



July 15, 2014

MINUTES

The Holly Springs Town Council met in regular session on Tuesday, July 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 all five council members were present as the meeting opened.

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

Council Members Absent: None.

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

2 and 3. The Pledge of Allegiance was recited, and the meeting opened with an invocation by Brent Rector of the Woodhaven Baptist church.

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

Motion by: Sack

Second by: Cobb

Vote: Unanimous

Items added to Consent Agenda None.

Items added to Agenda: None.

Items removed from 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:

Kathy Toma, 4912 Sunset Forest Circle – Ms. Toma addressed the Council to speak in support of a proposed ordinance addressing trespassing that would levy fines and a city citation for those who do not commit vandalism. She said she also hoped the Town could extend free play hours at facilities, either through the use of closed circuit television or additional human resources.

6a. Public Hearing: Installment Financing of Capital Projects – Mr. Bob Jessup, bond counsel for the Town, explained how the Town could accomplish several much-needed capital improvement projects with one large borrowing, and that the public hearing would begin that process. The projects Council identified for this borrowing are:

- Phase 2 improvements at the North Main Athletic Complex for the stadium at \$7,900,000;
- construction of a new law enforcement center, \$8,000,000; and

- Town Hall repairs and transportation projects to extend Main Street to Piney Grove-Wilbon Road and to improve the intersection of the bypass at Avent Ferry Road, \$3,031,000.
 - Town Hall repairs and renovations, \$160,000.*
- * = Because additional collateral may be needed, the Town Hall building (which will be paid off this year) may be used to secure a portion of the loan from bond sales, so repairs and renovations to the building are being proposed.

The total amount that would need to be borrowed to complete these projects is estimated at \$19,350,000.

Mr. Jessup said to borrow funds for this grouping of capital projects, the Town of Holly Springs first must obtain approval from the Local Government Commission. A step in that application process is to hold a public hearing to receive comments from citizens on the question of whether the town should seek installment financing (as opposed to other financing.) Following the public hearing, Mr. Jessup said, the Council will be asked to adopt a resolution, stating that the Town Council has determined certain findings of fact, including that installment financing is more desirable than other types of financing. The resolution also authorizes the filing of the LGC application.

Mr. Jessup said staff requested bank proposals and received two; however, staff is recommending now that the Council seek limited obligation bond funding rather than bank financing.

With that explanation completed, Mayor Sears opened the public hearing. The following comments were recorded: None.

There being no comments, the public hearing was closed.

Action 1: The Council approved a motion to adopt Resolution 14-14 authorizing the filing of an application to the Local Government Commission for approval of a financing agreement to fund various capital improvement projects.

Motion by: Sack

Second by: Cobb

Vote: Unanimous.

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

Mr. Simmons advised the Council that a special meeting workshop would be scheduled for the last week of August when the process of gaining financing through limited obligation bonds will be explored further.

6b. Public Hearing: Special Exception Use Petition 14-SEU-03, 14-VAR-05 and 14-DP-07, Storage Max – Mr. Ryan said the town has received a request for a Special Exception Use for self-storage (mini-) warehouse facility located on approximately three acres in the Holly Springs Business Park at 180 Newspaper Way. This use is permitted by special exception in the BT: Business & Technology zoning district and is not an excluded use of the previously-approved zoning conditions placed on the property in conjunction with 14-REZ-04.

He said in conjunction with the Special Exception Use for a self-storage (mini-) warehouse facility, a development plan has been submitted to construct a 9,765 square foot facility containing four individual buildings. The site contains three 1-story structures and one 3-story (34-foot height) structure. There are 630 individual storage units and an on-site office proposed for this site.

He said three waivers are being requested as part of this development plan, one for removing plant material in the NC 55 bypass – G.B. Alford Highway buffer area and two for architectural standards.

In addition, the applicant is requesting a variance of development standards to reduce the required minimum front yard and building setback from 50 feet to 30 feet along NC 55 bypass – G.B. Alford Highway. The findings of fact for this variance are attached with this staff report and include the applicant's justification for requesting the variance.

