



Holly Springs Town Council  
Regular Meeting

**Sept. 20, 2016**

**MINUTES**

The Holly Springs Town Council met in regular session on Tuesday, Sept. 20, 2016 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 four council members were present as the meeting opened.

**Council Members Present:** Mayor Sears, Councilmen James Cobb, Tom O'Brien and Hank Dickson and Councilwoman Cheri Lee. Councilwoman Linda Hunt-Williams arrived at 7:45 p.m.

**Council Members Absent:** Councilwoman Linda Hunt-Williams, who arrived at 7:45 p.m.

**Staff Members Present:** Charles Simmons, town manager; John Schifano, town attorney; Daniel Weeks, assistant town manager; Joni Powell, town clerk, (recording the minutes); Linda Harper, deputy town clerk; Mary Hogan, finance director; Len Bradley, parks and recreation director; Adam Huffman, assistant parks and recreation director; Irena Krstanovic, economic development director; Gina Clapp, director of planning and zoning; Justin Steinmann, senior planner; Matt Beard, planner; Seann Ryan, planner; Kendra Parrish, director of engineering; Aaron Levitt, senior engineer; Leroy Smith, fire chief; Joe Harasti, education officer with the fire department; John Herring, police chief; Tamara Ward, communications specialist, and Mark Andrews, public information officer.

**2 and 3.** The Pledge of Allegiance was recited, and the meeting opened with an invocation by Rev. Jim Littleton, pastor of Holly Springs United Methodist Church.

**4. Agenda Adjustment:** The Sept. 20, 2016 meeting agenda was adopted with changes, if any, as listed below.

**Changes:** None.

**Motion by:** Cobb

**Second by:** Dickson

**Vote:** Unanimous

**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 comments were recorded:

None.

**6a. Recognition of Children** – Mr. Harasti said that three children recently took it upon themselves to have a lemonade stand, but they didn't open their business to raise money for themselves. Instead, they wanted to raise money for Cinder and to thank the fire department for keeping them safe. They raised \$39. He presented them with certificates of appreciation, and the mayor gave the children a small remembrance.

**Action:** None.

**6b. Recognition of Fire Officers** – Chief Smith recognized officers who recently saved lives and donors of gifts to the fire department.

**Action:** None.

**7a. First Place National Award** – Ms. Powell said the Town earned a first-place Savvy Award and was among a handful of North Carolina local governments to earn recognition in the 28<sup>th</sup> national City-County Communications and Marketing Association (3CMA) Savvy Awards presented Sept. 8 in San Antonio as part of 3CMA's annual conference.

The Town's More Than a Pretty Picture project of the Town of Holly Springs brand story won the first place Savvy in the TV and Video - Promotional Video category for cities of less than 50,000. This same video won second place in the North Carolina state-level contest in the spring.

This truly is an award for a huge team effort. Judges evaluated the town's entry on:

- B roll film provided by Mark and Tamara
- Historical photos provided by Barb
- Creative art animation at 01:04 provided by Mark
- Conceptualized, Written, produced and directed by Joni in the project lead
- Music, stock video and timing of script to video provided by Joni
- Video editing and narration provided by outside consultant Mark Losey with production assistance by Joni
- Entry package to 3CMA by Joni

Ms. Powell said:

- this is the fourth time Holly Springs has entered the 3CMA contest, and it is the fifth time Holly Springs has come home with awards. Holly Springs has earned two second place and two third places, and this is our first place!
- We have won in the communication and marketing event planning, print publication, most creative with least dollars spent and special event categories.
- Now, we won a first place in the promotional video category. Our office has been doing video projects for only 8 years, and we already are being recognized on a national level in competition with hundreds of government access tv and professional marketing studios across the country. I want you all to know what an accomplishment that is for our organization. You basically have 3 former newspaper reporters who have learned a whole new set of skills and have become proficient at it enough to produce award-winning work on both the state and the national levels.
- All of this is to say the Town of Holly Springs has a well-rounded, knowledgeable, skilled and talented communications team. We work well together, and we share the work as well as the reward.

