



Holly Springs Town Council
7:00 PM **Tuesday, September 15, 2020**

Regular Meeting
Holly Springs Town Hall Council Chambers
128 S. Main Street, 2nd Floor

MINUTES

The Holly Springs Town Council met in regular session on Tuesday, September 15, 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); Tamara Ward, *Communication and Marketing*; Jeff Wilson, *Director, IT*; Daniel Pope, *Director, Code Enforcement*; Andrew Rubley, *Code Enforcement*; Seann Byrd, *Director Water Quality*; LeeAnn Plumer, *Director Parks and Recreation*; Anna Murphy, *Economic Development*; Irena Krstanovic, *Director, Economic Development*; Patty Dressen, *Interim Director of Finance*; Paul Liquorrie, *Police Chief*; Mathew Mutter, *IT*; Kathy White, *Deputy Town Clerk*; Cassie Hack, *Director Communications and Marketing*; Gina Clapp, *Director of Planning & Zoning*.

Staff Members Present via video conferencing: Kendra Parrish, *Executive Director, Utilities & Infrastructure Services*; and Leroy Smith, *Fire Chief*.

2. and 3. The Pledge of Allegiance was recited followed by an invocation Jamal Brown of Holly Springs United Church of Christ.

4. Agenda Adjustment: The September 15, 2020 meeting agenda was adopted with changes, if any, as listed: move item 6 and item 8 off Consent for discussion.

Motion: Berry

Second: Kelly

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: 94 comments in favor of passing Ordinance 20-04; 99 comments opposed to passing Ordinance 20-04; one comment regarding Ordinance 20-04 that was ambiguous; and one comment regarding the Minimum Housing Compliance issue.

Copies of these comments are attached to these minutes.

Consent Agenda

The Council passed a motion to approve all items on the Consent Agenda with the exception of Item 6 and Item 8. The motion carried following a motion by MPT Berry, a second by Councilman McGrath and a unanimous vote. The following actions were affected:

5. Minutes – The Council approved minutes of the Council Business meeting held September 1, 2020 and the workshop meeting held September 8, 2020.

7. Intent to Close Portion of Ralph Stephens Road – The Council adopted Resolution 20-27 declaring the Town's intent to close a portion of right of way between Ralph Stephens Road and S. Main Street and setting a public hearing for October 20, 2020. *A copy of Resolution 20-27 is attached to these minutes.*

9. Comprehensive Transportation Plan Consultant Contract – The Council awarded a contract in the amount of \$400,000 to Kimley Horn to complete a Comprehensive Transportation Plan, including additional items and contingency.

10. Updates to Fiscal Policy Guidelines and Change Orders Policies - The Council approved updates to contract change order approval threshold (Policy P-022.1) and the fiscal policy guidelines (FN 11.1) in alignment with Council-approved updates for the FY20-21 budget.

Copies of Policy P-022.1 and FN11.1 are attached to these minutes.

6. Odor Project Design Contract Amendment – The Council moved this item off of Consent Agenda for discussion. Councilman McGrath said that this money is being spent to mitigate odors at the water treatment plant. The change order is due to issues related to COVID. The Town is going to get more budget overruns due to COVID. He said he would like Council to be kept apprised of these overruns that are within the Town Manager's authority to approve so that Council knows what is happening. He said he also wants residents to know that the Town is doing a lot to reduce odors from our own water treatment plant.

Action: Motion to approve contract amendment with Hazen and Sawyer in the amount of \$48,296, and a budget amendment moving \$48,296 from 45-817 82.97 Project - Contingency to 45-817 12.01 Project - Professional Fees.

Motion by: McGrath

Second by: Kelly

Vote: Unanimous

A copy of the budget amendment is attached to these minutes.

8. Holly Springs Express Bus Route – General Capital Funding Agreement – The Council moved this item off of Consent Agenda for discussion.

MPT Berry said it was appropriate to pull this from Consent because of the confusion over the funding agreement. Is the Town getting reimbursed for the \$50,000? Town Manager Randy Harrington said the Town has an agreement that we would front the money to build the bus shelters and then be reimbursed. The Budget Amendment allows Council to recognize that money coming in to the general fund. Aaron Levitt, Engineering said the \$55,000 is a one-time reimbursable amount for construction of the bus shelters. As soon as the Town submits the invoices, it will be reimbursed within 2 – 4 weeks. Councilman McGrath asked if Public Works was working on the project. Mr. Levitt said yes, they are doing some work to cut costs. The Town has up to \$55,000 but we expect to only spend around \$40,000.

