



Sept. 20, 2011

## MINUTES

The Holly Springs Town Council met in regular session on Tuesday, Sept. 20, 2011 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 three council members were present as the meeting opened.

**Council Members Present:** Mayor Sears and Councilmen Jimmy Cobb, Parrish Womble and Tim Sack.

**Council Members Absent:** Councilman Chet VanFossen and Councilwoman Linda Hunt Williams.

**Staff Members Present:** Carl Dean, 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; Jeff Jones, senior planner; Laura Powell, planner I; Drew Holland, finance director; Elizabeth Goodson, development review engineer; Stephanie Sudano, director of engineering; Jeff Wilson, information technology director; and Mark Andrews, public information officer.

**2 and 3.** The Pledge of Allegiance was recited, and the meeting opened with an invocation by Rev. Horace Ferguson, retired.

**4. Agenda Adjustment:** The Sept. 20, 2011 meeting agenda was adopted with changes, if any, as listed below.

**Motion By:** Sack

**Second By:** Womble

**Vote:** Unanimous

**Items added to Agenda:** None.

**Items removed from Consent Agenda:** 8d. Presidio Technology Capital lease agreement for data storage.

**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. Public Hearing: Special Exception Use Petition 11-SEU-05** – Ms. L. Powell said the Town has received a Special Exception Use request from The Holly Springs Food Cupboard to locate its operation in an existing structure located at 621 West Holly Springs Road. The property currently is zoned R-10: Residential, and under the Special Exception Use "Miscellaneous Use" category, the applicant is able to request for the organization to locate their offices and food distribution facility at this location.

She said the Holly Springs Food Cupboard currently serves the needs of households throughout the community and has a desperate need to set up a permanent location in town to better serve these families.

No exterior changes to the structure are being proposed, except adding the required handicapped-accessible improvements, resulting in a wheelchair ramp as well as a paved handicap off-street parking space.

The applicant also is seeking waivers for development requirements for the road improvements on W. Holly Springs Road along the property frontage, as well as paved parking requirements for the remaining off-street parking area and an exception for the curb and gutter for the required off-street parking lot, which are all requirements any developer must do when developing a property in Holly Springs.

For the record, Councilman Cobb noted that he is treasurer for the Holly Springs Food Cupboard board of directors and he does not have a direct personal financial interest in the matter.

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:

Bruce Meyer, 5005 Sunset Fairways – Mr. Meyer, a member of the Holly Springs Food Cupboard board of directors, spoke in favor of the application.

Councilman Womble said he was glad the food cupboard was able to acquire the property and finally have a place for operations.

There being no testimony, the public hearing was closed.

**Action #1:** The Council approved a motion to make and accept the findings of fact to be recorded in the minutes for Special Exception Use Petition #11-SEU-05 for Holly Springs Food Cupboard to allow for a Miscellaneous Use (non-profit organization) at the property located at 621 W. Holly Springs Road, Wake County PIN 0649636389.

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:** Sack

**Second By:** Womble

**Vote:** Unanimous

*A copy of Special Exception Use Petition 11-SEU-05 addressing the findings of fact is incorporated into these minutes as addenda pages.*

**Action #2:** 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 7.07 B. 14. a. to allow for the applicant not to construct the required road improvements along the subject property frontage for Special Exception Use Petition #11-SEU-05 for Holly Springs Food Cupboard as submitted by Tony Perna.

**Waiver Findings of Fact:** A petition for a waiver of regulations of UDO Section 7.07 B. 14. a. to allow for the applicant not to construct the required road improvements along the subject property frontage 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 subdivider has submitted a copy of such approval.

**Motion By:** Sack

**Second By:** Womble

**Vote:** Unanimous

**Action #3:** Having made findings of fact that the petition meets the requirements to be granted a waiver, the Council approved a motion to approve a waiver of regulations of UDO Section 7.07 B. 14. a. to allow for the applicant to not construct the required road improvements along the subject property frontage for Special Exception Use Petition #11-SEU-05 Holly Springs Food Cupboard as submitted by Tony Perna.

**Motion By:** Womble

**Second By:** Sack

**Vote:** Unanimous

**Action #4:** 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 7.04 D. 2. a. Surface of

Parking Areas to allow for relief of the paved parking requirement for Special Exception Use Petition #11-SEU-05 for Holly Springs Food Cupboard as submitted by Tony Perna.

Special Exception Use Findings of Fact: A petition for a waiver of regulations of UDO Section 7.04 D. 2. a. Surface of Parking Areas to allow for relief of the paved parking requirement may only be granted upon the presentation of sufficient evidence to enable a written determination that:

- 1) The proposed pedestrian circulation and vehicular area design 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 the UDO.

**Motion By:** Sack

**Second By:** Womble

**Vote:** Unanimous

**Action #5:** Having made findings of fact that the petition meets the requirements to be granted a waiver, the Council approved a motion to approve a waiver of regulations of UDO Section 7.04 D. 2. a. Surface of Parking Areas to allow for relief of the paved parking requirement for Special Exception Use Petition #11-SEU-05 Holly Springs Food Cupboard as submitted by Tony Perna.

