

# Holly Springs Town Council Minutes

**Regular Meeting**  
**April 21, 2009**

## **MINUTES**

The Holly Springs Town Council met in regular session on Tuesday, April 21, 2009, 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 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:** 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; Laura Powell, planner I; Gina Clapp, director of planning and zoning; Scott Brummond, IT technician; Stephanie Sudano, director of engineering; Kendra Parrish, senior engineer; Elizabeth Goodson, development review engineer; Jenny Mizelle, economic development director; Daniel Weeks, project analyst; Police Department officials Chief John Herring, Lt. Mike Patterson, Capt. Mike Bornes and Sgt. Dru Humphries; and Mark Andrews, public information officer.

**2 and 3.** The Pledge of Allegiance was recited, and the meeting opened with an invocation by Councilman Womble.

**4. Agenda Adjustment:** The April 21, 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 7b., to be postponed until May 19 at the request of the appealing party.

**Consent Agenda Items Removed for Discussion:** None.

**Other Changes:** Item 9g. was amended to set the public hearing for May 19, 2009.

**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:

**Ken Henke, 404 Cayman Ave.** – Mr. Henke addressed the Council to ask that a sign be posted at the Veterans Park picnic shelter stating that the shelter has to be reserved through the Parks and Recreation Department. He reported that over the weekend a family who did not know the shelter had to be reserved through the town set up a child's birthday party that conflicted with another gathering that had been properly scheduled.

He said a sign advising people of the requirement would be helpful in avoiding those kinds of conflicts.

**6a. Proclamation in Honor of Cora Mae Lassiter** – Mayor Sears explained that he and the Town Council wished to honor and recognize the memory of Cora Mae Lassiter, a longtime Holly Springs resident who served actively in her church and on the Holly Springs Board of Commissioners. Mrs. Lassiter passed away on Friday, April 10, 2009 at the age of 90.

Mayor Sears said that Mrs. Lassiter was an active member and leader in the United Church of Christ, and she was an active community member her entire life. She most recently assisted the town by providing photos and historical facts about Holly Springs for the *Images of America: Holly Springs, N.C.* history book.

Councilman Womble presented the proclamation to her family in honor of the memory of Mrs. Lassiter.

**Action:** None.

**6b. Recognition of Sgt. Dru Humphries** – Police Chief John Herring, together with Lt. Mike Patterson and Captain Mike Bornes, presented Squad A Sgt. Dru Humphries with the department's Meritorious Service Award for outstanding service during the March 2008-09 time period.

**Action:** None.

**7a. Town's Development Procedures** - Ms. Lynn Russell, consultant of FMI management consultants and investment bankers, reported that over the past few months, the company has conducted a comprehensive study relating to the Town's development process. Preliminary internal and external process findings were presented at the Council's Winter Retreat. Since then, various departments have incorporated strategies

offered in these preliminary findings including, but not limited to, Town Council meeting information exchanged between staff converted from paper to electronic; electronic action notices have taken the place of hard-copy action notices after Town Council decisions (which cuts the time of review in half); trimmed the size of certain meetings to only those deemed essential; and modified the development review schedule for large-scale projects (i.e. New Hill Place.) These are just a few of the strategies staff has begun incorporating in the past few months.

Mr. Simmons reported that some FMI recommendations already are being implemented by staff and others will be implemented in the future.

**Action:** None.

**7b. Soil & Erosion Control Ordinance Violation** - This item was removed during agenda adjustment.

**8a. Public Hearing: Special Exception Use Petition 09-SEU-01** - Ms. L. Powell said the Town has received an application for a Special Exception Use to develop an O' Reilly Auto Parts retail store, to be located on North Main Street. The building is proposed to be approximately 7,586 square feet.

Ms. Powell said an auto parts store is a special exception use within Local Business zoning. The applicant has met with residents of the adjacent subdivision, Windward Pointe, and as a result is planting additional plant materials along the rear property line. The proposed building would be oriented with the front of the building facing North Main Street. There would be 35 parking spaces for the use and pedestrian connections to North Main Street.

