



April 15, 2014

## MINUTES

The Holly Springs Town Council met in regular session on Tuesday, April 15, 2014 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 four council members were present as the meeting opened.

**Council Members Present:** Mayor Sears and Councilmen James Cobb, Tim Sack and Councilwomen Linda Hunt-Williams and Cheri Lee.

**Council Members Absent:** Councilman Hank Dickson (arrived at 8:35 p.m.)

**Staff Members Present:** Chuck Simmons, town manager; John Schifano, town attorney; Joni Powell, town clerk, (recording the minutes); Linda Harper, deputy town clerk; Jeff Wilson, information technology director; Len Bradley, parks and recreation director; Adam Huffman, assistant parks and recreation director; John Herring, police chief; Leroy Smith, fire chief; Stephanie Sudano, engineering director; Kendra Parrish, senior engineer; Elizabeth Goodson, development review engineer; Gina Clapp, planning and zoning director; Laura Holloman, planner I; Sean Ryan, planner I; Daniel Weeks, senior project manager; and Mark Andrews, public information officer.

**2 and 3.** The Pledge of Allegiance was recited, and the meeting opened with an invocation by Bishop Brian Evans of the Church of Jesus Christ of Latter Days Saints.

**4. Agenda Adjustment:** The April 15, 2014 meeting agenda was adopted with changes, if any, as listed below.

**Motion by:** Sack

**Second by:** Cobb

**Vote:** Unanimous

**Items added to the Agenda:** None.

**Item removed from Public Hearing Agenda:** None.

**Items removed from the Consent 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:

William Kesselring, 740 Piney Grove-Wilbon Road – Mr. Kesselring addressed the Council to ask that the eminent domain item on the agenda as Item 10 be delayed because he and his family would be affected, and he feels there has not been adequate notice and adequate time to work out details with the Town. He said the paperwork he has seen so far does not address all the questions and concerns they have, including questions about the temporary construction easement and some of the trees that would be removed. He said he feels the whole process has not been fair to him as a property owner.

**6a. Kids Appreciation Day Proclamation** – Mayor Sears said the Kiwanis Club of Holly Springs is planning an event to show the children of this community the Town's appreciation. A "Kids Appreciation Day" celebration is set for 2 to 4:30 p.m. Saturday, May 3 at Sugg Farm Park.

He presented a mayoral proclamation pronouncing May 3, 2014 as "Kids Appreciation Day" in Holly Springs to commemorate this event.

The Terrific Kids program as well as Kids Appreciation Day are projects of the Kiwanis Club of Holly Springs.

KA Day is one of the most anticipated annual family-focused, fun-filled events for Holly Springs' kids, their families, and our schools. It enables our families and our business community to join with our schools to celebrate the end of the school year.

It is presented by the Town of Holly Springs Parks and Recreation and the Kiwanis Club of Holly Springs—a civic club that is dedicated to serving the children of Holly Springs. Kiwanians are part of a worldwide civic organization that make "Young Children: Priority One." Each year attendees enjoy a community festival and the Kiwanians highlight students and a teacher chosen by their schools as "Terrific Kids" and "Terrific Teacher."

**Action:** None.

**7a. Jones Park Disc Golf Course** - Mr. Harasti addressed the Council, saying his neighbor would not be attending.

He said he has concerns about the disc golf course being installed at Jones Park.

He said his property is adjacent to the new disc golf course and feels the tee box behind his home is too close to his property and not exactly in keeping with the plans that were presented at the Council meeting.

Mr. Harasti said he recalls that the plans presented had a buffer and that the closest he expected the disc golf course to come to his property was 200 feet; however, it appears that a tee box has been installed immediately beyond the fence.

Mr. Harasti said he is concerned that his family and pets will be directly impacted by people climbing over a fence to retrieve a disc.

Mr. Harasti said he feels the Town should either:

- Build the course as originally planned; or
- Plant trees to provide a barrier of Leland Cypress, red tips or similar landscaping for residents.

