

Holly Springs Town Council Minutes

Regular Meeting
Feb. 17, 2009

MINUTES

The Holly Springs Town Council met in regular session on Tuesday, February 17, 2009, 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 five council members were present as the meeting opened.

Council Members Present: Councilmen Vinnie DeBenedetto, Parrish Womble Chet VanFossen, Tim Sack, and Hank Dickson and Mayor Sears.

Council Members Absent: None.

Staff Members Present: Carl Dean, town manager; John Schifano, town attorney; Joni Powell, town clerk (recording the minutes); Linda Harper, deputy town clerk; Gina Clapp, director of planning and zoning; Laura Powell, Planner I; Jeff Jones, senior planner; Stephanie Sudano, director of engineering; Kendra Parrish, senior engineer; Elizabeth Goodson, development review engineer; Mark Zawadski, planner I; Len Bradley, parks and recreation director; John Herring, police chief; police lieutenant Robbie Parrish; 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 Tiffany Pinson of The Family Worship Center.

4. Agenda Adjustment: The February 17, 2009 meeting agenda was adopted with changes, if any, as listed below.

Motion By: Sack

Second By: DeBenedetto

Vote: Unanimous

Items Added to the Agenda: Resolution 09-04, setting a public hearing for an annexation was added to the Consent Agenda; and an item to consider a motion proposed by Councilman DeBenedetto regarding a teleconference with attorneys for the Town in the Mangum vs. Town of Holly Springs case was added to New Business.

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: None

6a. Public Hearing: Annexation A09-01, Crawley Property – Mr. Jones said the Town has received a petition for voluntary annexation of approximately 3.101 +/- acres located at 1605 Avent Ferry Road. Property owner is Dawn Coley Crawley who wishes to annex her property into the city limits; however, the property owner requests that action be deferred following the public hearing, Mr. Jones said.

He said the petition meets all the statutory requirements for annexation.

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

Action: The Council approved a motion to defer action on proposed Annexation Ordinance A09-01 until March 3, 2009.

Motion By: Sack

Second By: Dickson

Vote: Unanimous.

6b. Public Hearing: Rezoning Petition 08-REZ-15 – Ms. L. Powell said the Town has received a request to rezone 3.101 acres located at 1605 Avent Ferry Road from R-30: Residential upon annexation to LB: Local Business.

Ms. Powell explained that the Vision Holly Springs Plan designates this area to be a community growth area.

Ms. Powell reported that the Planning Board had reviewed the petition and raised concerns about:

- how the potential for commercial development on the subject parcel would impact adjacent intersections.
- impacts to current residential uses adjacent to the subject parcel.
- how roadway access through this site would allow for commercial development and provide for interconnectivity with adjacent properties.

[Staff note: The Town's Thoroughfare Plan does not call for a thoroughfare or collector to be constructed in this area. Any development on this site would be required to line their access up with the existing Holly Meadow Drive; however, this would not be required to be a public street.]

- the high traffic volume created by a business at this location and the impacts to Avent Ferry Road. [Staff note: With the development of this site, based on traffic counts, this site would be required to complete a Traffic Impact Analysis to determine the impacts of this site on Avent Ferry Road.]

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

Joseph Cabano, 209 Autumn Glen Lane – Mr. Cabano said he speaks for himself and a number of his neighbors when he expresses concern that this area is, in his opinion, not a good location for commercial or local business development. He said Avent Ferry Road is not adequate to handle this type of traffic. He said he was not opposed to development, but that he felt non-residential development of this parcel would generate too much traffic on an already too narrow roadway.

In discussion, Councilman DeBenedetto asked if the Town had any plans to widen Avent Ferry Road.

Ms. Goodson explained that it is a state roadway, but the widening of Avent Ferry Road was designated on the Town's thoroughfare plan as a widened roadway; however, this widening would occur with and at the expense of development along Avent Ferry Road.

