



## TOWN COUNCIL MEETING

TUESDAY, MAY 6, 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, May 6, 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 April 1, 2014 Regular Council Meeting and the April 15, 2014 Regular Council Meeting**
- Consent 02 Apex Tax Report dated 03/05/2014**
- Consent 03 Authorization for the Town Manager to execute the Charging Station Donation Agreement with NC Advanced Energy Corporation (AEC)**
- Consent 04 Amendment to Chapter 20 with the addition of Section 20-173, Electric Vehicle Charging Stations**
- Consent 05 Moving forward with the design of Public Safety Station # 5 to be located at 6904 Apex Barbeque Road, Apex, NC**

- Consent 06 Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the Unified Development Ordinance (UDO) Amendments of April 14, 2014
- Consent 07 Public Hearing for the May 20, 2014 Town Council Meeting to consider amendments to the Unified Development Ordinance
- Consent 08 Resolution authorizing *Interlocal Agreement No. 2 for Provision of Sewer Services for Colvin Park Subdivision* and to approve the *Amended Alternative Sewer Connection Agreement*
- Consent 09 Installation of one (1) speed hump traffic calming device with appropriate warning signs and markings on Old London Way in the amount of \$5,000, with \$4,500 Town of Apex funds and \$500 in matching funds from St. James Village HOA, the required 10% HOA matching funds in accordance with the UDO
- Consent 10 Public Hearing on May 20, 2014 for rezoning application #14CZ07 to rezone 2.77± acres located at Alsace Drive in the Olive Chapel Park Subdivision (PIN 0732-84-0034) from Planned Unit Development-Conditional Zoning to Planned Unit Development-Conditional Zoning, revising some conditions of approval
- Consent 11 Public Hearing for the May 20, 2014 Town Council Meeting regarding Rezone #14CZ08, 3.6 acres for the property located between the end of Germaine Street and Herbert Street from Medium Density (MD) to Planned Unit Development Conditional Zoning (PUD-CZ) district classification. The subject property is identified on Wake County Tax Maps as PIN 0741384681
- Consent 12 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 Evans Road Development, LLC, Mary Harris Harbor and Hilda Grace Best property containing 14.59 acres located off Evans Road, east of Walden Road, Annexation #506 into the Town’s corporate limits
- Consent 13 Resolution Directing the Town Clerk to Investigate Petition Received, Certificate of Sufficiency by the Town Clerk, Resolution Setting Date of Public Hearing on the Question of Annexation – Apex Town Council’s intent to annex Jerry B Lewter property containing 7.06 acres located at 1615 Salem Church Road, Annexation #510 into the Town’s corporate limits
- Consent 14 Budget ordinance amendment for Police grants and donations to Fire Department
- Consent 15 Ordinance endorsing negotiations to sell generating assets to Duke Energy Progress, Inc.

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

## REGULAR MEETING AGENDA

Town Manager Radford presented an update on the process for the hiring of the Assistant Town Manager: 272 applications were received, six were selected for interviews which will take place on May

15<sup>th</sup> and 16<sup>th</sup>. For the Economic Development Manager, 61 applications were received, five will be interviewed which will take place on the 21<sup>st</sup> of May. The mechanics for the Council to meet the selected candidates will be worked out. There was a wonderful pool of candidates for both positions.

## PUBLIC HEARINGS

**Public Hearing 01 : June Cowles, Senior Planner**

**Public Hearing regarding Rezone #14CZ03, 3.60 acres located at 1508 Kelly Road and 1813 Olive Chapel Road 2600 (southwest corner of Olive Chapel Road and Kelly Road) from Rural Residential to Office and Institutional Conditional Zoning**

Staff oriented Council to the site and stated the conditions of the rezoning. A neighborhood meeting was held; the Planning Board and staff recommended approval.

Mayor Sutton declared the Public Hearing open.

**SPEAKING IN FAVOR:** Jeff Roach, Peak Engineering and Design representing the owner, stated this would be a perfect use for the property.

Charles Berger, resident of Green Briar Development, expressed some concern about how the entrances to the parcel are going to be designed. Because of current traffic problems, Berger asked for a left turn to be added at the light at Kelly Road and Olive Chapel. He performed a traffic count from 2:00-6:00 p.m., and cars were backed up at the light. Staff stated that a 2015 project has been forwarded; explained were the improvements which would be made. Roach stated they are moving forward with a traffic study because of this bad intersection. They will try to find something that will alleviate the traffic short term until all improvements can be made.

Mayor Sutton declared the Public Hearing closed.

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

**Public Hearing 02 : Lauren Simmons, Planner II**

**This item is designated #14CZ04. Public hearing and ordinance amending Rezoning #07CZ05 to eliminate a Trackside South "live/work" condition and to change a Trackside South parking/loading requirement for non-townhome attached-residential, as more specifically described in the ordinance**

Staff oriented Council to the site and stated the conditions of the rezoning. Staff recommended approval with one condition regarding the traffic impact analysis, to which the applicant agreed. The Planning Board recommended approval. Staff further detailed the traffic impact analysis and the work/live units, Council discussion ensuing on the latter.

