



**OAK RIDGE TOWN COUNCIL SPECIAL CALLED MEETING  
MAY 21, 2019 – 7:00 P.M.  
OAK RIDGE TOWN HALL**

**MINUTES**

**Members Present**

Spencer Sullivan, Mayor  
Jim Kinneman, Mayor Pro Tem  
George McClellan  
Doug Nodine  
Ann Schneider

**Staff Present**

Bill Bruce, Town Manager  
Sean Taylor, Planning Director  
Michael Thomas, Town Attorney  
Sandra Smith, Town Clerk

**1. CALL TO ORDER**

Mayor Spencer Sullivan called the meeting to order at 7:00 p.m.

**A. Invocation.**

Pastor Andy Cook of The Summit Church offered the invocation.

**B. Pledge of Allegiance.**

**2. APPROVE AGENDA**

Mayor Sullivan suggested that the agenda to be amended by allowing Citizen Comments to be moved to become part of item 3. Discussion/Approval of Resolution of Intent.

*Mayor Pro Tem Jim Kinneman made a motion to approve the agenda as amended. Councilwoman Ann Schneider seconded the motion, and it was passed unanimously (5-0).*

**3. DISCUSSION/APPROVAL OF RESOLUTION OF INTENT**

**Resolution of intent to establish a municipal water system utilizing groundwater and community wells.**

Mayor Sullivan stated that there was a single purpose to the meeting: water and the consideration of a proposal to establish a limited town water system. He said copies of a mayor's message, which is hereby incorporated by reference and made a part of the minutes, and a Resolution of Intent on the topic were available on the table in the back of the room. Shortly thereafter, Sullivan read the Resolution of Intent aloud, which is as follows:

**RESOLUTION R-2019-02**

**RESOLUTION OF INTENT  
TO ESTABLISH A MUNICIPAL WATER SYSTEM  
UTILIZING GROUNDWATER AND COMMUNITY WELLS**

**WHEREAS**, The Town of Oak Ridge is committed to ensuring a safe, plentiful, and reliable water supply for its citizens; and

**WHEREAS**, A municipal water system that utilizes groundwater and community wells would allow the Town to begin building the foundation of a municipal system, involving minimal tax dollars; and

**WHEREAS**, Water infrastructure assets would be constructed by developers during subdivision development and dedicated to the Town upon completion for operation and maintenance; and

**WHEREAS**, Adopting this Resolution of Intent does not bind the Town into adopting a formal action to establish a municipal water system.

**NOW, THEREFORE, BE IT RESOLVED:**

That the Town of Oak Ridge hereby states its intent to establish a municipal water system utilizing groundwater and community wells, pending a review of financial, legal, operational and administrative considerations related to such action.

Adopted, this 21<sup>st</sup> day of May, 2019.

\* \* \*

To allow for discussion, Sullivan first called for a motion.

*Councilwoman Ann Schneider moved to approve the Resolution of Intent R-2019-02. Mayor Pro Tem Jim Kinneman seconded the motion.*

*Council discussion:*

- Councilman George McClellan said the resolution will not establish a regional water system, nor will it increase taxes. He reiterated that it is a nonbinding resolution to establish a very limited water system using new community wells, and it will have no impact on residents with private wells or existing community wells.
- Mayor Pro Tem Kinneman said that there are many customers of existing community wells that have less than satisfactory customer service. He said there was not a lot the Town can do about that, but it can develop standards for new developments so residents have fewer issues. He said Aqua America is a public company traded on the stock exchange over which the Town has no control. Kinneman said state law says residents cannot be forced to hook on to a municipal well system, and that the resolution will have no effect on existing wells.
- Councilman Doug Nodine asked how much seed money would be needed, and Town Manager Bill Bruce said that would be part of the analysis if the resolution is approved. Nodine asked how many companies the Town negotiated with for the proposal to assist the Town on the water system project, and Bruce said the Town

had been negotiating with one company at this point to help establish the procedural and administrative protocols that would be necessary to move forward if Council chose to do so. Nodine said he knew the Mayor had spent a great deal of time on the matter and that Council members had only the best interests of the Town in mind, but it seemed as if their minds were made up, but he disagreed and it was hard to try to change anyone mind. He said no one knew the costs and it was unclear what the benefits would be. He said the proposed system would not provide new water sources, it did not solve the problems that were discussed when a regional water system for northwest Guilford County was being considered, and it did not solve the issue of fire protection. Mayor Sullivan said that it could address fire suppression in a limited fashion, but only a full system with elevated tanks would provide full fire suppression. Nodine said he thought it was clear that the Town would take on the liability and it was unknown at this time if the system would be self funding. He said it seemed the Town was going to trade one private enterprise, Aqua, for another, Envirolink.

