



June 15, 2010

## MINUTES

The Holly Springs Town Council met in regular session on Tuesday, June 15, 2010, 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 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 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); Drew Holland, finance director; Len Bradley, director of parks and recreation; Gina Clapp, director of planning and zoning; Michelle D'Antoni, communications specialist; Elizabeth Goodson, development review engineer; John Herring, police chief; and Stephanie Sudano, director of engineering.

**2 and 3.** The Pledge of Allegiance was recited, and the meeting opened with an invocation by Councilman Womble.

**4. Agenda Adjustment:** The June 15, 2010 meeting agenda was adopted with changes, if any, as listed below.

**Motion By:** Sack

**Second By:** VanFossen

**Vote:** Unanimous

**Items added to Agenda:** Item 8b., Resolution 10-18 supporting legislation to protect citizen email addresses.

**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.

Don Reeves, 4716 Shadow Ridge Ct. – Mr. Reeves addressed the Council thanking them for their service. In the past month, he said, he feels his subdivision – Sunset Ridge – has been negatively referred to in news accounts. He said a lot of the Council members are residents of Sunset Ridge, but he says that is because residents of Sunset Ridge are very active and have been historically.

Mr. Reeves said he wanted to speak in support of Council members who live in Sunset Ridge because he does not believe insinuations that the Sunset Ridge neighborhood gets any preferential treatment by the Council.

Cindy Verian, 4400 Burnwood Ct. – Ms. Verian addressed the Council, asking members to reconsider the non-resident registration rate proposed in the FY 2010-11 budget. She said the proposed increase to 50% would be too high and would have a negative impact on

registration

**6a. Public Hearing: FY 2010-11 budget** – Mr. Dean provided highlighted information on the FY 2010-11 budget proposal.

The budget proposal General Fund is balanced at \$22,804,000, and the Utility Fund is balanced at \$10,654,000. The budget would be funded by a 41.5-cent tax rate that remains unchanged since last year.

A 6% water rate increase and a 4% sewer rate increase are proposed as scheduled increases determined in years past when water and sewer infrastructure improvements were made.

[Note: Included as addendum pages in these minutes is a Powerpoint presentation that provided highlights of the proposed budget.]

Councilman Womble asked if the Town Manager would increase the amount budgeted for Christmas decorations because he really wants to see the Town look prettier, especially at Christmas time. Mr. Dean said the budget is very lean this year, but he would try to increase that line item in next year's budget.

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

Charles Galt, 1913 Partridge Berry Drive – Speaking on behalf of the Rotary Club, Mr. Galt said he has amended and resubmitted the club's application for grant funding (in the FY 2009-2010 budget year) and would like it reconsidered.

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

Mayor Sears asked the Council to consider amending the proposed budget to include a salary increase for the position of mayor. He said he realizes his request is a separate issue from the budget itself but that, if the Council is inclined to grant the request, it should be done before the budget is adopted.

**Action:** The Council approved a motion to recuse Mayor Sears from action and deliberation on his request for an increase in compensation for the mayor position.

**Motion By:** Sack

**Second By:** Cobb

**Vote:** Unanimous

Mayor Pro Tem Sack assumed the chair of the meeting. He said the mayor's request for an increase of \$300 in salary and a \$200 stipend for in-county travel would put in him in line with other mayors of towns in the area the size of Holly Springs.

Mr. Schifano explained that the statutes provide for officials to be paid for travel and incidentals either through reimbursement of actual expenses or through a fixed allowance. He said the Council may want to consider what it would do if the mayor's travel exceeds the \$200 in a month. One way, he said, would be for the Council to say no. Another way would be to agree to pay overages with receipts.

Councilman Cobb said he felt the \$200 a month exceeded normal travel demands for the mayor on most months, so it would be fair to say it all evens out if the mayor spends more than \$200 in a month on occasion.

Councilman Womble said he was against any compensation increase for the mayor position. He said elected officials go into the position knowing the compensation.

Councilwoman Williams said Mayor Sears had been granted a \$700 per month increase in 2003, but it was removed by Council in 2007. She said she didn't feel it should have been taken away in 2007 and she would like to see the position's salary be increased to a level to make it at least in line with mayors in other communities similar to Holly Springs.

**Action:** The Council approved a motion to increase in the salary of the mayor position by \$300 per month and to provide the position with an additional \$200 per month stipend for in-county travel.

**Motion By:** Williams

**Second By:** VanFossen

**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.

**Action:** The Council approved a motion to readmit Mayor Sears into the meeting.

**Motion By:** Sack

**Second By:** Cobb

**Vote:** Unanimous

Councilman VanFossen asked if there was anything the Council could do for the Rotary Club since its grant application was not funded in FY 2009-2010.

Mr. Schifano said the Council could reconsider its previous action as long as a member who voted on the prevailing side of the motion were to bring it up.

