

## Holly Springs Town Council

### Regular Meeting June 20, 2006

The Holly Springs Town Council met in regular session on Tuesday, June 20, 2006, in the Council Chambers of Holly Springs Town Hall, 128 S. Main Street. Mayor Dick Sears presided, calling the meeting to order at 7:15 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, Parrish Womble, Chet VanFossen, 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; Joni Powell, town clerk (recording the minutes); Gina Bobber, director of planning and zoning; Jeff Jones, planner II; Mark Zawadski, Planner I; Stephanie Sudano, director of engineering; Elizabeth Goodson, development review engineer; Mark Andrews, public information officer; Jenny Mizelle, director of economic development; Daniel Weeks, project analyst; Larry Boykin, assistant finance director; Heather Keefer, environmental inspector; Luncie McNeil, public works director; and Thomas Tillage, director of water quality.

**2 and 3.** The Pledge of Allegiance was recited, and the meeting opened with an invocation by Mayor Sears.

**4. Agenda Adjustment:** The June 20, 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:** Item 6p., Adoption of Ordinance 06-13 to establish project funds for the Business Park Development project, was added to the Consent Agenda; item 7g., consideration of Resolution 06-31 authorizing condemnation proceedings to acquire property from various property owners along New Hill Road for utility easements, and item 7h., consider approval of funding and receive a report of Bass Lake Park repairs, were added under New Business.

**Agenda Items Removed:** None.

**Other Changes:** None.

**5a. Public Hearing: Annexation Ordinance A6-10, Beazer Homes Corp.** – Mr. Zawadski explained that the Town has received a petition for voluntary annexation filed by Beazer Homes Corporation requesting annexation of 3.65 acres. He said the petition meets all the statutory requirements for annexation.

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

Tom Spaulding of Spaulding and Norris – Mr. Spaulding, representing the applicant, addressed the Council offering to answer any questions. There were no questions.

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

**Action:** The Council approved a motion adopt Annexation Ordinance A06-10 annexing 3.39 acres owned by Beazer Homes Corp., and more particularly described as Wake County Pin: 0648.11-67-5208, into the corporate limits of the Town of Holly Springs.

**Motion By:** Atwell

**Second By:** Dickson

**Vote:** Unanimous

*A copy of Annexation Ordinance A06-10 is incorporated into these minutes as addendum pages.*

**5b. Public Hearing: Growth Plan Amendment 06-GPA-03 / Zoning Map Change Petition 06-REZ-07** -- Mr. Zawadski explained that the applicant is requesting a growth plan amendment and zoning map change for property located at the corner of Piney Grove-Wilbon Road and Avent Ferry Road.

Mr. Zawadski said the proposed growth plan amendment is to change the Land Use Map designation of the site from medium-density residential to a mixed-use designation. He said the proposed mixed-use land use designation would be to allow for low-intensity business activity to take place in mixed-use buildings at a small scale to promote a village atmosphere.

Mr. Zawadski said that at the May 23 Planning Board meeting, members discussed the Piney Grove-Wilbon Road

alignment with Morgan Park PUD and the compatibility of adjacent uses. He said both staff and the Planning Board recommend approval for the growth plan amendment and the zoning map change.

Mr. Zawadski explained that if the growth plan amendment is approved, the applicant also is requesting the property be rezoned from R-20: Residential to LB: Local Business. He said the proposed LB: Local Business zoning would be consistent with the surrounding area. He said also the LB: Local Business zoning district would be to promote a village-oriented, pedestrian-friendly environment and would provide a full range of convenience goods and services, which are necessary to meet the daily needs of nearby residential neighborhoods.

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

Tom Spaulding of Spaulding and Norris – Mr. Spaulding, representing the applicant, explained that the Planning Board's questions about adjacent uses was addressed to the Board's satisfaction.

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

**Action #1:** The Council approved a motion to approve Ten-Year Comprehensive Growth Plan Amendment 06-GPA-03 to change the future land use designation of 3.65 acres of Wake County PIN #0648-67-5208 from medium-density residential to mixed use as submitted by Tom Spaulding of Spaulding and Norris.

**Motion by:** Atwell

**Second By:** Dickson

**Vote:** Unanimous

**Action #2:** The Council approved a motion that the following statement is true: The zone map change is consistent with the Holly Springs Ten-Year Comprehensive Plan, in that it preserves the Mixed-Use designation for the use of the property.

