



May 17, 2011

MINUTES

The Holly Springs Town Council met in regular session on Tuesday, May 17, 2011 in the Council Chambers of Holly Springs Town Hall, 128 S. Main Street. Mayor Pro Tem Tim Sack presided, calling the meeting to order at 7 p.m. A quorum was established as five council members were present as the meeting opened.

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

Council Members Absent: Mayor Sears.

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; Glen Lamb, IT technician; Niki Litts, communications specialist; Luncie McNeil, public works director; Stephanie Sudano, director of engineering; Elizabeth Goodson, development review engineer; Jenny Mizelle, director of economic development; Irena Krstanovic, economic development coordinator; John Herring, police chief; Gina Clapp, director of planning and zoning; Mark Zawadski, planner I; Erika Phillips, human resources director; Len Bradley, parks and recreation director; Cecil Parker, fire chief; and Drew Holland, finance director.

2 and 3. The Pledge of Allegiance was recited, and the meeting opened with an invocation by Councilman Womble.

4. Agenda Adjustment: The May 17, 2011 meeting agenda was adopted with changes, if any, as listed below.

Motion By: Cobb

Second By: VanFossen

Vote: Unanimous

Items added to Agenda: Item 9f., street improvements project change order.

Items removed from Consent Agenda: Item 8c., wellness incentive.

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: None.

6a. Storm Debris Removal Report – Mr. McNeil reported on the status of the Town's progress of storm debris removal and asked the Council to set a date for the discontinuation of free storm debris clean-up.

Mr. McNeil said he believes that the Town is 95% complete with its storm debris removal. He asked that the Council consider setting an end date.

He thanked citizens for their patience during the process.

Action: The Council approved a motion to set June 1, 2011 as the date for discontinuation of free storm debris collection.

Motion By: Womble

Second By: Williams

Vote: Unanimous

7a. Public Hearing: Special Exception Use Petition Amendment 10-SEU-03-A01 - Mr. Zawadski said the Town has received a request for an amended Special Exception Use permit for a kennel with enlarged outdoor runs to be located at 250 Premier Drive.

The property is 1.17 acres and is located near the intersection of Premier Drive and Green Oaks Parkway.

He said a Special Exception Use for a kennel with outdoor runs and a veterinary hospital was approved at this location in August 2010. The business owner now is requesting to expand the outdoor run area from 1,440 square feet to 11,758 square feet. The new outdoor area is proposed to be located in the northwest corner of the property and would be screened from street view by the two existing buildings and retaining wall along the northern property line.

The area would be enclosed with a six-foot chain-link fence and screened by 15 six-foot leland cypress trees along the southern side of the fence. No other modifications are proposed to the building exterior or property.

Councilman Sack asked if the existing project was meeting previous directives.

Ms. Goodson and Ms. Sudano said the property user was in temporary compliance with stormwater regulations after having received a notice of violation. Ms. Sudano said the applicant had been put under violation after dog waste left outside became a problem with stormwater draining from the property into Utley Creek. The applicant worked with engineering staff to put in place some procedural changes at the kennel that has put the applicant in temporary compliance with stormwater rules.

Ms. Mizelle addressed the Council noting that she initially had believed that the facility was going to be enclosed. She said she did not feel there was sufficient evidence that the use is compatible with surrounding uses, and she feels it would be inconsistent with the goals of development of the Holly Springs Business Park.

With that explanation completed, Mayor Pro Tem Sack opened the public hearing to accept sworn testimony and qualified evidence. The following testimony was recorded under oath administered by the Deputy Town Clerk:

Beth Ann Young, Willow Spring – Ms. Young is the applicant. She said all the boarding and housing of the dogs is enclosed, but the dogs need exercise and fresh air and to use the bathroom. She explained that there is a small asphalt pad on which the dogs can exercise. The current facility actually causes the stormwater discharge problems, and the larger, grassy area would be the solution.

Councilman Sack said he was concerned about the marketing of the vacant property to the north. He said he would think the lease or sale of the property would be more difficult with a kennel next door with 11,000 square feet of outdoor runs.

