



Cary Town Council
Thursday, September 12, 2019
6:30 PM

Council Chambers
316 N. Academy Street, Cary Town Hall, Cary, NC 27513

1. COMMENCEMENT

- 1.1 Call to Order
- 1.2 Ceremonial Opening led by Council Member Robinson
- 1.3 Adoption of agenda

2. RECOGNITIONS, REPORTS, AND PRESENTATIONS

- 2.1 Manager's Update

3. PUBLIC SPEAKS OUT (one-hour time limit)

Public Speaks Out is the Town Council's opportunity to hear comments from as many citizens as possible. During Public Speaks Out, the Town Council receives comments and refrains from speaking. If a citizen comments about an issue that appears to be something that can be addressed by staff members, Council may ask the manager to have an appropriate staff person follow up.

Thanks to everyone in the audience for respecting the business meeting by refraining from speaking from the audience, applauding speakers, or other actions that distract the meeting.

Anyone who wants to speak during Public Speaks Out should do the following:

- Take a seat in the reserved seats;
- Complete the contact information card located at the seat;
- When it is your turn to speak, proceed to the town clerk from the aisle behind the clerk, and give the clerk your completed contact information card and any handouts you have for the Town Council;
- Step to the podium next to the clerk; state your name clearly;
- Be concise; avoid repetition; limit comments to three minutes or less; designate a spokesperson for large groups; direct comments to the full Town Council and not to an individual Town Council member;
- Speakers may return to their regular seats from any aisle.

4. CONSENT AGENDA

CONSENT AGENDA items are non-controversial items unanimously recommended for approval by all involved parties. A single vote may be taken for the approval of ALL consent agenda items. Any individual council member may pull items off the consent



agenda to discuss them. Items pulled off the consent agenda will be handled with the “DISCUSSION ITEMS” agenda topic.

4.1 Town Council - Regular Meeting - Jul 18, 2019 6:30 PM

4.2 Amendment to Cary-Raleigh Interlocal Agreement for Interconnections

Speaker: Brian Drake, Utilities

Executive Summary: Cary’s interconnections with neighboring water systems provide strength and resiliency to the water distribution system, directly benefitting our citizens. From time to time, these water system interconnections are utilized for short intervals as supplementary water supply during repairs or construction work. This mutual aid between regional partners increases water security and resilience without the cost of constructing additional facilities or pipeline infrastructure. Strengthening these interconnections is part of the Town’s strategy to ensure high-quality, safe, reliable and affordable water service is available to meet the needs of our citizens and support continued growth. This item proposes a modification to the 2012 Interlocal Agreement to update Raleigh’s and Cary’s cost shares in the Globe Road and Crossroads water system interconnection improvement to reflect the final design approaches.

Recommendation: *That Council adopt the attached Resolution approving the Amendment No. 1 to the Interlocal Agreement Between Cary and Raleigh for Installation of Interconnections and Transfer of Water Line, and Agreement for Emergency Water Supply and authorizing the Town Manager or Deputy Town Manager to execute an amendment substantially like the Amendment and to provide such notices and take such actions as Amendment contemplates. Staff also requests that Council approve the cost share adjustments detailed in the Fiscal Impact section of this staff report.*

4.3 FY2019 Utility Reimbursement Contracts Update and Annual Reimbursements

Speaker: Jamie Bissonnette, Utilities

Executive Summary: Utility System Infrastructure Reimbursement Agreements provide a means for the Town to participate with developers in providing efficient and orderly utility systems that comply with our master plans. These agreements sometimes provide for cash reimbursement for certain utility extensions, funded by collection of development fees from new development in the service area of the extension. Sufficient development fees were collected in FY 2019 to provide partial reimbursement to the White Oak Foundation, which provided an off-site sewer extension.

Recommendation: *That Council authorize reimbursement to the White Oak Foundation, Inc. in the amount of \$18,725 from current year sewer*



development fee.

4.4 Amend Code of Ordinances to Remove Pet License Tag Requirements

Speaker: Karen Mills, Finance

Executive Summary: In the past, licenses and pet tags for cats and dogs were the primary tool for identifying lost pets and reconnecting them with their owners. The Police Department, animal advocacy organizations, and veterinarians now commonly rely upon the advancements in microchip to identify lost pet owners. Therefore, the Town's pet license and tag process has become outdated, irrelevant and can be eliminated.

