



TOWN COUNCIL MEETING

TUESDAY, OCTOBER 7, 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
Drew Havens, 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, October 7, 2014, at 7:00 p.m. was held in the Council Chamber of Apex Town Hall, 73 Hunter Street

In attendance were Mayor William M. Sutton, Mayor Pro Tem 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 Drew Havens, Town Clerk Donna B. Hosch, and Town Attorney Henry C. Fordham, Jr.

COMMENCEMENT

Mayor Sutton called the meeting to order, Council Member Lassiter gave the Invocation, and Mayor Sutton led the Pledge of Allegiance.

PRESENTATIONS

There were no Presentations to be made.

CONSENT AGENDA

- Consent 01** Minutes of the September 16, 2014 Regular Council Meeting and the September 16, 2014 Closed Session
(Closed Session Minutes recorded separately)
- Consent 02** Appointment of Assistant Town Manager Drew Havens as first alternate commissioner to the North Carolina Eastern Municipal Power Agency (NCEMPA) Board of Commissioners
- Consent 03** Resolution supporting the Jordan Lake Partnership and the Triangle Regional Water Supply Plan
- Consent 04** Set a public hearing for October 21, 2014 to receive comment on the contract enabling the Town to purchase park property

- Consent 05 Set a Public Hearing on October 21, 2014 for rezoning application #14CZ13 (Bradley Commons PUD) to rezone 1.10± acres located at 950 Windy Road from Planned Unit Development-Conditional Zoning to Planned Unit Development-Conditional Zoning, adding a use, microbrewery
- Consent 06 Set a Public hearing on October 21, 2014 for rezoning application #14CZ14 (Deer Creek PUD) to rezone 103.06± acres located at US Hwy 64 W and New Hill Olive Chapel Road from Rural Residential to Planned Unit Development-Conditional Zoning
- Consent 07 Set a Public Hearing for the October 21, 2014 Town Council Meeting regarding Rezone #14CZ18 (Hope Community Church), 12.66 acres located at 2080 E Williams Street, from Light Industrial Conditional Use Zoning to Tech/Flex Conditional Zoning
- Consent 08 Set a Public Hearing for the October 21, 2014 Town Council Meeting regarding rezone #14CZ20 (540 Flex and Business Park), 10.75 acres located at 1604 & 1640 Olive Chapel Road, from Tech Flex-Conditional Zoning to Tech Flex-Conditional Zoning (TF-CZ) to add the uses of microbrewery, microdistillery and medical or dental office or clinic
- Consent 09 Statement of the Town Council for Rezoning Case #14CZ10 (Parkside PUD), Parkside Development Group, LLC, petitioners for the property located at Milano Avenue, Mt. Zion Church Road, Richardson Road and Blazing Trail
- Consent 10 Statement of the Town Council for Rezoning Case #14CZ12 (MCI Business Pak), Michael Mattachione, petitioners, for the properties located at 2121 E Williams Street, 5523, 5533, 5537 and 0 Eddie Creek Drive
- Consent 11 Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the Unified Development Ordinance (UDO) Amendments of September 16, 2014
- Consent 12 Street closure for Apex HS Homecoming Parade
- Consent 13 Street closure for Trick or Treat festivities
- Consent 14 Budget ordinance amendment for the expenditure of restricted Police Department funds for investigative software
- Consent 15 Budget ordinance amendment for roof project at the Apex Union Depot building and interior work to repair water damage inside the building

MAYOR SUTTON CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE CONSENT AGENDA; COUNCIL MEMBER WILKIE SECONDED THE MOTION.

THE MOTION CARRIED BY A 5-0 VOTE.

REGULAR MEETING AGENDA

There were no modifications to the Agenda requested by Council or staff.

PUBLIC FORUM

Ann Barta stated she was representing parents from Olive Chapel Elementary concerned with the planned multi-business next to the school. This is a situation unique to Wake County. Traffic is a concern as well as the view of the children that the businesses will have. Ms. Barta asked for a traffic study from DOT and consideration for an alternate plan so that we don't go down in history as having an education/business zone. Ms. Barta asked for barrier landscaping which would help children not to see the doctor's office and vice versa.

