



# TOWN COUNCIL MEETING

TUESDAY, JANUARY 15, 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, January 15, 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, 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. Absent was Council Member Lance Olive.

## COMMENCEMENT

Mayor Weatherly called the Meeting to order, gave the Invocation, and led the Pledge of Allegiance.

## PRESENTATIONS

### **Recognition of the Winter Appearance Award Winners**

Mayor Weatherly presented the Winter Appearance Awards to Residential Winners Jessie and Lillie Gilbert of 810 Napleton Circle and to Commercial Winner Buttercream's Bake Shop at 101 N. Salem Street.

## CONSENT AGENDA

1. Approve Minutes of the December 18, 2012 Regular Meeting
2. Declare old transcription equipment as surplus
3. Approve the Statement of the Town Council and Ordinance to Amend the Official Zoning District Map for Rezoning Case #12CZ10, Westford PUD

4. Approve the Statement of the Town Council and Ordinance to Amend the Official Zoning District Map for Rezoning Case #12CZ11, Calvary Chapel Cary, Inc.
5. Approve the Statement of the Town Council and Ordinance to Amend the Official Zoning District Map and 2025 Land Use Plan Amendment for Rezoning Case #12CZ12, Stuart Jones, applicant
6. Approve Findings of Fact and Conclusions of Law for Special Use Permit, Eagle Rock Concrete
7. Approve Findings of Fact and Conclusions of Law for Calvary Chapel Cary
8. Authorize the Town Manager to execute a Motor Vehicle Lease Agreement between Apex and Wake County
9. Request the Mayor's signature on the Annual Certification of Firefighters
10. Approve insurance payment release agreement and authorize the Town Manager to execute

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 4-0 VOTE.

## REGULAR MEETING AGENDA

Town Attorney Fordham requested the addition of an item of potential litigation to Closed Session.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE ADDITIONAL ITEM; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

## PUBLIC HEARINGS

### **Public Hearing 01 : Bruce A. Radford, Town Manager**

### **Public Hearing to receive citizen input regarding the formulation of the Fiscal Year 2013-2014 Annual Budget**

Mayor Weatherly briefly explained the fiscal budget process.

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

**Public Hearing 02 : Lauren Simmons, Planner II**

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

Staff stated that provision 4 would not be addressed on this evening but rather at the February 5<sup>th</sup> Council meeting due to new developments. Staff gave a brief explanation as to why provisions 1, 2, and 3 were being requested to the UDO.

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 PROVISIONS 1, 2, AND 3; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**Public Hearing 03 : Lauren Simmons, Planner II**

**Public Hearing and motion regarding a Land Use Plan Amendment from Very Low Density Residential to Office Employment, and Rezone #12CZ13 from Rural Residential (RR) to Tech Flex – Conditional Zoning (TF-CZ). The subject property is generally located at 3232 US 64 Highway West.**

Staff oriented Council to the site and gave a brief explanation as to why the amendment was being requested. The Planning Board recommended approval of the request by a 5-2 vote. A protest petition has been submitted.

Council stated there are concerns regarding this request. The suggestion was made to put this Hearing off until the next Council meeting.

Mayor Weatherly declared the Public Hearing open.

COUNCIL MEMBER JENSEN MADE A MOTION TO CONTINUE THIS PUBLIC HEARING TO THE FEBRUARY 5, 2013 COUNCIL MEETING; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**Public Hearing 04 : June Cowles, Senior Planner**

**Public Hearing and motion regarding Rezone #12CZ14, 66.48 acres located at 8550 Stephenson Road from Rural Residential to Medium Density Residential Conditional Zoning**

Staff oriented Council to the site and gave a brief description as to why the request was being made. Staff recommended approval with conditions; the Planning Board unanimously recommended approval.

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 LASSITER MADE THE MOTION TO APPROVE THE REQUEST; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**Public Hearing 05 : June Cowles, Senior Planner**

**Public Hearing and motion to approve The Town of Apex Hazard Plan Annual Report**

Staff presented the Annual Report, explaining that it is a requirement for the Report be presented to Council each year.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE REPORT; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

OLD BUSINESS

There were no Old Business items for discussion.

PUBLIC FORUM

No one wished to speak during Public Forum.

NEW BUSINESS

**New Business 01 : Lauren Simmons, Planner II**

**Motion to approve Parkside at Bella Casa, Phases 2 and 4-8 – Master Subdivision Plan – for the properties located at Milano Avenue and Mt. Zion Church Road containing 72.2 acres and 235 lots**

Staff oriented Council to the site and explained the reasoning for the requested rezoning, noting that a portion of the property will need to be annexed prior to the approval of the Master Plan. Staff recommended approval of the subdivision with conditions. The Planning Board unanimously recommended approval.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE PLAN; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**New Business 02 : Lee Smiley, Finance Director**

**Motion to approve capital project ordinance amendment for improvements at CaryApex Water Treatment Plant**

Staff explained that this amendment is for work that Cary is performing at the Treatment Plant.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE AMENDMENT; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**New Business 03 : Lee Smiley, Finance Director**

**Motion to approve a resolution authorizing the filing of an application with the Local Government Commission to issue refunding bonds**

Staff stated the Town would save money over the life of the remaining bonds through refunding.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE RESOLUTION; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE BOND ORDER; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**WORK SESSION**

There were no Work Session items.

**CLOSED SESSION**

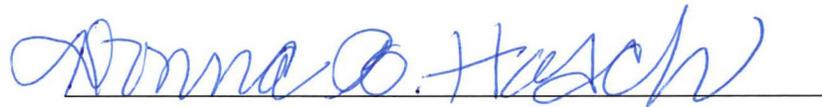
**Closed session to receive legal advice from the Town Attorney regarding potential litigation and to give direction regarding the same**

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO GO INTO CLOSED SESSION; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION TO RETURN TO OPEN SESSION. COUNCIL MEMBER JENSEN  
MADE THE MOTION; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

ADJOURNMENT

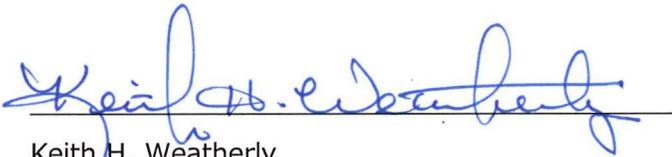
WITH THERE BEING NO FURTHER BUSINESS, MAYOR WEATHERLY CALLED FOR A MOTION TO ADJOURN.  
COUNCIL MEMBER JENSEN MADE THE MOTION; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.



Donna B. Hosch, CMC, NCCMC

Town Clerk

ATTEST:



Keith H. Weatherly

Mayor



## TOWN COUNCIL MEETING

TUESDAY, FEBRUARY 5, 2013

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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. Council Member Lassiter gave the Invocation. Mayor Weatherly led the Pledge of Allegiance.

### PRESENTATIONS

There were no presentations.

### CONSENT AGENDA

1. Approved Minutes of the January 15, 2013 Regular Meeting and the January 15, 2013 Closed Session (*Closed Session Minutes recorded separately*)
2. Approved the Apex Tax Report dated December 2, 2012
3. Approved Findings of Fact and Conclusions of Law for Eagle Rock Concrete Major Site Plan
4. Approved the Statement of the Town Council and Ordinance to Amend the Official Zoning District Map for Rezoning Case #12CZ14, Merion Investment Properties, LLC
5. Adopted a Resolution Directing the Town Clerk to Investigate Petition Received, accepted the Certificate of Sufficiency by the Town Clerk, and adopted a Resolution Setting Date of Public

Hearing on the Question of Annexation – Apex Town Council’s intent to annex Eagle Rock Concrete, property containing 9.6+ acres located at 500 Pristine Water Drive, Annexation #486, into the Town’s corporate limits

6. Approved a resolution entitled, “Resolution to Approve Settlement and Release of All Claims” in connection with the settlement of matters related to Holly Springs’ withdrawal from the Western Wake Regional Wastewater Partnership
7. Approved a budget ordinance amendment for City of Charlotte reimbursement for convention assistance and recreation grants for tennis court improvements

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

There were no changes or additions to the Agenda.

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

## PUBLIC HEARINGS

### **Public Hearing 01 : Lauren Simmons, Planner II**

**Continue Public Hearing and possible motion regarding a Land Use Plan Amendment from Very Low Density Residential to Office Employment and Rezone #12CZ13 from Rural Residential (RR) to Tech Flex-Conditional Zoning (TF-CZ). The subject property is approximately 14.2 acres generally located at 3232 US 64 Highway West and identified on Wake County Tax Maps as a portion of PIN# 0722-36-1604. This Public Hearing is continued from the January 15, 2013 Regular Council Meeting.**

Staff detailed the particulars of the location and reason for the rezoning request and 2025 Land Use Plan amendment. Neighbors contacted staff after the last Council Meeting with concerns that were passed along to the applicant. The applicant agreed to some use reductions and a revised condition on the fencing of the property. Staff recommends approval with stated conditions. The Planning Board recommended approval by a 5-2 vote with stated conditions. Staff did not hear reasons for the two votes against the rezoning.

Staff distributed a Use Table to Council. Mayor Pro Tempore Schulze stated he has a small relationship with one of the applicants, but this would not affect his decision nor does he have any financial stake in this issue. Buffer types on Goodwin Road were discussed.

Mayor Weatherly declared the Public Hearing open.

Barbara Hinkle, daughter of the land owners and speaking in favor of the request, gave a history of the land which has been in her family for 100 years. She is excited about those wanting to purchase the property, as she sees it as positive entertainment value for Apex. If the sale does not go through, her parents will need to sell their home.

Carl Helton, applicant and speaking in favor of the request, stated he and several other investors have been working with the developers, the Town Planning Department, Peak Engineering, and an entertainment-specific consulting firm in proposing a family adventure park. Amusement Entertainment Management has conducted a feasibility study, and is under contract to guide the developers through the project. Approximately 50 jobs will be created.

Some allowable uses were initially eliminated; four more were subsequently eliminated. The applicant has agreed to fence the property on the inner portion of the buffer and to leave any athletic fields unlit. The applicant understands there are neighbor concerns, most of which will be dealt with at the site planning review with decisions about US 64 being made with DOT and site plan issues based on the Town's UDO. The applicants are willing to work with the Town to ensure this will be a positive enhancement for the community.

Council questioned why a Type A buffer along Goodwin Road was not in the proposal, as was requested by Planning. The applicant stated that based on the definition of the buffer with fencing, it may qualify as it is but they don't have a problem doing a Type A buffer. Planning clarified that the site plan would require a Type D buffer which can only be required on the ETJ portion of the property.

Resident Mike Oakland stated he likes the idea of a commercial use on Highway 64. It seems appropriate, and he wants to see Apex residents spend their money in Apex. Dud Whitley reiterated that his parents would be forced to sell their home if this did not pass; he feels this would be something positive for the community.

Residents Clint Wagner, Lee Wagner, George Bickel, Leslie Kennedy, Don Fitzgerald, Don Bonnewell, Margaret Proctor, Donna Miller, Raymond Weeks, and Tim Royal spoke against the request with the following types of concerns: depletion of land conservation; inconsistency with the 2025 Land Use Plan; a high potential to cause water source and sewer problems; noise and light pollution; consequences if the use fails; having to drive to the next county to turn around if traveling westward; concerns about traffic; concerns about trespassing; installation of sidewalks along Hwy 64; lowering of the water table; and the desire to see DOT do an impact study.

Responding to Council, staff stated that DOT has looked at access along the entire corridor, specifically where it affects Apex. The long-term recommendation is for a service road. High traffic or any safety issues on Goodwin may cause DOT to limit traffic on 64. Long term means a 20 year range, but that could be accelerated if the road becomes a high priority for any reason. DOT did contact some property owners and conducted a public outreach as part of their study for US 64.

Staff indicated that wells and septic are permitted by Wake County. If the applicant doesn't have enough land to do permitting on the Apex side of the line, Wake County will not approve permitting on the County side. The applicant would then have to wait for Town water and sewer or the applicant would have to pay for bringing water and sewer to the property.

Responding to Council, staff stated that the applicant will be required to provide ample parking on site, which is on the Apex part of the land. If parking reaches 100 spaces, it will then require a quasi-judicial hearing and a traffic study would be triggered.

Mayor Weatherly declared the Public Hearing closed.

The Town Attorney pointed out that a valid protest petition was in place; therefore, approval would require a super majority vote by Council (4 votes in favor).

Council raised concern about the Standard that addresses "impact or protect or cause significant deterioration of water and air resources". The applicant stated a water study has not been done. If the request is not approved, then water and sewer will not be needed. The current resident on the

property has experienced no water problems from their well. Additionally, no irrigation is planned to the soccer fields unless Town water and sewer is obtained.

The Town Attorney reminded Council that expressions of intent by the applicant ought not to be considered if they are not made conditions of the rezoning. **The applicant stated they commit to the condition of not watering any athletic fields from the wells. The applicant also reiterated their commitment to the condition of a 10-foot Type A buffer along all of Goodwin Road except where there are access points into the parking lots.**

Council expressed agreement for the option that tech flex brings. However, thought should be given to roadways and traffic and safety studies. There is reservation that tech flex is feasible in an area where large capacity water is required and not present.

**The applicant also agreed to a third condition that the driveway belonging to Mr. Wilkins at 3228 US Highway 64 West which runs through the property would not be interfered with. There will be a 40-foot buffer, or whatever the UDO requires, between the eastern property line and the applicant's fence, planted outside the driveway.**

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE REZONING REQUEST WITH STAFF CONDITIONS AND WITH THE THREE ADDITIONAL CONDITIONS DISCUSSED THIS EVENING [ABOVE IN BOLD]. MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.

Council expressed concern about adversely impacting surrounding water. If not clarified, this request should not be approved. Staff stated that this property is in a basin where the water supply is difficult. Some of the wells in the area have gone dry. One property owner can affect the water of another property owner. This is not an easy issue. The applicant stated that the well on the property is over one thousand feet from the next well.

COUNCIL MEMBERS JENSEN, SCHULZE, AND LASSITER VOTED IN THE AFFIRMATIVE; COUNCIL MEMBERS ROWE AND OLIVE VOTED IN THE NEGATIVE. SINCE A SUPER MAJORITY VOTE WAS NEEDED TO CARRY, THE MOTION FAILED BY A 3-2 VOTE.

Mayor Weatherly called for a five-minute recess.

## OLD BUSINESS

**Old Business 01 : Tim Donnelly, Director of Public Works & Utilities**

**Review of the White Oak Creek Basin Sewer Facility Plans and the Impact of the Proposed Beckwith Property Pumping Station currently approved for construction by Toll Brothers**

Staff stated that prior to the Town knowing where pump stations should be or having the capacity to serve the area, Toll Brothers was approved to build a pump station in the upper portion of the basin, which was never planned to be the solution to sewer.

The US Army Corps of Engineers owns a portion of this area, they don't want sewer lines running through their property, and it is difficult to get permission to do so. The perfect location, therefore, would be a station down lower on the property. Cost would be about \$4 million to include gravity sewer line, force main, and pumping station. For Toll Brothers, they would spend with acreage fees roughly \$1.6 million to finish their project. Therefore, someone would need to make up the difference if the regional station was to be built and there would be a loss of time of about one year.

Meetings were held with the surrounding property owners. Even if the Town offers acreage fees, there would still not be enough money available today to make up the difference between what Toll Brothers would have to spend and to get a solution to serve the whole basin. If Toll Brothers is allowed to build and other pumping stations were also built, it would still cost about \$4 million. The operational cost for taxpayers would be \$50-\$60,000 more per year.

Acreage fees have not been raised in almost 20 years, so there is not much incentive to get people to do a regional solution. Staff will look at recommending a different model or raising acreage fees. Council will need to decide if the area will be mostly residential and how all the pieces will be built.

Staley Smith stated he has met with the landowners, and there is a great interest in the basin. There appears to be about a \$2.5 million gap that he hasn't been able to close. There may be an opportunity based on inquiries within the last 30 days, making this basin a fairly good risk in which to invest.

Mr. Margiotta stated a larger plant at the bottom of the basin is the best opportunity. Toll Brothers came before the Town of Apex years ago, and they have not yet acted on this properly. It is important for the land to be developed properly, which would take the larger station.

Staff stated there is some value of the pumps at Kelly Road by putting them back to work somewhere or sell them as salvage on the open market. There may also be an opportunity to look at this for

other basins. If acreage fees were applied to all areas to be developed, it would represent \$1.8 million. It would be difficult to break even at some point with the current acreage fees. Staff added that Toll Brothers is currently building infrastructure even though there are no guaranteed approvals. There is a pending subdivision that could be sewered now a number of ways. If a decision was made today to build the staff-suggested pump station, the Town would have to pay \$2.5 million and Toll Brothers would need to be willing to do their share.

**Old Business 02 : Ann Prince**

**Request by Ann Prince to allow family-owned property to be sewered by the Town of Cary**

Ms. Prince's family owns about 24 acres of property on Green Level West Road and Green Level Church Road. Her brother needs to sell his portion of land; however, he does not have sewer and his land will not perk. In 2007, Cary obtained an easement for a sewer line which covers the entire back of their properties which are completely dissected and surround by Cary sewer. Only about 14-16 acres of their land could be developed. Their request is for Apex to release their land to Cary in order that they be able to hook up to Cary's sewer line. A second option could be for Apex to release the land from Green Level West Road back to White Oak Creek and retain the remaining portion in the Apex ETJ. A third option could be an agreement that would allow them to use the Cary sewer line but they would be billed through Apex. Ms. Prince distributed a map to Council showing the sewer lines.

The Town Manager stated the property is on the Apex side of the jurisdictional boundary. Sewer is a problem here, but Council has taken a philosophical position in the past to not allow folks to be seated to Cary or another municipality. Ms. Prince has been before Council in the past with the same request, and she was told 'no'. We have set some precedent that differs from the long-held philosophy of the Town about how we deal with sewer on the wrong side of the boundary from where it flows. Staff will be happy to engage in conversation with Cary, taking direction from Council on this issue.

Public Works staff stated there is no water on this property until Toll Brothers is built. The easiest and cheapest way to develop the property would be in the Town of Cary with Cary water, although a lot of property owners out there could say the same thing. When Toll Brothers is built, there will be extra capacity in their pumping station; but a lot of people have interest in that extra capacity. Ms. Prince stated she has been given an estimate of approximately \$300,000 to be able to run sewer from Toll Brothers to their land depending where their pump station is to be located.

The Mayor stated Apex will need to consider what precedent granting this request will present. Toll Brothers made this same request in 2012 and other property owners could make the same request. Apex has opened this up once, but only because the land would have been undeveloped and there was a very high cost involved. Apex did not think this situation would arise again, and it does not want to make inconsistent decisions.

Responding to Council, staff stated the sewer line is there because Cary found the lowest point for their pumping station. It was supposed to be jointly owned as the pumping station for the White Oak basin. However, the partners could not agree on the issue because Cary did not want to build that far down in the basin and have it pump north for a long time until the regional plant was built. Apex did not see this as serving enough of its basin to invest in the station, so it went solely to Cary. Council did not see the logic in having both towns having services in the same spot. Staff felt like there could be discussions with Cary to readjust boundaries or to make trades.

Council questioned why this could not be solved for the use of the property owners. We could allow connections and enable cross-billing through Apex to Cary. If this would open the door for a few more properties, that would be preferable to start moving jurisdictional lines which have been set up to service some governing boundary process. Where the sewer goes is geography. If Apex ends up setting up more Interlocal agreements with Cary, then this is what we should do. Council stated if this approach is taken, we should first see how many properties would be involved on both sides of the fence.

Consensus from Council was to have staff look at opportunities for trade discussions with Cary over the next 30 days. Staff reminded Council that the boundary line has been adjusted on two occasions in order to provide water.

**Old Business 03 : Brendie Vega, Principal Planner**

**Old Business item originally heard on November 20, 2012. Applicant, Town Staff, and other basin property owners agreed to work together on a regional pump station proposal prior to returning to Town Council. Possible motion to approve a proposed new 19 lot subdivision adjacent to portions of the subdivisions formerly approved as *the Glen* and *Beckwith* (Phase 1).**

Staff refreshed Council's memory on the details of this request.

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

**Old Business 04 : Hank Fordham, Town Attorney**

**Possible motion to reconsider the vote taken on January 15, 2013 with respect to Public Hearing No. 02 amending the UDO. If the motion to reconsider is approved, possible motion to approve the amending ordinance attached hereto amending the UDO as provided therein.**

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO RECONSIDER THE JANUARY 15<sup>TH</sup> VOTE; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

The Town Attorney stated this would fill out the board plate in the Ordinance and improve the language in Section 5 on grandfathering.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE MODIFIED VERSION OF THE ORDINANCE; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**PUBLIC FORUM**

No one wished to speak during Public Forum.

**NEW BUSINESS**

**New Business 01 : Lee Smiley, Finance Director**

**Review of 2<sup>nd</sup> Quarter Financial Summary, Apex EMS revenues and expenditures, and Western Wake Wastewater Treatment Facility costs to date**

Staff covered the high points of the financial summary, indicating that property taxes are now being paid beginning in November, and sales taxes are 5% ahead of where we were a year ago. Building permits are exceeding projections. General Fund expenditures: most bond payments come up in May and June, and there is a transfer budgeted to go to the Recreation Fund. Utility Fund: electric sales and power are running about same as last year. Large transfers will be made in the future to the public works project. Water and sewer revenues are coming in very well. EMS revenues and

expenses: Wake County monies for December made a jump due to a provision for merit increases given to EMS employees, which was paid in a lump sum.

WWTP project update: the total for the project will be about \$82 million; at this point a little over \$35 million being spent. Staff reported that most of the \$900,000 settlement money will reimburse Cary for costs they have incurred.

WORK SESSION

There were no Work Session items for discussion.

CLOSED SESSION

There were no Closed Session items for discussion.

ADJOURNMENT

WITH THERE BEING NO FURTHER BUSINESS, MAYOR WEATHERLY CALLED FOR A MOTION TO ADJOURN.

MAYOR PRO TEMPORE SHCULZE MADE THE MOTION.

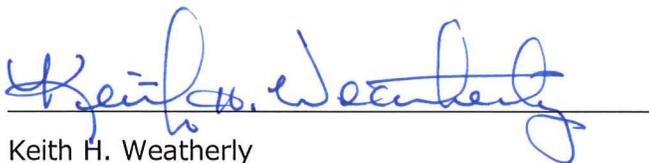
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.



Donna B. Hosch, CMC, NCCMC

Town Clerk

ATTEST:



Keith H. Weatherly

Mayor



## APEX TOWN COUNCIL MEETING

TUESDAY, FEBRUARY 19, 2013

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Henry C. Fordham, Jr., Town Attorney

The Regular Meeting of the Apex Town Council scheduled for Tuesday, February 19, 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 and gave the Invocation. Boy Scout Troop 209, who are sponsored by the Apex Lions Club, presented the colors and led the Pledge of Allegiance.

### PRESENTATIONS

Mayor Weatherly stated that the Presentation by the Apex Festival Commission would occur following the vote on the Consent Agenda.

#### **Presentation 01 : John Brown, Parks and Recreation Director**

**Presentation to Council by representatives of the US Tennis Association, USTA North Carolina, and Western Wake Tennis Association of grants totaling \$41,000 to aid in the restoration and repair of the tennis courts at Apex Community Park**

Staff addressed Council on the success of Parks and Recreation's partnerships with organizations over the years. Kelly Gaines, USTA North Carolina, gave a brief history on how monies come about and how they're distributed. Employee Carl Lyon was congratulated on his incredible work. Mayor Weatherly expressed his appreciation and accepted the \$41,000 check.

**Presentation 02 : Bruce A. Radford, Town Manager**

**Presentation from Clearscapes, Inc. regarding possible use of Tunstall House**

Staff gave a brief introduction on the growing need for a senior center. Fred Belledin and Steven Schuster of Clearscapes described the process by which their renderings and figures were formulated, highlighted by a pictorial presentation. Going through the stakeholder process, stakeholders were generally very supportive of what Clearscapes presented. The site plan review brought out challenges which were subsequently addressed. Three site options were presented and discussed, along with their respective cost comparisons – all falling into the low to high million dollar-plus range. Mayor Weatherly stated this center will be discussed during the upcoming budget process. He put out a call for community feedback.

**Presentation 03 : Dianne Khin, Planning Director; Lee Smiley, Finance Director; Kent Jackson, Engineering Director**

**Annual update/pre-Retreat information**

Staff described the subjects which will be discussed at the upcoming Retreat, which will include the population projection based on estimated growth rates, residential projects in various stages of completion, average assessed values to sales, the 2013 building and construction forecast, interesting stats from 2012, new construction permit totals, permit comparisons with other municipalities, projected construction values, projected fund balances, and outstanding bonded and non-bonded debt.

**CONSENT AGENDA**

1. Minutes of the February 5, 2013 Regular Meeting and the February 5, 2013 Personnel Committee Meeting
2. Apex Tax Report dated January 7, 2012
3. Personnel Committee recommendation of the addition of one full-time Code Enforcement Officer
4. Addition of the Harris Nuclear Plant SOG, as an appendix, to the Town of Apex Emergency Operations Plan and allow Town Manager Bruce Radford to sign acceptance page
5. Encroachment and Maintenance Agreement with Halle Building Group, LP and authorize the Town Manager to execute same
6. Street closings for 2013 Peak Fest and 2013 July 4<sup>th</sup> Celebrations
7. Resolutions providing for the sale and issuance of bonds

8. Temporarily advancing \$9,000 to the Service Memorial project to facilitate the \$18,000 contribution over two years from the Festival Commission

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

**Presentation 04 : Jeff Hastings, Chair, Apex Festival Commission**

**Presentation of an \$18,000 check to the Town Council for purchase of the clock planned for the Apex Service Memorial**

Mr. Hastings, new Chair of the Commission, gave a short history of the festival. There has been an upgrade in sponsorship, their having to turn away vendors who wished to participate this year. Mayor Weatherly expressed his appreciation and accepted the \$18,000 check.

**REGULAR MEETING AGENDA**

The Town Attorney requested an addition as New Business 01 regarding an easement abandonment as well as a Closed Session item regarding claims against Apex. Mayor Weatherly stated he wished to add New Business 02 as discussion of the 2013 Legislative Agenda.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER ROWE MADE THE MOTION TO APPROVE THE REGULAR MEETING AGENDA WITH THE ABOVE THREE ADDITIONS; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**PUBLIC HEARINGS**

**Public Hearing 01 : Dianne Khin, Planning Director**

**Adoption of an Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Eagle Rock properties containing 9.6+ acres located at 500 Pristine Water Drive – Annexation #486 into the Town’s corporate limits**

Staff presented a brief description the request; Planning recommends approval.

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

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

## OLD BUSINESS

There were no Old Business items for discussion.

## PUBLIC FORUM

No one wished to speak during Public Forum.

## NEW BUSINESS

### **New Business 01 : Hank Fordham, Town Attorney**

#### **Abandonment of Utility Easement on the 55 James Street Midtown Project**

Staff stated the Resolution would affect an abandonment of 0.299 acres of the property. Public Works supports the abandonment; it is not needed.

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

### **New Business 02 : Mayor Keith Weatherly**

#### **Discussion on the 2013 Legislative Agenda**

Council discussed items which were left over from 2012 as well as those items on the list for 2013.  
Mayor Weatherly welcomed the addition of any other items from Council.

Council wished to add two items: (1) supporting business-friendly legislation and job creation related to the tax code and regulatory reform; and (2) language that would encourage, protect, and enhance the best schools and seek solutions for improving the educational experiences of those being ill served. This would include public as well as charter schools. After discussion, Council agreed that these two issues do not fall under municipal responsibilities. Since they are primarily philosophical, they should be introduced to our legislators as resolutions.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER ROWE MADE THE MOTION TO APPROVE THE 2013 LEGISLATIVE AGENDA AS INITIALLY PRESENTED; COUNCIL MEMBER OLIVE SECONDED THE MOTION. THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

### WORK SESSION

There were no Work Session items for discussion.

### CLOSED SESSION

#### **Closed Session to discuss claims against Apex**

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

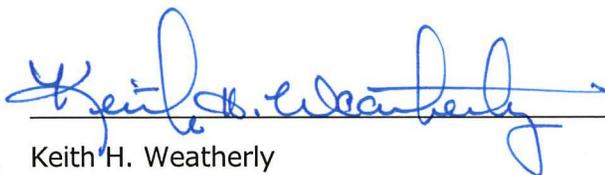
### ADJOURNMENT

WITH THERE BEING NO FURTHER BUSINESS, MAYOR WEATHERLY CALLED FOR A MOTION TO ADJOURN. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION; COUNCIL MEMBER ROWE SECONDED THE MOTION. THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.



Donna B. Hosch, CMC, NCCMC  
Town Clerk

ATTEST:



Keith H. Weatherly  
Mayor

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## APEX TOWN COUNCIL RETREAT

FRIDAY, MARCH 1, 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 Apex Town Council Retreat was held Friday, March 1, 2013, at 8:00 a.m. in the Training Room at Apex Town Hall, 73 Hunter Street

In attendance were Mayor Weatherly, Mayor Pro Tempore Schulze, and Council Members Rowe, Jensen, Olive, and Lassiter. Also in attendance were Town Manager Radford, Assistant Town Manager Wilson, Town Clerk Hosch, Town Attorney Fordham, PIO Galloway, Fire Chief Haraway, Police Chief Letteney, Facility & Fleet Services Director Mitchell, Finance Director Smiley, IT Director LaPiana, Parks & Recreation Director Brown, EMS Director Winstead, HR Director Green, Planning Director Khin, Engineering Director Jackson, Public Works Director Donnelly, and Assistant Fire Chief Maynard. Cultural Arts Center Manager Wood, Principal Planner Vega, Captain Gilbert, and Captain Stephens.

Mayor Weatherly called the Meeting to order and welcomed all those in attendance. Introductory remarks were made by Town Manager Bruce Radford, his stating that this Retreat's purpose was to develop strategic plans to better understand Council's goals, directives, and initiatives. Six decision points will be presented upon which it is hoped decisions will be able to be reached on this day.

