

TOWN OF APEX, NORTH CAROLINA

Town Council Meeting Minutes for June 1, 2010

The Regular Meeting of the Apex Town Council scheduled for Tuesday, June 1, 2010, 7:00 p.m. was held in the Council Chambers of the Apex Town Hall and Town Campus, 73 Hunter Street.

Mayor Keith H. Weatherly presided over the meeting.
All Council Members were present.

Mayor:
Keith H. Weatherly



Web site: www.apexnc.org

Council:
Bryan Gossage,
Mayor pro tempore
Bill Jensen
Mike Jones
Lance Olive
Gene Schulze

COMMENCEMENT

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

PRESENTATION

Wake Tech Interior Design Student Roxanne Marsh with Instructor Kim Sprig, presented replicate models of real life Apex buildings: Apex Depot and portion of downtown streetscape. Models were donated to the Town and will be placed in the Halle Cultural Arts Center.

CONSENT AGENDA

All Consent Agenda items are considered routine, to be enacted by one motion with the adoption of the consent agenda and without discussion. If a Council Member 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. The Consent Agenda was set with no amendments. **Note:** Assistant Attorney Laurie Hohe asked Council remove the indemnity clause from Item #10: Agreement between Wake County and Town of Apex regarding 2010 Fire Contract.

Action: Motion by Council Member Jones to approve the consent agenda with the removal of the indemnity clause from item 10 as requested by legal counsel. Council Member Gossage made the second to the motion. Motion carried unanimously.

1. Minutes of May 18, 2010 Town Council meeting.
2. Minutes of May 18, 2010 Town Council Closed Session (separate cover).
3. Minutes of April 29, 2010 Personnel Committee meeting.
4. Annexation Petition # 451 Hendrick Automotive Group, 6000 Monroe Road, Charlotte, N.C., owner/petitioner, petitioning to annex 20.383 acres, located at US64 Hwy and identified as Wake County Registry: (PIN: 0742879872 - 1.67 acres, 1911 Laura Duncan Road); (PIN: 0742980140 - 2.59 acres, 1913 Laura Duncan Road); and (PIN: 0742881153 - 14.84 acres, including CSX Railroad right of way - estimated 1.283 acres, 1907 Laura Duncan Road); 1) Resolution Directing Clerk to Investigate Petition; 2) Certificate of Sufficiency by Clerk; and 3) Resolution Setting Date of Public Hearing for June 15, 2010.

Consent Agenda continued on Page 2



5. Transfer Lot 32 Plot H in Apex Town Cemetery: Laurita J. Ray sole Administration of the Estate of Jessie M. Ray, deceased, request transfer of Lot 32 Plot H, to Walter J. McClamb of Albright Funeral Home, 500 S. Salem Street, Apex.
6. Transfer of Lot 91 Plots C and D in Apex Town Cemetery: Kathy P. Lambert and Brenda P. Webster being the executors of the Estate of Lois G. Pendergraft, deceased, request new deeds be issued for Lot 91 Plots C and D into their names.
7. Findings of Fact and Conclusions of Law regarding Special Use Permit #10SUP02 Jordan Lake Sudbury School, property located at 1200 N. Salem Street.
8. Set public hearing June 15, 2010 to consider various amendments to the Unified Development Ordinance.
9. **Resolution #10-0601-10** Authorizing Wake County Revenue Director to Collect Taxes on Behalf of the Town of Apex.
10. Agreement between Wake County and Town of Apex regarding 2010 Fire Contract for the provision of fire protection by Apex Fire and EMS Department to the unincorporated areas surrounding Apex, and authorized Town Manager to sign Agreement (with indemnity clause removed; a revised agreement will come to Council for approval on June 15, 2010).
11. Award Construction Contract to Gelder & Associates, Inc. for 2010 Roadway Rehab Project for a total bid of \$254,159.
12. Construction Agreement with CSX for Apex Peakway (N. Salem Street to Laura Duncan Road), and authorized Town Manager to sign Agreement.
13. Agreement with DukeNet, LLC. for proposed use of Town's electric system poles, and authorized Town Manager to sign Agreement.
14. Personnel Committee recommends adoption of new Position Classification Plan for FY10-11.
15. Personnel Committee recommends revision to Apex Personnel Policies: Article II Sec. 16 Fee Based Pay; Article IV. Sec. 8 Workers Compensation; Article VI, Sec. 11 Sick Leave, Sec. 16 Family and Medical Leave and Drug and Alcohol Policy.
16. Proclaim June 15, 2010 as "Byron Pitts Day" and co-sponsor lecture and book signing by Mr. Pitts at the Halle Cultural Arts Center (Proclamation will be written prior to June 15, 2010).
17. **Resolution # 10-0601-11** Opposition to Collective Bargaining by Local Governments.