PUBLIC HEARINGS

Public Hearing 01 : Lauren Simmons, Planner II

Public hearing and adoption of Ordinance regarding rezoning #14CZ11 (Manors at Bella Casa 8B), rezone from Rural Residential (RR) and Medium Density Residential-Conditional Zoning to Medium Density Residential - Conditional Zoning (MD-CZ) district classification for the property located at 2801 Walden Road containing 16.3± acres

Staff oriented Council to the site, which is consistent with the Apex Plan. A neighborhood meeting was held; the applicant requested several additional uses. The Planning Board unanimously recommended approval of this request as did staff.

Mayor Sutton declared the Public Hearing open.

Peter Crossen, Jones and Crossen Engineering, stated this was a continuation of the Manors at Bella Casa development and offered to answer any questions from Council.

Mayor Sutton declared the Public Hearing closed.

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

Public Hearing 02 : Dianne Khin, Planning Director

Public Hearing and adoption of Ordinance on the Question of Annexation – Apex Town Council’s intent to annex JVI Development property (Manors at Bella Casa 8A & B) containing 20.639 acres located between Evans Road and Walden Road Annexation #520, into the Town’s corporate limits

Staff oriented Council to the site and stated it recommended approval of the request.

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 JENSEN MADE THE MOTION TO
ADOPT THE ORDINANCE; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 03 : Dianne Khin, Planning Director

Public Hearing and adoption of Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Standard Pacific of the Carolinas property (Salem Village Phase 3) containing 28.515 acres located south of South Salem Street, north of Padstone Drive, Annexation #521, into the Town’s corporate limits

Staff oriented Council to the site and stated it recommended approval of the request.

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 WILKIE MADE THE MOTION TO
ADOPT THE ORDINANCE; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

OLD BUSINESS

Old Business 01 : Peter Clossen, PE, Jones & Clossen PLLC

The applicant for rezoning #14CZ04 (Villages of Apex South aka “Trackside South”) has returned to give the Town Council an update on the sewer alignment from Norwood Lane and the location of the stormwater pond. The original item was to amend rezoning #07CZ05 to eliminate a Trackside South “live/work” condition and to change a Trackside South parking/loading requirement for non-townhome attached-residential, as more specifically described in the ordinance

Peter Clossen, Jones and Clossen Engineering, stated concerns from neighbors caused them to re-evaluate the stormwater pond that serves Phase II of the development and the possibility of running

gravity sewer through a rental lot on Norwood. The pond drawings were reviewed. Due to constraints, Cnossen stated he didn't believe the pond could be moved to make significant improvements for the neighbors - the pond is where it needs to be. Landscaping will meet the requirements of DWQ and the Stormwater Manual.

As for gravity sewer, survey data was gathered on the rental lot and a preliminary design was drawn. Cnossen has met with the Town, and the Town agreed it is a viable option to go through the lot. The existing sewer will need to be lowered, which will mean some demolition of Norwood Lane. Cnossen described some of the impacts of this.

Appraisals were done on the rental property, and offers were made to the owner for the easement and the property. Both offers were rejected. Staff reminded Council of their previous condition for Halle Group to show proof of making offers to the property owners. Staff has that information. Cnossen, therefore, asked for condemnation since they have done everything they could do.

Mr. and Mrs. Weaver addressed Council, stating that they really are not okay with the condemnation; this overrides a person's property rights. Mrs. Weaver has a large issue with the pond and runoff. She spoke on the effect this has on their property and the wildlife habitat. She questioned if the current planning standards would invalidate the developer's Plan which was done in 2007. She spoke about the lighting which is now going up and how it will throw glare on their property.

Cnossen addressed the location of the pond and the requirements of its location, which is in compliance with the Town Ordinances and designed beyond the requirements of the UDO. There will be a replanting for the trees which were cut during a previous easement agreement. Cnossen stated he was requesting a 20-foot Town of Apex sewer easement at 903 Norwood Lane. The Town Attorney stated this is normally done via Resolution.

MAYOR SUTTON CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO
HAVE THE TOWN ATTORNEY PREPARE A RESOLUTION FOR CONDEMNATION FOR COUNCIL CONSENT;
COUNCIL MEMBER LASSITER SECONDED THE MOTION.