Action: Motion to approve a budget amendment and General Capital Funding Agreement for up to \$55,000 between GoTriangle and the Town of Holly Springs.

Motion by: Berry

Second by: Wolff

Vote: Unanimous

A copy of the budget amendment is attached to these minutes.

UNFINISHED BUSINESS

11. Ordinance 20-04

John Schifano, Town Attorney, said that at their last business meeting Council passed Ordinance 20-04 with a simple majority vote of 3 to 2. N.C.G.S. § 160A-75 requires that for an Ordinance to be effective on the first reading, it receive a 2/3 majority vote. Since Ordinance 20-04 passed with a simple majority on September 1, 2020 it is now before Council for a second vote. A simple majority or greater is required at this vote for the Ordinance to take effect. Council is familiar with the Ordinance; the purpose is to have a second vote.

Councilman McGrath asked Mr. Schifano, for the edification of the public, to summarize what the Apex and Fuquay-Varina Ordinances contain. Mr. Schifano said that both municipalities regulate concealed carry and Apex regulates both concealed and open carry. Fuquay-Varina does not regulate open carry on Town property but does regulate concealed carry. The proposed Ordinance has a specific penalty section which makes it a Class 3 Misdemeanor. However, there is a provision in Holly Springs Town code that for any Chapter 12 offences, the officer has the option to issue a civil citation instead of a criminal charge. Apex has the option for a criminal \$50 fine or a civil \$100 fine. This Ordinance would allow a civil citation up to \$200 or a Class 3 Misdemeanor. Councilman McGrath asked what the differences were between Apex and Fuquay-Varina's treatment of which property was affected. Mr. Schifano said Holly Springs specifically named properties in the Ordinance, listing them by name. Apex does not do that with the open carry. So we are giving more notice to people about where things are prohibited.

Councilman Wolff asked if the effective date of the Ordinance would be March 15th. Mr. Schifano said yes, it would go into effect on March 15, 2021.

Mayor Sears thanked everyone for the hundreds of emails received on this subject. Regardless of how this goes he complimented the interest and engagement of our citizens.

MPT Berry said there have been questions about how we respect policies, procedures and operational things. This has been a long and drawn out process. Part of what we do is debate and then make a commitment. There has been ample discussion on this issue and he is ready to commit, even if he doesn't agree with many portions of the Ordinance. He said he is ready to move on. He also wanted to commend Councilman Villadsen for his responses to residents. He said that those were respectful and he appreciates his being steadfast in his convictions.

Mayor Sears said that there have been a lot of good ideas on both sides. It was the most interest in any issue that has come up in his 19 years in office.

Councilman McGrath said that he had received emails from female constituents. One among them spoke to a concern about trails around Bass Lake, in the course of exercising. We as a Council have come to the conclusion that no one has a good reason to enter a public building with an AK57, but those exercising who cannot conceal because of the clothing they are wearing, need to be able to carry to protect themselves. We haven't seen a significant issue in our Town so do we need to be proactive. He hopes that we do respect the process. We are all after making our Town as safe as possible, to live within our constitutional rights and to make the best decisions for our citizens. We could have come to easy consensus when we started. But now we have spent four months that we could have spent on better things. He is still not in favor of this Ordinance. He said he thinks it's too broad and not specific enough.

Councilwoman Kelly said Council did receive a lot of emails from all kinds of people with different opinions. A lot of them were not from residents but that doesn't matter, as people come to our Town from other places. She also complimented Councilman Villadsen because he handled things well and was getting a lot of pressure. She said that Council members need to treat each other with respect. Discussing this issue was time well spent, but it is time to move on.

Mayor Sears said that he would like those who disagree to be respectful of each other. There were a lot of emails and posts on social media that were not respectful and he called to the Town to be civil.

Action: Motion to adopt Ordinance 20-04, amending Chapter 12 of the Town Code to create Sections 12-353 & 12-354 regulating weapons on Town property, to become effective March 15, 2021.

Motion by: Wolff

Second by: Kelly

Vote:

Aye: Kelly, Villadsen, Wolff

Nay: McGrath, Berry

The motion passes.

A copy of Ordinance 20-04 is attached to these minutes.

