



April 19, 2011

MINUTES

The Holly Springs Town Council met in regular session on Tuesday, April 19, 2011 in the Council Chambers of Holly Springs Town Hall, 128 S. Main Street. Mayor Sears presided, calling the meeting to order at 7 p.m. A quorum was established as the mayor and five council members were present as the meeting opened.

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

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; Len Bradley, director of parks and recreation; Gina Clapp, planning and zoning director; Mark Zawadski, planner I; Laura Powell, planner I; John Herring, police chief; Cecil Parker, fire chief; Daniel Weeks, project analyst; Kendra Parrish, senior engineer; Elizabeth Goodson, development review engineer; Jeff Wilson, information technology director; Mark Andrews, public information officer; Luncie McNeil, director of public works; and Drew Holland, finance director.

2 and 3. The Pledge of Allegiance was recited, and the meeting opened with an invocation by Rev. Doug Parlin of South Wake Baptist Church.

4. Agenda Adjustment: The April 19, 2011 meeting agenda was adopted with changes, if any, as listed below.

Motion By: Sack

Second By: VanFossen

Vote: Unanimous

Items added to Agenda: Special Presentation to recognize April as landscape architecture month and a budget amendment.

Items removed from Consent Agenda: None.

Items removed from the agenda: None.

Other changes: None.

Landscaping Architecture Month - Mayor Sears proclaimed the month of April 2011 as landscape architecture month in Holly Springs. Mayor Sears presented the proclamation to Mr. Tony Tate, Pete Downing and Mike Mullins.

Action: 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. Pink Breast Cancer Awareness Trash Cans – Mr. McNeil said the Town has received a request from 1in9, a Raleigh-based non-profit organization that focuses on supporting patients being treated for breast cancer, to allow for the purchase of pink trash cans to support breast cancer awareness.

He said the Council received in their packet the information received from 1in9, as well as staff comments, a response from Waste Industries, and comparisons as to what other Wake County towns are

doing in regard to this request.

He said from a public relations view, this might be a positive move; however, there are several issues to be considered, such as:

1. Would the Town also allow colored cans sold for other purposes, i.e. red cans for the Wolfpack Boosters, yellow cans for ethanol research, and the list is endless?

2. Wouldn't donations directly to 1in9 or to the American Cancer Society be more of a direct benefit for cancer patients?

3. Currently, Waste Industries takes the responsibility for damaged cans. Citizens who opt for the specialty trash cans would have to realize that they would be responsible for replacement of damaged cans. Mr. McNeil says cans are damaged routinely.

Mr. Simmons said if the Council wants to allow the cans, then management would suggest that the Town would need to provide specifications for these cans and to address concern No. 3.

Mayor Sears and Council members all agreed that cancer research is important but would benefit more if donors were to save the money they would use for purchase of a garbage can and use it instead as a direct donation to the American Cancer Society, Hospice or patient support organizations.

Consensus: The Council consensus was that it would not sanction the use of the cans and would encourage people wanting to contribute to cancer causes to donate directly.

At this time, the Council and management expressed appreciation to the Holly Springs Public Works crews and those of Apex, Fuquay-Varina and Butner who lent assistance during storm debris clean-up following the April 16 tornado.

6b. Parking and Trespassing Issues – Linda Darrow and Julia Ballance said high school students parking in the Autumn Park subdivision make it difficult for residents to get out of driveways and see oncoming traffic. Students then trespass through townhome owners' properties as they walk to the high school. These students also at times drive over the speed limit and drive through the stop sign. These students are not always Autumn Park residents.

Holly Grove Middle School also is posing a problem with parents using the subdivision as a carpool lane. Both scenarios also result in littering and trespassing.

Chief Herring addressed the issue saying the Town needs to adopt a local ordinance citation program rather than the uniform citation.

Mr. Schifano agreed and said staff is working toward establishing a local citation program.

Mayor Sears said he would talk to the principals of the schools.

Chief Herring pointed out that police enforcement is going to deter trespassers a bit, but it will not stop it. It is just like speed limit signs, he said. The signs help deter speeders, but they don't stop them.

