

Holly Springs Town Council Minutes

Regular Meeting May 20, 2008

The Holly Springs Town Council met in regular session on Tuesday, May 20, 2008, in the Council Chambers of Holly Springs Town Hall, 128 S. Main Street. Mayor Dick Sears presided, calling the meeting to order at 7:00 p.m. A quorum was established as the mayor and all five council members were present as the meeting opened.

Council Members Present: Councilmen Vinnie DeBenedetto, Parrish Womble (arrived at 7:05 p.m.), Chet VanFossen, Tim Sack and Hank Dickson (arrived at 7:10 p.m.) and Mayor Sears.

Council Members Absent: (Councilman Dickson was present, but away from the Council Chambers attending a committee meeting when the Council meeting began. He arrived at 7:10 p.m.) none.

Staff Members Present: Carl Dean, town manager; Chuck Simmons, assistant town manager; John Schifano, town attorney; Joni Powell, town clerk (recording the minutes); Alison Huffman, planner I; Stephanie Sudano, director of engineering; Len Bradley, parks and recreation director; Daniel Weeks, project analyst; Eric Tayler, IT manager; John Herring, police chief; Drew Holland, finance director; Heather Keefer, environmental specialist; Daniel Colavito, environmental intern; Erika Phillips, human resources director; Amy Moore, interim director of water quality; and Mark Andrews, public information officer.

2 and 3. The Pledge of Allegiance was recited, and the meeting opened with an invocation by Rev. Billy Guess, pastor of Swift Creek Baptist Church.

4. Agenda Adjustment: The May 20, 2008 meeting agenda was adopted with changes, if any, as listed below.

Motion By: Sack

Second By: DeBenedetto

Vote: Unanimous

Items Added to the Agenda: None.

Items Removed from the Agenda: None.

Consent Agenda Items Moved to New Business: 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:

Jack Knott, 5005 Kingspost Drive – Mr. Knott addressed the Council, thanking the mayor and Mr. Dean for speaking to residents of his unincorporated subdivision about a pending forced involuntary annexation by the Town of Fuquay-Varina.

He asked Holly Springs officials to do whatever they can to convince Fuquay-Varina to stop its forced annexation that would take in to the Town of Fuquay-Varina more than 1,000 acres and 600 residents.

6a. Public Hearings: Comprehensive Plan Amendment 08-CPA-02 – Ms. Huffman said the subject properties are located at the corner of Raleigh and Earp Streets at 133 and 141 Raleigh Street, and the two parcels total ±0.89 acres. The applicant is requesting a land use amendment to the Vision Holly Springs Comprehensive Plan, more specifically, to the Village District Area Plan section. The request is to change the land use designation of these parcels from Attached Residential (apartments, condos and townhomes) to Mixed Residential (single-family, patio homes, apartments, condos and townhomes).

She said the current zoning of the property is R-15: Residential. The applicant also is requesting a zone map change for these two parcels to R-8: Residential. The parcels to the west and south are zoned LB: Local Business (commercial), and parcels to the north and east are zoned R-15: Residential (single-family.)

She said changing the land use designation on these two parcels would leave the ability for there to be a higher-density residential land designation to provide a buffer between the commercial properties and the residential property.

With that explanation completed, Mayor Sears opened the public hearing to accept input. The following comments were recorded: None.

There being no input, the public hearing was closed.

Action: The Council approved a motion to approve Vision Holly Springs Comprehensive Plan Amendment 08-CPA-01 to change the future land use designation of Wake County PINs 0659-02-0751 and 0659-02-0890 (133 and 141 Raleigh Street totaling ±0.89 acres) within the Village District Area Plan from an Attached Residential designation to a Mixed Residential one as submitted by Wayne Mauldin with Mauldin Watkins Surveying.

Motion By: DeBenedetto

Second By: Dickson

Vote: Unanimous.

6b. Public Hearing: Zoning Map Change Petition 08-REZ-02 – Ms. Huffman said the subject properties are located at the corner of Raleigh and Earp Streets at 133 and 141 Raleigh Street, and the two parcels total ±0.89 acres. The applicant is requesting a zone map change from R-15: Residential to R-8: Residential on both parcels.

She said the parcels to the west and south are zoned LB: Local Business (commercial), and parcels to the north and east are zoned R-15: Residential (single-family.)

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

Wayne Mauldin, Mauldin-Watkins Surveying -- Mr. Wauldin, the applicant, spoke in favor of the rezoning. He said the property owner would like to erect 3 to 4 shotgun houses on the lots under the new zoning.

