

Holly Springs Town Council Minutes

Regular Meeting
Sept. 16, 2008

MINUTES

The Holly Springs Town Council met in regular session on Tuesday, Sept. 16, 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 (arrived at 7:15 p.m.), Chet VanFossen, Tim Sack and Hank Dickson 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, town clerk (recording the minutes); Daniel Weeks, project analyst; Drew Holland, finance director; Len Bradley, director of parks and recreation; Julia Hinton, Emily Wright and David Ballard of the Parks and Recreation Department; Laura Powell, planner I; Gina Clapp, director of planning and zoning; Jeff Jones, senior planner; Mark Zawadski, planner I; Kendra Stephenson, senior engineer; Rodney Campbell, development inspections; Scott Brummond, IT technician; Elizabeth Goodson, development review engineer; John Herring, police chief; police Lt. Anthony Revels; Cecil Parker, fire chief; Erika Phillips, human resources director; and Mark Andrews, public information officer.

2 and 3. The Pledge of Allegiance was recited, and the meeting opened with an invocation by Rev. Doug Parlin, pastor of Southwest Wake Baptist Church.

4. Agenda Adjustment: The September 16, 2008 meeting agenda was adopted with changes, if any, as listed below. [Note: *Councilman DeBenedetto advised via email that he intended to put forth motions on Green Oaks Parkway, Cline Falls Drive buffer and Progress Energy under Other Business. No further information was provided. Pursuant to the Council Procedures Manual, items on the agenda must be accompanied by all supporting information and no items can be added without unanimous consent of the Council. The suggested motion for Agenda Adjustment on the meeting Power Point included Councilman DeBenedetto's request with the items to be properly placed on the agenda under New Business with a unanimous vote of the Council on that motion; however, Councilman DeBenedetto argued that he wanted to bring the items up under Other Business and said that, in his mind, no change to the agenda was necessary.*]

Motion By: Sack

Second By: Dickson

Vote: Unanimous

Items Added to the Agenda: None.

Items Removed from the Agenda: None.

Consent Agenda Items Removed for Discussion: 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:

Marika Holland, 805 Stinson Avenue – Ms. Cullen addressed the Council to say that she has not been paid for an easement acquired for the Stinson Avenue extension. Mr. Schifano said he would follow up with her.

George Miser, 421 Cottonwood Lane – Mr. Miser addressed the Council to express admiration of the Town, Town officials and particularly the police chief. He said often the Council hears negative comments about the Town, and he wanted to take the opportunity to express his appreciation and compliments to the Town.

6a. Community Center Feasibility Study - Mr. Dean said during the past several months, Warren and Associates has collected information from both private and public facilities in the surrounding areas which are or would be similar to the community center that has been discussed. The purpose of this work was to create a Feasibility Study that can be used while evaluating the possibility of the Town's constructing a new community center. The information contained in the study shows the types of services provided at the comparable facilities, fees and charges, study area, membership numbers, and areas of service.

Mr. Dean introduced Mr. Frank Warren of Warren and Associates who gave the Council an overview of the study.

In discussion, Councilman Sack asked if there was a comparison of revenue and expenses. Mr. Weeks said he and Mr. Bradley have that

information and are working with Mr. Holland to devise a complete financial report for an upcoming workshop in preparation of a spring bond referendum.

Mr. Dean said numbers are being figured to include not only operational costs, but debt service. He said a bond referendum workshop will be scheduled for later in the fall to discuss a number of projects that could be funded by bonds.

Action: None.

6b. Parks & Recreation Marketing Plan – Mr. Bradley introduced Ms. Hinton, Ms. Wright and Mr. Ballard. Mr. Bradley said two years ago, the Town Council recommended that the Parks and Recreation Department improve its marketing efforts. Since then, Parks and Recreation formed a marketing group, organized marketing efforts for the department as a whole and created a marketing plan.

He said the Holly Springs Parks and Recreation Department has been invited to the North Carolina Parks and Recreation Association's annual state conference this year to present the marketing plan. This presentation has been given to Parks and Recreation staff, the Parks and Recreation Advisory Committee, and is now being given to Town Council before being presented at NCRPA in November.

He said this plan outlines the focus of the department's marketing efforts and special projects that have been developed and sets out goals for the future. It will serve as a guiding tool and will help to create a more successful department overall, he added.

With that introduction, the team addressed the Council, giving an overview of all the things that the department has done to market the town's programs and facilities.

