



APEX TOWN COUNCIL MEETING

TUESDAY, SEPTEMBER 1, 2015

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
Drew Havens, Assistant Town Manager
Donna B. Hosch, CMC, NCCMC, Town Clerk
Laurie L. Hohe, Town Attorney

The Regular Meeting of the Apex Town Council scheduled for Tuesday, , 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 Tem Eugene J. Schulze, and Council Members Bill Jensen, Denise C. Wilkie, and Nicole L. Dozier. Absent was Council Member Scott R. Lassiter. Also in attendance were Town Manager Bruce A. Radford, Assistant Town Manager Drew Havens, Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe

COMMENCEMENT

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

PRESENTATIONS

Presentation 01 : Mayor Bill Sutton

North Carolina Certified Municipal Clerk (NCCMC) State Certification achieved by Bonnie J. Brock, Deputy Town Clerk

Mayor Sutton read the certification, congratulated Ms. Brock, and presented her with the certificate.

Presentation 02 : Mayor Bill Sutton

American Institute of Certified Planners (AICP) Certification achieved by Amanda Bunce, Planner II

Mayor Sutton read the certification, congratulated Ms. Bunce, and presented her with the certificate.

CONSENT AGENDA

Consent 01 Closed Session Minutes of the August 4, 2015 Regular Council Meeting (*Closed Session Minutes recorded separately*)

- Consent 02 Amend existing ordinances to allow expansion of the Parks, Recreation, and Cultural Resources Advisory Commission, designate one member as a "senior citizen representative, and amend the term expiration date to at the conclusion of the May meeting each year
- Consent 03 ElectriCities cooperative purchasing contract for LED lighting purchases on behalf of Apex and other member cities
- Consent 04 Professional services agreement with VHB Engineering NC, P.C. in the amount of \$40,499.93 for a feasibility study of the grade separated design of the Apex Peakway at CSX Railroad/South Salem Street and authorization for the Town Manager to negotiate and execute same; and Budget Ordinance Amendment Number 7 and the associated Capital Project Ordinance Amendment in the amount of \$45,000
- Consent 05 PULLED TO BE RESCHEDULED FOR A LATER DATE - Set Public Hearing on September 15, 2015 for rezoning application #15CZ24 (eastern and western terminations of Colby Chase Drive) to rezone 7.58± acres located between the Pemberley and Merion residential developments from Residential Agricultural (RA) to Medium Density – Conditional Zoning. (MD-CZ)
- Consent 06 Set Public Hearing for the September 15, 2015 Town Council Meeting regarding various amendments to the Unified Development Ordinance
- Consent 07 Statement of the Town Council and Ordinance for Rezoning Case #15CZ19, Stuart Jones, Jones & Clossen Engineering, PLLC, petitioner for the property located at 2919 Evans Road, 2813 Walden Road, 2817 Walden Road, 0 Walden Road
- Consent 08 Statement of the Town Council and Ordinance for Rezoning Case #15CZ20, Don Mizelle, Withers & Ravenel, petitioner for the property located at 0 E. Williams Street
- Consent 09 Set the Public Hearing on September 15, 2015 for a 2030 Land Use Map amendment from Medium Density Residential to Office Employment and rezoning application #15CZ25 (7628 Vaudry Court) to rezone 3.23± acres located on the south side of Old US 1 Highway across from Humie Olive Road from Rural Residential (RR) to Tech/Flex-Conditional Zoning (TF-CZ)
- Consent 10 Street closure for Apex High School Homecoming Parade
- Consent 11 Reimbursement agreement with NCDOT and authorization for the Town Manager to execute same and Budget Ordinance Amendment Number 6 and the associated Capital Project Ordinance Amendment in the amount of \$10,000
- Consent 12 Expenditures for two new sidewalk extension projects and approve the associated budget ordinance amendments

Mayor Sutton stated the applicants were not ready for the public hearing regarding Consent 05, so that item was pulled from the Agenda.

MAYOR SUTTON CALLED FOR A MOTION TO APPROVE THE CONSENT AGENDA MINUS CONSENT 05. COUNCIL MEMBER DOZIER MADE THE MOTION; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

REGULAR MEETING AGENDA

There were no requested changes to the Agenda from Council or staff.

PUBLIC FORUM

Paige Williams, orchestrator for the project at Pleasant Park, stated the petition she submitted was never intended to divide the town. She wished to provide clarifying information. When the article in the paper asked for action, that's what she did by submitting the petition which supports a mixed use park. Of the 114 names, there is also interest in the swimming aspect. The belief is that a mixed use complex will serve all citizens. She would love to see a YMCA in our community.