Laura Carow, Apex – Ms. Carow is the owner of the parcel to the north, and she said she felt that if there is an outdoor run, it may be a concern for her potential tenants. She said she is not in favor of the expansion.

Abel Zalcborg, Cary -- Mr. Zalcborg is the owner of OFM in the Holly Springs Business Park. He said, while he likes to see business owners succeed, he is against the requested expansion. He testified that he visited a similar facility in Durham, and noise was a problem, even from many feet away, he said. He said he feels the hygiene also is going to be a factor. He asked the Council to table the decision and visit a similar facility before making a decision.

Councilman VanFossen said he thinks the Council needs to keep in mind that the amendment is for an expansion of the space, but not an increase in the number of dogs. The original business was approved with 20 dogs to be allowed outside. There still would be only 20 dogs outside, but just within a larger space.

Councilman Cobb said he has a concern about the stormwater management issue.

Councilman VanFossen said for the record that he was the architect for the original project, but has no financial interest in the project now. He told the Council that the parking lot storm drain had been blocked so that no animal waste tinged water can flow into it.

Councilman Sack said he feels he does not want to approve an expansion because the property has had stormwater violations, brought on by run-off from the dog run area. He said he also was concerned about the impact a larger dog run would have on neighboring properties and general development in Holly Springs Business Park.

Councilwoman Williams said she is concerned about run-off and is leaning toward tabling the question until she gets more information. She said she sees both sides of the question.

Councilman Womble said he supports local businesses, but he does not think the expansion would benefit the Holly Springs Business Park.

Councilman VanFossen said he supports the request because the only difference would be that the 20 dogs that are going out now in a small run would be in a bigger space.

Ms. Young addressed the Council to say her stormwater issues are because the original spot is asphalt, and this expansion would actually solve the problem as grass would filter water run-off. She said there is a retaining wall between this and the neighboring property; there is natural woods and landscaping.

Councilman Cobb asked if approval of the permit request would improve the stormwater management problems.

Ms. Sudano said yes, given a written plan for waste removal is submitted and approved.

Councilman Sack asked if the applicant had prepared a stormwater management plan with the original building.

Ms. Sudano said it was required, but the applicant did not do so.

Councilman Sack said he had no confidence the applicant's record.

Councilman VanFossen began to speak, but Councilman Womble interjected and asked the Town attorney if it was appropriate for Councilman VanFossen to be speaking in such fashion since he was the architect on the project.

Mr. Schifano said the statute specifically speaks to Council members who have a direct financial interest in the subject. Because Mr. VanFossen had already been paid and his vote on the permit would have no direct correlation to his income, Mr. VanFossen would not be required to excuse himself.

The question is, Mr. Schifano said, does anyone have any objections to his participation.

The Council indicated that no one had objections.

Ms. Young said this expansion was the most logical solution to respond to the stormwater issues. Having the dogs run in a larger, grassy area would naturally improve run-off from the property.

Councilwoman Williams said, then, the remaining issues from speakers are noise and odor.

Mr. Zawadski added that noise and odor are addressed in the conditions of approval. He confirmed when Ms. Young said the Town had not received any complaints of noise or odor. He said if the Town did receive complaints about noise or odor, the approval condition could be enforced.

Councilman Womble said there are no conditions that could be enforced that would address the concerns of speakers who addressed difficulties about the leasing of 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 provided to them by the applicant and to be recorded in the minutes for Special Exception Use Petition #10-SEU-03-A01 for Doggie Village to allow for a kennel with outdoor runs as submitted by Thompson and Associates, date revised 4/11/2011.

