

Holly Springs Town Council Minutes

Regular Meeting
Dec. 15, 2009

MINUTES

The Holly Springs Town Council met in regular session on Tuesday, Dec. 15, 2009, in the Council Chambers of Holly Springs Town Hall, 128 S. Main Street. Mayor 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 Jimmy Cobb, Chet VanFossen, Tim Sack and Councilwoman Linda Hunt Williams and Mayor Sears.

Council Members Absent: Councilman Parrish Womble.

Staff Members Present: Carl Dean, town manager; Chuck Simmons, assistant town manager; John Schifano, town attorney; Joni Powell, town clerk (recording the minutes); Linda Harper, deputy town clerk; Drew Holland, finance director; Len Bradley, director of parks and recreation; Kristen Denton, parks and recreation program manager; John Herring, police chief; Cecil Parker, fire chief; Gina Clapp, director of planning and zoning; Jeff Jones, senior planner; Laura Powell, Planner I; Josh Olmeda, IT technician; Mark Andrews, public information officer; Elizabeth Goodson, development review engineer; Amy Moore, water quality director; and Stephanie Sudano, director of engineering.

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

4. Agenda Adjustment: The Dec. 15, 2009 meeting agenda was adopted with changes, if any, as listed below.

Motion By: Sack

Second By: VanFossen

Vote: Unanimous

Items Added to the Agenda: Recognition of local champion athletes and cheerleaders.

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: None.

Sarah Hewitt, 425 Brightling Way – Ms. Hewitt addressed the Council, asking the board to reject a development plan for Sunset Lake Apartments, a development plan to appear later in the agenda. She said she is concerned that already heavy traffic congestion on Optimist Farm Road would be aggravated by the project, and she said she did not think apartments were a good project to be placed on the site.

At this time, Mayor Sears introduced Kristen Denton of the Parks and Recreation Department who introduced a number of youngsters who recently competed and won various championship competitions as part of the town's parks and recreation programs.

In the sport of Cheerleading, the Council recognized:

The Mighty Mites (ages 9-10) who were named champions in the large division of their age group at the East Wake Football League Cheer Competition held in Knightdale.

The Pee Wees (ages 11-12) who were named champions in the small division of their age group at the East Wake Football League Cheer Competition held in Knightdale. They also received the Best Over-All award for earning the highest score among all squads (in all age groups) that competed

in the small division.

In the sport of Soccer, the Council recognized:

Both the 9-10 Girls and 11-12 Coed All-Star soccer teams who competed in the State Wide Athletic Committee state soccer tournament in Rocky Mount. The teams were undefeated through the entire tournament to become SWAC state champions.

Action: None.

6a. Public Hearing: Rezoning Petition 09-REZ-02 – Mr. Jones said the Town has initiated the rezoning of a parcel that would address two items that have been of concern for Staff.

He said first, the property has had abandoned railroad right of way absorbed into the larger tract. The area of the old right of way does not have a zoning designation for that portion of the parcel and needs to have zoning assigned. This rezoning would ensure that the entire parcel is zoned.

Secondly, the parcel currently is zoned R-10, and rezoning the parcel to R-MF-8 will correctly zone the parcel for multi-family. A multi-family building is located on the parcel and is consistent with the Village District Area Plan.

Mr. Jones said in the past, under the old zoning ordinance prior to 2002, R-10 allowed for multi-family projects when this was built.

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 zone map change for this parcel from R-10 to R-MF-8 is consistent with Vision Holly Springs and the Village District Area Plan since the Future Land Use Plan Map indicates this property as Residential with a density up to 15 units per acre."*

Motion By: VanFossen

Second By: Cobb

Vote: Unanimous

Action #2: The Council approved a motion to adopt Rezoning Ordinance #R-09-04 to approve Zone Map Change Petition #09-REZ-02 to change and set the zoning of 0.82 acres of Wake County PIN #0648899937 from R-10: Residential and unassigned zoning to R-MF-8: Multifamily Residential as submitted by Town of Holly Springs.