As part of the development plan associated with this variance request, the applicant has provided a landscaping buffer along NC 55 bypass – G.B. Alford Highway that is double the minimum requirement (a B-150 is provided rather than a B-75) and parking is provided to the side

of the buildings fronting NC 55 bypass – G.B. Alford Highway. Staff would like to point out that in most cases, the Unified Development Ordinance permits projects along thoroughfares, collector streets, or local streets to reduce the minimum front yard and building setback from 50 feet to 30 feet under the condition that (1) the required front yard buffer plant value is doubled from the minimum requirement and (2) that all parking is located to the side or rear of the building along such roadway frontage. Projects with frontage along NC 55 bypass – G.B. Alford Highway are not permitted to use this reduction by right

Before the public hearing was opened, Council members asked questions of the applicants, who all were duly sworn.

Mayor Sears asked if the building would be situated low on the lot and not visible from Hwy. 55 Bypass.

Taylor Blakely, 700 Exposition Place, Raleigh – Mr. Blakely is landscape architect for the project and answered the question. He said the site would be graded and buildings situated and so that the buildings would either be at grade or slightly lower than Hwy. 55 Bypass.

Councilwoman Williams asked how the landscaping buffer would appear.

Mr. Blakely said the plan was to plant double what is required by ordinance, and that, in time, it would be dense and eventually shield the site from the view of Hwy. 55 Bypass in about four or five years.

With that explanation completed, Mayor Sears opened the public hearing. The following testimony and evidence was offered by those who had been administered the oath by the deputy town clerk:

Don Mizelle 208 Premier Drive – Mr. Mizelle, representing the applicant, submitted into the record the official site plan and application for a special exception use addressing the required findings of fact.

He added that the site plan illustrates an attractive set of buildings on a site that otherwise would be a vacant brownfield site.

He also added that the waivers and variances that are being requested are not to serve the needs of the developer but to make the product better for the town.

Councilman Sack complimented the project for using an otherwise brownfield site and for providing a needed commercial service in Holly Springs.

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

Motion 1 of 11: 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-03 as specified in Unified Development Ordinance Section 4.01 Business & Technology to allow for a Self-Storage (Mini-) Warehouse in the BT CU: Business & Technology Conditional Use District.

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: Sack

Second by: Dickson

Vote: Unanimous.

A copy of Special Exception Use Petition #14-SEU-03 is attached to these minutes.

Motion 2 of 11: Having made the necessary findings of fact, the Council approved a motion to approve Special Exception Use Petition #14-SEU-03 as specified in Unified Development Ordinance Section 4.01 Business & Technology to allow for a Self-Storage (Mini-) Warehouse in the BT CU: Business & Technology Conditional Use District with the following condition(s).

- 1. All operations must adhere to the evidence submitted by the applicant as stated in the findings of fact submitted and those findings of fact specified by the Town Council in conjunction with 14-SEU-03.
- 2. Outdoor storage shall not be permitted on the property.

Motion by: Lee

Second by: Cobb

Vote: Unanimous.

Motion 3 of 11: The Council approved a motion to make and accept the findings of fact to be recorded in the minutes for Variance #14-VAR-05 for a variance of Unified Development Ordinance Section 4.01. B. 2.a., to reduce the minimum front yard and building setback along NC 55 bypass - G.B. Alford Highway from 50 feet to 30 feet.

A variance may be granted by the Board if competent and substantial evidence is presented by the applicant which persuades the Board to either reach each of the following conclusions independently or be reasonably able to meet these conclusions upon implementation of conditions by the Board:

- 1. There are practical difficulties or unnecessary hardships that would result from carrying out the strict letter of the UDO. The Board may reach this conclusion if it finds each of the following:
 - a. Based on the size, shape, topography, location, or surroundings, the applicant is prohibited from enjoying the same privileges as other properties in the vicinity and zoning classification in which the property is situated when the UDO is strictly applied;
 - b. The hardship of which the applicant complains results from unique circumstances related to the applicant's property;
 - c. The hardship results from the application of the UDO to the property;
 - d. The hardship is not the result of the applicant's own actions; and,
 - e. The variance if granted must be the absolute minimum needed in order to correct the hardship.

2. The variance is in harmony with the general purpose and intent of the UDO and preserves its spirit.
3. Granting the variance assures the public safety and welfare and does substantial justice.

Motion by: Cobb

Second by: Dickson

Vote: Unanimous.

A copy of Variance Petition #14-VAR-05 is attached to these minutes.