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 zone map change from R-30 to LB is consistent with the Vision Holly Springs Comprehensive Growth Plan since the Future Land Use Plan Map indicates this property as Mixed Use which is supported by the list of permitted uses in the LB zoning district. With the establishment of Local Business along the frontage of Avent Ferry Road, the 'mixed use' designation precedence of the Community Growth Area has been carried out."*

Motion By: Sack

Second By: Womble

Vote: Unanimous.

Action #2: The Council approved a motion to adopt Rezoning Ordinance R09-01 to approve and enact Zone Map Change Petition #08-REZ-15 to change the zoning of Wake County PIN # 0648249677 from R-30: Residential to LB: Local Business as submitted by Pabst & Hilburn, PA.

Motion By: Sack

Second By: Womble

Vote: Unanimous.

A copy of *Zoning Ordinance R09-01* is incorporated into these minutes as addendum pages.

6c. Public Hearing: Ordinance 09-01 (08-UDO-11) Amendment – Mr. Jones said that the Town has received a request from a developer that the Town amend Section 7.04, Off Street Parking Regulations, of the UDO, and more particularly, the Multi-family regulations of Off-Street Parking, as they relate to apartments and condos.

The requester is proposing that the Town add apartment parking regulations of one parking space per bedroom to the UDO, separate from and different from existing requirements for Townhome parking.

He said staff is in support of adding specific regulations for apartment and condo off-street parking as the current regulations are more for Townhome projects, since this historically has been the type of multi-family projects the Town has been receiving.

Staff suggests the following for apartments and condo parking: 1.75 parking spaces per unit, plus 10 percent.

Mr. Jones said also, staff is suggesting that the definition section of the UDO be updated to include language to the Multi-family definition to include apartments and to add an "apartment" definition.

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

Councilmen Sack and VanFossen both spoke in favor of the amendment. Councilman Sack noted that it would result in less impervious surface for the town. Councilman VanFossen pointed out that a lot of thought went into the resulting amendment.

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 Policies for Future Land Use. The proposed modifications to the Off Street Parking regulations creates enforceable ordinances to ensure managed parking areas within town."*

Motion By: VanFossen

Second By: DeBenedetto

Vote: Unanimous.

Action #2: The Council approved a motion to adopt Ordinance 09-02 to approve and enact UDO Amendment #08-UDO-11 to modify the text of UDO Section 7.04 Off-Street Parking Regulations and Section 11.02 Definitions to address apartment parking.

Motion By: VanFossen

Second By: DeBenedetto

Vote: Unanimous.

A copy of Ordinance 09-02, (08-UDO-11) is incorporated into these minutes as addendum pages.

6d. Public Hearing: Ordinance 09-03 (08-UDO-12) Amendment – Mr. Jones said staff proposes that the Town add bicycle parking regulations for certain uses to the Off-Street Parking section of the UDO. The Town has seen a significant increase in commercial projects in Town. It is within commercial projects that bicycle parking typically is found.

He said at several times throughout the year, staff hears from residents that they would like to be able to bike to places instead of drive. This UDO amendment would ensure that those residents who choose to bike to places in town would have safe opportunities to park their bicycles.

Mr. Jones reported that the Planning Board had reviewed the proposal and voted to recommend approval, following a 6-1-1 vote. The dissenting vote was accompanied by comments regarding the amount and location of bicycle racks and whether they would be used.

Councilman VanFossen said he was sure, once the amendment is adopted, there would be changes proposed as it is put into practice.

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 Transportation and Parks and Recreation since the proposed modification to the Off-Street Parking Regulations creates regulations to promote opportunities for residents to be able to ride bicycles to bicycle-friendly developments.”*

Motion By: Sack

Second By: DeBenedetto

Vote: Unanimous.

Action #2: The Council approved a motion to adopt Ordinance 09-03 approving and enacting UDO Text Amendment #08-UDO-12 modifying the text of UDO Section 7.04, Off-Street Parking Regulations, to address bicycle parking.

