

Mayor and Council Workshop

6 p.m. June 14, 2022

Holly Springs Law Enforcement Center and Zoom



MINUTES

The Holly Springs Town Council held a workshop meeting on Tuesday, June 14, 2022 at the Law Enforcement Center and via livestream. Mayor Mayefskie presided, calling the meeting to order at 6:00 p.m. A quorum was established as the Mayor and three Council members were present as the meeting opened.

Council Members Present in the room: Mayor Sean Mayefskie, Council members Aaron Wolff, Timothy Forrest, and Kristi Bennett.

Council Members present via electronic means: Shaun McGrath and MPT Dan Berry.

Staff Members Present in the room: Randy Harrington, Town Manager; Linda McKinney, Town Clerk (recording the minutes); Daniel Weeks, Assistant Town Manager; Scott Chase, Assistant Town Manager; Antwan Morrison, Finance Director; Corey Petersohn, Budget; Mathew Mutter, IT; John Schifano, Town Attorney; Cassie Hack, Director of Communications and Marketing; Chris Hills, Director of Development Services; Elizabeth Goodson, Development Services; Aaron Levitt, Utilities and Infrastructure.

Mayor Mayefskie welcomed the audience who was here to listen. He said that workshops were meant for Council to receive information from staff so that they were up to speed at the business meeting. Public Comment is held at business meetings. He said that CM McGrath and MPT Berry were attending remotely due to work.

1. Overview: Randy Harrington, Town Manager, gave an overview of the meeting agenda.

2. Non-Discrimination Ordinance Discussion

John Schifano, Town Attorney, said that several months ago Wake County passed a non-discrimination ordinance and if Council wanted it to apply to Holly Springs, they would need to adopt it. He said that some municipalities have adopted this ordinance. He said there was an interlocal agreement that outlines how it would work. He said the County would be charged with administration of the ordinance. Complaints would go to the County Manager who would refer it to the County Attorney. The pathway to success would be through mediation through a contract with Campbell School of Law. If the mediation is unsuccessful, the next step would be a civil law suit with the County obtaining an injunction against the offender. The mechanics work without cost to the Town through June 30, 2023. He doesn't know what the costs would be after that. He said Council tasked him to find where the gaps might be between the Wake County non-discrimination ordinance in comparison to State and Federal ordinances. He explained those differences. He said that, up until 2020 "sex" when referred to in discrimination law, referred only to gender. At that point the Supreme Court said that it included gender identity, so that discrimination against homosexuality was covered under Title VII. He said that employment law claims could be that largest area of claims. He discussed the *Williams v. Blue Cross* court case and how it affects municipalities' ability to regulate discriminatory practices. Council member Wolff asked if the law in that case was the ordinance that Chapel Hill passed in 2020. Mr. Schifano said it was not, it was an older ordinance, but without that ruling being overturned, the

only way to read the law is that local employment non-discrimination law is against the State constitution which says that is the state's prerogative. Mr. Schifano said that the state non-discrimination law has the biggest "hole" compared to this ordinance. State law has similar protections to federal law. The State code does not address protection in places of public accommodation.

He said the County ordinance "checks all the boxes" and is very comprehensive. He can only fault it in the employment area, as he has already said. He explained the areas that are regulated and the definition of "places of public accommodation." The County ordinance expands the definition to basically anything other than religious places and private clubs.

Mayor Mayefskie asked for questions.

Council member Wolff said that Council discussed the EEOC extensively at the last workshop where this topic was discussed. He asked if there any businesses in Holly Springs that are not covered by federal law. Mr. Schifano said that any business with fewer than 15 employees is not covered under federal law. Mr. Wolff said that currently there are only 4 classes considered public accommodations, correct? Mr. Schifano said yes. Council member Wolff asked if the town was covered by the same employment law. Mr. Schifano said it was. Council member Wolff said so the town is covered by the EEOC, but we still have non-discrimination policies. Is that to fill a gap or to protect our employees? Randy Harrington, Town Manager, said it is primarily for hiring and promotional practices. Council member Wolff asked if those practices were not covered by the EEOC or other federal law. Mr. Schifano said they are covered. Council member Wolff asked if someone had a business in Holly Springs with three employees, and they were explicit in not hiring an employee based on age, would there be any recourse for the applicant. Mr. Schifano said that state law would cover that gap. Council member Wolff asked if a transgender individual went into a nail salon and was denied service because they were trans, if any federal or state law would provide recourse. Mr. Schifano said no sir. Council member Wolff asked what would the recourse for the business under the county ordinance if this trans individual were intoxicated and belligerent and they claimed discrimination. Mr. Schifano said that person could go file a complaint with the County manager and go through the process. Council member Wolff asked what an erroneous complaint would look like on the business' end. Mr. Schifano said that on the complaint form there is a description of what happened and a response by the business. The county attorney is going to look at the merits of that complaint. There will be fact finding work done by the County attorney before they refer it to the Campbell Law group. That work, right now, is free to the Town. Going forward it would be part of an amended ILA how much that process and work would cost us. Council member Wolff said so if a claim is invalid, the Findings of Fact would stop the process right there. And if it was valid it would go to Campbell. Mr. Schifano said yes. Council member Wolff said so it is very similar to the process with the EEOC, it's just being done through the County. Mr. Schifano said pretty much. The EEOC is a little different. They can either take it up, or decide not to take it up, or give you a right to sue letter, which means they aren't going to take it to Court for you, but you can get your own lawyer. In the County ordinance, it explicitly says that there is no private right of action. So if the County doesn't act, you can't proceed. Council member Wolff asked if there was a way where the County ordinance would prevent you from taking action at the state or federal level. Mr. Schifano said no. He said that his concern is that there is already a lot of work going on at that level. Does this ordinance make it much easier for a disgruntled employee to make it difficult for you to take employment action? Council member Wolff said so on the employment side, it is an extra avenue. It doesn't prevent them from filing with the EEOC at the same time.

