



June 2, 2020

MINUTES

The Holly Springs Town Council met in electronic session on Tuesday, June 2, 2020 in person and via video conferencing. Mayor Sears presided, calling the meeting to order at 7 p.m. A quorum was established as the mayor and five council members were present as the meeting opened.

Council Members Present: Mayor Sears, Mayor Pro Tem Dan Berry, Councilmen Peter Villadsen, Shaun McGrath and Aaron Wolff, and Councilwoman Christine Kelly.

Council Members Absent: none.

Staff Members Present in Chambers: Randy Harrington, *Town Manager*; Daniel Weeks, *Assistant Town Manager*; Scott Chase, *Assistant Town Manager*; John Schifano, *Town Attorney*; Linda McKinney, *Town Clerk* (recording the minutes); Mark Andrews, *Communication and Marketing*; Jeff Wilson, *Director IT*; Sean Ryan, *Planning*; Rachel Jones, *Engineering*.

Staff Members Present via video conferencing: Cassie Hack, *Director Communications and Marketing*; Tamara Ward, *Communications and Marketing*; Patty Dressen, *Interim Director of Finance*; LeeAnn Plumer, *Director Parks and Recreation*; Gina Clapp, *Director of Planning & Zoning*; Melissa Sigmund, *Planning & Zoning*; Kendra Parrish, *Director Engineering*; Irena Krstanovic, *Director Economic Development*; and Leroy Smith, *Fire Chief*.

2. and 3. The pledge of allegiance was recited followed by an invocation by Pastor Jamal Brown of Holly Springs United Church of Christ.

4. Agenda Adjustment: The June 2, 2020 meeting agenda was adopted with changes, if any, as listed: Motion to hear item 6 before item 5.

Motion by: Berry

Second by: Wolff

Vote: Unanimous

Public Comment: Public Comment was requested in writing prior to the meeting. The following number of comments was received and provided to the Council prior to the meeting: 1 comment opposed to Pine Springs Academy's expansion; 58 comments in favor of Pine Springs Academy's expansion; 1 comment in support of the Stormwater Fee Increase; 1 comment requesting a community meeting to discuss transparency in Policing.

6. Public Hearing: Fiscal Year 2020-2021 Budget

Randy Harrington, Town Manager, reviewed the recommended budget. He stated that the budget supported the five Strategic Priorities adopted by Council. He said the budget was developed with COVID-19 economic impacts in mind. It enhances long-term planning for future public infrastructure, redesigns the Stormwater Program to address fee inequities and better respond to aging infrastructure repair needs, recommends a revenue-neutral property tax rate of 42.16 cents (a 6.9 cent reduction), and continues strong investment in Town employees. Other highlights of the budget: it totals \$68.3 million, and funds all basic municipal services. The budget includes six new positions:

- Public Works - 3 positions: for solid waste (1) and concrete repairs (2);

- Police – 1, for animal control;
- Planning – 1 in permitting;
- Information Technology – 1 to support mapping data base needs.

Total fee adjustments for the typical resident will be an increase of \$4.83 per month.

Mr. Harrington said that Council would meet in Workshop to discuss the budget on Thursday, June 4th at 6:00 pm at the Law Enforcement Center, and budget adoption is scheduled for the June 16th Council meeting at 7:00 pm at Town Hall.

With that explanation given, Mayor Sears opened the public hearing. The following input was received: one letter was received in support of the stormwater program fees from Chris and Sara Kempin of 204 Sycamore Creek Drive. *A copy of the letter is attached to these minutes.*

Mayor Sears then closed the public hearing.

Councilman Villadsen then asked to be recused from the Pine Springs Academy items.

Action: Motion to recuse Councilman Villadsen.

Motion by: Berry

Second by: Kelly

Vote: Unanimous

5. Pine Springs Academy Middle School Development Plan, Special Exception Use, and Waivers

Sean Ryan, Planning & Zoning, said that a Public Hearing was held on May 19, 2020 regarding this matter. Council voted to approve the first variance and not approve the second variance. A question was raised as to whether the second variance was needed, and the item was tabled until tonight. Staff determined that the variance for the proposed building elevation was needed, but then the applicant modified the elevation to one that does not require a variance. Mr. Ryan said that the items for consideration tonight are the Special Exception Use, the Development Plan, and four waivers.

