered the agenda abstract and supporting documents for this agenda item into the official record of the Town. He then provided general information about the voluntary annexation petition to include a property description and advising that water is available to serve the property but sewer is not yet available.

Public Hearing – The public hearing was opened. Wayne Mauldin, of Mauldin-Watkins Surveying, 1301 N. Broad Street, spoke in favor of the proposed annexation petition on behalf for the property owner. No one chose to speak in opposition to the proposed annexation petition for ANX-2018-22. The hearing was closed.

Discussion – There was no discussion from members of the Town Board regarding this matter.

Recommendation – Approve the Declaration of Annexation and Agreement and adopt the annexation ordinance to extend the corporate limits of the Town of Fuquay-Varina to include property owned by Beverly Smith Dupree (ANX-2018-22) as presented and recommended.

MOTION: Commissioner Gardner
SECOND: Commissioner Harris
MOTION RESULTS: Passed Unanimously (5-0) **Ordinance No. N-19-04**

CONSENT AGENDA

Agenda Item No. 8.A: Youth Athletic Scholarship Fund Donations - Parks, Recreation, and Cultural Resources - \$1,265 - BA-2019-17

Purpose – To consider approval of budget amendment BA-2019-17 recognizing a total of \$1,265 from businesses and individuals for non-resident scholarships within the Parks, Recreation, and Cultural Resources Department.

Recommendation – Approve budget amendment BA-2019-17 as presented and recommended.

Agenda Item No. 8B: Request to Use Town Property – American Foundation for Suicide Prevention – September 29, 2019 - South Park/Jeff Wells Greenway Trail

Purpose – To consider a request from the American Foundation for Suicide Prevention to use South Park and the Jeff Wells Greenway Trail for the Out of Darkness – Suicide Prevention Walk on September 29, 2019.

Recommendation – Approve the request for use of South Park and Jeff Wells Greenway Trail for the Out of Darkness – Suicide Prevention Walk on September 29, 2019 as presented and recommended.

Agenda Item No. 8C: Temporary Street Closure – Band on the Run 5K – Band Boosters of Fuquay-Varina – February 23, 2019

Purpose – To consider a temporary street closure for the Band Boosters of Fuquay-Varina for the Band on the Run 5K scheduled for Saturday, February 23, 2019.

Recommendation – Approve a temporary street closures for the 2019 Band on the Run 5K sponsored by the Band Boosters of Fuquay-Varina, scheduled for Saturday, February 23, 2019, as presented and recommended.

Agenda Item No. 8D: Facade Grant Funding Request - 123 Raleigh Street

Purpose – To consider approval for a façade grant for 123 Raleigh Street submitted by property owner/operator John McGahey.

Recommendation – Approve the façade grant funding request and application for property located at 123 Raleigh Street in an amount up to \$2,500 as presented and recommended.

Agenda Item No. 8E: Facade Grant Funding Request - 131 S. Main Street

Purpose – To consider approval for a façade grant for 131 S Main Street submitted by property owner Gary Adkins.

Recommendation – Approve the façade grant funding request and application submitted by Gary Adkins located at 131 S Main Street in an amount up to \$642.43 as presented and recommended.

A motion was made to approve items (A-E) on the Consent Agenda as recommended.

MOTION: Commissioner Wunsch
SECOND: Commissioner Harris
MOTION RESULT: Passed Unanimously (5-0)

ADMINISTRATIVE REPORTS

Agenda Item No. 10A: Contract Award and Budget Amendment - SABA Software, Inc. - \$17,844 - BA-2019-16

Purpose – To consider a budget amendment and authorizing the Town Manager to enter into a contract with SABA Software, Inc. for a performance appraisal software management system.

Staff Comments – Town Manager Mitchell entered the agenda abstract and supporting documents for this agenda item into the official record of the Town. He then provided general information about the contract award and budget amendment explaining that approval of the contract is the next step in a series of phases to comply with the recommendations from the Town’s Pay and Classification study from two years ago. Town Manager Mitchell reminded the Board that they authorized the pay and classification study and from that implemented a change in compensation pay structures and modernization of the personnel policy. He advised that a second implementation phase included developing and then funding (if feasible) a pay for performance system. Town Manager Mitchell stated he, Human Resources Director Dan Gray, and I.T. Director Scott Clark evaluated four software companies that provide systems for standardization and consistency with the performance appraisal process. He advised that SABA Software appears to provide a product that will work best for the Town and is used by several other Wake County municipalities.

