



## TOWN COUNCIL MEETING

TUESDAY, MAY 21, 2012

**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, May 21, 2013, at 7:00 p.m. was held in the Council Chamber of Apex Town Hall, 73 Hunter Street

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

### COMMENCEMENT

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

### PRESENTATIONS

#### **Presentation 01 : Mike Sayers**

Mike Sayers, on behalf of the Downtown Business Association, stated the Harvest Festival is being planned for October 5<sup>th</sup> of this year. He asked Council to be a co-sponsor and gave a brief overview of several events planned for the day. Staff stated a \$7,000 savings will be realized, as no streets will be closed.

## CONSENT AGENDA

- [Consent 01](#) Minutes of the May 7, 2013 Regular Council Meeting and the May 8, 2013 Economic Development Committee Meeting
- [Consent 02](#) Apex Tax Report dated April 2, 2013
- [Consent 03](#) Transfer four remaining plots in Lot 159 at the Apex Town Cemetery
- [Consent 04](#) 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 Windy Road Properties, LLC and Bradley & Christina Zadell properties containing 18.2371 ± acres located east of Mount Zion Church Road, south of Milano Avenue, Annexation #489 into the Town’s corporate limits
- [Consent 05](#) Utility Relocation Agreement (URA) with the North Carolina Department of Transportation and the Town of Apex

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO ACCEPT THE CONSENT AGENDA; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

## REGULAR MEETING AGENDA

There were no modifications requested to the Agenda.

## PUBLIC HEARINGS

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

**Public Hearing and motion regarding a Rezone and 2025 Land Use Amendment #13CZ01, 2.6 acres located at the end of Maya Court from Planned Commercial to Light Industrial Conditional Zoning and from Commercial to Industrial classification**

Staff oriented Council to the site, and stated that the Planning Board recommends approval of the rezoning.

Mayor Weatherly declared the Public Hearing open.

Stewart Jones, Jones and Crossen Engineering, was present on behalf of the applicant. A brief description of the property and its uses were presented. The rezoning is consistent with the 2030 Plan, and there have been no oppositions to the rezoning.

Mayor Weatherly declared the Public Hearing closed.

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

**Public Hearing 02 : June Cowles, Senior Planner**

**Public Hearing and motion regarding Rezone #13CZ04, 7.85 acres located at 1615 Salem Church Road at Dodson Way from Rural Agricultural to Medium Density Residential Conditional Zoning**

Staff oriented Council to the site. The Planning Board recommends approval of the rezoning.

Mayor Weatherly declared the Public Hearing open.

Jeff Roach, Peak Engineering Design, representing the applicant, stated this rezoning follows the 2030 Plan and that they are looking to keep in line with what is currently in the area.

Martin Fuchs, 125 Dodson Way, speaking on behalf of the homeowners' association, was in opposition of the rezoning and distributed copies of his concerns to Council. His concerns centered around a construction buffer, groundwater issues, power washing of houses, road paving, construction entrances, street cleaning from construction traffic, and demolition of a house and barns.

Staff stated Planning is aware of these concerns and that the Planning Board was aware of the concerns as well. The only thing that would not be addressed by specs or ordinances would be the buffer.

Mayor Weatherly declared the Public Hearing closed.

Staff stated ground water issues have not been addressed in these cases in the past. Mr. Roach stated a geotechnical investigation would be done, and the developer will address the buffer issue so that the neighbors will be happy. It is not anticipated that Dodson Lane will incur construction traffic;

most of this traffic will be via the construction entrance. Staff stated ground water issues in this case are unique. The engineer could choose to address these in their plans. Staff can make checks along the way, and potential problems can be noted in the inspection phase.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE REZONE WITH THE CONDITION OF A 5' BUFFER ALONG TRACE I; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

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

**Public Hearing and possible motion regarding Rezone #13CZ05, 0.73 acres located at 2621 and 2629 Schieffelin Road from Residential Agricultural Zoning to Light Industrial Conditional Zoning**

**NOTE: the applicant requests a continuance of this Public Hearing until the June 18, 2013 Regular Town Council Meeting.**

MAYOR WEATHERLY CALLED FOR A MOTION TO CONTINUE THIS PUBLIC HEARING AS REQUESTED BY THE APPLICANT.  
COUNCIL MEMBER LASSITER MADE THE MOTION; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**Public Hearing 04 : Lauren Simmons, Planner II**

**Public Hearing and motion regarding Rezone #13CZ06, 9.14 acres located at 0 Old Raleigh Road, near New Dover Road from Rural Agricultural to Medium Density Residential Conditional Zoning**

Council Member Olive asked to be recused from the discussion and vote, as this land adjoins his family's land. The Town Attorney stated that since there was no direct financial interest, Statute directs that Council Member Olive could not be recused.