Council member Forrest asked if when they sign the NDO to go into the process, does that prevent them from taking it to the federal or state level. Mr. Schifano said he did not believe so. They just can't use information they got from the mediation session, but they are not giving up their right to sue. If information is otherwise discoverable, one will be able to use it. Council

member Forrest asked if things are admitted in mediation that would otherwise be difficult to discover, they couldn't use it. Mr. Schifano said there are things that come out in a mediation session that are unable to be disclosed. Assuming the employee can already make their case, they can use it. Council member Forrest asked how many actions have been filed in the 10 months that the NDO has been in place. Mr. Harrington said the County Manager said it was 10.

Council member Wolff asked if we sign on and don't like how it is going, if we could leave it. Mr. Schifano said yes, you can pass an ordinance to get out of it as easily as you can pass one to get into it. Council member Wolff said in one of our discussions you mentioned a projected cost of around \$2,000 per year. Mr. Harrington said that in some preliminary discussions that was a number that was mentioned. Since then the County has decided to fund the entire program. His understanding is that they have budgeted \$60,000 for this first year, and at the end of that time will devise some allocation method for the costs.

Council member Bennett said that last November Council had a hesitation with including natural hairstyles, because it could be a problem with grooming standards for employers. She asked if that was not a problem now. Mr. Schifano said there are a couple of ways around it. Apex exempted themselves from that part. I'm not sure how Police and Fire would get around that otherwise. Council member Bennett said at the November workshop you suggested that this NDO would be litigated at some point. Mr. Schifano said that part of his job is to predict the worst-case scenario. Depending on how excited employers get about going to Campbell Law School it could happen. Council member Bennett asked if, although the Wake County system provides the mediation, people would need to bring their own attorney. Mr. Schifano said you don't have to bring an attorney, but you could bring your own lawyer if you want. To clarify, the County attorney is not involved in the mediation. He or she would go to court if it came to looking for an injunction. Council member Bennett asked if neither side had an attorney would it be just the two. Mr. Schifano said there would also be the mediator, which would probably be a third-year law student and a supervisor. Council member Bennett asked what the penalty was for the business owner or the business. Mr. Schifano said in theory there is no penalty or fine. There would be an agreement that they would sign to say that they are no longer going to discriminate. Council member Bennett asked if you could then have the same problem over and over, because there's no penalty. Mr. Schifano said that at some point the county attorney will seek an injunction and if they violate that, they can be held in contempt or jailed or fined. Council member Bennett asked if, as far as public accommodations, the exemptions are religious, non-profit, or fraternal organizations. Mr. Schifano said yes, those that restrict their facilities to members.

Council member Wolff said, following up on religious organizations, private clubs and churches can regulate their membership. What about businesses – can they claim a religious exemption, like the Colorado Bake Shop? Mr. Schifano said that would be a discriminatory practice that the NDO would cover. But the Colorado Bake Shop claim was a First Amendment claim. So there is always an exception for 1st Amendment protection and that's what the Supreme Court found in that case. They draw the line at are you an organization expressing 1st Amendment rights, or are you just an employer. There was a case in Charlotte that tested that when a Catholic School tried to dismiss a gay teacher. There are exceptions to the NDO. Council member Wolff asked what the penalty against Orange County was after that case. Mr. Schifano said the law was revoked and they had to pay attorney fees.

Council member McGrath asked for the list of which municipalities are participating. Mr. Schifano said that Raleigh has signed; Cary has it on their agenda on June 23rd and staff is recommending adoption, minus the County language on bidding contracts; Knightdale has adopted without changes; Morrisville adopted but excluded the bidding language; Rolesville discussed the NDO at a work session but has taken no action; Fuquay-Varina has taken no action; Apex had its own ordinance and adopted the County's with the exception relating to the bidding; Wake Forest has taken no action; and Garner has taken no action, but the city attorney