NEW BUSINESS

12. Resolution for Town Attorney to Petition Court for Compliance with the Minimum Housing Ordinance

Daniel Pope, Code Enforcement, outlined the authority by statute to regulate minimum housing, the Town Ordinances that address that compliance, and what the Council's role in this is.

Mr. Pope said the Town was notified of the conditions of the housing unit in January 2020 by a non-profit agency. The Town inspected the dwelling in February 2020 and a Notice of Violation and Notice of Hearing were issued to the owner. In March 2020 a Hearing was conducted and the Order of the Code Enforcement Office issued finding the dwelling dilapidated and unfit for human habitation. From March to August of 2020 Town staff continued to work with the property owner on compliance and solicited several non-profits to assist the owner and tenant. Mr. Pope gave examples of the problems with the dwelling including the roof having an opening that is exposed to the weather, a deck with unsafe load and in disrepair, and multiple areas of electrical systems in disrepair throughout the dwelling. Only one of the three exit doors is operable, making escape in case of fire difficult. There are also concerns about rotting walls, windows and doors, and plumbing issues. As of June 6, 2020, no repairs had been completed or started other than the installation of smoke detectors by the Holly Springs Fire Department. He said that Mr. Rubley went to the property today and some temporary repairs of the roof leaks had been started. The owner's intent is to fix this structure; the problem is finances. The Town's main concern is the occupant. We want to protect the occupants. They could vacate until repairs have been made to bring the structure up to minimum housing compliance. Throughout the compliance period staff continued to assist the owner/tenant to find sources of assistance to bring the property into compliance. NC Statute requires that the Inspector submit to Town Council a resolution directing the Town Attorney to petition the Superior Court for an order directing the owner to comply with the order of the inspector.

Councilwoman Kelly said she knows that the family has found a contractor and as they have money they are having things addressed. It is complicated to get aid because different charities require different things. They are aware of the problems, and are working to fix them. She asked herself what Ham Womble would do and he would reach out to churches. Let's make the house livable for now and then look at the long term. They know they need to step up but they are going to need some help. It is not an ideal situation but they are aware of the items on the list. She asked what are the things on the list that are the priority to fix, because there are limited finances. Tell them what has to be done and in what order, and let's work with them. There is movement and they assured her that if she came back next week they would see work progressing. She asked for a 90-day deferral to see what action has been taken. Because of COVID, there have been delays. She asked Code Enforcement to go back in 90 days to see what progress has been made.

Mayor Sears said that as he saw it Council had four options: 1. They could deny the Resolution; 2. They could defer approving the Resolution for 30, 60, or 90 days; 3. They could approve the Resolution but allow the family 90 days before taking action; or 4. They could approve the Resolution as is. He asked for discussion to reflect those four actions.

Councilman McGrath said that due to COVID, many things have had grace periods offered, and during this time it is understandable. But now that the Town knows that this is a problem, if the occupants stay in the house and something happens, would the Town be liable for something happening, like the house collapsing on them? Mr. Schifano said that enforcing minimum housing compliance is a "police action" and for those, you have governmental immunity. He does not feel that there is a problem if we continue to put gentle pressure on the owner, but do not prosecute.

Councilman Wolff asked what staff estimated the total cost of the repairs would be. Mr. Pope said that Wake Co. tax code gives a value which is used in calculating whether or not a structure is "dilapidated", but there is a difference between having a charity assisting for less money than a for-profit contractor. This particular project is one that started new process of looking into the process staff uses to provide assistance. But we have to understand our permitting laws and what assistance can be done. Perhaps the Town could defer all permitting fees (which could range of \$200-\$400.) That is one way the Town can help. The only true way to know the cost of the repairs is to get into it. Whether the structure is even in a condition that *can* be repaired is in question. Staff hopes that the dwelling can be repaired, for the generations of the family that grew up in it. This process can be deferred.

Councilman Wolff said he appreciates all that is being done to assist the family. This is what Holly Springs is all about.

Mayor Sears asked Mr. Schifano if Council could legally vote to delay the enforcement. Mr. Schifano said that he did not think there would be a legal issue. The exigencies are important and need to be rectified, but the likelihood of the disaster is not certain. If the dwelling were hanging off a cliff, that would be a different story. He did not think there would be civil liability to deferring enforcement.

Mayor Sears said he would be happy to talk to contractors, churches, etc. to help these people out. It would not be part of the motion but part of the intent.

