



May 15, 2012

MINUTES

The Holly Springs Town Council met in regular session on Tuesday, May 15, 2012 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 and Councilmen Jimmy Cobb, Chet VanFossen and Tim Sack and Councilwomen Cheri Lee and Linda Hunt Williams.

Council Members Absent: None.

Staff Members Present: Carl Dean, town manager; Chuck Simmons, assistant town manager; John Schifano, town attorney; Joni Powell, town clerk (recording the minutes); Gina Clapp, director of planning and zoning; Laura Powell, planner I; Eric Tayler, information technology technician; Drew Holland, finance director; Larry Boykin, assistant finance director; Len Bradley, director of parks and recreation; Stephanie Sudano, director of engineering; Elizabeth Goodson, development review engineer; Luncie McNeill, public works director; Jenny Mizelle, director of economic development; John Herring, police chief; Daniel Weeks, project analyst; 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 May 15, 2012 meeting agenda was adopted with changes, if any, as listed below.

Motion By: Sack

Second By: Cobb

Vote: Unanimous

Items added to Agenda: None.

Items removed from Consent Agenda: None.

Items removed from the agenda: None.

Other changes: Add Item 9h, a budget amendment, to the Consent Agenda.

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:

Nick Gervase, 408 Settlecroft Lane - Mr. Gervase addressed the Council, saying that he had concerns about a potential tax rate increase. He said he did not believe the possibility of a tax increase was emphasized to voters during the parks and recreation bond referendum. He said he would support a tax increase for "needs" of the Town, but not "wants." He said he would consider parks and recreation improvements to be "wants."

He said he would rather see the town improve existing parks and recreation facilities.

He said he did not believe a new gym, a proposed bond-funded project, was necessary.

Dean Ness, 137 Morena Drive - Mr. Ness addressed the Council to support a well-run tennis facility. He asked that the Council start with eight courts with an online reservation system with restrooms and a shelter and room for expansion.

Rick Whately, 4808 Salem Ridge - Mr. Whately also supported development of a premium public tennis facility. He said the Town needs an eight-court managed tennis facility that would accommodate public play and tournament play.

Gerald Holleman, 5625 Easton Street -- Mr. Holleman said he saw the Mims Park plan, and he likes it. He said he wished the Leslie-Alford-Mims house was part of it because it is the last vestige of history in Holly Springs. He suggested a staff-generated public/private partnership to acquire the property and use it for a senior center.

He noted that the population of children in Holly Springs today is more than the entire population of the town in the late 1990s when a first parks and recreation bond referendum was held, which resulted in the Womble Park complex he hopes can now be completed.

Joe Mayconich, 153 Summit Oaks Lane - Mr. Mayconich supports a tennis complex as a family activity. He said folks move to the community and begin seeking out recreational facilities, and he said he believes Holly Springs needs facilities for tennis players.

6a. National Women's Health Week - Mayor Sears announced that National Women's Health Week is an annual observation sanctioned by the President of the United States. The purpose is for women to celebrate taking responsibility for their own health through greater knowledge and understanding and for public and private women's health partners to improve awareness of key women's health issues.

He said one such partner is the national Curves Corporation, and, specifically, Curves of Holly Springs, which is owned and operated by Anita Douglas. Anita's business will celebrate National Women's Health Week by making health information and gym memberships more accessible to women in Holly Springs by hosting a week-long open house at Curves.

National Women's Health Week is being observed May 13 through May 19.

Mayor Sears introduced Mrs. Douglas, who spoke on various activities that will be held during the week to celebrate healthy women everywhere.

Action: None.

7a. Proposed FY 2012-13 Budget - Mr. Dean presented his recommended FY 2012-13 Town budget for the Council's review.

Mr. Dean presented the budget with a zero-cent tax rate increase. Both the General Fund and Utility Funds are balanced based on projected revenues for the coming year with a .415-cents tax rate.

Mr. Dean then outlined the budget proposal. He explained that it is based on a 99% collection of a .415-cent tax rate applied to a total town value of \$3,311,250,000.

The following bullet points are highlights of the budget.

Proposed budget is based on 99% collection rate

Approximate tax base of \$3,311,250,000

No Tax Rate Increase = \$0.415 per \$100 valuation

No increase in garbage collections fees, recycling fees or yard waste fees, remain \$9.50, \$4.25 and \$2.00

No funds from fund balance

Eliminated administrative position in the town manager's office.

Six new positions in General Fund: Two Telecommunicators in Public Safety; Two Public Works Technicians in Streets; a Customer Service representative for the Hunt Community Center and a Parks Assistant at Bass Lake.

