



October 5, 2010

MINUTES

The Holly Springs Town Council met in regular session on Tuesday, October 5, 2010, in the Council Chambers of Holly Springs Town Hall, 128 S. Main Street. Mayor Dick Sears presided, calling the meeting to order at 7:00 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; Jeff Jones, senior planner; Ray Cummins, information technology technician; Mark Andrews, public information officer; Luncie McNeil, public works director; Wayne Wilhelm, cross connection program coordinator; Stephanie Sudano, director of engineering; Daniel Colavito, environment; Heather Keefer, environmental engineer; and Drew Holland, finance director.

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

4. Agenda Adjustment: The Oct. 5, 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: 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.

6. Holly Springs Stormwater Citizen Survey – Mr. Colavito provided a summary of the results of the Town of Holly Springs Stormwater Survey that recently was administered by the Engineering Department in an effort to assess public perception on stormwater issues. He said the survey also was designed to tailor education and outreach efforts needed in the stormwater management and environmental areas.

The purpose of this citizen survey, Mr. Colavito said, also was to further assist staff in planning for future education and outreach. Without an understanding of the level of awareness and education of citizens, Mr. Colavito said, staff time may be wasted, and important

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opportunities may be missed. With the citizen input received from this survey, staff will be able to focus its efforts on the areas that need attention. This will maximize the impact of staff time, Town funds, and surface water quality protection, he said. In addition, this survey counts as a "measurable goal" toward the required Public Involvement efforts of the Town's National Pollutant Discharge Elimination System Phase II Stormwater Permit.

Action: None

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. Resolution 10-28 - The Council adopted Resolution 10-28 directing the town clerk to investigate the sufficiency of annexation petition A10-07 and setting a public hearing on the question of annexation for Tuesday, Oct. 19, 2010. *A copy of Resolution 10-28 is incorporated into these minutes as an addendum page.*

7b. Resolution 10-29 - The Council adopted Resolution 10-29 urging a safe and courteous Halloween. *A copy of Resolution 10-29 is incorporated into these minutes as an addendum page.*

7c. Resolution 10-30 – The Council adopted Resolution 10-30 declaring certain personal property to be surplus to the needs of the Town and authorizing the disposal of said property. *A copy of Resolution 10-30 is incorporated into these minutes as an addendum page.*

7d. Budget Amendment, \$2,235, - The Council adopted an amendment to the FY 2010-11 budget in the amount of \$2,235 to receive insurance proceeds for a damaged sewer camera. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

7e. Bass Lake Park Pavilion - The Council approved to retain Smith & Smith Surveyors to perform work toward the development and annexation of the Bass Lake Park pavilion property.

7f. Bass Lake Park Pavilion - The Council approved to retain Ecotech at a cost not to exceed \$2,240 for wetlands delineation and staking in the Bass Lake Park pavilion project.

7g. Wastewater/Reuse System - The Council approved amendment No. 4 to the Davis Martin Powell contract for additional work required in the town's wastewater/reuse system construction administration.

8a. Sunset Lake Road Widening – Mr. David Orringer addressed the Council with a request.

On Nov. 21, 2006, the Council approved a motion to allow the 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.

Mr. Orringer, who is the owner/developer of 5432 Sunset Lake Road, asked the Town Council to consider the nature of his property – a former single-family home that now is used as leased office space -- and to approve a reduction or elimination of road widening requirements on Sunset Lake Road. Mr. Orringer explained to Council that when the November 2006 action was taken, he and his partner thought the improvements were limited to a turn lane. Later, he said, they figured out that the required improvements would be full road widening to the ultimate width the length of their very long road frontage.

From a per-square-footage on the building basis, Mr. Orringer said, the requirement is inequitable with what other developers have to pay. He asked for the Council to consider the unusual shape of his lot, which creates a very long road frontage; he asked for consideration of the nature of the property use, which is leased office space; and he asked that the Council consider that there should be a program of payment in lieu that would provide more equity among those who develop property.