Motion By: VanFossen

Second By: Cobb

Vote: Unanimous

A copy of Rezoning Ordinance R09-04 is incorporated into these minutes as addendum pages.

6b. Public Hearing: Ordinance 09-23 – Ms. Laura Powell explained that in recent years, with three-car garages becoming more commonplace, the Town's maximum 20-foot-width driveway requirement has become a hindrance to both homeowners and the builder community.

She said staff feels the proposed revision would eliminate potential problems in the field; however, she said staff would like to make a few minor adjustments to the language. She asked the Council to open and then continue the public hearing.

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

Action: The Council approved a motion to continue the public hearing to resume on Jan. 19, 2010.

Motion By: Sack

Second By: VanFossen

Vote: Unanimous

6c. Public Hearing: Development Plan 09-DP-04, Sunset Lake Apartments – Ms. Powell said the Town has received a request for a multi-family development to be located at 4880 Optimist Farm Road. The development would consist of three four-story buildings totaling 124 units situated in the rear of the property as well as a one-story clubhouse at the entrance of the development.

She said the developer would be constructing a public greenway that would ultimately connect to Sunset Lake Commons shopping center as well as Wescott subdivision, as adjacent properties develop.

Ms. Powell noted features of the Sunset Lake Apartments site plan of interest, including landscaping, parking and pedestrian design. She said the site plan meets all the Town's regulations.

She said the applicant is required to provide design features, and the developer has chosen the following eight design features:

Recreational opportunities are provided in manner and amount which:

1. Exceed the minimum requirements of the R-MF-15 district by at least 50% in area; are superior in design and layout from minimum requirements and, are appropriate to the anticipated resident profile of the project;

2. The project includes a community building/clubhouse featuring four (4) or more common recreational facilities including, but not limited to, a swimming pool, hot tub, tennis court, basketball court, lounge area, multi-purpose room, game room, and the like which as appropriate to the project;

3. Accommodations for trash collection through the use of trash compactors which are comprised of similar materials as the buildings, have a vehicular pull-off and are screened with landscape material;

4. The provision of an another facility (greenway) to encourage alternate means of travel, in an amount and design as approved in connection with the development plan;

5. Provide perimeter landscaping which is at minimum, two (2) times greater than the minimum required plant unit value;

6. Provide a fenced pet run;

7. On-site area set aside as a car wash facility, either covered or open, available to residents;

8. Provide a lounge area on each floor of the buildings for social interaction between residents

She noted that, although the apartments would be marketed to a senior market, any aged resident would be possible since fair housing laws would prohibit any limitations based on age.

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

Don Wiggins, 309 Boylan Ave., Raleigh – Mr. Wiggins spoke on behalf of the developer in support of the project. He said he felt extensive documentation, plans, reports, etc. all meet the town's ordinances, policies and long-range plans.

He noted that Optimist Farm Road is planned to be a 72-foot-wide median divided collector street, and the developer will be building its portion of this roadway.

Mr. Wiggins also addressed specific design features of the senior apartment site plan.

Councilwoman Linda Hunt Williams asked how big the apartments would be.

Jim Buie, 4507 Edwards Mill Road, Raleigh – Mr. Buie estimated that the apartments would range from 900 to 1,200 square feet.

Councilman VanFossen said he had concerns about the traffic circulation within the development, particularly as it would pertain to emergency vehicles. He asked if a fire truck could make the driveway turns to get around all the buildings.

Ms. Sudano said the fire department had reviewed and approved the plan but could review it again.

Sarah Hewitt, 425 Brightling Way – Having heard the comments tonight, Ms. Hewitt said she is more hopeful and positive about the development than when she spoke earlier in the meeting. She asked, however, when she could expect that Optimist Farm Road would be widened.

Council members explained that it would be widened in pieces as development occurs.

She said she would like Holly Springs to stay a small town, and the four-story building described seems that it might be at odds with that hope.