Mr. Bradley was asked to address the Council. He did so and explained that the disc golf course layout was changed when an opportunity arose to build an 18-hole course instead of the original 9-hole and at a fraction of the cost. He said he had not been approached by Mr. Harasti to be made aware of a problem, but he did meet with a neighbor, who was satisfied with his explanation.

**Action:** Council asked Mr. Harasti to meet with Mr. Bradley to discuss the issue and concerns.

**8a. Public Hearing: Special Exception Use Petition 14-SEU-01** - Mr. Ryan said American Tower, LLC has submitted a Special Exception Use petition for a 199-foot monopole communication tower and fenced compound to be located on 0.46 acres of 1129 N. Main Street adjacent to the North Main Athletic Complex. Telecommunication towers may be allowed as a special exception uses in all districts if they meet all development standards outlined in the Unified Development Ordinance as presented in this report.

He said the tower and compound would be accessed by a paved driveway off of N. Main Street and would be screened around the perimeter by a 10-foot tall black vinyl coated chain link fence, with fence screening mesh, and a 10-foot wide landscape buffer of Red Maple and Leland Cypress Trees. An A-20 perimeter yard buffer would provide additional screening of the property and compound area.

Applications for new telecommunication towers shall demonstrate that all efforts have been exhausted to locate the proposed telecommunications antennas upon existing telecommunications towers, buildings or structures in the geographical area of the proposed telecommunications antennas. The applicant has submitted written affidavits and supporting documentation demonstrating that there are no existing towers or structures of comparable height capable of

supporting colocation within one mile of the proposed site.

He said the applicant has submitted color photo simulations for the proposed telecommunications tower (included in the attachments), as viewed from N. Main Street, to demonstrate what reasonably could be expected if the tower is approved.

Applicants requesting a Special Exception Use must be able to demonstrate that all required Findings of Fact are being met. The Town Council through the public hearing and sworn testimony must be able to make findings that these facts will be met and/or adhered to as part of the motion. If the Town Council determines that a fact cannot be met or adhered to, then the Special Exception should be denied.

He noted that the Planning Board had reviewed the petition and recommends approval.

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:

David Robinson, an attorney in the office of Nexsen Pruet, the applicant – Mr. Robinson provided a detailed presentation illustrating how the tower would likely blend in well with surrounding properties, including the lights of the North Main Athletic Complex. He said the tower would improve wireless and phone service to an area that really needs it.

In addressing some concerns about a catastrophic event that might fell the tower, he explained that it would like withstand most acts of nature, but is also designed to collapse within itself rather than falling over. He said the North Main Athletic Complex property would be safe.

Graham Herring, GRI, a property value appraiser employed by American Tower – Mr. Herring said, in his expert opinion, the tower would pose no adverse impacts on property values to neighboring property.

There being no further 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 #14-SEU-01 to allow for a Communication Relay Tower in the LB: Local Business District at 1129 N. Main Street as submitted by Nexsen Pruet, PLLC.

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 14-SEU-01 addressing the findings of fact is attached to these minutes.*

**Action #2:** Having made findings of fact, the Council approved a motion to approve Special Exception Use Petition #14-SEU-01 1129 N. Main Street Telecommunication Tower to allow for a Communication Relay Tower in the LB: Local Business District at 1129 N. Main Street as submitted by Nexsen Pruet, PLLC, Project Number 50242, dated Revised February 28, 2014 with the following conditions:

1. Operations must adhere to the evidence submitted by the applicant as stated in the findings of fact submitted in conjunction with 14-SEU-01.

