

# TOWN OF APEX BOARD OF COMMISSIONERS'

Minutes of the January 16, 2001 Meeting



Mayor: Keith H. Weatherly

Commissioners:  
Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Website: [www.apexnc.org](http://www.apexnc.org)

Mayor Weatherly called the regular meeting of the Town of Apex Board of Commissioners to order on Tuesday, January 16, 2001, 7:00 p.m. in the Apex Town Hall, 205 Saunders Street. Commissioners Jensen, Meckes, Jones and Grimes were present. Commissioner Hilt was absent.

Mayor Weatherly extended a welcome to those in attendance.  
Commissioner Meckes lead the prayer.

## CONSENT AGENDA

Mayor Weatherly presented the consent agenda to be set and asked for a call for action.

**Action:** Motion by Commissioner Jones and second by Commissioner Meckes to approve all items printed on the consent agenda. Motion carried.

1. Minutes of December 19, 2000 Board of Commissioners meeting.
2. Minutes of the December 19, 2000 Executive Session of the Board of Commissioners (seal/separate cover).
3. Minutes of the December 12, 2000 Fire Services Committee.
4. Ordinance – Rezoning #00RZ10, EMC Corporation, petitioner, rezoning 46.606 acres from (Wake County Designation) I-1 District to LI (Light Industrial) District (approved by BOC 10/17/2000).
5. Annexation Petition # 312, William C. (Jr.) & Mettie J. Mills, Hunter H. & Edith S. Morris, and Raeford C. & Gwendolyn Morris, and William V. McPherson, Jr., Trustee, property owners/petitioners, partitioning to annex 70.8547 acres located off Green Level Church Road (SR1600) intersection with US64;  
1) Resolution directing Clerk to investigate petition; 2) Certificate of Sufficiency; and  
3) Resolution to set date of public hearing for February 6, 2001.
6. Annexation Petition #313, Charles & Susan M. Jannuzzi, property owner(s)/petitioners, partitioning to annex 1.900 acres located on west side of NC Hwy 55 south of US1, Apex; 1) Resolution directing Clerk to investigate petition; 2) Certificate of Sufficiency; and 3) Resolution to set date of public hearing for February 6, 2001.
7. Guidelines, rules, and regulations for operating new Community Center.
8. Contract for update of existing Parks, Recreation, Greenway and Open Space Master Plan.
9. Adopt Resolution approving Agreement with NCDOT for Project R-2905 – Improvements to NC55 from proposed Holly Springs Bypass to north of US1.
10. Proposed Access Easement Relocation Agreement.
11. Resolution to condemn property required for construction of new 1.5 million gallon elevated storage tank.

End of Consent Agenda





## REGULAR MEETING AGENDA

Mayor Weatherly presented the regular meeting agenda to be set. The meeting agenda was set as printed.

### PUBLIC HEARINGS

#### Public Hearing # 1 – Pre Budget Hearing FY2001/2002

##### Mayor Weatherly

Public hearing to receive comments regarding Annual Budget for FY2001/2002.

Mayor Weatherly noted this a customary hearing in advance of the preparation of the proposed Annual Budget, to allow for consideration of suggestions by the public for possible inclusion in the upcoming budget document.

The hearing was opened at 7:00 p.m.

**Art Clem** expressed appreciation for road improvements entering his subdivision and for purchase of street sweeper. Desires 1) sidewalk improvements along Olive Chapel Road for interconnectivity to the neighborhood and into Town and sidewalks be a continuing year to year project 2) widen intersection of Olive Chapel Road/NC55 with turn lane to move traffic, and 3) reinstate lawn clipping service (extended his willingness to serve on a committee to investigate this).

**Scott Fogleman** desires sidewalks along Laura Duncan Road from the high school to Shepherds Vineyard Station for safety and for esthetics.

Mayor Weatherly noted approval by Board for sidewalks on Laura Duncan and asked DOT to move forward. Property owners expressed concern with taking of yard frontage, as the sidewalks would be constructed farther back from the road. He informed Town has the power to move forward, but has resisted because of DOT restraints and future road widening.

The hearing was closed at 7:15 p.m. Town Manager will consider comments in preparation of the budget document.

##### **End of public hearing #1**

#### Public Hearing # 2 – Allocation of Wastewater Treatment Capacity and Change in Code

##### Director of Construction Management

Public hearing to solicit comments relative to:

1) Suspending for one year the limit on the number of dwelling units authorized by building permits issued with respect to Qualifying Residential Developments under the Ordinance to Provide for a Temporary Allocation Mechanism for Residential Utilization of Wastewater Treatment Capacity, and

2) Possible change to Town of Apex Code Section 5-24 related to the term and renewability of building permits; and possible motion regarding these items.



**Public hearing #2 continued**

**Attorney Fordham** presented a draft ordinance providing for a one-year suspension of the limits on the allocation of wastewater treatment capacity for residential uses in qualifying residential developments.

**Kent Jackson**, Director of Construction Management, noted the plan was established as a mechanism to manage wastewater capacity and with the growth rate becoming more normalized, feels for 2001 it's reasonable to have a market driven plan and recommends the suspension of one-year, with cap still in place, and revisiting the plan at the end of the period. Commissioner Jensen asked the specific date for run out of sewer capacity (was not known).

The public hearing was opened at 7:17 p.m.

**Tom McKay** spoke in support of the suspension for one-year for the development community. Some were affected by the suspension and felt this would allow developments to finish build out and would benefit the citizens in a clean up of construction in their subdivisions.

Commissioner Meckes noted the significant decrease in permits issued in 2000 (reference status report from the Planning Department). Manager Sutton clarified potential under the wastewater allocation plan potential for 1600 build-out, but felt this relies on market driven forces and subject to change.

Mayor Weatherly noted there will be no new approvals, but this action would allow builders to have permits issued and in keeping with those allowed under the allocation plan, and no additional growth.

Planning Board recommends:

- 1) A –re-determined definition of how much total allocation can be used within the one-year period.
- 2) some assurance or plan that Construction Management can handle the workload in the event there is an onslaught of permits requested.
- 3) A plan be developed to find additional wastewater capacity in the event capacity is used in a shorter period of time (pre-2003).
- 4) that an allocation plan be developed for both residential and non-residential development.

Mayor Weatherly assured the plan is developed for residential and non-residential development, and further assured commitment by the Town.

Commissioner Jensen inquired about the shifting of permits. Manager Sutton explained as of the last quarter, this could go beyond 2003 in regard to unused permits and slowdown to 2004/2005, if it doesn't pick up. He noted decreasing interest rates are not the driving factor, but the job market; projections are not predicted as of yet.

Commissioner Grimes felt decline in interest rates should be a greater stimulus and felt Board could revisit this again before the end of one-year. Mayor Weatherly doesn't anticipate a sudden run on permits issued with Commissioner Jones indicating he felt a run on permits would have already happened. Mayor Weatherly noted permits have been shifted. Commissioner Meckes also agreed and commented on the economy and the slowing growth. Commissioner Jensen asked assurance Construction Management could handle the work load, and didn't hire more personnel than needed, also taking into consideration cut-backs should we have too.

**Action:** Motion by Commissioner Jones and second by Commissioner Meckes to adopt the Ordinance providing a one-year suspension of the limits on the allocation of wastewater treatment capacity for residential uses in qualifying residential developments. Motion carried.

**End of public hearing # 2**





## OLD BUSINESS

There are no Old Business Items to consider.

## PUBLIC COMMENT

Public comment is welcome. Anyone may address the Board concerning any item.  
Mayor Weatherly will recognize those wishing to speak at the appropriate time.  
We ask that you limit your comments to 3 minutes to allow others to speak.

No one spoke during public comment.

## NEW BUSINESS

### New Business Item # 1 - Apex Chamber of Commerce, Economic Development Report

#### Apex Chamber of Commerce

Cat Kearns, President, Apex Chamber of Commerce, delivered the quarterly economic development report (attached). Requested Town pay Chamber the remaining budgeted funds for this fiscal year (funds had been paid by the Chamber for personnel expense, brochures and maps).

End of New Business #1

### New Business Item # 2 – Town Hall & Community Center / Signage

#### NBBJ

Update by Craig Leonard, NBBJ, concerning construction date of Town Hall and Community Center, and decision on signage; possible motion regarding same.

Status report was given by Craig Leonard, NBBJ, regarding Town Campus Construction completion date of April 2<sup>nd</sup>, furniture/furnishings are ordered, finalizing signage, and will soon submit proposal for audio-visual equipment. NBBJ is pleased with the quality and progress of the project. Leonard displayed samples of the commemorative plaques for each building and offered samples for the site sign. He discussed materials and design, back lit vs. ground lit, and lettering, and recommending bronze/brick, with a low base (9' by 3 1/2'). Island has been designated for main sign with a smaller sign located at other entrance. The Board shared their preferences regarding signage; their desire was to have other examples for consideration. Leonard will provide them in the next couple of weeks.

End of New Business #2

### New Business Item # 3 – Bradley Terrace Site Plan

#### Director of Planning

Possible motion concerning a one-year extension by Bradley Terrace site plan; proposed project located at the north intersection of the Peakway and Shackleton Road.



**Bradley Terrace  
Site Plan continued**

Attorney Fordham read legal comments in considering the request.

(UDO) Article 1. Section 1.10.2(A) provides for possibility for up to a one-year extension for site plans approved prior to the UDO. It places on the applicant the burden of showing good cause for an extension. In considering the applicant's request for extension, the U.S. and North Carolina Constitution require that you act with due process. Acting with due process in deciding whether to grant or deny an extension means you cannot act arbitrarily, but must balance the public as a whole vs. the interest of the applicant and make a reasonable decision. In balancing these interests you should consider any burden on the developer of your denying the extension and any reasons for delay there were beyond the control of the developer as factors that favor granting an extension. On the other hand you should consider any prejudice to the public health, safety, morals for general welfare as protected by the Town's current Unified Development Ordinance and any inexcusable delays as factors that favor denying an extension. In considering prejudice to the public, the sewer allocation ordinance is not a factor. Does the project in question qualify for allocation under the sewer allocation ordinance? For the same reason, however, loss of a sewer allocation under the ordinance is a factor, to the extent the applicant shows prejudice if the extension is denied. In making your decision, you should consider the presentation made, balance the interests, and make a reasonable decision.

Director of Planning displayed sketch of Bradley Terrace site plan approved 1998. Planning Department granted an extension for one-year. Applicant had 2-years to obtain construction drawings and permits to keep the project going; no building permits were obtained. It was noted in order for a site plan to remain valid the owner must obtain approval of his construction drawings and obtain a building permit (owner did obtain approval of his drawings but did not obtain a building permit). Plan was approved under old ordinance. Applicant may show good cause for not obtaining the necessary drawing or permit approvals. Sketch of the site plan indicates sections of development in question. No single-family development has occurred.

Facts: Developer of Lexington installed portion of Peakway, and development of this portion in question would create development of another section of the Peakway; applicant has installed sewer line and a pump station serving this development and Perry Farms; applicant has installed a road and clean-outs for individual lots in the single-family phase. Applicant can go ahead with single-family development.

Hector Cuales, President/CEO, United Estates of America, Inc., addressed the Board stating his intent, that he thought he was under a master plan that the 3 phases were associated with and found out later he was not – being a separate site plan and separate master plan. He has put in all infrastructures anticipating doing this down the road. He understood errors and misunderstandings but had no intent to delay. Phase I is complete, infrastructure and grading. Phases 2 and 3: made application for site plan and it did laps; second time didn't want to make same mistakes and in course of time between site plan and construction approval, sought to sell the site plan to a builder needing sewer allocation, "Torrey" (contract to sell townhomes). When he got site plan approval and getting the construction drawings, he knew there was not enough time. He took to task to contract with Torrey so he could transfer his allocation units, thinking when he did so he was in fact transferring his obligation to file a permit for construction. He was entitled 44 units and transferred all 44 units to Torrey. Even if he had enough time, he would have locked himself out of the right to file a permit because he gave them all to Torrey. Torrey then filed application for those allocated units and he thought he had completed the requirements to letter of the law, or in this case the ordinance, and the provision is not in there. If you transfer out, the very thing that keeps you in, there's nothing to save you and apparently there wasn't. He had discussed the Peakway with the Town but Town didn't bite; he went out of his way to do things he felt the Town would be please with. He reduced the impact by causing 1/3 in the subdivision to be for detached housing and reduced the number of allocated units. He felt he was working with the Town and also according to the ordinance, but he was not. He asked Board to understand and reinstate the site plan, indicating he has had one extension not two and knew it needed to be addressed, but had no intent to do it a second time. He's spent a significant amount of money (\$100,000) for design and engineering, thinking he had a stayed master plan and had no intent to throw it away and didn't think he was.





**Bradley Terrace  
Site Plan continued**

Commissioner Grimes asked the impact of not getting the extension with respect to the plans he already has, financial and time. Applicant stated he had all his investments in this project, snow balling profits from the other subdivisions to this one, a custom design site plan, not applicable anywhere else. He stated he would "belly up" if this did not prevail.

Commissioner Grimes asked if he had considered re-applying, and using the same drawing and plans. It was noted this would fall under the UDO as a new subdivision, and wouldn't exist. Discussion continued regarding the applicants actions up to this point; Cuales reiterated his intent and thoughts that he had done what he should do, but gave away his units, locking himself out and not knowing; the allocation was transferred, but the responsibility behind them was not. His intent was to do both and in his mind, thought so. He asked Torrey for the 44 back and they have agreed to give them back. The allocation applies to them, but not to him. Clarification was made regarding this action.

Mayor Weatherly noted there may be other requests for extension, and asked the Town Attorney if this decision is entirely discretionary on case-by-case basis or does it set precedence, making it difficult to do something different the next time around. Attorney Fordham responded it's not entirely discretionary; it's not a legislative act. Approval of the site plan is more of an administrative act subject to legal principles as he stated earlier. Based on presentations and the situation, as it exists, you need to make a reasonable decision not entirely discretionary.

Commissioner Grimes felt the applicant's intent was to pursue his plan and preserve the site plan approval, not obtaining a permit, but Torrey did, thinking this would suffice, which was a mistake and not understanding the consequence, and if he can't regain those allocations he can't do anything for a few more years; he saw no prejudice to Town to allow this and applicant had no excusable delay, all was done in a timely fashion.

**Action:** Motion by Commissioner Grimes and second by Commissioner Meckes to grant the applicant's request to extend the Bradley Terrace Phase II & III Site Plan for a one-year extension effective at the time of this decision (01/16/2001). Discussion on the motion indicated this action was for good cause and in the best interest of the community and the applicant. Commissioner Jensen asked to put on notice "that allocation does not mean building permits". Director of Planning noted buffer requirements between old ordinance and the UDO have the same balance (UDO requires less buffer, but requires RCA where the old ordinance has more buffer but no RCA). Director of Construction Management noted additional infrastructure has to be put in place for Phases II & III and didn't feel the permits should be pulled in the next week as he has one full year. Motion carried unanimously.

**End of New Business #3**

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| <b>New Business Item # 4 – Recognition Information placed on Town Limit Signs</b> |
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**Mayor Weatherly**

Mayor Weatherly recommends recognition of the Apex High School baseball team being the 2000 State 4-A Baseball Champions be placed on Town Limit Signs. Discussion continued regarding the wording.

**Action:** Motion by Commissioner Meckes and second by Commissioner Jones to approve the recommendation. Motion carried.

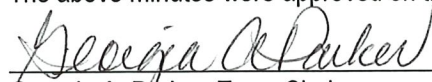
**End of New Business #4**



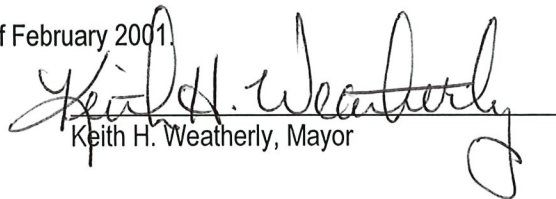
## ADJOURNMENT

With no further business to come before the Board, motion by Commissioner Jones and second by Commissioner Meckes to adjourn at 9:00 p.m.

The above minutes were approved on the 6<sup>th</sup> day of February 2001.

A handwritten signature in cursive script, reading "Georgia A. Parker", written over a horizontal line.

Georgia A. Parker, Town Clerk

A handwritten signature in cursive script, reading "Keith H. Weatherly", written over a horizontal line. There is a large, stylized flourish at the end of the signature.

Keith H. Weatherly, Mayor



# TOWN OF APEX BOARD OF COMMISSIONERS'

Minutes of February 6, 2001 Meeting



Mayor: Keith H. Weatherly

Website: [www.apexnc.org](http://www.apexnc.org)

Commissioners:  
Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Mayor Weatherly called the regular meeting of the Town of Apex Board of Commissioners to order on Tuesday, February 6, 2001 at 7:00 p.m. in the Apex Town Hall, 205 Saunders Street. Commissioners Jensen, Meckes, Jones, Grimes and Hilt were present.

Welcome by Mayor Weatherly.  
Prayer by Commissioner Jensen.

## CONSENT AGENDA

Mayor Weatherly presented the consent agenda to be set and asked for a call for action.

**Action:** Motion by Commissioner Hilt and second by Commissioner Grimes to approve the consent agenda as printed. Motion carried.

1. Minutes of January 16, 2001 Board of Commissioners meeting.
2. Minutes of the January 17, 2001 Finance Committee meeting.
3. Annexation Petition # 314, The Prince of Peace Episcopal Church, property owners/petitioners, to annex 7.640 acres located on east side of North Salem Street (SR1011);
  - 1) Resolution directing Clerk to investigate petition;
  - 2) Certificate of Sufficiency; and
  - 3) Resolution to set date of public hearing for February 6, 2001.
4. Annexation Petition # 315, Brandon Toler, property owner(s)/petitioners, to annex 2.067 acres located at 1002 Olive Chapel Road (SR1160);
  - 1) Resolution directing Clerk to investigate petition;
  - 2) Certificate of Sufficiency; and
  - 3) Resolution to set date of public hearing for February 6, 2001.
5. Wake County Tax Report.
6. Set date of public hearing concerning Growth Management Plan (March 6, 2001).

End of Consent Agenda



## REGULAR MEETING AGENDA

Mayor Weatherly presented the regular meeting agenda to be set. The agenda was set as printed.

### PUBLIC HEARINGS

#### Public Hearing # 1 – Rezoning Permit Application #00RZ12, Town of Apex

##### **Director of Planning**

Public hearing regarding rezoning permit application # 00RZ12, Town of Apex petitioner, seeking to rezone from HD-&R40 (Wake County Designation) to Rural Residential District classification, containing 7.001 acres, located at 1008 & 1312 Holt Road and 201 Howell Road; possible motion to adopt ordinance regarding same.

Director of Planning oriented to the location of the properties and noted dwellings with well problems, but are now tied into the town water system. Davis Drive and Jenks Road school site waterline made the tie-ins possible. Adoption of the Ordinance would change the properties from Wake County Designation to a Town of Apex Zoning classification.

Public hearing opened at 7:05 p.m. No one spoke in favor or in opposition. The hearing was closed.

**Action:** Motion by Commissioner Meckes and second by Commissioner Jones to adopt an ordinance to amend the zoning district map as recommended. Motion carried.

##### **End of public hearing #1**

#### Public Hearing # 2 – Annexation Petition #312 Mills/Morris/Morris/and McPherson

##### **Director of Planning – David Rowland**

Public hearing concerning Annexation Petition # 312, William C. (Jr.) & Mettie J. Mills, and Hunter H. & Edith S. Morris, and Raeford C. & Gwendolyn Morris, and William V. McPherson, Jr., Trustee, property owner(s)/petitioners; petitioning to annex approximately 70.8547 acres located off Green Level Church Road (SR1600) and at the intersection with US64; possible motion to adopt ordinance to extend the corporate limits.

Director of Planning oriented to the location of the property and its proximity to the Western Wake Expressway and noted surrounding land uses. He noted annexations are discretionary by the Board, outlining pros and cons while considering this annexation.

Mayor Weatherly commented on the proposed development being considered for this property, noting this item strictly pertains to annexation and has nothing to do with zoning. Director of Planning advised he had met with the land planner regarding a submitted rezoning request for planned commercial development that could involve big box-type development. The Mayor advised the property must first be annexed prior to rezoning and further noted the property is not in our zoning district.

Attorney Fordham advised the Town has no jurisdiction over the property and the first step is to have authority to bring the property within the town. Justified taxation could not happen without a specific zoning classification, as the current classification is opposite that of the 2010 Land Use Plan. Director of Planning noted the Wake County Designation was commercial; and any intense development would require water and sewer. The property is not in the Town's ETJ, even though it borders Town (jurisdiction is one-mile and could be 2 miles over 10,000 population, but must await receipt of the Census). Attorney Fordham advised the Town must apply for and be approved by the County.





Public hearing #2 continued

Mayor Weatherly opened the public hearing at 7:15 p.m.

**Speaking in favor:**

Attorney David York, Tribeck Properties, noted acreage includes right-of-way and had hoped to piggyback with a rezoning petition, and that the process would be concluded by now but is not. He understood comments made but not the part concerning rezoning. He noted the vision to develop this property is for non-residential and felt the proposed uses to be consistent with the plan, making annexation necessary to obtain water/sewer.

Jamey Gregory didn't know the property was not in the ETJ, but water/sewer would benefit if the property is rezoned.

**Speaking in opposition:**

Mary Ann Lorenc, Rabbit Walk Lane, expressed concern with NC55/US64 development and with the annexation; asked it be developed in accordance with 2010 Land Use Plan and keeping within the small town character as this was a gateway to downtown Apex and should be carefully planned and managed. Current development plans to her did not appear to be in accordance with the 2010 Land Use Plan, that calls for mixed-use node and hopes it will blend with residential areas and the Town's image. Asked consideration be given to congestion, infrastructure, quality of life for residences and businesses and Town's image for this area. Apex Citizens for Smart Growth are concerned for piecemeal, developer-driven development. Asked citizens needs be utmost priority, while they are not trying to stop development, but assure smart growth in a complimentary manner.

W. C. Mills, property owner, noted the petition was presented by the purchaser of the property. He didn't want to be in the town limits unless the property is purchased. He understands the dilemma, but is opposed if not the land is not purchased and in favor if purchased.

Betsy Dorn, 1109 Holt Road, Apex Citizen for Smart Growth, opposes the annexation, as it appears to speed up the process and felt this should be looked at more closely, but is not opposed to annexation later.

Bob Lynch, 2419 Walden Creek Drive, wasn't sure he understood the sequence of events; hates to see poor planning; opposes process and annexation; asked it be approached in a more orderly manner.

Mayor Weatherly advised the petition comes to the Town, not generated by the Town, and was being acted upon in accordance to law. The property is not in town or in the ETJ, and annexation does not place a zoning class on the property (first is request for annexation, and then request for rezoning). Town has not asked the County to expand the ETJ; Town has had no reason to seek additional ETJ and no one has requested it. The established Urban Growth Boundary is east of the Western Wake Expressway, with corridor already determined.

Heather Hyson, 2003 Good Shepherd Way, Haddon Hall, noted the need for water/sewer was inevitable. As a realtor, she worries about property values; thinks tax base will remain the same but values will drop; persons are not considering buying homes due to the rumors – ex. Home Depot – noted market price drop of 16%; concerned with proximity of shopping center to residences in regards to growth and tax base.

Mike Shore, 1008 Brittley Way, Haddon Hall, doesn't see annexation bringing anything to the citizens, and a burden to the water/sewer supply; has problems getting out onto NC55 daily due to traffic that will increase – ex. Cisco opening entrance on NC55 side of RTP; views any major shopping center in the NC55 area as unfair with no plans to upgrade NC55 for approximately 5 years and doesn't have infrastructure to support them without changes to roadways and intersections; he asked not to annex this property and lower the quality of life and more – ex. Crossroads area.





## Public hearing #2 continued

Resident of 2302 Speckled Adler Court, expressed confusion regarding annexation and rezoning. Felt the rezoning was due to a lot of money to Tribeck for a larger development; would create more traffic and didn't want to be the next Crossroads (ex. bridge); urged smart growth; land use plan for the area seemed to make sense; asked to take time and look at NC55/US64 development more closely as this was a gateway into Apex; problem not just with this development but other development as well; wants Apex to stay the way it is; asked if there was a tax benefit from commercial. Mayor Weatherly responded the tax rate is the same, based on evaluation; there would be an increased tax base vs. an empty field. Commissioner Jones commented the O&I designation under the 2010 Land Use Plan was not relevant to this discussion, but was not naive to have strings attached. Mayor Weatherly concurred and noted this a great risk with the landowner paying the taxes without being sold.

Resident of 2413 Walden Creek Drive, expressed concern with Walden Creek being used as a cut through should this development occur; decrease in home values and tax value; asked the consequences should the annexation not occur. Mayor Weatherly response was commercial development could happen under County guidelines without Apex's input and contingent on getting water/sewer; without water/sewer could greatly affect what could go on the property. Annexation of the property would give more control over the situation even though it's not zoned commercial and County control was not beneficial. Land Use Plan calls for O&I, a transitional area opposed to more intense development. Commissioner Grimes noted future opportunity for input regarding rezoning, but couldn't come to pass until the land is annexed. Mayor Weatherly interjected or until the County allows the Town to take it into the ETJ.

Resident of 2216 Colony Woods Drive is not antidevelopment, but asked careful consideration be given to this site and look at the impact of development prior to annexation of this parcel.

Resident of 2003 Good Shepherd Way noted the owner of the property was opposed if he couldn't rezone it and was against annexation since the town couldn't promise it.

Mayor Weatherly closed the hearing at 7:50 p.m. Commissioner Grimes asked to open it back up. The Mayor did so to allow Attorney York to answer questions. Commissioner Grimes asked if the contract on the land is contingent on the rezoning? His response was, it was not. The hearing closed at 7:51 p.m. Commissioner Grimes asked Director of Planning if when the 2010 Land Use Plan was approved was there knowledge as to where the proposed 540 was going to be? The response was yes and was taken into account.

Commissioner Hilt noted the property zoned highway commercial since the beginning of time and next to residential and was reason for transitional zoning from high density to a lower use. Director of Planning noted it for townhomes. Commissioner Jones agreed highway commercial was inherited, even before Texas Instrument's planning.

Commissioner Jensen felt what was being done now was placing the "cart before the horse", in effect by annexation of the property it may lead development down a road that doesn't exist – 540 being as much as 8 to 10 years away. Attorney Fordham responded the Town has not led anywhere, that the annexation doesn't imply future zoning.

Director of Planning noted the property has potential for commercial development; had met with the land planner. Commissioner Hilt made comments regarding finding compatible zoning; staff noted it has to be compatible with the Land Use Plan. Commissioner Jones noted the implication was for O&I but there was no guarantee. Commissioner Grimes noted the Growth Boundary and assuming the Town would not extend beyond this point, asked if it appropriate to have Commercial or O&I?

Commissioner Meckes was uncomfortable based on what he had heard; with the landowner opposing if not how its projected to be used, and based on history of the Board of Commissioners having been consistent with the 2010 Land Use Plan (designated O&I), and comments related to commercial - not being in favor. He noted the Home Depot location had always been designated as highway commercial and was a good use.





