# Town of Garner



# Work Session Meeting August 27, 2024

Garner Town Hall 900 7<sup>th</sup> Avenue Garner, NC 27529

#### Town of Garner Work Session Meeting Agenda August 27, 2024

The Council will meet in a Work Session at 6:00 p.m. in the Ronnie S. Williams Council Chambers located at 900 7<sup>th</sup> Avenue.

A.	CALL MEETING TO ORDER/ROLL CALL: Mayor Buddy Gupton					
B.	ADOPTION OF AGENDA					
C.	PRESENTATIONS					
	Recognition of Joe Sample as the recipient of the James R. Stevens Service to Garner Award.					
D.	DISCUSSION/REPORTS					
	<ol> <li>Wake County 2024 Library Bonds Overview and Introduction of New Wake         County Library Director Tammy Baggett</li></ol>					
	<ol> <li>Economic Development Annual Update</li></ol>					
	Council Code of Conduct and Ethics					

Follow up discussion of the proposed Garner Town Council Code of Conduct and Ethics drafted by the Legal Department and presented to Town Council at the June 25, 2024 Work Session. The proposed Code addresses interactions between and among Council members,

interactions with the public including use of personal and Town social media accounts, and interactions with Town employees.

Action: Provide direction to staff and consider placing on a future agenda for adoption.

#### E. MANAGER REPORTS

- 1. Pending Agenda Report
- 2. Development Map Update
- F. ATTORNEY REPORTS
- G. COUNCIL REPORTS
- H. CLOSED SESSION

Pursuant to N.C. General Statutes Section 143.318.11(a)(5) to discuss the possible real estate acquisition and the Town's negotiating position regarding such real estate.

I. ADJOURN

# Town of Garner Town Council Meeting Agenda Form

Meeting Date: April 30	), 2024			
		w and Introduction of New Wake County Library Director		
Location on Agenda:		· ·		
Department: Town Ma				
Contact: Jodi Miller, Tov				
Presenter: Wake Count	=			
Brief Summary:	•			
•	resent an overview of the 2	2024 Library Bonds and introduce the new Wake County Library		
		ett, Wake County Library Director, Katrina C. Vernon, Wake		
County Assistant Library	Director and Matt Royland	e, Wake County Deputy Community Services Director.		
Recommended Motion	n and/or Requested Acti	on:		
Receive as information.				
Detailed Notes:				
	ry Bond flyer is attached fo	or your information.		
	,	,		
Funding Source:				
Cost: None	One Time:	Annual: No Cost: •		
Manager's Comments	and Recommendations:			
Attachments Yes: •	) No: ()			
Agenda Form	Initials:	Comments:		
Reviewed by:	miniais.	Comments.		
•				
Department Head:	JM/JMH			
Finance Director:				
Tillance Director.				
Town Attorney:				
Town Accorney.				
Town Manager:				
	JM			
Town Clerk:				



Our libraries provide an array of programming for all ages, which more than **314,000** people attended in 2024.







In 2024, library cardholders checked out over **11.8 million** items!



Surveys show 94.7% of visitors are satisfied or very satisfied with their primary library.



### The Facts

Wake County Public Libraries' mission is to instill the love of reading and to foster the pursuit of knowledge for the residents of Wake County. We offer resources and programs for children, parents, teens and adults — and, of course, we have lots of books! To further that mission, Wake County is putting a bond referendum on the Nov. 5 ballot. It asks voters to decide on a \$142 million bond for new libraries, as well as renovations and expansions for existing libraries, when they head to the polls on Nov. 5.

#### What is a bond referendum?

A bond referendum gives voters the opportunity to decide whether Wake County may use general obligation bonds to finance these projects. A general obligation bond is backed by the full faith, credit and taxing power of the County and is considered public debt. General obligation bonds carry lower interest rates than other bonds or financing methods.

# What is the total tax rate impact for the bond?

If voters approve this bond, the estimated amount of property tax liability increase for each \$100,000 of property tax value would be **\$2.50 per year**. For example, a home valued at \$462,000 would see an annual tax increase of \$11.50.

# What happens if the bond doesn't pass in November?

Projects will not move forward unless an alternative funding plan is identified.

# Wake County encourages residents to vote on Nov. 5.

The voter registration deadline is:



Learn how to register, where to find your polling place and more at:



or call the Board of Elections at:

919-404-4040

### Schedule a Speaker

Interested in having a county official or staff member discuss the Wake County Public Libraries bond at your next meeting or event?

LibraryBond24@wake.gov



Wake County
Public Libraries



Wake County
Public Libraries

Questions or comments? **LibraryBond24@wake.gov** 

wake.gov/LibraryBond24

### **BREAKING DOWN THE BOND**

#### **NEW LIBRARIES**



#### **GOAL:**

Increase the number of Wake County residents who have a public library within a 10-minute drive of their home.

#### **Potential Projects:**

#### A new community library in Rolesville:

Rolesville, one of Wake County's fastest growing communities, is the only municipality without a library. The design would include a Peace and Justice Memorial

### A new community library in the Friendship area of Apex:

This library will help meet the needs of the area's growing population.

#### Replacement of the

#### Athens Drive Community Library:

When the Wake County Public School System renovates Athens Drive High School in 2026, a new library will need to be built.

### Replacement of the Wendell Community Library:

The smallest community library in the system is no longer adequate to serve the rapidly growing Wendell population.

#### A new facility, TBD:

The Board of Commissioners will continue to consider options to address needs throughout Wake County, including digital equity and services for underserved populations.



#### LIBRARY EXPANSION

#### \$12.3 million

#### GOAL:

Meet the demands of population growth on library service.

#### **Potential Project:**

### Expansion of the Fuquay-Varina Community Library:

In 2024, this library has seen the highest circulation of all community libraries — and even more than several regional libraries. This will expand the facility from a community library to a regional library.