Mr. Ryan showed the site plan for the proposed expansion, along N. Main Street between Rosewood Centre Dr. and Katha Drive. He explained that the waivers requested are:

1. To allow a reduction in the number of off-street parking spaces of 25%;
2. To allow for more than 75% of the provided parking to be between the front building line and the front lot line along Richardson Street;
3. To allow a waiver of the underground utility requirement along N. Main Street;
4. To allow building bays to exceed 30 feet along Richardson Street, and the north and south side facades;

He explained that the waiver originally requested to allow rooflines to exceed 50 feet in a continuous plan along the N. Main Street façade was no longer needed with the revised elevations. Also the requested waiver to allow building bays to exceed 30 feet along the N. Main Street building façade, Richardson Street façade, and the north and south side façades were no longer needed for the N. Main Street façade, just the other three. He showed the evolution of the elevations, from the elevation presented on May 19th, a first draft revised elevation, and the final revised elevation.

Mayor Sears asked John Schifano, Town Attorney, to speak to where Council is in the process, and what is required to move forward. Mr. Schifano said that a school in a residential R-20 district is not a use by right, but is subject to a Special Exception Use. He said that Council needs to look only to the evidence that was received in sworn testimony at the public hearing in making their findings of fact. He said that he had asked Council to review video of the sworn testimony before tonight's meeting. He said that the remaining items are simple majority vote issues, unlike the variances that were voted on at the last meeting. He explained that Waivers do not "run with the land" unlike Variances, which do.

MPT Berry said that he thought some aesthetically pleasing features were sacrificed in order to meet the Town's UDO.

Councilman McGrath asked Mr. Schifano if there were additional public facts that have come forward as a matter of public record, not something *received* from the public but something that was *out in* the public, if Council could question the petitioner in order to find if that information is accurate. Mr. Schifano said that they could, but would have to reopen the public hearing to do so, which means it would be reopened to both sides for any issue that is relative to the Findings of Facts, that the proposed use will not be injurious to the public. The use Council is talking about is a school of the size and shape and distance from the road shown on the plan, and not any particular school. So if this public information is specific to the operation of this school, it may not be relevant to the findings that Council must make. If the evidence is relative to any school, not this specific school, Council may move to reopen the public hearing. At that point, any aspect of the SEU would be fair game.

Councilwoman Kelly said that the first Finding is very broad, and given the situation with COVID-19 and the importance of this decision, she thought it would be valuable to reopen the hearing. She thinks there may be evidence that was not heard because people were uncomfortable coming to Town Hall.

Councilman Wolff said that Council has received a large amount of public comment, more than for most agenda items, and can't consider it, because it is not sworn testimony. He believes that there was potentially not enough notice for everyone who would like to be heard. There is a process, and staff has done a great job of making adjustments due to COVID-19, but he thought they had not heard all the evidence.

MPT Berry said that he does not think additional public comment would change the facts that were heard two weeks ago. He doesn't know that anything would be gained or lost going forward. He does not want to reopen the public hearing at this time. Councilman McGrath said if reopening the hearing meant rehearing testimony on the variances, he didn't want to. He said one of his concerns is one of the conditions in the SEU, not the SEU in and of itself. He asked the Town Attorney if Council needed to reopen the public hearing to have a discussion over the conditions. Mr. Schifano said Council could deliberate among themselves about any condition; the hearing would only need to be reopened to receive any other facts. And if it is opened up, Council needs to hear anyone who wants to testify.