Recommendation: Council adopt the attached amendment to the Town Code of Ordinances that removes the licensing and tag requirement as well as related process and enforcement references.

4.5 19-REZ-07 Pendergraft Tract

Speaker: Debra Grannan, Planning and Development Services

Executive Summary: The applicant has requested the Town consider an amendment to the Town of Cary Official Zoning Map by rezoning approximately 13.23 acres, located at 1612 Cavalcade Drive, from Residential 40 (R-40) to Residential 8 Conditional Use (R-8-CU) with zoning conditions that include limiting density to two units dwelling units per acre, limiting land uses to detached dwellings, accessory uses, and neighborhood recreation, and establishing a minimum lot size of 10,000 square feet for lots adjacent to the Ridgefield subdivision. Conditions also establish a minimum of 5,000 square feet of community gathering space. The existing Watershed Protection Overlay District (Jordan Lake Sub-district) shall remain.

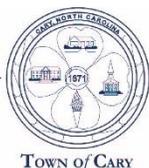
Recommendation: *Staff recommends approval of this rezoning request with the conditions as proposed by the applicant.*

Planning and Zoning Board Recommendation: The Planning and Zoning Board found the request to be consistent with the Imagine Cary Community Plan by a vote of 6-0.

4.6 19-A-12 Herbert and Anita Bailey Annexation

Speaker: Wayne Nicholas, Planning and Development Services

Executive Summary: The owners of property located at 1129, 1125, 1131, and unaddressed property on Evans Road (approximately 900 feet south of the Evans Road and W. Dynasty Drive intersection) have petitioned for annexation of the property in association with a proposed development plan. Pursuant to statute, the Town Clerk has determined the petition to be



sufficient, and Council must now consider whether to call for a public hearing on the request.

Associated Case(s): 18-DP-0134 (Bailey's Grove Subdivision)

Recommendation: *That Council adopt a resolution calling for a public hearing on September 26, 2019.*

4.7 19-A-05 Hoke and Said Annexation

Speaker: Wayne Nicholas, Planning and Development Services

Executive Summary: The owner of property located at 7905 and 7913 Emery Gayle Lane and the owner of property located at 8605 Broderick Place (approximately 1,200 feet west of the Green Level Church Road and Emery Gayle Lane intersection) have petitioned for annexation. Pursuant to statute, the Town Clerk has determined the petition to be sufficient, and Council must now consider whether to call for a public hearing on the request. Concerns regarding the provision of solid waste services to the two lots off Emery Gayle Lane, a private easement access driveway, caused the property owner to request that a July 18, 2019 public hearing on this annexation be postponed so he could address the issues. Since that time, the property owner has indicated his acceptance that household garbage and recycling services ("Services") be provided at Green Level Church Road, and retained an attorney who has provided a Disclosure and Indemnity for recordation at the Wake County Register of Deeds that would provide notice to future property owners regarding the location of Services. His attorney has also provided an opinion to Council providing assurance that the Town can use Emery Gayle Lane to provide Services if the Town determines Emery Gayle Lane has been improved to a sufficient level.

Associated Case(s): None.

Recommendation: *That Council adopt a resolution calling for a public hearing on September 26, 2019.*

4.8 Bid Award for Two Creeks at Planetree Lane Storm Drain Improvement Project (ST6040)

Speaker: Matt Flynn, Town Manager's Office

Executive Summary: The Town is committed to providing dependable, high quality public infrastructure that serves our community in a cost-effective manner for many years. The Serve chapter of the Imagine Cary Community Plan underscores the importance of maintaining our storm drainage system to provide for the proper management of stormwater and to enhance community resilience to flooding. The Town's asset management program helps us identify infrastructure in need of maintenance and/or replacement. The



replacement of degrading culverts under Two Creeks Road builds on that vision by ensuring the effective passage of stormwater under Two Creeks Road, while also reducing the risk of flooding to nearby properties.

Recommendation: *Staff recommends that Council award FSCII, LLC dba Fred Smith Company the Two Creeks at Planetree Drainage Improvements Project contract for \$806,898. The recommendation of award to Council represents a preliminary determination, and no legally binding acceptance of the bid or offer occurs until the Town has executed a written agreement for the contract. The contract award is subject to the contractor providing all bonds, insurance and other required documents and executing a contract in a form agreeable to the Town.*

5. PUBLIC HEARINGS

The rules printed on the agenda for “Public Speaks Out” apply to the remainder of the public hearings, except that speakers are allowed five minutes. Thank you for respecting the business meeting by refraining from speaking from the audience, applauding speakers, or other actions that distract the meeting.