# EXISTING LIBRARY RENOVATIONS

#### § \$43.3 million

#### **GOAL**:

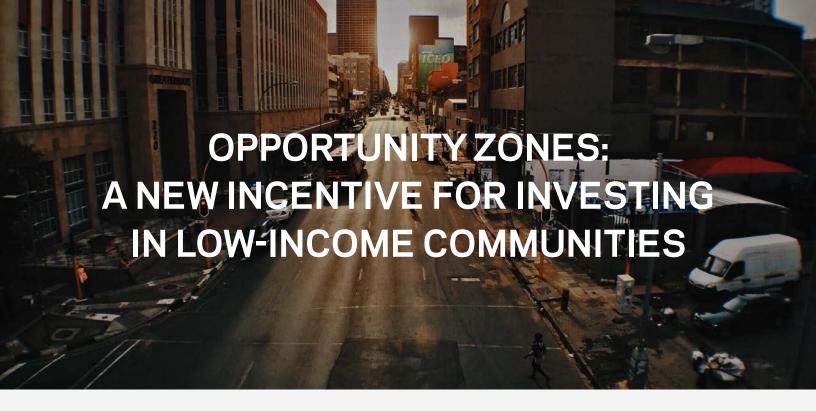
Address aging facilities, building system upgrades (such as heating, ventilation, air conditioning and roof replacement), furniture and other enhancements.

#### **Potential Projects:**

Express Library - Fayetteville Street
Green Road Community Library
Leesville Community Library
Library Administration Building
Northeast Regional Library
Richard B. Harrison Community Library
Southeast Regional Library
Zebulon Community Library
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# Town of Garner Town Council Meeting Agenda Form

Meeting Date: August 27, 2024			
Subject: Economic Deve	elopment Annual Update		
Location on Agenda: I	Presentations		
Department: Economic	Development		
Contact: Nate Groover,	Economic Development D	rector	
Presenter: Nate Groove	r, Economic Development	Director and Shayla Douglas, Downtown and Small Business Admi	
Brief Summary:			
The Economic Developm	ent Department will provid	de a recap of the FY24 activity and information about	
Opportunity Zones.			
	n and/or Requested Acti	on:	
For information			
Detailed Notes:			
Funding Source:			
· ·			
Cost: None	One Time:	Annual: No Cost:	
	and Recommendations:		
3			
Attachments Yes: •	No: O		
Agenda Form	Initials:	Comments:	
Reviewed by:	IIIItidis.	Comments.	
·			
Department Head:	NG		
Finance Director:			
Tillance Director.			
Town Attorney:			
101117111111111111111111111111111111111			
Town Manager:	JM		
	JIVI		
Town Clerk:			



The Opportunity Zones program offers three tax incentives for investing in low-income communities through a qualified Opportunity Fund <sup>1</sup>:



### Temporary Deferral

A temporary deferral of inclusion in taxable income for capital gains reinvested into an Opportunity Fund. The deferred gain must be recognized on the earlier of the date on which the opportunity zone investment is disposed of or December 31, 2026.



# Step-Up In Basis

A step-up in basis for capital gains reinvested in an Opportunity Fund. The basis is increased by 10% if the investment in the Opportunity Fund is held by the taxpayer for at least 5 years and by an additional 5% if held for at least 7 years, thereby excluding up to 15% of the original gain from taxation.



# Permanent Exclusion

A permanent exclusion from taxable income of capital gains from the sale or exchange of an investment in an Opportunity Fund if the investment is held for at least 10 years. This exclusion only applies to gains accrued after an investment in an Opportunity Fund.



Figure 1. Incentives Offered by the Opportunity Zones Program

#### How does a capital gain of \$100 reinvested in 2018 perform over time?



<sup>\*</sup> Note: Assumes long-term federal capital gains tax rate of 23.8%, no state income tax, and annual appreciation of 7% for both the O-Fund and alternative investment.

The Opportunity Zones program is designed to incentivize patient capital investments in low-income communities nationwide. All of the underlying incentives relate to the tax treatment of capital gains, and all are tied to the longevity of an investor's stake in a qualified Opportunity Fund, providing the most upside to those who hold their investment for 10 years or more.

The figure above and table below illustrate how an investor's available after-tax funds compare under different scenarios, assuming various holding periods, annual investment appreciation of 7%, and a long-term capital gains tax rate of 23.8% (federal capital gains tax of 20% and net investment income tax of 3.8%). For example, after 10 years an investor will see an additional \$44 for every \$100 of capital gains reinvested into an Opportunity Fund in 2018 compared to an equivalent investment in a more traditional stock portfolio generating the same annual appreciation. Table 1 and the examples that follow provide additional information on the tax liabilities and differences in the after-tax annual rates of return.

Table 1. How Investing in an Opportunity Fund Compares to a Traditional Stock Portfolio

Scenario: A Capital Gain of \$100 is Reinvested in 2018

Holding Period	Appreciation Rate	Investment in a Stock Portfolio		Investment in an Opportunity Fund		Difference in After-Tax Annual Rate of Return
		Total Tax Liability	After-Tax Funds Available	Total Tax Liability	After-Tax Funds Available	
5 Years	7%	\$31	\$100	\$31	\$109	1.9%
7 Years	7%	\$35	<b>\$</b> 111	\$35	<b>\$</b> 126	1.8%
10 years	7%	\$41	\$132	\$20	\$176	3.0%



#### Example 1: Investor holds the O-Fund stake for 10 years

Susie has \$100 of unrealized capital gains in her stock portfolio. She decides in 2018 to reinvest those gains into an O-Fund that invests in distressed areas of her home state, and she holds that investment for 10 years. Susie is able to defer the tax she owes on her original \$100 of capital gains until 2026. Further, the basis is increased by 15% (effectively reducing her \$100 of taxable capital gains to \$85). Thus, she will owe \$20 (23.8% of \$85) of tax on her original capital gains when the bill finally comes due. In addition, since she holds her O-Fund investment for at least 10 years, she owes no capital gains tax on its appreciation. Assuming that her O-Fund investment grows 7% annually, the after-tax value of her original \$100 investment in 2028 is \$176. Susie has enjoyed a 5.8% effective annual return, compared to the 2.8% an equivalent non-O-Fund investment would have delivered.