Mayor Sears asked what condition concerned Councilman McGrath. Councilman McGrath said that the Town providing \$100,000 for the traffic light bothers him. Given the impact to the community, adding another school is a traffic and safety concern. He said he was not comfortable for the Town being on the hook for that \$100,000, especially given the current economic situation. The \$100,000 would come out of taxpayer dollars, from every resident of Holly Springs. He asked if the signal meets the warrants for a signal at this time. Rachel Jones, Engineering, said that signal analysis was submitted and was approved by NCDOT. It met most of the warrants, but because it is a school the peak hours are different. But due to the safety concerns, NCDOT agreed that a signal is warranted at this time. Councilman McGrath asked if it was correct that the project could not move forward without the signal, because it was warranted. Rachel Jones, Engineering, said that was correct. Mayor Sears asked for clarification about what the school is required to do and what they agreed to do. Ms. Jones said that due to statute, the school is not required to contribute, but they have agreed to pay \$150,000 towards a signal.

MPT Berry said that based on the testimony of Sgt. Brienzi, he would like to propose as a fact that the signal is necessary to the safety of the inhabitants of the project, the adjacent neighborhoods, and the motoring public in general, and that the proposed land use is not appropriate without the signal. He would also propose as facts that the school has a bond hearing for \$50,000,000 of public education money, which implies that the school has public education revenue to repay such bonds; that the Town does not have money allocated in the proposed budget for this signal and the town can only spend money that is duly budgeted, and that the public hearing on the recommended budget has just been completed with no public sentiment that the town fund the traffic signal for Pine Springs.

Mayor Sears asked Town Manager, Randy Harrington, to speak to the budget issue. Mr. Harrington said there were not funds dedicated to this signal, but there are some unallocated funds that could be used for this signal if Council desired.

Councilman McGrath asked if there was an opportunity for Council to ask the applicant to consider fully funding this signal, in the interest of public safety. He said he knew they could not require them to fund traffic improvements, but this is a safety issue. He said that if they could strike that as a condition, he would consider supporting this SEU. Mr. Schifano said that they would have to reopen the hearing to get that information from the applicant, and if they do that they would have to accept facts from other parties. The applicant's willingness to pay for the transportation improvement would be a fact, assuming they were willing to make that agreement. Council could also make these findings of fact requiring the signal, but without funding the traffic signal.

Councilman McGrath said he was comfortable making a motion to remove the Town's funding for that \$100,000, because if the money doesn't come from somewhere, the project doesn't move forward. It's up to the petitioner to decide either to fund it and move forward, or not fund it and not move it forward.

Councilwoman Kelly said she thought that Council had not gotten all the information. She said it's a big decision to put a school in that location, and it is something that Council needs to be careful about. If there are still unknown facts, she would like to hear them. Council has heard that not everyone felt comfortable coming in to Town Hall, so she thought that they were not getting all the facts.

Mayor Sears asked Town Attorney John Schifano for any guidance. Mr. Schifano said that Council acts by motion, so someone would need to make a motion to open the public hearing if that is what Council wants to do.

Councilman Wolff said it did not sound like the will of the Council was to reopen the hearing. He said he was prepared to vote if need be. His main concerns were traffic and safety. He said that the one sworn testimony received was from the president of the HOA in the adjacent neighborhood. He made it very clear that without specific improvements, the traffic signal was not enough to maintain safety. Council received a lot of public comments about the benefits of the school and he is sure it serves its community very well, but Council has to think about the whole community. Even if the school pays for this signal, it will not solve the traffic problem in this area, even if they stagger opening times for the elementary and the middle school. He said he has severe reservations that adding more students to this school is going to severely impact the adjacent neighborhoods.

Councilwoman Kelly said she agrees that even with the light, there are significant traffic safety concerns. Also the testimony from the neighborhood next door is concerning. Councilman McGrath said the traffic expert testified that the signal was sufficient to control the traffic. People are going to do what they're going to do no matter whether there is a signal there or not. This is part of our traffic calming discussion that can happen later.

Action 1: Motion to make and accept Findings of Fact for consideration of and to approve a Special Exception Use with conditions as stated in the agenda packet, except removing the condition that the Town pay \$100,000 toward the traffic signal and adding the following findings:

1. The proposed land use is not appropriate without the installation of the traffic signal;
2. The school has the resources to pay for the traffic signal;
3. The recommended budget does not allocate money to pay for this signal, and the Town may only spend money that is allocated; and
4. There has been no input received in support of the Town paying for this traffic signal.

