

# Holly Springs Town Council Minutes

## Regular Meeting Nov. 7, 2006

The Holly Springs Town Council met in regular session on Tuesday, November 7, 2006, in the Council Chambers of Holly Springs Town Hall, 128 S. Main Street. Mayor Dick Sears presided, calling the meeting to order at 7:00 p.m. A quorum was established as the mayor and all five council members were present as the meeting opened.

**Council Members Present:** Councilmen Vinnie DeBenedetto, Chet VanFossen, Parrish Womble, Peter Atwell and Hank Dickson and Mayor Sears.

**Council Members Absent:** None.

**Staff Members Present:** Carl Dean, town manager; Charles Simmons, assistant town manager; John Schifano, town attorney; Linda R. Harper, deputy town clerk (recording the minutes); Jeff Jones, planner II; Alison Huffman, planner I; Mark Andrews, public information officer; Drew Holland, finance director; Len Bradley, director of parks and recreation; Bob Klaus, cultural center manager; Heather Keefer, environmental specialist; John Herring, police chief; Cecil Parker, fire chief; Stephanie Sudano, director of engineering; Eric Tayler, IT director; Kendra Stephenson, senior engineer; and Elizabeth Goodson, development review engineer.

**2 and 3.** The Pledge of Allegiance was recited, and the meeting opened with an invocation by Rev. Sam Gore of Salt and Grace Ministries.

**4. Agenda Adjustment:** The November 7, 2006 meeting agenda was adopted with changes, if any, as listed below.

**Motion By:** Dickson

**Second By:** Atwell

**Vote:** Unanimous

**Items Added to the Agenda:** 6k. Consider adjustment to longevity pay for Town staff to include amounts covering withholding.

**Items Removed from the Agenda:** None.

**Consent Agenda Items Moved to Regular Business:** None.

**Other Changes:** None.

**5. Consent Agenda:** All items on the Consent Agenda were approved following a motion by Councilman Dickson, a second by Councilman VanFossen and a unanimous vote. The following actions were affected:

5a. Planning Appreciation Week - The Council declared November 6-10, 2006 as Planning Appreciation Week in Holly Springs.

5b. Budget Amendments, \$101,500 - The Council adopted amendments to the FY 2006-07 budget in the amount of \$101,500 to acquire property for installation of the Harnett County waterline meter and vault. *Copies of the project budget and budget amendments are incorporated into these minutes as addendum pages.*

5c. Resolution 06-48, Bass Lake Road Reduce Speed Limit - The Council adopted Resolution 06-48 establishing a 35 mph speed limit reduction on Bass Lake Road in front of the Bass Lake Retreat Center. *A copy of Resolution 06-48 is incorporated into these minutes as an addendum page.*

5d. Budget Amendment, \$1,800 - The Council adopted an amendment to the FY 2006-07 budget in the amount of \$1,800 to appropriate funds seized during police drug investigations. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

5e. Budget Amendment, \$16,850 - The Council adopted an amendment to the FY 2006-07 budget in the amount of \$16,850 to provide ball field shade covers at Jones Park. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

5f. Budget Amendment, \$1,025 - The Council adopted an amendment to the FY 2006-07 budget in the amount of \$1,025 to accept donations from the Holly Springs Kiwanis and Rotary Clubs for the McGruff the Crime Dog program. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

5g. Triangle J Cable Consortium Agreement - The Council approved to enter into a amended Triangle J cable consortium agreement. *A copy of the agreement is incorporated into these minutes as addendum pages.*

5h. Resolution 06-49, Main Street Release – The Council adopted Resolution 06-49 requesting NCDOT release a portion of Main Street in front of Main Street Square. *A copy of Resolution 06-49 is incorporated into these minutes as addendum pages.*

5i. Avent Ferry Road Pump Station Landscaping – The Council approved to enter a landscape contract with Cloer Nursery in the amount of \$14,993 for the Avent Ferry Road pump station. *A copy of Cloer Nursery contract is incorporated into these minutes as addendum pages.*

5j. Wildacre Zoning Vested Rights, 06-ZVR-02 – The Council set a public hearing for November 21, 2006 at 7:00 p.m. for Wildacre zoning vested rights application 06-ZVR-02.

**6a. Cultural Center Performing Arts Alliance Program Guidelines** – Mr. Klaus explained the elements of the proposed Holly Springs Cultural Center Performing Arts Alliance program guidelines and the application process.

Councilman VanFossen asked about who will be responsible for the area between the cultural center and the library.

