



TOWN COUNCIL MEETING

TUESDAY, JUNE 18, 2012

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, June 18, 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, 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 Town Attorney Henry C. Fordham, Jr. Absent was Council Member Lance Olive.

COMMENCEMENT

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

PRESENTATIONS

Presentation 01 : Mayor Keith Weatherly

Presentation of The Order of the Long Leaf Pine Award

Mayor Weatherly stated it was his pleasure and honor, on behalf of Governor Pat McCrory and Representative 'Skip' Stam, to present the prestigious Order of the Long Leaf Pine Award to Rose Marie White-Hearn. Persons receiving this award have had extraordinary records of community and organizational service, and are normally presented the award upon retirement. However, Mrs. White-Hearn died on April 17th of this year, so the award was being presented posthumously. Mrs. White-Hearn would be most remembered for her extensive work with the North Carolina victim's assistance network. Mayor Weatherly stated that Mrs. White-Hearn is well deserving of this, the State's highest

award. Mr. Hearn in accepting the award thanked all and expressed his gratitude for the recognition of his wife's hard work.

Presentation 02 : Mayor Keith Weatherly

Presentation of Proclamation to the Apex High School Men's Championship Lacrosse Team

Mayor Weatherly read the Proclamation, and stated high words of praise for this team of young men who won the championship with only one second left in the game. The coaches and team were presented with a poster of the team, and Mayor Weatherly stated that the road sign recognizing the team's championship win would be put up the next day.

Presentation 03 : Lauren Simmons, Planner II

Presentation of the Summer Appearance Awards

Staff presented photographs of the winning residential and non-residential properties, giving the reasons why they were selected. Mayor Weatherly read the Awards as they were presented to the winners: Alexis Miller of 611 Olive Street as the Residential Award winner and Apex United Methodist Church as the Non-Residential Award winner.

CONSENT AGENDA

Consent 01 Minutes of the June 4, 2013 Regular Town Council Meeting

Consent 02 Apex Tax Report dated 05/06/2013

Consent 03 Street closures for Old Fashion 4th of July

Consent 04 Personnel Committee recommendations for the Position Classification Plan for FY13-14

Consent 05 Resolution authorizing the Wake County Revenue Director to collect taxes on behalf of the Town of Apex

Consent 06 Resolution supporting NCDOTs Watch for Me NC 2013 campaign

Consent 07 Public Hearing for the July 16, 2013 Town Council Meeting regarding Rezone #13CZ11, 2.96 acres located at a portion of 6501 Old Jenks Road from Residential Agricultural Zoning to Medium Density Conditional Zoning

[Consent 08](#) Public Hearing for the July 16, 2013 Town Council Meeting regarding Rezone #13CZ12, 40.85 acres that include 6 parcels located at 0 Old Jenks Road, 6613, 6633, 6609, and a portion of 6501 Old Jenks Road from Residential Agricultural Zoning and Medium Density Conditional Use to Medium Density Conditional Zoning

[Consent 09](#) Public Hearing for the July 16, 2013 Town Council Meeting regarding Rezone #13CZ14, 14.79 acres located at 2932 and 3008 Evans Road, 0 and 7732 Humie Olive Road from Residential Agricultural Zoning to Medium Density Conditional Zoning

[Consent 10](#) Public Hearing for the July 16, 2013 Town Council Meeting regarding rezone #13CZ15, 5.1 acres located at 2717 Evans Road from Residential Agricultural to Medium Density-Conditional Zoning

[Consent 11](#) Public Hearing for the July 16, 2013 Town Council Meeting regarding Rezone #13CZ16, 65.9 acres located at 0, 3000, 3008 and 3012 Holland Road and 2805 Walden Road from Residential Agricultural Zoning to Medium Density Conditional Zoning

[Consent 12](#) Public Hearing for the July 16, 2013 Town Council Meeting regarding rezone #13CZ17, 103.91 acres located at Green Level West Road and Castleberry Road from Rural Residential and Wake County-R-80W to Low Density-Conditional Zoning

