



APEX TOWN COUNCIL MEETING

TUESDAY, SEPTEMBER 15, 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
Bonnie J. Brock, CMC, NCCMC, Deputy Town Clerk
Laurie L. Hohe, Town Attorney

The Regular Meeting of the Apex Town Council scheduled for Tuesday, September 15, 2015, at 7:00 p.m. will be 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. Wilke. Also in attendance were Town Manager Bruce A. Radford, Assistant Town Manager Drew Havens, Deputy Town Clerk Bonnie J. Brock and Town Attorney Laurie L. Hohe

COMMENCEMENT

Mayor Sutton called the meeting to order at 7:00 p.m. Council Member Wilke gave the invocation, and Mayor Sutton led the Pledge of Allegiance.

PRESENTATIONS

Presentation 01

Police Chief John Letteney announced that the Apex Police Department received the Grand Prize in the 2015 Police Vehicle Design Contest from Law and Order Magazine and presented the award and plaques to Apex Police Department staff and the graphics vendor who were involved in the design.

Presentation 02

Economic Development Director Joanna Helms gave a presentation on the first year accomplishments; highlights were the development of a Town of Apex Business Directory currently in production, marketing, recruitment and inventory of land and buildings available for new businesses.

CONSENT AGENDA

Consent 01 Motion to approve Minutes of the August 18, 2015 Regular Council Meeting – This item was pulled from the agenda until a later meeting

- Consent 02 Motion to adopt a Resolution Directing the Deputy 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 Richard and Sandra Fox property containing 4.7 acres located at 2801 Holland Road, Annexation #553 into the Town’s corporate limits
- Consent 03 Motion to award a construction contract and authorize Town Manager to execute same for Sidewalk on South Salem Street
- Consent 04 Motion to approve abandonment of the drainage easement area shown on Exhibit A as “20’ Drainage Easement” on the terms stated in the attached Resolution
- Consent 05 Motion to revise the Town’s Soil Erosion & Sedimentation Control Ordinance
- Consent 06 Motion to adopt a Resolution Directing the Deputy 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 3121, LLC, Robert and Vivian Lamb, Mallie and Judy Jenks, Ted Mills, ANS Trust Kathie Russell, Trustee properties containing 164.154 acres located south of US 64 Hwy, and west of Abbington subdivision at the end of Bryant Pond Lane and Rock Island Drive, Annexation #550 into the Town’s corporate limits
- Consent 07 Motion to approve a multi-year water tank maintenance contract for the three existing elevated water storage tanks at Mason Street, Hunter Street and Tingen Road

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

REGULAR MEETING AGENDA

Council Member Jensen requested the addition of New Business items regarding an amendment to the 2030 Land Use Map, an amendment to the Unified Development Ordinance and to cancel the November 3, 2015 meeting due to the local election. Council was in agreement with the request.

PUBLIC FORUM

Resident Laurie Crissman, a retired principal of Apex Elementary School asked Council to support YMCA students and programs associated with "Y Achievers" which consist of 3rd, 4th and 5th graders. Melissa Myers, an Artisan Studio owner asked Council to support a UDO amendment to allow this use near the Downtown Business District.

PUBLIC HEARINGS

Public Hearing 01: Amanda Bunce, Planner II

Public hearing and possible motion on a 2030 Land Use Map amendment from Medium Density Residential to Office Employment and rezoning application #15CZ25 (7628 Vaudry Court) to rezone 3.23± acres located on the south side of Old US 1 Highway across from Humie Olive Road from Rural Residential (RR) to Tech/Flex-Conditional Zoning (TF-CZ)

Planner Bunce stated what was being requested along with the limitations, uses and conditions. Staff recommended approval.

MAYOR SUTTON OPENED THE PUBLIC HEARING; WITH NO ONE COMING FORWARD TO SPEAK, MAYOR SUTTON CLOSED THE PUBLIC HEARING AND CALLED FOR THE MOTION.