**Motion by:** Atwell

**Second By:** Dickson

**Vote:** Unanimous

**Action #3:** The Council approved a motion to approve Zone Map Change Petition #06-REZ-07 to change the zoning of 3.65 acres of Wake County PIN # 0648-67-5208 from R-20: Residential to LB: Local Business as submitted by Tom Spaulding of Spaulding and Norris.

**Motion by:** Atwell

**Second By:** VanFossen

**Vote:** Unanimous

**5c. Public Hearing: Zoning Map Change Petition 06-REZ-08** – Mr. Zawadski said the Town had received a request that two properties located near the intersection of Holly Springs Road and the Hwy. 55 Bypass be rezoned from R-20: Residential to a combination of LB: Local Business and R-8: Residential.

He explained that the properties have access to Holly Springs Road via Earnie Lane.

Mr. Zawadski explained that the applicant is requesting a 4.65-acre portion of the larger property be rezoned to LB: Local Business and the remaining 1.92 acres be rezoned to R-8: Residential; and the entire .33 acres of the smaller property be rezoned to R-8: Residential. He said the requested R-8: Residential and LB: Local Business zoning would be compatible with the town's Land Use Plan.

Mr. Zawadski said at the May 23 Planning Board meeting, members discussed the lack of vehicular access to the property. He said both staff and the Planning Board recommend approval.

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

Art Sheaffer, 224 Saranac -- Mr. Sheaffer said the notice residents received resulted in questions: Without more information, he said, residents are concerned about storm water run-off, traffic and compatibility to adjacent uses.

John Hughes, 225 Saranac -- Mr. Hughes said Mr. Schaeffer addressed his points.

At this time, Councilman Dickson asked staff to provide information and to address what would be allowed in a Local Business zoning district.

Mr. Zawadski explained that the pieces closest to the adjacent residential properties would be rezoned to R-8. The LB parcel is separated from the existing homes from the proposed R-8 zone.

He added that allowed uses in the LB zone include low-intensity commercial, small retail stores, offices, and neighborhood businesses.

Councilman Atwell asked for clarification that there would be no access to the properties from the Hwy. 55 Bypass. Staff concurred.

Anita Way – 420 Onondaga Court -- Ms. Way expressed that most of the neighbors are fine with the R-8 and even the LB zoning, but are concerned about access that would be required when the property is developed.

Steve Seely, owner of 300 Earnie Lane – Mr. Sealy explained that he is under contract with the owner of properties next to Earnie Lane to create enough width to provide adequate access from Holly Springs Road. The goal is to provide transition with primary access off Holly Springs Road. Local business would not work routing traffic through the residential

neighborhood, he assured residents.

Kathy Nesmitt, 101 Tuska Hills Dr. -- Ms. Nesmitt asked if the developer would have to have town permission to cut in streets. Mayor Sears said yes, but that permission would be addressed at the site plan stage of the plan review.

She asked what kind of lots would be in an R-8 zone. Council members explained that the lots would be in the 8,000 square foot range.

Ruth Offan, 420 Onondaga Court -- Ms. Offan said her concerns had been addressed.

JoAnn Gross, 132 Tuska Hills Dr. -- Ms. Gross expressed concern over traffic entering their development via the new road that may result. She also asked if buffering would be provided. Council members explained that the site plan would address roads and buffering.

Kevin O'Brien, 316 Saranac Ridge -- Mr. O'Brien said he was okay with the rezoning, but is concerned about access to the properties and stormwater run-off.

Matt Williams, 220 Saranac Ridge -- Mr. Williams said he opposed approval of the rezoning without access to Holly Springs Road, leaving the only other access as Saranac Ridge.

Others who had registered to speak passed, saying that their concerns had been addressed by other speakers.

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

**Action:** The Council approved a motion to recuse Councilman VanFossen from deliberation and action on this topic due to his professional involvement with some aspects of the project.

**Motion By:** Atwell

**Second By:** Dickson

**Vote:** Unanimous.

In discussion, Councilman Atwell said he had problems with approving the request without confirmed access to Holly Springs Road until Mr. Sealy's contract on the additional lots closed on Sept. 30, 2006.

The Council asked about the logistics of tabling action on the request.

Ms. Bobber explained that the planning department could schedule the public hearing to be reopened at the first meeting in October.

Councilman Dickson suggested that the developer meet with homeowners prior to submitting a site plan to address their concerns.

