



August 17, 2010

MINUTES

The Holly Springs Town Council met in regular session on Tuesday, August 17, 2010, in the Council Chambers of Holly Springs Town Hall, 128 S. Main Street. Mayor Dick Sears presided, calling the meeting to order at 6:57 p.m. A quorum was established as the mayor and all five council members were present as the meeting opened.

Council Members Present: Councilmen Jimmy Cobb, Parrish Womble, Chet VanFossen and Tim Sack and Councilwoman Linda Hunt Williams.

Council Members Absent: none.

Planning Board Members Present: Joe Signoretti, Bettina Osborne, Thomas Hughes, Pete Utley and Amy Wazenegger. A quorum of the Planning Board was present as five members were assembled as the meeting opened.

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; Len Bradley, director of parks and recreation; Gina Clapp, director of planning and zoning; Tom Harrington, information technology technician; Michelle D'Antoni, communications specialist; John Herring, police chief; Stephanie Sudano, director of engineering; Kendra Parrish, senior engineer; Elizabeth Goodson, development review engineer; Mark Zawadski, planner I; Laura Powell, planner I; Jeff Jones, senior planner; Heather Keefer, environmental engineer; and Drew Holland, finance director.

2 and 3. The Pledge of Allegiance was recited, and the meeting opened with an invocation by Bishop Mark Savoldi of the Church of Jesus Christ of Latter Day Saints.

4. Agenda Adjustment: The August 17, 2010 meeting agenda was adopted with changes, if any, as listed below.

Motion By: Sack

Second By: Cobb

Vote: Unanimous

Items added to Agenda: 9c., appointment of members to the Wake County Growth Issues Task Force.

Items removed from Consent Agenda: None.

Items removed from the agenda: 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.

Beth Christo, 301 Holly Pine Ct. – Ms. Christo said she had asked the Council to consider an ordinance prohibiting recreational devices in the street. She said she appreciated the Council's consideration. She noted that children do not play in nor die in busy through streets or highways. She said if a child dies in the street, it is on a residential neighborhood

street. For that reason, she believes some sort of regulation is needed to protect children.

Karen Brown, 416 Magnolia Meadow Way – Ms. Brown said, of the three options that the Council was expected to consider later in the meeting, she would think that Option 1 (prohibition of all recreational devices in streets) would be too restrictive; it would assume for the Town too much control that belongs to parents; and it would not be enforceable.

Ms. Brown said Option 2 in the agenda item report (to establish a zoning regulation regarding the storage of devices) is reasonable. She added that the Town also needs to address vehicles parking on the sides of the street, which would pose a bigger risk to children in her opinion than recreational devices.

Hank Dickson, 504 Sandy Point Way – Mr. Dickson addressed the Council on the topic of the community agency grants. He said Hawks TV would provide a great learning experience for students, instructive extracurricular activity for students; and increased viewership of HSTV11 among parents and students. He urged the Council to award grants only to Holly Springs-based organizations, and he added that he would prefer that a committee of citizens serve as the application review committee.

Mr. Dickson addressed the issue of district representation on the Council. He said it was his position that the Town needs to keep the Council with at-large representation for the fairest representation of all residents.

Mr. Dickson addressed the issue of recreational devices. He said he would favor Option 2 with some modifications.

Robert Goldsobel, 108 Owl Creek Ct. – Mr. Goldsobel said he favors Option 2 on the issue of recreational devices.

6. Wake County Transit Plan Presentation – Wake County Manager David Cooke and Triangle Transit Authority General Manager David King addressed the Council to give a presentation regarding a Comprehensive Transit Plan that is being developed in part by Wake County, Triangle Transit, and Capital Area Metropolitan Planning Organization (CAMPO.) Preparing this plan is the first step in moving toward a referendum in the Fall of 2011 to levy a $\frac{1}{2}$ -cent sales tax to fund public transportation in the Triangle Region, Mr. Cooke explained.