End of Consent Agenda

REGULAR MEETING AGENDA

Mayor Weatherly presented the Regular Meeting Agenda to be set prior to taking action.
The Regular Meeting Agenda was set with no amendments.

PUBLIC HEARINGS

Presenter: Mayor Keith Weatherly

Public Hearing # 1 – Town of Apex FY2010-11 Budget

Review: Council held a pre-budget hearing January 19, 2010 - Public Notice:

http://www.apexnc.org/docs/public_notice/notice/1-2010-01-19-043186EC-DF2A-BA27-E8F9E2A822F9C07C.pdf

Council held a Worksession May 27, 2010 to discuss proposed FY2010-11 Budget - Public Notice:

http://www.apexnc.org/docs/public_notice/notice/2-2010-05-27-932B2148-D892-5336-4230E5E68F0E0184.pdf

Council held the scheduled Public Hearing June 1, 2010 - Public Notice:

http://www.apexnc.org/docs/public_notice/notice/1-2010-06-01-8884C520-CBEA-4023-43E4B1CE2AC1E10C.pdf

Council plans to consider adoption of the Budget Ordinance at their June 15, 2010 meeting.

Mayor Weatherly opened the public hearing regarding the proposed FY2010-11 Annual Budget at 7:14 p.m. Val Wise asked council consider priority funding for a public park around Seagroves Pond, a walkway, or modify signs to allow parents/children to fish. Mayor Weatherly closed the public hearing at 7:17 p.m. The FY2010-11 Budget Ordinance was before Council; Council chose to consider adoption of the Budget Ordinance June 15, 2010.

End of Public Hearing



OLD BUSINESS

Presenter: Principal Planner Brendie Vega

Old Business # 01 – UDO Amendments

Review: Public hearing was held May 18, 2010 to consider amendment; Council asked staff return with a list of projects that would be affected by grandfathering - Public Notice:

http://www.apexnc.org/docs/public_notice/notice/1-2010-05-18-5E81324E-CEA1-9955-775AC2C7A370277D.pdf

Possible motion to consider Unified Development Ordinance Amendments to Section 6.1 Watershed Protection Overlay Districts to add performance guarantees for structural BMPs.

May 18, 2010, Council considered UDO amendments to Section 6.1 Watershed Protection Overlay Districts to add performance guarantees for structural BMPs and for the possible grandfathering of projects that were in review process. The Town Attorney reviewed the UDO amendments and found grandfathering would not be necessary as the change to the Ordinance would be a benefit to the applicant by allowing them to choose whether to do the bonding rather than completing the stormwater BMP at the time of the plat; this would give the developers the option of maintaining temporary sediment basin in the same location as the stormwater BMP until a certain percentage of the lots are built out. Staff revised the proposed amendments to reflect these changes and recommended approval. Assistant Attorney Laurie Hohe informed Council with no grandfathering necessary, Section 2 of the Ordinance should be removed: "this amendment shall not apply to the completion of projects for which site plan approval or subdivision plan approval or both have been obtained before the enactment of this ordinance." The Ordinance will be revised by staff to reflect removal of Section 2.

Action: Council Member Schulze made the motion to adopt the ordinance with the deletion of Section 2 as stated by legal counsel. Council Member Jensen made the second to the motion. Motion carried unanimously.

End of Old Business # 01

Presenters: Transportation Planner Reed Huegerich and Transportation Engineer Russell Dalton

Old Business # 02 – STP-DA Projects

Presentation of approved Surface Transportation Program – Direct Attributable projects through the Capital Area Metropolitan Planning Organization.