- Schneider said she liked the fact that the Town would find out the answers to questions through the study being discussed. She said the 30-home cap had been proposed because it takes into account where the break-even point is for installing a community well. She said Envirolink operates the water system at Knight's Landing, so they know the costs associated with a community well system, just like Aqua does. She said her point was that the proposal is feasible. She asked if liability insurance would be included, and Sullivan said yes, adding that it would be included in the rate analysis that would be done. Schneider said Sullivan had done his homework and had a basic idea that such a system made up of individual community wells would work. She said the Council could adopt the resolution of intent and firm up the numbers. If the numbers don't pan out, the Town can walk away. Sullivan agreed, saying the resolution states the Town will establish a water system "pending a review of the financial, legal, operational and administration considerations." Schneider continued that the Town had held \$1 million in reserve for a water system for some time. Compared to the cost of \$50 million to \$156 million for a municipal water system for a regional water system, Schneider said the Town would be spending only \$13,000 to find out if the system proposed was even feasible.
- Sullivan said using a water system for fire suppression had to do with water volume and pressure. He said an interim step, which the Town of Summerfield looked at a few years ago, included several elevated tanks that would allow the fire department to fill its tankers more rapidly than relying on ponds and waterways. Sullivan said in order to have its own water system, Oak Ridge would have to be authorized by the state to operate it and there were all sorts of regulations that would be discussed later. He said he thought it was important to look at the benefits the Town would get.
- Nodine asked if the Town could purchase insurance, and Sullivan said it could get insurance to cover any event that occurs. Nodine asked if insurance would cover a community well that goes dry, and Sullivan said all the questions being asked would be part of the study proposed. He reiterated that this would not be a large municipal system such as the City of Greensboro has with large mains, fire hydrants and mandatory connections; instead, it would entail the Town owning and operating discrete well systems that would serve approximately 30 to 80 homes each. Sullivan

said he thought the advantages were significant, and he encouraged attendees to read the mayor's message that he had composed. He said he thought the major advantages boiled down to local control and accountability. He said all the questions asked by Nodine will be covered. Regarding rates, Sullivan said the rates of every utility in the state are listed on the NC Utilities Commission website. He said that currently Aqua America's rates are roughly 25 percent higher than Envirolink's in the two Oak Ridge subdivisions in which they operate. He said if Envirolink operates the Town's system, he would expect charges to be similarly less. Sullivan said private companies will make decisions based on their bottom lines, but the Town's decisions could be based on the welfare of its citizens. He said he had spent months studying the issue, then said he had actually been studying water for Oak Ridge since joining its water committee 13 years ago. He said he thought it made sense for the Council to take a hard look at what was being proposed.

- Additional conversation and debate by Council members occurred.

*Public comments:*

- John Jenkins, 6700 Ashton Park Drive, said he tended to agree with Nodine. He said unless the goal is to get everyone in Oak Ridge on a water system, he did not see the benefit. Jenkins said the type of system being discussed would only benefit a limited number of people unless the Town wants to take over existing community wells. If that were to happen and Aqua America were to walk away, a lot of infrastructure would be required and it would be expensive for the Town.
- Van Tanner, 6605 Ashton Park Drive, said the company the Town is talking about contracting with still has to make a profit. He said the Town could set standards that anyone has to meet. He said his fear is moving to become a water utility. Tanner said because most entities want to grow, his fear is that the system will expand. He asked what guarantee there was that other community wells would not be taken over, and he said that connecting the individual community well systems would include costs.
- Susan Pohlman, 4591 Peeples Road, asked several questions, including:
  - Do we think we can create a system on approximately 30 homes?
  - Has a feasible financial proposal been developed for any of the permutations proposed?
  - When and how was the mayor's letter published?
  - Why was a special meeting scheduled the week of a holiday rather than waiting until the next regularly scheduled Town Council meeting?
  - Why can the Town not just write water system specifications, require new systems to meet them, give old systems a time limit in which to meet them and enforce them with fines?Pohlman said about 67 percent of residences in Oak Ridge are on private wells, and she had not heard anyone asking for a municipal water system. She asked what Plan B is if the proposed system fails.
- Dale Kendrick, 5704 Foxbury Drive, said he had a private well but he lived next door to a home with water provided by Aqua. He said he had a well 30 years ago that went bad and when he moved to Oak Ridge, he called Aqua and asked if he could connect to its system. Although he said he did not necessarily feel like government should be involved, there were some benefits to have standards and being able to control them. He asked if the Town could condemn a private water

system and take it over, but Town Attorney Michael Thomas responded that a government could not take a private water system by eminent domain. Kendrick then asked about Winston-Salem, Greensboro, High Point and Kernersville's water systems and asked why the Town could not connect to them. Sullivan responded that the Town had no distribution system, which would be very expensive, and citizens had made it clear they do not want mandatory connections or dry tap fees.

