



## TOWN COUNCIL MEETING

TUESDAY, JANUARY 21, 2014

Keith H. Weatherly, Mayor  
Eugene J. Schulze, Mayor Pro Tempore  
William S. Jensen, Scott R. Lassiter, Nicole L. Dozier,  
and Denise C. Wilkie, Council Members  
Bruce A. Radford, Town Manager  
J. Michael Wilson, Assistant Town Manager  
Donna B. Hosch, CMC, NCCMC, Town Clerk  
Henry C. Fordham, Jr., Town Attorney

The Regular Meeting of the Apex Town Council scheduled for Tuesday, January 21, 2014, at 7:00 p.m. was held in the Council Chamber of Apex Town Hall, 73 Hunter Street

In attendance were Mayor Keith H. Weatherly, Mayor Pro Tempore Eugene J. Schulze, and Council Members William S. Jensen, Scott R. Lassiter, Nicole L. Dozier, and Denise C. Wilkie. Also in attendance were Town Manager Bruce A. Radford, Assistant Town Manager J. Michael Wilson, Town Clerk Donna B. Hosch, and Town Attorney Henry C. Fordham, Jr.

### COMMENCEMENT

Mayor Weatherly called the Meeting to order, Council Member Dozier gave the Invocation, and Mayor Weatherly led the Pledge of Allegiance.

### PRESENTATIONS

**Presentation 01 : Lauren Simmons, Planner II**

**Recognition of the Winter Appearance Award winners**

Due to the threat of inclement weather, these awards will be presented at the February 4<sup>th</sup> Regular Meeting.

### CONSENT AGENDA

**Consent 01 Minutes of the January 7, 2014 Regular Council Meeting**

**Consent 02 Apex Tax Report dated 12/01/2013**

**Consent 03 Ratify a change to the approved December 17, 2013 Council Minutes to correct a transposition error in Add-on New Business 08**

- Consent 04** Findings of Fact, Conclusions of Law, and Decision approving Special Use Permit #13SUP02
- Consent 05** Abandoning a portion of public sanitary sewer easement that is no longer needed
- Consent 06** Statement of the Apex Town Council and enact Ordinance for Rezoning Case #13CZ20, Raleigh Land Fund I, LLC, petitioner for the property located at Jenks Road and 1513 Wimberley Road
- Consent 07** Statement of the Apex Town Council and enact Ordinance for Rezoning Case #13CZ29, Stuart Jones, Jones & Crossen Engineering, PLLC, petitioner for the property located at 2625 Olive Chapel Road
- Consent 08** Revisions to the Town Standard Specifications and Standard
- Consent 09** Budget ordinance amendment for Planning Department office improvements, design of Public Works facilities, predesign of Town Campus facilities, and purchase of land
- Consent 10** Authorize the Town Manager to consent on behalf of the Town to Beechridge Limited Partnership's converting to a limited liability company named Beechridge Housing, LLC without the conversion causing the acceleration of the debt owed by the limited partnership to the Town and authorizing the Town Manager to sign a consent in a form approved by the Town Attorney
- Consent 11** Resolution authorizing the Amended Interlocal Agreement for Provision of Sewer Services for Colvin Park Subdivision and to approve the Amended Alternative Sewer Connection Agreement
- Consent 12** Ordinance amending Chapter 13 of the Town Code to provide a schedule for the renewal and expiration of peddlers permits applicable to vendors who contract with the Town to provide concession for Town parks
- Consent 13** Co-sponsorship with the Apex Downtown Business Association a Founders Day Celebration on March 1' 2014

The Town Attorney asked that the document he distributed for Consent 12 be substituted and considered; the substituted document contained corrections.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO ACCEPT THE CONSENT AGENDA WITH THE SUBSTITUTE DOCUMENT FOR CONSENT 12;  
COUNCIL MEMBER DOZIER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

## REGULAR MEETING AGENDA

Mayor Weatherly presented the Regular Meeting Agenda. The Town Attorney asked for the addition of New Business 05 dealing with an encroachment agreement. Mayor Weatherly asked for the addition of information he wished to share as New Business 06.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO ACCEPT THE REGULAR MEETING AGENDA WITH THE ADDITION OF NEW BUSINESS 05 AND 06; COUNCIL MEMBER JENSEN SECONDED THE MOTION. THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

## PUBLIC HEARINGS

### **Public Hearing 01 : Bruce Radford, Town Manager**

#### **Public Hearing to receive citizen input regarding the formulation of the Fiscal Year 2014-2015 Annual Budget**

Mayor Weatherly briefly explained the budget process and declared the Public Hearing open.

