



## APEX TOWN COUNCIL MEETING

TUESDAY, FEBRUARY 17, 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, February 17, 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 Boy Scout Troop 205 Presented the Colors and led the Pledge of Allegiance.

### PRESENTATIONS

There were no Presentations made.

### CONSENT AGENDA

- Consent 01 Minutes of the January 20<sup>th</sup> Regular Meeting and Closed Session #1 (Closed Session Minutes recorded separately), the February 3<sup>rd</sup> Regular Meeting, the January 12<sup>th</sup> Environmental Committee Meeting, and the February 10<sup>th</sup> General Fund Committee Meeting
- Consent 02 Apex Tax Report dated 01/06/2015
- Consent 03 To be discussed as Old Business per Council request
- Consent 04 Budget amendment to the Recreation Reserve Fund and the Recreation Capital Project Fund for the Apex Skate Plaza project
- Consent 05 Resolution to amend the existing cross connection control ordinance and to adopt the use of an online cross connection control assembly tracking system (Online System)

- Consent 06 Request by Kolter Land Partners for the relocation of 3 graves located at the approved Stillwater Subdivision PIN#0721-04-9139
- Consent 07 Authorization for the Town Manager to execute Supplemental Agreement #5417 originally entered into with North Carolina Department of Transportation
- Consent 08 Authorization for the Town Manager to execute a 1-year extension of the Yard Waste Agreement originally entered into with Greenway Waste Solutions of Apex, LLC (formerly Highway 55 C&D Landfill, LLC) in 2002

Council Member Jensen requested Consent 03 be pulled for further discussion. The Mayor stated it would become an Old Business item.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE CONSENT AGENDA MINUS ITEM 03; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

## REGULAR MEETING AGENDA

The Town Attorney requested the removal of New Business 02: Possible motion to adopt a Resolution authorizing sale of 2.2 acres out of PIN Numbers 0732-77-7095 and 0732-76-9930 for \$110,000.00 subject to the upset bid procedure, as the purchaser no longer wished to purchase this property from the Town.

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

## PUBLIC FORUM

JC Knowles approached Council not as Ambassador, but as an 86 year old senior. Apex needs to look to the future. In 10 years, the population is expected to be 80,000. Mr. Knowles presented figures related to the population growth of other cities along with programs for seniors vs. what occurs in Apex. All senior activities occur at the Community Center; seniors are limited in their activities because most of what occurs is for youth and children. He would like to see a senior center with aquatic and fitness activities within walking distance of Town Hall. If Morrisville could do this via a bond, Apex should be able to do so also. Mr. Knowles stated that as Ambassador, he's given tours to 14 groups and over 30 organizations, boasting of the accomplishments of the Town. But a free-standing senior center is missing. He believes that if this was part of the upcoming budget, to be built by whatever means, seniors would utilize it.

Council asked what he hoped to see in such a center, and Mr. Knowles responded with a free aquatic center, meeting rooms, and a wellness center which would not serve as a hospital or outpatient facility. Council stated some impressions are that the Community Center and the Halle are getting crowded with senior activities. She would like to take a tour to see what's going on. Council stated this issue is being discussed. Council stated that if Tier 1 counties can have a center, then we can too. There was further discussion about types of senior center programs. Council would be glad to work with Mr. Knowles on this.

## PUBLIC HEARINGS

**Public Hearing 01 : Amanda Bunce, Planner**

**Public Hearing and Ordinance on the Question of Annexation – Apex Town Council's intent to annex Richardson West PUD property containing 70.5± acres located at the southwest quadrant of the intersection of Richardson Road and Olive Chapel Road, Annexation #524 into the Town's corporate limits**

Staff oriented Council to the site, stating that the Planning Board recommended approval.

Mayor Sutton declared the Public Hearing open.

JW Shearin, working on the project, stated the neighborhood meeting was informative and positive. A transportation analysis was conducted, the use is consistent with 2030 Land Use Plan, and all architectural standards have been met.

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.

Council expressed concern about adding more houses and the lack of road flow down Kelly Road. We need to look at plans for traffic on Richardson Road. Council was also concerned about road infrastructure.