The 3CMA Savvy Awards competition recognizes outstanding local government achievements in communications, public-sector marketing and citizen-government relationships. The Savvies salute skilled and effective city, county, agency or district professionals who have creatively planned and carried out successful innovations in communications and marketing. 3CMA accommodates local government organizations of all sizes and budget classes by judging entries in several different population groups.

Categories included TV and videos, communication technology, special events, printed publications, most creative projects for the least amount of funds, citizen participation, community visioning and marketing tools.

Other North Carolina governments bringing home awards in other Savvy categories were Chapel Hill, Durham, Asheville, Wilmington, Greenville and Buncombe County.

**Action:** None.

**8a. Public Hearing: Comprehensive Plan Amendment #16-CPA-02** – Mr. Steinmann said the Town has received a request to amend the future land use plan designation for 11.709 acres near Sunset Lake Road. The property is bordered by subdivisions of varying densities designated as residential as well as a mobile home park to the west that is designated for very high density mixed use. The request is to modify the future land use designation for the subject parcels from residential to very high-density mixed use.

With that explanation completed, Mayor Sears opened the public hearing. The following input was recorded:

Laura Holloman, Spaulding and Norris – Ms. Holloman addressed the Council to speak in favor of the comprehensive plan amendment that requests an urban village atmosphere in the northeast areas.

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

**Action:** The Council approved to make a motion to adopt Resolution 16-30 to approve and enact Vision Holly Springs Comprehensive Plan Amendment #16-CPA-02 to change the future land use designation of 11.709 acres of Wake County PIN # 0750723712, 0750724398, 0750726008, 0750725769, 0750725651, 0750728228, 0750728613 (portion of as specified below) and 0750728026 from residential to very high-density mixed use as submitted by Spaulding & Norris.

**Portion of PIN # 0750728613**

Beginning at an existing iron pipe at the Southeast corner of Lot 4 as shown on Book of Maps 1985 Page; 1165 recorded in the Wake County Register of Deeds, thence from said beginning point North 87°57'03"; West 139.80 feet to a point, thence N01th 36°50' 19" West 88.99 feet to an existing iron pipe, thence North; 01 °44'20" East 175.09 feet to a point, thence along a proposed new property line South 88°05'43" East; 197.67 feet to a point on an existing property line, thence along an existing property line South 02°17'46"; West 244.85 feet to the point and place of beginning containing 1.059 Acres more or less.

**Motion by:** Dickson

**Second by:** Cobb

**Vote:** Unanimous

*A copy of the Resolution 16-30 is attached to these minutes.*

**8b. Public Hearing: Rezoning Petition 16-REZ-07** – Mr. Steinmann said the Town has received a request to zone 11.709 acres of property located on Sunset Lake Road. The property is bordered by subdivisions of varying densities, as well as a mobile home park to the west that is zoned local business. The request is to change the zoning from R-30: Residential to LB: Local Business.

With that explanation completed, Mayor Sears opened the public hearing. The following input was recorded:

Nicole Franklin, 216 Sunset Pointe Dr., Apex – Ms. Franklin is a neighboring property owner. She had questions about the ultimate development of the property and how it may impact her neighborhood.

Laura Holloman, Spaulding and Norris, 972 Trinity Road, Raleigh – Ms. Holloman said the road, environmental and buffering concerns brought up by the speaker would be addressed at the site plan stage.

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

**Action #1:** The Council approved to make a motion to accept the following statements as being true: *"The requested zone map change from R-30 to LB is consistent with the Vision of Holly Springs Comprehensive Plan, as this designation is intended to provide for low-intensity business and multi-family development, including apartments, condominiums, and townhomes, at densities up to 15 units to an acre to promote an urban village atmosphere. It is also intended to encourage developments that include a mix of uses within a single plan to promote interconnectivity between residential, office, and commercial uses."*

**Motion by:** O'Brien

**Second by:** Cobb

**Vote:** Unanimous

**Action #2:** The Council approved to make a motion to adopt ordinance 16-REZ-07 to approve and enact Zone Map Change Petition 16-REZ-07 to change the zoning of 11.709 acres of Wake County PIN # 0750723712, 0750724398, 0750726008, 0750725769, 0750725651,

0750728228, 0750728613 (portion of as specified below) and 0750728026 from R-30: Residential to LB: Local Business as submitted by Spaulding & Norris.