Special Exception Use Findings of Fact:

A special exception use may be granted only upon the presentation of sufficient evidence to enable a written determination that:

- a. The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;
- b. The proposed use will not injure or adversely affect the adjacent area;
- c. The proposed use will be consistent with the character of the district, land uses authorized therein, and the Town of Holly Springs Comprehensive Plan;
- d. The proposed use shall conform to all development standards of the applicable district (unless a waiver of such development standards is requested as part of the special exception use petition and approved as set forth above, in which case the proposed use shall conform to the terms and conditions of such waiver).
- e. Access drives or driveways are or will be sufficient in size and properly located to: ensure automotive and pedestrian safety and convenience, traffic flow as set forth in Section 7.09 – Pedestrian Circulation and Vehicular Area Design; and, control and access in case of fire or other emergency;
- f. Off-street parking areas, off-street loading areas, trash enclosures, trash pick-up and removal, and other service areas are located so as to be safe, convenient, allow for access in case of emergency, and to minimize economic, glare, odor, and other impacts on adjoining properties and properties in the general neighborhood;
- g. The lot, building or structure proposed for the use has adequate restroom facilities, cooking facilities, safety equipment (smoke alarms, floatation devices, etc.), or any other service or equipment necessary to provide for the needs of those persons whom may work at, visit or own property nearby to the proposed use;
- h. Utilities, schools, fire, police and other necessary public and private facilities and services will be adequate to handle the needs of the proposed use;
- i. The location and arrangement of the use on the site, screening, buffering, landscaping, and pedestrian ways harmonize with adjoining properties and the general area and minimize adverse impacts; and,
- j. The type, size, and intensity of the proposed use (including but not limited to such considerations as the hours of operation and numbers of people who are likely to utilize or be attracted to the use) will not have significant adverse impacts on adjoining properties or the neighborhood.

Motion By: VanFossen

Second By: Williams

Vote: The motion carried, following a 3 to 2 vote. Councilmen Cobb and VanFossen and Councilwoman Williams voted for the motion. Councilmen Womble and Sack voted against.

A copy of Special Exception Use Petition 10-SEU-03-A01 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-03-A01 for Doggie Village to allow for a kennel with outdoor runs as submitted by Thompson and Associates, date revised 4/11/2011 with the following conditions:

1. All previous approval conditions for this Special Exception Use will apply to this amendment.

2. Dogs are not to be boarded on the existing asphalt.
3. All roof drainage must discharge outside the enclosed area adjacent to the building.
4. Within 10 days of the Town Council approval the following will need to be addressed: Provide method of removing and disposal location of solid waste from the open run area.
5. Prior to use of the outdoor runs, the entire outdoor run area and surrounding "Existing Grass Area" as noted on the plans shall be grassed and provided with a permanent vegetative stabilization as approved by the Department of Engineering.
6. The applicant has submitted Findings of Fact providing commitments on the operation of the proposed Special Exception. These commitments are integral with the Town Council's Findings and Approval of the Special Exception. Violation of the following will result in revocation of the Special Exception Use:
 - The outdoor dog run shall be operated at all times in such a manner that:
 - a. Animals are supervised at all times
 - b. Limited to a maximum of 20 animals at one time
 - c. Limited to a maximum of 4 hours of operation per day
 - All dogs shall be within the enclosed area only when not in the building
 - All outdoor solid waste shall be collected immediately and disposed of properly
 - All outdoor liquid waste shall be infiltrated into the grass vegetation
 - Noise levels shall be monitored and controlled so as not to affect the general public or interfere with the operation of adjacent properties
 - Odors shall be eliminated so as not to affect the general public or interfere with the operation of adjacent properties
 - The outdoor run shall be fenced and screened with landscaping as required by the UDO
 - No waivers of the UDO shall be requested.

Motion By: VanFossen

Second By: Williams

Vote: The motion carried, following a 3 to 2 vote. Councilmen Cobb and VanFossen and Councilwoman Williams voted for the motion. Councilmen Womble and Sack voted against.

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 Womble, a second by Councilman Cobb and a unanimous vote. The following actions were affected:

8a. Minutes – The Council approved minutes of the Council's regular meeting held April 5, 2011.

8b. Budget Amendment Report – The Council received a monthly report of amendments to the FY 2010-11 budget approved by the town manager. *A copy of the budget amendment report is incorporated into these minutes as addenda pages.*

8c. Routine Annual Health Physical Incentive Policy – This item was removed from the Consent Agenda for discussion during agenda adjustment.