She said this building also would be subject to the recently adopted commercial architectural requirements. However, because the nature of the retail use is heavily dependant upon storage space and not a more traditional commercial use, according to the applicant, the 50% glass requirement for the first 15 feet of the building façade that faces adjacent development and a front lot line cannot be met. The applicant has provided the following:

- Glass Provided: Front Elevation: 41%; Left Side Elevation: 14%; Right Side Elevation: 13%.

She said the applicant has provided decorative brick faux windows along each elevation as an Alternate Means of Architectural Compliance request. Staff concurs with the request, and Ms. Powell stressed that the applicant worked cooperatively with staff to provide a plan that was amenable to all parties.

Councilman DeBenedetto asked about the communication with Windward Pointe subdivision.

Councilman Dickson explained that the developers met with the homeowners association and were willing to listen to residents.

With that explanation completed, Mayor Sears opened the public hearing to accept sworn testimony. The following testimony was recorded under oath administered by the Town Clerk: None

There being no testimony, the public hearing was closed.

**Action #1:** The Council approved a motion to make and accept the findings of fact to be recorded in the minutes for Special Exception Use Petition #09-SEU-01 on North Main Street to allow for an automotive parts store in a Local Business District.

**Special Exception Use Findings of Fact:**

A special exception use may only be granted upon the presentation of sufficient evidence to enable a written determination that:

- a. The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;
- b. The proposed use will not injure or adversely affect the adjacent area;
- c. The proposed use will be consistent with the character of the district, land uses authorized therein, and the Town of Holly Springs Comprehensive Plan;
- d. The proposed use shall conform to all development standards of the applicable district (unless a waiver of such development standards is requested as part of the special exception use petition and approved as set forth above, in which case the proposed use shall conform to the terms and conditions of such waiver);
- e. Access drives or driveways are or will be sufficient in size and properly located to: ensure automotive and pedestrian safety and convenience, traffic flow as set forth in Section 7.09 – Pedestrian Circulation and Vehicular Area Design; and, control and access in case of fire or other emergency;
- f. Off-street parking areas, off-street loading areas, trash enclosures, trash pick-up and removal, and other service areas are located so as to be safe, convenient, allow for access in case of emergency, and to minimize economic, glare, odor, and other impacts on adjoining properties and properties in the general neighborhood;
- g. The lot, building or structure proposed for the use has adequate restroom facilities, cooking facilities, safety equipment (smoke alarms, floatation devices, etc.), or any other service or equipment necessary to provide for the needs of those persons whom may work at, visit or own property nearby to the proposed use;
- h. Utilities, schools, fire, police and other necessary public and private facilities and services will be adequate to handle the needs of the proposed use;
- i. The location and arrangement of the use on the site, screening, buffering, landscaping, and pedestrian ways harmonize with adjoining properties and the general area and minimize adverse impacts; and,
- j. The type, size, and intensity of the proposed use (including but not limited to such considerations as the hours of operation and numbers of people who are likely to utilize or be attracted to the use) will not have significant adverse impacts on adjoining properties or the neighborhood.

**Motion By:** Sack

**Second By:** Dickson

**Vote:** Unanimous.

A copy of the Special Exception Use Petition 09-SEU-01 addressing the findings of fact is incorporated into these minutes as addendum pages.

**Action #2:** The Council approved a motion to make and accept findings of fact to be recorded in the minutes for a waiver of regulations of UDO Section 7.04 E.,3 for Development Plan #09-SEU-01 for O' Reilly Auto Parts, to allow for more than 110% of the minimum number of spaces required by the UDO, as recommended by staff.

Waiver Findings of Fact:

1. A parking demand study completed by a third party that provides evidence regarding:
  - a. Peak usage estimates based on reliable data collected from comparable uses located within the same or similar market areas as the Town of Holly Springs. Comparable uses will be determined based on density, scale, bulk, area, type of activity, and location; and,
  - b. Number of employees on the largest shift; and,
  - c. Minimum number of spaces needed to meet the parking demand for the specific use; and,
2. The inclusion of parking above 110% of the minimum parking requirements; and, or locating more than 75% of the total number of off-street parking spaces between the front building line and the property line will not cause negative impacts on the environment and adjacent properties (i.e. Will any additional screening, pervious pavement, shared parking, rain gardens, etc. be provided?); and,
3. The proposed development is consistent with the intent of the Comprehensive Plan; and,
4. The proposed development is consistent with the intent and purpose of this UDO.