Staff oriented Council to the site. The rezoning is consistent with the current and 2030 Plan. The Planning Board and staff recommend approval with conditions agreed to by the applicant.

Mayor Weatherly declared the Public Hearing open.

Stuart Jones, Cnossen and Jones Engineering, on behalf of the property owner, outlined the proposed uses for the property. Stream buffers will be preserved, stormwater runoff will be captured and released at a reduced rate, and the last 10 feet of their property line will be preserved on the side of the Olive's property.

Ross Olive, 1210 Old Raleigh Road, expressed opposition to the rezoning, citing problems with the pond and its boundaries. Mr. Olive expressed concern over the number of houses being proposed on the property due to the land being so wet in so many places.

Kim Damico expressed opposition on the same grounds as Mr. Olive. There is a tremendous amount of water coming into the land and onto their properties. She asked that Council consider a lower density or perhaps a park.

Mayor Weatherly declared the Public Hearing closed.

Council discussed the problems associated with this flood zone and stated that this rezone and development should improve and better control the water problems.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE REZONE; COUNCIL MEMBER LASSITER SECONDED THE MOTION.

Council Member Olive stated that even though his interest was indirect, he was biased on this issue since he wished to support his father [Mr. Olive]. He stated he would decline to vote.

THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE WITH COUNCIL MEMBER OLIVE DECLINING TO VOTE.

**Public Hearing 05 : Lauren Simmons, Planner II**

**Public Hearing and motion for various amendments to the Unified Development Ordinance**

Staff presented the proposed amendments to Council.

Mayor Weatherly declared the Public Hearing open.

Mike Nobles, Board Member with Raleigh Swimming Association, spoke in support of the amendments and asked for support of a covered area for swimming in the winter months.

David York, Carolina Sportsholding, spoke in support of the amendments.

Mayor Weatherly declared the Public Hearing closed.

Staff clarified how square footage requirements were devised, noting that there is not another facility such as this in the country. Site plan approval would be tied to a special use permit. Staff discussed the use of the tent over the swimming pool. The Town Attorney suggested taking a look at the latter, stating that a condition could be included in the motion. Mayor Weatherly asked staff to look into this further and come back to Council with a recommendation.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE AMENDMENTS MINUS NUMBER 8 REGARDING THE POOLS; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

## OLD BUSINESS

**Old Business 01 : John Brown, Parks and Recreation Director / Tim Donnelly, Public Works Director  
Award of contract for Community Park Lake dam siphon project to Hall Contracting Corporation and approval of the associated budget amendment for the project**

Staff overviewed what has been done over the past several years to fix this problem. The State has made changes to the original design and costs have escalated. This needs to be done because of the liability, and there is no cheap fix. The low bid represents an appropriate scope of the work.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE CONTRACT AWARD AND ASSOCIATED BUDGET AMENDMENT; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

## PUBLIC FORUM

The Apex Festival Commission thanked the Town for its assistance during PeakFest this year. Overviewed were the contributions that the Commission hopes to continue to make to the community.

## NEW BUSINESS

**New Business 01 : Mayor Keith Weatherly  
Reappointment of Jeff Roach and Greg Coley to positions on the Parks, Recreation, and Cultural Resources Advisory Board**

Mayor Weatherly asked for the following reappointment considerations:

- Jeff Roach – reappointment to a three-year term ending May 2016
- Jeff Roach – reappointment as Vice Chair for a one-year term ending May 2014
- Greg Coley – reappointment as Chair for a one-year term ending May 2014

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

**New Business 02 : Bruce Radford, Town Manager**

**Presentation of highlights of the proposed Annual Budget by the Town Manager**

The Town Manager presented highlights of the proposed budget, which is balanced without a tax increase. There will be a public hearing and workshop on the budget at the June 4<sup>th</sup> Council meeting. The cost of the new fire station was discussed.

**CLOSED SESSION**

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**Closed Session 01 : to receive and discuss legal advice from the Town Attorney regarding a claim or claims and potential legal litigation and give the attorney direction regarding handling same**

**Closed Session 02 : to discuss a personnel matter**

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

MAYOR WEATHERLY CALLED FOR A MOTION TO RETURN TO OPEN SESSION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

Closed Session produced Resolution 13-0521-24, Resolution Authorizing Eminent Doman Proceedings Related to the Beaver Creek Gravity Sewer Line and Electric Line Project for the Improvement of the Apex Sewer and Electric Systems.

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

ADJOURNMENT

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WITH THERE BEING NO FURTHER BUSINESS, MAYOR WEATHERLY CALLED FOR A MOTION TO ADJOURN.  
MAYOR PRO TEMPORE SCHULZE MADE THE MOTION; THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

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Donna B. Hosch, CMC, NCCMC  
Town Clerk

ATTEST:

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Keith H. Weatherly  
Mayor