In discussion, Council members were supportive of the presentation and asked a few questions about specific needs in the community. Councilman Dickson asked if there was a possibility to sell naming rights, a program he has suggested many times in the past.

Mr. Mallard and Ms. Wright said there have been efforts, but the town has had no takers yet.

Councilman Sack said he was impressed with the team's work, especially since the department has become so large and divergent. He complimented the department on the coordination of efforts.

Action: None.

7a. Public Hearing: Ordinance 08-14, (08-UDO-04), Architectural and Site Design Regulations – Mr. Zawadski said in 2002 when the Unified Development Ordinance was adopted, the architectural regulations that were drafted were the first regulations that the Town had regarding building appearance. He explained that these regulations have served the Town well over the past years as most of the recent commercial projects exceed the Town's minimum design requirements; however, this is because many times the final designs were accomplished by staff's and the developer's working together during the review process and not looking at the minimum UDO requirements, but at the Town's long-range plans and vision for the future of Holly Springs.

He said this strategy does not always end in a positive result and can cause project delays. In 2006, the Town Council adopted the Northeast Gateway Plan and in 2008 adopted the Southern Gateway Plan, both of which have an implementation item stating, "Evaluate and update the Unified Development Ordinance to ensure the plan policies can be met as it refers to Architecture."

Mr. Zawadski said, therefore, staff recommends revising the current commercial architectural requirements to ensure new development will continue to create the "village" atmosphere that is promoted by the Vision Holly Springs Comprehensive Plan.

The proposed amendment would make the following changes:

- Eliminate separate non-gateway and gateway architectural regulations and maintain a single set of architectural standards for all commercial development in Town (except for the TV District)
- Eliminate the separate LB architectural regulations and require LB projects to follow the standard commercial/mixed use district architectural regulations
- Create a new set of architectural requirements for front facades:
 - Building Materials
 - Primary Building Materials
 - Prohibited exterior materials
 - Building Massing and Façade Treatment standards
 - Base, Body, Cap
 - Variation in Massing
 - Animating Features
 - Human Scale Design Elements
 - Colors
 - Texture
 - Roof Treatment
 - Façade Modulation
- Specify building material requirements (prohibited materials) for all other facades - previously the UDO was silent on this
- Update and clarify consistency in architectural design for Integrated Centers
- Update the "Activity Node" regulations to comply with the language of "Gateway Features" in the new Vision Holly Springs Comprehensive Plan
- Revise and increase the Open Space Requirements - currently required only of Integrated Centers - now required for all

commercial/mixed-use projects including single-use sites

- Update appearance requirements for roof-mounted mechanical equipment when building roof line is below grade
- Revise the Decision Matrix (9.09) in regard to the change in LB architectural regulations from Section 3.02 to 3.08
- Revise the Special Exception Use requirements (9.10) to refer to the architectural requirements in Section 3.08 instead of 3.02 as it did previously for Local Business district criteria
- Revise the UDO Table of Contents

With that explanation completed, Mayor Sears opened the public hearing to accept input. The following comments were recorded: None. There being no comments, the public hearing was closed.

Action #1: The Council approved a motion to accept the following statement as true: "The requested UDO Text Amendment is consistent with the Vision Holly Springs Comprehensive Plan Objectives for Community Character and the Policies of the Northeast Gateway Plan and Southern Gateway Plan to establish regulations that will encourage new commercial and mixed use development to create a 'sense of place' and 'village atmosphere' throughout the Town."

Motion By: Sack

Second By: Dickson

Vote: Unanimous.

Action #2: The Council approved a motion to adopt Ordinance #08-14 to approve and enact UDO amendment #08-UDO-04 to modify the text of UDO Section 3.08 Architectural and Site Design regulations, Section 9.09 Decision Matrix, Section 9.10 Special Exception Uses, and UDO Table of Contents.

Motion By: Sack

Second By: DeBenedetto

Vote: Unanimous.

A copy of Ordinance 08-14 is incorporated into these minutes as addendum pages.

7b. Public Hearing: Ordinance 08-15 (08-UDO-08) Commercial Zoning Districts, General, Parking Regulations – Mr. Jones said as a continuing process of reviewing the Unified Development Ordinance, staff is proposing amendments to the UDO as it relates to commercial development.