Mayor Sutton declared the Public Hearing open.

Peter Cnossen, Jones and Cnossen Engineering representing the developer, detailed the 26 work/live units, stating that they are requesting this concept be removed in order for the property to be more marketable. Council requested the condition that some of these units be retained and the applicant was agreeable. Staff stated these units were an issue as determined by a focus group, adding that the banks won't lend money for such units. The lost office space would be made up as office space in another part of Trackside South.

Mr. Weavers, resident, stated he felt neither here nor there about the rezoning. He thanked Council for the trees along the Peakway. Weavers wished to see changes made in the run off of the pond, and stated sewer line issues have yet to be resolved. He spoke on the effect clearing the tress and storm water runoff would have, stating he never saw drainage or sewer plans. Council urged the applicant to keep open communication with the neighbors. The Town Attorney spoke about the consequences if the two phases were based on each other. Cnossen clarified they were not the original engineers; they will look at the pond.

Mayor Sutton declared the Public Hearing closed.

Council consensus was to table this rezoning to give the developer and the neighbors time to communicate to determine if additional conditions needed to be made. Cnossen stated they are continuing to talk with the owners of the rental lot.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE A MOTION TO  
TABLE THIS REZONING AND ORDINANCE UNTIL A TIME THAT THE DEVELOPER REQUESTES A REHEARING;  
MAYOR PRO TEM SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

**Public Hearing 03 : June Cowles, Senior Planner**

**Continue the Public Hearing to the August 19, 2014 Town Council Meeting regarding Rezone #14CZ05, 133.1 acres located at 0, 8312 Ragan Road and 2505, 2428, 2504, 2510 Richardson Road from Wake County R80-W and Rural Residential to Low Density Residential Conditional Zoning**

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE A MOTION TO  
CONTINUE THE PUBLIC HEARING AS STATED; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

**Public Hearing 04 : Dianne Khin, Planning Director**

**Continue the Public Hearing to the August 19, 2014 Town Council Meeting regarding the adoption of an Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Charles Womble, Clarence Goodwin, Mark Esposito, Ashley Gasiorowski and Kenneth and Sue Marks properties containing 133.411 acres located west of Richardson Road, northeast of Ragan Road, Annexation #505, into the Town’s corporate limits**

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

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

**Public Hearing to adopt an Ordinance on the Question of Annexation – Apex Town Council’s intent to annex JVI Development II, Inc. property containing 8.948 acres located at located off Old Raleigh Road, south of New Dover Road, Annexation #508, into the Town’s corporate limits**

Staff oriented Council to the site.

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

## OLD BUSINESS

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### **Old Business 01 : Dianne Khin, Planning Director**

#### **Outcome of the meeting on proposed amendments to the 2030 Land Use Map – New Hill**

Staff presented background information as to why this meeting was called. Forty seven people attended. Discussed were densities and types of uses. The Planning Board can hear the outcome of the meeting at an upcoming Planning Board meeting, at which time the item would come back to Council.

## PUBLIC FORUM

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Kurt Keuchleter (sp), resident, stated he was not aware of the 2030 LUP workshop where he would have expressed his concerns. Council informed him he could come back to Planning Board and Town Council Meetings, Keuchleter asking why changes were being made to the Plan that was just passed a year ago. Council Member Jensen answered that he wasn't here when the Plan passed and explained the correlation between the Plan and the Economic Development Committee wanting to make Apex more of a live/work environment.

## NEW BUSINESS

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### **New Business 01 : Lee Smiley, Finance Director**

#### **Contract for Interactive Voice Response (IVR) service**

Staff explained this project has been underway for about six months. The system would allow residents to call in and get their account balance, due date, and make payments. This will take tremendous burden off of staff, resulting in about 1/3 less calls. Two drawbacks are that we may need to get a new telephone phone number and there is an early termination fee. Staff briefly outlined the major features of the system and the cost.

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

### **New Business 02 : Lee Smiley, Finance Director**

#### **Review of 3rd Quarter Financial Summary**

Staff stated ad valorem taxes are over budget, but we are still collecting taxes. We are collecting more sales tax than we were more than a year ago. Building inspection permits are on track; most expenditures are where they should be.

The General Fund is \$5 million ahead mainly because of sales tax and building permit fees and because some departments are spending less than expected. In the Electric Fund, sales are pretty much on target. A significant payment from the DOT is reflected in the figures. As for Water and Sewer, revenues are roughly where they should be. Expenditures are fairly low, and the debt payment is upcoming.

**New Business 03 : Council Member Nicole Dozier**

**Shop local initiative to help encourage shoppers to visit local retailers prior to searching outside of the Town limits**

Council Member Dozier stated this item went to staff to explore. Todd Pritchard, Colossal Agency, presented on what the database would look like.

Pritchard stated that as a small business owner in Apex, he was excited about such a website, which would be a search-engine type website. He stated conceptually what it would look like. Pritchard discussed branding, what would be used to develop the website, and how it would be marketed.