Total tax bill in 2028: **\$20**After-tax value of investment in 2028: **\$176**Effective after-tax annual return on \$100 capital gain in 2018: **5.8**%

#### Example 2: Investor holds the O-Fund stake for 7 years

As in Example 1, in 2018 Susie rolls over \$100 of capital gains into an O-Fund. She holds the investment for 7 years, selling in 2025. As in Example 1, she temporarily defers the tax she owes on her original capital gains and steps-up her basis by 15%, so that in 2025 she will owe \$20 (23.8% of \$85) of tax on her original capital gains. Unlike Example 1, however, Susie will owe capital gains tax on the appreciation of her O-Fund investment, since she holds the investment for less than 10 years. Assuming that her O-Fund investment grows 7% annually, in 2025 Susie will owe \$15 (23.8% of \$61) of tax on the O-Fund investment's capital gain. Susie did not take full advantage of the Opportunity Zone program but nevertheless received a 3.3% effective annual return compared to the 1.5% an equivalent non-O-Fund investment would have delivered.

Total tax bill in 2025: \$35 After-tax value of investment in 2025: \$126 Effective after-tax annual return on \$100 capital gain in 2018: 3.3%

#### Example 3: Investor holds the O-Fund stake for 5 years

As in Example 1, in 2018 Susie rolls over \$100 of capital gains into an O-Fund. She holds the investment for 5 years, selling in 2023. As in Example 1, she can temporarily defer the tax she owes on her original capital gains, but her step-up in basis is only 10%, so that in 2023 she will owe \$21 (23.8% of \$90) of tax on her original capital gains. As in Example 2, Susie enjoys no exemption from capital gains tax on the appreciation of her O-Fund investment, since she holds the investment for less than 10 years. Assuming that her O-Fund investment grows 7% annually, in 2023 Susie will owe \$10 (23.8% of \$40) of tax on the O-Fund investment's capital gain. Susie did not take full advantage of the Opportunity Zone program but nevertheless received a 1.8% effective annual return on her initial capital gains compared to the -0.1% effective annual return an equivalent non-O-Fund investment would have delivered.

Total tax bill in 2023: **\$31** After-tax value of investment in 2023: **\$109** Effective after-tax annual return on \$100 capital gain in 2018: **1.8%** 



# For more information visit eig.org/opportunityzones or email info@eig.org

1. A qualified Opportunity Fund is a privately managed investment vehicle organized as a corporation or a partnership for the purpose of investing in qualified opportunity zone property (the vehicle must hold at least 90 percent of its assets in such property). Governors (or the Mayor in the case of the District of Columbia) may designate 25 percent of their state's low-income census tracts as qualified opportunity zones, subject to certification by the U.S. Secretary of the Treasury. Low-income census tracts are defined in Internal Revenue Code Section 45D(e). If the number of low-income census tracts in a state is less than 100, then a Governor may designate a total of 25 tracts. Qualified opportunity zone property includes any qualified opportunity zone business stock, any qualified opportunity zone partnership interest, and any qualified opportunity zone business property. Only taxpayers who roll over capital gains of non-zone assets before December 31, 2026, will be able to take advantage of the special treatment under the provision.



# Town of Garner Town Council Meeting Agenda Form

Meeting Date: August 27, 2024				
Subject: Council Code of Conduct and Ethics				
Location on Agenda:	Discussion			
Department: Legal				
Contact: Terri Jones, To	own Attorney			
Presenter: Terri Jones,	Town Attorney			
Brief Summary:	·			
Follow up discussion of t	he proposed Garner Town	Council Code of Conduct a	nd Ethics drafted by the Legal	
Department and present	ted to Town Council at the	June 25, 2024 Work Sessio	n. The proposed Code addresses	
interactions between an	d among Council members	and interactions with the	public, including use of personal and	
Town social media accou	ints, and interactions with	Town employees.		
Recommended Motion	n and/or Requested Acti	on:		
Provide direction to staff	and consider placing on a	future agenda for adoptior	1	
Detailed Notes:				
	he governing boards of citic	es to adopt a resolution or	policy containing a code of ethics to	
			nber's official duties. Town Council	
	=		ended to update the Code of Ethics,	
I			arolina League of Municipalities	
Commit to Civility progra	m. Issues for further discu	ssion are highlighted in the	e draft.	
,. •				
Funding Source:				
N/A				
Cost: None	One Time:	Annual:	No Cost:	
Manager's Comments	and Recommendations:		•	
Attachments Yes:				
Agenda Form	Initials:		Comments:	
Reviewed by:				
Department Head:	TJ			
	1,5			
Finance Director:				
Town Attorney:	TJ			
Town Managari	-			
Town Manager:	JM			
Town Clarks				
Town Clerk:				

# RESOLUTION NO. (2010) 2080 RESOLUTION ADOPTING A CODE OF ETHICS FOR THE GARNER TOWN COUNCIL

Whereas, the proper operation of democratic government requires that public official be independent, impartial and responsible to the people; and

Whereas, government decisions and policy must be made in proper channels of the governmental structure; and

Whereas, the public office must not be used for personal gain; and

Whereas, the public must have confidence in the integrity of its government; and in recognition of these goals,

BE IT HEREBY RESOLVED by the Town Council of the Town of Garner, North Carolina that the following is adopted:

# CODE OF ETHICS FOR THE GARNER MAYOR AND TOWN COUNCIL

The stability and proper operation of democratic representative government depends upon the continuing consent of the governed, upon the public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people. Government decisions and policy must be made and implemented through proper channels and processes of the governmental structure. The purpose of this code is to establish guidelines for ethical standards of conduct for the Mayor and Town Council and all references herein to the Town Council shall be understood to include the Mayor. It should not be considered a substitute for the law or a Town Council member's best judgment.

Town Council members must be able to act in a manner to maintain their integrity and independence, yet must be responsive to the interests and needs of those they represent. Town Council members serve in an important advocacy capacity in meeting the needs of their citizens and should recognize the legitimacy of this role as well as the intrinsic importance of this function to the proper functioning of representative government. At the same time, Town Council members must, at times, act in an adjudicatory or administrative capacity and must, when doing so, act in a fair and impartial manner. Town Council members must know how to distinguish these roles and when each role is appropriate and they must act accordingly. Town Council members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each Town Council member must find within his or her own conscience the touchstone on which to determine appropriate conduct.