8d. Budget Amendment, \$20,000 - The Council adopted an amendment to the FY 2010-2011 budget in the amount of \$20,000 to cover costs of the Wake County hazardous materials program and for repairs to a water line. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

8c. Routine Annual Health Physical Incentive Policy – Ms. Phillips explained that staff suggests that the Town initiate a policy in which the Town will provide eight hours compensatory time for those employees who undergo a routine annual health physical.

The Town faces annual insurance premium increases mainly because the Town, as a group, has a lot of claims against its policy. She said the Town would be switching insurance carriers this year, and the objective is to encourage workers to stay well and take logical steps to maintain their health so that our insurance premiums can be maintained.

Councilwoman Williams said she would like to see a report at the end of the year to determine if it worked.

Action: The Council approved a motion to provide as a wellness incentive eight hours of compensatory time to employees for obtaining their health physicals from July 1, 2011 to June 30, 2012.

Motion By: Womble

Second By: Williams

Vote: Unanimous

9a. Bass Lake Park Enhancement Project – Mr. Bradley said that a bid for Bass Lake construction recently was requested. He said the work includes: construction of a shelter, restrooms and a parking lot. He said that three bids were received, but one withdrew. The other two bids were received from Primo Design Build Inc. with an estimate of \$71,419 and JGM Construction with an estimate of \$114,754.82.

Mr. Bradley said staff recommends the low bidder.

Action: The Council approved a motion to enter a contract with Primo Design Build Inc. in the amount of \$71,419 for construction of a shelter, restrooms and parking lot at Bass Lake Park.

Motion By: VanFossen

Second By: Cobb

Vote: Unanimous

9b. Bass Lake Park Enhancement Project - Mr. Bradley said that a bid for the purchase of a materials kit for the Bass Lake shelter recently was requested. He said three bids were received: Hasley Recreation & Design Inc. for \$27,772.56; Churchich Recreation Design Inc. for \$25,768.41; and Piedmont Parks Inc. for \$21,717.01. The lowest bidder was Piedmont Parks Inc.

Mr. Bradley said staff recommends the low bidder.

Action: The Council approved a motion to enter a contract with Piedmont Parks Inc. in the amount of \$21,717.01 for the purchase of a materials kit for a picnic shelter at Bass Lake Park.

Motion By: VanFossen

Second By: Cobb

Vote: Unanimous

9c. Bass Lake Road Sidewalk Project- Mr. Schifano said that, pursuant to the Town Council's direction, staff reduced a sidewalk easement from an eight-foot width to a five-foot width for properties in front of the county subdivision of Mills Lake on Bass Lake Road. The Council on Aug. 4, 2009 issued a condemnation resolution on these properties; however, in an effort to accommodate the concerns of the property owners in hopes of a voluntary purchase, the Council directed staff to reduce the easement area.

Mr. Schifano said that, unfortunately, reduction in the sidewalk, after numerous attempts with the landowners, did not result in a voluntary purchase of all of the easement area.

Therefore, legal action will be necessary. He said that the request is for approval of a condemnation resolution identifying the properties for sidewalk easement.

Action: The Council approved a motion to adopt Resolution 11-14, a condemnation resolution authorizing the Town Attorney to initiate condemnation actions against the homeowners listed in Exhibit A of the resolution.

Motion By: Womble

Second By: Williams

Vote: Unanimous

A copy of Resolution 11-14 is incorporated into these minutes as addenda pages.

9e. Avent Ferry Road Fire Station Project – Mr. Parker said the Town of Holly Springs Fire Station on Avent Ferry Road was damaged during the April 16 tornado, which lifted the roof off the building and set it back down. Structurally, the building is not sound, and the Town's insurance company had declared the building a total loss.

He said the insurance will be provided to replace the building, including architectural services.

He said presented Council with a proposal from Maurer Architecture of Raleigh in an amount not to exceed \$30,000 for design services, construction drawings and construction administration services.