**Motion by:** Lee

**Second by:** Cobb

**Vote:** Unanimous

**Action #3:** Motion to approve Development Plan #14-DP-03 for 1129 N. Main Street Telecommunication Tower as submitted by Nexsen Pruet, PLLC, Project Number 50242, dated Revised February 28, 2014 with the following conditions:

- 1) The following items must be provided on the first construction drawing submittal:
  - a) A detail for the required road improvements along the frontage of this property consistent with the Town's Comprehensive Transportation Plan cross-section for Main Street (86' btb on 109' R/W including median).
- 2) Prior to construction drawing approval, a fee-in-lieu of construction for the Main Street road improvements along the frontage of this property will be required.
- 3) Prior to issuance of Building Permit, the applicant shall submit a revised landscape plan in which the proposed Leland Cypress evergreen trees shall be replaced with a comparable evergreen species, as determined in consultation with Planning and Zoning staff.

**Motion by:** Williams

**Second by:** Cobb

**Vote:** Unanimous

**8b. Public Hearing: Special Exception Use Petition 14-SEU-02 -** Ms. Holloman said the Town has received a request for a Special Exception Use for a car wash, previously known as Splash and Dash, located at 1100 N. Main Street. The car wash first was approved in 1997; however, the business has not been operational for more than six months and as result, the special exception use has since expired. Now under new ownership, owners are requesting that this existing 3,026-square-foot structure be re-opened.

She said the new owners also have chosen to incorporate a walk-up ice vending machine into an existing car wash bay. The Unified Development Ordinance requires that vending machines abut primary building walls and shall not be located in a required yard or buffer yard; however, the UDO makes no mention of their appearance and size.

Applicants requesting a Special Exception Use, must be able to demonstrate that all required Findings of Fact are being met. The Town Council through the public hearing and sworn testimony must be able to make findings that these facts will be met and/or adhered to as part of the motion. If the Town Council determines that a Fact cannot be met or adhered to, then the Special Exception should be denied.

She noted that the Planning Board had reviewed the petition and recommends approval.

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:

Michael Loewe, 7232 Vintage Glen Way, Fuquay-Varina, representing the applicant – Mr. Loewe said he and his partners were working hard to make sure that the business property would be developed nicely and be an asset to the community.

There being no further 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 #14-SEU-02 to allow for a Car Wash in the LB: Local Business District for 1100 North Main Street Car Wash as submitted by Manlo Enterprises, LLC dated 3/3/14.

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:

- k. The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;
- l. The proposed use will not injure or adversely affect the adjacent area;
- m. The proposed use will be consistent with the character of the district, land uses authorized therein, and the Town of Holly Springs Comprehensive Plan;
- n. 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).
- o. 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;
- p. 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;
- q. 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;
- r. Utilities, schools, fire, police and other necessary public and private facilities and services will be adequate to handle the needs of the proposed use;
- s. 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,
- t. 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 14-SEU-02 addressing the findings of fact is attached to these minutes.*

**Action #2:** Having made findings of fact, the Council approved a motion to approve Special Exception Use Petition #14-SEU-02 to allow for a Car Wash in the LB: Local Business District for 1100 North Main Street Car Wash as submitted by Manlo Enterprises, LLC dated 3/3/14 with the following conditions:

1) Business operations must adhere to the evidence submitted by the applicant as stated in the findings of fact submitted in conjunction with 14-SEU-02.

2) Within ten days of Town Council approval, the applicant shall submit a revised site plan for review & approval by the Department of Planning & Zoning as necessary to show the addition of two off-street parking requirements for the ice vending machine.

3) Within 180 days of Town Council approval, the applicant shall resurface and restripe all pavement within the property as necessary to ensure adequate traffic patterns and flows are adhered to.

**Motion by:** Cobb

**Second by:** Williams

**Vote:** Unanimous

**9. Consent Agenda:** The Council approved a motion to approve all items on the Consent Agenda. The motion carried following a motion by Councilman Sack, a second by Councilman Cobb and a unanimous vote. The following actions were affected:

**9a. Minutes** – The Council approved minutes of the Council’s special and regular meetings held March 18, 2014.

**9b. Budget Report** – The Council received a monthly report of amendments to the FY 2013-14 budget approved by the town manager. *A copy of the budget amendment report is attached to these minutes.*

**9c. Budget Amendment, \$7,049** - The Council adopted an amendment to the FY 2013-14 budget in the amount of \$7,049 to cover final expenses for the Womble Park project. *A copy of the budget amendment is attached to these minutes.*

**9d. NCREN Agreement** – The Council approved to enter into a North Carolina Research and Education Network access and transport service subscription agreement.

