



December 7, 2010

MINUTES

The Holly Springs Town Council met in regular session on Tuesday, Dec. 7, 2010 in the Council Chambers of Holly Springs Town Hall, 128 S. Main Street. Mayor Dick Sears presided, calling the meeting to order at 7 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.

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; Laura Powell, planner I; Mark Zawadski, planner I; Jeff Wilson, information technology director; Niki Litts, communications specialist; Jenny Mizelle, director of economic development; Stephanie Sudano, director of engineering; Elizabeth Goodson, development review engineer; Daniel Weeks, project analyst; Heather Keefer, environmental engineer; Aaron Levitt of the engineering department 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, pastor of South Wake Baptist Church.

4. Agenda Adjustment: The Dec. 7, 2010 meeting agenda was adopted with changes, if any, as listed below.

Motion By: Sack

Second By: VanFossen

Vote: Unanimous

Items added to Agenda: Item 9g., consideration of a traffic signal at the intersection of Holly Springs Road and Linksland Drive.

Items removed from Consent Agenda: None.

Items removed from the agenda: Item 8i.

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.

None.

6a. Donation to Holly Springs Fire Department – Councilman VanFossen introduced Mr. Jay Harris, president of Carolina Dock Dogs. Mr. Harris presented to the Holly Springs Fire Department a donation of funds for its assistance at the recent Dock Dogs event during Dog Day in the Park.

Action: None.

7a. Public Hearing: Rezoning Petition 10-REZ-03 – Ms. L. Powell said the Town has received a request to rezone approximately 16.9 acres from R-30: Residential to LB: Local Business. The subject parcel is located just south of the intersection of Highway 55 and Old Adams Road.

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Ms. Powell said this southern gateway is planned to hold offices and professional buildings, and this rezoning request would be compatible with that plan.

She said the Planning Board had reviewed the request and recommends approval.

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-30 to LB is consistent with Vision Holly Springs: Comprehensive Plan since the plan designates this area for Office/Professional uses.”*

Motion By: Sack

Second By: Womble

Vote: Unanimous.

Action #2: The Council approved a motion to adopt ordinance 10-REZ-03 to approve Zone Map Change Petition #10-REZ-03 to change the zoning of ± 16.9 acres of a portion of Wake County PIN # 0658335805 from R-30: Residential to LB: Local Business as submitted by Jay Gilleece of Hugh J. Gilleece, III & Associates, PA.

Motion By: Sack

Second By: Womble

Vote: Unanimous.

A copy of Rezoning Ordinance 10-REZ-03 is incorporated into these minutes as an addendum page.

7b. Public Hearing: Special Exception Use Petition 10-SEU-05 - Mr. Zawadski said the Town has received a request for a Special Exception Use to locate a family childcare home in the R-10: Residential zoning district located at 201 Shorehouse Way. The property is 0.18 acres in size and is located within the Overlook at Holly Glen Subdivision. The applicant is proposing to care for three children during the hours between 7 a.m. and 6 p.m. The property includes capacity to accommodate three cars in the driveway for loading and unloading in addition to the two-car garage.

He said no modifications are proposed to the exterior of the house or property.

Mr. Zawadski said staff and the Planning Board recommend approval with conditions.

Council asked if covenants in the Holly Glen Subdivision would allow a family childcare home, and they asked how many children would be allowed to be kept in the home.

Mr. Zawadski it would be up to the applicant to obtain clearance of the Holly Glen Homeowners Association. He said the State of North Carolina regulates the number of children that can be kept in a home childcare setting.

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 #10-SEU-05 for 201 Shorehouse Way to allow for a family childcare home in the R-10: Residential District as submitted by Erin Caraballo.

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: Williams

Second By: Sack

Vote: Unanimous

A copy of Special Exception Use Petition 10-SEU-05 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 10-SEU-05 for 201 Shorehouse Way to allow for a family childcare home in the R-10: Residential District as submitted by Erin Caraballo with the following condition:

- 1. All additional state and local permits and approvals will be required prior to the business opening.

Motion By: Williams

Second By: Womble

Vote: Unanimous

8. Consent Agenda: The Council approved a motion to approve all remaining items on the Consent Agenda. The motion carried following a motion by Councilman VanFossen, a second by Councilman Womble and a unanimous vote. The following actions were affected:

8a. Minutes – The Council approved minutes of the Council’s regular meeting held Nov. 2, 2010.

8b. Resolution 10-34 - The Council adopted Resolution 10-34 certifying an updated 2010 zoning map. *A copy of Resolution 10-34 is incorporated into these minutes as addendum pages.*

8c. Economic Development Web pages – The Council approved to enter a consultant agreement in the amount of \$5,500 for assisting the Economic Development Department in updating information and visual elements on its pages on the Town Web site.

