



TOWN OF FUQUAY-VARINA  
BOARD OF COMMISSIONERS REGULAR MEETING  
SEPTEMBER 17, 2019

CALL TO ORDER

Mayor John W. Byrne called the regular meeting of the Fuquay-Varina Board of Commissioners to order on September 17, 2019 at 7:00 p.m.

Commissioners Present: Blake Massengill (Mayor Pro-Tem)  
Bill Harris (*arrived at 7:13 pm*)  
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

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INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Pro-Tem Massengill provided the invocation and Sam Lucas and Kelly Prestopino with Boy Scout Troop #320 led the Pledge of Allegiance.

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APPROVAL OF THE MINUTES

The September 3, 2019 minutes of the regularly scheduled meeting of Town Board of Commissioners were presented and recommended for approval.

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

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PRESENTATIONS

There were no presentations for the September 17, 2019 Town Board meeting.

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PUBLIC COMMENTS:

There were no public comments for the September 17, 2019 Town Board meeting.

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ITEMS TABLED FROM PREVIOUS MEETING:

Agenda Item No. 6.A:       Zoning Map Amendment - Howling Wolf RES, LLC -  
1913, 1941, 1979, 1806, 1812, 1916 Ken Drive and  
portion of 5906 Hilltop Road - PINs 0687079558,  
0687068633, 0687056735, 0677957383, 0687052038,  
0677967743, and portion of 0687260272 - REZ-2019-14

Purpose – To consider a requested zoning map amendment for a total of 109.212 acres, located at 1913, 1941, 1979, 1806, 1812, and 1916 Ken Drive and a portion of 5906 Hilltop Road, from the Residential Agricultural Zoning District to the Residential Medium Density Conditional Zoning District (RMD-CZD), and the corresponding land use plan amendment from Rural Residential (RR) to Mixed-Density Residential (MDR).

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 advised that the petitioner is requesting the following conditions be made applicable to the use of the subject property:

- 1) Single-family detached homes.

Town Manager Mitchell also reported that the petitioner is requesting the following conditions be made applicable to the site-specific standards of the subject property:

- 1) The land shall be developed as an Open Space Development in accordance with Part 9, Article F of the Land Development Ordinance.

- 2) At least three lot sizes shall be identified on the approved site plan. The minimum lot size shall be 5,200 SF. Lots of at least 6,600 SF and 15,000 SF shall also be provided.
- 3) Larger lots (minimum of 15,000 SF) or a minimum depth of 50 feet of open space shall be located adjacent to properties having the following Wake County PINs: 0677961699, 0677963806, 0677969866, 0677972045, 0677973237, 0677974350, 0677976300, 0677977330, 0677978279, 0677979051, 0677979145, 0687062992, 0687072039, 0687073199, 0687073802, 0687075258, 0687075589, 0687076399, 0687081093, 0687084237 (see exhibit A).
- 4) No one lot size shall comprise of less than 10% of the total platted lot count. No one lot size shall comprise of more than 55% of the total platted lot count.
- 5) The density of the development shall be limited to 2.5 dwelling units per gross acre.
- 6) Connections to the adjacent subdivision via Ken Drive shall be barricaded 90 days after the date of the pre-construction meeting. The barricades shall be removed by the Developer with the recordation of the final plat for the corresponding phase of development containing the 120th lot, when the second entrance is required by Town ordinances.
- 7) Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
- 8) Garage doors shall have either windows, decorative details, or carriage style adornments.
- 9) In order to promote variation in home appearance, no home can be constructed with an exterior elevation (front façade) or color palette that is identical to the home on either side or directly across the street from it.
- 10) At the time that a connection is required to be made to the existing paved Ken Drive, the Developer shall be required ensure the entire existing paved section of Ken Drive south of Hollow View Ct meets NCDOT construction standards and is in an acceptable state of maintenance for addition to the State system. The Developer will be responsible for facilitating the NCDOT acceptance process, including holding an NCDOT walkthrough and shall satisfactorily complete all NCDOT punch list items.