Susan Mangus complemented the Town on the Nature Park which is not far from her residence. She cannot walk to it, however, because there are no sidewalks. The 2013 Plan includes a multiuse path in 3-5 years. With Scotts Elementary also coming on line, would it be possible to move up the timeframe of the sidewalk. Mayor Weatherly stated this would be taken into consideration.

With no one else wishing to speak, Mayor Weatherly declared the Public Hearing closed.

### **Public Hearing 02 : June Cowles, Senior Planner**

**The applicant has withdrawn the petition for Rezoning #13CZ27, 198.69 acres located at 0, 7625, 7641, 7720, and 4021 Green Level West Rd, and 8109, 8113, 8129 Green Level Church Road from Low Density Residential and Low Density Residential Conditional Zoning to Planned Unit Development Conditional Zoning**

Staff stated that the applicant withdrew this request.

### **Public Hearing 03 : June Cowles, Senior Planner**

**Possible motion to continue the Public Hearing to the February 18, 2014 Town Council Meeting regarding Rezone #13CZ28, 0.98 acres located at 1009 North Salem Street from Residential Agricultural to Office and Institutional Conditional Zoning**

Staff stated it was requested for this Public Hearing to be continued as stated.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO CONTINUE THE PUBLIC HEARING AS REQUESTED; COUNCIL MEMBER WILKIE SECONDED THE MOTION. THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

### **Public Hearing 04 : Lauren Simmons, Planner II**

**Public Hearing and motion regarding rezone #13CZ31, 4.32 acres located at 2801 Walden Road from Rural Residential to Medium Density-Conditional Zoning**

Staff oriented Council to the site. A neighborhood meeting was held; the applicant requested several architectural changes which were consistent with Bella Cosa. Staff and the Planning Board unanimously recommended approval with conditions set by the applicant.

Mayor Weatherly declared the Public Hearing open.

Stuart Jones, Jones and Crossen Engineering on behalf of Joseph Iaone, stated this would be the same as the other property on Holland Road; this would be adding this property into the fold.

With no one else wishing to speak, Mayor Weatherly declared the Public Hearing closed.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE  
THE REZONING; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Public Hearing 05 : Lauren Simmons, Planner II**

**Public Hearing and motion regarding rezone #13CZ33 from Rural Residential to Medium Density-Conditional Zoning and a 2030 Land Use Map Amendment from mixed use: Commercial Services, Office Employment and High Density Residential to Medium Density Residential for, 85± acres located at 400 New Hill Olive Chapel Road**

Staff oriented Council to the site. The applicant is additionally asking for an amendment to the 2013 Land Use Plan with proposed conditions. Staff and the Planning Board recommended denial of the rezoning and the amendment and staff stated the reasons why. There were concerns about single family being close to a major highway and what will happen to non-residential use in the future.

Mayor Weatherly declared the Public Hearing open.

Jason Baron on behalf of the owners stated he also has another case going through the process. Mr. Baron explained the percentages they wish for residential and non-residential. He explained why he believes this is a mandated lower-density area, over-viewing their proposed plan and why they believe it makes sense. Another condition to the watershed was proposed. Referred to was Raleigh's land use map and how it's being used, Mr. Baron making a point about scale. Mr. Baron answered questions from Council on density, buffering, and stormwater management. Ed Tang, Withers and Ravenell, answered questions also about stormwater management.

Ryan Smith, resident, spoke in favor of the request and stated reasons why. His property is rural residential and he doesn't want high-density commercial in his backyard. There is concern about the streams, as he is on a well system. Tree thinning and prescribed burns would have more of an effect on high rather than low density.

Bunn Olive, resident, asked how low density would affect his mother's property which is in close proximity. Staff explained that the conditions would not mandate required buffering. The applicant agreed to revise this to Type A buffering. Staff explained how low density neighborhoods have, in the past, balked at commercial use and explained how keeping the land non-residential is an opportunity for the future.

Mayor Weatherly declared the Public Hearing closed.