Assistant Town Manager Mike Wilson presented "The Evolution of Apex", a history of values that have carried over through the years. Those values included the evolution of workforce development, building a better community, being fiscally careful, strategic additions of personnel, and investing in tomorrow.

David Long, independent consultant and facilitator, gave a brief self bio. His portion of the meeting, "How We Arrived At Today", will focus on the most important issues, needs, and opportunities identified by staff to be addressed in order to move the Town forward over the next five years. The five strategic priorities were presented: maintaining responsible revenue streams, investing in our infrastructure, developing our workforce, supporting our businesses, and maintaining our high quality

of life. Council discussed the language and ideology of the five priorities for clarity. The Plan will be revised and redistributed following this Retreat.

Staff presented information on each of the priorities, their goals, how they were formulated, and what they entail. The question, then, to Council was whether or not they wished to make decisions on this day regarding those priorities.

After discussion of each of the goals under Strategic Priority A: Maintain Responsible Revenue Streams, on Decision point 1: Consider adjustment of impact fees to make single-family residential pay a more proportionate share of costs, Council made no solid decision on raising impact fees. In addition, the grant writer position will be detailed and re-introduced to Council at a later date.

On Decision point 2: Research application of special assessments, there are statutes that apply to these. At this point, Council is not interested in pursuing special assessments.

After discussion of each of the goals under Strategic Priority B: Invest In Our Infrastructure, on Decision point 3: Create priority zone map to guide decisions and prepare cost estimates for extending utilities, Council consensus was that the current model which works within the facility plan is working well. In addition, critical needs will continue to be identified each year and then decision will be made as to whether or not they will be funded. At this point, Council doesn't feel that the current process for identifying and presenting needs is broken and should be fixed. Veridia is taking care of extending utilities, and the General Assembly has already been lobbied to ease interbasin transfer regulations. Cary will come to Apex with a greenway plan at some point in the future, and the parks and recreation master plan will be presented in April. Expanding/improving technology was discussed, particularly as it relates to Police and EMS, along with the Gig.U project.

The Retreat broke for a one-hour lunch.

After discussion of each of the goals under Strategic Priority C: Develop Our Workforce, on Decision point 4: Develop plan for town-wide training center, Council consensus was for staff to first see if the land behind Fire Station 3 can be secured from Wake County. Also needed is verification of access. A plan will then come back before Council. In addition, Council consensus was to continue focus on succession planning and on creating a staffing plan that provides for effective service level delivery.

After discussion of each of the goals under Strategic Priority D: Support Our Businesses, on Decision point 5: Develop Business Permit program to track local businesses, it was noted that the Chamber is in support of this initiative. Staff will come up with a cost estimate to implement such a program, including people, database, etc. There is not an interest in making a profit. Staff will determine if a list of Apex businesses can be placed on the Town website. In addition, Council was in support of the other aspects of this Priority which would help increase the non-residential tax base, build infrastructure as a tool for economic development, and create a more supportive environment for business.

After discussion of each of the goals under Strategic Priority E: Maintain Our High Quality of Life, on Decision point 6: Develop and carry out fire station facility plan as part of CIP process, Council consensus was to go with the alternate site instead of the currently proposed site for this station; the design for this station can be planned for this year. In addition, staff stated that software applications are being looked at which would be able to provide better avenues for citizen interaction. Public safety impact fees will not be addressed at this point. The benchmarking study is due out shortly.

There was Council consensus on many staff initiatives. However, Council has not endorsed the full Plan. There needs to be at least a 3-5 year plan in order to see what's ahead and give opportunity to add, delete, or move items within the plan as well as being able to determine if any other items need to be added as strategic priorities. Police are now looking at future staff growth as a result of population growth. Right now recreation is doing well, although the master plan may show a need for more park space. The Town should continue to maintain its current buildings, looking at anything that needs to be incorporated to meet energy efficiencies, capacity, maintenance, technology needs, systems, etc. These things should also be on the list.

Town Manager Radford confirmed that this is a living document. Expressed was his appreciation to everyone for this day. This is an extremely well-run organization by a dedicated group of employees, and we're proud of our level of services.

Facilitator Long stated this process was very constructive. This is a very professional, courteous, and considerate group of people with whom he has enjoyed working.

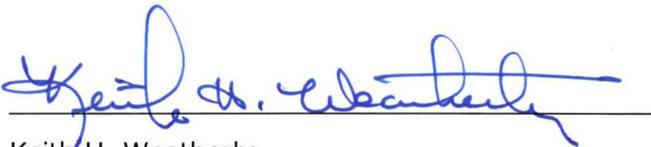
ADJOURNMENT

WITH THERE BEING NO FURTHER BUSINESS, MAYOR WEATHERLY ADJOURNED THE MEETING.



Donna B. Hosch, CMC, NCCMC  
Town Clerk

ATTEST:



Keith H. Weatherly  
Mayor



# APEX TOWN COUNCIL MEETING

TUESDAY, MARCH 5, 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, March 5, 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; Mayor Weatherly led the Pledge of Allegiance.

## PRESENTATIONS

### **Presentation 01 : Apex Downtown Business Association**

The Apex Downtown Business Association will be in attendance to present a check for \$3,600 to the Town Council towards the purchase of the brick seat wall planned for the Apex Service Memorial. Blaine East and JC Knowles presented the check to Mayor Weatherly, stating that the memorial will be nice in downtown. The Mayor accepted the check and expressed his appreciation for all of the Association's efforts.

### **Presentation 02 : Mike Sayers, Apex American Legion Post #124**

Mike Sayers, Post Commander for the Apex American Legion Post #124, will be in attendance to present a check for \$4,000 to the Town Council towards the Apex Service Memorial

Mike Sayers and JC Knowles presented and Mayor Weatherly accepted their check. Both gentlemen expressed strong feelings that the memorial will be a good centerpiece for the Town.

## CONSENT AGENDA

1. Motion to approve Minutes of the February 19, 2013 Regular Meeting
2. Motion to set Public Hearing for the March 19, 2013 Town Council Meeting regarding Rezone #13CZ03, 924 Center Street Rezone, MORR-CZ to MORR-CZ, changing conditions to add the use retail general
3. Motion to set Public Hearing for the March 19, 2013 Town Council Meeting regarding Rezone #13CZ02, 103.6 acres generally located at Milano Avenue, between Vincenza Drive and Mt. Zion Church Road from Planned Unit Development-Conditional Zoning to Planned Unit Development-Conditional Zoning Revision to the Development Requirements for Public Access Routes
4. Motion to set Public Hearing for the March 19, 2013 Town Council meeting regarding various amendments to the Unified Development Ordinance
5. Motion to authorize Town Manager to negotiate, approve, and enter into on behalf of the Town a professional services agreement with Martin/Alexiou/Bryson, P.C., to provide public involvement events, environmental documentation, traffic signal designs, traffic signal timing plans, property surveys, and appraisal services for the NC 55 Corridor Improvements Project designated TIP No. U-5118 AC, which includes constructing turn lanes on Hughes St. and extending a travel lane on NC 55 at Apex Peakway, and to authorize the Town Manager to execute same
6. Motion to approve professional services agreement with Martin/Alexiou/Bryson, P.C., to provide public involvement, environmental documentation, traffic signal designs, property surveys, and appraisal services for Laura Duncan Multi-Use Path TIP No. EL-5100 DD, from US 64 to Apex Community Park, and authorize Town Manager to execute same
7. Motion to approve Amendment No. 1 To Interlocal Agreement For Interim Cost Sharing And Capacity Allocation Related To The Western Wake Regional Wastewater Management Facilities
8. Motion to enact a Resolution approving the official Unified Development Ordinance book retained permanently in the office of the Town Clerk as the official codification of the Town's zoning, subdivision and planning ordinances and adopting and issuing the replacement pages inserted therein since the last codification
9. Motion to approve a request for street closings from the St. Mary Magdalene Church's Committee for the 6<sup>th</sup> Annual Monarchs in Motion 5K Run/Walk on Saturday, May 11, 2013 in the Scotts Mill subdivision

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

## REGULAR MEETING AGENDA

There were no requested modifications to the Regular Agenda.

## PUBLIC HEARINGS

There were no Public Hearings to be heard.

## OLD BUSINESS

### **Old Business 01 : Matt Kirkpatrick/Mitch Sanner, III**

#### **Request by Matt Kirkpatrick and Mitch Sanner, III to add 10 Additional Acres to the Colvin Park Subdivision Sewer Agreement**

Mr. Kirkpatrick stated these additional acres will accommodate up to 50 new homes in the northeast quadrant of the site. There is no other way the property can be serviced.

Mr. Kirkpatrick, responding to questions from Council, stated that parks and rec fees would be the same as previously as fee in lieu since the land doesn't tie into the park system. The total cost for sewerage would be in the \$7-8,000 range. The project is tracking to start construction this quarter.

Concern from Council was that tacking on tracks to other kinds of devices would push further away from getting a central solution for the area, staff stating this is a reasonable concern. Monies spent sewerage another way are monies being taken away from the regional solution. It was not conceived that the original project would grow in size. Council stated it is in the Town's best interest to add the extra acreage, especially since the Town would probably not kick in any money to grow the area with single family homes. Staff stated that while the Middle Creek Basin has opportunities for good commercial potential, this particular draw is more residential and would have no impact on utility usage.

The Town Attorney stated that this request would require formal amendment to the Alternative Sewer Connection Agreement and to the Interlocal Agreement with Cary. If Cary doesn't agree to serve the additional capacity, then Council would not be in a position to grant the request from Mr. Kilpatrick.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE AMENDMENTS TO THE ALTERNATIVE SEWER CONNECTION AGREEMENT AND TO THE INTERLOCAL AGREEMENT TO ALLOW THE DEVELOPER TO ADD THE ACREAGE AS DESCRIBED ON THIS EVENING ON THE CONDITION THAT THE TOWN OF CARY APPROVES THE CHANGE IN THE TRANSACTIONS BEFORE THE TOWN OF APEX SIGNS OFF ON THEM, AND TO AUTHORIZE THE TOWN MANAGER TO EXECUTE THE NECESSARY AGREEMENTS TO ACCOMPLISH THIS. COUNCIL MEMBER OLIVE SECONDED THE MOTION.

Mayor Pro Tempore Schulze stated he is opposed to this request for the same reasons that he was opposed to the original request, this setting a precedent. Council Member Jensen stated he feels the same.

COUNCIL MEMBERS LASSITER AND OLIVE VOTED IN THE AFFIRMATIVE; COUNCIL MEMBERS SCHULZE, JENSEN, AND ROWE VOTED IN THE NEGATIVE. THE MOTION FAILED BY A 3-2 VOTE.

## PUBLIC FORUM

Graham Wilson, Director of the Chamber of Commerce, stated that he distributed to Council the new Apex Magazine, an annual publication for those wishing information on Apex as well as considering moving to the area.

## NEW BUSINESS

### **New Business 01 : Tim Donnelly, Public Works Director**

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

The Town Attorney requested to go into Closed Session to discuss legal issues related to this request.

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

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

Staff, on advice of Council and considering the difficulty bidders encountered in completing all the documents accurately, requested that all bids be rejected and that the project be re-advertised.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER OLIVE MADE THE MOTION TO REJECT ALL BIDS AND HAVE THE PROJECT RE-ADVERTISED; COUNCIL MEMBER LASSITER SECONDED THE MOTION. THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

## WORK SESSION

There were no Work Session items for discussion.

## CLOSED SESSION

### **Closed Session to discuss with the Town Attorney potential litigation and to receive legal advice**

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

BASED ON DISCUSSION WITH TOWN COUNCIL, MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE A RESOLUTION AUTHORIZING EMINENT DOMAIN PROCEEDINGS RELATED TO THE MT. ZION ROAD ELECTRIC LINE PROJECT FOR THE IMPROVEMENT OF THE APEX ELECTRICAL SYSTEM AND TO APPROVE A RESOLUTION AUTHORIZING EMINENT DOMAIN PROCEEDINGS RELATED TO THE HWY 64 ELECTRIC LINE PROJECT FOR THE IMPROVEMENT OF THE APEX ELECTRIC SYSTEM; COUNCIL MEMBER LASSITER SECONDED THE MOTION. THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

MAYOR PRO TEMPORE SCHULZE, AS PROFESSIONAL COURTESY TO COUNCIL MEMBER LASSITER, CALLED FOR A MOTION TO RECONSIDER OLD BUSINESS 01 : MATT KIRKPATRICK/MITCH SANNER, III - REQUEST BY MATT KIRKPATRICK AND MITCH SANNER, III TO ADD 10 ADDITIONAL ACRES TO THE COLVIN PARK SUBDIVISION SEWER AGREEMENT; COUNCIL MEMBER LASSITER SECONDED THE MOTION. THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

Council Member Lassiter stated he felt Council made a hasty decision on this request. Mr. Kirkpatrick seemed to have more to say but was not given an opportunity to do so.

Mr. Kirkpatrick stated Cary is fine with this request as long as the same process for the revision made to the last Interlocal agreement is followed. This is in process now. The capacity to serve the area is there. With or without the additional 10 acres, the project is going forward, with hopes of breaking ground by the end of this month. A utility line will be stubbed to the property, as required.

Because of the way the project is being served, Mr. Kirkpatrick did not understand why the request is being negated by Council. Capacity fees are being paid, which will increase with more homes, even though Apex's plant will not initially serve this project. Other respective fees will also be paid. The activity currently in the Basin is being driven by this project. Eventually the market place will find a way to bring a gravity line to this property. The capital is in motion, the project is going forward, monies are going to be spent on the infrastructure. Mr. Kirkpatrick asked for reconsideration of Council's initial vote.

Council stated Mr. Kirkpatrick has asked for concessions in the past which have been granted. The Town will service this area with police coverage and garbage collection; and with the economy scale, these things becomes less expensive with 200 homes vs. 150 homes. 200 homes would be more beneficial to Apex because of the extra tax revenue. Council should look at this as if it was the first time looking at the project.

Council wants to discourage cross agreement connections to Cary. In the initial agreement, the Town was in favor of this if Cary was in favor; but that agreement was only for the initial development. The Town did not initially commit to increasing Mr. Kirkpatrick's full sewer capacity. The fear is that adding acres will continue. When does Apex make a cut off seeing as the Town wants to get a regional solution for the area at some point in the future? A strong signal needs to be sent that the end is here – if this is approved, then there will be no more additions or modifications to the agreement. Mr. Kirkpatrick stated there are no other pieces of the property to be developed.

Staff stated that a regional solution is preferred. The hope is that a developer gets enough critical mass on raw land that is for sale that can justify their investment in the bigger solution. Another developer is now trying to figure out how to sewer his property. His feeling is that if he can't get someone to help solve his problem, then what would the Town think about moving the pump station so he can pump to Cary? Council stated if we open the door for these ten acres, then it may cause a steamroll effect. Staff stated Mr. Kirkpatrick is required to stub a gravity line because the Town

intends to sewer the property with a system that benefits the Town. Council stated the Town has heard from another developer trying to figure out a way to extend onto what Mr. Kirkpatrick is already doing.

The question is where to draw the line - after adding 50 homes or after fulfilling the original commitment. Staff explained the flow in the basin, Mr. Kirkpatrick stating that there is a State minimum that had to be filled with the size of the pipes. In relation to fee adjustments and regulations because of this new piece of property, the Town Attorney stated park and rec fees cannot be charged greater than fair market value at the time the project was submitted. Presumably, the fair market value of the 10 acres would be judged based on recent appraisals, if Mr. Kirkpatrick exercises his right to appeal from the standard fee. However, it cannot be known at this point if the market value would be higher than the original project market values. Mr. Kirkpatrick can be required, through contract amendment, to apply these fees.

WITH THE POTENTIAL FOR COUNCIL OPINION TO BE CHANGED WITH CLARIFICATION OF ISSUES, MAYOR WEATHERLY CALLED FOR A MOTION TO CONTINUE THIS REQUEST TO THE NEXT REGULARLY SCHEDULED MEETING [MARCH 19, 2013].

COUNCIL MEMBER LASSITER MADE THE MOTION; COUNCIL MEMBER OLIVE SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

## ADJOURNMENT

WITH THERE BEING NO FURTHER BUSINESS, MAYOR WEATHERLY CALLED FOR A MOTION TO ADJOURN.

COUNCIL MEMBER OLIVE MADE THE MOTION; COUNCIL MEMBER LASSITER SECONDED THE MOTION.

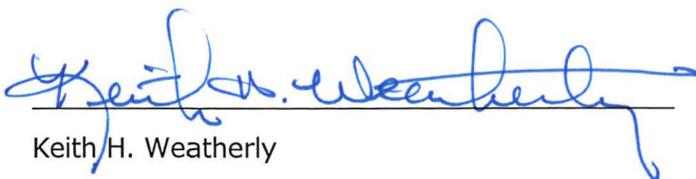
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.



Donna B. Hosch, CMC, NCCMC

Town Clerk

ATTEST:



Keith H. Weatherly

Mayor

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## TOWN COUNCIL MEETING

TUESDAY, MARCH 19, 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, March 19, 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 Assistant Town Attorney Laurie Hohe. Absent was Town Attorney Henry C. Fordham, Jr.

### COMMENCEMENT

Mayor Weatherly called the Meeting to order; visiting Commissioner Calvin Harris, Jr. gave the Invocation; Mayor Weatherly led the Pledge of Allegiance.

### PRESENTATIONS

#### **Presentation 01 : Mayor Keith Weatherly**

#### **Presentation of a Proclamation to the Peak City Exchange Club of Apex, Nancy Wakeley accepting, proclaiming the month of April 2013 as National Child Abuse Prevention Month**

Mayor Weatherly recognized Nancy Wakeley, President of the newly-formed Peak City Exchange Club, and presented her a Proclamation proclaiming the month of April as National Child Abuse Prevention Month. Ms. Wakeley gave an overview of the organization and noted upcoming events.

In addition, Council Member Lassiter recognized Oxford City Commissioner Calvin Harris, Jr. and Pamela Criswell, all of whom are in the same graduate program at NCCU. Both were presented with tokens of appreciation.

## CONSENT AGENDA

1. Motion to approve Minutes of the February 27, 2013 Economic Development Committee Meeting, the March 1, 2013 Annual Council Retreat, the March 5, 2013 Regular Meeting, and two Closed Sessions from the Regular Meeting held on March 5, 2013 (*Closed Session Minutes recorded separately*)
2. Motion to approve a Resolution In Support of the Proposed West Apex High School
3. Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting Date of Public Hearing on the Question of Annexation - Apex Town Council's intent to annex Colvin Park, property containing 63 ± acres located at Stephenson Road, south of Smith Road, Annexation #487, into the Town's corporate limits at the April 2, 2013 Regular Meeting
4. Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting Date of Public Hearing on the Question of Annexation - Apex Town Council's intent to annex Green Olive Investments, LLC (Covington Subdivision), property containing 28.34 ± acres located at 1928 Olive Chapel Road, Annexation #488, into the Town's corporate limits at the April 2, 2013 Regular Meeting
5. Motion to allow Town Manager to sign Cooperative Equipment Agreement between the Town of Apex and NC Department of Agriculture/NC Forest Service for receipt of AM General Wildland Firefighting vehicle
6. Motion to approve contract award to Carolina Video Security to provide secure access components and labor to the Public Works project for all three buildings
7. Motion to approve contract for audit for the fiscal year ending June 30, 2013

Town Manager Radford noted that there was, at the request of Council, a modification made to one sentence in the Minutes from the March 1<sup>st</sup> Retreat.

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

## REGULAR MEETING AGENDA

There were no requested modifications to the Regular Agenda.

## PUBLIC HEARINGS

### **Public Hearing 01 : Lauren Simmons, Planner II**

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

Staff detailed the ten requested amendments.

Mayor Weatherly declared the Public Hearing open.

Tommy Drake, Drake Commercial Properties, voiced support for the changes. Stewart Jones, 221 N. Salem Street, stated he hates to lose the 2% reduction in relation to PUDs and would like to see standards applied. He complimented the beautiful buffers and supports the MOOR district allowing general retail.

Staff, in responding to Council, clarified lot sizes in low and medium density areas, units/acre, and wetlands. The 2% reduction on the PUDs was clarified by staff, stating that specific criteria should be provided. This, therefore, will be taken out of the amendments for more work and then brought back to Council.

Mayor Weatherly declared the Public Hearing closed.

Council stated it also wished more consideration of #4.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE  
THE AMENDMENTS REMOVING NUMBERS 1, 4, AND THE FIRST SENTENCE  
OF NUMBER 10; COUNCIL MEMBER OLIVE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

The Mayor took a moment to brief Council and the audience on new legislature, House Bill 150, assuring that Apex will continue to have the high building standards that the community expects. The Legislature is trying to take away this authority from municipalities which would allow low rent builders to come in and do what they want to do. The Bill is wrong-headed and on a fast track. The Mayor urged the audience to contact their Legislators quickly on this Bill.

### **Public Hearing 02 : Lauren Simmons, Planner II**

**Public Hearing and motion regarding Rezone #13CZ02, 103.6 acres generally located at Milano Avenue, between Vincenza Drive and Mt. Zion Church Road from Planned Unit Development-Conditional Zoning to**

**Planned Unit Development-Conditional Zoning Revision to the Development Requirements for Public Access Routes**

Staff presented an overview of what the developer has requested in relation to road paving.

Mayor Weatherly declared the Public Hearing open.

Stewart Jones, Jones and Crossen, explained what has been done to get Mt. Zion Church Road paved. They have worked with DOT on this after obtaining ROWs.

Mayor Weatherly declared the Public Hearing closed.

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

**Public Hearing 03 : Lauren Simmons, Planner II**

**Public Hearing and motion regarding Rezoning #13CZ03, 924 Center Street Rezone, MORR-CZ to MORR-CZ, changing conditions to add the use retail general. The subject property is approximately 0.28 acres identified on Wake County Tax Maps as PIN 0742-80-5251**

Staff overviewed the request, stating this piece of property has been rezoned in the past. Staff and the Planning Board unanimously recommend approval.

Mayor Weatherly declared the Public Hearing open.

Stewart Jones stated this works well for the current bike shop.

Mayor Weatherly declared the Public Hearing closed.

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

At this point, Mayor Weatherly asked for a Closed Session at the conclusion of the Regular Agenda to receive legal advice from the Town Attorney.

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

## OLD BUSINESS

### **Old Business 01 : Tim Donnelley, Public Works Director**

#### **As continued from the March 5, 2013 Regular Meeting, request by Matt Kirkpatrick and Mitch Sanner, III to add 10 Additional Acres to the Colvin Park Subdivision Sewer Agreement**

Mr. Kirkpatrick stated he has conferenced with the owner of the properties. He introduced Mr. Sanner, the Divisional President of Orleans Homes, owners of the property. They are comfortable with this request being the first and last time that they increase the GPA allotment, their not coming back to Council for inclusion of an additional property. They are willing to commit to the standard rec fees for the additional ten acres, which will be about \$150,000.

Staff stated that the homes will not be approved unless there is adequate sewer capacity. Also, the owners will have to renegotiate their agreement with Cary and then their agreement with Apex and Cary. Mr. Sanner stated submittal will take place sometime after July 1<sup>st</sup>, this then falling under the expected increase in residential acreage fees in the new budget.

Council Member Rowe explained his reasoning for rethinking his initial negative vote. Council Member Jensen stated he would not change his initial vote. This continues to send out a bad message, and it is a mistake to continue down this path.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER OLIVE MADE THE MOTION TO APPROVE THE REQUEST BASED ON REC FEES BEING INCLUDED WITH NO APPEALS AND AMENDING THE ALTERNATIVE SEWER CONNECTION AGREEMENT BETWEEN APEX AND COLVIN AND THE INTERLOCAL AGREEMENT FOR THE PROVISION OF SERVICES FOR COLVIN PARK SUBDIVISION BETWEEN APEX AND CARY AND AUTHORIZING THE TOWN MANAGER TO EXECUTE SAME; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
COUNCIL MEMBERS LASSITER, OLIVE, AND ROWE VOTED IN THE AFFIRMATIVE; COUNCIL MEMBERS JENSEN AND SCHULZE VOTED IN THE NEGATIVE.  
THE MOTION CARRIED BY A 3-2 VOTE.

## PUBLIC FORUM

Matthew Myers of 1200 E. Williams Street presented his dream of starting a business. He, his business partner, and other business owners on Williams Street have had a difficult time with sign Ordinances in Section 22-102 through 22-110. They ask that these ordinances be amended, specifically addressing signage that would direct more foot and vehicle traffic to their locations. The landlord has refused to place a common sign at the road, and Mr. Myers asked for permission to display a 26 square foot portable sign, i.e., a standard flag measuring 13 feet by 2 feet.

Mayor Weatherly asked that staff look into this to determine if there could be a business friendly solution for these businesses. Staff stated that signs could be erected by the property owner, and confirmed that the owner has elected not to do so. A sign at the road would not be allowed, and a directory sign can't have 22 businesses on it. No one would build a shopping center like this today because it is not viable. Staff has looked at this in the past and is unaware of a way to fix this for this one shopping center.

## NEW BUSINESS

### **New Business 01 : June Cowles, Senior Planner**

#### **Motion approving Salem Village Phase 2C Master Subdivision Plan Amendment for the properties located south of South Salem Street and west of Tingen Road containing 28.8 acres and 67 lots**

Staff detailed the request of the applicant, which is consistent with the Transportation Plan. Staff and the Planning Board recommend approval.

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

### **New Business 02 : Lauren Simmons, Planner II**

#### **Motion approving Bristol Walk – Master Subdivision Plan for the property located at 1836 Olive Chapel Road containing 5.36 acres and 38 lots**

Staff oriented Council to the site which is consistent with the Land Use Plan. The applicant has worked with staff to preserve old pecan trees on the property. Staff and the Planning Board recommend approval.

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

## CLOSED SESSION

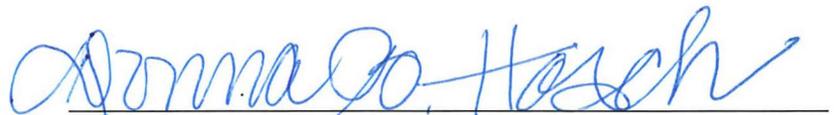
### **Closed Session to receive legal advice from the Town Attorney**

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

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

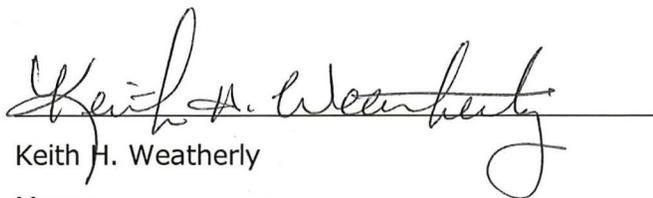
## ADJOURNMENT

WITH THERE BEING NO FURTHER BUSINESS, MAYOR WEATHERLY CALLED FOR A MOTION TO ADJOURN.  
COUNCIL MEMBER ROWE MADE THE MOTION; COUNCIL MEMBER OLIVE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.



Donna B. Hosch, CMC, NCCMC  
Town Clerk

ATTEST:



Keith H. Weatherly  
Mayor

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## TOWN COUNCIL MEETING

TUESDAY, APRIL 2, 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 2, 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, gave the Invocation, and led the Pledge of Allegiance.

### PRESENTATIONS

There were no presentations.

### CONSENT AGENDA

1. Motion to approve Minutes of the March 19, 2013 Regular Meeting, the March 19, 2013 Closed Session (*Closed Session Minutes recorded separately*), and the March 25, 2013 Economic Development Committee Meeting
2. Motion to approve the Apex Tax Report dated 02/04/2013
3. Motion to transfer Lots No. 2, 4, 6, and 8 in Plot A of the S. S. Rogers Sections of the Apex Town Cemetery
4. Motion to re-convey Lot 209 Plot K in the Apex Town Cemetery to the Town of Apex
5. Motion to re-convey Lot 17 Plot C in the Apex Town Cemetery to the Town of Apex

6. Motion to approve the Statement of the Town Council for Rezoning Case #12CZ13, Benjamin Whitley
7. Motion to set a Public Hearing for the April 16, 2013 Town Council meeting regarding various amendments to the Unified Development Ordinance
8. Motion to adopt a resolution in support of Parks and Recreation Trust Fund

Attorney Fordham requested that the item "Motion to approve a Resolution approving Amendment No. 1 to Interlocal Agreement for Interim Cost Sharing and Capacity Allocation Related to the Western Wake Regional Wastewater Management Facilities, which will allocate the settlement payment from Holly Springs and allocate past and future costs of the ongoing partners" be removed and discussed as Old Business 01.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO ACCEPT THE CONSENT AGENDA WITH THE MODIFICATION AS STATED; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

## REGULAR MEETING AGENDA

Attorney Fordham asked for a Closed Session with the purpose being "to consult with the Town Attorney to preserve the attorney/client privilege". Council Member Jensen requested a Closed Session to discuss annexation, and Attorney Fordham requested a Closed Session prior to Old Business 01.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE REQUESTED CLOSED SESSIONS; 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 Parker & Orleans Homebuilders, Inc. properties containing 63 ± acres located off Stephenson Road, east of Timpani Trail and north of Satori Way, Annexation # 487, into the Town's corporate limits**

Staff oriented Council to the site, stating that Planning approves the annexation.

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 APPROVE THE ANNEXATION; COUNCIL MEMBER LASSITER SECONDED THE MOTION. COUNCIL MEMBERS OLIVE, LASSITER, SCHULZE, AND ROWE VOTED IN THE AFFIRMATIVE; COUNCIL MEMBER JENSEN VOTED IN THE NEGATIVE. THE MOTION CARRIED BY 4-1 VOTE.

**Public Hearing 02 : Dianne Khin, Planning Director**

**Public Hearing and motion to adopt an Ordinance on the Question of Annexation – Apex Town Council's intent to annex Green Olive Investments, LLC properties containing 28.34 ± acres located 1928 Olive Chapel Road, Annexation #488, into the Town's corporate limits**

Staff oriented Council to the site, stating that Planning recommends the annexation.