Public hearing #2 continued

**Action:** Motion by Commissioner Meckes and second by Commissioner Jensen to deny Annexation Petition # 312.

Attorney Fordham advised there was no time frame to petitioning for annexation again after a denial. Commissioner Jones asked if the petitioner would want to reconsider if there was no down time. Commissioner Jensen wanted to know more of where we're headed than piece-mill.

Mayor Weatherly noted continuation in working with the County in favor of ETJ, with progressive planning to take care of borders and determine development. He's hopeful the County would grant maximum ETJ. He further urged the Board to vote to deny annexation based on what they had heard.

Commissioner Hilt noted careful consideration given to Home Depot development and felt it good to hold off until issues are resolved near US64 access. Commissioner Grimes noted several other locations more appropriately zoned, and available that doesn't abut to residential with Commissioner Jensen agreeing. Commissioner Meckes noted ultimately the property would be annexed, as it was a valuable piece of property when infrastructure is in place.

**Action:** Vote on the motion was unanimous to deny the petition for annexation. Motion carried to deny.

**End of public hearing # 2**

Mayor Weatherly called for a recess at 8:00 p.m. The meeting reconvened at 8:10 p.m.

Public Hearing # 3 – Annexation Petition #313 Charles & Susan M. Jannuzzi

### **PETITION HAS BEEN WITHDRAWN – NO ACTION NECESSARY**

#### **Director of Planning**

Public hearing concerning Annexation Petition # 313, Charles & Susan M. Jannuzzi, property owner(s)/petitioners; petitioning to annex approximately 1.900 acres located on west side of NC55 south of US1; possible motion to adopt ordinance to extend the corporate limits.

**End of public hearing #3**

Public Hearing # 4 – Time Warner Franchise Agreement

#### **Assistant Manager – Mike Wilson**

Public hearing to receive comments regarding issuance of non-exclusive cable television franchise to Time Warner; possible motion granting the same.

Assistant Manager advised there had been a 3-year process, negotiating with other towns and Cable Consultant Bob Sepe and Consulting Attorney Dave Permar, to develop this standard agreement, and has been adopted by Raleigh. The cable consultant and attorney were present as well as Time Warner representative Virginia Yopp. Staff recommends the agreement be no longer than for a ten-year term. An issue of concern by Time Warner was any subsequent franchise be identical to this one. Staff recommends any future agreement not be considered at this time but be considered in the future as conditions could change regarding a future franchise.

Attorney Permar, Attorney for TJCOG, spoke to the process and negotiation of the franchise and provisions as outlined and further recommends Board approval as any further negotiation with Time Warner would warrant other concessions.



Public hearing #4 continued

Sepe answered questions regarding provision of cable to public buildings (fiber optics), noted nothing in the agreement regarding this, but could be agreed upon when permits are issued and with a provision to pay Time Warner for cost of installation. Attorney Permar noted most of the fiber upgrade for Apex is in place.

Virginia Yopp, Time Warner, noted the franchise negotiations had been a long process and the agreement had expired due to difficulty in fitting a document to all communities. Felt this to be a solid document.

Assistant Manager noted franchise requires two readings by elected officials before adoption. Time Warner has 30 days to accept the grant of the Franchise; item will be placed on February 20, 2001 agenda for adoption.

Mayor Weatherly opened the hearing at 8:27 p.m.

John Jeffers, Golders Green, expressed concern with cable not being buried when grading is done; problem with Time Warner responding to problems; concern Town has no authority over such issues.

The hearing was closed at 8:30 p.m.

Assistant Manager noted new franchise has standard service language given some specific authority. Sepe noted the standard of 6" to 12" for cable placement and was an enforcement issue.

Time Warner representative Yopp recognizes internal problems and noted not of neglect, but an operational impact and were considering change with subcontractors.

**Action:** Motion by Commissioner Jones and second by Commissioner Hilt to approve the Franchise Agreement and it be placed on the February 20, 2001 agenda for adoption. Motion carried.

**End of public hearing # 4**





## OLD BUSINESS

There were no Old Business Items to consider.

## PUBLIC COMMENT

Public comment is welcome. Anyone may address the Board concerning any item.

Mayor Weatherly will recognize those wishing to speak at the appropriate time.

We ask that you limit your comments to 3 minutes to allow others to speak.

**Betsy Dorn**, 1109 Holt Road, represents Triangle Smart Growth Coalition and presented a list of smart growth principles. Concern was the NC55/US64 development and its impact on the community. Supports Town guided development and asked to help community understand; building a web site to help assure distribution to citizens. Asked Board consider working with Wake County to include the US64/NC55/540 corridors and consider more detail planning with the use of a "Development Overlay Plan". Commissioner Hilt shared the UDO is proactive in smart growth and character being important issues. Mayor Weatherly encouraged a defined definition of "smart-growth" to avoid disagreement. Citizen serving on an advisory board for a homeowners association is interested in sharing more detailed information.

End of public comment

## NEW BUSINESS

### New Business Item # 1 – Financial Summary

#### Director of Finance

Review of 2<sup>nd</sup> Quarter FY00-01 Financial Summary.

Director of Finance reviewed the financial summary noting the benchmark for the 2<sup>nd</sup> quarter performance is 50% for revenues and expenditures, and noted significant variances as detailed on the summary. More detailed information will be presented at the end of the full year.

Commissioner Jensen asked if Powell bill funds could be used to improve the NC55/Olive Chapel intersection. Manager Sutton responded the Town had wanted DOT to make those improvements but had not been successful with any action. Commissioner Jensen questioned the use of Powell bill funds at SR1010/US1 for those improvements. Manager Sutton assured those improvements are being done by the developer with curbing in place but no sidewalks; Powell bill money can't be used on DOT roadways, but Town could take over roads and then use Powell bill funds. Note: All Powell bills checks had not been written. Powell bill update will be included in Retreat packets.

End of New Business # 1

**New business continued****New Business Item # 2 – Chapel Glen****Director of Planning**

Possible motion concerning one-year extension for Chapel Glen Apartment Development for their site plan; project located at northwest intersection of Olive Chapel and Kelly Roads.

Director of Planning noted a site plan for Chapel Glen Apartments was approved October 20, 1998 under the old zoning ordinance and a one-year extension granted May 19, 1999 or until October 20, 1999. He advised in order for the site plan to remain valid, the owner had to obtain approval of his construction drawings and obtain a building permit. The owner did not do this, and his site plan expired. Applicant had two years to obtain necessary drawings and permits to stay the project. Applicant petitions Board to grant a one-year extension in accordance with Article 1, Section 1.10.2(A) of the newly adopted UDO.

Construction Management Director responded to a question from Commissioner Grimes inquiring as to a letter from Attorney for the Applicant in which it referred to a conditional foundation permit, explaining that staff had accelerated internal process to review the footing and foundation plan for one of the buildings in the project prior to construction plans being approved, which is normal process.

Attorney Fordham advised: UDO provides Board of Commissioners may, for good cause, grant an extension for a site plan for up to one-year, placing burden on the applicant to show good cause for the extension. Constitution requires acting with due process, to grant or deny an extension, meaning Board can't act arbitrarily but must balance interest of the public as a whole vs. interest of applicant to make a reasonable decision. In balancing interest, burden placed on developer should be considered when denying an extension and reasons for delay that were excusable or beyond control of developer as factors favoring granting an extension. Prejudice to public should also be considered regarding public health, safety morals and general welfare as protected by Town's current Unified Development Ordinance and any excusable delay is factors that favor denying the extension. In considering prejudice to public, the sewer allocation ordinance is not a factor with the project in question qualified for an allocation under the sewer allocation ordinance. For the same reason, loss of the sewer allocation under the ordinance is a factor for the extent the applicant shows a burden on him if the extension is denied. In making a decision, consideration should be given to presentations made, balancing the interests and making a reasonable decision.

Commissioner Grimes asked if the one-year extension could be enacted any anytime, irrespective of the length of expiration. Attorney Fordham responded it was not limited in this way. Commissioner Jones clarified the date of granting an extension and it's expiration date. Commissioner Grimes continued to maintain validity, approval must be given to construction drawings and also obtain a building permit for the entire project or a part of the project. Director of Planning noted it could be for a building, just to get a building permit.

Director of Construction Management agreed with the validity statement and after review of the letter by the Attorney of the Applicant, it speaks to approval for a building foundation. He noted staff had reviewed a plan provided by the architect and it was found the plan (clubhouse facility) when reviewed, to be approvable, but he understands and belief of the requirement is that the permit be obtained and our procedure is that the permit even if the plan is approved, the construction plan for site infrastructure goes with this, and this was the part that was not approved by the October 20 deadline.

Commissioner Grimes asked if it would be appropriate to issue a permit at this time or whether construction drawings have been tendered, but not necessarily approved? Director of Construction Management responded staff has conducted a review of the last submittals from the engineer which came on the deadline, but it came at such a late point on the actual day of the deadline, it was not reasonable, with there being substantial comments and some being repeated, to conduct the review in that compressed time frame. Staff has since reviewed those for completeness sake, and still have been comments noted with the site improvements.



**New business #2 continued**

Commissioner Grimes asked if there were any evidence of obstinacy on the part of the proponent to comply with staff's request. Staff had not detected in the brief involvement that he had. With it near the end when the site plan was timing out, he had not had any negative responses. Commissioner Grimes asked if there had been a showing of good faith on the part of the petitioner to respond or be responsive. Staff felt the designer has been responsive as far as providing a response to the comments; he believes it went through the review cycle three or four times and their response were always forthcoming. Commissioner Grimes asked if there were to any extent a moving target in terms of what they have had to respond to or comply with? Staff has not been involved in the nuts and bolts review, but in reviewing the review comments that have been generated, his opinion was they appear to be consistent. He wasn't seeing from one set of review comments to the next a significant difference in comments.

Director of Planning stated it wasn't a moving target in the sense if you're thinking maybe it went from an old ordinance to the UDO, it was carried through under the old ordinance standards. Attorney Fordham advised procedural mechanisms changed during the process.

Commissioner Hilt asked for clarification regarding approval of construction plans and comments: in order to validate the approval, the construction plans and comment have to be acquired, construction plan approval and permits acquired, which would include building permits. Staff replied it includes the approval of the site construction drawings and obtaining the building permits. Commissioner Hilt continued it was obvious a lot of plans came through last year during change and procedure. She asked for a project with this level of complexity, site plan and building permits, if a five month time period was typical? Director of Construction Management responded he had worked with the process for eight months and his opinion is that this was a little longer than the normal. Director of Planning responded if all falls into place, a site plan should take three months. Commissioner Jones interjected, submission of construction documents up to building construction plans and receipt of a building permit, and questioned if five months is a typical amount of time. Director of Planning stated this was longer than normal; two to three months process for construction drawings. Director of Construction Management noted commitment on building plans is to review those in 10 to 15 working days. Town Manager included a building permit could not be issued because construction plans were not approved. They reviewed the building clubhouse, it was ready to be issued, but could not be done without the construction drawings being approved. Commissioner Hilt asked if this was the infrastructure. The Manager responded this was correct, sewer and water connections, so the building was waiting for the construction that had been reviewed.

Commissioner Jensen asked the time frame for submitting the construction drawings. Staff responded it was first time in May 2000. Town Manager included this should have been enough time. Commissioner Jones clarified construction documents and building plans were submitted in May. Staff responded the civil drawings were submitted in May. Commissioner Jones continued construction plans could be water/sewer, or building.

Attorney Fordham advised in order to avoid expiration of the site plan, you have to get a building permit for something on the site, prior to the deadline. By ordinance, in order to get a building permit on site, you have to have construction drawings approved. If construction drawings relate to the public infrastructure, not a particular building. Construction drawings for public infrastructure for a site plan and then a building permit for anything. The ordinance is not specific as to what a building permit has to be; a building permit for some structure within the site.

Director of Construction Management stated the last staff level act up to this decision, was one of a process, clearly the designs professional that designed the civil work, clearly is more than capable of addressing the comments that the Town has had, but when the project came down to the established deadline for the expiration of the site plan, in his opinion, staff was in a process type decision at that point and he felt he had to consider not so much the designers ability or willingness to address the technical comments but also making some judgment about the likelihood based on the tract record that the process had followed that that would occur in, it seemed that they were not converging closely enough on getting all the comments addressed.





## New business #2 continued

Commissioner Jones asked if a conditional permit was issued. Staff indicated no, the only thing provided to the applicant that he was aware of was the plan review sheet, when a plan is logged in, that was stamped approved. It indicated to architect nothing else had to be done with the design of the building.

Commissioner Hilt asked the difference in this request and the request of Hector Cuales? Staff advised that case, they were dealing with an approved construction plan. They had failed to obtain a building permit; all infrastructures were in place (build out of curb, gutter, and sewer). In this case nothing is complete. Commissioner Jensen asked once the site plan is approved, how long does development get started with plan submittal – he noted 17 months. Staff responded that typically they proceed once the site plan process is initiated. Once they obtain approval from the Board or staff, they proceed to the next step. Commissioner Meckes asked the length of time from the 10/21/98 site plan approval did the Town enact the moratorium (rather allocation process), which was September 99 (11 months). They could have built 105 units.

Richard Kolsch, President of Chapel Glen, owners of the property, addressed time frame issues. Having owned the property since June 99; soon after purchase, Town instituted water/sewer allocation program. At the time of purchase there was no allocation program. When allocation was instituted it gave them 105 units (June 99 to June 2000) after that date, you could pull 105 units for the entire year. The job is phased at 210 units in the first phase included are all the amenities of the project including clubhouse, pool and vast majority of the infrastructure. Normally when doing a project of this size, unlike a subdivision where you can put the infrastructure in, it's minor work, you can get your financing, do a house and sell. You need to be able to present a financing package once you have the ability to build what you're trying to finance. In the case with the water allocation being instituted, they did not have the ability to do this until after June. That's where the March submittal came from. He was under the impression that 3 or 4 month period for construction drawings was sufficient, so when we submitted in March, they anticipated by June or July they would be done. He never anticipated an 8-month process to get construction drawings approved and ever running into the October deadline. He didn't even consider this as an option. Along with the allocation, there were also changes in the technical review process. With those changes, there seems to have occurred a lot of uncontrolled or unforeseen delays in the approval process through his engineer and town staff. If he had known the delays were going to occur, he would have started earlier than March. The time line seemed to be in order and seemed they would fall in without any major problems. Other than the usual capital expenditures in the property, the reason they are asking for an extension to get their construction drawings finalized, they need to be approved, but he understands there are still some fairly minor issues to be dealt with; then the building permits or building plans that have been approved, then the permit can be issued, you pay a fee and they get a permit issued and they would be o.k. Other than the capital expenditures they have in Chapel Glen already, and the fees associated with the development process, the Town requested an easement through an adjoining piece of property to Kelly Road that was not on the initial master plan, it wasn't a part of the initial approval. Not only did they go out and get the easement but to keep the entire project, now that the easement from this project is going to be going to an adjoining piece of property, the entire thing at an upscale project and to control the character, they decided to purchase the entire piece, so they have every intention, now there's going to be an easement through this commercial property, that commercial property will be designed in the same fashion, you have to keep up with the same character and the same up-scale look as the apartment project has been designed for. Basically for those reasons and the fact that to his understanding that this project as it stands now, needs or exceeds all the current setback requirements, open space requirements and density requirements, that this project as it is now as proposed would meet or exceed all the requirements; new UDO is no real detriment, the project really isn't going to change. If any thing it wouldn't be as good. There's two and one-half acres of open space that is not even required under the UDO. For those reasons, he respectfully requested an extension be granted for them to be able to obtain the approvals.





## New business #2 continued

Commissioner Grimes noted indication that setback buffers meets or exceeds all the UDO requirements and asked if this is all of them or are there others that would not be up to standard. Director of Planning stated their main point they are trying to make is that there is a 100' buffer but was not a UDO or the existing ordinance requirement, but a requirement of the conditional use zoning application that stated this property is developed 8 units an acre or greater which it is, then there has to be a 100' buffer, only a condition of the site plan. There is a 100' stream buffer that is a requirement of the watershed overlay district, which was there either under the UDO or old ordinance. The 30' streetscape buffer is the same for the both the UDO and the old ordinance. Under the old ordinance there was a requirement of a 40' buffer if for single-family houses, but this property was used both for single-family house and a landscape business, so there was a compromise between a 20' buffer and a 40' buffer and settled for a 30' buffer. It was a mixed use there. In terms of the UDO, he thinks the Town is covered here. In terms of the Resource Conservation Area (approximately 4 acres) requires 15% of the site to be left undisturbed (shows 6 acres but 2 acres were planned to be graded and replanted – not counted). The difference between the old ordinance and the UDO is minimal; density is the same, 14 units an acre under both the old ordinance and the UDO.

Commissioner Grimes commented that other than the delay alone, he asked if it would be fair to say that if this site plan were represented in it's present form, there would be no reason to oppose it. Director planning agreed in terms of applying UDO standards. Commissioner Meckes interjected, except they couldn't do it until 2003. Attorney Fordham pointed out the sewer allocation ordinance is not a part of the UDO.

Mayor Weatherly noted there is a reason the site plan has expired and that it's in there for a good reason not just to harass developers to complete faster than necessary, reason for an expiration date or one wouldn't be required. He asked if the Board agreed site plans should expire on a certain date, and of course there is discretion allowed to extend that, but if they agree site plans should expire for a good reason that he asked what has been done to cause the further extension of this one?

Commissioner Meckes from his point of view noted the first extension granted by request, and they were under the moratorium and perhaps it wasn't feasible for them to begin with 105 units, they wanted to want to get 210; in viewing the chronology in planning, it seemed they were acting in good faith up to the end of time and perhaps if they had come in at October and said, we've been working, here's our flow sheet, we've been trying to do this, there probably wouldn't have been any question in his mind about getting an extension. It's unfortunate now they have come in after the fact to get this extension, but in all fairness it seems from what he can ascertain, they were working towards their goal of beginning this project and a one-year extension seems to be a reasonable proposal to him.

**Action:** Motion by Commissioner Meckes and second by Commissioner Jones to grant an additional one-year extension for Chapel Glen Apartment development to begin on the anniversary date of 10/21/2000. Commissioner Jones agrees they were acting in good faith, somewhat slow on either end of the process, whether the tardiness or whether, pitfalls lay, he's somewhat influenced by the fact that the town was going through a long drawn out UDO, changing procedural processes as well as the applicants sheet process and the multi-unit projects going in single family. He agrees with granting the extension.

Commissioner Hilt wanted to assure there aren't any ramifications to the precedence being set. It's sometimes too easy to use as an excuse that staff was too slow in their approval process, when in reality, the horrible reputation for being slow and you'd better get your plans in early or run the risk of something like this happening. She was trying to figure out if we are opening floodgates or not, she doesn't know. She knows historically, that sunset date is the sunset date and doesn't know if there will be a lot of these projects with staff being blamed. She noted thanks to Kent (Construction Management Director) the Town hasn't gotten any complaints. She doesn't want to see any additional hardships for anyone, board or staff either.





New business #2 continued

Commissioner Meckes added that each situation has to be considered individually, their not establishing any waiver of any deadlines. He's looked at this and sees they proceeded, operating under the assumption that six or seven months should be more than adequate time, they waited until it was economically feasible to do the deal and allowed this time to get things done and it didn't work out. Based on those considerations, he's making his motion. He's not thrilled about the fact that this has been in process since 1998, but glad to see quality development, with the school across the street from the apartments, he doesn't know if this is the best choice for location, a lot of children can just walk across the street to school. There will not be buses going everywhere, and less traffic (walkable).

Commissioner Grimes was not particularly impressed with the chronology in terms of the petitioner. All he sees a bunch of faxes from the Town and not very much back to the Town, but there may be a good reason for that. It seems to him there may have been some "foot dragging" for the simple reason that they didn't want to go forward with the allocation situation the way it was and may it was purposely dilatory in that tent but maybe it was a good reason to be dilatory at the same time. If it doesn't make sense to build one apartment building from an economic standpoint, why should they jump out there and try to do it. He's underwhelmed by the reasons given, but at the same time, to his knowledge, there's no prejudice to the Town or to the development standards by this project as currently proposed. He thinks frankly we're being asked to tote the load for the proponents and he hasn't heard them get up to do anything to meet their burden that is theirs to meet. He's unsure how he will vote.

Mayor Weatherly commented that in his mind, in the comparisons between this and the last, it was clearly sound judgment based on the permit had to be pulled. It could have been pulled at anytime had there not been confusion involved in the transfer process. Infrastructure was in place; this one is a long way – how long it will be before they pull a legitimate building permit (not the clubhouse, but apartment building permit). Seems to be sometimes off in the future since dirt has not been moved. It could have been pulled any day of the week, but wasn't. There are significant physical differences in the status of the project.

Attorney Fordham advised on one point in terms of expiration provisions generally is looked at to protect the Town's ability to apply a new ordinance, if the ordinance is changed. It comes back to the issue whether there is substantial difference between the ordinance now and the ordinance in terms of how it would affect the project. There is a legal answer to that question which is the purpose of the expiration of approval if the ordinance changes. Mayor Weatherly commented, there should be an expiration date, the ordinance could change. If there is an upgrade in this type development, considerable time could pass without the expiration date.

Commissioner Jensen could see reasonable activity in the last 8 months, but looks to him (ex. Tortus and the Heir, where the Heir slept for 17 months and didn't do much at all and now is making a bee-line to the finish. Tortus won, the Heir lost. He feels these folks have been involved with these things before, and they would have had their items lined up well ahead of time, ahead of the 8 months, then ready with the infrastructure to go.

Mayor Weatherly preferred legal advice prior to voting.

**Action:** Motion by Commissioner Grimes and second by Commissioner Hilt to go into executive session. Motion carried. Minutes recorded separately. Motion by Commissioner Jones and second by Commissioner Grimes to adjourn and move back into regular session. Motion carried.

Motion on the floor was to grant the one-year extension. Debate on the motion continued.





## New business #2 continued

Commissioner Jensen noted in terms of length, felt a one-year extension was a long time, after two years of time. He asked what would be constructed? Commissioner Grimes followed, thinking there was no acceptable prejudice to the Town, standards applied are the same or greater if they came back, that being the case, there's not a lot of choice but to allow it. He did say, someone did drop the ball and it's with some reluctance and trepidation that he is going to vote for this. He doesn't see any prejudice to the public, this is a very shrewd strategy to make sure it does meet or exceed the standards and for that reason, he supports it. Commissioner Jensen commented when someone dropped the ball, he didn't think it was the Town.

Vote on the motion was to grant the extension with the anniversary date being one year from October 21. Motion carried unanimously.

**End of New Business # 2****New Business Item # 3 – Finance Committee Recommendation****Director of Public Works (Committee recommends approval)**

Possible motion to initiate acceptance of the private streets in the Golders Green Townhomes Subdivision.

Commissioner Jones, Chair of the Finance Committee, noted pros and cons were reviewed and attached, and Finance Committee agreeing pros outweigh the cons; that Golders Green residents, even though the streets were developed as private streets, are Town taxpayers and included in calculations of what the Town receives in our Powell Bill funds. Noted the Heatherwood situation was different in acceptance of their streets; these streets are in good condition and built to Town standards and should last at least 15 years. There are other streets listed that has potential for future consideration. He noted commercial developments would have a property manager and would be difficult to maintain infrastructure when you have a property manager rather than a homeowners association.

Director of Public Works reviewed the pros and cons (attached). He suggested should recommendation be approved, there be an acceptable plat approved by staff that clearly defines private roads and maintaining private parking. Construction standards meet all Town standards. Commissioner Jones advised there would be no further developments with private streets under this administration. Powell Bill funds are based on census population of the Town and the number of miles dedicated streets and a recorded plat map.

**Action:** Motion by Commissioner Jones and second by Commissioner Jensen to accept the private streets with the condition that a suitable plan be offered for recording in a timely manner. Motion carried.

**End of New Business # 3****New Business Item # 4 – Christmas Decorations****Director of Public Works**

Possible motion to authorize purchase of new Christmas decorations for Salem Street.

Director of Public Works recommended purchase of new Christmas decorations to extend from Lynch Street to Hunter Street and the order be placed now due to the price break. The Appearance Commissioner reviewed 3 options and recommends purchase of the traditional wreath design.

**Action:** Motion by Commissioner Meckes and second by Commissioner Hilt to approve the purchase of decorations and accept the recommendation of the Appearance Commission for the Deluxe Candle Wreath (memo attached). Motion carried.

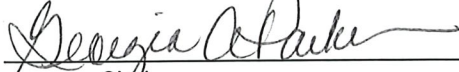
**End of New Business # 4**

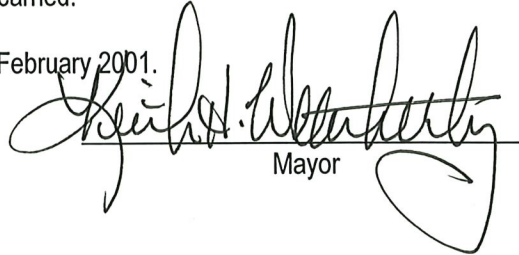


## ADJOURNMENT

With no further business to come before the Board, motion was made by Commissioner Meckes and second by Commissioner Grimes to adjourn at 10:05 p.m. Motion carried.

The above minutes were approved on the 20<sup>th</sup> day of February 2001.

  
Clerk

  
Mayor



# TOWN OF APEX BOARD OF COMMISSIONERS'

Minutes of February 20, 2001



Mayor: Keith H. Weatherly

Commissioners:  
Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Website: [www.apexnc.org](http://www.apexnc.org)

Mayor Weatherly called the regular meeting of the Town of Apex Board of Commissioners to order on Tuesday, February 20, 2001, 7:00 p.m., Apex Town Hall, 205 Saunders Street. Commissioners Jensen, Meckes, Jones, Grimes and Hilt were present.

Prayer by Commissioner Jones  
Pledge of Allegiance  
Welcome by Mayor Weatherly

## INTRODUCTION OF TOWN EMPLOYEES

**Department Directors introduced newly hired Town employees.**

Police Officers Lewis Bensen, Stephen Carlin and Dondi Day; Electric Ground Workers Andre O'Neal and Dwayne Vaughn; Pump Maintenance Mechanic Thomas Johnson; Utility Maintenance Workers Ricky Byrd and Kenny McKoy; and Planner Carol Rizzio.

## CONSENT AGENDA

Mayor Weatherly presented the consent agenda to be set and asked for a call for action. Commissioner Jensen requested Item 6: Site plan - Fire Station be pulled to discuss storm water discharge and building façade. **Action:** Motion by Commissioner Jensen and second by Commissioner Jones to place Item # 6 under Old Business Item # 2. Motion carried. **Action:** Motion by Commissioner Meckes and second by Commissioner Jensen to approve the consent agenda as amended. Motion carried.

1. Minutes of February 6, 2001 Board of Commissioners meeting.
2. Minutes of the February 6, 2001 Executive Session (separate cover).
3. Minutes of the January 30, 2001 Building Committee meeting.
4. Annexation Petition # 316, Jeffery & Betsy Bates owners/petitioners, seeking to annex 1.482 acres located at 1509 Salem Church Road (SR1614); 1) Resolution directing Clerk to investigate petition; 2) Certificate of Sufficiency; and 3) Resolution to set date of public hearing for March 6, 2001.
5. Adopt Ordinance granting non-exclusive cable television franchise to Time-Warner (approved 2/6/2001).
6. **Site plan – Fire station, 734 Hunter Street (moved to Old Business Item #2).**
7. Wake County Tax Report.

