

Holly Springs Town Council Minutes

Regular Meeting July 15, 2008

MINUTES

The Holly Springs Town Council met in regular session on Tuesday, July 15, 2008, in the Council Chambers of Holly Springs Town Hall, 128 S. Main Street. Mayor Dick Sears presided, calling the meeting to order at 7 p.m. A quorum was established as the mayor and four council members were present as the meeting opened.

Council Members Present: Councilmen Vinnie DeBenedetto, Parrish Womble, Chet VanFossen, Tim Sack and Hank Dickson (arrived at 7:48 p.m.) and Mayor Sears.

Council Members Absent: none.

Staff Members Present: Carl Dean, town manager; Chuck Simmons, assistant town manager; John Schifano, town attorney; Joni Powell, (recording the minutes); town clerk; Linda Harper, deputy town clerk; Gina Clapp, director of planning and zoning; Jeff Jones, senior planner; Len Bradley, parks and recreation director; Daniel Weeks, project analyst; Scott Brummond, IT technician; Elizabeth Goodson, development review engineer; Jenny Mizelle, director of economic development; Cecil Parker, fire chief; Police Chief John Herring; Police Lt. Anthony Revels; and Mark Andrews, public information officer.

2 and 3. The Pledge of Allegiance was recited, and the meeting opened with an invocation by David and Tiffanie Pinson, pastors of The Family Worship Center.

4. Agenda Adjustment: The July 15, 2008 meeting agenda was adopted with changes, if any, as listed below.

Motion By: Sack

Second By: VanFossen

Vote: Unanimous

Items Added to the Agenda: None.

Items Removed from the Agenda: None.

Consent Agenda Items Removed for Discussion: Item 7f., fire station budget amendment.

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:

Karen McQuade, 5309 Lake Edge Drive – Ms. McQuade addressed the Council to ask that the Town consider changes to its grass clippings collection practices because many residents either do not understand or choose not to follow existing rules. Ms. McQuade noted that many residents are depositing their grass clippings on the street pavement at the curb instead of at the edge of their yards behind the curb. The result, she said, is that the grass clippings are left in the street to scatter or be washed by rain into storm drains.

Judy Classen, 5208 Old Adams Road – Ms. Classen addressed the Council on behalf of residents of the Dorothy Nixon Allen Manor. She reported on some recent events. Residents in March invited council members to their meeting, and Councilmen DeBenedetto, Womble and Sack attended. At this meeting, main concerns were transportation, sidewalks and a senior citizens activity center.

Ms. Classen and residents of DNA were overjoyed that within a few months, bus service was provided for them to Wal-Mart and the library once a week; and just this week, the sidewalk was completed from Holly Springs Road along Main Street to Food Lion. Smiling, she said the senior citizens are now eagerly awaiting their senior center. The senior citizens know the senior center may take some time, but she said they are extremely grateful to the Town for the other services.

6a. Kildaire Farm Road Entrance Sign - Mr. Bill Hibbard lives in Scot's Laurel subdivision off of Kildaire Farm Road and has approached the Town with a request on behalf of the Scot's Laurel Homeowners Association, on which he serves on several committees.

Mr. Hibbard explained that the north entrance into the subdivision at the corner of Ness Drive and Kildaire Farm Road has a convex stone wall, and on the wall are letters spelling out "The Town of Holly Springs." This town entry feature was required of the developer in the conditions of approval for Scot's Laurel Subdivision in November 2003.

He said the Scot's Laurel HOA is in the process of transferring ownership of the subdivision common areas from developer Lennar to the HOA, and the HOA wishes to have the Holly Springs letters on the wall removed and replaced with lettering spelling out Scot's Laurel to match a similar wall located at the southern entrance.

Mr. Hibbard said the HOA feels that people heading south on Kildaire Farm Road are confused by the signage and are not sure if the entrance actually leads into Scot's Laurel.

He added that Lennar representatives have said the development company would remove the town lettering if the Town Council provides permission to do so.

Ms. Clapp had reported in Council agenda packets that this structure was a condition of approval for the Scot's Laurel development, but there was discussion by the Council on March 7, 2006 that the feature was not what some Council members had in mind when the development plan was approved --

specifically that the sign should read "Welcome to Holly Springs" not "The Town of Holly Springs." According to the minutes of that meeting, then Councilman Peter Atwell suggested that the town lettering be removed. The Council approved a motion to meet with the developers of Scot's Laurel to discuss the removal of the lettering.