Motion By: Sack

Second By: DeBenedetto

Vote: Unanimous.

A copy of Ordinance 09-03 (08-UDO-12) is incorporated into these minutes as addendum pages.

6e. Public Hearing: Ordinance 09-04 (08-UDO-14) Amendment - Mr. Zawadski said a proposed UDO amendment to Section 4.05 for industrial architectural requirements would make the following changes:

- Create a new set of architectural requirements for primary facades (requirements are different for gateway and non-gateway projects):
 - Building Materials
 - Primary Building Materials
 - Prohibited exterior materials
 - Building Massing and Façade Treatment standards
 - Base, Body, Cap
 - Variation in Massing
 - Animating Features
 - Colors
 - Texture
 - Roof Treatment
 - Façade Modulation
- Specify building material requirements (prohibited materials) for all other facades - previously the UDO was silent on this
- Add Open Space Requirements for Gateway projects.
- Update appearance requirements for roof-mounted mechanical equipment when building roof line is below grade
- Change “waiver” to “alternate compliance” in Section 9.09 Decision Matrix and 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 to encourage a ‘village atmosphere’ by creating a sense of community and identity for the residents and businesses of Holly Springs.”*

Motion By: Dickson

Second By: Womble

Vote: Unanimous.

Action #2: The Council approved a motion to adopt Ordinance 09-04 to approve and enact UDO Amendment #08-UDO-14 modifying the text of UDO Section 4.05, Architectural and Site Design Requirements for Industrial Districts, 9.09 Decision Matrix, and Table of Contents.

Motion By: Dickson

Second By: Womble

Vote: Unanimous.

A copy of Ordinance 09-04 (08-UDO-14) is incorporated into these minutes as addendum pages.

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

7a. Minutes - The Council approved minutes of the Council's regular meetings held in December, 2008.

7b. Budget Amendment Report – The Council received a report of amendments to the FY 2008-09 budget approved by the town manager. A copy of the budget amendment report is incorporated into these minutes as an addendum page.

7c. Resolution 09-03 – The Council adopted Resolution 09-03 endorsing and authorizing a grant application to the North Carolina Recreation Trails Program. A copy of Resolution 09-03 is incorporated into these minutes as an addendum page.

7d. Ordinance 09-05, Article VII Traffic Amendment - The Council adopted Ordinance 09-05 amending Article VII Traffic of the Town Code, Vehicles and Parking, to include references to authorized stop signs and speed limit signs. A copy of the Ordinance 09-05 is incorporated into these minutes as addendum pages.

7e. Budget Amendment, \$2,920 – The Council adopted an amendment to the FY 2008-09 budget in the amount of \$2,920 to receive insurance proceeds for a damaged ambulance and police vehicle. A copy of the budget amendment is incorporated into these minutes as an addendum page.

7f. Budget Amendment, \$1,000 – The Council adopted an amendment to the FY 2008-09 budget in the amount of \$1,000 to set aside funds for investigation operational expenses for the police department. A copy of the budget amendment is incorporated into these minutes as an addendum page.

7g. Budget Amendment, \$100 – The Council adopted an amendment to the FY 2008-09 budget in the amount of \$100 to recognize funds from the donated proceeds of pumpkins sold at Holly Fest. A copy of the budget amendment is incorporated into these minutes as an addendum page.

7h. Western Wake Regional Wastewater Facility Project – The Council approved an amendment to the Davis, Martin, Powell and Associates professional services agreement for work required in the Western Wake Regional Wastewater Facility project. A copy of the Davis, Martin, Powell & Associates contract amendment is incorporated into these minutes as addendum pages.

7i. Resolution 09-04 – The Council adopted Resolution 09-04 directing the town clerk to investigate the sufficiency of annexation petition A09-02 and setting a public hearing on the question of annexation for Tuesday, March 3, 2009.

