



## TOWN COUNCIL MEETING

TUESDAY, JUNE 3, 2014

**William M. Sutton, 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**  
**Donna B. Hosch, CMC, NCCMC, Town Clerk**  
**Henry C. Fordham, Jr., Town Attorney**

The Regular Meeting of the Apex Town Council scheduled for Tuesday, June 3, 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, Town Clerk Donna B. Hosch, and Town Attorney Henry C. Fordham, Jr.

### COMMENCEMENT

Mayor Sutton called the meeting to order, Mayor Pro Tem Schulze gave the Invocation, and Mayor Sutton led the Pledge of Allegiance.

### PRESENTATIONS

**Presentation 01 : Bruce A. Radford, Town Manager**

**Introduction of Andrew "Drew" Havens, the newly-hired Assistant Town Manager**

Radford gave a summary of the hiring process which led to the hiring of Drew Havens as the new Assistant Town Manager and introduced him and his wife, Kim. Havens will begin work on July 7<sup>th</sup>.

**Presentation 02 : Mayor Sutton**

**Proclamation to Chris Gredvig, Meals on Wheels, recognizing their 40<sup>th</sup> Anniversary**

Mayor Sutton read and presented the Proclamation to Gredvig in recognition of Meals on Wheels' 40<sup>th</sup> Anniversary.

**Presentation 03 : Mayor Sutton**

**Proclamation to Yury Rojasthe, Apex Kiwanas Club, recognizing their 25<sup>th</sup> Anniversary**

Mayor Sutton read and presented the Proclamation to Rojasthe in recognition of the Apex Kiwanas Club's 25<sup>th</sup> Anniversary. Rojasthe thanked the Town for its assistance over the past years, noting some of the projects in which the Club is involved and its purpose.

**Presentation 04 : Ben Hitchings and Bonnie Estes, NC Chapter of the American Planning Association  
Proclamation to the Great Main Street Award Winner, North Salem Street**

Hitchings, President of the NC Chapter of the American Planning Association, stated he was present to present the Award to North Salem Street. Mayor Sutton was presented a commemorative plaque.

## CONSENT AGENDA

- Consent 01 Minutes of the April 28, 2014 Personnel Committee Meeting, the May 6, 2014 and May 20, 2014 Regular Council Meetings, the May 6, 2014 Closed Session, and the May 13, 2014 Special Budget Workshop Meeting (*Closed Session Minutes Recorded Separately*)**
- Consent 02 Cancellation of the July 1, 2014 Regular Council Meeting in observance of the July 4<sup>th</sup> Holiday**
- Consent 03 Resolution Directing the Town Clerk to Investigate Petition Received, Certificate of Sufficiency by the Town Clerk, and Resolution Setting Date of Public Hearing on the Question of Annexation – Apex Town Council's intent to annex Robert Alan Rossi & Amy McDevitt property containing 1.606 acres located at 0 Schieffelin Road, Annexation #513 into the Town's corporate limits**
- Consent 04 Resolution Directing the Town Clerk to Investigate Petition Received, Certificate of Sufficiency by the Town Clerk, and Resolution Setting Date of Public Hearing on the Question of Annexation – Apex Town Council's intent to annex Straight Arrow property containing .7079 acres located at 2621 Schieffelin Road, Annexation #514 into the Town's corporate limits**
- Consent 05 Statement of the Town Council for Rezoning Case #14CZ07, Live Oak Homes/Jones & Cnossen Engineering, petitioners for the property located at the end of Grande Chateau Lane and Alsace Drive containing 2.77± acres**
- Consent 06 Statement of the Town Council and Ordinance for Rezoning Case #14CZ08, 1873 Long Pond, LLC/Jeff Roach, Peak Engineering & Design, petitioners for the property located between the end of Germaine Street and Herbert Street**
- Consent 07 Public Hearing for the June 17, 2014 Town Council Meeting regarding various amendments to the Unified Development Ordinance**
- Consent 08 Resolution naming Review Officers for the Town of Apex to then be approved by Wake County Board of Commissioners**
- Consent 09 Budget ordinance amendment related to the annual street repair and resurfacing contract**