Town Manager Mitchell advised that the petitioner held a second neighborhood meeting and added restrictions and clarifications in regard to lot sizes, density, and traffic. The introduction of additional conditions was made in order to address concerns of the adjacent neighborhood, as noted at the second neighborhood meeting.

Discussion – Mayor Byrne stated that the public hearing held on September 3, 2019 was closed, and at this point the Town Board is to consider action on this tabled zoning map amendment. Town Manager Mitchell stated that the direction that was given to the staff was to go back and provide clarity on how the perpetual maintenance of the portion of Ken Drive that is not currently maintained by NCDOT would be handled. He stated that the developer has agreed to bring that portion up to NCDOT standards and facilitate the acceptance process. Mayor Pro-Tem Massengill stated that the most important thing is that the entire portion

of Ken Drive will be maintained by NCDOT and that all other conditions can be reasonably done. The Town Board by consensus thanked the residents of Woodsong Subdivision and the developer for identifying ways to compromise.

Recommendation – Approve REZ-2019-14, a zoning map amendment at 1913, 1941, 1979, 1806, 1812, and 1916 Ken Drive and a portion of 5906 Hilltop Road, from the Residential Agricultural (RA) Zoning District to the Residential Medium Density Conditional Zoning District (RMD-CZD), and the corresponding land use plan amendment from Rural Residential (RR) to Mixed-Density Residential (MDR). The proposed zoning map amendment, with the corresponding land use plan amendment, is consistent with the 2035 Land Use Plan vision 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)

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PUBLIC HEARINGS:

Agenda Item No. 7.A: There were no public hearings for the September 17, 2019 Town Board meeting

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CONSENT AGENDA

Agenda Item No. 8.A: Budget Amendment - Police Department - Jersey's Mike's Fundraiser - Police Explorers Program - \$562 - BA-20-07

Purpose – To consider adoption of a budget amendment that recognizes funds raised (\$562.00) from a Fuquay-Varina Police Department Police Explorers Post fundraiser held on August 14, 2019 at Jersey Mike's Restaurant.

Recommendation – Approve Budget Amendment (BA-20-07) in the amount of \$562.00 as presented and recommended.

Agenda Item No. 8B: Fee Schedule Amendment

Purpose – To consider a fee schedule amendment to remove the fence permit fee from the Town's adopted Fee Schedule for FY 2019-2020.

Recommendation – Adopt the fee schedule amendment as presented and recommended. **Ordinance No. N-19-54**

Agenda Item No. 8C: Resolution(s) - Fixing the Date of Public Hearing and Directing the Town Clerk to Investigate a Proposal to Establish an Annexation Boundary Agreement - Town of Fuquay-Varina and Town of Angier

Purpose – To consider approval of the resolution that fixes the date of a public hearing for October 7, 2019 on the matter of an Annexation Boundary Agreement between the Town of Fuquay-Varina and the Town of Angier and the resolution that directs the Town Clerk to Investigate a Proposal to Establish an Annexation Boundary Agreement between the Town of Fuquay-Varina and the Town of Angier.

Recommendation – Adopt the resolution that fixes the date of a public hearing for October 7, 2019 on the matter of an Annexation Boundary Agreement between the Town of Fuquay-Varina and the Town of Angier and the resolution that directs the Town Clerk to Investigate a Proposal to Establish an Annexation Boundary Agreement between the Town of Fuquay-Varina and the Town of Angier. **Resolution No. 19-1627**  
**Resolution No. 19-1628**

A motion was made to approve all items (A-C) on the Consent agenda.

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

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ADMINISTRATIVE REPORTS

Agenda Item No. 10A: Agreement - Offer to Purchase and Sale Agreement - Duke Energy Progress, LLC

Purpose – To consider approval of an Offer to Purchase and Sale Agreement between the Town of Fuquay-Varina and Duke Energy Progress, LLC for the purchase of a combined 6.2 acres of property located at 4821 and 4811 Wade Nash Road in the total amount of \$403,000.