Mr. Klaus said that that area will be shared responsibility between the Town and library.

**Action:** The Council approved a motion to approve program guidelines for the Holly Springs Cultural Center Performing Arts Alliance.

**Motion By:** VanFossen

**Second By:** Atwell

**Vote:** Unanimous

*A copy of the Cultural Center Performing Arts Alliance program guidelines is incorporated into these minutes as addendum pages.*

**6b. Main Street Square Elements C, D and E, 06-DP-09** – Ms. Huffman explained that the proposed Main Street Square elements C, D and E, 06-DP-09, Planned Unit Development (PUD) is for multi-family, mixed use and commercial elements. She said the primary housing type permitted in this district according to the PUD master plan is multi-family apartments and mixed use with condos above commercial uses.

Ms. Huffman said Elements C, D and E -- the Neighborhood Center district -- is the central location within the PUD. She said the central element would provide services to the residences, creating a pedestrian-friendly atmosphere helping to minimize the amount of vehicular traffic.

Ms. Huffman said the flood study has been completed and reviewed and the site will not have a negative impact on the downstream residents along the main channel in a 100-year storm event. She said the Town's policy statement states that if there are existing downstream drainage complaints and problems, then upstream development cannot exacerbate those conditions. There have been previous downstream drainage complaints along the stream that runs along the rear of this project. However, the finished floor elevations of the downstream homes are well above the 100-year flood plain, and increases are kept to zero along the majority of the length of the stream.

Ms. Huffman said the Planning Board discussed open space, parks and greenway trails, foundation landscaping and access onto Hwy. 55. Ms. Huffman said that staff and the Planning Board recommend approval with conditions.

**Action:** The Council approved a motion to approve Development Plan and Preliminary Plan #06-DP-09 for Main Street Square Elements C, D, and E as submitted by Bass, Nixon & Kennedy, Inc., project number 05904000, dated revised 09/11/2006 with the following conditions:

1. All previously approved conditions of approval for Main Street Square PUD apply to this plan.
2. Fee-in-lieu of pump station upgrade will be required.
3. This phase (Element C, D, & E) cannot be constructed until utilities and roadways are complete from Elements A and/or F.
4. The following items are to be included with 1<sup>st</sup> construction drawing submittal (later in the approval process):
  - a. Show and label backwater easements (to be recorded) at stream crossings and storm drainage inlets; provide 100 year calculations accordingly.
  - b. Provide a drainage area map and supporting calculations.
5. Prior to construction drawing approval, the following items must be addressed:
  - a. The NCDOT right of way abandonment issue for South Main Street must be resolved.

**Motion By:** Womble

**Second By:** DeBenedetto

**Vote:** Unanimous

**6c. Shelly Lane Gifts and Collectibles, 06-DP-12** – Ms. Huffman explained that 06-DP-12, Shelly Lane Gifts and Collectibles proposes a gift shop within the existing building located at 100 E. Ballentine Street. She said the applicant is mirroring the approved site plan for the Alltel Communication office that was approved in 1999, but is proposing

improvements to the site.

Ms. Huffman said the plan proposes on-street parking and sidewalks. She said the developer proposes brick veneer columns on the corners of the structure with black fabric awnings and decorative lighting on both sides of the front door. She said the façade and trim work would be painted. Ms. Huffman said this structure is in compliance with the marketing study completed for the Village District Area Plan.

Ms. Huffman said the Planning Board discussed the sidewalk connections and parking and recommends approval with conditions.

There was discussion among staff and the Council Members if there were adequate on-street parking for this site.

Thomas Spaulding, 971 Trinity Road, Raleigh, representing the applicant, said the applicant is proposing significant improvements to the property using the existing square footage. He said the on-street parking located on West Ballantine would match the parking of the Village Office Condos on-street parking area.

**Action:** The Council approved a motion to approve Development Plan #06-DP-12 for Shelly Lane Gifts and Collectibles as submitted by Spaulding & Norris, PA, project number 627.06, dated revised 10/10/2006 with the following conditions:

- 1) The following items are to be included with 1<sup>st</sup> construction drawing submittal (later in the approval process):
  - a) Identify additional impervious area that will be added with Ballantine Road widening and where the storm drainage will be collected. Offsite evaluation will be necessary to determine the point of collection and if any additional off-site modifications area necessary for storm drainage.
- 2) The following items are to be addressed prior to 1<sup>st</sup> construction drawing approval:
  - a) Plat recording the right of way for Ballantine Street and Raleigh Street.
  - b) Recorded deed providing right of way and temporary construction easements for South Main Street.
  - c) Within 10 business days the applicant will submit a revised landscape plan, sheet C-2.0 to depict the correct landscape perimeter yard. The landscape perimeter yard is to be installed on the property line adjoining the neighboring residential property as required by the Town of Holly Springs UDO Section 7.01.
- 3) The on-street parking for Ballantine Street is to match the Village Office Condos on-street parking area.