Mr. Orringer asked, specifically, that the Council reduce his payment in lieu due on the property to the \$40,000 range to compensate for the unusual shape, size and use of the

property. Additionally, he asked that the Council provide a credit for the road right of way that has been dedicated and that the \$40,000 reduced amount be further reduced to \$19,000.

Staff investigated the request and provided the following options: 1) require the developer to pay a full fee in lieu of performing the work or performing the work, per Town requirements at cost of approximately \$168,000; 2) defer improvements due on the property until it is redeveloped in the future; 3) accept a reduced payment in lieu of approximately \$41,000, providing a 75% discount to compensate for extenuating circumstances surrounding the property and its use; or 4) launch an assessment program to provide the road improvements in a larger area, assessing all of the property owners along the route for the cost of the improvements.

Councilman Sack said all of Sunset Lake Road needs widening, and he would not be opposed to Option No. 4.

Councilman VanFossen said he favored Option No. 3, and he agreed with the developer who also asked that he receive credit for road right of way dedicated.

Councilwoman Williams and Councilmen Womble and Cobb said they all favored Option No. 3 as more equitable, but questioned the wisdom of providing credit for right of way dedication.

All developments are required to provide right of way, and none of them are compensated for it.

Mr. Dean said he would not recommend Option No. 3, less the cost of right of way. He cautioned the Council about providing the developer credit for right of way dedicated because the Council would be setting new policy and precedent that needed more consideration.

Action: The Council approved a motion to defer action on the agenda item until the value of the land dedicated was verified and staff could provide information on a potential change in policy regarding providing fee credits for right of way dedicated.

Motion By: Sack

Second By: Cobb

In discussion, Councilman VanFossen said he did not feel the Council would be setting precedent.

Councilman Womble said he was not in favor of deferring action because he was ready to make a decision to agree to Option #3 without land dedication credit.

Vote: The motion carried following a 4-1 vote. Councilmen Cobb, VanFossen and Sack and Councilwoman Williams voted for the motion. Councilman Womble voted against.

8b. Fee Schedule Amendment – Mr. Wilhelm reported that the Town loses money each time a builder / developer orders a water meter according to approved plans and then changes the meter (with permission.) The town then has to return the original purchased meter, assuming the shipping and the cost of facilitating the return. While the vendor assesses a 25% restocking fee, which is applied to the refund, the town has no such fee.

He said staff suggests that the town amend its fee schedule to include a 10% restocking fee for returned water meters – to be charged in addition to the 25% that is assessed by the vendor. Mr. Wilhelm said he feels that amount would reimburse any expenses the town has in returning meters to the vendor, including staff time and shipping costs.

Action: The Council approved a motion to amend the town's fee schedule to include a 10% of meter cost town restocking fee and 25% vendor restocking fee for water meters that have to be returned to the vendor.

Motion By: Womble

Second By: Sack

In discussion, Councilman VanFossen encouraged staff to make sure customers know of the charge, and he said the 25% vendor restocking fee should not be charged if the vendor does not charge it, but the 10% fee for the town's assistance should still apply.

There was a Council consensus that this should be the case.

Vote: Unanimous.

8c. Green Oaks Parkway Project – Mr. Dean said that the Green Oaks Parkway project is now closed and the Town came in well below budget on the project. The Town will have an excess of \$1,546,000 to be placed back into Street Reserves for other Town projects involving streets or sidewalks.

Council members discussed how there was much misinformation and rhetoric about the project and that it was satisfying to be able to report the project was managed properly and at and above the anticipated savings.

Action: The Council approved a motion to adopt an amendment to FY 2009-10 budget in the amount of \$1,546,000 to account for savings in the Green Oaks Parkway project.

Motion By: Sack

Second By: VanFossen

Vote: Unanimous.

A copy of the budget amendment is incorporated into these minutes as an addendum page(s.)