Randy Harrington, Town Manager, said one of the key pieces is if the family can focus on the main structural, electrical and plumbing issues. Those are the pieces that are most helpful.

Mr. Pope said that if we can keep the family in the dwelling by working on the most dangerous issues first, this would be staff's intent. He asked for a time frame for bringing information back to Council, rather than leaving it open ended, in order to give the family some direction.

Councilman Villadsen said he thought a 90-day deferral was in order. He doesn't want to approve with a 90-day delay, in case they are close to the goal. He would like to table the Resolution for 90 days. But he would like an update every 30 days on what progress has been made.

Councilman McGrath said he thought it would be longer than 90 days to get the repairs done, because that will be close to Christmas.

Action: Motion to defer Resolution 20-26 for 90 days, with an update to Council every thirty days, and to permit staff to waive the permitting fees.

Motion by: Wolff

Second by: Kelly

Vote: unanimous

13. Ting Park Naming Rights Agreement Extension

Daniel Weeks, Assistant Town Manager, said that the current naming rights agreement is set to expire on November 8, 2020. He recognized the team members who over the last 4-6 months were instrumental in reaching this agreement: LeeAnn Plumer, Jeff Wilson, John Schifano, and Randy Harrington. He outlined the current agreement, which included the large primary monument sign and the internal signage with the Ting logo. WiFi in the original agreement was provided by the Town. Limited activity at the park has limited exposure, and the future of 20-21 is unclear. But even in uncertain times, staff has negotiated a new agreement for one year, with an option for a two-year

extension. Ting would pay the Town \$110,000 for year one. The two-year extension calls for \$130,000 for year two and \$140,000 for year three. There is no additional signage component to this agreement, and Ting will provide free WiFi at the park during the pendency of the agreement. The Town would maintain Town fiber for governmental operations and could move over to it if something happened to Ting's fiber.

Councilman Villadsen asked if there would be enough time, from July when Ting is required to notify the Town of their intent to renew, and November when the agreement expires, to engage a different party if Ting does not renew. Mr. Weeks said he thinks it would be enough time and staff would probably be able to tell before July if Ting was wavering, and could engage other parties.

Action: Motion to approve a one-year extension to the agreement with Ting, Inc. for naming rights at the North Main Athletic Complex and Stadium (currently operating as Ting Park and Ting Stadium) followed by a two-year period beginning on November 9, 2021.

Motion by: Villadsen

Second by: Berry

Vote: Unanimous

14. Downtown Investment Grant (DIG) Program (previously known as the Downtown Development Investment Program)

Anna Murphy, Economic Development, said that the purpose of this item was to revise the Downtown Investment Grant Program (formerly known as the Downtown Development Investment Program.) This revision incorporates Council's feedback from the Workshop in May. She outlined how the program supports the Economic Prosperity and Diversity and Responsible and Balanced Growth strategic priorities. The DDI was written in 2008, and downtown looks a lot different since then. This new policy reflects what staff has learned in those years and input from Council, businesses, and residents. She said that new features in the DIG policy include an application timeline defined for applicants; a distinction between conversions and new construction; the level of investment informed by performance criteria, and funds allocated in the FY21 budget. She said the DIG Policy Goals are to target specific industries: information technology; innovation & entrepreneurship; tourism, hospitality, arts, & culture; and healthcare; job creation, and private investment. She said these industries are defined in the policy to assist applicants. Ms. Murphy said that applications will be considered on a case by case basis. She outlined that new construction could be eligible for partial or full reimbursement of Town development fees, and conversions could be eligible for 50% of public infrastructure or \$25,000, whichever is less, and partial or full reimbursement of Town development fees. Infrastructure improvements are required with development and this could assist small businesses to be able to be successful. Fee reimbursement is tied to performance criteria: would be up to 40% based on job creation, up to 30% based on private investment, and up to 30% based on historic preservation, environmental sustainability, and public art. These breakdowns are in a chart on the application to make it very clear to the applicants. She said that eligible projects will be notified of this opportunity. They will not be able to apply until Council has approved their development plans. She said that grant information will be added to the incentives page on the Economic Development website, and the Communications and marketing team will market the program on social media.

Mayor Sears said the Village District was not a big place, and asked how many applicants could we get. Ms. Murphy said that historically there have been 10 projects since 2008. There has been a surge recently, but staff is unsure how many may apply in the future.