5.1 Xerox Economic Development Incentive Grant

Speaker: Ted Boyd, Town Manager’s Office

Executive Summary: Xerox Corporation was approved for a Job Development Investment Grant (JDIG) on the condition they establish a Center of Excellence in Cary making a \$18.4 million capital investment, create 600 jobs with an average salary of \$113,000 and have participation from local government. The local participation Cary is considering is \$210,717 paid at the end of 5 years if all \$18.4 million capital investment has been made and all 600 jobs created.

Recommendation: *Staff recommends that Council adopt the attached Resolution making findings; appropriating and directing \$210,717 of funding set aside within the FY 2020 general fund budget for mid-year use to the Economic Development Strategic Fund for an incentive agreement with Xerox; and approving a local incentive agreement.*

5.2 19-REZ-15 Sri Venkateswara Temple of NC

Speaker: Debra Grannan, Planning and Development Services

Executive Summary: The applicant has requested the Town consider an amendment to the Town of Cary Official Zoning Map by rezoning approximately 9.28 acres, located at 9455, 9445, 9441, 9431, and 9323 Chapel Hill Road from Residential 20 (R-20), Residential 40 (R-40), and Industrial (I) to Office and institutional Conditional Use (OI-CU) with zoning conditions that would limit land use to assembly and religious assembly uses,



and associated accessory uses, provided that no new peak-hour trips would be generated.

Recommendation: *That Council conduct a public hearing on the proposed rezoning request and forward to the Planning and Zoning Board. Staff will provide a recommendation on the rezoning request when the case is brought back to Council for action.*

Planning and Zoning Board Determination: A written determination of the Planning and Zoning Board regarding consistency with the Imagine Cary Community Plan will be provided to Town Council following the P&Z Board meeting.

5.3 19-REZ-03 Southerland Gooch Property

Speaker: Debra Grannan, Planning and Development Services

Executive Summary: The applicant has requested the Town consider an amendment to the Town of Cary Official Zoning Map by rezoning approximately 60.59 acres, located at 9648, 9708, and 9716 Morrisville Parkway, from Residential 40 (R-40) to Transitional Residential – Conditional Use (TR-CU) with zoning conditions that include limiting land use to detached dwellings (age-restricted) and townhouses at a maximum density of 2.5 dwelling units per acre. Other conditions include limiting townhouses to five units per building and locating them on the central portion of the site, providing a minimum of 10,000 square feet of community gathering space, requiring public streets in the townhouse portion of the development, and providing an 80-foot-wide streetscape along Morrisville Parkway. The existing Conservation Residential Overlay District and Watershed Protection Overlay District (Jordan Lake Sub-district) will remain.

Recommendation: *That Council conduct a public hearing on the proposed rezoning request and forward to the Planning and Zoning Board. Staff will provide a recommendation on the rezoning request when the case is brought back to Council for action.*

Planning and Zoning Board Determination: A written determination of the Planning and Zoning Board regarding consistency with the Imagine Cary Community Plan will be provided to Town Council following the P&Z Board meeting.

5.4 19-A-08 David S. Johnson; Lee W. Johnson Annexation

Speaker: Wayne Nicholas, Planning and Development Services

Executive Summary: The owner of unaddressed property located on Vera Road (approximately 630 feet east of the Trinity Road and Vera Road intersection) has petitioned for annexation of the property so they may



connect to Town utilities and construct a detached dwelling on the site. Pursuant to statute, the Town Council must hold a public hearing before taking action on the request.

Associated Case(s): None.

Recommendation: *That Council conduct a public hearing and consider action on the requested annexation.*

5.5 19-A-09 North Carolina Exteriors, LLC Annexation

Speaker: Wayne Nicholas, Planning and Development Services

Executive Summary: The owner of property located at 1209 Old Trinity Circle (approximately 340 feet north of the Vera Road and Old Trinity Circle intersection) has petitioned for annexation of the property so they may connect to Town utilities and construct a detached dwelling on the site. Pursuant to statute, the Town Council must hold a public hearing before taking action on the request.

Associated Case(s): None.