Mayor Sears will talk to school principals at Holly Grove Middle and Holly Springs High School to garner their support in solving the problem, and legal staff will bring forward a local citation program in the future so that the Town can more effectively enforce ordinances.

7a. Public Hearing: Ordinance 11-03, UDO Amendments – Mr. Zawadski said these amendments are the first round of Town-initiated Unified Development Ordinance amendments for 2011. This round of amendments includes:

Ø Section 1.21, A. Non-Conforming Lots, Uses, Buildings, Structures, or Signs- Intent: to correct the omission of the word "not" from the amendments completed last fall. By adding back the word "not" changes the meaning of the sentence requiring a major amendment, but including the word not was the original intent when processing the amendment- "If the owner **cannot** provide such evidence, the nonconformity will be deemed illegal."

Ø Sections 4.01, 4.02, and 4.03- Industrial Districts:

• Changed Zoning district names:

- 4.01 Warehouse Distribution to BT Business and Technology District
- 4.02 Light Industrial to RT Research and Technology District
- 4.03 General Industrial to IT Industry and Technology District

- Changed permitted uses lists from very specific uses to more broad categories to include opportunities for additional industries. (e.g. re-classified specific uses such as appliance manufacturing, clocks and watch manufacturing, jewelry manufacturing, recording instrument manufacturing, etc. to Light Manufacturing)
- Removed potentially harmful uses such as blast furnace, oil processing, slaughterhouse, wrecker service, asphalt manufacturing, explosive manufacturing, Tire manufacturing, etc.
- Added more research and technology uses such as information technology services, research and development facility, data center, and prototype process and production plant.
- Added requirements to permit business vehicles to be located outside of defined outdoor storage areas.

Ø Section 9.05, D., 5.,c.,(1) Amendments to Development Plans for Architectural and Site Design Review and Development Options- to remove the requirement to notify the original action body of minor amendments to development plans. (This is something that staff has not done and found in the text of the UDO- do not see the need to do such a step. This is not a typical requirement of other jurisdictions or the NCGS.)

Ø Section 10 Enforcement- Gives the discretion to fine or not to fine a violator to town staff. Therefore there are 2 sets of violations: one that require a 14 day notice and one that is immediately fineable. Immediately fineable violations are obvious and the people know they are violating or where giving them 14 days would be futile. Where someone is going along without knowledge of a violation, the 14 day notice is necessary.

Ø Section 11 Definitions- added definitions as appropriate for the modifications to the “industrial” district use charts.

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 #1: The Council approved a motion to adopt the following statement of compatibility as true: *“The requested UDO text amendments are consistent with the Vision Holly Springs Comprehensive Plan Executive Summary ‘Using the Plan to Implement the Town’s Vision’ and ‘Adopting and Implementing the Plan’ as well as the Future Land Use Section ‘Objectives’ and ‘Business Park’ designation details.”*

Motion By: Sack

Second By: Womble

Vote: Unanimous

Action #2: The Council approved a motion to adopt Ordinance 11-03 approving and enacting UDO text amendments 11-UDO-01 to modify the text of UDO Sections 1.21, 4.01 Warehouse Distribution, 4.02 Light Industrial, 4.03 Heavy Industrial, 9.05, 10, and 11 Definitions.

Motion By: Sack

Second By: Womble

Vote: Unanimous

A copy of Ordinance 11-03 is incorporated into these minutes as addendum pages.

7b. Public Hearing: Rezoning Petition 11-REZ-01 – Mr. Zawadski said the Town has received a rezoning request for two properties near the intersection of Raleigh Street and Holly Springs Road. The properties total 1.85 acres and currently are zoned R-15: Residential and LB: Local Business. The applicant is requesting that both properties be rezoned to R-8: Residential. The properties are located within the Village District Area Plan (VDAP) and are designated for residential land uses. The requested zoning to R-8 would be consistent with the residential land use designation.

He said the residential land use in the VDAP allows for a variety of dense residential development in the form of small-lot single-family homes, townhomes, and apartments.

Councilman Womble expressed concern about parking.

Mr. Zawadski said current regulations would provide for adequate on-street and on-site parking.

