

# Holly Springs Town Council Minutes

## Regular Meeting Nov. 21, 2006

The Holly Springs Town Council met in regular session on Tuesday, November 21, 2006, in the Council Chambers of Holly Springs Town Hall, 128 S. Main Street. Mayor Dick Sears presided, calling the meeting to order at 7:05 p.m. A quorum was established as the mayor and four council members were present as the meeting opened.

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

**Council Members Absent:** Councilmen Vinnie DeBenedetto.

**Staff Members Present:** Carl Dean, town manager; Charles Simmons, assistant town manager; John Schifano, town attorney; Linda Harper, deputy town clerk (recording the minutes); Gina Bobber, director of planning and zoning; Mark Zawadski, planner I; Kendra Stephenson, senior engineer; Elizabeth Goodson, development review engineer.

Mark Andrews, public information officer; Drew Holland, finance director; Daniel Weeks, project analyst; Bob Klaus, cultural center manager; John Herring, police chief; Len Bradley, director of parks and recreation; Eric Tayler, information technology director; Brad Black, IT technician; and Jenny Mizelle, director of economic development.

**2 and 3.** The Pledge of Allegiance was recited, and the meeting opened with an invocation by Mr. Lewis Gentry.

**4. Agenda Adjustment:** The November 21, 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:** None.

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

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

**Other Changes:** None.

**5a. Public Hearing: New World Systems Logo.Net Software** – Mr. Taylor explained to the Town Council this request is to purchase new computer software from New World Systems. He said the software is designed to integrate all town departments and operations that use the same database.

Mr. Taylor explained that the Town of Fuquay-Varina recently bid this same computer software and received a low bid from New World Systems. He said that New World Systems has agreed to extend to the Town of Holly Springs the same price and terms set forth in its contract with the Town of Fuquay-Varina, entered into on May 31, 2006.

Mr. Dean said that the State purchasing laws allow for municipalities to grant themselves a waiver from competitive bidding (under N.C.G.S. § 143-129(g)) if a company agrees or offers to honor its winning bid to another municipality for the same purchase within a set timeframe of twelve months.

Mr. Tayler requested the Town Council table the action until the next Town Council meeting.

With that explanation completed, Mayor Sears opened the public hearing to accept input. The following comments were recorded: None.

There being no input, the public hearing was closed.

**Action:** The Council approved a motion to defer action for the purchase of new computer software in the amount of \$462,550 from New World Systems.

**Motion By:** Womble

**Second By:** Atwell

**Vote:** Unanimous

**5b. Public Hearing: Wildacre Zoning Vested Rights, 06-ZVR-02** – Mr. Zawadski said that this request is for Zoning Vested Rights for Wildacre, 06-ZVR-02 development and according to the Unified Development Ordinance, (UDO), Section 9.08 Zoning Vested Rights provisions, zoning vested rights may be granted to allow a specific development plan to be completed under the zoning regulations in place at the time of approval of the original plan.

Mr. Zawadski said that staff is recommending approval.

With that explanation completed, Mayor Sears opened the public hearing to accept input. The following comments were recorded:

Mr. Wayne Turner of 224 Cliff Creek Drive, Holly Springs asked for clarification on the distance between the Sunset Ridge North development and Wildacre's and how many homes will be developed within the Wildacre development. He said that he was also concerned about the increase traffic this development would create on Holly Springs Road toward the Cary direction.

There being no further input, the public hearing was closed.

Councilman VanFossen said that one of the exceptions that the developer is asking for vested rights is the side and rear architectural design elements for all lots adjacent to the open space. He said the old development incentives required side and rear architectural design elements for lots adjacent to open space and lots less than 10,000 square feet. He asked the developer what was being proposed for the side and rear architectural design elements.

Mr. Phillip Culpepper, 2513 Buckston Court, Chapel Hill a consultant planner for Preston Development explained in the original approved plan the lots were located to the center of the creek and the new owner decided to preserve the open space between the lots and preserve the buffers and keep the creeks out of the rear yards. He said that by creating the open space the lots will be backed up to the open space. Mr. Culpepper said the development will meet all the Town's required standards.

Councilman Van Fossen said the new regulations also require that a minimum of three acres be set aside for commercial development since the project is over 300 acres.

Mr. Culpepper said that the original plan did not proposed any commercial development and is not an issue for the developer, with the road layout within that area the existing and future commercial plans is significant to serve that area.

Councilman Atwell explained that when Wildacre development was originally approved by the Town Council on December 5, 2005 the development incentive regulations in the UDO have changed since the plan was originally adopted and now the developer is applying for zoning vested rights for this project. He said with the approval of zoning vested rights will allow the developer to develop the property under the UDO regulations and incentives that were in place at the time of the original approval. He said that this request does not address any specific changes in the plan.