in Garner said they will be possibly considering it on June 28th. Council member McGrath said you mentioned the Crown Act, on the federal side. That was passed by the House in March but hasn't been considered by the Senate. That's for hairstyles and ten to twelve states passed similar laws. He asked what the impact could be to small businesses in Holly Springs. And how would this affect employees of larger employers we have recently welcomed to town. Mr. Schifano said that to answer that question we need to find out how much of this conduct is out there that we need to address. The employment law aspect of it, you get into a relationship with your employer and they know your religious and sexual orientations. If they discriminate against you for that, I'm sure that, of the tens of thousands of cases that come before the EEOC, some of them come from Holly Springs. Right now there is no reporting mechanism for overt acts of discrimination in places of public accommodation. So there is no way of tracking it, so the County ordinance would provide a mechanism to track that data and we could find out what the impact on employers would be. Council member McGrath said someone could still have the same legal recourse to take it to civil court. And that is not afforded under the County ordinance. So if someone wanted to have an attorney represent them in court, then they would be best served in a court of law. Mr. Schifano said that outside of a breach of contract claim, there is no avenue for someone being denied accommodation in a place of public accommodation on the basis of sex. Council member McGrath said that the County ordinance did not provide teeth. Mr. Schifano said there is the exception that, if the mediation fails, there is an avenue to go to court. Council member McGrath said that there have been comments that this is a chance for free legal counsel and there is no free legal counsel. This is tax payer funded mediation. He asked what the recourse to small businesses would be in terms of reputational damage if someone filed a frivolous claim. Mr. Schifano said that civil law has protections against libel and slander, which would be the recourse for someone who was smeared publicly for that kind of behavior. Council member McGrath asked if there was any accounting of any overt discrimination in Holly Springs. Mr. Schifano said he had not had any come across his desk. Council member McGrath then asked for follow-up on the claim made last week. Mr. Harrington said that the Town takes those kinds of allegations seriously. At the end of last week's meeting the Fire Chief met with the person who spoke and, in the course of asking questions, discovered that this was second-hand information. He has been trying to find out where and when this happened, and we would love to have the information from the person who was directly affected so that we can go deeper into this investigation. Mr. Harrington said that the Chief has engaged with his department, reiterating expectations, and exploring whether this might have been a Holly Springs Firefighter, but at this point we do not have any evidence that it was.

MPT Berry asked if it was Mr. Schifano's opinion that adopting this ordinance would bring legal risk to the town due to the Williams case. Mr. Schifano said that with respect to the employment law piece, he would see some risk to a municipality, depending on how excited employers get. He does not think there is any level of risk to the public accommodation aspect of the ordinance, with the exception of a potential first amendment challenge. But he thinks that is fairly unlikely. MPT Berry said but there is some level of risk, even if it is very small. Mr. Schifano said the likelihood is very small, but there is a possible risk.

Council member Bennett asked if, aside from the County being an avenue, are their nonprofits in place that would be a direction people could go. Is that similar to the County, or is that different? Mr. Schifano said that in this area we have very good public service law. You could get free representation, but it is typically in landlord tenant disputes. Legal Aid can litigate. They are typically not going to litigate anything that you would get a monetary judgment on, like an employment law claim. Attorneys will take those cases on a contingency fee basis. You probably aren't going to find too many public services attorneys willing to take on that kind of case. There are not many public sector nonprofits that run this type of interference for people. Council member Bennett asked why the towns minus the bidding contracts. Mr. Schifano said the wording in the ordinance is specific to Wake County. Municipalities could substitute their

own name in the ordinance, but the likelihood is that they are well covered in their own bidding policies and procedures.

Mayor Mayefskie asked Council member Forrest if he had any comments. He said he would pass at this time and let someone else go first.

Council member Wolff said that he has been on Council for 2 ½ years, and he has taken Mr. Schifano's advice seriously, even when it disappoints him. He said Mr. Schifano has given Council thorough and fair advice, so he takes it very seriously. When he says that there is risk on the employment side, I take that seriously. But there seems to be pretty good coverage on employment at the state and federal level. But in the public accommodation piece, the gaps in state and federal protections are glaring. The risk is related to constitutional law, but he takes it seriously that this is a small risk. There is nothing we do that is risk free. He said he considers the financial risk to be zero. If that changes, we can leave the agreement, if it does not serve the people of Holly Springs. With little risk and zero cost, no administrative burden on our staff, no financial liability for our tax payers - County money has been budgeted and will be spent whether we sign on or not. So all we would be doing by not signing on is choosing not to protect our residents the same way they would be protected in municipalities that have signed on. It's pretty clear to me that any business that wants to come to Holly Springs is free to do so unless they want to discriminate against our residents. Yes, there can be frivolous claims. Businesses are going to get frivolous claims, whether we sign on or not. They will get them through the EEOC, and through social media. He said he has a business and would rather have an EEOC complaint than a bad Google review, because that's going to hurt his business more. So he doesn't think it will hurt employers. He doesn't think it will hurt the Town. He doesn't think the employment piece is that big of a risk, but he trusts the town attorney. So he is willing to have a discussion about adopting the public accommodation piece.

Council member Bennett said she was out of town at the last meeting so she is very glad to be present tonight. She was not a part of any prior discussion about the NDO. And she is appreciative of the breakdown the attorney gave Council. She said that the questions have been good because she takes it very seriously, to make a decision for 40,000 people. Especially decisions that will have permanent legal and financial ramifications for people's businesses and their lives. When she was reviewing this, this weekend, something that former Mayor Sears said was important to her. He said it was not the concept we are debating, it is the approach. She said she is not for discrimination or hatred. It's the wording of this particular ordinance, to make sure they are accurate for the residents of our town. She said she appreciates what Council member Wolff is saying about only signing on to one portion of it, because she takes the hesitation about the employment aspect seriously. She still takes the fact that we exclude the hairstyle part seriously because we excluded it from the Resolution of 2021. She said it is not an issue for her of wanting to be inclusive. It's an issue of making sure that Council is saying the right thing and having it be exactly what we need for the 40,000 people who live here. Having it be tailor made, not just signing on to something that already exists because it already exists.