Staff stated the \$9,750 fee to move forward was already in the EDC budget that we don't plan to spend this year. Responding to Council, staff stated this project was not required to go to bid; other companies are not aware of the project. The Chamber has not been talked to about using their database, and we would move forward with or without it. A business would not have to be a Chamber member to be a part of this, and there would not be a charge to business owners. The new Economic Development Director would not typically be the one to build and maintain such a database. The Town website, press releases, local newspaper coverage, the Downtown Merchants Association, and the Chamber would be the marketing targets.

Pritchard stated marketing would be included in the stated cost. He felt this a no-brainer that would grow once the word gets out. Council was not convinced of the growth; people would search Google first. Council wanted to see a cost estimate without the website. Thought was that this should be bid out, but Council was reminded that other larger projects were not bid out. Clean up of the database would be done quarterly via automatic renewal. Pritchard touched on security as far as legitimate businesses, how this would be verified, and the information being secure. Council expressed concern about not having seen any of Pritchard's work or that of others.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE A MOTION TO ALLOCATE THE FUNDS AND MOVE FORWARD; COUNCIL MEMBER LASSITER SECONDED THE MOTION.

Mayor Pro Tem Schulze stated he was on board with Council Member Dozier but that he was not sold on the website concept which is probably most of the cost. Council Member Dozier stated she didn't want to see the project rushed. Council Member Lassiter stated he would feel better if this were overseen by new economic development position, and then it could be fully funded next year.

COUNCIL MEMBERS WILKIE AND SCHULZE VOTED IN THE NEGATIVE; COUNCIL MEMBER LASSITER ABSTAINED FROM VOTING; COUNCIL MEMBERS JENSEN AND DOZIER VOTED IN THE AFFIRMATIVE.

MAYOR SUTTON POLLED THE COUNCIL AS TO THE VOTE.

COUNCIL MEMBERS DOZIER AND JENSEN RESTATED THEIR AFFIRMATIVE VOTE; COUNCIL MEMBERS SCHULZE, LASSITER, AND WILKIE STATED THEIR NEGATIVE VOTE.

THE MOTION FAILED BY A 3-2 VOTE.

**New Business 04 : Council Member Scott Lassiter**

**Appointments to the Parks and Recreation Advisory Commission**

Council Member Lassiter, liaison on the Parks and Recreation Advisory Commission, wished to appoint Richard Moore to the Commission, stating he would be a strong addition. His qualifications were stated. The Chairman and Vice Chairman would remain as they are currently.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE A MOTION TO MAKE THE APPOINTMENTS AS STATED; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.

THE MOTION CARRIED BY A 5-0 VOTE.

**New Business 05 : Mayor Bill Sutton**

**Appointment to the Board of Adjustment**

Mayor Sutton proposed the appointment of Tim Washington. With the vice chairman leaving, Mayor Sutton proposed appointing David Rowland to that position. Staff stated that an alternate member could be appointed to the latter.

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

THE MOTION CARRIED BY A 5-0 VOTE.

**New Business 06 : Bruce Radford, Town Manager**

**Consideration of a Special Meeting for the purpose of conducting a budget work session for the FY14/15 budget**

Mayor Sutton suggested Tuesday, May 13<sup>th</sup> at 5:30 for this Special Meeting. The Town Manager stated the Budget was complete and balanced and would be sent out to Council the next day.



MAYOR SUTTON CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE A MOTION TO SET THE MEETING AS STATED; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

**New Business 07 : Bruce Radford, Town Manager**

**Sale of surplus property**

Staff stated this property at the intersection of Highway 55 and 64 had been declared surplus. 7.3 acres of the property are deemed RCA, and a company wishes to purchase 1.90 plus/minus acres. The appraisal of its value came in at \$190,000, and there was an initial offer to purchase by the company of \$185,000. The company was asked to increase their offer, they agreed and have submitted a written contract. This creates an upset bid process, which must be advertised. Staff recommendation is to sell the requested acreage to the company, Columbia, for use as offices and a restaurant. The Town Attorney stated a Resolution for the bid would be forthcoming.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE A MOTION TO ALLOW THE MANAGER TO ADVERTISE AND DRAFT A RESOLUTION FOR THE UPSET BID PROCESS;  
COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

## CLOSED SESSION

**Closed Session 01 : to discuss the sale of surplus property**

The Town Attorney stated this could be handled in open session and classified as New Business [see New Business 07].

**Closed Session 02 : to consider and give instructions to the Town Attorney concerning potential eminent domain claims and receive legal advice regarding same**

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

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

MAYOR SUTTON CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO ADOPT A RESOLUTION  
TO AUTHORIZE CONDEMNATION OF SIX PROPERTIES AS DISCUSSED IN CLOSED SESSION;  
COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 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 WILKIE MADE  
THE MOTION; COUNCIL MEMBER DOZIER SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

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Donna B. Hosch, CMC, NCCMC  
Town Clerk

ATTEST:

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William M. Sutton, Mayor