



## **MINUTES**

The Holly Springs Town Council met in regular session on Tuesday, March 2, 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); Linda Harper, deputy town clerk; Drew Holland, finance director; Len Bradley, director of parks and recreation; Gina Clapp, director of planning and zoning; Josh Olmeda, IT technician; Michelle D'Antoni, publication specialist; Stephanie Sudano, director of engineering; and Kendra Parrish, senior engineer.

**2 and 3.** The Pledge of Allegiance was recited, and the meeting opened with an invocation by Rev. Horace Forgason, pastor of Holly Springs Methodist Church.

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

**Motion By:** Sack

**Second By:** Womble

**Vote:** Unanimous

**Items added to Agenda:** None.

**Items removed from Consent Agenda for discussion:** 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. All those who had signed up to speak indicated that they wanted to speak on the same subject – a proposed animal control ordinance amendment to allow backyard hens in Holly Springs. Residents Ken and Wendy Webster had requested the amendment during the Feb. 16 meeting. The subject appears on the agenda later in the meeting.

The following input was recorded:

Bob Bartsch, 125 Flatrock Lane – Mr. Bartsch addressed the Council to express his opposition to the Council's amendment of the animal control ordinance. He said it was his opinion that chickens are not pets, but utility animals. He said he feels allowing backyard hens also would be adverse to the Sunset Ridge Homeowners Association covenants; he said noise, smell, environmental impact and the potential for negative impacts to property values also were of concern to him.

He said he did not feel the ordinance should be amended.

John Evans, 6100 Windy Farm Lane – Mr. Evans addressed the Council expressing his support of the change that is proposed. He said he, as a resident of the town's extraterritorial jurisdiction, has farm animals, including chickens. He said his chickens are his pets, and he said chickens are cleaner and less trouble with less impact to the community than other domestic animals.

Wendy Webster, 117 Flatrock Lane – Ms. Webster spoke in favor of the ordinance amendment. She said her husband has provided the Council with information about the national movement toward urbanized chicken keeping. She said she wanted to address the Council as a mother who is teaching her children sustainability and an organic lifestyle. She said keeping backyard hens also provides lessons in science and an interest in values.

She said she would not be asking for the amendment if she, as a mother, thought that there would be any danger or negative impact to the environment or the community.

Ken Webster, 117 Flatrock Lane – Mr. Webster said he supported an amendment to the animal control ordinance to allow backyard hens. He said he would ask for a few text amendments to the draft ordinance amendment.

He said he hoped the Council would distance itself from staff, who recommends that the ordinance not be amended.

He pointed out that the current animal control ordinance allows residents to own dangerous dogs but not hens.

**6a. Girl Scout Week** – Mayor Sears presented a proclamation designating the week of March 8 as Girl Scout Week in Holly Springs in commemoration of the 98<sup>th</sup> anniversary of the Girl Scouts of the United States of America.

**Action:** None.

**7a. Public Hearing: Annexation Ordinance A10-02** – Mr. Jones said the Town has received a petition for voluntary annexation of approximately .897 +/- acres located at 5817 Sunset Lake Road. The property owner is Jesus Leiva. 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 adopt Annexation Ordinance #A10-02 annexing approximately .897 +/- acres owned by Jesus Leiva, and more particularly described as Wake County PINs: 0669.03-40-2686, into the corporate limits of the Town of Holly Springs.

**Motion By:** Sack

**Second By:** Womble

**Vote:** Unanimous

*A copy of Annexation Ordinance A10-02 is incorporated into these minutes as addendum pages.*

**8a. Parks and Recreation Advisory Committee Report** – Kevin Adams, chair of the Parks and Recreation Advisory Committee, made a presentation regarding Parks and Recreation budget needs for FY 2010-2011. He outlined the needs of the department in regard to land acquisition, building progress and maintenance.

Mr. Adams requested consideration as the next year's budget is prepared. He said he hoped that the Council would approve funding that would get the Town's master plans for parks back on track.

**Action:** None.

**9. 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

Womble and a unanimous vote. The following actions were affected:

9a. Minutes – The Council approved minutes of the Council’s regular meetings held on July 21, 2009 and Feb. 16, 2010.

9b. Public Works and Old Police Station Property Appraisal - The Council authorized the Town Manager to enter contracts with Commercial Appraisal Group to perform property valuations of the public works and former police station properties.