Ms. Clapp said that she has many e-mails regarding this topic and that Councilman VanFossen attempted on many occasions to meet with Lennar's representative, Bruce Whitten; however, Mr. Whitten cancelled several meetings that had been scheduled. In October 2006, Mayor Dick Sears was successful in contacting Mr. Whitten to discuss the Town Council's concerns. As a result of this meeting, Mr. Whitten committed to changing the wording to "Welcome to Holly Springs" and that he would not bill the Town the cost of the letters "Welcome To" which would replace "The Town of" even though Mayor Sears offered to pay for the change to ensure that it would happen. To date, this change has not been made.

She said in addition to the decorative sign that was constructed by the developer, a standard town limits sign is in place; however, the stone wall structure was required to be constructed when the Scot's Laurel subdivision was approved in order to provide a "gateway entrance feature" for the town as was specified in the Town's previous 10-Year Comprehensive Growth Plan. Plans and support for having a decorative monument at this corner identifying the Town's corporate limits has been continuously supported by the Council through the adoption of the Northeast Gateway Plan Policies that state a gateway feature is to be installed to "create a sense of arrival into Holly Springs" and in the newly adopted Vision Holly Springs Comprehensive Plan Community Character Section that states in Section 4.4.2 that:

"Secondary Gateways are generally the point along a Major or Minor Thoroughfare where the official corporate limits of Holly Springs begin. By marking these locations with permanent, classic, and timeless features, a subtle statement will be made regarding the goal to create a "village atmosphere" as depicted."

Ms. Clapp advises that should the Town Council agree to allow the Scot's Laurel HOA to change the sign to read "Scot's Laurel" instead of "Welcome to Holly Springs" that the Town will then need to construct a stone column or other feature at this corner which will potentially detract from the attractive appearance that this corner currently provides for visitors and residents entering the Town limits at this point. The Department of Planning & Zoning has received many phone calls from residents regarding how much they like this entrance to Town, Ms. Clapp said.

Councilman Sack said he remembered the meeting at which the monument sign was required.

Councilman VanFossen said he had no problem with the requested wording change to feature Scot's Laurel because he knows it creates some confusion.

After much discussion, the consensus of the Council was that the sign should be changed to read "Welcome to the Town of Holly Springs."

Action: The Council approved a motion to not allow any changes to the lettering on the Kildaire Farm Road entrance feature wall other than for the developer to change the verbiage from "The Town of Holly Springs" to "Welcome to Holly Springs" at the developer's expense.

Motion By: Sack

Second By: VanFossen

Vote: Unanimous.

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

7a. Minutes – The Council approved minutes of the Council's regular meeting held on May 20, 2008.

7b. Budget Report – The Council received a report of amendments to the FY 2007-08 budget approved by the town manager. *A copy of the budget amendment report is incorporated into these minutes as addendum pages.*

7c. Resolution 08-35 – The Council adopted Resolution 08-35 to begin the town's process of issuance of revenue bonds for the Harnett County water capacity purchase and plant expansion and refinancing of the previous revenue bond from 1999. *A copy of the Resolution 08-35 is incorporated into these minutes as addendum pages.*

7d. Green Oaks Parkway Project Change Order #2 – The Council approved contract change order #2 in the Green Oaks Parkway project in the amount of \$25,670 for environmental oversight professional services. *A copy of contract change order #2 is incorporated into these minutes as addendum pages.*

7e. Green Oaks Parkway Project Change Order #3 – The Council approved contract change order #3 in the Green Oaks Parkway project in the amount of \$8,130 for silt clean-out. *A copy of contract change order #3 is incorporated into these minutes as addendum pages.*

7f. Budget Amendment, Fire Station No. 3 – This item was removed during Agenda Adjustment.

7g. Budget Amendment, \$865 – The Council adopted an amendment to the FY 2007-08 budget in the amount of \$865 to receive insurance proceeds to repair a damaged parks and recreation vehicle. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

7h. Budget Amendment, \$3,271,000 – The Council adopted an amendment to the Water Project Fund to establish a project budget in the amount of \$3,271,000 for the town's reclaimed water project. *A copy of the budget amendment is incorporated into these minutes as addendum pages.*

7i. Jones Park Greenway Change Order – The Council approved contract change order in the amount of \$22,000 for Jones Park greenway trail construction. *A copy of the contract change order is incorporated into these minutes as addendum pages.*

Item Removed from the Consent Agenda:

7f. Budget Amendment, Fire Station No. 3 – Councilman DeBenedetto asked if the town had heard from the Department of Insurance as to whether the plans the town has to lease a building and sparsely man and equip the facility would be acceptable.