There being no input, the public hearing was closed.

Action #1: The Council approved a motion to accept the following statement as true: “The requested zone map change from R-15: Residential to R-8: Residential is consistent with the Vision Holly Springs Comprehensive Plan since the Village District Area Plan Map indicates this property as Mixed Residential and the R-8: Residential District allows a higher density.”

Motion By: Dickson

Second By: DeBenedetto

Vote: Unanimous.

Action #2: The Council approved a motion to adopt rezoning ordinance R08-05 to approve Zone Map Change Petition #08-REZ-02 to change the zoning of ±0.89 acres of Wake County PIN 0659020751 and 0659020890 from R-15: Residential to R-8: Residential as submitted by Wayne Mauldin from Mauldin - Watkins Surveying.

Motion By: Dickson

Second By: Sack

Vote: Unanimous.

A copy of Rezoning Ordinance R08-05 is incorporated into these minutes as an addendum page.

6c. Public Hearing: Annexation Petition A08-06, Holly Springs Shopping Center, LLC – Ms. Clapp said the Town has received a petition for voluntary annexation of approximately 9.89 acres located along GB Alford Hwy (Hwy 55 Bypass right-of-way) and Old Holly Springs/Apex Road. 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 input, the public hearing was closed.

Action: The Council approved a motion to adopt Ordinance A08-06 annexing approximately 9.89 acres owned by Holly Springs Center, LLC, and more particularly described as Wake County PINs: 0649.01-35-5577, into the corporate limits of the Town of Holly Springs.

Motion By: Womble

Second By: Sack

Vote: Unanimous.

A copy of Annexation Ordinance A08-06 is incorporated into these minutes as addendum pages.

7. Consent Agenda: The Council approved all items on the Consent Agenda following a motion by Councilman Dickson, a second by Councilman DeBenedetto and a unanimous vote. The following actions were affected:

7a. Minutes - The Council approved the minutes of the Council's regular meeting held on March 18, 2008.

7b. Budget Report – The Council received a report of monthly amendments to the FY 2007-08 budget approved by the town manager. *A copy of the budget amendment report is incorporated into these minutes as addendum pages.*

7c. Bass Lake Park Donations – The Council adopted amendments to the FY 2007-08 budget to receive and assign donations for Bass Lake Park. *A copy of the budget amendments are incorporated into these minutes as addendum pages.*

7d. Set FY 2008-09 Budget Public Hearing - The Council set a public hearing on the proposed FY 2008-09 budget for 7 p.m. Tuesday, June 3, 2008 in the Council Chambers of Town Hall.

7e. Resolution 08-27 – The Council adopted Resolution 08-27 giving permission for the relocation of the Cotton Family Cemetery to the Holly Springs Cemetery. *A copy of Resolution 08-27 is incorporated into these minutes as addendum pages.*

7f. Town's Personnel Policy Amendments - The Council approved revisions to the Town of Holly Springs Personnel Policy.

7g. Budget Amendment, \$23,100 – The Council adopted an amendment to the FY 2007-08 budget in the amount of \$23,100 for professional services related to the Main Street sidewalk project. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

7h. Pump Station Study Contract – The Council authorized a contract with Diehl and Phillips in an amount not to exceed \$85,000 to perform a pump station study. *A copy of the Diehl and Phillips contract is incorporated into these minutes as addendum pages.*

7i. Holly Springs Baptist Church Well Abandonment Contract – The Council awarded a contract to Old Time Well Drilling in the amount of

\$2,800 for abandonment of a well at the downtown parking lot project site. *A copy of the Old Time Well Drilling contract is incorporated into these minutes as addendum pages.*

8a. Bass Lake Outfall – Ms. Stephenson said staff and Withers & Ravenel have completed the design for the Bass Lake Lower Outfall.

She said the scope of work includes taking the Somerset pump station off line and installation of 4,300 feet of gravity sewer to the existing Bass Lake pump station.

She said bids were formally solicited, a pre-bid conference was held, and bids were opened on April 24, 2008. She said staff recommends award of the construction contract to Fechko, the lowest responsible bidder, in the amount of \$844,000, which includes contingency.

Action: The Council approved a motion to adopt an amendment to the Bass Lake Outfall project budget (decrease) in the amount of \$371,000 and awarded the construction contract to Fechko, the lowest responsible bidder, in the amount of \$844,000, inclusive of contingency.

Motion By: Dickson

Second By: Womble

Vote: Unanimous.