Staff Comments – Town Manager Mitchell entered the agenda abstract and supporting documents for this agenda item into the official record of the Town. He stated that the basic terms of the agreement are as follows:

1. Seller: Duke Energy Progress, LLC
2. Buyer: Town of Fuquay-Varina, a North Carolina Municipal Corporation
3. Property: Wake County PIN 0657583837 (4.65 +/- acres) and PIN 0657585885 (1.55 +/- acres)
4. Purchase Price: \$65,000.00 per acre
5. Earnest Money: Upon execution and delivery of the PSA, Buyer shall deliver the sum of \$5,000 in escrow with Cumalander Adcock, LLP (Town Attorney) as the Escrow Agent. The Earnest Money shall be held in a non-interest-bearing account and disbursed by the Town Attorney upon and subject to the terms of the Contract.
6. Inspection Period: Buyer, at Buyer's cost and expense, shall have 90 days from the effective date of the PSA to inspect the property, subject to the terms of the PSA. If for any reason during the inspection period the Buyer determines the Property to be unsuitable for its use, the Buyer may terminate the PSA by notifying the Seller prior to the end of the inspection period pursuant to the terms of the PSA, and the Earnest Money shall be returned to the Buyer.
7. Title/Survey: Buyer may order a title commitment from Escrow Agent for issuance to Buyer of a standard ALTA owner's policy insuring the Conveyed Property. Buyer shall be responsible for the cost of its title insurance and any new or updated survey's. The PSA shall set forth a process by which the Buyer may object to matters of title and survey and Seller shall respond with any actions (if any) Seller is willing to take in response to any such objections, which process shall occur within the Inspection Period.
8. Future Use: Buyer agrees to only use the property for a public purpose and/or use in the future.
9. Documentation: Buyer agrees to execute an IRS 8283 form for the difference between the fair market value of the property and the purchase price.
10. Closing: Closing shall be thirty (30) days from completion of the Inspection Period

Discussion – Mayor Pro-Tem Massengill stated that this property meets the needs of what the Town intends to use it for (a new Fire Station). He asked if there would be a special stop light or signal to allow the Fire Department to do an emergency exits through the intersection. Town Manager Mitchell stated that he did not believe that the fire department would have a special preemption to allow them to travel through the stop light, but that staff would evaluate it.

Recommendation – Approve the Offer to Purchase and Sale Agreement between the Town of Fuquay-Varina and Duke Energy Progress, LLC for the purchase of 6.2 acres of property located on Wade Nash Road in the amount of \$403,000 as

presented and recommended and subject to the Town Attorney's review as to form.

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

Agenda Item No. 10B: NCDOT - Will-Serve Request

Purpose – To consider a request by NCDOT that the Town allow properties affected by the I-540 project to connect to the Town's utility 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 shared that in the letter dated July 3, 2019 from NCDOT, NCDOT committed to extending the Town's water and sewer utility systems to serve the properties as well as paying the appropriate system development fees, recreation unit fees, inspection fees and annexation fees for the connections. Since the letter was received, the number of properties has been reduced from 8 to 7 as it was determined that 8600 Fayetteville Road was undeveloped. Town Manager Mitchell advised that the request is part of NCDOT's effort to acquire right-of-way for planned improvements to US-401 associated with the I-540 project. Due to the I-540 project timeline and the time needed to design and extend services to be able to serve the properties, NCDOT is asking for the assurance in order to be able to secure the right-of-way as opposed to purchasing the entire property and relocating the current residents.

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

Recommendation – Authorize Town staff to issue a conditional will-serve letter to NCDOT that the Town will allow properties affected by the I-540 project to connect to the Town's utility system under the conditions specified by management and staff, subject to Town Attorney review as to form.

