



TOWN COUNCIL MEETING

TUESDAY, JUNE 4, 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 4, 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 and William S. Jensen. 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 L. Hohe. Absent was Council Member Scott R. Lassiter. Council Member Lance Olive arrived at 7:05 p.m.

COMMENCEMENT

Mayor Weatherly called the meeting to order, Mayor Pro Tempore Schulze gave the invocation, and Mayor Weatherly led the Pledge of Allegiance.

PRESENTATIONS

Presentation 01 : Department Heads

Quarterly introduction of new Town employees

- Mike Wilson introduced Randall Heath, the new EMS Director
- John Letteney introduced new officers Maurice Harris and Travis Smith
- Kent Jackson introduced Cam Pridgen and Ernest Wilkes (Susan Wilkes in attendance)
- John Cannon introduced Trent Clifton and Marcus Bynum
- Mike Couch introduced Al Ball, Phillip Barnes, Vincent DeYoung, and Lincoln Denning
- Mary Mitchell introduced Patrick Springle
- John Brown introduced Patrick Fitzsimons

New employees not in attendance were Patrick Clark, Nathaniel Hinds, and Justin Strickland.

CONSENT AGENDA

Consent 01 Minutes of the May 21, 2013 Regular Council Meeting

Consent 02 Cancellation of the scheduled July 2, 2013 Regular Council Meeting in observance of the July 4th holiday

Consent 03 Adoption of a Resolution Directing the Town Clerk to Investigate Petition Received, accepting the Certificate of Sufficiency by the Town Clerk, and adoption of a Resolution Setting Date of Public Hearing 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

Consent 04 Public Hearing for the June 18, 2013 Town Council Meeting 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

Consent 05 Public Hearing for the June 18, 2013 Town Council Meeting regarding rezone #13CZ09, 3.28 acres located at 400, 410, 420, 430, and 510 Upchurch Street from PUD-CZ to Neighborhood Business Conditional Zoning (B1-CZ)

Consent 06 Public Hearing for the June 18, 2013 Town Council Meeting regarding rezone #13CZ10, .31 acres located at 102 & 104 W. Chatham Street from Downtown Business (B2) to Mixed Office Retail Residential-Conditional Zoning

Consent 07 Public Hearing for the June 18, 2013 Town Council meeting regarding various amendments to the Unified Development Ordinance

Consent 08 Amend the Town Code of Ordinances by Eliminating Section 12-22. Reservations of Treatment and Transmission Capacity

Consent 09 Agreement for Charlotte to donate ten police helmets to Apex for service related to the Democratic National Convention entitled “Agreement for the Disposition of City Property”

Consent 10 Amendment to Conservation Easement Seymour Tract and authorize the Town Manager to execute it

Consent 11 Street closures for the 2013 Peak City Pig Fest

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

PUBLIC HEARINGS

An audio recording of the following Quasi-Judicial Public Hearing made by the Town Clerk is incorporated into these Minutes by reference. The audio recording or transcript of the Hearing should be used as the verbatim record of the questions, testimonies, evidentiary rulings, and discussions that occurred at the Quasi-Judicial Hearing.

Public Hearing 01 : Brendie Vega, Principal Planner

Quasi-Judicial Public Hearing and possible motion for Special Use Permit SUP#13SUP01 and Major Site Plan for Adrenaline Park

Mayor Weatherly read a statement explaining the process by which this Hearing would be conducted.

CONFLICT OF INTEREST FROM COUNCIL: Council Member Jensen asked to be recused at the recommendation of the Town Attorney because of direct contact and discussion he has had with the applicant.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER ROWE MADE THE MOTION TO RECUSE COUNCIL MEMBER JENSEN FROM THE ENTIRE QUASI-JUDICIAL PROCEEDING; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION. THE MOTION CARRIED BY A UNANIMOUS 3-0 VOTE.