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 JENSEN MADE THE MOTION TO APPROVE THE ANNEXATION; COUNCIL MEMBER ROWE SECONDED THE MOTION. THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**OLD BUSINESS**

**Old Business 01**

**Motion to approve a Resolution approving Amendment No. 1 to Interlocal Agreement for Interim Cost Sharing and Capacity Allocation Related to the Western Wake Regional Wastewater Management Facilities, which will allocate the settlement payment from Holly Springs and allocate past and future costs of the ongoing partners**

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

COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE RESOLUTION WITH THE UNDERSTANDING THAT STAFF HAS FURTHER DISCUSSIONS ABOUT PAYMENT REPRESENTED IN ITEM NUMBER TWO; COUNCIL MEMBER

ROWE SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

## PUBLIC FORUM

Matthew Myers of 1200 E. Williams Street, who addressed Council at the previous Meeting, stated he'd done more research on the placing of banners to help attract customers to businesses in his area. Because of the configuration of the shopping area, banners are needed to help draw customers to the businesses there. This would be for businesses 200 feet from the DOT right of way and would require a 26 square foot change in the Ordinance. They are asking for only one banner per business, this excluding businesses with signs at the road or inside the 200 foot limit. The businesses would agree to pay a fee for the banners. Mr. Myers explained the difficulties of making rent payments if the businesses can't attract customers.

Mayor Weatherly asked the Planning Director and Town Attorney to work together to determine if banners could be allowed. Council briefly discussed portable signage, signage on private property, criteria for businesses that don't face the street, and the need to be fair to all businesses across the board. Mr. Myers stated Burger King had out such a banner, the Town Manager stating the Town was unaware of this and the banner would gone the next day.

Citizen Craig Laudau stated Mr. Myers does great work as a tattoo artist and explained that all kinds of people are getting tattoos for all kinds of reasons. He expressed his desire to see Mr. Myers succeed as much as those small businesses on Salem Street.

## NEW BUSINESS

**New Business 01 : Lee Smiley, Finance Director**

**Motion to approve budget ordinance amendment and project ordinance amendments for recreation bonds, refunding bonds, and improvements at the water treatment plant**

Staff summarized the purpose of the request. Improvements at the water treatment plant will be done by Cary.

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.

**New Business 02 : Mayor Keith Weatherly**

**Appointments and reappointments to the Board of Adjustment, Planning Board, and Parks, Recreation,  
and Cultural Resources Advisory Board**

Mayor Weatherly requested the following appointments and reappointments:

Board of Adjustment

- Reappoint Craig Hardee as Chair, with a Chair term to expire December 31, 2013

Planning Board

- Reappoint David Hooks to the Board with a term to expire December 31, 2015 and appoint Mr. Hooks as Chair, with a term to expire December 31, 2013
- Appoint Tommy Morgan to the Board with a term to expire December 31, 2015 and appoint Mr. Morgan as Vice Chair, with a term to expire December 31, 2013
- Reappoint Mike Marks to the Board with a term to expire December 31, 2015
- Reappoint Lisa Carley to the Board with a term to expire December 31, 2015

Parks, Recreation, and Cultural Resources Advisory Board

- Appoint Charles Wilkins, Jr. to the Board with a term to expire May 31, 2015

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

CLOSED SESSION

Closed Session to consult with the Town Attorney to preserve the attorney/client privilege.

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

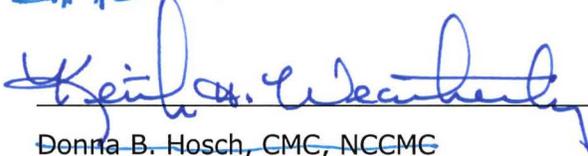
WORK SESSION

There were no Work Session items.

ADJOURNMENT

WITH THERE BEING NO FURTHER BUSINESS, MAYOR WEATHERLY CALLED FOR A MOTION TO ADJOURN.  
COUNCIL MEMBER ROWE MADE THE MOTION; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

ATTEST:



Donna B. Hosch, CMC, NCCMG

Town Clerk

KEITH H. WEATHERLY  
MAYOR

ATTEST:



Keith H. Weatherly  
Mayor

DONNA B. HOSCH, CMC, NCCMG  
TOWN CLERK



## 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.

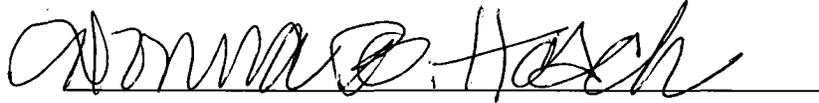
MAYOR WEATHERLY CALLED FOR A MOTION TO RETURN TO OPEN SESSION.  
MAYOR PRO TEMPORE SCHULZE MADE THE MOTION; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

## WORK SESSION

There were no Work Session items.

ADJOURNMENT

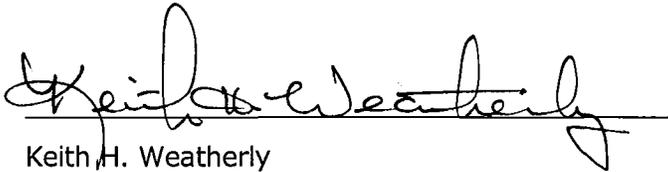
WITH THERE BEING NO FURTHER BUSINESS, MAYOR WEATHERLY CALLED FOR A MOTION TO ADJOURN.  
MAYOR PRO TEMPORE SCHULZE MADE THE MOTION; THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.



Donna B. Hosch, CMC, NCCMC

Town Clerk

ATTEST:



Keith, H. Weatherly

Mayor



## TOWN COUNCIL MEETING

TUESDAY, MAY 7, 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, May 7, 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 and gave the Invocation. Scout Troup 205 from Olive Chapel Baptist Church presented the colors and led the Pledge of Allegiance.

### PRESENTATIONS

#### **Presentation 01 : Mayor Keith Weatherly**

Mayor Weatherly read and presented a Proclamation Proclaiming May 12-18, 2013 as National Police Week to Police Chief John Letteney. Several members of the Police Department were in attendance.

#### **Presentation 02 : Principal Burt Batten**

##### **Recognition of Laurel Park Elementary School students by Principal Burt Batten**

Principal Batten introduced and congratulated students Rythym Bhatia, Sofia Davidson, and Madison Foley for helping to organize students for wellness and health choice initiatives at the school. Laurel Park is one of nine schools to earn a 2012-2013 Brains and Bodes Award from Advocates for Health in Action, earning them a silver award.

Human Resources Director Eleanor Green announced that Apex was a part of the BCBS Fitness Challenge and that the Town came in first, winning us \$5,000 to go towards our Wellness Program.

## CONSENT AGENDA

- Consent 01 Minutes of the April 16, 2013 Regular Council Meeting; Minutes of the April 18, 23, and 29, 2013 Personnel Committee Meetings; Minutes of the April 8, 2013 Economic Development Committee Meeting; and Closed Session Minutes from the April 2 and April 16, 2013 Regular Council Meeting (*Closed Session Minutes Recorded Separately*)
- Consent 02 Public Hearing for the May 21, 2013 Town Council Meeting regarding a Rezone and 2025 Land Use Amendment #13CZ01, 2.6 acres located at the end of Maya Court from Planned Commercial to Light Industrial Conditional Zoning and from Commercial to Industrial classification
- Consent 03 Public Hearing for the May 21, 2013 Town Council Meeting regarding Rezone #13CZ04, 7.85 acres located at 1615 Salem Church Road at Dodson Way from Rural Agricultural to Medium Density Residential Conditional Zoning
- Consent 04 Public Hearing for the May 21, 2013 Town Council Meeting regarding Rezone #13CZ05, 0.73 acres located at 2621 and 2629 Schieffelin Road from Residential Agricultural Zoning to Light Industrial Conditional Zoning
- Consent 05 Public Hearing for the May 21, 2013 Town Council Meeting regarding Rezone #13CZ06, 9.14 acres located at 0 Old Raleigh Road, near New Dover Road from Rural Agricultural to Medium Density Residential Conditional Zoning
- Consent 06 Public Hearing for the May 21, 2013 Town Council meeting regarding various mendments to the Unified Development Ordinance
- Consent 07 Budget ordinance amendment for Police grants, Police restricted money, and new position in the Construction Management Department

Council Member Rowe requested that the new position mentioned in Consent 07 be discussed as a part of New Business 02.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER ROWE MADE THE MOTION TO ACCEPT THE CONSENT AGENDA WITH THE ABOVE-STATED MODIFICATION; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

## NEW BUSINESS

**New Business 01 : Lee Smiley, Finance Director**

**Review of 3rd Quarter Financial Summary and Apex EMS revenues and expenditures**

Staff stated we are on track to having a good year. General Fund Revenues, Expenditures, Public Works, Recreation, Utility Funds, Electric Fund, Water and Sewer, and EMS were all reported to be in line. There is a bond debt payment in the amount of \$1.5 million coming due June 1<sup>st</sup>.

**New Business 02 : Council Member Terry Rowe, Chair, Personnel Committee**

**Recommendations from Personnel Committee to approve new fulltime Senior Plans Examiner position, and reclassify vacant Accounts Payable Technician position**

Council Chair stated these positions are in need of addressing before the budget process. The Technician position will have additional duties, with a salary change from grade 15 to 17. Because of the great increase in permits, the Examiner position is being requested. Figures showing the increase over last year were presented; there is indication that this trend is continuing throughout the area.

Council Member Olive expressed that the benchmark comparisons with other towns do not demonstrate a need in Apex. Dale Rennick of UNC stated that the need can be filled with a temporary position. If the number of plans continue to come in at a growing rate, then the position could be considered for fulltime. The fear is that we are jumping too fast; possibly a person could be rented from another municipality.

The Town Manager explained that the UNC benchmarking study is from last year and doesn't reflect this year. A part-time person was tried. This is expensive, as the person normally works for a consulting group and have to carry a certain level of classification. Other municipalities have been spoken with, and there is not a person available who could be rented.

Council Chair stated that with all factors being evaluated, this is the most economically sound solution. Indicators trend to an increase in permits, and this is across all of Wake County. We are also experiencing delays on the inspection side. This new person would be able to help in that endeavor as well.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE TWO POSITIONS AND THE ASSOCIATED BUDGET AMENDMENT; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.

COUNCIL MEMBERS LASSITER, SCHULZE, ROWE, AND JENSEN VOTED IN THE AFFIRMATIVE;

COUNCIL MEMBER OLIVE VOTED IN THE NEGATIVE.

THE MOTION CARRIED BY A 4-1 VOTE.

Council Member Olive wished it stated for the record that he supports the idea of the new Examiner position, but that he thinks we are too early in pulling the trigger.

**New Business 03 : Council Member Bill Jensen**

**Request that the Town Council direct staff to develop a net-metering program for residential and commercial customers for evaluation by the Town Council**

Council explained this renewable energy concept. Electricities would need to look at this as far as cost, which staff states will take about three months. Staff stated it is wholly supportive of the idea. While we are not mandated by the State to do such, it would be a plus for the community.

Council is in support of staff working towards the idea of renewable energy being a possibility for Apex.

**CLOSED SESSION**

Closed Session to discuss a personnel matter

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

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

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**ADJOURNMENT**

WITH THERE BEING NO FURTHER BUSINESS, MAYOR WEATHERLY CALLED FOR A MOTION TO ADJOURN.

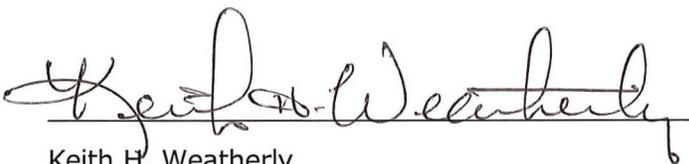
MAYOR PRO TEMPORE SCHULZE MADE THE MOTION; THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.



Donna B. Hosch, CMC, NCCMC

Town Clerk

ATTEST:



Keith H. Weatherly

Mayor



## TOWN COUNCIL MEETING

TUESDAY, MAY 21, 2012

**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, May 21, 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, 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. Absent was Council Member William S. Jensen.

### COMMENCEMENT

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

### PRESENTATIONS

#### **Presentation 01 : Mike Sayers**

Mike Sayers, on behalf of the Downtown Business Association, stated the Harvest Festival is being planned for October 5<sup>th</sup> of this year. He asked Council to be a co-sponsor and gave a brief overview of several events planned for the day. Staff stated a \$7,000 savings will be realized, as no streets will be closed.

## CONSENT AGENDA

- Consent 01 Minutes of the May 7, 2013 Regular Council Meeting and the May 8, 2013 Economic Development Committee Meeting
- Consent 02 Apex Tax Report dated April 2, 2013
- Consent 03 Transfer four remaining plots in Lot 159 at the Apex Town Cemetery
- Consent 04 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 Windy Road Properties, LLC and Bradley & Christina Zadell properties containing 18.2371 ± acres located east of Mount Zion Church Road, south of Milano Avenue, Annexation #489 into the Town’s corporate limits
- Consent 05 Utility Relocation Agreement (URA) with the North Carolina Department of Transportation and the Town of Apex

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO ACCEPT THE CONSENT AGENDA; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

## REGULAR MEETING AGENDA

There were no modifications requested to the Agenda.

## PUBLIC HEARINGS

### **Public Hearing 01 : June Cowles, Senior Planner**

**Public Hearing and motion regarding a Rezone and 2025 Land Use Amendment #13CZ01, 2.6 acres located at the end of Maya Court from Planned Commercial to Light Industrial Conditional Zoning and from Commercial to Industrial classification**

Staff oriented Council to the site, and stated that the Planning Board recommends approval of the rezoning.

Mayor Weatherly declared the Public Hearing open.

Stewart Jones, Jones and Crossen Engineering, was present on behalf of the applicant. A brief description of the property and its uses were presented. The rezoning is consistent with the 2030 Plan, and there have been no oppositions to the rezoning.

Mayor Weatherly declared the Public Hearing closed.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE REZONE; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**Public Hearing 02 : June Cowles, Senior Planner**

**Public Hearing and motion regarding Rezone #13CZ04, 7.85 acres located at 1615 Salem Church Road at Dodson Way from Rural Agricultural to Medium Density Residential Conditional Zoning**

Staff oriented Council to the site. The Planning Board recommends approval of the rezoning.

Mayor Weatherly declared the Public Hearing open.

Jeff Roach, Peak Engineering Design, representing the applicant, stated this rezoning follows the 2030 Plan and that they are looking to keep in line with what is currently in the area.

Martin Fuchs, 125 Dodson Way, speaking on behalf of the homeowners' association, was in opposition of the rezoning and distributed copies of his concerns to Council. His concerns centered around a construction buffer, groundwater issues, power washing of houses, road paving, construction entrances, street cleaning from construction traffic, and demolition of a house and barns.

Staff stated Planning is aware of these concerns and that the Planning Board was aware of the concerns as well. The only thing that would not be addressed by specs or ordinances would be the buffer.

Mayor Weatherly declared the Public Hearing closed.

Staff stated ground water issues have not been addressed in these cases in the past. Mr. Roach stated a geotechnical investigation would be done, and the developer will address the buffer issue so that the neighbors will be happy. It is not anticipated that Dodson Lane will incur construction traffic;

most of this traffic will be via the construction entrance. Staff stated ground water issues in this case are unique. The engineer could choose to address these in their plans. Staff can make checks along the way, and potential problems can be noted in the inspection phase.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE REZONE WITH THE CONDITION OF A 5' BUFFER ALONG TRACE I; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**Public Hearing 03 : June Cowles, Senior Planner**

**Public Hearing and possible motion regarding Rezone #13CZ05, 0.73 acres located at 2621 and 2629 Schieffelin Road from Residential Agricultural Zoning to Light Industrial Conditional Zoning**

**NOTE: the applicant requests a continuance of this Public Hearing until the June 18, 2013 Regular Town Council Meeting.**

MAYOR WEATHERLY CALLED FOR A MOTION TO CONTINUE THIS PUBLIC HEARING AS REQUESTED BY THE APPLICANT.  
COUNCIL MEMBER LASSITER MADE THE MOTION; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**Public Hearing 04 : Lauren Simmons, Planner II**

**Public Hearing and motion regarding Rezone #13CZ06, 9.14 acres located at 0 Old Raleigh Road, near New Dover Road from Rural Agricultural to Medium Density Residential Conditional Zoning**

Council Member Olive asked to be recused from the discussion and vote, as this land adjoins his family's land. The Town Attorney stated that since there was no direct financial interest, Statute directs that Council Member Olive could not be recused.

Staff oriented Council to the site. The rezoning is consistent with the current and 2030 Plan. The Planning Board and staff recommend approval with conditions agreed to by the applicant.

Mayor Weatherly declared the Public Hearing open.

Stuart Jones, Clossen and Jones Engineering, on behalf of the property owner, outlined the proposed uses for the property. Stream buffers will be preserved, stormwater runoff will be captured and released at a reduced rate, and the last 10 feet of their property line will be preserved on the side of the Olive's property.

Ross Olive, 1210 Old Raleigh Road, expressed opposition to the rezoning, citing problems with the pond and its boundaries. Mr. Olive expressed concern over the number of houses being proposed on the property due to the land being so wet in so many places.

Kim Damico expressed opposition on the same grounds as Mr. Olive. There is a tremendous amount of water coming into the land and onto their properties. She asked that Council consider a lower density or perhaps a park.

Mayor Weatherly declared the Public Hearing closed.

Council discussed the problems associated with this flood zone and stated that this rezone and development should improve and better control the water problems.

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

Council Member Olive stated that even though his interest was indirect, he was biased on this issue since he wished to support his father [Mr. Olive]. He stated he would decline to vote.

THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE WITH COUNCIL MEMBER OLIVE DECLINING TO VOTE.

**Public Hearing 05 : Lauren Simmons, Planner II**

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

Staff presented the proposed amendments to Council.

Mayor Weatherly declared the Public Hearing open.

Mike Nobles, Board Member with Raleigh Swimming Association, spoke in support of the amendments and asked for support of a covered area for swimming in the winter months.

David York, Carolina Sportsholding, spoke in support of the amendments.

Mayor Weatherly declared the Public Hearing closed.

Staff clarified how square footage requirements were devised, noting that there is not another facility such as this in the country. Site plan approval would be tied to a special use permit. Staff discussed the use of the tent over the swimming pool. The Town Attorney suggested taking a look at the latter, stating that a condition could be included in the motion. Mayor Weatherly asked staff to look into this further and come back to Council with a recommendation.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE AMENDMENTS MINUS NUMBER 8 REGARDING THE POOLS; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

## OLD BUSINESS

**Old Business 01 : John Brown, Parks and Recreation Director / Tim Donnelly, Public Works Director Award of contract for Community Park Lake dam siphon project to Hall Contracting Corporation and approval of the associated budget amendment for the project**

Staff overviewed what has been done over the past several years to fix this problem. The State has made changes to the original design and costs have escalated. This needs to be done because of the liability, and there is no cheap fix. The low bid represents an appropriate scope of the work.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE CONTRACT AWARD AND ASSOCIATED BUDGET AMENDMENT; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

## PUBLIC FORUM

,Apex Festival Commission, thanked the Town for its assistance during PeakFest this year. He overviewed the contribution that they hope to continue to make to the community.

## NEW BUSINESS

**New Business 01 : Mayor Keith Weatherly Reappointment of Jeff Roach and Greg Coley to positions on the Parks, Recreation, and Cultural Resources Advisory Board**

Mayor Weatherly asked for the following reappointment considerations:

- Jeff Roach – reappointment to a three-year term ending May 2016
- Jeff Roach – reappointment as Vice Chair for a one-year term ending May 2014
- Greg Coley – reappointment as Chair for a one-year term ending May 2014

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE REAPPOINTMENTS; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**New Business 02 : Bruce Radford, Town Manager**

**Presentation of highlights of the proposed Annual Budget by the Town Manager**

The Town Manager presented highlights of the proposed budget, which is balanced without a tax increase. There will be a public hearing and workshop on the budget at the June 4<sup>th</sup> Council meeting. The cost of the new fire station was discussed.

CLOSED SESSION

**Closed Session 01 : to receive and discuss legal advice from the Town Attorney regarding a claim or claims and potential legal litigation and give the attorney direction regarding handling same**

**Closed Session 02 : to discuss a personnel matter**

MAYOR WEATHERLY CALLED FOR A MOTION TO GO INTO CLOSED SESSION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 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 4-0 VOTE.

Closed Session produced Resolution 13-0521-24, Resolution Authorizing Eminent Domain Proceedings Related to the Beaver Creek Gravity Sewer Line and Electric Line Project for the Improvement of the Apex Sewer and Electric Systems.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO ADOPT THE RESOLUTION; COUNCIL MEMBER OLIVE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

## ADJOURNMENT

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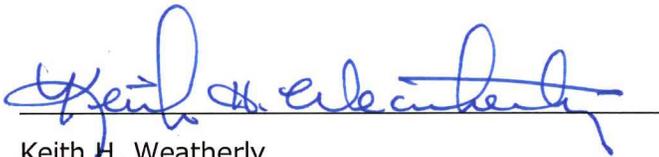
WITH THERE BEING NO FURTHER BUSINESS, MAYOR WEATHERLY CALLED FOR A MOTION TO ADJOURN.  
MAYOR PRO TEMPORE SCHULZE MADE THE MOTION; THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.



Donna B. Hosch, CMC, NCCMC

Town Clerk

ATTEST:



Keith H. Weatherly

Mayor



**TOWN COUNCIL MEETING**  
TUESDAY, JUNE 4, ~~2012~~ 2013 *on 11/11*

**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, June 4, 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 and William S. Jensen. Also in attendance were Town Manager Bruce A. Radford, Assistant Town Manager J. Michael Wilson, Town Clerk Donna B. Hosch, and Assistant Town Attorney Laurie L. Hohe. Absent was Council Member Scott R. Lassiter. Council Member Lance Olive arrived at 7:05 p.m.

### 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**

#### **Quarterly introduction of new Town employees**

- Mike Wilson introduced Randall Heath, the new EMS Director
- John Letteney introduced new officers Maurice Harris and Travis Smith
- Kent Jackson introduced Cam Pridgen and Ernest Wilkes (Susan Wilkes in attendance)
- John Cannon introduced Trent Clifton and Marcus Bynum
- Mike Couch introduced Al Ball, Phillip Barnes, Vincent DeYoung, and Lincoln Denning
- Mary Mitchell introduced Patrick Springle
- John Brown introduced Patrick Fitzsimons

New employees not in attendance were Patrick Clark, Nathaniel Hinds, and Justin Strickland.

## CONSENT AGENDA

- Consent 01 Minutes of the May 21, 2013 Regular Council Meeting
- Consent 02 Cancellation of the scheduled July 2, 2013 Regular Council Meeting in observance of the July 4<sup>th</sup> holiday
- Consent 03 Adoption of a Resolution Directing the Town Clerk to Investigate Petition Received, accepting the Certificate of Sufficiency by the Town Clerk, and adoption of a Resolution Setting Date of Public Hearing on the Question of Annexation – Apex Town Council’s intent to annex Parkside Builders, LLC properties containing 12.08 ± acres located at 2533 Olive Chapel Road, Annexation #490 into the Town’s corporate limits
- Consent 04 Public Hearing for the June 18, 2013 Town Council Meeting regarding rezone #13CZ08, 12.08 acres located at 2533 Olive Chapel Road from Wake County-R-80W and Rural Residential to Medium Density Residential Conditional Zoning
- Consent 05 Public Hearing for the June 18, 2013 Town Council Meeting regarding rezone #13CZ09, 3.28 acres located at 400, 410, 420, 430, and 510 Upchurch Street from PUD-CZ to Neighborhood Business Conditional Zoning (B1-CZ)
- Consent 06 Public Hearing for the June 18, 2013 Town Council Meeting regarding rezone #13CZ10, .31 acres located at 102 & 104 W. Chatham Street from Downtown Business (B2) to Mixed Office Retail Residential-Conditional Zoning
- Consent 07 Public Hearing for the June 18, 2013 Town Council meeting regarding various amendments to the Unified Development Ordinance
- Consent 08 Amend the Town Code of Ordinances by Eliminating Section 12-22. Reservations of Treatment and Transmission Capacity
- Consent 09 Agreement for Charlotte to donate ten police helmets to Apex for service related to the Democratic National Convention entitled “Agreement for the Disposition of City Property”
- Consent 10 Amendment to Conservation Easement Seymour Tract and authorize the Town Manager to execute it
- Consent 11 Street closures for the 2013 Peak City Pig Fest

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE CONSENT AGENDA; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

## PUBLIC HEARINGS

*An audio recording of the following Quasi-Judicial Public Hearing made by the Town Clerk is incorporated into these Minutes by reference. The audio recording or transcript of the Hearing should be used as the verbatim record of the questions, testimonies, evidentiary rulings, and discussions that occurred at the Quasi-Judicial Hearing.*

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### **Public Hearing 01 : Brendie Vega, Principal Planner**

#### **Quasi-Judicial Public Hearing and possible motion for Special Use Permit SUP#13SUP01 and Major Site Plan for Adrenaline Park**

Mayor Weatherly read a statement explaining the process by which this Hearing would be conducted.

**CONFLICT OF INTEREST FROM COUNCIL:** Council Member Jensen asked to be recused at the recommendation of the Town Attorney because of direct contact and discussion he has had with the applicant.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER ROWE MADE THE MOTION TO RECUSE COUNCIL MEMBER JENSEN FROM THE ENTIRE QUASI-JUDICIAL PROCEEDING; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 3-0 VOTE.

Mayor Weatherly declared the Quasi-Judicial Public Hearing open. All those wishing to speak at the Hearing signed in with and were sworn in by the Town Clerk.

**CONTACT WITH APPLICANT BY COUNCIL AND FINANCIAL CONFLICTS:** Council stated no ex parte communication had taken place with the applicant or other affected persons prior to the Hearing. Council stated there were no financial conflicts and that this application could be decided impartially.

**OPENING STATEMENT FROM APPLICANT:** David York, Attorney for Carolina Sports Holdings, thanked the staff for their assistance with this application. On a property built over 40 years ago, this plan will put 16 acres back in use.

**EVIDENCE FROM STAFF:** Brendie Vega, Principal Planner, presented her credentials and employment history with Apex. Ms. Vega outlined the details of the major site plan including location and square footage, zoning, permitted use, an overview of the applicant's intent for the building and its outdoor space, resource conservation, utilities, grading and drainage, signage, and elevation.

The Planning staff recommended a change to the phasing line on the exterior elevation, the use is consistent with the Transportation Plan, the use needs to conform with the UDO, and a Special Use Permit will be required for outdoor activities. The applicant proposed an internal phasing plan, a landscaping plan has been submitted, and the applicant proposed improvements to the right of way to be called Adrenaline Drive. Staff recommended that plans for the wind tunnel be submitted prior to building to ensure compliance with architectural elements, that phase lines be moved for better use of the building, an extension of a turn lane on Lufkin road, that parking is to be evaluated during construction phases, and that the masonry enclosure material on the dumpster be approved by Council.

Staff also recommended that if changes are made to outdoor activities that they be reviewed by TRC and approved by the Planning Director, that the location of outdoor activities be designated and not moved without a Special Use Permit, that outdoor activities will cease with indoor activities, that a Special Use Permit be required if the site is not operated for 6 months, and compliance with Special Use Permit Standards.

**EVIDENCE FROM APPLICANT:** Attorney David York stated his credentials. Myles Owens, III, and Steve Werner of Carolina Sports Holdings presented their ideas for this project, noting the flexibility of the site for various types of events, and the fact that nothing else like this exists today. Stated were projected visitor statistics and how this relates to jobs, taxes, etc., along with the mission of the facility and plans for safety monitoring. The facility would not have events geared towards individuals with special needs.

Attorney York introduced Loren Gold, Greater Raleigh Convention and Visitor's Bureau, who gave perspective on how great a venue this would be for the area. Attorney York introduced and questioned Craig Duerr, Withers & Ravenel, who stated his credentials and presented answers as they pertained to engineering. Introduced and questioned was Howard Ellman, Carolina Sports Holdings, who stated his credentials and presented answers pertaining to the facility's exterior, color scheme,

materials, and safe environment with no nuisances. Introduced was Joshua Reinke, Ramey Kemp & Associates, who stated his credentials and presented answers pertaining to transportation and road standards. Introduced was Neil Gustafson, Worthy & Wachtel, who stated his credentials and distributed an economic impact study.

**SUMMARY AND CLOSING STATEMENT BY APPLICANT:** Attorney York made a summary statement on behalf of the applicant and expressed agreement with staff recommendations:

**MAJOR SITE PLAN CONDITIONS OF APPROVAL:**

1. The architectural feature on the wind tower elevation, labeled "X" on Site Plan Sheet D-3, shall be submitted to the Planning Director for review and approval prior to submitting for building permits to determine if the architectural feature is in compliance with UDO Sections 9.2 *Building Aesthetics*, 9.3 *Architectural Character*, and 8.7 *Signs*.
2. During Phase 1, the northwest corner of the building shall be screened as shown in the Phase 1 Site Improvement Exhibit. .
3. Applicant shall extend the left turn lane on Lufkin Road approaching NC 55 to 250 feet or provide dual left turn lanes with equivalent storage length subject to NCDOT review and approval prior to construction plan approval of Phase 2.
4. Parking will be evaluated at Phase 2 Construction Plan Review, and again at Phase 3 Construction Plan Review to determine if the parking needs are being met by the number of parking spaces required by the approved site plan. Staff may reduce or increase the number of parking spaces required by the approved site plan by not more than 15% after a review of a parking study per UDO Section 8.3.2 (C) *Off-Street Parking Schedule "C"* to be submitted by the applicant at Phase 2 and again at Phase 3.
5. The masonry enclosure on the dumpster shall be one of the materials presented by the architect and approved by Town Council at the Town Council meeting on June 4, 2013.

**SPECIAL USE PERMIT CONDITIONS:**

1. Any changes in the manufacturer or design of the Outdoor Amusement Activities or their structures approved by Town Council at Site Plan shall be reviewed by the TRC and approved by the Planning Director to ensure that elevations, site design, accessibility, and lighting of the attraction is consistent with the approved design.
2. The location of the outdoor entertainment attractions shall be located in the areas designated on Site Plan Sheet 2.0. Any substantial variation from the approved locations will require a new Special Use Permit.
3. Outdoor entertainment shall cease to operate when and if the primary indoor entertainment ceases operations.
4. This Special Use Permit shall expire when the business ceases operation for a period of 6 months. If the business ceases operation for 6 months, a new Special Use Permit will be required to restart operations.
5. The Major Site Plan approved in connection with the application for this Special Use Permit is a condition of this Special Use Permit and all development under this Special Use Permit shall be pursuant to and in compliance with the Major Site Plan approved contemporaneously herewith by the Apex Town Council.

