

Holly Springs Town Council Minutes

Regular Meeting

Oct. 6, 2009

MINUTES

The Holly Springs Town Council met in regular session on Tuesday, Oct. 6, 2009, 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 five council members were present as the meeting opened.

Council Members Present: Councilmen Vinnie DeBenedetto, Parrish Womble, Chet VanFossen, Tim Sack, Hank Dickson 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; Gina Clapp, director of planning and zoning; Laura Powell, planner I; Mark Zawadski, planner I; Scott Brummond, IT technician; Michelle D'Antoni, publications specialist; Jenny Mizelle, economic development director; and Elizabeth Goodson, development review engineer; .

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

4. Agenda Adjustment: The Oct. 6, 2009 meeting agenda was adopted with changes, if any, as listed below.

Motion By: Sack

Second By: Dickson

Vote: Unanimous

Items Added to the Agenda: None.

Items Removed from the Agenda: Item 8e., sign regulation waiver for Novartis; and 9c., infrastructure reimbursement agreement for Garrison Subdivision.

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:

Chester Cook, 325 Holly Branch Drive – Mr. Cook addressed the Council. He said when he first moved to Town, he appreciated all the facilities that the Town provided. He said he thinks all the Town facilities of the Town are first-class, except for the Hunt Center.

Councilman Sack asked if Mr. Cook had heard that the Town was planning to build a new community center.

Mr. Cook said he did know this and was very glad that the Town is taking on a project to upgrade it because this facility would promote good health for residents of Holly Springs.

Joel Williams, 5101 Kinderston Road – Mr. Williams said a lot of positive things have happened in Holly Springs. He said health concerns over blood pressure prompted him to take advantage of the fitness programs at the Hunt Center. He said he hoped the Town would move forward with the project. He said he did not understand why anyone would want to delay the project. He said he felt like it was time for the Council to move forward.

Joe Signoretti, 1220 Trotters Bluff Drive – Mr. Signoretti addressed the Council, commenting on how he feels the Town's ethics policy for public officials should be amended to set out rules for how officials would behave in making allegations of wrong-doing by another official or a town employee. He said he feels that these instances should be relegated to Closed Session until such time as it would be more appropriate for the information to be made public, such as after the discovery of conclusive evidence of wrong-doing.

He said he feels some members of the Council during the past year have made damaging and unfounded remarks about employees and public officials, and he feels this is unfair to the individuals involved as well as the organization.

He also said he feels the policy should be amended to require that any information published by public officials be complete and factual. He said he feels information recently published in the newspaper by one Council member regarding the financing of the Hunt Center was false and he closed by saying that if an official is going to print something in the newspaper, then it should be the truth.

6a. W. E. Community Center Project – Kevin Adams of the Holly Springs Parks and Recreation Advisory Committee addressed the Council and public to state the committee's support for the Hunt Center project as well as future parks and recreation projects. He said the committee also would like to express its gratitude for the Council's support of the Hunt Center project and approval of the budget.

He thanked the Council for its efforts on the project.

Action: None.

7a. Public Hearing: Quantum Drive Right-of-Way Closing Order – Ms. Powell said the Town has received a request to abandon road right-of-way located on Quantum Street adjoining property owned by Omni Investment Management, LLC. The applicant wishes to realign the right-of-way as illustrated on the attached map.

She said in order to accomplish the realignment, the old right-of-way needs to be abandoned and new right of way dedicated.

Ms. Powell said that, generally, following a 30-day appeal period from the effective date of the street closing order and upon recordation of this order, the property containing the right-of-way would revert back to the ownership of the original property owner, who is in this case, the applicant. That said, she said the engineering department has requested that the street closing order not be effective until the construction drawings for the project are approved, ensuring that the project will move forward and not result in the town's giving up right-of-way that it would have to get back if the project does not move forward.

Ms. Powell said adoption of the resolution as presented would accommodate that schedule.

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 Resolution 09-33, a street closing order for a portion of Quantum Street, effective upon approval of construction drawings for an associated realignment of Quantum Street.

Motion By: Sack

Second By: Womble

Vote: Unanimous.