Mr. Dean reported that personnel would be designated for that site, but the town will not have to fully staff it until September 2009.

Councilman DeBenedetto said he had a concern that the town bought a used fire truck for \$2,500. He said he wanted an assurance that the town was not making a mistake.

Chief Parker said the town currently has a back-up fire truck that will be moved to Fire Station No. 3. The recently purchased used fire truck will be equipped and put into reserve as a replacement back-up to be used only in the case that one of the department's existing engines breaks down.

Councilman Womble also expressed displeasure that the town had purchased an old fire truck.

There was much discussion about the adequacy of the town's plans and the cost.

Mr. Dean said the town will begin the planning process for a permanent station in this area of town, as it is planned in the town's Capital Improvement Plan,

which calls for the station to have been built in 2011. He said the Department of Insurance has indicated that the town's stop-gap measure will be adequate to safeguard the town's insurance rating.

Action: The Council adopted an amendment to the FY 2007-08 budget in the amount of \$70,000 to cover the costs of establishing Holly Springs Fire Station No. 3 in temporary quarters. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

Motion By: DeBenedetto

Second By: Womble

Vote: Unanimous

8a. Annexation Petition A08-05, Adams, Coley, Lorenzen, Vaughan Properties – Mr. Jones said that at the June 17 Town Council meeting, the public hearing for this petition was opened and closed; however, action was deferred by the Council at the request of the applicant until July 15.

The applicant, Mr. Jones reported, is Mr. Jay Gilleece who said contractual obligations are not yet complete and he would ask that the Council further defer action until Aug. 19.

Action: The Council approved a motion to defer action until Aug. 19 on Annexation Ordinance A08-05.

Motion By: Sack

Second By: VanFossen

Vote: Unanimous.

8b. Rezoning Petition 08-REZ-03 – Mr. Jones said this rezoning request relates to the subject property of annexation A08-05. Because annexation did not take place, the rezoning cannot take place and will need to be deferred until Aug. 19.

Action #1: The Council approved a motion to defer action until Aug. 19 on Annexation Rezoning 08-REZ-03.

Motion By: VanFossen

Second By: Sack

Vote: Unanimous.

At this time, 7:38 p.m., Mayor Sears said he and Councilman VanFossen would recuse themselves from discussion of this item although he, personally, no longer has a professional association with Wakefield Development. He said there is a difference of opinion as to whether or not it is necessary for him to do so, but because he and Councilman VanFossen have always recused themselves on topics concerning Wakefield Development, they would continue to do so.

Ms. Powell noted that if the Mayor and Councilman VanFossen were to be recused, there would no longer be a quorum of the Council, in the absence of Councilman Dickson. Councilman Dickson had said he would be a bit late for the meeting, but that he would arrive shortly before 8 p.m.

The Council decided to deviate from the agenda by proceeding to Item 9b. The Council would return to Item 9a. upon the arrival of Councilman Dickson and the ability to maintain a quorum of four Council members.

Councilman Dickson arrived, and the Council at 8:08 p.m. returned to Item 9a. In the meantime, the Council visited Item 9b.

9b. Resolution 08-36 – Mr. Dean explained that on Feb. 19, 2008, Progress Energy submitted an application to the Nuclear Regulatory Commission (NRC) for a combined license (HAR COL) for two Westinghouse Advanced Passive 1000 (AP1000) Pressurized Water Reactors (PWR) designated as Harris Units 2 and 3 at the Shearon Harris Nuclear Power Plant.

He said in May, the NRC issued a public notice that it would be gathering information necessary to prepare an environmental impact statement (EIS) in support of the review of the application for the HAR COL. On June 9, NRC officials met with officials from the Town of Holly Springs to 1) explain the NRC environmental scoping process as it relates to the National Environmental Policy Act (NEPA); 2) provide officials an informal opportunity to ask questions concerning the NRC process as it relates to NEPA; and 3) explain the objectives of the scoping meeting.

During this meeting, NRC staff stated that issues involving safety and security are important to the NRC and will be considered in a separate safety review, and that although the environmental scoping process is focused on those issues affecting the human environment including radiological effects, ecological effects, socioeconomic effects, and effects on the physical environment, that comments regarding safety also may be submitted to the NRC with comments regarding the environmental scoping process and that they would be shared with NRC staff preparing the safety review.