**Motion By:** Atwell

**Second By:** Womble

**Vote:** Unanimous

At this time, Mayor Sears and Councilman VanFossen asked to be excused from discussion and deliberation on Items 6d. and 6e., and the Council approved the motion to recuse Mayor Sears and Councilman VanFossen from the meeting.

**Motion By:** Atwell

**Second By:** Dickson

**Vote:** Unanimous

Councilman Womble asked the town attorney if Mayor Sears and Councilman VanFossen should remain in the meeting. Mr. Schifano explained that they could remain seated; however, they could not participate in the discussion and the deliberation of the next two agenda items.

Councilman Atwell wanted to commend Mayor Sears and Councilman VanFossen for recusing themselves each time there is discussion regarding Twelve Oaks Subdivision because of their professional relationships to the project, even though it may not always be necessary.

**6d. Twelve Oaks, Phase 3A, 06-MAS-07** – Ms. Huffman explained that the applicant is requesting approval for Twelve Oak, Phase 3 preliminary plan 06-MAS-07. She said the plan proposes 15.12 acres for 47 single-family residential type B lots with a minimum lot size of 7,000 square feet.

Ms. Huffman said the lot sizes range from 7,000 square feet to 13,559 square feet. She said within the entire PUD plan there are 234.1 acres of open space and 1.3 acres of open space in phase 3A.

Ms. Huffman said staff and the Planning Board recommend approval with conditions.

Councilman Dickson asked if condition #4 regarding an amendment to the development agreement as the result of losing 17 acres of public open space had been resolved.

Mr. Bradley said that issue has not been resolved, but that he is still working with the developer on amending the agreement.

**Action:** The Council approved a motion to approve Preliminary Plan #06-MAS-07 for Twelve Oaks Phase 3A as submitted by Spaulding & Norris, PA, dated September 25, 2006 with the following conditions:

- 1) All previous PUD conditions for the approved Twelve Oaks PUD will also apply to this project.
- 2) Prior to Final Plat, the following must be completed:
  - a) Provide covenants which establish Homeowner's Association to cover maintenance of private open spaces,

streets, parking areas, lighting, recreation areas, greenways, ponds, lakes, private sewer collection, private drainage easements, etc. Note a draft copy of the Homeowner's Association covenants will need to be submitted with 1<sup>st</sup> plat submittal for review. Once plat and Homeowner's Association covenants are complete, a recorded copy will need to be returned to the town with the recorded plat.

- 3) The following items are to be included with 1<sup>st</sup> construction drawing submittal (later in the approval process):
  - a) Provide a drainage area map of all upstream area that is tributary to the development as well as the onsite sub-basin areas. Please confirm that all post runoff will be accommodated. Supporting calculations shall be submitted as well.
  - b) Show and label backwater easements (to be recorded) at stream crossings and storm drainage inlets; provide 100 year calculations accordingly.
  - c) Provide grading plan showing existing and proposed contours.
  - d) Per the Holly Springs Flood Ordinance areas with a drainage area greater than 5 acres shall provide a flood study. A HEC-RAS flood study shall be required with 1<sup>st</sup> construction drawing submittal. After grading is complete an as-built flood study will need to be completed and approved prior to plat submittal.
  - e) Verify that proper clearance is provided between water main, sanitary sewer, reuse, and storm sewer lines.
  - f) Provide sewer service and meter locations (including sizes).
  - g) Verify that minimum FFE is 2' above the 100 year flood or backwater elevation for all lots adjacent to the flood plain.
- 4) Parks & Recreation Dept. – Due to the Council approved amendments to the PUD there is a need to amend the Developer Agreement as a result of the loss of 17 acres of public open space. Until then we are recommending that the fee-in-lieu be paid at the rate of \$904 per unit. Discussions have been with the developer towards the building of greenway to compensate for the loss of acreage. To this point nothing has been finalized.