**Portion of PIN # 0750728613:**

Beginning at an existing iron pipe at the Southeast corner of Lot 4 as shown on Book of Maps 1985 Page; 1165 recorded in the Wake County Register of Deeds, thence from said beginning point North 87°57'03"; West 139.80 feet to a point, thence N01th 36°50' 19" West 88.99 feet to an existing iron pipe, thence North; 01 °44'20" East 175.09 feet to a point, thence along a proposed new property line South 88°05'43" East; 197.67 feet to a point on an existing property line, thence along an existing property line South 02°17'46"; West 244.85 feet to the point and place of beginning containing 1.059 Acres more or less.

**Motion by:** Cobb

**Second by:** Dickson

**Vote:** Unanimous

*A copy of the Rezoning Ordinance 16-REZ-07 is attached to these minutes.*

**8c. Public Hearing: Rezoning Petition 16-REZ-08** – Mr. Beard said the Town has received a request to zone 1.88 acres of property located at 3956 Circle Dr. The property is bordered by R-20 single-family homes, vacant property and a church to the west.

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

There being no input, the public hearing was closed.

**Action #1:** The Council approved to make a motion to accept the following statement as being true: *"The requested zone map change from R-20 to LB is consistent with the Vision Holly Springs Comprehensive Growth Plan and Northeast Gateway Area Plan since the Future Land Use Plan Map designates this property as Mixed Use and the LB: Local Business District allows for commercial, retail, office development and residential as part of a mixed use project."*

**Motion by:** Dickson

**Second by:** O'Brien

**Vote:** Unanimous

**Action #2:** The Council approved to make a motion to adopt ordinance 16-REZ-08 to approve and enact Zone Map Change Petition #16-REZ-08 to change the zoning of 1.88 acres of Wake County PIN # 0659998579 from R-20: Residential District to LB: Local Business District as requested by Johnson Boru.

**Motion by:** Lee

**Second by:** Cobb

**Vote:** Unanimous

*A copy of the Rezoning Ordinance 16-REZ-08 is attached to these minutes.*

**8d. Public Hearing: Rezoning Petition 16-REZ-09** – Mr. Beard said the Town has received a request to zone 1.97 acres of property located on both Alford Street and W Holly Springs Rd. The property is bordered to the west by R-10 residential (apartments), to the east by LB Local Business, including Rite Aid, to the south by R-10 residential (single-family) and to the north by LB Local Business, Village Center Shops.

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

There being no input, the public hearing was closed.

**Action #1:** The Council approved to make a motion to accept the following statement as being true: *"The requested zone map change from R-10 to LB is consistent with the Vision of Holly Springs Comprehensive Plan since the Future Land Use Plan Map and Village District Area Plan designate this property as Mixed Use, which allows for a range of commercial and residential uses, including those allowed in LB: Local Business districts."*

**Motion by:** Cobb

**Second by:** O'Brien  
**Vote:** Unanimous

**Action #2:** The Council approved to make a motion to adopt ordinance 16-REZ-09 to approve and enact Zone Map Change Petition #16-REZ-09 to change the zoning of 1.97 acres of Wake County PIN #'s 0649838261, 0649837265 and 0649838080 from R-10: Residential District to LB: Local Business District as requested by Team Anderson Realty.

**Motion by:** Williams

**Second by:** Dickson

**Vote:** Unanimous

*A copy of the Rezoning Ordinance 16-REZ-09 is attached to these minutes.*

**8e. Public Hearing: Special Exception Use Petition #15-SEU-11** – Mr. Ryan said the Town has received a Special Exception Use request to allow for an integrated center containing 52,831 square feet of gross main floor area, including an individually operated anchor use of 22,034 square feet of gross main floor area. The proposed shopping center would be located in the Sunset Lake Commons Shopping Center along Sunset Lake Road, just south of the existing Harris Teeter shopping center.