Mr. Dean said in an effort to communicate to the NRC some of the Town's concerns in a unified voice, Resolution 08-36 has been drafted to include not only some of the environmental concerns that the NRC specifically is seeking, but also other concerns that have been expressed over the last few years.

Councilman Womble asked if it would be better to be specific in the resolution in describing the exact width of Avent Ferry Road. The Council agreed.

Councilman DeBenedetto suggested the replacement of Harris Park, which will be under water with the rise in the lake level. He also suggested that the town host a fall forum and invite Progress Energy to communicate to citizens what the company's plans are for the plant expansion.

Councilman Womble said he would like to see the relocated park to be a Holly Springs Park rather than a County park.

At this time, 7:48 p.m., Councilman Dickson arrived.

Mayor Sears said he agrees that there should be a public information meeting and has communicated on this subject with Progress Energy that the company hold a meeting to explain what its plans are. Councilman DeBenedetto stressed that he felt like the town should take the lead in organizing the meeting by contacting Progress Energy by letter. Mayor Sears said he would write a letter to that effect to Progress Energy.

Action: The Council considered a motion to adopt Resolution 08-36 as amended (to include specific description of road improvements and design on Avent Ferry Road for evacuation purposes) expressing the Town's comments for the Nuclear Regulatory Commission's environmental impact statement related to Progress Energy's application for the expansion of Shearon Harris Nuclear Plant.

Motion By: Sack

Second By: Womble

In discussion, Councilman Dickson pointed out that the town is the one who approved the schools and developments along Avent Ferry Road and he doesn't think the impact of having additional reactors there would require the company to widen Avent Ferry Road.

Councilman DeBenedetto said he feels the current evacuation routes are inadequate.

Councilman Dickson said that the NRC will not take No. 6 in the list on the resolution very seriously. He suggested that perhaps the resolution should be reworded to ask the NRC to conduct a study to determine if evacuation routes are adequate.

Councilman VanFossen said a lot of people need to get out of the area, but he agrees that the town created the congestion. He suggested that the resolution be reworded to omit a phrase describing the schools.

Mayor Sears asked if the resolution was non-binding.

Mr. Schifano said yes, it was non-binding.

Mr. Dean said he feels the roadwork would still qualify for environmental impact because they will be under water.

Councilman Dickson suggested that there be a wording change to No. 6 in the resolution that requests that Progress Energy widen and resurface roads – in general, not just Avent Ferry Road -- to provide adequate evacuation.

Amended Motion: The Council considered an amended motion to adopt Resolution 08-36 as amended so that item 6 would read, “secondary impacts would include the need to widen and resurface roads to provide adequate evacuation;” and otherwise expressing the Town’s comments for the Nuclear Regulatory Commission’s environmental impact statement related to Progress Energy’s application for the expansion of Shearon Harris Nuclear Plant.

Motion By: Sack

Second By: Womble

Vote: Unanimous. The amended motion disposed of the original motion.

At this time, 8:06 p.m., the Council returned to Item 9a.

Action: The Council approved a motion to recuse both Mayor Sears and Councilman VanFossen from Item 9a. on the agenda due to the mayor’s previous relationship with and Councilman VanFossen’s current professional relationship with Wakefield Development.

Motion By: Sack

Second By: DeBenedetto

Vote: Unanimous.

9a. Green Oaks Parkway Project – Mr. Schifano explained that pursuant to a 2004 Developer’s Agreement with Twelve Oaks, LLC (a subsidiary of Wakefield Development) the developer was to construct a two-lane cross section of Green Oaks Parkway from Premier Drive to New Hill Road. Throughout construction of this project over the last year, the town has requested the developer to do additional work that was beyond the scope of their responsibilities for the two-lane construction, such as widening the culverts and headwalls to accommodate the four-lane portion, the installation of a re-use line and potable water line to serve properties other than the developer, alignment shift precipitated by Novartis and additional design costs that were incurred by the developer with respect to the town’s requested changes.

He said having the developer do this work at this time as opposed to having to re-construct these components (such as headwalls and culverts) later with the construction of the 4-lane portion of the roadway represents a significant cost savings to the Town.

The amount that the Town owes the developer for the additional work is approximately \$1,082,000.

Mr. Schifano said the developer has completed a significant portion of the work; however, the company apparently has run into some financing difficulties that affect the completion of the two-lane roadwork, a responsibility of the developer, which is estimated to be \$650,000.