Both Councilmen DeBenedetto and Womble agreed that tabling was a good idea.

**Action:** The Council approved a motion to table action on the request until Oct. 3.

**Motion By:** Dickson

**Second By:** Womble

**Vote:** The motion carried following a 3-1-1 vote. Councilmen DeBenedetto, Womble, and Dickson voted for the motion. Councilman Atwell voted against. Councilman VanFossen was excused from the meeting.

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

**Motion By:** Atwell

**Second By:** Dickson

**Vote:** Unanimous.

**5d. Public Hearing: Installment Financing** - Mr. Boykin explained that in order to borrow funds for renovations at the W.E. Hunt Center and for the acquisition of property on Ballentine Street, the Town must first obtain approval from the Local Government Commission. He said a step in that application process is to hold a public hearing to receive comments from citizens on the question of whether or not the town should seek installment financing as opposed to other financing.

Mr. Boykin said the Town intends to finance these two related projects as one project with two separate borrowings: one in July 2006 when \$4,500,000 would be secured, and one in January 2007 when \$2,925,000 would be borrowed, for a total of \$7,425,000.

He said the first borrowing would not exceed \$4,500,000 and would be used to acquire a 5-acre parcel and a 96-acre parcel of land, estimated to cost \$4,425,000; and to conduct renovations at the W.E. Hunt Community Center estimated to cost \$75,000. The second borrowing would not exceed \$2,925,000 and would be used to acquire 66 acres and to complete further Hunt Center renovations.

Mr. Boykin said after the public hearing, the Council is asked to adopt two resolutions. The first resolution states that the Town has determined certain findings of fact, including that installment financing is more desirable than other types of financing and authorizes the filing of the LGC application.

The second resolution, he said, would approve financing terms from RBC Centura for the first borrowing, which are proposed to be an annual interest rate of 4.58% for a loan term of 15 years.

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 #1:** The Council approved a motion to adopt Resolution 06-27, authorizing the filing of an application for approval of a financing agreement to fund renovations at the W.E. Hunt Community Center and the acquisition of property on Ballentine Street.

**Motion By:** Womble

**Second By:** Atwell

**Vote:** Unanimous

*A copy of Resolution 06-27 is incorporated into these minutes as addendum pages.*

**Action #2:** The Council approved a motion to adopt Resolution 06-30, approving financing terms and authorizing Town to enter into a loan agreement with RBC Centura for \$4,425,000 for a period not to exceed 15 years at an annual interest rate of 4.58% for improvements to the W. E. Hunt Community Center and the acquisition of property.

**Motion By:** Womble

**Second By:** Atwell

**Vote:** Unanimous

*A copy of Resolution 06-30 is incorporated into these minutes as addendum pages.*

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

6a. FY 2006-07 Fee Schedule Amendment - The Council approved the addition of a \$500 timbering plan review fee to the FY 2006-07 fee schedule.

6b. Resolution 06-28 - The Council adopted Resolution 06-28 declaring certain property of the town to be surplus and authorizing the disposition of said property. *A copy of Resolution 06-28 is incorporated into these minutes as an addendum page.*

6c. Budget Amendment Report - The Council received a report of FY 2005-06 budget amendments #137 through #157 approved by the town manager. *A copy of the budget report is incorporated into these minutes as addendum pages.*

6d. Gable Ridge Drainage Culvert Inspection Report - The Council received a report of the Gable Ridge drainage culvert inspection.

6e. Ordinance 06-12, Avent Ferry Rd. Fire Station Renovation Project Fund - The Council adopted Ordinance 06-12 establishing a \$240,000 budget for the Avent Ferry Road Fire Station renovation project. *A copy of Ordinance 06-12 is incorporated into these minutes as an addendum page.*

6f. Budget Amendment, \$107,000 - The Council adopted an amendment to the FY 2005-06 budget in the amount of \$107,000 to correct Debt Service amount for March 2006 bond refunding. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

6g. Budget Amendment, \$4,100 - The Council adopted an amendment to the FY 2005-06 budget in the amount of \$4,100 to appropriate funds for the Jordan Lake water supply allocation agreement. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

6h. Budget Amendment, \$235,000 - The Council adopted an amendment to the FY 2005-06 budget in the amount of \$235,000 to appropriate Fund Balance-Powell Bill funds for fire station road projects. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