9c. Set Special Meeting – The Council set a special meeting for March 5-7, 2010 at The Carolina Inn in Pinehurst for the purpose of a retreat workshop on growth, development, infrastructure, water supply and policy matters.

9d. Erosion and Sedimentation Control Program Review – The Council received a report of a State review of the Town’s erosion and sedimentation control program.

9e. NCDOT Mowing Agreement- The Council extended an agreement with NCDOT for the Town’s mowing of State road rights of way for \$15,147 during the 2010 mowing season.

**10a. Phase Three Sidewalk Project** – Ms. Parrish said at a previous Town Council meeting, a sidewalk project was endorsed, the alignment approved, and an initial project budget established. This project is phase 3 of a larger project funded in part by a grant from the John Rex Foundation.

Ms. Parrish said that staff has completed 25% design plans in-house for a proposed sidewalk along the south side of Earp Street, west side of Raleigh Street, and north side of Holly Springs Road. She said when the project was endorsed and the alignment was approved, Council asked that staff evaluate installation of the 5-foot concrete sidewalk at both temporary and permanent locations relative to the ultimate street cross section. (Permanent location is typically farther outside existing right of way and requires significantly more grading, more easements, and more up front expense – it is usually more difficult to achieve on projects where curb and gutter and road widening is not being performed at the same time, such as with this project).

She said preliminary 25% designs were prepared showing both permanent and temporary sidewalk locations.

Ms. Parrish said that staff recommends installing sidewalk at temporary locations in some cases and at permanent locations in others:

- permanent location on Holly Springs Road – there are no residences along this stretch of the project, and it would have minimal impact;
- temporary on Earp Street - permanent location would include additional right of way/easement expense and impact to residential lots; there are no foreseeable improvement projects to the road that would cause for relocation of the sidewalk;
- temporary on Raleigh Street - permanent location would include additional right of way/easement expense and more impact to residential lots; there are no foreseeable improvement projects to the road that would cause for relocation of the sidewalk; and the temporary location is consistent with the location of the rest of the sidewalk on Raleigh Street.

**Action:** The Council approved a motion to approve staff recommendation of sidewalk locations along the south side of Earp Street, west side of Raleigh Street, and north side of Holly Springs Road.

**Motion By:** Sack

**Second By:** Womble

**Vote:** Unanimous.

**10b. Green Oaks Parkway Stream Stabilization Options Contract** – Ms. Parrish said the Town has determined that stream stabilization at four of the stream crossings installed as part of the two-lane Green Oaks Parkway project require repair in order to comply with the United States Army Corps of Engineers and state Division of Water Quality permits. To assist in

implementation and identification of the necessary repairs, the Town has negotiated a contract for professional services with Kimley-Horn and Associates.

She said Kimley-Horn and Associates is very familiar with both the two-lane and four-lane Green Oaks Parkway projects and is in the best position to undertake this professional services work for the Town.

She said the tasks include preparation of a memorandum providing options for repair and preparation of construction drawings and specifications, bid documents and an engineer's opinion of costs. The consultant also would meet with both the USACE and NCDWQ to facilitate and secure permits and approvals; would bid the project and conduct the pre-construction meeting and site inspections of this specialized repair work; and would provide the required final certification on the construction work once it is performed.

**Action:** The Council approved a motion to enter a contract with Kimley-Horn and Associates in the amount of \$27,500, plus 10% contingency for a total project cost of \$30,250, for the engineering of stream stabilization options in the Green Oaks Parkway project.

**Motion By:** Womble

**Second By:** Sack

**Vote:** Unanimous.

**10c. Animal Control Ordinance Amendment** – Mr. Schifano said at the Feb. 16 Town Council meeting, residents Ken and Wendy Webster addressed the Council in Public Comment with a request that the Council consider amending the Town's animal control ordinance to allow backyard laying hens.

The Council directed that the Town Attorney prepare such an ordinance for consideration by the Council.

He said his draft amendment of Town Code Section 12-80 would allow chickens in limited numbers in certain circumstances, providing for such factors as lot size and setbacks and permitting procedures for coops. Mr. Schifano says that the amended draft is similar to that adopted by other towns that have amended their ordinances in order to allow hens to be kept within the town limits.