He said the LB Districts are established to promote a village oriented, pedestrian friendly environment for the provision of a full range of convenience goods and services, which are necessary to meet the daily needs of nearby residential neighborhoods. The maximum gross floor area in this district is limited in order to be more compatible with surrounding neighborhoods. However, with a Special Exception Use, projects in this zoning district may request additional gross main floor area, up to a maximum of 124,000 square feet of gross main floor area for an integrated center and up to 60,000 square feet of gross main floor area for a single tenant.

He said in conjunction with the Special Exception Use, a development plan has been submitted for the proposed 52,831 square foot integrated center. The development plan shows two buildings, building A-E containing the grocery anchor tenant with 41,679 square feet of space and building F-J containing 11,152 square feet of general retail and restaurant space. Parking, landscaping, and building elevations are included in the development plan.

In addition to a request for Special Exception Use and Development Plan approval, the applicant has requested several variances and waivers, which are outlined below:

**Variances:**

1. 15-VARTC-03 –Unified Development Ordinance Section 3.02 B. 2. a Minimum Front Yard & Building Setback, to allow for a reduction in the minimum thoroughfare buffer yard setback along Sunset Lake Road from 30 feet to 22 feet.
2. 15-VARTC-04 – Unified Development Ordinance Section 3.02 B 3 a (2) b., Use of Minimum Yards and Buffer yards, to allow for a reduction in the minimum collector street parking setback along Lassiter Road from 10 feet to 5 feet
3. 15-VARTC-05 – Unified Development Ordinance Section 3.02 B 2 b (1) (b), to allow for a reduction in the minimum south facing buffer yard setback from 20 feet to 15 feet to allow parking and dumpster.
4. 16-VARTC-01 – Unified Development Ordinance Section 3.02 B 8 a (1) Outdoor Operations, to allow for an outdoor seating area in the buffer yard along Sunset Lake Road (thoroughfare).
5. 16-VARTC-02 – Unified Development Ordinance Section 3.02 B 3 a (2) (a), Use of Minimum Yards and Buffer yards, to allow for parking between front building line and right-of-way to be greater than double loaded

**Waivers:**

1. 15-WAV-17 – UDO Section 7.04 E. 4. Maximum Number of Off-Street Parking Spaces to allow for 100% of the provided parking between the front building line and front lot line

2. 16-WAV-02 – UDO Section 3.08 A 1. b. Determination of Primary Façade Orientation to designate the north façade of the Grocery Anchor (rear of building) as a non-primary façade.

With that explanation completed, Mayor Sears opened the public hearing. The following testimony and evidence was submitted by those who had been administered the oath by the deputy town clerk: None.

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 #15-SEU-11 to allow for an integrated center containing 52,831 square feet of gross main floor area, including an individually operated anchor use of 22,034 square feet of gross main floor area, in the LB: Local Business District as submitted by Bass, Nixon & Kennedy.

**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:** Williams

**Second by:** Cobb

**Vote:** Unanimous

*A copy of Special Exception Use Application 15-SEU-11 addressing the findings is attached to these minutes.*

**Action #2:** The Council approved a motion to adopt Resolution #16-31 to make and accept the findings of facts as submitted by the Petitioner as specified in Exhibit C (with the following additional findings, if any) and to approve Variance of Development Standards #15-VARTC-03;

#15-VARTC-04; #15-VARTC-05; #16-VARTC-01; & #16-VARTC-02, requested by Bass, Nixon & Kennedy for the property located at Outparcel 5, Sunset Lake Commons Ph. 2B, approximately 6.46 acres of Wake County PIN 0669170547.

