



September 21, 2010

## MINUTES

The Holly Springs Town Council met in regular session on Tuesday, Sept. 21, 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 (arrived at later in the meeting;); 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; Landon Carroll, athletic program manager; Gina Clapp, director of planning and zoning; Anne Oakley, plans review coordinator; Tom Harrington, information technology technician; Mark Andrews, public information officer; Stephanie Sudano, director of engineering; Mark Zawadski, planner I; Laura Powell, planner I; Jeff Jones, senior planner; and Drew Holland, finance director.

**2 and 3.** The Pledge of Allegiance was recited, and the meeting opened with an invocation by Rabbi Ederly of Temple Beth Shalom.

**4. Agenda Adjustment:** The Sept. 21, 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 6b., recognition of the Farmers Market Chili Cook-off winners; and Item 10e., I-540 alignment.

**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.

Brian Odom, 5208 Sunset Walk Lane – Mr. Odom addressed the Council expressing surprise at the development of an alternative potential alignment for the I-540 southern phase, which he feels would negatively impact Holly Springs. As a civil engineer, he said he saw a number of reasons why the northern preferred alignment should be retained. He asked the council to take formal action to state its position to be communicated to the N.C. Turnpike Authority.

**6. SWAC Baseball Championships** – Mr. Carroll recognized the 11- and 12-year-old youth

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baseball All-Star team for its recent accomplishments. The 11-12 team competed in the annual Statewide Athletic Committee (SWAC) baseball competition. The team first won the district tournament held in Kenly. The 11-12 team then won the 12-year-old SWAC state tournament held in Holly Springs

**Action:** None.

**6b. Chili Cook-off** – Ms. Oakley recognized winners of the first annual Farmers Market Chili Cook-off. She reported that celebrity judges selected My Way Tavern to take the first place award for professional entrants. She also reported that Team Stallings won in the amateur division. Team Stallings also took the People’s Choice Award, as judged by chili cook-off spectators.

**7a. Public Hearing: Annexation Petition A10-05, Rex Healthcare** – Mr. Jones said the Town has received a petition for voluntary annexation of approximately 6.12 acres located along NC Hwy 55. The property owner is Rex Hospital, Inc.

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 A10-05 annexing approximately 6.12 acres owned by Rex Hospital, Inc., and more particularly described as Wake County PIN: 0648-88-6754, into the corporate limits of the Town of Holly Springs.

**Motion By:** VanFossen

**Second By:** Womble

**Vote:** Unanimous

*A copy of Annexation Ordinance A10-05 is incorporated into these minutes as addendum pages.*

Councilman VanFossen asked that he be recused from the meeting, despite no direct or financial interest in the upcoming case. He said he had a business connection with a former tenant of the same building in which the applicant in Item 7b. occupies.

The Town Attorney said there would be no penalty if the Council were to recuse Councilman VanFossen, despite the General Statute provision that an elected official should vote on all matters except those in which there is a direct and substantial financial interest.

**Action:** The Council approved a motion to recuse Councilman VanFossen from the meeting.

**Motion By:** Williams

**Second By:** Cobb

**Vote:** Unanimous.

A quorum of the Council still was present.

**7b. Public Hearing: Ordinance 10-12, UDO Amendment** - Mr. Zawadski said the Town has received a request for a Unified Development Ordinance (UDO) amendment to add Religious Uses as a Special Exception within the LI: Light Industrial Zoning District.

He said a religious organization would like to locate its offices and worship facilities on property within the Light Industrial (LI) zoning district; however, religious uses are not permitted within the LI district, so staff cannot approve permits for this facility at that location.

He said according to NCGS 160A-388(d), the organization cannot request a “Use-Variance” from the Board of Adjustment or Town Council to allow it to be at the location being considered; therefore, the group is applying for a UDO amendment to allow Religious Uses as a Special Exception within the LI District. This is a change that would impact all properties

currently or in the future zoned LI.

Mr. Zawadski said it is upon this fact that staff's review and consideration is based.

The Planning Board and staff have reviewed the request and both recommend that the UDO not be amended.

He said according to UDO Section 4.02, the intent of the LI district is: "to provide for development of assembly and light manufacturing or processing facilities which may require limited amounts of outdoor storage. Permitted uses in this district tend to generate heavy traffic, require extensive community facilities, and may require limited amounts of outdoor storage. The LI District also is intended to function as a transitional district between the more intense general industrial districts and other less intense districts."