Council member McGrath said he is not quite sure where we are with the ability to sign on to a portion of the NDO. That is another question for Mr. Schifano. He said they would need more information on how to do that and whether Wake County would accept it or not, or whether it would come back to them as a burden to take on themselves and be an outlier. He said he does not think we are an outlier. He thinks what was articulated in the Resolution back in November has continued to prove to outside employers who want to move here, and to people who want to live here. It has been proven over and over again by community surveys that we are an incredibly inclusive community and that people go out of their way to make it as such. And that is why we were chosen by some of these large corporations over other areas. It's all positive. Now, do we find some areas where we have some gaps? Those were the questions he had back in November. He appreciates the discussion about what those gaps might be so we can have further dialog about what to do about those gaps that do exist now.

MPT Berry said that as a member of Council and as a member of the Legislative Committee he spends a fair amount of his time advocating with state and federal delegations to not limit or impact the town's authority where it should exist on some of our policy-making decisions. After the discussion tonight it became pretty clear that there are gaps at the state level to cover some of these discrimination issues and public accommodation issues with existing law. He said he takes the legal risks to the municipality seriously, and thinks the town could be challenged on its authority. He believes that non-partisan public servants, such as the town council, should take action based on the merits of the individual policy. He believes that regulations on residents or businesses with no enforcement mechanisms are not regulations that need to be enacted. He said the County ordinance results in no actual ability to rectify or provide recourse to citizens who have been discriminated against or businesses subject to a complaint. If any of our residents are the subject of discrimination, in most cases he thinks federal law provides more recourse and legal remedy than a local act could. He does not think this ordinance would probably not result in recourse that residents might imagine that they are entitled to, if talking about the ordinance as-written.

Council member Forrest said he believes it is obvious that this town continues to display its ability to change and grow. He said the Town engages in strategies and policies that build and engage inclusive communities through various mechanisms. However, he said the Town has to continue to develop and grow by having difficult conversations, and to look for the hard truths wherever they may be. Our council is non-partisan and we must embrace the dialogue to have open and honest discussions for the good of the town. That is what has to be the priority in his opinion. Currently as it sits, the Wake County NDO provides a path for anyone feeling they are discriminated against, and that is a good thing. Envisioning an NDO that focuses on true protections is an even better thing. He said does not believe the Wake NDO as-written is right for Holly Springs. The wording is chosen very specifically. He does not believe it has had enough seasoning to show us the pros and cons of it. He said that we don't know the disposition of the first few cases. There is no analysis that can be done so we do not know. When I look at that, do we rush to fail, or do we rush to succeed? Or do we take our time and do it right, and do what is right for Holly Springs. He said that one thing that is not clear to him is whether it restricts a person's rights enough, or too much. Does it enable the person who files the complaint? Does it enable the business? The non-disclosure agreement bothers him because it limits. He said we could not know whether the businesses or the individuals had the best intentions or the worst intentions. Did they mean well? How do we know how to grow from whatever happened, as a town? These are things that are unknowable, and it's hard to make a decision on that today. So ultimately how do we grow closer together if we cannot listen, grow, and change over time? He said he does not believe the Wake County NDO as it is written right now is in the best interest of our residents at all. He asked if Council could have meaningful discussions, based on his colleagues' comments tonight on other ideas or other these topics. He said he was all for those discussions. He said he was open to change, inclusion, and diversity, but let's make it right for Holly Springs.

Council member Wolff said he had heard from three of his colleagues that they recognize gaps, that they are supportive of the concept of doing something to fill them, but the NDO as drafted by Wake County doesn't fit. So the Resolution we passed in last fall, said "upon finalization of an interlocal agreement between Raleigh and Wake County, staff will report back to Council about the resolution to adopt the County ordinance." which they have done "In the event Council decides not to adopt the County ordinance, Council will consider a Town non-discrimination ordinance at the next business meeting." He said that is the Wake County ordinance does not fit our town, is not right for Holly Springs, he has yet to hear which part of the ordinance is not right for Holly Springs. But if it doesn't, let's follow the Resolution and write our own. Apex did, until they decided that Wake County's was better. He said he would rather sign on to Wake County's because they are covering the cost. But we have options, if there are

more questions, this is the time to do it, while staff is here to answer them. He said he had not heard why this is not right for Holly Springs, and how could we make one better.