End of Consent Agenda



## REGULAR MEETING AGENDA

Mayor Weatherly presented the regular meeting agenda to be set as amended to include the Site Plan for Fire Station under Old Business Item #2. The agenda was set as amended.

## PUBLIC HEARINGS

### Public Hearing # 1 – Amendments UDO

#### Director of Planning – David Rowland

Possible motion concerning Amendments to Certain Sections of the Unified Development Ordinance.

Rowland introduced Diane Khin, Planner for the presentation.

Section 3. "Residential Districts" – Allow single-family residential as an allowable use in high-density residential district.

Section 4. Amend "Use Table"; single-family residential in high-density; prohibit indoor/outdoor kennels; add water towers (height 175 feet); Planning Board recommends: requiring evergreens to screen base of tower and obsolete or unused towers be removed within 12 month after no longer used.

Section 5. Amend "Table of Intensity and Dimensional Standards" – gives dimensional standards for single-family housing.

Section 7. Add Performance Bonds and Guarantees and time period that guarantees are to be held (proposed by Construction Management Department and Town Engineer – responsible party).

Section 8. "Resource Conservation Area (RCA)" - Add "cultural" to purpose statement to protect natural and cultural resources; amendments for clarification purposes and makes RCA concept more understandable and equitable. Developments require combination of buffers and RCA. Developments with 40% or greater saved area in buffers do not have to save an additional RCA – less than 40% saved area in buffers have to save an additional RCA so the total saved area is 40%. – places a cap on saved area; RCA must be shown on plans and final plat as a conservation easement – assures RCA is preserved; allow RCA to be exchanged for reduced width buffers – saves significant interior resources when conditions allow for reduction to buffers – would still meet opacity requirement and could not be reduced further than one-half the buffer width or ten feet, whichever is more;

Section 8. "Retaining Structures" – where retaining walls can be placed and when they must be designed by a professional engineer after 5 feet – Town engineer felt 3 feet.

Section 8. "Fences, Walls, and Berms" – allow taller fences for security and screening; plantings along public right-of-way and public use properties and how fences may be used in required buffers.

Section 12. Definition for "Family" – insures residential units are not used inappropriately as boarding houses with rooms rented to unrelated persons – same as in Apex Code with addition that related persons were by blood or marriage and have added adoption and guardianship.

Section 12. Definition of "Subdivision" – allows tract of land already divided by a right-of-way be considered two separate lots without doing a formal subdivision (a formal subdivision may require curb/gutter or some sort of streetscape improvement).





**Public hearing -  
Amending UDO continued**

Commissioner Grimes asked why foster child was not included. Khin noted this is covered by guardianship. Attorney Fordham advised he was unsure whether foster parents obtain right of guardianship and might want to add this language ( will be added ).

The public hearing was opened at 7:18 p.m. With no comments the hearing was closed.

**Action:** Motion by Commissioner Hilt and second by Commissioner Jones to approve UDO amendments as presented with the inclusion of foster child with guardianship. Motion carried.

**End of public hearing #1**

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|--------------------------------------------------------------------------------|
| Public Hearing # 2 – Annexation Petition #314 Prince of Peace Episcopal Church |
|--------------------------------------------------------------------------------|

**Director of Planning – David Rowland**

Public hearing concerning Annexation Petition # 314, The Prince of Peace Episcopal Church, property owners/petitioners; possible motion to adopt ordinance to extend the corporate limits to include 7.640 acres located on east side of North Salem Street (SR1011).

Rowland oriented to location of the property and surrounding land uses. The hearing was opened at 7:20 p.m. With no comments the hearing was closed.

**Action:** Motion by Commissioner Meckes and second by Commissioner Jensen to adopt an ordinance to extend the corporate limits by the 7.640 aces. Motion carried.

**End of public hearing #2**

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|-------------------------------------------------------------|
| Public Hearing # 3 – Annexation Petition #315 Brandon Toler |
|-------------------------------------------------------------|

**Director of Planning – David Rowland**

Public hearing concerning Annexation Petition # 315, Brandon Toler property owner(s)/petitioners; possible motion to adopt ordinance to extend the corporate limits to include 2.067 acres located at 1002 Olive Chapel Road (SR1160).

Rowland oriented to the location of the single residence opposite of Cameron Park. The hearing was opened at 7:22 p.m. With no comments the hearing was closed.

**Action:** Motion by Commissioner Jones and second by Commissioner Grimes to adopt an ordinance to extend the corporate limits by the 2.067 acres. Motion carried.

**End of public hearing # 3**



## OLD BUSINESS

### Old Business Item # 1 – Resolution - Town of Apex Fire Department

#### Town Manager – Bill Sutton

Resolution Recognizing Town of Apex Fire Department as Part of Town Government and Serving as An Agency of the Town of Apex, North Carolina and directing Town Manager to execute the Initial Certification Statement.

Town Manager advised Town received letter from Office of State Fire Marshal requesting Town adopt Resolution so Town can be rated as a Fire Department. Department of Insurance requires certification to Commissioner of Insurance that the Town recognizes the Fire Department as a part of Town Government, an agency of the Town and serves the citizens and performs certain functions of fire fighting within Town's corporate limits. Request for rating will be forwarded to their office, where office issues Initial Certification Statement, stating Department will be classified at not less than Class 6 and attaches roster of Town's firefighters. To get State rating, Board must adopt resolution with rating forthcoming and good for one year, at which time the Department will be looked at for a better rating.

Commissioner Meckes asked the status of the Department prior to this action? Manager responded Town has been in contract with Apex Volunteer Fire Department to provide fire services. Two and one-half years ago, Town took over full-time paid personnel, and at that time didn't realize it, but it changed the status that "we" were getting into the fire business ourselves. Since that time, Town has bought a fire engine and contemplating plans for a fire building. According to the Office of the State Fire Marshal, we are half-in and half-out of the fire business, and should either get-in or get-out. If "we" are staying in the business "we" need to be rated. Manager quoted Keith McLeod, Inspection Supervisor, Department of Insurance, Office of the State Fire Marshal, who could not be here. "He said ask yourself the question – Why did you hire the firefighters, if you didn't intend to be in the business? Why did you buy a fire truck, if you didn't intend to be in the fire services business? Why are you contemplating a fire station if you don't want to be in the fire services business?" McLeod was quoted as saying: "If you continue to be in the fire business, without being rated, you run the risk of going to a 10 rating which is non-recognized." Manager's fear was that without the Fire Department being recognized, Town could loose the rating the Town currently enjoys, which would affect property fire insurance for everybody. Manager had tried to reach McLeod's boss, but he was not available, and even tried to contact Jim Long, Commissioner of Insurance to verify this. Long's office advised McLeod was the authority in these matters.

Manager asked Bob Haynes, Director of Risk Management, North Carolina League of Municipalities, to give his opinion from an insurance standpoint; Town's property/liability insurance carrier.

Haynes responded to a call from Manager and Clerk about this issue. There are volunteer departments and municipal departments; municipality may own the building and two of the trucks, and there's the fire district. Volunteers are on a roster both for the municipal and non-profit volunteer fire department. If they respond to a fire inside the municipal limits, then the Town's insurance should apply (workers compensation, and so forth). Same volunteers may respond to a fire outside the Town limits into the Fire District and are operating as a separate non-profit entity with the non-profit entity's insurance applying, should there be a liability claim. It creates all kinds of questions in the event of an accident or a claim - where did it occur, which truck were they using, where they acting as volunteers of the municipality, were they acting as volunteers of the non-profit entity.





## Old Business #1 continued

Haynes talks with McLeod regularly regarding these situations and how to straighten them out. What they've learned and he thinks it good advice is, "You're either in the fire fighting business or you're not," and thinks that's the question. If in, then you control it and are operating on Town's behalf within Town limits, using Town equipment and acting under the authority of Town's Chief, with Town's insurance applying should claims arise. Haynes continued: If you decide you do not want to be in the fire fighting business, and think volunteer arrangements work well, and will continue to do so, then you go back to where you were a couple of years ago, where you had the contract, where you seeded that authority and that control to the volunteer department. He advised you can't have a dual arrangement, and is what the State Department of Insurance Office of the Fire Marshal is saying. You're either in or not in, from an insurance perspective. It's a whole lot cleaner if you make a decision one way or the other. He noted this as the general conversation he had on the phone this afternoon.

Commissioner Jensen asked if Town's insurance would cover the Volunteer Fire Department within the Town's limits? Haynes responded if the Town has a volunteer fire department and Town turns in a roster that they are municipal volunteer fire fighters, then certainly the Town's liability insurance and workers compensation would apply.

Commissioner Meckes asked if there was duplication if the volunteers serve outside the community, asking if that were the only insurance they need; would not have to maintain insurance as well inside. Haynes answered: They are operating as a non-profit entity, fighting fires outside the Town of Apex in the fire district, then the Town's insurance would not apply, they would need their own insurance.

Manager stated the State Fire Marshal has read the cooperation agreement the Town has with the volunteers, and it's stipulated that the Department and the Town agreed that each shall remain a separate and independent entity, citing that is a reason why "we" need a rating.

Commissioner Grimes asked what would be the financial impact? Manager asked if he were talking about adding volunteers to our insurance? Grimes was assuming that, "we're doing this in order to be able to buy for our own people". Manager advised we have liability and workers compensation with the League for all our employees. Grimes asked if there were special insurance for firefighters? Manager responded there is a death benefit and a retirement fund above and beyond the regular employees, that firefighters are entitled too, just like policemen. Haynes noted this is not through the League's Insurance Program, but established by the State. Manager noted this another reason cited by McLeod for the rating, our people would be eligible for those benefits. Haynes noted volunteers could be added to workers comp, counted and rated per individual. He didn't get to check the underwriting files to see if this is being done now or not. Commissioner Meckes asked if the volunteers have workers compensation? Manager responded they have their own insurance. Haynes noted once established as volunteers of the Town, they could be added to the insurance coverage. Commissioner Grimes commented that it wouldn't be duplication for them to have insurance through the volunteer fire department, to go through the Town. Haynes responded, it wouldn't in the sense that they would be acting on behalf of the Town, with the Town being responsible for the workers comp benefits, not the private non-profit fire department entity. When they are fighting fires outside the district, then they are not operating under the control supervision of the Town. He noted the question would be, "What if they are injured while they are training, are they training on behalf of the Town." He assumed the volunteers were the same for the Town as well as the volunteer corporation. That would be the only question that he had that there may be an overlap. You may be able to sign an agreement that one of the two would assume the workers comp exposure during training exercises.

Commissioner Jones noted this wasn't an insurance or workers compensation driven issue. Manager noted it's basic workers comp for the Town because we have our employees covered, it would be an addition for the volunteers, but for Town, it would be an additional benefit provided by the State as an addition for retirement with the firefighters, that they want us to be a rated department, and it's stated here.





## Old Business #1 continued

Commissioner Jones asked if we move forward with this, we would have two certified fire fighting entities in the Town, the Volunteer Fire Department and Town of Apex Fire Department, with at least an additional rating of Class 6. Manager responded, this was correct. Jones clarified that if we didn't move forward the existing rating could go lower? Manager responded, the Town would go lower but is six now.

Commissioner Jensen clarified Town would be rated as a six in the next year, and then we have to meet other criteria. Manager responded, if we try to improve this rating, you could add more equipment and more people. Keeping the rating at a basic minimum, the study conducted by Sherman Pickard indicated we have to have two tankers, and add at least one more paid personnel to the roster to have four on duty on each three shifts. We may be able to reach an arrangement with the volunteers or go the most economical way we can. We don't necessarily have to buy, but could lease/purchase, but thinks we would have to have an additional pumper. The Town has one and would have to get one more.

Commissioner Meckes asked if a member from the volunteers could fill one of those positions where four are on duty all the time. Manager responded this was his understanding. The Town is rated as a municipal fire department and we are expected to have four available fulltime people every shift.

Commissioner Jensen asked how long were the shifts? This would bring us to twelve personnel, and he was looking at that in terms of hours (56 per week per man). Manager responded with Chief Stevenson that there are 24 shifts, working a 28-day cycle where one shift works 160 hours and the other works 144 hours and flips during the calendar year. Jensen noted this as 56 hours per week per man (he guessed includes sleeping). Chief Stevenson responded, 24-hour shifts, with eight hours sleep time not counted as work time. FLSA requires working over 24 hours to take sleep time exemption (working 24 and one-quarter hours so they can take the exemption) meaning they work a 16-hour day. Manager noted they are on call in the station for immediate response; when the alarm sounds, they are on the road. Commissioner Jensen asked if the twelve-man number included allowance for holidays and vacation days, and items such as this. Chief Stevenson responded, he has to fill in or have someone on call; the fourth person on call is a mandated minimum on a structure related call. He can be the fourth person, but does not have to be at the station or on the truck; he can respond to the scene. If he's away, he can designate one of his people who are off-duty to fill and answer the call. Commissioner Jensen clarified, that in actuality, you don't physically need four people at the station? Chief Stevenson responded, they do not have to be at the station, one could be out doing hydrant maintenance, they don't have to stay at the station 24-7; they can be in the district working, doing something (ex. hardware store, public works) as long as they are in the district, there's four people minimum at a structure fire. Commissioner Jensen didn't think this added up hour wise, there would need to be more personnel. Manager responded it's more than a 40-hour week and FLSA allows public safety to work a cycle ( 212 hours in 28-day cycle ). Police work 40 hours with twelve-hour shifts. Jensen noted this 53 hours per week, what they are allowed to work maximum. He had trouble with twelve-man power; he didn't see it.

Mayor Weatherly asked President Brian Yates of the Apex Volunteer Fire Department if he had any questions at this time? Yates responded: "Not at this time."

Commissioner Jones understood everything was done for this certification, except for submission of this form. Manager responded this was correct, adopt the resolution and Town would receive a letter of rating. Commissioner Jensen noted Manager had mentioned cost of a pumper being \$200,000. Manager responded, if we purchase a demonstrator or used one it could be up to \$200,000 or less. Commissioner Hilt noted it the goal, in conversation with the volunteers, to try to work out some kind of an agreement where we lease from them and we also want to investigate the issue of personnel. She continued the plan is not to take money and go out and buy a brand new pumper or add any additional personnel to put into our new fire station. She thinks they would visit this issue when we get the letter determining what we have to do in order to get a better rating.

**Action:** Motion by Commissioner Grimes and second by Commissioner Hilt to adopt the resolution recognizing the Town of Apex Fire Department as a part of Town Government and serving as an agency of the Town as presented.



**Old Business #1 continued**

Commissioner Meckes noted all this does is certify what has existed for the prior two years. Manager noted this to be true, we entered into the business unknowingly that we were in the business formally, this is correct. Commissioner Meckes continued we've certified the situation, as it existed since we hired the first fireman. Manager's response was this was correct.

Commissioner Jensen commented, he didn't think we could afford a grade of 10 for sure, and thinks we need to go ahead with this with our eyes open all the way.

Vote on the motion was unanimous. Motion carried.

**End of Old Business #1****Consent Agenda Item # 6 moved to be considered as Old Business Item # 2****6. Site plan – Fire station, 734 Hunter Street (moved to Old Business Item #2).****Presenter: Keith Lankford, Planner**

Lankford oriented to the site location of the former Wake County Hospital site, at 734 Hunter Street, within the Town limits; applicant - Town of Apex; zoned Office & Institutional; station classified as government services or Class 4 when determining buffer requirements. 5-acre parcel is adjacent to the proposed Eckerds. He identified adjacent zoning classifications, land uses and required buffers (outlined on the staff report), site has fairly large trees (8 to 10 inches) with existing vegetation, and residential homes to the rear of the site. Proposed fire station would be located at the front right corner of the site, with the rear for a future ( 2/ 3 years) Wake County Office Building, approximately 23,000 square feet. Wake County has reviewed the conceptual layout and meets their needs at this time, and requiring a separate site plan application.

Only the fire station is seeking approval at this time. Accommodates, parking layout and utilities and assures Resource Conservation Area for the entire site will be preserved and locked in at this point. There are two existing drives, fire trucks will enter closest to Eckerds site and loops around to back of the building, and not having to back into the building as they currently do. Building is 9400 square feet (4700 feet for station house); vehicle storage bay is basically a parking lot. Parking requirement: one for each 300 square feet of building in the firehouse or 16 parking spaces – proposal is for 26 including two handicapped spaces. Building colors/materials are comparable to those of Town Hall Campus, with bottom two and one-half feet being darker colored brick (water band of Town Hall), with top remainder being lighter color reddish brick, with white accent bricks and white aluminum framing around windows and bay doors. Site is not located within either of the Town's watershed protected areas and not in any FEMA designated flood hazard zones. Town will supply electric, water and sewer utilities. Sewer will be brought from an existing manhole in Hunter Street and will serve both the fire station and the future WC building. The waterline is extending from an easement to a proposed Eckerds stub out. Landscape plan: RCA is based on the site perimeter to have an improved buffer (he gave the buffer as it exists). No portion of the buffer can be counted as the RCA. There is a 20' buffer and beyond that is the RCA. There is a sizable RCA at the front left corner of site with several large trees and an 8' magnolia, and some of the smaller trees. Buffer requirements are based on percentage of the perimeter of the property required to have improved buffers divided by the total perimeter of the property. Based on this 25% and 7%, the requirement is 18% RCA, and fully meets the requirement. The 20' wide buffer drew concerns from the Planning Board and staff that most of the trees are mature and taller, and there will have to be some infill and evergreen materials to meet the type A screening. There is a note on the plan to assure this is done by hand with no machinery allowed in this area. All of the existing vegetation is beyond the limits of the RCA and will be preserved until such time as the site plan and construction plans are approved for the Wake County building. He understands there is a County agreement whereby the buffer plans will be installed at the time of the fire departments to capture the entire perimeter, and there will be 2 to 3 years growth on them when the WC office building is started.





**Site plan –  
Fire Station continued**

Storm water: Does not propose any storm water retention on site; pipes will tie into existing Hunter Street and also from the Wake County Building; understands rear portion of the property will sheet flow and be disbursed naturally through a wide band of trees.

Commissioner Jensen asked if the run-off from this site (fairly paved surface) will go into a system of catch basins and storm water pipes and directed into the existing storm water system in Hunter Street, and where it went from there, and do we have a retention system or does it because we are not in a watershed overlay district, does this dump into the stream beds; what's the protection of the streams in terms of retaining the water?

Lankford responded the area of the station where trucks were being washed had brought concern of phosphates/oils getting into the system. It's noted on the plans of an oil/grease separator to filter before discharge into the system. As far as drainage, it goes to the street and unsure where from this point. It will not be necessary to upfit the size of the pipes once the WC building is done.

Commissioner Jensen asked if the size of the retention pond is adequate to retain the water before it gets into the aquatic system. Lankford noted the standards of discharge process were looked at for this area. Commissioner Jensen was specifically interested in the size of the pond and the capability of accepting this especially if any soaps or detergents are washed into the system to make sure that has an opportunity to be properly handled. If washing trucks with phosphates, and things like that – Commissioner Hilt noted this going into the sanitary sewer. Commissioner Jensen thought the indication was it would go into the drain system. They go into the grease separator, but if washing the trucks, etc. that water will go into the storm water drain system and not into the wastewater system with the phosphates that are dissolved into it. Construction Management Director Kent Jackson responded, the key is anticipation that a portion of discharge from cleaning of equipment, etc. will naturally make its way into the storm drain just by proximity – certainly not the design of the facility to anticipate this happening. They are not specifically designing a system that will create this situation, but he anticipates even at the fire department's best efforts to keep this from happening there may be some residual amounts that do get into the storm water system, so they wanted to have this additional safeguard to filter out as much as possible.

Commissioner Jensen noted specifically the area they were going to be washing trucks in, asking is it set up to make sure the vast majority of water coming off that washing goes into the wastewater system or into the storm water runoff system? To him, it should go into the wastewater system at that point rather than impact the storm water system with phosphates/nitrates. Jackson feels this is a good point, but it is such now that it would go into the storm water system. Dennis Pitts, Landscape Architect, McNeely and Associates, addressed the storm water portion. There may be water on this back area that contains chemicals, etc., a special box is added and designed for this situation to clean anything that may come off the back of the site as an assist to the normal storm water process. Today they ran a hydraulic calculation through the storm drainage system and to the street getting ready to turn in for approval by the State for Erosion Control Permit and all the storm water stays inside the pipes. They are there now, so there's no concern for backwater. As far as Sanitary Sewer, PDC Engineers designed it.

Commissioner Meckes asked if anyone designed these facilities so the run-off from the washing of the vehicles would go into the sanitary sewer system or are they all designed to go into the storm water. Pitts has seen it both ways, depending on the jurisdiction and preferences and local codes.

Commissioner Hilt noted it a challenge here when it's not covered, storm water goes into it and you're treating the water. Commissioner Meckes noted you get into I&I situations and you don't have any limit on what goes in there. Commissioner Hilt noted Commissioner Jensen had a good point – our fire station does a lot of washing and is probably a valid point to look at if there is any way of treating where the vehicles are washed can be put into the sanitary sewer system. Commissioner Grimes commented washing could be done inside the building.





**Site plan –  
Fire Station continued**

Commissioner Jensen noted if washing outside when you do wash, you have a pump system to pump the stuff out.

Cleo Robinson did the site work and currently as far as separation, she's seen it both ways in municipalities, sometimes it goes through an oil/grease separator and some takes it to sanitary sewer and some to storm drainage. She indicated what is here – fire chief doesn't plan on washing the trucks in the building, everything will be done outside so it would be handled through the site work. There is an oil separator that goes to sanitary sewer.

Commissioner Hilt asked if there were any way, not wanting to design the system, if staff could work with the designer, looking at a way to divert some of this into the sanitary sewer. Jackson noted this more a conceptual stage review, there's an opportunity in the construction plan phase to address this in detail.

Robinson felt the idea in taking it into the sanitary sewer is that once it goes through either the oil/grease separator or whatever device, it's water, it's clean. Everything is filtered out of it – there's no extra reason to treat what's already filtered, it's just regular water, so this is why it varies as to where you take it to sanitary sewer or storm drainage. That's the purpose for having an extra device.

Commissioner Jensen was particularly concerned about the phosphates and nitrates that are dissolved in the water and the oil separator is not going to pull those out; they're going through and it's going to look like clear water but it's carrying those chemicals that go into the system and seems to him there would be simple ways to do this, tied with the water faucet that pumps out when they are washing with the hose; he doesn't want to design the system either, but feels this system should be set up so that we minimize; we require car washes to minimize this and we should do that to ourselves.

Commissioner Hilt is satisfied with direction for staff to work with this. She noted our drinking supply suffering degradation at Jordan Lake and is looking very hard at nitrogen/phosphate. Mainly, we want to be good stewards since this is a municipal building. She is satisfied with staff working with her and she understands the Board's concerns and they work it out.

Commissioner Jensen agrees but would like to see that they have a final review of whatever they come up with.

Lankford continued the impervious surface is 60% even though it is not in the watershed. The fire station site would account for 15.6% of the entire 5-acre site. The entire site with the Wake County building impervious surface would be 48.2%.

The two points of access exist and will be modified to accommodate this site plan. No traffic impact analysis was required, as this would generate far less than 1000 daily trips. When Wake County comes in for a site plan process, it will generate enough trips to necessitate a detailed traffic study and at that time will look at the traffic generated by the fire station.

Lighting plan meets the ordinance requirements with respect to the off-site glare that is minimized spillage to the site. The Plans were modified since they went to the Planning Board, they have been reviewed and all minor items have been addressed and staff recommends approval of the site plan.

Commissioner Jensen noted a request by Jeff Tyburski of the Planning Board. He had concerns with the building elevation with the rectangular shape of the building – trapezoidal top to break the rectangular shape of the building being this close to the neighborhood.



Site plan –  
Fire Station continued

Louis Cherry, Architect, noted the comment in reference to the Eckerds, a relatively large flat rectangular building and an entrance feature that had a gable form, creating an entrance there and the question: Is there a way to add a feature to have this type form and his feeling is that it would be difficult to apply that to it. With the way the entrance is designed, it is not a big broad expanse that you could place that on. His opinion is that's not something that would enhance the building in fact be more of a detraction. Commissioners approved schematic design but we talked about this at that time and worked through some of those.

Commissioner Hilt understood where Tyburski was coming from, and at the same time the direction the Board gave the architect was to look at the flat roof of Town Hall and the style of brick and try to integrate, and feels the architect has done this. She doesn't want this to be an Eckerds. Fire Station has a flat roof, and architecture has flat roofs for fire station. She feels it's more in keeping with the styles.

Mayor Weatherly noted the Planning Board recommendation was unanimous with Tyburski voting for this. Commissioner Jensen commented he had brought this up per Tyburski's request and thinking architectural designs not a gable.

Rowland noted Planning Board recommendation was to approve it, but did have a noise policy, which Chief Stevenson would address, as a part of their recommendation.

Chief Stevenson addressed the concern regarding noise that came from Tyburski. Manager Sutton has reviewed this and agreed it is ok. Planning Board appeared to be pleased. Policy covers testing of sirens and what time they would occur, horseplay with siren, air horns, personal conduct, visitors at station, animals at station, floor testing, and music. Basically, anything offensive is not allowed, and violations will be handled according to the Town's personnel policies. – nothing before 8:30 in the morning especially holidays and weekends. Fire Station wants to fit and be a good neighbor, but he couldn't violate NC General Statute where he didn't use sirens etc. when responding to emergencies. He would instruct on use accordingly, but would not put liability on the Town or the Board and noted this is understood. Commissioner Hilt noted after a while you get use to it.

Commissioner Jones asked that assuming the site plan went forward, what's the timing of the next step. Manager responded it would go out for bid in March.

Mayor Weatherly asked Brian Yates if he had further comments on behalf of volunteers. He asked what the final cost on the station would be. Manager responded a million dollar estimate, but would not know until the bids are received.

**Action:** Motion by Commissioner Hilt and second by Commissioner Grimes to approve the fire station site plan with the condition that staff review reducing the amount of chemicals, any materials other than water, finding some way to reduce them or divert to the sanitary sewer.

Commissioner Jensen wanted to have a review of that diversion, have an opportunity to review it and would like in the motion that during washing periods the wastewater material once the oils are separated out does go to the wastewater system.

Mayor Weatherly asked if he were moving to amend the motion? Commissioner Jensen responded he was and continued the amendment would be to show us what they are doing and that it does in fact, the washing goes to the wastewater system instead of the storm water run off system. Commissioner Jones wasn't sure how this would be designed. Commissioner Jensen continued when they are washing the vehicles, he's sure there could be a system set up to the hoses and faucets they use, that there would be a pump system that would automatically pump it out. He's sure these folks are capable of designing a system that would separate that at that time. Attorney Fordham interjected as a part of procedure, it would be good to make a motion to amend and get a second then open it for discussion. It's not clear what the amendment to the motion is at this point.





**Site plan –  
Fire Station continued**

Mayor Weatherly continued, Commissioner Jensen is offering an amendment to the motion.