According to the Vision Holly Springs, Town of Holly Springs Comprehensive Plan: Future Land Use Section, Business Parks are "to promote a sustainable local economy through a balanced tax base and to create jobs for residents, the Future Land Use Plan seeks to strategically maximize land allocated to commercial and light industrial development."

He said the Light Industrial district permits a range of uses that include minor automotive repair, office, and light industrial as Primary Uses with major automotive repair, service businesses that compliment industrial uses/employees of such facilities, limited recreational facilities, and limited retail uses as Special Exceptions. Currently there are no uses that have large assemblies of people designated as a Primary or Special Exception use.

Currently, Mr. Zawadski said, the UDO permits Religious Uses as a Special Exception Use in all Residential Districts and as a Primary Use (of right) in the TV: Town Village, LB: Local Business District, and CB: Community Business District. Religious uses are allowed in nine of the 15 zoning districts in Holly Springs, Mr. Zawadski said.

He said it is staff's opinion that the residential and commercial zoning districts are the most appropriate districts for religious uses. These zoning districts provide a more compatible environment for religious uses since they are located in close proximity to residential neighborhoods and do not have the potential to be intermingled with high traffic and truck volume uses that occur in an industrial district or uses that may be noisy, have odors, outdoor operations, or in other ways that could potentially negatively impact a religious use that has a large assembly of people on a regular basis. In addition, having facilities with high volume car traffic and large assemblies of people may preclude certain businesses from locating in the business park.

When the UDO was written in 2002, Mr. Zawadski said, religious uses were added to some of the commercial districts since previously, religious uses were allowed only in residential districts. Such uses were intentionally omitted from the industrial districts as the Town has limited industrial areas and wanted to ensure that these areas are preserved for business opportunities.

Mr. Zawadski said additionally, there are very few remaining LI parcels within the town limits and staff's opinion is that this zoning district be reserved for companies that produce goods and/or services and generate jobs that are consistent with typical business park operations.

Amending the UDO would change this long-standing approach to the build-out of the business parks within the Town as amending the UDO affects all parcels that are (and will be) zoned Light Industrial, not just one parcel of land.

Mr. Zawadski showed zoning maps that illustrated the amount of property that exists in Holly Springs where religious uses already are permitted. He also showed a map that illustrated how little property is zoned industrial

Ms. Mizelle addressed the Council to point out how the town has spent several millions of dollars to improve Holly Springs Business Park to attract jobs and tax base. She said the return on that investment might be higher with a job-generating business. She said parking could be a problem if a neighboring business were to be a 24/7 operation. She noted that the Town has spent considerable effort in branding Holly Springs Business Park as a high-tech and

bio-tech center, and religious uses would not be consistent with those themes.

At this time, the applicant addressed the Council.

Kyle Greer explained that the subject property is the only facility currently available in Holly Springs that will accommodate Hope Community Church. He said the church would not be eliminating the property as tax base because the church would be leasing the building. The owner, he said, would still pay property taxes. He said the church would not be buying property in the Light Industrial zone – and reducing the town's inventory of light industrial land – because the land would be too expensive.

Mr. Greer added that he feels that Holly Springs should allow religious uses in the light industrial zone because a lot of other towns do so. He added that the church would be helping the local economy by providing building owners with good-paying tenants in vacant buildings.

Stephen Spazado, land planner -- Representing the church, Mr. Spazado said the church is asking that religious uses be allowed in the light industrial district as a special exception use and not as a primary use. The special exception use procedure, he pointed out, would provide the town protection from negative impacts to the business park.

The pastor of Hope Community Church then addressed the Council. He said the church has 8,000 members and has a philosophy that emphasizes community service and investment. He said he feels the church's positive contributions to the community.

Mr. Schifano warned the Council to avoid hearing input specific to Hope Community Church since state law prohibits them from considering site specific information when making zoning decisions.

Charles Paul, Wilmington – Mr. Paul, representing the building owner, said the bank would not have a problem with a church's occupying the building because churches generally are very good tenants. He said the developer is having difficulties filling the building, and it was an expensive project. In today's economic climate, he said, the zoning change would make sense for the town.