**Motion by:** Cobb

**Second by:** Williams

**Vote:** Unanimous

*Copies of #15-VARTC-03; #15-VARTC-04; #15-VARTC-05; #16-VARTC-01; & #16-VARTC-02 and Resolution 16-31 addressing the findings are attached to these minutes.*

**Action #3:** 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 E. 4. Maximum Number of Off-Street Parking Spaces for Development Plan Petition #15-DP-10 for Holly Lakes and Sunset Lake Commons to allow for 100% of the provided parking between the front building line and front lot line, as submitted by Bass, Nixon & Kennedy.

A petition for a waiver of regulations of UDO Section 7.04 E. 4. Maximum Number of Off-Street Parking Spaces may only be granted upon the presentation of sufficient evidence to enable a written determination that:

1. A parking demand study completed by a third party that provides evidence regarding:
  - a. Peak usage estimates based on reliable data collected from comparable uses located within the same or similar market areas as the Town of Holly Springs. Comparable uses will be determined based on density, scale, bulk, area, type of activity, and location; and,
  - b. Number of employees on the largest shift; and,
  - c. Minimum number of spaces needed to meet the parking demand for the specific use; and,
2. The granting of a waiver will not cause negative impacts on the environment or adjacent properties without the necessity of including mitigating elements such as additional screening, pervious pavement, shared parking, rain gardens, or that such elements are provided under the plan to the extent necessary to lessen the effects of any negative impacts; and,
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:** O'Brien

**Vote:** Unanimous

*A copy of the waiver application addressing the findings are attached to these minutes.*

**Action #4:** Having made findings of fact that the petition meets the requirements to be granted a waiver of regulations of UDO Section 7.04 E. 4. Maximum Number of Off-Street Parking Spaces for Development Plan Petition #15-DP-10 Holly Lakes at Sunset Lake Commons, the Council approved a motion to approve a waiver to allow for 100% of the provided parking between the front building line and front lot line, as submitted by Bass, Nixon & Kennedy.

**Motion by:** Lee

**Second by:** Cobb

**Vote:** Unanimous

**Action #5:** 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 3.08 A 1. b. Determination of Primary Façade Orientation for Development Plan Petition #15-DP-10 for Holly Lakes and Sunset Lake Commons, to designate the north façade of the Grocery Anchor (rear of building) as a non-primary façade, as submitted by Bass, Nixon & Kennedy.

A petition for a waiver of regulations of UDO Section 3.08 A 1. b. Determination of Primary Façade Orientation 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:** O'Brien

**Second by:** Cobb

**Vote:** Unanimous

*A copy of waiver addressing the findings are attached to these minutes.*

**Action #6:** Having made findings of fact that the petition meets the requirements to be granted a waiver of regulations of UDO Section 3.08 A 1. b. Determination of Primary Façade Orientation for Development Plan Petition #15-DP-10 Holly Lakes at Sunset Lake Commons, the Council approved a motion to approve a waiver to designate the north façade of the Grocery Anchor (rear of building) as a non-primary façade, as submitted by Bass, Nixon & Kennedy.

**Motion by:** Williams

**Second by:** O'Brien

**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 Petition #15-SEU-11 for Holly Lakes at Sunset Lake Commons as prepared by Bass, Nixon & Kennedy, Project Number 15065, dated 09/09/2016 with the following condition(s).

**SPECIAL EXCEPTION USE CONDITIONS:**

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 15-SEU-11.

**DEVELOPMENT PLAN CONDITIONS:**

1. All previous approval conditions for *Sunset Lake Commons Phase 2* will apply to this plan as well.
2. This project will be required to meet Town's NPDES Phase II Post Construction Stormwater ordinance.
3. A fee-in-lieu of upgrade will be required for this project for the Pump Station and/or Force Main.
4. The following items are required with the first construction drawing submittal:
  - a. All items listed on the Stormwater Submittal Checklist, Form #16003, must be included.
  - b. A Determination of Jurisdiction and corresponding maps must be provided.
  - c. A point-by-point photometric plan shall be submitted to for review and approval by Planning & Zoning for all site lighting.
5. The following items are required prior to construction drawing approval:
  - a. Approval of Stormwater Management Plan is required prior to issuance of a land disturbance permit or construction drawing approval.
  - b. Payment of the Stormwater Fee-in-Lieu will be required prior to construction drawing approval.
  - c. Stormwater 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 stormwater 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.

d. All environmental permits must be obtained prior to construction drawing approval and/or issuance of a land disturbance permit for the entire project.