Attorney York thanked Council for its indulgence, gave special thanks to the staff on this new use, and respectfully requested approval of the Special Use Permit and Site Plan.

**CLOSING STATEMENT BY STAFF:** Staff stated its approval of the revised conditions.

Mayor Weatherly declared the Public Hearing closed.

Mayor Weatherly read the Special Use Permit Requirements for Council to determine if they had been met. Council agreed that all requirements had been met.

Mayor Weatherly read the requirements of the Major Site Plan for Council to determine if they had been met. Council agreed that all requirements had been met.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE BOTH THE SPECIAL USE PERMIT AND MASTER SITE PLAN WITH THE CONDITIONS STATED ABOVE;  
COUNCIL MEMBER OLIVE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

At this point, Council Member Jensen rejoined Council proceedings.

**Public Hearing 02 : Dianne Khin, Planning Director**

**Public Hearing and motion to adopt an Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Windy Properties, LLC properties containing 18.2371 ± acres located east of Mount Zion Church Road, south of Milano Avenue, Annexation #489, into the Town’s corporate limits**

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

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; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**Public Hearing 03 : Bruce Radford, Town Manager**

**Public Hearing and motion regarding the proposed FY 2013-14 Annual Budget and the FY 2013-14 Budget Ordinance**

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

Staff answered questions from Council regarding salaries for 2013 vs. 2014, merit increases, new positions, retirement and special separation allowance, special appropriations, and the design of Fire Station 5.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO ADOPT THE BUDGET AND THE BUDGET ORDINANCE FOR FY 2013-2014; COUNCIL MEMBER JENSEN SECONDED THE MOTION.

Town Manager Radford thanked his outstanding group of department heads and their willingness to cut back but also their desire to put forward elements to make the Town better. This is a diligent, professional group, Town Manager Radford expressed his appreciation to each one, and their looking out for the best interest of Apex's citizens and employees.

THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

### OLD BUSINESS

#### **Old Business 01 : Dianne Khin, Planning Director**

#### **Motion regarding an amendment to UDO Sections 4.6.1(C)(8) and (9)**

Staff stated the Town Attorney made suggestions for an updated version of this section of the UDO. Staff recommended approval.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE REVISIONS; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

### ADJOURNMENT

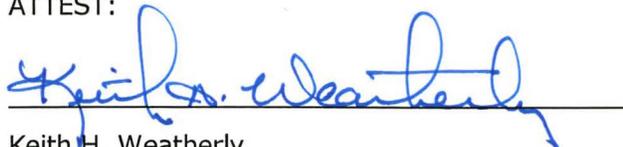
WITH THERE BEING NO FURTHER BUSINESS, MAYOR WEATHERLY CALLED FOR A MOTION TO ADJOURN. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION; THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.



Donna B. Hosch, CMC, NCCMC

Town Clerk

ATTEST:



Keith H. Weatherly

Mayor

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## TOWN COUNCIL MEETING

TUESDAY, JUNE 18, ~~2012~~ 2013 *ADH*

**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, June 18, 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, 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. Absent was Council Member Lance Olive.

### COMMENCEMENT

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

### PRESENTATIONS

#### **Presentation 01 : Mayor Keith Weatherly**

#### **Presentation of The Order of the Long Leaf Pine Award**

Mayor Weatherly stated it was his pleasure and honor, on behalf of Governor Pat McCrory and Representative 'Skip' Stam, to present the prestigious Order of the Long Leaf Pine Award to Rose Marie White-Hearn. Persons receiving this award have had extraordinary records of community and organizational service, and are normally presented the award upon retirement. However, Mrs. White-Hearn died on April 17<sup>th</sup> of this year, so the award was being presented posthumously. Mrs. White-Hearn would be most remembered for her extensive work with the North Carolina victim's assistance network. Mayor Weatherly stated that Mrs. White-Hearn is well deserving of this, the State's highest

award. Mr. Hearn in accepting the award thanked all and expressed his gratitude for the recognition of his wife's hard work.

**Presentation 02 : Mayor Keith Weatherly**

**Presentation of Proclamation to the Apex High School Men's Championship Lacrosse Team**

Mayor Weatherly read the Proclamation, and stated high words of praise for this team of young men who won the championship with only one second left in the game. The coaches and team were presented with a poster of the team, and Mayor Weatherly stated that the road sign recognizing the team's championship win would be put up the next day.

**Presentation 03 : Lauren Simmons, Planner II**

**Presentation of the Summer Appearance Awards**

Staff presented photographs of the winning residential and non-residential properties, giving the reasons why they were selected. Mayor Weatherly read the Awards as they were presented to the winners: Alexis Miller of 611 Olive Street as the Residential Award winner and Apex United Methodist Church as the Non-Residential Award winner.

**CONSENT AGENDA**

Consent 01 Minutes of the June 4, 2013 Regular Town Council Meeting

Consent 02 Apex Tax Report dated 05/06/2013

Consent 03 Street closures for Old Fashion 4<sup>th</sup> of July

Consent 04 Personnel Committee recommendations for the Position Classification Plan for FY13-14

Consent 05 Resolution authorizing the Wake County Revenue Director to collect taxes on behalf of the Town of Apex

Consent 06 Resolution supporting NCDOTs Watch for Me NC 2013 campaign

Consent 07 Public Hearing for the July 16, 2013 Town Council Meeting regarding Rezone #13CZ11, 2.96 acres located at a portion of 6501 Old Jenks Road from Residential Agricultural Zoning to Medium Density Conditional Zoning

- Consent 08 Public Hearing for the July 16, 2013 Town Council Meeting regarding Rezone #13CZ12, 40.85 acres that include 6 parcels located at 0 Old Jenks Road, 6613, 6633, 6609, and a portion of 6501 Old Jenks Road from Residential Agricultural Zoning and Medium Density Conditional Use to Medium Density Conditional Zoning
- Consent 09 Public Hearing for the July 16, 2013 Town Council Meeting regarding Rezone #13CZ14, 14.79 acres located at 2932 and 3008 Evans Road, 0 and 7732 Humie Olive Road from Residential Agricultural Zoning to Medium Density Conditional Zoning
- Consent 10 Public Hearing for the July 16, 2013 Town Council Meeting regarding rezone #13CZ15, 5.1 acres located at 2717 Evans Road from Residential Agricultural to Medium Density-Conditional Zoning
- Consent 11 Public Hearing for the July 16, 2013 Town Council Meeting regarding Rezone #13CZ16, 65.9 acres located at 0, 3000, 3008 and 3012 Holland Road and 2805 Walden Road from Residential Agricultural Zoning to Medium Density Conditional Zoning
- Consent 12 Public Hearing for the July 16, 2013 Town Council Meeting regarding rezone #13CZ17, 103.91 acres located at Green Level West Road and Castleberry Road from Rural Residential and Wake County-R-80W to Low Density-Conditional Zoning
- Consent 13 Statement of the Town Council and Ordinance to Amend the Official Zoning District Map for Rezoning Case #13CZ01, Maya Court
- Consent 14 Statement of the Town Council and Ordinance to Amend the Official Zoning District Map for Rezoning Case #13CZ04, Trace II
- Consent 15 Statement of the Town Council and Ordinance to Amend the Official Zoning District Map for Rezoning Case #13CZ06, Edwards Property
- Consent 16 Purchase of Lot 17, Plots C and D from the Apex Town Cemetery
- Consent 17 Reconveyance of Lot 97, Plots A, B, C, D, E, F, G, and H to the Apex Town Cemetery
- Consent 18 Purchase of Lot 97, Plots A, B, C, D, E, F, G, and H from the Apex Town Cemetery

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE  
THE CONSENT AGENDA; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

## REGULAR MEETING AGENDA

Mayor Weatherly presented the Regular Meeting Agenda. Attorney Fordham suggested that after the general description of New Business 02 "Interlocal Agreement for White Oak Creek Greenway", that there be a short closed session to seek advice from the attorney.

Mayor Weather recommended that Public Hearings 02 and 03 be consolidated as one Hearing since they both related to 2533 Olive Chapel Road.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE REGULAR AGENDA WITH THE ABOVE ADDITIONS; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

## PUBLIC HEARINGS

### **Public Hearing 01 : June Cowles, Senior Planner**

**The applicant requested to continue the Public Hearing to August 6, 2013 regarding Rezone #13CZ05 0.73 acre located at 2621 and 2629 Schieffelin Road from Residential Agricultural Zoning to Light Industrial Conditional Zoning**

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER ROWE MADE THE MOTION TO CONTINUE THE HEARING AS REQUESTED; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

### **Public Hearing 02 : Dianne Khin, Planning Director**

**Public Hearing and adoption of an Ordinance on the Question of Annexation – Apex Town Council's intent to annex Parkside Builders, LLC properties containing 12.08 ± acres located at 2533 Olive Chapel Road, Annexation #490, into the Town's corporate limits**

and

### **Public Hearing 03 : Lauren Simmons, Planner II**

**Public Hearing and approval regarding Rezone #13CZ08, 12.08 acres located at 2533 Olive Chapel Road from Wake County-R-80W and Rural Residential to Medium Density Residential Conditional Zoning**

With there being a valid Protest Petition, Council questioned how this would affect the two hearings being combined. The Town Attorney stated there would be no effect on hearing the two matters together, and that at the end of the combined Hearing, there could be either a joint motion or separate motions. The protest petition is valid against part of the subject tract and invalid as to the

other part of the subject tract. But since the areas are interrelated, the protest petition probably affects the rezoning as a whole.

Staff gave an overview of each request. The neighborhood meeting raised concerns about the pond, buffers, and if there would be an HOA. The applicant is requesting the use for single family homes only and offered conditions to the Planning Board. Staff stated their recommendations. The Planning Board voted unanimously to recommended approval with conditions offered by applicant.

Jeff Roach, Peak Engineering and Design, gave the conditions of this annexation noting that the property is split between the ETJ and the County. It follows the 2025 Plan. The pond will have a 7-foot fence and bushes as a result of safety concerns. Mr. Roach explained the buffers in response to Council questions.

Cynthia Ball of 2517 Olive Chapel Road described her property and the surrounding properties. She was sorry to hear that the applicant is proposing rezoning to medium density, and a consultant has been engaged to assist in explaining their concerns about damage to the pond and privacy between their home and the development. There is also concern about trees being taken down for a fence.

Faye Weissner of 2513 Olive Chapel Road stated her home is close to the property line, and she's concerned about the impact of this development. The plan specifications do not reflect the way that she and the neighbors live, and there is a concern about buffers.

Beverly Ruben stated that if the development is allowed, her entire backyard would face the subdivision. She was concerned about the safety and liability of the pond as well as impervious surfaces and possible damage to the pond from the development.

Don Dambrosi, 275 Fairway West in Apex of dLCS distributed information to Council regarding and addressing neighbor concerns about additional conditions on buffers, fencing, setbacks, storm water, water quality, and draining of the pond. If the concerns are not addressed now, the applicant will only need to address concerns of the UDO and not of the residents. It will take at least three weeks to complete dLCS's study of these issues, and Mr. Dambrosi encouraged the applicant to work along with them in order to expedite the neighbors' wishes. Mr. Roach stated there would not be a problem

working with Mr. Dambrosi, but that the concerns were overblown. There was additional conversation about fencing around the pond.

Mr. Roach stated they will have to go offsite for sanitary/sewer, but that he was working with property owner Ms. Ball on this, these lines running across her property. If this does not prove feasible, there would be the possibility of coming back to Council and asking for eminent domain. Council stated it may want to put off voting on this until an agreement is worked out with Ms. Ball.

Charles Hackney, neighbor, detailed his property and stated his concerns about the proposed development being that close to his farm, traffic, and runoff. If this is done right, it would be okay; but this as proposed is not right.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO CONTINUE THE ANNEXATION AND PUBLIC HEARING TO THE JULY 16<sup>TH</sup> COUNCIL MEETING; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**Public Hearing 04 : Brendie Vega, Principal Planner**

**Public Hearing and approval regarding Rezone #13CZ09, 3.28 acres located at 400, 410, 420, 430, & 510 Upchurch Street from PUD-CZ to Neighborhood Business Conditional Zoning (B1-CZ).**

Staff stated a valid protest petition on this item was received. Staff oriented Council to the site and the uses which would be permitted. The applicant has agreed to a 10-foot wide buffer along with other conditions stated by staff. The neighborhood meeting raised concerns about transportation, impact fees, and some of the uses. This complies with 2025 Land Use Plan. Staff recommended approval with revised uses and conditions.

Mayor Weatherly declared the Public Hearing open.

Jeff Roach, Peak Engineering and Design, stated the original PUD plan had massive restrictions which pulled people away. The current idea is for single use tenants on each of the lots.

The neighbors who submitted the protest petition were not present. A letter was received stating they would be unable to attend due to one of them going through surgery. The petitioners thanked Council for its consideration.

Mayor Weatherly declared the Public Hearing closed.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE REZONING; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE, THE REQUIRED SUPER MAJORITY BEING SATISFIED.

**Public Hearing 05 : Lauren Simmons, Planner II**

**Public hearing and approval regarding Rezone #13CZ10, .31 acre located at 102 & 104 W. Chatham Street from Downtown Business (B2) to Mixed Office Retail Residential- Conditional Zoning**

Staff oriented Council to the site and stated the applicant wishes for this to be a full instead of a partial residence. A neighborhood meeting was held, which no one attended. The Planning Board recommended approval with conditions offered by the applicant; staff recommended approval. The use is in keeping with 2025 Land Use Plan.

Mayor Weatherly declared the Public Hearing open.

Marshall Barnes, 103 S. Salem Street, gave an overview of the living and renting history of the property. He was not aware of any opposition to this request. The property is for sale.

Mayor Weatherly declared the Public Hearing closed.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE REZONING; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**Public Hearing 06 : Lauren Simmons, Planner II**

**Public hearing and approval regarding various amendments to the Unified Development Ordinance**

Staff outlined the first requested amendment to section 4.2.2 Use Table. Staff and the Planning Board recommended approval.

Tom Colhoun, representing the Planning Board, outlined the second requested amendment regarding size limitations and low density residential. Minimize size lots on high and medium densities have been eliminated but they have not been eliminated on low densities. The Planning Board wants this to be equal across the board. After lengthy discussion on average units per acre and lot size and the need to distinguish between the two, Council expressed wanting to look further into this request

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE AMENDMENT TO THE USE TABLE AND TO CONTINUE THE HEARING ON DENSITY TO THE AUGUST 20<sup>TH</sup> COUNCIL MEETING;  
MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

## PUBLIC FORUM

Greg Coley, Chairman of the Parks, Recreation, and Cultural Resources Advisory Commission, spoke briefly on the Open Space Master Plan [New Business 01]. He stated a lot of hard work went into the Plan, and he looked forward to it being approved.

Mike Montford stated he liked what he saw of the Plan, noting, however, that there was nothing for those with special needs. There were more parks and activities for dogs than for seniors, and he hoped greater consideration would be given to those with special needs and to seniors.

Tom Colhoun readdressed Council, stating that earlier a misrepresentation of what was said at the Planning Board meeting was made. Mr. Colhoun suggested that possibly someone from the Planning Board needs to attend Council Meetings. Mayor Weatherly stated that this has been brought up in the past, with the idea that possibly this needs to be a requirement. There was brief discussion about the 2025 Land Use Plan being approved in 2004, and it being frustrating to work with because of its age.

## NEW BUSINESS

**New Business 01 : John M. Brown, Parks and Recreation Director**

**Discussion and approval of the updated Parks, Recreation, Greenways and Open Space Master Plan**

Staff stated this Plan took eight months to compile with quite a bit of input from the public and from Planning.

Sara Burroughs, Sage Design, went over highlights of plan including the amount of public involvement, Recreation and Planning staff input, types of recreational activities, placement of new facilities, greenways and further greenways connectivity, programs and their related facilities, event space, land acquisition, and improvements in existing park facilities.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION  
TO APPROVE THE PLAN; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**New Business 02 : John Brown, Parks & Recreation Director**

**Approval of "Interlocal Agreement for White Oak Creek Greenway" with The Town of Cary for construction, ownership, operation, maintenance, and repair of the White Oak Creek Greenway extension from Green Level Church Road west to the Wimberly Road Trailhead at the American Tobacco Trail and to authorize the Town Manager to execute the same and to execute grant funding request documents in coordination with the Town of Cary**

Staff outlined the history of developing the White Oak Creek Greenway connection with the Town of Cary. The proposed Interlocal agreement would lay out the terms of this partnership.

MAYOR WEATHERLY CALLED FOR A MOTION FOR A BRIEF CLOSED SESSION TO SEEK ADVICE FROM THE TOWN ATTORNEY.  
COUNCIL MEMBER LASSITER MADE THE MOTION; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION TO RETURN TO OPEN SESSION. COUNCIL MEMBER JENSEN MADE THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE  
INTERLOCAL AGREEMENT; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**New Business 03 : Lee Smiley, Finance Director**

**Approval of budget amendment for sanitation collection costs and capital project ordinance amendment for state revolving loan for water plant improvements**

Staff stated the sanitation amendment was a year-end clean up item, and the other involved amending the project to recognize the grant from the State for the water plant design budget.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE  
AMENDMENTS; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

CLOSED SESSION

Closed Session to discuss 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 4-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION TO RETURN TO OPEN SESSION. COUNCIL MEMBER ROWE  
MADE THE MOTION; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

## ADJOURNMENT

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With there being no further business,

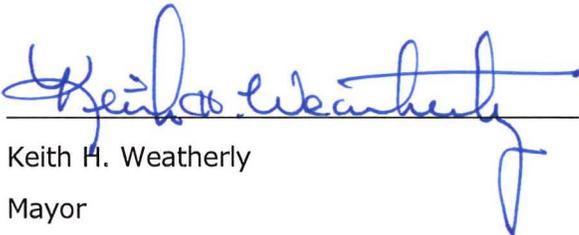
MAYOR WEATHERLY CALLED FOR A MOTION TO ADJOURN.  
MAYOR PRO TEMPORE SCHULZE MADE THE MOTION; THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.



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Donna B. Hosch, CMC, NCCMC  
Town Clerk

ATTEST:



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Keith H. Weatherly  
Mayor



## TOWN COUNCIL MEETING

TUESDAY, JULY 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, July 16, 2013, at 7:00 p.m. was held in the Council Chamber of Apex Town Hall, 73 Hunter Street

### COMMENCEMENT

Mayor Weatherly called the meeting to order and gave the Invocation. Boy Scout Troop 226 presented the colors and led the Pledge of Allegiance.

### PRESENTATIONS

There were no Presentations

### CONSENT AGENDA

Consent 01 Minutes of the June 18, 2013 Regular Town Council Meeting

Consent 02 Apex Tax Report dated 06/04/2013

Consent 03 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 Foster and Wardensky containing .0238± acres located off Roosondall Court, Annexation #492, into the Town's corporate limits

Consent 04 Service contract between the Town of Apex and American Road Conservation, LLC, for street and parking lot sweeping services and authorization for the Town Manager to execute same

Consent 05 Release of the remaining 12 lots in Miramonte from the Miramonte greenway requirement in exchange for the payment of current recreation fee in lieu of construction of greenway for each of the remaining 12 lots in the Miramonte Subdivision, authorization to issue building permits for the same 12 lots, and to designate such payment for construction of the Miramonte portion of the Middle Creek Greenway

Consent 06 Resolution from the Town Council in support of a Veteran Government Bond, Stamp and Coin Program

Town Manager Radford asked that Consent item 04 be pulled for consideration in two weeks.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE CONSENT AGENDA MINUS CONSENT ITEM 04; COUNCIL MEMBER JENSEN SECONDED THE MOTION. THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

## REGULAR MEETING AGENDA

Mayor Weatherly presented the Regular Meeting Agenda, to which there were no requested modifications.

## PUBLIC HEARINGS

### **Public Hearing 01 : Dianne Khin, Planning Director**

**Continued from the June 18, 2013 Council Meeting: Public Hearing and Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Parkside Builders, LLC properties containing 12.08 ± acres located at 2533 Olive Chapel Road, Annexation #490, into the Town’s corporate limits**

**and**

### **Public Hearing 02 : Lauren Simmons, Planner II**

**Continued from the June 18, 2013 Council Meeting: Public Hearing and Rezoning #13CZ08, 12.08 acres located at 2533 Olive Chapel Road from Wake County-R-80W and Rural Residential to Medium Density Residential Conditional Zoning**

Staff outlined details of the rezoning request. At the June 18, 2013 Council meeting, the applicant and neighbors were asked to meet and try to come to agreeable conditions. This did not happen. Staff recommended approval with conditions. The Planning Board unanimously recommended approval with the conditions presented at their meeting. There is a valid protest petition, the Town Attorney

stating the petition is valid as to the northern portion of the track and invalid as to the other portion. However, since this was submitted as an integrated whole, it would affect the whole rezoning.

Mayor Weatherly declared the Public Hearing open.

Jeff Roach of Peak Engineering, representing Parkside Builders, stated they met with and emailed the neighbors, and the issues from staff were addressed. Roach outlined what they will do as far as buffers and what they have added and reevaluated as far as plantings and fencing. Stormwater concerns from the neighbors were discussed vs. what the UDO allows as well as pond draining and testing, and the adding of conditions that have result components.

Speaking in opposition, Don d'Ambrosi of d'Ambrosi Land Consulting Services distributed photos of the pond. He discussed trees which they wish to remain, the damn which is proposed to be removed, and the outlet channel by which water is released. According to staff, restrictions can be imposed; and they want the Cadillac version. There are concerns, particularly as to what happens if the property is sold since some items are not explicit enough. The conditions were agreed to in general only; they discussed in detail with the applicant what they would like to have done and why. This rezoning is not compatible with adjacent uses and the environment, and d'Ambrosi asked Council to deny the request if acted on this evening. Subsequent meetings with Roach failed, but they would be open to further negotiations with the applicant

Staff stated the level of detail for this rezoning is much more than what is normally seen.

Faye Weisner stated the bottom line is that they and the applicant have not come to an agreement, even through efforts to do so. If Roach could make himself available, she felt a compromise could probably be reached quickly.

Mayor Weatherly asked Roach if given another two-week extension, did he think he would be able to work things out with the neighbors. Roach stated they have given what they can, and he was not sure the extra time would get them anywhere because of the level of specificity. However, he would be happy to delay another two weeks in order to engage further discussion. It was suggested that staff become an intermediary, the Town Manager stating this would be a dangerous precedent. Some

of the zoning conditions requested by neighbors are part of UDO and site plan approval process. Council should only be hearing those issues related to rezoning.

After further discussion,

MAYOR WEATHERLY CALLED FOR A MOTION TO CONTINUE THIS PUBLIC HEARING TO A SPECIAL MEETING TO BE HELD ON TUESDAY, AUGUST 13, 2013 AT 7:00 P.M. COUNCIL MEMBER JENSEN MADE THE MOTION; COUNCIL MEMBER OLIVE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

Mayor Weatherly called for a five minute break.

**Public Hearing 03 : June Cowles, Senior Planner**

**Public Hearing and Rezoning #13CZ11, 2.96 acres located at a portion of 6501 Old Jenks Road from Residential Agricultural Zoning to Medium Density Conditional Zoning**

Staff outlined details of the request. A neighborhood meeting raising several concerns, and a valid protest petition was filed. Staff and the Planning Board recommended approval of the request.

Mayor Weatherly declared the Public Hearing open.

Jason Barron, representative of Ashton Woods Homes, stated this and the next rezoning will be developed as one residential development, with a maximum 10 units, and a vehicular connection. This site will be complimentary to the adjacent subdivision.

Mayor Weatherly declared the Public Hearing closed.

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

**Public Hearing 04 : June Cowles, Senior Planner**

**Public Hearing and Rezoning #13CZ12, 40.85 acres that include 6 parcels located at 0 Old Jenks Road, 6613, 6633, 6609, and a portion of 6501 Old Jenks Road from Residential Agricultural Zoning and Medium Density Conditional Use to Medium Density Conditional Zoning**

Staff outlined the details of the request. A neighborhood meeting raised concerns which resulted in additional conditions. A protest petition was filed which was deemed valid. The Planning Board

recommended approval but raised questions about transportation issues which staff stated would be more appropriately addressed at the master subdivision plan stage. Staff recommended approval of the request with conditions.

Lengthy discussion ensued on road connectivity, staff pointing out that a traffic impact analysis has not as yet been done. The Town Attorney stated that in a conditional zoning, a requirement can be varied that would otherwise apply to the UDO. Restrictions can be added or lessened.

Fire Chief Mark Haraway cautioned that when adding density and increasing development, requirements are in place to continue to maintain evacuation ingress, egress, and public safety requirements. The connectivity requirement is to enhance safety, and the Town has not in the past approved a temporary egress.

Mayor Weatherly declared the Public Hearing open.

Jason Baron readdressed Council, stating that from a planning standpoint this request makes a lot of sense. Discussed were conditions and details of the property, Baron noting that connectivity continues to be one of the biggest issues. However, until it is seen how the site is laid out, connectivity can't definitely be determined.

Speaking in opposition, Ed Phillips stated the protest petition was signed by just about every resident in Castlewood. He spoke on decreased tranquility with increased traffic, sidewalk safety, pedestrian and bike paths, and requested the stub at Sandy Hills not be used. Discussion followed on gridded streets.

Ken McAdams pointed to parts of the transportation plan, the UDO, and their requirements. He offered photographs of grids and pavers which could be used to match up the streets.

Christa Coady showed slides of her house and what the new development possibly would look like from her property line. She asked for lot sizes immediately adjoining her property to be increased to  $\frac{1}{4}$  acre, and she wished to see a larger buffer. Council explained that a type A buffer would be used.

Rick Cooper spoke on density and character and how the proposed subdivision would not match the surrounding area.

Surapon Sujjavanich stated a visiting Thailand ambassador spoke highly of the town. He asked that connectivity at Sandy Hills be reconsidered and gave examples of how to keep traffic moving at a slow pace. It was felt that the character of the area would be ruined by so many houses against their properties.

Al Martin chose his property for its rural characteristics. He spoke on the current condition of roads; he is opposed to connectivity at Sandy Hills. The proposed lots need to be larger so that a wall of houses would not be a hindrance to Castlewood.

William Ponds stated he settled in Castlewood because he is a dog walker. If traffic goes up, it will have to slow down; the roads are not up to a lot of traffic. Pawns is in favor of temporary emergency access.

Steve Blough stated he wanted a better understanding of runoff.

Dane Heule spoke on traffic patterns and offered that the access roads are not making sense. Council was asked to consider traffic patterns.

Teresa Carnes spoke on the amount of traffic going to 64. The proposed road would bring dangerous traffic, and she'd have a hard time getting out of her driveway.

Mayor Weatherly declared the Public Hearing closed.

Council stated it wanted more information on grids. Fire department staff has not done research on grids, pavers, etc. However, there has been discussion with another fire marshal who has used pavers once in a parking deck where there was no street access but not for connectivity. Council was cautioned that whatever was done this evening would set a precedent for other pending subdivisions that don't want connectivity. The temporary street concept is not supported, and the Town has always stood firm on public safety.

There was further discussion with the Town Attorney on definitions and how a motion could be worded to address streets. Staff discussed the limitations of pavers and grids and demonstrated a pro stand on streets. The applicant stated it knows some improvement of roads is going to be needed, but there is no certainty right now not knowing their finances and what DOT would require.

AT THIS POINT, COUNCIL UNANIMOUSLY APPROVED DISCUSSION BETWEEN THE TOWN ATTORNEY AND THE APPLICANT ON LANGUAGE, THE PUBLIC HEARING TO BE CONTINUED AFTER THIS DISCUSSION.

**Public Hearing 05 : June Cowles, Senior Planner**

**Public Hearing and Rezoning #13CZ14, 14.79 acres located at 2932 and 3008 Evans Road, 0 and 7732 Humie Olive Road from Rural Residential Zoning to Medium Density Conditional Zoning**

Staff outlined the details of the request. Staff recommended approval with conditions as did the Planning Board. Staff pointed out this street situation was the same as the previous Public Hearing.

Mayor Weatherly declared the Public Hearing open.

Stuart Jones, Jones and Crossen Engineering, stated this development is intended to be similar to Bella Casa architecturally and density wise.

Mayor Weatherly declared the Public Hearing closed.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE REZONING; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Public Hearing 06 : Lauren Simmons, Planner II**

**Public Hearing and Rezoning #13CZ15, 5.1 acres located at 2717 Evans Road from Residential Agricultural to Medium Density-Conditional Zoning**

Staff outlined the details of the request. No one attended the neighborhood meeting. Staff and the Planning Board recommended approval with conditions offered by the applicant.

Mayor Weatherly declared the Public Hearing open.

Stuart Jones, Jones and Crossen Engineering, briefly outlined this project by Joey Ione.

Mayor Weatherly declared the Public Hearing closed.

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

**Public Hearing 07 : June Cowles, Senior Planner**

**Public Hearing and Rezoning #13CZ16, 65.9 acres located at 0, 3000, 3008 and 3012 Holland Road and 2805 Walden Road from Rural Residential Zoning to Medium Density Conditional Zoning**

Staff outlined details of the request. A neighborhood meeting was held. Staff and the Planning Board recommended approval with conditions.

Mayor Weatherly declared the Public Hearing open.

Stuart Jones, Jones and Crossen Engineering, stated this is a Joey Ione project which will continue in the Bella Casa tradition. They are working with the DOT regarding issues on the Holland Road access. Buffers were discussed at the neighborhood meeting.

Mayor Weatherly declared the Public Hearing closed.

