



May 1, 2012

## MINUTES

The Holly Springs Town Council met in regular session on Tuesday, May 1, 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); Linda Harper, deputy town clerk; Gina Clapp, director of planning and zoning; Jeff Wilson, information technology director; Niki Litts, communications specialist; Drew Holland, finance director; Jenny Mizelle, director of economic development; Len Bradley, director of parks and recreation; Aaron Levitt, project engineer; and Stephanie Sudano, director of engineering.

**2 and 3.** The Pledge of Allegiance was recited, and the meeting opened with an invocation by Rabbi Ederly of Temple Beth Shalom.

**4. Agenda Adjustment:** The May 1, 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:** Remove agenda item 10c., annexation agreement line with the Town of Apex.

**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. Kids Appreciation Day** – Mayor Sears announced that the Kiwanis Club of Holly Springs is planning an event to show the children of this community the Town's appreciation. A "Kids Appreciation Day" celebration is set for Saturday, May 5, 2012 at Womble Park.

Mayor Sears presented a mayoral proclamation proclaiming May 5, 2012 as "Kids Appreciation Day" in Holly Springs to commemorate this event.

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

**Action:** None.

**7a. Leslie-Alford-Mims Property Report** – Mr. Bradley said the steering committee for the Leslie-Alford-Mims property park master plan has held several meetings over the past few months. Working with Alta Greenways, a master plan has been developed for the property (being referred to as the Mims property.)

He said this plan was compiled with input from public workshops, an online survey, the steering committee, Parks and Recreation staff and Alta Greenways. The project to develop the park currently is unfunded.

Ms. Melissa Nicholas and Matt Hayes of Alta Greenways provided a detailed presentation of a proposed park master plan for the Leslie-Alford-Mims property.

The park plan calls for the following features: a village green type of place with a pavilion that could serve as a permanent farmers market pavilion and gathering spot; an open meadow with an orchard as a nod to the simpler time represented by the history of the property; bio-filtration facilities; an adventure play area; walking trails; a botanic garden; cistern treatments for historic springs; and soft-surface walking trails.

Councilman VanFosser said he was sorry that an earlier suggestion for an outdoor amphitheater was not included.

Ms. Nicholas explained that the village green area was thought to be more flexible space where an amphitheater has a single use and becomes dead space much of the time.

Council members asked questions and commented on specific aspects of the plan.

On the topic of an amphitheater, Mr. Bradley said that in order to have a 1,000-seat or a 2,000-seat amphitheater, the town would need to make a bigger investment. While he agrees an amphitheater would be a draw for downtown, an amphitheater would require more parking, more personnel and more funding for entertainers.

The mayor asked how difficult would it be to add an amphitheater as an option or overlay to the plan. Mr. Bradley said it would be relatively easy to do.

Councilwoman Lee said, and Councilman VanFosser agreed, that it would be nice to add plenty of activities for more mature active citizens.

**Direction:** Council consensus was to defer action until the plan could be adjusted to add an amphitheater option.

**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 April 17, 2012.

8b. W.E. Hunt Recreation Center Construction Project Change Orders - The Council ratified W.E. Hunt Recreation Center construction project change orders and adopted amendments to the FY 2011-12 budget and the project fund in the amount of \$284,300.

8c. Budget Amendment, \$74,000 – The Council adopted an amendment to the FY 2011-12 budget in the amount of \$74,000 to provide for the purchase of network file storage. *A copy of the budget amendment is attached to these minutes.*

8d. Resolution 12-07 – The Council adopted Resolution 12-07 declaring personal property surplus to the needs of the Town. *A copy of Resolution 12-07 is attached to these minutes.*

8e. Street Improvement Project – The Council approved to enter a professional services contract with Withers and Ravenel for \$60,000 for the 2012 street improvement project.

**9. Grigsby Avenue Sidewalk Project** – Mr. Levitt explained to the Council that staff had applied for and obtained an 80/20 matching grant from NCDOT for sidewalk construction along Grigsby Avenue.

He said on April 4, staff opened bids from eight contractors. The lowest responsible bid was \$158,086.75 from Sandhills Contracting, Inc. Because this is a NCDOT grant program, NCDOT will have to approve the contractor prior to construction after Town Council approval.

He said that Jymco Development, Inc. submitted a lower bid but was disqualified by NCDOT because the firm did not meet NCDOT's Disadvantaged Business Enterprise (DBE) goal of 2%.

**Action:** The Council approved a motion to adopt Resolution 12-06 to award a construction contract, pending NCDOT approval, for the Grigsby Avenue sidewalk project to Sandhills Contracting, Inc. in the contract amount of \$158,086.75 and to adopt a project budget amendment in the amount of \$174,000 to include a 10% project contingency.

**Motion By:** Sack

**Second By:** Cobb

**Vote:** Unanimous

*A copy of Resolution 12-06 is attached to these minutes.*

At this time, the Council excused Councilman VanFossen from the meeting. A quorum was still present.

**Action:** The Council approved a motion to recuse Councilman VanFossen from discussion and action on this agenda item due to his owning more than 10% interest in the subject company.