Chief Parker said it is anticipated that a new facility would be operational by the spring of 2012. In the meantime, temporary quarters for personnel and equipment are being arranged.

Councilman Womble asked about the designation of Fire Station No. 2. He asked why the station, which formerly had been referred to as Station No. 1, was now being referred to as Station No. 2..

Chief Parker said when the new building that is now Station No. 1 was designed as a headquarters, it was referred to as Station 1. He said the Avent Ferry Road station then changed to No. 2.

Action: The Council approved a motion to retain the services of Maurer Architecture of Raleigh in an amount not to exceed \$44,300 for design, engineering and administration services to rebuild Avent Ferry Road fire station.

Motion By: Womble

Second By: Cobb

Vote: Unanimous

9d. July 5 Town Council Meeting - Mr. Dean said that the Council's calendar of regular meetings includes a meeting to be held Tuesday, July 5. The Town hosts an Independence Day celebration each year from 5 p.m. to 9 p.m. for fireworks on July 5 at Womble Park.

He said to avoid the conflict, if the Council agrees, the July 5 Council meeting can be cancelled and business can be scheduled for the July 19 meeting.

Action: The Council approved a motion to amend the 2011 calendar of regular meetings by cancelling the July 5 meeting.

Motion By: VanFossen

Second By: Williams

Vote: Unanimous

9f. Street Improvements Project – Ms. Sudano said staff recommends adding the paving of Treatment Plant Road to the current FY 2010-11 Street Improvement Project, which received very good bids on resurfacing and paving earlier this year. The change order would amount to \$43,912.85.

In addition, there are a few additional work change directives to the project that will be memorialized in a change order later in the amount of \$11,464.99.

Because the construction bid came in way below the amount that had been budgeted for this project, there are funds in the budget to cover most of these changes; however, the project will need \$13,050 in additional Powell Bill funds.

Action #1: The Council approved a motion to approve a FY 2010-11 Street Improvement Project change order to include the paving of Treatment Plant Road and additional work change directives in the project.

Motion By: Cobb

Second By: Womble

Vote: Unanimous

Action #2: The Council approved a motion to adopt an amendment to the FY 2010-11 budget in the amount of \$13,050 to provide the additional funding needed from Powell Bill funds to cover the entire street improvement project, including changes.

Motion By: Cobb

Second By: Womble

Vote: Unanimous

10. Other Business: None.

11. Manager's Report: Mr. Dean said a health fair for employees would be Thursday; the Arbor Creek boardwalk dedication also is Thursday; and he reminded Council of upcoming events, including Turtlefest, the Farmers Market, and the budget workshop.

12. Closed Session: The Council approved a motion to enter into Closed Session, pursuant to NCGS 143-318.11(a)(5), to discuss and give the town attorney parameters for the acquisition of property.

Motion By: Cobb

Second By: VanFossen

Vote: Unanimous.

General Account Closed Session – May 17, 2011

In Closed Session, the Council discussed with the Town Attorney and gave direction to staff regarding the acquisition of property for the Grigsby Avenue sidewalk. A limit was set at \$20,000, following a motion by Councilman Cobb, a second by Councilman VanFossen and a unanimous vote.

Mr. Dean then advised Council that a little over 17 acres in downtown was being made available for sale and well below appraised value. He asked if the Council were interested in buying the property.

Action: The Council approved a motion to direct staff to enter negotiations with the property owner with a purchase limit of \$650,000.

Motion by: Williams

Second by: VanFossen

Vote: Unanimous


-- End of the General Account

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

Councilman VanFossen made a motion to return to Open Session, and it was seconded by Councilman Cobb. The vote was unanimous in favor of the motion.

13. Adjournment: There being no further business for the evening, the May 17, 2011 meeting of the Holly Springs Town Council was adjourned following a motion by Councilman VanFossen, a second by Councilman Cobb and a unanimous vote.

Respectfully Submitted on Tuesday, Aug. 2, 2011.



Joni Powell, MMC, Town Clerk

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

