



# APEX TOWN COUNCIL MEETING

TUESDAY, MARCH 19, 2013

Keith H. Weatherly, Mayor  
Eugene J. Schulze, Mayor Pro Tempore  
Terry L. Rowe, Scott R. Lassiter,  
William S. Jensen, and Lance Olive, 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, March 19, 2013, 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 Terry L. Rowe, William S. Jensen, Lance Olive, and Scott R. Lassiter. Also in attendance were Town Manager Bruce A. Radford, Assistant Town Manager J. Michael Wilson, Town Clerk Donna B. Hosch, and Assistant Town Attorney Laurie Hohe. Absent was Town Attorney Henry C. Fordham, Jr.

## COMMENCEMENT

Mayor Weatherly called the Meeting to order; visiting Commissioner Calvin Harris, Jr. gave the Invocation; Mayor Weatherly led the Pledge of Allegiance.

## PRESENTATIONS

### **Presentation 01 : Mayor Keith Weatherly**

**Presentation of a Proclamation to the Peak City Exchange Club of Apex, Nancy Wakeley accepting, proclaiming the month of April 2013 as National Child Abuse Prevention Month**

Mayor Weatherly recognized Nancy Wakeley, President of the newly-formed Peak City Exchange Club, and presented her a Proclamation proclaiming the month of April as National Child Abuse Prevention Month. Ms. Wakeley gave an overview of the organization and noted upcoming events.

In addition, Council Member Lassiter recognized Oxford City Commissioner Calvin Harris, Jr. and Pamela Criswell, all of whom are in the same graduate program at NCCU. Both were presented with tokens of appreciation.

## CONSENT AGENDA

1. Motion to approve Minutes of the February 27, 2013 Economic Development Committee Meeting, the March 1, 2013 Annual Council Retreat, the March 5, 2013 Regular Meeting, and two Closed Sessions from the Regular Meeting held on March 5, 2013 (*Closed Session Minutes recorded separately*)
2. Motion to approve a Resolution In Support of the Proposed West Apex High School
3. Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting Date of Public Hearing on the Question of Annexation – Apex Town Council’s intent to annex Colvin Park, property containing 63 ± acres located at Stephenson Road, south of Smith Road, Annexation #487, into the Town’s corporate limits at the April 2, 2013 Regular Meeting
4. Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting Date of Public Hearing on the Question of Annexation – Apex Town Council’s intent to annex Green Olive Investments, LLC (Covington Subdivision), property containing 28.34 ± acres located at 1928 Olive Chapel Road, Annexation #488, into the Town’s corporate limits at the April 2, 2013 Regular Meeting
5. Motion to allow Town Manager to sign Cooperative Equipment Agreement between the Town of Apex and NC Department of Agriculture/NC Forest Service for receipt of AM General Wildland Firefighting vehicle
6. Motion to approve contract award to Carolina Video Security to provide secure access components and labor to the Public Works project for all three buildings
7. Motion to approve contract for audit for the fiscal year ending June 30, 2013

Town Manager Radford noted that there was, at the request of Council, a modification made to one sentence in the Minutes from the March 1<sup>st</sup> Retreat.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO ACCEPT THE CONSENT AGENDA WITH THE MODIFICATION AS STATED; COUNCIL MEMBER OLIVE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

## REGULAR MEETING AGENDA

There were no requested modifications to the Regular Agenda.

## PUBLIC HEARINGS

### **Public Hearing 01 : Lauren Simmons, Planner II**

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

Staff detailed the ten requested amendments.

Mayor Weatherly declared the Public Hearing open.

Tommy Drake, Drake Commercial Properties, voiced support for the changes. Stewart Jones, 221 N. Salem Street, stated he hates to lose the 2% reduction in relation to PUDs and would like to see standards applied. He complimented the beautiful buffers and supports the MOOR district allowing general retail.

Staff, in responding to Council, clarified lot sizes in low and medium density areas, units/acre, and wetlands. The 2% reduction on the PUDs was clarified by staff, stating that specific criteria should be provided. This, therefore, will be taken out of the amendments for more work and then brought back to Council.

Mayor Weatherly declared the Public Hearing closed.

Council stated it also wished more consideration of #4.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE  
THE AMENDMENTS REMOVING NUMBERS 1, 4, AND THE FIRST SENTENCE  
OF NUMBER 10; COUNCIL MEMBER OLIVE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

The Mayor took a moment to brief Council and the audience on new legislature, House Bill 150, assuring that Apex will continue to have the high building standards that the community expects. The Legislature is trying to take away this authority from municipalities which would allow low rent builders to come in and do what they want to do. The Bill is wrong-headed and on a fast track. The Mayor urged the audience to contact their Legislators quickly on this Bill.

### **Public Hearing 02 : Lauren Simmons, Planner II**

**Public Hearing and motion regarding Rezone #13CZ02, 103.6 acres generally located at Milano Avenue, between Vincenza Drive and Mt. Zion Church Road from Planned Unit Development-Conditional Zoning to**

**Planned Unit Development-Conditional Zoning Revision to the Development Requirements for Public Access Routes**

Staff presented an overview of what the developer has requested in relation to road paving.

Mayor Weatherly declared the Public Hearing open.