**Action:** Commissioner Jensen made an amendment that during the washing procedure the water is discharged into the wastewater system during that period of time and that the system be designed that we can review that this will do that. Mayor Weatherly asked for a second. There was no second.

Commissioner Meckes asked if that wasn't in the motion that Commissioner Hilt made Mayor Weatherly stated at time for review, we could mandate it at that point. Commissioner Jones stated Commissioner Jensen wanted it to come back for the Board to see and he had no problem with that. Mayor Weatherly stated Commissioner Jensen had said to go beyond review and go ahead and make it a requirement rather than see it first and then decide if we want to mandate whatever system they come up with.

**Action:** Commissioner Jensen then said he wanted to amend his amendment to request that they look at a system that completely discharges the wastewater from the washing procedure into the wastewater system. Second by Commissioner Jones.

Mayor Weatherly stated the motion was made and there was a second on the amendment. There was no discussion on the amendment. The vote on the amendment carried. There was no discussion on the motion as amended. The vote on the motion as amended carried unanimously.

**End of Old Business # 2**

There was a recess at 8:20 p.m. and the meeting reconvened at 8:30 p.m.

## **PUBLIC COMMENT**

**Public comment is welcome. Anyone may address the Board concerning any item.  
Mayor Weatherly will recognize those wishing to speak at the appropriate time.  
We ask that you limit your comments to 3 minutes to allow others to speak.**

**John Sparath**, Apex Volunteer Fire Department, called attention to the expense the Town was about to incur and would cost the Town about \$1 million for fire department site work, building design \$1.2 million, a new fire truck about \$200,000, tools etc. used are not the Towns and to buy replacements another \$20,000, plus furniture, with an approximate total cost of \$1,790,000. He stated earlier conversations were to consider revamping the existing fire station, a partial ownership, traffic, etc. He doesn't think it was fully explored and that moving forward with a new building places the debt of \$1.2 million on the citizens with families absorbing \$300/\$400 additional tax burden. He felt a cooperation agreement with Volunteers; the \$1,790,000 would be locked in hand. Renovations to the existing station were in the neighborhood of \$500,000, increasing size of facilities with equipment already there. He felt the lease of a second truck was an attractive idea, but the idea wasn't explored fully and asked Board reconsider before moving ahead with the new station.

**Public comment continued**

**Mike Shore**, 1008 Brittle Way, had attended the Board of Adjustment meeting and felt it was brutal by the way the procedure was conducted; and felt obligated he attend the 3-hour meeting. The issue was the US64/NC55 development where the BOA sided with the developers of the property, and allowing a variance on existing code voted on by the Board of Commissioners, which to him was narrow thinking. The development would impact the lives of those living in the area. He doesn't see much difference in infrastructure for the intersection over the last few years and doesn't see anything in the near horizon to impact this either. He urged the Board to resist the Board of Adjustment action in citing with the developer's statement that the Board of Commissioners should revisit the ordinance to prevent this type of design from moving forward (big box, huge parking lot, limited landscape, and other intrusion to the area).

His view was this would be another Crossroads waiting to happen (i.e. news). Shopping may be in your back yard, so will all the problems that comes with Crossroads. Again, he asked the Board to "stick to their guns" in the ordinances already passed. He urged the Board when they get the request, to look at the ordinances and look at the intent and make this a more livable and enjoyable community and stick to them. He continued, we're taking a 20 year ago leap back when Crossroads was started and we're going to make the same mistakes here that was made in Cary. He noted these concerns were coming from long time residents that were his neighbors and former Cary residents, moving here to escape Cary and as a projected long term resident, he doesn't want to see the same mistakes and same old thinking being allowed to continue in the future development of his city. He urged them to take a strong hard look at this request, look at original intent and consider them in any changes they make. Again, he's got a vested interest in the future of Apex and doesn't want to make the same mistakes Cary has made and other cities in the region.

**Bill Bernecki**, 1707 Busher Court (St. James Village) agreed if there was a rule for construction and then violates it, he doesn't understand. He too was at the BOA meeting and those pros and cons for business (got together and decided to do it differently) and then said, no, we'll do it the same old way. He urged the Board to turn it down, there was too much going on a small piece of property; you can't get all that in there the way "you folks" would like to get it in.

As far as the Fire Department was concerned, he didn't feel you could do enough for people who volunteer their time and he considers it a dangerous job. To deny a fire station or the equipment or anything else they need because if you don't have them, you'd get a paid fire department and \$1.2 million dollars would be nothing and that's what would happen to you. You can't get people to volunteer, but to deny a group of people, not just fire fighting hours the training hours, he doesn't care what it cost, and it would be great. You are going to need it, they have all their eggs in one basket and to him is an old fashion fire station with trucks just barely fitting in the building. He assumes at some time you will build a new headquarters somewhere, cause they have outgrown it. The equipment seems mostly new and very expensive but think of the people donating their time and their energy, doing a dangerous job, he'd give them anything they ask for.

**End of public comment.**





## NEW BUSINESS

### New Business Item # 1 – Site Plan – Prince of Peace Episcopal Church

#### Director of Planning – David Rowland

Possible motion concerning site plan for Prince of Peace Episcopal Church located on North Salem Street.

Diane Khin, Planner, gave a review of the site location being 7+ acres and zoned residential agricultural, and the surrounding land uses. Aerial slides showed a few buildings located on site that would be removed and keeping a ball field on site. The proposed use is for a church is consistent with the 2010 Land Use Plan. The property currently has a private access, across railroad tracts and into the area potentially to be a trackside development. Town staff requested applicant proposed a 60' future right of way for dedication to align eventually with Brittlely Way. The church has agreed in exchange for reduction in buffer and resource conservation area calculations. The 60' right of way was shown for illustrative purposes only and can be removed from the plan if necessary. The intent of the 60' right of way on the church property was to assure access point across the railroad tracts will remain an option in the future and to insure that a future developer of the trackside development, if it were to happen, would have the opportunity to build a road in this right of way and to insure that this intersection would be a safe intersection providing the best opportunity for future traffic should the transportation impact of trackside still warrant. If and when trackside would become a reality, the idea is that the developer of trackside would have to negotiate with the property owners in order to build a road in a new location.

The conceptual master plan shows the future plans of the site for an additional three buildings, education building and sanctuary. Slides of the area show little vegetation on site. Proposed building elevations show a red/brown brick with gray/brown asphalt shingled roof, proposed gables with white trim; brick wall along street front buffers – pier has decorative cap on top. The proposed landscape plan meets the UDO requirement for buffers, vehicular use area landscape and general landscape. Due to the offer of dedication of the 60' right of way, the buffer south of the land offered for dedication was not shown as plated. The proposed plan meets the UDO requirement for 18% RCA with a RCA in excess of 48,000 square feet. Proposed plan utilizes the new meadow and sampling options provided for in the design and development manual. During construction plan review, specifics for the types of plants, grasses and recommended maintenance re-vegetation program will be required. Property is located within the Swiftcreek watershed protected area; the proposed plan has 15.5% impervious surface which bumps it into the high density development option and meets the watershed requirement of this district by providing a retention basin on the lowest point of the site. The subject property is not located in a designated flood plain. The proposed plan meets the parking requirements of the UDO and "off street parking alternatives"; one full service drive is proposed from N. Salem Street. The proposed plan meets the thoroughfare plan. N. Salem is proposed for curb/gutter and sidewalk installation. A traffic impact analysis is not required, as the project will not generate more than 1000 trips per day. The lighting plan meets the maximum spill over level onto the rights of way and onto the residential property adjacent – meeting all requirements. Staff recommends approval of the site plan. The Planning Board unanimously recommended denial of the site plan for the following reasons.

1. The appearance of the building is out of character with the surrounding area.
2. The size of the structure and proposed materials are out of character with the surrounding area.

Staff comment: Disagree with these statements, that N. Salem street will eventually be an extension of downtown as it is a gateway into downtown. Buildings downtown are brick and further more new non-residential development approval on N. Salem Street including Salem Oaks and Liberty Station are brick. Liberty Station was approved at 31 feet tall. This church building is proposed to be a red-brown brick structure and proposed to be 34 feet tall. The Planning Board seemed to be comparing the proposed church with residential homes in the area; staff believes the non-residential buildings in this corridor should be to the standard in which the proposed church is measured.





**New Business # 1 continued**

3. The orientation of the building does not fit with the area, felt it should face the street.

Staff comment: Agrees with this statement - met with architect regarding facing building towards street. Looked at an overlay for this area that would require building to be oriented to the street, however, without the overlay in place and given that the development, Haddon Place is not oriented to the street, staff didn't believe they could use this a basis for recommending denial.

4. The height of the building is too tall.

Staff comment: Disagrees - proposed building is 34' tall, meeting Section 5.11 of the UDO which limits the height of the building to 36' in the RA District.

5. The location of the parking is too dominant on the site and there are not enough parking spaces.

Staff comment: Sec. 8.6.3 of UDO requires no more than 50% of parking be located between primary building and primary abutting street ( N. Salem Street ). Location of parking on site is nearly 100% of parking area and meets requirement. Staff requested the 42" brick wall be erected to screen parking area, making it less dominant; applicant agrees to do this. When the church first applied for approval, the number of spaces required was one space per eight seats in the principal assembly area. Church assembly area has 336 seats which at that time would required 42 parking spaces; the church has maintained through their own studies that they require 68 spaces; with the amendment of the UDO on December 19, churches are now required to have one parking space per four seats which means the church would be required to have 84 spaces; Church proposes 68 spaces - a ratio of one per 4.9 seats. Staff recommended approval with this ratio of one parking space per 4.9 seats under Sec. 8.3.9.d. of the UDO "off street parking alternatives", which states Planning Director may approve any other alternative to providing off-street parking spaces on site of subject development. Given the church has the area near the ball field they could use for over-flow parking in the event it is needed; one parking space for 4.9 seats is sufficient.

6. The proposal lacks an overflow-parking plan.

Staff comment: Agrees a better overflow-parking plan could be proposed; UDO has no specific requirements for overflow parking. If a plan were to be required, it might include no parking signs and striping on N. Salem Street, an accurate number of parking spaces that could be utilized in the area of the ball field.

7. The position of the courtyard next to the street is undesirable.

Staff comment: Feels N. Salem Street will eventually be an extension of downtown and would have a more urban feel, given that the church was not oriented toward the street, staff thought the inclusion of the 42" brick wall to create a urban courtyard was appropriate and preferable instead of a grass area along the street. Urban courtyards are a part of traditional urban development and would be appropriate in this situation.

8. The church should consult with neighbors.

Staff comment: Section 2.2.7 of the UDO encourages neighborhood meetings, but not required for any development application under this ordinance, but may be used at the option of the applicant. Staff believes it's always a good idea to consult with neighbors and routinely tell applicants to talk with neighbors, but not required by the UDO.

Commissioner Hilt asked if this concern came from the neighbors.

Staff comment: The neighbors noted not formal meeting with them and felt there should have been. Neighbors spoke at the meeting and are here at this meeting.



**New Business # 1 continued**

Commissioner Grimes asked if the glass for the building was clear. Architect Phil Keefer, noted dark red brick for the building and clear glass.

Mayor Weatherly clarified other buildings are anticipated for this site and covered under the conceptual Master Plan for the campus for future buildings and parking areas. The orientation of the building is figured in with the plan for connectivity for an education building (hallway).

Commissioner Jensen asked if there had been discussion with the architect regarding moving the building back from the street. Staff encouraged the building be brought forward; elevations for the side that faces the road has an entrance and gables, not a blank wall. Moving it to the road with a brick wall would have a definite defined streetscape on that side of the road. There is sidewalk connectivity from the building to those being constructed on N. Salem Street. Road improvements are in conjunction with NCDOT and Town with N. Salem being a minor thoroughfare with variations, putting middle turn lanes where necessary. NCDOT indicated it was not necessary for this project and recommends the road width stay; town requires curb and gutter and sidewalk installation.

Architect noted current site is flat, agricultural field; proposal for first phase is up near the street per Planning Department comments; rear of site is intended for overflow parking; also there is access to the property behind the subject property. Property owner had strong interest in keeping the ball field in place for use by congregation and also as a community amenity; they worked around it; another natural feature on the site to the north is a stand of trees and a pond. The orientation of phase #1 with large glass in sanctuary addresses this; it suggest orientation of the building, with a peak flow of 300 people coming out, owner was concerned with discharge towards street, and this was a compromise to bring the building up and essentially rotating it. Commissioner Jones agreed there was plenty of parking, with Commissioner Meckes asking if parking would ever be acceptable on Salem Street. The Architect noted the owner was willing to concede that. Commissioner Meckes noted everyone else in Apex parks on the street. Architect noted the nature of N. Salem Street does not lend itself to parking on street. Architect noted they did the Methodist Church addition as well. Commissioner Jones didn't attend the Planning Board meeting but tends to agree with staff.

**Action:** Motion by Commissioner Jones and second by Commissioner Meckes to approve the site plan as presented.

John Bibb, lives on lot adjacent to church site; attended Planning Board meeting; informed the recommendation was no and wanted to voice his concerns. Doesn't feel notes of Planning Board gives sufficient weight to concerns. He heard when the church bought the property, they had sketch drawings and wanted to be good neighbors and involved in the community. He thinks the desire to preserve the ball field exemplifies this. The problem being, they didn't consult with him or his neighbor Chris Jensen when the plan was put together. Major concern is the site plan locks in a dedication of a road that obviously has a lot of impact on future development of Apex, directly across his land. He doesn't feel this is an ideal location for this road, with already a speeding problem on N. Salem Street and Brittley Way and this becomes a major thoroughfare through subdivision to subdivision between business area and Highway 55. It also compounds the problem with N. Salem Street becoming more like Davis Drive, where there's high volume traffic and lots of problems for the residents involved there. His main concern is it basically locks that up without anyway to get around it, giving the conservation area easements that can't be changed once in place; there is no place at that point for the railroad crossing to be moved anywhere north on the plan or anywhere around that without disturbing those conservation zones. Believes there was plenty of time for public involvement from them to look at alternatives before the plan was locked into place and doesn't believe it was sufficiently done.



**New Business # 1 continued**

Commissioner Jones noted the comment that there were easement lines that are locked into place. Khin noted staff asked for a 60' right of way dedication – Offer to dedicate doesn't mean Town accepts it or builds a road or tells anyone else they can build a road there; but staff requested it so the Town could maintain the crossing across the railroad tracks and have an opportunity in the future to be able to have a road into the trackside development. If developed, there are not a lot of access points, and staff felt this would be a good place aligning up with Brittle Way. If the traffic were to necessitate a traffic light, if you have a crossing four-way instead of a "tee" more likely to warrant this, staff felt this was the appropriate place for this right of way. They're not building a road here, this was to plan for the future and what may be good for this whole area. Church agrees with this and a note on the plan that the ball field will remain until such time this area needs to be used, and may never need to be used. The key is "offer for dedication".

Commissioner Jensen clarified the part they are offering for dedication is across their property, not across Bibb's property. Staff noted this true, and could asked them to take this off their property, they have shown it for illustrative purposes to show how it could align up with Brittle Way, and could have them definitely take it off so there is no question that the right of way does not extend across these two residential properties, that's not a problem, they can definitely do that. Commissioner Jensen noted for a dedication like this, what does it do to the value, does it degraded the property?

Commissioner Hilt noted it could do the opposite; planning staff is doing their job in her opinion. By not looking ahead 30 years down the road, she notes you get a Waterford Green (one in/one out) and with a huge development, you get fire and safety issues where you block the entrance and can't protect the neighbors in that community. The property owner has an opportunity to negotiate with the developer for the easement and in her opinion increases the value of the property; problem maybe when the property owner wants to sell with the house on it (ex. 540 has a pasture in the middle of it). Commissioner Jones asked if on the site plan staff were asked to sketch on the drawing where the road would be on N. Salem to a trackside development, would it be where they had indicated. Staff answered yes, on the trackside, the proposed map that has been seen by the board shows the road coming across the church property.

Commissioner Jensen noted he wasn't condemning planning for requesting this, he just wanted to know the value situation and expressed appreciation to Commissioner Hilt for noting it could go both ways. Commissioner Grimes asked if it were possible to get a commitment without having a drawing on record; staff asked just having a note saying that a right of way will be placed across this property at some location; Commissioner Grimes continued that one is; staff continued it's locked into this location once the resource conservation area is approved. Commissioner Jensen felt it would be unfair if we know where it's going to go and don't put it down, it would be misleading.

Attorney Fordham noted a technical point: Add the word public in front of the word dedication, if the applicant agrees. Staff believed this was the intent, and can do that and on the final plat to say public before signing off on it.

Tom Colhoun asked if the access across the railroad tract would be maintained, as it is now, until future road development - CSX, in the past, wouldn't grant any more access across it. Staff noted the open area not resource conservation area was that access; they asked them to maintain it because in the future there may be negotiation – this access and another one northward – asking CSX to trade these two private accesses and a public one here with gates, being more safe, or maybe another one. Director of Planning noted this critical for this property to develop, trackside or whatever, there's a need for access.

Commissioner Meckes feels staff did an excellent job of answering his questions, with his biggest concern being orientation to the street that was resolved to his satisfaction. Commissioner Jensen was assured the number of trees meets UDO, but noted the more pavement exposed to sun, the hotter it gets in the summer, and he's not asking to change it, but would ask that the church look at putting in as many larger trees for their own benefit and the rest; it looks minimal on the plan.



**New Business # 1 continued**

Attorney Fordham noted as a technical point: If you want to include adding the word public there needs to be a motion to amend the original motion.

**Action:** Motion by Commissioner Meckes to amend the motion by adding the word "public", second by Commissioner Jensen. Motion carried to amend the motion.

**Action:** Vote on the motion to approve the site plan carried unanimously.

**End of New Business #1****New Business Item # 2 – Request from Appearance Commission****Director of Planning – David Rowland**

Possible motion concerning request from Appearance Commission to reallocate Depot funds to Town Hall and Community Center and Kids Towne Park.

Rowland explained the Appearance Commission had requested \$45,000 allocated to them for Depot project be transferred to the landscaping at Town Hall Campus and Community Center and to the Kidstowne Park due to scheduling conflicts and time constraints. John Brown, Director, PR&CR, indicates he prefers they not put it into the park, but at Town Hall and Community Center for perhaps a garden for the seniors (dedication of trees in memory of someone one who passed on, etc).

Appearance Chair and Vice Chair requests to leave about \$2,000 for the depot, they have another meeting with the Landscape Architect, Cindy Rice. Allocate \$43,000 to Town Hall and Community Center and \$2,000 remaining for Depot.

Susan LoPresti, Apex Chamber Director, addressed repair of the brick patio affront the Depot. She requested designation of some of the funds to be used for depot beautification to repair the brick patio, a historic landmark, and to maintain its beauty and make it a safe place for everyone to use. It's a rental facility and the broken cracks and missing brick creates dangers. August 21, 1998 letter to Town addressed the broken bricks and potential for falls and legal action. Feels damage has been furthered by skateboarders, and grateful for the signage prohibiting skateboarding and bike riding on the patio. The age of the brick and foundation and the weather elements and normal wear and tear of multiple activities taking place in the building continue to destroy the area. Photos show the condition of the brick. October 1999 again brought attention to the Town in a letter requesting repairs; during Christmas on Salem this year a young mother carrying her child fell on the broken stairs; on two other occasions others have fallen on the broken brick; no injuries were serious but the next fall may be. She urged the Board allocate some of these funds for beautification to be used to restore the brick patio to provide a beautiful and safe place for all of Apex and visitors to enjoy. Estimates range from minor repairs of \$500 to replace the broken brick, however, to do the job – the patio needs to be looked at by a structural engineer regarding the foundation (seeking and deteriorating and missing) the original foundation was not the proper one – doesn't know what this would entail. The Chamber is willing to work with the Town on this project.

The Manager asked if the Appearance Commission was going to do something with this area? LoPresti responded that the three drawings presented by the sub-committee of the Appearance Commission did show complete tearing the patio out and at that time they stopped pursuit of that because they felt they were going to make major changes in front to the façade of the depot, however, when she found this was on the agenda, realized the funds are being taken away from the depot to be used for another project and the patio was no longer included. The Manager asked if the Appearance Commission weren't coming back for next year asking for money?



**New Business # 2 continued**

Commissioner Hilt noted at the time when this was brought up, she had thought the project would move faster than it had. She is realizing even in the master plan design for the depot, that portion may not be in the first phase of the work; looking at this project, 3 to 5 years before the area is demolished. In her opinion it brings these issues forefront as far as liability issues. She feels it's a good time to address this, one issue is the liability if someone gets hurt, and also it's a structural issue that would be expensive undertaking is a completely different issue and that probably the Finance Committee should set priority. Commissioner Jones asked if this were the only funding source available for this \$42,000 and perhaps other funding for the repair.

Mayor Weatherly noted two parts, rolling over the \$45,000; do we actually have a need for this at Town Campus above what has been allocated? Manager stated there are additional funds allocated for Town Campus. Mayor Weatherly noted if it were needed, fine, to make it nice, but doesn't know if we know how that money would be wisely spent. The Finance Committee can determine the costs for a structural engineer and bring back to the Board a recommendation and then do it right. Commissioner Hilt told LoPresti that this could be resolved and its February.

Commissioner Grimes felt the Town should address this situation and then determine what's needed and maybe postpone this motion. Commissioner Jones noted with this motion, we at some point granted \$45,000 to the Appearance Commission to spend on the Depot now, they're saying they want to spend it on something else; assuming they're coming with a plan of how they want to spend that money. Director of Planning noted the Appearance Commission felt they could not spend their \$45,000 for the depot during this physical year for that particular project, so they wanted in turn to earmark it for something else than returning it to the General Fund. Commissioner Hilt noted the Board to be "nit-picky" with the master plan and set the Commission back many months and wouldn't be surprised if their landscape architect were still "shell shocked" from that meeting. Trying to take responsibility for setting them back, they thought they would be farther along.

Commissioner Meckes felt the pressing issue is getting those steps fixed and thinks we should go ahead and let the Chamber get those bricks replaced at the very least. We need to do that, as it's a liability issue; thinks skateboarders are still over there every Sunday, may need a closer watch (i.e. also vandalize benches). He noted another issue was the skateboarders hitting a bad brick. Commissioner Jensen agrees to do the bricks, liability wise.

Mayor Weatherly asked if Board wanted to direct Staff to make immediate repairs and then proceed with consideration for the larger project. Consensus was to do so. Town Manager Sutton will be responsible.

Commissioner Hilt noted the Appearance Commission had lost money last year, they're really trying to think three months in advance, and not let the same thing happen – how can we do that? In their defense, liaison wise, it's a tough position to hold on too, and she's been sympathetic with staff, not to have someone track their money for them – it's not their job to track money. Sometimes they get caught and thinking they need to spend the money now, that's not their fault.

Assistant Town Manager noted watching this situation for several years concerning the budget, putting money in for improvements for the Appearance Commission, all being fine ideas bright ideas and good recommendations. He thinks the problem is sticking to a role of being policy-makers; we have somehow tried to give them the additional role of being administrators to spend this money. Staff would like to help them, and confine their role to make the choices, set priorities and turn the spending of money to get these projects done, over to staff and let staff do it; we could get it done within a budget year and they wouldn't loose their money and it wouldn't be an issue of whether it will get away from them or not. Director of Planning noted a recent project was landscape of the Town's entry signs, which worked out well.



**New Business # 2 continued**

Commissioner Meckes asked if this should be in the form of a motion, or is it appropriate? Maybe they need some redirection. Commissioner Hilt felt that as long as staff understands. Commissioner Meckes wanted to give assurance the Appearance Commission wouldn't lose their money; they will have a carry over of \$45,000 in the next year's budget, plus whatever they are allocated. Commissioner Jones added and that they move forward with a plan that's limited to Town Hall and Community Center and look at it in good faith. Others agreed.

LoPresti asked if there's more that needs to be done in the patio area? Mayor Weatherly noted staff is being authorized to make immediate repairs to the brick that are obvious, and the Finance Committee will meet to determine need to hire a structural engineer or work with staff to see what the project need really is to make it structurally sound. All Commissioners agreed.

**End of New Business #2****EXECUTIVE SESSION**

Possible motion to go into executive session to discuss Peakway condemnation.

Mayor Weatherly asked for a motion to go into executive session to discuss condemnation involving the Peak Way and litigation. Motion by Commissioner Jones and second by Commissioner Meckes to do so. Motion carried. The minutes are recorded separately. Motion by Commissioner Meckes and second by Commissioner Jones to go back into open session at 9:58 p.m. Motion carried.

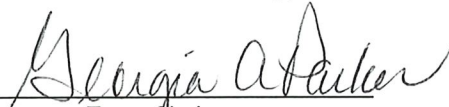
**End of Executive Session**

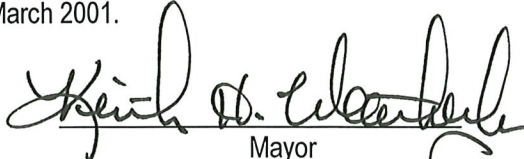
Motion by Commissioner Grimes and second by Commissioner Jones to authorize the Town Attorney to condemn the Toombs properties and Town Manager set terms and just compensation. Motion carried.

**End of regular session****ADJOURNMENT**

With no further business to come before the Board, motion by Commissioner Meckes and second by Commissioner Jones to adjourn at 10:00 p.m. Motion carried.

The above minutes were approved on the 16TH day of March 2001.

  
Town Clerk

  
Mayor

# TOWN OF APEX BOARD OF COMMISSIONERS' ANNUAL PLANNING RETREAT

Minutes of February 23, 2001



Mayor: Keith H. Weatherly

Website: [www.apexnc.org](http://www.apexnc.org)

Commissioners:  
Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

The Town of Apex Board of Commissioners Annual Planning Retreat was held on Friday, February 23, 2001 at the Holland Grill, Civic Room. Mayor Weatherly and all Commissioners were present.

Manager Sutton reports the Board of Commissioners wishes to pursue additional wastewater capacity so the Town can continue to grow; approved design for the Peakway with specifications to be incorporated into technical specifications; and wishes to pursue restoration of the Old Town Hall Building on Salem Street. The Retreat Agenda is attached.

The Retreat ended at approximately 1:00 p.m.

The above minutes were approved on the 6<sup>th</sup> day of March 2001.

Georgia A. Parker  
Town Clerk

Keith H. Weatherly  
Mayor



# TOWN OF APEX BOARD OF COMMISSIONERS'

Minutes of March 6, 2001



Mayor: Keith H. Weatherly

Website: [www.apexnc.org](http://www.apexnc.org)

Commissioners:  
Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Mayor Weatherly called the regular meeting of the Apex Board of Commissioners to order on Tuesday, March 6, 2001 at 7:00 p.m. in the Apex Town Hall, 205 Saunders Street. Commissioners Jensen, Meckes, Jones, Grimes and Hilt were present.

Welcome by Mayor Weatherly  
Prayer by Mayor Weatherly  
Pledge of Allegiance

## CONSENT AGENDA

Mayor Weatherly presented the consent agenda to be set and asked for a call for action.

**Action:** Motion by Commissioner Jones and second by Commissioner Jensen to approve the consent agenda as printed. Motion carried.