**Motion By:** Womble

**Second By:** Sack

**Vote:** Unanimous

**Action #6:** The Council approved a motion to approve an exception to the Engineering Design and Construction Standards Section 3.02-G in association with Special Exception Use Plan #11-SEU-05 for Holly Springs Food Cupboard, to waive the requirement of providing curb and gutter on all parking lots submitted by Tony Perna, dated revised 7/19/11.

**Motion By:** Sack

**Second By:** Womble

**Vote:** Unanimous

**Action #7:** 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 #11-SEU-05 for Holly Springs Food Cupboard as submitted by Tony Perna, dated revised 7/19/11.

**Motion By:** Sack

**Second By:** Womble

**Vote:** Unanimous

**7a. Variance Application Fee Waiver** – Mr. Sean Ottaly, 301 Somerset Farm Drive, requested the Town Council waive the \$500 application fee for a variance from the Board of Adjustment.

Mr. Ottaly said that he erected a shed on his property. Inadvertently, the shed foundation was installed in apparent violation of the Town Code. To rectify the situation, he must obtain an after-the-fact variance from the Board of Adjustment, and the application fee is \$500.

Mr. Ottaly claimed that Town staff did not return his phone calls in 2010 when he called to find out about the proper setbacks. He asked the Council to consider waiving the application fee.

Mr. Ottaly said he would happily pay associated costs for advertisement.

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Mr. Ottaly said the shed is about 80% complete and is built on a permanent foundation and cannot be moved. He said he has spoken with the neighbor whose property line is nearest the shed, and the neighbor said he would be happy to testify that he is okay with the structure.

Mr. Ottaly said that if he could move the shed he would. The shed is built off a top plate that is bolted in eight locations to the cinder block cemented foundation.

Councilman Sack said he was reluctant to require the Town to incur the cost of the resident's mistake by waiving the application fee.

**Consensus:** The consensus of the Council was that the application fee should not be waived. No action was taken.

**8. 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:

8a. Minutes – The Council approved minutes of the Council 's regular meeting held Sept. 6, 2011.

8b. Budget Report – The Council received a monthly report of amendments to the FY 2011-12 budget approved by the town manager. *A copy of the budget amendments report is incorporated into these minutes as an addendum page.*

8c. Resolution 11-33 - The Council adopted Resolution 11-33 declaring a police bus vehicle and various phone and electronics equipment surplus to the needs of the Town. *A copy of Resolution 11-33 is incorporated into these minutes as an addendum page.*

8d. Presidio Technology Capital Lease Agreement - The Council removed this agenda item from the agenda during agenda adjustment.

8e. Fuel Management System Upgrades - The Council approved to enter into a sales agreement with Jones & Frank for an upgraded fuel management system for \$22,363.61.

8f. Budget Amendment, \$10,000 – The Council adopted amendments to the FY 2011-12 budget in the amount of \$10,000 to acquire easements for utility lines. *Copies of the budget amendments are incorporated into these minutes as an addenda pages.*

8g. Trotter Bluff Subdivision Sign – The Council accepted a letter from a resident as adequate indemnification and hold harmless agreement for sign installation at Trotter Bluffs subdivision. *A copy of the hold harmless agreement is incorporated into these minutes as addenda pages.*

8h. Forest Springs Subdivision IRA - The Council approved to enter an amended infrastructure reimbursement agreement with the new developer of Forest Springs subdivision.

**9. Other Business:** Mayor Sears reported that most mayors in Wake County have indicated no support for a light rail system nor the half-cent sales tax increase that is being requested. He said the State is still seeking public input and he encouraged citizens to voice their concerns that they do not want an additional tax unless Holly Springs would benefit from it.

Councilman Sack added that the Town is expected to adopt an interlocal agreement to support the half-cent sales tax. In exchange, the only benefit Holly Springs would be bus services.

**10. Manager's Report:** Mr. Dean reminded the Council of the North Carolina League of Municipalities annual meeting scheduled for October in Raleigh.

Mayor Sears

He reported on the successful Chili Cook-Off held at the Holly Springs Farmers Market Sept. 17.

He updated the Council on the proposed extension of Main Street, which will run cross-country to connect to Piney Grove-Wilbon Road. He noted that there are a number of proposed alignments, and public input is being sought for the project.

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Ms. Sudano added that the Town received a grant for planning and environmental studies for this project. This work is being done right now, she said. Next fall, the Town will begin acquiring right of way. The next year, Ms. Sudano said, the Town will apply for a grant for construction.

In the end, town officials hope the new roadway will provide traffic congestion relief for Avert Ferry Road and a main corridor for traffic in service to developing property in that area.


Mr. Dean reminded the Council of Dog Day in the Park, Bass Lake Day and the dedication of a historical marker for Bass Lake and other upcoming events and meetings.

Councilman Sack reported that the General Federation Women's Club will be hosting a candidates forum in October.

**11. Closed Session:** None.

**12. Adjournment:** There being no further business for the evening, the Sept. 20, 2011 meeting of the Holly Springs Town Council was adjourned following a motion by Councilman Cobb, a second by Councilman Sack and a unanimous vote.

Respectfully Submitted on Tuesday, Oct. 4, 2011.



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Joni Powell, MMC, Town Clerk

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