- Consent 10 Construction contract and authorization for Town Manager to execute same for Roadway Rehabilitation Project (patching and resurfacing – Knollwood, Shepherds Vineyard Phase 2B, Buckingham Phases 1-3, Creekside Commons, Investment Blvd)
- Consent 11 Ordinance making it lawful to possess, possess open containers of, and consume malt beverages and unfortified wine on the portion of Salem Street temporarily closed on September 20, 2014 for Jazz Fest during the closure
- Consent 12 Resolution authorizing the Town Manager to exempt particular projects from the requirements of N.C.G.S. §143-64.31 where the estimated professional fee for services is less than \$50,000
- Consent 13 Sale of Lot 135 Plot D in the Apex Town Cemetery
- Consent 14 Lot 209 Plot(s) C, D, and E reconveyed to the Apex Town Cemetery
- Consent 15 Amendment to Duke Progress Energy contract for fire protection at the Harris Nuclear Facility
- Consent 16 Release of Liability document between the Town of Apex Fire Department and Mr. John Kane for the use of property located at 7328 Roberts Road for firefighter training
- Consent 17 Resolution authorizing sale of 1.9 acres out of PINs ##0732-77-7095 and 0732-76-9930 for \$190,000.00 subject to the upset bid procedure and authorizing the Town Manager to execute the contract and authorizing the Town Manager and/or Town Attorney to make modifications to the contract language not affecting contact price

Council Member Wilkie requested pulling Consent Item 11 regarding malt beverages and having it discussed as Old Business.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE A MOTION TO APPROVE THE COSENT AGENDA MINUS ITEM 11; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

## REGULAR MEETING AGENDA

Fordham requested the addition of an Old Business Item related to easements as well as a Closed Session for Council to receive legal advice regarding a claim. Radford requested pulling Consent Item 16 related to property for use for firefighter training.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE A MOTION TO MAKE THE ABOVE-STATED ADDITIONS AND DELETIONS; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

## PUBLIC FORUM

Brett Gant, Whitehall Manor Homeowners Association, thanked Council for the inclusion of a sidewalk in the proposed budget and the the safety it will provide in their neighborhood.

## PUBLIC HEARINGS

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

**Public Hearing and discussion regarding the Fiscal Year 2014-2015 Town of Apex Budget**

Mayor Sutton declared the Public Hearing open.

Radford called for questions from Council. Council stated it understood the need for security cameras downtown, but citizens have raised concerns about them in public areas. Police Chief John Letteney stated the cameras would primarily be used at the yearly festivals, with another camera being located in the PD parking lot. Conversations have taken place with the Downtown Business Association and the Festival Commission, and there were no concerns. There have been no complaints from citizens. The cameras would record 24/7 but not be constantly monitored. The video would serve as an investigative tool if needed.

Captain Blair Myhand, who is responsible for planning special events, stated that the events are now growing to 30,000 people. Their focus will be on prevention moreso than response. Myhand stated pride in Apex being a safe environment, with people walking around “without a care in the world”.

Jim Pendergraff, President of Wildfire Camera Networks, stated his credentials and gave a brief presentation on the camera system, noting that everyone now has video capability via cell phones. Explained were the wireless camera system’s specifications, expansion capabilities, and network layout. With Council’s concern about the 24/7 monitoring capability, Pendergraff stated that is taken care of by a solid policy and a police chief and staff to enforce it. PD is not at this point looking at the license plate reader function or monitoring the parks.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE A MOTION TO APPROVE THE CAMERA SYSTEM PURCHASE BUT THAT THERE MUST BE A POLICY IN PLACE BEFORE CAMERAS GO ONLINE; COUNCIL MEMBER DOZIER SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

Council questioned, in reference to a motorcycle grant, if there is a true need for more motorcycles. Staff stated the one motorcycle which we have now is used for public events, to get to wreck scenes, and to go places where cars cannot. Council was in agreement with the cycles.

Council questioned the property purchase for fire station number three, stating it was a lot of money for the amount of land available. Council stated it wanted to get the entire fire briefing before committing to the monies. Council consensus was for the monies to sit in contingency until the full briefing in August.