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

Public Hearing 02: Laurie Hohe, Town Attorney

Public hearing and possible motion to approve Order Closing Alley running between N. Elm Street and N. Hughes Street

Town Attorney Hohe stated the owner, Staley Smith requested the alley closure and that there is no economic value to the town.

MAYOR SUTTON OPENED THE PUBLIC HEARING; WITH NO ONE COMING FORWARD TO SPEAK, MAYOR SUTTON CLOSED THE PUBLIC HEARING AND CALLED FOR THE MOTION.

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

MAYOR SUTTON OPENED THE PUBLIC HEARING.

Resident Lance Olive stated townhome parking has been far away from the units; this is a good UDO amendment for the town and an artisan studio would be a good use for Apex.

WITH NO ONE ELSE COMING FORWARD TO SPEAK, MAYOR SUTTON CLOSED THE PUBLIC HEARING AND CALLED FOR THE MOTION. COUNCIL MEMBER JENSEN MADE A MOTION TO RECOMMEND APPROVAL; COUNCIL MEMBER DOZIER SECONDED THE MOTION. THE MOTION CARRIED BY A 5-0 VOTE.

OLD BUSINESS

Old Business 01: Council Member Scott Lassiter

Possible motion to reconsider the September 1, 2015 Town Council vote denying a revision to Parkside at Bella Casa, Phases 10 & 11 - Master Subdivision Plan - for the properties located at Blazing Trail and Mt. Zion Church Road containing 43 acres. The proposed revision changes the layout from 110 to 111 lots.

MAYOR SUTTON CALLED FOR THE MOTION TO RECONSIDER THE ITEM. COUNCIL MEMBER LASSITER MADE A MOTION TO RECONSIDER THIS ITEM; MAYOR PRO-TEM SCHULZE SECONDED THE MOTION. THE MOTION CARRIED BY A 5-0 VOTE.

Council Member Jensen suggested Council Member Lassiter recuse himself because he had accepted a campaign contribution from the developers making the request. Council Member Lassiter expressed that he had accepted a contribution from the developers but he could remain unbiased and impartial. Council Member Lassiter also stated he was bringing the issue back up due to new information from the US Army Corps of Engineers who state the lot is buildable. The two continued their verbal jousting until Mayor Sutton referred the matter at hand back to the entire Council.

Frank Floyd, the developer stated he contacted the Army Corps of Engineers to complete a compaction test; the result was it is a buildable lot with 95% compaction and he offered to document the test results in the deed to disclose this information. Planning Director Dianne Khin suggested documenting the current Army Corps of Engineers findings on the plat. Council Member Wilkie and Mayor Pro-Tem Schulze expressed they wanted documentation and disclosure to the buyer on the deed. Mayor Sutton stated he did not want to set a precedent. Council Members Wilkie and Dozier asked Assistant Public Works Director David Hughes about this lot. Hughes stated it is a buildable lot and there are ways to mitigate water problems with stone and drainage measures. Council Member Wilkie asked the Town Attorney how we can assure the disclosure to a potential buyer. Town Attorney Hohe stated the deed typically references the recorded plat and the closing attorney should be looking at the plat.

MAYOR SUTTON CALLED FOR THE MOTION. COUNCIL MEMBER LASSITER MADE A MOTION TO RECOMMEND APPROVAL WITH THE DEVELOPER TO REFERENCE THE ARMY CORP SOF ENGINEERS COMPACTION TEST FINDINGS ON THE DEED AND PLAT.

MAYOR PRO TEM SCHULZE SECONDED THE MOTION. MOTION CARRIED BY A 3-2 VOTE: COUNCIL MEMBERS JENSEN AND DOZIER VOTED NAY.

NEW BUSINESS

New Business 01 : Shannon Flaherty, Apex Chamber of Commerce

Consideration of The Town of Apex to grant the Apex Chamber of Commerce free rent and utilities in exchange for the services the Chamber provides to the Town.

Shannon Flaherty of the Apex Chamber of Commerce stated the Chamber does not charge organization to use the Depot, their services are basically a full-time visitor's center, and other town's she researched financially support their local Chambers of Commerce from \$20K to \$200K per year.

