



APEX TOWN COUNCIL MEETING

TUESDAY, MAY 19, 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, May 19, 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 Wilkie gave the Invocation, and Mayor Sutton led the Pledge of Allegiance.

PRESENTATIONS

There were no presentations made.

CONSENT AGENDA

- Consent 01 Minutes of the May 5, 2015 Regular Meeting
- Consent 02 Apex Tax Report dated 04/07/2015
- Consent 03 2015 Western Wake Regional Wastewater Management Facilities Agreement Between the Towns of Cary, Morrisville and Apex
- Consent 04 Resolution Directing the Town Clerk to Investigate Petition Received, Certificate of Sufficiency by the Town Clerk, and Resolution Setting Date of Public Hearing on the Question of Annexation – Apex Town Council's intent to annex Jo Harris property containing 1 acre located at 2909 Evans Road, Annexation #540 into the Town's corporate limits
- Consent 05 Budget amendment to appropriate funds for the design of a Senior Center. The Council voted to appropriate these funds for this purpose at its May 5, 2015 meeting.
- Consent 06 Amendment to rules and regulations governing use of Trackside Skate Plaza

- Consent 07 Budget amendment to the Capital Project Ordinance to appropriate the proceeds of a loan from The Conversation Fund in the amount of \$2,225,600.00 for the purchase of 92.16 acres from Progressive Farms, LLC. The purchase of the land and the loan were approved by the Council at its October 21, 2014 meeting.
- Consent 08 Findings of Fact, Conclusions of Law, and Decision approving the revised Saint Mary Magdalene Addition Major Site Plan
- Consent 09 White Goods Grant Program services agreement with Wake County and authorization for the Town Manager to execute

MAYOR SUTTON CALLED FOR A MOTION TO APPROVE THE CONSENT AGENDA. MAYOR PRO TEM SCHULZE MADE THE MOTION; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

REGULAR MEETING AGENDA

Town Manager Radford requested the addition of calling for a Public Hearing at the June 2nd Regular Meeting to receive citizen input on the FY 15-16 Budget.

COUNCIL MEMBER JENSEN MADE A MOTION TO APPROVE THE REQUEST; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Town Attorney Hohe requested a New Business item regarding encroachment agreements. All Council Members were in agreement.

PUBLIC FORUM

No one wished to speak during Public Forum.

PUBLIC HEARINGS

Public Hearing 01 : Amanda Bunce, Planner

Rezoning application #15CZ01 (Womble Property PUD) to rezone 39.40± acres located on North Salem Street from Residential Agriculture to Planned Unit Development-Conditional Zoning

Staff oriented Council to the site, stating the Planning Board recommended approval of the request. There was brief conversation regarding congregate living.

Mayor Sutton declared the Public Hearing open.

Jason Baron with Morningstar, on behalf of the applicant, stated the request is consistent with the Peak Plan. Their feeling is the use is an appropriate use for the area which will absorb the type of growth the Town is expecting to 2030. This is the right use and the right location and an interesting site. This is a significant investment, which Baron pointed out will bring in substantial parks and recreation fees when built out to maximum.

With no one else wishing to speak, Mayor Sutton declared the Public Hearing closed.

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

Public Hearing 02 : Amanda Bunce, Planner

Rezoning application #15CZ09 (7816 Green Level Church Road) to rezone 1.51± acres located on the east side of Green Level Church Road, approximately 500 feet north of Secluded Acres Road from Rural Residential to Medium Density Residential-Conditional Zoning

Staff oriented Council to the site. A neighborhood meeting was held, and the Planning Board recommended approval.

Mayor Sutton declared the Public Hearing open.

Pat Ross, owner of the property, thanked staff for their assistance with this process.

With no one else wishing to speak, Mayor Sutton declared the Public Hearing closed.

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

Public Hearing 03 : Brendie Vega, Principal Planner

Rezoning application #15CZ10 (Mt Zion Church Road) to rezone 1.44± acres located at 2505, 2509, and 2513 Mt. Zion Church Road from Rural Residential (RR) to Medium Density-Conditional Zoning (MD-CZ)

Staff oriented Council to the site, stating a neighborhood meeting was conducted and the Planning Board and staff recommended approval of the request.

Mayor Sutton declared the Public Hearing open.

Stuart Jones, Jones and Crossen Engineering, stated he was available for any questions.

With no one else wishing to speak, Mayor Sutton declared the Public Hearing closed.