8d. 97-COM-12-A03, Village Centre Shoppes Development Plan Amendment – Mr. Jones said the town has received a request for a waiver and a master sign plan amendment for the Village Centre Shoppes, formerly Holly Springs Commercial Center.

The original preliminary plan had a generic master sign plan that would remain in effect for the out-parcels; however, the subject proposed master sign plan is for the Village Centre Shoppes only. The master sign plan calls for uniform signage along the front façade of the building. In order to achieve the look, a waiver is requested to utilize the unused portion of the rear façade signage and apply it to the front façade. The larger signs meet all other ordinance requirements and aesthetically fits with the other architectural details already present on the front façade.

Action #1: The Council approved a motion to approve a Waiver of Regulations of UDO Section 7.03 Sign Regulations for Petition #97-COM-12-A03 for Village Centre Shoppes, to allocate the unused square footage from the rear façade to the front façade for the Village Centre Shoppes as submitted by Grubb Ellis/Thomas Linderman Graham, stamp dated received 9/13/2010.

Motion By: Sack

Second By: VanFossen

Vote: Unanimous

Action #2: The Council approved a motion to approve the Master Sign Plan Amendment as part of the Development Plan #97-COM-12-A03 for Village Centre Shoppes as submitted by Grubb & Ellis/Thomas Linderman Graham, Project Number KRG-08000, stamp dated received 9/13/2010 with the following conditions:

- a. All previous conditions for the Village Centre Shoppes (formerly Holly Springs Commercial Center) shall remain.

Motion By: VanFossen

Second By: Womble

Vote: Unanimous

9. Other Business: Ms. Powell advised the Council that the previously-approved budget amendment was to the FY 2009-10 budget and not the FY 2010-11 budget. Councilman Sack amended his motion, and the Council agreed to the housekeeping change.

10. Manager's Report: Mr. Dean reported that the Town hosted its third Moldovan group; about a Fort Bragg training exercise; a real estate bus tour; and the upcoming annual North Carolina League of Municipalities meeting.

11. Closed Session: The Council approved a motion to enter into Closed Session, pursuant to N.C.G.S. 143-318.11(a)(3) to hold discussions with the Town Attorney under the client-attorney privilege and to excuse Councilman Womble from the meeting because he is the owner of property being considered for acquisition by the town for sidewalk.

Motion By: Sack

Second By: Cobb

Vote: Unanimous

A quorum of the Council was established for the Closed Session with four remaining members and the mayor.

General Account of Closed Session, Oct. 5, 2010

In Closed Session, the Council discussed with the Town Attorney the Main Street sidewalk project and the need to acquire properties for right of way and temporary construction easements. Mr. Schifano advised the Council that the only way a Town can acquire property owned by an elected official is to go through the eminent domain process.

This is law and protects the public by ensuring that no more than absolute fair market value is paid for any property held by an elected official.

That said, Mr. Schifano reported on the range of values that have been determined for the sidewalk right of way, and he asked for the Council's authorization to set an amount within the range for him to pursue in the condemnation process.

The amounts for the transaction were sealed by action of the Council to protect the public interest.

Action: In Closed Session, the Council approved a motion to seal the minutes of the Closed Session until such time as the release of the information contained in the minutes would no longer frustrate the purpose of the Closed Session.

Motion By: Sack

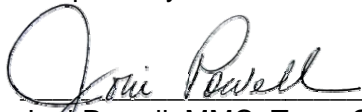
Second By: Cobb

Vote: Unanimous

No other action was taken in Closed Session, other than the motion to return to Open Session.

12. Adjournment: There being no further business for the evening, the Oct. 5, 2010 meeting of the Holly Springs Town Council was adjourned following a motion by Councilman Sack, a second by Councilman Cobb and a unanimous vote.

Respectfully Submitted on Tuesday, Nov. 16, 2010,



Joni Powell, MMC, Town Clerk

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

