



APEX TOWN COUNCIL MEETING

TUESDAY, AUGUST 4, 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, August 4, 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

Absent was Council Member Nicole L. Dozier who was ill

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 Schulze gave the Invocation, and Mayor Sutton led the Pledge of Allegiance.

PRESENTATIONS

Town Attorney Hohe introduced the newly hired Assistant Town Attorney Brian Meyer and presented his professional history. Council welcomed him to the Town.

Presentation 01 : Tom Colwell, Parks and Recreation Advisory Commission

Presentation on Public Art in Apex

Mr. Colwell introduced Ian Sands, an art teacher at Apex High School. Together they asked for support in developing a study group which would return to Council with a plan for public art. Mr. Sands explained the concept of public art: normally, an artist is given a set amount of money to do a project, which is generally rotated each year. It is important to look at new developments and set aside funds for placing art in these developments. Mr. Sands showed examples of past projects on which they've worked. Mr. Colwell stated they were not looking for funding on this evening, simply approval for the study group to be formed and support of a public art program. They would work with Parks and Recreation to form this group.

Council complimented the gentlemen on their approach of the subject and to Council. Mr. Colwell stated they would like a Council Member, a Parks and Recreation Commission person, and folks from the community as part of the study group.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER WILKIE MADE THE MOTION TO APPROVE THE FORMATION OF THE STUDY GROUP; COUNCIL MEMBER JENSEN SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

CONSENT AGENDA

- Consent 01 Minutes of the July 21, 2015 Regular Council Meeting
- Consent 02 Statement of the Town Council and Ordinance for Rezoning Case #15CZ14, Rosewood 1322, LLC and John Lampe, II, petitioners for the property located at 1601 & 1621 Kings View Trail and 0 S. Salem Street
- Consent 03 Statement of the Town Council for Rezoning Case #15CZ17 (White Oak Pump Station), Bruce A. Radford, Town of Apex, petitioner for the property located Wimberly Road
- Consent 04 Facility Encroachment Agreement between the Town of Apex and CSX Transportation, Inc. and authorizing the Town Manager to execute the Agreement
- Consent 05 Set Public Hearing for the August 18, 2015 Town Council Meeting regarding Rezone #15CZ19 (Evans & Walden Road), +/- 7.11 acres located at 2919 Evans Road, 2813 Walden Road, 2817 Walden Road and 0 Walden Road from Rural Residential to Medium Density Conditional Zoning
- Consent 06 Set the Public Hearing on August 18, 2015 for rezoning application #15CZ20 (Cash Property) to rezone 2.33± acres located on the southeast corner of the intersection of E. Williams Street and NC 55 Bypass from Planned Unit Development (PUD-CU #02CU07) to Neighborhood Business-Conditional Zoning (B1-CZ)
- Consent 07 Set Public Hearing for the August 18, 2015 Town Council Meeting regarding various amendments to the Unified Development Ordinance
- Consent 08 Utility Infrastructure Reimbursement Agreement between the Town of Apex and MREC KLP Stillwater, LLC and authorization for the Town Manager to execute the Agreement on behalf of the Town
- Consent 09 Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the Unified Development Ordinance (UDO) Amendments of July 21, 2015
- Consent 10 Set Public Hearing for the August 18, 2015 Town Council Meeting to consider entering into an installment financing agreement under GS 160A-20 for \$4.5 million. The proceeds of the agreement will be used to construct Public Safety Station No. 5. The hearing is required by GS 160A-20.
- Consent 11 Resolution of Intent to close the alleyway between Elm and Hughes Streets as requested by Staley Smith and to call for a Public Hearing at the September 15, 2015 Council Meeting
- Consent 12 Resolution codifying the Town's Code of Ordinances and the Unified Development Ordinance (UDO)
- Consent 13 Street closure and noise ordinance exception requests for the 2015 Jazzfest (09/19/2015)

MAYOR SUTTON CALLED FOR A MOTION TO APPROVE THE CONSENT AGENDA. COUNCIL MEMBER WILKIE
MADE THE MOTION. MAYOR PRO TEM SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

REGULAR MEETING AGENDA

There were no requests for modifications to the Agenda.

PUBLIC FORUM

Mary Lee Blatchford thanked Council for listening to senior concerns over moving senior services to the YMCA. Seniors are opposed to moving to Pleasant Park; they want to be close in Town. Many seniors attended the recent charrette. Ms. Blatchford stated that Mr. Radford was patient and informative to her questions. Staff stated Council will no longer consider going to Pleasant Park. \$400,000 has been allocated for design of a center, and bids will be sought for something close to campus. Ms. Blatchford stated seniors will look forward to being actively involved and continuing to support Parks and Recreation. They appreciate and value the number of services in our town.