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

Councilman Sack said he felt the market effort toward seniors is a need in the community and the project strikes him as being a quality project that would have no negative impact on the community or the neighboring properties.

Councilman VanFossen said he is not against the project, but he is still concerned about fire trucks' being able to negotiate the parking lot.

Councilman Cobb noted that tall trees and topography of the site lend itself to four-story buildings, which would not even be visible from Optimist Farm Road. He said he did not think the project would have any negative impacts.

Councilwoman Williams added that she feels it is important that there is a concentration of people sited near the Town's commercial centers, and this project would meet that objective.

Action: The Council approved a motion to approve Development Plan #09-DP-04 for Sunset Lake Apartments as submitted by George Finch Boney and Associates, Project Number 08037, dated

Revised 11/09/09 and 12/3/09 with the following conditions:

1. Fee-in-lieu of pump station upgrades will be required for this project.
2. This project will be required to meet the Town of Holly Springs NPDES Ph. II Post Construction Stormwater Ordinance.
3. Prior to or with the 1st construction drawing submittal, the following items are to be addressed:
 - a. Road improvements to Optimist Farm Rd. are 1/2 74' back to back with median. All improvements are to be completed by the Developer at the time of construction for this project. A fee-in-lieu will be allowed for both the median construction and a portion of road improvements that cannot be constructed due to the existing culvert. Note that a cost estimate for the total length of the median construction as well as the portion of the thoroughfare improvements that cannot be completed will be required with the first construction drawing submittal.
 - b. Provide documentation of the Progress Energy Encroachment for this site (including allowing the storm water BMP's within the Progress Energy easement).
 - c. A plat recording all offsite easements and/or right-of-way needed to provide road improvements and the required stopping and intersection sight distances for the driveway must be dedicated.
 - d. Provide the required private drainage easements for all on site storm drainage and Access Easements for all BMP's on the construction drawings.
 - e. Provide the CLOMR or NO-Rise Certification.
 - f. Submit the flood study for the non-FEMA regulated stream on the project in accordance with Section 8 of the Engineering Design and Construction Standards.
 - g. Submit the Preconstruction Notification (PCN). This shall include but is not limited to all wetland, stream and State regulated buffer impacts for road crossings, greenway trails and other construction.

4. Prior construction drawing approval or the issuance of the Land Disturbance Permit, the following items are required:

- a. FEMA approval of the CLOMR/No-Rise Certification
- b. Flood study approval
- c. Approval of Storm water Management Plan
- d. Payment of the Storm water Fee-in-Lieu

Motion By: Sack

Second By: Cobb

Vote: Unanimous

7. Consent Agenda: The Council approved a motion to approve all items on the Consent Agenda.

The motion carried following a motion by Councilman Sack, a second by Councilman Cobb and a unanimous vote. The following actions were affected:

7a. Minutes – The Council approved minutes of the Council's regular meetings held on June 16 and Nov. 17, 2009 with a correction noted by Councilman Sack.

7b. Budget Report – The Council received a monthly report of amendments to the FY 2009-10 budget approved by the town manager. *A copy of the budget amendment report is incorporated into these minutes as an addendum page.*

7c. Resolution 09-43 – The Council adopted Resolution 09-43 to approve and enact Development Procedures Manual text amendment #09-DPM-05 modifying Sections 1.03, 4.03, 4.04 and 6.06. *A copy of Resolution 09-43 is incorporated into these minutes as addendum pages.*

7d. Budget Amendment, \$89,150 – The Council adopted an amendment to the FY 2009-10 budget in the amount of \$89,150 to record grant and matching funds for Arbor Creek Greenway. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

7e. Budget Amendment, \$10,000 – The Council adopted an amendment to the FY 2009-10 budget in the amount of \$10,000 for ladder truck safety upgrades. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

7f. Budget Amendment, \$500 – The Council adopted an amendment to the FY 2009-10 budget in the amount of \$500 to receive insurance proceeds. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

7g. Audit Contract Amendment – The Council approved an amendment to the existing audit contract, extending the contract for an additional few days to complete testing.