COUNCIL MEMBERS JENSEN, SCHULZE, WILKIE, AND LASSITER VOTED IN THE AFFIRMATIVE; COUNCIL MEMBER DOZIER VOTED IN THE NEGATIVE. THE MOTION PASSED BY A 4-1 VOTE.

**and**

**Public Hearing 02 : Amanda Bunce, Planner**

**Public hearing and rezoning application and Ordinance #14CZ23 (Richardson West PUD) to rezone 70.5± acres located on the southwest quadrant of the intersection of Olive Chapel Road and Richardson Road from Wake County R-80W to Planned Unit Development-Conditional Zoning**

Staff stated this information was presented in Public Hearing 01; both were heard together.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE REQUEST; COUNCIL MEMBER DOZIER SECONDED THE MOTION. 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.

**Public Hearing 03 : Shelly Mayo, Planner**

**Public Hearing and Ordinance on the Question of Annexation – Apex Town Council's intent to annex John & Elizabeth Gasiorowski and Gordon Russell Easkes (Arcadia Ridge West III) property containing 22.1012 acres located at 2105 and 2121 Richardson Road, Annexation #531 into the Town's corporate limits**

Staff oriented Council to the site. This is simply an addition, so the same conditions as previously apply. There is a proposed change to the Land Use Map. Staff and the Planning Board recommended approval.

Mayor Sutton declared the Public Hearing open.

Stewart Jones, Jones and Crossen Engineering, stated they have been before Council twice before. Phases I and II are underway. They feel this addition would add continuity. They simply want to change the back section. Mr. Jones explained the advantages of this to them and to the Town, i.e., continuity of design.

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 stated there is the same problem with this request as the one previously.

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.

**and**

**Public Hearing 04 : Shelly Mayo, Planner**

**Public Hearing and 2030 Land Use Map amendment from Rural Density Residential to Low Density Residential and rezoning application and Ordinance #14CZ31 (Arcadia Ridge PUD) to rezone 69.29 acres located at the southeastern quadrant of the intersection of Olive Chapel Road and Richardson Road from Wake County R-80W and Planned Unit Development Conditional Zoning (PUD-CZ) zoning to Planned Unit Development Conditional Zoning (PUD-CZ)**

Staff stated this information was presented in Public Hearing 03. Both were heard together.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE REQUEST; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.  
COUNCIL MEMBERS WILKIE, SCHULZE, AND LASSITER VOTED IN THE AFFIRMATIVE;  
COUNCIL MEMBERS JENSEN AND DOZIER VOTE IN THE NEGATIVE. THE MOTION CARRIED BY A 3-2 VOTE.

**Public Hearing 05 : Dianne Khin, Planning Director**

**Public Hearing and Ordinance on the Question of Annexation – Apex Town Council's intent to annex Town of Apex (Apex Fire Station #5) property containing 3.223 acres located at 6904 Apex Barbecue Road, Annexation #532, into the Town's corporate limits**

Staff oriented Council to the site, stating it recommended approval. In response to Council, staff stated this would go out for bid to build in late June.

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 WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

**Public Hearing 06 : Dianne Khin, Planning Director**

**Public Hearing and Ordinance on the Question of Annexation – Apex Town Council's intent to annex Parker Orleans property containing .015 acres located north of Colvin Park Drive and west of Stephenson Road, Annexation #533 into the Town's corporate limits. The purpose of this annexation is to add property to Lot 61, located in Colvin Park Subdivision**

Staff oriented Council to the site, stated it recommended approval, and explained why this section was not annexed previously.

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 WILKIE MADE THE MOTION TO ADOPT THE ORDINANCE; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

**Public Hearing 07 : Reed Huegerich, Senior Planner**

**\*\*POST PUBLICATION OF THE AGENDA, THE DEVELOPER REQUESTED THAT THIS ITEM BE CONTINUED TO MARCH 17, 2015\*\***

**Public Hearing and motion regarding Rezone #14CZ21, Sweetwater Planned Unit Development Plan 164.7 acres located at 2216 and 2408 Olive Chapel Road and 3115, 3121, 3224, 3233 U.S. Hwy 64 West from Rural Residential (RR) to Planned Unit Development Conditional Zoning (PUD-CZ)**

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO CONTINUE THE PUBLIC HEARING AS REQUESTED; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 08 : Brendie Vega, Principal Planner  
Public Hearing and UDO Amendments

Staff stated this request was made by Stewart Jones, Jones and Crossen Engineering.