All utility infrastructure and roadway improvements shown on the Master Plan must be completed prior to or with the first outparcel.

**Motion by:** Cobb

**Second by:** O'Brien

**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 Cobb, a second by Councilwoman Williams and a unanimous vote. The following actions were affected:

9a. Minutes – The Council approved the minutes of the Council's regular meeting held Sept. 6, 2016.

9b. Budget Amendment Report – The Council received a monthly report on operational budget amendments approved by the town manager or that were accomplished at the direction of the Council. *A copy of the budget amendment report is attached to these minutes.*

9c. Maudlin-Watkins Surveying Contract - The Council approved to retain Maudlin Watkins Surveying for \$2,500 to survey property that potentially could be declared surplus to the needs of the town and adopt budget amendment in the amount of \$2,500.

9d. Employees Reclassification - The Council approved to reclassify Motion to approve the following position reclassifications: adjust the salary grade of assistant parks and recreation director; reclassify a vacant fire engineer position to a firefighter; and reclassify the current Public Works operations superintendent to an assistant director of Public Works.

9e. North Main Athletic Complex, Phase 2 Contract Change Orders – The Council approved the following change orders to the T.A. Loving construction contract for North Main Athletic Complex Phase 2:

**Additions to the contract:**

TAL COR #87 Add conduit for Duke Energy lighting in Beer Garden	9,935.00
TAL COR #96 Beer garden storm drain changes	11,124.00
TAL COR #98 Add power to Beer Garden	3,045.00
TAL COR #99 Add brick seat wall (cell tower side of restroom)	2,724.00
TAL COR #100 Relocate IT panel as requested by town	1,247.00

**Total Change Order Adds** **\$28,075.00**

**Deductions to the contract:**

TAL COR #086 Beer Garden Excavation	(9,613.00)
TAL COR #088 Delete Dumpster Pad	(648.00)
TAL COR #090 Delete seeding of "Future Building" site	(1,040.00)
TAL COR #091 Delete costs associated with sidewalk repair	(1,063.00)
TAL COR #103 Credit for repairs to damaged existing data	(2,583.35)

**Total Change Order Deducts** **(\$14,947.35)**

**Grand Total for Change Orders:** **\$13,127.65**

9f. Resolution 16-32 – The Council adopted Resolution 16-32 declaring certain equipment surplus to the needs of the town. *A copy of Resolution 16-32 is attached to these minutes.*

**10a. Mims Stormwater Project** – Mr. Levitt said the downtown development incentive have been a common theme during past Town Council retreats, and the Mims Park Regional Stormwater Device long has been supported by Council. Installation of a regional stormwater treatment device on the Mims site is expected to provide the desired spark to downtown development by providing stormwater treatment for over 20 acres. Stormwater treatment is required under the federally mandated Town NPDES ordinance and the construction of this regional structure will alleviate this requirement for numerous developable properties in the downtown area.

He said that staff has been working with Withers and Ravenel, Inc to develop the plans for this stormwater device over the past several years. In the past the project has been attached to the Mosaic on Main project with each project's sharing some of the improvements (roadway improvements etc.). The Town has been reactive to the Mosaic project status with several starts and stops occurring to the Mosaic project. The Town now will be proactively moving forward with the stormwater control project on its own with the hope that other development projects will follow close behind.

Since 2012, when the design contract was first approved by Town Council, the Mims Project has had several project start-ups and eventual slow-downs. These project starts and stops along with changes in economy and construction costs have caused unforeseen design costs. Now that the Town is looking to move forward without the Mosaic project, some of the work that the Mosaic project was responsible for now falls on the shoulders of the Mims project.