6i. Budget Amendment, \$140,000 - The Council adopted an amendment to the FY 2005-06 budget in the amount of \$140,000 to allocate funds to cover customer increase in the Town's sanitation contract. *A copy of budget amendment is incorporated into these minutes as an addendum page.*

6j. Budget Amendment, \$17,820 - The Council adopted an amendment to the FY 2005-06 budget in the amount of \$17,820 for final loan payment of the W.E. Hunt Community Center. *A copy of budget amendment is incorporated into these minutes as an addendum page.*

6k. Allied Waste Systems Name Change - The Council approved the second reading of an amendment to the town's franchise agreement with Allied Waste Systems to change the name of the franchisee to BFI Waste Systems. *A copy of town's franchise agreement is incorporated into these minutes as addendum pages.*

6l. Flint Point Lane Construction Contract Change Order - The Council approved a change order to Flint Point Lane construction contract. *A copy of the contract change orders is incorporated into these minutes as addendum pages.*

6m. Avent Ferry Road Widening Project - The Council approved to enter into a contract with ECS, Ltd. in the amount of \$9,000, inclusive of contingency, for Avent Ferry Road widening project materials and testing services. *A copy of the contract is incorporated into these minutes as addendum pages.*

6n. Bass Lake Road Sidewalk Project - The Council approved to enter a contract with Bateman Civil Survey Company in the amount of \$15,400, inclusive of contingency, for the surveying for the Bass Lake Road sidewalk project. *A copy of the contract is incorporated into these minutes as addendum pages.*

6o. Harnett County Water Plant Expansion Project - The Council approved to enter a professional services agreement with CDM to produce water demand forecasts needed for planning for the Harnett County water plant expansion. *A copy of the agreement is incorporated into these minutes as addendum pages.*

6p. Ordinance 06-13, Business Park Development Project Fund - The Council adopted Ordinance 06-13 establishing

project funds for the Business Park Development project. *A copy of Ordinance 06-13 is incorporated into these minutes as an addendum page.*

**7a. Wake County 10-Year Solid Waste Management Plan, Resolution 06-29** – Mr. Jim Reynolds of Wake County explained that NCGS 130A-309A(b) requires that each unit of local government, either individually or in cooperation with other units of local government, develop a 10-Year Comprehensive Solid Waste Management Plan. He said each plan shall be updated at least every three years. In addition, each unit of local government shall develop its solid waste management plan with public participation.

Mr. Reynolds said that the purpose of the plan is to protect public health, provide for improved solid waste management, better utilize natural resources, control the cost of solid waste management and make a good faith effort to achieve the State's 40% municipal waste reduction goal.

Mr. Reynolds said the development of this Solid Waste Management Plan was a cooperative endeavor involving multiple jurisdictions. All local governments within Wake County were invited and encouraged to participate, and all agreed to be included in the Plan. He said the Wake County Solid Waste Advisory Committee (SWAC) oversaw and participated in the Plan's development, and recommended the plan for adoption by elected officials of each participating jurisdiction. The consulting firm of R.W. Beck was hired to work with the County, the SWAC and participating municipalities to develop the Plan.

Mr. Reynolds said that a draft of the solid waste management plan document was supplied to all Wake County Public Libraries and Chambers of Commerce for public review and comment. In addition, the 2006 10-Year Comprehensive Solid Waste Management Plan was put on the Wake County web site. The public was able to review and make comments on the Plan between May 1, 2006 and May 15, 2006.

Additional opportunities for public input in the planning process were provided at each meeting of elected municipal officials when the draft plan was presented for review and consideration.

Councilman DeBenedetto asked that the County revise the plan to require review of waste-to-energy alternatives every three years instead of "periodically."

Councilman DeBenedetto asked why do fees in the report state that Holly Springs collects 117% of the cost to dispose of waste. Mr. Dean said the town's solid waste program is an enterprise fund, taking in what goes out at a balance. He said he does not know why the report states that the town collects 117%.

Councilman DeBenedetto asked what would be the benefit to Holly Springs of becoming a partner in the South Wake Landfill. Mr. Reynolds said a \$10 per ton savings.

Councilman Atwell asked if recycling was not counter-intuitive to having increased volume at the landfill.

Mr. Reynolds responded that it's a matter of balance of policy. He said the municipal partners make decisions based on the benefits they see in waste reduction, even if it costs more.

Councilman Dickson asked for more information on the county's "Litter Management" section in the report.