\$30,000 in non-profit contributions, (\$10,000 Chamber projects; \$5,000 TRACS, \$15,000 designated via grants)

No new positions in Utility Fund

Development fees will remain the same for next budget year

2.5% market adjustments for salaries and merit/performance pay funded at 2.5%

5% 401k contribution and longevity benefits

State-mandated 6.74% increase in retirement

Health insurance rates budgeted with 7.5% increase (switch from United Healthcare to Blue Cross Blue Shield)

Mr. Dean asked the Council to set aside a special meeting night in May or June when Council member questions and suggestions for revisions to the budget plan can be discussed.

Action: The Council approved a motion to set a special meeting of the Town Council for 2 p.m. Monday, May 21, 2012 in the Cultural Center meeting rooms for the purpose of discussing potential adjustments to the proposed FY 2012-13 budget.

Motion By: VanFossen

Second By: Cobb

Vote: Unanimous

7b. Fences - Resident Mr. Jesse Davis addressed the Council, explaining that the town engineering and public works departments are in the midst of a project to work on the town sewer lines to eliminate and/or reduce the odors that these lines are producing in several neighborhoods near these sewer lines. He said that in his dealings with the public works and engineering departments over the last 12 years (his fence has been up for 10 of those years), the spoken (and enforced) policy on fences in the easement has always been that these structures are allowed as long as they do not block the easement or hinder the town maintenance crews; with the understanding that in an emergency the town can remove the structures if they are in the way and will not replace them.

He said in light of recent events, it has been demonstrated that this is not the *written* policy of Holly Springs concerning structures encroaching easements. The written policy states: "Large trees, fences, gates, or any type of structures (e.g. retaining walls or utility sheds) shall not be placed within any Town utility easement." - Holly Springs Design & Construction Standards Manual, section 2.10

Mr. Davis requested the Council make the spoken policy become the official written policy like other towns in our area as it is much more reasonable. As an example, he provided an excerpt from the Town of Cary's Public Works website on easements making it clear that encroachments are accepted if they do not obstruct access.

He said he would request that the town update the Design & Construction Standard Manual, section 2.10 to include language that permits encroachments on utility easements provided that they do not block access to the easement and that an encroachment agreement is obtained from the town engineering department.

Action: The Council approved a motion to direct staff to research and return with alternative language for consideration.

Motion By: Williams

Second By: VanFossen

8. Public Hearing: Special Exception Use Petition 12-SEU-01 - Ms. Laura Powell said the Town has received a request for a child care center to be located within the existing Green Oaks Business Center. The proposed child care center would be approximately 6,600 square feet and would occupy five bays of flex space. The only exterior modifications to the existing building would be to convert the existing rear roll-up doors to glass windows. The proposed tenant also would create a fenced outdoor play and educational area.

The Planning Board has reviewed the application and recommends approval following a split vote.

Councilwoman Williams addressed the question of the neighboring dog day care center and the potential for stormwater runoff from the dog runs.

Ms. Goodson said engineering staff had visited the site and believes water runoff would not be an issue, although there are ongoing issues with the dog day care center.

With that explanation completed, Mayor Sears opened the public hearing to accept sworn testimony. The following testimony was recorded under oath administered by the Town

Clerk:

Jason Worthington, 2049 Herbert Akins Road, the applicant - Mr. Worthington spoke in support of the petition and explained that his background is education and he wants to provide a high quality environment in which children will be prepared for the next level of education.

Kris Weidling, 475 Green Oaks Parkway - Mr. Weidling, who is employed by a neighboring corporation, spoke in support of the project because it would help employees because it is so close by. He said the school would help with attracting and retaining employees. He said he was impressed with the applicant's well thought-out plan.

Graham Smith, landscape architect for the project - Mr. Smith addressed the question of the neighboring dog day care. He said while there is only 10 feet of separation between the dog day care property and the subject property, there is a solid plan of fencing and landscaping.

Councilman VanFossen said he was concerned about the potential for a bottle neck of traffic.

Mr. Worthington said there drop-off and pick-up of children would be staggered and traffic would not bottle neck beyond what the parking lot could hold.

Jonathan Atkins, 5537 Spence Plantation Lane - Mr. Atkins is owner of the neighboring business, Restoration Experts - Mr. Atkins said he had significant concerns about use of this space as an educational facility. He said he felt egress and access would bottle neck; there is no room for some of his overnight delivery parking; only five spaces for the two current businesses would be left; and he said he though fathers and mothers picking up children would socialize while children play in the parking lot, and he thought that would be dangerous.

