

# Holly Springs Town Council Minutes

## Regular Meeting April 3, 2007

The Holly Springs Town Council met in regular session on Tuesday, April 3, 2007, 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 three council members were present as the meeting opened.

**Council Members Present:** Councilmen Vinnie DeBenedetto, Chet VanFosser, and Hank Dickson and Mayor Sears. Councilman Peter Atwell arrived at 7:07 p.m. Councilman Parrish Womble arrived at 7:12 p.m.

### Council Members Absent: None

**Staff Members Present:** Carl Dean, town manager; Chuck Simmons, assistant town manager; John Schifano, town attorney; Joni Powell, town clerk (recording the minutes); Gina Clapp, director of planning and zoning; Mark Zawadski, planner I; Allison Huffman, planner I; Kendra Stephenson, senior engineer; Elizabeth Goodson, development review engineer; Darin Eyster, engineering project coordinator; Len Bradley, parks and recreation director; Ricky Parson, code enforcement supervisor; Heather Keefer, environmental engineer; Daniel Weeks, project analyst; Scott Barnard, Bass Lake park manager; John Herring, police chief; Drew Holland, finance director; and Mark Andrews, public information officer.

**2 and 3.** The Pledge of Allegiance was recited, and the meeting opened with an invocation by Jimmy Lunsford, student pastor of Church Alive.

**4. Agenda Adjustment:** The April 3, 2007 meeting agenda was adopted with changes, if any, as listed below.

**Motion By:** Dickson

**Second By:** VanFosser

**Vote:** Unanimous

**Items Added to the Agenda:** None.

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

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

**Other Changes:** None.

**5. 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. The following input was recorded:

Tim Sack, 232 Elam – In light of recent news headlines in a neighboring town, Mr. Sack asked if the town had an ordinance prohibition against keeping livestock in town. Councilman Dickson said, yes, it was adopted in 1999.

Russ Lowe, 5313 Gable Ridge Lane. -- Mr. Lowe described for the Town Council how he received a \$1,100 water bill for his irrigation system. He said this far exceeds any water bill amount he has ever experienced on his account and that something must be wrong. He said staff has been helpful in trying to figure it out, but why his water bill is so high remains a mystery. Mr. Lowe said the town tested his water meter and found that it appeared to be functioning properly. Plumbers have inspected his lines and have discovered no leaks.

Still, he said, something is wrong. He said he doesn't know what the answer is, but something is wrong because there is no way 58 tanker truckloads of water would have been dumped on his property

through his irrigation system in 29 days.

**6. Sign Regulations and Appearance Report** - Mr. Queen and Mrs. Trautz provided information on signs and the regulations that apply to them.

During the presentation, Mr. Queen said weekend signs in the right-of-way could be reduced a great deal by the prohibition against signs advertising real estate located outside Holly Springs jurisdiction; an ordinance amendment to prohibit signs in medians; a limitation on the number of signs allowed for election candidates; and requiring a deposit for candidates who erect signs with the deposit to be returned when all signs are removed.

He also suggested policy changes to prohibit signs advertising subdivisions outside Holly Springs jurisdiction.

The Council directed that staff return with proposed ordinance changes for consideration.

Mrs. Trautz addressed the various types of signs that are erected on private property.

During the presentation, she suggested some changes to the ordinance that might alleviate appearance problems: more proactive enforcement for signs in disrepair or in violation; reducing the amount of time for compliance from 14 to 5 days.

The Council directed that staff return to the Council at a later date with ordinance changes, if needed, for consideration.

**Action:** None.

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

7a. Resolution 07-11 - The Council adopted Resolution 07-011 authorizing the filing of an application to the North Carolina Clean Water Revolving Loan Fund to finance \$15,000,000 for the construction of the wastewater treatment plant expansion. *A copy of Resolution 07-11 is incorporated into these minutes as addendum pages.*

7b. Resolution 07-12 – The Council adopted Resolution 07-12 directing the town clerk to investigate the sufficiency of annexation petition A07-01 and setting a public hearing on the question of annexation for Tuesday, April 17, 2007. *A copy of Resolution 07-12 is incorporated into these minutes as addendum pages.*

7c. Resolution 07-13 – The Council adopted Resolution 07-13 directing the town clerk to investigate the sufficiency of annexation petition A07-02 and setting a public hearing on the question of annexation for Tuesday, April 17, 2007. *A copy of Resolution 07-13 is incorporated into these minutes as an addendum page.*

