



TOWN COUNCIL MEETING

TUESDAY, DECEMBER 17, 2013

Keith H. Weatherly, 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
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, December 17, 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, gave the Invocation, and led the Pledge of Allegiance.

PRESENTATIONS

Presentation 01 : Lee Smiley, Finance Director

June 30, 2013 Audit Report

Staff introduced Keith Joyce from Joyce and Company, CPA, who presented the highlights of the June 30, 2013 audit report. More prominent figures were in cash balance, total fund balance, water and sewer fund, electric fund, ad valorem taxes, and overall debt. It was a clean report, and no significant problems were found. There were two significant deficiencies found, and Mr. Joyce clarified those and stated modifications are being made to correct them. Three less significant deficiencies were found, and Mr. Joyce clarified those and suggested modifications to correct them.

CONSENT AGENDA

Consent 01 Minutes of the December 3, 2013 Regular Council Meeting

Consent 02 Apex Tax Report dated 11/04/2013

Consent 03 Construction contract and Town Manager authorization to execute same for EL-5100 DD Laura Duncan Multi-use Path Project

Consent 04 Construction contract and Town Manager authorization to execute same for U-5118 AC NC 55 Corridor Improvements Project

- Consent 05 Resolution authorizing Director of Parks, Recreation, and Cultural Resources to approve and execute Standard Services Agreements and Contracts related to park maintenance and other services that are part of the department's approved budget
- Consent 06 Revision to an Encroachment and Maintenance Agreement with Wake Broadstone Associates, LLC and to authorize the Town Manager to execute same
- Consent 07 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ26, Parkside Builders, LLC/ Peak Engineering & Design, PLLC, petitioner for the property located at 2605 Olive Chapel Road
- Consent 08 Findings of Fact, Conclusions of Law, and Decision approving the Nichols Plaza Major Site Plan
- Consent 09 Reconvey Lot 199 Plots A & B to the Apex Town Cemetery
- Consent 10 Transportation Improvement Project Municipal Agreement between the North Carolina Department of Transportation and the Town of Apex and Town Manager authorization to execute same
- Consent 11 Utility Agreement between the North Carolina Department of Transportation and the Town of Apex, Town Manager authorization to execute the Utility Agreement, and approval of the associated and attached Capital Project Ordinance Amendments
- Consent 12 Encroachment Agreement with NCDOT to allow the Town's greenway to cross under Kelly Road and Town Manager authorization to execute the same
- Consent 13 (1) Resolution authorizing the sale of 1.379 acres of land, 0.032 of an acre of permanent drainage easement, and 0.924 of an acre of construction/permanent slope easement to NCDOT to facilitate the Kelly Road widening project, acceptance of a \$110,000.00 payment from NCDOT for the land, easements, and destruction of Town owned improvements, and Town Manager authorization to make minor modifications to and execute the documents to transfer title to NCDOT, (2) allocation of proceeds from the sale and damage settlement between Town funds as stated below, and (3) approval of the related Capital Project Ordinance Amendment

Mayor Weatherly stated there was a requested add-on item, Consent 14, Motion to transfer Lot 152 Plots E & F in Apex Town Cemetery. Council Member Jensen requested to pull Consent items 04, 05, and 11 through 13 for a brief review. Mayor Weatherly stated the above items would be considered under New Business.

MAYOR WEATHERLY CALLED FOR A MOTION TO APPROVE THE CONSENT AGENDA. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE CONSENT AGENDA WITH THE ABOVE CHANGES TO CONSENT 04, 05, 11, 12, AND 13. MAYOR PRO TEM SCHULZE SECONDED THE MOTION.

With it pointed out that Consent 10 was linked to Consent items 11 through 13,

COUNCIL MEMBER JENSEN AMENDED HIS MOTION TO INCLUDE CONSENT 10; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.

Attorney Fordham requested Consent 08 be considered separately as a Consent item and to excuse Council Member Wilkie from the vote since she was not present for previous conversation on this item.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO CONSIDER CONSENT 08 AS A SEPARATE CONSENT ITEM, TO EXCUSE COUNCIL MEMBER WILKIE FROM THE VOTE, AND TO APPROVE CONSENT 08.
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

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

REGULAR MEETING AGENDA

Mayor Weatherly presented the Regular Meeting Agenda.