Council discussed not abiding by the recently adopted 2030 Land Use Plan, reserving property that is tailor-made for commercial, and how residential next to commercial doesn't work side by side. Council stated that perhaps the Land Use Map needs to be more specific as current terms can be misleading. Council stated it wished to see the developer work more on his plan.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO CONTINUE THIS FOR ONE MONTH; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Public Hearing 06 : Lauren Simmons, Planner II**

**Public Hearing and motion regarding rezone #13CZ34 from Rural Residential to Neighborhood Business-Conditional for, 14± acres located at 400 New Hill Olive Chapel Road**

Staff suggested that this be continued since it is related to Public Hearing 05.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER WILKIE MADE THE MOTION TO CONTINUE THIS FOR ONE MONTH; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Public Hearing 07 : Brendie Vega, Principal Planner**

**Motion to continue the Public Hearing to the February 18, 2014 Town Council Meeting regarding rezone #13CZ35, 70.12 acres located at 8012 Green Level Church Road and 7529 Roberts Road from Rural Residential to Medium Density-Conditional Zoning**

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER WILKIE MADE THE MOTION TO CONTINUE THIS PUBLIC HEARING AS STATED; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Public Hearing 08 : June Cowles, Senior Planner**

**Public Hearing and motion regarding Rezone #13CZ36, 1.69 acres located at 2600, 2621, 2629, Schieffelin Road from Residential Agricultural and Planned Commercial Zoning to Light Industrial Conditional Zoning**

Staff oriented Council to the site. No one attended the neighborhood meeting. Staff and the Planning Board recommended approval with conditions.

Mayor Weatherly declared the Public Hearing open.

Stuart Jones, Jones and Clossen Engineering representing Andy Clark, stated the request is to covert the property from residential to industrial.

With no one wishing to speak, Mayor Weatherly declared the Public Hearing closed.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE REQUEST WITH CONDITIONS; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Public Hearing 09 : Brendie Vega, Principal Planner**

**Public Hearing and motion to enact an Ordinance for various amendments to the Unified Development Ordinance**

Staff overviewed the reasons for the proposed changes. Council and staff briefly discussed the possibility of adjusting the 300 foot notice limit for rezonings.

Mayor Weatherly declared the Public Hearing open.

Stuart Jones, Jones and Clossen Engineering, spoke as to why he spoke against additional notices about a year ago. Doing so doesn't always bring in more people, and its more difficult to plan for the potential of larger crowds.

With no one else wishing to speak, Mayor Weatherly declared the Public Hearing closed.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE REQUEST; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Public Hearing 10 : Dianne Khin, Planning Director**

**Public Hearing and motion to adopt an Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Robert Briggs property containing 5.538 acres located at 6404 Old Jenks Road, Annexation #502, into the Town’s corporate limits**

Staff oriented Council to this voluntary annexation, the request being made so that the applicant may receive water and sewer. Staff recommended approval.

Mayor Weatherly declared the Public Hearing open. With no one wishing to speak, Mayor Weatherly declared the Public Hearing closed.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER WILKIE MADE THE MOTION TO APPROVE THE REQUEST; COUNCIL MEMBER DOZIER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Public Hearing 11 : Dianne Khin, Planning Director**

**Public Hearing and possible motion approving amendments to the 2030 Land Use Map**

Staff stated these amendments were clarifications of language in the Plan as suggested by Council. Staff recommended the amendments.

Mayor Weatherly declared the Public Hearing open. With no one wishing to speak, Mayor Weatherly declared the Public Hearing closed.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE AMENDMENTS; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

## OLD BUSINESS

**Old Business 01 : Mayor Pro Tem Gene Schulze, Finance Committee Chairman**

**Possible motion to approve adjustments in water and sewer acreage fees, development application fees, and building permit fees as recommended by the Finance Committee**

Council stated adjusting fees were discussed in a Finance Committee meeting to determine if they were appropriate. The Committee felt fees should pay for as much of the costing as possible while still being reasonable. The current fees are static and not going up with the rise in expenses. The entire Council agreed to look at fees once a year to see if they are appropriate at the time and competitive with neighboring towns.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO INCREASE FEES AS PROPOSED; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

## PUBLIC FORUM

No one wished to speak during Public Forum.

## NEW BUSINESS

### **New Business 01 : June Cowles, Senior Planner**

**Motion approving Greenmoor Master Subdivision Plan for the properties located at 7924 Green Level Church Road containing 99 acres and 254 lots**

Staff oriented Council to the Site. A traffic impact study was performed, and looked at were the interior location of lots and the number of lots. The Plan also provides two recreational sites, a greenway connection, and partnership with the White Oak Basin regional pump station. From the neighborhood meeting, the applicant agreed to add sidewalks in areas on both sides of the street. Staff and the Planning Board recommended approval.

