

# TOWN OF APEX, NORTH CAROLINA

Town Council Meeting Minutes for February 16, 2010

The Regular Meeting of the Apex Town Council scheduled for Tuesday, February 16, 2010, 7:00 p.m. Was held in the Council Chambers of the Apex Town Hall, 73 Hunter Street, Apex Town Campus.

Mayor Keith H. Weatherly presided over the meeting.

Mayor:  
Keith H. Weatherly



Council Members:  
Bryan Gossage  
Bill Jensen  
Mike Jones  
Lance Olive  
Gene Schulze

Web site: [www.apexnc.org](http://www.apexnc.org)

## COMMENCEMENT

Mayor Weatherly called the meeting to order, gave the Invocation, led the Pledge of Allegiance and extended a welcome to those in attendance.

## RECOGNITION & PRESENTATION

### Item # 01- Recognition and Presentation to Certified Senior Planner

Director of Planning recognized Town of Apex Certified Senior Planner June Cowles for her achievement of meeting education requirements of American Institute of Certified Planners. Mayor Weatherly presented her with the AICP Certificate.

End of Presentation

## CONSENT AGENDA

All Consent Agenda items are considered routine, to be enacted by one motion with the adoption of the agenda and without discussion. If a Member of the Council requests discussion of an item, the item may be removed from the Consent Agenda and considered separately. The Consent Agenda will be set prior to taking action on the following items.

Mayor Weatherly presented the Consent Agenda to be set prior to taking action. Attorney Fordham asked Council to substitute a revised ordinance for CA-4 Sec. 12-21 of the Code.

**Action:** Council Member Schulze made the motion to approve the Consent Agenda. Council Member Jones made the second. Motion carried unanimously.

1. Minutes of February 2, 2010 Town Council meeting.
2. Minutes of February 2, 2010 Town Council Closed Session (separate cover).
3. Minutes of January 12, 2010 Economic Development Committee.
4. Amend Section 12-21 of Apex Town Code of Ordinances (**Ordinance No. 10-0216 - 02**) to allow Town to provide water and sewer service to properties outside the Town's corporate limits in circumstances where a Town infrastructure project or condemnation eliminates the existing access to water or sewer service and creates the need for municipal service; also annexation of property.

End of Consent Agenda



## REGULAR MEETING AGENDA

Mayor Weatherly presented the Regular Meeting Agenda to be set prior to taking action; there were no amendments, the Agenda was set.

### PUBLIC HEARINGS

**Presenter:** Principal Planner Brendie Vega

**Public Hearing # 01 – Conditional Zoning #10CZ01**

**Review:** Planning Board met February 8, 2010 and continued hearing to March 8, 2010 to give applicant time to work on their site layout as it relates to the proposed rezone; **request public hearing be continued to March 16, 2010 Council meeting.**

Public hearing and possible motion regarding Conditional Zoning #10CZ01; rezone from B1-Neighborhood Business to PC-CZ Planned Commercial Conditional Zoning; Lowes Food Stores, Inc. applicant; .66 acres located within Olive Chapel Village Shopping Center at Apex Peakway and NC55. **Petitioner offered a letter of withdrawal of the rezone request for Lowes Fuel Center and will replace it with another request for rezone at a different location in Olive Chapel Village Shopping Center; rezone will be readvertised for a future hearing.**

**End of Public Hearing # 01**

**Presenter:** Director of Planning Dianne Khin

**Public Hearing # 02 – Annexation Petition # 448**

**Review:** Owner requests annexation to connect to Town water/sewer to existing home.

Public hearing and possible motion to adopt an ordinance regarding Annexation Petition # 448, William H. and Norma M. Keyes, owner/petitioner, petitioning to annex 1.135 acres into the Town's corporate limits and located at 1014 Olive Chapel Road, Apex, and includes public right of way. Director of Planning presented petition for annexation orienting to the site, stating applicant was requesting water and sewer to their existing home. Public hearing was opened at 7:10 p.m. and with no one speaking, the hearing was closed, with the following action taken.

**Action:** Council Member Gossage made the motion to approve the petition request. Council Member Jensen made the second. Motion carried unanimously.

**End of Public Hearings**

### OLD BUSINESS

**Presenter:** Council Member Bill Jensen

**Old Business # 01 – Employee Health Plan**

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**Old Business # 01 – Employee Health Plan**

Discussion and reconsideration of Employee Health Plan amendment regarding elective abortion.

Mayor Weatherly noted action taken by Council January 19, 2010 was being brought back by request of Council Member Jensen. Council Member Jensen expressed concern with speed in which this item was passed, limited information received, monetary impact on tax payers, as well as morale decision. Mayor Weatherly opened the floor to receive public comment.

Asked Council reconsider their decision:  
 Dolly Sickles, HIV Education & Prevention  
 Melissa Reed, VP Planned Health  
 Sarah Preston, American Civil Liberties  
 Union of NC  
 Paul Meade, Apex Resident  
 Jill Diaz, Apex Resident

Spoke in support of Council's decision:  
 Dan Hills, Apex Resident  
 Tom Herner, Apex Resident  
 Man – Apex Resident  
 Lynn Smith, Apex Resident  
 Steve Banbara, Wake County Resident

Apex Residents request to see Town's insurance coverage: Rita Dozer and Judy Elzinger



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Mayor Weatherly noted that at the time of the original discussion he had given Council an opportunity to delay action for 2 weeks, if desired, to give Council more time to consider the action. Council Member Jensen recognized there was not support of the Council to change their decision from January 19. He questioned the legality of Council's decision, and made the following motion.