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

Guy Sorrell, 228 Brookberry Road – Mr. Sorrell lives in Holly Springs and works in the business park at Novartis. He spoke in favor of the church and the UDO amendment that would allow the church's request.

Mike Lewis, Raleigh – Mr. Lewis said he seconded Mr. Sorrell's comments.

Donna Jennings, 400 W. Elm – Ms. Jennings said seconded Mr. Sorrell's comments.

David Lanuti, 105 Owl Creek – Mr. Lanuti is a teacher at Holly Springs High School and spoke in favor of the church and the generous spirit exhibited by the church.

Dan Courtine, Fuquay-Varina – Mr. Courtine highlighted services of the church to the community. He said the church also would hire employees, providing jobs in the community. He said the church membership has a strong economic impact in Holly Springs. He closed by saying that the church also brings about non-monetary changes in lives. He said if the UDO were amended and the church is allowed to have the permanent location it seeks, then it could do more community service.

Lisa Piazza, 116 Holly Thorne Trace – Ms. Piazza provided information specific to Hope Community Church and its community spirit.

Abel Zakberg, 161 Tradition Trail – As a businessman, Mr. Zakberg said he does not believe Holly Springs Business Park is the appropriate location for religious uses. He said the park already has issues with infrastructure. He said he thinks Hope Community Church is a wonderful congregation, but he thinks the church should find another location.

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

Councilman Sack said the group is great but the question before the Town Council is whether to amend the UDO. He said the Town is trying hard to attract workplaces, and space is limited. He said this situation is not the same as other communities where there is a lot of properties where storefront churches can locate.

He said the Council had to separate Hope Community Church from the question of changing the LI zoning district. He said he would rather have Hope Community Church stay in Holly Springs; however, he does not think the Council should change the UDO.

Councilwoman Williams said Holly Springs Business Park is the town's only area exclusively dedicated to the creation of jobs and taxbase. Since nine out of the town's 15 zoning districts allow churches, she does not believe the Light Industrial zone needs to be changed.

Councilman Womble said the church's needs are temporary, but the change to the UDO would be permanent. That said, Councilman Womble said he also was very impressed by how the church has helped the community, so he would change his mind and allow the amendment.

Councilman Cobb said Hope Community Church is great, so the decision is difficult. He said the decision that would be good for Hope Community Church cannot be reconciled with what he believes is best long-term for the town. He said the lack of land available in Holly Springs for uses that will attract jobs and tax base is so very limited.

Mr. Zawadski reported that the Planning Board had reviewed the petition and voted 6-2 to recommend that the UDO not be amended. He said those who voted in the majority expressed that they felt the Holly Springs Business Park should be reserved for business uses.

Councilman Cobb said he feels that Hope is an extraordinary church. He asked the Town Attorney if it would be possible to approve a motion to change the town's UDO for a certain amount of time with a sunset clause of sorts that would expire when Hope no longer would need to be located in the business park.

Mr. Schifano said that would not be possible.

**Action #1:** The Council approved to accept the following statement as true: *"The requested UDO Text Amendment is not consistent with the Vision Holly Springs Comprehensive Plan Future Land Use section regarding Business Park designations."*

**Motion By:** Sack

**Second By:** Cobb

**Vote:** The motion carried, following a 3-1 vote. Councilmen Cobb and Sack and Councilwoman Williams voted for the motion. Councilman Womble voted against.

**Action #2:** The Council approved a motion to not adopt proposed Ordinance 10-12, which denies UDO Text Amendment #10-UD0-10 to modify the text of UDO Section 4.02 Light Industrial District as submitted by Hope Community Church.

**Motion By:** Cobb

**Second By:** Sack

**Vote:** The motion carried, following a 3-1 vote. Councilmen Cobb and Sack and Councilwoman Williams voted for the motion. Councilman Womble voted against.

At this time, the Council approved a motion to readmit Councilman VanFossen into the meeting.

**Motion By:** Cobb

**Second By:** Sack

**Vote:** Unanimous.

**8. Certificate of Achievement for Excellence in Financial Reporting Award** - Mr. Holland said the Certificate of Achievement for Excellence in Financial Reporting has been awarded to the Town of Holly Springs Finance Department by the Government Finance Officers Association (GFOA) of the United States and Canada for its comprehensive annual financial report (CAFR.)

He said the Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government, its management and its financial office staff.