#### **Section One**

#### A Town Council Member Shall Obey the Law

Town Council members shall support the Constitution of the United States, the Constitution of North Carolina and the laws enacted by the Congress of the United States and the General Assembly pursuant thereto. Members specifically acknowledge and agree to comply with the requirements of NCGS §14-234 entitled "Public officers or employees benefiting from public contracts; exceptions."

#### **Section Two**

# A Town Council Member Should Uphold the Integrity and Independence of His or Her Office

Town Council members should demonstrate the highest standards of personal integrity, truthfulness, honesty and fortitude in all their public activities in order to inspire public confidence and trust in town government. Town Council members should participate in establishing, maintaining, and enforcing, and should themselves observe, high standards of conduct so that the integrity and independence of their office may be preserved. The provisions of this Code should be construed and applied to further these objectives.

#### Section Three

#### A Town Council Member Should Avoid Impropriety and the Appearance of Impropriety in All His or Her Activities

It is essential that town government attract those citizens best qualified and willing to serve. Town Council members have legitimate interests-economic, professional and vocational-of a private nature. Town Council members should not be denied, and should not deny to other Town Council members or citizens, the opportunity to acquire, retain and pursue private interests, economic or otherwise, except when conflicts with their responsibility to the public cannot be avoided. Town Council members must exercise their best judgment to determine when this is the case.

Town Council members should respect and comply with the law and should conduct themselves at all times in a manner that promotes public confidence in the integrity of the office of Town Council and of town government.

Town Council members should not allow family, social, or other relationships to unduly influence their conduct or judgment and should not lend the prestige of the office of Town Council to advance the private interests of others; nor should they conveyor permit others to convey the impression that they are in a special position to influence them. Town Council members shall not grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

The Mayor or any member of the Town Council who has an interest in any official act or action before the Council shall publicly disclose on the record of the Council the nature and extent of such interest and shall withdraw from any consideration of the matter if excused by the Council pursuant to NCGS §160A-75.

#### **Section Four**

#### A Town Council Member Should Perform the Duties of the Office Diligently

Town Council members should, while performing the duties of the office as prescribed by law, give precedence to these duties over other activities. In the performance of these duties, the following standards should apply:

#### A. Legislative Responsibilities

- 1. Town Council members should actively pursue policy goals they believe to be in the best interests of their constituents within the parameters of orderly decision-making, rules of the Town Council and open government.
- 2. Town Council members should respect the legitimacy of the goals and interests of other Town Council members and should respect the rights of others to pursue goals and policies different from their own.

#### B. Adjudicative Responsibilities

- 1. Town Council members should be faithful to the general and local laws pertaining to the office and strive for professional competence in them. They should be unswayed by partisan interests, public clamor, or fear of criticism.
- 2. Town Council members should demand and contribute to the maintenance of order and decorum in proceedings before the Town Council.
- 3. Town Council members should be honest, patient, dignified and courteous to those with whom they deal in their official capacity, and should require similar conduct of their staff and others subject to their direction and control.
- 4. Town Council members should accord to every person who is legally interested in a proceeding before the Council full right to be heard according to law.
- 5. Town Council members should dispose promptly of the business of the town for which they are responsible.

#### C. Administrative Responsibilities

- 1. Town Council members should clearly distinguish legislative, adjudicatory and administrative responsibilities and should refrain from inappropriate interference in the impartial administration of town affairs by town employees. Town Council members should diligently discharge those administrative responsibilities that are appropriate, should maintain professional competence in the administration of these duties and should facilitate the diligent discharge of the administrative responsibilities of fellow Town Council members and other town officials.
- 2. Town Council members should conserve the resources of the town in their charge. They should employ town equipment property, funds and personnel only in legally permissible pursuits and in a manner that exemplifies excellent stewardship.
- 3. Town Council members should require town employees subject to their direction and control to observe the standards of fidelity and diligence that apply to Town Council members as well as those appropriate for employees.
- 4. Town Council members who become aware of improper conduct by a town employee should promptly inform the Town Manager, or, in the case of a Town employee who reports directly to the Council, initiate appropriate disciplinary measures.
- 5. Town Council members should not employ or recommend the appointment of unnecessary employees and should exercise the power of employment only on the basis of merit, avoid

favoritism and refrain from illegal discrimination and nepotism. They should not approve compensation of employees beyond the fair value of services rendered.

#### Section Five

#### A Town Council Member Should Conduct the Affairs of the Town Council in an Open and Public Manner

Town Council members should be aware of the letter and intent of the State's Open Meetings Law, should conduct the affairs of the Town Council consistent with the letter and spirit of that law and consistent with the need to inspire and maintain public confidence in the integrity and fairness of town government and the office of Town Council. Consistent with this goal of preserving public trust, Town Council members should be aware of the need for discretion in deliberations when the lack of discretion would pose a threat to the resources of the town, to the reputation of current or potential town employees, to orderly and responsible decision making, to the integrity of other governmental processes or to other legitimate interests of the town.

#### **Section Six**

#### A Town Council Member Should Regulate His or Her Extra Governmental Activities to Minimize the Risk of Conflict with His or Her Official Duties

- 1. Town Council members should inform themselves concerning campaign finance, conflict of interest and other appropriate state and federal laws and should scrupulously comply with the provisions of such laws.
- 2. Town Council members should refrain from financial and business dealings that tend to reflect adversely on the Council or on town government or to interfere with the proper performance of official duties.
- 3. Town Council members should manage their personal financial interests to minimize the number of cases in which they must abstain from voting on matters coming before the Council.
- 4. Information acquired by Town Council members in their official capacity should not be used or disclosed in financial dealings or for any other purpose not related to official duties.

#### Section Seven

#### A Town Council Member Should Refrain from Political Activity Inappropriate to His or Her Office

1. Town Council members have a civic responsibility to support good government by every available means, to continue to inform and educate the citizenry about the affairs and processes of town government, and to make themselves available to citizens of the town so that they may ascertain and respond to the needs of the community. In doing so, Town Council members may and should join or affiliate with civic organizations whether partisan or non-partisan, may and should attend political meetings, may and should advocate and support the principles or policies of civic or political organizations consistent with the Constitution and laws of the United States and North Carolina.