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 #1: The Council approved a motion to accept the following statement as true: *"The requested zone map change from R-15: Residential and LB: Local Business Limited to R-8: Residential is consistent with the Holly Springs Comprehensive Plan since the Future Land Use Plan Map of the Village District Area Plan indicates this property as Residential and the R-8 Residential District sets the maximum allowed density at 4.5 units per acre."*

Motion By: VanFossen

Second By: Womble

Vote: Unanimous

Action #2: The Council approved a motion to adopt Ordinance 11-REZ-01 to change the zoning of PIN# 0659-02-1999 from R-15: Residential to R-8: Residential and PIN# 0659-03-1154 from LB: Local Business Limited to R-8: Residential.

Motion By: VanFossen

Second By: Womble

Vote: Unanimous

A copy of Ordinance 11-REZ-01 is incorporated into these minutes as addendum pages.

7c. Public Hearing: Rezoning Petition 11-REZ-03 – Ms. Laura Powell said town staff has received a request to rezone approximately 3.03 acres from LB: Local Business Limited to LB: Local Business. The subject parcel at 153 Holly Springs Road contains a dwelling that has been converted to an office use that was once known as Thompson and Associates, PA and is now home to Hope Community Church offices.

She said this property first was rezoned in 1994 by the Town, and at the time was approved under a previous zoning ordinance and given the zoning classification of Office and Institutional (O&I.) This was done to encourage office uses and conversions along Holly Springs Road. When the current Unified Development Ordinance was adopted in 2002, the O&I zoning district was eliminated, and the subject property was given the classification of Local Business: Limited, in which permitted uses were restricted to educational uses, office / professional services, and residential to match the previous O&I District.

Ms. Powell said the church would like to be able to use the building for small-scale Bible studies and group meetings. Currently, the LB Limited zoning does not allow them to do so, so they are requesting to remove the “Limited” restrictions previously set forth, which would allow the church to do those operations.

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

Larry O’Neal, 412 Trinidad Ct. – Mr. O’Neal addressed the Council, first to comment on the sense of community during the weekend’s tornadic storm. He then spoke in favor of the petition. He asked that the applicant just be cognizant of the fact that the property backs up to residential properties and to be considerate of children’s bedtimes.

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

The Council agreed the proposal would be a good use of the property.

Action #1: The Council approved a motion to accept the following statement as true: *"The requested zone map change from LB: Local Business Limited to LB: Local Business is consistent with Vision Holly Springs Comprehensive Plan since the plan designates this parcel as Community Commercial."*

Motion By: Womble

Second By: Williams

Vote: Unanimous

Action #2: The Council approved a motion to adopt Ordinance 11-REZ-03 to change the zoning of ± 3.03 acres of Wake County PINS # 0649-93-9433 and 0649-93-9726 from LB: Local Business Limited to LB: Local Business as submitted by Hope Community Church.

Motion By: Womble

Second By: Williams

Vote: Unanimous

A copy of Ordinance 11-REZ-03 is incorporated into these minutes as addendum pages.

7d. Public Hearing: Special Exception Use Petition 11-SEU-01 – Mr. Zawadski said the Town has received a request for a Special Exception Use for a veterinary hospital (with no outdoor kennels) to be located at 5432 Sunset Lake Road. The property is 0.97 acres and is located near the intersection of Sunset Lake Road and Wescott Ridge Road.

He said the property is the former location of Arrange Your Home, and the new business is proposed to utilize the existing building. No building or site modifications are proposed for the project. The property includes a total of 14 existing parking spaces located on the southern side of the property, and the site is proposed to be accessed from the existing driveway located on Sunset Lake Road.

With that explanation completed, Mayor Sears opened the public hearing to accept sworn testimony. The following testimony was recorded under oath administered by the Deputy Town Clerk:

Paul Brewer, 2613 Wingate Hill Ct., Raleigh – Mr. Brewer, the applicant. Mr. Brewer provided testimony in support of the application. He said the application addresses each of the findings of fact.

David Orringer, 3508 Queen Anne Place, Clayton – Mr. Orringer is owner of the building. He said the utility easement at the rear of the property is 300 feet and provides buffer. He said the use would not generate traffic or noise.

