



APEX TOWN COUNCIL MEETING

TUESDAY, APRIL 7, 2015

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
Laurie L. Hohe, Town Attorney

The Regular Meeting of the Apex Town Council scheduled for Tuesday, April 7, 2015, 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 Laurie L. Hohe

COMMENCEMENT

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

PRESENTATIONS

Presentation 01 : Bob Crowley, President, Apex Arts Council, Inc.

Presentation regarding the Apex Arts Council in advance of the preparation of the FY 2015-16 budget

Mr. Crowley stated the Council is 10 years old and has worked on cultural events and supporting artists. They are beginning to expand. There are now more people and more professional people involved in the Council, and the Council needs to support them. In a letter to the Town Manager, Crowley explained what they do and how they do it. They don't need a handout, but a jumpstart on several events at which they are looking. He explained how these events are expensive and the need to offset the costs in some way. He hoped the Town would look at them favorably and help out. The Arts Council requested \$10,000 in funding.

Presentation 02 : John L. Thoma, Chief Executive Officer, Transitions LifeCare

Annual presentation regarding services provided by Transitions LifeCare, founded as Hospice of Wake County, in advance of the preparation of the FY 2015-16 budget

Mr. Thoma stated his organization was requesting \$5,000 in funding for the expansion of the Hospice Home on Trinity Road. This Home serves 250+ Apex residents in their homes and facilities annually, providing expert supportive and medical care to patients and care givers. Hospice Home has received numerous accolades, and Apex has been supportive of them in the past. The Home has cared for over 3,330 patients and family members, and last year they started a campaign to expand by ten rooms which Apex contributed to 2014. The current \$5,000 will go towards the additional ten rooms and reach 80% of their goal. The Home is currently at capacity with a waiting list.

Presentation 03 : Don C. Willis, Program Manager, Wake County TRACS Program

Annual presentation regarding services provided by Wake County TRACS in advance of the preparation of the FY 2015-16 budget

Mr. Willis stated they are a 90% special transportation program, which Apex has supported in the past. Many programs pay for trips to the doctor, but people have other types of transportation needs. TRACS contracts with a private vendor to provide these other types of transportation. Last year 300 elderly, disabled, and poverty level people benefitted from the previous \$15,000 given by Apex. For this door-to-door service, riders contribute \$2 each way within the zone and \$4 to go a little further.

Presentation 04 : Sergeant Joey Best, Apex PD

Sergeant Best will present an award from Special Olympics of North Carolina to the Police Department

Sergeant Best stated this cause is Important to PD and presented a bit of history on the Torch Run in which they participate each year. Apex PD's goal is to raise at least \$6,000 per year which gets their name on the back of the tee shirts. They also do things like sit on buildings, cover the cruiser, wait tables, play golf, and jump in cold water as they did this year in February. So far, PD has raised \$11,200 and hope to raise \$20,000 in total this year. Sergeant Best thanked Chief Letteney for his support for allowing them to do the things they do and for participating with them. During the annual conference, they hear from the Olympians and plaques are given out. Apex was awarded a gold medal plaque which he presented to Chief Letteney. The Chief thanked everyone for their support and stated he has never seen a more passionate staff and coordinator than Sergeant Best and his team.

Presentation 05 : Mayor Bill Sutton

Presentation of Council Resolution recognizing National Telecommunicator week as April 12 to 18

Mayor Sutton read and presented the Proclamation to three of the Telecommunicators, thanking them for all their work.