**Motion By:** Atwell

**Second By:** Vinnie

**Vote:** Unanimous

**6e. Twelve Oaks, Phase 4, 06-MAS-08** – Ms. Huffman said that this request is for approval of Twelve Oaks Phase 4 which is designated for 22 single-family residential Type D lots of a minimum 12,000 square feet lot size. She said the smallest lot in phase 4 is 15,946 square feet and the largest is 50,197 square feet.

Ms. Huffman said there is .8 acres of proposed open space and 12.9 acres in residential lots making the total acreage 13.7 acres for phase 4.

Ms. Huffman said the applicant is requesting an exception to the Engineering Design and Construction Standards for the 1,000 feet maximum length of the cul-de-sac shown on this plan. The length of this cul-de-sac would be approximately 1,500 feet from the last point of alternate access.

She explained that engineering staff supports this exception to the standards since there would be only 20 lots on this cul-de-sac, and adequate hydrant spacing is provided.

Mr. Parker said the fire and rescue department reviewed the plan and found no problems with getting rescue vehicles onto the street as long as there is not on-street parking. He added that the large lot sizes would minimize on-street parking.

Ms. Huffman said the Planning Board discussed the length of the cul-de-sac, fire hydrants and the ability of fire trucks to turn around at the end of the cul-de-sac. She said staff and the Planning Board recommend approval with conditions.

**Action #1:** The Council approved a motion to approve an exception to the Town's Engineering Design and Construction Standards Section 3.02-E associated with preliminary plan 06-MAS-08 for Twelve Oaks, Phase 4 to allow the length of a dead end road to exceed the maximum of 1,000 feet as submitted by Jones, Cnossen & Dolle Engineering, PLLC, dated September 25, 2006.

**Motion By:** Womble

**Second By:** Atwell

**Vote:** Unanimous

**Action #2:** The Council approved a motion to approve Preliminary Plan #06-MAS-08 for Twelve Oaks Phase 4 as submitted by Jones, Cnossen & Dolle Engineering, PLLC, dated September 25, 2006 with the following conditions:

- 1) All previous PUD conditions for the approved Twelve Oaks PUD will also apply to this project.
- 2) The following items will need to be addressed during Final Plat review:
  - a) Homeowner's Association Covenants will need to cover maintenance of private open space, private streets, parking areas, lighting, recreation areas, greenways, ponds, lakes, private sewer collection, private drainage easements, etc. The covenants will need to be submitted for review with 1<sup>st</sup> plat submittal and then

recorded covenants will need to be recorded at the time that the plat is recorded. If this is addressed with an earlier phase then a copy of the recorded covenants should be provided with the plats at the time of review.

- 3) The following items are to be included with 1<sup>st</sup> construction drawing submittal (later in the approval process):
  - a) Please provide a drainage area map of all upstream area that is tributary to the development as well as the on-site sub-basin areas. Confirm that post development run-off will be accommodated. Supporting calculations shall be submitted.
  - b) Show and label backwater easements (to be recorded) at stream crossings and storm drainage inlets; provide 100 year calculations accordingly.
  - c) Per the Holly Springs Flood Ordinance areas with a drainage area greater than 5 acres shall provide a flood study. A HEC-RAS flood study shall be required for this project. After grading is complete an as-built flood study will need to be completed and approved prior to plat submittal.
  - d) Provide signed USACE wetlands map.
- 4) Parks & Recreation Dept. – Due to the Council approved amendments to the PUD there is a need to amend the Developer Agreement as a result of the loss of 17 acres of public open space. Until then we are recommending that the fee-in-lieu be paid at the rate of \$904 per unit. Discussions with the developer towards the building of greenway to compensate for the loss of acreage. To this point nothing has been finalized.

**Motion By:** Atwell

**Second By:** Womble

**Vote:** Unanimous

**Action:** The Council approved a motion to readmit Mayor Sears and Councilman VanFosson into the meeting.

**Motion By:** Atwell

**Second By:** Womble

**Vote:** Unanimously

**6f. The Overlook at Holly Glen Grading/Construction Plan** – Ms. Goodson explained to the Council that the Overlook at Holly Glen was originally approved on November 15, 2005 with the following special condition added by Council: *“The proposed development is (to be) appropriate to the site and its surroundings and the existing grading, and vegetation will be preserved to the extent possible in keeping with common building practices.”*

Ms. Goodson said the developer has since submitted a grading and construction plan for roadway and utility grading which was approved. She explained the developer also submitted a revised erosion control plan that shows the proposed lot clearing and grading en masse – the majority of the 80 lots. She said that staff denied the initial submittal and told the developer that it did not meet the Council’s condition of approval.