Motion 4 of 11: Having made the necessary findings of fact, the Council approved a motion to approve Variance application #14-VAR-05 for a variance of Unified Development Ordinance Section 4.01. B. 2. a. to reduce the minimum front yard and building setback along NC 55 bypass - G.B. Alford Highway from 50 feet to 30 feet at the property located at 108 Newspaper Way, Wake County PIN 064948316 as submitted by Long Leaf Development Services, in association with Development Plan 14-DP-07 for Storage Max.

Motion by: Dickson

Second by: Cobb

Vote: Unanimous.

Motion 5 of 11: The Council approved a motion to make and accept the findings of fact to be recorded in the minutes for a waiver of regulations of UDO Section 7.06, D., 4., b. Buffer Areas for Development Petition #14-DP-07 for Storage Max to allow existing plant materials in the required buffer area adjacent to NC 55 – G.B. Alford Highway to be removed as submitted by Long Leaf Development Services, dated Revised 6/3/14.

A petition for a waiver of regulations of UDO Section 7.06, D., 4., b. Buffer Areas, may only be granted upon the presentation of sufficient evidence to enable a written determination that:

1. The granting of the waiver will not be detrimental to public safety, health or welfare or injurious to other property
2. Conditions upon the request for a waiver are unique to the property for which a waiver is sought and are not applicable generally to other property
3. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is not carried out
4. The waiver will not contravene the provisions of this UDO or the Comprehensive Plan
5. Where the waiver impacts on the design, construction or maintenance obligations of public facilities, that the appropriate public agency has reviewed and approved the proposed development in writing and the sub divider has submitted a copy of such approval.

Motion by: Williams

Second by: Sack

Vote: Unanimous.

A copy of the waiver petition is attached to these minutes.

Motion 6 of 11: Having made the necessary findings of fact, the Council approved a motion to grant a waiver of regulations of UDO Section 7.06, D., 4., b. Buffer Areas for Development Petition #14-DP-07 for Storage Max, motion to allow existing plant materials in the required buffer area adjacent to NC 55 – G.B. Alford Highway to be removed as submitted by Long Leaf Development Services, dated Revised 6/3/14 with the following condition:

1. The buffer area shall be replanted in accordance with development plan 14-DP-07 for Storage Max. Once the buffer has been reestablished, plant materials within the buffer area shall not be removed unless dead, diseased or threaten to become a danger to human life or property.

Motion by: Cobb

Second by: Sack
Vote: Unanimous.

Motion 7 of 11: The Council approved a motion to make and accept the findings of fact to be recorded in the minutes for a waiver of regulations of UDO Section 4.05, B., 2. c. (2). (b). Variation in Massing for Development Petition #14-DP-07 for Storage Max to allow building bays to exceed 30 feet on building #3 as submitted by Long Leaf Development Services, dated Revised 6/3/14.

A petition for a waiver of regulations of UDO Section 4.05, B., 2. c. (2). (b). Variation in Massing, may only be granted upon the presentation of sufficient evidence to enable a written determination that:

1. The proposed development represents the use of (building materials, building massing and façade treatment, building orientation, signs, landscaping, lighting or open space which will result in a development pattern which is equivalent to or superior to that achievable under the applicable regulations
2. The proposed development will be compatible with and will enhance the use or value of area properties;
3. The proposed development is consistent with the intent of the Comprehensive Plan; and,
4. The proposed development is consistent with the intent and purpose of this UDO.

Motion by: Dickson
Second by: Cobb
Vote: Unanimous.

A copy of the waiver petition is attached to these minutes.

Motion 8 of 11: Having made the necessary findings of fact, the Council approved a motion to grant a waiver of regulations of UDO Section 4.05, B., 2. c. (2). (b). Variation in Massing for Development Petition #14-DP-07 for Storage Max to allow building bays to exceed 30 feet on building #3 as submitted by Long Leaf Development Services, dated revised 6/3/14.

Motion by: Williams
Second by: Cobb
Vote: Unanimous.

Motion 9 of 11: The Council approved a motion to make and accept the findings of fact to be recorded in the minutes for a waiver of regulations of UDO Section 4.05, B., 2. c. (2). (b). Variation in Massing for Development Petition #14-DP-07 for Storage Max to allow building bays to exceed 30 feet on building #4 as submitted by Long Leaf Development Services, dated revised 6/3/14.

