



APEX TOWN COUNCIL MEETING

TUESDAY, APRIL 16, 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, April 16, 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, William S. Jensen, 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.

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 : Mayor Keith Weatherly

Presentations to and Recognition of the Apex Rotary Clubs

Mayor Weatherly read the Proclamations to the Apex Sunrise Rotary Club and the Apex Rotary Club. Members of both Clubs were present for the presentations.

Dr. Dwight Cochran and Olivia Scott of Apex Rotary Club presented the Legacy Award to Charter Member Harvey Montague. John Sperath, President of the Apex Sunrise Rotary, gave a brief overview of the Club. Honorary Membership presentations were made to Matthew Wight, Issac Bristol, and Kelly McAlarney. Rotary District Governor Rick Carnagua gave an overview of both Clubs and promised their continued support and service to the Apex community.

Presentation 02 : Mayor Keith Weatherly

Presentation of National Telecommunicators Week Proclamation

Mayor Weatherly read and presented a National Telecommunicators Week Proclamation to David Boggs of the Apex Police Department. Many members of the Police Department were on hand for the presentation.

CONSENT AGENDA

1. Minutes of the April 2, 2013 Regular Council Meeting
2. Apex Tax Report dated 03/05/2013
3. Statement of the Town Council and Ordinance to Amend the Official Zoning District Map for Rezoning Case #13CZ02, Parkside at Bella Casa PUD Amendment
4. Statement of the Town Council and Ordinance to Amend the Official Zoning District Map for Rezoning Case #13CZ03, 924 Center Street
5. Street closures for the 2013 Apex Peak Fest
6. Budget ordinance amendment for construction of the Apex Service Memorial

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

REGULAR MEETING AGENDA

Town Attorney Fordham requested (1) a Closed Session prior to Public Hearing 03 with the purpose of obtaining advice from the Town Attorney; and (2) that the scheduled Closed Session verbiage read "to receive legal advice from the Town Attorney".

Town Manager Radford requested the addition of Old Business 02, a Resolution concerning the naming of the new high school. The Wake County School Board will reconsider this subject next Tuesday.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE REQUESTED TWO ITEMS; COUNCIL MEMBER ROWE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

PUBLIC HEARINGS

Public Hearing 01 : Reed Huegerich, Transportation Planner

Public Hearing and amendments to the Thoroughfare and Collector Street Plan map

Staff stated there were two proposed amendments: one on Salem Street at the Peakway, and future realignment at Apex Barbeque Road. The Planning Board is in agreement with the two amendments.

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

Public Hearing 02 : Lauren Simmons, Planner II

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

Staff stated this Ordinance incorporates conditions previously asked for by Council; the conditions were stated. The Planning Board unanimously recommended approval with the recommendation that the third of an acre average lot size be removed without replacing it with a 10,000 square foot lot average. Council expressed reservation about density; staff clarified their recommendation of attempting to encourage unique types of developments.

Mayor Weatherly declared the Public Hearing open.

Cathy Lindsey, who lives off of 64 West, questioned the staff's redefinition of low density and the confusion she had with information on the website. She also questioned how staff would make decisions about low density factors.

Mayor Weatherly declared the Public Hearing closed.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE AMENDMENTS AS PROPOSED BY STAFF; COUNCIL MEMBER OLIVE SECONDED THE MOTION.
COUNCIL MEMBERS SCHULZE, OLIVE, LASSITER, AND ROWE VOTED IN THE AFFIRMATIVE;
COUNCIL MEMBER JENSEN VOTED IN THE NEGATIVE.
THE MOTION CARRIED BY A 4-0 VOTE.

Public Hearing 03 : Lauren Simmons, Planner II

Public Hearing and motion regarding various amendments to the Unified Development Ordinance

Staff stated there were sections of the UDO that were omitted and this would put back in those omitted sections. In addition, the Mayor proposed an amendment to seasonal agricultural signs which would allow for seasonal agricultural signs to be placed off site, with property owner permission, for up to 45 consecutive days, with an allowance of up to 30 signs. The Planning Board recommended only 10 signs.

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

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

Mayor Weatherly declared the Public Hearing open. With no one wishing to speak, Mayor Weatherly declared the Public Hearing closed.

Mayor Weatherly stated he asked the Town Attorney to craft appropriate wording, this issue coming forward since these types of signs and real estate signs had become quite a nuisance. As a result, signage was restricted. But it seemed there should be a way for agricultural producers to advertise their produce which would not be a nuisance. The Town Attorney stated that it would not allow signs in the rights of way nor would it authorize signage to be placed on someone else's property without permission. Discussion centered on the number of signs, square footage limitations, and the number of signs related to each crop.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE
ORDINANCE AS SUBMITTED WITH THE CHANGES TO A.3. AND A.4 AS STATED BY
THE TOWN ATTORNEY; COUNCIL MEMBER JENSEN SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

OLD BUSINESS

Old Business 01 : Ann Prince

Request by Ann Prince to allow family owned property to be sewerred by the Town of Cary

Staff stated Cary is willing to move the utility service boundary line to include the Prince properties into Cary. However, they are not willing to trade anything back. Specifically asked about was Jenks and 55 because of the number of requests Apex has had to serve that property. Our recommendation, since this has come up before, has always been and remains that even though this is a difficult property to be served, it can be served someday. Council expressed concern about the precedent this would set if the property goes to Cary.