1. Minutes of February 20, 2001 Board of Commissioners meeting.
2. Minutes of the February 20, 2001 Executive Session (separate cover).
3. Minutes of the February 23, 2001 Annual Planning Retreat.
4. Resolution Authorizing Condemnation of parcel of land for Apex Peakway, and located at 1200 Old Raleigh Road in or near the Town of Apex with certain lot being owned by Timothy Toombs and Denise Flora.
5. Close and place "no parking" designation on certain streets and close Chamber of Commerce parking lot for 2001 Peak Week Festival, Fourth of July Festival and Today and Yester Year Festival.

End of Consent Agenda

## REGULAR MEETING AGENDA

Mayor Weatherly presented the regular meeting agenda to be set. Attorney Fordham asked to amend the agenda to include Executive Session regarding condemnation and to receive legal advice.

**Action:** Motion by Commissioner Meckes and second by Commissioner Grimes to amend the agenda to include Executive Session. Motion carried. The Regular Meeting Agenda was set as amended.



## PUBLIC HEARINGS

### Public Hearing # 1 – Time Warner Cable Service

#### **Assistant Town Manager – Mike Wilson**

Public hearing and possible motion to approve Report and adopt an Order regarding Time Warner's maximum permitted cable television Basic Service Tier rate for 2001.

Town of Apex as a franchising authority has the responsibility to review and approve the annual adjustment in the Basic Service Tier (1<sup>st</sup> 13 basic channels) proposed by Time Warner, cable television franchise holder. The adjustment would set the maximum permitted BST rate at \$10.31 up from \$9.44; an add-on Network Upgrade Charge would increase from \$1.37 to \$1.89, for a combined total of \$12.20 up from \$10.81. Consultant Bob Sepe has reviewed the rate calculations and information provided and finds the proposed adjustment to be within the FCC guidelines, and has determined Time Warner is actually charging 58 cent less than the maximum rate permitted by FCC. Town has no further authority to regulate other rate charges. Board action is to adopt the Report and approve the Order for the rate adjustment.

Commissioner Jensen asked if an alternative provider had been considered for competitiveness? There has been no interest from an alternative provider in this area but some have targeted other areas of the county. Time Warner Franchise had asked the town rule they be the automatic service provider, but the Town choose to leave this a choice in the franchise should a competitive provider become available.

The public hearing was opened at 7:10 p.m. There were no comments. The hearing was closed at 7:10 p.m.

**Action:** Motion by Commissioner Meckes and second by Commissioner Grimes to adopt the Report and approve the Order for the rate adjustment. Motion carried.

**End of public hearing #1**

### Public Hearing # 2 – Annexation Petition #316 Jeffery & Betsy Bates

#### **Director of Planning – David Rowland**

Public hearing concerning Annexation Petition # 316, Jeffery & Betsy Bates, property owners/petitioners; possible motion to adopt ordinance to extend the corporate limits to include 1.482 acres located at 1509 Salem Church Road (SR1614).

Rowland oriented to the location of the 1.482 acres noting voluntary annexation would allow for connection to Town's water supply. The hearing was opened at 7:12 p.m. There were no comments. The hearing was closed at 7:12 p.m.

**Action:** Motion by Commissioner Jensen and second by Commissioner Jones to adopt the Ordinance to extend the corporate limits of the Town by the 1.482 acres. Motion carried.

**End of public hearing #2**

**PUBLIC HEARING #3 – GROWTH MANAGEMENT PLAN - was conducted after new business items.**





## OLD BUSINESS

There were no Old Business Items to be considered.

## PUBLIC COMMENT

Public comment is welcome. Anyone may address the Board concerning any item.  
Mayor Weatherly will recognize those wishing to speak at the appropriate time.  
We ask that you limit your comments to 3 minutes to allow others to speak.

No one spoke during public comment.

## NEW BUSINESS

### New Business Item # 1 – Triangle J Council of Governments

#### Director of Triangle J Council of Governments - Dee Freeman

Introduction of TJCOG and brief comments regarding regional issues.

Freeman, Director of TJCOG, was a former local government manager and has strong background for local government. TJCOG is an extension of local government representing best interests of cities/counties; and a clearing-house for legislative issues. He presented a Regional legislative Agenda on the 2001 session of the North Carolina General Assembly for local governments of the TJCOG. 4 top priority issues were: 1) providing additional monies for local governments, 2) protecting existing revenues for local governments, 3) growth management and smart growth strategy, and 4) transportation planning/funding.

A special issue: water quality planning and wastewater treatment needs ( regional facilities ). He has worked with DENR and had received commitment from Bill Holman (no longer with DENR) and now has commitment from Dempsey Benton to work with local governments during a facilities process. The issue now is whether local governments can come together. Freeman's goal is to visit with municipalities and engage in town issues. He expressed appreciation to Commissioner Grimes, for serving as Town Liaison and offered his willingness to assist the Town at anytime.

**End of New Business #1**

### New Business Item # 2 – Request from Appearance Commission

#### Director of Planning – David Rowland

(Appearance Commission request item be withdrawn – person to chair this project has resigned)

Possible motion concerning request from Appearance Commission to invite certified arborists from around the area to provide services to the two large oak trees and a pecan tree on the new Apex Town Hall Campus in honor of Arbor Day.

**End of New Business # 2**



New business continued

**New Business Item # 3 – Recommendation from Finance Committee - Planning Fees**

**Chairman of Finance Committee – Commissioner Mike Jones**

Possible motion to approve proposed fee changes for Planning Fees.

Commissioner Jones noted Items 3 & 4 regarding Planning and Construction Management fees were reviewed by Finance Committee having been compared to other municipalities with Committee recommending approval.

**Action:** Motion by Commissioner Jones and second by Commissioner Grimes to adopt the revised fee structure effective April 1, 2001. Motion carried.

Commissioner Jensen does not feel the fees cover the services of the departments, being only 10% of department costs. Director of Planning responded the fees are comparable to other municipalities regarding hours worked. Commissioner Jones agreed. Commissioner Grimes noted if the comparisons were in line with other local governments, then no one recovers 100%. Mayor Weatherly added the Town couldn't compute all hours and costs to the Planning Department, but it affects all of the community (walk-ins, phones, etc.). Commissioner Jensen felt the towns should discuss fees and ways to move ahead to come up with a correct fee instead of 10% vs. 90%, feeling the balance was wrong.

**End of New Business # 3**

**New Business Item # 4 – Recommendation from Finance Committee – Construction Management Fees**

**Chairman of Finance Committee – Commissioner Mikes Jones**

Possible motion to approve proposed fee schedule changes for Construction Management Fees.

Commissioner Jones noted comparisons with other municipalities, with fees being more difficult since they were more of a cost basis, indicating some substantial increases and some decreases, and indicating the proposed fees a fair method, but may need more tweaking. There was notation of the inequity in commercial – but further noted the town does promote commercial development.

**Action:** Motion by Commissioner Jones and second by Commissioner Grimes to approve the proposed fee structure effective April 1, 2001. Motion carried.

**End of New Business # 4**





Public hearing continued

**At the end of New Business Public Hearing # 3 – Growth Management Plan was held.**

### **PUBLIC HEARING #3 - GROWTH MANAGEMENT PLAN**

#### **Director of Planning – David Rowland**

Public hearing regarding the Growth Management Plan (GMP); possible motion regarding it.

Matt Gobel, Clarion, presented a revised Growth Management Plan document and gave comments on growth management issues and the length of time generated in looking at the concept of growth and drafting a plan that has been examined by staff and the Planning Board (recommendations are attached). A brief of the Apex plan was presented to Cary, showing lots of interest and surprise and were impressed. The Plan was designed to look at growth and recommend tools to implement the plan.

#### **Summary of Plan Contents:**

**Rate and Timing of Growth:** Ensure adequate infrastructure/services are available concurrently with new development.

- 1 ) Adopt temporary policies/regulations to ensure new development does not erode Town's existing infrastructure and service capacity (ex: temporary wastewater treatment capacity).
- 2 ) Adopt permanent policies and regulations to ensure future development does not outpace the Town's ability to provide services and extend infrastructure.

Town agrees to overall growth rate of 4% - question: Comfort with 4% and tools to implement on permanent basis ( ex. point rating system ) .

Planning Board comments: Re-examine 4% growth – should be based on number of building permits and not a percentage of population ( ex. Cary ); work closely with school officials to locate schools in Apex; monitor residential/non-residential treatment capacity / pursue regional sewer plan.

#### **Location of Growth:**

L1 - Concentrate growth near existing and planned employment centers and available and planned infrastructure to minimize costly service-area extensions. ( Town has established an urban growth boundary ).

Review and revise policies/procedures to ensure future land-use decisions direct growth toward already-identified preferred areas, consistent with growth management goals. Locate and plan for additional areas where growth should be concentrated.

- L 2 – Ensure future growth protects sensitive natural and cultural resources and preserves open space.
- identify and develop strategies to protect them.

Planning Board comments: Promote infill development / define Town center or "heart" distinguishing Apex / proactive transportation planning and roadway development / implement natural resources plan with emphasis on tree preservation / more parks.



**Public hearing continued**

**Amount and Density of Growth:**

- A1 – Ensure overall amount of development in Apex is consistent with Town's growth management goals
  - (growth cap and boundary concepts) – monitor build-out population and balance residential/non-residential for tax base.
- A2 – Increase permitted densities in preferred growth areas to encourage desired forms of development.
  - addressed in UDO

Planning Board comments: Achieve better balance of residential/non-residential growth / more aggressive economic development recruitment program / continue working with Chamber in recruitment efforts.

**Cost of Growth:**

Identify sustainable funding sources for community infrastructure, services, and amenities.

- C1 – Public investments consistent with growth management goals.
  - look at development fees ( plan addresses this )

- C2 – Ensure public investment decisions are consistent with Town's growth management goals.

Planning Board comments: New development should pay fair share towards infrastructure / examine fees and ensure fees are high enough to sustain development / build more of the Peakway.

**Quality of Growth:**

Ensure future growth and development meets Apex's high quality standards ( UDO ).

- Q1 – Review regulations and procedures.
- Q2 – Develop programs to ensure citizens benefit from emphasis on high-quality development (affordable housing/art programs).

Planning Board comments: Promote affordable housing / provide opportunities for low-density premium housing to attract corporate executives.

**Plan Implementation:**

Pursue Intergovernmental cooperative planning agreements, Update Land Use Plan, Develop & publicize monitoring system to track progress in reaching and maintaining its growth management goals, Evaluate staffing needs to ensure adequate support exists to implement and enforce plan.

Staff recommends: Update 2010 Comprehensive Plan and Maps / Proactive rezoning / Involuntary annexations / Capital Improvements plan / Create point system / Identify stream corridors and other environmental sensitive areas to be protected / Identify gateways into Town.

Clarion encourages adoption of the Plan, so staff could begin its implementation.

Commissioner Jensen asked which was best for small lot income housing – condos or townhomes?  
Gobel felt integration throughout the community was best -condos and townhomes are not more affordable – and there should be a mechanism to make them affordable (ex: deed restriction ).

Commissioner Jensen asked what keeps the best value long-term?  
Gobel responded the integrated approach looks best – occupants feel they are a part of the community; 80% of the median income is termed "affordable", and should look at the overall market and lower income population statistics.





**Public hearing continued**

Commissioner Grimes commented, "Affordable" is an indefinite term and everyone defines it differently, with a higher quality of life being less affordable. He desires to be able to consider growth and at the same time, plug in affordable housing. Commissioner Meckes noted all the Town had done has raised the level of affordable housing, with everything going up.

Commissioner Jensen asked if the Town had considered value of land outside the growth boundary? Do town's do density buy down to offset economic differences. Gobel responded, this is a "density transfer program"; TDR programs preserve agricultural land but target an area most appropriate, taking lots of resources to administer these programs.

The public hearing was opened at 8:15 p.m.

**Mary Ann Lorenc**, Rabbit Walk Lane, represents Apex Smart Growth, and applauds Town for taking a positive step and supports adoption of the plan, suggesting priorities:

- transportation/infrastructure demand - (NC55; residential/commercial development) - application of the 4% growth rate and capping the population at 40,500. Noted Clarion recommendations: consolidated transportation plan a "top priority" and before development occurs and not depending on the State for improvements, but Apex join forces to share costs of construction/maintenance of roads.

- manage commercial growth - lack plans for commercial development (type, where, rate permitted is not adequately addressed by UDO or Land Use Plan).

- community involvement - citizens have difficulty obtaining information and participating ( limited coverage in paper ) and suggests update of the website (lacks information) - educate people - do on-line poles.

- land use plan/rezoning - update community mixed use nodes and corridors - develop look as source of profit - put Apex needs first over developer driven needs - ( UDO good document - but when a variance is requested, it's granted ).

**Betsy Dorn**, 1109 Holt Road - reviewed the plan and is impressed - recommends adoption and implementation of the plan with the recommendations submitted.

Challenges: - provide staff and budget resources to implement the plan - get entire community support of plan - staff currently has their hands full - prioritize planning activities - plan financing and execute the plan as timing is critical, before development occurs - take plan to the community (need for public to understand and support plan).

**Tom McKay**, developer in Apex and a part of the business community sees no drastic impact on current projects, clarification or financing. He's excited about future development and discouraged other developers made their "easy money and are now gone"; is a concerned developer and cares about growth and what the Town is doing; noted tree-loss on Olive Chapel Road; agrees quality development is important; " vision" is what, where and how we want growth, not as concerned as when we get it; promotes fixed growth - be responsive to market demand or with moving development coming thorough Town and manage those problems; concerned with being restrictive on ourselves as dollars have gone other places; doesn't see how Town can exist without a plan - network with everyone - refine the plan and what "we" want Apex to be and being open as to the "when" not being as important - be liberal to achieve it - stretch numbers to achieve infrastructure - not depend on other market forces.

**Public hearing continued**

**Mike Shore**, 1008 Brittle Way, spoke in support of the plan. He had been opposed to the recent church plan; asked to re-examine the community and get smart; asked the urban growth boundary be researched making sure its where we want to go (ex: not be Portland or Boulder Colorado) as it's difficult to implement plan; most don't want to live in high density use node, but while the economy is hot, people are buying to get close to work with some driving extremely long distances; consider the cost of houses and land prices; asked ideas get into public forum (city meetings) public doesn't get messages – don't read the local papers and he's frustrated to look at what's happening – word needs to get out, public is not aware of what's happening – asked Town to push the local paper and use the website, He asked the board to hold off on a motion – he spent hours looking at this plan – and now a new draft was presented and felt it unfair to act on it without public review short of Board and Planning staff.

**End of public comment**

Mayor Weatherly asked if action should be to close or leave the hearing open? He was in hopes the document would not be adopted at this meeting. Consensus of the Board was to continue the hearing to the first meeting in April. Commissioner Hilt commented citizens groups had participated in the UDO and Growth Management Plan and it took effort on both sides.

**Action:** Motion by Commissioner Meckes and second by Commissioner Grimes to continue the hearing to April 3rd. Motion carried.

**EXECUTIVE SESSION**

**Action:** Motion by Commissioner Jones and second by Commissioner Jensen to move into executive session at 8:50 p.m. to receive advice from counsel and consider condemnation. Motion carried. Minutes of executive session are recorded separately. Motion by Commissioner Grimes and second by Commissioner Meckes to go back into open session at 9:08 p.m. Motion carried.

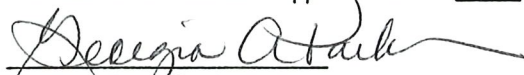
Being back in open session:

**Action:** Motion by Commissioner Grimes and second by Commissioner Meckes to authorize acquisition by condemnation the property for the Sanitary Sewer easement. Motion carried.

**ADJOURNMENT**

With no further business to come before the Board, motion by Commissioner Meckes and second by Commissioner Grimes to adjourn at 9:10 p.m. Motion carried.

The above minutes were approved on the 20<sup>th</sup> day of March 2001.

  
Town Clerk

  
Keith H. Weatherly  
Mayor



# TOWN OF APEX BOARD OF COMMISSIONERS'

Minutes of March 20, 2001 Meeting



Mayor: Keith H. Weatherly

Website: [www.apexnc.org](http://www.apexnc.org)

Commissioners:  
Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Mayor Weatherly called the regular meeting of the Town of Apex Board of Commissioners to order on Tuesday, March 20, 2001 at 7:00 p.m. in the Apex Town Hall, 205 Saunders Street. Commissioners Jensen, Meckes, Jones, Grimes and Hilt were present.

Prayer by Commissioner Jones  
Pledge of Allegiance  
Welcome by Mayor Weatherly

## CONSENT AGENDA

Mayor Weatherly presented the consent agenda to be set and asked for a call for action.

**Action:** Motion by Commissioner Grimes and second by Commissioner Jensen to approve the consent agenda. Motion carried.

1. Minutes of March 6, 2001 Board of Commissioners meeting.
2. Minutes of the March 6, 2001 Executive Session (separate cover).
3. Minutes of the February 27, 2001 Finance Committee Meeting.
4. Approve Apex Lions Club 5K Run (Shepherds Vineyard/Knollwood), Saturday, May 12, 2001 ( 8:30 a.m.).
5. Approve Wake County Tax Report.

End of Consent Agenda

## REGULAR MEETING AGENDA

Mayor Weatherly presented the regular meeting agenda to be set.  
With no amendments, the agenda was set.

## PUBLIC HEARINGS

THERE WERE NO SCHEDULED PUBLIC HEARINGS.



## OLD BUSINESS

THERE WERE NO OLD BUSINESS ITEMS TO BE CONSIDERED.

## PUBLIC COMMENT

Public comment is welcome. Anyone may address the Board concerning any item.  
Mayor Weatherly will recognize those wishing to speak at the appropriate time.  
We ask that you limit your comments to 3 minutes to allow others to speak.

**Herman Jaffee**, Charleston Village, referenced articles on water supply draught and growth control and associated costs and the effect it has as a whole. He supports taxing new businesses coming into the area and slowing growth; noted past increase in irrigation meter costs and encourages continued water management by asking residence to change their style for water usage (i.e. Jordan Lake) and taking control of the future - developing higher fees and strict enforcement to conserve water, protecting the land and slowing growth; asking other towns to do the same.

**Amy Fox**, Hollands Crossing, spoke against dog owners allowing their dogs to defecate and not clean it up – whether it is in public right of way, sidewalks, or other property. She noted this issue has caused emotional issues (i.e. fist fight in her subdivision). Her child had picked up defecation. She notes some are ignorant and some don't care. She referenced animal control ordinance of Cary and noted they rarely get calls because they know the consequence. She encouraged adoption of an ordinance regarding this issue and use of public service announcements on radio and television to alert the people to carry bags and implement the program. She's willing to help.

Chief Hearn noted other areas of Town having similar problems and agrees there's need to address this issue. Others supporting this ordinance: Kathy Laden, Pearson Farms and David McDonald, Indian Trail.

End of public comment

## NEW BUSINESS

### New Business Item # 1 – Apex Chamber of Commerce

#### Apex Chamber of Commerce

Cat Kearns, President, of the Apex Chamber of Commerce presented the Economic Development First Quarter Report (attached and incorporated as a part of the minutes).

End of New Business #1

### New Business Item # 2 – Site Plan – Southern States Nissan

#### Director of Planning – David Rowland

(Planning Board and Staff unanimously recommend approval of the plan with conditions).

Possible motion concerning site plan for Southern States Nissan located on Vision Drive at NC55/US64.

Continued next page





**New Business continued**

Dianne Khin, Planner, informed the site plan meets all UDO requirements, however, the applicant has not provided the required 100' buffer along US64. Applicant request a 30' reduction in the 100' buffer based on the hardship of an existing public sewer main with a 30' easement crossing through the middle of the required buffer area. Easements cannot be counted as part of the buffer. The applicant offers the following in exchange for the reduction:

1. Buffer plantings have been increased to the type "A" standard (required by UDO)
2. A 10' strip of RCA with similar plantings is being provided adjacent to the buffer
3. Sewer easement is being designated as a "greenway" (UDO allows BOC to approve reduction provided a hardship is proven and buffer is not reduced to less than 40')
4. No development will occur within 100' of the current Highway 64 right-of-way line.

Planning Board and staff recommend approval with conditions:

Planning Board:

- 1) New RCA easement be vegetated like the RCA already shown on the plans
- 2) Wall pack lighting fixtures be 100 watt
- 3) Letter of Map Amendment be issued by FEMA prior to construction plan approval
- 4) Metal awnings be removed and replaced with triangular overhangs as presented in revised building elevations
- 5) Demonstration of hardship for buffer reduction be acceptable to BOC

Planning Staff:

1. Awnings be replaced with architectural feature that highlights entrances at the north and west elevations and breaks up straight line of flat roof in order to comply with Article 9 of UDO
2. BOC agrees to reduction of 100' highway buffer
3. Letter of Map Amendment be issued to applicant and provided to Town prior to construction plan approval
4. Wattage shown for wall pack lights be changed to 100 watts
5. Planting plan for RCA conservation easement be provided similar to RCA on subject property.

Applicant has agreed to all conditions.

Commissioner Jensen asked the plan for storm water. Staff response was: It will discharge into RCA buffer and sheet flow into vegetated area and into Beaver Creek. Commissioner Hilt noted location of the property is outside the protected area and asked if staff had encouraged storm water protection. Staff had encouraged it, but it can't be required. Building elevations were shown and the direction buildings would be faced.

Mayor Weatherly reminded the Board of their authority to grant a buffer reduction from 100' to 40', with the 30' easement not being counted as part of the buffer. Khin noted the easement would be planted with no more than grass to allow for maintenance of the line. Landscape is extensive, meeting all UDO requirements (former driving range).

Commissioner Jensen asked how does the Board determines hardship considering the size of buffer. Attorney Fordham advised the same standard for hardship would be based on findings of the entire site and the easement could be considered (G.S. 160A-388 Variance Standard).

Commissioner Hilt noted the plan meets the RCA requirement with the amount of open space and preservation; not disturbing the 100' as 30' is already disturbed with the easement. Commissioner Jensen asked clarification of the RCA. Khin noted application is required to provide 40% (maximum) of the property in buffers and RCA. The utility and greenway easement runs through the property and will utilize meadow option for RCA in this area.



**Action:** Motion by Commissioner Jones and second by Commissioner Meckes to approve the site plan with the conditions as noted and approving the hardship of an existing public sewer main with a 30' easement crossing through the middle of the required buffer area in the 100' buffer. Commissioner Jensen didn't agree with this being a hardship. Vote on the motion: 4 in favor and 1 in opposition (Commissioner Jensen being opposed).

**End of New Business # 2**

**New Business Item # 3 – NC55 Corridor Plan**

**Director of Planning – David Rowland**

Possible motion concerning appointment and confirmation of NC55 Corridor Plan Steering Committee (Planning Staff assisted the Mayor in contacting the persons).

Mayor Weatherly recommended appointments to serve on the committee made up of interested residents, business owners, property owners, developers and other citizens to participate in the process of the development of the corridor plan.

Agreeing to serve:

Commissioner Chris Hilt – Board of Commissioners

Louis Iannone – Planning Board

Mark Shank – Appearance Commission

Daylene Page – citizen living in corridor

Michael Donaldson – citizen living in corridor

Commissioner Doug Meckes – business owner in corridor

Brad Holland – business owner in corridor

Blair Booth – developer in corridor (Summit properties)

Nancy Gustke – citizen

Joe Milazzo – citizen

Cat Kearns and Cheryl Bynum – Chamber of Commerce, and

Preston Baker – citizen living in corridor (Feltsville Community).

**Action:** Motion by Commissioner Grimes and second by Commissioner Jones to approve the committee appointments as recommended by the Mayor. Motion carried.

**End of New Business # 3**

**New Business Item # 4 – Recommendation for Appointments to the Apex Appearance Commission**

**Mayor Weatherly**

Mayor Weatherly recommended the following appointments to the Apex Appearance Commission; possible motion regarding same.

Bailain Li, Ph.D. – 1008 E. St. Helena Place (Buckingham) for a 3 year term expiring on 10/15/2004.

Janice Feldmann, 1705 Walden meadow Drive (Walden Creek) for a 3-year term expiring on 10/15/2004.

**Action:** Motion by Commissioner Grimes and second by Commissioner Meckes to approve the appointments. Motion carried.

**End of New Business # 4**





## EXECUTIVE SESSION

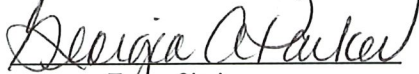
**Action:** Motion by Commissioner Jones and second by Commissioner Grimes to hold executive session at 8:45 p.m. to discuss personnel. Motion carried. Minutes of Executive Session are recorded separately. Board moved back into open session at 9:09 p.m. With the meeting being back into open session:

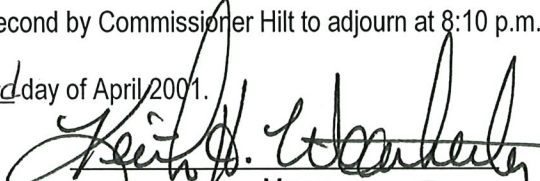
**Action:** Motion by Commissioner Grimes and second by Commissioner Meckes to retain Springsted Inc. and John Maxwell for professional services at a cost of \$12,000 plus expenses to conduct an executive search for a Manager. Motion carried.

## ADJOURNMENT

**Action:** Motion by Commissioner Jones and second by Commissioner Hilt to adjourn at 8:10 p.m. Motion carried.

The above minutes were approved on the 3rd day of April 2001.

  
Town Clerk

  
Mayor

# TOWN OF APEX BOARD OF COMMISSIONERS'

Minutes of April 3, 2001

Mayor: Keith H. Weatherly



Website: [www.apexnc.org](http://www.apexnc.org)

Commissioners:  
Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Mayor Weatherly called the regular meeting of the Town of Apex Board of Commissioners to order on Tuesday, April 3, 2001, 7:00 p.m. in the Apex Town Hall, 205 Saunders Street. Commissioners Jensen, Meckes, Jones, Grimes and Hilt were present.

Prayer by Commissioner Grimes.  
Pledge of Allegiance led by Scout from Troop # 226.  
Welcome by Mayor Weatherly.

## CONSENT AGENDA

Mayor Weatherly presented the consent agenda to be set and asked for a call for action. Motion by Commissioner Meckes and second by Commissioner Grimes to approve the consent agenda. Motion carried.

1. Minutes of March 20, 2001 Board of Commissioners meeting.
2. Minutes of the March 20, 2001 Executive Session (separate cover).
3. Minutes of the March 26, 2001 Personnel Committee Meeting.
4. Resolution to Amend the Thoroughfare Plan Extension in Southern Section of Apex.
5. Appointment and confirmation of Dorothy Hicks, 1725 E. Williams Street to the NC55 Corridor Plan Steering Committee (replacing Preston Baker).
6. Policy revision - Safety Policy and Incentive Program (recommended by Personnel Committee).

End of Consent Agenda

## REGULAR MEETING AGENDA

Mayor Weatherly presented the regular meeting agenda to be set. The agenda was set as printed.





## PUBLIC HEARINGS

### PUBLIC HEARING # 1 - GROWTH MANAGEMENT PLAN

#### **Director of Planning - David Rowland**

Continuation of public hearing regarding Growth Management Plan (GMP); possible motion regarding plan.

