



TOWN COUNCIL MEETING

TUESDAY, SEPTEMBER 3, 2013

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, September 3, 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, Scott R. Lassiter, William S. Jensen, and Lance Olive. 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.

COMMENCEMENT

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

PRESENTATIONS

Presentation 01 : Department Heads/Supervisors

Introduction of newly-hired Town employees

The following newly-hired employees were introduced to Council:

- Mike Couch introduced Clay Kennedy, Powerline Technician and Nathan Lowry, Line Technician Trainee
- Kent Jackson introduced Reid Saunders, Senior Plans Reviewer
- Chief John Letteney introduced Justin Knapp, Police Officer; Brandon Pope, Police Officer; and David Fleming, Police Officer

CONSENT AGENDA

Consent 01 Minutes of the August 13, 2013 Special Council Meeting, the August 20, 2013 Regular Council Meeting, and the August 20, 2013 Closed Session (*Minutes of Closed Session recorded separately*)

Consent 02 Name corrections to approved Town Council Minutes of July 16, 2013

Consent 03 Public Hearing for the September 17, 2013 Town Council Meeting regarding Rezone #13CZ13, rezone from Planned Unit Development –Conditional Zoning (PUD-CZ) and Rural Residential (RR) to Planned Unit Development Conditional Zoning (PUD-CZ) district classification for the property located at Milano Avenue between Venezia Way and Mt. Zion Church Road containing 133.7± acres

Consent 04 Public Hearing for the September 17, 2013 Town Council Meeting regarding Rezone #13CZ18, 99 acres located at 7924 Green Level Church Road from Rural Residential Zoning to Planned Unit Development Conditional Zoning

Consent 05 Public Hearing for the September 17, 2013 Town Council Meeting regarding Rezone #13CZ21, 12.21 acres located at 2804 Holland Road from Rural Residential Zoning to Medium Density Conditional Zoning

Consent 06 Public Hearing for the September 17, 2013 Town Council Meeting regarding amendment to the 2030 Land Use Map from Medium Density Residential to Mixed Use: Office Employment, Medium Density Residential, and Commercial Services and Rezone #13CZ24, 1.34 acres located at 709 Hunter Street from Low Density Residential (LD) to Mixed Office Residential Retail-Conditional Zoning (MORR-CZ)

Consent 07 Public Hearing for the September 17, 2013 Town Council Meeting regarding various amendments to the Unified Development Ordinance

Consent 08 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 Lector Atwater property containing 5.445 acres located off Mt. Zion Church Road, Annexation #495 into the Town’s corporate limits

Consent 09 Funding of employee recognitions as recommended by the Personnel Committee and Senior Staff

- Consent 10 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ08, Parkside Builders, LLC, petitioner for the property located at 2533 Olive Chapel Road
- Consent 11 Appointment by Mayor Weatherly of Nicky Winstead to the North Carolina Firefighters Relief Fund Board, thus filling the vacancy created by the resignation of Randy Clayton and authorization for the Town Clerk to file the completed 2013 Fire Condition report on behalf of the Town of Apex Municipal Fire District
- Consent 12 80/20 alternative energy grant from the NC Solar Center for an electric vehicle charging station as a demonstration project
- Consent 13 Authority for Apex Baptist Church to construct a picnic shelter near the main downtown parking lot

Mayor Weatherly stated that Consent 06 was requested to be pulled from the Agenda.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE CONSENT AGENDA MINUS CONSENT 06; COUNCIL MEMBER ROWE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

REGULAR MEETING AGENDA

Mayor Weatherly presented the Regular Meeting Agenda.

The Town Attorney requested the addition of a new item – New Business 01 regarding a Blasting Agreement.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER OLIVE MADE THE MOTION TO APPROVE THE REGULAR MEETING AGENDA WITH THE ADDITION OF NEW BUSINESS 01; COUNCIL MEMBER JENSEN SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

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 Richer Levert property containing 2.169± acres located at 2908 Evans Road, Annexation #494, into the Town’s corporate limits

Staff oriented Council to the site and stated it recommended approval of the request.

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 OLIVE MADE THE MOTION TO
ADOPT THE ORDINANCE; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

OLD BUSINESS

Old Business 01 : June Cowles, Senior Planner

Motion regarding Rezone #13CZ07, 15.67 acres located at 0, 1005, 1013, and 1015 North Salem Street from Neighborhood Business Conditional Use Zoning and Residential Agricultural Zoning to Planned Unit Development Conditional Zoning

Staff stated this discussion was being continued from the August 3, 2013 Regular Council Meeting. Staff oriented Council to the site. Staff and the applicant looked at language contained in the request, and conditions were added/modified. The applicant stated they did not agree to condition #1 as this would infringe upon an historic property located on Salem Street and the Peakway.

Council asked if the applicant would be agreeable to slightly lowering the density, the applicant responding that the area is too small. The applicant would build a full public street with the residential piece, so there would not be a right in/right out. If this becomes a problem, the Town could erect delineators.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE
THE REZONING MINUS CONDITION #1; COUNCIL MEMBER LASSITER SECONDED THE MOTION.

Council spoke briefly to the neighbors in the audience, stating that Council hoped they will appreciate this development which is an example of transitional development and it's where it needs to go. It is also important to have good, quality development. The applicant is putting in a 15-foot Type B Buffer, which they did not have to do.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

PUBLIC FORUM

No one wished to speak during Public Forum.

NEW BUSINESS

New Business 01: Tim Donnelly

Motion to approve a Blasting License Agreement with Duke Energy Progress to allow the Partners to conduct the blasting necessary to construct the effluent pipeline from the Regional Water Reclamation Facility to the Cape Fear River and to authorize the Town Manager to adjust the terms thereof in a manner not unfavorable to the Town and to execute the Agreement

The Town Attorney explained that this Agreement was necessary because of the blasting that may be necessary for the affluent line. There is no money involved, but there is an indemnity as the Town is responsible for the consequences of the blasting. Cary has reviewed the Agreement and didn't make any comments. The Agreement was drafted by Progress Energy's attorney.

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

CLOSED SESSION

Closed Session 01 : Closed Session to receive legal advice from the Town Attorney related to a claim by the Town of Apex and to give direction regarding the same

Closed Session 02 : Closed Session for a personnel matter

MAYOR WEATHERLY CALLED FOR A MOTION TO GO INTO CLOSED SESSION. COUNCIL MEMBER JENSEN MADE THE MOTION; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

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

WORK SESSION

There were no Work Sessions items for consideration.

ADJOURNMENT

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 5-0 VOTE.

Donna B. Hosch, CMC, NCCMC
Town Clerk

ATTEST:

Keith H. Weatherly
Mayor