MPT Berry said there are gaps at the state level but that's not something this body could address outside of legislative advocacy. Council member McGrath said that he was referring to the same gaps that were not covered by state law, and that puts us at jeopardy of not being able to support our residents. He said he was not in support of giving residents false hope and adding risk to the Town. Council member Forrest said he saw the gaps. But, he said, he was new to the discussion of the NDO. He thinks he has more of his own research to do. He spent the last seven days studying NDOs and he still doesn't understand them. He would rather take time and continue studying so that we don't rush to fail. Council member Wolff said he understands that it is complicated, which is why we have the Town attorney. He said he asked for this to be added at the April workshop, after the ILA was finished. If this is something that we need staff to prepare something for, this is why we are here. We can ask staff to craft an ordinance to cover those gaps that we want covered. Council member Forrest said he would like to have had a conversation about this prior to this meeting. Council member Wolff said it wasn't appropriate to discuss conversations between council members one on one. He said if members had questions about an NDO, now is the time to ask them. Our options are to sign on to this, to craft our own, or to do nothing. There are obvious gaps in the law. And there are obvious gaps also in the feelings of our community. He said it has become painfully obvious that there are significant number of people in the community who saw the Resolution and have said that it was not enough. This is a great town, but there is always room to improve. Not only in our coverage of the law, but in how our residents feel welcome, safe, and protected in this community. It might not feel urgent to us sitting up here, but to the folks of this community, it is. He said Council had a conversation in October, he asked for this to be brought up in April, it is now June. He said if Council needs to push this to the July workshop and craft our own ordinance, he would gladly take that over nothing. But he would rather sign on to this NDO that does not add cost to the town.

Mayor Mayefskie said that we have the Resolution on the books from November. He asked Town Manager Randy Harrington if he heard that Council were asking staff to provide direction. Mr. Harrington said that at this point he had not heard any direction, but if there is none, any prior action that Council had taken would stand, including that Resolution. But right now he was not hearing a majority to direct staff in any direction. Council member Wolff said that according to that Resolution Council should take this up at the next business meeting, but his understanding was that resolutions are non-enforceable value statements. Mr. Harrington said that because it crossed Councils, it could not bind this Council into taking up a subject. Mr. Schifano said that there is a proposed agenda at each business meeting and you make a motion to approve that agenda. If there is something that is not on that agenda that you want to take up, a member may make a motion to add an item to the agenda and it would need a second and a majority to add it to the agenda.

Mayor Mayefskie called a five-minute recess.

Randy Harrington said that, if it was the will of the Council, if they covered items a and b, c could go to a future workshop, and d could become a Friday briefing. Council was willing to drop the last two items.

3. Development Services Updates

a. Housing Affordability

Chris Hills, Development Services, introduced Christina Whitcomb from HR&A Advisors. Ms. Whitcomb asked Council to consider if they were in agreement with these goals, what strategies and tools were priorities for further research, and what questions need to be answered before moving forward. Ms. Whitcomb showed where they were in the process, and outlined the key housing challenges in Holly Springs: Limited Housing supply; access to homeownership; and displacement pressure. She said Council's feedback from the last meeting has been guiding their analysis. She discussed how recently completed housing projects have affected the percentage of housing stock by unit, so that Holly Springs is now closer to having 89% single-family housing. She discussed how potential tools are evaluated based on feasibility, alignment with Town goals, and potential level of impact.

Ms. Whitcomb said that Holly Springs can best impact housing affordability through the development process, land use, and local funding. She said that these were the aspects of housing cost that the town had control over. She outlined the similarities Holly Springs shares with other municipalities in the region, and the key differences, including the recruitment of larger businesses, lack of multifamily housing, high inventory of single-family homes, limited public land available for affordable housing, and very limited "by-right" development.

Ms. Whitcomb suggested reducing the length and uncertainty of the development approvals process by increasing administrative approvals and allowing some processes to take place simultaneously. Other tools could be administrative approval for by-right development, offering incentive zoning, providing a standardized development agreement strategy, and reducing or deferring fees.

Mayor Mayefskie asked if there were areas in town that have been targeted for administrative approval. Ms. Whitcomb said that the process of determining which areas would be zoned for administrative approval would go through a public planning process. Town Council could decide that some existing zoned areas could be approved through administrative approval, but the consultant will not select parcels.

Council member Forrest asked if there was a way to collapse the timeline to lower financing costs under the umbrella of affordable housing and still be thorough. Chris Hills said yes, there is. He said that compared to others in our area, our process is usually a two-step plan. The new UDO addressed some of that, but it could be set so that zoning is addressed by Council, but the plan is approved administratively, and it would only require one trip to Council. Staff is going through our processes now and seeing how they can be collapsed to streamline the process. It's not a heavy lift, but we need to make sure our ordinances are strong enough that there are no unintended consequences. Councilmember Forrest asked if this would be coming before Council at their next meeting. Mr. Hills said this will take more time than that, because staff has to workshop all the impacts and make sure nothing falls through the cracks. But he hopes to bring it to Council before the end of the year.

MPT Berry said some of these recommendations make it easier for the development community, but what guarantees are there that they will build affordable units. Council always gets these comments, but developers still come and build here, and none of these units are what we would deem affordable. He said he gets a little hesitant when we try to make it faster and minimize Council involvement. Often what is brought to Council as a rezoning and what is brought at the development plan stage is different. He said he was concerned that we aren't looking at it from a lens of protecting residents.