Council asked for justification for the white board. Staff stated that current equipment is antiquated and not suitable for Town needs. The white board would be available for every room in the building and could be used for ED presentations, maps and plans during meetings, bringing up the Town website, aerial photographs, drawing and capturing, emails, and videoconferencing particularly with out-of-state developers. There is no service fee involved. Council consensus was to approve this expenditure.

The Mayor questioned the need to raise water sewer rates in light of the current reserves. Staff stated that the thinking was to try to avoid a large rate increase down the road, although we could get through about another year without an increase. Council was in agreement with the Mayor not to raise the rates this year.

Mayor Sutton declared the Public Hearing closed.

**Public Hearing 02 : Dianne Khin, Planning Director**

**Public Hearing and Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Benjamin H. Whitley property containing 23.19 acres located at 3232 US 64 Hwy, Annexation #511, into the Town’s corporate limits and**

**Public Hearing 03 : Lauren Simmons, Planner II**

**Public Hearing regarding Rezone #14CZ09 and attached Ordinance from Rural Residential (RR) and Residential-80W (R-80W) to Tech Flex- Conditional Zoning (TF-CZ). The subject property is approximately 23.19 acres generally located at 3232 US 64 Highway West**

Mayor Sutton declared the two Public Hearings open.

Staff oriented Council to the site of the annexation. A neighborhood meeting was held. The applicant requested two additional conditions, which staff detailed. Staff and the Planning Board recommended approval with the two additional conditions.

**IN FAVOR OF THE REZONING:** Glenda Toppe, applicant, stated that they were requesting tech flex, which was in compliance with the Plan. Two neighborhood meetings were held, after which changes were made to their request. Toppe detailed these changes. Council expressed concern about some of the uses which were removed because of the kind of profitable businesses which would be eliminated. The applicant was agreeable to adding back uses, even if it means doing so in the future, noting that eliminations were not based on requests from staff.

Mayor Sutton declared the Public Hearings closed.

MAYOR SUTTON CALLED FOR MOTIONS. COUNCIL MEMBER WILKIE MADE A MOTION TO APPROVE THE ANNEXATION; MAYOR PRO TEM SCHULZE SECONDED THE MOTION. COUNCIL MEMBER WILKIE MADE A MOTION TO APPROVE THE REZONING WITH THE ADDITIONAL CONDITION OF MANUFACTURING AND PROCESSING; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
BOTH MOTIONS CARRIED BY 5-0 VOTES.

**Public Hearing 04 : Dianne Khin, Planning Director**

**Public Hearing and Ordinance on the Question of Annexation – Apex Town Council’s intent to annex 19<sup>th</sup> Hole Group and Staley Smith property containing 10.9677 acres located at Apex Peakway and North Salem Street, Annexation #507 into the Town’s corporate limits**

Staff oriented Council to the site.

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

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

**Public Hearing 05 : June Cowles, Senior Planner**

**Public Hearing and Rezone #14CZ06 and ordinance, 5.42 acres located at the southwest corner of Green Level West Road and Green Level Church Road from Rural Residential (RR) to Neighborhood Business Conditional Zoning (B1-CZ)**

Staff oriented Council to the site. A neighborhood meeting was held. The request was consistent with the Towns Plans. Staff and the Planning Board recommended approval of the request. Responding to Council regarding sewerage, staff stated a previous such request was made by the owners to be sewerage by Cary.

**SPEAKING IN FAVOR OF THE REQUEST:** Dan Maisel, Leaf Zoning Services representing the owners, stated that they are anticipating growth in the area, especially with the advent of the high school. They have had water and sewer conversations with Apex and Cary staff members. Mayor Sutton declared the Public Hearing closed.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER DOZIER MADE A MOTION TO APPROVE THE REZONING AND ORDINANCE; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

**Public Hearing 06 : Lee Smiley, Finance Director**

**Public hearing regarding proposed installment financing agreement for water plant improvements and to refinance police and fire facilities**

Staff stated this would be for financing for the water treatment plant expansion, a \$16 million project. We will use \$8 million cash and borrow the remainder of the monies. We will also borrow an additional \$6 million to refinance the police and fire buildings. Staff explained in more detail the proposed financing.