CONSENT AGENDA

Consent 01 Minutes of the March 6, 2015 Town Council Retreat, the March 17, 2015 Town Council Regular Meeting, and the March 24, 2015 Economic Development Committee Meeting

- Consent 02 Set the Public Hearing on April 21, 2015 for rezoning application #14CZ16 (Aquiline PUD) to rezone 48.40± acres located on 1528 E Williams Street from Planned Commercial-Conditional Zoning (PC-CZ) to Planned Unit Development-Conditional Zoning (PUD-CZ)
- Consent 03 Statement of the Town Council and Ordinance for Rezoning Case #15CZ02, William Daniel, petitioner, for the property located at 1501, 1503, 1511 N Salem Street and 1601, 1603, 1065 US 64 Highway West
- Consent 04 Set Public Hearing for the April 21, 2015 Town Council Meeting regarding Rezoning Case #15CZ03, The Reserve at Beaver Creek PUD. Contains 31.69 acres located on the northeastern and southeastern quadrants of the Kelly Road and Beaver Creek Commons Drive intersection. Proposed rezoning is from Planned Commercial Conditional Use (PC-CU) and Rural Residential (RR) to Planned Unit Development Conditional Zoning
- Consent 05 Statement of the Town Council and Ordinance for Rezoning Case #15CZ04, Hempstead at Beaver Creek, petitioners for the property located at 1950 Creekside Landing Drive
- Consent 06 Set the Public Hearing on April 21, 2015 for rezoning application #15CZ06 (The Pointe) to rezone 21.14± acres located on the northeast quadrant of Olive Chapel and Kelly Roads
- Consent 07 Set the Public Hearing on April 21, 2015 for rezoning application #15CZ07 (Crestmont II) to rezone 1.86± acres located at 8028 Green Level Church Road from Rural Residential (RR) to Medium Density-Conditional Zoning (MD-CZ)
- Consent 08 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 Parkside Development Group property (Parkside Phase 13) containing 9.40 acres located between Blazing Trail Drive, Humie Olive Road and Richardson Road, Annexation #535 into the Town’s corporate limits
- Consent 09 Budget amendment to the Street Capital Projects Fund for the Tingen Road Sidewalk project
- Consent 10 Set Public Hearing for the April 21, 2015 Town Council Meeting regarding various amendments to the Unified Development Ordinance
- Consent 11 Ordinance regulating the use of Town of Apex Skate Plaza consistent with N.C.G.S.A 99E-21
- Consent 12 Set Public Hearing for the April 21, 2015 Council Meeting to consider an Agreement regarding naming rights for the Skate Plaza
- Consent 13 Amended road closure request for Founders Day 5K race/walk being held on April 18, 2015 from 8am-11am
- Consent 14 Removed to be discussed under New Business: budget amendments to the General Capital Projects Fund and the Fire Reserve Fund for the Fire Station No. 5 project
- Consent 15 Removed to be discussed under New Business: budget amendment to the General Fund to decrease the Contingency appropriation and increase the appropriations for the Police Department
- Consent 16 Lot 123 Plots D, E, F, G, and H to be Deed Transferred

Council Member Jensen stated he wished to remove Consents 14 and 15 to be discussed further. Mayor Sutton stated these would be discussed under New Business.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO ACCEPT THE CONSENT AGENDA MINUS ITEMS 14 AND 15; COUNCIL MEMBER WILKIE SECONDED THE MOTION. THE MOTION CARRIED BY A 5-0 VOTE.

REGULAR MEETING AGENDA

There were not requested modifications to the Regular Agenda.

PUBLIC FORUM

Al Garcia addressed Council about endorsing speed humps on White Dogwood, for which the criteria is met and the 10% funding has been collected. They now need endorsements from the three HOA's. Several members of his HOA are not on board with this, Dogwood Ridge I supports the speed humps, and Cameron Park which has three speed humps feels the Town should take this over and that their endorsement should not be needed. Mr. Garcia explained how needing the support of all HOAs is not fair and how the data is not fair and somewhat misleading. Since they can't get all HOAs to cooperate, Mr. Garcia wanted to know that the Town now needs from them.

Council stated the UDO has a requirement that 70% of owners in a development have to sign a petition authorizing the Town to install speed humps. Another section requires HOA endorsement. So, in order for the requested humps to be installed, it would take the Town starting the process to remove HOAs from this decision providing enough residents sign a petition to authorize this. Council asked if it would be a policy-making decision if we wanted to strip HOAs of this authority, particularly in cases where money has been raised. The vast majority of neighbors want it, and PD has determined speed humps are warranted. The Town Manager clarified that yes, this would need to be a policy change, going through the same process as a regular UDO change. We have done this 10/12 times in the past 14 years, this being the first time that HOAs have not been supportive. Council did not like the idea of removing the HOA requirement.