A petition for a waiver of regulations of UDO Section 4.05, B., 2. c. (2). (b). Variation in Massing, may only be granted upon the presentation of sufficient evidence to enable a written determination that:

1. The proposed development represents the use of (building materials, building massing and façade treatment, building orientation, signs, landscaping, lighting or open space which will result in a development pattern which is equivalent to or superior to that achievable under the applicable regulations
2. The proposed development will be compatible with and will enhance the use or value of area properties;
3. The proposed development is consistent with the intent of the Comprehensive Plan; and,
4. The proposed development is consistent with the intent and purpose of this UDO.

Motion by: Lee
Second by: Dickson
Vote: Unanimous.

A copy of the waiver petition is attached to these minutes.

Motion 10 of 11: Having made the necessary findings of fact, the Council approved a motion to grant a waiver of regulations of UDO Section 4.05, B., 2. c. (2). (b). Variation in Massing for Development Petition #14-DP-07 for Storage Max to allow building bays to exceed 30 feet on building #4 as submitted by Long Leaf Development Services, dated revised 6/3/14.

Motion by: Cobb

Second by: Dickson

Vote: Unanimous.

Motion 11 of 11: The Council approved a motion to approve Development Plan #14-DP-07 for Storage Max as submitted by Long Leaf Development Services, dated revised 6/3/14, with the following conditions:

1. This project will be required to meet the Town of Holly Springs NPDES Ph. II Post Construction Stormwater Ordinance.
2. The following items must be addressed with the first construction drawing submittal:
 - a. All items listed on the Stormwater Submittal Checklist, Form #16003.
 - b. A site lighting and point-by-point photometric plan shall be submitted for review and approval by the Department of Planning and Zoning should any site lighting be added the site.
 - c. Prior to final approval of the location of the new power pole, provide to the Town the following information: a preliminary design for the area where the pole will be located (or is closest to the existing road), a plan showing preliminary design of the 6 lane widening of NC55 Bypass, the proposed right-of-way in the area and the location of the new pole location.
3. The following items must be addressed prior to construction drawing approval:
 - a. Approval of Storm water Management Plan is required prior to issuance of a land disturbance permit or construction drawing approval.
 - b. Payment of the Storm water Fee-in-Lieu will be required.
 - c. Storm water sureties are required on this project. A performance surety in the form of a bond, letter of credit or cash is required in the amount of 150% estimated construction cost of the storm water BMP prior to the preconstruction meeting and a maintenance surety in the form of a cash escrow account in the amount of 35% the actual construction cost of the BMP is required at the end of the performance monitoring period for the project.

Motion by: Sack

Second by: Dickson

Vote: Unanimous.

7. 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:

7a. Minutes – The Council approved minutes of the Council's meeting held July 1, 2014.

7b. Budget Amendment Report – The Council received monthly report of amendments to the FY 2013-14 budget approved by the town manager. *A copy of budget amendment report is attached to these minutes.*

7c. Resolution 14-17 -- The Council adopted Resolution 14-17 declaring certain personal property surplus to the needs of the town. *A copy of Resolution 14-17 is attached to these minutes.*

7d. Resolution 14-18 – The Council adopted Resolution 14-18 requesting NCDOT release Earp Street for inclusion in the town's street system. *A copy of Resolution 14-18 is attached to these minutes.*

8a. Smoking Ordinance and Trespassing / Vandalism Policy - Mr. Schifano said that pursuant to direction of the town council, amendments of the town code were prepared. They are principally as follows:

He said that in Section 12-350, "Use of Town Parks" was amended to state that anyone who is on park property after hours or in a portion of a park that is closed is a trespasser. It explicitly gives the authority to an officer to charge the person with a town citation instead of a criminal offense in the event that there is no evidence that the person was there to do damage. Section 12-352 was added to describe that the town citations are as follows: \$25 for the first offense, \$50 for a second offense (within the last 10 years), and \$75 for the third. If someone has more than three offenses, and it is an offense that can be charged criminally, the ordinance states that the officer shall issue a criminal summons. There is a right of appeal in the manner of an administrative procedure.