Stewart Jones, Jones and Clossen, explained what has been done to get Mt. Zion Church Road paved. They have worked with DOT on this after obtaining ROWs.

Mayor Weatherly declared the Public Hearing closed.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE 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 03 : Lauren Simmons, Planner II**

**Public Hearing and motion regarding Rezoning #13CZ03, 924 Center Street Rezone, MORR-CZ to MORR-CZ, changing conditions to add the use retail general. The subject property is approximately 0.28 acres identified on Wake County Tax Maps as PIN 0742-80-5251**

Staff overviewed the request, stating this piece of property has been rezoned in the past. Staff and the Planning Board unanimously recommend approval.

Mayor Weatherly declared the Public Hearing open.

Stewart Jones stated this works well for the current bike shop.

Mayor Weatherly declared the Public Hearing closed.

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

At this point, Mayor Weatherly asked for a Closed Session at the conclusion of the Regular Agenda to receive legal advice from the Town Attorney.

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

## OLD BUSINESS

### **Old Business 01 : Tim Donnelley, Public Works Director**

#### **As continued from the March 5, 2013 Regular Meeting, request by Matt Kirkpatrick and Mitch Sanner, III to add 10 Additional Acres to the Colvin Park Subdivision Sewer Agreement**

Mr. Kirkpatrick stated he has conferenced with the owner of the properties. He introduced Mr. Sanner, the Divisional President of Orleans Homes, owners of the property. They are comfortable with this request being the first and last time that they increase the GPA allotment, their not coming back to Council for inclusion of an additional property. They are willing to commit to the standard rec fees for the additional ten acres, which will be about \$150,000.

Staff stated that the homes will not be approved unless there is adequate sewer capacity. Also, the owners will have to renegotiate their agreement with Cary and then their agreement with Apex and Cary. Mr. Sanner stated submittal will take place sometime after July 1<sup>st</sup>, this then falling under the expected increase in residential acreage fees in the new budget.

Council Member Rowe explained his reasoning for rethinking his initial negative vote. Council Member Jensen stated he would not change his initial vote. This continues to send out a bad message, and it is a mistake to continue down this path.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER OLIVE MADE THE MOTION TO APPROVE  
THE REQUEST BASED ON REC FEES BEING INCLUDED WITH NO APPEALS AND AMENDING THE ALTERNATIVE  
SEWER CONNECTION AGREEMENT BETWEEN APEX AND COLVIN AND THE INTERLOCAL AGREEMENT FOR THE  
PROVISION OF SERVICES FOR COLVIN PARK SUBDIVISION BETWEEN APEX AND CARY AND AUTHORIZING THE TOWN  
MANAGER TO EXECUTIVE SAME; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
COUNCIL MEMBERS LASSITER, OLIVE, AND ROWE VOTED IN THE AFFIRMATIVE; COUNCIL MEMBERS  
JENSEN AND SCHULZE VOTED IN THE NEGATIVE.  
THE MOTION CARRIED BY A 3-2 VOTE.

## PUBLIC FORUM

Matthew Myers of 1200 E. Williams Street presented his dream of starting a business. He, his business partner, and other business owners on Williams Street have had a difficult time with sign Ordinances in Section 22-102 through 22-110. They ask that these ordinances be amended, specifically addressing signage that would direct more foot and vehicle traffic to their locations. The landlord has refused to place a common sign at the road, and Mr. Myers asked for permission to display a 26 square foot portable sign, i.e., a standard flag measuring 13 feet by 2 feet.

Mayor Weatherly asked that staff look into this to determine if there could be a business friendly solution for these businesses. Staff stated that signs could be erected by the property owner, and confirmed that the owner has elected not to do so. A sign at the road would not be allowed, and a directory sign can't have 22 businesses on it. No one would build a shopping center like this today because it is not viable. Staff has looked at this in the past and is unaware of a way to fix this for this one shopping center.

## NEW BUSINESS

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

#### **Motion approving Salem Village Phase 2C Master Subdivision Plan Amendment for the properties located south of South Salem Street and west of Tingen Road containing 28.8 acres and 67 lots**

Staff detailed the request of the applicant, which is consistent with the Transportation Plan. Staff and the Planning Board recommend approval.

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

### **New Business 02 : Lauren Simmons, Planner II**

#### **Motion approving Bristol Walk – Master Subdivision Plan for the property located at 1836 Olive Chapel Road containing 5.36 acres and 38 lots**

Staff oriented Council to the site which is consistent with the Land Use Plan. The applicant has worked with staff to preserve old pecan trees on the property. Staff and the Planning Board recommend approval.

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

## CLOSED SESSION

### **Closed Session to receive legal advice from the Town Attorney**

MAYOR WEATHERLY CALLED FOR A MOTION TO GO INTO CLOSED SESSION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION TO MOVE OUT OF CLOSED SESSION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION; COUNCIL MEMBER OLIVE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

## ADJOURNMENT

WITH THERE BEING NO FURTHER BUSINESS, MAYOR WEATHERLY CALLED FOR A MOTION TO ADJOURN. COUNCIL MEMBER ROWE MADE THE MOTION; COUNCIL MEMBER OLIVE 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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Keith H. Weatherly  
Mayor