Recommendation: *That Council conduct a public hearing and consider action on the requested annexation.*

5.6 19-A-03 Vincent J. DeFreitas Annexation

Speaker: Wayne Nicholas, Planning and Development Services

Executive Summary: The owner of property located at 9916 Morrisville Parkway (at the southwest corner of the Morrisville Parkway and Ferson Road intersection) has petitioned for annexation of the property in association with a proposed rezoning. Pursuant to statute, the Town Council must hold a public hearing before taking action on the request.

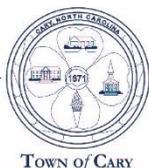
Associated Case(s): 19-REZ-09 (9916 Morrisville Parkway Rezoning)

Recommendation: *That Council conduct a public hearing and defer action on the requested annexation to a future council meeting to allow final vote on the annexation to coincide with the final action on the associated Rezoning 19-REZ-09 (9916 Morrisville Parkway Rezoning).*

5.7 YMCA of the Triangle TEFRA Hearing

Speaker: Karen Mills, Finance

Executive Summary: The YMCA of the Triangle (the “YMCA”), a non-profit organization located in Cary, plans to purchase an existing recreational facility with financing provided by the Public Finance Authority (the “Authority”). The



Authority is a political subdivision of the State of Wisconsin that can issue taxable and tax-exempt bonds for public benefit projects nationwide. The Authority's legal process requires the approval of a governmental unit with jurisdiction over the facility location. The YMCA requests that Council hold a public hearing and consider adoption of a resolution that approves the Authority's issuance of the bonds to finance the purchase. Council's approval is only a procedure required by Wisconsin statutes and IRS regulations, and does not bind the Town as a legal party to the debt.

Recommendation: *Staff recommends that Council conduct a public hearing and consider the proposed resolution approving the Authority's issuance of tax-exempt bonds for the acquisition of an existing recreational facility for the YMCA of the Triangle.*

6. DISCUSSION ITEMS (any item pulled from the **CONSENT AGENDA** [item 4 on this agenda] will be discussed during this portion of the agenda)

6.1 18-A-05 Duke University Health Systems, Inc. Annexation

Speaker: Wayne Nicholas, Planning and Development Services

Executive Summary: The owners of property located at 3113, 3117, 3213, 3208, and 3224 Green Level West Road (on Green Level West Road, 545 feet west of NC 540) have petitioned for annexation of the property in association with a proposed rezoning. Pursuant to statute, the Town Council held a public hearing on this request and the matter is now ready for final action.

Associated Case(s): Rezoning 18-REZ-04 (Green Level Mixed Use Destination Center PDP).

Recommendation: *That Council consider action on the requested annexation.*

6.2 18-REZ-04 Green Level Mixed Use Destination Center

Speaker: Rob Wilson, Planning and Development Services

Executive Summary: The applicant has requested the Town amend the Town of Cary Official Zoning Map by rezoning approximately 70.0 acres, located at 3208, 3224, 3133, 3113, and 3117 Green Level West Rd from Residential 40 (R-40), Wake County Residential 40 Watershed (R-40-W), and Watershed Protection Overlay District (Jordan Lake Sub-district) to Mixed Use District, Mixed Use Overlay District, and Watershed Protection Overlay District (Jordan Lake Sub-district) with a Preliminary Development Plan (PDP) to allow development of up to: 750,000 square feet of office, medical, and institutional uses; 100 hospital beds; 55,000 square feet of commercial uses; 250 residential dwelling units; and 250 hotel rooms. An annexation petition (18-A-05) has also been submitted for the site.



Recommendation: Staff recommends approval of this rezoning request with the conditions as proposed by the applicant.

Planning and Zoning Board Recommendation: The Planning and Zoning Board found the request to be consistent with the Imagine Cary Community Plan by a vote of 6-0.

7. CLOSED SESSION

Closed Session will be called if necessary.

8. ADJOURNMENT

Please contact Town Clerk Virginia Johnson with any questions about this agenda or to request an auxiliary aid or service to participate in the meeting:
virginia.johnson@townofcary.org, 919-469-4011, TDD 919-469-4012.

Meetings are cablecast live on Cary TV on the following channels: AT&T Uverse Channel 99, Google Channel 142 and Spectrum Channel 11. Meetings are available the following day at www.youtube.com/TownofCaryChannel.