After brief discussion on the request, Council was prepared to vote.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE THE MOTION TO APPROVE THE MASTER PLAN; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
COUNCIL MEMBERS WILKIE, SCHULZE, LASSITER, AND DOZIER VOTED IN THE AFFIRMATIVE;  
COUNCIL MEMBER JENSEN VOTE IN THE NEGATIVE.  
THE MOTION CARRIED BY A 4-1 VOTE.

### **New Business 02 : June Cowles, Senior Planner**

**Motion approving Siena & Verona at Bella Casa Master Subdivision Plan for the properties located at 0, 0, 2804, 3000, 3008, 3012 Holland Road containing 66.47 acres and 149 lots**

Staff oriented Council to the site. The property was rezoned this Fall. A traffic impact analysis was done; and at the request of the DOT, the applicant is putting in a left turn. A sidewalk connection off of the cul de sac is being provided. A neighborhood meeting was held. The Parks and Recreation Commission recommended a fee in lieu. Staff and the Planning Board recommended approval.

Council Member Dozier asked to be recused since she is a resident in the area and legislative chair for Bella Casa.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO RECUSE COUNCIL MEMBER DOZIER ON THIS ISSUE; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE REQUEST; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

Council Member Dozier returned to Council.

**New Business 03 : Lauren Simmons, Planner II**

**Motion approving James Street Station - Master Subdivision Plan - for the property located at 0, 100, 104, & 120 James Street containing 32.92 acres and 60 lots**

Staff oriented Council to the site. A neighborhood meeting was held; the applicant will work with Apex Elementary School and provide a connection to James Street. The applicant also agreed to several architectural conditions, the Parks and Recreation Commission recommended a fee in lieu. Staff recommended approval with the added conditions. Staff showed how the Peakway connection would be made.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE PLAN; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**New Business 04 : Mayor Keith Weatherly**

**Reappointments to the Board of Adjustment and Planning Board**

Mayor Weatherly proposed the following reappointments as the individuals have previously served admirably:

**Board of Adjustment**

- Reappoint Craig Hardee as Chair, with a Chair term to expire December 31, 2015
- Reappoint Glynn Rodean as a regular member, with a term to expire December 31, 2015
- Reappoint Lou Gregus as a regular member, with a term to expire December 31, 2015
- Reappoint Staley Smith as a regular member, with a term to expire December 31, 2015
- Reappoint David Rowland as an alternate member, with a term to expire December 31, 2015

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER WILKIE MADE THE MOTION TO APPROVE THE REAPPOINTMENTS; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

Planning Board

- Reappoint David Hooks as Chair to the Planning Board with a term to expire December 31, 2015
- Reappoint Tommy Morgan as Vice Chair to the Planning Board with a term to expire December 31, 2015

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE REAPPOINTMENTS; COUNCIL MEMBER DOZIER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**New Business 05 : Hank Fordham, Town Attorney**

**Encroachment Agreement between Duke Energy Progress and the Town of Apex**

Staff stated this would solve a problem that arose when the Wake County Board of Elections used Fire Station No. 2 as a voting prescient and damaged the septic drain fill. A new drain fill was built slightly off the site that the Town leases from Duke Energy Progress, but Duke Energy Progress will give Apex an encroachment agreement to cover this area of land.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE ENCROACHMENT AGREEMENT; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**New Business 06 : Mayor Keith Weatherly**

**Announcement by Mayor Weatherly**

Mayor Weatherly announced that he would retire as Mayor effective at the close of business Friday, January 24<sup>th</sup>. He will begin a new position that will not be compatible with being Mayor. Council members expressed words of appreciation and gratitude to Mayor Weatherly.

**CLOSED SESSION**

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There were no closed session items for consideration.

**WORK SESSION**

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There were no Work Session items for consideration.

ADJOURNMENT

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With there being no further business,

MAYOR WEATHERLY CALLED FOR A MOTION TO ADJOURN. COUNCIL MEMBER JENSEN MADE  
THE MOTION; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

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Donna B. Hosch, CMC, NCCMC

Town Clerk

ATTEST:

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Eugene J. Schulze

Interim Mayor