Ann Prince stated she understood Council's dilemma. However, comparing their land to Jenks Road and 55 is not comparing apples to apples. Those lands would be better commercial use while their land is a large flood plain.

Council stated that if Apex were to do this, maybe it would open a door to Cary with hopes of something to trade to us in the future. The Cary sewer lines run through this property, and the property owners dealt with this inconvenience.

COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THIS BECOMING CARY'S TERRITORY [ALLOWING CARY TO ANNEX THE PROPERTIES]. AFTER THERE NEEDING TO BE FURTHER CLARIFICATION FROM STAFF, COUNCIL MEMBER LASSITER WITHDREW HIS MOTION.

Staff clarified that the utility service boundary would move south where the Creek would become the center line and then it would turn back north towards its current alignment. 24 acres would move into Cary, and a true trade to Apex would be Jenks Road and 55. There are other areas within Apex's ETJ where Cary has sewer lines, a few that could be sewerred more easily into Cary. These would be expensive to sewer, but it could be done.

Staff stated that our appeal did not go to Cary's Council; the discussion has been between Town staffs. Council felt we should exhaust every possibility of working this out with Cary before giving up the land. Council was agreeable to Mayor Weatherly beginning conversation with Cary's Mayor and reporting back to Council. Staff will come up with bartering properties. Staff reminded Council that in the upcoming Land Use Plan, this property will be commercial, there is a high school coming, and this will probably be a nicely developed area.

Old Business 02 : Mayor Keith Weatherly

Resolution in Support of Compromise in the Naming of the New High School on Humie Olive Road

Mayor Weatherly stated Council was previously in support of the new high school being named West Apex High School as proposed by the School Board. Conversations have arisen from the community that it should include the Friendship name. Council Member Lassiter attended the last School Board meeting and stated he felt the Apex name should remain in the name. The proposed new Resolution would be in support of the name being Apex Friendship, which could be an amicable resolution.

Council was opposed to this name since there had not been time to think about it. Mayor Weatherly restated Council's previous stand that Apex should be in the name since the school will be located in Apex and be provided with Apex services. The other buildings on the property would also include whatever name is chosen for the high school. Several Council members expressed support for 'Friendship High School' since there is already an Apex High School and since the new school will be built in the Friendship Community.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE RESOLUTION WITH THE CHANGE OF NAMING THE SCHOOL 'FRIENDSHIP' RATHER THAN 'APEX FRIENDSHIP';
THERE WAS NO SECOND TO THE MOTION.
THE MOTION FAILED.

MAYOR WEATHERLY CALLED FOR AN ALTERNATE MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE RESOLUTION AS PRESENTED; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.
COUNCIL MEMBERS SCHULZE, JENSEN, ROWE, AND LASSITER VOTED IN THE AFFIRMATIVE; COUNCIL MEMBER OLIVE VOTED IN THE NEGATIVE. THE MOTION CARRIED BY A 4-1 VOTE.

PUBLIC FORUM

Marian and Ed Jacobson thanked the Town for their efforts in the recent water line break that damaged their home. Staff explained that this was due to an equipment failure and not employee negligence. The Town's intent was to put things back better than they were previously, which the Jacobson's stated was the case. However, the Jacobson's felt that they should be reimbursed for the 26 days that they had to eat out since they could not cook in their kitchen during the repairs. Town Manager Radford stated he would determine if the insurance could make this reimbursement. If not, the Town would contemplate reimbursing for per diem expenses.

NEW BUSINESS

New Business 01 : Jessica Bolin, Stormwater/Utility Engineer

Motion to award and approve the contract for the Apex Beaver Creek Gravity Sewer Project and to adopt the associated Budget Ordinance Amendment No. 9 and Capital Project Ordinance Amendment

Staff explained this was a rebid and that Public Works approves awarding the contact and associated budget amendments. This is a bidder who did not bid the first time; all bidders submitted complete bids.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO AWARD THE CONTRACT AND APPROVE THE AMENDMENTS; COUNCIL MEMBER ROWE SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

New Business 02 : June Cowles, Senior Planner

Motion approving Green at Scott's Mill Section 8, 9, and 12 Master Subdivision for the properties located within the Green at Scott's Mill subdivision at Town Side Drive containing 3.55 acres and 71 lots

Staff oriented Council to the site and stated that the Planning Board unanimously recommended approval. The Town Attorney explained subdivision standards, and staff stated this meets the original zoning requirements.

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

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

CLOSED SESSION

Closed Session to receive legal advice from the Town Attorney.

MAYOR WEATHERLY CALLED FOR A MOTION TO GO INTO CLOSED SESSION.

MAYOR PRO TEMPORE SCHULZE MADE THE MOTION; COUNCIL MEMBER OLIVE SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 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 5-0 VOTE.

WORK SESSION

There were no Work Session items.

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