**Motion By:** Womble

**Second By:** Sack

**Vote:** Unanimous.

**Action #3:** Having made the necessary findings of fact, the Council approved a motion to allow for more than 110% of the minimum number of spaces required by the UDO for Special Exception Use Petition #09-SEU-01.

**Motion By:** Dickson

**Second By:** VanFossen

**Vote:** Unanimous.

**Action #4:** The Council approved a motion to make and accept the findings of fact to be recorded in the minutes for an alternate means of compliance of UDO regulations (UDO Section 3.08, A, c (2) 2. (c) (ii) 1. Architecture and Site Design Regulations) in association with Special Exception Use Petition #09-SEU-01 for O' Reilly Auto Parts to allow for a reduction in the glass requirement along of the primary facades of the auto parts retail store as submitted by Craig Schneider of Esterly, Schneider and Associates, dated revised 3/5/2009.

Alternate Compliance Findings of Fact:

1. The proposed development represents the use of (building materials, colors, textures, building architecture, roof features, façade modulation, building orientation, signs, landscaping, lighting or open space) which will result in a development pattern which is equivalent to or superior to that achievable under the applicable regulations; The proposed development will be compatible with and will enhance the use or value of area properties;
2. The proposed development is consistent with the intent of the Comprehensive Plan; and,
3. The proposed development is consistent with the intent and purpose of this UDO.

**Motion By:** Dickson

**Second By:** Sack

**Vote:** Unanimous.

**Action #5:** Having made the necessary findings of fact, the Council approved a motion to approve the use of an alternate means of compliance of UDO regulations (UDO Section 3.08, A, c (2) 2. (c) (ii) 1. Architecture and Site Design Regulations) in association with Special Exception Use Petition #09-SEU-01 for O' Reilly Auto Parts to allow for a reduction in the glass requirement along of the primary facades of the auto parts retail store as submitted by Craig Schneider of Esterly, Schneider and Associates, dated revised 3/5/2009.

**Motion By:** Womble

**Second By:** DeBenedetto

**Vote:** Unanimous.

**Action #6:** The Council approved a motion to approve the development plan associated with Special Exception Use #09-SEU-01 for O' Reilly Auto Parts as submitted by Craig Schneider of Esterly, Schneider and Associates, dated revised 3/5/2009 with the following conditions:

1. A fee-in-lieu of upgrade will be required for this project for the Pump Station and related Force Main
2. A fee-in-lieu of construction of the median on Main Street will be required for this project (all other road improvements as required by the Town's Thoroughfare Plan and UDO will be completed with this project)
3. This project will be required to meet the Town of Holly Springs NPDES Ph. II Post Construction Stormwater Ordinance
4. The existing Winward Pointe flood study will need to be updated to reflect this project and will need to demonstrate that development of the

site will not raise established flood levels in accordance with the Town's policy for Hydrologic Basin Models. Retention or detention may be required to accomplish this. A Fee-In-Lieu will be required for the Town of Holly Springs to update the flood study.

5. The following item will be required with 1<sup>st</sup> construction drawing submittal, Diffuse flow will be required into the Neuse River Buffer.
6. Prior to construction drawing approval or land disturbance issuance, the following items are required:
  - a. Payment of the Stormwater Fee-in-Lieu will be required
  - b. Approval of Stormwater Management Plan is required

**Motion By:** Dickson

**Second By:** Sack

**Vote:** Unanimous.

**9. 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 VanFossen and a unanimous vote. The following actions were affected:

9a. Minutes – The Council approved minutes of the Council's regular meeting held on Feb. 3, 2009.