He said over the past several months, there has been an increase in commercial development approvals and/or rezonings that will accommodate future commercial development. With the increase in commercial development in Holly Springs, it would be in the Town's best interest to focus on those UDO amendments that would have the greatest impact on commercial development that would achieve the goals and policies of the Town as specified in *Vision Holly Springs* -Town of Holly Springs Comprehensive Plan (specifically, *Future Land Use* and *Community Character* Sections) as well as the two Gateway Plans that have been written for the Northeast Gateway and the Southern Gateway.

With that explanation completed, Mayor Sears opened the public hearing to accept input. The following comments were recorded: None. There being no comments, the public hearing was closed.

Action #1: The Council approved a motion to accept the following statement as true: "The requested UDO Text Amendment is consistent with the Vision Holly Springs Comprehensive Plan Objectives for Community Character and the Policies of the Northeast Gateway Plan and Southern Gateway Plan to establish regulations that will encourage new commercial and mixed use development to create a 'sense of place' and 'village atmosphere' throughout the Town."

Motion By: DeBenedetto

Second By: Sack

Vote: Unanimous.

Action #2: The Council approved a motion to adopt Ordinance #08-15, to adopt and enact UDO Text Amendment #08-UDO-08 to modify the text of UDO Section(s) 3.03 Town Village; 3.07 General Regulation; and 11.02 Definitions.

Motion By: DeBenedetto

Second By: Womble

Vote: Unanimous.

A copy of Ordinance 08-15, as amended, is incorporated into these minutes as addendum pages.

7c. Public Hearing: Ordinance 08-16 (08-UDO-09) Residential Development Option Regulations – Mr. Jones said staff has prepared a draft ordinance amendment that would allow for development option projects to occur in the Village District Area Plan boundary area with no minimum acreage and density.

He said the Open Space requirement would be eliminated, because of the project's potential proximity to town recreation sites. Also, staff is proposing a smaller lot design within the VDAP boundary. The change would be to allow for single-family lots as small as 4,000 square feet. This change would allow for small-lot development that is discussed within the Village District Area Plan and would encourage in-fill on smaller lots.

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

Gerald Holleman, 5625 Easton Street – Mr. Holleman suggested extending it beyond the Village District because lots are expensive and it is difficult for people to get a mortgage he said. He asked the Council to look at this type of amendment outside the VDAP.

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

Action #1: The Council approved a motion to accept the following statements as true: “The requested UDO Text Amendment is consistent with the Vision Holly Springs Comprehensive Plan Policies for Future Land Use. The proposed modifications to the Development Option Section of the UDO create enforceable ordinances that create the vision of the town Comprehensive Plan, Vision Holly Springs, more specifically the Village District Area Plan for single family residential small lot development.”

Motion By: DeBenedetto

Second By: Dickson

Vote: Unanimous

Action #2: The Council approved a motion to adopt Ordinance #08-16 to adopt and enact UDO Text Amendment #08-UDO-09 to modify the text of UDO Section 2.09 to allow for development option projects to occur in the Village District Area Plan boundary area with no minimum acreage and density.

Motion By: DeBenedetto

Second By: Womble

Vote: Unanimous

A copy of Ordinance 08-16 is incorporated into these minutes as addendum pages.

At this time, Councilman VanFossen reported that he is the applicant for Zoning Map Change Petition 08-REZ-11 and the architect for the subject of Agenda Item 7e. He asked to be recused from the Council for both agenda items.

Action: The Council approved a motion to recuse Councilman VanFossen from Items 7d. and 7e. on the agenda because he is the applicant in Item 7d. and because of his professional connection as an architect with the subject of Item 7e.

Motion By: Dickson

Second By: Sack

Vote: Unanimous.

7d. Public Hearing: Zoning Map Change Petition 08-REZ-11 – Mr. Jones said the Town has received an application from a property owner requesting that the Town rezone approximately 0.426 acres from LB: Local Business Limited to R-15.

He said Local Business Limited is a district that was created as part of the Unified Development Ordinance adoption for property that is adjacent to residential property, but is zoned office and institutional under the old zoning ordinances.

Mr. Jones said the subject property, along with others along Holly Springs Road, was rezoned by the Town in 1994. The intent of the Town was to rezone only that portion of property located between Holly Springs Road and Earp Street, but since the application and advertisement for the rezoning in 1994, the portion with frontage on Earp Street was rezoned as well.

This rezoning would allow for the portion fronting Earp Street to revert back to Residential.

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

Chet VanFossen, 5104 Windance Place – Mr. VanFossen is the applicant. He explained that the property was subdivided and rezoned before he purchased it.

