



TOWN COUNCIL MEETING

TUESDAY, NOVEMBER 19, 2013

Keith H. Weatherly, Mayor
Eugene J. Schulze, Mayor Pro Tempore
Terry L. Rowe, Scott R. Lassiter,
William S. Jensen, and Lance Olive, Council Members
Bruce A. Radford, Town Manager
J. Michael Wilson, Assistant Town Manager
Donna B. Hosch, CMC, NCCMC, Town Clerk
Henry C. Fordham, Jr., Town Attorney

The Regular Meeting of the Apex Town Council scheduled for Tuesday, November 19, 2013, at 7:00 p.m. was held in the Council Chamber of Apex Town Hall, 73 Hunter Street

COMMENCEMENT

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

PRESENTATIONS

There were no Presentations to be made.

CONSENT AGENDA

Consent 01 Minutes of the October 15, 2013 Regular Council Meeting

Consent 02 Apex Tax Reports dated 09/06/13 and 10/07/2013

Consent 03 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ13, Stuart Jones, Jones & Clossen Engineering, PLLC, petitioner for the property located at Milano Avenue between Venezia Way and Mt. Zion Church Road

Consent 04 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ22, Jones & Clossen Engineering, PLLC, petitioner for the property located at the end of Ambergate Station, south of US 64 Hwy

Consent 05 Encroachment and Maintenance Agreement with Wake Broadstone Associates, LLC and to authorize the Town Manager to execute same

Consent 06 Budget ordinance amendment to spend restricted Police funds for office furniture and decorative bricks

Consent 07 Assignment acceptance of two Waterline Easements from Eagle Rock Concrete, LLC to The Town of Apex

Consent 08 Resolution recognizing Edison H. Johnson, Jr., for his dedicated service as Executive Director of the NC Capital Area MPO

Consent 09 Resolution authorizing the granting of an electric easement to Duke Energy Progress and ratifying the prior execution of the deed of easement

Consent 10 Identity Theft Prevention Program Annual Risk Assessment 2013

Council Member Olive requested to pull Consent 05 and Consent 06 for discussion later in the Agenda. Attorney Fordham requested to add Consent 11, Motion to approve the Closed Session Minutes of 2/19/13, 5/21/13, and 10/1/13 and to substitute the 5/21/13 Minutes approved hereby for those previously approved. Town Manager Radford requested to add Consent item 12, Motion to approve street closure request for December 6, 2013 for the Christmas on Salem event and Consent item 13, Motion to approve street closures on December 7th for the 2013 Apex Christmas Parade.

MAYOR WEATHERLY CALLED FOR A MOTION TO REMOVE AND ADD TO THE CONSENT AGENDA AS STATED ABOVE.

MAYOR PRO TEM SCHULZE MADE THE MOTION; COUNCIL MEMBER ROWE SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION TO APPROVE THE CONSENT AGENDA AS MODIFIED.

COUNCIL MEMBER JENSEN MADE THE MOTION; COUNCIL MEMBER LASSITER SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

Attorney Fordham requested the addition of New Business 09, Possible motion to approve a "Resolution Ratifying the Interlocal Agreement Between the Towns of Cary and Apex Entitled "Agreement" Dated April 26, 1988 and the First and Second Amendments Thereto".

REGULAR MEETING AGENDA

Mayor Weatherly presented the Regular Meeting Agenda. There were no further modifications requested.

PUBLIC HEARINGS

Public Hearing 01 : June Cowles, Senior Planner

Public Hearing and motion regarding Rezone #13CZ23, 34.7 acres located at 0 US Hwy 64 (north of Hwy 64 between Laura Duncan Road and Shepherds Vineyard Drive) from Residential Agricultural (RA) Zoning to Planned Commercial – Conditional Zoning (PC-CZ)

Staff oriented Council to the site. The neighborhood meeting raised concerns about wildlife, buffers, and traffic. The use is consistent with 2030 Land Use Plan. Staff stated this is the first request it has received for such a use. The site is not viable for office and institutional use now or in the future; the best use would be commercial and mixed use high-density office and residential. Staff and the Planning Board recommended approval with conditions heard at the Planning Board meeting.