The presentation was an introduction of the process and project. Mr. Cooke and Mr. King said they would come before the Town Council in early 2011 to request that Holly Springs sign an interlocal agreement supporting the tax for transit referendum.

Mr. Cooke said that in August 2009, the General Assembly of North Carolina passed House Bill 148 – *Congestion Relief/Intermodal Transport Fund*. The bill authorizes counties in the Triangle (Wake, Durham, Orange) the option to levy a $\frac{1}{2}$ - cent sales tax for public transportation purposes depending on approval of a referendum. Additionally, it authorizes Triangle Transit to increase its vehicle registration fee from \$5 to \$8 depending upon approval in Wake, Durham, and Orange County; and authorization for all counties the option to increase the vehicle registration fee up to \$7 for public transportation projects.

Wake County is working in partnership with Triangle Transit, CAMPO and the 12 municipalities on the development of a transit plan for Wake County. This effort will address the transit service plan (bus and rail,) financial plan, and governance structure. The Wake County Board of Commissioners has requested that this information be available before authorizing a referendum on the $\frac{1}{2}$ - cent sales tax option. Also prior to authorizing the referendum, Wake County will ask each municipality to enter into an interlocal agreement indicating support of the transit plan and the $\frac{1}{2}$ - cent sales tax referendum.

The referendum is targeted for Fall 2011.

Councilman Sack asked how much the transportation project would have to raise through the sales tax, and Councilwoman Williams asked if the project could be done without the added sales tax.

Officials said without the tax, other programs and services may have to do without funding.

Mr. Dean asked when bus service would be made available to Holly Springs. Mr. King said he would estimate about 24 months.

Action: None at this time.

7a. Public Hearing: Twelve Oaks, 03-PUD-01-A06 Amendment – Ms. L. Powell said the proposed amendment to the Twelve Oaks Planned Unit Development would add an additional townhome product that would be permitted in the MF-3 phase only of the subdivision (as shown on Sheet C-7.0 of the PUD package.) This townhome product would feature two- and three-family dwellings and detached garages accessed by a rear alley. The detached garage is why the applicants are requesting the amendment. To fit that on the lots, they need to create criteria for reduced setbacks.

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 forward the application to the Planning Board for review and recommendation.

Motion By: Sack

Second By: Womble

Vote: Unanimous

7b. Public Hearing: Ordinance 10-11, UDO Amendments - Mr. Jones said staff has been reviewing and evaluating the text of the Unified Development Ordinance since its adoption in 2002. While using the UDO, staff comes across minor errors and interpretations that are unclear, and sometimes regulations that need to be added or changed. The result is a comprehensive list of proposed amendments that would help to clarify and improve the UDO as well as correct minor spelling/grammatical errors. Completing these amendments would help make the UDO a more effective document, he added.

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.

Councilman VanFossen asked that wireless internet (wi-fi) be included, not as a design feature, but as a requirement for multi-family development.

The Council consensus was that this change would be acceptable.

Action #1: The Council approved to accept the following statement as true: *“The requested UDO text amendments are consistent with the Vision Holly Springs Comprehensive Plan Executive Summary regarding adopting and implementing the plan and the objectives for future land use, natural resources, and community character.”*

Motion By: Sack

Second By: Cobb

Vote: Unanimous

Action #2: The Council approved a motion to adopt Ordinance 10-11 to approve and enact UDO Text Amendments 09-UDO-12, 10-UDO-03, 10-UDO-04, 10-UDO-05, 10-UDO-07, 10-UDO-08, and 10-UDO-09 to modify specified UDO Sections with a change to not include the wireless internet as a design feature but as a requirement for multi-family development.

Motion By: Sack

Second By: Cobb

Vote: Unanimous

A copy of Ordinance 10-11, as amended, is incorporated into these minutes as addendum pages.

7c. Public Hearing: Comprehensive Plan Amendment 10-CPA-01 - Ms. L. Powell said the

Town has received a comprehensive plan amendment request to change the current designation of a portion of the parcel located in the northeast corner of Old Adams Road and NC 55 from Office/Professional to Mixed Residential.