A copy of Resolution 09-33 is incorporated into these minutes as addendum pages.

8. Consent Agenda: The Council approved a motion to approve all remaining items on the Consent Agenda. The motion carried following a motion by Councilman Dickson, a second by Councilman Sack and a unanimous vote. The following actions were affected:

8a. Minutes – The Council approved minutes of the Council's regular meetings held May 19 and Sept. 1, 2009.

8b. Resolution 09-34 – The Council adopted Resolution 09-34 approving and enacting Development Procedures Manual amendment 09-DPA-04 pertaining to storm water. *A copy of Resolution 09-34 is incorporated into these minutes as addendum pages.*

8c. Resolution 09-35 – The Council adopted Resolution 09-35 urging Congress to protect American jobs and industry in dealing with greenhouse emissions policy. *A copy of Resolution 09-35 is incorporated into these minutes as addendum pages.*

8d. National Community Planning Month in Holly Springs – The Council received a report of a proclamation designating October as National Community Planning Month in Holly Springs.

8e. UDO Regulation Waiver – This item, a waiver of UDO regulations to allow for a ground sign of eight feet in height at Novartis Vaccines & Diagnostics, was removed during Agenda Adjustment.

8f. Budget Amendment, \$39,875 – The Council adopted an amendment to the FY 2009-10 budget in the amount of \$39,875 to finish out the Baptist Church parking lot project that included Center Street. *A copy of the budget amendments are incorporated into these minutes as addendum pages.*

8g. Budget Amendment, \$4,125 – The Council adopted an amendment to the FY 2009-10 budget in the amount of \$4,125 to provide an upgrade for Parks and Recreation Department Class software. A

copy of the budget amendment is incorporated into these minutes as an addendum page.

9h. Reduction in Force Plan – The Council received and endorsed a report of the Town Manager's plan of action in regard to a reduction in force.

9a. 02-MAS-11-A06, Southpark Village – Mr. Zawadski said the Town has received a request for an amendment to the Southpark Village master plan. The project is located adjacent to G.B. Alford Highway between Avent Ferry Road and Ralph Stephens Road.

He said the proposed amendment includes three new out parcels, #9-#11, for a total of 13 commercial lots for the project. The new lots originally were part of Lot #1 that was planned for a single retail building with multiple store fronts similar to those adjacent to Harris Teeter. This amendment would change the appearance of the retail area along the village green by changing it to multiple out lot buildings. The amendment does include special setback requirements for lot #9 to ensure the building is kept close to the sidewalk so that the streetscape is consistent along Village Walk Drive for the portion adjacent to the "village green" open space.

Action: The Council approved a motion to approve detailed Master Plan Amendment #02-MAS-11-A06 for Southpark Village as submitted by McKim and Creed, Project Number 3438-0001, dated revised August 21, 2009 with the following conditions:

1. All previous conditions of approval for this master plan apply to this amendment.
2. A fee-in-lieu of upgrade will be required for this project for the related pump station and force main.
3. The additional utility services needed for the new lots must be constructed with the Development Plan for the corresponding lots.

Motion By: VanFossen

Second By: Womble

Vote: Unanimous.

9b. 09-DP-02, PSNC Gas Regulator Facility – Mr. Zawadski said the Town has received a development plan request to locate a 150-square-foot natural gas regulator facility on property located near the intersection of North Main Street and Quantum Street. The facility would be located more than 200 feet from the street and would be screened from view by new vegetation, existing vegetation, and a six-foot black chain-link fence.

Action: The Council approved a motion to approve Development Plan #09-DP-02 for PSNC Gas Regulator Facility as submitted by PSNC Energy, Project Number 0051264, dated revised 8/24/2009 with the following conditions:

1. The following items are required prior to 1st construction drawing submittal (later in the approval process):
 - a. An Easement & Right-of-Way Plat will need to be submitted for review showing existing and new easements, boundary of the PSNC easement including the corner of Quantum Street and Main Street for reference.
 - b. All land acquisitions must be complete and documentation provided.
2. The following items are required prior to the approval of the 1st construction drawing for the project (later in the approval process):
 - a. All applicable 401 and 404 permits from USACE and NCDWQ must be obtained.
3. The following items are required prior to issuance of building permit:
 - a. Add black coated barb wire fencing around the perimeter of the gas regulator.

