



Town of HOLLY RIDGE

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HOLLY RIDGE TOWN COUNCIL SPECIAL MEETING January 6th, 2022 5:00 P.M.

Mayor Jeff Wenzel called the Special Meeting of the Holly Ridge Town Council to order at 5:03 p.m. at the Holly Ridge Town Hall. Council members present were Councilwoman Bragg, Councilwoman Stanley, Councilman Sholar, Councilman Hines, and Mayor Pro-Tem Hall. Also present were Town Manager, Heather Reynolds; Deputy Clerk, Tracy Martin; Community Development Director, Nathan Rhue; Public Works Director, Mike McFann and Attorney, Kyle Fountain.

Invocation and Pledge

Councilman Hines gave the Invocation and Mayor Wenzel led the Pledge of Allegiance.

Mayor Wenzel stated before the agenda is adopted, we have an update on this situation and Manager Reynolds will explain.

Manager Reynolds said yesterday there was a new development and Mr. Coleman Parks came into speak with our Public Works Director and Community Development Director.

Manager Reynolds read the letter from Community Development Nathan Rhue regarding the meeting.

“Good afternoon, Heather

Mike and I wanted to let you know that we just spoke with Coleman Parks regarding the remaining repairs on the roads of the Preserves at Morris Landing. As you recall, these are the remaining repairs he has been informed of for about two years.

Mr. Parks stated that he will be the one finishing the required repairs immediately. He did not provide an absolute timeframe as he believes the issue is the result of the paving company he originally used and would be dealing with them should that be the case. He did state that he

would contact Mike when work would start so he could also be available to inspect during the process.

Mike again reiterated to Mr. Parks that we want to work with all parties involved and would do what we could within the scope of our policies. Mr. Parks was also reminded that the remaining repairs are not new but were part of the list he was previously provided.

If you need any additional information or have any questions, I am sure Mike or I will do what we can to assist.”

Thank you,

Nathan Rhue
Community Development Director

Adoption of Agenda

A motion was made by **Councilwoman Bragg** and seconded by **Mayor Pro-Tem Hall** to adopt the agenda as amended. **All Agreed.**

Mayor Wenzel said at this point we have Public Comment, but it is not on the agenda. Mayor Wenzel asked for a motion to amend the agenda to include Person’s wishing to address the council.

A motion was made by **Mayor Pro-Tem Hall** and seconded by **Councilman Sholar** to adopt the agenda as amended. **All Agreed.**

Persons Wishing to Address the Council

Nicholas Tripp – 809 Lenox Dr stated he is the President of the Homeowner’s Association for the Preserves at Morris Landing. Mr. Tripp stated this whole thing has been a problem for many years. One of the frustrations that we have is that we are all in limbo. Mr. Tripp said we nor the town own the roads, so what happens when a stop sign gets knocked over or traffic enforcement. There has been a lot of concerns over safety in our community such as no sidewalks. Mr. Tripp said there is concern for the development that is coming in behind our neighborhood. Mr. Tripp said this has been going on for two years and the homeowners are fed up. Mr. Tripp said it took a homeowner meeting to discuss de-annexation from the town because the homeowners do not want to deal with his anymore.

Mr. Tripp said some resolution must happen and we cannot let Mr. Parks handle it with no deadline because this could be another two years in the making.

Dave Mosey – 815 Lenox Dr the biggest thing is the developer Coleman Parks. Mr. Mosey said on several occasions the board has gotten a commitment from Mr. Parks that things would get done. Mr. Mosey said this has never occurred not once. Mr. Parks has never been

able to make the commitment that he would fix something. Mr. Mosey said he does not think the Homeowners Association can continue to deal with Coleman Parks. If Mr. Parks cannot or will not, then this continues to maintain it is limbo.

Mr. Mosey said the thing we are looking at the most is if indeed we must push for de-annexation, we are looking at a reimbursement of no longer paying taxes to Holly Ridge so we can support the repairs we need to do to our neighborhood.