**Action:** The Council approved a motion to grant the use of Zoning Vested Rights for project #05-DP-09, Wildacre, for a period of five years from this date to authorize the development of this property according to the terms and conditions of the Unified Development Ordinance in place at time of approval of the original preliminary plan in December 5, 2005.

**Motion By:** Womble

**Second By:** Atwell

**Vote:** Unanimous

**6. Consent Agenda:** The Council approved a motion to approve all items on the Consent Agenda, the motion carried following a motion by Councilman Womble, a second by Councilman Dickson and a unanimous vote. The following actions were affected:

6a. Budget Amendments Report - The Council received a report of the FY 2006-07 budget amendments #26 through #33 approved by the town manager.

6b. Budget Amendment, \$50 – The Council adopted a budget amendment to the FY 2006-07 budget to

accept donation from the First Baptist Church of Holly Springs for the Holly Springs Fire/Rescue Department. *A copy of budget amendment is incorporated into these minutes as an addendum page.*

6c. CDBG Budget Ordinance 06-16 – The Council adopted Ordinance 06-16 accepting Community Development Block Grant funding in the amount of \$45,400 and establishing a project budget for the Scattered Sites Local Option program, which the funding is to be used. *A copy of Budget Ordinance 06-16 is incorporated into these minutes as an addendum page.*

6d. CDGB Scattered Sites Program Contract – The Council authorized entering into a contract with The Wooten Company for administration of the 2006 CDBG Scattered Sites program. *A copy of the contract is incorporated into these minutes as addendum pages.*

6e. Parks and Recreation Advisory Committee Appointment – The Council appointed Monica Fanjoy to fill an open seat on the Recreation Advisory Committee with a term to expire June 30, 2009.

6f. Relocation of N. Main Street Fire Station – The Council ratified a contract with Mullen Construction Company, Inc. in the amount of \$34,200 to relocate former N. Main Street fire station to the Holly Springs Public Works facility. *A copy of the Mullen Construction Company, Inc. contract is incorporated into these minutes as addendum pages.*

6g. Ordinance 06-17, Code Enforcement Amendment – The Council adopted an ordinance amendment to Chapter 6 of the Holly Springs Code of Ordinances on Code Enforcement regarding grass and weeds. *A copy of Ordinance 06-17 is incorporated into these minutes as addendum pages.*

6h. Union Ridge Infrastructure Reimbursement Agreement – The Council approved to enter into a infrastructure reimbursement agreement with the developer of Union Ridge with terms previously approved by the Council. *A copy of the Union Ridge Infrastructure Reimbursement Agreement is incorporated into these minutes as addendum pages.*

6i. Resolution 06-52, Reclaimed Water Systems Standards and Details – The Council adopted Resolution 06-52 amending and renumbering the Reclaimed Water System Standards and Details of the Town's Engineering Design and Construction Standards Manual. *A copy of Resolution 06-52 is incorporated into these minutes as addendum pages.*

**7a. Holly Springs Cultural Center Fees and Policies** – Mr. Klaus explained this request is to consider the Cultural Center's facility rental fees and policies. He said the fees and policies reflect the current practices at other cultural centers and theatre organizations and are consistent with the policies and charges of the Bass Lake Retreat Center and the Hunt Community Center.

Mr. Klaus said that in the process of the research of the study, it produced a wide range of data that was considered carefully and staff reviewed numerous variables including the room sizes, equipment and presentation capabilities, room finishes and ambiance.

Mr. Klaus said that staff compared the facility rates and policies with the following agencies: Carrboro Arts Center; Raleigh Little Theater; Apex Community Center; Higher Ground Theater; Garner Historic Auditorium; Town of Cary Community Centers; Durham Arts Council Theaters; Hunt Center and Bass Lake Facilities, Town of Holly Springs.

Mr. Klaus said that the proposed rental rates are consistent with other Town of Holly Springs facilities with discounts given to Holly Springs residents and Holly Springs based non-profits and is conservative and promotes the maximum trail use of the facility.

Mr. Klaus said the proposed rental rates would become effective January 1, 2007 through June 30, 2007 and at the end of the fiscal year, staff will reevaluated and make adjustments for the next FY 2007-08 budget year.

Mr. Klaus reviewed with Councilman Van Fossen the rental fees for the performing arts theatre stages and rental packages.

**Action:** The Council approved a motion to adopt the Holly Springs Cultural Center facility rental rates and policies to be effective January 1, 2007 through June 30, 2007.