Mr. Reynolds said the county's litter problems stem mostly from construction debris and debris released by unlicensed haulers. He said the county has increased its number of licensed haulers, which are required to cover their loads.

Councilman Dickson asked if licenses of haulers can be revoked for violations. Mr. Reynolds answered that the county enforces its solid waste ordinances; however, there is no code of conduct or provisions for controlling use of the landfill. Law enforcement issues would be addressed by local police, he added. He said the county will discuss with drivers and / or fleet managers who use the facilities to be covered and make them aware of litter problems.

Mr. Reynolds noted that facility operators are required to clean up within a mile of a facility.

Councilman Dickson said requiring haulers to cover their loads would help, and he provided photos he took of an uncovered truck presumably headed to a county facility.

Councilman VanFossen challenged the county's last-minute decision to contract with Waste Industries for hauling and operation of the landfill.

Mr. Reynolds said Waste Industries is equally interested in a good operation.

Mr. Schifano asked if the Town's adopting a resolution separating the landfill issue would suffice, or would the county then require the town to have its own solid waste plan.

Mr. Reynolds said whatever the town has exception to in the plan, per the county attorney, needs to be replaced with something else.

Mr. Schifano said the Town Council agrees with most aspects of the plan and could replace the town's exception to all mentions of the South Wake Landfill with language explaining that the Town of Holly Springs ships its solid waste to a facility in Sampson County.

He asked if the county attorney, as he has in the past, would still require the Town of Holly Springs to provide its own solid waste management plan.

Mr. Reynolds said he would urge the county to not require that because Holly Springs would be satisfying the intent of the law.

Councilman DeBenedetto asked if there would be a savings for the town, why would the council not consider entering into the South Wake Landfill partnership.

The position of the council in response was that the question represents a whole other issue. If the town is not a partner, Mr. Reynolds said, the town would pay market price for its hauling and disposal.

**Action:** The Council considered a motion to adopt Resolution 06-29 accepting and endorsing the Wake County Solid Waste Management Plan Update with some exceptions, specifically mentioning the South Wake Landfill.

**Motion By:** VanFosser

**Second By:** NO SECOND

**Vote:** No vote.

**Action:** The Council considered a motion to devise an individual plan for the Town of Holly Springs, noting that such a plan would not be completed by June 30, 2006.

**Motion By:** Atwell

**Second By:** Womble

In discussion, the council agreed as a whole that this was not the best option for the town.

**Vote:** The motion failed following a 0-5 vote. Councilmen DeBenedetto, Womble, VanFosser, Atwell and Dickson voted against the motion. No one voted for.

**Action:** The Council approved a motion to adopt Resolution 06-29 accepting and endorsing the Wake County Solid Waste Management Plan Update with some exceptions, specifically noting the town's objections to landfilling as an effective means of waste disposal, and particularly the town's opposition to landfilling in the South Wake Landfill.

**Motion By:** Atwell

**Second By:** Dickson

**Vote:** Unanimous

*A copy of Resolution 06-29 is incorporated into these minutes as addendum pages.*

**7b. Elevated Reuse Water Tank Site** – Ms. Sudano explained that Davis-Martin-Powell Associates, Inc. is designing the Town's reuse effluent project and is ready to move forward with selecting a site for the elevated reuse storage tank.

Ms. Sudano said that factors to consider for the site are primarily: aesthetics, height and cost. She said the consultant has confirmed that all proposed sites are of adequate size, a 200' by 200' site with minimal grading.

Ms. Sudano said that staff recommend site D as labeled on the map contained in agenda packets for the elevated reuse water tank site.

**Action:** The Council approved a motion to approve site D, owned by Wayne and Geraldine Prince and containing 1 acre of land located at the intersection of West Holly Springs Road and Irving Parkway, for the elevated reuse water tank site.

**Motion By:** Dickson

**Second By:** Atwell

**Vote:** Unanimous

**7c. Garrison Subdivision Pump Station Plan** – Ms. Sudano said the Garrison subdivision pump station would be surrounded by future residential lots but would be buffered per the Town's design standards. She explained that staff will require the developer to have future purchasers of adjacent lots sign documents acknowledging their proximity to the Town-owned pump station that will require maintenance and future expansion.

Councilman VanFosser asked what provisions will be in place to notify surrounding property owners that a pump station is located adjacent to their property. Mr. Schifano recommended that the developer be required to note on the recorded plat to advise adjacent property owners about the pump station.