7d. Resolution 07-14 – The Council adopted Resolution 07-14 directing the town clerk to investigate the sufficiency of annexation petition A07-03 and setting a public hearing on the question of annexation for Tuesday, April 17, 2007. *A copy of Resolution 07-14 is incorporated into these minutes as an addendum page.*

7e. Budget Amendment, \$575 – The Council adopted an amendment to the FY 2006-07 budget in the amount of \$575 to accept insurance proceeds for damaged police vehicle. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

7f. Budget Amendment \$60,000 - The Council adopted an amendment to the FY 2006-07 budget in the amount of \$60,000 to purchase three new police vehicles. *A copy of budget amendment is incorporated into these minutes as an addendum page.*

7g. Budget Amendment, \$297,600 – The Council adopted an amendment to the FY 2006-07 budget in the amount of \$297,600 to redistribute financing revenues. *A copy of budget amendments is incorporated into these minutes as an addendum page.*

7h. Holly Springs Parks and Recreation Policy Manual – The Council adopted an amendment to the Holly Springs Parks & Recreation Policy Manual addressing police officers at Cultural Center events where alcohol is served.

7i. Town's Water Supply Plan – The Council approved to enter a professional services agreement with CDM in the amount of \$18,500 to prepare the Town's water supply plan update for submission to the State. *A copy of CDM contract is incorporated into these minutes as addendum pages.*

7j. Budget amendment, \$12,100 – The Council adopted amendments to the FY 2006-07 budget in the amount of \$12,100 and approve Gable Ridge pipe repair design contract to Wetherill Engineering. *Copies of budget amendments and Wetherill Engineering contract are incorporated into these minutes as addendum pages.*

7k. Green Oaks Parkway Design Contract – The Council awarded a supplement to the existing Kimley Horne & Associates design contract for Green Oaks Parkway in the amount of \$28,160, inclusive of a 10% contingency, for environmental permitting services. *A copy of Kimley-Horne & Associates contract is incorporated into these minutes as addendum pages.*

7l. Harnett County Water Treatment Plant Expansion Project – The Council authorized staff to confirm by a binding letter the Town's commitment to participate in the Harnett County water treatment plant expansion project as directed by Council in December 2006 and February 2007.

**8a. Western Wake Partnership Mitigation Costs** – Mr. Dean explained that the Town is in a limited partnership of sorts with the Towns of Apex, Cary, and Morrisville regarding the construction of the effluent line to the Cape Fear. He said since the final contract documents were formed regarding the ownership and operation of the facilities on August 22, 2005, all parties understood that the Town of Holly Springs was participating in the joint venture only to the extent that the treated effluent line was involved. It is clearly spelled out in those documents that Holly Springs will not participate in the construction or operating costs of the plant itself, he stressed.

Mr. Dean explained that the Policy Advisory Committee of the Partnership has recently voted to require Holly Springs to participate in suggested mitigation measures for the construction of the plant. He said these measures involve paying approximately \$675,000 toward the construction of private sewer and water connections for the expansion of the Town of Apex's utility infrastructure for citizens near the plant, to be served by Apex only.

Mr. Dean said that these mitigation measures are entirely related to the construction of the plant and bear nothing in relation to the construction of the treated effluent line; therefore, the Town of Holly Springs has no contractual obligation to share in the costs.

He said further, the town attorney has opined that spending public funds for the construction of utility infrastructure that will become the property of Apex to serve properties that are not in the corporate limits of Holly Springs fails to meet the statutorily required public purpose.

**Action:** The Council approved a motion to adopt Resolution 07-15 requesting the Western Wake Partnership to reconsider requiring the Town of Holly Springs to pay mitigation costs of the treatment plant project for presentation to the project technical advisory committee in April.

**Motion By:** Atwell

**Second By:** Dickson

In discussion, Mayor Sears reported that initial discussions with partnership mayors were not positive, but that more recent discussions have been more positive of the Holly Springs position. Councilman VanFossen asked how much of the total project cost would the effluent line be. Mr. Deans responded, 22.5%.

Councilman DeBenedetto asked what would happen if the PAC does not agree with the town's resolution. Mr. Schifano said the agreement clearly separates capital costs and liabilities between the plant and the effluent line. He did say the question may be, "Is the proposed mitigation related directly to the plant and only the plant?" New Hill residents are upset about the treatment of raw waste water and not the underground piping, he added.