Mayor Weatherly declared the Quasi-Judicial Public Hearing open. All those wishing to speak at the Hearing signed in with and were sworn in by the Town Clerk.

CONTACT WITH APPLICANT BY COUNCIL AND FINANCIAL CONFLICTS: Council stated no ex parte communication had taken place with the applicant or other affected persons prior to the Hearing. Council stated there were no financial conflicts and that this application could be decided impartially.

OPENING STATEMENT FROM APPLICANT: David York, Attorney for Carolina Sports Holdings, thanked the staff for their assistance with this application. On a property built over 40 years ago, this plan will put 16 acres back in use.

EVIDENCE FROM STAFF: Brendie Vega, Principal Planner, presented her credentials and employment history with Apex. Ms. Vega outlined the details of the major site plan including location and square footage, zoning, permitted use, an overview of the applicant's intent for the building and its outdoor space, resource conservation, utilities, grading and drainage, signage, and elevation.

The Planning staff recommended a change to the phasing line on the exterior elevation, the use is consistent with the Transportation Plan, the use needs to conform with the UDO, and a Special Use Permit will be required for outdoor activities. The applicant proposed an internal phasing plan, a landscaping plan has been submitted, and the applicant proposed improvements to the right of way to be called Adrenaline Drive. Staff recommended that plans for the wind tunnel be submitted prior to building to ensure compliance with architectural elements, that phase lines be moved for better use of the building, an extension of a turn lane on Lufkin road, that parking is to be evaluated during construction phases, and that the masonry enclosure material on the dumpster be approved by Council.

Staff also recommended that if changes are made to outdoor activities that they be reviewed by TRC and approved by the Planning Director, that the location of outdoor activities be designated and not moved without a Special Use Permit, that outdoor activities will cease with indoor activities, that a Special Use Permit be required if the site is not operated for 6 months, and compliance with Special Use Permit Standards.

EVIDENCE FROM APPLICANT: Attorney David York stated his credentials. Myles Owens, III, and Steve Werner of Carolina Sports Holdings presented their ideas for this project, noting the flexibility of the site for various types of events, and the fact that nothing else like this exists today. Stated were projected visitor statistics and how this relates to jobs, taxes, etc., along with the mission of the facility and plans for safety monitoring. The facility would not have events geared towards individuals with special needs.

Attorney York introduced Loren Gold, Greater Raleigh Convention and Visitor's Bureau, who gave perspective on how great a venue this would be for the area. Attorney York introduced and questioned Craig Duerr, Withers & Ravenel, who stated his credentials and presented answers as they pertained to engineering. Introduced and questioned was Howard Ellman, Carolina Sports Holdings, who stated his credentials and presented answers pertaining to the facility's exterior, color scheme,

materials, and safe environment with no nuisances. Introduced was Joshua Reinke, Ramey Kemp & Associates, who stated his credentials and presented answers pertaining to transportation and road standards. Introduced was Neil Gustafson, Worthy & Wachtel, who stated his credentials and distributed an economic impact study.

SUMMARY AND CLOSING STATEMENT BY APPLICANT: Attorney York made a summary statement on behalf of the applicant and expressed agreement with staff recommendations:

MAJOR SITE PLAN CONDITIONS OF APPROVAL:

1. The architectural feature on the wind tower elevation, labeled "X" on Site Plan Sheet D-3, shall be submitted to the Planning Director for review and approval prior to submitting for building permits to determine if the architectural feature is in compliance with UDO Sections 9.2 *Building Aesthetics*, 9.3 *Architectural Character*, and 8.7 *Signs*.
2. During Phase 1, the northwest corner of the building shall be screened as shown in the Phase 1 Site Improvement Exhibit. .
3. Applicant shall extend the left turn lane on Lufkin Road approaching NC 55 to 250 feet or provide dual left turn lanes with equivalent storage length subject to NCDOT review and approval prior to construction plan approval of Phase 2.
4. Parking will be evaluated at Phase 2 Construction Plan Review, and again at Phase 3 Construction Plan Review to determine if the parking needs are being met by the number of parking spaces required by the approved site plan. Staff may reduce or increase the number of parking spaces required by the approved site plan by not more than 15% after a review of a parking study per UDO Section 8.3.2 (C) *Off-Street Parking Schedule "C"* to be submitted by the applicant at Phase 2 and again at Phase 3.
5. The masonry enclosure on the dumpster shall be one of the materials presented by the architect and approved by Town Council at the Town Council meeting on June 4, 2013.