- 2. Candidates for the office of Town Council, including incumbents:
- A. Should inform themselves concerning the laws of this state with regard to campaigns and relevant disclosure requirements and should scrupulously comply with the provisions of such laws;
- B. Should maintain the dignity appropriate to the office, and should encourage members of their families to adhere to the same standards of political conduct that apply to Town Council;
- C. Should not make pledges or promises of conduct in office that they will not or cannot perform or would be illegal if it were performed;
- D. Should not misrepresent their identity, qualifications present position, or other fact; and
- E. Should avoid pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office.

#### BE IT FURTHER RESOLVED that:

- 1. A violation of this Code of Ethics may subject a Mayor/Council to a censure Resolution by the Garner Town Council; however, no such censure resolution shall be adopted until the person alleged to have committed the violation has been given notice of the alleged violation and provided with the opportunity to appear before the Council and be heard regarding the allegation.
- 2. When a Mayor/Council has a question as to the applicability of this code to a particular situation, he or she may apply, orally or in writing, to the Town Attorney for advisory guidance. Upon receipt of a request for advisory guidance and based only upon the information given to the Town Attorney, the Town Attorney will provide advisory guidance to the Mayor/Council. In the Town Attorney's discretion, he may retain outside legal counsel to advise him in connection with any request for advisory guidance. In no event will the Town Attorney's advisory guidance excuse a Mayor/Council from complying with the Code of Ethics or other applicable law.

Adopted this 16<sup>th</sup> day of November, 2010.

Ronnie S, Williams, Mayor

ATTEST:

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#### **RESOLUTION NO. (2024)**

# RESOLUTION ADOPTING AN AMENDED CODE OF CONDUCT AND ETHICS FOR THE GARNER TOWN COUNCIL

WHEREAS, governing boards of cities, including the Garner Town Council, are required by State law to adopt a resolution or policy containing a code of ethics to guide actions by the Mayor and Town Council in the performance of their official duties as elected officials; and

WHEREAS, pursuant to North Carolina General Statutes (NCGS) § 160A-86, the resolution or policy must address all of the following:

- (1) The need to obey all applicable laws regarding official actions taken as an elected official.
- (2) The need to uphold the integrity and independence of the elected official's office.
- (3) The need to avoid impropriety in the exercise of official duties.
- (4) The need to faithfully perform the duties of the elected office.
- (5) The need to conduct the affairs of the Town Council in an open and public manner, including complying with all applicable laws governing open meetings and public records; and

WHEREAS, Garner Town Council adopted Resolution No. (2010) 2080 on November 16, 2010, and established the following findings and goals:

- (1) The proper operation of democratic government requires that public officials be independent, impartial and responsible to the people.
- (2) Government decisions and policy must be made in proper channels of the governmental structure.
- (3) The public office must not be used for personal gain.
- (4) The public must have confidence in the integrity of its government; and

WHEREAS, in recognition of changing times and growing incivility and discord in many levels of government, Garner Town Council wishes to adopt an amended Code of Conduct and Ethics.

NOW THEREFORE, BE IT HEREBY RESOLVED by the Town Council of the Town of Garner, North Carolina that the following is adopted:

#### CODE OF CONDUCT AND ETHICS FOR THE GARNER MAYOR AND TOWN COUNCIL

The stability and proper operation of democratic representative government depends upon the continued consent of the governed, upon the public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people. Government decisions and policy must be made and implemented through proper channels and processes of the governmental structure. The purpose of this code is to establish guidelines for ethical standards of conduct for the Mayor and Town Council and all references herein to the Town Council shall be understood to include the Mayor. It should not be considered a substitute for the law or a Town Council member's best judgment.

Town Council Members must be able to act in a manner to maintain their integrity and

independence yet must be responsive to the interests and needs of those they represent. Town Council Members serve in an important advocacy capacity in meeting the needs of their citizens and should recognize the legitimacy of this role as well as the intrinsic importance of this function to the proper functioning of representative government. At the same time, Town Council Members must, at times, act in an adjudicatory or administrative capacity and must, when doing so, act in a fair and impartial manner. Town Council Members must know how to distinguish these roles and when each role is appropriate, and they must act accordingly. Town Council Members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents and Town employees. Each Town Council member must find within his or her own conscience the touchstone on which to determine appropriate conduct.

#### Section One Council Members Shall Obey the Law

Town Council Members shall support the Constitution of the United States, the Constitution of North Carolina and the laws enacted by the Congress of the United States and the General Assembly pursuant thereto. Members specifically acknowledge and agree to comply with the requirements of NCGS §14-234 entitled "Public officers or employees benefiting from public contracts; exceptions" and NCGS § 14-234.1 entitled "Misuse of confidential information" and NCGS § 14-234.2 entitled "Public officers or employees financially benefiting from public position" and NCGS § 14-234.3 entitled "Local public officials participating in contracts benefiting nonprofits with which associated." In addition to the two-hour ethics training mandated by State law (NCGS § 160A-87) within 12 months after each election or appointment, Town Council Members commit to attending additional hours of training each year.

# Section Two Council Members Should Uphold the Integrity and Independence of the Office

Town Council Members should demonstrate the highest standards of personal integrity, truthfulness, honesty, and fortitude in all their public activities in order to inspire public confidence and trust in town government. Town Council Members should participate in establishing, maintaining, and enforcing, and should themselves observe, high standards of conduct so that the integrity and independence of their office may be preserved. The provisions of this Code should be construed and applied to further these objectives.

#### Section Three Council Members Should Avoid Impropriety and the Appearance of Impropriety in All Activities

It is essential that town government attract those citizens best qualified and willing to serve. Town Council Members have legitimate interests – economic, professional and vocational – of a private nature. Town Council Members should not be denied and should not deny to other Town Council Members or citizens, the opportunity to acquire, retain and pursue private interests, economic or otherwise, except when conflicts with their responsibility to the public cannot be avoided. Town Council Members must exercise their best judgment to determine when this is the case.

Town Council Members should respect and comply with the law and should conduct themselves at all times in a manner that promotes public confidence and trust in the integrity of the office of Town Council and of town government.