A copy of the budget amendment is incorporated into these minutes as addendum pages and Fechko contract is filed in the town clerk's and engineering departments.

8b. Holly Springs Business Pump Station – Ms. Stephenson said that staff has worked with Kimley-Horn and Associates on the completion of the design for the Holly Springs Business Park pump station.

She said the project was formally advertised, a pre-bid meeting was held, and bids were opened on May 7, 2008.

Ms. Stephenson said the scope of work includes 8,000 feet of force main; 3,000 feet of gravity interceptor; abandonment of the Warp Tech pump station; construction of the new pump station further downstream; and a 5,000-foot access road.

She said staff recommends award of the contract to the lowest responsible bidder, Triangle Grading and Paving, in the amount of \$2,917,000, contingent upon Local Government Commission and EDA approval.

Action: The Council approved a motion to adopt a budget amendment to the Holly Springs Business Park pump station project fund in the amount of \$265,000 and awarded the construction contract to the lowest responsible bidder, Triangle Grading and Paving, in the amount of \$2,917,000, contingent upon Local Government Commission and EDA approval.

Motion By: Sack

Second By: Dickson

Vote: Unanimous.

A copy of the budget amendment and the Triangle Grading and Paving contract are incorporated into these minutes as addendum pages.

8c. Golden LEAF Grant Agreement Addendum – Mr. Schifano said as a result of the Novartis recruitment, the Town was awarded two grants by Golden LEAF, a non-profit foundation that makes economic development grants from a fund established by the tobacco lawsuit settlements. The original grants had some very vague language requiring the town to make “adequate assurances” that the goals of the grant would be met (creation of jobs and investment of taxable capital). The foundation has requested some much more strict language with respect to what would happen in the event that Novartis fails to meet its job creation and capital investment goals.

He said in this agreement, the town would repay: 1) up to \$98,667 (\$2,666.67 per job not created) from the first grant (\$800,000) for failure to reach 300 jobs created within five years of operation of the plant; 2) if the company fails to reach 350 jobs, the Town would repay \$3,591.95 for each job not created, up to a maximum payment of \$312,500; and 3) if the company fails to invest more than \$165 million in taxable investment, the Town would repay Golden LEAF \$.0076 for each dollar of taxable capital investment not made by the company, up to a maximum payment of \$125,000.

Councilman DeBenedetto asked if the Town shouldn't turn around and ask Novartis to agree to reimburse the Town if the company were to default on the expectations.

Mr. Schifano explained that part of the Golden LEAF grant came after the town inked an economic development agreement with Novartis, and Mr. Schifano said he was not certain that the Town would be successful in renegotiating that EDA. He added that if Novartis does not meet the expectations and the town has to pay the repayment obligation, then the Town still has all the infrastructure provided by the grant money.

After figuring the math of the situation, council members determined that the Town's risk was approximately \$384,000, which would be repaid in two years with current property taxes.

Councilman Womble asked the town manager if he felt confident about the changes to the agreement.

Mr. Dean said that he was confident that Novartis would meet its obligations and that the Town would not likely have to be faced with a repayment penalty.

Councilman DeBenedetto maintained that he felt the Town should hold Novartis responsible for reimbursing the Town in the case the company does not meet expectations.

Action: The Council approved a motion to authorize the town manager to enter into the grant agreement addendum with Golden LEAF.

Motion By: Sack

Second By: Dickson

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 Golden LEAF agreement is incorporated into these minutes as addendum pages.

8d. Town's Storm Drain Marker Program - Mr. Colavito explained that in order to meet the Town's NPDES requirements of Public Involvement/Participation, staff has been working toward the implementation of a storm drain marker program.

He said while storm drains in recently constructed areas have cast markings, many older neighborhoods are unmarked. These neighborhoods have been identified, and unmarked storm drains located on Town right-of-way will have a metal marker attached that reads, "No Dumping - Drains to Stream."

He said this program will provide awareness to avoid illicit discharges and citizen groups with an opportunity to participate in a project that is designed to increase awareness about the importance of water quality. Interested parties will submit an application and receive a Storm Drain Marker Kit. The kit will contain all of the necessary materials needed to mark the storm drains, necessary safety equipment, and educational materials for distribution in the vicinity of the activity.