Mayor Weatherly declared the Public Hearing open.

Sal Musarra, from Kimley-Horn and Associates on behalf of the applicant, stated the rezoning would help to promote potential development of the property. Council questioned this being a good use of the property as far as vehicle sales, Mr. Musarra stating it would be a consistent use. After conferring with the applicant, Mr. Musarra stated the applicant agreed to pull the vehicle sales use.

Speaking in Support:

Graham Wilson, Apex Chamber of Commerce, read a Resolution adopted by the Chamber urging support of this request.

Everett Nichols, property owner, gave a brief history of the development and ownership of the property. These 34 acres have been difficult to develop, and he's been paying taxes with no income from the property. The applicant would be a quality tenant, Mr. Nichols giving an outline of the prospective business' background and its plan to enhance the property.

Dave Cozarelli, Sarah Fowler, and Tom Hannie commented that traffic issues would probably be taken care of by staff, and there was concern about what would be built later if not this commercial business. Tom Colhoun of the Planning Board stated they voted 100% in favor of the rezoning, it's supported by the 2030 Land Use Plan (LUP), and it's a great economic driver for needed economic development.

Speaking in Opposition:

Stephen Oglesby, Dennis Doty, Jackie Nilsson, Donna Daves, Alex Jarem, Lawrence Block, and Thomas Stucknicky expressed concerns about damage to trees and the park, dust pollution, runoff, traffic and traffic safety, and inconsistency with the 2030 (LUP). This could be built in an alternate area already developed which is devoid of trees. The staff and applicant have not addressed the potential neighborhood activity center; and with no size limits, this would be in conflict with neighborhood mixed use on the north side.

Beth Voltz, Weatherspoon & Voltz, attorney for the applicant, stated she would address traffic issues in the Quasi-Judicial Hearing, but that she would address specific zoning questions.

The Town Attorney requested a brief Closed Session.

MAYOR WEATHERLY CALLED FOR A MOTION TO GO INTO CLOSED SESSION TO RECEIVE LEGAL ADVICE FROM THE TOWN ATTORNEY. COUNCIL MEMBER JENSEN MADE THE MOTION; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION TO RETURN TO OPEN SESSION. COUNCIL MEMBER LASSITER MADE THE MOTION; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

Mayor Weatherly stated the Town Attorney clarified that traffic impacts and the impacts of a commercial development in the area would be allowed in this hearing.

Speaking in Opposition:

Jennifer Ferrell stated NCDOT has not approved the traffic plans of the developer, she would like to see other mixed uses, Costco would make better sense elsewhere, and in order to make it safer for high school students, a bridge could be built across 64.

Mr. Musarra stated the application is relative to the land use. Staff gave an overview of the zoning of the area as well as the typical types of developments that could potentially be in the area. There are no square footage limits, staff stating that the LUP gives general use markers for land use. Staff recommended planned commercial for the rezoning.

Mr. Musarra spoke on environmental impact, buffers and wetlands, and stated there were no endangered habitats.

Mike Horn, Kimley-Horn and Associates, stated they'd met with staff and NCDOT as to what to address in their traffic study, NCDOT concurring with the finding of their report on congestion management. Improvements to the roadway system were found in order to mitigate traffic problems. Mr. Horn explained what is proposed for the road areas and gave impact figures for peak times during the day at the critical intersections. He briefly explained how a traffic impact study is performed.

Mr. Musarra restated why the rezoning is appropriate for the site. The applicant would commit to taking off one of the previously permitted uses. Staff briefly touched on traffic light recommendations. Staff also stated that the Town normally encourages major retail to go to major highways and thoroughfares and intersections, and that this use is consistent with that policy.

Mayor Weatherly declared the Public Hearing closed.