**Vote:** Unanimous.

*A copy of Resolution 07-15 is incorporated into these minutes as addendum pages.*

**8b. Summer Youth Work Crew Program** – Mr. Barnard explained that the Summer Youth Work Crew is a program designed to target teens ages 14 to 16. He said this program would address the gap in the population underserved by the parks and recreation department programming. A wide variety of programming is offered by the department for teens, but the number of participants is low. The Summer Youth Work Crew is another method to attract teens and get them involved in activities within the community and to prevent their getting involved in trouble.

Mr. Barnard said staff recommends implementation and funding the program. He said the cost of

the program would be about \$19,776 for the Summer Youth Work Crew program; \$7,400 of the funding amount would need to come out of the 2006-07 budget, and the remainder of \$12,376 would be budgeted in the 2007-08 budget.

**Action:** The Council approved a motion to approve the Summer Youth Work Crew program; to adopt an amendment to the FY 2006-07 budget in the amount of \$7,400 to pay costs for the remainder of FY 2006-07; and to direct that the remaining \$12,376 for FY 2007-08 be included in the 2007-08 budget.

**Motion By:** Atwell

**Second By:** VanFossen

**Vote:** Unanimous.

**8c. Comprehensive Pedestrian Transportation Plan** – Mr. Eyster introduced Matt Hayes of Greenways Incorporated who provided a presentation about the town's Comprehensive Pedestrian Plan, which was developed by Greenways Incorporated with assistance from NCDOT, Town staff, Capital Area Metropolitan Planning Organization (CAMPO) and local citizens. Mr. Eyster explained that funding for this plan came from the NCDOT Bicycle and Pedestrian Planning Grant Program.

In his presentation, Mr. Hayes said the development process of the plan included: determining goals and a vision, examining existing conditions, conducting staff committee and public meetings, receiving public input, developing pedestrian facility recommendations, prioritizing the facility recommendations, and developing an implementation strategy for the future. He said that a combination of fieldwork, public input, steering committee input, and a prioritization scoring matrix determined priorities for sidewalk development.

Mr. Hayes said the plan provides recommendations for physical pedestrian facilities, programs and policies; implementation strategies; operations and maintenance; design guidelines; and funding. He said the pedestrian facilities include sidewalks, greenways and pedestrian crossings, and these recommendations are displayed in map insets. The design guidelines chapter provides design details and cross sections for the different pedestrian facilities that Holly Springs could pursue along with inspirational photo montages of pedestrian improvements to an existing site.

Mr. Hayes said that once the plan is adopted by the Council, this plan would be used as a tool for the next 10-15 years to receive funding and evaluating the progress in pedestrian accomplishments.

**Action:** The Council approved a motion to support the recommendations within and to adopt the Holly Springs Comprehensive Pedestrian Transportation Plan for implementation.

**Motion By:** Womble

**Second By:** DeBenedetto

**Vote:** Unanimous

**8d. Utley Creek Buffer Encroachment** – Mrs. Keefer explained that the Town is designing and permitting the Utley Creek wastewater treatment plant upgrade, and construction is expected to start within the next few months. The original plant was constructed prior to the adoption of the Holly Springs Cape Fear buffer rules in 2003.

Mrs. Keefer explained that as a result some of the existing plant structures are located in the Cape Fear Buffer and most of the buffer on the existing site has been cleared. She said the plant expansion includes approximately 9.8 acres of new disturbed area and will create new impacts into the Cape Fear Buffer due to the location of the existing plant and the needed upgrades to be located close to the existing plant.

**Action #1:** The Council approved a motion to make and accept the following findings of fact to be recorded in the minutes for the Town of Holly Springs request for a waiver of UDO Cape Fear buffer regulations with construction of the Utley Creek wastewater treatment plant upgrade:

**Findings of Fact:**

1. The carrying out of the strict letter of the UDO will result in practical difficulties in the development of the property included in the Waiver Petition.
2. Approval will observe the spirit of the UDO.
3. Approval will secure public safety and welfare.
4. Approval will provide substantial justice.

5a. There are exceptional conditions pertaining to the particular piece of property in question because of

its shape, size, or topography, that are not applicable to other lands, buildings, or structures in the same district, or

5b. There is a peculiar characteristic of a proposed use which makes the application of certain development standards of the UDO, as requested in the petition for waiver of Riparian Buffer Regulations, unrealistic.

6. Granting the Waiver requested will not confer any special privileges that are denied to other owners or residents of the district in which the property is located.