**Action:** The Council approved a motion to approve the Garrison subdivision pump station site plan as long as the plat with notations is recorded so that adjacent property owners are aware of the probability that the pump station may be upsized in the future and will require maintenance.

**Motion By:** Atwell

**Second By:** Dickson

**Vote:** The motion carried following a 4-1 vote. Councilmen DeBenedetto, Womble, Atwell and Dickson voted for the motion. Councilman VanFosser against.

**7d. Twelve Oaks Subdivision Pump Station Plan** – Ms. Sudano said the Twelve Oaks pump station is surrounded by future Twelve Oaks subdivision lots. She said the site plan meets the buffer requirements of the design standards. She said that staff will also require the developer to have future purchasers of adjacent lots sign documents acknowledging their proximity to the Town-owned pump station that will require maintenance and future expansion.

Councilman VanFosser reiterated his frustration with problems the town experienced in the past with property owners adjacent to the Sunset Ridge pump station when it was upgraded, although all of those residents had signed documents acknowledging that the pump station was present and would be upsized in the future.

**Action:** The Council approved a motion to approve the Twelve Oaks subdivision pump station site plan, also with the stipulation that the recorded plat should note the presence of the pump station and the probabilities that the pump station

would be accessed by town maintenance crews and that it may be upgraded in the future.

**Motion By:** Atwell

**Second By:** Dickson

**Vote:** Unanimous

**7e. 5516 Solomons Seal Court Variance Request** – Ms. Keefer explained that the owner of 556 Solomons Seal Court is requesting a variance to the flood damage prevention ordinance to construct a pool and structure (pool pump house) on lot 65 in Sunset Lake Village Subdivision.

Ms. Keefer explained that the Sunset Lake Village Subdivision's plat was recorded in February of 1994, and the Town entered into the National Flood Insurance Program (NFIP) in December 1994. She explained that 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 continues to administer its Floodplain Management Program and on May 2, 2006 the Town Council adopted revisions to the Ordinance, which adopted the current effective FEMA Flood Insurance Rate Maps (FIRM). She said the ordinance requires that all residential lot construction is outside of the floodplain, this includes the construction of pools and accessory structures on residential lots.

The previous FEMA map that became effective on March 3, 1992, however, indicated that there was ample room on the property to install a pool and structure in the back yard. It has been determined that the proposed pool for lot 65 in the Sunset Lake Village Subdivision would be located in the 100-year floodplain as shown on the new FEMA Maps. Therefore, the property owner has requested a variance to the Flood Damage Prevention Ordinance.

Ms. Keefer explained to the Council that the Town Council has been authorized as the Appeal Board for the Flood Damage Prevention Ordinance, to hear and decide all requests for variances. She explained that a variance may be issued for development provided that it meets the variance requirements outlined in section 8-125 of the Flood Damage Prevention Ordinance. She said the board is to consider the technical evaluations, relevant factors, standards specified in sections of the 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: There will be no danger of materials being swept onto other lands because the proposed pool and structure are outside of the floodway.*

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

*Applicant's Response: There will be no danger to life and property because the pool and structure shall be built to TOHS Construction standards. That is, the pool will comply with standards set forth by the TOHS construction department.*

(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: There will be no susceptibility of this structure to receive flood damage because the pool will be built at or below grade the and structure with the mechanicals shall be built above the freeboard elevation.*

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

*Applicant's Response: N/A*

(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: N/A*

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

*Applicant's Response: There are no other locations on the property that will sustain this use.*

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

*Applicant's Response: The pool and structure are for single family private use.*

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

*Applicant's Response: This property is shown as Residential Development on the Town's Land Use Plan.*

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

*Applicant's Response: The construction of the pool and the structure will not encumber access by emergency and other ordinary vehicles.*

(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 pool and structure are not located in the floodway.*

(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: N/A*

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 conditions.

In discussion, Councilmen VanFosseren and Atwell expressed concern that the first finding of fact could not be found because they do not have enough information about the pool construction to know whether or not anything washed down stream would be a danger.

Councilmen Womble and DeBenedetto expressed that they could make all the findings of fact and would be inclined to grant the waiver since the owner simply got caught by a remapping project, and because they felt a swimming pool would not pose a hazard if placed in the owner's backyard.