The Mayor allowed one rebuttal about the blue dot area on the map, responding that staff gave explicit explanation on this matter. Council stated it had no issue with commercial use as long as it was neighborhood/local commercial serving the people in that area of town. The Mayor stated the 2030 LUP had just been approved and we should stick by it. Our credibility is at stake; and if we are not consistent, the LUP will become worthless. The transparency of the plan was applauded during the formulation process. Council expressed some concern about traffic but noted due diligence had been done for the peak hours. The request was reasonable, and it would be interesting to see what may go into the next site.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE REZONING; COUNCIL MEMBER OLIVE SECONDED THE MOTION. COUNCIL MEMBERS JENSEN, ROWE, SCHULZE, AND LANCE VOTED IN THE AFFIRMATIVE; COUNCIL MEMBER LASSITER VOTED IN THE NEGATIVE. THE MOTION CARRIED BY A 4-1 VOTE.

An audio recording of the following Quasi-Judicial Public Hearing made by the Town Clerk is incorporated into these Minutes by reference. The audio recording or transcript of the Hearing should be used as the verbatim record of the questions, testimonies, evidentiary rulings, and discussions that occurred at the Quasi-Judicial Hearing.

Public Hearing 02 – QUASI JUDICIAL : June Cowles, Principal Planner

Quasi-Judicial Public Hearing and motion regarding a Major Site Plan and Non-Residential Subdivision Plan for Nichols Plaza, 37.8 acres located at 0 US Hwy 64 (north of Hwy 64 between Laura Duncan Road and Shepherds Vineyard Drive)

Mayor Weatherly read the Explanation of Issue, Standards, and Procedures for Quasi-Judicial Hearings on Site Plans.

Mayor Weatherly declared the Public Hearing Open.

All persons wishing to speak during the Hearing were sworn in by the Town Clerk. There were no conflicts stated by any Council Member. Emails had been received and a few were replied to, but nothing to impact the vote on the issue.

June Cowles stated her credentials and oriented Council to the site. The use is consistent with the UDO, and the applicant agreed to conditions. Clarifications were made concerning trees, parking, building elevation, power lines, buffers, and stormwater concerns. The applicant made a correction to the square footage of the building.

STATEMENTS BY THE APPLICANT:

Beth Voltz, Attorney representing the applicant Columbia Development, stated her credentials. She stated the use is in compliance with 2030 Land Use Map and stated her client's decisions were based on the Land Use Map map being adopted. Background was given on each team member who would speak.

Mr. Musarra stated the use was consistent with the 2030 LUP and described the proposed development of the site, what improvements would be made, and explained how the use met or exceeded the standards.

Erich Brann, representing Costco, gave background on the company and why they're a good employer, the Town Attorney interjecting that testimony needed to be limited to the standards. Mr. Brann detailed aspects of the building and its design aspects and how it would be a "green" building.

Ms. Voltz went through the Town's site plan standards and how the use meets them. Chris Bostic, Kimley-Horne and Associates, spoke on the overall site and answered Council's stormwater questions.

Brandon White, Kimley-Horne and Associates, addressed Council's concern about buffers and agreed to a buffer change requested by Council. Mr. Horn and Mr. Bostic addressed the right of way plan, explaining how the engineering requirements were met. Mr. Bostic stated staff has deemed the design compliant. Per Council request, the applicant was acceptable to averaging out a higher capacity of the stormwater pond over 25 years. They will look into the solar program, as the buildings are designed to accommodate such.

SPEAKING IN OPPOSITION:

A female and a male citizen addressed traffic concerns. The applicant stated a warrant study to NCDOT would be done to see if a light is needed on Laura Duncan, and they would pay for the traffic signal. No follow-up traffic study has been done at Beaver Creek and explanation of a margin of error in measuring traffic light delays was given.

Donna Daves began speaking on transportation concerns. Ms. Voltz objected to Ms. Daves as she was not credentialed in the details of transportation. The Town Attorney stated Ms. Daves could speak as long as the issue was something she had observed with her five senses. She could not give opinions, however, unless she was trained and had expertise. Ms. Daves continued about mid-morning traffic not being addressed. Jackie Nilsson questioned traffic figures and the increase of traffic on high school activities. Mr. Horn stated traffic had physically been counted to get the level of service figures.

SUMMARY BY OPPOSITION:

Ms. Daves stated it would be more appropriate to find land elsewhere and not put students at risk. She spoke on future traffic patterns and roads and Costco being a regional attraction.