Matt Lauffer offered support for a mixed use facility at Pleasant Park. He has seen the value of athletics in the community and for leadership roles. He spoke about the value of public/private partnerships. The Y has partnered with several communities successfully; it is a well-run organization. This is about smart development and thinking about future generations and the value we can bring to them.

Glenn Wright expressed support for the YMCA. He has MS; and while he can't run or jump, he can swim. So the Y would benefit more than just swimmers. He defied Council to find a use for the land that would be open all year round with all types of activities. Let's keep on building what we have to keep the town great.

Wendy Poole supported a mixed-use facility. Since her kids don't play field sports, she supported a YMCA. They have an area gym, child care services, seniors' activities, and reduced rates that no other gym has. Apex runs a gamut of economic successes and all would come together in such a facility. Ms. Poole can't run or jump either, so she looks to swim – something you can do for the rest of your life. It's too expensive to use Cary's athletic facility, and there's not another aquatics facility close to here. The Y also brings in jobs.

David Legarth stated he is a healthcare planner and explained what this entails. He talked about the benefit of a public/private partnership and how it would be a bonus for all citizens. It would also be something to leave for generations to come.

Betty Foster stated she was for the Y as well as for a senior center. Shame on us for not having a senior center while we're the number one place to live. The Community Center is not the same as a senior center, and she wants to see something that all can use.

A male citizen spoke on behalf of the Y. His children swim, he's a swim official, so he has a unique perspective on swimming. He talked about the positive things he's seen, pointing out he's not seen any negatives such as brawls. He talked about the positives of swimming and how it enhances the community.

J.C. Knowles, President of the Downtown Business Association, stated his organization appreciates Council, personnel, and the citizens for making Apex number one in America. It is an honor and privilege to serve officially as ambassador; he congratulated the town on a job well done.

Karen Walker stated she never received notification of the rezonings close to her. She visited Town Hall the previous week; the radius for notification was explained to her. She urged Council to rethink the area of notification. She spoke about how the land at the end of Colby Chase is supposed to be protected. With someone trying to rezone the property, she would like Council to remember the families living there and the increase in traffic if they are used as a through road. She encouraged the finishing of the road which runs in the same general direction. Ms. Walker expressed her concerns about sitting in traffic, putting in a convenience store/gas station, crimes which increase near freeway entrances and exits, and her feeling that the land could be used for something different.

Cindy Foster, referred to herself as an older resident and spoke about how she feels great because of the Rec Department. She hears wonderful comments about the Y and how they understand personal needs. She's not against the Y, but she wants the town to do what they have promised the community first [a senior center]. Ms. Foster previously presented to Council several questions about the Y being a profit organization, and she was still awaiting answers. Instead of outsourcing services, she wished the town to support a successful community parks and rec department.

Tom Colhoun stated he was being hammered by social media and an online petition for a rezoning that has not yet even been submitted for property on the north side of 64 on Davis and Jenks. Mr. Colhoun talked about the 2030 Land Use Plan and what would be on this 63 acres, of which 45 is developable. Traffic was explained for several types of businesses. This would be a great opportunity for development which would contribute to the town's tax base, it would not require an incentive package, and it would fix roads.

Wes Moyer asked Council to consider a dealership being at the beginning of the drive into town. We should learn from your neighbors as to where to not place dealerships.

PUBLIC HEARINGS

Public Hearing 01 : Vance Holloman, Finance Director

Public hearing concerning the validity and advisability of issuing \$15 million of GO Bonds for Street and Sidewalk Improvements and adoption and publishing of the bond order introduced at the August 18th Council meeting, to call for a bond referendum, to set the date of November 3, 2015 for the referendum, and to publish notice of the referendum and establish the form of the ballot

Staff explained the process that would occur after the public hearing.

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 REQUEST; COUNCIL MEMBER LASSITER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

OLD BUSINESS

Old Business 01 : Vance Holloman, Finance Director

Resolution authorizing the execution and delivery of an installment financing agreement with Bank of North Carolina

Staff stated Council unanimously approved the application. He asked that Council instruct him and the Town Manager to execute the agreement. Staff verified there is not a prepayment penalty.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER WILKIE MADE THE MOTION TO APPROVE THE REQUEST; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Old Business 02 : Marty Mitchell, Facilities Director and Vance Holloman, Finance Director

Construction contract for Public Safety Station 5 to A B Goodrich Contracting of Raleigh, NC at \$4,982,695 and budget amendments necessary to fund the project. Note: This contract will not be executed until the installment financing has been closed and funds made available.

Staff stated that out of eight bidders, Goodrich came in as the lowest responsible bidder and the bid came in under-budget. Staff explained the two budget amendments and the transfer and setup of how the money will be used. We will save money on interest by making the transfer. Council stated it was in favor of taking more money out of the Fund Balance in order to save on interest.