Discussion centered around the fact that the Rotary Club was not turned down because of any other reason than the application was submitted specifically for a project that would not be of direct benefit to Holly Springs residents but would be of direct benefit to people in foreign lands. The project is called the Million Meal project, and it recruits local volunteers who pack meal boxes for distribution to people who are suffering from hunger in other countries.

The North Carolina Constitution, the town attorney said, is the document that states that public funds of a town must be spent for a public purpose, and it is presumed that the Constitution intends for that public purpose to be of benefit to the taxpayers to provided the funds.

After much discussion, the Council decided it would allocate remaining funds in the special program contributions line item to the Rotary Club for its local charity projects and to Kids Vote, which missed the application deadline after not receiving their application packet in the mail.

The Town Clerk advised the Council that Kids Vote also had asked for consideration as it would have requested only \$300.

At this time, Councilman VanFossen offered a motion that the Town allocate from the FY 2009-10 budget \$1,300 for the Holly Springs Rotary Club and \$300 for Kids Vote. The motion did not receive an immediate second, and Councilman Sack called a point of order. He said he felt that the public hearing and agenda item on the table did not pertain to the FY 2009-2010 budget but to the adoption of the FY 2010-2011 budget.

**Action:** The Council approved a motion to table action on the FY 2009-2010 grant application requests until Other Business on the agenda.

**Motion By:** Sack

**Second By:** Womble

**Vote:** Unanimous

**Action:** The Council approved a motion to adopt Ordinance 10-08 establishing the FY 2010-11 operating budget for the Town of Holly Springs with a change to the budget document to accommodate an increase in the salary for the position of mayor of \$300 per month plus a \$200 per month stipend for in-county travel.

**Motion By:** Sack

**Second By:** Cobb

**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.

*A copy of Budget Ordinance 10-08 is incorporated into these minutes as addendum pages.*

**6b. Public Hearing: Development Plan 10-DP-02 for Pinewoods Luxury Apartments -** Ms. L. Powell said the Town has received a request for a multi-family development to be situated on 5.55 acres, located along Lassiter Road. The development would consist of two 3-story buildings totaling 70 units situated along the perimeters of the property as well as a pool and pool house located in the center of the development.

That explanation completed, Mayor Sears opened the public hearing.

Lenora Carrington, 4005 Lassiter Road – Ms. Carrington addressed the Council and said she was concerned about Lassiter Road traffic once the building gets built. She said she would hope the Town would install Slow, Children Playing signs.

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

Councilman Sack said he thinks the plan looks like a good project that would get Lassiter Road paved improve drainage in the area.

**Action:** The Council approved a motion to approve Development Plan #10-DP-02 for Pinewoods Luxury Apartments as submitted by Civil Engineering, Associates, PLLC, Project Number PO8051, dated revised 6/3/10 with the following conditions:

1) At the time of construction drawing submittal, a site lighting plan is to be submitted to the Department of Planning & Zoning for review and approval prior to issuance of a building permit.

2) A fee-in-lieu of upgrade will be required for this project for the Sunset Ridge Pump Station and associated Force Main.

3) Provide a PCN with all supporting documentation including but not limited to impacts to jurisdictional features for the entire project. All environmental permits must be obtained for the entire project.

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

5) The following items will need to be addressed with the first construction drawing submittal associated with this project:

- a. The sidewalk will need to tie from the parking lot sidewalk to the public sidewalk on Lassiter Road on both sides of the driveway.
- b. Verify the location of the FDC for multi-story buildings.
- c. Label the RPZ for the water services and fire lines.
- d. Provide documentation for the existing dedicated 60' right-of-way on Lassiter Road.
- e. Verify that the public municipal services located within the project can be accessed by Town staff when needed (i.e. for maintenance, reading water meters, etc.)

6) The following items will need to be addressed prior to construction drawing approval:

- a. Approval of Stormwater Management Plan is required prior to issuance of a land disturbance permit or construction drawing approval.
- b. Payment of the Stormwater Fee-in-Lieu will be required
- c. Stormwater Performance and Maintenance Sureties, information for the BMP including draft Operation and Maintenance Agreement (Form 16024), and PE cost estimate for the stormwater performance surety of the BMP is required.

**Motion By:** VanFossen

**Second By:** Womble

**Vote:** Unanimous

**6c. Public Hearing: Annexation Petition A10-03 –** Ms. L. Powell said the Town has received a petition for voluntary annexation of approximately 2.06 +/- acres located at end of Shadow

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Mist right-of-way. The property owners are Michael K. and Angie McKinney.

She said the petition meets all the statutory requirements for annexation except for one minor issue of a revised legal description. Once the town receives the legal description, the ordinance will be ready for adoption. In the meantime, the public hearing was advertised to occur on June 15.

She said staff requests that the public hearing be held, but that action on the annexation ordinance be deferred until the ordinance is finalized.

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 Annexation Petition A10-03 to the July 6, 2010 meeting of the Town Council or until such time as the legal description is provided and the ordinance finalized.