Katherine Lane, 408 Earp Street – Ms. Lane addressed the Council to ask what was being planned for the lot.

Mr. Jones explained that the requested rezoning was residential, so the only use allowed would be a home.

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

Action #1: The Council approved a motion to accept the following zoning consistency statement as true: “The requested zone map change from LB: Local Business to R-15 is consistent with Vision Holly Springs Comprehensive Plan since the Future Land Use Plan indicates this property as Residential and the R-15 Residential District sets the maximum allowed density at 2.25 units/acre.”

Motion By: Sack

Second By: Womble

Vote: Unanimous

Action #2: The Council approved a motion to adopt Ordinance #R08-13 to approve Zone Map Change Petition #08-REZ-11 to change the zoning of 0.426 acres of Wake County PIN # 0659120439 from LB: Local Business Limited to R-15: Residential as submitted by Chet VanFossen.

Motion By: Sack

Second By: Womble

Vote: Unanimous

A copy of Rezoning Ordinance R08-13 is incorporated into these minutes as addendum pages.

7e. Public Hearing: Special Exception Use Petition 08-SEU-03 – Mr. Zawadski explained that the Town has received a Special Exception Use request to locate a Minor Automobile Repair business in the Local Business Zoning District. The property is located at 9825 Holly Springs

Road between Sunset Lake Road and Lassiter Road.

He said the property is proposed to be accessed by a single driveway off of Holly Springs Road and includes a pedestrian connection that would connect the new public sidewalk along Holly Springs Road to the front entrance of the building. The project would include a 6,120-square-foot building and 20 parking spaces. A trash enclosure is proposed in the Northeast corner of the site, and a decorative stamped concrete crosswalk would be located at the entrance drive.

He said the building design includes a single garage door located along the rear façade of the building that would not be visible from Holly Springs Road. The exterior of the building is proposed to be constructed with a combination of concrete block and EIFS colored in varying shades of brown. The roof of the building is proposed to be light grey colored metal. Other architectural features include multiple building materials, colors, textures, roofline variation, decorative arches, varied block patterns, and windows.

Mr. Zawadski reported that the Planning Board had reviewed the application and had some concerns about the design before approving a motion to recommend approval with conditions.

Joe Signoretti of the Planning Board addressed the Council at the mayor's request to report on some of the Planning Board's concerns.

Mr. Signoretti said there were concerns about its location and the appropriateness of the use in this area. Ultimately, he reported, the Planning Board felt that this use would be appropriate for this location, particularly because Holly Springs Road is becoming more and more commercial.

Councilman Sack asked what the Planning Board thought about the design of the building.

Mr. Signoretti said he and other members were initially unimpressed with the design, but appreciated its uniqueness.

Councilman DeBenedetto said he felt another issue is the appropriateness of an auto repair / tire store in a gateway. He also stressed that any conditions of approval need to be clear and specific.

Councilman Sack asked what prompted the dissenting vote on the Planning Board. Mr. Signoretti reported that the member was concerned about noise, but he explained to her after the Planning Board meeting that it probably would not pose the problem she anticipated.

With that explanation completed, Mayor Sears opened the public hearing to accept sworn testimony. The following testimony was recorded under oath administered by the Town Clerk:

Doris Vaughan, 5333 Sunset Fairways Drive – Ms. Vaughan addressed the Council saying she opposed the application. She said this area was not appropriate for this type of use. She said Sunset Tire and Lube is proposed for around the corner and there would be no need for two similar uses so close together. She asked that the Council to vote against the proposal because she did not believe the application would satisfy Finding of Fact C., which states that the application must "be consistent with the character of the district, land uses authorized therein, and the Town of Holly Springs Comprehensive Plan."

Leon Powell, 3005 Lassiter Road – Mr. Powell said he had no objections to the use, but he wanted to know what guarantee he had that no cars or tires would be stored on the property on the weekends.

Mark Shank, 5405 Leopard's Bane Ct. – Mr. Shank, who is a planning board member, said he was not at the Planning Board meeting when the item was discussed because he was coaching and was late for the meeting. Still, he said, he wanted to share his input with the Council.

He questioned the thought of putting this type of business at this particular gateway location. He pointed out that there are zones that allow this use as a right, and he said he felt that would be a better option for the applicant to pursue.

Mr. Shank added that the applicant's existing Apex location is unsightly, and he worried what kind of condition a new location would be kept in, particularly as it is located in a town entry way corridor.