**Motion By:** Sack

**Second By:** Cobb

**Vote:** Unanimous

**10a. Annexation Ordinance A11-03.1 Amendment** – Mr. Schifano explained that last summer, it was discovered that there was an error in an annexation that allowed the Quick Lube (located at 928 N. Main Street) to be developed in 2004 in town without being annexed into the corporate limits. Staff worked with the property owner, Stalvey Properties, LLC who was represented by its manager, Chet VanFossen.

He said staff discussed with Mr. VanFossen structuring the annexation in such a way that real property taxes would not be due for this tax year (FY 2011-2012) and that the company's first town tax bill would be for the assessed value as of Jan. 1, 2012, and due September 2012. The town council passed the annexation on Aug. 16, 2011, but the effective date on the ordinance was listed as Aug. 16, 2011. As such, the property was taxed for approximately 11/12 of a tax year for the current year. The company, through Mr. VanFossen, has requested this amendment to the annexation ordinance, which would result in a return of \$3,998.85 in taxes and costs to the company from the Town.

**Action:** The Council approved a motion to adopt Ordinance A11-03.1 amending Ordinance A11-03 by changing the effective date of the annexation to July 1, 2012.

**Motion By:** Sack

**Second By:** Williams

**Vote:** Unanimous

*A copy of Annexation Ordinance Amendment A11-03.1 is attached to these minutes.*

**Action:** The Council approved a motion to authorize the town's finance officer to refund municipal ad valorem taxes paid on the subject property.

**Motion By:** Sack

**Second By:** Cobb

**Vote:** Unanimous

**Action:** The Council approved a motion to readmit Councilman VanFosson into the meeting.

**Motion By:** Sack

**Second By:** Cobb

**Vote:** Unanimous

**10b. Sunrise United Methodist Church Parking Lot Expansion** – Mr. Dean explained that Sunrise United Methodist Church has requested a waiver on the extension of a sewer line with the expansion of the church parking lot.

He said the extension would serve one property that currently does not need sewer service. The cost would be approximately \$17,000 to the church.

In the request, church leaders pointed out that it would be willing to provide a utility easement to accommodate any future extension of sewer. Mr. Dean said he agreed that a utility easement should be required, and he also agrees that the construction of a sewer line at this time would not be warranted.

In their letter, church leaders also stated that the current town policy of requiring sewer extensions to neighboring properties is designed for commercial or “for-profit” development that can recoup the investment cost. Mr. Dean said he also would agree with that statement.

He said he has instructed staff to develop a policy to address these types of development for the Council’s eventual consideration.

Mr. Dean said he would recommend that the Council agree to waive the requirement and allow Sunrise Methodist Church to expand its parking lot without having to extend sewer service to the neighboring property. [Mr. Dean also said for the record that he is a member of Sunrise Methodist Church but would have the same recommendation if he were not.]

**Action:** The Council approved a motion to grant a waiver to Sunrise United Methodist Church allowing the expansion of the church parking lot without having to extend sewer to the neighboring property as long as a utility easement is provided.

**Motion By:** Sack

**Second By:** Cobb

**Vote:** Unanimous

**10c. Apex Annexation Boundary Line Agreement** – This agenda item was removed from the agenda during agenda adjustment.

**11. Other Business:** Councilwoman Lee asked about the potential for a smoking prohibition in parks. Council directed the town attorney to draft an ordinance for their consideration.

Mayor Sears said, for clarification of misinformation that is wafting through the community, that the Town strongly supports the Rex application for a hospital in Holly Springs. He said there was misinformation he had heard that the Town was blocking Rex Healthcare efforts for a hospital. He said the opposite is true... that the Town and individual members of the Council are totally supportive of any efforts for the hospital.

**12. Manager’s Report:** None.

**13. Closed Session:** The Council approved a motion to enter Closed Session, pursuant to General Statute 143-318.11(a)(3) to discuss a settlement in bankruptcy matter involving Holly Springs Ventures LLC and potential litigation involving a former employee and also pursuant to NCGS 143-318.11(a)(5) to discuss negotiations in potential property acquisition.

**Motion By:** Sack

**Second By:** Cobb

**Vote:** Unanimous

**General Account of Closed Session – May 1, 2012**

In general, the Council discussed the bankruptcy case of Holly Springs Ventures LLC and provided the town attorney with direction as to settlement amounts for amounts owed.

The Council heard a report that the North Carolina League of Municipalities legal staff will be representing the Town if a former employee pursues a discrimination case against the Town.

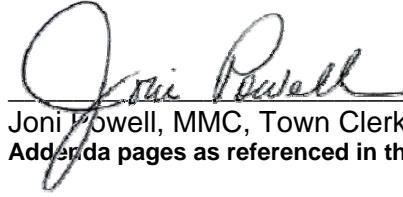
The Council also heard about a piece of property that is available for sale. No action was taken, but Council members asked the town manager to arrange non-quorum Council tours of the property.

The Council approved a motion to return to open session. The motion was made by Councilman Sack 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 1, 2012 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, May 15, 2012.

  
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Joni Powell, MMC, Town Clerk  
Addenda pages as referenced in these minutes follow and are a part of the official record.