SUMMARY BY THE APPLICANT:

Ms. Voltz stated the traffic analysis does, in fact, plan for the future and that the site plan meets the UDO and the standards.

Mayor Weatherly declared the Public Hearing closed.

Mayor Weatherly read the standards:

- (1) Compatibility: Council stated it did not agree because this would be a regional and not a local use. Also, the other side of the site is residential. The Mayor reminded Council that the

Planning Board and staff were supportive of the use and viewed it consistent with the LUP. Further discussion ensued on compatibility of this commercial use vs. another type of commercial use. The remaining Council felt the standard met

- (2) Zoning district supplemental standards – Council felt the standard met
- (3) Site development standards - Council felt the standard met
- (4) Mitigation of development on steep slopes - Council felt the standard met
- (5) Dedication of ROW for Thoroughfare Plan - Council felt the standard met
- (6) Required improvements - Council felt the standard met
- (7) Other relevant standards of this Ordinance - Council felt the standard met
- (8) Applicable Standards of Article 7, Subdivision - Council felt the standard met

Council continued to express concern about traffic and the traffic study. If taken at face value, then the use is certainly compatible but studies can miss the mark. Council was reminded that NCDOT and staff have reviewed this and no errors were caught. The Mayor once again reminded Council of this being compatible with the LUP. Council made detailed reasoning about the traffic and stated that the applicant had addressed all areas and done everything they could to mitigate any problems. The owners have every right to do what they wish with the property. Council added that the same type of issue came up when considering Beaver Creek, noting Beaver Creek illustrates that exceptional planning brings about additional concessions that make a project better. This represents the economic development the whole Council has talked about.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER OLIVE MADE THE MOTION TO APPROVE THE SITE PLAN WITH THE CONCESSIONS AND CHANGES THE APPLICANT HAS BROUGHT FORWARD PLUS THE STAFF RECOMMENDATIONS; COUNCIL MEMBER ROWE SECONDED THE MOTION. COUNCIL MEMBERS JENSEN, ROWE, LASSITER, AND OLIVE VOTED IN THE AFFIRMATIVE; MAYOR PRO TEM SCHULZE VOTED IN THE NEGATIVE THE MOTION CARRIED BY A 4-1 VOTE.

Mayor Weatherly called for a five minute recess.

Following recess, the Town Attorney stated that the immediate previous motion needed to include the subdivision plan as presented.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER OLIVE MADE THE MOTION TO APPROVE THE SUBDIVISION PLAN AS PRESENTED; COUNCIL MEMBER ROWE SECONDED THE MOTION.

COUNCIL MEMBERS JENSEN, ROWE, SCHULZE, AND OLIVE VOTED IN THE AFFIRMATIVE;

MAYOR PRO TEM SCHULZE VOTED IN THE NEGATIVE.

THE MOTION CARRIED BY A 4-1 VOTE.

For Public Hearings 03 and 04, the Town Attorney stated that the evidence could be heard at the same time but that the vote would need to be done on each separately.

Public Hearing 03 : Dianne Khin, Planning Director

Public Hearing and motion to adopt an Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Michael and Jean Evans’ property containing 6.67 acres located at 2605 Olive Chapel Road, Annexation #496, into the Town’s corporate limits

Staff oriented Council to the site.

Public Hearing 04 : June Cowles, Senior Planner

Public Hearing and motion regarding Rezone #13CZ26, 6.67 acres located at 2605 Olive Chapel Road from Wake County-R-80W Zoning to Medium Density Conditional Zoning

Staff oriented Council to the site. Staff and the Planning Board recommended approval.

Mayor Weatherly declared the Public Hearings open.

Jeff Roach, Peak Engineering and Design representing the applicant, stated the requested zoning meets the LUP, a pump station has been built to accept this area as well as other areas, and a nature park will be built for expansion in this part of town. The adjacent property has been rezoned; the applicant offered additional conditions.

Chad Essick, land use attorney representing the adjacent property owners Cynthia Ball and David Aspnes, gave a brief history of the past rezonings. While the applicant has offered to put up a fence and thorn-bearing bushes, the represented property owners wanted the applicant to be able to remove the buffer and extend the fence, if necessary, at some point in the future. The applicant stated they would extend the fence when they filed the zoning application and at the neighborhood meeting. When submitting the final application, that condition was removed and the applicant is now not agreeing to the extended fencing. There was a stated concern about liability as it relates to the pond.