[Consent 13](#) Statement of the Town Council and Ordinance to Amend the Official Zoning District Map for Rezoning Case #13CZ01, Maya Court

[Consent 14](#) Statement of the Town Council and Ordinance to Amend the Official Zoning District Map for Rezoning Case #13CZ04, Trace II

[Consent 15](#) Statement of the Town Council and Ordinance to Amend the Official Zoning District Map for Rezoning Case #13CZ06, Edwards Property

[Consent 16](#) Purchase of Lot 17, Plots C and D from the Apex Town Cemetery

[Consent 17](#) Reconveyance of Lot 97, Plots A, B, C, D, E, F, G, and H to the Apex Town Cemetery

[Consent 18](#) Purchase of Lot 97, Plots A, B, C, D, E, F, G, and H from the Apex Town Cemetery

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE
THE CONSENT AGENDA; COUNCIL MEMBER JENSEN SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

REGULAR MEETING AGENDA

Mayor Weatherly presented the Regular Meeting Agenda. Attorney Fordham suggested that after the general description of New Business 02 "Interlocal Agreement for White Oak Creek Greenway", that there be a short closed session to seek advice from the attorney.

Mayor Weather recommended that Public Hearings 02 and 03 be consolidated as one Hearing since they both related to 2533 Olive Chapel Road.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE REGULAR AGENDA WITH THE ABOVE ADDITIONS; COUNCIL MEMBER ROWE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

PUBLIC HEARINGS

Public Hearing 01 : June Cowles, Senior Planner

The applicant requested to continue the Public Hearing to August 6, 2013 regarding Rezone #13CZ05 0.73 acre located at 2621 and 2629 Schieffelin Road from Residential Agricultural Zoning to Light Industrial Conditional Zoning

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER ROWE MADE THE MOTION TO CONTINUE THE HEARING AS REQUESTED; COUNCIL MEMBER LASSITER SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

Public Hearing 02 : Dianne Khin, Planning Director

Public Hearing and adoption of an Ordinance on the Question of Annexation – Apex Town Council's intent to annex Parkside Builders, LLC properties containing 12.08 ± acres located at 2533 Olive Chapel Road, Annexation #490, into the Town's corporate limits

and

Public Hearing 03 : Lauren Simmons, Planner II

Public Hearing and approval regarding Rezone #13CZ08, 12.08 acres located at 2533 Olive Chapel Road from Wake County-R-80W and Rural Residential to Medium Density Residential Conditional Zoning

With there being a valid Protest Petition, Council questioned how this would affect the two hearings being combined. The Town Attorney stated there would be no effect on hearing the two matters together, and that at the end of the combined Hearing, there could be either a joint motion or separate motions. The protest petition is valid against part of the subject tract and invalid as to the

other part of the subject tract. But since the areas are interrelated, the protest petition probably affects the rezoning as a whole.

Staff gave an overview of each request. The neighborhood meeting raised concerns about the pond, buffers, and if there would be an HOA. The applicant is requesting the use for single family homes only and offered conditions to the Planning Board. Staff stated their recommendations. The Planning Board voted unanimously to recommended approval with conditions offered by applicant.

Jeff Roach, Peak Engineering and Design, gave the conditions of this annexation noting that the property is split between the ETJ and the County. It follows the 2025 Plan. The pond will have a 7-foot fence and bushes as a result of safety concerns. Mr. Roach explained the buffers in response to Council questions.

Cynthia Ball of 2517 Olive Chapel Road described her property and the surrounding properties. She was sorry to hear that the applicant is proposing rezoning to medium density, and a consultant has been engaged to assist in explaining their concerns about damage to the pond and privacy between their home and the development. There is also concern about trees being taken down for a fence.