Matt Goebel, Clarion, noted this a continuation of the 03/06/2001 public hearing, and gave a brief summary of the GMP (Rate/Timing of Growth, Location of Growth, Amount and Density of Growth, Cost of Growth, Quality of Growth, and Plan Implementation). Key recommendations of the GMP: a long term 4% growth rate (after 2003); identified growth boundary; growth rate cap results in ultimate build out population of 40,000 (one-half the 98,000 estimate projected); and permanent policies and regulations to ensure development does not outpace Town's ability to provide services and infrastructure for a high quality of life (permanent wastewater treatment plant – maps to protect environmental resources).

Staff recommendations to implement plan with Clarion agreeing:

- 1) 2020 Comprehensive Land Use Plan and Maps (current plan doesn't address growth).
- 2) Proactive rezoning to implement GMP and 2020 Comprehensive Plan (growth boundary should be codified, and assure tools are in place to implement the boundary successfully).
- 3) Involuntary annexations (doughnut holes – close to increase tax base and efficiency of providing services).
- 4) Capital Improvements Plan (encourage growth in appropriate places – extend water/sewer and not extend services we don't have too to areas that are not a part of the plan).
- 5) Creation of point rating system for residential development (i.e. – Beauty Contest) – 4% cap on building permits per year and need to implement the rate by scoring development proposals to a degree in which they meet the needs of the town ).
- 6) Identification and mapping of stream corridors, or other environmentally sensitive areas to be protected (subset of the land use plan).
- 7) Creation of identifiable gateways into Town (towns are growing together – community separators – ex: North Salem Street Plan).

This ended the presentation.

Mayor Weatherly continued the public hearing at 7:15 p.m. With no one speaking, the hearing was closed.

Board asked questions and discussed the following.

Commissioner Meckes asked with a point rating system, and the Town having a 4% growth rate – 400 units a year to assure the best use – what kind of mechanism, how should a project be deemed un-acceptable due to criteria even though it conforms to the zoning, etc, but could still be rejected based on basis of beauty points?



Goebel advised this is an allocation system for issuing development permits, with a beauty contest being one type of system with other types being lottery or first come first serve or a point system, and how well it meets criteria. The choice would be up to the Board as how the questions are answered. The system has to be rational in North Carolina, with the Board having complete freedom to structure the system anyway it wants (could establish a threshold – meeting certain criteria in housing, density and mixed use) or (could not have a threshold and how well they meet other criteria – staff would identify all categories that are important and come up with rankings to assign points to each of the criteria and development and applying once yearly).

Commissioner Meckes didn't want to squander on run-of-the-mill development, but encourage trackside and development of downtown and fearful all permits would be used up and something unique comes in and where are "we".

Goebel noted flexibility of the systems allows setting aside a number of permits in a special pool at the end of the year for any special projects not anticipated. Board could return every year and re-assign points to assure what the Board wants.

Commissioner Meckes noted this should be a staff goal before 2003 to establish criteria, so when the Board enters into consideration of new development, then plans would be set. Goebel urges keeping in mind the lottery system and the first come first serve system as alternatives, and where criteria has to be met. He advised in all situations where staff has tried to do points, it gets and was complex very fast.

Mayor Weatherly desires built in flexibility as run-of-mill may not meet standards and could wait for the good project – he didn't know what the law says about establishing a 4% growth rate and end up not approving anything, but there should be built in flexibility. He noted impacts from neighboring communities and that the residential growth of Cary would make insignificant anything of the growth control of 4% - it would be more than Apex, Holly Springs, or Morrisville – you're talking a number of years.

Commissioner Meckes noted the base is significantly different from ours and even low percentage still means high numbers. Mayor Weatherly noted their children come to Apex to school and drive on the same roads of the Apex citizens.

Commissioner Meckes continued when getting close to 40,000 population of 2006/7 and trackside comes together and we have a mixed use community that could bring in additional 4000 population, we would have a mechanism for bringing to this community such a unique project – none of this is cast in stone – future boards are flexible to make it should they want too? Goebel noted "a lot of meat in the plan, but no teeth"; with the document not being set in stone. He continued there's flexibility in the tools adopted to implement the plan. Either the long-term point rating system or allocation system there's flexibility and it can be tinkered with every year. It could be set up for a number of years and die off if not reorganized.

Commissioner Grimes noted some inconsistencies – guiding principles vs. concrete plans – for instance, the Board talked about and probably did endorse the idea of doing a temporary wastewater arrangement with Cary at their south Cary station, but whether it's realistic or not – we may or may not want to do that – we may or may not be able to do that if we want to. We may have other opportunities to make other arrangements for those resources. It's true we probably did "endorse" that idea at that time, February of 2000, but it could be there will be several other options that we may prefer to do as time goes on. He wouldn't want to say he was endorsing that and excluding other possibilities. Also, Commissioner Grimes noted the section on insuring adequate school facilities – talking about Cary's adequate public facilities ordinance. He advised the Board did talk about it as a growth management device or plan that was potentially usable – but he recollects discussion at the retreat that it was the recommendation from Clarion (colleague) that this would not be a good idea for Apex – because it was difficult to administer; that perhaps it was not well adapted to our particular circumstances. He thought the decision was not to do this or at least not in the form discussed or that Cary was trying to implement.





Goebel noted these two examples, specific in the plan; Board might be happier if they are not in the plan. This is a new type plan for Clarion and he hasn't seen any other like it in the country. They were trying to walk a fine line when producing this plan between being general enough that it would still be applicable a year after that meeting and also providing specifics that actually try to show what they are talking about in general terms. It was hard for them to talk about temporary tools and policies to address the rates and time of development without talking about (ex. working with Cary on the temporary wastewater treatment plant). They had tried to be general enough for long-term applicability and be specific enough to know what was being talked about. It may be at this point, that the Board is comfortable with the general framework and go back and clean up the specific tools that may no longer be applicable.

Mayor Weatherly suggests some of the document, as far as a working document, would be a guide set out and a good philosophy, but when getting to specifics, may need some work for him to be comfortable with and some specifics not to be tied too. With several of those he feels the plan needs some work before adoption and should incorporate some of the issues addressed by the Planning Board. He noted the issues were listed, but no elaboration or attempt to incorporate them. He asked Director of Planning if there had been any attempt to incorporate those. Director of Planning noted the recommendations came from review and rearranging the plan, but Planning Board comments could be incorporated. Mayor Weatherly felt this was a document that would stand the test and second to no other jurisdiction he was aware of as far as visionary planning and would endorse it. He asked if Cary had adopted a formal growth management plan and has a force of law? He had heard contradictory things about what they are dealing with but was unaware they had anything specific.

Gobel advised they do have a growth management plan but it does not have a force of law as of yet. Clarion is doing a rewrite of their UDO and some of their criteria. There's no set growth boundary, nor a percent of growth. He advised the Apex plan is more concrete. He noted Cary was proud of their plan, that follows the same five part approach but much more conceptual than the Apex plan. Apex plan addresses some hard issues (growth boundary and exact percentage). Cary needs their plan to help get a handle on their fourteen or fifteen projects going on. They need a conceptual document to see if everything they were doing was consistent with their long-term vision. He advised they are looking at a point rating system, and he is meeting with them tomorrow - they may or may not go through with it. They have three new growth management planners on staff and still think it may be too complex. Mayor Weatherly asked if they were beating around a percentage? Goebel advised it seems to change!

Commissioner Jensen noted some projects had been on going for four years and they were trying to manage things they didn't create themselves. Goebel advised the mechanics in dealing with the multi-year projects are giving them headaches. Commissioner Jensen could see it may be realistic to tie in with Cary but doesn't think it needs to be in the plan - it's a mechanism to get to what the plan holds. He continued the adequate public school facilities aspect that Cary has is that the percentages overload the schools and is really high. He's not sure they have kicked in yet for any specific project. It seems to him for protection for the citizen's children that are already here, that even if it's a high percentage, it's not a bad idea to have that in this plan.

Commissioner Grimes felt it could be a part of a point system in terms of desirability - what kind of things are you willing and able to do to mitigate that problem and transportation as well - it could be easily be a part of a grading system. Particularly if someone came along and wanted to develop something outside of our designated boundaries. It wouldn't have to be a real showcase for us to change the growth management plan to something like this. He doesn't see it as being an absolute good - a stand-alone device.

Commissioner Jensen could see it as a capping device if the schools got up to 40% more over capacity and meant that the children living there in the houses that are already built five years ago are going to be bused across town because of that. He thinks we have a responsibility to our citizens to put a cap of some sort on an area like this rather than bring more kids in.





Mayor Weatherly responded the problem is the school board doesn't care about a municipal jurisdiction. They think if there's an empty seat in the county then there's capacity and those buses will continue to take our school children to schools wherever they happen to be. The school board doesn't care about municipalities and what our planning is. They have a capacity that suits the county, not Apex, not Cary, not Western Wake, its county capacity and that's the problem. If they ever become reasonable about allowing our children to go to area schools or community schools, then we could talk about it, but until that day comes.... Commissioner Jensen interjected but at the same time we could help ourselves by looking at the over crowded areas to try to prevent busing out. He understands what is being said, but on the other hand, the school board is dealing with a situation where we have had phenomenal growth in this area and they are trying to manage the schools they have, where there is capacity in a school to bus the kids across and he could understand this. But, we as the town overload the schools by not capping at a certain percentage, then he doesn't think we are doing our own folks any good at all and he thinks we can elevate the problems for our own folks, so be it that the growth goes somewhere else, but the people that are here will have a quality of life that they wouldn't have if we don't cap.

Mayor Weatherly continued that this is why we are doing a growth management plan – we want to do those things. To say to tie any decision into the capacity of schools for Apex children can go to Apex schools will never be the case as long as the philosophy of the current Wake County School Board exists, that is not in their thinking, they are not concerned with Apex children going to Apex schools, that's not a consideration when they do the assignment plan, he doesn't believe. He feels we need to work towards managing our growth and be responsible for our community, but is saying the connection of school capacity and school assignment – Commissioner Jensen interjected, he did not see a total disconnect by any means, because if we overload a school, it would be an automatic that the kids from this school will be bused some place else. He thinks somehow we have to come to an understanding of how bad it will be in this area before we cap and work with the school board the best we can. They are under-funded, as we all know, and they are doing the best they can, in his opinion, to satisfy the school situation and we need to help them out the best we can also.

Commissioner Grimes thinks the growth rate of 4% after 2003 will control our growth to the point we can actually probably respond to those needs.

Commissioner Hilt felt it would help the school system to project those – the system can't project 90% growth in Apex and four years later plan for it – we are doing a lot just by projecting. She continued we have been in a fest situation for so long, that we've forgotten what famine is. With a new Town Manager coming in soon, the worst thing we could do is tie the Finance Director and the Town Manager into a recession having a loss of revenue, where we come into a year and actually having people leave this community and totally tie down a 4% each year, we don't allow the growth when we're coming out of a recession, that we could literally be a 0% and she hates to think about that but it's happened in other communities and the worst things we could do is look at ways to cut money. Imagine a future board going to all the voters and saying there's going to be a tax increase and it's going to be significant. She thinks we need to deal with this reality as well and is the need for flexibility in her opinion.

Commissioner Jensen felt proper growth management and cutting the growth rate down to 4% - he doesn't know how we're going to do it gently, since we're running at 14% or 15% now. He feels we're somewhat forced into it because of wastewater facilities depending on what happens. He noted the last year of the wastewater plan would be at 6% assuming it makes it to that. Then, we would step into 4%. His personal concern is with Construction Management people, if we don't have the business for them to do, then we're either going to have to look at attrition hopefully, layoffs or bring in more taxes to support them. He thinks it would be good if our commercial section picked up and brings in jobs for the people here, if we could do that, get smart and work on it through this plan as well. He would like to see it go down to the lower average and agrees to being able to manage the 4% plus or minus, if we are truly going to grow down, or slow down at 40,000, we don't want to have a 4% each year which is compound interest in effect so that by the end, instead of doing of 400 or 500 units we are doing 700 or 800 units and then off it goes, that's the worst thing we could do. He thinks towards the end, we need to manipulate this or another board, unfortunately for them, so we taper off, that's critical, we don't want a crash cycle. He continued its been looked at by the Planning Board but feels we could look at mechanisms to do this.





Commissioner Jones felt looking at mechanisms at this point and deciding what they are and how they are to be applied is a bit premature. Commissioner Jensen agreed he was talking ahead. Commissioner Jones continued you have to take into consideration other boards and what happens between now and four or five years from now. Commissioner Jensen added we don't know what the economy will do.

The Mayor asked Director of Planning what he would do if he were going to massage this plan and bring back a document, not a great amount of work, but what would be the task, for a full board or a planning committee, or something. Director of Planning noted he would continue to work with Clarion (Goebel) to take out some specifics that were suggested and incorporate some of the Planning Board comments. Commissioner Jones would like to see evidence that he has taken a look at the Planning Board recommendations and know that due diligence has been done to address those.

Mayor Weatherly continued this is a vision for growth management of Apex, a philosophical concept of a vision and specific ordinances could change and to be premature on this, and when getting down to the actual ordinance could be inconsistent with what's here and there are several instances where we would end up needing. Director of Planning indicated another draft would be presented to the board for review.

Town Manager Sutton stated Goebel was not privileged to the Retreat, where the no-growth scenario was examined that would occur after 2003 unless there is additional wastewater treatment, the only solution would be 0% growth and the Board agreed unanimously that 0% growth was a bad thing – and you wouldn't need a growth management plan. To implement this, he added, we are trying to get an interim solution, one of those is cooperation with Cary, unless someone has the clout to persuade the State of North Carolina to allow us to do something, so far no one has. He considers it a serious problem if we want to continue any type growth after 2003.

Commissioner Grimes felt it far to say, we want to continue to explore all means, by which we can reduce our short-term demand on wastewater treatment capacity. Commissioner Meckes asked that given all this information on growth cap and boundary, does anyone ever go to 0% growth? Goebel responded "no" it's a mistake for the reasons already discussed. Commissioner Meckes continued that everything he sees today is a direct response for everything that has come to pass over the previous five years and at 2005 we may face a totally different situation, no one ever wants to go to 0% growth, there always has to be something if that's the case, you want need a board anymore...Goebel interjected, you would be spending all you money on attorney fees.

Commissioner Jensen added you can define growth in two different ways, growth in quantity and growth in quality; you can in terms of population go to 0% growth in population and continue to grow in quality. He agrees you don't want to go to 0% growth, but you can address the allowances for the population you have at hand. He feels this is a great opportunity to grow in quality when you slow down and improve rather than add too. He thinks this is important.

Commissioner Meckes added you are faced with significant tax burdens for everyone because that's the only way to grown in quality with a finite population is a significant tax increase. Commissioner Jensen added to grow in quality, is more quality employment, etc. and when this comes to an end especially since we've grown so fast, he hates to say it, but probably will end up in a tax increase. He doesn't want to see it, but on the other hand, he looks at it as buying quality. Commissioner Meckes added with no place to live, you're not going to bring in significant employment to the area. It just doesn't work that way. Commissioner Jensen continued but now we have a whole bunch of people who get out on NC55 and drive, and if we can adjust our structure here so we can have home-based employment then that's growth in quality.

Mayor Weatherly indicated the Board would wait for further enhancements of the plan for review.

**End of public hearing #1**



## OLD BUSINESS

THERE WERE NO OLD BUSINESS ITEMS TO BE CONSIDERED.

## PUBLIC COMMENT

Public comment is welcome. Anyone may address the Board concerning any item.  
Mayor Weatherly will recognize those wishing to speak at the appropriate time.  
We ask that you limit your comments to 3 minutes to allow others to speak.

Herman Jaffee spoke on the future of the Town of Apex and its impact fees increase as being a one-time shot. He asked the Board look at the ten-year fee schedule of Cary. He asked reconsideration of the fees that would be a cost savings of over \$500,000. He doesn't think there's a need for a consultant, the Board should take action on the proposal.

End of public comment

## NEW BUSINESS

### New Business Item # 1 – Animal Control Ordinance

#### Chief of Police Ronald Hearn

Discussion and possible motion to amend Town's Animal Control Ordinance which deals with animals under restraint, add new language which regulates length of leashes, and adoption of an ordinance which prevents owners or possessors of any animals to allow such animal to defecate upon private property of another, public park property, or public right-of-way.

Chief Hearn presented an animal control ordinance that deals with animals under restraint, regulating length of leashes (not to exceed 10 feet) and prevention of owners or possessors of any animal to allow defecation upon private property of another or public park property, or any public right-of-way. This ordinance is a response to citizen complaints (dogs in park – bitten people, fight with other animals, etc). This would be in addition to the adopted Wake County Animal Control Ordinance in that it would more effectively serve the public interest. Cary has adopted a similar ordinance and has had good results. News media, local veterinarian, and town parks newsletter. Discussion continued regarding dispenser bags at park trails with trash receptacles. Public hearing is not required for a police general powers ordinance but must be passed by a three-fourths vote on a first time showing. Motion made by Commissioner Meckes and second by Commissioner Jones to approve both ordinances. Motion carried.

End of New Business #1



**New Business Item # 2 – Street Parking****Chief of Police Ronald Hearn**

Discussion and possible motion to limit the time any motorist is permitted to park a vehicle on streets marked for parking by lines indicating parking spaces.

Chief Hearn presented an ordinance that would limit time any motorist parked a vehicle on streets marked for parking. This is in response to complaints where vehicles have parked for an extended period of time on Salem Street in front of the retail businesses. Once there is a posted notice of violation the vehicle may be moved only one space that prevents them from being in violation of an abandoned vehicle (left for longer than 7 days). Police have talked with parties involved to solve the problem but has not been resolved. There are no 2-hour parking enforcements on Salem (merchants are not in favor of the 2 hour parking limit). Most downtown business owners and workers park elsewhere leaving street parking for customers. Attorney Fordham recommends and supports the ordinance.

Mayor Weatherly noted there are some 2 hours parking at the Library, Chatham and Salem to NC55 and this was discussed at the Economic Development meeting. Business owners work with the use of the Depot parking lot; don't want to run customers away but will enforce the 2 hours parking if need too.

Public speakers:

Tim Carley, Carley's Restaurant, noted the number of parking spaces on Salem; that merchants need the space; before issuing 2 hour parking recommends looking at the entire parking issue to ease the problem – consider 4 hour parking vs. 2 hours; some merchants have no where to park (2<sup>nd</sup> floor); feels the 2 hour parking from Chatham to NC55 is necessary.

Attorney Fordham briefed regarding the parking use was that it was being used to store vehicles for longer periods of time with the ordinance preventing parking for over 8 hours (vehicles do not belong to the merchants). It is possible to consider escalation of fines (court cost is now \$90).

Use of the church citizens on bible study night indicates there is parking in the rear of their building and possible to ask them to park there vs. Salem Street, even Chatham Street seems flooded with vehicles. It was suggested a reminder would be appropriate to park in the church lot vs. the streets.

Town Manager Sutton noted the upper lot of the Police Building (205 Saunders Street) would be used for public parking and suggested possibly the merchants in the upper offices could use the upper lot – suggestion was possible issuance of parking passes to assure a space. Attorney Fordham didn't know the answer to this but could look into it.

Mayor Weatherly noted this ordinance addresses an issue presented but doesn't preclude other issues that should be addressed. Commissioner Meckes volunteered to work with the downtown merchants and others on the parking issue. Susan LoPresti asked the parking not be changed in the depot lot. Meetings at night occupy those spaces and it is possible to issue parking cards for meeting attendees during the daytime.

Bill O'neal, Fine Wines, suggested the 2-hour parking limit on business district from Center to Chatham Street was suggested to be one hour posted.

Motion by Commissioner Grimes and second by Commissioner Meckes to approve the parking ordinance addressing the limit of duration of parking in spaces marked with lines. Motion carried.

**End of New Business # 2**



**New Business Item # 3 – Personnel Committee**

**Personnel Committee - Chairman Meckes**

Possible motion to approve Personnel Committee recommendations.

Commissioner Meckes, Chair of the Personnel Committee, noted the meeting of March 26, 2001 to discuss staff recommendations relating to classification pay and benefits for employees and recommended the following:

- \* Adopt Attachment C - Position Classification System w/supporting documents effective July 1, 2001 (FY01-02).
- \* Increase in Tuition Assistance Program from \$350 to \$750.
- \* Subsidize dependent health care insurance costs at the rate of \$25 per month.

Motion by Commissioner Meckes and second by Commissioner Jones to approve the committee recommendations. Motion carried.

**End of New Business # 3**

**EXECUTIVE SESSION**

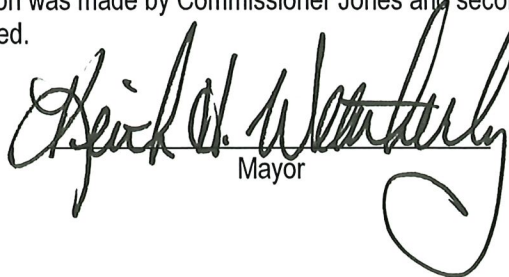
**Possible motion to hold executive session to discuss litigation.**

Motion by Commissioner Grimes and second by Commissioner Hilt to enter into executive session at 8:30 p.m. Motion carried. Minutes of executive session are recorded separately. Motion by Commissioner Jones and second by Commissioner Grimes to go back into regular session at 8:54 p.m. Motion carried.

**ADJOURNMENT**

With no further business to come before the Board, a motion was made by Commissioner Jones and second by Commissioner Grimes to adjourn at 8:55 p.m. Motion carried.

  
Town Clerk 4/3/2001

  
Mayor



# TOWN OF APEX BOARD OF COMMISSIONERS'

Minutes of April 17, 2001

Mayor: Keith H. Weatherly



Website: [www.apexnc.org](http://www.apexnc.org)

Commissioners:  
Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Mayor Weatherly called the regular meeting of the Town of Apex Board of Commissioners to order Tuesday, April 17, 2001, at 7:00 p.m. in the Apex Town Hall, 205 Saunders Street. Commissioners Jensen, Meckes, Jones, Grimes and Hilt were present.

Prayer by Commissioner Hilt  
Pledge of Allegiance  
Welcome by Mayor Weatherly

## CONSENT AGENDA

Mayor Weatherly presented the consent agenda to be set and asked for a call for action.

**Action:** Motion by Commissioner Hilt and second by Commissioner Jones to approve the consent agenda as presented. Motion carried.

1. Minutes of April 3, 2001 Board of Commissioners meeting.
  2. Minutes of the April 3, 2001 Executive Session (separate cover).
  3. Minutes of the April 5, 2001 Building Committee Meeting.
  - \* 4. Site plan – PSNC Regional Operations Center, North side Schieffelin Road
  - \* 5. Site plan – Childtime Childcare, 903 Olive Chapel Road
  6. Corridor Study along North Salem Street from Hunter Street to just beyond US64 Intersection.
  7. Wake County Tax Report.
- Items #4 and #5 were recommended unanimously by the Planning Board.

End of Consent Agenda

## REGULAR MEETING AGENDA

Mayor Weatherly presented the regular meeting agenda to be set. He asked to amend the agenda by adding executive session to receive legal advice from the Town Attorney and asked it be held prior to the public hearings.

**Action:** Motion by Commissioner Jones and second by Commissioner /Grimes to amend the agenda and it be set as amended. Motion carried.



## EXECUTIVE SESSION

**Action:** Motion by Commissioner Grimes and second by Commissioner Meckes to enter into executive session at 7:05 p.m. Motion carried. Minutes of the executive session are recorded separately.

**Action:** Motion by Commissioner Grimes and second by Commissioner Hilt to go back into open session at 7:25 p.m. Motion carried.

## PUBLIC HEARINGS

### PUBLIC HEARING # 1 - Unified Development Ordinance

#### Director of Planning

Public hearing regarding Amendments to Certain Sections of the Unified Development Ordinance; possible motion to approve amendments.

Dianne Khin, Planner, presented amendments to certain sections of the UDO: Article 2 (Table 2.3.1; Section 2.3.6(D)(1)(b); Section 2.3.6(D)(1)(c) and Section 2.3.15). Article 4 (Section 4.2.2 "Use Table") Article 5 (Section 5.1.1); Article 7 (Section 7.5.14 and 7.5.15); Article 8 Sections 8.1.2; Section 8.1.3(B)(4); Section 8.2.6(B)(4)) and Article 12 (Section 12.2).

Planning staff recommends approval with one revision; a cross-reference regarding Section 8.1.3(B)(4) was added to Section 2.3.15(C)(1). Planning Board reviewed the proposed amendments (with revision) at their April 9, 2001 meeting and unanimously recommends approval of the amendments with the following item of discussion: (Staff report is attached and incorporated as part of the minutes).

1. For Section 2.3.15 (C) (2) "Exemptions" there should be a time frame prohibiting the submission of a subdivision or development application for properties zoned for single-family or duplex residential uses, or where single-family or duplex residential uses already exist, and trees are cleared. Suggested time frame is 24 to 48 months.

Staff agrees this provision would help identify the time frame when the clear cutting of trees is considered "to facilitate development".

Section 2.3.15(C)(2) could be amended to read:

2) Tree removal activities which are not conducted to facilitate development and which occur on property zoned for single-family or duplex residential uses or where single-family or duplex residential uses already exist. However if a Tree Removal and Non-Structural Development Permit are not issued, no subdivision or development application shall be accepted for 48 months from the date the removal activities are complete.

Mayor Weatherly opened the public hearing at 7:35 p.m. No one spoke regarding the amendments. The hearing was closed at 7:35 p.m.

Mayor Weatherly commented on protection of the integrity of the ordinance concerning submittal of site plans and developer not wanting to work around the vegetation. Commissioner Meckes clarified the 4-year wait and with a permit there is no waiting period (requires tree survey and if criteria is met, staff gives approval). Commissioner Jensen felt notification should be given prior to clear cutting. Mayor Weatherly commented change of ownership caught some without knowing; could advertise. Director of Planning advised the Forestry map would pinpoint those areas with Mayor Weatherly agreeing to notification. Commissioner Jones noted this is for future tree removal and doesn't apply to prior removal. **Action:** Motion by Commissioner Jensen and second by Commissioner Meckes to approve the amendments to the UDO as noted. Motion carried. **End of public hearing #1**





Public hearings continued

**PUBLIC HEARING # 2 - Archstone Olde Apex**

**Director of Planning**

Public hearing regarding Case #01RZ01 Archstone Olde Apex seeking to rezone from Planned Commercial (PC) to High Density Residential (HD) off NC55 between Jenks Road and US64; possible motion regarding same.

Director of Planning noted the location of the property with the current zoning as Planned Commercial and the existing Archstone Apartments. The UDO makes this parcel non-conforming by removing the "Pyramid" zoning from commercial zoning district (commercial permitted everything in O&I which permitted everything in R4 which permitted apartments). The request for high-density residential, reflects the actual use of the property and makes it a conforming use under the UDO. It is in the public interest to rezone to high density residential and amend the Land Use Plan: 1) current multi-family is non-conforming and 2) as currently zoned, should any buildings become damaged or destroyed, they cannot be rebuilt under the current ordinance).

Staff and Planning Board recommends rezoning request.

Mayor Weatherly opened the public hearing at 7:45 p.m.