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

PUBLIC HEARINGS

Public Hearing 01 : June Cowles, Senior Planner

Continuance of the Public Hearing to the January 21, 2014 Town Council Meeting regarding Rezone #13CZ27, 198.69 acres located at 0, 7625, 7641, 7720, and 4021 Green Level West Rd, and 8109, 8113, 8129 Green Level Church Road from Low Density Residential and Low Density Residential Conditional Zoning to Planned Unit Development Conditional Zoning

Staff stated this was a request by the applicant.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO CONTINUE THE PUBLIC HEARING TO THE JANUARY 21, 2014 REGULAR MEETING; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

Public Hearing 02 : Dianne Khin, Planning Director

Public Hearing and Annexation Ordinance – Apex Town Council’s intent to annex Beverly and Charles Harris Jr. property containing 4.244 acres located at 1513 Wimberly Road, Annexation #501 into the Town’s corporate limits and

Public Hearing 03 : Lauren Simmons, Planner II

Public Hearing and Rezone #13CZ20, 122.66 acres located at 0 Ivey Road & 1513 Wimberly Road from Rural Residential and Wake County R-80W to Planned Unit Development-Conditional Zoning

Staff oriented Council to the site. The applicant proposed conditions in addition to the Town's standard conditions. Several concerns were raised at the neighborhood meeting; the applicant agreed to satisfy those concerns. Staff recommends a condition that limits the development to 300 platted lots until connection to Secluded Acres Road is made; the applicant has agreed to this condition. This is in compliance with the UDO, and the Parks and Recreation Commission has suggested a fee in lieu or land dedication. The developer has been asked to work with other developers in the area for a reasonable park location. A pump station is being worked on. Staff and the Planning Board recommend approval with conditions agreed to by the applicant.

Staff detailed the Transportation Impact Analysis. Staff requested conditions to be a part of the PD Plan, and the applicant satisfied those conditions.

Mayor Weatherly declared the Public Hearing open.

SPEAKING IN FAVOR: Adam Ashbaugh, representing the applicant, described plans for the major aspects of this project and how and why the project will be beneficial to the Town. Two neighborhood meetings were held, and one citizen raised concerns about overhead power lines. The applicant will evaluate and improve the buffer in this area as well as provide a perimeter buffer around future lots in the area which will be dedicated to the homeowners association. Also, there was concern about how Secluded Acres Road would impact neighborhood property. Work has been done to eliminate the concern. Council asked would the applicant agree to 25 year return period storm water control, the applicant stating they will agree to provide adequate freeboard so the damn will not overtop in a 25 year return period.

SPEAKING IN OPPOSITION: Jeffrey Ross, adjacent property owner, expressed concerns about the plan not being substantially sound, costs not offsetting services that will be needed, the increase in property tax rates, extensive new sewer lines, and damage to critical buffer lines. He asked would it be possible to request a variance for the buffer. He has not been contacted about surveyors on the property; the plan is not appropriate for their custom-designed solar house. Mr. Ross asked that this be tabled until it is clear that sewer lines will not harm their property. Nothing has addressed trespassing, and there will be increased light and sound pollution. He wanted assurance that the developers will finish the project, as they are part of group that went awry on another project in the economic downturn.

Lisa Ross, agreed with many concerns of her husband, Jeffrey Ross. They purchased the property because of the critical watershed that they were under the impression would not be developed and that no development would encroach upon where they live. It would be traumatic to have a wastewater pipe run through where the ashes of her sister-in-law and mother-in-law are scattered, Mrs. Ross asking Council to consider an alternative site that would not disturb the resting place.

Philip Brown, resident, expressed environmental concerns. Students collect specimens on the property; and he asked Council to stress that an environmental study be done, which he could help with. There was also concern about runoff.

Bob Gubar, resident, expressed concern about management of roads and traffic, especially on Secluded Acres Road.

Council expressed concern about sewer outfall down the creek and across private property. Staff explained how sewer lines follow the creek to try to minimize number of costly pumping stations. Staff explained the plan for a large regional pumping station and several smaller pumping stations and the economic problems that would rise if the basin was not developed. Connectivity is necessary across private properties, but the line has not yet been designed. Surveyors will do this and comply with all laws. The developer generally negotiates compensation, then the Town, if necessary. If there is no agreement, then eminent domain may become necessary.

Staff outlined the recommendations in the master plan for significant park acreage, nothing that discussions are taking place to see what requirements there would be and what the fees would cover.

