



TOWN COUNCIL MEETING

TUESDAY, SEPTEMBER 16, 2014

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
Henry C. Fordham, Jr., Town Attorney

The Regular Meeting of the Apex Town Council scheduled for Tuesday, September 16, 2014, 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 Henry C. Fordham, Jr.

COMMENCEMENT

Mayor Sutton called the meeting to order, Mayor Pro Tem Schulze gave the Invocation, and Mayor Sutton led the Pledge of Allegiance.

PRESENTATIONS

There were no presentations to be made.

CONSENT AGENDA

- Consent 01 Minutes of the September 2, 2014 Regular Council Meeting**
- Consent 02 Apex Tax Report dated 08/03/2014**
- Consent 03 Payment of Rotary dues on behalf of Joanna Helms**
- Consent 04 Set Public Hearing for the October 7, 2014 Town Council Meeting regarding rezone #14CZ11, rezone from Rural Residential (RR) and Medium Density –Conditional Zoning to Medium Density - Conditional Zoning (MD-CZ) district classification for the property located at 2801 Walden Road containing 16.3± acres**

- Consent 05** 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 JVI Development II property containing 20.639 acres located between Evans Road and Walden Road, Annexation #520 into the Town’s corporate limits
- Consent 06** 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 Standard Pacific of the Carolinas property containing 28.515 acres located south of South Salem Street, north of Padstone Drive, Annexation #521 into the Town’s corporate limits
- Consent 07** Fire system monitoring contract for Apex Nature Park Maintenance Building and authorization for Town Manager to execute the same
- Consent 08** Professional services agreement with RS&H Architects-Planners-Engineers, Inc. to provide preliminary engineering services including but not limited to environmental surveys, public involvement, environmental documentation, surveying, and engineering design for Lake Pine Drive Improvements adjacent to Apex Community Park, TIP No. U-5537, pending NCDOT approval of the consultant’s scope and fee, and authorization for Town Manager to execute same
- Consent 09** Amendment to Option and Ground Lease Agreement and Consent to Assignment and Estoppel and authorization for the Town Manager to make minor changes to and execute the same

Council requested the Consent item regarding budget amendments for repairs be moved to New Business.

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

REGULAR MEETING AGENDA

Town Manager Radford requested the addition of an Old Business item related to White Oak and easements for multi-use trails and greenways. Council was in agreement with the addition.

PUBLIC FORUM

No one wished to speak during Public Forum.

PUBLIC HEARINGS

Public Hearing 01 : Dianne Khin, Planning Director

Public Hearing and motion to adopt an Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Milton Richardson & Vedia Jones-Richardson property containing 10.01 acres located at 2324 Mt. Zion Church Road, Annexation #516, into the Town’s corporate limits

and

Public Hearing 02 : Lauren Simmons, Planner II

Public Hearing and motion regarding rezoning #14CZ10, rezone from Wake County Residential-80W District (R-80W), Low Density Conditional Zoning (LD-CZ), Rural Residential (RR) and Planned Unit Development Conditional Zoning (PUD-CZ) to Planned Unit Development Conditional Zoning (PUD-CZ) district classification for the property located at Milano Avenue and Blazing Trail Drive between Venezia Way and Mt. Zion Church Road containing 144.8± acres

Staff oriented Council to the site regarding the annexation.

Staff oriented Council to the site regarding the rezoning, the request being to add 30 acres to the development. Eighteen lots were left out, as they were sold separately. There were no changes to the conditions. A neighborhood meeting was held, the rezoning is consistent with Apex Plans, and the Parks and Recreation Commission recommended a payment of fee of lieu for the additional acres. The Planning Board and staff recommended approval.

Mayor Sutton declared the Public Hearing open.

Stuart Jones, Jones and Clossen Engineering, was present and Council asked him about green space. Mr. Jones stated there would be several pocket parks on the property and a three-acre recreational center.

Mayor Sutton declared the Public Hearing closed.

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

Public Hearing 03 : Lauren Simmons, Planner II

Rezoning #14CZ11 from Rural Residential (RR) and Medium Density - Conditional Zoning (MD-CZ) to Medium Density - Conditional Zoning (MD-CZ) district classification for the property located at 2801 Walden Road containing 16.3± acres will be re-noticed to the property owners within 300 feet of the subject property and re-advertised on the Town’s website for the October 7, 2014 Town Council meeting

Staff stated this item would be re-advertised and re-noticed and heard at the October 7th Regular Council meeting.