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

Public Hearing 04 : Amanda Bunce, Planner

Ordinance on the Question of Annexation – Apex Town Council's intent to annex New Hill Community Center property containing 2.769 located at 3101 New Hill Holleman Road, Annexation #537 into the Town's corporate limits

Staff oriented Council to the site, stating that the Public Hearings were being held in conjunction with each other since annexation is required prior to asking for the proposed rezoning. A neighborhood meeting was conducted, and the Planning Board and staff recommend approval of the annexation and the rezoning.

and

Public Hearing 05 : Amanda Bunce, Planner

2030 Land Use Map amendment from Low Density Residential to Commercial Services and rezoning application and Ordinance #15CZ11 (New Hill Community Center) to rezone 2.77± acres located on the east side of New Hill Holleman Road, approximately 700 feet north of US 1 Highway from Wake County Highway District to Planned Commercial-Conditional Zoning

Brad Simpson, New Hill Community Center representative, stated the timeline for opening is as soon as possible. Plans will hopefully be complete next week.

Mayor Sutton declared the Public Hearings open. With no one wishing to speak, Mayor Sutton declared the Public Hearings closed.

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

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE REZONING AND LAND USE MAP REQUESTS; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 06 : Brendie Vega, Principal Planner

Change to the 2030 Land Use Map for the Goodwin/ US 64 Hwy/Jenks Road area

Staff oriented Council to the site, stating the request was to remove the "high density" wording. The Economic Development Committee requested the Land Use Map amendment.

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

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

Public Hearing 07 : John Brown, Parks & Recreation Director

Town's Parks, Recreation, Greenways and Open Space Map consistent with changes approved on April 21st to the Town's Transportation Bicycle and Pedestrian Plan

Staff stated this was to clean up their master plan map per previous approval of Council.

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

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

Public Hearing 08 : Brendie Vega, Principal Planner

Various amendments to the Unified Development Ordinance

Staff stated this request was previously tabled further information. Two of the amendments were proposed by the applicants. The first went to the Planning Board, and the vote on this was not unanimous. Staff from Public Works stated this came before Council previously, and Council did not pass the request. Staff discussed street standards which are beneficial for the area, lot size and how the lots are to be sewered, State regulations not being as rigorous as Apex's, how private sewers are 'scary', and why the one acre minimum is supported. Staff's recommendation was to deny the request because of how soils can cause problems for maintenance. The only other standard is curb and gutter, which is better for taxpayers and for the Town to maintain. Staff stated private sewers are fraught with problems, the closest one serving another home park. We made a similar mistake earlier by sending sewer to Cary. Staff's recommend was for town sewer and curb and gutter.

Mayor Sutton declared the Public Hearing open.

Mike Whitehead, petitioner, stated he knew there would be pushback. He explained how he wants to do things better using a swale section design and what would happen with an HOA. He stated beefy street designs are not inferior and gave examples. There is a need for executive housing, and their development would include these. Mr. Whitehead exemplified other cities that have ribbon paved streets

and how they've been willing to work with Public Works. They are still looking at the municipal sewer system and how this would work. If there is great pushback on the private sewer, they will drop this option. Mr. Whitehead explained everyone who would benefit would pay their share of a pump station. They would complete a through street and another in/out access. The plan is to ask to be annexed.

Jeff Roach, Peak Engineering and Design, showed a presentation of what others in the area have as standards, detailing them as he went along. Staff stated that even though other cities are doing swales, the drive is their beliefs vs. ours. It was stated that grass swales do have some benefits based on certain factors. They can be good for the environment if well maintained.

Mayor Sutton declared the Public Hearing closed.

Council Member Lassiter stated he was looking at what was in the best interest of the Town. This would be an opportunity to allow for large executive housing and to get away from some of the small, cookie cutter neighborhoods, although it's uncertain if this is what people want and will settle for.

COUNCIL MEMBER LASSITER MADE A MOTION TO APPROVE THE REQUEST; MAYOR PRO TEM
SCHULZE SECONDED THE MOTION.

Mayor Pro Tem Schulze stated he has always said we should want to find ways for executive housing. He respects staff and does not go against their recommendations lightly. However, this seems like it can be successful and the roads have held up. However, he was opposed to 'home grown' sewer systems. If a way can be figured out for an alternate septic system, then this would be fine with him.

Council Member Jensen was not in favor, although he wants to see executive housing. He talked about White Oak doing this with curb and gutter, one-half acre lots not being large, and how he thought the UDO was well written. When Council went against staff recommendation for Colvin Park, we lost the opportunity to get a large lift station. While swale properly done is ecological, he was concerned about going from 12% to 24% impermeable surfaces. Staff are our experts and each town is different.

Council Member Wilkie stated people keep asking for executive housing, which is something needed for economic development. She's looked at environmental issues and how this would handle stormwater runoff.

Staff stated that if Council approved the request, it will come back with specific changes. If changed, in other developments with one-half acre lots, soils will limit what people can do. Staff advised Council to be prepared for septic systems not working.

COUNCIL MEMBERS WILKIE, SCHULZE, AND LASSITER VOTED IN THE AFFIRMATIVE; COUNCIL MEMBERS JENSEN AND DOZIER VOTED IN THE NEGATIVE.
THE MOTION CARRIED BY A 3-2 VOTE.