Councilman Atwell expressed his concern that the developer intends to mass grade every developable portion of the property, and that the only trees that were being preserved for open space were those situated in areas where the topography is so severely steep that it cannot be used for development anyway. He said the plan represents a worst-case scenario for the clear-cutting of trees.

Councilman Dickson said that the grading plan is similar to the Windcrest development.

Councilman DeBenedetto asked the percentage of the homes that will built as slab on grade.

Thomas Spaulding of Spaulding and Norris, PA, 972 Trinity Road, Raleigh, representing McCar Homes, who is the current owner of the property -- Mr. Spaulding said that none of the homes will be built slab on grade. Mr. Spaulding distributed a brochure of the style of homes that will be constructed within the development. He said the houses are to be constructed of stone, brick and hardiplank.

Mr. Spaulding reviewed with the Council the grading plan and the location of the sewer lines which will require grading. He said the plan before the Board shows only the area requested for grading, but does not show the 40% of undisturbed areas of the project.

Mr. Spaulding described how the plan meets the intent of the condition and explained that because of the topography of the land, the developer cannot meet the condition. He discussed the movement of dirt from one side of the development to the other, to build up the topography, because the land and driveways are so steep. Mr. Spaulding said that by grading all the lots at one time the developer can review the drainage at one time, instead of lot by lot. He said the plan calls for construction of seven retaining walls because of the steepness of the property.

Mr. Spaulding said “why” the developer is requesting grading for the entire site is because of safety, looks and the end product. He said the safety issue is the steepness of the driveways and once the residents are living within the development, the dirt moving should be completed. He said the second issue is the appearance of the development. He said when grading the entire area at once, the lots can be tied together more smoothly, and the drainage can be reviewed properly at one time by the developer versus grading by the builder on a lot by lot bases.

Mr. Spaulding asked the Council to consider the topography of the land, which is from 40 to 50 feet difference in

elevation from the highest point of the property to the lowest.

Mr. Spaulding said the proposed lot plan indicates that a portion of the lots will be graded in their entirety, leaving no existing vegetation; and some lots will be graded leaving vegetation only in the perimeter buffer. The remaining lots along the northeast and northwest perimeters have kept the most natural vegetation and topography along the streams and open space.

Councilman DeBenedetto asked if the development would belong to a home owners association and how much parks, greenway and open space will this development have.

Mr. Spaulding said that this site has been adopted into the Holly Glen HOA and pays a fee for the use of the pool and park areas.

There was much discussion among the Council members and Mr. Spaulding about the reasoning of mass grading and whether the slope of the uphill lots would be better served as lawns than wooded areas.

Councilman Atwell gave an example of the homes built in Holly Pointe, which is similar to this development in that the rear yards are very steep with a sewer easement cleared, but the trees are preserved.

Councilman Atwell asked for clarification on the McCar's product, specifically if the homes would be a slab on grade product.

Brent Newman of 8529 Kempton Cross Drive, Wake Forest with McCar Homes – Mr. Newman explained that the foundation of the homes is a stem wall foundation versus the slab on grade foundation.

Councilman Atwell discussed the appearance of the product with trees and said mass grading is more of ease to the developer versus a safety issue. Councilman Atwell said that in the Holly Glen Home Owners Association agreement the plan calls for forest landscaping. He also discussed the need to preserve the trees in the buildable areas and the development will have the appearance of mass grading like Braxton Village and Windcrest subdivisions.

After much discussion among Mr. Newman and the Council regarding the slope and steepness of the topography Council members were in consensus to deny the grading plan, to direct the applicant to resubmit a revised grading plan and to encourage all new development to preserve wooded areas and slopes and natural character.

**Action:** The Council approved a motion to deny the proposed grading and construction plan for The Overlook at Holly Glen, ruling that it does not meet the intent of the preliminary plan approval condition and to direct the applicant to resubmit a revised grading plan.

**Motion By:** Atwell

**Second By:** Dickson

**Vote:** Unanimous

**6g. Stinson Avenue Connection Plan** – Ms. Stephenson explained that in the Town's Capital Improvement Plan a roadway connection is planned for Stinson Avenue. She said the roadway connection will connect the two existing sections of Stinson for vehicular, bike and pedestrian traffic. She said the connection will serve as a vital link between the Village District and Bass Lake Road.

Ms. Stephenson said the construction will include 400 linear feet of roadway; three 8 ft. x 7 ft. box culverts; 149 feet of sewer relocation; 400 feet of 8-inch waterline; and roadway storm drainage.