Council member Wolff said this was talked about in the meeting and he had the same questions. But the standardized development agreement strategy could encompass a lot of these things the Town gets from developers. He said we have standardized our economic incentive process. We know that it is not guaranteed, but we think this a way forward.

Ms. Whitcomb said that this is why we have Incentive Zoning and Standardized Development Agreement in the tool box. You can design exchanges for affordability through these two tools. One thing to point out is that this process negatively affects affordable housing developers, who already have trouble buying land because of high land costs. There is also a lot of competition between market-rate developers so they are putting things on the market at the lowest possible rate.

Council member McGrath asked for examples, because he wants to make sure we don't have yet another hour-glass road or another break in our sidewalks or other connectivity. He asked how this gets the wholistic buildout, and doesn't just deliver affordable housing at the expense of infrastructure. Ms. Whitcomb said you don't want to ignore needed infrastructure, but you can use incentive zoning and standardized development agreements. It's about what is important to the Town. You have to balance all of those different needs. Increased density, accelerated approval, and reduced fees are different levers that can be used. Chris Hills said that the Council would have to adopt any of these that we implement, so it could be offered for affordable housing but not for all development. Ms. Whitcomb said that is what the incentive program would do – offer these benefits in exchange for affordability. The incentive has to be inciting enough that the developer will actually take it and won't build the affordable housing. So it's important to get that balance right. Some towns have struggled to find incentives valuable enough that developers will take them.

Mayor Mayefskie asked if deed restrictions had been talked about, so that the homes are not bought up by investors and resold at higher rates. Ms. Whitcomb said that deed restrictions are generally put in place at the parcel level by the owner of the property. It's not something we recommend because it is permanent and lacks flexibility if the situation changes. Mr. Schifano said the Mayor might be referring to a slightly different tool. In the early 2000s the town had two different housing projects where the Town took a Purchase Money Deed of Trust 2nd mortgage on homes that had a declining balance and disappeared after ten or eleven years. The town took its fees so that these \$120,000 houses could be sold for \$90,000. Ms. Whitcomb said that is a slightly different issue, but an important distinction. If the town were to invest town money into a project, the Town could require a deed restriction for specific household income levels. That is a very powerful tool to use if you are offering a subsidy or public land for affordable housing. Council member Forrest said that "hero homes" have a deed restriction based on the nonprofit that buys the home, that requires the owner to stay for five years. Ms. Whitcomb said that is what happens with truly affordable housing that is subsidized. You can determine what income level is allowed. Mayor Mayefskie said that was the intent, to make housing affordable for families to move in, and to maintain that intent. Ms. Whitcomb that takes staff involvement to make sure that the unit stays affordable, either asking for rent rolls or income levels. Council member Forrest asked about if the final report would include staffing needs, and Ms. Whitcomb said that would be part of the final report under implementation strategies.

Ms. Whitcomb said that land use regulations could be modified to allow for attached or multifamily housing by-right. She said the Town could support a demonstration program for accessory dwelling units (ADU) to increase affordability for both homeowners and renters; minimum lot sizes could be reduced; and design requirements could be altered to lower building costs.

Council member McGrath said that several municipalities are facing significant challenges with ADUs turning into B&B's. So it's not increasing the availability of affordable housing. He said he thinks reduced design requirements go against what Holly Springs is trying to do. Ms. Whitcomb said it is a very real trend for single-family homes to be converted to rentals, or for parts to be used for extra income. But that can still be a tool for preserving home ownership as it allows someone to stay in a home when they are on a fixed income and the taxes are going up. But requirements can be added to the ADU if a subsidy is being offered, that would allow you to restrict the ADU to affordable housing. It's another incentive project.

Mr. Hills asked if there was agreement that reduced design requirements is not a tool Council wants. Consensus was that reduced design should remain as a tool in development agreements.

Council discussed Wake County's investment in affordable housing and how any town subsidization would need to have a clear return on investment, and that any town money invested needs to be leveraged against the county's investment. It was clarified that the consultants would provide a list of possible suggestions with their report and that Council would need to discuss them then and make decisions. Ms. Whitcomb added that Holly Springs does not have a significant amount of public land to make available for public housing, and because land here is expensive the County is pushing for municipalities to contribute land.

Council member McGrath said that we just rewrote the UDO and the Comprehensive Land Use, and part of that was that previous Councils looked at the Southwest area of town for reduced density. The reason that decision was made was the lack of infrastructure. You need increased density but it comes with a cost because we don't have the infrastructure. We're running out of prime property for that increased density, but the areas we do have we have chosen reduced density because of the transportation challenge.

Council member Wolff said the developer can choose that increased density, but it will come back to Council to decide whether that is appropriate for those areas. Council member Forrest said he agrees that areas are being built out rapidly and as we continue to grow those areas we should find a strategic partner who can help us with land grants or other things.