New Business

Manager Reynolds said she provided a timeline to the Town Council of all the events that have transpired since 2019 until present. On a staff level, we have had meeting with Mr. Coleman Parks multiple times as well as multiple meetings with Mr. Nicholas Tripp.

Manager Reynolds said we have the street acceptance policy which is adopted by the Town Council. Manager Reynolds said after speaking with Mr. Tripp, before the Planning Board meeting a couple of weeks ago, she feels like this situation is at a boiling point. Manager Reynolds said it is to the point where Town Council is going to have to decide. As staff members, we have followed the policy that is in effect.

Manager Reynolds said as it stands now, our policy does not allow us to repair streets that we do not own or accepted into our street plan. Manager Reynolds stated on the other side of that, we are not able to accept streets that have not been repaired.

Mayor Wenzel asked Mr. Rhue about the conversation with Mr. Parks yesterday, did he give any type of timeframe?

Mr. Rhue said there was not a specific timeframe provided.

Councilman Hines asked Manager Reynolds if the policy that was adopted 7/14/2020 is the one she is going by. Manager Reynolds said that is correct. Councilman Hines said this started before we adopted this policy. Councilman Hines said what does the old policy say. Manager Reynolds stated everything in this policy is the same as the old policy except for section 6 under items F, G, and H which were added during the 2020 meeting, and this is the only thing that we added.

Mr. Rhue said we had the street acceptance policy prior to Mr. Parks submission of the roads.

Councilman Hines said we need to decide because these people have been waiting too long and we need to let them know we are going to do everything we can for the streets to be taken over. Councilman Hines said we need something in writing that states when Mr. Coleman Parks will do the repairs, or we will have to take some form of action.

Mayor Wenzel asked what the options as the town authority would be to act against the developer who has not turned over the streets.

Attorney Fountain said at this point there would not be any action that the town could take. The homeowners could act against the developer if it was not built-in compliance with what was built in the development.

Councilman Hines said no more than what it is going to cost to do that, we should consider taking over the streets and making the repairs. Councilman Hines said in the future we need to make the developers put up a bond and the bond is not given back to them until the roads are brought to a standard that is acceptable and then they get their bond back.

Councilman Hines asked who owns the streets. Manager Reynolds said we did some research on the staff level and half of the streets are still owned by Coleman Parks and half have been turned over to the homeowner's association.

Councilman Hines asked which damaged streets are owned by who? Public Works Director Mike McFann said he is unsure. He did not see the breakdown of what Mr. Parks still owned or dedicated. Manager Reynolds said she has a map and would he be willing to look at the map.

Mr. McFann said from the map it looks like the two repairs that are needed are on the homeowner's association streets.

Councilman Hines asked what it is going to cost to make those repairs. Mr. McFann said it is a sink hole and you do not know until you get involved in the process.

Councilman Hines said he thinks we have set a precedence with the Neighborhoods of Holly Ridge. Councilman Hines said we must not have a good survey of what was wrong. Mayor Pro-Tem Hall said we did. They were inspected by the State and turned over to us and then there were issues. Mayor Pro-Tem Hall said the Neighborhoods of Holly Ridge was up to the standard before we accepted it.

Mr. McFann said it is his understanding that is why this policy was written is because we were trying to learn from our mistakes from the Neighborhoods of Holly Ridge. Mayor Pro-Tem Hall said there was a checklist, and it took about five years to complete the checklist. Once the checklist was done, we accepted the roads.

Councilman Hines said this is a case that we should have gotten a handle on two to three years ago. Councilman Hines said he personally feels like no more than the cost of repairs, we ought to take over the streets if the homeowner's association and Colman Parks wants to turn them over to us and make the minor repairs we must make after we take them over.

Mayor Pro-Tem Hall said that would set a precedent that the next community we have that have issues with turning over the roads, we would have to take them. Councilman Hines said not if we set the standard with the bond.

Manager Reynolds said she attended a meeting today with Mr. Ottaway whose family developed Sages Ridge and he indicated that he will be making application soon. Mr. Ottaway's father and brother have passed away, so he is left holding the bag. Mr. Ottaway did ask about the process of the streets in Sage's Ridge today.