She said staff plans to publicly bid the construction project the second week in November and construction will be complete by mid-summer.

**Action:** The Council approved a motion to endorse the Stinson Avenue connection plan.

**Motion By:** Dickson

**Second By:** Atwell

**Vote:** Unanimous

**6h. Fire Station Renovations Plan** – Mr. Parker said the board previously approved renovations to Fire Station Two located on Avent Ferry Road. He said this request is to consider the building elevations and floor plans. Mr. Parker said the footprint of the building will not change. He said the renovations will provide sleeping quarters and restroom/shower facilities for staff.

He said the exterior of the facility will be painted, re-roofed and new bay doors would be installed.

Mr. Parker said that staff recommends awarding the construction contract to R.E.D. Construction in the amount of \$232,000.

Mr. Dean said the Town received the following three bids from contractors: Nordic Design & Construction, Inc., in the amount of \$256,500; Raper & Sons in the amount of \$233,500 and R.E.D. Construction Co. in the amount of \$232,000.

**Action:** The Council approved a motion to award construction contract to R.E.D. Construction for renovations to the Holly Springs Avent Ferry Road fire station in the amount of \$232,000.

**Motion By:** Womble

**Second By:** VanFossen

**Vote:** Unanimous

**6i. Flood Plain Ordinance Variance Request** – Ms. Keefer explained that this request is for a variance to the Flood Damage Prevention Ordinance to place fill dirt on lot 38, 5309 Crocus Court in the Sunset Lake Village Subdivision to provide adequate space to construct a single family residence.

Ms. Keefer reviewed the history of the development of Sunset Lake Village Subdivision and recording of the plat that is was recorded in February of 1994. She said Holly Springs entered into the National Flood Insurance Program (NFIP) in December 1994 at that time the first version of the Flood Damage Prevention Ordinance was used to regulate development in the FEMA floodplain. She said the Town's Ordinance requires all residential lot construction to be outside of the floodplain and fill is not permitted on residential lots to provide buildable area. Ms. Keefer explained that since the Sunset Lake Village subdivision was recorded prior to the Town entering into the NFIP, lots were not required to have a minimum buildable area outside the floodplain. She said on May 2, 2006 the Town Council adopted revisions to the Ordinance adopting the current FEMA Flood Insurance Rate Maps (FIRM). She said in 1992 when the lot was originally recorded the Town did not enforce regulations to keep residential structures outside of the floodplain.

Ms. Keefer said that staff and the property owners have met to determine if there was enough buildable area outside the floodplain to construct a house and not need a variance from the Town. She said at that time the 1992 FIRM was the effective floodplain map and it appeared that a home could not be constructed without encroaching into the 100-year floodplain.

Ms. Keefer explained that once the fill is in place on the lot the applicant can obtain a "Letter of Map Revision for Fill" (LOMR-F) from FEMA, thus relocating the 100-year floodplain on the lot and allowing a buildable area outside of the floodplain that would meet the Town's ordinance requirements. She said the applicant has provided sufficient documentation to the Town that supports the ability to obtain a LOMR-F from FEMA.

Ms. Keefer explained to the Council the guidelines of the Appeal Board and the requirements for granting a variance to the Flood Damage Prevention Ordinance.

She reviewed with the Council members the following factors and the written responses by the property owner or their authorized agent in the variance application.

(1) The danger that materials may be swept onto other lands to the injury of others;

Applicant's Response: The proposed fill will not created a danger that material may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

Applicant's Response: The proposed fill will elevate the building pad for the residence so that there would not be a danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

Applicant's Response: the proposed fill would bring the lot grade a minimum of two feet above the 100-year floodplain elevation, thereby reducing the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

Applicant's Response: The development of this previously platted (but current un-buildable lot), would allow construction of a single family residence, which would be subject to property taxes provided to the community.

(5) The necessity to the facility of a waterfront location as defined under Sec. 8-85 of this ordinance as a functionally dependant facility, where applicable;

Applicant's Response: Not applicable; property does not abut the lake;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

Applicant's Response: Since for all practical purposes, the lot is completely encumbered by the 100- 500 – year floodplain areas, there are not alternative locations within this lot.

(7) The compatibility of the proposed use with existing and anticipated development;

Applicant's Response: The proposed use is compatible with the surrounding residential development and is, in facet, subject to the same architectural review constraints associated with the neighboring lots and residences;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

Applicant's Response: The proposed use is consistent with the Comprehensive Plan, since this area is identified as a single family residential on the Future Land Use map. It is located on the outer edge of the floodplain area. The requested variance proposes no more than 0.04 acre of fill within a total floodplain area of approximately 650 acres, or less than 0.1 percent of the floodplain area.

