

Holly Springs Town Council Minutes

Regular Meeting

Sept. 2, 2008

MINUTES

The Holly Springs Town Council met in regular session on Tuesday, Sept. 2, 2008, in the Council Chambers of Holly Springs Town Hall, 128 S. Main Street. Mayor Dick Sears presided, calling the meeting to order at 7:04 p.m. A quorum was established as the mayor and four council members were present as the meeting opened.

Council Members Present: Councilmen Parrish Womble, Chet VanFossen, Tim Sack and Hank Dickson (arrived at 7:05 p.m.) and Mayor Sears.

Council Members Absent: Councilman Vinnie DeBenedetto.

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; Debbie Whitaker, utility billing specialist; Kelly Caviness, accounting services manager; Gloria Heggie, utility billing specialist (not present, but part of recognition on the agenda); Cindy Rose, finance assistant (not present, but part of recognition on the agenda); Patty Dressen, accounting technician; Mary Moore, accounting specialist; Larry Boykin, assistant finance director; Len Bradley, parks and recreation director; Gina Clapp, director of planning and zoning; Mark Zawadski, planner I; Stephanie Sudano, director of engineering; Heather Keefer, environmental specialist; Elizabeth Goodson, development review engineer; Scott Brummond, IT technician; Daniel Weeks, project analyst; Michelle D'Antoni, publications specialist; John Herring, police chief; and Mark Andrews, public information officer.

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

4. Agenda Adjustment: The Sept. 2, 2008 meeting agenda was adopted with changes, if any, as listed below.

Motion By: Sack

Second By: VanFossen

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: None.

6a. Recognition of Adams Family and Capital Trees Program Champion Historical Tree – Ms. Lois Nixon, chairman of the Triangle J Council of Governments Capital Trees Program addressed the Council to explain the program and introduce an award-winning local tree. Ms. Nixon presented an award of recognition to the David Adams family.

She said a yellow poplar located 500 feet behind the Adams home at 2624 Broad Street (Hwy. 55) will be recognized as a "Champion Historical Tree" and potentially will be nominated for a state championship designation.

Mr. David Adams expressed his appreciation for the award and for the work of the Capital Trees Program. He shared the honor with his father, his immediate family, and his extensive list of ancestors who all played a role in protecting all trees on the family property.

Action: None.

6b. 2008 N.C. Marvin Collins Planning Award – Mr. Dean said in July the North Carolina Chapter of the American Planning Association selected the 2007 Holly Springs Pedestrian Transportation Plan to receive the Marvin Collins Planning Award for outstanding comprehensive planning.

He said the award will be presented during a ceremony Friday, Sept. 26 during the NC APA Conference at the Raleigh Convention Center.

He said local staff and citizens working on the project included staff project coordinators Darin Eyster, Kendra Stephenson, P.E., and Scott Evenson of the Engineering Department and support staff members Jeff Jones, Len Bradley and Scott Barnard; Councilman Vinnie DeBenedetto; and steering committee members Alan Patterson, Sheila Schilling, Mary Elizabeth Bassett, Patrice Alexander, Barb Koblich, Betty

Deese and Councilman Tim Sack.

Mr. Dean said the Holly Springs Pedestrian Transportation Plan is a comprehensive plan that was developed with a grant from the N.C. Department of Transportation. It is to be used as a guide as the Town develops and reserves right of way and infrastructure development funds for sidewalks and trails. The Plan addresses creating an interconnected system of pedestrian corridors; developing a pedestrian environment that provides confidence and safety to its users; promoting walking as an alternative mode of transportation and providing pedestrian access to underserved areas of the community.

Action: None.

6c. Comprehensive Annual Financial Report – Mr. Holland said the Certificate of Achievement for Excellence in Financial Reporting has been awarded to the Town of Holly Springs Finance Department by the Government Finance Officers Association (GFOA) of The United States and Canada for its comprehensive annual financial report (CAFR).

He said the Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government, its management and its financial office staff.

Mr. Holland said this is the third year in the three years since the award was established that the Town of Holly Springs has earned this prestigious award. Mr. Holland introduced for recognition members of the Town's Finance Department, who all contributed to this achievement.

Action: None.

6d. Rex Healthcare Update – Mayor Sears introduced Bob Ricker, representing Rex Healthcare, to give the Council an update on the company's urgent healthcare facility planned for Holly Springs.

Mr. Ricker explained that a few months ago, Rex Healthcare submitted an application for a Certificate of Need for a diagnostic center in Holly Springs at the corner of GB Alford Highway and Avent Ferry Road. With support from the Town and the community, he said, Rex presented its application, but was turned down a CON for the facility.

Then, he said, Rex appealed the decision and convinced state officials during the appeals process of the need for such a facility in Holly Springs.