Dr. Shaylene Snyder, 58 Sicily Drive, Clayton – Dr. Snyder, the veterinarian hoping to move in to the subject property. Dr. Snyder said she would like to move her practice to Holly Springs and serve the community. She said she does not believe noise would be a problem because hers is a low-volume practice. Overnight care, she said, would be for only two or three animals post surgery. She added that dogs and cats in that state are generally very quiet.

William D. Bilger, 101 Westcott Ridge Drive – Mr. Bilger, a neighboring property owner, spoke in favor of the application. He said he could not imagine it posing any problems to him or his neighbors.

Robert Bedi, 725 Loch Highlands Dr., Raleigh – Mr. Bedi is a client of Dr. Snyder's and he spoke in favor of the petition. He said Dr. Snyder's is a quality operation and would be a benefit to the community. He added that, although the Holly Springs location is farther away from his address than Dr. Snyder's current location, he will be following her to Holly Springs.

Jocelyn Thornton, 5105 Sunset Fairways Dr. – Ms. Thornton said her concern was about the outdoor kennels. Her property backs up to the back of the subject property, and she said the 300-foot utility easement is an open space between her backyard and the subject property; however, it is not an adequate buffer. She asked that if the plan was approved that landscaping be added to further screen the back of the property from hers.

Paul Hewitt, 5216 Sunset Fairways Dr. – Mr. Hewitt's property is also neighboring to the subject, and he spoke in favor of the petition. He said he is not concerned about outdoor kennels.

Randall Miller, representing Sunrise Methodist Church – Mr. Miller spoke as a member of Sunrise Methodist Church. He said he would appreciate if the Council were to make sure that the veterinary hospital and church could co-exist. He said the church is not opposed as long as the septic tank issue is addressed.

He said he thinks the vet use will have to connect with town sewer service. He said the Church had to stub to that piece, and he thinks the owners should pay for that extension and not the church. He asked that this be a condition of approval.

Lisa Thompson, 108 Chatham Ct., Clayton – Ms. Thompson spoke in favor of the petition and Dr. Snyder. She said it was worth the 45-minute drive to support her veterinarian and it would be worth the drive to bring her pet to Dr. Snyder in Holly Springs.

Steve Callas, 5212 Lake Edge Drive – Mr. Callas supports the petition and thinks the location is ideal for his veterinarian's new office.

Hannah L'Hammedieu, 109 Chilmark Ridge Drive – Ms. L'Hammedieu spoke in favor of the petition. She said she would love to see Dr. Snyder's practice in Holly Springs.

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

Councilmen Sack, Womble and VanFossen and Councilwoman Williams said they felt that the use would have no negative impact on neighboring property owners. Councilman VanFossen suggested that the applicant install a fence and plant some screening evergreens for added buffer. He said he would hope the applicant would work with the church, but he said the church was required to stub the sewer lines to neighboring

property just as any other developing parcel.

Action: The Council approved a motion to make and accept the findings of fact to be recorded in the minutes for Special Exception Use Petition #11-SEU-01 requesting permission for a veterinary hospital to locate at 5432 Sunset Lake Road as submitted by Higher Properties, LLC.

Special Exception Use Findings of Fact:

A special exception use may be granted only 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: VanFossen

Second By: Womble

Vote: Unanimous

A copy of Special Exception Use Petition 11-SEU-01 addressing the findings of fact is incorporated into these minutes as addendum pages.

Action #2: Having made findings of fact that the project meets the requirements to be granted a Special Exception Use, the Council approved a motion to approve Special Exception Use Petition #11-SEU-01 to allow a veterinary hospital at 5432 Sunset Lake Road as submitted by Higher Properties, LLC with the following condition:

1. All previous conditions for 04-DP-04 shall apply to this approval as well (including but not limited to):
 - a. Documentation of adequacy of existing septic system must be provided for site to develop without connection to public sewer. If such documentation cannot be provided, site will be required to connect to offsite public sewer.

Motion By: VanFossen

Second By: Womble

Vote: Unanimous

7e. Public Hearing: Annexation Petition A11-01 – Ms. Clapp said the Town has initiated a petition for annexation of approximately 1.702 Town-owned acres located adjacent to Bass Lake Park.