She stressed that the public hearing is to receive input on the question of amending the Comprehensive Plan. The zoning question, she said, would follow.

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

Fred Honeycutt, 5313 Shadow Valley Road – Mr. Honeycutt addressed the Council and said if the property is developed and his well is negatively impacted, he wants his well repaired. He said the town also needs to consider growth and its impact on Hwy. 55.

There being no further comments, the public hearing was closed.

Action: The Council approved a motion to adopt Resolution 10-23 adopting Comprehensive Plan Amendment 10-CPA-01: to change the Future Land Use designation of approximately 21 acres of a portion of Wake County PIN # 0658246285 from Office / Professional designation to Mixed Residential.

Motion By: Sack

Second By: Cobb

Vote: Unanimous

A copy of Resolution 10-23 is incorporated into these minutes as addendum pages.

7d. Public Hearing: Rezoning Petition #10-REZ-01 - Ms. L. Powell said the Town has received a request to rezone approximately 21 acres from LB: Local Business to R-MF-15: Residential. The subject parcel is located just north of the intersection of Highway 55 and Old Adams Road.

Councilwoman Williams asked about how successful a multi-family project would be. Ms. Powell said the Town requires a market study to be submitted with the rezoning application, and one was submitted.

Councilman VanFosser said he was concerned about the density of R-MF-15. He said he feels the 15 units per acre is too dense.

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

Bonnie Norris, 5509 Ridley Court – Ms. Norris addressed the Council and said she agreed with Councilman VanFosser that R-MF-15 would be too dense, and the subject property is adjacent to her own, which is more than an acre. She emotionally appealed to the Council to not approve the rezoning application, which might place 240 units (480 people; and 960 cars) in her backyard. She said, at the very least, she would request the Council would require any multi-family to be condominiums to be owned and not rental apartments.

Willie Hood, landscape architect – Mr. Hood, speaking on behalf of the applicant, said he was sympathetic to the previous speaker. He said his group had met with neighbors last week to discuss the concept for development of the property. He said he believes that the rezoning request is a less intense zoning than the existing zoning.

He also noted that there would be buffers on the property that would protect neighboring parcels.

Councilman VanFosser noted that the Council could not consider the quality of the proposed project but could only consider the appropriateness of the zoning request.

There being no further comments, the public hearing was closed.

Ms. Powell reported that the Planning Board had reviewed the application and recommends approval following a 5-3 vote.

Ms. Powell said the dissenting voters noted a concern that a multi-family use was too dense next to the existing low-density homes while others said they felt the requested zoning was appropriate for the Southern Gateway Area. She said some Planning Board members also expressed concern whether the town could support another multi-family project.

Councilmen Sack and VanFossen asked what if NCDOT would not allow an additional driveway cut to allow access to the portion of the property that was not scheduled for rezoning consideration. Staff responded that such questions would be addressed at the site plan stage.

In discussion, the Council discussed protective buffers on the subject property, the density issue and the amount of total developable acres on the property.

Councilman VanFossen asked for clarification if the Council would be able to review, critique and approve or turn down a particular development plan if the rezoning were approved. Staff responded yes.

Action #1: The Council approved a motion to adopt the following zoning consistency statement: *"The requested zone map change from LB: Local Business to R-MF-15 is consistent with Vision Holly Springs: Comprehensive Plan since the plan designates this area for Mixed Residential, which allows for maximum densities of up to 15 dwelling units per acre."*

Motion By: Sack

Second By: Womble

Vote: The motion carried, following a 3-2 vote. Councilmen Cobb, Womble and Sack voted for the motion. Councilman VanFossen and Councilwoman Williams voted against.

Action #2: The Council approved a motion to adopt Ordinance 10-REZ-01 to approve Zone Map Change Petition #10-REZ-01 to change the zoning of ± 21 acres of a portion of Wake County PIN # 0658246285 from LB: Local Business to R-MF-15: Residential as submitted by Jay Gilleece of Hugh J. Gilleece, III & Associates, PA.