Mr. Nicholas Tripp said it is news that the homeowner's association owns some of the roads in the Preserves. Mr. Tripp asked if Mr. Parks will only petition for the roads he owns or will the HOA make a petition for all the roads.

Manager Reynolds said in 2017 a portion of the streets were turned over to the HOA. We went through the county GIS and ran into issues. Mr. Rhue said there was a search through deeds.

Mr. Tripp said Mr. Parks started the homeowner's association in 2014 and he was the declarant and he failed to turn over the HOA. Mr. Tripp said he did not turn over to homeowner control until February 2019.

Jim McCown – 406 Hardison Road asked if Mr. Parks deeded the bad roads over to the homeowner's association? Mr. McFann said from the map it looks like it is the newest section. Mr. McFann said according to the map it looks like Mr. Parks still owns a portion of Mardella Way and a small portion of Cheswick.

Mr. Rhue said it was not like this was a full-on title search, we were trying to get an idea of what areas were potentially owned and where the interest was in all of this. From the town's perspective we have not done title searches for roads that we do not maintain.

Mayor Pro-Tem Hall asked if the HOA has an attorney and if you have pursued legal action against Coleman Parks to complete the work.

Mr. Tim Wilson- Mewborn and DeSelms Attorneys at Law 829 Gum Branch Road stated we have demanded and got no response out of Mr. Parks. Mayor Pro-Tem Hall asked what the next step would be if you did not have the community to come to.

Mr. Tim Wilson said it is his understanding it is cost prohibitive for them to pursue the legal action against Mr. Parks. They do not have the money due to the HOA dues. Mr. Wilson said it is his understanding Mr. Parks said he was not going to spend another penny on those roads.

Mr. McFann said Mr. Parks stated he would come in and fill out the document we had, like an affidavit. Mayor Pro-Tem Hall said Mr. Parks said he would complete the roads? Mr. McFann said yes. Mr. Parks said he would fill out what ever needed to be done stating he would fix the two discrepancies.

Mayor Wenzel asked Attorney Fountain if Mr. Parks signs the affidavit, then what legal action do, we have if he does not fulfill that. Attorney Fountain said if he signs a contract with the

town and does not complete the work the town has the right to recover the expenses. We can file a breach of contract if he does not fulfill the contract for making the repairs.

Mayor Pro-Tem Hall said she wants to be transparent about is what is decided tonight. This is because it sets a precedent for Sage's Ridge, the project that Evolve is building and the various housing areas and what we are hearing with our experience in the Neighborhoods of Holly Ridge is those developers come and dump and run. Mayor Pro-Tem Hall said they leave people like you investing in their home, and they do not realize there is trash around the home. There are issues around the homes such as culverts, sidewalks etc. Mayor Pro-Tem Hall said because you are annexed into the town, we want to take the streets over, but we must be careful how we do that.

Mayor Wenzel asked what time frame would be fair to have these issues repaired. Mr. McFann said he thought 30 days would be sufficient.

Councilman Hines asked if we could take care of this tonight to give the homeowner's reassurance that we will accept the streets as long as the homeowner's association and Coleman Parks turn their section over to us and with Coleman Parks signing an agreement to fix the streets? Councilman Hines said if he does not then we will have to do whatever we have to do.

Mayor Wenzel said the provisions that Councilman Hines is suggesting is we take over the streets that the HOA owns and receive a signed contract from Coleman Parks, with a deadline for the repairs then we will take over the roads.

Councilwoman Stanley stated she thinks we need to do what is best for the Preserves and for the town.

Attorney Fountain said the town was considering accepting the streets contingent upon an agreement with the developer. The terms of that agreement are the developer will repair the streets within 30 days and if the developer does not do so within the time frame, the town may perform the repair and the developer will hold us harmless for that and will reimburse the town for the cost of the expenses of that.

Councilman Hines said and we need to receive a letter that the streets will be turned over to the town from the HOA and Coleman Parks.