She said 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 comments, the public hearing was closed.

Action: The Council approved a motion to adopt Annexation Ordinance A11-01 annexing approximately 1.702 acres owned by the Town, and more particularly described as Wake County PIN: 0658.02-88-7006, into the corporate limits of the Town of Holly Springs.

Motion By: Womble

Second By: Sack

Vote: Unanimous

A copy of Annexation Ordinance a11-01 is incorporated into these minutes as addendum pages.

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. Minutes – The Council approved minutes of the Council special and regular meetings held in March.

8b. 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 amendment report is incorporated into these minutes as addendum pages.*

8c. CDBG Scattered Sites Grant Program Contract – The Council approved to enter a contract with The Wooten Company for administration of the CDBG scattered sites grant program.

8d. 2010 CDBG Scattered Site Grant Project Program Manual - The Council adopted a program manual for the Town's 2010 CDBG scattered sites grant project.

8e. Budget Amendment, \$53,650 – The Council adopted amendments to the FY 2010-11 budget in the amount of \$53,650 for work in the Grigsby Avenue sidewalk project. *Copies of the budget amendments are incorporated into these minutes as addendum pages.*

8f. Budget Amendment, \$367,880 – The Council adopted amendments to the FY 2010-11 budget in the amount of \$367,880 for construction and related work in the Main Street South sidewalk project. *Copies of the budget amendments are incorporated into these minutes as addendum pages.*

8g. Main Street South Sidewalk Project – The Council approved to enter into a contract with S&ME in the amount of \$27,500 for materials and testing in the Main Street South sidewalk project.

8h. Budget Amendment, \$3,750 – The Council adopted an amendment to the FY 2010-11 budget in the amount of \$3,750 for the annual Economic Development Partners Event. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

8i. Budget Amendment, \$45,000 – The Council adopted an amendment to the FY 2010-11 budget in the amount of \$45,000 for installation of waterline along Irving Parkway extension. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

8j. Quarterly Financial Report – The Council received the quarterly financial report. *A copy of the quarterly finance report is incorporated into these minutes as addendum pages.*

8k. Budget Amendment, \$8,425 - The Council adopted a amendment to the FY 2010-11 budget in the amount of \$8,425 to move funds from Community Development Project revenues located in Fund Balance to Maintenance and Repair-town facilities. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

9a. Park Property Donation – Mr. Schifano said he has been in communication with George Jordan, III, heir to a 43-acre tract along Middle Creek. Mr. Jordan wishes to make a donation of land to the Town of Holly Springs. This acquisition would allow for some passive parks and recreation opportunities along Middle Creek and perhaps some opportunities to do some environmental enhancement in this sensitive area.

He said the Town has had a Phase 1 environmental assessment of the property which showed no hazardous conditions, as well as a survey, which was attached in Council packets.

Action: The Council approved a motion to accept a donation from Jordan family heirs of land for passive and environmental park purposes.

Motion By: Womble

Second By: VanFossen

Vote: Unanimous

10. Other Business: Mr. Simmons reported that property owners are coming in for building permits to make tornado damage repairs to their homes. He asked the Council if it would consider waiving storm-related building permit fees.

Action: The Council approved a motion to waive storm-related building permit fees for 30 days until the end of May.

Motion By: Sack

Second By: Williams

Vote: Unanimous.

11. Manager's Report: Mr. Simmons introduced Chief Parker, Chief Herring and Mr. Wilson who addressed the Council about the Town's response in the aftermath of the weekend's tornado. They reported that the Town's emergency response, public works and communications teams were mobilized within 20 minutes following the tornado. Clean-up began almost immediately, and many in the community are volunteering to help.

Mr. Wilson reported on IT systems.

Mr. Simmons said the old Hunt Center had minor roof damage and most athletic programs were already back up and running.

He added that the fire station on Avent Ferry Road suffered roof damage and that the building will most likely need to be replaced. He said staff is working to provide temporary housing quarters for 24-hour shift workers at the station.

Council members were appreciative of staff responses.

12. Closed Session: None.

13. Adjournment: There being no further business for the evening, the April 19, 2011 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, June 7, 2011.

Joni Powell, MMC, Town Clerk

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