Mr. Holland said this is the fifth year that the Town of Holly Springs has earned this prestigious award. He then introduced for recognition members of the Town's Finance Department, who all contributed to this achievement.

**Action:** None.

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

9a. Minutes – The Council approved minutes of the Council's regular meetings held Aug. 17 and Sept. 7, 2010.

9b. 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.*

9c. W.E. Hunt Community Center Security Contract – The Council approved to retain Sonitrol for the installation and monthly monitoring of security equipment in the new W.E. Hunt Community Center.

9d. Special Town Council Meeting. - The Council set a special meeting of the Town Council for 5:30 p.m. Tuesday, Oct. 19, 2010 for a growth and development workshop.

9e. Wastewater Treatment Plant Contract Change Order #11 - The Council approved construction contract Change Order 11 in the wastewater treatment plant expansion project.

9f. Resolution 10-26 - The Council adopted Resolution 10-26 directing the town clerk to investigate the sufficiency of annexation petition A10-06 and setting a public hearing on the question of annexation for Tuesday, Oct. 19, 2010. *A copy of Resolution 10-26 is incorporated into these minutes as an addendum page.*

9g. Budget Amendment. \$1,500 - The Council adopted an amendment to FY 2010-11 budget in the amount of \$1,500 to receive proceeds for advertising sales for the law enforcement calendar. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

**10a. G. B. Alford Hwy. Speed Limit reduction** – Ms. Sudano said the developer of Pecan Grove apartments has made a request for the Town to ask NCDOT for a speed limit reduction from 55 mph to 45 mph in the southern part of Holly Springs' jurisdiction along G.B. Alford Highway. The area is experiencing increased development, and typically this is one of the drivers that would justify a speed limit reduction.

Currently the speed limit along the southern end of the Bypass - transitioning onto NC55 in this area - is 55 mph. Further south – near the Fuquay-Varina Town limits – the speed limit reduces to 45 mph.

**Action:** The Council approved a motion to request a speed reduction on Hwy. 55 from 55 miles per hour to 45 miles per hour in front of the developing areas to the south.

**Motion By:** Sack

**Second By:** Cobb

**Vote:** The motion carried, following a 4-1 vote. Councilmen Cobb, Womble and Sack and Councilwoman Williams voted for the motion. Councilman VanFossen voted against.

**10b. Cemetery Enhancement Plan** – Mr. Dean said the FY 2010-11 approved budget included some enhancements to the Holly Spring Cemetery. After discussion with the Town Manager, a design was prepared that includes new signage, columns, and fencing. Initial funding was approved in the budget in the amount of \$8,000; however, after contacting several vendors for pricing, additional funds are needed in the amount of \$17,000 for a total project cost of \$25,000.

Mr. Dean said future additional improvements will be planned to include clearing, roadway improvements (gravel or paving) and plot identification markers. No schedule has been developed for this yet.

**Action:** The Council approved a motion to adopt an amendment to the FY 2010-11 budget in the amount of \$17,000 to provide a total project cost of \$25,000 for the first phase in the cemetery enhancement project.

**Motion By:** Womble

**Second By:** Williams

**Vote:** Unanimous.

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

**10c. Phase III Sidewalk Project** – Ms. Sudano said this past March, the Town Council approved a location plan for this project. Plans and plats for this project have since then been completed and permits secured, and it is now ready to enter into the next phases of project development. With this in mind, asked for the authorization of additional funds to cover various legal expenses associated with the project. A total of \$35,000 is being requested.

She said this project is planned to be advertised for construction next spring.

This is the last phase of a three-part sidewalk and greenway project for which the Parks and Recreation Department secured a grant.

**Action:** The Council approved a motion to adopt an amendment to the FY 2010-11 budget in the amount of \$35,000 to cover legal expenses associated with the Phase III sidewalk project.

**Motion By:** VanFossen

**Second By:** Cobb

**Vote:** Unanimous.

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

**10d. Board of Adjustment Appointment** - Ms. Clapp said that Ms. Cynthia Gibbons, a long-time and in-town regular member of the Board of Adjustment has resigned due to the fact that she is moving out of state. Her term is due to expire on Dec. 31, 2011.

**Action:** The Council approved a motion to appoint alternate Board of Adjustment member Vinnie D'Agostino to fill the remainder of a vacated term for an in-town regular member of the Board of Adjustment with a term ending Dec. 31, 2011.