The smoking prohibition, he said, was also prepared following a request by Councilwoman Lee more than a year ago. He said there was a delay in the ordinance preparation but that the need for the law addressing trespassing was a catalyst.

Councilman Sack asked if there was a way to add a provision for community service to the ordinance, either instead of or in addition to the monetary fine.

Councilman Sack said he felt the proposed fines were reasonable but he would be in favor, too, of adding community service for offenders who are old enough.

Action: The Council considered a motion to adopt Ordinance 14-05 amending the Town Code of Ordinances, Section 12 Article VI, Division 3 Sections 12-350 - 12-352 as submitted and with changes to Section 12-352 as discussed.

Motion by: Sack

Second by: Cobb

In discussion, Councilman Dickson said the motion as stated would put the Council in the position of adopting an ordinance that is not yet written. He suggested an amendment to the motion that would allow the Council to vote to approve the amendment regarding smoking but to bring back the amendment to Sections 12-352 addressing enforcement and fines after it is rewritten.

Councilman Sack agreed to amend his motion.

Action: The Council approved an amended motion to adopt Ordinance 14-05 amending the Town Code of Ordinances, Section 12 Article VI, Division 3 Sections 12-350 and 12-351 as submitted; and to direct the town attorney to bring back to Council an ordinance to amend the text of Section 12-352 (enforcement and fines) to provide for community service in the following amounts of time in addition to the stated fines: five hours for a first-time offense; 10 hours for a second-time offense; and 20 hours for a third-time offense; and then a \$200 fine for not providing the required community service.

Motion by: Sack

Second by: Cobb

Vote: Unanimous.

8b. Branding Study Consultant Selection - Ms. Mizelle said that staff issued a request for proposals for a branding study for the Town of Holly Springs. We received 11 submissions and narrowed the list to three firms that were interviewed July 8 and 9. The branding study committee includes Gina Clapp, Jenny Mizelle, LeeAnn Plumer, Joni Powell and Daniel Weeks.

She said that all members on the committee agreed that the strongest presentation and responses were received from Washington D.C. firm Streetsense.

The committee felt that Streetsense would heavily engage with the community of businesses and residents so that the story/identity/brand that results would represent not just the Town organization, but the community of Holly Springs. It is estimated that the process will take between four and five months and be completed before the end of the calendar year. Streetsense estimates a project cost of \$65,000.

Action: The Council approved a motion to retain the services of Streetsense in an amount not to exceed \$65,000 for a community branding study and brand implementation.

Motion by: Williams

Second by: Dickson

Vote: Unanimous.

9. Other Business: Mayor Sears continued his campaign on crosswalk safety and he urged residents to observe state law that requires motorists to stop for pedestrians in crosswalks. He reported on a local anti-bullying campaign.

Councilwoman Williams said the July 5 celebration was great, and she commended the parks and recreation staff.

Councilman Sack commented on the new Holly Spring magazine and suggested that staff use it to communicate about and invite citizens to participate in the branding study

10. Manager's Report: Mr. Simmons reported on upcoming events.

At this time, the Council agreed to call a special meeting for 6 p.m. Wednesday, Aug. 20, 2014 for a workshop on the Town's financing options for capital improvement projects.

11. Closed Session: The Council approved a motion to enter Closed Session, pursuant to North Carolina General Statute 143-318.11(a)(3) to discuss settlement opportunities for land acquisition matters.

Motion by: Sack

Second by: Cobb

Vote: Unanimous

General Account of Closed Session – July 15, 2014.

In general, Council received a report from the town attorney on property owners and settlement amounts proposed for each in the Main Street Extension project.

The Council approved a motion to authorize the town attorney to negotiate within the amounts described in the report to obtain the right of way needed for the road project.

Motion by: Sack

Second by: Cobb

Vote: Unanimous.

The town attorney then reported that the value of one property owner's land might have to be increased to avoid court. He said he would let the Council know if this were the case.

The Council then approved a motion to return to open session following a motion by Councilman Sack, a second by Councilman Cobb and a unanimous vote.

-- End of General Account

12. Adjournment: There being no further business for the evening, the July 15, 2014 meeting of the Holly Springs Town Council was adjourned. The motion was made by Councilman Cobb and seconded by Councilman Sack.

Respectfully Submitted on Tuesday, Aug. 5, 2014.

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Meeting



Town Clerk

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