Mr. Nicholas Tripp said it is his understanding the roads are private to the HOA, and they are slated public. Mr. Tripp wanted to know if he could make this a gated community as it sits.

Mayor Pro-Tem Hall said no, you would have to check with a gated community attorney.

Councilman Hines said if this is the direction Mr. Tripp is going in, then he is wasting the Town Council's time.

Manager Reynolds stated she does not remember the part about the town making the repairs. Mayor Wenzel stated he was saying part of the contract will say he has 30 days to fix it and if he does not, then he forfeits the right, and the town will do it and we will bill for the repairs.

A motion was made by *Councilman Hines* to direct the Town Attorney to draft a contract that would be for the town, developer, and homeowner's association to review and approve under which the developer would agree to complete the repairs within 30 calendar days and both the developer and the homeowner's association would submit this petition for acceptance of the roads by the town. If the developer does not complete the repair within the time period given, which can be extended by a written agreement, the developer will forfeit the right to perform the repair itself, the town will perform the repair and will seek to recover the cost of that repair from the developer.

Councilman Hines amended his motion to give the Town Manager the authority to execute and to require the repairs be completed in accordance with the town's specifications.

Councilman Sholar seconded the motion.

Councilman Hines stated yes, this is his motion. Mayor Pro-Tem Hall said once again to add the two applications turned in as part of this motion because we do not want to move forward if we do not have access to those roads. Attorney Fountain said the town enact contingent exceptions or we could table whether we could accept the roads until after we know the contract is executed.

Mayor Pro-Tem Hall said yes, acceptance of the roads is contingent on the contract being executed by the parties and the repairs made. Mayor Pro-Tem Hall wanted to make it known the Town is not taking the roads tonight; we are taking them when we get the contract signed, the repairs made, and both the Homeowner's Association and the developer submit applications.

Manager Reynolds said the homeowner's association would need to submit a petition to the town for the streets that the homeowner's association just found out that they own. Manager Reynolds said we may need to have Mr. Coleman Parks amend his for the portion that he owns. Manager Reynolds said she believes he submitted all the streets on that petition so he will need to amend the one we have and put it with the one that the homeowner's association will need to fill out.

Mayor Wenzel asked if we could pass this motion without amending our policy first?

Attorney Fountain stated his concern would be whether to accept it before the specifications of the policy are met, but if we are holding the acceptance until after the specifications are met, then that would follow our existing policy and there would be no need for a change.

All Agreed and the motion Passes.

Mayor Wenzel asked if we could task the Town Manager with looking into an amendment to some policy ordinance about the bonds for the roads in the future. Mayor Pro-Tem Hall said there needs to be a discussion on this.

Manager Reynolds said we already have a bond system. Mr. Rhue said we require them as far as infrastructure is concerned. Before a final plat is approved, the infrastructure water, sewer including roads, sidewalks must be installed prior to final plat acceptance. If not, then a bond must be secured at a rate of 125 %. Mr. Rhue said last year, we went back and amended it to put a little more into it to where if a developer came in, they placed a bond on it and they were given final plat approval, they would have a year and then the roads would have to be turned over after the final plat approval.

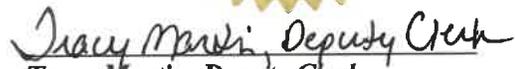
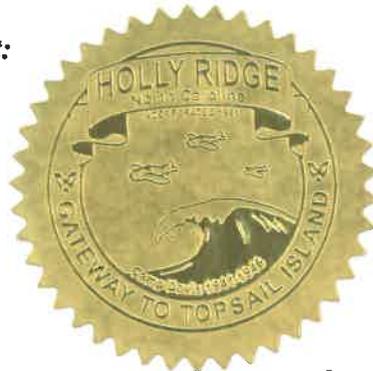
Adjournment

A motion was made by *Councilman Hines* and seconded by *Councilman Sholar* to adjourn at 6:02 p.m. *All Agreed.*



Jeff Wenzel, Mayor

Attest:



Tracy Martin, Deputy Clerk

These minutes were recorded and prepared by Deputy Town Clerk, Tracy Martin.