**Motion By:** VanFossen

**Second By:** Womble

**Vote:** Unanimous.

**Action:** The Council approved a motion to appoint Russ Wallace to fill the remainder of a term vacated by Vinnie D'Agostino for an in-town alternate member of the Board of Adjustment with a term ending Dec. 31, 2011.

**Motion By:** Womble

**Second By:** Williams

**Vote:** Unanimous.

**10e. I-540 Alignment** – Mr. Dean explained that on Sept. 22, the North Carolina Department of Transportation would hold an educational workshop at Holly Springs High School to discuss the southern phase of I-540, which will connect the final phase of the loop.

It appears that one of the options NCDOT is considering would bring I-540 down a portion of Bass Lake Road, which would impact a large area of Town. Another option would impact the Sunset Lake Road area.

The original protected corridor to the north has been in place for two decades, and all of the town's planning documents have included this design in all developments affecting those properties.

The alternatives routes proposal would have negative effects on both current and future citizens and would not be in the best interest of the Town, Mr. Dean said. He asked the Council

to adopt a resolution supporting the road project and endorsing only the original protected corridor.

**Action:** The Council approved a motion to adopt Resolution 10-27 supporting the original Orange Corridor as the preferred alignment for the southern phase of the I-540 expressway and urging the N.C. Turnpike Authority to abandon both the blue and purple alternative alignments.

**Motion By:** Sack

**Second By:** Womble

**Vote:** Unanimous.

*A copy of Resolution 10-27 is incorporated into these minutes as an addendum page.*

**11. Other Business:** Mayor Sears announced that Town Clerk Joni Powell had attained the master municipal clerk designation.

**12. Manager's Report:** Mr. Dean reported on Dog Days in the Park Saturday; Bass Lake Days next weekend; and HollyFest on Oct. 30.

**13. Closed Session:** The Council entered into Closed Session, pursuant to NCGS 143-318.11(a)(3), to discuss a matter of potential litigation by the New Hill Community Association with respect to the Western Wake Partnership.

**Motion By:** Sack

**Second By:** Cobb

**Vote:** Unanimous.

#### ***General Account of Sept. 21, 2010 Closed Session***

In Closed Session, Mr. Schifano reported that the New Hill Community Center had filed an administrative review lawsuit in the Western Wake Partnership water reclamation facility project. He suggested this, together with the burgeoning expense of the project and the Town's parallel plans to pursue a Harris Lake discharge, might make it a good time for the town of Holly Springs to decide whether it would continue in the Western Wake Partnership.

The project, he pointed out, is of benefit to the remaining partners and would serve only as a conduit of sorts for the Town of Holly Springs. The Town could save millions of dollars by pursuing its other options.

Legally, Mr. Schifano said, the Town could withdraw in accordance with its agreement with Cary, Apex and Morrisville and pay its proportionate share of expenses up until the time the Town withdraws. Ms. Sudano estimated this cost could be as high as \$2 million, but she added that the ultimate savings between the Western Wake project and the Town's options to continue discharging into Utley Creek, combined with its reuse system and a possible eventual discharge into Harris Lake more than made the withdrawal worth it. The local solution is estimated at \$17 million.

Council members discussed its options and decided that remaining in the Western Wake Partnership represented the worst-case-scenario for the Town with a pricetag of at least \$45 million. They decided to withdraw from the partnership and pay the Town's balance to satisfy its obligations.

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

**Motion By:** Williams

**Second By:** Sack

**Vote:** Unanimous.

#### ***End, General Account***

In Open Session, the Council approved a motion authorizing the Town Attorney and Clerk to notify the Towns of Apex, Cary and Morrisville that the Town of Holly Springs would be



withdrawing from the Western Wake Partnership and authorizing the payment of the Town's costs in its withdrawal.

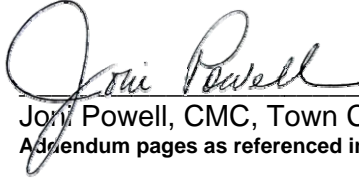
**Motion By:** Sack

**Second By:** VanFossen

**Vote:** Unanimous.

**14. Adjournment:** There being no further business for the evening, the Sept. 21, 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, Oct, 19, 2010,



Joni Powell, CMC, Town Clerk

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