He said since the Town owes the developer this amount, and the developer owes their contractor more than the cost to complete the road, the contractor, Fowler Grading, has agreed to move forward with completing the construction of the two-lane portion if they receive the funds owed to the Developer by the Town.

He said under this three-party agreement, the Town would pay progress payments for the completion work directly to the contractor with the funds owed, and any balance from the Town’s required payment would be paid to the contractor.

The agreement also provides that the developer repay the Town certain costs incurred by the Town regarding the environmental violations during construction.

Mr. Schifano noted that the way the project was scheduled provided a cost-savings to the town of about \$1 million for the four-lane roadway.

Councilman Sack asked if there is time limit in the contract and whether meeting the time line would be hold punitive damages.

Mr. Schifano said yes, that the time limits was 54 days. The penalty for not making the deadline, he said, would be \$500 per day.

Councilman Sack asked Ms. Sudano what she thought about the agreement.

She said it represents a good solution for the town to be able to move forward. She added that budget amendments covering all of the aspects of the agreement and road construction would be forthcoming in September.

Councilman Womble asked if the \$35,000 to be recovered from the developer was included in the agreement.

Mr. Schifano said, yes.

Councilman DeBenedetto asked why was there a need for a three-party agreement. Mr. Schifano explained why.

Action: The Council approved a motion to enter into a three-party agreement among Fowler Contracting, Wakefield Development and the Town for the completion of the two-lane portion of Green Oaks Parkway at an estimated cost of \$911,820.

Motion By: Womble

Second By: Dickson

Vote: Unanimous.

A copy of the Fowler Contracting, Wakefield Development and Town agreement is incorporated into these minutes as addendum pages.

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

Motion By: Sack

Second By: Womble

Vote: Unanimous.

10. Other Business: Councilman Womble thanked the engineering department for the sidewalk leading from Wendy’s to Food Lion.

Councilman DeBenedetto reminded those in the room that ride to work day is July 16.

Councilman Dickson lauded the Parks and Recreation Department for the weekend tournament. He said the park was impeccable, and staff was great. He said the town has upper-crust parks, and area businesses missed out on a good advertising opportunity by not participating in some way in the tournament.

13. Manager's Report: Mr. Dean reported that staff is looking into setting goals and objectives for the upcoming bond referendum. He said he projected a September or October workshop of the Council to set priorities for the projects. He reminded council members of the upcoming Novartis tour; that a Russian delegation would be visiting Holly Springs on July 25; that the town had been awarded a sidewalk grant in the amount of \$371,000 for Main Street sidewalk to be constructed from Town Hall northward to G.B. Alford Highway; and that the Rex soccer fields would be opened the first week in September.

14. Closed Session: The Council approved a motion to enter into Closed Session, pursuant to G.S. 143-318.11(a)(4) to discuss potential economic development and pursuant to G.S. 143-318.11(a)(3) to discuss with the town attorney a matter of land condemnation and a matter of minimum housing code violations

Motion By: Dickson

Second By: Sack

Vote: Unanimous

General Account of Closed Session – July 15, 2008

In Closed Session, the Town Council received a report of a potential economic development project.

The Council then provided direction to the Town Attorney as to how to proceed with the acquisition of property. Action was taken, and the minutes were sealed until the release of those minutes to the public would no longer frustrate the purpose of the Closed Session.

Action: The Council approved a motion to seal the minutes of the July 15, 2008 Closed Session pertaining to the acquisition of property until such time as the release of those minutes to the public would no longer frustrate the purpose of the Closed Session.

Motion By: DeBenedetto

Second By: Womble

Vote: Unanimous

The Town Attorney reported to the Council that there have been 116 police and EMS calls to the Stephenson Mobile Home Park on Sunset Lake Road during the past year. He said there are other concerns in this area, namely, minimum housing code violations and community well concerns.

The Town Attorney recommended two directions to follow in addressing these problems. He said the town should enforce the minimum code violations and also put the owner of the property on order to hook up to town water.

The Council consensus was that these two paths should be followed in order to help the residents who live there while perhaps ridding the neighborhood of trouble makers.

Action: The Council approved a motion to return to Open Session.

Motion By: Sack

Second By: Dickson

Vote: Unanimous

-- End General Account

15. Adjournment: There being no further business for the evening, the July 15, 2008 meeting of the Holly Springs Town Council was adjourned following a motion by Councilman Dickson, a second by Councilman Sack and a unanimous vote.

Respectfully Submitted on Tuesday, Sept. 16, 2008.

Joni Powell, CMC, Town Clerk

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