7. A literal interpretation of the provisions of the UDO would deprive the applicant of rights commonly enjoyed by other owners and residents of the district in which the property is located.

8. The requested Waiver will be in harmony with the purpose and intent of the UDO and will not be injurious to neighbor or to the general welfare

9. The special circumstances giving rise to the Waiver request are not as a result of actions of the applicant.

10. Waiver requested is the minimum variance that will make possible the legal use of the land, building, or structure.

**Motion By:** Womble

**Second By:** VanFossen

**Vote:** Unanimous

**Action #2:** Having made the necessary findings of fact, the Council approved a motion to grant a waiver of UDO regulations in Section 7.06e(1), Environmental Buffer Areas, for the Town of Holly Springs impact to the Cape Fear buffer with construction of the Utley Creek wastewater treatment plant upgrade.

**Motion By:** Womble

**Second By:** VanFossen

**Vote:** Unanimous

**8e. Bridgewater Subdivision Amendment 03-DP-05-A04** – Mr. Zawadski explained that the Town had received a request to amend an approved development plan to add four lots to the Bridgewater Subdivision. He said the four lots were originally designated for the recreation site, but the recreation site has been relocated to the southeast portion of the development as requested by the Town, and the applicant now is requesting to use the area for the four additional lots.

Mr. Zawadski said that staff and the Planning Board recommend approval with conditions.

Councilman VanFossen reminded the Council that the developer provided what the Council requested.

Councilman Dickson noted for the record that the four lots are facing the main entrance of Bridgewater Subdivision.

Tom Spaulding, 972 Trinity Road in Raleigh, engineer for the project – Mr. Spaulding addressed the Council, saying that the applicant also is asking the Council for relief regarding the recreational site. When Bridgewater was approved, the Council asked that a recreational site be added, Mr. Spaulding said. When it was added and approved, a condition of approval was that upon 40% completion, the recreational site would be built.

Mr. Spaulding said the applicant is fast approaching the 40% mark, but is a long way from having roadway and utilities extended to the recreational site location. He asked that the Council also consider amending that condition of approval.

The Council directed that the applicant return to the Council with this separate request because it would need to receive staff and Planning Board review and recommendation.

**Action:** The Council approved a motion to approve development plan amendment #03-DP-05-A04 for Bridgewater subdivision as submitted by Spaulding and Norris, project number 427-2003, dated revised 1/26/2006 with the following conditions:

1. All previously approved conditions of approval shall still apply.
2. Within 10 days of Town Council approval, the following shall be submitted:
  - a. A revised coversheet that includes updated data tables for all the zoning districts and a 6" x 10" blank space.
3. Within 60 days from receipt of existing preliminary vertical and horizontal alignment data, the

following item shall be addressed:

- a. Record the right-of-way and construction easements for the extension of Creek Vista Drive to Woodcreek Subdivision along the south eastern portion of the Bridgewater subdivision.
4. Prior to final plat, the following must be completed:
  - a. Payment of fees-in-lieu of land dedication in the amount of \$846/unit.

**Motion By:** VanFossen

**Second By:** Womble

**Vote:** Unanimous

**8f. Sunset Oaks, Phase 10 Amendment 03-MAS-05-A04** – Ms. Huffman said that the applicant has submitted an amendment to Phase 10 of Sunset Oaks for the Council's consideration. She said the applicant is proposing to add two lots along street labeled as "V" on the plans.

Ms. Huffman said the added lots are considerably larger than the minimum, adding that the average lot sizes within Phase 10 along street "V" are 15,000 square feet.

Ms. Huffman said that the applicant is proposing to reduce the amount of open space within this phase; however, the open space acreage in the PUD is above and beyond the required amount with a total of 105.06 acres of open space when only 33.62 acres of open space is required.

Ms. Huffman said the Planning Board discussed the shifting of parcel lines and reduction of open space. She said staff and the Planning Board recommend approval with conditions.

**Action:** The Council approved a motion to approve Preliminary Plan Amendment #03-MAS-05-A04 for Sunset Oaks Phase 10 as submitted by Tony M. Tate Landscape Architecture, P.A., revised 02/19/2007 with the following condition.

1. All previous approved conditions of approval shall still apply to this amendment.

**Motion By:** Atwell

**Second By:** Dickson

**Vote:** Unanimous

**8g. Woodcreek Amenity Center, 06-DP-16** – Mr. Zawadski said 06-DP-16 is for Woodcreek Amenity Center located along the Woodcreek Spine Road that will extend from Sunset Lake Road to Sunset Ridge subdivision and adjacent to the proposed townhomes. He said the site includes a swimming pool, waterpark, playground, basketball court, tennis courts, and a 4,900-square-foot clubhouse.