Town Council Members should not allow family, social, or other relationships to unduly influence their conduct or judgment and should not lend the prestige of the office of Town Council to advance the private interests of others; nor should they convey or permit others to convey the impression that they are in a special position to influence them. Town Council Members shall not grant any special consideration, treatment or advantage to any resident beyond that which is available to every other resident.

The Mayor or any member of the Town Council who has an interest in any official act or action before the Council shall publicly disclose on the record of the Council the nature and extent of such interest and shall withdraw from any consideration of the matter if excused by the Council pursuant to NCGS §160A-75 or §160D-109.

# Section Four Council Members Should Perform the Duties of the Office Diligently

Town Council Members should, while performing the duties of the office as prescribed by law, give precedence to these duties over other activities. In the performance of these duties, the following standards should apply:

#### 1. Legislative Responsibilities

- a. Town Council Members should actively pursue policy goals they believe to be in the best interests of their constituents within the parameters of orderly decisionmaking, rules of the Town Council and open government.
- b. Town Council Members should respect the legitimacy of the goals and interests of other Town Council Members and should respect the rights of others to pursue goals and policies different from their own.

#### 2. Adjudicative Responsibilities

- a. Town Council Members should be faithful to the general and local laws pertaining to the office and strive for professional competence in them. They should not be swayed by partisan interests, public clamor, or fear of criticism.
- b. Town Council Members should demand and contribute to the maintenance of order and decorum in all proceedings before the Town Council.
- c. Town Council Members should be honest, patient, dignified and courteous to those with whom they deal in their official capacity, and should require similar conduct of their staff and others subject to their direction and control.
- d. Town Council Members should accord to every person who is legally interested in

- a proceeding before the Council full right to be heard according to law.
- e. Town Council Members should dispose promptly of the business of the town for which they are responsible.

#### 3. Administrative Responsibilities

- a. Town Council Members should clearly distinguish legislative, adjudicatory and administrative responsibilities and should refrain from inappropriate interference in the impartial administration of town affairs by town employees. Town Council Members should diligently discharge those administrative responsibilities to the Town Manager as appropriate, should maintain professional competence in the administration of these duties and should facilitate the diligent discharge of the administrative responsibilities of fellow Town Council Members and other town officials.
- b. Town Council Members should conserve the resources of the town in their charge. They should employ town equipment, property, funds and personnel only in legally permissible pursuits and in a manner that exemplifies excellent stewardship.
- c. Town Council Members should require town employees subject to their direction and control to observe the standards of fidelity and diligence that apply to Town Council Members as well as those appropriate for employees.
- d. Town Council Members who become aware of improper conduct by a town employee should promptly inform the Town Manager, or, in the case of a town employee who reports directly to the Council (the Town Manager or Town Attorney), initiate appropriate disciplinary measures.
- e. Town Council Members should not employ or recommend the appointment of employees and should exercise the power of employment only on the basis of merit, avoid favoritism and refrain from illegal discrimination and nepotism. They should not approve compensation of employees beyond the fair value of services rendered.

#### **Section Five**

#### Council Members Should Conduct the Affairs of the Town in an Open and Public Manner

Town Council Members should be aware of the letter and intent of the State's Open Meetings Law (NCGS Chapter 143 Article 33C), should conduct the affairs of the Town Council consistent with the letter and spirit of that law and consistent with the need to inspire and maintain public confidence in the integrity and fairness of town government and the office of Town Council. Consistent with this goal of preserving public trust, Town Council Members should be aware of the need for discretion in deliberations when the lack of discretion would pose a threat to the resources of the town, to the reputation of current or potential town employees, to orderly and responsible decision making to the integrity of other governmental processes or to other legitimate interests of the town.

#### **Section Six**

# Council Members Should Regulate Personal Activities to Minimize the Risk of Conflict with Official Duties

- 1. Town Council Members should inform themselves concerning campaign finance, conflict of interest and other appropriate state and federal laws and should scrupulously comply with the provisions of such laws.
- 2. Town Council Members should refrain from financial and business dealings that tend to reflect adversely on the Council or on town government or to interfere with the proper performance of official duties.
- 3. Town Council Members should manage their personal financial interests to minimize the number of cases in which they must be excused from voting on matters coming before the Council.
- 4. Information acquired by Town Council Members in their official capacity should not be used or disclosed in financial dealings or for any other purpose not related to official duties.

#### **Section Seven**

#### Council Members Should Refrain from Political Activity Inappropriate to the Office

- 1. Town Council Members have a civic responsibility to support good government and the Council-Manager form of government by every available means, to continue to inform and educate the citizenry about the affairs and processes of town government, and to make themselves available to citizens of the town so that they may ascertain and respond to the needs of the community. In doing so, Town Council Members may and should join or affiliate with civic organizations whether partisan or non-partisan, may and should attend political meetings, may and should advocate and support the principles or policies of civic or political organizations consistent with the Constitution and laws of the United States and North Carolina.
- 2. Candidates for the office of Town Council, including incumbents:
  - a. Should inform themselves concerning the laws of this state with regard to campaigns and relevant disclosure requirements and should scrupulously comply with the provisions of such laws;
  - b. Should maintain the dignity appropriate to the office, and should encourage members of their families to adhere to the same standards of political conduct that apply to Town Council;
  - c. Should not make pledges or promises of conduct in office that they will not or cannot perform or would be illegal if it were performed;
  - d. Should not misrepresent their identity, qualifications, present position, or other fact:
  - e. Should avoid pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; and
  - f. Should advocate for and support the Council-Manager form of government as

#### provided in the Town's Charter.

#### Section 8

# Council Members Should Treat Other Council Members, Town Staff, Constituents, and Others They Come into Contact with Respect and Civility