**Motion By:** Atwell

**Second By:** Womble

**Vote:** Unanimous

*A copy of the Cultural Center fees and polices are incorporated into these minutes as addendum pages.*

At this time, Mayor Sears and Councilman VanFossen asked to be excused from discussion and deliberation on Items 7b, and the Council approved the motion to recuse Mayor Sears and Councilman VanFossen from the meeting.

**Motion By:** Dickson

**Second By:** Atwell

**Vote:** Unanimous

Councilman Atwell said that there was no need of Councilman Van Fossen and Mayor Sears to recuse themselves when there is not a conflict of interest involved.

**7b. Green Oaks Parkway Property Condemnation** – Mr. Schifano said that in keeping with the Town's transportation improvement plan, the Town currently is attempting the voluntary acquisition of right of way for Green Oaks Parkway.

He said the Town is obligated to acquire the right of way for construction of the new road pursuant to agreements with Twelve Oaks PUD and Novartis. He explained that the placement of the road and utilities will open up certain areas for development, which will increase the value of the parcels.

Mr. Schifano said staff will continue to work with the three property owners for voluntary acquisition for the three properties. He said that this condemnation resolution will provide the authority, to condemn the property, if needed.

**Action:** The Council approved a motion to adopt Resolution 06-51, authorizing condemnation proceedings to acquire property from various property owners for the construction of Green Oaks Parkway to serve Twelve Oaks Subdivision and Novartis Vaccines and Diagnostics, Inc.

**Motion By:** Atwell

**Second By:** Womble

**Vote:** Unanimous

*A copy of Resolution 06-51 is incorporated into these minutes as addendum pages.*

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

**Motion By:** Atwell

**Second By:** Womble

**Vote:** Unanimously

**7c. Union Ridge Pump Station Site Plan** – Ms. Sudano said this request is to endorse the Union Ridge Pump Station site plan. She said the plan needs to be consistent with the Town's Engineering Design and Construction Standards. She said the that normally this approval process happens simultaneously with the preliminary plan approval; however, this development was not approved initially with a pumping station, the Town Council granted the developer permission to install a pumping station at a later date.

Ms. Sudano said the pump station is surrounded by future Union Ridge subdivision lots and meets the buffer design standards and staff recommends approval.

Councilman VanFossen asked for clarification on the lower property labeled as open space on the plan.

Danny Blackburn of Blackburn Engineering Consultants representing the developer said the area located on the lower side of the property is the common open space and flood plain areas.

Councilman VanFossen asked about moving the pump station farther downward onto the property. Mr. Blackburn explained for vehicular movement for maintenance of the pump station; the 50 foot buffer requirements and the site boundaries, the pump station can not be relocated farther away from the adjacent lots.

Councilman Atwell explained that with the location of the property lines and required buffers the pump station is sited on the lot as tight as possible to fit onto the property.

Councilman Atwell asked who owned the properties adjacent to the pump station property. Ms. Sudano said Progress Energy owns the property to the west and the property owner to the south of the pump station property where the street is subbed out is owned by Billy Powell.

Councilman Atwell ask if the adjacent property owner have been notified that will be a pump station at that site.

Ms. Sudano said that there are not requirements within the Town's regulations to notify the adjacent property owners of the construction of pump stations.

**Action:** The Council approved a motion to approve Union Ridge pump station site plan with the following condition:

1. Upon approval of the preliminary pump station site plan, a preliminary plan amendment will need to be submitted for approval to reflect this pump station site location.

**Motion By:** Womble

**Second By:** Dickson

Mr. Dean clarified that because of lots 33, 53, and 37 is adjacent to the pump station that the recorded plat will clearly state a notation for all lots adjacent to and in the proximity to the pump station that informs the property buyer that a pump station will be placed on this lot, and will be subjected to routine maintenance and future upgrades and expansion activities by the Town.

Ms. Sudano said that staff and with the Town Attorney's concurrence, the plats for this project will clearly reflect a notation for all lots adjacent to and in proximity to the pump station that informs that a pump station will be placed on this lot, and will be subject to routine maintenance and future upgrade and expansion activities by the Town.

Councilman Atwell asked the requirements for notification of the adjacent property owners for public infrastructure.

Ms. Sudano said that there are not requirements for notification to the adjacent property owners for public infrastructure improvements.

Mayor Sears and Mr. Schifano discussed amending the UDO language to require notification to the adjacent property owners when infrastructure improvements are being done and it can be discussed more in detail at the Town Council retreat.

**Vote:** Unanimous

**7d. 5432 Sunset Lake Road Delay Road Improvements Request** – Ms. Sudano explained to the Council Members that earlier this year, the developer of 5432 Sunset Lake Road made a request to delay road widening requirements until a later date in the future. She said the request has been put on the back burner by the developer until now, allowing time for additional research.