Mr. Ricker announced that the State of North Carolina had reviewed the Rex Healthcare application and has reversed the original ruling to approval. He said the way is mostly clear now for Rex to begin work on an emergency room facility to serve Holly Springs and southern Wake County.

Mr. Ricker thanked Mayor Sears, Mr. Dean and the community for their support during the application process.

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

7a. Minutes – The Council approved minutes of the Council's regular meetings held on June 17 and July 1, 2008.

7b. Community Development Block Grant – The Council authorized payment to The Wooten Company for an additional \$5,402.80 in CDBG project administration costs.

7c. Budget Amendment, \$60,000 – The Council adopted an amendment to the FY 2008-09 budget in the amount of \$60,000 to allocate an N.C. Greenway Grant received. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

7d. Budget Amendment, \$3,065 – The Council adopted an amendment to the FY 2008-09 budget in the amount of \$3,065 to receive insurance proceeds for a damaged police vehicle. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

7e. Budget Amendment, \$12,410 – The Council adopted an amendment to the FY 2008-09 budget in the amount of \$12,410 to receive insurance proceeds for a damaged public utilities vehicle and lightning damage to equipment. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

7f. Budget Amendment, \$119,675 – The Council adopted an amendment to the Water Reserves Fund in the amount of \$119,675 to allocate funds for Reuse Program development. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

7g. Special Exception Use Petition 06-SEU-04, Sprint #1115 #1 – The Council granted a second six-month extension to submit construction drawings for Special Exception Use #06-SEU-04 for Sprint Site 1115 #1.

7h. Resolution 08-43 – The Council adopted Resolution 08-43 recertifying the Official Zoning Map dated Aug. 21, 2008. *A copy of Resolution 08-43 and Official Zoning Map are incorporated into these minutes as addendum pages.*

7i. Holly Springs Business Park Pump Station Project – The Council entered into a contract with Trigon/Kleinfelder in the amount of \$11,000 for materials and testing services on the Holly Springs Business Park pump station project. *A copy of the Trigon/Kleinfelder contract is incorporated into these minutes as addendum pages.*

7j. Budget Amendment, \$67,000 – The Council adopted an amendment to the FY 2008-09 budget in the amount of \$67,000 to cover costs of headcut repairs in the Green Oaks Parkway project. *A copy of the budget amendment is incorporated into these minutes as addendum pages.*

8a. Garrison Subdivision Greenway Trail Waiver Request – Ms. Keefer said the construction of the Garrison Subdivision greenway trail will require encroachment into the Town of Holly Springs 100-foot undisturbed Bass Lake Buffer. This waiver must be approved by Town Council prior to staff's approving construction of the asphalt greenway trail in the proposed location.

Ms. Keefer explained that with the approval of the development plan for the Garrison Subdivision, a condition of plan approval required the

design and installation of a mulch greenway trail located within the 100-foot Bass Lake Buffer. Through the environmental and construction drawing review process it was determined that an asphalt or boardwalk greenway trail is required by the Town Engineering Design & Construction Standards.

She said a waiver to the Bass Lake Buffer Rules and permits from the US Army Corps of Engineers (USACE) and the NC Division of Water Quality (NCDWQ) are required prior to construction of the trail. Permits have been obtained from the agencies.

Action #1: The Council approved a motion to make and accept the following findings of fact to be recorded in the minutes for a request for a waiver of UDO regulations to allow construction of the Garrison Subdivision greenway trail within the Bass Lake Buffer.

1. The carrying out of the strict letter of the UDO will result in practical difficulties in the development of the property included in the Waiver Petition.
2. Approval will observe the spirit of the UDO
3. Approval will secure public safety and welfare.
4. Approval will provide substantial justice.
5. **a.** There are exceptional conditions pertaining to the particular piece of property in question because of its shape, size, or topography, that are not applicable to other lands, buildings, or structures in the same district, *or*
b. There is a peculiar characteristic of a proposed use which makes the application of certain development standards of the UDO, as requested in the petition for waiver of Riparian Buffer Regulations, unrealistic.
6. Granting the waiver requested will not confer any special privileges that are denied to other owners or residents of the district in which the property is located.
7. A literal interpretation of the provisions of the UDO would deprive the applicant of rights commonly enjoyed by other owners and residents of the district in which the property is located.
8. The requested waiver will be in harmony with the purpose and intent of the UDO and will not be injurious to neighbor or to the general welfare.
9. The special circumstances giving rise to the waiver request are not as a result of actions of the applicant.
10. Waiver requested is the minimum variance that will make possible the legal use of the land, building, or structure.

Motion By: Sack

Second By: VanFossen

Vote: Unanimous.

Action #2: The Council approved a motion to grant a waiver of UDO regulations for impact to the Bass Lake Buffer for the construction of the Garrison Subdivision greenway trail.