Mr. Schifano reported that Town staff discussed the proposed revision at length and through the input of all departments the consensus was reached that the town staff would recommend that the ordinance not be amended. The concern of staff was primarily that the call volume to the animal control program would increase significantly, that the average lot size in Holly Springs is not conducive to house poultry, that regulation of the appearance of coops and pens would be problematic, and that while most owners of chickens would be responsible in disposing of animal waste, a significant number may not, causing noise and smell complaints from adjacent landowners.

He said other concerns mentioned by staff members: polluted storm water run-off; wildlife that would be attracted by chickens; subdivision covenants and how the town is usually expected to enforce covenants; and cranky neighbors complaining of noise and smell – even if there isn't any.

Funding may not be an issue at this time, but the Council also may want to take into consideration the potential future fiscal impact in requiring additional animal control resources.

Mr. Schifano said that most staff recommend against an amendment because of the negative impact on town operations.

Chief Herring addressed the Council reporting that his contacts with animal control departments across the state indicate to him that allowing backyard hens adds a considerable burden to municipal operations.

In discussion, Council members noted that the ordinance would have to apply to everyone, and although the Websters would probably keep their hens properly, there would be those who would not.

Councilwoman Williams spoke in favor of the change, noting that families should be

allowed to keep hens. She said a minimum of one-acre lot size would be prudent.

Councilman VanFossen said he would not be in favor of any ordinance changes.

Councilman Womble said he would not favor an ordinance change because he feels there would be added animal control calls in response to wildlife that would be attracted. He said he also does not feel the Town should change its ordinances to serve a few.

Councilman Cobb, who once worked for a commercial egg producer, says one acre lots would be all right, but he does not believe chickens should be kept on smaller lots. He said he shares concerns about wildlife and the impact on the animal control department, so he is in favor of keeping the ordinance the way it is.

Councilman Sack said he understands the residents' point, but he noted that the Webster family got the chickens at odds with their neighborhood covenants and Town Code and now they want the Town to change the ordinance to suit them.

Councilwoman Williams said she has received a lot of phone calls in support of an ordinance change.

**Action:** The Council considered a motion to amend the Town's animal control ordinance so as to allow hens to be kept on residential lots of at least one acre in size.

**Motion By:** Williams

**Second By:** None

**Vote:** The motion died for lack of a second.

*No other action was necessary to accomplish the Council's objective to not amend the existing animal control ordinance.*

**11. Other Business:** Councilman Womble asked Mr. Dean if the Town could establish 2-hour parking on Center Street. Mr. Schifano said if there was a consensus of the Council, an ordinance can be brought back.

Councilman Sack added that the Council also should designate a No Parking on Sunset Oaks and at the circle at Holly Springs Cultural Center.

**12. Manager's Report:** Mr. Dean reminded the Council about the Council's upcoming 2010 retreat, which is scheduled for March 5-7, 2010 at The Carolina Inn in Pinehurst.

**13. Closed Session:** The Council approved a motion to enter into Closed Session, pursuant to NCGS 143-318.11(a)(3) to consult with the Town attorney regarding a matter of settlement authority.

**Motion By:** Womble

**Second By:** VanFossen

**Vote:** Unanimous.

#### ***General Account, Closed Session – March 2, 2010***

In Closed Session, the Council discussed with the Town Attorney a matter relating to the Holly Springs Business Park pump station project and liquidated damages brought on by project time extensions.

Mr. Schifano explained that \$344,000 in liquidated damages had been negotiated down to \$200,000 in a settlement credit to the Town. The attorney recommended a settlement in that amount.

**Action:** The Council approved a motion to provide the Town Attorney settlement authority amounting to \$200,000 in the Holly Springs Business Park pump station project matter.

**Motion By:** VanFossen

**Second By:** Cobb

**Vote:** Unanimous.

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

**Motion By:** VanFossen

**Second By:** Sack

**Vote:** Unanimous.

**-- End General Account**

**Action:** In Open Session, the Council authorized the Town Manager to approve a construction contract change order in an amount up to \$20,000 to finalize the Holly Springs Business Park pump station project.

**Motion By:** VanFossen

**Second By:** Cobb

**Vote:** Unanimous.

**14. Adjournment:** There being no further business for the evening, the March 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, March 16, 2010,



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Joni Powell, CMC, Town Clerk

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