Mr. Paul Brewer, 2613 Windgate Hill Court, Raleigh the developer of 5432 Sunset Lake Road gave a brief history of the rezoning and landscaping, parking lot, handicap ramp and building improvements of the property. He said the property was rezoned two years ago to Commercial. He said this request is for the Town Council to consider delaying the road widening requirements in front of 5432 Sunset Lake Road and to work together and begin the improvements at the same time of the church property, the shopping center and the intersection of Sunset Lake Road and Optimist Farm Road. Mr. Brewer said that he would be willing to post a bond for the road improvements.

Ms. Sudano said if the Council wishes to consider approval of the request to delay the road widening, staff is recommending the developer post a Bond in the amount of 125% of the cost of the road widening.

Councilman Womble discussed with Town staff it being more reasonable to do all the road widening improvements at one time.

Ms. Sudano agreed that doing all the road improvements at one time is better. She said the developer of the shopping center will be completed with the realignment of the portion on Sunset Lake Road that is on the other side of Optimist Farm Road on or before December 15<sup>th</sup>.

Councilman Atwell asked staff what will happen with the extra width on the side.

Ms. Sudano said that she would have to review that area in more detail before she could answer regarding the extra width on that side.

Mr. Brewer said that in regards to the potential business that the hours of operation is from 10 a.m. – 7:00 p.m. which is not the peak hours for heavy traffic.

There were further discussion among Mr. Brewer and Councilman Van Fossen of what the difference between a Letter of Credit and posting a Bond. Mr. Brewer said that posting a Bond is cheaper than the Letter of Credit but agreed to either a Bond or a Letter of Credit.

**Action:** The Council approved a motion to approve a delay of the road widening improvements at 5432 Sunset Lake Road and the developer post a Bond in the amount of 125% of cost of the road improvement cost.

**Motion By:** Womble

**Second By:** Atwell

**Vote:** Unanimous

**7e. Holly Springs Business Park Pump Station Project** – Ms. Stephenson said that this request is for the Council to consider approval of the Holly Springs Business Park pump station site plan. She said the Holly Springs Business Park is served by Warp Tech pump station, which is located north of Thomas Mill Pond.

Ms. Stephenson said with the rapid growth of the Holly Springs Business Park has created the need for the Warp Tech pump station to be upgraded and relocated downstream.

Ms. Stephenson expanded that the scope of work required the Town to request for proposals for professional services to design the pump station site, with a new access road of 2,400 feet and a 4,000 feet upgrading the existing access road, 2,400 feet of gravity sewer line and approximately 9,400 feet force main (this may vary depending on chosen route).

Ms. Stephenson said the proposed pump station will need to be sized for the build-out of the basin needs, including other potential industrial users.

She said the Town is soliciting grant funds from Economic Development Administration, (EDA) and projected to be completed by October of 2007.

Ms. Stephenson said that the selection committee recommends awarding the professional services agreement to Kimley-Horn and Associates for the design of the Holly Springs Business Park pump station in the amount of (approximately) \$305,000 includes contingency.

**Action:** The Council approved a motion to award contract to Kimley Horn and Associates for the design services in the Holly Springs Business Park pump station project.

**Motion By:** Dickson

**Second By:** Womble

**Vote:** Unanimous

*A copy of Kimley-Horn and Associates agreement is incorporated into these minutes as addendum pages.*

**7f. Sunset Oaks, Phase 12 Parks and Recreation Fees** – Mr. Dean explained that this is a request from Bryan Properties asking the Town Council to reimburse the developer \$15,228 for 18 lots in Phase 12 of the Sunset Oaks Subdivision.

Mr. Dean said Mr. Jim Earnhardt's memorandum explains what their confusion is with the parks and recreation fees that were paid for Phase 12, pursuant to the approved plans and the dedicating open space in previous phases of the Sunset Oaks PUD plan.

Mr. Dean said the town attorney researched the plan review process, and found that the 7.56 acres subject to the amendment (phase 12) are subject to the parks and recreation fee and lieu amount and are not to be counted in the original Sunset Oaks PUD land dedication.

Mr. Dean said that the determination of this issue much be addressed by the Town Council, since the requirement was approved by the Council. He said the Council is being asked to either affirm its previous actions or formally approve the request from Bryan Properties for reimbursement of their parks and recreation fees.