A resident stated the HOA was not representing the wishes of the residents and there is a somewhat misuse of power when they are not disseminating accurate information. Council stated maybe we need to clarify HOA or HOA board, and she wanted to get assistance from staff to make the HOA language clear. Additionally, if the HOA board is not meeting, how do we get a feel for what the neighbors want. Council stated he was uncomfortable getting in the middle of HOAs. The Town Attorney explained how

HOAs are organized, generally being a membership of homeowners. The HOA Board is supposed to act on behalf of the homeowners; we don't have authority over these boards.

Council stated he wants to see staff come up with revisions to the ordinance when there is a hostile HOA Board. Council recommended changing the percentage requirement to a majority if the HOA Board was not supportive. Council stated maybe we can zone out the road and not have HOAs involved. Council asked if it was better to put in stop signs to which the Town Manager answered in the negative and explained this. The Mayor asked the Town Manager to get with staff and make a recommendation to Council at the first meeting in May as to what will be proposed on this matter to the Planning Board at their June meeting.

Staley Smith addressed Council about acreage that is owned by his family. A study was done and after meeting on top of meeting, the 2030 Land Use Map was adopted. This Map is relied on for planning efficiency. Jenks Road and 24 West suggest the use as commercial development. Mr. Smith's family has been working with a developer for almost a year to deliver a unique residential development to Apex using the 2030 Land Use Map that Mr. Smith helped create. Nearly a year after discussions and contracts being signed, the Economic Development Committee now wants to change the plan. The proposed amendment, if passed, will derail the sale of his property. It will also delay extension of Richardson Road until such time there is cause or reason to develop their property under the new designation the Town wishes to impose. Mr. Smith asked Council to leave the 2030 Land Use Map alone. The area has just begun to take shape. He asked that this not be sent to the Planning Board for further consideration. He pointed to several members of his family in the audience who would also be impacted by such a decision.

PUBLIC HEARINGS

Public Hearing 01 : Brendie Vega, Principal Planner

Quasi-Judicial Public Hearing regarding a Major Site Plan Amendment and Subdivision for Murphy Oil at Wal-Mart, 1.15 +/- acres of 20.8 +/- acres located at 3151 Apex Peakway

The Town Attorney read the quasi-judicial procedures, and the Town Clerk swore in the witnesses.

Mayor Sutton declared the Public Hearing open.

Todd Adams, real estate attorney, stated he was representing Murphy Oil. Greg Sistrunk, project manager, was in attendance to explain and testify to their compliance with the UDO.

Brendie Vega presented her professional credentials and oriented Council to the site, which is a permitted use. A neighborhood meeting was conducted, the use meets the RCA and the requirements of the UDO. No TIA was required, and the use is consistent with the Transportation Plan.

Mayor Sutton polled Council for any conflicts, to which there were none. All Council Members stated they would be able to make an impartial decision on the evidence presented at the Hearing.

Mr. Sistrunk stated he was satisfied with Site Plan as presented by staff. There were no opponents to the Plan. There were no rebuttals by staff or the applicants.

Mayor Sutton declared the Public Hearing closed.

Mayor Sutton read the eight Standards, polling the Council after each one as to whether or not they felt the Standards were met. Council agreed that all were, in fact, met.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO
APPROVE THE REQUEST; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

OLD BUSINESS

Old Business 01 : Dianne Khin, Planning Director

Proposed Amendment to the 2030 Land Use Map

Staff stated this recommendation came out of the Economic Development Committee and would be presented by Council Member Jensen.