Motion By: Sack

Second By: Dickson

Vote: Unanimous.

8b. SunTrust Bank, 08-DP-04 – Mr. Zawadski said the Town has received a request for a development plan for out parcel #7 located within the Southpark Village integrated center. The property is 1.4 acres and is located off of Avent Ferry Road. The proposed development plan is for the construction of a 3,906 square foot SunTrust Bank. The plan proposes a total of 21 parking spaces located throughout the site. Pedestrian connections are provided through the parking lot to connect the front entrance of the building to the sidewalk along Avent Ferry Road. The site also includes four drive-through lanes located on the eastern side of the building.

He said this project is located within a Gateway Corridor and is therefore subject to a higher degree of architectural requirements. Since this project also is located in the Southpark Village integrated center, the buildings are subject to the Southpark Village Design Guidelines. The building is proposed to be constructed primarily of two shades of brown colored brick along with light brown and dark brown EIFS and cast stone accents. Various architectural elements such as façade and roofline modulation, brick columns, multiple brick patterns, and decorative cornices are proposed for the building.

Action: The Council approved a motion to approve Development Plan #08-DP-04 for SunTrust as submitted by Miller Landscape Architecture, project SunTrust – Holly Springs date revised 7/24/2008 with the following conditions:

1. All conditions of approval for the Southpark Village Master Plan will apply to this plan.
2. Subdivision plat must be recorded with cross access easements prior to construction drawing approval.
3. This project will require a fee in lieu of pump station upgrades.
4. All parapet cornices shall be designed with a consistent tapered edge.

Motion By: VanFossen

Second By: Dickson

Vote: Unanimous.

8c. Veterans Park Monument – Mr. Bradley said that it appears that no funds will be available through Sen. Elizabeth Dole's office for the construction of a monument in honor of veterans who have served in the armed forces. He said staff is requesting from Council that \$29,000 be appropriated for the construction of the signage and monument for Veterans Park.

He said he would use funds from the Parks and Recreation Reserve Fund.

Councilman VanFossen asked how much a flagpole would cost because there might be interest among area Rotary Clubs to purchase poles in memory of Rotary members.

Action: The Council approved a motion to authorize completion of a monument at Veterans Park at a cost of \$29,000 and to adopt related budget amendments.

Motion By: Sack

Second By: Dickson

Vote: Unanimous.

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

Councilman VanFossen asked the town attorney if he should recuse himself.

Mr. Schifano said he should not since Mr. VanFossen's contract as architect of the developer's club house in the Twelve Oaks Subdivision would have no financial bearing on the discussion and action on the Green Oaks Parkway project. He added that Mr. VanFossen, by statute, actually had a duty to vote in the matter.

Mayor Sears said, just for the record, that he is no longer professionally tied to Wakefield Development or to 12 Oaks. He also was advised that he would not have to recuse himself.

9a. Green Oaks Parkway Project – Ms. Sudano explained that at the July 15, 2008 Town Council meeting, the Council approved a three-party agreement between the Town, Wakefield Development and Fowler Grading for the completion of construction of the two-lane portion of Green Oaks Parkway.

She said, in summary, under the agreement, the Town will make payments directly to Fowler for completing roadway construction that originally was the obligation of Wakefield Development (estimated at \$650,000.) The money used by the Town to make these payments are from funds that the Town owed Wakefield for additional "advance" work (estimated at \$876,820) performed on the two-lane project to insure compatibility with the Town's upcoming four-lane project in the same area.

In addition, the three-party agreement provides that the developer repay the Town all two-lane project costs that exceed the \$876,820 via a reduction in the transportation fee credits that originally were to be issued on the two-lane project. At the time of approval, it was anticipated that these additional costs potentially could include up to \$470,000 in costs.

Ms. Sudano said these potential additional costs primarily included: mitigation work, professional oversight, and payment of fines required due to the US Army Corp of Engineers environmental violation, lime stabilization technical inspection, sedimentation and erosion control measure maintenance, pavement cross section upgrade, repair/replacement of stone pavement base contaminated due to length of time between placement and paving, construction surveying, etc.

She said the additional costs were discussed at the July 15 Town Council meeting; however, there were no firm numbers available for some of the potential expenses at that time.

Now, there are three change orders presented for consideration: \$14,375 for surveying; \$23,267.66 for construction of pavement to Novartis driveways (much of this change order is for "early work" for the four-lane construction work); and \$79,797.50 for repair and replacement of stone pavement base (this is a not-to-exceed number and will be field measured and only undertaken where necessary.)

Councilman Sack asked if all of these amounts would be paid by the developer.

Ms. Sudano said yes, these amounts would be paid by the developer via transportation impact fees.