George Miser, 421 Cottonwood Lane – Mr. Miser explained that the Fussell store in Apex is oranges and apples to what is being planned for Holly Springs. He said the Fussell store in Apex is grandfathered in to old regulations and is not allowed to upgrade. He also responded to the first testifier's argument that there is no need for two similar businesses around the corner from each other by saying, "Obviously that logic does not apply when it comes to drug stores in Holly Springs."

He urged the Council to vote favorably on the application.

Randy Miller, the applicant – Mr. Miller said this use would provide a service that citizens need in Holly Springs. He said it would be the type of place where citizens could drop off their cars and then walk to neighboring businesses for other errands. As for the precedent that would be set in placing this use in a gateway, he said it would be a positive precedent with the landscaping and building design. There would be no outdoor storage or overnight storage of vehicles of any kind.

Mr. Miller said the hvac could be relocated, if how it is depicted on the site plan is not acceptable.

Councilman DeBenedetto asked if it was appropriate for a recused councilman to participate in discussion.

The Town Attorney said that once the Council member is recused, he is an average citizen, and it is up to the individual council members to make that switch in their minds.

Chet VanFossen – Mr. VanFossen said he believes Councilman DeBenedetto was implying that he was using his position as Councilman to push through his project. He polled the Council on whether he has ever used his position to lobby for a project in which he was involved. All members individually said, "No."

Mr. Signoretti addressed the Council to note the easement at the rear of the property that needs to be eventually developed and not remain a dirt road.

There is no requirement, but the applicant has offered it, and as property develops, it would continue to enable interconnectivity of parking lots of commercial properties that develop, he said.

Mr. VanFossen addressed the Council again to stress that there would be no outside storage of tires, and he pointed to the building design

for storage. He said the building has design features that would minimize noise and exhaust; he explained the building's air conditioning, and he added that the windows were purposely designed to capture light.

Mr. Shank addressed the Council again to say he did not like the design of the building.

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

Councilman Womble said he had no problems with the use. He said he believes the business would serve to increase the value of nearby properties. He said those property owners would benefit because they could sell to future developers.

He said he felt the use would be good for the community because it would provide a needed service. He said he agreed with Mr. Mizer's testimony about how similar uses can be located across the street from each other and thrive, like the many drug stores in Holly Springs.

Councilman Dickson said he has looked at the site plan, including the landscaping, and he said it looks good. Over the course of time, his view of the architecture of the building has changed. He said he does like the design. He pointed out that everything would be internal to the facility, and the landscaping would offer an adequate buffer. He said, however, that in looking at the required findings of fact, he could not in his mind reconcile with finding C, because he does not believe the use would be "consistent with the character of the district."

If it were not for that one thing, Councilman Dickson said, he would have no objections to the proposal.

Councilman Sack said his seeing the original drawings improved his view of the plan, and the landscaping is commendable. He said his problem is the same as Councilman Dickson in that he does not believe the use would be consistent with the character of the district.

Councilman Womble said he felt the use would be in character of the district because it is a commercial use, just as what is located on neighboring parcels.

Councilman DeBenedetto said he also does not feel the use would be consistent with the character of the district.

Action #1: The Council considered a motion to make and accept the findings of fact to be recorded in the minutes for Special Exception Use Petition #08-SEU-03 for Diamond Tire and Auto to locate a Minor Auto Repair use in the Local Business District as submitted by Randall Miller of Thompson and Associates, project number Diamond, dated Revised 7/25/2008.

Special Exception Use Findings of Fact:

A special exception use may only be granted upon the presentation of sufficient evidence to enable a written determination that:

- a. The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;
- b. The proposed use will not injure or adversely affect the adjacent area;
- c. The proposed use will be consistent with the character of the district, land uses authorized therein, and the Town of Holly Springs Comprehensive Plan;
- d. The proposed use shall conform to all development standards of the applicable district (unless a waiver of such development standards is requested as part of the special exception use petition and approved as set forth above, in which case the proposed use shall conform to the terms and conditions of such waiver);
- e. Access drives or driveways are or will be sufficient in size and properly located to: ensure automotive and pedestrian safety and convenience, traffic flow as set forth in Section 7.09 – Pedestrian Circulation and Vehicular Area Design; and, control and access in case of fire or other emergency;
- f. Off-street parking areas, off-street loading areas, trash enclosures, trash pick-up and removal, and other service areas are located so as to be safe, convenient, allow for access in case of emergency, and to minimize economic, glare, odor, and other impacts on adjoining properties and properties in the general neighborhood;
- g. The lot, building or structure proposed for the use has adequate restroom facilities, cooking facilities, safety equipment (smoke alarms, floatation devices, etc.), or any other service or equipment necessary to provide for the needs of those persons whom may work at, visit or own property nearby to the proposed use;
- h. Utilities, schools, fire, police and other necessary public and private facilities and services will be adequate to handle the needs of the proposed use;
- i. The location and arrangement of the use on the site, screening, buffering, landscaping, and pedestrian ways harmonize with adjoining properties and the general area and minimize adverse impacts; and,
- j. The type, size, and intensity of the proposed use (including but not limited to such considerations as the hours of operation and numbers of people who are likely to utilize or be attracted to the use) will not have significant adverse impacts on adjoining properties or the neighborhood.