He said the materials of the clubhouse building would be constructed of primarily cement siding and brick. The architectural elevation details include façade and roofline variations, multiple covered porches, a gazebo, shutters, and two chimneys.

Mr. Zawadski said the Planning Board discussed the concerned of traffic congestion of the pick-up and drop-off area in front of the club house. He said staff and the Planning Board recommend approval with conditions.

**Action:** The Council approved a motion to approve Development Plan #06-DP-16 for Woodcreek Amenity Center as submitted by Withers and Ravenel, project number 2040232.80, dated revised 1/29/07 with the following conditions:

1. All previously approved conditions of approval for the Woodcreek Development Plan will also apply for this project.
2. The following will need to be addressed with the 1<sup>st</sup> plat for the Woodcreek Development Plan:
  - a. Provide draft 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. for review with the 1<sup>st</sup> submittal of the plat. Note that the covenants will need to be recorded with 1<sup>st</sup> plat associated with the Woodcreek subdivision.
3. Fee-in-lieu of pump station upgrade will be required.
4. The following items will need to be addressed with the 1<sup>st</sup> construction drawing submittal:
  - a. Show and label backwater easements (to be recorded) at storm drainage inlets; provide 100 year calculations accordingly.
5. Prior to issuance of Building Permit, the following must be completed:

- a. A revised site lighting plan must be submitted to and approved by the Department of Planning and Zoning.

**Motion By:** Atwell

**Second By:** DeBenedetto

**Vote:** Unanimous

**8h. New Positions for Engineering Department** - Mr. Dean explained that during last year's budget process, there was discussion among staff of the need to re-evaluate the engineering department's staffing at mid-year. He explained that the volume of development in Holly Springs continues to increase at an unprecedented rate, and much of the new development is non-residential development, which is more intensive in construction reviews and in inspections.

He said the Novartis project also would put a tremendous strain on the department.

Mr. Dean said that to meet the pace and demands, engineering staff is requesting that the Council consider approval of two new mid-year staff positions to include a stormwater engineer and a development review engineer.

Councilman VanFossen asked if the Town had looked at out-sourcing the stormwater duties. Mrs. Stephenson explained that yes, the department had looked at this option, but costs would be higher and the workload would be increased by not having the services in-house.

Councilman Womble encouraged careful consideration of minority applicants for any vacancy and that he be made aware of results.

**Action:** The Council approved a motion to approve two new positions in the engineering department, specifically, a stormwater engineer and a development review engineer.

**Motion By:** Atwell

**Second By:** Dickson

**Vote:** Unanimous

**9. Other Business:** Councilman Atwell asked about the propriety of providing personnel records to the Council. Mr. Schifano said the Town can share with the Council base demographic information, but not information on individual applicants. Councilman Womble said he would be interested in seeing that type of information.

Councilman Dickson said he preferred that the Town hire the best candidate for a job, regardless of race. Councilman Womble said he agreed but that he believed that many qualified minority applicants may be overlooked.

Councilman Womble asked if a stop sign could be erected at the exit from Food Lion Shopping Center facing Main Street. Mr. Dean said that would be possible.

**10. Manager's Report:** Mr. Dean reported on the visiting Moldovian delegation and the Town's partnership event that was a success.

**11. Closed Session:** The Council approved a motion to enter into Closed Session, pursuant to G.S. 143-318.11(a)(4) to discuss the potential location of an industry in Holly Springs and pursuant to G.S. 143-318.11(a)(3) to hold confidential counsel with the town attorney on a legal matter.

**Motion By:** Atwell

**Second By:** VanFossen

**Vote:** Unanimous

#### **General Account of Closed Session – April 3, 2007**

In Closed Session, the Town Council discussed with the town attorney and gave him direction regarding a legal matter and heard a report of a potential new economic development project. No action was taken in Closed Session.

**-- End General Account**

The Council approved a motion to return to Open Session.

**12. Adjournment:** There being no further business for the evening, the April 3, 2007, meeting of the Holly Springs Town Council was adjourned following a motion by Councilman Womble, a second by Councilman Dickson and a unanimous vote.

Respectfully Submitted on Tuesday, May 15, 2007.

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Joni Powell, CMC, Town Clerk

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