- Mike Stone, 8112 Hunting Cog Road, said he was not commenting on a water system but on a problem that he saw. He said the fact that Council members wanted to debate another elected official on every point he raises concerns the citizens that they will be perceived the same way or will not be listened to when they raise issues. He said raising the ordinance to a higher standard is practical, but he said the Council wanted to debate that. He asked why citizens would believe that the Council is going to listen to them – something Stone called an image problem, a transparency problem and a trust problem.
- Cathy Roberts, 5903 Billet Road, said she was on a community well with Aqua and asked if it would be possible for them to connect to the Town system if they wanted to. She also said people on community wells in Oak Ridge have no water when the power is out, which does not happen in Greensboro; she asked if the system the Council was proposing would get rid of that problem.
- Larry Law, 1770 Oak Ridge Road, said Council had not discussed commercial development and asked whether commercial systems would remain with Aqua. He asked if the Town was receiving many complaints about water, and Sullivan said they were constant. Law said that contractors build systems as regulated by the state, but if they knew they would have to turn them over to the Town would they not just install the minimum required? He asked if the Town would have to add more personnel or contract workers to maintain the system.

Mayor Sullivan closed the public comment period.

- Council members attempted to answer many of the questions asked. Sullivan said it was not possible for the Town to take over existing Aqua systems or force them to do anything. He said many existing Aqua systems are antiquated and not built to current American Water Works Association standards, which affects quality, quantity and overall design of the system and which the Town would require. In the case of an existing Aqua system that was not up to date, Kinneman said the Town could install a parallel system. Sullivan agreed, but said it would be far down the road before the Town would consider doing that. He added that all property owners in a subdivision with an Aqua system would have to agree to connect to the Town system and they would have to be willing to pay for the cost of installing a parallel system.
- Regarding comments by Mike Stone, Sullivan said no one had disagreed or argued with Nodine that they could put the standards in today because they could. He said Council members had always debated issues in a cordial fashion. Sullivan said feasibility issues would be answered by the consultant if the Town engages them with a contract.

- Councilman McClellan said he has spoken with a representative of Greensboro a few years ago about connecting to their system and they said that would happen only if the Town was willing to give up its charter. McClellan said as far as he knew, that was still Greensboro's attitude. He said he was really pushing for a system with fire suppression, which this type of system would not be able to do in the beginning. He said he was a little disappointed, but he realized sometimes you have to start somewhere. He said the type of regional system that would be able to offer fire suppression would cost \$50 million plus an additional \$156 million, which was way too expensive. He said he would like to see the results of the study about whether the plan being proposed was feasible, and the study was part of the Council's due diligence.
- Kinneman said he knew the issue was confusing because the current Town ordinance conflicts with what is being proposed, but the proposed resolution of support would start the process of changing the ordinance. The Council would need to decide if it makes sense to require installing a community well for 30 homes or more, change the current standards, and determine whether it makes sense for the Town to own such a system. He said he agreed that the Town's ordinance regarding water systems needs to be changed.
- Nodine said he hated to beat a dead horse, but he still has not heard anyone say what the benefits to the Town having a water system would be other than local control. He said the firm that would do the feasibility study is the same one who is going to run the system, so he guessed they would advise the Town to move forward to create a system.
- Councilwoman Schneider asked Town Manager Bruce to explain the Town's current water ordinance. Bruce said the Town adopted a water ordinance in 2015, which he recollected was an administrative step should the Town decide to move forward with a regional water system. He said the Town had adopted the ordinance without being at the point of implementation. Schneider asked if the Town's water ordinance currently is not applicable, and Bruce said yes. Schneider said she appreciated all the citizen input and said there are people such as herself who wish they could get off an Aqua system as well as people who are happy with their current individual wells. She said the Council is trying to plan for the future and give future citizens a better water system than what is currently available. She said she did not think people could say that Council has not been transparent because the mayor's message had been published as soon as it was completed and the mayor had been tireless in his efforts. Although she admitted she did not have a deep knowledge about water systems, she said she was trying to learn. Schneider said she thought trust was a two-way street, and that one party had to not suspect that the other side has an ulterior motive when there is none.
- Sullivan said there had been many good questions, some of which the Town is unable to answer at this time. He said the proposed study would provide answers to many of the questions asked. He said builders and developers are going to install community wells in developments because it is more economically feasible than installing individual wells. If the Town does not operate the new systems, it is totally helpless to assist any citizens whose water systems are operated by Aqua. Sullivan said if the Town did operate those