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

**Public Hearing 08 : Lauren Simmons, Planner II**

**Public Hearing and Rezoning #13CZ17, 107.68 acres located at Green Level West Road and Castleberry Road from Rural Residential and Wake County-R-80W to Low Density-Conditional Zoning, PINs 0713-93-6063, 0713-82-7260, a 37.87 acre portion of 0723-04-2533, 0723-03-3178, 0723-05-9161 and 0713-82-3778 will be re-noticed to the property owners within 300 feet of the subject property and re-advertised on the Town's website for the August 20, 2013 Town Council meeting**

Mayor Weatherly stated this would come back before Council at the August 20<sup>th</sup> Regular Meeting.

**OLD BUSINESS**

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There were no Old Business items for consideration.

## PUBLIC FORUM

No one wished to speak during Public Forum.

## NEW BUSINESS

### **New Business 01 : Jessica Bolin, Public Works & Utilities Department**

#### **Construction contract for the New Hill Water and Sewer Infrastructure Project and associated Budget Ordinance Amendment No. 1 and Capital Project Ordinance Amendment**

Staff recommended award to the lowest bidder and adoption of the Ordinance Amendments.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE CONTRACT AWARD AND AMENDMENTS; COUNCIL MEMBER ROWE SECONDED THE MOTION. THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

### **Continuation of Public Hearing 04:**

The Town Attorney stated that the condition drawn up by the applicant was a lawful condition. Jason Baron presented the following language: "Subject to approval by NCDOT and other applicable government entities, the development of the property may include a second point of access onto Old Jenks Road in lieu of a permanent vehicular connection onto Sandy Hills Court. If the second access onto Old Jenks is approved, then the development shall not require a permanent vehicular connection to Sandy Hills Court."

Following discussion between staff and Council on this language and the effect it would have on the UDO plus alternates to this language for the site plan cited by staff,

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE REZONING WITH THE AGREED UPON CONDITIONS THAT THE CONNECTION BE GATED ON SANDY HILLS COURT UNTIL TOWN COUNCIL DEEMS IT APPROPRIATE TO OPEN THE GATE; COUNCIL MEMBER JENSEN SECONDED THE MOTION.

With further discussion on ensuring that this language was correct,

COUNCIL MEMBER LASSITER WITHDREW HIS MOTION.

MAYOR WEATHERLY CALLED FOR AN ALTERNATE MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO CONTINUE THIS HEARING UNTIL THE AUGUST 13<sup>TH</sup> SPECIAL MEETING; COUNCIL MEMBER JENSEN SECONDED THE MOTION. COUNCIL MEMBERS JENSEN, ROWE, AND SCHULZE VOTED IN THE AFFIRMATIVE, COUNCIL MEMBERS OLIVE AND SCOTT VOTED IN THE NEGATIVE.  
THE MOTION CARRIED BY A 3-2 VOTE.

CLOSED SESSION

There were no Closed Session items for consideration.

WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

With there being no further business,

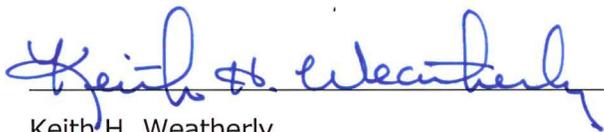
MAYOR WEATHERLY CALLED FOR A MOTION TO ADJOURN.  
MAYOR PRO TEMPORE SCHULZE MADE THE MOTION; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.



Donna B. Hosch, CMC, NCCMC

Town Clerk

ATTEST:



Keith H. Weatherly

Mayor



## TOWN COUNCIL MEETING

TUESDAY, AUGUST 6, 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, August 6, 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 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. Absent were Council Members William S. Jensen and Lance Olive.

### COMMENCEMENT

Mayor Weatherly called the Meeting to order, Council Member Lassiter gave the Invocation, Mayor Weatherly led the Pledge of Allegiance.

### PRESENTATIONS

#### **Presentation 01 : Chief Mark Haraway, Fire Department**

#### **Recognition of Battalion Chief Alan Capps, Lieutenant Kevin Butts and Engineer Jody Paxton as recipients of the 2013 Higgins and Langley Award for Swiftwater Rescue Excellence**

Chief Haraway introduced the recipients and explained the history behind this award. Our employees are the only two to win this international award in the United States. This is the second time the award has been won in Apex. Mayor Weatherly and Mayor Pro Tempore Schulze expressed their appreciation to the recipients for their dedication to service.

#### **Presentation 02 : Joey Browning, Electric Utilities**

**Recognition of Ken Weatherman, Jon Rose, Dustin Prince, and Eric Martin for competing in the North Carolina Association of Municipal Electric Systems 16th Annual Lineman Rodeo in Greenville on May 23, 2013**

Mr. Browning introduced the recipients and overviewed the competitions in which they competed. Mayor Weatherly expressed his congratulations to the group. Town Manager Radford stated that Ken Weatherman's win was only the second time in history that the same person won this award back to back.

## CONSENT AGENDA

Consent 01 Minutes of the July 16, 2013 Regular Council Meeting and the July 24, 2013 Economic Development Committee Meeting

Consent 02 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 Yang, Partlow and Johnson properties containing 57.949± acres located off Castleberry and Green Level West Roads, Annexation #491 into the Town's corporate limits

Consent 03 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 Standard Pacific of the Carolinas, LLC (portion of Salem Village Subdivision) property containing 34.66± acres located south of S. Salem Street, northwest of the Apex Peakway, Annexation #493 into the Town's corporate limits

Consent 04 Public Hearing for the August 20, 2013 Town Council Meeting regarding Rezone and 2025 Land Use Plan Amendment #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 and a 2025 Land Use Amendment from Medium Density Residential to High Density Residential and Commercial

Consent 05 Public Hearing for the August 20, 2013 Town Council Meeting regarding rezone #13CZ17, 107.682 acres located at Green Level West Road and Castleberry Road from Rural Residential and Wake County-R-80W to Low Density-Conditional Zoning

Consent 06 Public Hearing for the August 20, 2013 Town Council Meeting regarding rezone #13CZ19, 10.75 acres located at 1640 Olive Chapel Road from RR to Tech Flex-Conditional Zoning (TF-CZ) and 2025 Land Use Plan Amendment from Medium Density to Office Employment

- Consent 07 Public Hearing for the August 13, 2013 Town Council Meeting regarding various amendments to the Unified Development Ordinance
- Consent 08 Public Hearing for the August 20, 2013 Town Council Meeting regarding various amendments to the Unified Development Ordinance
- Consent 09 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ09, ROC Construction Inc., Empire Contractors, PJV Investment Group, petitioner for the property located at 400, 410, 420, 430, & 510 Upchurch Street
- Consent 10 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ10, Donna Kincaid, petitioner for the property located at 102 & 104 W. Chatham Street
- Consent 11 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ11, Morning Star Law Group/Ashton Woods Homes, petitioner for the property located at 6501 Old Jenks Road
- Consent 12 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ14, Jones & Clossen Engineering, PLLC, petitioner for the property located at 2932 and 3008 Evans Road, 0 and 7732 Humie Olive Road
- Consent 13 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ15, Stuart Jones/Jones & Clossen Engineering, PLLC, petitioner for the property located at 2717 Evans Road
- Consent 14 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ16, Jones & Clossen Engineering, PLLC/JVI Development II, petitioners for the property located at 3000, 3008, and 3012 Holland Road and 2805 Walden Road
- Consent 15 Contract with Wake County Public School System for one School Resource Officer for Apex High School for the 2013-2014 school year
- Consent 16 Revision of the Town's Renewable Energy Program to include net metering

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE CONSENT AGENDA; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 3-0 VOTE.

## REGULAR MEETING AGENDA

Mayor Weatherly presented the Regular Meeting Agenda. Town Manager Radford requested the addition of a New Business Item regarding the boundary agreement with Holly Springs. Council Member Lassiter requested a Closed Session to receive advice from Counsel.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION  
TO APPROVE THE REGULAR AGENDA WITH THE ADDITION OF REQUESTED TWO ITEMS; COUNCIL MEMBER  
ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 3-0 VOTE.

## PUBLIC HEARINGS

### **Public Hearing 01 : Brendie Vega, Principal Planner**

#### **Public Hearing and update to the Apex Comprehensive Plan and adoption of the 2030 Land Use Map.**

Kate Pearce with LandDesign thanked all those involved in the development of the Plan. The Plan's background information, goals, and early strategy recommendations were overviewed. The Land Use Map was presented and its formulation explained. The UDO needs to be updated to take full advantage of the new Land Use Plan. Recommendations were made for those things which would keep Apex on target.

Mayor Weatherly declared the Public Hearing open.

Craig Manaday spoke on the mixed use areas of the land use map. Bunching stores and homes in one area would take away from Apex's character. There seems to be a push to put in mixed use when there are areas available that are more suitable.

A resident of the Abbington subdivision expressed concern that her neighborhood is in the midst of the mixed use areas. This would be detrimental to the residential atmosphere and character. It would be nice to have a greenway in this area.

Dave Cozarati expressed he had concerns about Beaver Creek but now feels it was the right development for the area. Mixed use will improve the value of homes if done appropriately.

Council explained how the UDO will protect property values. The Plan is a tool; approvals would still need to be gained through public, staff, and Council.

Mayor Weatherly declared the Public Hearing closed.

Council Member Lassiter stated there were two amendments to the Plan he wished considered:

- (1) Whitley Property: 23 acres at the northeast intersection of Goodwin Road/US 64 to mixed use commercial services. Staff is in agreement with this amendment.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO INCLUDE THIS AMENDMENT IN THE PLAN; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 3-0 VOTE.

- (2) Three acres located at the southwest corner of Kelly Road and Olive Chapel Road to Office Employment. Staff is in agreement with this amendment.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO INCLUDE THIS AMENDMENT IN THE PLAN; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 3-0 VOTE.

An Abbington resident stated the Plan indicates medium density residential except for one area and asked why it didn't carry into that area. Staff stated this has been in the 2025 Land Use Plan, so it was not changed. Residents were aware the change was not going to be made in order to be sensitive to them.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE PLAN WITH THE TWO AMENDMENTS; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 3-0 VOTE.

**Public Hearing 02 : Dianne Khin, Planning Director**

**Public Hearing and Ordinance on the Question of Annexation – Apex Town Council's intent to annex Wardensky and Foster property containing .0238± acres located off Roosondall Court, Annexation #492 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. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO ADOPT THE ANNEXATION ORDINANCE; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 3-0 VOTE.

**Public Hearing 03 : June Cowles, Senior Planner**

**The applicant requested to continue the Public Hearing to August 20, 2013 regarding Rezone #13CZ05 0.73 acres located at 2621 and 2629 Schieffelin Road from Residential Agricultural Zoning to Light Industrial Conditional Zoning**

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER ROWE MADE THE MOTION TO CONTINUE THE PUBLIC HEARING AS REQUESTED; COUNCIL MEMBER LASSITER ECONDDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 3-0 VOTE.

**OLD BUSINESS**

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**Old Business 01 : Mike Deaton, Environmental Programs Manager**

**Service contract between the Town of Apex and American Road Conservation, LLC, for street and parking lot sweeping services and to authorize the Town Manager to execute same**

Staff stated additional staff was not approved by Council in the current budget year for street sweeping, and that street sweeping will satisfy State requirements. Staff recommended approval of the contract in the amount of \$107,929.90 for 3 years with the option to extend for two additional one-year periods. The Town Manager stated this contracted service was approved in the 2013/2014 budget.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE CONTRACT; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 3-0 VOTE.

**PUBLIC FORUM**

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No one wished to speak during Public Forum.

## NEW BUSINESS

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### **New Business 01 : Bruce Radford, Town Manager**

#### **Extending the lease of the depot space to the Apex Chamber of Commerce**

Town Manager Radford asked that this item come back before Council in two weeks. Council was in agreement.

### **New Business 02 : Lee Smiley, Finance Director**

#### **Budget ordinance amendment for the Town's share of CDBG project for improvements on Second Street**

Staff explained that roughly \$400,000 worth of work will be performed of which the Town would pay 20% and the County 80%, the monies coming from the General Fund.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE AMENDMENT; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 3-0 VOTE.

### **Add-on New Business 03 : Bruce Radford, Town Manager**

#### **Resolution to set a Public Hearing for August 20, 2013 regarding an annexation agreement with the Town of Holly Springs**

Staff stated terms have been reached with Holly Springs and that a Resolution would need to be approved calling for a Public Hearing at the Regular August 20<sup>th</sup> Meeting.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE RESOLUTION; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 3-0 VOTE.

## CLOSED SESSION

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### **Add-on Closed Session 01**

#### **Closed Session to receive advice from the Town Attorney**

MAYOR WEATHERLY CALLED FOR A MOTION TO GO INTO CLOSED SESSION.  
MAYOR PRO TEMPORE SCHULZE MADE THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 3-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION TO RETURN TO OPEN SESSION.  
MAYOR PRO TEMPORE SCHULZE MADE THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 3-0 VOTE.

WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

With there being no further business,

MAYOR WEATHERLY CALLED FOR A MOTION TO ADJOURN.

COUNCIL MEMBER ROWE MADE THE MOTION.

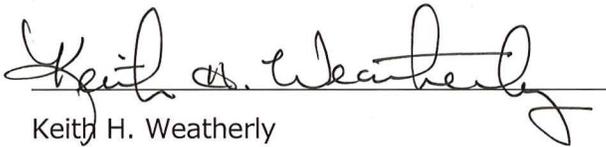
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.



Donna B. Hosch, CMC, NCCMC

Town Clerk

ATTEST:



Keith H. Weatherly

Mayor



## TOWN COUNCIL SPECIAL MEETING

TUESDAY, AUGUST 13, 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**

A Special Meeting of the Apex Town Council scheduled for Tuesday, August 13, 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, Deputy Town Clerk Bonnie J. Brock, and Town Attorney Henry C. Fordham, Jr. Absent was Town Clerk Donna B. Hosch.

### COMMENCEMENT

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

### PUBLIC HEARINGS

**Public Hearing 01: Dianne Khin, Planning Director**

**Continued from the June 18, 2013 and July 16, 2013 Council Meetings: Public Hearing and motion to adopt an Ordinance on the Question of Annexation: Apex Town Council's intent to annex Parkside Builders, LLC properties containing 12.08 acres located at 2533 Olive Chapel Road, Annexation #490, into the Town's corporate limits**

**and**

**Public Hearing 02: Lauren Simmons, Planner II**

**Continued from the June 18, 2013 and July 16 2013 Council Meetings: Public Hearing and motion regarding Rezone #13CZ08, 12.08 acres located at 2533 Olive Chapel Road from Wake County-R-80W and Rural Residential to Medium Density Residential Conditional Zoning**

Mayor Weatherly declared the Public Hearing open.

Discussion ensued with the applicant and two residents regarding the 70 foot southern property line and the replacement of dead or dying trees. These residents wanted language added to condition numbers 13 and 14. Council expressed concern and suggested replacing dead, dying, or diseased trees with similar species and a minimum caliper of 4". Applicant Jeff Roach agreed to add the language.

Mayor Weatherly declared the Public Hearing closed.

MAYOR WEATHERLY CALLED FOR MOTIONS. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE ANNEXATION #490. MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE REZONE #13Z08 WITH THE CONDITIONS OUTLINED IN THE REZONING PETITION AND WITH ADDITIONAL LANGUAGE IN NEW CONDITION #15A: PURSUANT TO CONDITION #'S 13 AND 14, ANY DEAD, DYING OR DISEASED TREES REMOVED ALONG THE PROPERTY LINE WILL BE REPLACED WITH 4" CALIPER TREES OF A SIMILAR SPECIES. COUNCIL MEMBER SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Public Hearing 03: Dianne Khin, Planning Director**

**Public Hearing and motion regarding an amendment to the Unified Development Ordinance**

Staff stated this item was related to the next item under Old Business. Staff met with the Town Attorney, Fire Department, and the Transportation Engineer and all came to an agreement with the UDO language to allow a locked gate with a four foot opening for public access for pedestrians, bicycles, and non-motorized scooters. This was the best solution, it does not set a precedent for other developments, and can be re-addressed if necessary.

Mayor Weatherly declared the Public Hearing open.

A citizen commented they would like to be notified if this is evaluated in the future.

Mayor Weatherly declared the Public Hearing closed.

Discussion ensued regarding motorized vs. non-motorized scooters and motorcycles.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER OLIVE MADE THE MOTION TO APPROVE THE UDO AMENDMENT IN ADDITION TO ALLOWING MOTORCYCLES THROUGH THE FOUR FOOT OPENING.

COUNCIL MEMBER JENSEN SECONDED THE MOTION.

THE MOTION CARRIED BY A 4-1 VOTE WITH COUNCIL MEMBERS JENSEN, ROWE, SCHULZE, AND OLIVE VOTING IN THE AFFIRMATIVE AND COUNCIL MEMBER LASSITER VOTING IN THE NEGATIVE

MAYOR PRO TEMPORE SCHULZE CALLED FOR A MOTION TO RECONSIDER THE PREVIOUS ACTION OF COUNCIL. COUNCIL MEMBER LASSITER SECONDED THE MOTION.

THE MOTION CARRIED BY A 3-2 VOTE WITH COUNCIL MEMBERS JENSEN, ROWE, AND SCHULZE VOTING IN THE AFFIRMATIVE AND COUNCIL MEMBERS OLIVE AND JENSEN VOTING IN THE NEGATIVE.

Council Member Lassiter questioned whether there would be a liability issue if an accident occurred involving a motorcycle at the opening. Council Member Jensen stated it will be difficult to enforce who goes through the four foot opening.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER OLIVE MADE THE MOTION TO APPROVE THE UDO AMENDMENT AND TO ALLOW MOTORCYCLES THROUGH THE FOUR FOOT OPENING.

COUNCIL MEMBER JENSEN SECONDED THE MOTION.

THE MOTION CARRIED BY A 4-1 VOTE WITH COUNCIL MEMBERS JENSEN, ROWE, SCHULZE, AND OLIVE VOTING IN THE AFFIRMATIVE AND COUNCIL MEMBER LASSITER VOTING IN THE NEGATIVE.

#### **Old Business 01: June Cowles, Senior Planner**

**Continued from the July 16, 2013 Council Meeting: Motion regarding Rezone #13CZ12, 40.85 acres that include 6 parcels located at 0 Old Jenks Road, 6613, 6633, 6609, and a portion of 6501 Old Jenks Road from Residential Agricultural Zoning and Medium Density Conditional Use to Medium Density Conditional Zoning**

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE REZONING WITH THE CONDITIONS PROPOSED BY THE APPLICANT. COUNCIL MEMBER OLIVE SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

#### **ADJOURNMENT**

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A resident came forward to acknowledge and congratulate the Town of Apex for receiving Money Magazines #9 ranking of "Best Places in America to Live".

With there being no further business,

MAYOR WEATHERLY CALLED FOR A MOTION TO ADJOURN.

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

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.



Bonnie J. Brock

Deputy Town Clerk

ATTEST:



Keith H. Weatherly

Mayor



## TOWN COUNCIL MEETING

TUESDAY, AUGUST 20, 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, August 20, 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, Council Member Rowe gave the Invocation, and Mayor Weatherly led the Pledge of Allegiance.

### PRESENTATIONS

No presentations were made.

### CONSENT AGENDA

Consent 01 Minutes of the August 6, 2013 Regular Council Meeting and the August 6, 2013 Closed Session (*Minutes of Closed Session recorded separately*)

Consent 02 Apex Tax Report dated 07/02/2013

Consent 03 Governor's Highway Safety Program Resolution for funding in the amount of \$58,415.00

Consent 04 Governor's Highway Safety Program Resolution for funding in the amount of \$19,350.00

Consent 05 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 Richer Levert property containing 2.169± acres located at 2908 Evans Road, Annexation #494 into the Town’s corporate limits

Consent 06 Amendment to the contract with Wake County for tax collection

Consent 07 Change in the Colvin Park Subdivision sewer force main alignment, revised Exhibit B, \$15,000 Maintenance Fee, and staff to implement details for maintenance of the proposed sewer force main

Consent 08 Town Manager to sign a Funding Agreement from Wake County for 20% proportionate shared funding of renovations to Station 2

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

## REGULAR MEETING AGENDA

There were no changes requested to the Regular Meeting Agenda.

## PUBLIC HEARINGS

### **Public Hearing 01 : June Cowles, Senior Planner**

**The applicant requested to remove from the Agenda Public Hearing Rezone #13CZ05 0.73 acres located at 2621 and 2629 Schieffelin Road from Residential Agricultural Zoning to Light Industrial Conditional Zoning**

Unanimous consensus of Council was to remove this item from the Agenda.

### **Public Hearing 02 : Dianne Khin, Planning Director**

**Public Hearing and adoption of an Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Yang, Partlow and Johnson properties containing 57.949± acres located off Castleberry and Green Level West Roads, Annexation #491 into the Town’s corporate limits**

**AND**

**Public Hearing 03 : Lauren Simmons, Planner II**

**Public hearing and Rezoning #13CZ17 and 2030 Land Use Map Amendment for 107.68 acres located at Green Level West Road and Castleberry Road from Rural Residential and Wake County-R-80W to Low Density-Conditional Zoning**

Staff oriented Council to the site. Conditions were added since the Planning Board meeting which the applicant would explain. The Planning Board vote on this issue was 4/4, with no reasons given for the votes against the request. Protest petitions were submitted. The first petition was deemed invalid by the Town Attorney and the second petition was withdrawn. Staff recommended approval with conditions.

Mayor Weatherly declared the Public Hearing open.

Applicant Tom Beebe, Standard Pacific Homes, oriented Council to the site, confirming its use was consistent with the 2030 Land Use Plan. The additional staff conditions were stated and explained. A group of developers have agreed to build the White Oak Creek pump station at no cost to the Town, and water lines would be extended. The dam would be repaired and reconstructed in order that the lake remain. There have been two meetings with the neighbors, and not all their concerns could be incorporated.

Speaking in favor of the request were Freeman Johnson, Bill Partlow, Randall Gressett, Patty MacNair, Dennis Heck, Patti Gamin, and Henry MacNair. The Town was congratulated for winning Money Magazine's 9<sup>th</sup> best place to live in North Carolina. Speakers presented reasons why this appropriate rezoning and its impressive development would be good for Apex, this is consistent with applicable Land Use Plans, opposing resident demands were unreasonable, and why it is important to preserve the lake. There was a question as to what would happen if the dam broke and possible resulting health and safety risks. However, this development was still seen as a good product, Council being asked to consider what would be behind "door number two" if this rezoning was denied.

In opposition, Tom Kendig, Kerry MacPherson, Trish MacPherson, Paul Cotruto, Deborah Strickland, Steve Amons, and Michelle VanGundy expressed concerns about lot and housing sizes, the watershed boundary, the effect on their rural community life, inconsistency with land use plans, disturbance of wildlife, degradation of water quality and stormwater runoff, increase of people and its effect on emergency services, and increase in taxes. BJ Lawson additionally distributed a handout showing

development costs, gross margin, construction costs, etc. Council was questioned on how to appeal the protest petition as a whole.

Council asked the applicant for confirmation of lot sizes and minimum house sizes. The Town Attorney stated that if these things are not written conditions, then they should not be relied upon. The applicant stated he would be willing to agree to a condition on size. Staff presented Council the following written condition: "No residential lot shall be smaller than 10,000 square feet". Staff additionally provided information on runoff rules which are currently in the Legislature and related to Jordan Lake. Those rules would effect this development as far as water quality. Taxes were briefly discussed.

Mayor Weatherly declared the Public Hearing closed.

Staff gave its thoughts on amending the newly passed 2030 Land Use Plan, reminding Council that it stated it would decide on these types of issues on a case by case basis which was not consistent with staff recommendations. Council engaged in conversation regarding density and discussed this with the applicant. Council stated that a Parks and Rec fee in lieu would be applied. Staff speculated on the negative impact to the pond if the Jordan Lake rules come into effect.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER OLIVE MADE THE MOTION TO APPROVE  
THE ANNEXATION; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER OLIVE MADE THE MOTION TO APPROVE  
THE REZONING WITH THE ADDITIONAL CONDITION PRESENTED BY STAFF AND TO AMEND  
THE 2030 LAND USE PLAN; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

Mayor Weatherly called for a five minute recess.

**Public Hearing 04 : June Cowles, Senior Planner**

**Public Hearing and Rezoning #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 oriented Council to the site and stated a traffic impact analysis had been completed. Molly Matthewson with Ramey Kemp explained how the traffic model was built and how they came to their recommendations. A Parks and Rec fee in lieu was recommended. The neighborhood meeting raised concerns about traffic and buffers. Townhomes were originally proposed, that being changed to single family homes and a 10-foot Type B buffer. The applicant included a condition to change the PUD Plan density to 4.5 units per acre. Staff recommended approval of the request with conditions. The Planning Board recommended approval with architectural and buffer conditions.

Mayor Weatherly declared the Public Hearing open.

In favor, applicant Stuart Jones, Jones and Clossen Engineering, presented their proposal for the site. They are not in agreement with disrupting an historic home to alter the traffic pattern.

In opposition, Charles Macias, Christy Macias, Roger Hellman, Nick Sennert, and Kent Van Riper expressed concerns about density, a 10-foot buffer being inadequate, the development not benefitting Apex or Haddon Hall, and the impact analysis being inadequate.

Mayor Weatherly declared the Public Hearing closed.

Council discussed buffers, Mr. Jones suggesting a 15-foot Type B buffer as an alternative to a Type A buffer. Mr. Jones discussed widening the traffic lane at the historic home and its negative impact on yard size. The applicant asked for more time to consider road access. Brad Zadell for the residential side of the request was present. Council stated a second way in and out of the development would provide some solution to possible traffic problems. Staff offered several solutions to traffic lanes and how this could be done in phases until the commercial aspect comes in for development.

Mayor Weatherly declared the Public Hearing closed.

After some brief discussion,

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER ROWE MADE THE MOTION TO CONTINUE THIS DISCUSSION TO THE SEPTEMBER 3, 2013 COUNCIL MEETING; COUNCIL MEMBER OLIVE SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Public Hearing 05 : Brendie Vega, Principal Planner**

**Public Hearing for various amendments to the Unified Development Ordinance**

Staff oriented Council on the various requested amendments.

Mayor Weatherly declared the Public Hearing open.

In favor, Tom Colhoun stated that allowing Tech Flex could be key to helping Apex.

Mayor Weatherly declared the Public Hearing closed.

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

**Public Hearing 06 : Lauren Simmons, Planner II**

**Public Hearing and Rezoning #13CZ19, 10.75 acres located at 1640 Olive Chapel Road from RR to Tech Flex-Conditional Zoning (TF-CZ) and 2030 Land Use Map Amendment from Medium Density to Office Employment**

Staff oriented Council to the site. The Planning Board recommended approval with a condition revised at their meeting. Staff recommended approval with the condition requested by the Planning Board.

Mayor Weatherly declared the Public Hearing open.

Applicant Stuart Jones, Jones and Cnossen Engineering, stated the storage unit aspect is not unusual in this area. There would be a low traffic impact, and a positive impact on the tax base.

With a neutral stance, Jim Faulkner expressed concerns about manufacturing-type lighting and noise. There was also concern about folks utilizing the pond and, thereby, his picnic benches. He expressed concern about trash on his property, the applicant stating there would be fencing in the area.

Mayor Weatherly declared the Public Hearing closed.

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

**Public Hearing 07 : Dianne Khin, Planning Director**

**Public Hearing and adoption of an Ordinance on the Question of Annexation – Apex Town Council's intent to annex Standard Pacific of the Carolinas, LLC (portion of Salem Village Subdivision) property containing 34.66± acres located south of S. Salem Street, northwest of the Apex Peakway, Annexation #493 into the Town's corporate limits**

Staff oriented Council to the site.

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

**Public Hearing 08 : Bruce Radford, Town Manager**

**Public Hearing and Annexation Agreement with the Town of Holly Springs**

Town Manager Radford gave background information on this Agreement, stating that Holy Springs would be discussing and entering into this Agreement on this night also.

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 LASSITER MADE THE MOTION TO APPROVE THE RESOLUTION APPROVING THE ANNEXATION AGREEMENT; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

OLD BUSINESS

There were no Old Business items for consideration.

PUBLIC FORUM

Ross Olive stated he was excited to see the renaming of Olive Grove to Edwards Creek on the upcoming New Business 02 . He was additionally excited to see the decrease in rezoning, although even more of a decrease would have been better.

## NEW BUSINESS

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### **New Business 01 : Bruce Radford, Town Manager**

#### **Motion to extend the lease of the depot space to the Apex Chamber of Commerce**

Staff stated this would be an extension of the current lease, and the financial particulars were presented. The Mayor and Council Member Rowe were on the Council Committee deciding on this lease. Staff recommended approval; the Chamber governing body was in agreement with the lease.

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

### **New Business 02 : Lauren Simmons, Planner II**

#### **Motion approving Edwards Creek - Master Subdivision Plan - for the property located at 0 Old Raleigh Road containing 3.97 acres and 9 lots**

Staff oriented council to the site. The Parks and Rec Advisory Commission recommended payment of fee in lieu, and this request was in conjunction with the UDO and Transportation Plan. In the neighborhood meeting, there was interest in the rezoning process, uses, and density of the project. The Planning Board unanimously recommended approval.

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

### **New Business 03 : Lauren Simmons, Planner II**

#### **Motion approving Manors at Bella Casa, Phase 7 - Master Subdivision Plan - for the property located at 2717 Evans Road containing 5.40 acres and 11 lots**

Staff oriented Council to the site. The request meets UDO requirements, no one attended the neighborhood meeting, recommended was a Parks and Rec payment of fee in lieu, and staff required the condition of a 5-foot wide paved connection from the end of Maroni Drive to Evans Road as per the UDO. The Planning Board recommended approval without this staff condition. If the condition is not added to the Master Subdivision Plan, then the UDO would need to be modified in order for this to be consistent. The applicant did not agree to the condition.