Motion By: Womble

Second By: No second

Vote: No vote because the motion did not receive a second.

Action #2: The Council approved a motion to deny the findings of fact because the proposed use would not be consistent with the character of the district and land uses authorized therein for Special Exception Use Petition #08-SEU-03 for Diamond Tire and Auto to locate a Minor Auto Repair use in the Local Business District as submitted by Randall Miller of Thompson and Associates, Project Number Diamond, date revised 7/25/2008.

Motion By: Sack

Second By: Dickson

Vote: The motion carried following a 3-1 vote. Councilmen DeBenedetto, Sack and Dickson voted for the motion. Councilman Womble voted against.

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

Motion By: Sack

Second By: Dickson

Vote: Unanimous.

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

8a. Minutes – The Council approved minutes of the Council's regular meeting held on July 15, 2008.

8b. Budget Report – The Council received reports of amendments to the FY 2007-2008 and FY 2008-09 budgets approved by the town manager. *A copy of the budget amendment reports are incorporated into these minutes as addendum pages.*

8c. Cass Holt and Avent Ferry Road Change Orders – The Council approved a change order in the amount of \$8,360 to the traffic light installation work at Cass Holt and Avent Ferry Roads to provide pedestrian heads. *A copy of the change order is incorporated into these minutes as addendum pages.*

8d. Maple Street Extension Change Order – The Council approved a change order in the amount of \$1,000 to provide extra ABC stone for the Maple Street extension. *A copy of the change order is incorporated into these minutes as addendum pages.*

8e. Utley Creek Wastewater Treatment Plant Change Order – The Council approved a change order in the amount of \$13,033 to provide sedimentation and erosion protection devices in the Utley Creek Wastewater Treatment Plant project. *A copy of the change order is incorporated into these minutes as addendum pages.*

8f. Utley Creek Wastewater Treatment Plant Change Order Deduction – The Council approved a change order in the contract deduct amount of \$152,477.50 to add harmonics and to substitute aluminum for copper conductors in the Utley Creek Wastewater Treatment Plant project. *A copy of the change order is incorporated into these minutes as addendum pages.*

8g. Budget Amendment, \$193,400 – The Council adopted amendments to the FY 2008-09 budget to establish a pre-construction project budget of \$193,400 for the Bass Lake Sidewalk project. *Copies of the budget amendments are incorporated into these minutes as addendum pages.*

8h. Reclaimed Water Distribution System Change Order – The Council approved a change order in the amount of \$15,975 to provide additional bore casing needed in the Reclaimed Water distribution system project. *A copy of the change order is incorporated into these minutes as addendum pages.*

8i. Town Employee Luncheon – The Council approved the closing of all non-essential town facilities for 1 ½ hours on Wednesday, Dec. 17, 2008 from noon to 1:30 p.m. to allow for a town employee luncheon and service awards ceremony.

8j. Resolution 08-44 – The Council adopted Resolution 08-44 accepting a Safe Routes to School grant in the amount of \$25,450 from NCDOT. *A copy of Resolution 08-44 is incorporated into these minutes as addendum pages.*

8k. Resolution 08-45 – The Council adopted Resolution #08-45 requesting that the Wake County Board of Commissioners extend the Town of Holly Springs Extraterritorial Jurisdiction. *A copy of Resolution 08-45 is incorporated into these minutes as addendum pages.*

8l. House Moving – The Council approved to the moving of a house from 112 Avent Ferry Road to a lot on Earp Street.

