



TOWN COUNCIL MEETING

TUESDAY, MARCH 18, 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
Donna B. Hosch, CMC, NCCMC, Town Clerk
Henry C. Fordham, Jr., Town Attorney

The Regular Meeting of the Apex Town Council scheduled for Tuesday, March 18, 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 Tempore 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, Town Clerk Donna B. Hosch, and Town Attorney Henry C. Fordham, Jr.

COMMENCEMENT

Mayor Sutton called the meeting to order, Council Member Lassiter 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 February 18, 2014 Regular Council Meeting, the February 18, 2014 Closed Session, the February 26, 2014 Special Council Meeting, the February 26, 2014 Economic Development Committee Meeting, the March 4, 2014 Regular Council Meeting, the March 5, 2014 Personnel Committee Meeting, and the March 7, 2014 Council Retreat (Closed Session Minutes Recorded Separately)
- Consent 02** Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the Unified Development Ordinance (UDO) Amendments of February 18, 2014

- Consent 03** Corrected Attachment A – Legal Description for the Ordinance for Rezoning Case #13CZ35, to substitute the corrected Attachment A - Legal Description for the former Attachment A, and repeal of Ordinance #13CZ35 to the extent that the former Attachment A - Legal Description refers to a portion of PIN# 0723-84-9141
- Consent 04** Recommendations from the Personnel Committee to approve new fulltime Economic Development Director at Salary Grade 31 and Administrative Specialist at Salary Grade 15, and reclassification of vacant Customer Service Representative position in Parks and Recreation to Senior Customer Service Representative at Salary Grade 15
- Consent 05** Budget ordinance amendment and project ordinance amendment for construction of skate plaza and office space for Economic Development position
- Consent 06** Closing of streets in the Scott’s Mill subdivision in conjunction with the 7th Annual Monarchs in Motion 5K Race on May 10, 2014

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

REGULAR MEETING AGENDA

The Town Attorney requested an additional Closed Session related to instruction on the position to take on acquisition of real property. The Mayor stated that for Public Hearing 08, the family requested this item be postponed for two weeks due to family illness.

MAYOR SUTTON CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE REGULAR AGENDA WITH THE STATED TWO CHANGES; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED WITH A 5-0 UNANIMOUS VOTE.

PUBLIC HEARINGS

Public Hearing 01 : Reed Huegerich, Senior Planner

Public hearing and motion on proposed amendments to the Thoroughfare and Collector Street Plan map and the Bicycle, Pedestrian, and Equestrian Plan map

Staff detailed the proposed two amendments, which were requested by Bill Daniel. Both amendments were recommended by the Planning Board.

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 APPROVE THE AMENDMENTS; COUNCIL MEMBER LASSITER SECONDED THE MOTION. THE MOTION CARRIED WITH A 5-0 UNANIMOUS VOTE.

Public Hearing 02 : Dianne Khin, Planning Director

Public Hearing and motion to adopt an Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Donald and Sharron Lawrence, Edith Lawrence, Billy Rogers, Jr., Gail T. Mooney, and Hal A. Lawrence properties containing 295.383 acres located at north side of Horton Road, west side of Country Acres Road and north of Old US 1 Hwy, Annexation #498, into the Town’s corporate limits

and

Public Hearing 03 : Lauren Simmons, Planner II

Public Hearing and motion regarding rezone #13CZ30, 295± acres for the property located at 0, 9524 Horton Road, 3916 Old US 1 Hwy from R-80 W and R-40 W (Wake County) to Planned Unit Development Conditional Zoning (PUD-CZ) district classification and 2030 Land Use Map Amendment from Rural Density Residential and Low Density Residential to Low Density Residential

Staff stated these two Hearings needed to be heard together because if the rezoning was not approved, then the annexation did not need to be addressed/approved. Staff oriented Council to the site of the requested rezoning and its conditions. A neighborhood meeting was held. Staff as well as the Planning Board recommended approval with conditions.