He said to complete the design of the stormwater device, the scope of the project has increased and additional funding is necessary. Among the additional design requirements are stream impact permitting and design, road widening design and permitting, lighting revisions, subsurface utility exploration, material selection changes, amenity revisions, utility revisions, wall redesign, well design, and management costs.

Mr. Levitt said Withers Ravenel has been working with engineering staff through every start and stop of the project and requires additional funding to complete the redesign. In addition to the extended scope of the project due to the absence of the Mosaic project, there have been several rounds of value engineering done to help the project remain within the project budget. These design changes will reduce the construction cost of the project but will require additional design funds.

**Action:** The Council approved a motion to award a contract to Withers Ravenel in the amount of \$107,900, to approve funding in the amount of \$117,900, and to approve the project budget accordingly.

**Motion by:** Cobb

**Second by:** O'Brien

**Vote:** Unanimous

**10b. Sportsmanship Way Project** – Ms. Parrish said the Town was successful in securing an 80/20 funding opportunity through the North Carolina Department of Transportation and the U.S. Federal Highway Administration to make improvements along NC 55 Bypass. The improvements include construction of a left-turn lane onto Sportsmanship Way from the bypass, as well as signalized U-turns on the bypass to support access on and off of Sportsmanship Way. The State/Federal contribution will be \$1,200,000 and the Town's local contribution is estimated to be \$300,000.

The benefits of the new connection from the Bypass to Sportsmanship Way include reducing traffic on W Holly Springs Rd, the Bypass south of the connection, and portions of Main Street.

She said this is a contract for professional services to complete the revised traffic analysis, survey, roadway/signal design, plan permitting, specifications, and estimates.

**Action:** The Council approved a motion to award a contract to Withers Ravenel, Inc., in the amount of \$152,210, and to approve the project budget accordingly, for the Sportsmanship Way project.

**Motion by:** Williams

**Second by:** Cobb  
**Vote:** Unanimous

**11. Other Business:** None that resulted in Council action.

**12. Manager's Report:** None that resulted in Council action.

**13. Closed Session:** The Council approved a motion to enter into Closed Session, pursuant to North Carolina General Statute 143-318.11(a)(3) to discuss matters with the town attorney under the client-attorney privilege: a recent State Supreme Court ruling impacting the Town's collection of certain development fees; and directions in cases where the Town is involved in legal conversations with the owner of Quality Food Mart and property owner H. Brantley Powell.

**General Account – Closed Session Sept. 20, 2016**

In Closed Session, the Town Attorney updated the Council on a hearing to be held in the Quality Food Mart case to compel discovery.

Mr. Schifano also reported that property owner Mr. Powell had requested that a waterline originally drawn into plans for the Main Street Extension project, and then later removed, be added back to the project. Mr. Brantley said his negotiations for the right of way for the road project acquired from him by the Town included his understanding of the original project that included the water line. Mr. Schifano advised that the Town's obtaining the right of way is independent of the project, regardless of its eventual build-out. He noted that the Town could have obtained the right of way and never even built the road at all.

Cost of the waterline was estimated at \$100,000 and was removed from the project. The Town Council directed the Town Attorney to advise Mr. Powell that the waterline would not be added back to the project.

Mr. Schifano then reported to the Council that a recent State Supreme Court case involving the Town of Carthage will challenge the way all towns collect and spend development fees. He said he already is receiving public records inquiries into how the Town of Holly Springs has collected the fees and then spent them. Mr. Schifano said the Town of Carthage won at the both the trial and appeals levels, but that the Supreme Court ruling was against the Town. The Supreme Court said that development fees were not user fees for current water usage if they are collected in advance of water system improvements.

Mr. Schifano will report back to the Council with outside legal counsel that would be dedicated to protecting the Town's position.

No action was taken in Closed Session other than a motion to reenter open session.

-- *End of General Account*

**14. Adjournment:** There being no further business for the evening, the Sept. 20, 2016 meeting of the Holly Springs Town Council was adjourned.

Respectfully Submitted on Tuesday, Oct. 4, 2016.

  
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