9a. Irving Parkway / New Hill Road – Mr. Stephenson said a request has been made by Mr. Ed Dressen, who owns property and has a business in the Holly Springs Business Park, for the Town to examine an area of concern at the intersection of Irving Parkway and New Hill Road. Mr. Dressen has asked that the radius on Irving Parkway be widened to accommodate the turning radius for tractor trailers.

Ms. Stephenson explained that currently, Mr. Dressen says, some of the trucks from the business park are over-running the curb in the radius, and their tires are rutting out the area behind the curb. In addition, Mr. Dressen explained to staff, the trucks are traveling far into the opposing lane of traffic when leaving the business park.

She said the town received a letter from Mr. Dressen, which also indicates that he is concerned about the potential for one of the trucks actually overturning. Staff has visually observed the rutting behind the curb, but has not observed trucks actually making the turn to have an opinion on the potential for overturning.

She said to fix the radius completely -- remove and replace the curb and gutter -- would cost between \$7,000 and \$8,000, per the Public Works Director. In lieu of full replacement, the Public Works Director has indicated that the existing curb could be removed (and not replaced,) and extra stone and asphalt could be placed to accommodate the turning truck traffic. This solution would cost less than approximately \$2,000.

Mr. McNeil's suggestion would seem to be a more reasonable response, since road improvements to be made in the next year or so as New Hill Place develops across the street will include some permanent improvements at this intersection.

Mr. Dean said the intersection would likely be improved in 2010.

Mr. Dressen addressed the Council saying that there is a significant increase of truck traffic in the business park and he has experienced problems with truck traffic and has seen the turning problem. He asked that the permanent solution be authorized.

Councilman VanFossen said he had a problem with using taxpayer funds to improve that intersection when development would take care of it at a developer's expense in the near future.

Mr. Dressen said he also wanted to inform the Council about a problem with contractors breaking phone and electric lines.

Mr. Dean reported that the town's engineering department had been apprised of the situation in the past two weeks and have put some measures in place to try to minimize these power interruptions. Contractors have been put on notice to be more careful.

Mr. Dressen suggested that the Town communicate this to the business owners in the park.

Ms. Sudano agreed.

Action: The Council approved a motion authorize staff to remove the curb and prepare a surface to better accommodate turning trucks at the intersection of Irving Parkway and New Hill Road until permanent improvements are made.

Motion By: Sack

Second By: Dickson

Vote: Unanimous.

9b. Center Street One-Way Conversion – Ms. Stephenson said per direction from the Town Manager, the conversion of Center Street to one-way has been removed from the scope of the upcoming Main Street Enhancement Project and added as a change order to the Baptist Parking Lot contract. This was done to facilitate faster completion of the conversion, which one Council member has expressed a desire to do.

She said the contractor estimates a cost of \$79,750, including contingency.

Councilman DeBenedetto asked why a change order instead of a new contract.

Ms. Stephenson said the benefit is that the town can use the prices bid on the previous project.

Action: The Council approved a motion to adopt budget amendments in the amount of \$79,750 to cover costs for a change order to the Baptist Church parking lot project in the amount of \$72,484 plus contingency for the conversion of Center Street to one-way.

Motion By: Womble

Second By: Sack

Vote: Unanimous.

10. Other Business: Councilman Sack said he would like Chief Herring to report on the HOT Lunches program at Holly Springs High School. The school has invited officials to review the school during the lunch periods when all students are either eating, socializing or studying depending on their assigned lunch time.

Chief Herring reported that the town is not questioning the benefits of the HOT Lunch program, but his concern is safety of the students and staff.

The population of the school is 1,650, and police are concerned about the high number of students who are all at one time all over the school campus. Any time a large number of people are in a small area, Chief Herring said, from a tactical standpoint there needs to be some structure. He said he feels there is a situation where someone could get hurt.

Lt. Revels advised the Council that the fire marshal had written the school up for having too many people in the lunch room at one time; however, there have been no repercussions.

In HOT Lunches, Lt. Revels explained, half the students of the school are eating and the other half are in intramurals in the libraries, classrooms, anywhere in the school except the parking lot. When finished eating, the first group is supposed to leave, and the second group comes. What is happening, Lt. Revels said, is the first group is not leaving, and the lunchroom fills up with too many students.

Meanwhile, Lt. Revels said, the students who are not in the lunch room are allowed to roam the campus. While school officials say there are plenty of adults watching, Lt. Revels said the students are getting into mischief and fights break out. To add to the problem radio communications in the building do not work well, and this puts officers on duty at the school in danger, and it is not safe for students they are trying to protect.