Motion by: McGrath

Second by: Berry

Vote:

Aye: McGrath, Berry, Sears

Nay: Kelly, Wolff

The motion passed.

Action 2: Motion to determine appropriateness of waivers, and approve development plan for Pine Springs Preparatory Academy Middle School with conditions as stated in the packet.

Motion by: Berry
Second by: McGrath
Vote:
Aye: McGrath, Berry, Sears
Nay: Kelly, Wolff
The motion passed.

7. Public Hearing: Pine Springs Preparatory Bond Issuance

John Schifano, Town Attorney, said that the bond attorney from McGuire Woods was present to answer questions if there were any. He said that Pine Springs Academy desires to issue bonds not to exceed \$50,000,000 of Public Finance Authority Educational Facilities Revenue Bonds, series 2020. Per 26 U.S. Code §147(f) it is necessary for the school to have a public hearing and receive approval in principle from the “governmental unit having jurisdiction over the area in which any facility, with respect to which financing is to be provided from the net proceeds of such issue, is located.”

He said that this approval could come from any governmental unit having jurisdiction, including the state or the County, but that Pine Springs had chosen to bring it to the Town Council. He explained that this resolution creates no obligation for the Town of Holly Springs in relation to these bonds.

With that explanation given, Mayor Sears opened the public hearing. The following input was received: none.

Mayor Sears then closed the public hearing.

Action: Motion to approve Resolution approving in principle the issuance of bonds by Pine Springs Academy.

Motion by: McGrath
Second by: Berry
Vote:
Aye: McGrath, Berry, Wolff
Nay: Kelly
The motion passed.

At this point a motion was made to readmit Councilman Villadsen.

Motion by: Berry
Second by: McGrath
Vote: Unanimous (with the exception of Villadsen)

Councilman Villadsen returned to the Chamber.

8. Public Hearing: Duncan’s Ridge Well #5 Development Plan, Special Exception Use, and Variances

Sean Ryan, Planning & Zoning, said this item is for a Special Exception Use, Variances, and Development Plan for a non-municipal water treatment plant for the Duncan’s Ridge neighborhood in the Holly Springs ETJ at 6237 Lauraca Lane. The property currently contains a private well house and the proposed SEU would expand the use of the property by adding additional structures. The

associated Development Plan with the SEU contains a new 168 square foot filter building, backwash tank, and one parking space. No tree preservation is required, but the applicant is using the existing vegetation on the site to preserve trees and provide a buffer to adjacent properties. A variance has been requested for the asphalt, concrete or other hard surface material requirement for all required off-street parking areas and any driveway, interior access driveway or interior access drive to and from such off-street parking. A waiver has been requested to allow alternate compliance with the architectural design requirements.

Planning Board Recommendation:

Mark Stuckey, Planning Board, said they discussed the following issues and concerns on April 28, 2020:

- The maximum capacity of the well system and if there is potential for future expansion;
- If the Town has water service available to the area;
- How many trees are being removed;
- The storage of phosphate and chlorine and potential hazards to adjoining residents.

A waiver of voluntary annexation was approved by the Town Manager. This parcel is at the back end of the neighborhood, and is not close to Town limits.

The Planning Board recommended approval with a vote of 9 – 0 – 0.

With that explanation given, Mayor Sears opened the public hearing. The following input was received: none from the public.