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

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE A MOTION TO APPROVE THE TWO RESOLUTIONS; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

## OLD BUSINESS

**Old Business 01: Hank Fordham, Town Attorney**

**Authorization for Public Works & Utilities staff to initiate negotiating the acquisition of easements needed to extend Town utility services into the White Oak Basin and authorization for staff and the Town Attorney to pursue agreements with various developers to reimburse the Town for the cost of acquiring the easements substantially in accordance with the a draft agreement**

Staff presented a history of how we would like to see the White Oak Basin sewered via a regional plan, stating the following key points:

- 1) Developers are working together to build the public water and sewer infrastructure through a collaborative regional approach in the White Oak Basin. This regional approach was requested by Council in previous discussions regarding the Toll Brothers development in the White Oak Basin

- 2) The developers have spent significant funds to survey and design the infrastructure and it is nearing completion
- 3) A large number of easements will be required in order to build all the required infrastructure
- 4) Experience has taught us that not all easements we be able to be procured by negotiation. If the Council is unwilling to support eminent domain for some of the easements we should not go forward with the project
- 5) Staff believes the best communication with the property owners will be accomplished by having staff manage the easement negotiations and having the developers reimburse the Town for costs
- 6) Additional hired right of way agents and outside legal counsel will be required to accomplish the negotiations

The Town Attorney stated that a motion by Council would be agreement for staff to proceed with negotiations and come back with a final agreement, giving developers some sense of in what direction the Town will go. The developers will hire outside legal counsel who will work with the Town. Staff explained why it is better for the Town to get the easements.

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

**Old Business 02: Council Member Gene Schulze**

**Ordinance making it lawful to possess, possess open containers of, and consume malt beverages and unfortified wine on the portion of Salem Street temporarily closed on September 20, 2014 for Jazz Fest during the closure**

Council stated it was under the impression that it would get more information before voting on this. The Town Attorney stated this would be legal as the General Statutes give the Town the authority to make it so. However, it would be limited to this particular date while the street is closed. There are strill some wrinkles with the ABC folks. Chief Letteney has met with the ABC folks and is not certain all Town concerns have been/can be addressed. The question still remains as to the point at which alcohol would be allowed up and down the street, this relating to the ABC laws regarding establishments.

Council stated it was uncomfortable with alcohol on the street all day around families. Council stated it felt this is a primarily an adult function. The Town Attorney stated the Ordinance would only address it being legal to have open containers of alcohol on the street.

The Town Manager polled Council as to how they would vote, with Council Members Wilkie and Dozier stating they would vote in the negative.

MAYOR SUTTON CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE ORDINANCE; COUNCIL MEMBER JENSEN SECONDED THE MOTION. COUNCIL MEMBERS SCHULZE, JENSEN, AND LASSITER VOTED IN THE AFFIRMATIVE; COUNCIL MEMBERS WILKIE AND DOZIER VOTED IN THE NEGATIVE. THE MOTION CARRIED BY A 3-2 VOTE.

## NEW BUSINESS

There were no New Business items for consideration.

## CLOSED SESSION

### **Closed Session for Council to receive legal advice regarding a claim**

MAYOR SUTTON CALLED FOR A MOTION TO GO INTO CLOSED SESSION. COUNCIL MEMBER LASSITER MADE THE MOTION; MAYOR PRO TEM SCHULZE SECONDED THE MOTION. THE MOTION CARRIED BY A 5-0 VOTE.

MAYOR SUTTON CALLED FOR A MOTION TO RETURN TO OPEN SESSION. COUNCIL MEMBER JENSEN MADE THE MOTION; MAYOR PRO TEM SCHULZE SECONDED THE MOTION. THE MOTION CARRIED BY A 5-0 VOTE.

## WORK SESSION

There were no Work Session items for consideration.

## ADJOURNMENT

With there being no further business,

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

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Donna B. Hosch, CMC, NCCMC

Town Clerk

ATTEST:

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William M. Sutton, Mayor