Motion By: Sack

Second By: DeBenedetto

Vote: Unanimous.

9c. Garrison Subdivision Infrastructure Reimbursement Agreement – This item was removed during Agenda Adjustment.

9d. W.E. Hunt Community Center Project – Mr. Schifano reported that the Town's application to the Local Government Commission for approval to use installment financing for the Hunt Center renovation / reconstruction and Bass Lake trail enhancement project was approved earlier in the day. He said the Town now was in a position to move forward with the projects,

Mr. Schifano said that there are three contracts relating to the Hunt Center project before the Town Council for consideration, specifically:

- the main construction contract with John S. Clark Company, LLC for \$5,570,000;
- the installment financing contract with Capital State Bank for the entire project budget for \$6,524,000; and
- a construction materials contract for \$40,000 with Terracon engineering firm.

He said with respect to the construction contract, the bid tabulation and architect's recommendation was presented to Council on Aug. 18, 2009; however, no vote was taken to approve the contract at that time, pending financing and Local Government Commission approval.

He said with respect to the bank financing agreement, the installment financing terms were approved by the Council by resolution 09-30 on Sept. 1, 2009. He said the agreement, technically, already was approved, but because there has been some dissenting opinions on the project, he wanted to give the Council a chance to vote on the specific agreement.

The materials and testing contract is a new matter, Mr. Schifano said.

He said earlier this year, a request for proposals was distributed to businesses in the area that are capable of conducting the specialized testing that will be required during the construction and renovation process at the Hunt Community Center. Each consultant provided information based on their respective experiences in performing such testing. The participating consultants were: ATC Associates, Inc., Falcon Engineering, Froehling & Robertson, Inc., Kleinfelder, MACTEC, Stewart Engineering, and Terracon.

Mr. Schifano said that after considerable negotiations, it is recommended that the Town contract with Terracon for the purpose of conducting tests as specified during the construction process. The lump sum value of these services is \$40,000, to be covered in the project budget funded by installment financing.

Councilman Sack explained the role of the LGC to Council meeting audience members. He explained that the LGC determines whether or not a Town is in financial condition to make proposed borrowings, and LGC approval is necessary before all municipal bank loans are executed in North Carolina.

Councilman VanFossen asked Mr. Schifano if Falcon Engineering, which had provided free services to the Town on other Hunt Center work in the past, had been considered for the testing work.

Mr. Schifano said yes, but that staff was not able to negotiate as favorable terms with Falcon as with Terracon.

Action #1: The Council approved a motion to enter a contract with low bidding firm John S. Clark, LLC, in the amount of \$5,570,000 for construction in the W.E. Hunt Community Center project.

Motion By: VanFossen

Second By: Dickson

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

A copy of John S. Clark Company, LLC contract is incorporated into these minutes as addendum pages.

Action #2: The Council approved a motion to enter into an installment financing agreement with Capital State Bank for a loan amount of \$6,524,000 for the W.E. Hunt Community Center and Bass Lake Park Enhancement Projects with the following financing terms: The amount financed shall not exceed \$6,524,000, the annual interest rate (in the absence of default or change in tax status) shall not exceed 5.2%, and the financing term shall not exceed 18 years from closing.

Motion By: Dickson

Second By: VanFossen

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

A copy of the Capital State Bank installment financing agreement contract is incorporated into these minutes as addendum pages.

Action #3: The Council approved a motion to enter into a materials testing contract with Terracon for \$40,000, and to authorize the town manager to execute the documents, subject to terms acceptable by the town's attorney.

Motion By: Sack

Second By: Dickson

In discussion, Councilman DeBenedetto began to address the public that he was in favor of the Hunt Center project but that he had concerns about the financing.

Councilman Sack interrupted and said Councilman DeBenedetto was out of order because his

discussion was not germane to the specific motion on the table. He called for a vote on the motion.

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

A copy of Terracon Engineering Firm contract is incorporated into these minutes as addendum pages.