Faye Weissner of 2513 Olive Chapel Road stated her home is close to the property line, and she's concerned about the impact of this development. The plan specifications do not reflect the way that she and the neighbors live, and there is a concern about buffers.

Beverly Ruben stated that if the development is allowed, her entire backyard would face the subdivision. She was concerned about the safety and liability of the pond as well as impervious surfaces and possible damage to the pond from the development.

Don Dambrosi, 275 Fairway West in Apex of dLCS distributed information to Council regarding and addressing neighbor concerns about additional conditions on buffers, fencing, setbacks, storm water, water quality, and draining of the pond. If the concerns are not addressed now, the applicant will only need to address concerns of the UDO and not of the residents. It will take at least three weeks to complete dLCS's study of these issues, and Mr. Dambrosi encouraged the applicant to work along with them in order to expedite the neighbors' wishes. Mr. Roach stated there would not be a problem

working with Mr. Dambrosi, but that the concerns were overblown. There was additional conversation about fencing around the pond.

Mr. Roach stated they will have to go offsite for sanitary/sewer, but that he was working with property owner Ms. Ball on this, these lines running across her property. If this does not prove feasible, there would be the possibility of coming back to Council and asking for eminent domain. Council stated it may want to put off voting on this until an agreement is worked out with Ms. Ball.

Charles Hackney, neighbor, detailed his property and stated his concerns about the proposed development being that close to his farm, traffic, and runoff. If this is done right, it would be okay; but this as proposed is not right.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO CONTINUE THE ANNEXATION AND PUBLIC HEARING TO THE JULY 16TH COUNCIL MEETING; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

Public Hearing 04 : Brendie Vega, Principal Planner

Public Hearing and approval regarding Rezone #13CZ09, 3.28 acres located at 400, 410, 420, 430, & 510 Upchurch Street from PUD-CZ to Neighborhood Business Conditional Zoning (B1-CZ).

Staff stated a valid protest petition on this item was received. Staff oriented Council to the site and the uses which would be permitted. The applicant has agreed to a 10-foot wide buffer along with other conditions stated by staff. The neighborhood meeting raised concerns about transportation, impact fees, and some of the uses. This complies with 2025 Land Use Plan. Staff recommended approval with revised uses and conditions.

Mayor Weatherly declared the Public Hearing open.

Jeff Roach, Peak Engineering and Design, stated the original PUD plan had massive restrictions which pulled people away. The current idea is for single use tenants on each of the lots.

The neighbors who submitted the protest petition were not present. A letter was received stating they would be unable to attend due to one of them going through surgery. The petitioners thanked Council for its consideration.

Mayor Weatherly declared the Public Hearing closed.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE REZONING; COUNCIL MEMBER JENSEN SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE, THE REQUIRED SUPER MAJORITY BEING SATISFIED.

Public Hearing 05 : Lauren Simmons, Planner II

Public hearing and approval regarding Rezone #13CZ10, .31 acre located at 102 & 104 W. Chatham Street from Downtown Business (B2) to Mixed Office Retail Residential- Conditional Zoning

Staff oriented Council to the site and stated the applicant wishes for this to be a full instead of a partial residence. A neighborhood meeting was held, which no one attended. The Planning Board recommended approval with conditions offered by the applicant; staff recommended approval. The use is in keeping with 2025 Land Use Plan.

Mayor Weatherly declared the Public Hearing open.

Marshall Barnes, 103 S. Salem Street, gave an overview of the living and renting history of the property. He was not aware of any opposition to this request. The property is for sale.

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 4-0 VOTE.

Public Hearing 06 : Lauren Simmons, Planner II

Public hearing and approval regarding various amendments to the Unified Development Ordinance

Staff outlined the first requested amendment to section 4.2.2 Use Table. Staff and the Planning Board recommended approval.