Mayor Weatherly declared the Public Hearing closed. Mayor Weatherly reopened the Public Hearing for additional questions from Council.

Staff stated there is no financial consideration from the Town and clarified the layout/route of Secluded Acres Road. Council asked the applicant to respond to the new things heard this evening that were not in the packet. The applicant addressed the sewer outfall concerns and how these are being worked on. They can live with having an onsite pump station, but they are trying to work with the regional system.

Mayor Weatherly declared the Public Hearing closed.

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

A requested condition by staff for the rezoning was read by Council: *The applicant agrees to provide attenuation of a 25 year/24 hour storm event and that the peak stage elevation of 25 year/24 hour storm event will be contained within the dam of the stormwater facilities.* Attorney Fordham stated this was specific enough to be legal. The applicant stated this was livable and easy to design to.

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

Public Hearing 04 : Dianne Khin, Planning Director

Public Hearing and Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Jerome Rex Eatman, Jr. property containing 28.960 acres located at 2625 Olive Chapel Road, Annexation #499 into the Town’s corporate limits

and

Public Hearing 05 : Lauren Simmons, Planner II

Public Hearing and Rezone #13CZ29, 28.96 acres located at 2656 Olive Chapel Road from Wake County R-80W to Planned Unit Development-Conditional Zoning

Staff oriented Council to the site. The neighborhood meeting raised concerns about a subdivision being built near them. The applicant agreed to an added buffer on the property and a parks and recreation payment of fee in lieu. Staff and the Planning Board recommended approval of the request.

Mayor Weatherly declared the Public Hearing open.

SPEAKING IN FAVOR: Stuart Jones, Jones and Crossen Engineering on behalf of the applicant, stated the use is consistent with the 2030 Land Use Plan. He briefly detailed buffers and added architectural conditions. Council asked about 25 year stormwater management, Mr. Jones agreeing to this and stating it would come up later in the planning process. The Town Attorney stated this would need to be put in writing. Mr. Jones agreed to the following: *Developer agrees to design and construct any and all stormwater BMP’s to remove 90% of total suspended solids and contain the 25 year storm.*

SPEAKING IN OPPOSITION: Beverly Rubin, resident, was concerned about the number of houses on the property, fee in lieu, and Olive Chapel Hill Road being small and curved. She asked if a traffic study could be required and if a 10 foot type A buffer could be placed in front of her home. The Town Attorney explained that Ms. Rubin would have to have the developer agree to the buffer. Mr. Jones agreed by stating: *east buffer to be a Type A 10' buffer.* Staff spoke briefly on traffic issues and clarified the maximum number of lots will be 71 total.

Mayor Weatherly declared the Public Hearing closed.

MAYOR WEATHERLY 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 UNANIMOUS 5-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE REZONING WITH THE ADDITIONAL CONDITION STATED ABOVE BY THE APPLICANT; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 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 Guy C. Lee property containing 8.3110 acres located at 900 N Salem Street, Annexation #500, into the Town’s corporate limits
Staff oriented Council to the site, stating that it recommended approval of the annexation.

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

Public Hearing 07 : Reed Huegerich, Senior Planner

Public Hearing and amendments to the Apex Parks, Recreation, Greenways, and Open Space Master Plan map and the Apex Transportation Plan Bicycle, Pedestrian, and Equestrian Plan map

Staff explained that sections of these Plans needed to be revised to agree with the updated Plans. The Parks and Recreation Commission unanimously recommended approval of the amended Bicycle, Pedestrian, and Equestrian Plan map.

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

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

Public Hearing 08 – Quasi Judicial : June Cowles, Senior Planner

Quasi-Judicial Public Hearing regarding a Major Site Plan for ATI Industrial Automation, 16.18 acres located at 1031 Goodworth Drive

Mayor Weatherly read the Introduction as required by law and which is incorporated into these Minutes by reference. Responding to the question by Mayor Weatherly, all Council Members stated they would be impartial in hearing the evidence; Council Members Jensen, Schulze, and Mayor Weatherly visited the site at the ground breaking.

All those wishing to speak were sworn in by the Town Clerk.

Staff member June Cowles stated her credentials and oriented Council to the site. A neighborhood meeting was held but there was no one in attendance.

Mayor Weatherly declared the Public Hearing open.

SPEAKING IN FAVOR: Lacy Reeves, Attorney, speaking on behalf of the applicant, stated they believe all criteria have been satisfied for the site plan; and he oriented Council to the building and its purpose. Sharron Scoggin, VP of Hager Smith Design, answered questions from Council on LEED specifications.