**Action:** Council Member Jensen made the motion for Town Council to request Attorney General Roy Cooper to give a definitive legal interpretation of decisions made by the Council and what the Town's rights are with respect to this issue provide or not, elective abortions. The motion failed for a lack of a second. Council Member Schulze stood firm in his decision and expanded on reasons for his vote. Council Member Jensen stood firm with his concerns and expanded on those. Mayor Weatherly stood firm with his decision to bring this item to Council, clarifying it was not about legality but a fundamental public policy issue and clearly not an appropriate use of tax payers money, and commended Council, unanimous in their decision, feeling Apex was behind in prohibition of funding elective abortions, and offensive to place costs on life of an unborn child or to abort a child. Mayor Weatherly noted Council Member Jensen had voted with Council in the affirmative to take this action. Council Member Gossage pledged that citizens deserved opportunity to address this issue and would handle decisions regarding future issues with edges, not in the same meeting it was presented, and stood firm in his decision and proud of the decision made by Council.

**End of Old Business**

**PUBLIC FORUM**

**Public Forum allows the public an opportunity to address the Town Council.  
Mayor Weatherly will recognize those who would like to speak at the appropriate time.  
Large groups are asked to select a representative to speak for the entire group.  
*Your comments must be limited to 3 minutes to allow others opportunity to speak.  
No one spoke during public forum.***

**NEW BUSINESS**

**Presenter: Senior Planner June Cowles**

**New Business # 01- Villages of Apex Charleston Lots and Master Subdivision Plan**

**Review:** Planning Board met February 8, 2010 and unanimously recommends approval with conditions; applicant has agreed to all conditions; staff recommends approval with conditions.

Senior Planner Cowles presented Villages of Apex Charleston Lots, Master Subdivision Plan within 93.25 acres and located within Villages of Apex North Subdivision. Staff report is incorporated as a part of the minutes. Original Trackside North Plan was approved May 2007, combining townhomes, apartments, and single family lots for a total of 638 residential units. Master Subdivision Plan was recommended for approval February 9, 2010 by the Planning Board. Applicant Jones and Cnossen proposes to increase single family lots in an area of the Trackside North from 40 lots to 80 lots, and includes a lot width reduction from the approved 40 foot and 50 foot wide single family lots to 24.5 foot wide lots. Total proposed units 528.

Council approved an ordinance February 2, 2010 to amend Section 5 Measurements to require minimum lot widths and minimum side setbacks for single family, detached townhouses, and attached townhouse, all pending subdivision applications are exempt from the ordinance with nine conditions outlined in the report and with an amendment to condition six regarding the maintenance and repair easements shall be shown on final plats of the subdivisions and provided in restrictive subdivision covenants; the applicant for Villages of Apex Lots have agreed to all conditions. Planning Board addressed parking from the first proposed plan and recommended approval. Applicant has submitted a new parking plan, not seen by Planning Board, however is within the bounds of the parking options proposed by staff. The plan is consistent with the Town Transportation Plan and Villages of Apex/Trackside North Traffic Impact Report and recommended conditions approved by Council. Staff recommends approval.

**Action:** Council Member Olive made the motion to approve Villages of Apex Charleston Lots, Master Subdivision Plan with the proposed conditions and the new parking plan. Council Member Gossage made the second to the motion. Motion carried unanimously.

**End of New Business**



## CLOSED SESSION

Mayor Weatherly called for a motion to move into Closed Session to discuss potential litigation.

**Action:** Council Member Jones made the motion to move into Closed Session at 7:50 p.m. Council Member Gossage made the second to the motion. Motion carried unanimously. Closed Session items are recorded separately. **Action:** Council Member Schulze made the motion to move back into Regular Session at 8:05 p.m. Council Member Jones made the second to the motion. Motion carried unanimously.

With Council having returned to Regular Session, the following action was taken:

**Action:** Council Member Jones made the motion to authorize the Town Manager and Town Attorney to proceed with documents and for necessary improvements to extend Evening Star Drive to Kelly Road using funds in Escrow from Metropolitan Development and entering into an Agreement to secure the necessary funds to complete the connection. Council Member Gossage made the second to the motion. Motion carried unanimously.

### End of Regular Session

## ADJOURNMENT

Mayor Weatherly called for a motion to adjourn Regular Session and move to the Conference Room to hold the work session. **Action:** Council Member Schulze made the motion to adjourn. Council Member Olive made the second to the motion. Motion carried unanimously.

Mayor Weatherly announced Council would move to the Conference Room to hold the work session to discuss a proposed Economic Development Incentive Policy.

The minutes of the February 16, 2010 Council Meeting were submitted by the Town Clerk to the Town Council for their approval at the March 2, 2010 meeting.

Georgia A. Evangelist, MMC  
Town Clerk, Apex, North Carolina

Keith H. Weatherly  
Mayor