8d. Council Meeting Cancellation - The Council amended the calendar of Town Council meetings to cancel the Dec. 21, 2010 regular meeting.

8e. Budget Amendment, \$88,325 – The Town Council adopted an amendment to the FY 2010-11 budget in the amount of \$88,325 for the completion of roads in the Bridgewater Subdivision. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

8f. Budget Amendment, \$7,500 – The Town Council adopted an amendment to the FY 2010-11 budget in the amount of \$7,500 to receive funds from Wake County for the purchase of mattresses for the fire department. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

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8g. Budget Amendment, \$770,000 – The Town Council adopted amendments to the FY 2010-11 budget in the amount of \$770,000 to fund a professional services contract in the Main Street Extension project. *Copies of the budget amendments are incorporated into these minutes as addendum pages.*

8h. Budget Amendment, \$2,363,000 – The Town Council adopted amendments to the FY 2009-10 budget in the amount of \$2,363,000 to account for an NC DOT grant received for Green Oaks Parkway. *Copies of the budget amendments are incorporated into these minutes as addendum pages.*

8i. Community Development Block Grant Project – This item was removed during Agenda Adjustment.

9a. Pecan Grove Apartments Project Waiver Request – Ms. Keefer said that Pecan Grove Apartments is requesting a waiver to the Bass Lake Buffer rules to allow a gravity sewer and sewer force main in the outermost 50-foot portion of the Town's 100-foot undisturbed Bass Lake buffer, UDO Section 7.06 D, 4, e., (1).

Ms. Keefer said the Town's Bass Lake Buffer rules require a 100-foot undisturbed buffer to be provided on both sides of perennial streams that drain to Bass Lake.

- The Pecan Grove Apartments Project has requested a waiver to the Bass Lake Buffer Rules UDO Section 7.06 D, 4, e., (1), to impact to the Bass Lake Buffer for the construction of gravity and force main sanitary sewer lines in the outer 50-foot of the Bass Lake Buffer as well as two perpendicular stream and buffer crossings.
- The proposed sewer outfall alignment took into consideration the existing properties between the Pecan Grove site and where it will tie into the existing sanitary sewer outfall.
- This project includes the construction of a regional pump station which will serve the Pecan Grove Apartment Project as well as other properties in the drainage basin.
- The applicant will be required to obtain permits from the US Army Corps of Engineers and the NC Division of Water Quality for impacts to streams, wetlands and the State regulated Neuse River Buffer.
- This buffer waiver request is consistent with UDO Section 7.06 D, 4, e., (2), which requires a 100-foot buffer on both sides of all other perennial streams in the Neuse River Basin that allows sanitary sewer line installation in the outer 50-foot of the buffer.
- This buffer waiver request is in accordance with Town agreements with the Clean Water Management Partnership requiring a protected stream buffer along perennial streams tributary to Bass Lake.

Action #1: The Council approved a motion to accept that the following Findings of Fact have been addressed adequately to approve a waiver of UDO Section 7.06 D, 4, e., (1), to allow impact to the Bass Lake Buffer for the construction of gravity and force main sanitary sewer lines in the outer 50-foot portion of the 100-foot Bass Lake buffer as requested by Hugh J. Gilleece, III & Associates, P.A.

1. The carrying out of the strict letter of the UDO will result in practical difficulties in the development of the property included in the Waiver Petition.
2. Approval will observe the spirit of the UDO.
3. Approval will secure public safety and welfare.
4. Approval will provide substantial justice.
5.
 - a. There are exceptional conditions pertaining to the particular piece of property in question because of its shape, size, or topography, that are not applicable to other lands, buildings, or structures in the same district, or
 - b. There is a peculiar characteristic of a proposed use which makes the application of certain development standards of the UDO, as requested in the petition for waiver of Riparian Buffer Regulations, unrealistic.
6. Granting the Waiver requested will not confer any special privileges that are denied to
7. A literal interpretation of the provisions of the UDO would deprive the applicant of rights commonly enjoyed by other owners and residents of the district in which the property is located.
8. The requested Waiver will be in harmony with the purpose and intent of the UDO and will not be injurious to neighbor or to the general welfare.