MPT Berry asked how this would work. These are things we are already doing in development agreements. Is this a formal policy, is this in our UDO? What does this look like? Mr. Hills said that one of the things we are looking at right now are some metrics for what constitutes a healthy balance of housing. That might become the basis of a policy that Council could consider, the way they did the tax balance question. This is policy driven and could land in a Council policy. A solution through the UDO could be difficult because of inclusionary zoning, but having it as a policy could allow us to let developers know as they come in what Council's priorities are. Council member Wolff asked if there was a pathway through the UDO, such as "if you give this much density, you get this process" or something like that. Ms. Whitcomb said voluntary plans are better done through ordinance or policy, rather than through the UDO. The tools mentioned first can be done through the process, other things have to go through land use procedures. Mr. Schifano said you can do a lot through contracting that you can't do any other way. He said he had tried for years to get a standard development agreement, but each situation is unique and we have to work the agreement around that. You are asking for things on two sides – quicker approval, and getting what you want out of development. You have a good process and get good results, but there may be some developers who will look at your process and go somewhere else. Ms. Whitcomb said that most towns are zoned already, with a mix of uses that they want. It's pretty atypical to have a lot of land that isn't already zoned. If the community has already decided what they want the area to look like, why should it be swayed by a few people who object. There are processes that are less about the underlying land use. Council member Wolff said that, to MPT Berry's point, we have used this plan successfully for previous projects, but it took months of back and forth. Having a standardized process would help that.

Ms. Whitcomb said that even if these areas are addressed, there will be some households unable to afford housing in Holly Springs due to low incomes. Some subsidy tools could include Gap Funding, Waiving or Reducing Development Fees; owner occupied rehab; down payment assistance; funding for legal services for those facing eviction; and a community land trust. These tools require designated revenue. Some towns dedicate a half cent of property tax to this and then decide what they want to do with that. It does cost so it is about balancing public priorities.

Council member Wolff said there has been a little conversation about the effectiveness of the Community Land Trust, and asked her to address that. Ms. Whitcomb said that Community Land Trusts are very effective as controlling resale value, but they don't address wealth building, because equity increases are mostly based on land values. In contrast to that, down payment assistance programs do provide wealth building. Down payment assistance houses eventually become market rate, but those homeowners build wealth and move up.

Council member McGrath asked for a list of the County properties close to or within Holly Springs. Ms. Goodson said staff could collect that information for Council.

Council member Forrest said Council needs to discuss how we can partner with others regionally to meet these goals. We have to do something to assist, and that's what this report is about. Ms. Whitcomb said that employer incentives are something else they could investigate. Whether it's donation of land or assistance with employees' housing costs, that is something we can look into.

Ms. Whitcomb said that some draft goals had been prepared based on identified housing needs, public survey responses, and discussions with the advisory committee. These include meeting growing demand for a range of housing types; preserving and expanding access to homeownership; and retaining existing residents. She offered tools to meet those goals, and ranked the funding required and the level of impact for each tool.

Council member Wolff asked about the community meetings by the Advisory Committee. Ms. Whitcomb said that they have made a recording that can be shared at these meetings without a committee member having to present. There will be an email about this sent to them soon. Council member Wolff asked if there was interest in a Town meeting that he and Council member Forrest would put together. Council and staff said that was doable.

Council member Bennet asked if there was information about partnering with non-profits that Ms. Whitcomb could share. Ms. Whitcomb said it is not in this presentation because that is part of implementation. For example, if you decided to use down payment assistance, that would be run by a partner nonprofit, because they have the staff and experience to run it. That will be part of the implementation part of the report.

b. Northeast Gateway Master Plan

Chris Hills, Director of Development Services, said the purpose of this item was to provide a project status update, articulate some community outreach takeaways, provide Council with an overview of the draft Northeast Gateway Master Plan, and outline next steps. He said that the plan included building off previous planning efforts such as the Land Use and Character Plan, the Comprehensive Transportation Plan and Parks, Recreation, and Greenways Master Plan. He outlined the steps that have been taken thus far. Community feedback included the need for a broader definition of commercial land use, density directed towards the NC 540 interchange, maintaining natural features, supporting traffic calming elements in residential areas, making sure building heights step down to transition to existing neighborhoods, pedestrian connectivity, more public spaces, and adequate buffers between high and low density uses.

Mr. Hills said the plan contained an improvements framework for roadway improvements and placemaking and urban design improvements. This is a rather large area for this type of plan. He said to address this, the area was divided into Functional Subareas (FS) each of which has a distinct character, mix of uses, and development pattern. This gives necessary guidance for future growth and development, while providing flexibility for Town Council and Planning Board to consider context sensitivity when reviewing zoning and development proposals. He walked through the Functional Subareas and what had changed since Council saw them last. He said that placemaking and urban design improvements could include gateway and wayfinding aids, street furniture and street trees, and building interaction with the street, and showed examples of each.

For the Northern Gateway area FS1, the key takeaways were to protect existing neighborhoods, buffer NC 540, and maintain natural buffers. Council member McGrath said that between these two presentations, this and affordable housing, this points out what our residents want and what they think they want. Where this might be an area for higher density, yet we're talking about preserving trees and open space. This is a challenge he has with the Northeast Gateway at a macro level. There was discussion about this being close to the Tuscany neighborhood and that their concerns are being listened to.

For the Live-Work Center, FS2, the key takeaways were to protect existing neighborhoods, buffer NC 540, maintain natural buffers, and increase pedestrian access and a commercial center use was added. Council asked why it was added and Mr. Hills said that there was thought that it would be a logical place for commercial and people asked why it wasn't there. But there is flexibility in where it is located.