Beverly Rubin stated she tried to meet with the applicants to discuss some type of buffer, but the applicant refused. She is in agreement with the Ball's request. Mr. Roach stated agreeing to the extension was a mistake on his part. After further discussion, the applicant agreed to put in a Type B buffer as well as thorn-bearing bushes on the Evans side of the property.

Mayor Weatherly declared the Public Hearings closed.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE ANNEXATION; COUNCIL MEMBER OLIVE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE A MOTION TO APPROVE THE REZONING; COUNCIL MEMBER OLIVE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

Council Member Lassiter left the Chamber momentarily and returned after the vote on Public Hearing 05.

Public Hearing 05 : Bruce Radford, Town Manager

Public Hearing and motion to enact an ordinance approving Amendment No. 1 to Annexation Agreement which will amend the Annexation Agreement with Holly Springs that was recently approved on August 20, 2013 and authorizing the Mayor to sign Amendment No. 1

Staff gave a brief history of this process with Holly Springs.

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

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE ORDINANCE; COUNCIL MEMBER OLIVE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE, WITH COUNCIL MEMBER LASSITER'S VOTE BEING WITH THE MAJORITY.

Public Hearing 06 : Dianne Khin, Planning Director

Public Hearing and motion to adopt an Ordinance to relinquish extraterritorial jurisdiction (ETJ) on 21 parcels and a portion of 2 parcels in accordance with the 2013 annexation agreement, as amended, between the Town of Apex and the Town of Holly Springs (continued from the October 15, 2013 agenda)

Staff oriented Council to the properties that are no longer on the Apex side. Staff recommended approval of the Ordinance.

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

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM MADE THE MOTION TO ADOPT THE ORDINANCE; COUNCIL MEMBER LASSITER SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

Public Hearing 07 : Reed Huegerich, Transportation Planner

Public hearing and motion to approve Resolution Ordering the closing of that portion of Third Street south of its intersection with West Street

Staff oriented Council to this right of way which has no benefit to the Town.

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

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

Public Hearing 08 : Brendie Vega, Principal Planner

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

Staff stated the reasons for the amendments.

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

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

Council Member Olive asked to be excused from the meeting for a family emergency.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO EXCUSE COUNCIL MEMBER OLIVE; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

OLD BUSINESS

Old Business 01 : Lauren Simmons, Planner II

Motion approving The Enclave at Trackside - Master Subdivision Plan - for the properties located at 0 N. Salem Street containing 8.066 acres and 49 lots

Staff oriented Council to the elevations of the site.

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

PUBLIC FORUM

No one wished to speak during Public Forum.

NEW BUSINESS

New Business 01 : Reed Huegerich, Transportation Planner

Motion to approve a municipal agreement with NCDOT to secure 80% of the project cost in federal funds, requiring 20% matching local (Town of Apex) funds, in order to complete a gap in sidewalk along the south side of Old Raleigh Road east of Lake Pine Drive to Cary town limits, TIP Project No. U-5530 AA

Staff oriented Council to the extension of the sidewalks. The Town Attorney was concerned with the agreement language but noted it is standard for DOT.

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

New Business 02 : Reed Huegerich, Transportation Planner

Motion to approve a municipal agreement with NCDOT to secure 80% of the project cost in federal funds, requiring 20% matching local (Town of Apex) funds, in order to complete gaps in sidewalk along the west side of Tingen Road between Apex Peakway and Apex Elementary School, TIP Project No. U-5530 AB

Staff oriented Council to the extension of the sidewalks. The Town Attorney was concerned with the agreement language but noted it is standard for DOT.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE AGREEMENT; COUNCIL MEMBER ROWE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

New Business 03 : Lee Smiley, Finance Director

Motion to approve capital project ordinance amendment for sidewalks along Old Raleigh Road and Tingen Road

Staff explained the reason for the amendment.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE AMENDMENT; COUNCIL MEMBER ROWE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

New Business 04 : Lee Smiley, Finance Director

Review of the 1st Quarter Financial Summary

Staff stated we are doing fine and that a few of the percentages are below the same period of time last year.