Staff stated the second UDO was in relation to vehicle sales and rental, light, and that staff recommended approval.

Mayor Sutton declared the Public Hearing open.

Jason East, petitioner, explained his sales are done online and that he actually just needs the storage required for him to be a dealer.

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

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

Mayor Sutton called for a ten minute recess to which Council was in agreement.

Public Hearing 09 : Bruce Radford, Town Manager and Council Member Scott Lassiter

Ordinance to approve the Asset Purchase Agreement and the Full Requirements Power Purchase Agreement between the North Carolina Eastern Municipal Power Agency (NCEMPA) and Duke Energy Progress, Inc. and to approve and authorize the execution of the Debt Service Support Contract, the Full Requirements Power Sales Agreement, and the Power Sales Agreements Termination Agreement between the Town and the North Carolina Eastern Municipal Power Agency

Staff stated this has been an ongoing effort for 2 ½ years, and that staff strongly recommended taking advantage of this deal.

Graham Edwards, NCEMPA, presented background on the deal and the economics for Apex specifically. The deal is advantageous for everyone, but not everyone will get the same deal. For six years this has been discussed, and two contracts were negotiated. In escrow will be significant monies for the decommissioning of facilities. This is required, and the monies can only be used for this purpose. Duke will take any liability post closure. Mr. Edwards spoke about peak demand and how this will work. Customers

will have to be served on the same priority as Duke's direct serve customers, now and 30 years forward. Mr. Edwards explained the economics of the deal and decommissioning. There has been no pushback on the deal from anyone else.

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

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO ADOPT THE ORDINANCE AND TO APPROVE THE EXECUTION OF THE CONTRACTS; COUNCIL MEMBER WILKIE SECONDED THE MOTION.

Council Member Dozier stated this resembles a foreclosure and she wanted more of a short sale. She is happy, however, to have a better proposal than in the beginning. She will support this because she's been assured it will be a seamless handoff. Council Member Jensen stated this was a gift horse. Why go from being the lowest in cost to the third lowest in cost. Mr. Edwards explained how the Town moves around on the scale based on usage on an annual basis. Council asked why Duke is falling over themselves to absorb our requirements. Mr. Edwards stated Duke is looking at this as gaining an alternative power supply and how its advantageous to their balance sheet. It's a good deal short and long term.

Council applauded Mr. Edwards for his efforts. The Mayor stated this was the most important decision Council will make for some years to come.

THE MOTION CARRIED BY A 5-0 VOTE.

OLD BUSINESS.

There were no Old Business items for consideration.

NEW BUSINESS

New Business 01 : Council Member Scott Lassiter

Appointments to the Parks, Recreation, and Cultural Resources Advisory Commission effective with itsr June 24th Meeting

Mayor Sutton cited the current ordinance in reference to how candidates are to be selected for nomination to the Commission. He had no problem with the appointee, he just did not know of the vacancy. Council should know in advance of vacancies so that they have input and in case they know of constituents who wish to serve.

COUNCIL MEMBER JENSEN MADE A MOTION TO DEFER THE APPOINTMENT FOR ONE MONTH IN ORDER
TO GIVE OTHERS AN OPPORTUNITY TO APPLY.

Council Member Lassiter, liaison, stated he was surprised. For however many years, the Mayor has asked the liaisons to recommend replacements and re-appointees. The Parks and Rec Director was instructed to present resumes to the liaison prior to this meeting, the Mayor stating he received the resume. He did not recall being informed, however, of the vacancy. Council stated this was not fair to the proposed appointee; the liaison was operating as has always been the case.

After some discussion about being mindful of casting a broader net in the future and a decision as to how the Town Manager will ensure Council is aware of vacancies in the future,

COUNCIL MEMBER JENSEN WITHDREW HIS MOTION SINCE THE INDIVIDUAL WAS VERY WELL QUALIFIED
AND WOULD BE A GREAT ASSET TO THE COMMISSION.

Council Member Lassiter presented Renee Pfeifer's qualifications and credentials and personal and professional background. He stated Julia Epplin and Michael Kanters were up for reappointment.

COUNCIL MEMBER DOZIER MADE THE MOTION TO APPROVE ALL THREE INDIVIDUALS FOR APPOINTMENT
/REAPPOINTMENT AND TO APPROVE THE MANAGER'S PROCESS OF INFORMING COUNCIL
OF VACANCIES; COUNCIL MEMBER JENSEN SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

**ADDED New Business 02 : Town Attorney Laurie Hohe
Encroachment agreements for 309, 311, and 315 Old Mill Village Drive**

Staff stated these agreements were in reference to Old Mill Village.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE
AGREEMENTS; MAYOR PRO TEM SCHULZE 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 JENSEN MADE THE MOTION; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.

THE MOTION CARRIED BY A 5-0 VOTE.

Donna B. Hosch, CMC, NCCMC
Town Clerk

ATTEST:

William M. Sutton
Mayor