Staff detailed the items which would need to be accounted for in the project. Council stated it wanted detailed figures for furniture and fixtures. Staff explained we are saving about 50% of these costs by

purchasing through the State and US Communities. Council was in agreement that in the future we need to look into the pay down of the loan.

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

Old Business 03 : Council Member Bill Jensen

Organize and conduct a town hall-style meeting to ascertain the feelings of the public regarding the growth and direction of the Town of Apex and to request staff to determine date and location of this meeting

The Mayor stated it was his recollection that staff was directed to see what other communities have done on the issue of growth and to bring that information back to Council. Staff stated this information was not yet complete.

Council stated he has had people talk to him about being in favor of having a town hall meeting. Therefore, he wished to start the planning for this type of meeting. He wanted to hear more of what people want to see. He suggested including those running for Council since some who are sitting now may not be sitting after the election.

Council stated that a church has talked about doing this type of meeting. They felt it would bring a lot of discontent and that it doesn't bring cohesiveness – only division. She would hate to see that here. Council should listen to the community, and we are available and approachable for that to happen. Given were examples of how extensive she has listened to residents. For example, she had eight contacts recently in less than a day's time. Talking to five people/day is 150 conversations/month. Council now pretty much knows how residents feel from these conversations. We need to look more at Wake Forest or Huntersville to see how they're dealing with growth and issues. Council hears on social media how folks say this is a great place to live and they are happy here. Council members are already accessible, available, and approachable without a town hall meeting. We are here every two weeks and people should be comfortable talking at Council meetings. If they are not, they can email or message us on Facebook.

Council stated we all value resident comments; we are about public service. We want to make sure that any input meets certain criteria – that it is productive and going to be used in some way and that it's convenient and based in facts. We don't want a rally for everyone who believes the town can make certain things happen, like bringing in more businesses. We can only guide and direct growth; we can't force it. Council would like to see a virtual town hall – something saved that we can refer back to vs. someone driving somewhere for a few minute soundbite.

Council disagreed with previous Council. The town is growing fast. Some people are familiar with Council meetings and are here often. A town hall meeting would be a perfect opportunity to educate people on things such as the car dealership. It would be an opportunity to see how their elected leaders feel and think about the community. It would be good for transparency, and it would be about education. Council felt strongly citizens should have this opportunity. He would be for an electronic and physical town hall meeting. Council stated that it would be offensive as a public official to say no to this type of meeting.

Council stated the Chamber will have a candidate forum. She was fine with a town hall type meeting being used as an educational forum. She did not think it should be question and answer. Council felt there would be disgruntled folks who would not be interconnected with the community.

Council continued conversation on being respectful in forums, their being solution based, and our possibly looking into televising meetings. Cary went through growth and how they helped prepare via schools, for example, was mentioned. We are getting information constantly, and citizens have an opportunity to be heard individually.

It's time to keep politics out of this, so such a forum should be conducted after election so the new Council would be the ones to take the action – a fresh start and fresh ideas. Council was in agreement with this being done after the election.

Staff stated it did not know how long it would take to develop a digital town hall since one has not been done before. However, one could most likely be held the first of the year.

COUNCIL MEMBER JENSEN MADE A MOTION TO DIRECT STAFF TO BEGIN PLANNING A TOWN HALL MEETING TO TAKE PLACE THE FIRST OF THE YEAR AFTER THE SEATING OF THE NEW COUNCIL, AS WELL AS A DIGITAL TOWN HALL MEETING, AND DETERMINING THE EVENT STRUCTURES AND LOCATION.
THE MOTION CARRIED BY A 5-0 VOTE.

Council stated this would be a good way to receive input on how people want the town to develop and what things they see as problems. She stated staff should be present at the forum to be able to answer questions. Televising such a forum can be done rather inexpensively; staff should look into this.

NEW BUSINESS

New Business 01 : Brendie Vega, Principal Planner

Revision of Parkside at Bella Casa, Phases 10 & 11 - Master Subdivision Plan - for the properties located at Blazing Trail and Mt. Zion Church Road containing 43 acres

Staff oriented Council to the site. The applicant was proposing the addition of a new lot, since the wet land has gone away. Stuart Jones, Jones and Crossen Engineering, explained this wetland climbed up the side of a steep hill. The Corps of Engineers has signed off on this request. There will be disclosure to homeowners when a house is built on the land; the disclosure will be part of the formal record.

MAYOR SUTTON CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE REQUEST; COUNCIL MEMBER LASSITER SECONDED THE MOTION.

Council stated she has a problem approving a lot that has a problem. Mr. Jones, responding to Council, stated that they will be diligent about foundations so that the house would not get swallowed up. The house would be built on the corner away from the wetland. Staff explained the home would not be presold if the foundation turned out to be a mess. If purchased and anything happened, contractors would be obligated to fix any problems with the home. The Mayor stated that if anything does happen, the buyers would blame the Town and want us to fix the problems.

