



**November 2, 2010**

## **MINUTES**

The Holly Springs Town Council met in regular session on Tuesday, Nov. 2, 2010 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 all five council members were present as the meeting opened.

**Council Members Present:** Councilmen Jimmy Cobb, Parrish Womble, Chet VanFossen and Tim Sack and Councilwoman Linda Hunt Williams.

**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); Linda Harper, deputy town clerk; Len Bradley, director of parks and recreation; Gina Clapp, director of planning and zoning; Ray Cummins, information technology technician; Mark Andrews, public information officer; Jenny Mizelle, director of economic development; Stephanie Sudano, director of engineering; Elizabeth Goodson, development review engineer; Daniel Weeks, project analyst; Laura Powell, planner I; and Drew Holland, finance director.

**2 and 3.** The Pledge of Allegiance was recited, and the meeting opened with an invocation by Rev. Lewis Gentry of South Wake Baptist Church.

**4. Agenda Adjustment:** The Nov. 2, 2010 meeting agenda was adopted with changes, if any, as listed below.

**Motion By:** Sack

**Second By:** VanFossen

**Vote:** Unanimous

**Items added to Agenda:** None.

**Items removed from Consent Agenda:** None.

**Items removed from the agenda:** Item 8c., CDBG administration contract.

**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.

Mr. Ken Jarvis, 716 Avent Ferry Road – Mr. Jarvis requested the Town Council's support and assistance when considering the Rex Medical Office Building plans. He said that NCDOT was proposing to widen Avent Ferry Road in front of the Rex Medical Office Building site and his property. He asked that the Town assist in convincing NCDOT to protect and disrupt his property as little as possible.

**6a. Pancreatic Cancer Awareness Month** – Mayor Sears advised residents that November is National Pancreatic Cancer Awareness Month, and he has issued a proclamation designating the same in Holly Springs.

Mayor Sears pointed out that pancreatic cancer is the fourth leading cause of cancer deaths in the United States. An estimated 43,000 people will be diagnosed this year in the U.S. and about 36,000 will die from it. When the symptoms present themselves, it's usually too late for a positive diagnosis. There is no cure, and there has been no significant improvement in survival rates during the last 40 years.

Even so, pancreatic cancer does have its survivors. Mayor Sears said he wanted to increase awareness of this illness and also celebrate with those who have survived this most deadly disease.

Mayor Sears presented the proclamation to Jason Long, a volunteer with the North Carolina division of the Pancreatic Cancer Action network.

**Action:** None.

**6b. Holly Springs Marketing Event Award** – Ms. J. Powell said that Holly Springs recently was awarded second place in a national marketing competition hosted by the City-County Communications and Marketing Association. The Silver Circle Award was awarded at the 3CMA national annual conference in Atlanta in August.

She said last spring as her department prepared entries for the 3CMA conference, staff decided to enter the Holly Springs Hospital project. A lot of people did a lot of work on that project, and – despite the eventual Certificate of Need outcome beyond the Town's control -- from a public information/marketing perspective, it was a huge success. Ms. Powell wrote a narrative of the project and packaged it together with a packet of supporting documents.

Ms. Powell explained that the project was a massive marketing effort launched when two communities (Holly Springs and Fuquay-Varina,) a healthcare company and a formidable force of citizen volunteers joined together. Using all means of communications at its disposal, a motivated team garnered support for Novant Health's application to the State of North Carolina for a Certificate of Need to build Holly Springs Hospital. While politics dashed the dreams for Holly Springs Hospital, the marketing campaign itself exceeded expectations and astonished even those involved, Ms. Powell said.

Judges of the contest were a panel of communications professionals in another state. They stated that the Holly Springs entry was evidence of the power a community has when its residents all work together toward a common goal. They said they admired the Town's tactics, dedication, determination and passion, and they added that the entire community should be commended for its efforts.

The award, Ms. Powell said, is to be shared equally among all Town of Holly Springs public officials and staff; citizen volunteers in the community; the town's Economic Development Department, which served as the point persons for the project; and the team from Novant Health who provided the work plan, much of the resources and certainly the motivation.

Ms. Powell presented awards to Mayor Sears and the Town Council on behalf of the public who worked so hard on the project; to Jenny Mizelle, director of economic development; and to Jody Morris and Woody Hubbard of Novant Health.

Mr. Morris said he was amazed at the community for this project. He said that Novant will be opening a family practice in Holly Springs in 2011.