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

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## OTHER BUSINESS

### A. Manager's Report – gave a brief report on the following:

- *Reported that he received an updated schedule for the new Town Hall and we are getting closer to a move-in date.*
- *Reported that he received an updated schedule for the Fleming Loop Park Project, and it should be finished by the end of the month.*
- *Reported that he made a new hire in the Streets Department - Odell Clark*
- *Reported that clean up and Improvements were made on the 304 Angier Road property beside Fire Station #1. He stated that it will be a grass lot until the Town determines a future use.*
- *Reported that the 911 Day of Remembrance event was very well planned and executed and one that the Town should be very proud of. He thanked Police Chief Fahnstock and Fire Chief Mauldin for their work on the event and he thanked Arts Director Maureen Daly for hosting the event at the Arts Center.*
- *Reported that he attended the Wake County bi-monthly managers meeting with Assistant Town Manager Matthews, where there was an active shooter training presentation and reports regarding possible Wake County contaminated wells, the 2020 Census, and Vision Zero, which is a multi-national road traffic safety project that aims to achieve a highway system with no fatalities or serious injuries involving road traffic.*
- *Reported that the Planning Department is setting up for the 2020 Complete Count Committee.*
- *Reported that Assistant Town Manager Mark Matthews recently attended the Gettysburg Leadership Institute that is sponsored by ICMA.*
- *Reported that Planning Director Samantha Smith recently started the Municipal Administration course sponsored by the UNC School of Government.*
- *Reported that building permits are on the increase and it will likely be a record year.*
- *Reported that he, Mayor Byrne, Assistant Town Manager Matthews, Planning Director Smith and Public Utilities Director Meyers attended the Wake County Board of Commissioners meeting and the Town's ETJ extension request has been tabled until their October 21, 2019 meeting.*
- *Reported that the Town will reschedule the concert that was cancelled due to Hurricane Dorian – featuring the Embers.*

B. FM2FV Concert - Hip Pocket - Thursday September 19, 2019 - 6:30 pm - 9:30 pm  
- Centennial Park

C. Coffee with a Cop - Starbucks - 1380 N. Main Street - Friday, September 20, 2019 - 8:00 am - 10:00 am

D. Fuquay-Varina Community Library - Wake County - Grand Opening - Sunday, September 22, 2019 - 2:00 pm - 271 Bramblehill Drive



- E. Out of the Darkness Walk - Suicide Prevention Walk - Jeff Wells Environmental Trail - Sunday September 29, 2019 - Registration 1:00 pm - Walk 2:00 pm
- F. National Coffee with a Cop Day - Wednesday October 2, 2019 - 9:00 am to 11:00 am - Chick-Fil-A
- G. Celebrate Fuquay-Varina Concert - Chairmen of the Board - Varina Business District - Thursday October 3, 2019 - 6:30 pm - 9:30 pm
- H. Celebrate Fuquay-Varina Festival - Downtown Fuquay - Saturday October 5, 2019 - 10:00 am - 4:00 pm
- I. FM2FV Concert - North Tower - Thursday October 10, 2019 - 6:30 pm - 9:30 pm - Centennial Park
- J. Fuquay-Varina Fire Department - Open House - Saturday October 12, 2019 - 10:00 am - 3:00 pm
- K. Haunted Trail - Carroll Howard Johnson Environmental Education Park - Saturday, October 19, 2019 - Family Fright 5:00pm - 6:00 pm and Full Fright 7:00 pm - 9:00 pm
- L. Zoning Map Amendment - Mark Doble - 607 and 609 North Street - PINs 0667107978 and 0667210121 - REZ-2018-19 - (Mitchell/Matthews/Smith) - (FIRST READING)
- M. Town Code Amendment - Bartlett Engineering and Surveying, PC - Batching Plant Setbacks - CTA-2019-03 - (Mitchell/Matthews/Smith) - (FIRST READING)
- N. Zoning Map Amendment - Stephens Road Partners, LLC - 7650 Truelove Road - PIN 0675152846 - REZ-2019-20 - (Mitchell/Matthews/Smith) - (FIRST READING)
- O. Community Transportation Plan Amendment - Stephens Road Partners, LLC - CTA-2019-04 - (Mitchell/Matthews/Smith) - (FIRST READING)

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TOWN BOARD MEMBER COMMENTS

Mayor Pro-Tem Massengill referred to a letter written by Jovita Simons and he stated that he would like for staff to take the funds that were setup in the budget to start the process of cleaning up abandon or dilapidated houses in Town. Commissioner Harris agreed that its time to address overgrowth and blighted areas within Town, and he highly supports the effort.