The applicant, Marco Menendez, 2516 Greenway Avenue, Raleigh, of KCI Associates He said the site was a 1.29 acre lot at the end of a cul-de-sac adjacent to an existing home. There is currently a well house on the property that provides water to 88 residential connections in the Duncan Ridge Subdivision. He said that iron and manganese in the well water exceed state limits and the MCL as set by the EPA. Aqua North Carolina proposes to add a water treatment building to the site that includes a filter system. The Backwash tank is for washing out the system from time to time, as necessary. The proposed building would be 17'8" x 13', and 10' 9.5" tall. It would include a 1,550 gallon backwash supply tank and a backwash wastewater effluent tank. They have already obtained approval from the NC Public Water Supply Section and are seeking a Special Exception Use and variance from the Town of Holly Springs. The variance is for off-street parking. The standard is a gravel driveway, which costs less, and is less of an invitation for people to come on to the property. He said that the proposed building will match the existing well house on the site, and is located in a relatively remote area and will not reduce the nearby property values.

Councilwoman Kelly asked what the health concerns were with the iron and manganese levels. Mr. Menendez said it is a secondary standard, because it's a nuisance in that it stains porcelain fixtures, but there are no health implications.

Councilman McGrath asked Rachel Jones about Town utilities in this area. Ms. Jones said there is an existing 8" water line at Buckhorn Duncan, but to convert this utility to a Town utility it takes a certain percentage of the neighborhood to vote to in favor of annexation, which is difficult to achieve, and it would be up to the residents to vote for that. Councilman McGrath asked if there was Town water available. Ms. Jones said that it is within the distance indicated in the UDO, so if they ever wanted to go down that path we could.

MPT Berry asked if there was a secondary supply from Town water to that well, and Ms. Jones said there is not. Councilwoman Kelly asked if there were costs, would we expect them to pay for that, if we retrofitted the neighborhood. Mr. Schifano said the Town of Holly Springs has not done an involuntary annexation since Fair Share in 2000. Sixty percent of homeowners have to vote in a referendum to approve an involuntary annexation and that is not achievable. Were we to succeed in annexing them involuntarily, the Town would have to pay for all of the connections - the main and all the connections. Councilwoman Kelly asked who would pay if there was a voluntary annexation. Mr. Schifano said that the service to the street would be the homeowner's responsibility, the cost of the main trunks are usually born by the developer. The Town has never

dug up an existing water system and replaced it with our own. Mayor Sears asked if the Town had addressed this in the past. Mr. Schifano said that Council approved an Aqua well relocation as part of the Main Street realignment. The Town put a road over one of their two needed well sites and allowed a secondary connection as an emergency as-needed water source.

Mayor Sears then closed the public hearing.

Action 1: Motion to adopt Resolution 20-10 to make and accept the Findings of Fact for consideration of and to approve Special Exception Use and Variance.

Motion by: Wolff

Second by: Kelly

Vote: Unanimous

Action 2: Motion to determine appropriateness of a Waiver to the architectural requirements and to approve Development Plan for Duncan's Ridge Well #5 with the conditions stated in the agenda packet.

Motion by: Villadsen

Second by: Wolff

Vote: Unanimous

Consent Agenda

The Council passed a motion to approve all items on the Consent Agenda. The motion carried following a motion by MPT Berry, a second by Councilman Wolff and a unanimous vote. The following actions were affected:

9. Minutes – The Council approved minutes of the Council business meeting held May 19, 2020, as amended, and the Budget Presentation Meeting held May 26, 2020.

10. Budget Amendment to Recognize Engineering Review Fee Revenue – The Council approved a budget amendment increasing general fund revenues by \$20,000 and expenses in the same amount for developer contribution for development traffic impact analysis reviews. *A copy of the budget amendment is attached to these minutes.*

11. Reconciliation of Trinity Creek IRA Reimbursement and Fees Paid – The Council approved transferring revenue to Capital Reserve Fund for system development fee, which is increasing Water System Development Fee Account by \$133,916.00 and reducing Developer Infrastructure Reimbursements by the same amount to reconcile fees paid per lot that exceed eligible reimbursement per lot.

12. Amendment to Town Council Meeting Calendar – The Council approved an amendment to its meeting calendar to add a business meeting on Monday, June 22, 2020. *A copy of the amended calendar is attached to these minutes.*

OTHER BUSINESS

Mayor Sears gave an update on the COVID-19 situation in the state, and said the last report he had seen for Holly Springs was 20 cases and no deaths.