9b. Budget Report – The Council received a report of amendments to the FY 2008-09 budget approved by the town manager. *A copy of the budget amendment report is incorporated into these minutes as an addendum page.*

9c. Quarterly Financial Report – The Council received a quarterly financial report. *A copy of the financial report is incorporated into these minutes as an addendum page.*

9d. Reclaimed Water Project Change Order #2 – The Council approved a contract Change Order #2 for an extension of time for the Reclaimed Water project. *A copy of contract Change Order #2 is incorporated into these minutes as addendum pages.*

9e. Parks & Recreation Advisory Board Appointments – The Council appointed Nicholas Gervase and Erin Massarrelli to serve on the Parks and Recreation Advisory Committee.

9f. Green Oaks Parkway Four-lane Project Contract Amendment #4 – The Council approved amendment No. 4 to the Kimley Horn and Associates contract for re-design of a traffic signal for the Green Oaks Parkway four-lane project. *A copy of the Kimley Horn and Associates contract amendment #4 is incorporated into these minutes as addendum pages.*

9g. Resolution 09-11 – The Council adopted Resolution 09-11 directing the town clerk to investigate the sufficiency of annexation petition A09-03 and setting a public hearing on the question of annexation for Tuesday, May 19, 2009. *A copy of Resolution 09-11 is incorporated into these minutes as addendum pages.*

9h. Resolution 09-12 – The Council adopted resolution 09-12, urging those who obtain federal economic stimulus funds to buy American-made goods and materials from American-based companies. *A copy of Resolution 09-12 is incorporated into these minutes as addendum pages.*

**10a. Friendship Road Site** – Ms. Mizelle said the town has received a proposal from O'Brien Atkins to develop a site plan for the Friendship Road site for an Economic Development marketing event. She said the O'Brien Atkins proposal was selected, pursuant to Policy Statement PS-017.1, due to the subject firm's qualifications as well as its expertise and connections in bio-tech economic development circles.

Ms. Mizelle explained that in March 2009, the Town purchased exhibit space for the International Association of Science Parks (IASP) annual conference to be held in Raleigh June 1-3, 2009 in order to present the Friendship certified site. She went on to explain that her department's exhibit plans began to take shape, "and we determined that a full-blown site plan taking into account environmental features, access and utilities would serve as our best presentation."

Having worked with O'Brien Atkins for several years on several projects (in many cases OBA has provided the Town with pro bono work) Ms. Mizelle and her staff contacted them to assess their interest in working with the Town. Jim Nichols and Jay Smith met with staff to develop a scope of services that fits within the Town's schedule and budget.

The firm's quality of work, client base, expertise and reputation rank the OBA firm at the top of architecture and engineering firms in the Triangle area. In addition to several site plans OBA has developed for the economic development department, they also served as the consulting engineer on the State Employees Credit Union in Holly Springs, Ms. Mizelle added.

**Action:** The Council approved a motion to enter a contract with O'Brien Atkins for development of a site plan for the Friendship Road certified site and to adopt the associated budget amendment in the amount of \$7,500.

**Motion By:** Sack

**Second By:** Womble

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

*A copy of the O'Brien Atkins contract and budget amendment are incorporated into these minutes as addendum pages.*

**11. Other Business:** Councilman Womble asked if anyone knew of a place that could be used as an emergency food pantry. Councilman Dickson suggested that the group seeking the space might want to contact the news media and maybe a property owner who sees the news would offer space.

**12. Manager's Report:** Mr. Simmons reported that the engineering department would be manning an Earth Day booth at the cultural center; that the Citizens Academy on April 20 would be focusing on Public Safety; that a roadside clean-up was scheduled for May 1; and that May 2 is the opening day of the Farmers Market and a shred-a-thon sponsored by the Police Department would be held on the same day.

opening day of the Farmers Market and a street fair sponsored by the Police Department would be held on the same day.

At this time, Councilman Sack reported on the Novartis volunteer day on Thursday at Holly Springs High School.

**13. Closed Session:** None.

**14. Adjournment:** There being no further business for the evening, the April 21, 2009 meeting of the Holly Springs Town Council was adjourned following a motion by Councilman VanFossen, a second by Councilman DeBenedetto and a unanimous vote.

Respectfully Submitted on Tuesday, Aug. 4, 2009.

Joni Powell, CMC, Town Clerk

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