Transportation Planner Huegerich stated the Town is a member of the Capital Area Metropolitan Planning Organization; he currently serves as Vice Chair. Town of Apex submitted projects for Surface Transportation Program – Direct Attributable (STP-DA) funding. A presentation was given of approved STP-DA projects, projects pending approval, and future proposed projects. Project ranking criteria, cost considerations, and administration considerations were shared. FY2010 Projects: Lufkin Road Realignment, Old Raleigh Road Sidewalk and Apex Strollway connect Town Campus to the downtown; all require a 20% local funds match from Town. FY2011 Proposed Projects: Lufkin Road Realignment and Center Street Sidewalk. FY 2012 Projects: Lufkin Road Realignment, Old Raleigh Road Sidewalk, and Apex Strollway. Staff noted their next steps: identify projects, prioritize, and apply for funding. Russell Dalton Transportation Engineer reported NCDOT could assist in managing the projects and consider contributions to a fund match; deadlines did not allow application for stimulus funding of these projects; advised construction of concrete sidewalks may be removed with future road way improvements, and noted the sidewalks would be more costly to install them at the ultimate width.

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.



Tom Colhoun noted focus on the Peakway and asked consideration for completion of the James Street and South Salem Peakway; and second to focus on transportation plans and ideas that are not set in stone, and noted Holland Road, Evans Road and Humie Olive Road areas where folks do not want major thoroughfares running through their subdivisions.

End of Public Forum

NEW BUSINESS

Presenter: Environmental Services Manager Michael Deaton

New Business # 01 – Exchange of Real Property

Review: Certified Public Notice of Town Council's Intent to Exchange Real Property published in Apex Herald May 6, 2010.

Possible motion to adopt a **Resolution # 10-0601-12** Authorizing the Exchange of Real Property between the Town of Apex and Alfred J. Mitchell and Dianna G. Mitchell, and authorize Town Manager to sign Agreement.

Town Staff discussed a potential land exchange between Town and the Mitchells involving a portion of the Town's recently acquired "Cattano" property and a portion of the Mitchell property located along Templeton Street. Acquisition by Town of the property along Templeton Street would allow Town to widen Templeton Street and improve its appearance and would enhance functionality and appearance of the area surrounding the Halle Cultural Arts Center.

Proposal is for Town to convey to the Mitchells a 0.097 acre parcel and for the Mitchells to convey to Town a 0.037 acre parcel as well as a two foot wide electric easement. Details of the proposal are contained in the Land Exchange Agreement. Town staff is of the opinion the land the Town would receive as part of this exchange is fair consideration for land the Town would relinquish. The land that the Town would get is frontage along Templeton St. The land the Town would give up is largely between the Town's parking lot and the back of the buildings on the Mitchells land. Land Exchange Agreement, Resolution # 2010-0601-12 authorizing land swap, and Public Notice were drafted by the Town Attorney. Proper notice was given per N.C.G.S. 160A-271 and advertised in the Apex Herald.

Recent Phase I ESA on the Mitchell property revealed that 5 former USTs existed in the vicinity of the 0.037 acre parcel. A release occurred; however, the soil was reportedly remediated and the incident was closed out by NCDENR. Town staff has evaluated a worst-case scenario of encountering contaminated soil during construction activities which would be in the distant future as far as funding. Assuming all excavated soil is contaminated the Town could potentially incur approximately \$23,000 in disposal costs. Request Manager be authorized to move forward with transactions and sign Agreement.

Action: Council Member Jensen made a motion to adopt a Resolution Authorizing the Exchange of Real Property between the Town of Apex and Alfred J. Mitchell and Dianna G. Mitchell, and authorize Town Manager to sign Agreement. Council Member Gossage made the second to the motion. Motion carried unanimously.

End of New Business # 01

Presenter: Town Manager Bruce Radford

New Business # 02 – Cancellation of Council Meeting

Manager Radford requests Council consider the cancellation of the Council meeting of July 6, 2010, as it has been tradition to cancel the first meeting in July once budget is approved, and allows for vacations, and at this point there are no items for the July 6, 2010 meeting.

Action: Council Member Schulze made the motion to cancel the July 6, 2010 meeting. Council Member Jones made the second to the motion. Motion carried unanimously.

End of New Business



CLOSED SESSION

There were no Closed Session items to be discussed.

WORK SESSION

No Work Session was scheduled for this meeting.

ADJOURNMENT

Mayor Weatherly called for a motion to adjourn at 7:45 p.m. **Action:** Council Member Gossage made the motion to adjourn. Council Member Schulze made the second to the motion. Motion carried unanimously.

The minutes of the June 1, 2010 Council Meeting were submitted by the Town Clerk to the Town Council for their approval during the June 15, 2010 meeting.

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

/s/Keith H. Weatherly
Mayor