David Permar, Hatch, Little and Bunn, represents Archstone (multi-family communities), noting the property more valuable as multi-family and that Archstone had purchased the property about one and one-half years ago. Adoption of the UDO didn't allow residential in planned commercial and as non-conforming use, creates problems regarding financing, as he could not get a zoning compliance letter. Recommends rezoning as outlined by staff.

The hearing was closed at 7:49 p.m.

**Action:** Motion by Commissioner Hilt and second by Commissioner Jones to approve the rezoning as requested. Motion carried.

**End of public hearing #2**

**OLD BUSINESS**

THERE WERE NO OLD BUSINESS ITEMS TO BE CONSIDERED.

**PUBLIC COMMENT**

Public comment is welcome. Anyone may address the Board concerning any item.  
Mayor Weatherly will recognize those wishing to speak at the appropriate time.  
We ask that you limit your comments to 3 minutes to allow others to speak.

No one spoke during public comment.



## NEW BUSINESS

### New Business Item # 1 – 3rd Quarter Financial Summary

#### Director of Finance – Lee Smiley

Review of the 3rd Quarter FY00-01 Financial Summary. The benchmark for 3rd quarter financial performance is 75% for revenues and expenditures. Significant variances are noted and attached. Revenues: Town received 95% property tax and has exceeded budget. County letter of estimate for taxes and used in budget missed target due to revaluation (too conservative). Sales tax meets budget. State holds budgeted intergovernmental funds (\$150,000) – June. Permits are behind. Interest rates are up (more than expected). Expenditures: Not much money has been spent in Planning and Public Buildings. Sanitation is a washout. Recreation Bond payments are on tract.

Commissioner Jensen clarified vacancies and hire is on hold for Construction Management – confirmed by Kent Jackson, Director of Construction Management.

Electric Fund: Sales meets budget (interest revenues are ahead of budget). Expenditures: Purchases for resale are good. Line truck has not arrived.

Water/Sewer: Revenues meet budget. Cost of water is lower but will pick up. Middle Creek pump station is on hold and money has not been spent (\$350,000 to \$400,000). End of summary.

#### End of New Business #1

### New Business Item # 2 – CSX Agreement for Railway Crossings

#### Town Manager – Bill Sutton

Discussion regarding Agreement between Town of Apex and CSX Transportation, Inc. for installing two new railway crossings on Hunter Street, Apex Town Campus; possible motion to approve.

Manager Sutton advised with the increase in traffic the tracks as they exist are getting worse. Town has worked with CSX to fix the tracks and even offered to pay costs for the past two years. A contract to replace the crossing with new concrete crossings would greatly improve the tracks to the Town Campus (73 Hunter Street) estimated cost is \$306,000 and would replace both sets of tracks. Cost exceeds anticipated amount, but CSX would provide all materials, labor and equipment to complete the project. Installation would follow after approval of the agreement. Manager recommends approval. Commissioner Jensen commented on the safety issue. Manager Sutton commented there had been citizen complaints regarding vehicles being out of line with Commissioner Hilt agreeing, and would improve the quality. (Cary tracks are of solid rubber – top of the line model). Manager Sutton commented to Commissioner Jensen it is the town's responsibility as Hunter Street is Town road. Commissioner Jensen felt this was a great deal of money and could have been used for other projects (i.e. Waterford Green). Commissioner Jones commented on maybe Peakway section completion. He asked how long the road would be closed. Jackson commented on the Cary project and would like to have them here next but there time was two weeks but could be compounded for us and would be a detour situation. Commissioner Hilt felt the cost was "highway robbery", but Town has no choice with Commissioner Jones agreeing. Commissioner Meckes noted the money spent for a nice Town Campus and Community Center and felt replacement of the tracks would enhance the area. Commissioner Grimes noted it worthy.





New Business continued

**Action:** Motion by Commissioner Meckes and second by Commissioner Grimes to approve the Agreement with CSX. Commissioner Jensen felt other areas needing improvements were more important. Commissioner Hilt felt the Town was being robbed, "point in principal". Manager Sutton noted no alternative since CSX does the work. Commissioner Grimes noted the contract only states project would be completed in a reasonable time. Jackson noted it a painful process to deal with CSX. Commissioner Meckes commented if done at a later date, cost would be more. Commissioner Jensen wished to pursue a safety issue. Commissioner Grimes felt the cost stinks, but would vote for it, as it was long lasting. Vote on the motion was 3 in favor and 2 opposed with Commissioners Jensen and Hilt voting no. Motion carried.

#### End of New Business #2

#### New Business Item # 3 – Chatham County Raw Water Intake Use Agreement

**Director of Public Works – Tim Donnelly** (recommends approval)

Discussion and possible motion to approve the Chatham County Raw Water Intake Use Agreement.

Donnelly gave a brief History of Chatham County water situation, where Chatham County Plant utilizes existing Cary/Apex raw water intake and raw water pumping station for supply and would like to build their own raw water pumping station and reserve 10 million gallons per day (MGD) of the 50 MGD capacity of the existing intake. Agreement would provide for this request, as well as compensation for Cary and Apex, renewal terms, operational protocols and expansion rights (correction to paragraph 9 presented). Public Works and Utilities recommend approval.

Mayor Weatherly commented on the initial permit, which didn't include a provision to allow others to use the intake with the original intent to be regional intake when approved. Manager Sutton was in agreement with the terms.

**Action:** Motion by Commissioner Jones and second by Commissioner Meckes to approve the Agreement with the modification of paragraph 9 as presented. Motion carried.

#### End of New Business # 3

#### New Business Item # 4 – Cooperative Agreement – Apex Volunteer Fire Department

**Commissioners Jones and Meckes** (recommended by Manager)

Discussion of Cooperative Agreement with Apex Volunteer Fire Department and possible motion to appoint a Contract Negotiator for the Town.

Commissioner Jones felt to come to an agreement with the AVFD; it was in the best interest to appoint a single contract negotiator for the Town. Commissioner Meckes agreeing and noting the Town is not where it should be with the volunteers nor were the volunteers with the Town. He felt it difficult to make decisions as a group and that a single representative would be best for both parties.

Commissioner Jensen asked the group meet as necessary to discuss items with the volunteers with the negotiator present. Mayor Weatherly commented this was inconsistent. Commissioner Jensen wanted investigating information such as insurance of fire requirements be shared. Attorney Fordham advised to wait and see how the process worked and see if it were productive. Commissioner Jones wanted to give the process a chance before meeting with the group. Attorney Fordham felt meeting with the group would be "counter productive". Commissioner Jensen wanted all to see presentations at the same time.



## New Business Item #4 continued

Mayor Weatherly felt there was no need for a negotiator without confidence in the person; that person would assure flow is free to reach a resolve. Commissioner Meckes noted when a consensus was reached, and then it could come back to the Board. Commissioner Jensen continued as information was gathered for the Board such as insurance, rating, etc. he wanted to see all the information and their sources. He didn't want to push this, but wanted to have all people before the Board with all the information. Attorney Fordham advised all information would be needed and the other agencies completely separate issues. Commissioner Grimes felt he was in the dark and any decision could have an irreversible impact in making the right decision. He felt information was needed and to be fully informed in making a decision and wished to get the facts as the process moves along.

**Action:** Motion by Commissioner Meckes and second by Commissioner Jones to appoint a Contract Negotiator for the Town to enter negotiations with the Apex Volunteer Fire Department to reach a mutually beneficial contract. He named Town Attorney Hank Fordham as the negotiator. Motion carried.

## End of New Business # 4

**New Business Item # 5 – Request by Commissioner Jensen****Commissioner Jensen**

Commissioner Jensen requests the following items be placed on the agenda with the following comments:

- 1) Fireplace Efficiency and Pollution Standards Ordinance (modern fire places are more for looks than a clean environment – wanted to review other town's requirements regarding efficiency).
  - 2) Impermeable Surface Fee and Environmental Protection Fund (wants staff to look at requirements and get to the source of the problems – protect greenways and property by relieving property owners of the burden and placing it on the streams).
  - 3) Traffic Impact Fee Adjustment (Cary vs. Apex – wants staff to look at the traffic issue).
- He asked to refer these items to committees for review and recommendation with staff assistance.

Mayor Weatherly recommended holding a joint Planning and Finance Committee meeting to discuss all three items.

**Action:** Motion by Commissioner Meckes and second by Commissioner Jones to hold the joint meeting as recommended. Motion carried.

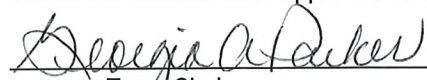
## End of New Business #5

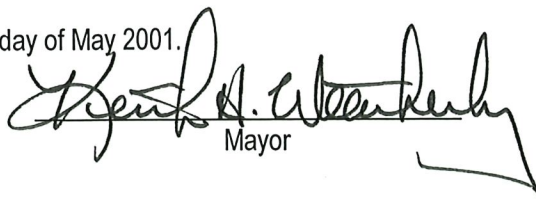
Mayor Weatherly noted this the last Board of Commissioners meeting held in the Chambers of the Apex Town Hall at 205 Saunders Street. The Building completed in 1979 will now be converted to the Apex Police Department. The May 1, 2001 Board of Commissioners meeting will be held in the Chambers of the Apex Town Campus (Town Hall) 73 Hunter Street. Dedication and Open House is planned for May 15, 2001.

**ADJOURNMENT**

With no further business to come before the Board the meeting adjourned at 8:30 p.m. with the motion by Commissioner Grimes and second by Commissioner Hilt. Motion carried.

The above minutes were approved on the 1st day of May 2001.

  
Town Clerk

  
Mayor



# TOWN OF APEX BOARD OF COMMISSIONERS'

Minutes of May 1, 2001 Meeting  
7:00 p.m.

Apex Town Campus  
73 Hunter Street



Mayor: Keith H. Weatherly

Commissioners:  
Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Website: [www.apexnc.org](http://www.apexnc.org)

Mayor Weatherly called the regular meeting of the Apex Board of Commissioners to order at 7:00 p.m. in the Apex Town Hall, 73 Hunter Street. Commissioners Jensen, Meckes, Jones, Grimes and Hilt were present.

Prayer by Phil Qualls, Pastor, Apex Baptist Church.  
Pledge of Allegiance

Mayor Weatherly welcomed those in attendance and complemented the appearance of Town Hall (Campus, 73 Hunter Street) and the service it would provide for years to come as well as the Community Center. Dedication of the Campus will be May 15, 2001, 6:30 p.m. with open house to follow until 8:00 p.m. The regular Board of Commissioners meeting will be held at 8:00 p.m.

## INTRODUCTION OF TOWN EMPLOYEES

**Parks, Recreation & Cultural Resources** – Mary Chris Griffin, Angela Cuales & Ed Keenan

**Public Works** – Larry Holland, Electric Division / Gene Martinez & Lonnie DeBois – Waste Water Treatment

**Finance** – Michelle Janek, Meter Division

## PROCLAMATION

Mayor Weatherly proclaimed "National Day of Prayer" in Apex and called on Pastor Phil Qualls, Apex Baptist Church to comment on the May 3<sup>rd</sup> event to be held at 12:00 noon, Apex Town Campus.

## CONSENT AGENDA

Mayor Weatherly presented the consent agenda to be set and asked for a call for action.

**Action:** Motion by Commissioner Meckes and second by Commissioner Jones to approve the consent agenda.  
Motion carried.

1. Minutes of April 17, 2001 Board of Commissioners meeting.
2. Minutes of April 17, 2001 Executive Session (separate cover).
3. Ordinance regarding Rezoning Case #01RZ01, Archstone Olde Apex, rezoning from Planned Commercial District to High Density Residential District.
4. Ordinance designating the Maynard-Pearson House in the planning jurisdiction of Apex, a Historic Landmark.

End of Consent Agenda



## REGULAR MEETING AGENDA

Mayor Weatherly presented the regular meeting agenda to be set. The agenda was set as printed.

### PUBLIC HEARINGS

There were no scheduled public hearings.

### OLD BUSINESS

There were no Old Business Items to be considered.

### PUBLIC COMMENT

Public comment is welcome. Anyone may address the Board concerning any item.

Mayor Weatherly will recognize those wishing to speak at the appropriate time.

We ask that you limit your comments to 3 minutes to allow others to speak.

Bill Bernecki addressed the proposed fire station, and as stated was for the volunteers, but feels it's not and with no one correcting him. He attended a fire station meeting to find the Board was talking funding and building a fire department. As he previously stated with the volunteer station, it would go bankrupt. He talked to paid firefighters but they didn't talk to him about what was being done, but he was concerned. He stated there are two fire departments, the paid and the volunteer, and not understanding how it works. He hasn't seen a great amount of fires in Apex in his time lived here, with most homes being new and having smoke detection devices. Thinks Town falls short when coming up with a budget - building being one thing, equipment and firemen for future. Based on his information, he thinks the volunteers are an upset group as well as a Town group, and not sure how to fix it, but someone has too. He doesn't know many folks involved or the Board all that well, but thinks there should be some serious thinking, and doesn't understand the thoughts behind what's trying to be accomplished. He understands all towns may suffer without daytime volunteers, but thinks there will be a need for more equipment and the costs are very expensive. He thinks the volunteers are being shorted because the station could use improvements, not knowing the budget, but he's sure the tax burden on the Town would be pretty large. He has great reservations regarding what the Town's trying to do and feels not much will be accomplished.

Mayor Weatherly responded there are a lot of issues brought up not to be addressed here, but there is one fire department, the Apex Volunteer Fire Department that provides fire protection for the citizens of Apex - we do not have two fire departments. Some are paid staff and employees of the Town, but there's one fire department. Bernecki disagreed this wasn't true, a paid truck operates in what's called the Town of Apex and the volunteers that cover the County part of Apex, asking if this wasn't true. Mayor Weatherly responded the volunteers report to every call inside the Town as well as within the Hipex Fire District. He continued if he were told that, he was sorry. Bernecki continued there was a call a couple of weeks ago with the pumper the Town operates and the rescue truck, but no one else went. Mayor Weatherly continued our volunteers are great and we couldn't do without the Apex Volunteer Fire Department, and certainly do respond to calls. Commissioner Hilt added negotiations are ongoing for a contract between the volunteers with the Town's Attorney doing the negotiating. Bernecki felt the statement just made tells him and indicates some issues or problems going on. Town Attorney Hank Fordham interjected, he would be glad to talk with Mr. Bernecki after the meeting, with the Mayor agreeing. Bernecki continued he didn't want to take up anymore time, but disagreed with the building.



**Public comment continued**

**Gene Hutchins**, 1805 Holly Street, addressed the Board of Commissioners regarding permits to fish at the park on Lake Pine, asking for a reduction in fees with his cost being about \$80 yearly and being too much and not affordable. He noted persons fishing without permit and he wanted to do it legally with permit. He asked for a \$20 maximum family fee, being a fair price, and not to wait until the next fiscal year for a decision, do it now. Mayor Weatherly responded the Parks and Recreation Advisory Commission will consider this and will bring forth a recommendation.

**George Meiser** addressed the Board regarding the Fire Department, having read news articles. He is a volunteer of the New Hill district but does respond to downtown. He stated he was in the Holly Springs fire department when essentially the Town ran over the volunteers. He noted the fire department as outstanding, both paid and volunteer, and fortunate to have them. He stated the truth was there are two departments and two chiefs - a Town paid fire chief and a rural volunteer fire chief. We have a truck owned and operated by the Town and a host of trucks and apparatus owned and operated by the volunteers. He thinks by putting in this station it would further separate the paid and the volunteers, and in his opinion not in the best interest of the taxpayers and citizens of Apex and of the Town paid fire department or the volunteers. He thinks by keeping both departments together, housed in one building, it could utilize the strengths of both entities to provide citizens with the best service. Commissioner Hilt asked if he were speaking as an individual and he responded he was.

**End of public comment****NEW BUSINESS****Town Manager – Bill Sutton – Bid Award - Fire Station (Hunter Street)**

Manager Sutton called on Louis Cherry, Cherry Huffman Architects, to report on the bid for the Hunter Street Fire Station. Cherry reported the bid opening was April 19, and the architects have reviewed submitted bids for the project. Tabulated results attached and recommending contractors be awarded multiple prime contracts for this project, with all contractors and bonding company licenses having been verified as current and in good standing. Total project cost is \$1,108,079 with an estimate project time for completion of 275 days.

| <b>Contract</b>     | <b>Base Bid</b> | <b>ALT G-1</b> | <b>ALT M-1</b> |
|---------------------|-----------------|----------------|----------------|
| <b>General</b>      |                 |                |                |
| Trout & Riggs       | \$813,900       | \$26,700       |                |
| <b>Electrical</b>   |                 |                |                |
| Jones Electrical    | \$126,077       |                |                |
| <b>Mechanical</b>   |                 |                |                |
| Comfort Systems USA | \$ 48,200       |                | \$11,790       |
| <b>Plumbing</b>     |                 |                |                |
| Eakins Plumbing     | \$119,902       |                |                |

Award indicates ALT G-1 be accepted and Town of Apex be reimbursed by Wake County for the full amount of the alternate. Alternate M-1 is not to be accepted and will be separately contracted directly by the Town at a later time.

Commissioner Grimes commented on the cost being about \$100,000 more than when first looked at with Commissioner Jones asking if negotiations were allowable with low bidders to consider cost reductions and recommending if so, this be done. Cherry responded the project was cut to the bone, and didn't want to be optimistic but all cutting had been done, unless consideration was given to resize. Commissioner Jensen clarified the bid was good for 60 days. Mayor Weatherly asked if Cherry could report back in two weeks regarding the findings. The bid was not awarded.



## WORK SESSION

### **Town Manager and Staff reviewed the proposed Annual Budget for Fiscal Year 2000-2001.**

Highlights of the proposed Annual Budget for FY2000-2001 reflects \$34,992,222 in expenditures, 13.1% higher than the current fiscal year's budget. Recommends ad valorem tax rate remain \$0.42 per \$100 valuation. Tax rate would be applied to an estimated tax base of \$1,870,80,417, indicating a growth of 20% over current fiscal year. With a study of the Electric Fund, recommends a reduction of 5% in the per kilowatt-hour charge for each electric rate schedule; and absorbing a 6% wholesale increase 1 January (from Power Agency). Bond pay-off is Year 2028. No changes are recommended for water/sewer rates. General Fund revenues have decreased by \$430,300 in anticipation of a suspension by the State of North Carolina of the distribution of reimbursements to local governments. If the State decision is reversed prior to adoption of the budget, it could provide means to enact a \$0.02 decrease in the ad valorem tax rate. Ten new employee positions are proposed with a 3% cost-of-living increase for all employees. A Public Hearing will be held on June 5, 2001 with adoption of the budget Ordinance prior to July 1, 2001. Highlights follow:

#### **General Fund Expenditures:**

##### **ADMINISTRATIVE**

Hire full-time Town Attorney (\$80,000 annual salary plus benefits) - availability and Town's activity.

Board of Commissioners subsistence pay doubled.

Election expenses doubled due to increase in precincts.

##### **HUMAN RESOURCES**

3% cost of living adjustment for Town employees.

Review of pay and classification plan.

##### **INFORMATION SERVICES**

Hire Web Administrator (\$48,550).

Hire Information Services Technician (\$42,283) relieve Director from technical duties.

Increase Capital Outlay Equipment (computers, etc.)

##### **FINANCE**

Posted electronic process service (being able to pay bills with credit card).

##### **PLANNING**

Professional Services (Thoroughfare Plan Update - \$50,000 Kimley Horne).

Corridor Plans for US64; SR1010; and Downtown).

Appearance Commission Improvements (Depot Grounds and Kidstowne (shade trees).

##### **PUBLIC BUILDINGS**

Public Buildings increase - operations of Town Campus (utilities and maintenance).

Restoration Study - Old Town Hall (future workshop to study condition and best use).

Roof Repair Police Building.

##### **POLICE**

Hire Office Assistant (\$32,241) - Police

Capital Outlay Improvements - Building renovation and signage.

Automotive - up due to gas prices - replace vehicles as needed.





**Worksession continued**

**FIRE/EMS**

Increase – worse case – no successful agreement to share equipment – if not by 1 July can fully equip department without assistance from volunteers .

Hire 2 firefighters (will have one floater – total 15 positions.

With rating – buy demonstrator or used pumper – air packs (may not want to use AVF equipment – reference memo from AVF) – extrication equipment and defib unit.

**Manager Comments:** Federal Grant (FEMA) could purchase pumper, air packs and turnout gear – (\$75,000 plus contingency). Asking Congressman to assist in acquiring grant and asking Mayor to work with Senator (with grant, figures would go down considerably). Reimbursements may change (not counting on any reimbursement from VFD).

Town Manager Sutton noted the departments are separate with the Town on record as Town of Apex and having a working agreement with the AVFD until 1 July. Based on the insurance rating there is already a split and having a separate budget with our own people. Town of Apex works inside Town and AVFD works outside.

**PUBLIC WORKS**

Hire Environmental Programs Coordinator (\$52,366) – water program in place 1 January 2003.

Transfer Soil/Erosion Control Officer from Construction Mgmt. to Public Works.

Renovation to building includes repair to loose pillars.

Vehicle purchase and replacement.

**STREET**

Hire Crew Leader (\$40,093).

Improvements: Olive Chapel Rd. sidewalks -repairs to other sidewalks – repair storm drains.  
parts in DOT rights-of-way – costs approximate \$15 per foot.

Comment: Commissioner Grimes – sidewalks in Town vs. out of Town (would connect in town subdivisions used by Town citizens).

**POWELL BILL**

Hire Utility Maintenance Worker and street resurfacing ( \$400,000 ) and Mason Street sidewalk.

**SANITATION**

Contracted Services: solid waste collection and disposal – includes recycling.

**GENERAL SERVICES**

Hire Building Maintenance Technician (looks after all public buildings).

**CONSTRUCTION MANAGEMENT**

Decrease due to vacancies in employees ( 2 not filled and 1 moved).

Fee recovery – 80% (development / building inspections – engineering in house).

Comment: Commissioner Jensen – fees up to 95%.

Response: Manager – raised residential – down on commercial – number built is conservative estimate.

Comment: Commissioner Jones (may want to look at fees again).

**RECREATION**

10% increase – personnel costs are up – (community center employees)

Increased utility costs – facility rents up (school use fees increased – will monitor).

Add new programs. Parks maintenance - up. Outlay Improvements – Salem School Park (lighting); greenway (matching grant); sod soccer field; West Park improvements; Apex Community Park – pave parking and trails.

Comment: Commissioner Jensen asked for a breakdown (will be provided) – 10% increase.



**Worksession continued**

**CEMETERY**

Contract - same.

**SPECIAL APPROPRIATIONS**

Chamber – increase from \$35,000 to \$37,000.

Downtown Development – no increase (flower planters and flags).

Campus Transfer – 0

Fire Reserve up from \$200,000 to \$400,000 (reserve 200,000 – contingency 100,000 – furnish building 50,000).

Contingency will not be used if not needed.

Contingency Rec. Capital Reserve - \$200,000 (without wastewater capacity 2003 – may be no more recreation).

Contingency Historic Building Reserve - \$150,000 (Old Town Hall Restoration).

**Contingency**

477,000 from the General Fund \$15.1 million

**End of General Fund Expenditures**

**ELECTRIC FUND**

Reflects a 55 electric reduction – CP&L – 8 cent per KWH – town rate 8 1/2 cent – (growth allows reduction).

Fund Expenditures are up – purchase increase 1 January

Bankcard services for customers to make payments may reduce delinquencies.

Comment: Commissioner Jensen (any cost savings) –

Response: Director of Finance – (credit card transactions are more expensive, but convenience to citizens).

Comment: Commissioner Meckes (on power purchase increases).

Increase in sales tax.

Improvements slightly down.

**WATER/SEWER FUND**

O&M is 55% of the budget with Debt Service being 16%.

Revenues increased with the population growth.

**WATER/SEWER MANAGEMENT**

Salaries are up (intern will assist at the WWTP); budgeted overtime and on-call pay.

**WATER TREATMENT**

Outlay equipment (upgrade of telemetry system – compatible with Cary's upgrade).

**WATER MAINTENANCE**

Improve meter vault and pressure-reducing valves (\$500,000) at Kelly/Jenks Road.

Replace Lufkin Road waterline.

Comment: Commissioner Jensen asked if there was a hope for a grant depending on

Participation using gray water and if you could put down the gray-line

At the same time?

Response: Director of Public Works noted rules on separation of pipe, but would look into it.

**SEWER TREATMENT**

Improvement - connection of the fiber optics from here to the WWTP and substation for full communication.

Replacement of sewer pumps (\$85,000).

Comment: Commissioner Jensen noted fewer power outages, complementing on great job being done.

Response: Manager gave credit to Mike Couch and his crew in the Electric Department, noting CP&L

Recruits from Apex (they pay more).





**Worksession continued**

**LAW ENFORCEMENT OFFICERS SEPARATION ALLOWANCE**

One officer retried.

**CEMETERY**

Continue to sell plots (adds interest – hopeful the earnings will handle maintenance).

**WATER/SEWER CAPITAL RESERVE**

Reserve grows with the fees and as needs arise the money is there to do the projects.

Noted the transfer from water/sewer (\$571,126).

**PERRY LIBRARY TRUST**

Interest earned covers maintenance needs.

**RECREATION CAPITAL RESERVE**

Fees are available for future recreation needs.

**TRANSPORTATION CAPITAL RESERVE**

Fees accumulate for transportation needs.

**HISTORIC BUILDINGS CAPITAL RESERVE**

Transfer from General Fund will accumulate interest to be used for future expenditures.

**End of presentation**

Mayor Weatherly commented on the SPCA and their campaign in partnership with Wake County for a new facility in Southwest County off Tryon Road and noted the amounts of monies given by Raleigh, Cary, and Garner. Citizens from this part of the county would use it and asked consideration be given to a contribution over a 3 year period (\$50,000). Basic SPCA is for pet adoption of unwanted animals. He expects figures to increase over the 450 combined adoptions and surrenders for Apex and the 900 for Cary. He hopes all municipalities would participate. He noted the county had given a substantial amount for construction and hopes Apex would be a partner to this project. Manager Sutton suggested \$25,000 from contingency.

Mayor Weatherly congratulated the Manager and staff for the budget preparation and noted the June 5 public hearing.

**End of Worksession**

**EXECUTIVE SESSION**

**Possible motion to go into executive session to discuss potential litigation regarding tennis courts.**

Motion by Commissioner Jones and second by Commissioner Meckes to enter into executive session at 9:05 to discuss potential litigation regarding tennis courts. Motion carried. Minutes are recorded separately. Motion by Commissioner Meckes and second by Commissioner Grimes to go back into open session. Motion carried.

**End of Executive Session**

With the meeting back in open session: Motion by Commissioner Grimes and second by Commissioner Jensen to authorize possible litigation regarding tennis court construction. Motion carried.



## ADJOURNMENT

With no further business to come before the Board, a motion was made by Commissioner Grimes and second by Commissioner Jones to adjourn at 9:36 p.m. Motion carried.

The above minutes were approved on the 15<sup>th</sup> day of May 2001.

Submitted by

Deanna A. Parker  
Town Clerk

Keith A. Wankel  
Mayor



# TOWN OF APEX BOARD OF COMMISSIONERS'

Minutes of the May 15, 2001 Meeting

8:00 p.m.