Councilwoman Kelly said she wanted to share that this is a difficult time, as Pastor Brown said. There was a peaceful protest on Sunday that she attended, in an unofficial capacity. There was a great police presentation. We have the safest town in NC and we do a lot of things right. But after hearing what some of the residents said, she realizes that our town does not feel safe for

everyone. She heard that there is still institutional racism. The reality for people of color is different. There was a rally with Raleigh Demands Justice, and they talked about a call to action for municipalities. It means thinking differently and putting ourselves in the shoes of other people. What can we do to improve this in Holly Springs? Body cameras are one thing the Town should think about, for transparency and accountability. She said she had reached out to Apex who is looking to implement in their budget \$30,000 for infrastructure and cameras. She would like to start a program in Holly Springs, even if it's only 15 cameras to start. She would like a policy requiring officers to intervene when a fellow officer is not behaving properly. There are many things the Town could look at and discuss, but her minimum ask would be to discuss at Thursday's budget workshop adding body cameras to the budget discussion.

Councilman McGrath said this week has found him at a loss for words. He has been trying to listen this week. In quickly moving situations, the facts are not always considered as well as they should be. He said that his military perspective says that you don't ask what color someone is who is fighting beside you. He thinks we can leverage a lot of communities for information, and we can listen to all sides. We all need to denounce all the violence, because it is not constructive. He appreciates that the protest in Holly Springs was peaceful, and he hopes it goes forward.

MPT Berry said that 2020 has been a crazy year and he wishes we could go back and start over. Yesterday his 75,000 person company had a company-wide virtual conversation about current events. He, too, is listening. He thinks he is self-aware enough to know that he can learn by listening and he wants to listen to all the residents. He thinks anyone in town can approach any member of Council, and he wants to sit down, listen, and learn from those with different perspectives. He also is thankful that our Town had a peaceful, meaningful, event, unlike those in other parts of the country. He looks forward to continuing that dialogue.

Councilman Villadsen said for him personally, it is an opportunity to listen to his kids who have unique perspectives on what is going on, and what they are seeing and hearing. It is a learning experience for him, trying to help them interpret it. He appreciates the rally at Womble Park and its peacefulness, which is reflective of Holly Springs as a whole. He looks forward to additional rallies, peaceful rallies that help educate, inform and share, and that he can learn from.

Councilman Wolff said he was also present at the rally in an unofficial capacity. He admitted that he was worried that outside forces would come and manipulate it and use it for their own ends, but that didn't happen. What did happen was a showing of unity and love, but also some stark honesty. Members of our community who have been here for generations said that they did not feel safe, that they had experienced racism, sometimes daily. There is always more that we can do. Engaging the community and seeking their input is very important. While we have not gone far enough yet, we have gone farther than most. Members of our police force were there, Lt. Parrish did a great job of answering some tough questions in a tough situation. Interim Chief McMillan was there, and said they were there to support the community. We need to have a conversation about body cameras and he looks forward to having it on Thursday. He also said he looks forward to a community meeting, but he thinks we need to wait until the restrictions are lifted so that as many people as possible can attend and be heard. We need to condemn violence of all types. Further, he said, it is June, Pride Month, and he wanted to speak to support of our LGBTQ community.

Mayor has been having discussions about the current situation with various parties, and right now he thinks we need to do something, and he will keep the Council in the loop.

MANAGER'S REPORT

Randy Harrington, Town Manager, said in August of 2018, his first night here, when he was so kindly welcomed, he stood up to talk and said one of his three core commitments to the Town was to listen to the community. We need to increase our understanding, our awareness, and discuss what we can do to make our town stronger, and better for everyone. For everyone who was at the protest, these are people who do love our community and want to make it better.

CLOSED SESSION: none.

Adjournment: MPT Berry made a motion to adjourn at 8:37 pm. It was seconded by Councilman McGrath and passed with a unanimous vote.

Respectfully Submitted on Tuesday, June 16, 2020.



Linda C. McKinney, Town Clerk

Addenda pages as referenced in these minutes follow and are a part of the official record.