Commissioner Smith stated that he was excited to start the process of Fire Station #4. He also agreed that certain areas of our Town are in need of clean-up, and that residents who live in those areas would appreciate the Town's efforts in cleaning up these areas.

Commissioner Harris offered no additional comments.

Commissioner Wunsch concurred with the requested action for the addressing blighted areas of Town. He then congratulated Mayor Pro-Tem Massengill on being named the NC Builder of the Year for 2019 by the NC Home Builders Association.

Commissioner Gardner stated she appreciates Mayor Pro-Tem Massengill for bringing up the need to clean-up blighted and overgrown areas within Town. She stated that some of these areas are not safe for walking. She also stated that the 911 event was a respectful and moving ceremony. She commended the Fuquay-Varina High School Chorus and thanked Arts Director Daly for hosting the event this year at the Arts Center.

Mayor Byrne asked everyone to join him in singing Happy Birthday to Commissioner Harris, who celebrates his birthday today. He also commended Mayor Pro-Tem Massengill for being named Builder of the Year, and he thanked the Police and Fire Departments, and Maureen Daly for a very good 911 ceremony.

He then gave the following report on past and upcoming events as follows:

#### **Past Events**

- 9/11 – National Day of Service and Remembrance – Wednesday, Sept. 11 at 8:30 at Art Center
- 9/14 – Big Sweep – Carroll Howard Johnson Environmental Education Park – Saturday, Sept. 14<sup>th</sup> at 9:00 am
- 10/23 Candidate Forum at the Arts Center at 6:30, sponsored by the Chamber of Commerce

#### **Upcoming Events**

- 9/18 – Centennial Authority Nominating Committee Meeting
- 9/18 – CAMPO Meeting
- 9/19 – FM2FV Concert – Hip Pocket
- 9/20 – Coffee with a Cop – Starbucks – 8:00 am – 10:00 am
- 9/22 – Wake County Library Grand Opening – 2:00 pm – 271 Bramblehill Drive
- 9/23 – Capital Area Preservation Anthemion Awards
- 9/29 – Out of the Darkness Suicide Prevention Walk – 1:00 pm registration – 2:00 pm walk – Jeff Well Environmental trail
- 10/2 – National Coffee with a Cop Day – Chick Fila – 9:00 – 11:00 am
- 10/3 – Celebrate Fuquay -Varina Concert – Chairman of the Board – 6:30 pm – Varina District
- 10/5 – Celebrate Fuquay-Varina – 10:00-4:00 pm – Downtown Fuquay

- 10/23 Candidate Forum at the Arts Center at 6:30, sponsored by the Chamber of Commerce

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CLOSED SESSION – Pursuant to N.C.G.S. 143-318.11 (a) (3) - Attorney Client Privilege and N.C.G.S. 143-318.11 (a) (4) – Economic Development

A motion was made to hold a closed session meeting at 8:12 p.m.

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

OPEN SESSION - The Town Board returned to Open Session at 9:13 pm. Mayor Pro-Tem Massengill reported out recommendations from Town Attorney James Adcock regarding the settlement of two law suit claims for condemnation cases for the Town to acquire right-of-way for the Judd and Main St. intersection improvements project. The first recommended settlement was with First Federal Bank. He stated that their original deposit was for \$62,200 and the case was settled for \$85,000, which was an additional \$22,800 and the majority of the additional funds was for the purchase of land and new signs. The second settlement was with Brookfield Properties on NW Judd, settling for the amount on deposit and no additional funds needed.

Mayor Pro-Tem Massengill also reported out that the Town Board motioned in closed session to fund a water study with Hazen & Sawyer for the City of Sanford option in the amount of \$75,400.

A motion was made to approve both the law suit claims as recommended by the Town Attorney and to approve the funding of a water study as recommended.

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

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ADJOURN

A motion was made to adjourn the meeting at 9:15 p.m.

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

Adopted this the 7<sup>th</sup> day of October 2019 in Fuquay-Varina, North Carolina.

FUQUAY-VARINA, NORTH CAROLINA

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John W. Byrne, Mayor

ATTEST:

(TOWN SEAL)

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Rose H. Rich, Town Clerk