systems, it would have more flexibility and the ability to address some concerns, and the benefits would include local control and accountability. He said the Council will consider adopting the Resolution of Intent, which is full of caveats and which does not bind the Town to taking further action. Sullivan said there were financial, legal, operational and administrative issues to consider, and adopting the resolution was merely the first step and did not lock the Town into anything.

- Kinneman asked if the Town would have to put operating a Town system out for bid, and Sullivan said no, since it was a service contract. Attorney Thomas said that although it was not required, the Town could put out RFPs (Requests for Proposals) and get as many bids as it wanted. Kinneman then asked if the Town could fire the company operating its system if it did not perform satisfactorily, and Thomas said yes. Thomas said that was a contracting matter or a business matter and a proprietary function of government. Thomas said that during the contracting process the Town would protect its interests. He added that water, sewer and garbage funds are self-funding enterprises.

*After additional discussion, Council's vote to approve Resolution of Intent R-2019-02 was approved by 4-1 vote (Nodine voting in opposition).*

**4. DISCUSSION/APPROVAL OF PROPOSAL FOR DEVELOPMENT, ACQUISITION AND IMPLEMENTATION ASSISTANCE FOR TOWN OF OAK RIDGE WATER SYSTEM PROJECT**

Mayor Sullivan said the Town had negotiated with Envirolink, a full-service utility company licensed in North Carolina and several other states, and Envirolink's proposal was now before the Council. He said Envirolink provides operations and maintenance to hundreds of municipalities in eight states. He said in order for the Town to be approved to operate a community water system, the state would require it to have a full water system plan that will define and describe what is required. He said many of the questions asked would be answered once the proposal is completed. He said approval of the proposal would allow the Town to have a complete overview of what it would take to operate a municipal water system. He introduced John Mullis of Envirolink, should the Council have questions for him.

*Mayor Pro Tem Kinneman moved to approve the proposal for development, acquisition and implementation assistance for the Town of Oak Ridge water system project. Councilman McClellan seconded the motion.*

Additional discussion by Council ensued.

- Councilman McClellan reiterated that the proposal would allow the Town to obtain more information about the cost of operating a community water system.
- Mayor Pro Tem Kinneman said he liked that new systems would have minimum standards. He said he would like for the Town to apply pressure to require existing systems to come up to those standards, but that was not possible.

- Councilman Nodine said a credit for \$13,750 was on the proposal, but the original estimated amount was \$27,000. He asked if Envirolink had reduced the scope of its services, and Sullivan said no. Nodine asked if the \$13,750 was just fluff, and Sullivan said he did not know that it was fluff. Sullivan said he had known the president of the company for about 13 years, they had discussed the scope of services and the fact that the company was familiar with Oak Ridge and with Aqua, and Envirolink offered a credit which makes the proposal very attractive. Nodine said in his business dealings he had never had to pay someone to make a sales pitch, so the agreement rubbed him the wrong way.
- Councilwoman Schneider said she wanted to address Nodine's comments. She said the Council studies everything, and in this situation it could not afford to shoot from the hip. She said it was important the Council do its due diligence. She said it would take Envirolink time to prepare the study, and that Council was being cautious with taxpayer money.
- Councilman McClellan said he also wanted to get questions answered while being conservative with Town money. McClellan complimented Sullivan's negotiating skills, and said he was all for it if Sullivan could save the Town about \$1,000 for each year that he had known the president of Envirolink.
- Sullivan pointed out that outsourcing was one way the Council could economically meet staffing needs, and that the agreement was a consulting contract, not a service contract for a water system that does not exist.

*Council's vote to approve the motion was 4-1 (Nodine voting in opposition).*

## 5. COUNCIL COMMENTS

Council members thanked citizens for attending the meeting and for their comments.

## 6. ADJOURNMENT

*Mayor Pro Tem Kinneman made a motion to adjourn the meeting at 8:46 p.m. Councilman McClellan seconded the motion, and it was passed by a 4-1 vote (Nodine voting in opposition).*

Respectfully Submitted:

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Sandra B. Smith, NCCMC, CMC  
Town Clerk

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Spencer Sullivan  
Mayor