Mr. Colavito said before the kit is assigned, the applicant must attend a brief meeting with Town staff to make certain that they fully understand the process, safety provisions, and the educational requirements associated with the program. The Police Department will be notified of the activity and location at least 48 hours prior to the scheduled date of marking. The installation of the markers will be checked by Town staff, after the kit is returned. This program will aid in the implementation of the Town's Illicit Discharge Detection and Elimination Program by raising public awareness and decreasing the likelihood that citizens will unknowingly make an illicit discharge into the storm drainage system. The information obtained from the mapping associated with this program will be entered into the Town's Stormwater Base Map.

Action: The Council approved a motion to endorse the implementation of a storm drain marker program to aid the Town in satisfying Public Involvement/Participation requirements associated with the National Pollutant Discharge and Elimination System (NPDES).

Motion By: Womble

Second By: DeBenedetto

Vote: Unanimous.

8e. Rex-Healthcare Lease Agreement - Mr. Bradley said staff has approached Rex Healthcare regarding the potential use of a portion of its property at Avent Ferry Road and G.B. Alford Highway for the Town to use as athletic fields. The company has agreed to allow the use of approximately seven acres under a license agreement with the Town. The Town would be responsible for all improvements to the property and would be allowed to clear an area for parking.

He said the three-year license agreement is similar to a lease except that it can be cancelled by either party.

He said if the Council agrees to enter the license agreement, the estimated costs for preparing the Rex property for soccer programs is \$40,000. These funds would cover the site preparation, grass sprigging, chemicals, irrigation, access, parking and soccer goals for the fields.

Mr. Bradley said these new fields would accommodate between 100 and 150 participants at the same time, and would increase the Town's program capacities. Funding would be from Parks and Recreation Reserves.

Action: The Council approved a motion to authorize the town manager to enter into a license agreement with Rex Healthcare in a form that is acceptable to the town's attorney for the use of approximately nine acres for soccer fields and to adopt amendments to the FY 2007-08 budget in the amount of \$40,000 to provide for field formation from Park Reserve Funds.

Motion By: Sack

Second By: Womble

Vote: Unanimous.

A copy of the Rex Healthcare property license agreement is incorporated into these minutes as addendum pages.

8f. Fuquay-Varina Annexation - Mr. Dean said he and staff had met and suggest that the Town Council consider several options. The first would be to work out an agreement to eliminate the existing annexation boundary line, but restrict annexations to only voluntary ones. This would provide the citizens in unincorporated areas the choice as to which town, if any, they wish to live, and it would allow both towns the opportunity to work with developers on projects in their respective areas. It also would protect Fuquay-Varina from being "over run" by Holly Springs.

He said this proposal would have to be mutually agreed upon by both towns, but would eliminate the argument Fuquay-Varina has claimed that it is pursuing its forced annexation of property before Holly Springs does.

Mr. Dean said the town attorney is working on a resolution to this end for the Council's consideration.

Mr. Dean said a second option would be for staff to develop an alternate line for consideration between the towns. He said he feels, at this time, that the first option would be best for all concerned, including those who live in the unincorporated areas between Fuquay-Varina and Holly Springs.

Mr. Dean said he would not recommend that the Town of Holly Springs maintain the existing annexation boundary line for an additional 10 or 20 years because he feels it would not be in the best interest of area residents and property owners. He asked the Council members to provide feedback on the aforementioned options.

In discussion, the Council was supportive of both options; however, consensus was that the Town of Holly Springs should meet with Fuquay-Varina officials to see what options Fuquay-Varina would find amendable. Council agreed to present Option #1, an annexation line in a modified form that would prohibit involuntary annexations on either side of the line and allow flexibility for property owners on either side of the line

for voluntary annexations.

Action: The Council approved a motion to adopt Resolution 08-28 to continue the existing Fuquay-Varina / Holly Springs Annexation Agreement Line in a modified form, particularly with restriction against involuntary annexation and flexibility for voluntary ones.

Motion By: DeBenedetto

Second By: Dickson

Vote: Unanimous.

9. Other Business: Councilman Womble asked if the Town could have a 4th of July celebration. Mr. Bradley said one is being planned for Saturday, July 5.

10. Manager's Report: Mr. Dean reminded the Council of the budget workshop, and he advised the Council that Bass Lake Park Manager Scott Barnard had accepted a position with New Brunswick County.

11. Closed Session: None.

12. Adjournment: There being no further business for the evening, the May 20, 2008, meeting of the Holly Springs Town Council was adjourned following a motion by Councilman Sack, a second by Councilman DeBenedetto and a unanimous vote.

Respectfully Submitted on Tuesday, July 15, 2008.

Joni Powell, CMC, Town Clerk

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