Mr. Earnhardt of 807 High Grove Drive Chapel Hill representing Bryan Properties said that in regards to the park and recreation fees for Sunset Oaks at the time it was originally approved as a PUD, the developer dedicated 90 acres of open space and natural area instead of the payment-in-lieu. He said the original PUD plan was approved with 850 dwelling units and at a later time the developer added 18 lots as phase 12 and during the planning approval process with the planning board and the review committee that he understood all the open space and fees was satisfied and met all the requirements. He said that he was unaware of the fees in- lieu of parks and recreations were required until after the approval of the added 18 lots and until recording the final plat. He said Bryan Properties paid the fees in that to record the plat and is now requesting for re-imbursement of \$15,228 for 18 lots due to the understanding that all the open

space requirements were met.

Mr. Schifano said that he had included his memorandum in how the chain of events took place in the approval process and how his recommendations. (See attachments.)

**Action:** The Council approved a motion to approve to reimburse the parks and recreation fees in the amount of \$15,228 for 18 lots in Phase 12 of the Sunset Oaks Subdivision.

**Motion By:** Dickson

**Second By:** Womble

**Vote:** Unanimous

*A copy of Bryan Properties letter and Town Attorney's memorandum are incorporated into these minutes as addendum pages.*

**7g. Police Department Reorganization** – Mr. Dean said that over the last six months, Chief Herring has been evaluating the operations within the Police Department. He said that staff would like to recommend a phased reorganization plan for the Police Department as follows: phase one would require a new Captain's position, and the reclassification of one school resource officer into a sergeant's position. He said that Holly Springs is the only Town in Wake County that provides school resource officers to all the schools.

Mr. Dean explained the organizational structure proposed in "Attachment A" ("Attachment A" is incorporated into these minutes as addendum pages), demonstrates how the reorganization works. He said adding a new Captain's position that will be responsible for daily operations, and to coordinate administrative functions. The lieutenant's positions will be set up as watch commanders to oversee patrol operations. The sergeant's reclassification will be to coordinate the activities of the school resource officers. He said the structure will allow for a more streamlined function of the operation and provide more support for the police department personnel. He said the cost of phase one of the reorganization is \$46,194.00, which can be absorbed within the existing budget.

Chief John Herring said that over the past 6 months that his has evaluated the existing structure and accessed for future needs of the police department. He reviewed the current structure and the proposed changes, their duties and the chain of command with the Council Members.

Councilman Womble asked the school resource sergeant responsibilities.

Chief Herring said the sergeant's responsibilities will be the same daily duties, but in addition will supervise the school resource officer's and fill in at a school in the absence of an officer.

There were discussion among the staff and the Councilman Womble regarding the starting salary of the police officer being \$29,614.00. Chief Herring expanded that he used the trickle down effect to arrive at that figure, by using the starting salary for grade 77, \$35,610.00 and multiply by 26% for benefits and adding together for a total \$44,869.00, and multiply by .66.

Mr. Holland explained to the Council Members that due to the vacant positions within the department during the FY 2006-07 budget, the funds are available in the current salaries line item.

Councilman Dickson said that by creating a School Resource Supervisor that it allows the school's principal to have a general contract and there will be consistency in the chain of the command. He clarified the qualifications for the Capitan's position was 2 or more years of a college degree will be the minimum or combined experience.

Councilman Womble asked how many police officers are hired by the Town.

Chief Herring said the town has 30 sworn positions. Councilman Womble suggested adding an additional school resource officer as soon as the budget will allow.

**Action:** The Council approved a motion to approve the reorganization plan of the Police Department, to include adding the position of captain.

**Motion By:** Atwell

**Second By:** Womble

**Vote:** Unanimous

*Copies of attachments A, B and C are incorporated into these minutes as addendum pages.*

**8. 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. None.

**9. Other Business:** None.

**10. Manager's Report:** Mr. Dean reminded the Council that the Town's Christmas party is December 1<sup>st</sup> at the Flint Point Lane fire station.

**11. Closed Session:** The Council approved a motion to enter into Closed Session, pursuant to G.S. 143-318.11(a)(5) to discuss with the town attorney matters of land acquisition of right of way easement.

**Motion By:** Dickson

**Second By:** Atwell

**Vote:** Unanimous

**General Account of Closed Session – November 21, 2006**

In Closed Session, the Town Council gave the town attorney direction for the settlement for land acquisition for right of way easement and an exchange of two tracts of property located on New Hill Road at Irving Parkway.

**-- End General Account**

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

**12. Adjournment:** There being no further business for the evening, the November 21, 2006, meeting of the Holly Springs Town Council was adjourned following a motion by Councilman Dickson, a second by Councilman Womble and a unanimous vote.

Respectfully Submitted on Tuesday, January 2, 2007.

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Linda R. Harper, CMC, Deputy Town Clerk

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