New Business 05 : Lauren Simmons, Planner II

Motion to approve 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 and 111 lots

Staff oriented Council to the site, parks and recreation fees, the transportation plan, and connectivity requirements. This is in compliance with the UDO. Staff and the Planning Board recommended approval.

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

New Business 06 : June Cowles, Senior Planner

Motion approving Evans Creek Master Subdivision Plan. The property is located at 2932 and 3008 Evans Road, 0 and 7732 Humie Olive Road containing 14.79 acres and 41 lots.

Staff oriented Council to the site, noting it meets the requirements and standards. Staff and the Planning Board recommended approval.

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

New Business 07 : June Cowles, Senior Planner

Motion to approve Magnolia Walk Master Subdivision Plan. The property is located 1015, 1013, and 1005 North Salem Street containing 10.77 acres and 44 lots.

Staff oriented Council to the site, noting it meets the Transportation Plan. The Planning Board and staff recommended approval.

The Town Attorney stated to Stuart Jones, Jones and Crossen Engineering, that he was concerned with the number of units shown now vs. what was shown on the plan previously.

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

New Business 08 : John Letteney, Chief of Police

Motion to approve (1) a software and services agreement with SunGuard Public Sector Inc. to replace existing Aegis Police Records Management System; and (2) a resolution approving a lease agreement with Government Capital Corporation to finance the SunGuard records management system and authorizing the Town Manager to execute the same

Staff stated this would be the Police Department's primary records management system. Replacement is necessary due to problems with current system. The cost is budgeted for this fiscal year.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER ROWE MADE THE MOTION TO APPROVE REPLACING THE SOFTWARE AND ADOPTING THE RESOLUTION; COUNCIL MEMBER JENSEN SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

Added New Business 09 : Hank Fordham, Town Attorney

Motion to approve the "Resolution Ratifying the Interlocal Agreement Between the Towns of Cary and Apex Entitled "Agreement" dated April 26, 1988 and the First and Second Amendments Thereto"

Staff noted that this was previously approved and that the Resolution would cover all amendments.

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

New Business 10 : Encroachment and Maintenance Agreement with Wake Broadstone Associates, LLC and to authorize the Town Manager to execute same

Staff stated Council wished a provision added and explained what the provision would entail regarding a sign encroaching into the utility easement and conditions of the sign.

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

New Business 11 : Budget ordinance amendment to spend restricted Police funds for office furniture and decorative bricks

Staff explained where these funds would be spent. This is a follow up to the brick project discussed at a previous meeting.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE AMENDMENT; COUNCIL MEMBER ROWE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

CLOSED SESSION

Closed Session to receive legal advice and give Town Attorney direction related to a potential condemnation case involving a sewer easement

MAYOR WEATHERLY CALLED FOR A MOTION TO GO INTO CLOSED SESSION. MAYOR PRO TEM SCHULZE MADE THE MOTION; COUNCIL MEMBER ROWE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

MAYOR PRO TEM SCHULZE CALLED FOR A MOTION TO RETURN TO OPEN SESSION. COUNCIL MEMBER JENSEN MADE THE MOTION; COUNCIL MEMBER ROWE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 3-0 VOTE.

MAYOR PRO TEM SCHULZE CALLED FOR A MOTION TO AUTHORIZE THE TOWN ATTORNEY TO SEND STUDY LETTERS TO PROPERTY OWNERS RELATED TO TRACKSIDE SEWER. COUNCIL MEMBER JENSEN MADE THE MOTION; COUNCIL MEMBER LASSITER SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 3-0 VOTE.

WORK SESSION

There were no Work Sessions items for discussion.

ADJOURNMENT

With there being no further business,

MAYOR PRO TEM SCHULZE CALLED FOR A MOTION TO ADJOURN.
COUNCIL MEMBER ROWE MADE THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 3-0 VOTE.

Donna B. Hosch, CMC, NCCMC
Town Clerk

ATTEST:

Keith H. Weatherly
Mayor