



# APEX TOWN COUNCIL MEETING

TUESDAY, JANUARY 15, 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, January 15, 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, gave the Invocation, and led the Pledge of Allegiance.

## PRESENTATIONS

### **Recognition of the Winter Appearance Award Winners**

Mayor Weatherly presented the Winter Appearance Awards to Residential Winners Jessie and Lillie Gilbert of 810 Napleton Circle and to Commercial Winner Buttercream's Bake Shop at 101 N. Salem Street.

## CONSENT AGENDA

1. Approve Minutes of the December 18, 2012 Regular Meeting
2. Declare old transcription equipment as surplus
3. Approve the Statement of the Town Council and Ordinance to Amend the Official Zoning District Map for Rezoning Case #12CZ10, Westford PUD

4. Approve the Statement of the Town Council and Ordinance to Amend the Official Zoning District Map for Rezoning Case #12CZ11, Calvary Chapel Cary, Inc.
5. Approve the Statement of the Town Council and Ordinance to Amend the Official Zoning District Map and 2025 Land Use Plan Amendment for Rezoning Case #12CZ12, Stuart Jones, applicant
6. Approve Findings of Fact and Conclusions of Law for Special Use Permit, Eagle Rock Concrete
7. Approve Findings of Fact and Conclusions of Law for Calvary Chapel Cary
8. Authorize the Town Manager to execute a Motor Vehicle Lease Agreement between Apex and Wake County
9. Request the Mayor's signature on the Annual Certification of Firefighters
10. Approve insurance payment release agreement and authorize the Town Manager to execute

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

## REGULAR MEETING AGENDA

Town Attorney Fordham requested the addition of an item of potential litigation to Closed Session.

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

## PUBLIC HEARINGS

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

### **Public Hearing to receive citizen input regarding the formulation of the Fiscal Year 2013-2014 Annual Budget**

Mayor Weatherly briefly explained the fiscal budget process.

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

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

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

Staff stated that provision 4 would not be addressed on this evening but rather at the February 5<sup>th</sup> Council meeting due to new developments. Staff gave a brief explanation as to why provisions 1, 2, and 3 were being requested to the UDO.

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. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE PROVISIONS 1, 2, AND 3; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

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

**Public Hearing and motion regarding a Land Use Plan Amendment from Very Low Density Residential to Office Employment, and Rezone #12CZ13 from Rural Residential (RR) to Tech Flex – Conditional Zoning (TF-CZ). The subject property is generally located at 3232 US 64 Highway West.**

Staff oriented Council to the site and gave a brief explanation as to why the amendment was being requested. The Planning Board recommended approval of the request by a 5-2 vote. A protest petition has been submitted.

Council stated there are concerns regarding this request. The suggestion was made to put this Hearing off until the next Council meeting.

Mayor Weatherly declared the Public Hearing open.

COUNCIL MEMBER JENSEN MADE A MOTION TO CONTINUE THIS PUBLIC HEARING TO THE FEBRUARY 5, 2013 COUNCIL MEETING; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**Public Hearing 04 : June Cowles, Senior Planner**

**Public Hearing and motion regarding Rezone #12CZ14, 66.48 acres located at 8550 Stephenson Road from Rural Residential to Medium Density Residential Conditional Zoning**

Staff oriented Council to the site and gave a brief description as to why the request was being made. Staff recommended approval with conditions; the Planning Board unanimously 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 LASSITER MADE THE MOTION TO APPROVE THE REQUEST; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

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

**Public Hearing and motion to approve The Town of Apex Hazard Plan Annual Report**

Staff presented the Annual Report, explaining that it is a requirement for the Report be presented to Council each year.

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

**OLD BUSINESS**

There were no Old Business items for discussion.

**PUBLIC FORUM**

No one wished to speak during Public Forum.

**NEW BUSINESS**

**New Business 01 : Lauren Simmons, Planner II**

**Motion to approve Parkside at Bella Casa, Phases 2 and 4-8 – Master Subdivision Plan – for the properties located at Milano Avenue and Mt. Zion Church Road containing 72.2 acres and 235 lots**

Staff oriented Council to the site and explained the reasoning for the requested rezoning, noting that a portion of the property will need to be annexed prior to the approval of the Master Plan. Staff recommended approval of the subdivision with conditions. The Planning Board unanimously recommended approval.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE 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 : Lee Smiley, Finance Director**

**Motion to approve capital project ordinance amendment for improvements at CaryApex Water Treatment Plant**

Staff explained that this amendment is for work that Cary is performing at the Treatment Plant.

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

**New Business 03 : Lee Smiley, Finance Director**

**Motion to approve a resolution authorizing the filing of an application with the Local Government Commission to issue refunding bonds**

Staff stated the Town would save money over the life of the remaining bonds through refunding.

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

**WORK SESSION**

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There were no Work Session items.

**CLOSED SESSION**

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**Closed session to receive legal advice from the Town Attorney regarding potential litigation and to give direction regarding the same**

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

**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; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

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Donna B. Hosch, CMC, NCCMC  
Town Clerk

ATTEST:

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Keith H. Weatherly  
Mayor