Cindy Foster stated that in reference to land and the underwriting of the YMCA, she was concerned why the YMCA is being given precedence over other needs of the Town for that land. Ms. Foster talked about the financial impacts of this and how it would impact the Town's debt. The YMCA in Cary made a profit last year. Why should tax dollars support a private entity that turns a profit? She stated she would like a clear explanation of this if it's going to be done.

Jackie Nilsson objected to the Town and YMCA working together to provide a facility. She was opposed to giving up acreage needed for athletic fields and the Town tying up tax dollars to fund a facility that will collect revenue. The YMCA should develop its own plan separate from the Town. Ms. Nilsson did not see the benefit of this joint venture.

Val Weiss thanked Council for hearing the seniors. She looked forward to working with the Town on the design of a senior center. The charrette was well handled, and she hoped the Town got new suggestions for Pleasant Park.

Joe Howard thanked Council for its help with the train issues. He pointed to Council Member Lassiter talking later this evening about buying the CSX land to expand the Town campus. He was excited about the congressional letter written by the Mayor. Carol Armstrong from Congressman Holding's office came

in and talked about possible federal grants to buy out CSX and put in quiet zones. Greenville had our same problem, they received federal government help, and they moved the switching operation out of town.

PUBLIC HEARINGS

Public Hearing 01 : Dianne Khin, Planning Director

Public Hearing and Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Windy Road Properties, Parkside Builders, LLC, and Logan Winteron properties containing 1.5386 acres located at 2505, 2509 and 2513 Mt. Zion Church Road, Annexation #549 into the Town’s corporate limits

Staff oriented Council to the site, stating three lots were purchased which the applicant wants to be a part of the subdivision. Staff recommended approval.

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. MAYOR PRO TEM SCHULZE MADE THE MOTION TO
ADOPT THE ORDINANCE; COUNCIL MEMBER LASSITER SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

Public Hearing 02 : Brendie Vega, Principal Planner

Prior to consideration, this UDO Ordinance Amendment will be referred back to the Environmental Committee.

Public Hearing and possible motion regarding various amendments to the Unified Development Ordinance

Staff stated it wished to pull this item and have it readvertised after the Environmental Committee has a chance to discuss it. Council was in agreement.

OLD BUSINESS

Old Business 01 : Vance Holloman, Finance Director

Bond order authorizing the issuance of up to \$15 million in Street and Sidewalk Improvement Bonds subject to approval by the voters at a November 3, 2015 referendum, direction to the Finance Officer to file with the Town Clerk a Sworn Statement of Debt and a Statement of Total Estimated Interest and to call for a public hearing on September 1, 2015 concerning the validity of the bonds and the advisability of issuing the bonds

Staff stated this was an additional step in the process to hold a referendum, explained the need for the requested documents and actions. A public hearing must be held before the bond order can be processed. We would then be in position to move forward. We have followed all necessary succeeding steps, and the application has been filed with the State and all associated paperwork completed.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE
THE REQUESTS; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

Old Business 02 : Kent Jackson, Engineering Director

Preliminary engineering agreement with CSX Transportation for engineering services required as part of the Town's request to establish a Quiet Zone and payment of an advance deposit in the amount of \$63,300

Staff stated it has been working on this effort for a little more than a year. We have reviewed all crossing locations which would be involved, and it is recommended that we move forward with the agreement. We have met with Tom Drake and Liz Hud, Mr. Drake stating that we will not get reliable information until we enter into the agreement. The requested deposit is the estimated engineering cost, for which we will receive reimbursement if we don't use it. One of the crossings will not require any additional improvements.

Staff stated there was no discussion about grants, but we will pursue all available monies. Last year Council approved \$300,000 as the working budget for this project, which will take about six months to complete. Talked about were the requirements for median barriers. Mr. Drake recommends closing Elm at Center Street. Council asked about making this a one way and only closing half the street. There was still concern among Council about grants. If we started this process and grants came through, would we be reimbursed. Council stated grants are not retroactive so maybe we should quickly pursue this avenue first. Staff stated this would be an appropriation not a grant and appropriations are difficult to get. We have allocated the funds and are capable of spending this amount. Council stated it wanted to do a study and the grant process at the same time.