**9e. Fire Station #3 Lease Agreement Amendment** – The Council approved an increase in rent of \$100 per month for Fire Station No. #3.

**9f. Police Officer Reclassification** – The Council approved to reclassify a vacant police officer position, grade 77, to a police lieutenant, grade 83.

**9g. Town Facilities Closed May 2, 2014** - The Council approved to close Town Hall and non-critical Town offices from 11:30 a.m. to 1 p.m. Friday, May 2 for memorial event.

**10a. North Main Street Extension Project** - Mr. Schifano said Town staff has been working with consultants on the design of the Main Street Extension project, which is funded partially by matching grants from the North Carolina Department of Transportation.

He said that staff has approached all landowners and have explained the limits of the expansion and described what is needed from an acquisition standpoint in order to construct the improvements. Of the 56 parcels affected by this project, Patrick Lee, the town’s acquisition agent was able to successfully negotiate a voluntary purchase for all but the attached 23 parcels. These 23 parcels are owned by 11 different landowners (two landowners own several parcels.)

He said the resolution would allow the town to acquire the areas described by condemnation, a legal process by which we “take” the property immediately upon filing a lawsuit and depositing with the court what the town has determined is fair market value of the property. The landowner is entitled to a jury trial to determine if the town was correct in its valuation and deposit.

He said he would meet with any property owners who have questions and concerns. He said the resolution authorizes him to begin the condemnation process but that he will not do so unless absolutely necessary. Since the Town must meet certain NCDOT timelines, he asked the Council to adopt the resolution

Councilman Sack asked in clarification if the resolution was giving timely authorization but there was still opportunity for the Town and property owners to reach agreements on the purchase of property for the project and to answer questions.

Councilman Sack also asked for Mr. Schifano to explain why the Town needed to buy the property.

Mr. Schifano said the Town needs the property to build a new road to relieve traffic congestion.

If the town council would like more information with respect to specific valuation of individual properties, a closed session would be proper to discuss that limited issue.

**Action:** The Council approved a motion to adopt Resolution 14-08 authorizing eminent domain proceedings for Main Street Extension.

**Motion by:** Sack

**Second by:** Cobb

**Vote:** Unanimous

*A copy of Resolution 14-08 is attached to these minutes.*

**11. Other Business:** Mayor Sears said the Town is monitoring crosswalks, and the fine is \$223 for those caught not giving pedestrian the right of way; the Avent Ferry Road .

Councilwoman Williams reminded parents to teach their children to respect others and not block traffic by playing in the street.

**12. Manager’s Report:** Mr. Simmons reported on a number of events and programs.

**13. Closed Session:** The Council approved a motion to enter Closed Session, pursuant to North Carolina General Statute 143-318.11(a)(3) to discuss the potential for litigation in the accidental rupture of an underground gasoline tank in the public right of way.

**Motion by:** Sack

**Second by:** Cobb

**Vote:** Unanimous

**General Account of Closed Session – April 15, 2014.**

In general, Council received a report of the incident from Mr. Schifano, who added details regarding responsibility and shared responsibility. The Council spoke with the Town’s attorney under the attorney-client privilege, asking questions and providing direction.

The Council approved a motion to return to open session, and the motion carried unanimously.

**-- End of General Account**

**14. Adjournment:** There being no further business for the evening, the April 15, 2014 meeting of the Holly Springs Town Council was adjourned following a motion by Councilman Sack, a second by Councilman Cobb and a unanimous vote.

day, May 20, 2014.

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minutes follow and are a part of the official record.