In summary, Lt. Revels said, there are too many people spread out, only two officers and communications don't work right. All of those things add up to trouble, he concluded.

Chief Parker reported that Wake County does inspections and the school has been written up. He said when the HOT Lunch program works as it should and the first shift of students leaves the room, there are still too many people in the lunch room at one time by almost double.

Chief Herring said he has two officers assigned to the school, and the situation is still unmanageable.

Council members said they would keep all of this information in mind as they see the HOT Lunch program for themselves later in the week. In the meantime, they agreed, the police and the school should pursue improving radio communications because it is critical.

Councilman DeBenedetto brought up his items.

Councilman DeBenedetto proposed hiring outside counsel to conduct a review of all contracts related to Green Oaks Parkway.

Councilman Sack asked Mr. Dean to give an overview.

Mr. Dean said the road is in, the pump station is in, the water is in. The Town saved roughly half a million on the four-lane Green Oaks Parkway project by handling the project the way it did. He said he wanted to keep the project going and did, but Wakefield let the Town down; therefore, the Town had to move forward with the three-party agreement in order to keep the four-lane portion of the project on schedule.

Mr. Schifano explained that the three-party agreement is a mechanism for the Town to recapture all the funds it has had to pay that the developer did not.

Councilman Dickson pointed out that the Town would be spending extra money for outside counsel.

He said, and Councilman Sack agreed, that it was not necessary for the Town to hire outside counsel.

Councilman Womble asked if Wakefield Development goes out of business or sells 12 Oaks, would the new developer be bound by the agreement. Mr. Schifano said yes, that is why it was devised as a 3-party agreement.

The mayor called for a vote as to whether to add this as an item on the agenda.

Action: The Council considered a motion to add the item to the agenda.

Motion By: DeBenedetto

Second By: Womble

Vote: The motion failed to carry, following a 2-3 vote. Councilmen DeBenedetto and Womble voted for the motion. Councilmen VanFossen, Sack and Dickson voted against.

Citing the Council's Procedures Manual, Mayor Sears said the item could be added to the agenda only following a unanimous vote, so further discussion of the topic was not added.

Councilman DeBenedetto asked the Council to authorize the town manager and town attorney to take legal steps to force the Wake County Public School System to replace a buffer of trees at the Holly Grove Middle School construction site.

Staff reported that the contractor cleared the site in accordance with construction drawings, and the site plan requires replacement of removed vegetation to 20 feet of C-150 buffer, which will be done at a later date.

The mayor called for a vote as to whether to add this as an item on the agenda.

Action: The Council considered a motion to add the item to the agenda.

Motion By: DeBenedetto

Second By: Womble

Vote: The motion failed to carry, following a 2-3 vote. Councilmen DeBenedetto and Womble voted for the motion. Councilmen VanFossen, Sack and Dickson voted against.

Councilman DeBenedetto requested that Progress Energy reschedule its planned information meeting from a weeknight to a Saturday so more people in town could attend.

The other side of the argument, Councilman Dickson said, is that people are busy on the weekend and would be even less likely to attend. He said he was not supportive of asking the company to reschedule a meeting that already had been planned and advertised.

The mayor called for a vote as to whether to add this as an item on the agenda.

Action: The Council considered a motion to add the item to the agenda.

Motion By: DeBenedetto

Second By: Womble

Vote: The motion failed to carry, following a 2-3 vote. Councilmen DeBenedetto and Womble voted for the motion. Councilmen VanFossen, Sack and Dickson voted against.

Councilman Womble noted that he had asked about a tree leaning into the roadway on Main Street at the top of hill near Arbor Creek. He said that the Public Works Department had reported that the tree was healthy, but was growing at an angle. Councilman Womble reported that the tree fell.

Councilman Womble asked about the Town's adding civic organization placards at entrances. Mr. Dean said staff is looking at adding them to gateway sign designs.

Councilman Sack asked if a dead tree on the Jenkins property could be removed. Mr. Schifano said staff had looked at the tree, and it is not in the public right of way. He said he would write a letter to the owner asking that the tree be removed.

11. Manager's Report: Mr. Dean reported on a bus tour for economic development.

12. Closed Session: none.

13. Adjournment: There being no further business for the evening, the September 16, 2008 meeting of the Holly Springs Town Council was adjourned.

Respectfully Submitted on Tuesday, Nov. 18, 2008.

Joni Powell, CMC, Town Clerk

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