Mr. Atkins noted that the Council did not allow a church use for the same site, and he feels allowing a school would be contradictory.

Mr. Atkins said he has a lease for 2,600 square feet of the subject property for the next three years and he has not vacated that lease, and there has been no communication with him about it.

Eric Wilkinson - Mr. Wilkinson spoke in support of the petition.

Tucker Cardwell - Mr. Cardwell is manager of Fastenall. He said his business is open 7 a.m. to 5 p.m., and 18-wheelers and utility trucks frequent his parking lot. Mr. Cardwell said he does not believe the entrance will accommodate his business traffic.

Charles Paul, Wilmington - Mr. Paul is manager of the Green Oaks Business Center property. He said he represents the leasor of both the Fastenall and Restoration Experts business sites. He said the location and growth of Novartis is taking the Green Oaks Business Center in a new direction, and he said the Council's decision is whether or not the special exception use permit is to be granted. He said he would address lease issues with the current tenants.

Council asked questions to ensure that traffic would not interfere with children.

Mr. Smith addressed issues about the parking lot. He said the Green Oaks Business Center has more parking lots than needed for the total plan. He said he did not believe the site would lend itself to socializing, and children must be walked in to be checked in at the school, so there would be no safety issues.

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

Mayor Sears asked Ms. L. Powell to address the question of parking. She said the site meets requirements of the Unified Development Ordinance.

Councilman VanFossen asked if staff was certain the parking lot would be adequate for all uses in the building.

Mr. Schifano suggested that if the Council were going to ask questions and receive answers, then it would be best to reopen the public hearing, reminding speakers that they are still under oath to tell the truth.

Action: The Council approved a motion to reenter the public hearing.

Motion by: Sack

Second by: Cobb

Vote: Unanimous

Pete Esperson, Planning Board - Mr. Esperson reported to the Council that the Planning Board was not aware that some of the current flex space for the child care was partially occupied; he said the Planning Board was not aware that 18-wheelers might be a problem. He said had the Planning Board members known, they would have discussed it more.

Mayor Sears reclosed the public hearing.

Councilman Sack said it sounds like a facility that has support and would serve tenants in the park. He said he was, however, concerned about traffic in the parking lot. He said he also is concerned about signage rules and visibility and he does not want to hear in the future that the dog day care next door is a problem.

Councilwoman Williams said she was supportive of the application generally, but concerned about the safety factor.

Councilwoman Lee agreed.

After discussion, the Council concluded that enough safety factors were in place to protect children in the parking lot.

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 #12-SEU-01 for Imaginations Learning Center to allow for a child care center from Section 4.02 A. 2. d. Research and Technology District as submitted by DHM Design, Project Number 12029, dated revised 3/26/12.

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: VanFossen
Vote: Unanimous

A copy of Special Exception Use Petition 12-SEU-01 addressing the findings of fact is attached to these minutes.

Action #2: Having made the necessary findings of fact, the Council approved a motion to approve Special Exception Use Petition #12-SEU-01 for Imaginations Learning Center as submitted by DHM Design, Project Number 12029, dated revised 3/26/12 with the following condition(s).

1. All previous approval conditions for Green Oaks Business Center will apply to this plan as well.
2. The use proposed includes a modification to the site plan that includes a fenced area that overlaps an existing access drive, an existing waterline easement and private storm drainage easement. The following conditions must be met for this area:
 - a. The pavement in this area is to remain intact so that it can be converted back to an access drive at the time that the tenant is no longer using the property.
 - b. This fenced area that is over the access drive may remain with the day care tenant but at the time a change of use or tenant occurs the drive must be converted back and the fence removed.
 - c. The easement must be able to be accessed at any time through a gate. Please provide details about what type of gate will be provided with construction drawings.
 - d. If the gate is to be locked, the town will need to have keys available 24/7 to allow access in the event of an emergency.
 - e. This fenced in area over the waterline easement may remain with the day care tenant but at the time a change of use or tenant occurs the fenced area must be converted back to a drive with full access to the easement.

Motion By: Sack
Second By: Cobb
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 VanFossen and a unanimous vote. The following actions were affected:

9a. Minutes - The Council approved minutes of the Council's regular meeting held May 1, 2012.