She said all of these change orders are necessary for completion of the two-lane project, and all of them were anticipated in the numbers presented at the July 15 Town Council meeting. The money for all of these change orders are included in the "additional costs" mentioned above that will be repaid to the Town of Holly Springs via a reduction in transportation fee credits that would have been due to the developer, per the three-party agreement.

Ms. Sudano explained that staff also is requesting adoption of a project budget amendments. The budget amendments, she explained, formalize the decisions made at the July 15 Town Council meeting and several other project-related approvals, including mostly:

- establishing the budget for the two-lane project completion under the three-party agreement, \$876,820.
- funding for previously-approved change orders or contracts necessary to complete the two-lane project under the three-party agreement, \$285,257.50
- funding current change orders on the two-lane project totaling \$117,440.16 (per the three-party agreement)
- establishing contingency funds for additional possible change orders on the two-lane project (per the three-party agreement) up to \$32,559.84
- funding \$120,000 payment of pending Corps of Engineers fines
- funding early grading work on the four-lane project in the amount of \$124,847.25 that was done so that PGN could install underground power to Novartis and
- funding \$143,000 to cover the bid award of the four-lane project in May (the project contingency has been reduced to 5% since the bid award to reduce this number)

For additional explanation, Ms. Sudano distributed a summary of the complex project.

She said the following are the bullet points with additional explanation of each item *in italics*. Note that this is a list only of the additional costs

that necessitate the budget amendment under consideration for this Town project, she said, adding that several of the numbers are estimates.

Town Costs:

- establishing the budget for the 2 lane project completion under the 3 party agreement \$876,820:
 - *to cover 3 party agreement for construction of 2 lane roadway approved by town council 7/15/08*
- funding early grading work on the 4 lane project in the amount of \$124,847.25 that was done so that PGN could install underground power to Novartis
- funding additional \$143,000 to cover bid award of 4 lane project in May (the project contingency has been reduced to 5% since the bid award occurred to reduce this number)

Developer Costs (to be paid by Town and reimbursed by Developer to Town via Transportation Impact Fees):

- funding previously approved change orders or contracts necessary to complete the 2 lane project completion under the 3 party agreement \$285,257.50 (*note that several costs are estimated*):
 - *lime stabilization professional services \$5000,*
 - *environmental compliance and mitigation oversight professional services \$65,000,*
 - *environmental mitigation to bring 2 lane project into compliance with Army Corp Engineers \$141,000;*
 - *retaining s&ec to direct construction of environmental mitigation plan \$25,670,*
 - *silt clean-out from culverts \$8,130,*
 - *sedimentation and erosion control measure clean-out \$40,457.50*
- funding for tonight's change orders on the 2 lane project totaling \$117,440.16 (3 party agreement)
 - *construction surveying \$14,375,*
 - *construction pavement ties to Novartis driveways ("early work"),*
 - *repair and replace stone base \$79,797.50*
- establishing contingency funds aside for additional possible change orders on the 2 lane project (3 party agreement) up to \$32,559.84
- funding maximum estimated \$120,000 payment of pending USACOE fines

Councilman Sack asked if adoption of these budget amendments would pave the way for the town to proceed uninterrupted with the four-lane section.

Ms. Sudano yes, although she anticipates a few more project adjustments and change orders to be forthcoming.

Action #1: The Council approved a motion to adopt budget amendments to Reserve Funds and the Project Fund for Green Oaks Parkway to cover costs of contract change orders and to update the project to include recently-approved and some future contracts.

Motion By: Sack

Second By: Dickson

Vote: Unanimous.

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

Action #2: The Council approved a motion to approve Change Orders Nos. 1, 2 and 3 to the construction contract with Fowler Contracting for additional work completed on the two-lane portion of Green Oaks Parkway.

Motion By: Sack

Second By: Womble

Vote: Unanimous.

A copy of the change orders are incorporated into these minutes as addendum pages.

10. Other Business: Councilman VanFossen expressed gratitude to staff who approached Brook Manor with requests to tidy up Bass Lake Road.

11. Manager's Report: Mr. Dean reported to the Council that the four-day work week pilot program is resulting in fuel savings, but the best result is vehicle purchase cost savings and an increase in proficiency. He said directors also are reporting that the four-day work week may reduce request for additional staff in next year's budget. He said the town would continue the program for the time being. In particular, the program has worked out on cut-off day because crews are on duty after traditional hours. He also noted communication from the Department of Insurance stating that the town's plans to address Station No. 3 is fine. He reported that the Rex soccer fields opening is set for 11 a.m. Saturday.

12. Closed Session: None.

13. Adjournment: There being no further business for the evening, the Sept. 2, 2008 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. 21, 2008.

Joni Powell, CMC, Town Clerk

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