With no one speaking in opposition, Mayor Weatherly declared the Public Hearing closed.

Mayor Weatherly presented the standards to Council:

- (1) Compatibility – Council felt the standard met
- (2) Supplemental standards – Council felt the standard met
- (3) General development standards - Council felt the standard met
- (4) Slope protection standards - Council felt the standard met
- (5) Dedication of ROW for Thoroughfare Streets and Highways - 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

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

Public Hearing 09 – Quasi Judicial : Brendie Vega, Principal Planner

Quasi-Judicial Public Hearing and possible motion regarding a Major Site Plan for Scotts Ridge Elementary School, 30.85 acres located at 6601 Apex Barbecue Road (west of NC-540 and south of Scott’s Mill Subdivision)

Mayor Weatherly read the Introduction as required by law and which is incorporated into these Minutes by reference. Responding to the question by Mayor Weatherly, all Council Members stated they would be impartial in hearing the evidence.

All those wishing to speak were sworn in by the Town Clerk.

Council Members Lassiter and Wilkie asked to be recused seeing as applicant is their employer.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER DOZIER MADE THE MOTION TO RECUSE COUNCIL MEMBERS LASSITER AND WILKIE; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

Staff member Brendie Vega stated her credentials and oriented Council to the site. The neighborhood meeting raised concerns about a pond, property values, and monies being available for community use. The applicant agreed to adjust the grading plan so as not to disturb the roots of trees on a resident’s property. Staff recommended approval with conditions.

SPEAKING IN FAVOR: Nathan Zalesky, attorney for the applicant, presented the applicant’s reasons as to why the request should be approved. Sherri Green, Wake County Public School System, spoke on

how this school will provide relief from the overcrowding in the area. Marcella Rorie, Wake County Public School System, stated an LEED certification will not be applied for due to the cost, but this type of school has been built before. Modifications are being made along the way to make the building better than those previously built.

Renee Pfeifer, CLH Design, presented the site plan and overviewed its details. The neighborhood meeting raised concerns about buffers, impact on properties, and community amenities. Ms. Pfeifer explained how these concerns would be addressed. Ronald Stevenson prepared the TIA for the project and stated they worked with staff and DOT to make improvements, which he overviewed. Frank Slinsky, civil engineer, spoke on meeting the requirement for stormwater design and stated they have no objections to the conditions of staff.

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

Mayor Weatherly presented the standards to Council:

- (1) Compatibility – Council felt the standard met
- (2) Supplemental standards – Council felt the standard met
- (3) General development standards - Council felt the standard met
- (4) Slope protection standards - Council felt the standard met
- (5) Dedication of ROW for thoroughfare streets and highways - 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

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER DOZIER MADE THE MOTION TO APPROVE THE SITE PLAN; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

Council Members Lassiter and Wilkie returned to their seats on the Council.

Public Hearing 10 – Quasi Judicial : Dianne Khin, Planning Director

Quasi-Judicial Public Hearing for Special Use Permit SUP#13SUP02 located at 6304 Old Jenks Road

Mayor Weatherly read the Introduction as required by law and which is incorporated into these Minutes by reference. Responding to the question by Mayor Weatherly, all Council Members stated

they would be impartial in hearing the evidence. Mayor Weatherly, Mayor Pro Tem Schulze, and Council Member Lassiter have met the applicant via a formal meeting at Town Hall. Council Member Lassiter has visited the site.

Staff oriented Council to the site and provided background information. The requested revisions by the applicant were detailed. Staff has worked with the applicant to come up with mutually agreeable conditions. Staff verified that the wording as stated could mean that events could be held every Saturday night.

STATEMENT BY THE APPLICANT: April Maness, owner, explained the upgrades which have been made to the septic system. She stated Council previously granted her 72 events, and she was asking for flexibility with these events because of the limitations of the tent. She stated weddings are very much seasonal, and probably would not be taking place every Saturday. Ms. Maness asked for flexibility during peak times to use the number of events she has been granted. She is being forced to only hold larger events; smaller ones don't meet the conditions.

SPEAKING IN OPPOSITION: Timothy O'Hara, resident, asked that the request be denied because it does not fit in with the character of the neighborhood. Events generate noise that he can hear at his house, and an increase in events could cause environmental pollution. If approved, Mr. O'Hara asked that the duration of permit be revisited and a condition be set for the permit to terminate with a change in ownership of property.