MAYOR PRO TEM SCHULZE WITHDREW HIS ORIGINAL MOTION.
COUNCIL MEMBER JENSEN MADE A MOTION TO DENY THE REQUEST; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

New Business 02 : Brendie Vega, Principal Planner

Salem Pointe Master Subdivision Plan for the properties located at N. Salem Street and Salem Church Road containing 10.7 acres and 64 lots

Staff oriented Council to the site. This came before Council the first meeting in August. The plans have been revised to include porches on all end units. Planning approved the reviewed plans. Council stated this was a good victory for the town to maintain its aesthetic values. The developer worked well with us. Hopefully, this will set a precedent.

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

New Business 03 : Council Member Bill Jensen

UDO (medium Density Residential District) change from a density of six units per acre to five units per acre; change to the section of the UDO (High Density Multi-Family Residential District) be changed from a density of 14 units per acre to 12 units per acre

Council discussed this with staff, and he would like to withdraw the 12-14 units/acre and increase the RCA requirement. His request is to have staff look at this and run it through the Planning Board.

COUNCIL MEMBER JENSEN MADE THE MOTION FOR STAFF TO LOOK AT AND THEN GO THROUGH THE PLANNING BOARD THE REQUIRING OF HIGHER RCA REQUIREMENTS FOR THE HIGH DENSITY OF 14 UNITS/ACRE;
COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

New Business 04 : Council Member Bill Jensen

Use of Cary and Apex jointly owned land for a solar farm

Council pointed to a cut-off piece of land at the Western Wake Water Reclamation Facility (WWWRF) about which we've had brief discussions with Cary. The WWWRF is on two sides of Highway 1. The land on one side is landlocked to a degree, surrounded by Duke Energy land through which they have an easement. We can't use this land; it's near the nuclear power plant.

Cary has a solar power plant which turned out to be no cost to them. Cary is pursuing a power plant on this land. Council wished weigh in as this being a useful way of using the land. We would get value from the land that we are not getting now. Cary would be the prime mover on this and we would support them. Staff stated another option could be neither Cary nor Apex being involved in this; we would lease to someone already in the business and would gain a percentage on the lease. Council stated lots of folks in eastern NC are doing this.

COUNCIL MEMBER JENSEN MADE A MOTION TO DIRECT STAFF TO COORDINATE WITH CARY TO RECEIVE PROPOSALS, IF POSSIBLE, AND TO INVESTIGATE ACCESS AND OTHER PRELIMINARY AVENUES.
COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

CLOSED SESSION

COUNCIL MEMBER WILKIE MADE A MOTION TO GO INTO CLOSED SESSION TO DISCUSS THE ACQUISITION OF REAL PROPERTY; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

COUNCIL MEMBER JENSEN MADE A MOTION TO RETURN TO OPEN SESSION;
COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Council entered into discussion regarding a YMCA at Pleasant Park and expressed not knowing if it's something that would be wanted, even though it would be an asset. There were conflicted stories in the paper and circulating within the community. Council would like to see a closed area for children.

Who would be paying for the Y to be built? Why couldn't different organizations in the community go in together and invest in the Y? Knightdale is rallying and finding money for a pool.

The Mayor asked would Council be interested in a workshop with the Y folks to get questions answered. There was question if the charrette showed a need for a Y at Pleasant Park. The Mayor responded that he put this on and wanted to know how it got removed, if it did. After more discussion about the results of the charrette, staff stated that Council will have final say-so about what will go at the Park. Staff was fairly confident the plan will come back with the Y showing since the Mayor was quite clear with the Withers & Ravenel people that he wanted it at Pleasant Park. A splash pad was mentioned.

Council stated the need to wait for the results of the report. There is no rush for a decision on a YMCA. Council asked the status of the senior center, staff responding that an RFP will go out in the next couple of weeks. The matter will come back before Council at the December meeting. It was previously mentioned that the location of a senior center would be at Town Hall campus. It was asked what about the land we just traded for? Staff stated this could be an option for consideration. Money would be saved if the senior center were close. Even if it would be a tough way to go, we could use eminent domain.

Council stated she was simply interested in what would balance the needs of the town. Therefore, we are not ready to choose a Y over a senior center or one location over another. All pieces need to be considered, and we need to have all the information. Let's make sure this is done and done right. Staff stated a short press release can be put out clarifying the facts in order to help clear up questions from the community. Council asked that all future press releases sent which cc Council also show everyone to whom the release is being sent. The Withers & Ravenel report will be out in February.

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.

Donna B. Hosch, CMC, NCCMC
Town Clerk

ATTEST:

William M. Sutton, Mayor