MAYOR SUTTON CALLED FOR A MOTION. MAY PRO TEM SCHULZE MADE THE MOTION TO APPROVE
THE REQUEST; COUNCIL MEMBER JENSEN SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

NEW BUSINESS

New Business 01 : Amanda Bunce, Planner II

Salem Creek Townhomes Phase 2 Master Subdivision Plan for the property located west of S. Salem Street and north of Salem Creek Drive containing 2.24 acres and 7 lots

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

MAYOR SUTTON CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE
THE MASTER PLAN; COUNCIL MEMBER LASSITER SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

New Business 02 : Brendie Vega, Principal Planner

Salem Pointe Master Subdivision Plan for the properties located at N. Salem Street and Salem Church Road containing 10.7 acres and 64 lots

Staff oriented Council to the site. A neighborhood meeting was held; there were approved architectural conditions. Staff asked the developer to include wrap around porches, to which they responded this would be given as an option to homeowners. Because of new legislation, this can't be imposed. Council discussed the aesthetics of the porches.

Jeff Roach, Peak Engineering, talked about how 20% of the same type of units in Cary have the wrap around porches. The developer wants this offered as an option for 25 end units. Mr. Roach spoke with the developer, and they said they couldn't do this for every unit. Mr. Roach stated this is an architectural condition that can't be enforced. Staff stated it could have been a condition at the zoning phase but now we can't go back and ask for this. Mr. Roach stated they are not trying to take advantage of anything. Council asked him would he compromise. He stated he couldn't authorize this.

COUNCIL MEMBER LASSITER MADE A MOTION TO TABLE THIS UNTIL FURTHER INFORMATION IS PRESENTED
AND THERE IS MORE DISCUSSION; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

New Business 03 : Council Member Scott Lassiter

Discussion to attempt to enter into negotiations with CSX to purchase their downtown property currently housing their freight station

Council Member Lassiter thanked Council for the opportunity to talk about this. Because of increased rail traffic, we are struggling with railroad issues that previous Councils have not. The switching operation is the problem. We are aware of commerce and their need to do business, but not where our residents live and work. Council wished to attempt to see if CSX would be interested in the idea of selling their property downtown. There are examples across the State where this has been done successfully. The railroad is causing environmental and traffic impacts. The downtown residents and businesses support the negotiations.

We will have a need in the future for Town campus space or parking lots, etc. Lots of businesses and young, vibrant companies may want to move to Apex. We won't lose anything by trying to improve the lives of our residents and downtown businesses. Mr. Drake says CSX is willing to do what we ask as long

as we pay for it, so at least they are open to conversation. There could be grants totaling \$9 or \$10 million that other towns have received. And even if we have to spend money on a study, it will be well worth it.

COUNCIL MEMBER LASSITER MADE A MOTION TO MOVE AHEAD WITH THIS REQUEST; COUNCIL MEMBER JENSEN SECONDED THE MOTION. THE MOTION CARRIED BY A 4-0 VOTE.

Council stated if this will cost money, it will need to come back to Council. Council was interested in getting this done.

CLOSED SESSION

Closed Session 01: to consult with the Town Attorney

Closed Session 02: to discuss the acquisition of real property

Closed Session 03: to discuss personnel

MAYOR SUTTON CALLED FOR A MOTION TO GO INTO CLOSED SESSION. COUNCIL MEMBER JENSEN MADE THE MOTION TO GO INTO CLOSED SESSION TO DISCUSS THE ABOVE THREE ITEMS PLUS TO RECEIVE INPUT FROM THE TOWN ATTORNEY ON HOUSE BILL 150; COUNCIL MEMBER WILKIE SECONDED THE MOTION. THE MOTION CARRIED BY A 4-0 VOTE.

MAYOR SUTTON CALLED FOR A MOTION TO RETURN TO OPEN SESSION. COUNCIL MEMBER WILKIE MADE THE MOTION; MAYOR PRO TEM SCHULZE SECONDED THE MOTION. THE MOTION CARRIED BY A 4-0 VOTE.

Mayor Pro Tem Schulze read the title of the Resolution [Number 15-0804-24] discussed in Closed Session: Resolution Authorizing Eminent Domain Proceedings Related to the Wimberly Road Electric Line Project for the Improvement of the Apex Electric System.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE RESOLUTION; COUNCIL MEMBER JENSEN SECONDED THE MOTION. THE MOTION CARRIED BY A 4-0 VOTE.

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; COUNCIL MEMBER LASSITER SECONDED THE MOTION.

THE MOTION CARRIED BY A 4-0 VOTE.

Donna B. Hosch, CMC, NCCMC
Town Clerk

ATTEST:

William M. Sutton
Mayor