CM Jensen stated the Committee looked at the northwest section of Apex and its potential for employment places in comparison to other sections of Apex. This area is devoid of such places. They looked at the UDO and the process the Town went through to drive the Town to the new concept of live and work. CM Jensen stated that if there is land under contract and things are going on, then we have to live with what was previously passed for that section. He was not sure what is going on north of 64. CM Jensen suggested looking at the north section for stripping out high density and using the Land Use Map and change process to make this area nonresidential. He was not looking for anything to change/pass on this evening.

CM Jensen requested that staff go through the public change process for the land north of 64, north of Jenks Road, and the Smith property south of 64. The UDO today does not work with the live/work concept in these areas. We are heading towards being a bedroom community. Council stated she was concerned about the wants of property owners and wanted to know if the amendment could be withdrawn. Council stated we are back to trying to dictate the market and use this Board to solve all perceived problems regardless of what everyone wants and the two-year process that went into making this Map. He did not see a demonstrated reason to fiddle with the Plan and erode the trust of this body and hours of those who put the Plan in process. This Plan has won awards and contributed to positive things in Apex. He could not get behind this.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER WILKIE MADE THE MOTION TO WITHDRAW THE PROPOSED AMENDMENT TO THE 2030 PLAN. COUNCIL MEMBER LASSITER SECONDED THE MOTION.

AFTER SOME FURTHER DISCUSSION, COUNCIL MEMBER LASSITER CALLED THE QUESTION.

COUNCIL MEMBER JENSEN MADE A MOTION TO AMEND THE ORIGINAL MOTION TO ELIMINATE ONLY THE PROPERTY SOUTH OF 64 AND TO PROCEED WITH RE-EVALUATING WITH THE PUBLIC IF THIS IS SOMETHING THEY WANT TO DO ON THE NORTH SIDE. COUNCIL MEMBER DOZIER SECONDED THE MOTION.

Council stated this was the third time this was being done. He asked CM Jensen to re-clarify what he wanted done, and CM Jensen restated his wishes. Council was confused on how we're going to have live/work, if we don't have anywhere to live. CM Jensen stated that if we go to the 30,000 foot elevation, residential areas are/will be there. There was further discussion on the live work/concept. Council stated we should pursue what CM Jensen wants to do by asking the residents what they want.

MAYOR SUTTON CALLED FOR A VOTE ON THE AMENDMENT MADE BY COUNCIL MEMBER JENSEN. COUNCIL MEMBERS JENSEN, WILKIE, SCHULZE, AND DOZIER VOTED IN THE AFFIRMATIVE; COUNCIL MEMBER LASSITER VOTED IN THE NEGATIVE.
THE MOTION CARRIED BY A 4-1 VOTE.

MAYOR SUTTON CALLED FOR A VOTE TO APPROVE THE AMENDED MOTION.
COUNCIL MEMBERS JENSEN, WILKIE, SCHULZE, AND DOZIER VOTED IN THE AFFIRMATIVE;
COUNCIL MEMBER LASSITER VOTED IN THE NEGATIVE.
THE MOTON CARRIED BY A 4-1 VOTE.

NEW BUSINESS

New Business 01 (from the Consent Agenda):

- (1) budget amendment to the General Capital Projects Fund and the Fire Reserve Fund for the Fire Station No. 5 project
- (2) budget amendment to the General Fund to decrease the Contingency appropriation and increase the appropriations for the Police Department

Staff explained that the first budget amendment was needed to begin preliminary site work for fire station number 5. These monies are currently in the Fire Capital Reserve Fund. This was an anticipated shifting of funds.

The second budget amendment was for acquisition of additional police cards and equipment. The Personnel Committee approved three School Resource Officers to be hired by the end of this fiscal year, and these items are required for those officers. The monies would be transferred from the Contingency Fund of the General Fund to the Police Department Fund. The Contingency Fund will not be depleted.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO TRANSFER THE FUNDS AS REQUESTED FOR BOTH ITEMS; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

CLOSED SESSION

There were no Closed Session items for consideration.

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

Donna B. Hosch, CMC, NCCMC
Town Clerk

ATTEST:

William M. Sutton
Mayor