Stuart Jones, Jones and Clossen Engineering on behalf of Joey Iannone stated they could not get a road connection onto Evans Road because of the s-curve. DOT stated this connection could not be

made. Mr. Iannone was concerned about sidewalk connection to Evans Road and its security and safety even though this is in the UDO. Staff stated the sidewalk won't contribute to security problems; studies confirm it may make it safer. Mr. Jones stated they may be able to come up with something else and that this is not a deal killer.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE PLAN WITH STAFF'S REQUIRED CONDITIONS; COUNCIL MEMBER LASSITER 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 to receive legal advice from the Town Attorney regarding potential eminent domain actions and to give directions regarding the same

Closed Session 03 : Closed Session for a personnel matter

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

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO ADOPT A RESOLUTION AUTHORIZING EMINENT DOMAIN PROCEEDINGS RELATED TO THE NEW HILL MITIGATION WATER AND SEWER PROJECT FOR THE IMPROVEMENT OF THE APEX WATER AND SEWER SYSTEMS; COUNCIL MEMBER JENSEN SECONDED THE MOTION. THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

### WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

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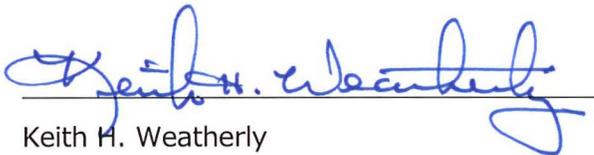
With there being no further business,

MAYOR WEATHERLY CALLED FOR A MOTION TO ADJOURN.  
COUNCIL MEMBER JENSEN MADE THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.



Donna B. Hosch, CMC, NCCMC  
Town Clerk

ATTEST:



Keith H. Weatherly  
Mayor



## 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.

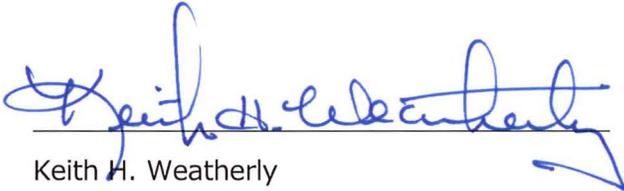
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.



Donna B. Hosch, CMC, NCCMC

Town Clerk

ATTEST:



Keith H. Weatherly

Mayor



## TOWN COUNCIL MEETING

TUESDAY, SEPTEMBER 17, 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 17, 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, Council Member Olive gave the Invocation, and Mayor Weatherly led the Pledge of Allegiance.

### PRESENTATIONS

There were no presentations to be made.

### CONSENT AGENDA

Consent 01 Minutes of the August 29, 2013 Personnel Committee Meeting and the September 3, 2013 Regular Council Meeting

Consent 02 Apex Tax Report dated 8/12/2013

Consent 03 Encroachment and Maintenance Agreement with Donald P. Fisher and wife, Mary Jo Fisher and to authorize the Town Manager to execute same

Consent 04 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ07, Stuart Jones, Jones & Clossen, Engineering, PLLC, petitioner for the property located at 0, 1005, 1013 and 1015 N. Salem Street

Consent 05 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ12, Jason L. Barron, Morningstar Law Group, petitioner for the property located at 6609, 6613, 6633 and a portion of 6501 Old Jenks Road

Consent 06 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ17, Standard Pacific Homes Carolina Division, petitioner for the property located at Castleberry Road and Green Level West Road

Consent 07 Resolution of Intent to close a portion of Third Street south of its intersection with West Street

Consent 08 Agreement with Wake County regarding buffer encroachment at Apex Nature Park

Consent 09 Apex High School Homecoming Parade and street closures

The Town Attorney stated that if the Regular Meeting to be held on November 5, 2013 was to be cancelled (New Business 05), then for Consent 07, closing a portion of Third Street, the date of the Public Hearing would need to be changed to November 19, 2013. Additionally, for Consent 08, Agreement with Wake County, the County returned an Agreement slightly different than what was in the Agenda Packet. The change was read, with the Attorney stating there were no objections from a legal standpoint. All aspects have been covered, and the change was an acceptable resolution for the situation.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE  
THE CONSENT AGENDA WITH THE STATED CHANGES TO CONSENT 07 AND 08; MAYOR PRO  
TEMPORE SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

## REGULAR MEETING AGENDA

Mayor Weatherly presented the Regular Meeting Agenda, requesting that New Business 04, skate plaza, be moved to New Business 01 in order to accommodate the many participants in the audience.

Town Manager Radford requested that Public Hearing 06 be continued to October 1<sup>st</sup> [next Regular Council Meeting].

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER OLIVE MADE THE MOTION TO APPROVE THE REGULAR AGENDA WITH THE STATED MODIFICATIONS; COUNCIL MEMBER ROWE 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 Equity Trust Company property containing 5.45± acres located off Mt. Zion Church Road, Annexation #495, into the Town’s corporate limits. This item is requested to be continued to the October 15, 2013 Town Council meeting.**

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO CONTINUE THE PUBLIC HEARING TO THE OCTOBER 15<sup>TH</sup> COUNCIL MEETING; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION. THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

### **Public Hearing 02 : Lauren Simmons, Planner II**

**Public Hearing and motion regarding rezone #13CZ13, 133.7 #13CZ13, rezone from Planned Unit Development – Conditional Zoning (PUD-CZ), R-80W 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. This item will be re-noticed to the property owners within 300 feet of the subject property and re-advertised on the Town’s website for the October 15, 2013 Town Council meeting.**

Mayor Weatherly stated that this item would be re-advertised and brought back before the Council.

### **Public Hearing 03 : June Cowles, Senior Planner**

**Public Hearing and motion regarding Rezone #13CZ18, 99 acres located at 7924 Green Level Church Road from Rural Residential Zoning to Planned Unit Development Conditional Zoning**

Staff oriented Council to the site, stating it concurred with the recommendations regarding access roads. The Parks and Recreation Commission made a recommendation for a partnership for a regional park facility according to the Town’s Master Plan. If this is not to the Town’s satisfaction, then the developer shall be required to pay a fee in lieu with the caveat that a partnership can continue to be sought. The neighborhood meeting raised concerns about traffic congestion. The Planning Board unanimously recommended approval as did the staff.

Mayor Weatherly declared the Public Hearing open.

Glenda Toppe of Pulte Corporation further detailed the site, stating that all conditions by staff were accepted. They are agreeable to the Commission recommendation for a regional park. The average lot size will be about 1/6 of an acre, and the recreational facilities will be two informal gathering areas.

Mayor Weatherly declared the Public Hearing closed.

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

**Public Hearing 04 : June Cowles, Senior Planner**

**Public Hearing and motion regarding Rezone #13CZ21, 12.21 acres located at 2804 Holland Road from Rural Residential Zoning to Medium Density Conditional Zoning**

Staff oriented Council to the site. No one attended the neighborhood meeting. The Planning Board unanimously recommended approval as did staff with conditions.

Mayor Weatherly declared the Public Hearing open.

Stuart Jones, Jones and Crossen Engineering on behalf of Joey Iannone, stated this parcel would be added to the ones that were previously rezoned. The same conditions as before would apply.

Mayor Weatherly declared the Public Hearing closed.

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

**Public Hearing 05 : Brendie Vega, Principal Planner**

**Public Hearing regarding various amendments to the Unified Development Ordinance**

Staff detailed the requested amendments. There was discussion about signs painted directly on walls vs. signs being affixed to walls. Also discussed were the buildings in which microbreweries would be permitted.

Council requested that numbers 4 (painting of signs directly on a wall) and 5 (three flag poles per entrance or road frontage) be considered separately. The flag issue has been around for a while.

There is a problem when there are a number of flags on a pole advertising a business. Council stated it was not ready to exclude people willing to paint their walls professionally. It wanted to see more evidence before this was done away with. If the word "professional" needed to be clarified, then maybe that should be done. Council questioned the cost difference, especially to a new business starting up.

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 JENSEN MADE THE MOTION TO APPROVE THE AMENDMENTS MINUS NUMBER 4; COUNCIL MEMBER ROWE SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Public Hearing 06 : Dianne Khin, Planning Director**

**Public Hearing and motion to adopt an Ordinance to relinquish extraterritorial jurisdiction (ETJ) on 21 parcels and a portion of 3 parcels in accordance with the 2013 annexation agreement between the Town of Apex and the Town of Holly Springs**

Mayor Weatherly stated this Public Hearing would be continued to the October 1<sup>st</sup> Council meeting.

## OLD BUSINESS

There were no Old Business items for consideration.

## PUBLIC FORUM

Tray Cromwell, Kim DeStefano, Michael Litt, and Jeremy Johnson spoke on the benefits of a skate plaza: the teens having something to do would eliminate boredom and keep them out of trouble; it would support entertainment of future generations; it would support local business; the youth and parents would help keep the plaza clean; it would help teens to stay fit mentally and physically; skating brings out determination, patience, and ambition; it's a family-oriented sport; and maybe other events could be held there, bringing in financial rewards. It is not fair that other sports have places to be played but not boarding, and teens want to have a place to enjoy with no issues (would take boards off of merchant properties). It was felt there would be no graffiti or vandalism.

Ms. DeStefano stated she vans kids to other skate parks. Some look at boarding as a destruction to a town, but she sees it as a life changing event. Mr. Johnson, pastor of a local skate church, stated they have 30 to 50 kids each Sunday, ranging from ages 10 to 36. The church has a temporary free skate park which tries to meet the needs of the local skate community. The kids are helpful and respectful, and they have had no negative incidents. The closest free park is beyond the reach of typical teens.

## NEW BUSINESS

### **New Business 01 : Councilman Lassiter**

#### **Discussion on a skate plaza in Apex and possible motion to move forward with a design and to approve the expenditure for design fees**

Council Member Lassiter stated this is an example of how local government should work, and it shows some of the great things done in Apex. This plaza comes from the Master Plan, with quantifiable data showing there is a need. The Parks and Recreation Commission is supportive, and funding would be from the Parks and Recreation Subdivision Trust Fund from developers who don't bring their own parkland. The funds are set aside for this purpose. With widespread support from the public and staff, Council Member Lassiter asked the support of Council to set this in motion. The cost would be roughly \$350,000.

Chris Hilt of CLH Design presented her proposal for the project, which would encompass design through construction. The cost would be about the same as a baseball field, but it will also depend upon what the design team comes up with. If this needs to be designed in phases, it can be.

Ms. Hilt presented the goals for skate plaza, showed several plaza designs, and detailed the full design team and team leaders. The Town Attorney has researched liability, reporting that there is a specific statute which limits the liability of a Town as long as guidelines are followed. This would not be difficult. Council stated it liked this idea, which gives a solution to both sides of the fence.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE PLAZA, APPROPRIATE FUNDS, AND ACCEPT A DESIGN FROM CLH UP TO A COST OF \$22,000; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

Staff briefly updated Council on the funding and progression of the Nature Park and golf course. The estimated opening date is the end of this year.

**New Business 02 : Hank Fordham, Legal Department**

**Motion allowing Town Manager Bruce Radford and Fire Chief Mark Haraway to execute contract agreement for FireHouse software to replace existing Aegis fire management software currently in use**

There is a liability limitation in this contract, but it doesn't cause a great amount of concern. Staff stated this software was discussed last year during the Retreat, and it is in the budget. This will comply with State and federal requirements, and will help in the implementation of gathering data for a business license and/or other programs.

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

**New Business 03 : Lauren Simmons, Planner II**

**Motion approving West Street Subdivision - Master Subdivision Plan - for the property located at West and Third Street containing 1.73 acres and 7 lots**

Staff oriented Council to the site. This is a Habitat for Humanity project; there is no home owners association. One person attended the neighborhood meeting; no changes were made. This project will utilize a community block grant through the Town. The Parks and Recreation Commission recommended payment in lieu of fee for each lot. The Planning Board unanimously recommended approval; staff recommended approval with the approval of the abandonment of Third Street.

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

**New Business 04 : Mark Haraway, Fire Chief**

**Motion to enact an Ordinance Amending Section 5-9 of the Town of Apex Code of Ordinances to adopt Appendix D of the IFC (North Carolina State Building Code: Fire Prevention Code 2012)**

Staff explained that in 2008, the ordinances were adopted except for this one appendix for which there was no explanation. The appendix deals with access of fire apparatus and other emergency vehicles. The appendix is currently used as a guide; this will allow enforcement. In relation to gates as discussed in an earlier meeting, this will allow the Town to define width of access, enforce that access, and control the gate.

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

**New Business 05 : Mayor Weatherly**

**Motion to cancel the Regular Town Council Meeting of November 5, 2013 as this is Election Day**

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER OLIVE MADE THE MOTION TO  
CANCEL THE MEETING; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

CLOSED SESSION

There were no Closed Session items for consideration.

WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

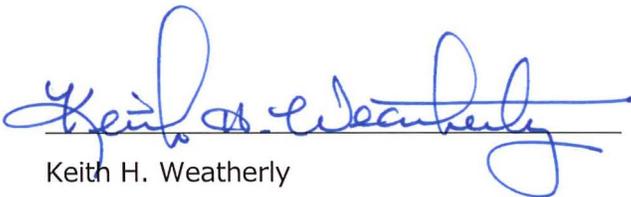
With there being no further business,

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



## TOWN COUNCIL MEETING

TUESDAY, OCTOBER 1, 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, October 1, 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, 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. Absent was Council Member Scott R. Lassiter.

### COMMENCEMENT

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

### PRESENTATIONS

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There were no Presentations made.

### CONSENT AGENDA

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[Consent 01](#) Minutes of the September 17, 2013 Regular Council Meeting, the June 18, 2013 Closed Session, and the September 3, 2013 Closed Session (*Closed Session Minutes recorded separately*)

[Consent 02](#) Public Hearing for the October 15, 2013 Town Council Meeting regarding rezone #13CZ13, rezone from Planned Unit Development -Conditional Zoning (PUD-CZ), R-80W 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 03 Public Hearing for the October 15, 2013 Town Council Meeting regarding rezone #13CZ22, 8.066± from Planned Unit Development -Conditional Zoning (PUD-CZ) to Planned Unit Development Conditional Zoning (PUD-CZ) district classification amending previously approved Conditional Zoning Case #07CZ05 to remove a condition requiring rear loaded garages for the property located at the end of Ambergate Station south of US 64 Highway

Consent 04 Public Hearing for the October 15, 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 to Mixed Office Residential Retail-Conditional Zoning (MORR-CZ)

Consent 05 Public Hearing for the October 15, 2013, Town Council Meeting regarding Rezone #13CZ25, +/-9.99 acres located at 8120 and 8136 Stephenson Road from Rural Residential to Medium Density Residential-Conditional Zoning (MD-CZ )

Consent 06 Resolution Directing the Town Clerk to Investigate Petition Received, Certificate of Sufficiency by the Town Clerk, Resolution Setting Date of Public Hearing on the Question of Annexation – Apex Town Council’s intent to annex JVI Development II, Inc. property containing 5.094 acres located off Evans Road, Annexation #497, into the Town’s corporate limits

Consent 07 Resolution to abandon portions of public utility and access easements that are no longer needed

Consent 08 Budget ordinance amendment and project ordinance amendment for decorative bricks at Police Department, insurance refund for Police vehicle, Wake County grant for Fire equipment, and design of skate plaza

Consent 09 3rd Annual Abbington 5K Race / 1 mile walk

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE CONSENT AGENDA; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

## REGULAR MEETING AGENDA

Mayor Weatherly presented the Regular Meeting Agenda. The Town Manager requested the addition of an informational item prior to Closed Session.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE REGULAR AGENDA WITH THE STATED ADDITION; COUNCIL MEMBER ROWE SECONDED THE MOTION. THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

## PUBLIC HEARINGS

There were no Public Hearings to be heard.

## PUBLIC FORUM

Jen Ferrell asked for Council's feelings on the Wake County School Bond. Mayor Weatherly reminded Ms. Ferrell of the purpose of Public Forum and suggested she seek discourse from Council Members individually.

## NEW BUSINESS

### **New Business 01 : Mark Haraway, Fire Chief**

**Motion to enact an Ordinance Amending Section 5-9 of the Town of Apex Code of Ordinances to adopt Appendix D of the IFC (North Carolina State Building Code: Fire Prevention Code 2012) with modifications to Section D 107.1 and D 104.3 of the Appendix**

Staff stated this was presented at the last Council meeting. After further review, the Ordinance was found to contain two minor conflicts with the UDO, the Building Code Council stating that the Ordinance could be modified to match the UDO. The revised Ordinance will be presented to the Code Council. The requirements will not be more stringent on developers and builders.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE ORDINANCE; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION. THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**New Business 02 : Mark Haraway, Fire Chief**

**Motion allowing Fire Chief Mark Haraway to execute the purchase of a 2014 Spartan ERV Legend 168A Stock Pumper fire apparatus from First Choice Fire & Safety**

Staff stated this purchase was approved as a CIP item for this year and funds are allocated in the budget. The truck and its needed equipment will come in under budget.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO APPROVE THE PURCHASE; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**Added New Business 03 : Bruce Radford, Town Manager**

The Town Manager referenced the memo distributed to Council on the market adjustment for the Mayor's and Council's salaries. The decision was made in 1986 and again last February to pass along these adjustments as they are made for employees. This year that adjustment is 2%.

- Mayor: from \$9,861 to \$10,058, an annual increase of \$197 or \$16.41 per month
- Town Council Member: from \$7,677 to \$7,831, an annual increase of \$154 or \$12.83 per month

**CLOSED SESSION**

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**Closed Session 01 : Closed Session to receive legal advice from the Town Attorney**

**Closed Session 02 : Closed Session to discuss a personnel matter**

MAYOR WEATHERLY CALLED FOR A MOTION TO GO INTO CLOSED SESSION.  
MAYOR PRO TEMPORE SCHULZE MADE THE MOTION; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION TO RETURN TO OPEN SESSION.  
MAYOR PRO TEMPORE SCHULZE MADE THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**WORK SESSION**

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There were no Work Session 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.

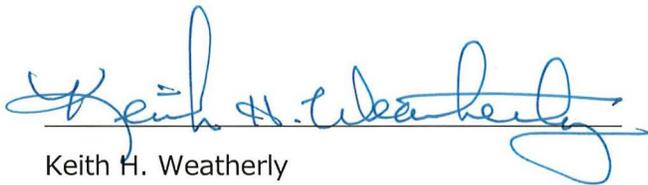
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.



Donna B. Hosch, CMC, NCCMC

Town Clerk

ATTEST:



Keith H. Weatherly

Mayor

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## TOWN COUNCIL MEETING

TUESDAY, OCTOBER 15, 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, October 15, 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, gave the Invocation, and led the Pledge of Allegiance.

Mayor Weatherly requested that Public Forum 01, Mike Sayers, be moved to New Business. The Town Attorney requested the addition of a New Business item, Possible motion to approve a resolution authorizing notice of entry and entry pursuant to G.S. 136-120 to do field studies related to the Town's providing utility services to the White Oak Basin.

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

### PRESENTATIONS

**Presentation 01 : Lauren Simmons, Planner II**  
**Recognition of the Fall Appearance Award winners**

Staff read the nomination for the residential award for Ms. Mishoe at 900 Spring Gate Court. Mayor Weatherly presented Ms. Mishoe with the award.

Staff read the nomination for the non-residential award for Skipper's Fish Fry & Market at 1001 E. Williams Street. Mayor Weatherly presented the Skippers Manager with the award.

## CONSENT AGENDA

- Consent 01 Minutes of the October 1, 2013 Regular Council Meeting and Minutes of the October 1, 2013 Closed Session (*Minutes of Closed Session recorded separately*)
- Consent 02 Amendments to the Municipal Records Retention Schedule specifically relating to Finance and Human Resources
- Consent 03 Public Hearing for the November 19, 2013 Town Council Meeting regarding Rezone #13CZ23, 34.7 acres located at 0 U.S. Hwy 64 Residential Agricultural to Planned Commercial Conditional Zoning
- Consent 04 Public Hearing for the November 19, 2013 Town Council Meeting regarding Rezone #13CZ26, 6.67 acres located at 2605 Olive Chapel Road from Residential 80W Wake County Zoning to Medium Density Conditional Zoning
- Consent 05 Resolution authorizing acceptance of the drainage easements described therein related to a drainage project in Cameron Ridge Subdivision
- Consent 06 Amendment of Section 12-49 of the Town of Apex Code of Ordinances
- Consent 07 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ18, Pulte Home Corporation, petitioner, for the property located at 7904 Green Level Church Road, 0 and 7408 Hickory Mountain Road and 0 Roberts Road
- Consent 08 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ19, Stuart Jones, Jones & Crossen Engineering, PLLC, petitioner for the property located at 1640 Olive Chapel Road
- Consent 09 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ21, Stuart Jones, Jones & Crossen Engineering, PLLC, petitioner for the property located at 2804 Holland Road
- Consent 10 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 Michael and Jean Evans property

containing 6.67 acres located at 2605 Olive Chapel Road, Annexation #496 into the Town's corporate limits

Consent 11 Public Hearing for the November 19, 2013 Town Council Meeting regarding various amendments to the Unified Development Ordinance

Consent 12 Chief Letteney to bind the Police Department into an agreement with Apple Development Programs

MAYOR WEATHERLY CALLED FOR A MOTION TO ACCEPT THE CONSENT AGENDA.

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

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

## REGULAR MEETING AGENDA

Mayor Weatherly presented the Regular Meeting Agenda, to which there were no further modifications.

## PUBLIC HEARINGS

**Public Hearing 01 : Dianne Khin, Planning Director**

**Continued from the September 17, 2013 meeting: Public Hearing and motion to adopt an Ordinance on the Question of Annexation – Apex Town Council's intent to annex Equity Trust Company property containing 5.45± acres located off Mt. Zion Church Road, Annexation #495, into the Town's corporate limits**

Staff oriented Council to the site, stating that staff recommended approval.

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

ANNEXATION; 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 regarding rezone #13CZ13 from Planned Unit Development – Conditional Zoning (PUD-CZ), R-80W 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**

Staff oriented Council to the site. Council has reviewed this; the current request is to add acreage to the project. Setback conditions, however, were changed to slightly modify the side setbacks. The neighborhood meeting raised questions regarding the impacts of the new roads for access and future development of properties and impact on the new high school. No changes were made as a result of the meeting. The Parks and Rec Commission recommended payment of fee in lieu. The Planning Board unanimously recommended approval, as did staff with conditions stated in the PD Plan.

Mayor Weatherly declared the Public Hearing open.

Stuart Jones, Jones & Clossen Engineering, stated conditions were kept the same as the previous request. The only changes were the front and rear setbacks for alley-loaded lots.

Mayor Weatherly declared the Public Hearing closed.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE REQUEST WITH CONDITIONS PER THE PD PLAN; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Public Hearing 03 : Lauren Simmons, Planner II**

**Public hearing and motion regarding rezone #13CZ22, 8.066± from Planned Unit Development – Conditional Zoning (PUD-CZ) to Planned Unit Development Conditional Zoning (PUD-CZ) district classification amending previously approved Conditional Zoning Case #07CZ05 to remove a condition requiring rear loaded garages for the property located at the end of Ambergate Station south of US 64 Highway**

Staff oriented Council to the site and explained the reason for the request was to remove the rear-loaded garages. Staff recommended approval with conditions offered by applicant. An additional condition regarding fencing was offered by the applicant at the Planning Board meeting. The neighborhood meeting raised concerns about the stream buffer and fencing to prevent access to the Booth property. The Planning Board recommended approval with the added condition of fencing. Staff recommended approval with conditions offered by the applicant.

Mayor Weatherly declared the Public Hearing open.

Peter Crossen, Jones and Crossen Engineering, explained Mr. Booth's concern about the fencing and Type B buffer.

Mayor Weatherly declared the Public Hearing closed.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE REQUEST WITH CONDITIONS OFFERED BY THE APPLICANT; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Public Hearing 04 : Reed Huegerich, Senior Planner**

**Public Hearing and motion regarding Rezone #13CZ25, +/- 9.99 acres located at 8120 and 8136 Stephenson Road from Rural Residential to Medium Density Residential-Conditional Zoning (MD-CZ)**

Staff oriented Council to the site. The neighborhood meeting raised issues involving road improvements. There are site plan issues which will be addressed later with the DOT.

Mayor Weatherly declared the Public Hearing open.

Glenda Toppe, Glenda S. Toppe & Associates, stated this request was in compliance with the Land Use Plan and the neighborhood meeting raised no concerns with the proposed use.

Mayor Weatherly declared the Public Hearing closed.

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

**Public Hearing 05 : Dianne Khin, Planning Director**

**Public Hearing and motion 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)**

Staff stated this request was withdrawn by the applicant.

**Public Hearing 06 : Dianne Khin, Planning Director**

**Public Hearing and motion to adopt an Ordinance on the Question of Annexation – Apex Town Council's intent to annex JVI II Development II, Inc. property containing 5.094± acres located off Evans Road, Annexation #497, into the Town's corporate limits**

Staff oriented Council to the site, stating it recommended approval.

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

**Public Hearing 07 : Dianne Khin, Planning Director**

**Public Hearing and motion to adopt an Ordinance to relinquish extraterritorial jurisdiction (ETJ) on 21 parcels and a portion of 2 parcels in accordance with the 2013 annexation agreement, as amended, between the Town of Apex and the Town of Holly Springs. Staff is requesting that this Hearing be continued to the November 19<sup>th</sup> Regular Council Meeting.**

Staff stated this request needs to be continued to the November 19, 2013 meeting.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER OLIVE MADE THE MOTION TO CONTINUE THE PUBLIC HEARING TO NOVEMBER 19<sup>TH</sup>; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Public Hearing 08 : Dianne Khin, Planning Director**

**Public Hearing and motion to adopt an Ordinance to relinquish extraterritorial jurisdiction (ETJ) at PIN 0722762014, 2901 US 64 Highway West, owned by Gage Investments LLC**

Staff oriented Council to this site, the Local Bar. It was legally established in the County when Apex brought it into the ETJ. Doing so made it an illegally established, non-conforming use. Because the owner finds it difficult to conform to certain UDO requirements, the wish is to be relinquished from Apex's ETJ and go back to Wake County. If utilities were ever wanted on the property, the property would need to be annexed. Staff recommended approval.

Mayor Weatherly declared the Public Hearing open.

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

Council discussion ensued concerning if this would set a precedent for others who do not want to follow Town rules. The Town Manager stated there have been other requests, and we will probably

have more periodically. Wake County staff has stated they will agree with the relinquishment. Staff recommended approval of the request.

The Town Attorney stated Apex has control over the planning jurisdiction, but will not if the property is relinquished. This request is not subject to Wake County approval. Apex has jurisdiction for the next 60 days, and Wake County can do what they need to do concerning rezoning during that time.

Staff stated it didn't think this would affect the surrounding houses, and the surrounding properties belong to family members of the applicant. Staff clarified that past requests were much less formal than this one, never going past a talking stage.

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

## OLD BUSINESS

There were no Old Business items for consideration.

## PUBLIC FORUM

No one wished to speak during Public Forum.

## NEW BUSINESS

### **New Business 01 : Mike Sayers**

#### **Discussion on an ADBA Founders' Day planned for March 2014**

Mr. Sayers, Chairman of the Founders' Day Committee, stated they wish to move this event closer to the Town's birthday, thereby making it a Founders' Day event. Used would be the Chamber parking lot and the lot across from the police station. There would be no street closings. The Town was asked for their partnership to help with the cost of services needed. The event would include vendors, music, and one stage. This would be on a smaller scale than Peak Fest.

Council consensus was for the Founders' Day Committee to work with staff and then come back before Council for approval. Council also wished to see a list of what will be at the event so as to know where the budget will go.

**New Business 02 : Lee Smiley, Finance Director**

**Motion to approve capital project ordinance amendment for sidewalk along West Chatham Street and improvements at Hunter Street/Ambergate Station Drive**

Staff stated this comes from requests. Preliminary designs have been done and cost estimates have been received. The request also includes taking out the large median on Hunter Street at Ambergate Station, the cost being \$170,000 with an additional \$10,000 for the median. Funding would come from leftover funds from the Peakway Bridge Project.

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

**New Business 03 : Lauren Simmons, Planner II**

**Motion to approve The Enclave at Trackside - Master Subdivision Plan - for the properties located at 0 N. Salem Street containing 8.066 acres and 49 lots**

Staff oriented Council to the site per the Layout Plan. The Parks and Rec Commission recommended payment of a fee in lieu; the Planning Board unanimously recommended approval.

Council stated drawings being shown were not what was in the packet, the drawings being shown having two vs. one car garages. Staff indicated they worked with the developer up to the last minute and corrections would be made at the construction plan. Council expressed concern about what else could be different from what they received vs. what was being shown. Council also made a request to see the revised rear elevation/viewscape from Hwy 64. The Town Attorney stated Council needed to have in front of them whatever it was they were being asked to approve. Staff stated the UDO allows staff to approve changes to the elevations as long as they are keeping in the general scheme of things.

MAYOR PRO TEMPORE SCHULZE MADE THE MOTION TO PULL THIS ITEM AND PLACE IT ON THE AGENDA FOR THE NOVEMBER 19, 2013 MEETING; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

Council asked would this create a hardship with the applicant and Mr. Clossen stated it would. Mr. Clossen briefed Council on the history of this project and its several builders. Approval was desired this evening in order to move forward with construction drawings. Council expressed its concern over having an incomplete packet upon which to vote.

MAYOR WEATHERLY CALLED FOR THE VOTE TO MOVE THIS ITEM TO THE NOVEMBER 19<sup>TH</sup> MEETING.

COUNCIL MEMBERS ROWE, LASSITER, AND OLIVE VOTED IN THE AFFIRMATIVE;

COUNCIL MEMBERS JENSEN AND ROWE VOTED IN THE NEGATIVE.

THE MOTION CARRIED BY A 3-2 VOTE.

**New Business 04 : Mayor Keith Weatherly**

**Motion to appoint Mr. J.L. "Buzzy" Correll to the unexpired term of Angela Reincke on the Apex Parks, Recreation, and Cultural Resources Advisory Commission**

Council Member Lassiter provided a brief history on Mr. Correll and reasons why he stood out as a candidate for the Commission. The appointment would expire May 2016.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER ROWE MADE THE MOTION TO

APPROVE THE APPOINTMENT; COUNCIL MEMBER JENSEN SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Add-on New Business 05 : Hank Fordham, Town Attorney**

**Motion to approve a resolution authorizing notice of entry and entry pursuant to G.S. 136-120 to do field studies related to the Town's providing utility services to the White Oak Basin**

Staff stated this will not authorize a project or funds or acquisitions; it will only allow for studying the area. Others have agreed to the development, so it will not cost the Town any money and the Statutes allow these types of studies.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER OLIVE MADE THE MOTION TO

APPROVE RESOLUTION; COUNCIL MEMBER ROWE SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**CLOSED SESSION**

There were no Closed Sessions items for consideration.