7h. Main Street Enhancement Project Contract Change Order #2 – The Council approved Change

Order No. 2 in the amount of \$10,042 to the construction contract for additional work in the Main Street Enhancement project.

7i. Well Abandonment Report – The Council received a report of a contract entered by the engineering department in the amount of \$1,200 for well abandonment in the parking lot project.

7j. Tree Care Report – The Council received a report of a contract entered by the engineering department in the amount of \$896 for additional tree care in the parking lot project.

8a. Planning Board Appointment – Ms. Clapp said that Ms. Christine Boretti, an in-town member of the Planning Board, has resigned due to personal reasons. Her term was due to expire on Dec. 31, 2010. The Town Council is asked to fill the remainder of her vacated term.

Having reviewed the applications, Councilwoman Williams nominated Amy Wazenegger. Councilman Cobb said he would second the nomination.

Action: The Council approved a motion to appoint Amy Wazenegger as an in-town member on the Holly Springs Planning Board to fulfill a vacated term expiring Dec. 31, 2010.

Motion By: Williams

Second By: Cobb

Vote: Unanimous.

8b. The Highland at Holly Glen Park and Recreation Fee – Mr. Bradley said that the Town has received a request from Russell L. Ammons III of The Highlands of Holly Glen, LLC regarding the development's parks and recreation fees that are due.

He said this developer currently is in the stage of recording lots. As a part of this process, he would be required to pay to the Town a fee of \$904 per lot for 56 lots for a total fee of \$50,624.

Mr. Ammons said that he has been working with his bank to keep the neighborhood from going into foreclosure since October 2008 and recently has worked out a deal to move forward with the neighborhood. At this time, Mr. Ammons said he does not have the funds to pay the parks and recreation fee, and he has requested that he be allowed to postpone payment of the fee and for the Town to collect the fee with the building permits from the builders.

He said the fee still would be paid in full and be subject to any future increases until paid. If the fee cannot be deferred at this time, Mr. Ammons said, his agreement with the bank will fall through, and there is no way to know when the fee would be collected. Conversely, if the fee is deferred at this time, the Town can be secure in knowing that the fee would be collected in the near future.

After the situation was explained on Dec. 15, the following discussion ensued:

Councilman VanFossen asked the town attorney if there was any way the Council could go against ordinance.

Mr. Schifano said that the Town's ordinance is very specific that fees be paid at time of plat recording. He said the Town Council can direct staff to vary procedure; however, it may cause confusion later at the building permit stage, and revenue may be lost if some of the lots inadvertently are not charged the fee. He added that another option would be that the Council could change the ordinance, and the change would be applicable to everyone.

Councilman VanFossen said the developer has paid three quarters of the fees due on the project, and he was inclined for the Town to do what it could.

Councilwoman Williams pointed out that current dire economic times might be reason enough to prompt the Town Council to make exceptions to the rules.

Several facets of the argument were mentioned, and Mr. Dean suggested that staff investigate options and bring the request back to the Council on Jan. 5.

Discussion included the following points:

- There is not a precedent of providing variance to fee procedures, outside a developer agreement prepared in advance of a large subdivision;
- One option is to change the ordinance, but the ordinance as written is more favorable to the Town and provides more adequate cash flow for projects funded by the fees collected.
- In this case and in all other cases, if the collection of fees is done at plat recordation, the Town gets a large chunk of money rather than individual small amounts per building permit. This allows the Town to make large credit payments on parks or transportation projects.
- Because of this, staff is not in favor of changing the ordinance.
- The Town has parks and recreation project obligations within the next 12 months, and

requiring the developer to pay fees as required at plat recordation would put the needed funds in place.