**Action:** A motion that the Council could make the necessary findings of fact died for lack of a second.

**Motion By:** Womble

**Second By:** None

**Vote:** None

**Action:** The Council approved a motion that it could not make the first two findings of fact but could make the remaining findings of fact to be recorded in the minutes and denied the variance for lot 65 in the Sunset Lake Village Subdivision, 5516 Solomon's Seal Ct.

(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. **Not found.**

(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. **Not found.**

(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; and

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:** VanFosseren

**Second By:** Atwell

**Vote:** The motion carried following a 3-2 vote. Councilmen VanFosseren, Atwell and Dickson voted for the motion. Councilmen DeBenedetto and Womble voted against.

**7f. South Park Development Agreement Terms** – Ms. Sudano said the developer of South Park is interested in participating in the Town's Avent Ferry Road widening project. She explained that additional lanes are required along the project frontage as a development plan approval condition.

Ms. Sudano said that the Town will secure a change order price for the improvements from the Town's contractor. She explained that if the price is satisfactory, then the developer will pay money to the town to cover the change order (plus a contingency), and the Town will administer construction of these improvements under its current construction contract on this project.

Ms. Sudano said the developer's preliminary engineer's opinion of cost for construction is \$540,000. She said that there are many details related to the developer's required schedule for design, funding, etc., that would be included in the agreement to insure that this change order does not increase the Town's cost or date of completion of the current road widening project.

**Action:** The Council approved a motion to authorize staff to draft a development agreement with the terms as presented for final consideration by the Council at a later date.

**Motion By:** VanFosseren

**Second By:** Atwell

**Vote:** Unanimous

**7g. Resolution 06-31, Condemnation of Easement** - Mr. Schifano asked for Town Council authorization to enter condemnation proceedings, if necessary, to acquire property from various property owners along New Hill Road for required utility easements that would serve Twelve Oaks Subdivision.

**Action:** The Council approved a motion to recuse Councilman VanFosseren from discussion and action on this top due to his professional involvement with some aspects of the Twelve Oaks project.

**Motion By:** Atwell

**Second By:** Dickson

**Vote:** Unanimous.

**Action:** The Council approved a motion to adopt Resolution 06-31, authorizing condemnation proceedings to acquire

property from various property owners along New Hill Road for required easement to serve Twelve Oaks Subdivision.

**Motion By:** Atwell

**Second By:** Dickson

**Vote:** Unanimous

*A copy of Resolution 06-31 is incorporated into these minutes as addendum pages.*

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

**Motion By:** Atwell

**Second By:** Dickson

**Vote:** Unanimous.

**7h. Bass Lake Park Repairs –** Mr. Dean reported that the cost of repairs to Bass Lake Park following flooding came to \$81,353.60. He stressed that the lake dam functioned as it was supposed to, channeling overflow water into the parking lot instead of breaking. Still, the resulting damage included uprooted sidewalk, damage to a retaining wall and damage to pavement.

**Action:** The Council approved a motion to adopt an amendment to the FY 2006-07 budget pulling funds from the Park Reserve Fund to make repairs to Bass Lake Park following flooding.

**Motion By:** VanFossen

**Second By:** Atwell

**Vote:** Unanimous

*A copy of the budget amendment is incorporated into these minutes as an addendum page.*

**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:** Councilman Womble asked about Lockley Road and whether it had been turned over to the town for maintenance. He reported that the shoulder needs to be built up on each side.

He also reported an overgrown lot between the old fire station and Eckerd Drug. Mr. Dean made note and said he knew of several other trouble spots in town, too.

Mayor Sears that there is a huge cavity in the road on Hwy. 55 right before its intersection with Sunset Lake Road.

**10. Manager's Report:** Mr. Dean reported that the town's Finance Department had earned an award, a Certificate of Achievement for Financial Reporting. He said it was remarkable for a town to get this recognition, especially in the first year.

**11. Closed Session:** The Council approved a motion to enter into Closed Session, pursuant to G.S. 143-318.11(a)(6) and G.S. 143-318.11(a)(4) to discuss matters relating to economic development and to a personnel issue.

**Motion By:** VanFossen

**Second By:** Atwell

**Vote:** Unanimous

#### **General Account of Closed Session – June 20, 2006**

In Closed Session, the town manager and Council updated Council members on a prospective new industry, and he sought Council's consensus on the potential reorganization of the town's Department of Public Safety, especially as it relates to specific employees.

**-- End General Account**

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

**12. Adjournment:** There being no further business for the evening, the June 20, 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, Oct. 3, 2006.