Tom Colhoun, representing the Planning Board, outlined the second requested amendment regarding size limitations and low density residential. Minimize size lots on high and medium densities have been eliminated but they have not been eliminated on low densities. The Planning Board wants this to be equal across the board. After lengthy discussion on average units per acre and lot size and the need to distinguish between the two, Council expressed wanting to look further into this request

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE AMENDMENT TO THE USE TABLE AND TO CONTINUE THE HEARING ON DENSITY TO THE AUGUST 20TH COUNCIL MEETING;
MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

PUBLIC FORUM

Greg Coley, Chairman of the Parks, Recreation, and Cultural Resources Advisory Commission, spoke briefly on the Open Space Master Plan [New Business 01]. He stated a lot of hard work went into the Plan, and he looked forward to it being approved.

Mike Montford stated he liked what he saw of the Plan, noting, however, that there was nothing for those with special needs. There were more parks and activities for dogs than for seniors, and he hoped greater consideration would be given to those with special needs and to seniors.

Tom Colhoun readdressed Council, stating that earlier a misrepresentation of what was said at the Planning Board meeting was made. Mr. Colhoun suggested that possibly someone from the Planning Board needs to attend Council Meetings. Mayor Weatherly stated that this has been brought up in the past, with the idea that possibly this needs to be a requirement. There was brief discussion about the 2025 Land Use Plan being approved in 2004, and it being frustrating to work with because of its age.

NEW BUSINESS

New Business 01 : John M. Brown, Parks and Recreation Director

Discussion and approval of the updated Parks, Recreation, Greenways and Open Space Master Plan

Staff stated this Plan took eight months to compile with quite a bit of input from the public and from Planning.

Sara Burroughs, Sage Design, went over highlights of plan including the amount of public involvement, Recreation and Planning staff input, types of recreational activities, placement of new facilities, greenways and further greenways connectivity, programs and their related facilities, event space, land acquisition, and improvements in existing park facilities.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION
TO APPROVE THE PLAN; COUNCIL MEMBER ROWE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

New Business 02 : John Brown, Parks & Recreation Director

Approval of "Interlocal Agreement for White Oak Creek Greenway" with The Town of Cary for construction, ownership, operation, maintenance, and repair of the White Oak Creek Greenway extension from Green Level Church Road west to the Wimberly Road Trailhead at the American Tobacco Trail and to authorize the Town Manager to execute the same and to execute grant funding request documents in coordination with the Town of Cary

Staff outlined the history of developing the White Oak Creek Greenway connection with the Town of Cary. The proposed Interlocal agreement would lay out the terms of this this partnership.

MAYOR WEATHERLY CALLED FOR A MOTION FOR A BRIEF CLOSED SESSION TO SEEK ADVICE FROM THE TOWN ATTORNEY.
COUNCIL MEMBER LASSITER MADE THE MOTION; COUNCIL MEMBER JENSEN SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION TO RETURN TO OPEN SESSION. COUNCIL MEMBER JENSEN MADE THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE
INTERLOCAL AGREEMENT; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

New Business 03 : Lee Smiley, Finance Director

Approval of budget amendment for sanitation collection costs and capital project ordinance amendment for state revolving loan for water plant improvements

Staff stated the sanitation amendment was a year-end clean up item, and the other involved amending the project to recognize the grant from the State for the water plant design budget.

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

CLOSED SESSION

Closed Session to discuss a personnel matter

MAYOR WEATHERLY CALLED FOR A MOTION TO GO INTO CLOSED SESSION. COUNCIL MEMBER JENSEN
MADE THE MOTION; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION TO RETURN TO OPEN SESSION. COUNCIL MEMBER ROWE
MADE THE MOTION; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

ADJOURNMENT

With there being no further business,

MAYOR WEATHERLY CALLED FOR A MOTION TO ADJOURN.
MAYOR PRO TEMPORE SCHULZE MADE THE MOTION; THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

Donna B. Hosch, CMC, NCCMC
Town Clerk

ATTEST:

Keith H. Weatherly
Mayor