- Conversely, if the developer cannot afford to pay the fees, the Town will not get the fees at all in any form.
- Mr. Simmons suggested a temporary change in procedure, in light of the economic climate and still recognizing the needs of the Town, making a change in the ordinance to provide a waiver option on a case by case basis to be available to all developers and with a sunset clause when the ordinance would go back to its original form without a waiver provision. Mr. Simmons suggested a 12-month provision.
- Councilman VanFossen said he would support a happy medium. He said he does not want to change the ordinance, but Mr. Ammons has paid three-quarters of the fees due on the project, and he wants to help him finish the project. He asked if there was any way to get that done.
- The town attorney said the Town could issue a promissory note, putting a lien on the property and collecting the parks and recreation fee on the sale of each lot and releasing the deed. He said the administrative cost in time, effort and money would be such that he would actually prefer the Council vary from the ordinance.
- Mr. Dean said staff would review the request further and figure out some options for the Council to consider on Jan. 5.
- Ms. Clapp noted that the UDO includes a waiver provision for all sections of the UDO, including the section pertaining to when fees are collected. The town attorney said the Town Code, which includes a separate section on the payment of parks and recreation fees, does not provide a variance procedure, and it would supersede the UDO.
- Whatever is done, Mr. Ammons said, the impact is not just to him and his family – he said he may lose his own home if the Council cannot provide him some relief – the builders and their construction crews will be impacted and not only on the current 56 lots in this phase, but in the additional more than 100 lots in future phases that will not be built if he goes out of business.

The Council consensus was that it does not want to change the ordinance, but it does want to help the developer finish up the project.

Direction: Council directed that this request be tabled to the Jan. 5 meeting.

8c. Water Tank Mixer Contract – Ms. Sudano said that at the beginning of 2009, staff put in numerous requests for funding from the federal government's economic stimulus package – the American Recovery and Reinvestment Act (ARRA.)

She said Amy Moore requested one of the projects submitted – a solar elevated storage tank mixer. This was the single ARRA project awarded funding to date. The funding awarded was \$75,000 – half as “debt forgiveness” and half at 0% interest.

Ms. Sudano said the Town received bids on this project in November and received one bid from Utility Service Company, Inc. in the amount of \$59,000 (under the estimated cost of \$66,000.) This agenda item is for the purpose of awarding the bid in the amount of \$59,000 plus 5% contingency, totaling \$61,950, Ms. Sudano explained.

Action: The Council approved a motion to enter a contract with Utility Service Company Inc. in the contract amount of \$59,000, plus 5% contingency, for installation of a solar water tank mixer.

Motion By: Sack

Second By: VanFossen

Vote: Unanimous

9. Other Business: Councilman VanFossen reported that he would be directing a citizen with a request about parks and recreation programs for developmentally challenged adults to Mr. Bradley, who would take it to the Parks and Recreation committee.

10. Manager's Report: Mr. Dean reminded the Council about the staff and Mayors Association Christmas parties; he acknowledged staff for work on various holiday projects.

11. Closed Session: The Council approved a motion to enter into Closed Session, pursuant to NCGS 143-318.11(a)(4) to discuss an economic development matter.

Motion By: Sack
Second By: VanFossen
Vote: Unanimous.

General Account Closed Session – Dec. 15, 2009

In Closed Session, the Council discussed with the Town Manager a number of ongoing projects that promise to brighten the Town's economic future. Mr. Dean reported that New Hill Place is still on Target with plans to be submitted in April; clearing of land in August; building pad construction in October and an opening date of the Target store in October 2011.

He asked the Council if it would support a third super street to serve the New Hill Place, if DOT were to approve it over a jug handle or over-pass. The Council said that it would support a super street at that location.

Mr. Dean reported that Rex was moving forward with its plans for a facility in Holly Springs; he reported that Novant Health was leasing space in Rosewood Center for doctors; he reported that a major industrial prospect has had renewed interest in Holly Springs.

In Closed Session, no action was taken other than a motion to return to Open Session.

12. Adjournment: There being no further business for the evening, the Dec. 15, 2009 meeting of the Holly Springs Town Council was adjourned following a motion by Councilman Cobb, a second by Councilman Sack and a unanimous vote.

Respectfully Submitted on Tuesday, Jan. 19, 2010.

Joni Powell, CMC, Town Clerk

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