**Action:** None.

**7a. Public Hearing: Community Development Block Grant** – Mr. Weeks said the purpose of the public hearing is to explain the Community Development Block Grant program and to allow citizens an opportunity to express their views concerning the 2010 scattered sites housing application.

Mr. Weeks explained the application process and the amount of funds the Town would receive and how it would be used to assist three families.

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:** None.

**8. Consent Agenda:** The Council approved a motion to approve all remaining items on the **November 2, 2010 Town Council Meeting**

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

8a. Budget Amendment, \$46,500 – The Council adopted an amendment to the FY 2010-11 budget in the amount of \$46,500 to provide restrooms at school athletic facilities. *A copy of the budget amendments are incorporated into these minutes as addendum pages.*

8b. Annexation Ordinance A10-06 -- The Council adopted Annexation Ordinance A10-06 annexing approximately 8.97 acres owned by the Town of Holly Springs located along Bass Lake Road. *A copy of Annexation Ordinance A10-06 is incorporated into these minutes as addendum pages.*

8c. 2010 Scattered Sites Housing CDBG program.– This item was removed during Agenda Adjustment.

8d. Woodcreek Development Roadway - The Council approved a new roadway for Tract D2 in the Woodcreek development.

**9a. 5432 Sunset Lake Road Widening Request** – Mr. Dean said that action on this item was deferred on Oct. 5.

He said on Nov. 21, 2006, the Town Council approved a motion to allow a developer to post a bond and to delay the required widening of Sunset Lake Road in front of 5432 Sunset Lake Road. The widening was delayed until the neighboring development of Sunrise Methodist Church occurred and the widening required for both properties could be done at the same time.

The church is nearing the point when the widening of Sunset Lake Road will be required.

The owner/developer of 5432 Sunset Lake Road now asks the Town Council consider the nature of his property – a former single-family home that now is used as leased office space, and the lot is unusually shaped, creating excessive road frontage -- and to approve a reduction or elimination of road widening requirements on Sunset Lake Road. To require the full amount of widening or fee in lieu would be inequitable when one considers the size, nature, traffic impact and amount of road frontage of this particular property, pointed out the developer, Mr. David Orringer.

Mr. Dean said during discussion on Oct. 5, the Council seemed willing to consider extenuating circumstances; however, no action was taken.

In follow-up, Mr. Dean wrote to the Council in agenda packets:

*“My concern that night was the potential change in a very basic policy that developers provide adequate right of way (ROW) for the construction of road improvements. I am supportive of providing some assistance to this developer because of his unique situation; however, had the Council agreed to credit ROW donated to cover this cost, it would have taken a unique situation and made it a policy effecting all developments.*

*For example, if the developer of Sunset Lake Commons were to be credited with the ROW dedication, it would have made road improvement cost prohibitive when the shopping center was constructed. Further, it places the Council in a position that these decisions become arbitrary because dedication of ROW is a constant for all developments.*

*The Council has the ability to adjust fees, but a substantial change in policy should not be done the night of the Council meeting.*

*There are very different categories of decisions the Council can make: policy decisions, legislative decisions and administrative decisions. The establishment of fees throughout the town is set each year at budget time to meet the needs of the town -- this is a policy decision. The requirement of land dedication by a developer of a tract again is a policy decision that has served the town well to provide for the transportation needs of the Town.*

*The application of fees to a particular project, however, is an administrative decision, which is ministerial in nature, as opposed to legislative or policy decision in which a great amount of discretion is allowed. The concern in blending these types of decisions is that it does not provide the certainty that both the town needs and developers' needs in estimating their projects.*

*In addition, does the Council want to have to address fees with the developers at each meeting and have to put these decisions under a microscope with each project? We need to develop and set policies, and then allow staff to implement the policies per the Council's direction. Should we have extenuating circumstances, we would bring it back to the Council with justification as to why changes should be made in any given situation.*

*I apologize if I appeared to over-react, but I did feel strongly about the potential direction and consequences, should you have agreed to what was being proposed that night.*

*Staff proposed a number of options that night, and staff recommendations remain unchanged.*

*Engineering is recommending Option 1; however, if the Council is inclined to provide assistance, then Engineering is amenable to Option 2, which allows the entire fee to be postponed until the property is redeveloped. This would allow the Town to receive the entire amount for the road widening, and with the requirement for the church to stub out sewer to the property, it is now in a position to have the infrastructure in place to enhance future development.*

*I do feel there is an equity issue based on the use, but the developer still should have some financial responsibility for road improvements."*

Mr. Dean said if the Council is inclined to provide relief and not require the developer to complete the widening, per his development plan requirements, then staff would recommend a second option: Excuse the developer of this project from the requirement to construct the road improvements at this time and require the improvements to be done in accordance with town rules upon future "re-development" of the property.