Mr. Hills said that for the Gateway Core area FS3, key takeaways were to install wayfinding and gateway signage at key locations, increase pedestrian access, buffer NC 540, and promote a key opportunity site near the future interchange. Having a protected pedestrian crossing of 540 was important because it needs to be on a plan in order to get funding for it. There are options for higher density, higher impact buildings in this area. Because it is allowed does not mean that there will be nothing but that type of building. He showed examples of areas that we could emulate. North Hills in Raleigh shows how stepping down building heights can make the area work. Glenwood South in Raleigh, or Fenton in Cary are other examples of how this has been successful. Key questions that they have asked the consultant to dig into more deeply are ideal percentage of land use types in the area. He requested Council feedback on this.

Council member Wolff said we need to be really sensitive to the existing neighborhoods. The step back and heavy buffering makes sense. He asked if there was a way to have buffer requirements while there is existing residential, and then reduce it when an area becomes more commercial. Mr. Hills said yes, that was possible. Mayor Mayefskie asked if there was any data that showed what this does to the value of homes. Mr. Hills said that in the North Hills area homes have increased in value since that, but that is anecdotal data and he can try to get more accurate data for Council. He said Council doesn't have to decide on the percentage tonight and staff can come up with a recommendation and it could be adjusted when the report is ready. Council member Bennett said having a recommendation could be helpful as a jumping off point for conversation. Mr. Harrington asked if the consultant has suggested anything. Mr. Hills said not yet. He is asking if Council is comfortable with them putting something in there that can be adjusted as we move forward. We are seeing a strong push to develop without a mix of uses that we heard from the community that we would like to have. Council member Wolff said that North Hills is a great example. We don't want to throw a lot of commercial without things for the people who live there already. This is a great spot for mixed use that can add value to the people who are already there. Council member McGrath said he would like to know what the current development market research is. What is the development world looking at this area as, so we strike a balance. Council member Bennett asked if the pedestrian crossing of 540 was a tunnel. Mr. Hills said we would look to partner with CAMPO or the State to have funding for the crossing in the future. It would be difficult for the town to undertake that by itself, but one of the key aspects of getting funding for it is to have it on a plan to be incorporated later. Council member Bennett asked if it would be easier to try to get it done while 540 is under construction. Mr. Harrington said that NCDOT has already designed the roadway and they have cost pressures just like the Town does. Council member Wolff said also there is nothing for it to connect to at this point.

Mr. Hills said for the Commercial Center, FS4, key takeaways include installing wayfinding and gateway signage at key locations, increasing pedestrian access, maintaining natural buffers, and creating a loop road around Sunset Lake Rd. and Holly Springs. Two commercial building types

have been added: mixed-use and commercial. Also a greenway connection was added. Key questions for this area are the same as for FS3. Land uses here are more established. We are also working with the consultant to get some small area conceptual designs and will bring those to Council at a later date.

He said that for Neighborhood Core, FS5 key takeaways are to increase pedestrian access, maintain natural buffers, buffer NC 540, and consider traffic calming elements for residential connecting roads. A mid-rise apartment land use was added to this area due to feedback from a landowner in the area. Mayor Mayefskie asked if he could get these changes to take to the meeting he has with residents in this area. Mr. Hills said of course.

Mr. Hills said for Neighborhood Edge, FS6, key takeaways include increasing pedestrian access, maintaining natural buffers, buffer NC 540, and consider traffic calming elements for residential connecting roads. This is also a key opportunity site near future NC 540.

For Eastern Gateway FS7, he said the key takeaways are to increase pedestrian access, maintain natural buffers, buffer NC 540, consider traffic calming elements for residential connecting roads, and installing wayfinding and gateway signage. There were no changes in building types.

He then outlined next steps. He said in late summer the plan would come to Council for a public hearing and adoption, but staff would touch base with Council to address some of the feedback that was given.

MPT Berry said he was happy to see these changes at the recommendation of the steering committee. He thinks getting the mix right in that key site will be important for us to guide the development community.

c. Unified Development Ordinance Amendments – deferred to a future meeting

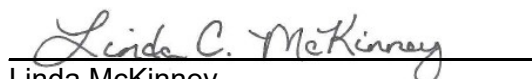
d. Village District Area Plan Update – deferred to a Council briefing

4. Open Discussion

Mayor Mayefskie thanked Chief Liquorie for making the area available for a larger audience, the Clerk's office for helping set this up to accommodate residents and the Communications Department for the QR code on the posters. He said he spoke at the graduation ceremony for the Fire Academy and he welcomed the new fire fighters. He was also at the Holly Springs High School graduation. He thanked Council and staff for staying for a long meeting and thanked the Town Attorney for all the information he provided.

5. Adjournment: There being no further business for the evening, motion to adjourn was made by Council member Wolff, second by Council member Forrest and passed with a unanimous vote. The June 14, 2022 meeting of the Holly Springs Town Council was adjourned at 9:26 pm.

Respectfully Submitted on Tuesday, July 19, 2022.


Linda McKinney
Town Clerk