WORK SESSION

There were no Work Session 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.

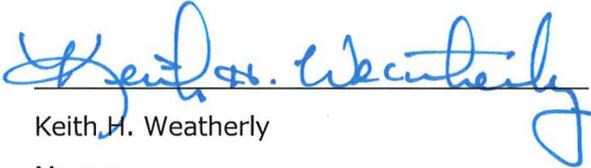
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.



Donna B. Hosch, CMC, NCCMC

Town Clerk

ATTEST:



Keith H. Weatherly

Mayor



## TOWN COUNCIL MEETING

TUESDAY, NOVEMBER 19, 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, November 19, 2013, at 7:00 p.m. was held in the Council Chamber of Apex Town Hall, 73 Hunter Street

### COMMENCEMENT

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

### PRESENTATIONS

There were no Presentations to be made.

### CONSENT AGENDA

Consent 01 Minutes of the October 15, 2013 Regular Council Meeting

Consent 02 Apex Tax Reports dated 09/06/13 and 10/07/2013

Consent 03 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ13, Stuart Jones, Jones & Clossen Engineering, PLLC, petitioner for the property located at Milano Avenue between Venezia Way and Mt. Zion Church Road

Consent 04 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ22, Jones & Clossen Engineering, PLLC, petitioner for the property located at the end of Ambergate Station, south of US 64 Hwy

Consent 05 Encroachment and Maintenance Agreement with Wake Broadstone Associates, LLC and to authorize the Town Manager to execute same

Consent 06 Budget ordinance amendment to spend restricted Police funds for office furniture and decorative bricks

Consent 07 Assignment acceptance of two Waterline Easements from Eagle Rock Concrete, LLC to The Town of Apex

Consent 08 Resolution recognizing Edison H. Johnson, Jr., for his dedicated service as Executive Director of the NC Capital Area MPO

Consent 09 Resolution authorizing the granting of an electric easement to Duke Energy Progress and ratifying the prior execution of the deed of easement

Consent 10 Identity Theft Prevention Program Annual Risk Assessment 2013

Council Member Olive requested to pull Consent 05 and Consent 06 for discussion later in the Agenda. Attorney Fordham requested to add Consent 11, Motion to approve the Closed Session Minutes of 2/19/13, 5/21/13, and 10/1/13 and to substitute the 5/21/13 Minutes approved hereby for those previously approved. Town Manager Radford requested to add Consent item 12, Motion to approve street closure request for December 6, 2013 for the Christmas on Salem event and Consent item 13, Motion to approve street closures on December 7<sup>th</sup> for the 2013 Apex Christmas Parade.

MAYOR WEATHERLY CALLED FOR A MOTION TO REMOVE AND ADD TO THE CONSENT AGENDA AS STATED ABOVE.

MAYOR PRO TEM SCHULZE MADE THE MOTION; COUNCIL MEMBER ROWE SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION TO APPROVE THE CONSENT AGENDA AS MODIFIED.

COUNCIL MEMBER JENSEN MADE THE MOTION; COUNCIL MEMBER LASSITER SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

Attorney Fordham requested the addition of New Business 09, Possible motion to approve a "Resolution Ratifying the Interlocal Agreement Between the Towns of Cary and Apex Entitled "Agreement" Dated April 26, 1988 and the First and Second Amendments Thereto".

## REGULAR MEETING AGENDA

Mayor Weatherly presented the Regular Meeting Agenda. There were no further modifications requested.

## PUBLIC HEARINGS

### **Public Hearing 01 : June Cowles, Senior Planner**

**Public Hearing and motion regarding Rezone #13CZ23, 34.7 acres located at 0 US Hwy 64 (north of Hwy 64 between Laura Duncan Road and Shepherds Vineyard Drive) from Residential Agricultural (RA) Zoning to Planned Commercial – Conditional Zoning (PC-CZ)**

Staff oriented Council to the site. The neighborhood meeting raised concerns about wildlife, buffers, and traffic. The use is consistent with 2030 Land Use Plan. Staff stated this is the first request it has received for such a use. The site is not viable for office and institutional use now or in the future; the best use would be commercial and mixed use high-density office and residential. Staff and the Planning Board recommended approval with conditions heard at the Planning Board meeting.

Mayor Weatherly declared the Public Hearing open.

Sal Musarra, from Kimley-Horn and Associates on behalf of the applicant, stated the rezoning would help to promote potential development of the property. Council questioned this being a good use of the property as far as vehicle sales, Mr. Musarra stating it would be a consistent use. After conferring with the applicant, Mr. Musarra stated the applicant agreed to pull the vehicle sales use.

### Speaking in Support:

Graham Wilson, Apex Chamber of Commerce, read a Resolution adopted by the Chamber urging support of this request.

Everett Nichols, property owner, gave a brief history of the development and ownership of the property. These 34 acres have been difficult to develop, and he's been paying taxes with no income from the property. The applicant would be a quality tenant, Mr. Nichols giving an outline of the prospective business' background and its plan to enhance the property.

Dave Cozarelli, Sarah Fowler, and Tom Hannie commented that traffic issues would probably be taken care of by staff, and there was concern about what would be built later if not this commercial business. Tom Colhoun of the Planning Board stated they voted 100% in favor of the rezoning, it's supported by the 2030 Land Use Plan (LUP), and it's a great economic driver for needed economic development.

Speaking in Opposition:

Stephen Oglesby, Dennis Doty, Jackie Nilsson, Donna Daves, Alex Jarem, Lawrence Block, and Thomas Stucknicky expressed concerns about damage to trees and the park, dust pollution, runoff, traffic and traffic safety, and inconsistency with the 2030 (LUP). This could be built in an alternate area already developed which is devoid of trees. The staff and applicant have not addressed the potential neighborhood activity center; and with no size limits, this would be in conflict with neighborhood mixed use on the north side.

Beth Voltz, Weatherspoon & Voltz, attorney for the applicant, stated she would address traffic issues in the Quasi-Judicial Hearing, but that she would address specific zoning questions.

The Town Attorney requested a brief Closed Session.

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

Mayor Weatherly stated the Town Attorney clarified that traffic impacts and the impacts of a commercial development in the area would be allowed in this hearing.

Speaking in Opposition:

Jennifer Ferrell stated NCDOT has not approved the traffic plans of the developer, she would like to see other mixed uses, Costco would make better sense elsewhere, and in order to make it safer for high school students, a bridge could be built across 64.

Mr. Musarra stated the application is relative to the land use. Staff gave an overview of the zoning of the area as well as the typical types of developments that could potentially be in the area. There are no square footage limits, staff stating that the LUP gives general use markers for land use. Staff recommended planned commercial for the rezoning.

Mr. Musarra spoke on environmental impact, buffers and wetlands, and stated there were no endangered habitats.

Mike Horn, Kimley-Horn and Associates, stated they'd met with staff and NCDOT as to what to address in their traffic study, NCDOT concurring with the finding of their report on congestion management. Improvements to the roadway system were found in order to mitigate traffic problems. Mr. Horn explained what is proposed for the road areas and gave impact figures for peak times during the day at the critical intersections. He briefly explained how a traffic impact study is performed.

Mr. Musarra restated why the rezoning is appropriate for the site. The applicant would commit to taking off one of the previously permitted uses. Staff briefly touched on traffic light recommendations. Staff also stated that the Town normally encourages major retail to go to major highways and thoroughfares and intersections, and that this use is consistent with that policy.

Mayor Weatherly declared the Public Hearing closed.

The Mayor allowed one rebuttal about the blue dot area on the map, responding that staff gave explicit explanation on this matter. Council stated it had no issue with commercial use as long as it was neighborhood/local commercial serving the people in that area of town. The Mayor stated the 2030 LUP had just been approved and we should stick by it. Our credibility is at stake; and if we are not consistent, the LUP will become worthless. The transparency of the plan was applauded during the formulation process. Council expressed some concern about traffic but noted due diligence had been done for the peak hours. The request was reasonable, and it would be interesting to see what may go into the next site.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE REZONING; COUNCIL MEMBER OLIVE SECONDED THE MOTION. COUNCIL MEMBERS JENSEN, ROWE, SCHULZE, AND LANCE VOTED IN THE AFFIRMATIVE; COUNCIL MEMBER LASSITER VOTED IN THE NEGATIVE.  
THE MOTION CARRIED BY A 4-1 VOTE.

*An audio recording of the following Quasi-Judicial Public Hearing made by the Town Clerk is incorporated into these Minutes by reference. The audio recording or transcript of the Hearing should be used as the verbatim record of the questions, testimonies, evidentiary rulings, and discussions that occurred at the Quasi-Judicial Hearing.*

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**Public Hearing 02 – QUASI JUDICIAL : June Cowles, Principal Planner**

**Quasi-Judicial Public Hearing and motion regarding a Major Site Plan and Non-Residential Subdivision Plan for Nichols Plaza, 37.8 acres located at 0 US Hwy 64 (north of Hwy 64 between Laura Duncan Road and Shepherds Vineyard Drive)**

Mayor Weatherly read the Explanation of Issue, Standards, and Procedures for Quasi-Judicial Hearings on Site Plans.

Mayor Weatherly declared the Public Hearing Open.

All persons wishing to speak during the Hearing were sworn in by the Town Clerk. There were no conflicts stated by any Council Member. Emails had been received and a few were replied to, but nothing to impact the vote on the issue.

June Cowles stated her credentials and oriented Council to the site. The use is consistent with the UDO, and the applicant agreed to conditions. Clarifications were made concerning trees, parking, building elevation, power lines, buffers, and stormwater concerns. The applicant made a correction to the square footage of the building.

**STATEMENTS BY THE APPLICANT:**

Beth Voltz, Attorney representing the applicant Columbia Development, stated her credentials. She stated the use is in compliance with 2030 Land Use Map and stated her client's decisions were based on the Land Use Map map being adopted. Background was given on each team member who would speak.

Mr. Musarra stated the use was consistent with the 2030 LUP and described the proposed development of the site, what improvements would be made, and explained how the use met or exceeded the standards.

Erich Brann, representing Costco, gave background on the company and why they're a good employer, the Town Attorney interjecting that testimony needed to be limited to the standards. Mr. Brann detailed aspects of the building and its design aspects and how it would be a "green" building.

Ms. Voltz went through the Town's site plan standards and how the use meets them. Chris Bostic, Kimley-Horne and Associates, spoke on the overall site and answered Council's stormwater questions.

Brandon White, Kimley-Horne and Associates, addressed Council's concern about buffers and agreed to a buffer change requested by Council. Mr. Horn and Mr. Bostic addressed the right of way plan, explaining how the engineering requirements were met. Mr. Bostic stated staff has deemed the design compliant. Per Council request, the applicant was acceptable to averaging out a higher capacity of the stormwater pond over 25 years. They will look into the solar program, as the buildings are designed to accommodate such.

**SPEAKING IN OPPOSITION:**

A female and a male citizen addressed traffic concerns. The applicant stated a warrant study to NCDOT would be done to see if a light is needed on Laura Duncan, and they would pay for the traffic signal. No follow-up traffic study has been done at Beaver Creek and explanation of a margin of error in measuring traffic light delays was given.

Donna Daves began speaking on transportation concerns. Ms. Voltz objected to Ms. Daves as she was not credentialed in the details of transportation. The Town Attorney stated Ms. Daves could speak as long as the issue was something she had observed with her five senses. She could not give opinions, however, unless she was trained and had expertise. Ms. Daves continued about mid-morning traffic not being addressed. Jackie Nilsson questioned traffic figures and the increase of traffic on high school activities. Mr. Horn stated traffic had physically been counted to get the level of service figures.

**SUMMARY BY OPPOSITION:**

Ms. Daves stated it would be more appropriate to find land elsewhere and not put students at risk. She spoke on future traffic patterns and roads and Costco being a regional attraction.

**SUMMARY BY THE APPLICANT:**

Ms. Voltz stated the traffic analysis does, in fact, plan for the future and that the site plan meets the UDO and the standards.

Mayor Weatherly declared the Public Hearing closed.

Mayor Weatherly read the standards:

- (1) Compatibility: Council stated it did not agree because this would be a regional and not a local use. Also, the other side of the site is residential. The Mayor reminded Council that the

Planning Board and staff were supportive of the use and viewed it consistent with the LUP. Further discussion ensued on compatibility of this commercial use vs. another type of commercial use. The remaining Council felt the standard met

- (2) Zoning district supplemental standards – Council felt the standard met
- (3) Site development standards - Council felt the standard met
- (4) Mitigation of development on steep slopes - Council felt the standard met
- (5) Dedication of ROW for Thoroughfare Plan - Council felt the standard met
- (6) Required improvements - Council felt the standard met
- (7) Other relevant standards of this Ordinance - Council felt the standard met
- (8) Applicable Standards of Article 7, Subdivision - Council felt the standard met

Council continued to express concern about traffic and the traffic study. If taken at face value, then the use is certainly compatible but studies can miss the mark. Council was reminded that NCDOT and staff have reviewed this and no errors were caught. The Mayor once again reminded Council of this being compatible with the LUP. Council made detailed reasoning about the traffic and stated that the applicant had addressed all areas and done everything they could to mitigate any problems. The owners have every right to do what they wish with the property. Council added that the same type of issue came up when considering Beaver Creek, noting Beaver Creek illustrates that exceptional planning brings about additional concessions that make a project better. This represents the economic development the whole Council has talked about.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER OLIVE MADE THE MOTION TO APPROVE THE SITE PLAN WITH THE CONCESSIONS AND CHANGES THE APPLICANT HAS BROUGHT FORWARD PLUS THE STAFF RECOMMENDATIONS; COUNCIL MEMBER ROWE SECONDED THE MOTION. COUNCIL MEMBERS JENSEN, ROWE, LASSITER, AND OLIVE VOTED IN THE AFFIRMATIVE; MAYOR PRO TEM SCHULZE VOTED IN THE NEGATIVE THE MOTION CARRIED BY A 4-1 VOTE.

Mayor Weatherly called for a five minute recess.

Following recess, the Town Attorney stated that the immediate previous motion needed to include the subdivision plan as presented.

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

*For Public Hearings 03 and 04, the Town Attorney stated that the evidence could be heard at the same time but that the vote would need to be done on each separately.*

**Public Hearing 03 : Dianne Khin, Planning Director**

**Public Hearing and motion to adopt an Ordinance on the Question of Annexation – Apex Town Council's intent to annex Michael and Jean Evans' property containing 6.67 acres located at 2605 Olive Chapel Road, Annexation #496, into the Town's corporate limits**

Staff oriented Council to the site.

**Public Hearing 04 : June Cowles, Senior Planner**

**Public Hearing and motion regarding Rezone #13CZ26, 6.67 acres located at 2605 Olive Chapel Road from Wake County-R-80W Zoning to Medium Density Conditional Zoning**

Staff oriented Council to the site. Staff and the Planning Board recommended approval.

Mayor Weatherly declared the Public Hearings open.

Jeff Roach, Peak Engineering and Design representing the applicant, stated the requested zoning meets the LUP, a pump station has been built to accept this area as well as other areas, and a nature park will be built for expansion in this part of town. The adjacent property has been rezoned; the applicant offered additional conditions.

Chad Essick, land use attorney representing the adjacent property owners Cynthia Ball and David Aspnes, gave a brief history of the past rezonings. While the applicant has offered to put up a fence and thorn-bearing bushes, the represented property owners wanted the applicant to be able to remove the buffer and extend the fence, if necessary, at some point in the future. The applicant stated they would extend the fence when they filed the zoning application and at the neighborhood meeting. When submitting the final application, that condition was removed and the applicant is now not agreeing to the extended fencing. There was a stated concern about liability as it relates to the pond.

Beverly Rubin stated she tried to meet with the applicants to discuss some type of buffer, but the applicant refused. She is in agreement with the Ball's request. Mr. Roach stated agreeing to the extension was a mistake on his part. After further discussion, the applicant agreed to put in a Type B buffer as well as thorn-bearing bushes on the Evans side of the property.

Mayor Weatherly declared the Public Hearings closed.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE ANNEXATION; COUNCIL MEMBER OLIVE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE A MOTION TO APPROVE THE REZONING; COUNCIL MEMBER OLIVE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

Council Member Lassiter left the Chamber momentarily and returned after the vote on Public Hearing 05.

**Public Hearing 05 : Bruce Radford, Town Manager**

**Public Hearing and motion to enact an ordinance approving Amendment No. 1 to Annexation Agreement which will amend the Annexation Agreement with Holly Springs that was recently approved on August 20, 2013 and authorizing the Mayor to sign Amendment No. 1**

Staff gave a brief history of this process with Holly Springs.

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 JENSEN MADE THE MOTION TO APPROVE THE ORDINANCE; COUNCIL MEMBER OLIVE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE, WITH COUNCIL MEMBER LASSITER'S VOTE BEING WITH THE MAJORITY.

**Public Hearing 06 : Dianne Khin, Planning Director**

**Public Hearing and motion to adopt an Ordinance to relinquish extraterritorial jurisdiction (ETJ) on 21 parcels and a portion of 2 parcels in accordance with the 2013 annexation agreement, as amended, between the Town of Apex and the Town of Holly Springs (continued from the October 15, 2013 agenda)**

Staff oriented Council to the properties that are no longer on the Apex side. Staff recommended approval of the Ordinance.

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 TEM MADE THE MOTION TO ADOPT THE ORDINANCE; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Public Hearing 07 : Reed Huegerich, Transportation Planner**

**Public hearing and motion to approve Resolution Ordering the closing of that portion of Third Street south of its intersection with West Street**

Staff oriented Council to this right of way which has no benefit to the Town.

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 TEM SCHULZE MADE THE MOTION TO APPROVE THE CLOSING; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Public Hearing 08 : Brendie Vega, Principal Planner**

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

Staff stated the reasons for the 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. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE AMENDMENTS; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

Council Member Olive asked to be excused from the meeting for a family emergency.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO EXCUSE COUNCIL MEMBER OLIVE; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

## OLD BUSINESS

### **Old Business 01 : Lauren Simmons, Planner II**

**Motion approving The Enclave at Trackside - Master Subdivision Plan - for the properties located at 0 N. Salem Street containing 8.066 acres and 49 lots**

Staff oriented Council to the elevations of the site.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE MASTER SUBDIVISION PLAN; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

## PUBLIC FORUM

No one wished to speak during Public Forum.

## NEW BUSINESS

### **New Business 01 : Reed Huegerich, Transportation Planner**

**Motion to approve a municipal agreement with NCDOT to secure 80% of the project cost in federal funds, requiring 20% matching local (Town of Apex) funds, in order to complete a gap in sidewalk along the south side of Old Raleigh Road east of Lake Pine Drive to Cary town limits, TIP Project No. U-5530 AA**

Staff oriented Council to the extension of the sidewalks. The Town Attorney was concerned with the agreement language but noted it is standard for DOT.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE AGREEMENT; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

### **New Business 02 : Reed Huegerich, Transportation Planner**

**Motion to approve a municipal agreement with NCDOT to secure 80% of the project cost in federal funds, requiring 20% matching local (Town of Apex) funds, in order to complete gaps in sidewalk along the west side of Tingen Road between Apex Peakway and Apex Elementary School, TIP Project No. U-5530 AB**

Staff oriented Council to the extension of the sidewalks. The Town Attorney was concerned with the agreement language but noted it is standard for DOT.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE AGREEMENT; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**New Business 03 : Lee Smiley, Finance Director**

**Motion to approve capital project ordinance amendment for sidewalks along Old Raleigh Road and Tingen Road**

Staff explained the reason for the amendment.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE AMENDMENT; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**New Business 04 : Lee Smiley, Finance Director**

**Review of the 1st Quarter Financial Summary**

Staff stated we are doing fine and that a few of the percentages are below the same period of time last year.

**New Business 05 : Lauren Simmons, Planner II**

**Motion to approve 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 and 111 lots**

Staff oriented Council to the site, parks and recreation fees, the transportation plan, and connectivity requirements. This is in compliance with the UDO. Staff and the Planning Board recommended approval.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE MASTER SUBDIVISION PLAN; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**New Business 06 : June Cowles, Senior Planner**

**Motion approving Evans Creek Master Subdivision Plan. The property is located at 2932 and 3008 Evans Road, 0 and 7732 Humie Olive Road containing 14.79 acres and 41 lots.**

Staff oriented Council to the site, noting it meets the requirements and standards. Staff and the Planning Board recommended approval.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE MASTER SUBDIVISION PLAN; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**New Business 07 : June Cowles, Senior Planner**

**Motion to approve Magnolia Walk Master Subdivision Plan. The property is located 1015, 1013, and 1005 North Salem Street containing 10.77 acres and 44 lots.**

Staff oriented Council to the site, noting it meets the Transportation Plan. The Planning Board and staff recommended approval.

The Town Attorney stated to Stuart Jones, Jones and Crossen Engineering, that he was concerned with the number of units shown now vs. what was shown on the plan previously.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE MASTER SUBDIVISION PLAN; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**New Business 08 : John Letteney, Chief of Police**

**Motion to approve (1) a software and services agreement with SunGuard Public Sector Inc. to replace existing Aegis Police Records Management System; and (2) a resolution approving a lease agreement with Government Capital Corporation to finance the SunGuard records management system and authorizing the Town Manager to execute the same**

Staff stated this would be the Police Department's primary records management system. Replacement is necessary due to problems with current system. The cost is budgeted for this fiscal year.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER ROWE MADE THE MOTION TO APPROVE REPLACING THE SOFTWARE AND ADOPTING THE RESOLUTION; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**Added New Business 09 : Hank Fordham, Town Attorney**

**Motion to approve the "Resolution Ratifying the Interlocal Agreement Between the Towns of Cary and Apex Entitled "Agreement" dated April 26, 1988 and the First and Second Amendments Thereto"**

Staff noted that this was previously approved and that the Resolution would cover all amendments.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE RESOLUTION; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**New Business 10 : Encroachment and Maintenance Agreement with Wake Broadstone Associates, LLC and to authorize the Town Manager to execute same**

Staff stated Council wished a provision added and explained what the provision would entail regarding a sign encroaching into the utility easement and conditions of the sign.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE AGREEMENT; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

**New Business 11 : Budget ordinance amendment to spend restricted Police funds for office furniture and decorative bricks**

Staff explained where these funds would be spent. This is a follow up to the brick project discussed at a previous meeting.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE AMENDMENT; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

CLOSED SESSION

**Closed Session to receive legal advice and give Town Attorney direction related to a potential condemnation case involving a sewer easement**

MAYOR WEATHERLY CALLED FOR A MOTION TO GO INTO CLOSED SESSION. MAYOR PRO TEM SCHULZE MADE THE MOTION; COUNCIL MEMBER ROWE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

MAYOR PRO TEM SCHULZE 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 3-0 VOTE.

MAYOR PRO TEM SCHULZE CALLED FOR A MOTION TO AUTHORIZE THE TOWN ATTORNEY TO SEND STUDY LETTERS TO PROPERTY OWNERS RELATED TO TRACKSIDE SEWER. COUNCIL MEMBER JENSEN MADE THE MOTION; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 3-0 VOTE.

WORK SESSION

There were no Work Sessions items for discussion.

ADJOURNMENT

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With there being no further business,

MAYOR PRO TEM SCHULZE CALLED FOR A MOTION TO ADJOURN.

COUNCIL MEMBER ROWE MADE THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 3-0 VOTE.

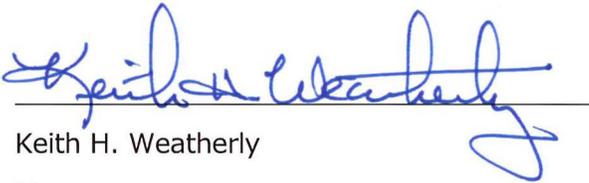


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Donna B. Hosch, CMC, NCCMC

Town Clerk

ATTEST:



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Keith H. Weatherly

Mayor



## TOWN COUNCIL MEETING

TUESDAY, DECEMBER 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  
Council Members-elect:  
Nicole L. Dozier and Denise C. Wilkie

The Regular Meeting of the Apex Town Council  
scheduled for Tuesday, December 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 William S. Jensen, Lance Olive, and Scott R. Lassiter.

Also in attendance were Council Members-elect Nicole L. Dozier and Denise C. Wilkie,  
Town Manager Bruce A. Radford, Assistant Town Manager J. Michael Wilson,  
Town Clerk Donna B. Hosch, and Town Attorney Henry C. Fordham, Jr.

Absent was Council Member Terry L. Rowe.

### COMMENCEMENT

Mayor Weatherly called the meeting to order. Father David E. Fitzgerald, SA, Pastor, St. Andrew the Apostle Roman Catholic church gave the Invocation. Boy Scout Troop 209, Stacy Barbour, Scout Master, presented the Colors and led the Pledge of Allegiance.

Mayor Weatherly expressed the regrets of Council Member Rowe who could not be present. Notables in the audience were recognized: Nolan Cooke, former Apex Council Member and Mayor Pro Tem, Mike Jones, former Apex Council Member and Mayor Pro Tem, and former Commissioner of Labor, Harry E. Payne, Jr.

### PRESENTATIONS

There were no presentations to be made.

CONSENT AGENDA

- Consent 01 Minutes of the November 19, 2013 Regular Council Meeting and Minutes of the November 19, 2013 Closed Session (*Closed Session Minutes recorded separately*)
- Consent 02 Public Hearing for the December 17, 2013 Town Council Meeting regarding Rezone #13CZ20, 122.66 acres located at 0 Ivey Road & 1513 Wimberley Road from Rural Residential and Wake County R-80W to Planned Unit Development Conditional Zoning
- Consent 03 Public Hearing for the December 17, 2013 Town Council Meeting regarding Rezone #13CZ27, 198.69 acres located at 0, 7625, 7641, 7720, and 4021 Green Level West Rd, and 8109, 8113, 8129 Green Level Church Road from Low Density Residential and Low Density Residential Conditional Zoning to Planned Unit Development Conditional Zoning
- Consent 04 Public Hearing for the December 17, 2013 Town Council Meeting regarding Rezone #13CZ29, 28.96 acres located at 2656 Olive Chapel Road from Wake County R-80W to Planned Unit Development Conditional Zoning
- Consent 05 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 Jerome Rex Eatman, Jr. property containing 28.960 acres located at 2625 Olive Chapel Road, Annexation #499 into the Town’s corporate limits
- Consent 06 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 Guy C. Lee property containing 8.3110 acres located at 900 N Salem Street, Annexation #500 into the Town’s corporate limits
- Consent 07 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 Beverly and Charles Harris Jr. property containing 4.244 acres located at 1513 Wimberly Road, Annexation #501 into the Town’s corporate limits
- Consent 08 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ25, Glenda Toppe, petitioner for the property located at 8120 & 8136 Stephenson Road

Consent 09 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ23, Kimley Horn and Associates/Columbia Development, petitioner for the property located at 0 US Hwy 64 (north of Hwy 64 between Laura Duncan Road and Shepherds Vineyard Drive)

Consent 10 Revised form of Unified Development Ordinance amendment presented at the November 19<sup>th</sup> Town Council meeting

MAYOR WEATHERLY CALLED FOR A MOTION TO APPROVE THE CONSENT AGENDA. COUNCIL MEMBER OLIVE MADE THE MOTION; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

### OLD BUSINESS

There were no Old Business items to be considered.

Mayor Weatherly recognized J.C. Knowles, Ambassador and President of the Downtown Business Association. Mr. Knowles thanked Council Member Olive and Rowe for their years of service, pointing out accomplishments made during their tenures. Mr. Knowles congratulated the newcomers to the Council, Ms. Dozier and Ms. Wilkie.

Mayor Weatherly called for a brief recess. After the recess, Mayor Weatherly presided over the Ceremonial Proceedings.

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## CEREMONIAL PROCEEDINGS OF THE APEX TOWN COUNCIL

### RECOGNITION OF OUTGOING COUNCIL MEMBERS

#### **Lance Olive**

Mayor Weatherly read and presented Council Member Olive with a plaque of appreciation from the citizens of Apex. Council Member Olive thanked all, especially his wife Cheryl, his mother, and his father.  
Council Member Olive retired his Council seat.

**Terry L. Rowe**

Mayor Weatherly stated Council Member Rowe would receive his plaque of thanks from the citizens of Apex at a later meeting.

ADMINISTERING OF OATHS

**Council Member Eugene J. Schulze**

Justice Mark Martin of the North Carolina Supreme Court administered the Oath and both signed the Oath with the Town Clerk. Council Member Schulze expressed his appreciation to his family and friends, gave brief remarks, and took his seat on the Council.

**Council Member Nicole L. Dozier**

Apex Town Clerk Donna B. Hosch, CMC, NCCMC, administered the Oath and both signed the Oath. Council Member Dozier expressed her appreciation to her family and friends, gave brief remarks, and took her seat on the Council.

**Council Member Denise C. Wilkie**

Justice Mark Martin of the North Carolina Supreme Court administered the Oath and both signed the Oath with the Town Clerk. Council Member Wilkie expressed her appreciation to her family and friends, gave brief remarks, and took her seat on the Council.

SELECTION OF MAYOR PRO TEMPORE

Mayor Weatherly stated the duties of Mayor Pro Tempore and then opened the floor for nominations.

COUNCIL MEMBER LASSITER MADE THE MOTION TO APPOINT COUNCIL MEMBER SCHULZE AS  
MAYOR PRO TEMPORE; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
MAYOR WEATHERLY DECLARED COUNCIL MEMBER SCHULZE AS MAYOR PRO TEMPORE BY ACCLAMATION.