**Motion By:** Sack

**Second By:** Cobb

**Vote:** Unanimous

**6d. Public Hearing: Annexation Petition A10-04** – Ms. L. Powell said the Town has received a petition for voluntary annexation of approximately 1.99 +/- acres located along Avent Ferry Road. The property owners are Michael W. and Mary Jo Carroll.

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 adopt Annexation Ordinance A10-04 annexing approximately 1.91 +/- acres owned by Michael W. and Mary Jo Carroll, and more particularly described as Wake County PINs (portion of): 0648-78-0090, into the corporate limits of the Town of Holly Springs.

**Motion By:** VanFossen

**Second By:** Womble

**Vote:** Unanimous

*A copy of Annexation Ordinance A10-04 is incorporated into these minutes as addendum pages.*

**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 May 18 and June 1, 2010.

7b. Budget Amendment 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 amendments report is incorporated into these minutes as an addendum page.*

7c. Budget Amendments, \$1,763,195 – The Council adopted amendments to the FY 2009-2010 budget in the amount of \$1,763,195 to receive a reimbursement from NCDOT and to allocate it to pay off the remaining balance of the Town's Road Projects debt. *Copies of the budget amendments are incorporated into these minutes as addendum pages.*

7d. Budget Amendment, \$2,020 - The Council adopted an amendment to the FY 2009-2010 budget in the amount of \$2,020 to receive insurance proceeds for the repair of a damaged Code Enforcement truck. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

7e. Hunt Center - The Council approved plans for electrical easement and lines for the new Hunt Center building.

**8a. Parks and Recreation Advisory Committee Appointments** – Mr. Bradley said at the last Town Council meeting, Council voted to fill four seats on the Parks & Recreation advisory committee. Three positions were expiring terms, and each incumbent was selected for another term. A fourth applicant was selected to fill a vacancy.

After some confusion at the last Council meeting, it is noted that another board member's term will be expiring at the end of June. The request is to appoint a person to fill vacancy on the Holly Springs Parks and Recreation Advisory Committee, Mr. Bradley said.

**Action:** The Council approved a motion to reappoint Stephane Daniel to the Holly Springs Parks and Recreation Advisory Committee for a term to expire June 30, 2013.

**Motion By:** Sack

**Second By:** Womble

**Vote:** Unanimous

**8b. Resolution 10-18** – Mr. Dean reported that local legislation is pending that would protect resident email addresses on file and in use by the Town from being deemed "public records," which have to be provided to anyone upon request. All towns in Wake County are supporting this legislation, Mr. Dean reported.

The law would make it so that Towns could not be compelled produce email addresses it has on file.

**Action:** The Council approved a motion to adopt Resolution 10-18 supporting pending legislation to exempt email addresses on file with a municipality from laws covering public records.

**Motion By:** Sack

**Second By:** VanFossen

**Vote:** Unanimous.

#### **9. Other Business:**

**Action:** The Council approved a motion to allocate from the FY 2009-10 budget \$1,300 for the Holly Springs Rotary Club and \$300 for Kids Vote.

**Motion By:** VanFossen

**Second By:** Womble

In discussion, Council members Cobb, Sack and Williams expressed some concern of the Council's setting a precedent in allowing grant applicants the opportunity to appeal decisions of the Council. In the end, all agreed that funding was in place that can be used, so it should be allocated.

**Vote:** Unanimous

**10. Manager's Report:** Mr. Dean reminded Council of Town Hall Day and of the July 5 Independence Day Celebration.

**11. Closed Session:** The Council entered in Closed Session, pursuant to N.C.G.S. 143-318.11(a)(3) to discuss with the town attorney a matter of potential litigation.

**Motion By:** Sack

**Second By:** VanFossen

**Vote:** Unanimous

#### **General Account of Closed Session, June 15, 2010**

In Closed Session, the Council provided the Town Attorney with direction as to how the Town should proceed with respect to the VGAP Health II group home located within the town limits. The state department of Health and Human Services revoked the home's permit after a stabbing by one of its residents, upon requests from the town to do so. The town attorney

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informed the council that the town revoked the prior zoning certification letter to the home, stating it was exempt as a "family care home" pursuant to NCGS 168-22. After the alleged attempted murder at the home, it was made clear that the home was not an exempt family care home, and the zoning certification was revoked. The town attorney relayed a request from the group home's attorney to reinstate the zoning compliance status of the property. The Town Council directed the town attorney, with the advice of Council, that the Council was not inclined to reinstate the zoning compliance on the property.

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

**Action:** The Council approved a motion to return to Open Session.

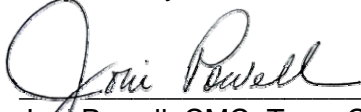
**Motion By:** Sack

**Second By:** VanFossen

**Vote:** Unanimous

**12. Adjournment:** There being no further business for the evening, the June 15, 2010 meeting of the Holly Springs Town Council was adjourned following a motion by Councilman Sack, a second by Councilman VanFossen and a unanimous vote.

Respectfully Submitted on Tuesday, July 6, 2010,



Joni Powell, CMC, Town Clerk

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