Motion By: Sack

Second By: Womble

Vote: The motion carried, following a 3-2 vote. Councilmen Cobb, Womble and Sack voted for the motion. Councilman VanFossen and Councilwoman Williams voted against.

A copy of Rezoning Ordinance 10-01 is incorporated into these minutes as addendum pages.

At this time, Councilman VanFossen said that the developers really needed to plan to present an extraordinary development plan for the property in order to garner his favor. Councilwoman Williams agreed.

7e. Public Hearing: National Pollutant Discharge Elimination System Phase III - Ms. Keefer said the purpose of the public hearing is to receive comments for the Town's storm water program prior to the Town's submitting an application to renew its current National Pollutant Discharge Elimination System Phase II storm water permit. She went on to outline the changes that would be made to update the program.

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

Amy Wazenegger – Ms. Wazenegger spoke in favor of the update and she commended the Town of Holly Springs for its exceptional NPDES efforts.

There being no further comments, the public hearing was closed.

Action: None.

8. 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:

8a. Budget Amendment Report -- The Council received a monthly report of amendments to the FY 2010-11 budget approved by the town manager. *A copy of the budget amendments report is incorporated into these minutes as an addendum page.*

8b. Budget Amendment, \$40,100 - The Council adopted amendments to the FY 2010-11 budget in the amount of \$40,100 toward the repair of the Ballenridge Outfall, as approved by the Council on Aug. 3. *Copies of the budget amendments are incorporated into these minutes as*

addendum pages.

8c. Budget Amendment, \$2,500 – The Council adopted an amendment to the FY 2010-11 budget in the amount of \$2,500 to accept a donation for the Holly Springs High School Hawks TV program on HSTV-11. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

8d. Budget Amendment, \$19,755 - The Council adopted an amendment to the FY 2010-11 budget in the amount of \$19,755 to accept insurance proceeds for police equipment damaged by lightning. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

8e. Budget Amendment, \$17,100 - The Council adopted an amendment to the FY 2010-11 budget in the amount of \$17,100 to accept insurance proceeds for a damaged parks and recreation vehicle. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

8f. Budget Amendment, \$600 - The Council adopted an amendment to the FY 2010-11 budget in the amount of \$600 to accept donations for the Independence Day fireworks display. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

8g. Budget Amendment, \$411,270 - The Council adopted an amendment to FY 10-11 budget in the amount of \$411,270 for Holly Ridge Middle School recreational facility improvements, pursuant to an existing joint use agreement. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

8h. Triangle J Council Appointment - The Council appointed Jeff Jones, senior planner, as the Town's representative on the Triangle J Council of Governments Smart Growth Committee.

8i. Development Procedures Manual Amendments - The Council adopted Resolution 10-24 to adopt and enact amendments to the Development Procedures Manual.

9a. Recreational Devices Ordinance – Mr. Schifano said that pursuant to a request from the July 20, 2010 town council meeting, two sample ordinance revisions were drafted for discussion purposes.

Mr. Schifano said the request by the town council was for him to investigate what other municipalities were doing, if anything, to regulate recreational equipment such as basketball and hockey goals in the public street.

After research, it was determined that in Wake County only Garner had such a prohibition in its town code. The Garner ban is a complete ban on “all games of every description” in the town streets, subject to a \$25 fine and possible confiscation of the recreational equipment.

Mr. Schifano said he prepared two options for the town council’s consideration based on the two types of regulatory powers the town has: the “police” power and the “zoning” power.

Option 1, Mr. Schifano said, is the police power option which bans the use and placement of recreational devices on the street and the area beyond the street that is included in the right of way (typically the area where the sidewalk is in a neighborhood.)

This option would fall short, the town attorney said, of the Garner approach of banning “all games of every description,” but regulates the placing or using of physical equipment in the street and adjacent right of way. The sample ordinance has a \$25 fine and confiscation of the device as a penalty. As written, the penalty also would apply to the user of the equipment, the owner of the equipment, and the person whose house it is in front of. Enacting this ordinance would send a strong signal that recreational equipment (except for bicycles, scooters, roller skates, skateboards, etc) are not to be used in the public streets or sidewalks.