9. The special circumstances giving rise to the Waiver request are not as a result of actions of the Applicant.

10. Waiver Requested is the minimum variance that will make possible the legal use of the land, building, or structure.

Motion By: Sack

Second By: Womble

Vote: Unanimous

Action #2: Having made the necessary findings of fact, approve a motion to approve a waiver of UDO Section 7.06 D, 4, e., (1) to allow impact to the Bass Lake buffer for the construction of gravity and force main sanitary sewer lines in the outer 50-foot portion of the 100-foot Bass Lake buffer as requested by Hugh J. Gilleece, III & Associates, P.A.

Motion By: Sack

Second By: Womble

Vote: Unanimous.

9b. Board of Adjustment and Planning Board Appointments – Ms. Clapp said that on Dec. 31 of each year, the terms of several members of the Board of Adjustment and Planning Board expire.

She said the Town Council is responsible for the appointment of “in-town” members to the Town of Holly Springs Board of Adjustment and Planning Board. ETJ members officially are appointed by the Wake County Board of Commissioners; however, the Town Council makes a recommendation to the Wake County Board of Commissioners as to who should be appointed.

At the Town Council’s first meeting in December, the Council is to review the applications for the vacancies, and at the Town Council’s discretion reappoint interested members or appoint new members to the respective boards. The terms will be for three years from January 1, 2011, expiring on Dec. 31, 2013.

The applications that have been submitted for this year's appointment were sent to the Town Council under separate cover in mid-November.

She said this year's vacancies are:

Board of Adjustment:

- 1 In-Town Regular Member
- 1 In-Town Alternate Member
- 1 ETJ Alternate Member

Planning Board:

- 2 In-Town Members
- 1 ETJ Member

Action: The Council approved a motion to appoint Russ Wallace to fulfill a vacated Board of Adjustment in-town regular member position expiring Dec. 31, 2012 and Bryan Stempowski to a full three-year term as an in-town regular member with a term expiring Dec. 31, 2013.

Motion By: Sack

Second By: Williams

Vote: Unanimous

Action: By acclamation, the Council approved a motion to appoint Baxter Walker as an in-town alternate member to the Holly Springs Board of Adjustment, with a three-year term to expire Dec. 31, 2013.

Action: The Council approved a motion to nominate to Wake County Board of Commissioners Glen Walker as an ETJ alternate member to the Holly Springs Board of Adjustment, with a three-year term to expire Dec. 31, 2013.

Motion By: Sack

Second By: Cobb

Vote: Unanimous

Action: The Council approved a motion to reappoint Pete Esperson and Bob Bartsch as in-town members to the Holly Springs Planning Board, with three-year terms to expire Dec. 31, 2013.

Motion By: Sack

Second By: VanFossen
Vote: Unanimous

Action: The Council approved a motion to nominate to Wake County Board of Commissioners Joseph Orsak as an ETJ member to the Holly Springs Planning Board, with a three-year term to expire Dec. 31, 2013.

Motion By: Sack
Second By: VanFossen
Vote: Unanimous

9c. Grigsby Sidewalk Project – Mr. Levitt said that staff applied for and obtained an NCDOT grant out of STP-DA funds (through CAMPO). The grant is an 80/20 match for construction activities only and would not apply to the attached survey contract.

He said the Grigsby sidewalk project would add to community's pedestrian connectivity by connecting the Hunt Center with Town Hall. This sidewalk would start at the corner of Ballentine and Raleigh Streets and would turn south on Grigsby connecting to the sidewalk on Stinson Avenue.

Mauldin-Watkins Surveying has submitted a proposal to provide the required survey information for this project.

Action: The Council approved a motion to adopt an amendment to the FY 2010-11 budget in the amount of \$15,500 and to approve a survey proposal for \$14,000 plus \$1,500 in contingency with Mauldin-Watkins Surveying for the Grigsby sidewalk project.

Motion By: Womble
Second By: Cobb
Vote: Unanimous.

A copy of the budget amendment is incorporated into these minutes as an addendum page.

9d. Woodcreek Subdivision Pedestrian Crossing Easement - Mr. Schifano said the NCDOT wishes to advance purchase a 16-acre tract owned by the developers of Woodcreek subdivision.

He said the plans for the subdivision, as well as the town's Comprehensive Plan, the Pedestrian Plan, and the Parks and Recreation Master Plan, all show a pedestrian crossing in this area; however, the NCDOT has indicated that it will not purchase the property from the developer subject to this easement. The developer has approached the Town requesting that the Town not require this permanent easement but that the Town allow for a temporary easement.

Mr. Schifano said that he wrote a Memorandum of Understanding, which was presented to the attorney general's office. It stated that the Town would give up the permanent easement on the condition that the Town will be treated in the design phase of I-540 as if the Town had a recorded easement.

He said that he has had preliminary discussions with the assistant attorney general for the NCDOT, and he seemed relatively amenable, but discussed wanting to make some revisions to the document.