Ms. Maness addressed the parking and septic system.

Greg McGhee, resident, spoke on noise impact stating that additional events with noise will not be practical for the environment. This doesn't fit in with residential land use, and he spoke on the septic tank issue.

Council asked if any citations have been issued or if there have been any violations, the Town Manager Radford stating he did not believe so.

Ms. Maness responded there have been no citations or reprimands, and she has not been asked to turn down the music. Law enforcement has been out for reasons other than sound; they have

measured the sound, however, and the ordinance has not been violated. The music turns off at 11:00; the sound system has a limiter which is in a locked box.

Mr. McGhee stated a police report was made on sound, it was presented previously to Council, and it showed Ms. Maness was in violation 60% of the time.

SPEAKING IN SUPPORT: Graham Wilson, Chamber of Commerce, stated he has personally visited the site and has seen what has been done to comply with the standards. Ms. Maness has gone above and beyond what is required.

Mayor Weatherly declared the Public Hearing closed.

Mayor Weatherly presented the Standards to Council:

- (1) Appropriateness of Special Use – Council felt the standard met
- (2) Supplemental Standards – Council felt the standard met
- (3) No significant adverse impact on land and surroundings – Council felt the standard met
- (4) Minimization of environmental impacts – Council felt the standard met
- (5) No significant impact on services – Council felt the standard met
- (6) Compliance with all other imposed standards – Council felt the standard met

Council expressed concern about standard (1), agreeing with noise one or two weekends a year, but where do you draw the line from there. Staff clarified the additional events will be for non-amplified sound. For standard (3), Council raised questions about noise being a nuisance. However, if Ms. Maness is under the stated decibel reading, then she is complying with the law. Attorney Fordham stated additional conditions could be added, i.e., changing the time the sound goes off to 11:00 p.m. on all nights.

MAYOR WEATHERLY CALLED FOR A MOTION TO CHANGE THE HOUR TO 11:00 P.M. FOR AMPLIFIED SOUND ON THE WEEKENDS AND HOLIDAYS. COUNCIL MEMBER DOZIER MADE THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE SPECIAL USE PERMIT WITH THE ABOVE CONDITION; COUNCIL MEMBER WILKIE SECONDED THE MOTION.

COUNCIL MEMBERS WILKIE, LASSITER, AND DOZIER VOTED IN THE AFFIRMATIVE;

COUNCIL MEMBERS SCHULZE AND JENSEN VOTED IN THE NEGATIVE.

THE MOTION CARRIED BY A 3-2 VOTE.

OLD BUSINESS

There were no Old Business items for consideration.

PUBLIC FORUM

No one wished to speak during Public Forum.

NEW BUSINESS

New Business 01 : Lauren Simmons, Planner II

Manors at Bella Casa Phase 6 - Master Subdivision Plan - for the properties located at Napoli Drive containing 8.22 acres and 16 lots

Staff oriented Council to the site. This has come back to Council as the applicant is proposing a new road. The Planning Board and staff recommend approval of the request. Staff clarified that issues raised at the neighborhood meeting related basically to other aspects of the project and not to road issues.

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

New Business 02 : Lauren Simmons, Planner II

Preserve at White Oak Creek - Master Subdivision Plan - for the properties located at Jenks and Wimberly Road containing 122.66 acres and 310 lots

Staff oriented Council to the site. The neighborhood meeting raised concerns which were addressed by the applicant. This will be a part of the regional solution of the White Oak Basin. The Parks and Recreation Commission recommended a fee in lieu or land dedication. Staff noted one street exceeded the UDO, so conditions were placed on this street. Staff and the Planning Board recommended approval of the request.

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

New Business 03 : Reed Huegerich, Senior Planner

Trace II Master Subdivision Plan for the property located at 1615 Salem Church Road containing 8.65 acres and 18 lots

Staff oriented Council to the site, stating that the rezoning had been previously approved by Council. The Parks and Recreation Advisory Commission recommended a fee in lieu. The neighborhood meeting raised a few questions; this subdivision will look very similar to Trace I. 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 5-0 VOTE.