10. Other Business: Mayor Sears reported on a teleconference held today on H1N1 flu.

Councilman VanFossen complimented Parks and Recreation, Police and Fire Department staff for assisting with the Dog Day in the Park event, particularly the Carolina Dock Dog event.

Councilman Dickson reported for clarification that the Town did not raise fees for HollyFest. The business expo fees are higher than in years past, but that portion of the festival is run by the Holly Springs Chamber of Commerce.

Councilman Womble thanked for the Council and staff for letters and cards while he was in the hospital for knee surgery.

Councilman Sack spoke to remind candidates of sign regulations.

Councilman Sack asked Ms. Sudano about a dip in the southbound lane of Holly Springs Road near Middle Creek Farm Road. He also noted that signs in the cement medians get shirred off. He asked if reflective paint could be applied so motorists could better see the signs.

11. Manager's Report: Mr. Dean reminded the Council of the Chamber of Commerce retreat scheduled for later in the week; he reported on an international visit by a contingency from Moldova; he reported that defibrillators have been purchased for town facilities; he reported that the acute care bed allocation committee will be meeting later this week; he reminded the Council of the North Carolina League of Municipalities conference; he reported that the Hampton Inn had submitted its development plan to the Town.

12. Closed Session: The Council entered Closed Session.

Action: The Council approved a motion to enter into Closed Session, pursuant to G.S. 143-318.11 (a)(5) to discuss matters relating to the location or expansion of industries in the area served by Holly Springs and pursuant to G.S. 143-318.11(a)(3) to discuss with the Town Attorney within the client-attorney privilege two matters of litigation.

Motion By: VanFossen

Second By: Sack

Vote: Unanimous

General Account Closed Session – Oct. 6, 2009

In Closed Session, Mr. Dean explained to members that some utility extension work to an unserved area of the town would be critical in making a marketable parcel of property appealing to a company that might be looking to locate a business or industry in that area. Council members discussed the likelihood of that event and the cost of making such an infrastructure investment.

Mr. Dean said the utilities also would serve residents in the same area. Engineering staff presented supporting information that would put the project on course.

Mr. Schifano reported on two legal matters. He said that in 2000, a contractor broke a water line because No Cuts had no record of the line. The Attorney said the Town's Engineering Department had been working with the contractor to defray the cost of the \$14,000 in damages, and had negotiated a \$10,000 settlement. He asked for the Council's authorization for the settlement.

Action: The Council approved a motion to authorize a settlement agreement in the amount of \$10,000 with a utility contractor.

Motion By: Womble

Second By: Dickson

Vote: Unanimous.

Mr. Schifano also reported to the Council on the *Mangum vs. Town of Holly Springs* lawsuit. He reported that the case, as he had predicted, was determined unfounded and was dismissed by the judge.

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

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

Motion By: VanFossen

Second By: Dickson

Vote: Unanimous.

-- End General Account

In Open Session, the Council authorized a utility project.

Action: The Council approved a motion to authorize the extension of water and sewer utilities to the Friendship Road area of Holly Springs and adopted amendments to the FY 2009-2010 budget in the amount of \$370,000 to establish and fund a project budget for design.

Motion By: VanFossen

Second By: Sack

Vote: Unanimous.

Copies of the budget amendments are incorporated into these minutes as addendum pages.

Action: The Council approved a motion to enter into a contract with Withers and Ravenel for design of water line and force main for the Friendship Road project at a cost of \$354,000.

Motion By: VanFossen

Second By: Dickson

Vote: Unanimous

A copy of the Withers and Ravenel proposal is incorporated into these minutes as addendum pages.

Action: The Council approved a motion to enter into a contract with Kimley Horn and Associates at a cost of 8,700 for production of a functional design for a U.S. 1 interchange that would serve a parcel located on Friendship Road.

Motion By: VanFossen

Second By: Sack

Vote: Unanimous

A copy of the Kimley Horn proposal is incorporated into these minutes as addendum pages.

13. Adjournment: There being no further business for the evening, the Oct. 6, 2009 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, Oct. 20, 2009.

Joni Powell, CMC, Town Clerk

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