Teleconference – At this time, Councilman DeBenedetto said he would like the Council to know more specific facts and have more clarity about the *Melanie Mangum vs Town of Holly Springs* litigation. He said he would like to meet with attorneys representing the North Carolina League of Municipalities (and, therefore, the Town) by conference call with other members of the Council. He added that he feels the Council has a responsibility to keep abreast of the proceedings.

Action: Councilman DeBenedetto asked the Council to consider a motion to direct the Town Manager to arrange a mutually agreed upon time and date for a conference call to take place at Town Hall between the Town's insurance attorney handling the Mangum lawsuit and any member of the Town Council or town manager or town attorney who desires to be in attendance.

Motion By: DeBenedetto

Councilman Womble asked if such a meeting would be open to the public or would it be a Closed Session.

The Town Attorney said he would advise that the Council enter Closed Session. Councilman Dickson asked Council members to respond individually as to whether he would support the motion:

Councilman Sack said no; Mayor Sears said no; Councilman VanFossen said no; Councilman Womble said no; Councilman Dickson said he would say no.

Councilman Dickson asked if Councilman DeBenedetto had ever said anything about the pending lawsuit to either of the Mangums.

Councilman DeBenedetto said he has never divulged any information regarding the lawsuit to any parties in litigation although he attends the same church as the Mangums.

Councilman Dickson asked again.

Councilman DeBenedetto said no, he had not talked to them about the lawsuit.

He said he has had only social contact with the plaintiff.

Councilman Sack said he does not think it is appropriate for the Council to get involved directly since the Council has the town attorney to apprise the Council

Councilman Sack said he would like the Council to keep the lawsuit between the attorneys handling the case.

Councilman DeBenedetto said he just wanted to hear first hand from the attorney handling the case.

Second By: None

Vote: The motion failed for lack of a second.

To provide the town manager with certainty as to how to proceed, the Council entertained the following motion.

Action: The Council approved a motion to establish that Council members shall have no direct nor indirect contact with the plaintiff, attorneys for either side, or other pertinent parties in the *Mangum vs Town of Holly Springs* litigation until or unless one or more of the following occurs:

- the case is resolved;
- attorneys representing the Town's interests deem it necessary or prudent;
- unless compelled by the court; or
- contact is among the Council as a whole.

Motion By: Sack

Second By: VanFossen

Vote: The motion carried following a 4-1 vote. Councilmen DeBenedetto, VanFossen, Sack and Dickson voted for the motion. Councilman Womble voted against. (Councilman DeBenedetto did not vote audibly, which is counted as an aye vote.)

8. Other Business: Councilman Womble complimented the assistant town manager for addressing a concern of his quickly; Councilman Sack complimented the public works department for street and sidewalk repair; Mayor Sears complimented the public works department for its work during the recent winter storm.

9. Manager's Report: Mr. Dean reported that he and the mayor would be meeting with federal representatives regarding the economic stimulus program; and with the Wake delegation on Monday regarding the Town's legislative agenda.

He explained that the 2009 Winter Retreat was scheduled for Saturday, Feb. 28 and Sunday, March 1 at Yates Mill Pond Park in Raleigh; however, in preparing the agenda, it appears that the Town's business section could be completed with a tight schedule only on Saturday. Sunday, he said, would be needed only if Council members had specific topics that members wanted to air that were not among the business items.

He asked the Council to determine whether it wanted to meet on Sunday and what topics would need to be added to the Sunday agenda.

In discussion, the Council determined that Saturday's schedule of town business would be sufficient. The 2009 Winter Retreat will be held, then, from 9 a.m. to 5 p.m. Saturday, Feb. 28 at Yates Mill Pond Park, Lake Wheeler Road, in Raleigh.

10. Closed Session: None.

11. Adjournment: There being no further business for the evening, the Feb. 17, 2009, meeting of the Holly Springs Town Council was adjourned following a motion by Councilman VanFossen a second by Councilman Dickson and a unanimous vote.

Respectfully Submitted on Tuesday, June 2, 2009.

Joni Powell, CMC, Town Clerk

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