Action: The Council approved a motion to approve the Memorandum of Understanding, subject to future minor revisions in terms as acceptable to the town attorney, regarding a pedestrian crossing easement in Woodcreek Subdivision.

Motion By: Sack
Second By: Womble
Vote: Unanimous.

9e. Pecan Grove Apartments Developer Agreement – Ms. Sudano explained proposed terms for a developer agreement with the developers of Pecan Grove Apartments. She said the developers would providing over-sized gravity sewer lines to serve additional upstream properties, and they qualify for fee credits.

She said the developers also proposes to pay in advance \$1.95 million in development fees. She said the Town would be able to earmark these funds to pay for a capital project to re-route some sewer in the Bass Lake drainage basin, which would increase capacity of the two existing pump stations.

In exchange for the developer's paying these fees in advance at construction drawing stage, there is an adjusted fee schedule.

Action: The Council approved a motion to accept terms of a developer agreement that would provide fee credits and a change to the fee structure in exchange for up-sized utility lines and for payment of fees in advance in the Pecan Grove Apartments project.

Motion By: VanFossen

Second By: Womble

Vote: Unanimous.

9f. Utley Creek Discharge Limits – Ms. Sudano said this request is to enter a contract with a consulting firm to assist with applications to the state for discharge limits into Utley Creek.

Action: The Council approved a motion to retain CH2MHill for \$30,500 to perform technical tasks and water quality modeling for Utley Creek and to adopt an amendment to the FY 2010-11 budget to fund the contract.

Motion By: VanFossen

Second By: Cobb

Vote: Unanimous.

9g. Linksland Traffic Light – Ms. Sudano said this request is for the Town to enter a municipal agreement with North Carolina Department of Transportation for a traffic light on Holly Springs Road at Linksland Drive. She said NCDOT has approved the light and would provide design and inspection of the signal, but the town would have to pay for the light.

Action: The Council approved a motion to enter a municipal agreement with NCDOT for the design and inspection of a traffic signal at the intersection of Holly Springs Road and Linksland and to adopt amendments to the FY 2010-11 budget in the amount of \$10,000 to pay the costs of the work.

Motion By: Womble

Second By: Cobb

Vote: Unanimous.

10. Other Business: Councilman Womble asked how the town's finances are doing at this point in the year. Mr. Holland reported that the Town is at 47% in property tax collections and that the Town is about 10% ahead in revenues from last year. He said at the second meeting in January or first meeting in February, he would provide a financial report that would include most tax collections, since most come in the first week of January.

Councilman Womble asked why the Helping Hand Mission had not been in the Christmas parade in the past few years. Ms. J. Powell explained that the Helping Hand Mission had a certain gang-like following of people who had caused problems in Holly Springs. She also noted that the group had difficulties showing up on time and working with parade organizers.

11. Manager's Report: Mr. Dean reported on Main Street Christmas; the Christmas parade; the economic development partners event; the cemetery project; landscaping at the Methodist parking lot; the employee lunch; that New Hill residents are about to move forward; and he introduced the Town's new IT director, Jeff Wilson.

12. Closed Session: The Council approved a motion to enter into Closed Session, pursuant to NCGS 143-318.11(a)(3) to discuss a matter with the Town Attorney under the client-attorney privilege and NCGS 143-318.11(a)(4) to discuss an economic development matter.

Motion By: VanFossen

Second By: Cobb

Vote: Unanimous.

General Account Closed Session – Dec. 7, 2010

In Closed Session, the Town Attorney shared information with his client regarding a matter of

potential litigation involving a former employee.

Then, Council was advised about an expanding industry.

Councilman Womble was excused from the meeting because the next topic involves property he owns.

The town attorney reported to his client regarding a disparity in property appraisals between land owned by Councilman Womble and other land involved in the Main Street Sidewalk project. Mr. Schifano pointed out that the disparity is because Mr. Womble's appraisal came in higher than other appraisals because the potential taking would be more land. Council accepted the report and gave direction to the town attorney.

No action was taken in Closed Session other than the motion to return to Open Session.

-- End of General Account

Action: The Council approved a motion to return to Open Session.


Motion By: Sack

Second By: Cobb

Vote: Unanimous.

13. Adjournment: There being no further business for the evening, the Dec. 7, 2010 meeting of the Holly Springs Town Council was adjourned following a motion by Councilman Sack, a second by Councilman VanFossen and a unanimous vote.

Respectfully Submitted on Tuesday, Feb. 1, 2011



Joni Powell, MMC, Town Clerk

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