(Note that this is staff's recommended option **if No. 1 is not selected**, as it will insure that widening is constructed at a later date along this property, consistent with development requirements.)

Options suggested by staff were:

1. Require the developer to complete the widening, per his development plan requirements;
2. Excuse the developer of this project from the requirement to construct the road improvements at this time and require the improvements to be done in accordance with town rules upon future "re-development" of the property, as "redevelopment is defined in the Unified Development Ordinance. (Note that this is staff's recommended option **if No. 1 is not selected**, as it would insure that widening is constructed at a later date along this property, consistent with development requirements;)
3. Allow the developer to pay a "fee in lieu" of widening in a reduced amount (for example 25% of the estimated cost of widening, or \$41,175;)
4. Evaluate undertaking a larger road widening project in this area and assessing property owners (including this developer) for all or part of the costs associated with the project. Note that this would require some additional staff work prior to the town's deciding upon an assessment project, so this option would delay an answer to the developer until such time as the town decided whether or not to undertake an assessment project.

In discussion, Councilmen VanFossen and Cobb said they would support Option No. 2 because it would mean the Town eventually would get what it is supposed to get.

Councilman Sack said the developer would get a pass that no one else would get. He said he would prefer a reduced payment in lieu as described in Option No. 3.

Councilwoman Williams said she leaned toward Option No. 3 because it would provide something for the town and fair for the developer.

Councilman Womble said he leaned toward Option No. 3.

**Action:** The Council approved a motion to allow the developer of 5432 Sunset Lake Road to pay a fee in lieu of road widening in a reduced amount of 25% of the estimated cost of widening, or \$41,175.

**Motion By:** Sack

**Second By:** Williams

**Vote:** The motion carried, following a 3-2 vote. Councilmen Womble and Sack and

Councilwoman Williams voted for the motion. Councilmen Cobb and VanFossen voted against.

**10a. 10-DP-06, Rex Healthcare Medical Office Building** – Ms. Laura Powell said the Town has received a request for Rex Medical Facility to be located at the intersection of Avent Ferry Road and G.B. Alford Highway.

Ms. Powell said the developer has purchased multiple parcels at this intersection, but has chosen to develop only Phases I and 2 at this time. Phase I would consist of one 30,000-square-foot building, and Phase 2 would consist of a second 30,000-square-foot building. Ultimately, Phase 2's building would connect to the Phase I building by way of attaching to the main entrance.

She said these buildings would be made up of the same materials and design intent.

The applicant is requesting an alternate means of compliance in addition to approval of the development plan.

Ms. Powell noted that the Planning Board had reviewed the plan and had expressed concerns about the building's appearance.

- The Board had many concerns about the building's architecture and felt that the building did not represent the level of design that the Town demands at a prominent intersection that acts as a gateway to both the downtown village district as well as the southern gateway area.
- Members discussed that the building had no language or animating design as a result of the expansive red brick side elevations that had little accent colors to break it up.
- Some members felt very strongly that the developer could have met the roofline variation requirement that they had requested a waiver for but simply chose not to.
- The Planning Board had no concerns with the overall site plan and the overall layout of the project.
- The Planning Board did not have an issue with the screening material and landscaping around the mobile MRI unit.

Planning Board member Glenn Myrto addressed the Council to explain the Planning Board discussions in more detail. Planning Board member Tom Hughes also was on hand to explain that the Planning Board worked to keep the project in the context of what the town has said it wants. He said the building façade had little spirit and character, and it is almost a spec office building.

Architects and Rex spokesmen said they changed the design to provide a focal point. They pointed out that it is important that patients not have to wonder where the entrance to a healthcare facility is. They also pointed out that the modulating roofline requested by the Planning Board is a retail design for the purpose of distinguishing separate storefronts, but it is not appropriate for a healthcare facility.

Architects, however, offered to raise and lower roofline caps.

Councilman VanFossen said he thinks so much could be done to improve the appearance of the building. He said he felt architects had made a good start, but there are a few nuances that need to be addressed.

Ms. Powell said staff could work with designers to improve the building's appearance. Ms. Clapp said if the Council approves the requested waiver, then staff could work with the designers without the constraints of the UDO regulations.

The Rex project architects agreed to work with staff.