Council Members asked Ms. Flaherty about the current and future cost of the Depot lease. Discussion ensued regarding costs, services provided by the Chamber, and the information provided in the packets presented as well as interval reviews of the contract.

MAYOR SUTTON CALLED FOR THE MOTION. COUNCIL MEMBER DOZIER MADE A MOTION TO AMEND THE CURRENT CONTRACT BETWEEN THE TOWN OF APEX AND THE APEX CHAMBER OF COMMERCE TO PROVIDE FREE RENT AND UTILITIES THROUGH THE YEAR 2018; COUNCIL MEMBER WILKIE SECONDED THE MOTION. THE MOTION CARRIED BY A 5-0 VOTE.

New Business 02 : Shelly Mayo, Planner

Possible motion to approve the application for the Richardson West Master Subdivision Plan for the properties located on Jacks Drive, Richardson Road, and Olive Chapel Road. This project consists of approximately 70.6 acres and proposes 112 new single-family lots

THIS ITEM WAS WITHDRAWN BY THE APPLICANT AND WILL BE BROUGHT BACK IN NOVEMBER

New Business 03 : Tim Donnelly, Public Works Director

Possible motion to approve the attached Resolution Declaring Leasehold Interest Surplus and to approve the Resolution Starting Upset Bid Process in connection with a long term lease of a portion of Jaycee Park property to TOWERCOM IV, LLC for use of the property for construction and operation of a wireless communication tower

Public Works Director, Tim Donnelly stated TOWERCOM IV proposes to lease Town property in the amount of \$1,700.00 a month to build a cell tower. The lease is similar to the Kelly Park Tower. Parks and Recreation has control of the site and is in support. If carriers are added, the town will get a percentage of the rent collected. Public Safety requested to be added to the tower as a carrier and

TOWERCOM agreed to make provisions. The upset bid process will be publicly advertised. This will require a rezoning, a special use permit, recombination and major site plan. The pros are revenue for the Town and better cell coverage. The cons would be neighbors complaining about cell towers being unsightly.

COUNCIL MEMBER JENSEN MADE A MOTION TO DELAY THIS ITEM TO THE OCTOBER 6, 2015 MEETING. COUNCIL MEMBER LASSITER SECONDED THE MOTION. THE MOTION CARRIED BY A 5-0 VOTE.

New Business 04 : Council Member Nichole Dozier

Possible motion to consider NC Certified Retirement Community Designation

Council Member Dozier asked staff to look into this designation as a place suitable for retirees. The cost as clarified by Town Manager Bruce Radford is a minimum fee of \$10,000.00 + \$.50 per person based on the current population of the Town. There was a consensus by all Council Members.

New Business 05 : Council Member Nichole Dozier

Possible motion to consider Community Education and Engagement-local and state level effort

Council Member Dozier stated she would like more communication and education on municipal government to help engage the public with Council. It would help to host a dinner event with the Wake County School Board or the Department of Transportation where it is open to the citizens. There was a consensus by all Council Members.

New Business 06 : Council Member William Jensen

Possible motion to amend the 2030 Land Use Map and UDO Amendment

Council Member Jensen proposed an amendment the 2030 Land Use Map and possible UDO amendment for the US 64 and North Salem Street area with a live/work concept. He would like staff to come back with an amendment to the Planning Board for a recommendation.

COUNCIL MEMBER JENSEN MADE A MOTION TO RECOMMEND APPROVAL. COUNCIL MEMBER DOZIER SECONDED THE MOTION. MOTION CARRIED WITH A 5-0 VOTE.

New Business 07: Council Member William Jensen

Possible motion to consider cancelling the November 3, 2015 meeting due to the local election

MAYOR PRO TEM SCHULZE MADE A MOTION TO RECOMMEND APPROVAL. COUNCIL MEMBER WILKIE SECONDED THE MOTION. MOTION CARRIED WITH 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.

Bonnie J. Brock, CMC, NCCMC
Deputy Town Clerk

ATTEST:

William M. Sutton
Mayor