Mayor Sutton declared the Public Hearing open.

Mr. Jones explained the setback request which was recommended by the Planning Board. All remaining requests were from staff, which were explained. Council asked about minimum and maximum setbacks in the central business district.

In relation to going from two to three story buildings, staff explained this was requested as it relates to floor error ratios in the downtown business district. The Town Attorney explained what would constitute a vested right to build three stories.

Steve Adams, business owner, explained he wishes to build a three story building. If his design didn't fit, then he would be okay with that; but to put a limit on flooring can be a hindrance. Three stories will not damage the character of downtown. He was told earlier that four stories would be fine, but his design for this was not approved as it was too contemporary. After redoing the design, he was told he could only have three stories. Mr. Adams believes he has a vested right because of the money and time spent to have his plans approved. Council asked for documentation of this information, which Mr. Adams stated he has. This would not be a contributing structure which he discussed with Planning before he purchased the building. To say this can't be done is taking away the property value. Mr. Jones indicated that he has a three story building, but staff stated it was okay because the third story cannot be seen from the front of building. Council discussed concerns with blanket restrictions.

Jeremey Bradham, Capital Area Preservation, stated there is specific interest in Apex as it seems to be the model for other towns. Apex also has a registered historic district, and he explained the aspects which make this area unique. Staff talked about lower lots and building story heights. Council stated it wouldn't mind being able to approve/disapprove such requests, but staff explained this is done at another level. These could be set up as Special Use Permits, but then they would have very strict standards. Council stated it wants to have a nice historic downtown but would like more flexibility. Staff explained what the process would look like if the requested change was approved. Staff also presented several scenarios as to what the property owner might do.

Mayor Sutton declared the Public Hearing closed.

The Mayor stated the most consistent, positive comments about Apex are about the downtown. He does not want to see the heart of the town messed with. The Town Attorney confirmed that if the request passed and someone wants to do something outside of this, they would need to come before Council for the change. She also explained what would happen if Council did and did not make the requested change.

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

## **OLD BUSINESS**

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### **Old Business 01 : Council Member Bill Jensen**

#### **Motion to call up the motion to reconsider the proposed ordinance limiting idling duration for unattended vehicles**

Council stated that after discussing this with staff and Council, the recommendation at this point was to withdraw the proposal and possibly bring it back possibly at a later time.

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

### **Add-on Old Business 02 : Council Member Bill Jensen**

#### **Amendment 1 to the Nichol's Plaza Development Agreement**

Council stated it appears we are now paying for traffic improvements. Staff stated the original deal was that the developer would pay for this in the future if warranted. DOT did a reverse condemnation and required the developer to reimburse them; because at some point, DOT had paid for the right of way. The Mayor and staff met with DOT regarding the monies. Staff explained how this cost now falls to the Town.

Council didn't understand why taxpayers should have to pay for the developer's oversight.

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

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

## NEW BUSINESS

**New Business 01 : Amanda Bunce, Planner**

**Greenmoor Master Subdivision Plan for the properties located at 7924, 7616, and 7716 Green Level Church Road containing 144 acres and 389 lots**

Staff oriented Council to the site, noting that the subdivision includes pocket parks.

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

**New Business 02 : This item was removed as requested by the Town Attorney**

**New Business 03 : Council Member Nicole Dozier/Assistant Public Works Director David Hughes**

**Authorization for Town staff to amend the UDO to require additional stormwater control requirements for new development located within the Williams Creek Basin portion of Apex**

Staff stated there had been several meetings with the Environmental Committee and changes to the UDO were contemplated. This amendment would be the first step in a discussed process which would disallow future developments to make things worse.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER DOZIER MADE THE MOTION TO APPROVE THE REQUEST; COUNCIL MEMBER JENSEN 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 DECLARED THE MEETING ADJOURNED.

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Donna B. Hosch, CMC, NCCMC  
Town Clerk

ATTEST:

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William M. Sutton  
Mayor