APPOINTMENTS OF STANDING COMMITTEES AND LIAISONS

Mayor Weatherly appointed the following Standing Committees and Liaisons:

Economic Development Committee – Council Member Jensen, Chair; Council Member Wilkie and Mayor Weatherly, Members

Finance Committee – Mayor Pro Tem Schulze, Chair; Council Member Dozier, Member

Personnel Committee – Mayor Pro Tem Schulze, Chair; Council Member Lassiter, Member

Planning Committee – Council Member Lassiter, Chair; Council Member Dozier, Member

Liaisons

Apex Chamber of Commerce – Council Member Wilkie

Apex Fire Advisory Board – Mayor Pro Tem Schulze

Apex Parks, Recreation, and Cultural Resources Advisory Commission – Council Member Lassiter

Triangle J Council of Governments – Council Member Jensen, Delegate;

Council Member Wilkie, Alternate

Transportation Advisory Commission – Mayor Weatherly, Delegate; Mayor Pro Tem Schulze, Alternate

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REGULAR MEETING AGENDA

Mayor Weatherly presented the Regular Meeting Agenda. There were no modifications requested.

PUBLIC HEARINGS

There were no Public Hearings to be heard.

PUBLIC FORUM

Jeanne Lawson from Hospice of Wake County thanked the Council for all their work with Hospice. She stated their Mission Statement and presented statistical data and general information about the center. Ms. Lawson stated that Wake County Hospice has received numerous honors for their service and that they are one of the top centers in the nation.

NEW BUSINESS

There were no New Business items to be considered.

CLOSED SESSION

There were no Closed Session items to be discussed.

WORK SESSION

There were no Work Session items to be considered.

ADJOURNMENT

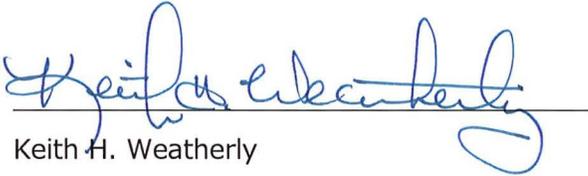
With there being no further business,

MAYOR PRO TEM SCHULZE MADE THE MOTION TO ADJOURN; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.



Donna B. Hosch, CMC, NCCMC  
Town Clerk

ATTEST:



Keith H. Weatherly  
Mayor

Council and Staff assembled for a group photograph by Thomas Babb Photography.  
A reception honoring the Mayor and Council was held in the atrium, catered by  
Deputy Town Clerk/Department Specialist Bonnie Brock.



## TOWN COUNCIL MEETING

TUESDAY, DECEMBER 17, 2013

Keith H. Weatherly, 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  
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, December 17, 2013, at 7:00 p.m. was held in the Council Chamber of Apex Town Hall, 73 Hunter Street

### COMMENCEMENT

Mayor Weatherly called the Meeting to order, gave the Invocation, and led the Pledge of Allegiance.

### PRESENTATIONS

**Presentation 01 : Lee Smiley, Finance Director**  
**June 30, 2013 Audit Report**

Staff introduced Keith Joyce from Joyce and Company, CPA, who presented the highlights of the June 30, 2013 audit report. More prominent figures were in cash balance, total fund balance, water and sewer fund, electric fund, ad valorem taxes, and overall debt. It was a clean report, and no significant problems were found. There were two significant deficiencies found, and Mr. Joyce clarified those and stated modifications are being made to correct them. Three less significant deficiencies were found, and Mr. Joyce clarified those and suggested modifications to correct them.

### CONSENT AGENDA

- Consent 01 Minutes of the December 3, 2013 Regular Council Meeting**
- Consent 02 Apex Tax Report dated 11/04/2013**
- Consent 03 Construction contract and Town Manager authorization to execute same for EL-5100 DD Laura Duncan Multi-use Path Project**
- Consent 04 Construction contract and Town Manager authorization to execute same for U-5118 AC NC 55 Corridor Improvements Project**

- Consent 05 Resolution authorizing Director of Parks, Recreation, and Cultural Resources to approve and execute Standard Services Agreements and Contracts related to park maintenance and other services that are part of the department's approved budget
- Consent 06 Revision to an Encroachment and Maintenance Agreement with Wake Broadstone Associates, LLC and to authorize the Town Manager to execute same
- Consent 07 Statement of the Apex Town Council and Ordinance for Rezoning Case #13CZ26, Parkside Builders, LLC/ Peak Engineering & Design, PLLC, petitioner for the property located at 2605 Olive Chapel Road
- Consent 08 Findings of Fact, Conclusions of Law, and Decision approving the Nichols Plaza Major Site Plan
- Consent 09 Reconvey Lot 199 Plots A & B to the Apex Town Cemetery
- Consent 10 Transportation Improvement Project Municipal Agreement between the North Carolina Department of Transportation and the Town of Apex and Town Manager authorization to execute same
- Consent 11 Utility Agreement between the North Carolina Department of Transportation and the Town of Apex, Town Manager authorization to execute the Utility Agreement, and approval of the associated and attached Capital Project Ordinance Amendments
- Consent 12 Encroachment Agreement with NCDOT to allow the Town's greenway to cross under Kelly Road and Town Manager authorization to execute the same
- Consent 13 (1) Resolution authorizing the sale of 1.379 acres of land, 0.032 of an acre of permanent drainage easement, and 0.924 of an acre of construction/permanent slope easement to NCDOT to facilitate the Kelly Road widening project, acceptance of a \$110,000.00 payment from NCDOT for the land, easements, and destruction of Town owned improvements, and Town Manager authorization to make minor modifications to and execute the documents to transfer title to NCDOT, (2) allocation of proceeds from the sale and damage settlement between Town funds as stated below, and (3) approval of the related Capital Project Ordinance Amendment

Mayor Weatherly stated there was a requested add-on item, Consent 14, Motion to transfer Lot 152 Plots E & F in Apex Town Cemetery. Council Member Jensen requested to pull Consent items 04, 05, and 11 through 13 for a brief review. Mayor Weatherly stated the above items would be considered under New Business.

MAYOR WEATHERLY CALLED FOR A MOTION TO APPROVE THE CONSENT AGENDA. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE CONSENT AGENDA WITH THE ABOVE CHANGES TO CONSENT 04, 05, 11, 12, AND 13. MAYOR PRO TEM SCHULZE SECONDED THE MOTION.

With it pointed out that Consent 10 was linked to Consent items 11 through 13,

COUNCIL MEMBER JENSEN AMENDED HIS MOTION TO INCLUDE CONSENT 10; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.

Attorney Fordham requested Consent 08 be considered separately as a Consent item and to excuse Council Member Wilkie from the vote since she was not present for previous conversation on this item.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO CONSIDER CONSENT 08 AS A SEPARATE CONSENT ITEM, TO EXCUSE COUNCIL MEMBER WILKIE FROM THE VOTE, AND TO APPROVE CONSENT 08.

THE MOTION CARRIED BY A UNANIMOUS 4-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION TO APPROVE THE CONSENT AGENDA. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE CONSENT AGENDA; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

## REGULAR MEETING AGENDA

Mayor Weatherly presented the Regular Meeting Agenda.

MAYOR WEATHERLY CALLED FOR A MOTION TO APPROVE THE REGULAR AGENDA. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE REGULAR AGENDA; COUNCIL MEMBER LASSITER SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

## PUBLIC HEARINGS

### **Public Hearing 01 : June Cowles, Senior Planner**

**Continuance of the Public Hearing to the January 21, 2014 Town Council Meeting regarding Rezone #13CZ27, 198.69 acres located at 0, 7625, 7641, 7720, and 4021 Green Level West Rd, and 8109, 8113, 8129 Green Level Church Road from Low Density Residential and Low Density Residential Conditional Zoning to Planned Unit Development Conditional Zoning**

Staff stated this was a request by the applicant.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO CONTINUE THE PUBLIC HEARING TO THE JANUARY 21, 2014 REGULAR MEETING; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

### **Public Hearing 02 : Dianne Khin, Planning Director**

**Public Hearing and Annexation Ordinance – Apex Town Council’s intent to annex Beverly and Charles Harris Jr. property containing 4.244 acres located at 1513 Wimberly Road, Annexation #501 into the Town’s corporate limits and**

### **Public Hearing 03 : Lauren Simmons, Planner II**

**Public Hearing and Rezone #13CZ20, 122.66 acres located at 0 Ivey Road & 1513 Wimberly Road from Rural Residential and Wake County R-80W to Planned Unit Development-Conditional Zoning**

Staff oriented Council to the site. The applicant proposed conditions in addition to the Town's standard conditions. Several concerns were raised at the neighborhood meeting; the applicant agreed to satisfy those concerns. Staff recommends a condition that limits the development to 300 platted lots until connection to Secluded Acres Road is made; the applicant has agreed to this condition. This is in compliance with the UDO, and the Parks and Recreation Commission has suggested a fee in lieu or land dedication. The developer has been asked to work with other developers in the area for a reasonable park location. A pump station is being worked on. Staff and the Planning Board recommend approval with conditions agreed to by the applicant.

Staff detailed the Transportation Impact Analysis. Staff requested conditions to be a part of the PD Plan, and the applicant satisfied those conditions.

Mayor Weatherly declared the Public Hearing open.

**SPEAKING IN FAVOR:** Adam Ashbaugh, representing the applicant, described plans for the major aspects of this project and how and why the project will be beneficial to the Town. Two neighborhood meetings were held, and one citizen raised concerns about overhead power lines. The applicant will evaluate and improve the buffer in this area as well as provide a perimeter buffer around future lots in the area which will be dedicated to the homeowners association. Also, there was concern about how Secluded Acres Road would impact neighborhood property. Work has been done to eliminate the concern. Council asked would the applicant agree to 25 year return period storm water control, the applicant stating they will agree to provide adequate freeboard so the damn will not overtop in a 25 year return period.

**SPEAKING IN OPPOSITION:** Jeffrey Ross, adjacent property owner, expressed concerns about the plan not being substantially sound, costs not offsetting services that will be needed, the increase in property tax rates, extensive new sewer lines, and damage to critical buffer lines. He asked would it be possible to request a variance for the buffer. He has not been contacted about surveyors on the property; the plan is not appropriate for their custom-designed solar house. Mr. Ross asked that this be tabled until it is clear that sewer lines will not harm their property. Nothing has addressed trespassing, and there will be increased light and sound pollution. He wanted assurance that the developers will finish the project, as they are part of group that went awry on another project in the economic downturn.

Lisa Ross, agreed with many concerns of her husband, Jeffrey Ross. They purchased the property because of the critical watershed that they were under the impression would not be developed and that no development would encroach upon where they live. It would be traumatic to have a wastewater pipe run through where the ashes of her sister-in-law and mother-in-law are scattered, Mrs. Ross asking Council to consider an alternative site that would not disturb the resting place.

Philip Brown, resident, expressed environmental concerns. Students collect specimens on the property; and he asked Council to stress that an environmental study be done, which he could help with. There was also concern about runoff.

Bob Gubar, resident, expressed concern about management of roads and traffic, especially on Secluded Acres Road.

Council expressed concern about sewer outfall down the creek and across private property. Staff explained how sewer lines follow the creek to try to minimize number of costly pumping stations. Staff explained the plan for a large regional pumping station and several smaller pumping stations and the economic problems that would rise if the basin was not developed. Connectivity is necessary across private properties, but the line has not yet been designed. Surveyors will do this and comply with all laws. The developer generally negotiates compensation, then the Town, if necessary. If there is no agreement, then eminent domain may become necessary.

Staff outlined the recommendations in the master plan for significant park acreage, nothing that discussions are taking place to see what requirements there would be and what the fees would cover.

Mayor Weatherly declared the Public Hearing closed. Mayor Weatherly reopened the Public Hearing for additional questions from Council.

Staff stated there is no financial consideration from the Town and clarified the layout/route of Secluded Acres Road. Council asked the applicant to respond to the new things heard this evening that were not in the packet. The applicant addressed the sewer outfall concerns and how these are being worked on. They can live with having an onsite pump station, but they are trying to work with the regional system.

Mayor Weatherly declared the Public Hearing closed.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION  
TO ADOPT THE ORDINANCE; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

A requested condition by staff for the rezoning was read by Council: *The applicant agrees to provide attenuation of a 25 year/24 hour storm event and that the peak stage elevation of 25 year/24 hour storm event will be contained within the dam of the stormwater facilities.* Attorney Fordham stated this was specific enough to be legal. The applicant stated this was livable and easy to design to.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM MADE THE MOTION TO APPROVE THE REZONING  
WITH THE ABOVE CONDITION; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Public Hearing 04 : Dianne Khin, Planning Director**

**Public Hearing and Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Jerome Rex Eatman, Jr. property containing 28.960 acres located at 2625 Olive Chapel Road, Annexation #499 into the Town’s corporate limits**

and

**Public Hearing 05 : Lauren Simmons, Planner II**

**Public Hearing and Rezone #13CZ29, 28.96 acres located at 2656 Olive Chapel Road from Wake County R-80W to Planned Unit Development-Conditional Zoning**

Staff oriented Council to the site. The neighborhood meeting raised concerns about a subdivision being built near them. The applicant agreed to an added buffer on the property and a parks and recreation payment of fee in lieu. Staff and the Planning Board recommended approval of the request.

Mayor Weatherly declared the Public Hearing open.

**SPEAKING IN FAVOR:** Stuart Jones, Jones and Crossen Engineering on behalf of the applicant, stated the use is consistent with the 2030 Land Use Plan. He briefly detailed buffers and added architectural conditions. Council asked about 25 year stormwater management, Mr. Jones agreeing to this and stating it would come up later in the planning process. The Town Attorney stated this would need to be put in writing. Mr. Jones agreed to the following: *Developer agrees to design and construct any and all stormwater BMP’s to remove 90% of total suspended solids and contain the 25 year storm.*

**SPEAKING IN OPPOSITION:** Beverly Rubin, resident, was concerned about the number of houses on the property, fee in lieu, and Olive Chapel Hill Road being small and curved. She asked if a traffic study could be required and if a 10 foot type A buffer could be placed in front of her home. The Town Attorney explained that Ms. Rubin would have to have the developer agree to the buffer. Mr. Jones agreed by stating: *east buffer to be a Type A 10' buffer.* Staff spoke briefly on traffic issues and clarified the maximum number of lots will be 71 total.

Mayor Weatherly declared the Public Hearing closed.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO ADOPT THE ORDINANCE; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE REZONING WITH THE ADDITIONAL CONDITION STATED ABOVE BY THE APPLICANT; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Public Hearing 06 : Dianne Khin, Planning Director**

**Public Hearing and Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Guy C. Lee property containing 8.3110 acres located at 900 N Salem Street, Annexation #500, into the Town’s corporate limits**  
Staff oriented Council to the site, stating that it recommended approval of the annexation.

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 TEM SCHULZE MADE THE MOTION TO ADOPT THE ORDINANCE; COUNCIL MEMBER LASSITER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Public Hearing 07 : Reed Huegerich, Senior Planner**

**Public Hearing and amendments to the Apex Parks, Recreation, Greenways, and Open Space Master Plan map and the Apex Transportation Plan Bicycle, Pedestrian, and Equestrian Plan map**  
Staff explained that sections of these Plans needed to be revised to agree with the updated Plans. The Parks and Recreation Commission unanimously recommended approval of the amended Bicycle, Pedestrian, and Equestrian Plan map.

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 JENSEN MADE THE MOTION TO APPROVE THE AMENDMENTS; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

*An audio recording of the following three Quasi-Judicial Public Hearings made by the Town Clerk are incorporated into these Minutes by reference. The audio recording or transcript of the Hearings should be used as the verbatim record of the questions, testimonies, evidentiary rulings, and discussions that occurred at the Quasi-Judicial Hearings.*

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**Public Hearing 08 – Quasi Judicial : June Cowles, Senior Planner**

**Quasi-Judicial Public Hearing regarding a Major Site Plan for ATI Industrial Automation, 16.18 acres located at 1031 Goodworth Drive**

Mayor Weatherly read the Introduction as required by law and which is incorporated into these Minutes by reference. Responding to the question by Mayor Weatherly, all Council Members stated they would be impartial in hearing the evidence; Council Members Jensen, Schulze, and Mayor Weatherly visited the site at the ground breaking.

All those wishing to speak were sworn in by the Town Clerk.

Staff member June Cowles stated her credentials and oriented Council to the site. A neighborhood meeting was held but there was no one in attendance.

Mayor Weatherly declared the Public Hearing open.

**SPEAKING IN FAVOR:** Lacy Reeves, Attorney, speaking on behalf of the applicant, stated they believe all criteria have been satisfied for the site plan; and he oriented Council to the building and its purpose. Sharron Scoggin, VP of Hager Smith Design, answered questions from Council on LEED specifications.

With no one speaking in opposition, Mayor Weatherly declared the Public Hearing closed.

Mayor Weatherly presented the standards to Council:

- (1) Compatibility – Council felt the standard met
- (2) Supplemental standards – Council felt the standard met
- (3) General development standards - Council felt the standard met
- (4) Slope protection standards - Council felt the standard met
- (5) Dedication of ROW for Thoroughfare Streets and Highways - Council felt the standard met
- (6) Required improvements - Council felt the standard met
- (7) Other relevant standards of this Ordinance - Council felt the standard met
- (8) Applicable Standards of Article 7, Subdivision - Council felt the standard met

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE SITE PLAN; COUNCIL MEMBER DOZIER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Public Hearing 09 – Quasi Judicial : Brendie Vega, Principal Planner**

**Quasi-Judicial Public Hearing and possible motion regarding a Major Site Plan for Scotts Ridge Elementary School, 30.85 acres located at 6601 Apex Barbecue Road (west of NC-540 and south of Scott's Mill Subdivision)**

Mayor Weatherly read the Introduction as required by law and which is incorporated into these Minutes by reference. Responding to the question by Mayor Weatherly, all Council Members stated they would be impartial in hearing the evidence.

All those wishing to speak were sworn in by the Town Clerk.

Council Members Lassiter and Wilkie asked to be recused seeing as applicant is their employer.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER DOZIER MADE THE MOTION TO RECUSE COUNCIL MEMBERS LASSITER AND WILKIE; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A 3-0 VOTE.

Staff member Brendie Vega stated her credentials and oriented Council to the site. The neighborhood meeting raised concerns about a pond, property values, and monies being available for community use. The applicant agreed to adjust the grading plan so as not to disturbed the roots of trees on a resident's property. Staff recommended approval with conditions.

**SPEAKING IN FAVOR:** Nathan Zalesky, attorney for the applicant, presented the applicant's reasons as to why the request should be approved. Sherri Green, Wake County Public School System, spoke on

how this school will provide relief from the overcrowding in the area. Marcella Rorie, Wake County Public School System, stated an LEED certification will not be applied for due to the cost, but this type of school has been built before. Modifications are being made along the way to make the building better than those previously built.

Renee Pfeifer, CLH Design, presented the site plan and overviewed its details. The neighborhood meeting raised concerns about buffers, impact on properties, and community amenities. Ms. Pfeifer explained how these concerns would be addressed. Ronald Stevenson prepared the TIA for the project and stated they worked with staff and DOT to make improvements, which he overviewed. Frank Slinsky, civil engineer, spoke on meeting the requirement for stormwater design and stated they have no objections to the conditions of staff.

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

Mayor Weatherly presented the standards to Council:

- (1) Compatibility – Council felt the standard met
- (2) Supplemental standards – Council felt the standard met
- (3) General development standards - Council felt the standard met
- (4) Slope protection standards - Council felt the standard met
- (5) Dedication of ROW for thoroughfare streets and highways - Council felt the standard met
- (6) Required improvements - Council felt the standard met
- (7) Other relevant standards of this Ordinance - Council felt the standard met
- (8) Applicable standards of Article 7, Subdivision - Council felt the standard met

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER DOZIER MADE THE MOTION TO APPROVE THE SITE PLAN; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A 3-0 VOTE.

Council Members Lassiter and Wilkie returned to their seats on the Council.

**Public Hearing 10 – Quasi Judicial : Dianne Khin, Planning Director**

**Quasi-Judicial Public Hearing for Special Use Permit SUP#13SUP02 located at 6304 Old Jenks Road**

Mayor Weatherly read the Introduction as required by law and which is incorporated into these Minutes by reference. Responding to the question by Mayor Weatherly, all Council Members stated

they would be impartial in hearing the evidence. Mayor Weatherly, Mayor Pro Tem Schulze, and Council Member Lassiter have met the applicant via a formal meeting at Town Hall. Council Member Lassiter has visited the site.

Staff oriented Council to the site and provided background information. The requested revisions by the applicant were detailed. Staff has worked with the applicant to come up with mutually agreeable conditions. Staff verified that the wording as stated could mean that events could be held every Saturday night.

**STATEMENT BY THE APPLICANT:** April Maness, owner, explained the upgrades which have been made to the septic system. She stated Council previously granted her 72 events, and she was asking for flexibility with these events because of the limitations of the tent. She stated weddings are very much seasonal, and probably would not be taking place every Saturday. Ms. Maness asked for flexibility during peak times to use the number of events she has been granted. She is being forced to only hold larger events; smaller ones don't meet the conditions.

**SPEAKING IN OPPOSITION:** Timothy O'Hara, resident, asked that the request be denied because it does not fit in with the character of the neighborhood. Events generate noise that he can hear at his house, and an increase in events could cause environmental pollution. If approved, Mr. O'Hara asked that the duration of permit be revisited and a condition be set for the permit to terminate with a change in ownership of property.

Ms. Maness addressed the parking and septic system.

Greg McGhee, resident, spoke on noise impact stating that additional events with noise will not be practical for the environment. This doesn't fit in with residential land use, and he spoke on the septic tank issue.

Council asked if any citations have been issued or if there have been any violations, the Town Manager Radford stating he did not believe so.

Ms. Maness responded there have been no citations or reprimands, and she has not been asked to turn down the music. Law enforcement has been out for reasons other than sound; they have

measured the sound, however, and the ordinance has not been violated. The music turns off at 11:00; the sound system has a limiter which is in a locked box.

Mr. McGhee stated a police report was made on sound, it was presented previously to Council, and it showed Ms. Maness was in violation 60% of the time.

**SPEAKING IN SUPPORT:** Graham Wilson, Chamber of Commerce, stated he has personally visited the site and has seen what has been done to comply with the standards. Ms. Maness has gone above and beyond what is required.

Mayor Weatherly declared the Public Hearing closed.

Mayor Weatherly presented the Standards to Council:

- (1) Appropriateness of Special Use – Council felt the standard met
- (2) Supplemental Standards – Council felt the standard met
- (3) No significant adverse impact on land and surroundings – Council felt the standard met
- (4) Minimization of environmental impacts – Council felt the standard met
- (5) No significant impact on services – Council felt the standard met
- (6) Compliance with all other imposed standards – Council felt the standard met

Council expressed concern about standard (1), agreeing with noise one or two weekends a year, but where do you draw the line from there. Staff clarified the additional events will be for non-amplified sound. For standard (3), Council raised questions about noise being a nuisance. However, if Ms. Maness is under the stated decibel reading, then she is complying with the law. Attorney Fordham stated additional conditions could be added, i.e., changing the time the sound goes off to 11:00 p.m. on all nights.

MAYOR WEATHERLY CALLED FOR A MOTION TO CHANGE THE HOUR TO 11:00 P.M. FOR AMPLIFIED SOUND ON THE WEEKENDS AND HOLIDAYS. COUNCIL MEMBER DOZIER MADE THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE SPECIAL USE PERMIT WITH THE ABOVE CONDITION; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
COUNCIL MEMBERS WILKIE, LASSITER, AND DOZIER VOTED IN THE AFFIRMATIVE;  
COUNCIL MEMBERS SCHULZE AND JENSEN VOTED IN THE NEGATIVE.  
THE MOTION CARRIED BY A 3-2 VOTE.

## OLD BUSINESS

There were no Old Business items for consideration.

## PUBLIC FORUM

No one wished to speak during Public Forum.

## NEW BUSINESS

### **New Business 01 : Lauren Simmons, Planner II**

#### **Manors at Bella Casa Phase 6 - Master Subdivision Plan - for the properties located at Napoli Drive containing 8.22 acres and 16 lots**

Staff oriented Council to the site. This has come back to Council as the applicant is proposing a new road. The Planning Board and staff recommend approval of the request. Staff clarified that issues raised at the neighborhood meeting related basically to other aspects of the project and not to road issues.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE MASTER SUBDIVISION PLAN; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

### **New Business 02 : Lauren Simmons, Planner II**

#### **Preserve at White Oak Creek - Master Subdivision Plan - for the properties located at Jenks and Wimberly Road containing 122.66 acres and 310 lots**

Staff oriented Council to the site. The neighborhood meeting raised concerns which were addressed by the applicant. This will be a part of the regional solution of the White Oak Basin. The Parks and Recreation Commission recommended a fee in lieu or land dedication. Staff noted one street exceeded the UDO, so conditions were placed on this street. Staff and the Planning Board recommended approval of the request.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE MASTER SUBDIVISION PLAN; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**New Business 03 : Reed Huegerich, Senior Planner**

**Trace II Master Subdivision Plan for the property located at 1615 Salem Church Road containing 8.65 acres and 18 lots**

Staff oriented Council to the site, stating that the rezoning had been previously approved by Council. The Parks and Recreation Advisory Commission recommended a fee in lieu. The neighborhood meeting raised a few questions; this subdivision will look very similar to Trace I. Staff and the Planning Board recommended approval.

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

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**New Business 04 : Reed Huegerich, Senior Planner**

**Municipal agreement with NCDOT to secure 80% of the project cost in federal funds, requiring 20% matching local (Town of Apex) funds, in order to provide operational improvements, adding and lengthening turn lanes along SR 1010 (Center Street/Ten Ten Road) from the US 1 northbound ramps to west of SR 1306 (Schieffelin Road), TIP Project No. U-5118 AD, and authorizing the Town Manager to execute same**

Staff oriented Council to the property and noted that this was a standard DOT agreement.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE MUNICIPAL AGREEMENT AND TO AUTHORIZE THE TOWN MANAGER TO EXECUTE SAME; COUNCIL MEMBER JENSEN SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**New Business 05 : Reed Huegerich, Senior Planner**

**Municipal agreement with NCDOT to secure 70% of the project cost in federal funds, requiring 30% matching local (Town of Apex) funds, in order to prepare a design and acquire public right of way for Lake Pine Drive, proposing a three-lane widening continued from Town of Cary limits across Apex Community Park, TIP Project No. U-5537, and authorizing the Town Manager to execute same.**

Staff oriented Council to the property, noting that this is for a design and not construction. This will be a joint project with the Town of Cary. The contract is the standard DOT contract.

MAYOR WEATHERLY CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE MUNICIPAL AGREEMENT AND TO AUTHORIZE THE TOWN MANAGER TO EXECUTE SAME; COUNCIL MEMBER LASSITER SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**New Business 06 : Lee Smiley, Finance Director**

**Capital project ordinance amendment for preliminary engineering and right of way (no construction in this phase) required for widening Lake Pine Drive to a three lane section at Apex Community Park and for preliminary engineering, right of way, and construction of the extension of turning lanes and improvement of the intersection of Center Street at US 1 southbound and Waterford Green Drive**

Staff stated this was simply a budget amendment for the two previous items.

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

**New Business 07 : Bill Jensen, Council Member**

**Resolution to develop a policy allowing businesses to be listed in the Town of Apex Utility Bills**

Mayor Weatherly noted that a revised Resolution had been distributed to Council. Council Member Jensen pointed out the revised wording and stated the purpose of the Resolution and how this information would ultimately tie into the Town's computer system. The listing would be able to reach 17,000 citizens, with one insert per utility bill on a quarterly basis or other specified timeframe. This would not be limited to businesses who are members of the Chamber.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO ADOPT THE REVISED RESOLUTION; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Add-on New Business 08 (Consent 04): Construction contract and authorization for Town Manager to execute same for ~~EL-5100-DD Laura Duncan Multi-use Path Project~~ U-5118 AC NC 55 Corridor Improvements Project** 

Staff clarified this is a DOT road and not a Town road.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE CONTRACT AND AUTHORIZE THE MANAGER TO EXECUTE SAME; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Add-on New Business 09 (Consent 05): Resolution authorizing Director of Parks, Recreation, and Cultural Resources to approve and execute Standard Services Agreements and Contracts related to park maintenance and other services that are part of the department's approved budget**

Staff clarified this deals only with maintenance issues which are in the budget.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE RESOLUTION; COUNCIL MEMBER DOZIER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

**Add-on New Business 10 (Consent 10):** Transportation Improvement Project Municipal Agreement between the North Carolina Department of Transportation and the Town of Apex and Town Manager authorization to execute same and

**Add-on New Business 11 (Consent 11):** Utility Agreement between the North Carolina Department of Transportation and the Town of Apex, Town Manager authorization to execute the Utility Agreement, and approval of the associated and attached Capital Project Ordinance Amendments and

**Add-on New Business 12 (Consent 12):** Encroachment Agreement with NCDOT to allow the Town's greenway to cross under Kelly Road and Town Manager authorization to execute the same and

**Add-on New Business 13 (Consent 13):** (1) Resolution authorizing the sale of 1.379 acres of land, 0.032 of an acre of permanent drainage easement, and 0.924 of an acre of construction/permanent slope easement to NCDOT to facilitate the Kelly Road widening project, acceptance of a \$110,000.00 payment from NCDOT for the land, easements, and destruction of Town owned improvements, and Town Manager authorization to make minor modifications to and execute the documents to transfer title to NCDOT, (2) allocation of proceeds from the sale and damage settlement between Town funds as stated below, and (3) approval of the related Capital Project Ordinance Amendment

Staff clarified the amounts noted in New Business 11 and the relocation of utilities.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE ALL ITEMS ASSOCIATED WITH NEW BUSINESS NUMBERS 10 THROUGH 13; COUNCIL MEMBER DOZIER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

## CLOSED SESSION

There were no Closed Session items for discussion.

## WORK SESSION

There were no Work Session items for discussion.

## ADJOURNMENT

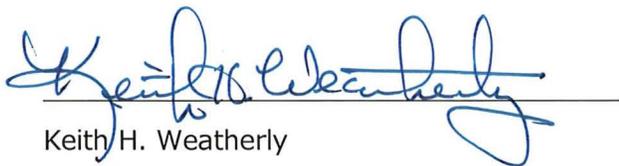
With there being no further business,

COUNCIL MEMBER WILKIE MADE THE MOTION TO ADJOURN; COUNCIL MEMBER DOZIER SECONDED THE MOTION.  
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.



Donna B. Hosch, CMC, NCCMC  
Town Clerk

ATTEST:



Keith H. Weatherly  
Mayor

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