Discussion – Commissioner Wunsch stated that he was in favor of the recommendation.

Recommendation – Approve budget amendment BA-2019-16 and award a contract to SABA Software, Inc. in the amount of \$17,844 as presented and recommended, subject to Town Attorney review as to form.

MOTION: Commissioner Wunsch
SECOND: Mayor Pro-Tem Massengill
MOTION RESULTS: Passed Unanimously (5-0)

OTHER BUSINESS

A. Manager's Report –

- Reported that the theater lights are being installed at Art Center and staff is beginning to make plans for the grand opening of the Arts Center
- Reported that work continues at Fleming Loop Park, buildings have begun to go vertical, and road improvements along Fleming Loop Road are underway
- Reported that work continues on the State of the Town video
- Reported that the State & Town Dinner hosted by the NC League of Municipalities will take place at the Raleigh Convention Center, February 20 and that Fuquay-Varina will be featured in the State of the League video
- Reported that Cultivate Coffee will be receiving a NC Main Street Award for their efforts to rehab an older property in downtown
- Reported that the Parks and Recreation Department is seeing a tremendous growth in youth spring sports registration.
- Reported that the Wake County Transit Plan includes a Wake Tech bus stop in their FY 20 plan
- Reported that the new Town Hall renovations are coming along nicely and the contractor is on schedule.
- Reported that staff is looking at a March date for the Terrible Creek WWTP ribbon cutting
- Reported that the Business Park is close to being certified by the State and staff is in the process of working on a certification ceremony

B. Project Status Report – February 2019

C. State of the Town Address – March 4, 2019 - Town Hall Board Room - 6:30 pm.

D. Fuquay-Varina Police Department - Harris Lake Dunkin' Dip - NC Special Olympics - Saturday, February 16, 2019 at 10:00 am - Harris Lake County Park 2112 County Park Drive, New Hill

TOWN BOARD MEMBER COMMENTS

Mayor Pro-Tem Massengill stated he is looking forward to the polar plunge that the Police Department is doing at Harris Lake.

Commissioner Smith stated he had no comments but is very excited with things that are coming down the pipe for Fuquay-Varina.

Commissioner Harris state he had no comments.

Commissioner Wunsch stated that the sun shines bright in Fuquay-Varina

Commissioner Gardner stated she had no further comment.

Mayor Byrne reported information regarding past and upcoming events as follows:

Past Events

- 1/23 – Police Swearing In
- 1/23 – Ribbon Cutting – KB Homes Union Station
- 1/30 – Southwest Area Study CTT and SOT meeting
- 2/2 – Ground Breaking Ceremony – The Church of Jesus Christ of Latter-Day Saints

Up Coming Events

- 2/7 – PNC Arena Centennial Authority Meeting
- 2/7 – Chamber of Commerce Elected Officials Reception
- 2/12 – Tour of the Terrible Creek Wastewater Treatment Plant by Southport Manager and Board

CLOSED SESSION – Pursuant to N.C.G.S §143-318.11(a)(3) – Attorney Client Privilege.

A motion to hold a closed session meeting at 9:33 p.m.

MOTION:	Mayor Pro-Tem Massengill
SECOND:	Commissioner Wunsch
MOTION RESULT:	Passed Unanimously (5-0)

RETURN TO OPEN SESSION

The Town Board returned to open session at 10:29 p.m. Town Manager Mitchell reported that the bids for the South Lakes Elementary Park came in extremely over budget. He advised that the Town and School System were evaluating options.

ADJOURN

A motion was made to adjourn the meeting at 10:31 p.m.

MOTION: Mayor Pro-Tem Massengill
SECOND: Commissioner Wunsch
MOTION RESULT: Passed Unanimously (5-0)

Adopted this the 19th day of February 2019 in Fuquay-Varina, North Carolina.

FUQUAY-VARINA, NORTH CAROLINA

John W. Byrne, Mayor

ATTEST:

(TOWN SEAL)

Rose H. Rich, Town Clerk