Council stated it would not be comfortable asking for the easement had the property owner not been notified or if the owner was present to speak at this meeting. Council discussed the Town's offer for the

land. It was stated that 50% over the appraised value would be suitable. Council stated it wished to have a policy determining the value of these types of easements, to at least be the appraised value.

THE MOTION CARRIED BY A 5-0 VOTE.

Crossen then stated they wished to move forward with their rezoning request for Phase I to remove the live/work units and reduce parking requirements for multi-family usage. The owner has Letters of Intent for the commercial site as well as the residential portion.

MAYOR SUTTON CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE REZONING WITH THE REZONING NOT TO WAIVE THE VESTED RIGHTS THAT OTHERWISE APPLY AND WITH THE CONDITION THAT VEGETATION WILL BE PLANTED ALONG THE BROOKFIELD NORWOOD SIDE TO BE AGREEABLE AND REASONABLE TO THE DEVELOPER, THE PLANNING STAFF, AND THE NEIGHBORS TO WHICH THE POND ABUTS;

COUNCIL MEMBER WILKIE SECONDED THE MOTION.

THE MOTION CARRIED BY A 5-0 VOTE.

Old Business 02 : Bruce Radford, Town Manager

Continuation of discussion regarding the preservation and future use of the Tunstall House

Staff stated there have been no more suggestions for the use of this property since the proposal for a senior center. Capital Area Preservation (CAP) has been met with, and they suggested stabilizing and revitalizing the building and then placing it on the market for use as office space. This is a very good idea, but there will need to be a determination of cost to bring the building to code. Staff will bring back to Council cost and possible rent numbers. CAP will not assist with funding, but they will help market the property. Possible grant money will be sought. It will cost \$30,000 to stabilize the building.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE MANAGER SPENDING \$30,000 TO STABILIZE THE BUILDING AND BRINGING TO COUNCIL AN ESTIMATE TO BRING THE BUILDING TO CODE. COUNCIL MEMBER LASSITER SECONDED THE MOTION.

THE MOTION CARRIED BY A 5-0 VOTE.

Old Business 03 : Bruce Radford, Town Manager and Kent Jackson, Engineering Director

Staff report on findings related to the establishment of railroad quiet zones adjacent to the Central Business District and Trackside North

Staff met with CSX and the Federal Railroad Federation. Initially, it was thought there was a potential to establish two quiet zones. CSX originally stated that the current equipment would be adequate and would only need the installation of controls on the pavement. The preliminary application process was

started, CSX made additional investigation, and it was found the equipment is not up to the current requirements of CSX. The cost to upgrade would be \$250/300,000 per location.

Staff explained that quiet zone one can be given an exception since this is a slow speed rail. Staff recommended proceeding with the Notice of Intent for quiet zone one and to postpone consideration of quiet zone two due to the excessive cost.

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

NEW BUSINESS

There were no New Business items for consideration.

CLOSED SESSION

Closed Session 01 : to receive legal advice from the Town Attorney

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

MAYOR SUTTON CALLED FOR A MOTION TO RETURN TO OPEN SESSION. COUNCIL MEMBER WILKIE MADE THE MOTION; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Staff made recommendation to seek discussions with DOT to determine if they will cede Salem Street from the Peakway to Hwy 55. Based on how discussions go, if we are not getting any traction by the time Legislature is in session, we will seek a local act.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION APPROVING THE MANAGER TO SPEAK WITH THE DEPARTMENT OF TRANSPORTATION REGARDING FUNDING TO TAKE OVER THE ROADWAY FROM THE PEAKWAY TO HWY 55.
COUNCIL MEMBERS SCHULZE, JENSEN, DOZIER, AND WILKIE VOTED IN THE AFFIRMATIVE; COUNCIL MEMBER LASSITER VOTED IN THE NEGATIVE. THE MOTION CARRIED BY A 4-1 VOTE.

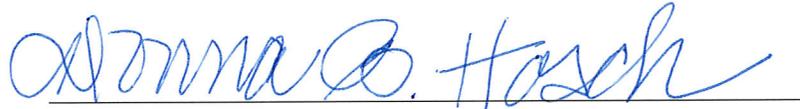
WORK SESSION

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 LASSITER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.



Donna B. Hosch, CMC, NCCMC
Town Clerk

ATTEST:



William M. Sutton, Mayor