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

Applicant's Response: The proposed fill will allow safe access to the property in times of flood for ordinary emergency vehicles to be maintained from Crocus Court, an existing right-of-way within the Town of Holly Springs.

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

Applicant's Response: The proposed fill will not alter the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of the wave action expected at the site, since the flood elevation is controlled by the existing Sunset Lake Dam, and will not be altered by the proposed fill.

(11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

Applicant's Response: The proposed fill will not affect the cost of providing governmental services during and after flood conditions.

Ms. Keefer said that when considering the factors listed above and the purposes of the Flood Damage Prevention Ordinance, the board may add additional conditions to the granting of variances as it deems necessary to further the purposes of this ordinance. She said that staff recommends approval of the variance to the Flood Damage Prevention Ordinance with the following conditions:

1. A Letter Of Map Revision of Fill must be obtained by FEMA prior to the issuance of a building permit
2. The lot must be rerecorded with the new FEMA mapped floodplain lines prior to issuance of a building permit.
3. A grading plan for the lot must be approved by the Town prior to fill being placed on the lot.

**Action #1:** The Council approved a motion to make and accept that the following findings of fact and have been adequately addressed by the petitioner, and that the conditions for variance have been met and the findings of facts are recorded in the minutes to grant a variance, per section 8-125 of the Flood Damage Prevention Ordinance for lot 38 in the Sunset Lake Village Subdivision, 5309 Crocus Court.

Findings of Fact:

- (1) The danger that materials may be swept onto other lands to the injury of others is not present.
- (2) The danger to life and property due to flooding or erosion damage is not present.
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner is not significant.
- (4) The importance of the services provided by the proposed facility to the community important.
- (5) The necessity to the facility of a waterfront location as defined under Sec. 8-85 of this ordinance as a functionally dependant facility, where applicable is necessary / unnecessary / not applicable).
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use is unavailable.
- (7) The compatibility of the proposed use with existing and anticipated development; compatible.
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area; is in keeping with the comprehensive plan.
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles is accessible.
- (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and no waive action.
- (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges, is insignificant cost.

Conditions for Variance:

- (1) This variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
- (2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
- (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (4) Variances shall only be issued prior to development permit approval.
- (5) Variances shall only be issued upon:
  - i) A showing of good and sufficient cause;
  - ii) A determination that failure to grant the variance would result in exceptional hardship;
  - iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

**Motion By:** DeBenedetto

**Second By:** Atwell

**Vote:** Unanimous

**Action #2:** The Council approved a motion to grant a variance to allow fill to be placed in the floodplain on lot 38 in the Sunset Lake Village subdivision at 5309 Crocus Court with the following conditions of approval:

- (1) A LOMR-F must be obtained by FEMA prior to the issuance of a Building Permit.
- (2) The lot must be rerecorded with the new FEMA mapped floodplain lines prior to issuance of a building permit.

(3) A grading plan for the lot must be approved by the Town prior to fill being placed on the lot.

**Motion By:** DeBenedetto

**Second By:** Womble

**Vote:** Unanimous

**6j. 5032 Sunset Lake Road Property Condemnation** – Mr. Schifano explained that in keeping with the roadway plan for Lockley Road where it intersects with Sunset Lake Road, the Town will need to acquire right of way easement at 5032 Sunset Lake Road. He said that this will require the relocation of a house located at this address. He said he is currently in negotiations with the landowner regarding voluntary acquisition; however the Council is being asked to consider Resolution 06-50 to authorize condemnation action in the event that negotiations fail. He said that this condemnation will allow the town contractors to enter the property for survey and preliminary work within 30 days.

**Action:** The Council approved a motion to adopt Resolution 06-50 authorizing the town attorney to initiate eminent domain proceedings against landowner Annie Mickens at 5032 Sunset Lake Road.

**Motion By:** Dickson

**Second By:** VanFossen

**Vote:** Unanimous

A copy of *Resolution 06-50* is incorporated into these minutes as addendum pages.

**6k. Town Staff Longevity Pay Adjustment** - Mr. Holland explained to the Town Council the Town's personnel policy states that full-time and part-time regular employees are compensated by payment of longevity supplements based on their years of service: 2 – 4 years, \$100; 5 – 9 years, \$300; 10–14 years, \$500; 15 -19 years, \$700; and 20 years or more, \$1,000.