Mayor Sutton declared the zoning Public Hearing open.

Dan Brubaker was not opposed but expressed concerns about wanting the Town to keep an eye on the traffic volumes as they develop along US 1, having the Plan reviewed by Wake County Emergency Management, Council enforcing lighting regulations, ensuring the Plan is reviewed by a competent authority, and preserving some dark skies in Apex.

Rick Ross had mixed feelings but was in favor as long as there was an extremely high standard for future development in New Hill, and maintaining New Hill’s natural beauty by rulings and permissions of Council as the Town grows larger. Conversation ensued between Council and the citizens concerning buffers and how they would affect lighting concerns.

The developer of Jordan Pointe stated they have worked very hard with all those involved. A site plan has been submitted which shows a rather large buffer, but they would not be opposed to more dense buffers.

John Mack was originally worried about the use of the land but was in favor of the use. He wanted it to be compatible with the neighbors, and was pleased a Type A buffer was proposed as it would be a safety factor as they operate their trains.

With no one else wishing to speak, Mayor Sutton declared the zoning Public Hearing closed.

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

MAYOR SUTTON CALLED FOR A MOTION ON THE ANNEXATION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE ANNEXATION; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED WITH A 5-0 UNANIMOUS VOTE.

MAYOR SUTTON CALLED FOR A MOTION ON THE REZONING. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE REZONING TO INCLUDE A 30' FOOT WIDE TYPE A BUFFER ALONG HORTON ROAD AND HWY 1 AND TO INCLUDE THE PUD CZ DISTRICT CLASSIFICATION 2030 LAND USE AMENDMENT FROM RURAL DENSITY RESIDENTIAL TO LOW DENSITY RESIDENTIAL; COUNCIL MEMBER LASSITER SECONDED THE MOTION.
THE MOTION CARRIED WITH A 5-0 UNANIMOUS VOTE.

Public Hearing 04 : Lauren Simmons, Planner II

Public Hearing and motion regarding rezone #13CZ33 from Rural Residential to Medium Density-Conditional Zoning and a 2030 Land Use Map Amendment from mixed use: Commercial Services, Office Employment and High Density Residential to Medium Density Residential for, 85± acres located at 400 New Hill Olive Chapel Road.

The applicant requested that this item not be considered at this time; therefore, there was no action.

Public Hearing 05 : Lauren Simmons, Planner II

Public Hearing and motion regarding rezone #13CZ34 from Rural Residential to Neighborhood Business-Conditional for 14± acres located at 400 New Hill Olive Chapel Road. This item was continued from the January 21 and February 18, 2014 Town Council Meetings.

The applicant requested that this item not be considered at this time; therefore, there was no action.

Public Hearing 06 : Dianne Khin, Planning Director

Public Hearing and motion on amendments to the 2030 Land Use Map

Staff stated the five amendment changes recommended by Council in a previous Work Session. The Planning Board recommended two changes in the New Hill area; the other recommendations at Tingen Road, Kelly Road, and Olive Chapel were agreed to as presented. The recommendations were made because of hearing from New Hill community residents who were not interested in tech flex uses and who wanted more commercial uses. Questioned was why changes were being made outside of the Comp Plan done last year. Staff felt the recommendations of the Planning Board should be listened to. Council expressed concern about losing office/institutional space and the amount of residential in the area. It could see changing the designation to office and commercial.

Mayor Sutton declared the Public Hearing open.

Dan Brubaker wanted to see this discussed more in-depth with more in-depth public input. He wanted to know how New Hill would be developed so it would be more of an asset to Apex. Maybe there should be a public outreach meeting to describe what's being proposed.

Paul Bart stated a community meeting is coming up in April and maybe this could be on their agenda. He wondered if this could be delayed to May for the two parcels.

Rick Ross didn't learn about this issue until the Planning Board meeting that he was attending for another issue. He wishes to have this discussed further; he does not want "crudy industrial".