Councilwoman Kelly said that she thinks this is great because there is more structure. She asked about a situation such as an older building, on the corner, so that there are two sets of infrastructure, and whether there would be an opportunity to give more than \$25,000. She wants to make sure some of these older buildings come forward. Also, is the number of employees full time year-round, or does it count seasonal, or part time employees. And are they required to pay minimum wage. Ms. Murphy said that the number of employees is calculated six months from the CO. They can wait if they think the number of employees will increase over time. Mr. Schifano said

that state statute requires that the wage be at or above the median wage of the County the business is in, which is pretty aggressive in Wake County. And it is full-time workers. Seasonal hospitality workers may not generate credit for those jobs according to statute.

Councilman McGrath asked if there was still discussion about moving the boundaries of the Village District. That is a different discussion, but it is connected. And if the Town cannot get a historic district, what is the benefit to the Town to giving incentives to retrofit historic buildings.

Randy Harrington said the idea was to support businesses that want to maintain those historic properties. The VDAP (Village District Area Plan) needs updating. That update is not funded in the current budget but that could be a project on the horizon.

Ms. Murphy said there is a range, so there are different ways, from 30% for putting a property on the historical register, to lower percentages for preserving some part of the structure. Councilman McGrath said he would like to continue to evaluate this because once the hospital is up and running attracting business downtown may not be so complex.

Action: Motion to approve the Downtown Investment Grant policy.

Motion by: Kelly

Second by: Villadsen

Vote: Unanimous

OTHER BUSINESS

Mayor Sears said the latest COVID19 in our zip code 371 cases and 1 death. Wake Co 16,393 cases and 213 deaths. Kudos to people who are taking steps to keep our numbers this low. Other than that, he asked people to pray for peace, unity, quiet, and getting out from under this pandemic.

Councilwoman Kelly recognized teachers, schools, parents, and students, for navigating this new way of doing school. She hopes it gets better but wants to recognize how much people are doing. Hot meals are no longer being offered at the Methodist Church, but they are still offering meals once a month. She invited everyone to Prayer at the Park at Womble Park on Sept 27th. Multiple churches are coming together in the spirit of unity. Finally, she just came out of a task force meeting on the landfill, and yesterday Wake County Board of Commissioners had a 2 ½ hour discussion of the landfill. She feels that the Commissioners understand and recognize the issue. There's not an easy answer, but they understand that they need to work on it.

Councilman McGrath thanked the Holly Springs Fire Department for the 9/11 ceremony. It is always good to remember. Also we should remember those who have served since 9/11.

Regarding the Landfill meeting, he is focused on the near term, on what can be done right now. We will have to learn how to co-exist. He is working on how best to get information to our citizens on how to report the mal-odors. GFL has some new leadership, and they have invested money in new equipment to close the open face, which started in the last 5 or so weeks, which will keep odor down. He urged residents to use the odor reports – they are going to be responded to. Wake County has loosely committed to responding to the odor reports. Next month he hopes to have Commissioners Calabria & Hutchinson join them for the meeting. One issue is a mattress shredder – there are more thrown out mattresses in Wake County than nationwide. He reminded people of suicide awareness. There are increasing reports of suicide based on impacts of COVID. It is prudent to check in with your family and friends to make sure they are OK.

Councilman Villadsen said that the Parks and Recreation Advisory Committee met last week at the Cultural Center. New officers were elected: Susan Smith, Chair; Molly Sapienza, Vice Chair; and Elizabeth Stone, Secretary.

Councilman Wolff said that NC was the first state to send out absentee ballot applications. There has been concern about whether they would be received in time and whether each ballot would be received. The website <https://northcarolina.ballottrax.net> will allow you to track your ballot from receipt to the Board of Elections. Do not try to vote twice. If you have any trouble, you can reach out to the Board of Elections.

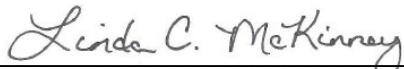
MANAGER'S REPORT

Randy Harrington, Town Manager, said on September 29th Council has a special workshop session with the Parks and Recreation Master Plan consultant at 6 pm at the Cultural Center. The purpose is to hear from the consultant and to give feedback on the Master Plan efforts to date.

CLOSED SESSION: None.

Adjournment: Councilman Berry made a motion to adjourn at 8:31 pm. It was seconded by Councilman McGrath and passed with a unanimous vote.

Respectfully Submitted on Tuesday, October 6, 2020.



Linda C. McKinney, Town Clerk

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