**Action #1:** The Council approved a motion to approve an alternate means of compliance for architectural and site design requirements of UDO Section 3.08 A. 1. c. (2) (g) (i) Roof Treatment for Petition #10-DP-06 for Rex Healthcare medical office building to allow relief from the 50-foot continuous plane requirements as submitted by Michelle McNutt of BJAC, Project Number: 7636-00, dated Revised 9/27/10, so that staff can work with architects to improve the appearance of the building.

**Motion By:** Sack  
**Second By:** Williams  
**Vote:** Unanimous.

**Action #2:** The Council approved a motion to approve Development Plan 10-DP-06 for Rex Healthcare medical office building as submitted by Michael McQuillen of Capital Civil Engineering, Project Number 006-002, dated revised 10/9/10 with the following conditions:

1. GB Alford Highway (NC 55 Bypass) will be widened in the future to a 6 lane cross section. This widening will require additional right-of-way along your frontage. Design for your site will need to be with this in mind and area reserved accordingly along this boundary to accommodate a change in right-of-way when needed in the future.

2. This project will be required to meet the Town of Holly Springs NPDES Ph. II Post Construction Stormwater Ordinance.

3. If NCDOT requires Country Lane to be converted to a right in/right out, note that if a median is required to achieve this, you will need to coordinate with the town. The town will require a landscaped median to be installed if a median is required.

4. The following items must be addressed prior to 1<sup>st</sup> construction drawing submittal:

a. Provide a calculated pavement design for all thoroughfares, collectors and boulevards. This may result in a pavement cross section bigger than the specified minimum

b. A flood study will be required to meet the Town's policy for Hydrologic Basin Models (Town Policy - P-018). The approved Somerset Basin flood study will need to be updated to reflect this project and will need to demonstrate that development of the site will not raise established flood levels. Retention or detention may be required to accomplish this.

c. Show sewer stub to the property line of Lot 2.

5. The following items must be addressed prior to construction drawing approval or issuance of a land disturbance permit:

a. If applicable, provide draft PCN with all supporting documentation including but not limited to buffer determinations and projected location and impacts to jurisdictional features for the entire project. All environmental permits must be obtained prior to construction drawing approval and/or issuance of a land disturbance permit for the entire project.

b. Approval of Stormwater Management Plan is required.

c. Payment of the Stormwater Fee-in-Lieu will be required.

d. Provide documentation on the coordination with the property owner where the steps and sidewalk will need to be relocated outside of the ultimate right-of-way for Avent Ferry Road.

6. At the time of any further development of this site or the adjacent parcels the following items be addressed:

a. Submit a revised Traffic Impact Analysis (TIA) including the additional traffic information.

b. Submit a Downstream Sewer Evaluation Report including the additional sewer flow information.

c. Evaluate road connection from Avent Ferry Road to Hickory Avenue or Avent Ferry Road to Pine Street.

7. Within 10 business days of Town Council action, the following items must be addressed:

- a. A fire flow analysis is required for this project. This report has been submitted and is under review. The report must be approved and any requirements that require a plan revision must be addressed on revised plans.
- b. Revised plans must be submitted modifying sheet C201 with the following:
  - 1. Remove the future street alignment from the adjacent property.
  - 2. Modify the note to state Potential Future Road connection to be evaluated and designed with the next phase between Hickory Avenue and Avent Ferry Road at Cotton Lane or at an alternate location between Pine Street and Avent Ferry Road.

8. If and when the approval of 10-DP-06 occurs, the developer will continue to work with staff on the building elevations to further ensure that the quality of design of the building will meet the integrity of Holly Springs.

**Motion By:** VanFossen

**Second By:** Cobb

**Vote:** Unanimous.

**Action #3:** The Council approved a motion to approve a waiver so that the developer can apply a portion of the side and rear wall signage allotment to the ground signs on Avent Ferry Road and at the intersection of Avent Ferry Road and G.B. Alford Highway.

**Motion By:** VanFossen

**Second By:** Womble

**Vote:** Unanimous.

**10b. FY 2010-11 Community Agency Grants** – Ms. Powell said that when the fiscal year began in July, eight civic groups submitted applications for funding from this year’s grant program. Applications were not distributed to school groups as Holly Springs High School was out for the summer.

She said that at that time, the Council approved a motion to award one singular request in the amount of \$500 for an African-American Cultural Heritage Festival, because the request was time-sensitive. Council then directed that the remaining seven applications be held until such time as the school group applications could be added. In this way, all the grant applications could be considered at one time.