Mr. Holland asked the Council to consider adjusting the Town staff's longevity pay to include amounts for FICA withholding (7.65%) and retirement (6%). He said staff would then receive the full amount of longevity.

Mr. Holland said this would not affect the FY 2006-07 budget as funds are to be appropriated from within each department's existing budget.

**Action:** The Council approved a motion to authorize the longevity pay schedule for employees to include amounts to cover withholding amounts for FICA and retirement.

**Motion By:** Dickson

**Second By:** Atwell

Councilman VanFossen asked if there were any other tax allowances Town staff receive for such things as car, travel or transportation allowances. Mr. Holland said that there are no allowances for travel or transportation to off-set the taxes.

**Vote:** Unanimous

A copy of *the longevity distribution list* is incorporated into these minutes as an addendum page.

**7. Public Comment:** At this time, an opportunity was provided for members of the audience who had registered to speak to address the Council on any variety of topics not listed on the night's agenda.

Mayor Sears said that Mr. James Johnson, a retired police officer of the New York City Police Department, wants to offer his services of working with troubled teens and gangs; however, Mr. Johnson had to leave earlier in the meeting.

**10. Other Business:** Councilman VanFossen reviewed the activities of the Technical Review Committee with the Council. He said that there is a potential subdivision zoned R-20: Residential located on Rex Road, and the developer wishes to tie into Town utilities. He reported that the committee reviewed amendments to the UDO amending sections 9.03, Board of Adjustment, sections 3, 4 and 5 amending the commercial/mixed use, industrial and the PUD districts.

Councilman DeBenedetto mentioned the South Wake Landfill Citizens' Committee was holding an open meeting Wednesday, November 15<sup>th</sup> at the Holly Springs High School auditorium. He asked if this would be posted on the Town's website.

Mr. Dean said the meeting notice will be placed on the Town's website. He said from 5 to 7 p.m. the County will explain the site plan and layout of the landfill and will have a question and answer session and from 7 p.m. to 9 p.m.

He explained that the County would be seeking committee members and reviewing the guidelines of the

committee. He said that this committee is an advisory committee only and this meeting will not be a meeting to discuss if there should or shouldn't be a landfill in Holly Springs.

Councilman Atwell requested the town manager to research the removal of the port-a-potty that has been sitting in front of the Village Office Condos for approximately a year and to arrange for its removal. Mr. Schifano said that the guidelines states that the builder has to have an active building permit for a port-a-potty to remain on site.

**11. Manager's Report:** Mr. Dean congratulated all the volunteers who worked at the Holly Fest event held October 28, 2006. He said that last Thursday, Nov. 1, the Town installed its first historic marker at the Masonic Lodge, and he thanked Barb Koblisch and Joni Powell for making it happen.

Mr. Dean reminded the Council that on Nov. 16, a Comprehensive Growth Plan public meeting will be held at W. E. Hunt Center between 6 and 8 p.m. He also reminded members of the Economic Development Department's business appreciation event to be held Nov. 15 at Bass Lake Retreat Center and of the county's landfill meeting to be held that same night at Holly Springs High School.

Mr. Dean invited the Council to the Town's Christmas party on Dec. 1 at the Flint Point Lane Fire Station starting at 6:15 p.m.

He said the Holly Springs Christmas parade is scheduled for Dec. 9 and immediately after the parade, there will be the grand opening of the Holly Springs Cultural Center and Library.

Mayor Sears mentioned that Tony Gurley will be opening the South Wake Landfill Citizens Committee meeting on Nov. 15.

**12. Closed Session:** The Council approved a motion to enter into Closed Session, pursuant to G.S. 143-318.11(a)(3) to discuss with the town attorney matters of possible litigation.

**Motion By:** Atwell

**Second By:** Dickson

**Vote:** Unanimous

#### **General Account of Closed Session – November 7, 2006**

In Closed Session, the Town Council gave the town attorney direction.

#### **-- End General Account**

The Council approved a motion to return to Open Session. The motion was made by Councilman Dickson, seconded by Councilman Atwell and carried unanimously.

**13. Adjournment:** There being no further business for the evening, the Nov. 7, 2006, meeting of the Holly Springs Town Council was adjourned following a motion by Councilman Dickson, a second by Councilman Atwell and a unanimous vote.

Respectfully Submitted on Tuesday, Dec. 19, 2006.

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Linda Harper, CMC, Deputy Town Clerk

**Addendum pages as referenced in these minutes follow and are a part of the official record**