9b. Budget Amendments 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 attached to these minutes.*

9c. Budget Amendment, \$65,300 - The Council adopted an amendment to the FY 2011-12 budget in the amount of \$65,300 to cover fuel and equipment repair costs. *A copy of the budget amendment is attached to these minutes.*

9d. Resolution 12-08 - The Council adopted Resolution 12-08 in support of the Town's application to the Main Street Solutions Fund program. *A copy of Resolution 12-08 is attached to these minutes.*

9e. Budget Amendment, \$100 - The Council adopted an amendment to the FY 2011-12 budget in the amount of \$100 to account for final insurance proceeds from Fire Station #2. *A copy of the budget amendment is attached to these minutes.*

9f. Budget Amendment, \$172,575 - The Council adopted an amendment to the FY 2011-12 budget in the amount of \$172,575 to move PSAP 911 funds to a special revenue fund. *A copy of the budget amendment is attached to these minutes.*

9g. Resolution 12-09 - The Council adopted Resolution 12-09 declaring a police vehicle

surplus to the needs of the town. *A copy of Resolution 12-09 is attached to these minutes.*

10a. Banking Services Proposal - Mr. Boykin explained that the Town is in its last year of its current banking contract. He presented bids received for the Town's next contract for banking services. He said of the five banking service proposals received, it appears that the proposal from Crescent State Bank would be the most favorable to the Town.

Mr. Boykin reviewed the tabulation of proposals, together with the Crescent State Bank proposal letter to the Council.

Action: The Council approved a motion to award a contract to Crescent State Bank for banking services.

Motion By: Cobb

Second By: VanFossen

Vote: Unanimous

10b. Baucom Property - Mr. Schifano explained that landowners of an approximate 150-acre tract have been in discussions with the Town's economic development department and management regarding possible development of the tract for business recruitment efforts. The tract straddles US 1 and is adjacent to the current Friendship site, which staff currently is working toward Department of Commerce site certification.

He said the agreement would provide that the Town would pay for survey costs (approximately \$9,000) for the tract for possible subdivision and recombination, after annexation. Currently the property owners have a forestry exemption on the tract, which they would like to maintain, so a rezoning request will not be made. The landowner will, however, make a voluntary annexation petition to the town for inclusion into the corporate limits.

Action: The Council approved a motion to approve a Memorandum of Understanding with the owners of property known as the Baucom tract.

Motion By: VanFossen

Second By: Cobb

Vote: Unanimous

11. Other Business: Councilman VanFossen said parks and recreation projects are stacking up and the town has fallen decades behind its park master plans. He said the Town held a bond referendum for the issuance of parks and recreation bonds, and voters were advised to one degree or another that there was a potential for a tax rate increase. The referendum passed.

He said if no tax rate increase is authorized, the bond issue debt would have to be funded from the General Fund at the risk of other much-needed capital projects, and he feels this would not be in the best interest of the Town and its residents.

Councilman VanFossen asked the Council to consider a motion to direct staff to prepare a budget for FY 2012-2013 with a 2.5-cent tax rate increase to be dedicated to parks and recreation improves as approved by voters.

Councilman Sack said a 2.5-cent increase would bring in \$817,000 in revenue, which would pay the debt on approximately \$11 million in issued bonds.

Councilwoman Williams said she felt that it is not the right time for a tax rate increase for some folks and for some businesses.

Action: The Council approved a motion to direct the town manager to prepare a budget with a 2.5-cent tax rate increase to be dedicated to retiring debt from the issue of parks and recreation bonds.

Motion by: VanFossen

Second by: Sack

Vote: The motion followed a 3-2 vote. Councilmen VanFossen, Sack and Cobb voted for the motion. Councilwomen Williams and Lee voted against.

12. **Manager's Report:** Mr. Dean reminded Council members of the wastewater treatment plant expansion dedication on May 16.

13. **Closed Session:** The Council approved a motion to enter Closed Session, pursuant to General Statute 143-318.11(a)(3) to discuss settlement in condemnation for Logging Road.

Motion By: Sack

Second By: VanFossen

Vote: Unanimous

General Account of Closed Session - May 15, 2012

In general, the Council discussed the condemnation of property located at the end of Logging Road at the Avert Ferry Road Fire Station. Council gave the town attorney settlement limits for the acquisition of road right of way, and Council voted to seal the minutes of the closed session until the purpose of the closed session would no longer be frustrated by the release of the minutes.

The Council approved a motion to return to open session. The motion was made by Councilman VanFossen and seconded by Councilman Cobb, and the vote was unanimous.
-- End of General Account

14. **Adjournment:** There being no further business for the evening, the May 15, 2012 meeting of the Holly Springs Town Council was adjourned following a motion by Councilman Sack, a second by Councilwoman Lee and a unanimous vote.

_____ day, July 3, 2012.

Joni Powell _____

_____ se minutes follow and are a part of the official