- 1. The Garner Town Council shall take the 2024 North Carolina League of Municipalities Commit to Civility training, sign the individual pledge, and adopt the Commit to Civility Resolution.
- 2. Town Council's interactions with the public at public meetings should:
  - a. Make the public feel welcome.
  - b. No signs of partiality, prejudice or disrespect should be evident on the part of individual Council Members toward an individual participating in a public forum.
  - c. Every effort should be made to be fair and impartial in listening to public testimony and staff presentations.
  - d. Be fair and equitable in allocating public hearing time to individual speakers. In accordance with the Garner Town Council Rules of Procedure, the Mayor or presiding officer may determine and announce limits on speakers at the start of the public hearing process. The Mayor may set a time limit for speakers and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers. Speakers who demonstrate inappropriate behavior may lose their right to speak. Each speaker may only speak once during the public hearing unless the Council requests additional clarification later in the process. After the close of the public hearing, no more public testimony will be accepted unless the Mayor reopens the public hearing for a limited and specific purpose.
  - e. Listen intently and give the appearance of listening. Council Members should be aware and avoid giving the public the appearance of disinterest.
  - f. Ask for clarification but avoid debate and argument with the public and presenters. The Mayor is to maintain the order and decorum of the meeting. Questions by Council Members to applicants, presenters, and members of the public testifying or making comments should seek to clarify or expand information and should never belligerently challenge or belittle the speaker. Council Members' personal opinions or inclinations about upcoming votes should not be revealed until after the public hearing is closed.
  - g. Not include personal attacks of any kind, under any circumstance. Council Members should be aware that their body language and tone of voice, as well as the words they use, should not appear to be intimidating, belittling or aggressive.
- 3. Town Council's interactions with the public in unofficial settings should:
  - a. Make no promises on behalf of the Council. Council Members will frequently be asked to explain a Council action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of Town policy and to refer to Town staff for further information. It is inappropriate to overtly or implicitly promise Council action, or to promise Town staff will do something specific (fix a pothole,

- remove a library book, plant new flowers in the median, etc.).
- b. Make no personal comments about other Council Members. It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory and belittling comments about other Council Members, their opinions and actions. In addition, after a decision is made by a majority of Town Council, all members in the minority should respect and honor the decision.
- c. Council Members should avoid public acts or comments that impugn the Town, the Town staff, or its processes.
- d. Remember that Garner is a small community. Council Members are constantly being observed by the community every day that they serve in office. Their behaviors and comments serve as models for proper deportment in the Town. Honesty and respect for the dignity of each individual should be reflected in every word and action taken by Council Members, 24 hours a day, seven days a week. It is a serious and continuous responsibility.

#### 4. Social Media:

- a. When possible, Council Members shall consult with the Town Manager and Town Communications Director prior to posting messages on official Town social media accounts.
- b. Recognizing that Council Members retain their First Amendment rights, Council Members should have a clear delineation between their personal or campaign social media accounts and Town-related social media accounts. A personal social media account should not identify the account holder by their position with the Town. Elected officials should avoid any appearance of exercising their authority to speak on behalf of the government on that personal account.
- c. It is advisable for Council Members to clarify on their personal social media accounts that the member's personal views do not reflect the views of the Town, such as the following: "This is the personal page of [Council Member]. The views expressed are strictly my own."
- d. Council Members should be accurate when posting information on social media, and should quickly correct any mistakes, misstatements, and/or factual errors in content upon discovery. Council Members are expected to conduct themselves on all social media platforms in a manner consistent with the Town's policies and ethical standards of conduct.
- e. Council Members must ensure they are not using social media to engage in any activity that uses the official's position or the Town's facilities, equipment, or supplies for the private gain or advantage of the official or others or uses or attempts to use the official's position to secure special advantage for the official or others.
- f. Council Members personal social media accounts may be subject to the North Carolina Public Records Act (NCGS Chapter 132) and may subject the Town to liability.
- g. The Town strives to be professional in its operations and processes. Council Members

are strongly encouraged to consider the potential impact of social media statements prior to posting, understanding that members of the public who may appear before Town Council come from all walks of life. Public comments, in any forum, including on personal and government social media accounts, that contain racial slurs, profane language, or acronyms for profane language, and/or express bigotry toward a group based on a Protected Class (race, natural hair or hairstyles, ethnicity, creed, color, sex, pregnancy, marital or familial status, sexual orientation, gender identity or expression, national origin or ancestry, marital or familial status, National Guard or veteran status, religious belief or non-belief, age or disability) may be considered unbecoming conduct and may subject the individual or the Town to litigation or liability.

- h. Council Members should not use government social media accounts to post or share information that is obscene, encourages or promotes illegal activity, or depicts Town property, equipment, or personnel in any manner that would be considered defamatory or libelous. Council Members should consider whether liking, sharing, retweeting, or commenting, on any social media posts could be perceived as an endorsement of or about the Town, its employees, constituents, other public officials, suppliers, vendors, or contractors.
- 5. Interactions between Council Members during meetings and work sessions should:
  - a. Demonstrate civility, professionalism, and decorum in discussions and debate. Council Members should wait for recognition from the Mayor before speaking and avoid interrupting other speakers. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not allow, however, Council Members to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated. Council Members should conduct themselves in a professional manner at all times, including their appearance.
  - b. Honor the role of the Mayor or Mayor Pro Tem in maintaining order. It is the responsibility of the Mayor or presiding officer to keep the comments of Council Members on track during public meetings. Council Members should honor efforts by the Mayor to focus discussion on current agenda items. If there is disagreement about the agenda or the Mayor's actions, those objections should be voiced politely and with reason, following procedures outlined in the Council's Rules of Procedure.
  - c. Conduct the affairs of the Council in an open and public manner. Council Members should be transparent with the public and the Council with respect to any of the Member's actions as they pertain to matters before Council. Council Members should avoid discussing public business before or after a meeting if a quorum is present. Even when less than a quorum is present, Council Members may need to disclose those activities or conversations, particularly when making quasi-judicial decisions. Council Members should consult with the Town Attorney regarding matters appropriate for