Shirley Ottoway questioned if an Interchange will go in on the proposed realignment of Boscoe Road and if there would be another on/off ramp. Staff stated this is on both Apex's and Holly Springs' Transportation Plans.

With no one else 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 CHANGES TO THE LAND USE PLAN MINUS THE TWO THAT AFFECT NEW HILL; MAYOR PRO TEM SCHULZE SECONDED THE MOTION. THE MOTION CARRIED WITH A 5-0 UNANIMOUS VOTE.

Public Hearing 07 : Dianne Khin, Planning Director

Public Hearing and motion to adopt an Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Parkside Development Group, LLC property containing 28.09 acres located at Mt. Zion Church Road and Blazing Trail, Annexation #503, into the Town’s corporate limits

Staff oriented Council to the site. Construction plan approval is needed and this action would do that.

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 LASSITER MADE THE MOTION TO APPROVE THE ANNEXATION; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED WITH A 5-0 UNANIMOUS VOTE.

Public Hearing 08 : June Cowles, Senior Planner

Quasi-Judicial Public Hearing and motion regarding Willow Creek Master Subdivision Plan for the properties located at a portion of 6501 Old Jenks Road, 0, 6613, 6633, 6609 Old Jenks Road containing 43.6 acres and 151 lots

This item was removed from the Agenda due to reasons stated earlier.

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

Motion approving Manors at Bella Casa Phase 8A - Master Subdivision Plan - for the property located at 2801 and 2805 Walden Road containing 9.61 acres and 16 lots

Council Member Dozier asked to be recused from this discussion and decision as this is part of her neighborhood.

MAYOR SUTTON CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO RECUSE COUNCIL MEMBER DOZIER FROM THIS DISCUSSION AND DECISION; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED WITH A 4-0 UNANIMOUS VOTE.

Staff oriented Council to the site, which will connect to Bella Casa Phase 6. A neighborhood meeting was held, and the Parks and Recreation Commission recommended a payment of fee in lieu. The Planning Board and staff recommended approval with conditions as submitted by the applicant.

MAYOR SUTTON 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 WITH A 4-0 UNANIMOUS VOTE.

Council Member Dozier returned to Council.

New Business 02 : Council Member Nicole Dozier
Discussion and consideration of a Splash Pad

Council Member Dozier asked that staff and the Parks and Rec Commission look at this option. She stated reasons this would be an asset to Apex, as shown in information she submitted (incorporated as part of these Minutes). She also felt this would bring the community together. Council stated staff has made preliminary steps to understanding this type of project, and it will be something for the Parks and Rec Commission to look at. The Town Manager asked that Council first allow staff to come up with its recommendations and send those on to the Parks and Rec Commission. Council stated we may need to look at two smaller units instead of one large unit in order to balance sizes with opportunities.

CLOSED SESSION

Closed Session 01 : to consult with the Town Attorney regarding an eminent domain claim and to give instructions to him regarding the same

Closed Session 02: to give the Town Attorney instruction on the position to take on acquisition of real property

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

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

MAYOR SUTTON CALLED FOR A MOTION TO APPROVE THE RESOLUTION DISCUSSED IN CLOSED SESSION; COUNCIL

MEMBER JENSEN MADE THE MOTION TO APPROVE THE RESOLUTION AUTHORIZING EMINENT DOMAIN PROCEEDINGS RELATED TO THE MT. ZION ROAD SUBSTATION TO US 1 ELECTRIC LINE PROJECT FOR THE IMPROVEMENT OF THE APEX ELECTRIC SYSTEM; COUNCIL MEMBER LASSITER SECONDED THE MOTION.
THE MOTION CARRIED WITH A 5-0 UNANIMOUS VOTE.

WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

With there being no further business,

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

Donna B. Hosch, CMC, NCCMC
Town Clerk

ATTEST:

William M. Sutton, Mayor