New Business 04 : Reed Huegerich, Senior Planner

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 provide operational improvements, adding and lengthening turn lanes along SR 1010 (Center Street/Ten Ten Road) from the US 1 northbound ramps to west of SR 1306 (Schieffelin Road), TIP Project No. U-5118 AD, and authorizing the Town Manager to execute same

Staff oriented Council to the property and noted that this was a standard DOT agreement.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE MUNICIPAL AGREEMENT AND TO AUTHORIZE THE TOWN MANAGER TO EXECUTE SAME; COUNCIL MEMBER JENSEN SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

New Business 05 : Reed Huegerich, Senior Planner

Municipal agreement with NCDOT to secure 70% of the project cost in federal funds, requiring 30% matching local (Town of Apex) funds, in order to prepare a design and acquire public right of way for Lake Pine Drive, proposing a three-lane widening continued from Town of Cary limits across Apex Community Park, TIP Project No. U-5537, and authorizing the Town Manager to execute same.

Staff oriented Council to the property, noting that this is for a design and not construction. This will be a joint project with the Town of Cary. The contract is the standard DOT contract.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE MUNICIPAL AGREEMENT AND TO AUTHORIZE THE TOWN MANAGER TO EXECUTE SAME; COUNCIL MEMBER LASSITER SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

New Business 06 : Lee Smiley, Finance Director

Capital project ordinance amendment for preliminary engineering and right of way (no construction in this phase) required for widening Lake Pine Drive to a three lane section at Apex Community Park and for preliminary engineering, right of way, and construction of the extension of turning lanes and improvement of the intersection of Center Street at US 1 southbound and Waterford Green Drive

Staff stated this was simply a budget amendment for the two previous items.

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

New Business 07 : Bill Jensen, Council Member

Resolution to develop a policy allowing businesses to be listed in the Town of Apex Utility Bills

Mayor Weatherly noted that a revised Resolution had been distributed to Council. Council Member Jensen pointed out the revised wording and stated the purpose of the Resolution and how this information would ultimately tie into the Town's computer system. The listing would be able to reach 17,000 citizens, with one insert per utility bill on a quarterly basis or other specified timeframe. This would not be limited to businesses who are members of the Chamber.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO ADOPT THE REVISED RESOLUTION; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

Add-on New Business 08 (Consent 04): Construction contract and authorization for Town Manager to execute same for EL-5100 DD Laura Duncan Multi-use Path Project

Staff clarified this is a DOT road and not a Town road.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE CONTRACT AND AUTHORIZE THE MANAGER TO EXECUTE SAME; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

Add-on New Business 09 (Consent 05): Resolution authorizing Director of Parks, Recreation, and Cultural Resources to approve and execute Standard Services Agreements and Contracts related to park maintenance and other services that are part of the department's approved budget

Staff clarified this deals only with maintenance issues which are in the budget.

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

Add-on New Business 10 (Consent 10): Transportation Improvement Project Municipal Agreement between the North Carolina Department of Transportation and the Town of Apex and Town Manager authorization to execute same
and

Add-on New Business 11 (Consent 11): Utility Agreement between the North Carolina Department of Transportation and the Town of Apex, Town Manager authorization to execute the Utility Agreement, and approval of the associated and attached Capital Project Ordinance Amendments
and

Add-on New Business 12 (Consent 12): Encroachment Agreement with NCDOT to allow the Town’s greenway to cross under Kelly Road and Town Manager authorization to execute the same
and

Add-on New Business 13 (Consent 13): (1) Resolution authorizing the sale of 1.379 acres of land, 0.032 of an acre of permanent drainage easement, and 0.924 of an acre of construction/permanent slope easement to NCDOT to facilitate the Kelly Road widening project, acceptance of a \$110,000.00 payment from NCDOT for the land, easements, and destruction of Town owned improvements, and Town Manager authorization to make minor modifications to and execute the documents to transfer title to NCDOT, (2) allocation of proceeds from the sale and damage settlement between Town funds as stated below, and (3) approval of the related Capital Project Ordinance Amendment

Staff clarified the amounts noted in New Business 11 and the relocation of utilities.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE ALL ITEMS ASSOCIATED WITH NEW BUSINESS NUMBERS 10 THROUGH 13; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

CLOSED SESSION

There were no Closed Session items for discussion.

WORK SESSION

There were no Work Session items for discussion.

ADJOURNMENT

With there being no further business,

COUNCIL MEMBER WILKIE MADE THE MOTION TO ADJOURN; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

Donna B. Hosch, CMC, NCCMC
Town Clerk

ATTEST:

Keith H. Weatherly
Mayor

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