



## **MINUTES**

The Holly Springs Town Council met in regular session on Tuesday, Jan. 5, 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 four council members were present as the meeting opened.

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

**Council Members Absent:** Councilman Chet VanFossen.

**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; Eric Tayler, IT department manager; Mark Andrews, public information officer; Kendra Parish, senior engineer; Stephanie Sudano, director of engineering; and Daniel Weeks, project analyst.

**2 and 3.** The Pledge of Allegiance was recited, and the meeting opened with an invocation by Rev. Billy Dennis.

**4. Agenda Adjustment:** The Jan. 5, 2010 meeting agenda was adopted with changes, if any, as listed below.

**Motion By:** Sack

**Second By:** Womble

**Vote:** Unanimous

**Items Added to the Agenda:** None.

**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:

Hank Dickson, 504 Sandy Pointe Way – Mr. Dickson addressed the Council, encouraging members to consider taking a full weekend out of town this year for their annual winter retreat. A former member of the Council, Mr. Dickson said last year's one-day retreat was not as productive as retreats in the past when the Council spent a whole weekend.

He said he knew some taxpayers would not recognize the value of weekend retreats, but he said, he, for one, would support the Council if it were to spend a weekend working on behalf of the town.

**6. 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:

**6a. Progress Energy Easement** – The Council granted an easement to Progress Energy to install underground power to an Embarq telephone equipment box.

6b. Budget Amendment, \$1,340 – The Council adopted an amendment to the FY 2009-10 budget in the amount of \$1,340 to accept insurance proceeds for the repair of a fire department vehicle. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

6c. Methodist Church Parking Lot Change Order #3 – The Council approved change order 3 to a contract with Asphalt Experts, increasing the contract time for the Methodist Church downtown parking lot project.

6d. Reclaimed Water Project Change Order #5 – The Council approved change order 5 to a contract with T. A. Loving, decreasing the contract amount by \$3,000 in the Reclaimed Water project.

**7a. Parks and Recreation Fees** – Mr. Bradley explained that this request first was presented on Dec. 15 when the Council opted to continue the agenda item until the Jan. 5 meeting. He said the request is for the Council to allow parks and recreation fees amounting to \$904 per lot in The Highlands of Holly Glen to be permitted to be paid by builders at the time of obtaining a building permit, rather than as a lump sum from the developer at lot recordation.

Dec. 15 Town Council meeting discussion:

After the situation was explained on Dec. 15, the following discussion among Council members 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.

#### Dec. 21 Staff / Developer meeting:

At the direction of Council, staff, management and Mr. Ammons met on Dec. 21. Following that meeting, it was decided that staff would recommend that the Council establish a one-year program on the collection of parks and recreation fees in lieu of land dedication. The program would apply to all developers for a period of 12 months, and it would allow that the fees could be paid at the time of building permit application as opposed to at lot recordation.

To clarify, Mr. Bradley said, this program would apply to all developers and not just to the developer at The Highlands, and it would apply only to residential subdivisions which have been previously approved by the Town.

Mr. Bradley stressed that staff continues to believe the appropriate time for collecting these fees remains to be at lot recordation; however, in an effort to provide relief in this local economy, this temporary change in the process is appropriate.

He added that the change would affect multiple subdivisions, developers and building contractors and could create unexpected charges at building permit application time. He said the Town would generate a list of all developers and contractors who would be effected and would notify them of these changes.

Councilman Womble said he empathized with the developer, but he feels that the Town should treat everyone the same. He noted an instance from the past when an individual had requested relief for a minor subdivision, but the Council said no. He said he was against the proposal for this reason.

Councilman Sack said this request is indicative of current economic times, and he pointed out the fees would be collected, just not at plat recordation. He said the program would not forgive the fee, it would just change the time at which they are collected.

**Action:** The Council approved a motion to establish a one-year program, effective Jan. 5, 2010 and expiring on Jan. 1, 2011, on the collection of parks and recreation fees in lieu of land dedication to apply to all currently-approved subdivision plans and providing that parks and recreation fees can be paid on those approved lots at the time of building permit application instead of at lot recordation.

**Motion By:** Sack

**Second By:** Cobb

**Vote:** The motion carried, following a 3-1 vote. Council members Cobb, Sack and Williams voted for the motion. Councilman Womble voted against.

**8a. Bass Lake Park Pavilion Project** – Ms. Parrish said staff will be undertaking in-house design of the Bass Lake Pavilion project. The project consists of an ingress and egress driveway south of

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the lake and a parking lot for 25 spaces. The Bass Lake Pavilion also will need a water and sewer service extension that will be designed and permitted in-house. Once the infrastructure is in place, the Parks & Recreation Department will be constructing a shelter with bathrooms.

She said, pursuant to the town's professional services consultant selection policy, Smith & Smith Surveying has been selected to perform the surveying and plat preparation for the project for \$5,850, including contingency.

Council members asked questions specific to the pavilion plan. Mr. Bradley addressed those questions, explaining how the pavilion would look and how much it might cost to build. Council members also had questions about how the pavilion and parking lot would be used. Mr. Bradley said the pavilion would be used by residents for picnics and parties and such, much like the pavilion at the town's other parks. He said the parking lot would serve the pavilion as well as be overflow parking for events held at Bass Lake Park.

**Action #1:** The Council approved a motion to approve the project and preliminary expense schedules as described.

**Motion By:** Sack

**Second By:** Womble

**Vote:** Unanimous.

**Action #2:** The Council approved a motion to retain Smith & Smith for \$5,850, including contingency, for surveying and plat preparation services.

**Motion By:** Womble

**Second By:** Williams

**Vote:** Unanimous.

**9. Other Business:** Councilman Womble asked if the Town could budget for and improve its Christmas decorations.

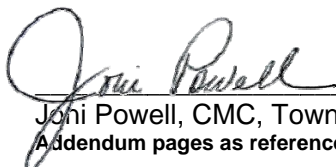
**10. Manager's Report:** Mr. Dean asked the Council members to consider how and where they would like to hold their 2010 Winter Retreat meeting. Last year, the retreat was held during a one-day session at Yates Mill Pond Park. In years past, the Council has met at Pine Needles in Southern Pines.

Council consensus seemed to be that the Council would prefer a productive work weekend rather than a one-day session. The Town Clerk said she would check costs and accommodation options and share the information with members.

**11. Closed Session:** None.

**12. Adjournment:** There being no further business for the evening, the Jan. 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, Jan. 19, 2010,



Joni Powell, CMC, Town Clerk

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