Option 2 utilizes the town’s zoning power. It requires that recreational devices, such as portable basketball hoops, be stored close to the house or an accessory structure. Enforcement through this ordinance would be more problematic for the town, as the Unified Development Ordinance usually gives a person the ability to correct the violation, as normal

UDO violations are more permanent and significant in nature (i.e., setback problems, landscaping problems, etc.) Using this approach would not indicate that playing games in the street is something that the Town wants to seriously regulate against, but this is more of an aesthetic protection against unsightly equipment. This approach would likely remedy the issue that public works has faced from time to time regarding basketball goals' being an impediment to the provision of curbside service.

The council also has the "do nothing" option, as well as the option of modifying either of the above two options to be more or less restrictive, Mr. Schifano said.

Action: The Council approved a motion to go with the third option of taking no action, which results in no changes to the town's code nor UDO.

In discussion, Mayor Sears asked Chief Herring to address the question of traffic impediments.

Chief Herring said if there is a situation in which traffic were impeded, there is a state statute that officers could use to remedy the problem.

Motion By: Womble

Second By: VanFosson

Vote: Councilmen Cobb, Womble and VanFosson voted for the motion. Councilman Sack and Councilwoman Williams voted against.

9b. Community Agency Grants – Ms. Powell said as the fiscal year began, eight (8) civic groups submitted applications for funding from this year's grant program. Applications were not distributed to school groups as Holly Springs High School is out for the summer.

Of the eight applications received, the request total is \$13,000; the Town's budget is \$15,000 in the grant program line item; and the review committee of Councilman Cobb and Councilwoman Williams formed recommendations that the Council award \$10,150 in grants, leaving \$4,850 for the school groups that may apply later in the year.

The only time-sensitive applicant, Ms. Powell said, was the African American Heritage Festival to be held in September. The group requested \$500.

Councilwoman Williams asked if the Council could go ahead and act on the AAHF and hold all other requests until the high school groups have a chance to apply.

The consensus of the Council was that this was a preferred plan of action.

Action: The Council approved a motion to award a community grant as recommended by the committee in the total amount of \$500 to the African American Heritage Festival and to hold all other applications until such time as the Holly Springs High School grant applications are received.

Motion By: Williams

Second By: Womble

Vote: Unanimous.

9c. Growth Issues Task Force – Ms. Clapp reported that the Wake County Growth Issues Task Force is being revived, and she requested two regular members and one alternate be appointed.

Action: By acclamation, the Council appointed Councilmen Cobb and Sack as regular members and Councilwoman Williams as an alternate member to the Wake County Growth Issues Task Force.

10. Other Business: Councilman Womble requested that a stop sign be erected on Earp Street where it terminates into the town cemetery. The Council concurred.

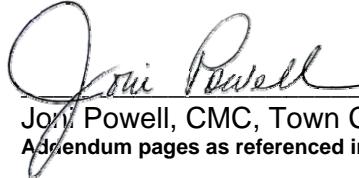
Councilmen asked that the Town paint the curb red for the No Parking zone at the cultural center because the white lettering on the pavement is not effective.

11. Manager's Report: Mr. Dean reported on the Greater Raleigh Convention and Visitors Bureau; a scheduled realtor tour; the Holly Springs Chamber of Commerce planning retreat; a contingency from Moldolva that will be visiting; an upcoming Fort Bragg civil affairs training exercise; and the newest edition of Business Watch.

12. Closed Session: None.

13. Adjournment: There being no further business for the evening, the August 17, 2010 meeting of the Holly Springs Town Council was adjourned following a motion by Councilman VanFossen, a second by Councilman Womble and a unanimous vote.

Respectfully Submitted on Tuesday, Sept. 21, 2010,



Joni Powell, CMC, Town Clerk
Addendum pages as referenced in these minutes follow and are a part of the official record.