Public Hearing 04 : Shelly Mayo, Planner

Public hearing and motion on rezoning application #14CZ12 to rezone +/- 11.15 acres located at E. Williams Street and Eddie Creek Dr. from Light Industrial Conditional Zoning to Light Industrial Conditional Zoning, and possible motion on rezoning ordinance

Staff stated this request was to add two additional uses – microbrewery and medical/dental office/clinic. Staff oriented Council to the site. A neighborhood meeting was held, this is consistent with the land use map, and 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. 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 05 : Dianne Khin, Planning Director

Public Hearing and motion to adopt an Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Lewis and Mindy Cooke, Glenn and Joy Futrell, Ten Associates Limited Partnership, Inez Mann, Ann Freeman Gazenbeek and Terry Slate properties containing 52.75 acres located along US 64 Hwy, east of Laura Duncan Road and Pine Plaza Drive, Annexation #512 into the Town’s corporate limits

Staff oriented Council to the site. 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. COUNCIL MEMBER WILKIE MADE
THE MOTION TO ADOPT THE ORDINANCE; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 06 : Brendie Vega, Principal Planner

Public hearing and motion to adopt an Ordinance regarding various amendments to the Unified Development Ordinance

Staff briefed Council on the requested amendments. The Planning Board 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 WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

OLD BUSINESS

Add-on Old Business 01: Bruce Radford, Town Manager White Oak Regional Lift Station

Staff explained the progress of the White Oak consortium over the past several years. Two weeks ago, Council gave staff direction to determine if multi-use paths and greenways could be put in place.

Staff stated the developers are anxious to get this done and time is of the essence. Therefore, they are willing to take on the cost of appraisals for the easements for the multi-use paths, even though it is not their responsibility. They also asked that the Manager and Town Attorney be allowed to make necessary changes to the documents presented two weeks ago. Conversation continued on where the path and greenway would run and the basic characteristics of each, from where any additional costs would come, and the pros and cons of obtaining the easements at this time. Council congratulated the developers for working together to get this project complete and stated they did not want to throw a wrench in the project.

Adam Ashbaugh, LSTAR Management, stated he did not think all of the five agreements would be affected by the appraisals. He outlined how the appraisals would be calculated before the matter would come back to Council for further consideration of cost.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER WILKIE MADE THE MOTION TO
APPROVE THE TRANSACTIONS AS THE MOTION WAS STATED ON THE LAST AGENDA ON THIS POINT WITH
ADDITION THAT THE DEVELOPERS' SUGGESTIONS BE INCORPORATED INTO THE AGREEMENTS AS
NECESSARY TO ACQUIRE THE MULTI-USE PATH, AND THAT ONCE THE APPRAISALS ARE OBTAINED THAT THE MATTER
COMES BACK TO COUNCIL. COUNCIL MEMBER LASSISTER SECONDED THE MOTION
THE MOTION CARRIED BY A 5-0 VOTE.

NEW BUSINESS

New Business 01 : June Cowles, Senior Planner

Motion approving an amendment to the Salem Village Phase 1 Master Subdivision Plan. A request to remove several traffic-calming medians on Salem Village Drive and Mostyn Lane that were originally approved on the subdivision plan. The attached plan sheets show the new road configuration without the specific traffic-calming medians that were objectionable to the residents

Staff stated several traffic meetings were held and the medians met with objection. Staff requested that the medians in front of resident homes be removed. The Planning Board recommended approval.

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

New Business 02 : Bruce Radford, Town Manager

Budget ordinance amendments for roof replacement for the Apex Union Depot building and contract for mechanical engineering services for HVAC repairs at the Community Center

Council stated the expense of repairing the Chamber roof should probably be bid out even if we end up with the preferred vendor. Staff explained that small leaks have tuned into gully-washers. The building is 100 years old, and Capital Area Preservation had to approve the roofing material which is being specially made for this project in Texas. Water remediation will need to be done once the roof is dry again. This is a semi-emergent situation, and the tarp does not alleviate the urgency. Staff explained formal bidding requirements.

Steven Xavier, Executive Director for the Chamber, stated that with water coming into the building, some of the walls have water marks, files have been destroyed, and tarps are spread inside to avoid further damage. His concern was the time it would take to order the materials if the job had to be bid. One good storm would take the tarp off the roof, and ceiling and walls would deteriorate even more.

Council agreed with the fundamental effort to bid this out; but with having to be good stewards of the money, we may spend more if we wait. Questioned was if a professional roofer could secure the tarp. Council furthered that the stains are huge and look bad, and the health of those inside is a concern. This is an historic building, and we don't want any more damage. Council asked if Capital Area Preservation would help offset the cost, and the answer was 'no'. Staff explained that all repair efforts have failed; the new material would give us a 100-year roof.

As for the HVAC, staff stated the chiller is the original and has been repaired several times. We are now waiting for it to fail, and want to be prepared with a replacement cost estimate.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER DOZIER MADE
THE MOTION TO APPROVE THE AMENDMENTS AND CONTRACT; COUNCIL MEMBER LASSITER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

ADDITIONAL DISCUSSION:

Council stated that the roof on the Tunstall House will soon be in need of repair/replacement. Staff stated the cost to stabilize the home to the point where it will not continue to deteriorate would be \$30,000. Council stated we need to get a price to do the work that needs to be done for what we want to use the house for, but this has to be determined. The Manager will put together a package of pricing to send to Council within 30 days.

CLOSED SESSION

Closed Session 01 : to receive legal advice from the Town Attorney regarding potential claims and to provide instructions related to potential claims

MAYOR SUTTON CALLED FOR A MOTION TO GO INTO CLOSED SESSION. MAYOR PRO TEM SCHULZE
MADE THE MOTION; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

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

WORK SESSION

There were no Work Session items to be considered.

ADJOURNMENT

With there being no further business,

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

Donna B. Hosch, CMC, NCCMC
Town Clerk

ATTEST:

William M. Sutton, Mayor