SPECIAL USE PERMIT CONDITIONS:

1. Any changes in the manufacturer or design of the Outdoor Amusement Activities or their structures approved by Town Council at Site Plan shall be reviewed by the TRC and approved by the Planning Director to ensure that elevations, site design, accessibility, and lighting of the attraction is consistent with the approved design.
2. The location of the outdoor entertainment attractions shall be located in the areas designated on Site Plan Sheet 2.0. Any substantial variation from the approved locations will require a new Special Use Permit.
3. Outdoor entertainment shall cease to operate when and if the primary indoor entertainment ceases operations.
4. This Special Use Permit shall expire when the business ceases operation for a period of 6 months. If the business ceases operation for 6 months, a new Special Use Permit will be required to restart operations.
5. The Major Site Plan approved in connection with the application for this Special Use Permit is a condition of this Special Use Permit and all development under this Special Use Permit shall be pursuant to and in compliance with the Major Site Plan approved contemporaneously herewith by the Apex Town Council.

Attorney York thanked Council for its indulgence, gave special thanks to the staff on this new use, and respectfully requested approval of the Special Use Permit and Site Plan.

CLOSING STATEMENT BY STAFF: Staff stated its approval of the revised conditions.

Mayor Weatherly declared the Public Hearing closed.

Mayor Weatherly read the Special Use Permit Requirements for Council to determine if they had been met. Council agreed that all requirements had been met.

Mayor Weatherly read the requirements of the Major Site Plan for Council to determine if they had been met. Council agreed that all requirements had been met.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE BOTH THE SPECIAL USE PERMIT AND MASTER SITE PLAN WITH THE CONDITIONS STATED ABOVE;
COUNCIL MEMBER OLIVE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

At this point, Council Member Jensen rejoined Council proceedings.

Public Hearing 02 : Dianne Khin, Planning Director

Public Hearing and motion to adopt an Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Windy Properties, LLC properties containing 18.2371 ± acres located east of Mount Zion Church Road, south of Milano Avenue, Annexation #489, into the Town’s corporate limits

Staff oriented Council to the site and stated it 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 OLIVE MADE THE MOTION TO ADOPT THE ORDINANCE; COUNCIL MEMBER ROWE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

Public Hearing 03 : Bruce Radford, Town Manager

Public Hearing and motion regarding the proposed FY 2013-14 Annual Budget and the FY 2013-14 Budget Ordinance

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

Staff answered questions from Council regarding salaries for 2013 vs. 2014, merit increases, new positions, retirement and special separation allowance, special appropriations, and the design of Fire Station 5.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO ADOPT THE BUDGET AND THE BUDGET ORDINANCE FOR FY 2013-2014; COUNCIL MEMBER JENSEN SECONDED THE MOTION.

Town Manager Radford thanked his outstanding group of department heads and their willingness to cut back but also their desire to put forward elements to make the Town better. This is a diligent, professional group, Town Manager Radford expressed his appreciation to each one, and their looking out for the best interest of Apex's citizens and employees.

THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

OLD BUSINESS

Old Business 01 : Dianne Khin, Planning Director

Motion regarding an amendment to UDO Sections 4.6.1(C)(8) and (9)

Staff stated the Town Attorney made suggestions for an updated version of this section of the UDO. Staff recommended approval.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE REVISIONS; 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