- closed sessions and those which will require disclosure of ex parte communications.
- d. Avoid personal comments that could offend other Council Members. If a Council Member is personally offended by the remarks of another Council Member, the offended Council Member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other Council Member to justify or apologize for the language used. The Mayor or presiding officer will maintain control of this discussion.
- e. Demonstrate problem-solving approaches. Council Members have a public stage to demonstrate how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.
- f. Be punctual and keep comments relative to topics discussed. Council Members have made a commitment to attend meetings and partake in discussions. Therefore, it is important that Council Members be punctual and prepared so that meetings start on time and be completed in an effective and efficient manner. It is equally important that discussions on issues be relative to the topic at hand to allow adequate time to fully discuss scheduled issues.
- g. Every Council member should have an opportunity to comment on any given matter before another member offers multiple comments.
- h. Once a vote has been taken, the minority must respect the majority. No member should attempt to renegotiate, undo, or interfere with any Council-approved action or project, except through a valid motion for reconsideration.
- 6. Interactions between Council Members in private should:
  - a. Remain respectful. The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.
  - b. Treat all written notes, voicemail messages, emails, texts and other communications with fellow Council Members as a public record. Technology allows words written or said without much forethought to be distributed wide and far. Written notes, voicemail messages, texts and emails between Council Members are considered public records.
  - c. Be mindful that private conversations could still become public. As elected officials, Council Members actions, mannerisms, and language are likely to be more closely monitored than those of an average citizen. Council Members should be mindful that casual conversations may be eavesdropped upon, parking lot debates could be watched, and casual chatter between individuals before and after public meetings may be heard.
- 7. Council Members interactions with Town employees should:
  - a. Treat all Town employees and staff as professionals and with dignity. Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable and may subject the Town to liability, including claims of hostile work environment.
  - b. Be limited to specific Town staff. Questions of Town staff and/or requests for additional

background information should be directed to the Town Manager, Assistant Town Managers, Town Attorney, Assistant Town Attorney or Department Heads. The Town Manager should be copied on or informed of any request. Requests for follow-up or directions to staff should be made only through the Town Manager or the Town Attorney when appropriate. When in doubt about what staff contact is appropriate, Council Members should ask the Town Manager for direction. Materials supplied to a Council Member in response to a request will be made available to all members of the Council so that all have equal access to information.

- c. Not disrupt Town staff from their jobs. Pursuant to NCGS § 160A-148 and the ICMA Code of Ethics, the Town Manager shall manage all Town employees, except the Town Attorney, in accordance with the Town's personnel rules, regulations, policies, and ordinances and the Town Manager shall direct and supervise the administration of all departments, offices, and agencies of the Town subject to the general direction and control of Town Council. Council Members should not disrupt Town staff while they are in meetings, on the phone, or otherwise occupied in performing their job functions in order to have the Council Member's individual needs or requests for information met.
- d. Council should never express concerns about the performance of a Town employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the Town Manager through confidential correspondence or conversation.
- e. Council Members must not attempt to influence Town staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of Town licenses and permits.
- f. Council Members should check with the Town Manager and staff delegated by the Manager on correspondence before taking action. Before sending correspondence, Council Members should check with Town staff to see if an official Town response has already been sent or is in progress to maintain consistency in the Town message.
- g. Council Members should not attend meetings with Town staff unless requested by the Town Manager or delegated staff. Even if the Council Member does not actively participate, the Council Member's presence could imply support, show partiality, intimidate staff, or hamper staff's ability to do their job objectively.
- h. Requests for additional staff support should be made to the Town Manager who is responsible for allocating Town resources in order to maintain a professional, well-run Town government.

#### BE IT FURTHER RESOLVED that:

1. Town Council may meet in closed session pursuant to NCGS § 143-318.11(a)(6) to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. Town Council may not consider the qualifications, competence, performance,

- character, fitness, appointment, or removal of a member of the Town Council or another appointed body and may not consider or fill a vacancy among its own membership except in an open meeting.
- 2. A violation of this Code of Conduct and Ethics may subject the Mayor or a Council Member to a Censure Resolution by the Garner Town Council; however, no such Censure Resolution shall be adopted until the individual or individuals alleged to have committed the violation has been given notice of the alleged violation and provided with the opportunity to appear before the Council and be heard regarding the allegation.
- 3. When the Mayor or a Council Member has a question as to the applicability of this code to a particular situation, the individual may apply, orally or in writing, to the Town Attorney for advisory guidance. Upon receipt of a request for advisory guidance and based only upon the information given to the Town Attorney, the Town Attorney will provide advisory guidance to the Mayor and Council. In the Town Attorney's discretion, the Town Attorney may retain outside legal counsel to provide legal advice in connection with any request for advisory guidance. In no event will the Town Attorney's advisory guidance excuse the Mayor or Council Member from complying with the Code of Conduct and Ethics or other applicable law.

Adopted this the \_\_\_\_ day of 2024.





### MANAGER'S OFFICE

#### MEMORANDUM

DATE: August 27, 2024

Mayor and Town Council TO:

FROM: Jodi Miller, Town Manager

SUBJECT: September Pending Agenda Items

The following items are currently planned for the September Council Meetings. These items are subject to change.

#### **Tuesday, September 3 - Regular Meeting**

#### Presentations

None at this time.

#### Consent

None at this time.

#### **Public Hearings**

- ANX-24-007, 3412 Benson Road
- ANX-24-006, 1951 Highway 70
- ANX-24-002, 2311 Parkway Drive (Continued)
- CZ-24-002, Gateway 540

#### Old/New Business

- CZ-MP-23-04, Homestead at Bryan Farm
- CZ-22-02, 3412 & 3508 Benson Road

#### Reports

None at this time.

#### **Closed Session**

Closed Session to Consult with Attorney



#### **Tuesday, September 17 - Regular Meeting**

#### Presentations

• Inspections Department Staff Recognitions

- Budget Amendment PRCR Acceptance of Sponsorships and Grants
- Adoption of Code of Conduct and Ethics (tentative)

#### **Public Hearings**

- GZ-24-001, 2311 Parkway Drive
- CZ-24-004, Yeargan Park
- CZ-MP-23-07, Bethel Green
- CZ-MP-23-06, Poole Drive Fuel Sales

#### Old/New Business

None at this time.

#### Reports

None at this time.

#### <u>Thursday, September 26, 2024 – Work Session (Note Thursday Meeting)</u>

#### Discussion

Lake Benson Park Master Plan Update / Boathouse (Tentative)

#### **Reports**

- Pending Agenda Report
- **Development Map Update**