In addition to the original remaining seven applications, the Town has received three more from Holly Springs High School organizations. All totaled, the Council has 10 applications requesting \$17,500 in funding. There is \$14,500 remaining in that line item.

**Action:** The Council approved a motion to award Community Agency Grants to the following as recommended by the grant review committee of Councilman James Cobb and Councilwoman Williams:

<b>Grant Award Recommendations</b>	
<b>Organization Name</b>	<b>Amount</b>
Holly Springs High School PTSA	\$2,000
Golden Hawks Club, Inc.	\$2,500
Holly Springs High School Cheerleading	\$500
Holly Springs High School Hawks TV	\$2,500
Holly Springs Historical Preservation Society	\$2,000
Holly Springs Food Cupboard	\$500
General Federation Women’s Club of Holly Springs	\$500
Holly Springs Rotary Club	\$1,750
Fuquay-Varina Emergency Food Pantry	\$1,500
Corporation for Educational Partnerships dba Southern Wake Academy	\$750
African-American Cultural Festival (previously awarded)	\$500
<b>Total</b>	<b>\$15,000.00</b>

**Motion By:** Sack  
**Second By:** Womble  
**Vote:** Unanimous.

Councilman Sack made a motion to recuse Councilman Parrish Womble from the meeting for the duration of this agenda item because he is a subject property owner. Councilman Cobb seconded the motion. The vote was unanimous.

**10c. Sidewalk Condemnation Right of Way** - Mr. Schifano said the town is acquiring the right of way and construction easements necessary for construction of a sidewalk along Main Street. He provided a resolution containing a list of property owners who, in the opinion of the town attorney, will need to be resolved through the eminent domain process.

He pointed out that two parcels are owned by Councilman Womble, who has been very accommodating with the town's requests; however, he cannot enter into a voluntary sale with the town as he is a town councilman. A judicial proceeding is necessary.

**Action:** The Council approved a motion to adopt Resolution 10-32 authorizing the Town to acquire property for sidewalk through the eminent domain procedure.

**Motion By:** Sack  
**Second By:** Cobb  
**Vote:** Unanimous.

*A copy of Resolution 10-32 is incorporated into these minutes as addendum pages.*

Mayor Sears made a motion to readmit Councilman Womble into the meeting, and it was seconded by Councilman Sack. The vote was unanimous.

**11. Other Business:** Mayor Sears announced that a traffic light is going up at Piney Grove-Wilbon Road at Avent Ferry Road.

Councilman Sack asked for Council consensus to have staff work with property owner Ken Jarvis, NCDOT and Rex to preserve the historic Norris Home landscaping.

Councilwoman Williams said she had heard a rumor that the Holly Springs Chamber of Commerce no longer was doing the Citizen of the Year award and was printing the annual membership directory paid for by the Town as an insert in *Cary Magazine*.

Mayor Sears confirmed that he had heard the same and had confirmed with Chamber Director Scoop Green that both things were true.

Councilman Sack and Councilwoman Williams agreed that they felt the Chamber allowed the Citizen of the Year program to go to the wayside without any communication with anyone. They also agreed that it was disappointing and irksome that the Town pays the Chamber \$35,000 per year for its membership fee and to support the publication of the membership directory; however, the Chamber does not participate in the Christmas parade and seems to work at odds with the Town on occasion.

Some of the Council members said they should think about this come next year's budget time.

Councilman VanFossen said the he, as a businessman, would prefer that his advertising be placed before *Cary Magazine* readers. He said he didn't have a problem with the Chamber's decisions.

Councilman Sack said he did.

Councilman Womble reported vegetation in the right of way that was blocking the view of oncoming traffic. Mr. Dean made a note of the location to pass along to the Public Works Department.

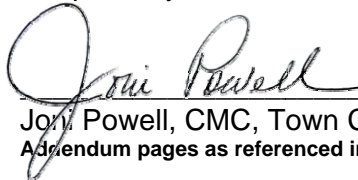


**12. Manager's Report:** Mr. Dean reported on Hollyfest; some shows at the Cultural Center; the Rex groundbreaking; that Town Hall will be closed on Veterans Day; on improvements at the Town cemetery; and the installation of twinkle lights in trees.

**13. Closed Session:** None.

**14. Adjournment:** There being no further business for the evening, the Nov. 2, 2010 meeting of the Holly Springs Town Council was adjourned following a motion by Councilman VanFossen, a second by Councilman Sack and a unanimous vote.

Respectfully Submitted on Tuesday, Dec. 7, 2010,

  
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Joni Powell, CMC, Town Clerk

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