Apex Town Campus

73 Hunter Street



Mayor: Keith H. Weatherly

Commissioners:

Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Website: [www.apexnc.org](http://www.apexnc.org)

Mayor Weatherly called the regular meeting of the Town of Apex Board of Commissioners meeting to order Tuesday, 8:00 p.m. in the Apex Town Hall, 73 Hunter Street. The meeting began at 8:00 p.m. after the 6:30 p.m. dedication and open house of the Town Campus (Town Hall and Community Center). Commissioners Jensen, Meckes, Jones, Grimes and Hilt were present.

Welcome by Mayor Weatherly.

Prayer by Mayor Weatherly's father, Mr. John Weatherly, Member of the North Carolina House of Representatives.

Pledge of Allegiance led by Scott McAfee, Scout Troop # 320.

## CONSENT AGENDA

Mayor Weatherly presented the consent agenda to be set and asked for a call for action.

**Action:** Motion by Commissioner Jones and second by Commissioner Meckes to approve the consent agenda as presented. Motion carried.

1. Minutes of May 1, 2001 Board of Commissioner's meeting.
2. Minutes of May 1, 2001 Board of Commissioner's Executive Session (separate cover).
3. Annexation Petition # 317, Henry & Jean Lineberger, owners/petitioners, petitions to annex 10.65 acres located on Vision Drive, northeast of US64 and NC55 Intersection; 1) Resolution directing Clerk to investigate petition; 2) Certificate of Sufficiency; and 3) Resolution to set date of public hearing for June 5, 2001.
- \* 4. Site plan for Whitehall Manor Recreation Site, S. Salem Street.
- \* 5. Resolution of intent to accept 10 acres from Fortis Homes to satisfy low density option for Crockett's Ridge.
6. Acceptance Notice for bids for wood distribution poles award to Ace Pole Co. Inc.

\* Items #4 & #5 were placed on the Planning Board Consent Agenda of May 14, 2001 and met all criteria of the UDO. Staff will advise should recommendation not be unanimous by the Planning Board.

End of Consent Agenda



## REGULAR MEETING AGENDA

Mayor Weatherly presented the regular meeting agenda to be set and asked Executive Session be held prior to consideration of the Old Business item. Town Attorney Fordham asked to include receiving privileged advice from the Town Attorney. The Agenda was set as amended.

## EXECUTIVE SESSION

**Possible motion to go into executive session to discuss personnel.**

**Action:** Motion by Commissioner Grimes and second by Commissioner Jones to discuss a personnel matter and to receive privileged advice from Town Attorney Fordham ( 8:30 p.m. ) Motion carried. Minutes are recorded separately. Motion by Commissioner Grimes and second by Commissioner Jones to come back to into regular session at 8:45 p.m. Motion carried.

## PUBLIC HEARINGS

### Public Hearing #1 – Amendment to Town Code ( 8:45 p.m. )

Public hearing and possible motion to amend Section 22-46 of the Town Code for R6 Manufactured Housing District to include townhouses (Old Ordinance); possible motion regarding same.

Director of Planning requested amendment of Section 22-46 R6 Manufactured Housing District to include townhouses under the Old Zoning Ordinance.

Staff discovered R6 Manufactured Housing District in the old zoning ordinance did not include townhouses as a permitted use. A portion of Bradley Terrace zoned R6 Manufactured housing was approved for townhouse development. The other portion of Bradley Terrace is being developed for single-family detached and is a permitted use in R6 Manufactured District. At the same time, R6 residential district does permit townhouse development. Staff believes this is where the confusion occurred. Staff believes R6 zoning should permit townhouse development whether it is R6 Residential or R6 Manufactured Housing.

With respect to amending a prior ordinance, there are developments and conditional use permits approved under this ordinance and "vested" (can be developed under the old rules). The prior ordinance is still in effect – Bradley Terrace falls into this category.

Land Use Plan designates the area shown as Bradley Terrace – medium-high density residential. The proposed amendment allows townhouses in R6 Manufactured housing and would be consistent with the Land Use Plan.

Planning Board recommends approval with the condition there be stick built townhomes (an upgrade) and not manufactured townhomes. This area is the only one zoned for manufactured houses and would not be any other request like this again. Bradley Terrace is willing to comply with the condition.

The public hearing was opened at 8:47 p.m.

Tom McKay, McKay & Associates, supports the amendment in that it would raise quality of the Tingen Road neighborhood and thought R6 had covered manufactured housing and inclusion of townhouses. He noted Mr. Cuales had completed significant site work with the intent to upgrade.





Hector Cuales gave support to the amendment to include townhouses. He has gone to significant expense including building a portion of the Peakway, water/sewer and curbing.

The hearing was closed at 8:55 p.m.

**Action:** Motion by Commissioner Hilt and second by Commissioner Meckes to amend Section 22-46 R6 Manufactured Housing District to include townhouses under the Old Ordinance and the inclusion they are stick built townhouses. Motion carried.

End of public hearing

## OLD BUSINESS

### ITEM #1 – Award of bid for Proposed Hunter Street Fire Station

#### Town Manager – Bill Sutton

Manager Sutton recognized Louis Cherry, Cherry Huffman Architects, regarding bid award of the Apex Fire Station and negotiations with the bidders.

Cherry reports he had spoken with low bidders of the project and noted from the conversations there was not a lot that could be cut from the project and the bidders had confirmed this. Mechanical Contractors have a low bid and are comfortable to proceed with their price. General Contractors Trout & Riggs gave cosmetic prices and their bid was to match the exterior brick and mortar of the Town Campus which is more expensive as it uses shaded mortar and different colors of brick, where the more standard mortar would reduce price by about \$3,000 and using a standard one color brick would reduce price by about \$885, and could delete bike racks and benches. The glaze system could reduce price about \$2,000. This is all they could consider for reduction.

Cherry views the bids as competitive on the building and less than 10% above the estimate and as close as it could get; and notes it an excellent turnout with prices and the price reductions were only saving pennies.

Commissioner Grimes questioned contingency, which is only put aside by the owner for unforeseen issues. He continued he was not in favor of making cosmetic changes for this trivial amount of money. Mayor Weatherly agreed and asked if the Board wished additional time to consider the award for the project.

**Action:** Motion by Commissioner Meckes and second by Commissioner Jones to wait two additional weeks before award of the bid.

Commissioner Jensen requests the Town Manager give a total cost breakdown for the new facility (personnel, turnout gear, washers, etc.). He further requests an estimate of cost to upfit the present station to the quality of the new station. He notes the old station as being larger, requiring more dorms, and new eating area. He wanted to see a cost comparison. The Manger asked if this was for an estimate to take the building up to standard?

Commissioner Hilt's response was the Town was still in debate and preferred the Town not spend any time or money on a building that was not owned by the Town or part of ownership by Town; in the event this should happen then look at estimates to fully comply. Commissioner Jensen feels he's been left in the dark. Commissioner Hilt continued any items pertaining to the new building were very valuable. Commissioner Jensen asked if others agreed and if so he couldn't force the issue.



Mayor Weatherly asked for a vote on the motion to defer the award of bid for two weeks. The vote was unanimous. Motion carried to defer.

Mayor Weatherly asked if further direction should be given to the Manager to supply information. Manager Sutton noted he would break out the costs from the budget. Commissioner Grimes noted the provision for our own people and asked what we have to replace. The Manager noted air packs were included in the budget. Commissioner Jensen said he wanted the other items, compressors, washers, etc. Commissioner Hilt agreed with supplying this information.

#### End of Old Business

### PUBLIC COMMENT

Public comment is welcome. Anyone may address the Board concerning any item.  
Mayor Weatherly will recognize those wishing to speak at the appropriate time.  
We ask that you limit your comments to 3 minutes to allow others to speak.

**Bill Bernecki** referenced the Mayor's statement indicating only one fire department for the two, when he had noted there were two departments. He had looked at further information and noted points and his observations and felt the Board should consider what the residents think. He asked why there should be two chiefs? He noted the new station would be supplied with help of potential grants, for a pumper and new employees and the Apex Volunteer Fire Department has not been mentioned. He called attention to the fact that Commissioner Jensen had asked the Manager if there were two fire departments and the response was "yes". Bernecki noted conflict in the answers. He referred to the budget of \$700,000 and noted County needs. His fire tax is paid to the fire district here, where in New York it was different than North Carolina. He referred to tax funding for city and county. He asked if the new station was based on need? He continued the population and size and the use of the volunteer department makes Apex unique. He continued most do not get involved and ignorance is not the answer.

He has attended meetings for no particular agenda, where most citizens come addressing personal concerns only and he's concerned with the fire department. He expressed cares for the community and his respect for the Board. He doesn't want Apex to be like Cary; even though Cary is nice Apex is better. He notes higher electric rates, but still considers this a nice town and loves living here. He asked the decision for the fire department be made based on community needs, asking if the Town needs this firehouse? Is it money well spent? He asked the Board to look at what they're doing and that they couldn't turn back and if they do, they should tell the volunteers it's over. He concluded the volunteers want to build their own firehouse and if so, just state it and do it. He continued to let the residents worry, they are ignorant to the facts and he doesn't support the new firehouse.

**Herman Jaffee** addressed the location of the high school and that the student body walk to school. The situation has changed since 1975 with the two-lane road by the school had become a main thoroughfare. He asked the Board to construct sidewalks to connect to the existing walks, and its location of one mile to the Town Campus from the school and linking the two. He also asked for a bike path. He noted safety first and further students could assist at the community center and in business affairs of the Town, and being a rewarding experience. Earlier attempts and prices to install the walks drew concerns from the homeowners in regards to yard frontage. He feels now there would be support due to safety. He indicated the Planning Director had noted we could potentially have support with the State DOT funding. He also asked the Town asked support from the school PTA. His estimates costs for the project as \$150,000 and would benefit the community. He asked the Board to instruct Planning to start before kids are killed, and it should have been done before now, and to save trees of the homeowners was a poor excuse not to act tonight. He continued to hold executive session in the middle of the meeting was rude and the Board should make up for it by starting the project.





Bernecki spoke up that the executive session should be at the end of the meeting. He continued he didn't have to be here but stayed the extra time. Attorney Fordham advised the law permits the Board to hold executive session at any point during the meeting and they could exercise their lawful rights. He assured the Board of Commissioners were not doing it to be inconsiderate and was not intentional. Commissioner Grimes stated there was a good reason for the executive session and the Board was not obligated to tell him with Bernecki saying he already knew why. Commissioner Grimes told him if he knew why, then why did he ask? Bernecki responded he didn't understand. Commissioner Grimes continued that Bernecki had brought the issue up for his own enjoyment and harassment to the Board. Attorney Fordham advised personnel issues are to be held in executive session as required by law.

End of public comment

## NEW BUSINESS

### ITEM # 1 - Steering Committee Appointments

#### Director of Planning – David Rowland

Possible motion concerning appointment and confirmation of the North Salem Street Corridor Plan Steering Committee.

Director of Planning asked the Board to confirm appointments of the North Salem Corridor Plan Steering Committee. Mark Monroe and Joey Iannone had not responded, but staff will continue to contact them (list attached).

Commissioner Jensen asked if the Prince of Peace Church was considered to serve. Commissioner Grimes is a member of the church and is on the list, and would serve a dual capacity.

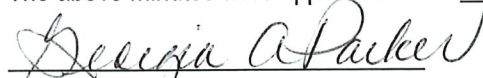
**Action:** Motion by Commissioner Jones and second by Commissioner Meckes to appoint the recommended members. Motion carried.

End of New Business

## ADJOURNMENT

With no further business to come before the Board, motion by Commissioner Grimes and second by Commissioner Jones to adjourn at 9:25 p.m. Motion carried.

The above minutes were approved on the 5<sup>th</sup> day of June 2001.

  
\_\_\_\_\_  
Town Clerk

  
\_\_\_\_\_  
Mayor

# TOWN OF APEX BOARD OF COMMISSIONERS'

Meeting of May 15, 2001

8:00 p.m.

Apex Town Campus  
73 Hunter Street



Mayor: Keith H. Weatherly

Website: [www.apexnc.org](http://www.apexnc.org)

Commissioners:  
Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Mayor Weatherly will call the meeting to order.  
Welcome by Mayor Weatherly  
Prayer  
Pledge of Allegiance

## CONSENT AGENDA

Mayor Weatherly will present the consent agenda to be set and ask for a call for action.

1. Minutes of May 1, 2001 Board of Commissioners meeting.
2. Minutes of May 1, 2001 Executive Session (separate cover).
3. Annexation Petition # 317, Henry & Jean Lineberger, owners/petitioners, seeking to annex 10.65 acres located on Vision Drive, northeast of US64 and NC55 Intersection; 1) Resolution directing Clerk to investigate petition; 2) Certificate of Sufficiency; and 3) Resolution to set date of public hearing for June 5, 2001.
- \* 4. Site plan for Whitehall Manor Recreation Site, S. Salem Street.
- \* 5. Resolution of intent to accept 10 acres from Fortis Homes to satisfy low density option for Crockett's Ridge.
6. Acceptance Notice for bids for wood distribution poles award to Ace Pole Co. Inc.

\* Items #4 & #5 were placed under Consent Agenda for the Planning Board meeting of May 14, 2001 and meets all criteria of the UDO. Staff will advise should recommendation not be unanimous by the Planning Board.

End of Consent Agenda





## REGULAR MEETING AGENDA

Mayor Weatherly will present the regular meeting agenda to be set.

### PUBLIC HEARINGS

#### Public Hearing #1 – Amendment to Town Code

Public hearing and possible motion to amend Section 22-46 of the Town Code for R6 Manufactured Housing District to include townhouses (Old Ordinance); possible motion regarding same.

End of public hearing

### OLD BUSINESS

#### ITEM #1 – Award of bid for Proposed Hunter Street Fire Station

##### Town Manager – Bill Sutton

Update from Louis Cherry, Cherry Huffman Architects, regarding bid award of the Apex Fire Station; possible motion regarding same.

End of Old Business

### PUBLIC COMMENT

Public comment is welcome. Anyone may address the Board concerning any item.  
Mayor Weatherly will recognize those wishing to speak at the appropriate time.  
We ask that you limit your comments to 3 minutes to allow others to speak.

### NEW BUSINESS

#### ITEM # 1 - Steering Committee Appointments

##### Director of Planning – David Rowland

Possible motion concerning appointment and confirmation of the North Salem Street Corridor Plan Steering Committee.

End of New Business

### EXECUTIVE SESSION

Possible motion to go into executive session to discuss personnel.

### ADJOURNMENT

# TOWN OF APEX BOARD OF COMMISSIONERS'

Minutes of June 5, 2001 Meeting

7:00 p.m.

Apex Town Campus  
73 Hunter Street



Mayor: Keith H. Weatherly

Commissioners:  
Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Website: [www.apexnc.org](http://www.apexnc.org)

Mayor Weatherly called the regular meeting of the Town of Apex Board of Commissioners to order on Tuesday, June 5, 2001, 7:00 p.m., Apex Town Hall, 73 Hunter Street. Commissioners Jensen, Meckes, Jones, Grimes and Hilt were present.

Welcome by Mayor Weatherly

Prayer by Commissioner Jones

Pledge of Allegiance led by Scout Joshua Thomas, Troop #205, sponsored by the Olive Chapel Baptist Church.

## PROCLAMATION

Mayor Weatherly read a Proclamation for "National KidsDay", August 5, 2001.

## CONSENT AGENDA

Mayor Weatherly presented the consent agenda to be set and asked for a call for action.

**Action:** Motion by Commissioner Jones and second by Commissioner Meckes to approve the Consent Agenda as presented. Motion carried.

1. Minutes of May 15, 2001 Board of Commissioners meeting.
2. Minutes of May 15, 2001 Executive Session (separate cover).
3. Ordinance to amend Sections 22-46 and 22-76 of the Zoning Ordinance to Allow Stick Built Townhouses in the R6 Manufactured Housing District.
4. Lease Agreement with State Employees' Credit Union to allow for an ATM machine on the Town Campus.
5. Extend street closing for 4<sup>th</sup> of July Celebration Downtown.
6. Wake County Tax Report for Town of Apex.

End of Consent Agenda





## REGULAR MEETING AGENDA

Mayor Weatherly presented the regular meeting agenda to be set. With no amendments, it was set as presented.

### PUBLIC HEARINGS

#### **Public Hearing # 1 – FY2001-2002 Annual Budget**

Mayor Weatherly opened the public hearing to receive citizen comment regarding the proposed FY2001-2002 Annual Budget at 7:00 p.m.

**Herman Jaffee** requests appropriation of money for sidewalks along Laura Duncan Road; Apex High School to Town Campus; as DOT had not changed their position regarding installation of sidewalks from 4 years ago.

With no further comments, the public hearing closed at 7:05 p.m. Budget Ordinance will be on the June 19 agenda. Manager Sutton reports the NC Senate passed the reimbursements to the towns but was unsure what the House would do. If upheld, it's recommended a 2-cent tax cut. He would like the Board's consensus should the tax cut follow through. Mayor Weatherly commented on the proposed reduction in property tax by 2-cent. Apex currently is second to the lowest in property tax rates at \$0.42. He commented on reimbursements and revenues. Commissioner Jones commented if response concerning the tax rate had not been received by the next meeting, there would be time before the end of June to hold a special meeting if necessary. No further recommendations were made regarding the proposed budget.

#### **End of Public Hearing #1**

#### **Public Hearing # 2 – Rezoning Case #01RZ02**

Robert & Amy Rossi, seeking to rezone from Residential Agricultural District to Light Industrial District .82 acres located at the back portion of 2633 Schieffelin Road; possible motion regarding same.

Mayor Weatherly called on Director of Planning David Rowland who oriented to the location of the property and surrounding land uses. Planning Board and staff recommends approval of the rezoning, as general character of the area is industrial and the Land Use Plan indicates the area as O&I. Staff approves the rezoning as long as an O&I buffer is maintained along SR1010. He feels this property would in the future be possibly rezoned and keeping adequate buffer along the frontage would give sufficient buffer to the industrial part of the area.

The hearing was opened at 7:10 p.m.

**Robert Rossi**, petitioner/owner, spoke in favor of the rezoning which opens up a piece of property which was almost rendered useless (cul-de-sac/street into the area would open it up for light industrial use). The property is located in a low-lying area with poor drainage, but could be used for storage and parking, not particularly a building.

**John Avery Jones** spoke in favor of the rezoning and has no objection to the rezoning of the .82 acres that joins to existing industrial land.

With no further comments, the hearing was closed at 7:15 p.m. There was no discussion by the Board.

**Action:** Motion by Commissioner Hilt and second by Commissioner Grimes to approve the rezoning request as stated. Motion carried.

#### **End of Public Hearing #2**



**Public Hearing # 3 – Rezoning Case #01CU03**

Ronald & Ann Poe Grebing seeking to rezone from Neighborhood Business District to medium Density Residential .84 acres located at 316 N. Salem; possible motion regarding same.

Director of Planning, David Rowland, gave sworn testimony, orienting to the location of the property and the surrounding land uses. The conditional use rezoning is from Neighborhood Business District to Medium Density Residential District. Private restrictive covenants limit the use of the house for single-family and is listed as an individual entry in the National Register of Historic Places and adds character to the Business District. Planning Board and staff recommends approval of the rezoning. Land Use Plan indicates commercial but staff feels deed restrictions and preservation efforts adds to the business district and preserves the history of Apex. Buffers are not affected by the rezoning and are based on land use.

Mayor Weatherly opened the public hearing at 7:15 p.m. with the following giving sworn testimony:

**Joe Zeblena**, 317 N. Salem Street, across the street from this home and a historic homeowner, supports the rezoning, as the historic house creates a nice entry on N. Salem street and will benefit the long-term ambiance of the community and would like to see more homes on this side of town and less commercial.

**Anne Grebing**, property owner, purchased the property to preserve its character (suggestions were: bed and breakfast, law offices and restaurant). The original house was moved to a Saunders Street site across from the Police Station. The current "Duncan House" replaces the cottage built in the 1800's; always has been a house there and was never a business with the business district further downtown. She felt the rezoning had been inappropriate and she recalls Carl Holleman came to Town when there was no real zoning restrictions; things have changed; the zoning was a plan, but not meant to be stamped as permanent. Everything on the East side of Salem became Neighborhood Business, house or not. She notes the Gerald Howard home on Hunter Street was a grocery and it didn't matter what you put or where you put it. Three restrictive covenants have been placed on the deed and the house would always be single-family residential if the rezoning is granted. Should the home be destroyed now, it could not be replaced. She noted this action was designed for the community and for visitors to Apex; reported on people who wanted to see the home. The 1900's home replaced the 1870's house and is the only remaining original structure on Shepherd's Vineyard, and built by the daughter of Patrick Dowd (significant to the History of the Town, County and State).

With no further comments, the hearing was closed at 7:25 p.m. There was no discussion by the Board.

**Action:** Motion by Commissioner Jones and second by Commissioner Meckes to approve the rezoning. Motion carried.

**End of Public Hearing #3**

**Public Hearing # 4 – Annexation Petition # 317**

Henry & Jean Lineberger, owners/petitioners, seeking to annex 10.65 acres located on Vision Drive, northeast of US64 and NC55 Intersection; possible motion regarding same.

Mayor Weatherly called on Director of Planning David Rowland, to orient to the location of the property and the surrounding land uses. The property is the site for the Nissan Dealership.

Mayor Weatherly opened the public hearing at 7:25 p.m. No comments were made. The hearing was closed.

**Action:** Motion by Commissioner Meckes and second by Commissioner Grimes to approve Annexation Petition #317 by adoption of an ordinance to extend the corporate limits. Motion carried.

**End of public hearing**





## OLD BUSINESS

### ITEM # 1 –Apex Volunteer Fire Department

Presentation by the Apex Volunteer Fire Department.

John Tidball representing Apex Volunteer Fire Department had been working with Attorney Hank Fordham to reach the best resolution between Town and Apex Volunteer Fire Department (AVFD) to work cooperatively to provide fire protection service to Apex and Hipex District. He noted he didn't know very much about fire protection service but has learned a great deal. He stated the AVFD is a group of volunteers, keenly interested in doing the best they can to assist the Town in providing fire protection service to the Town and to continue to provide fire protection service to the Hipex Fire District.

He noted in regard to the process and progress of the negotiations to reach an agreement, that any decision to proceed to award bid or not or to delay, may affect the decision. Current Agreement is in effect until July 1, 2001; under this he reports the Town Chartered rating was a grandfathered rating of 6 by the Department of Insurance and acquired under the 1998 Cooperation Agreement between the Town and AVFD and calls for working together in partnership.

Draft Agreement had been presented to AVFD Board of Directors and 50-members. He proposed to the Town a counter proposal, a cooperative agreement that more closely resembles the one in effect at the present time under which Town and Hipex Fire District acquired the 6 rating. He noted information from Department of Insurance would affect the Town's ability to maintain the 6 rating that affects homeowners insurance and goes into calculations to determine hazard insurance for residential homeowners and businesses.

He wants to create a cooperative agreement that would best maximize resources the Town has, and that the AVFD is willing to contribute, to maximize fire protection service while providing Apex and Hipex people with the most efficient and protective fire service possible. Should the Town proceed with the Charter of its own fire department and continues with approval of the new fire station, the Town would continue down the road where the Town enters into new territory with a different type of arrangement, one they are not sure the Town would receive the same benefit or the credit that they have in the past in terms of the rating by Department of Insurance. He was unsure of the ramifications and net result when we change the way the parties have cooperated since 1998 and before. He wanted to assure, they were doing everything they could to assure the Town and Hipex District receive the maximum amount of credit for the people here and are willing to say, we're ready to fight fires, that includes the volunteers and the paid staff.

He trusts the proposal had been received, forwarded just yesterday to Town Attorney Fordham, noting neither the agreement forwarded by Town, nor the cooperation agreement forwarded by AVFD was perfect, but trusts there is some place in the middle the two could meet to most effectively and efficiently provide and administer fire service to Apex. He fears the Hunter Street location would interrupt the cooperative agreement. He appreciates the opportunity to work with Attorney Fordham to reach the best agreement possible. He fears the Hunter Street location would hinder efforts to come up to an optimum agreement. He pointed out site locations of the existing station and the proposed station. Draft agreement proposes a partnership more along the lines of equal ownership in equipment and equal ownership in property including stations. Volunteers are looking for an agreement where they can study and see where the optimum locations for fire stations in Apex and the Hipex area. AVFD has tried to communicate that the Hunter Street location does not appear to be the most optimum location.



**Item #1 continued – AVFD**

He noted from his last meeting here and when leaving Town Hall, there was a train at the Hunter Street tracts and notes you can't see clearly where the easement is for the tracts, but both stations would be on the opposite side of tracts from here and would hinder fire emergency assistance to the campus (from either Station I or the Hunter Street Station) and would have to go down NC55 and come around to reach any emergency here. AVFD wants to take time to come up with the best optimum agreement and best location and is willing to work with Town and willing to contribute assets and be equal partners in finding the best location and also purchasing the property and the building. They are interested in being partners and endeavors to provide the most effective and efficient fire protection service to the Town of Apex.

Commissioner Hilt asked Tidball when AVFD acquired him to work on this agreement. Tidball responded the time to reach a proposal with the 50 member body, then the entire organization, had been about two to three weeks and was difficult to get the whole organization to come up with a proposal. Commissioner Hilt asked if he had been working on the agreement since possibly April? Tidball responded he wouldn't put it like that. He stated after we received the Town's proposed agreement, it was presented to the volunteers, they looked at it and determined they wanted to proceed in the manner that more closely resembles the current cooperative agreement and they tried as best they could to get all of the membership to agree on a counter proposal. He continued the time said is probably accurate, but there was no down time where volunteers weren't concerned about this issue. Commissioner Hilt continued she could only speak for herself but didn't know if he were aware that 10 months ago in a public meeting she had asked the volunteers to come up with some kind of agreement about their building, asking if he were aware of that? Tidball responded he was not specifically aware of that, but was not acquired by them that far back. Tidball continued that some type of agreement relating to part the AVFD had been asked to come to the Town with an agreement. Tidball responded they had not hired him then, and acquisition had been as a part of their interest in the downtown station. Commissioner Jensen recalled the volunteers did come up with a proposal; a lease proposal with an equity position, the first one, and it took some time for Town to come back with a proposal. Tidball noted equity interest in that station is included in the proposal and volunteers are willing to consider. Commissioner Hilt noted the need for something more specific to make a decision.

**End of Old Business #2****ITEM # 2 – Award of bid for Proposed Hunter Street Fire Station****Town Manager Bill Sutton**

Update concerning award of bid for proposed Apex Fire Station; possible motion regarding same.

Manager Bill Sutton commented on the approved site and proposal to enter into contract with Cherry Huffman Architects to design the fire station, with the Town Fire Committee having selected and given approval to the site, and now proposed to enter into contract for Cherry Huffman to design the fire station. Discussion at that time (last summer about August, over a year ago or maybe longer) was that citizens felt the firefighters needed a modern fully functional fire station, centrally located at a strategic area that would be superior to renovation of the downtown station, recognizing the present station to be substandard and not set-up for a full-time municipal department and not up to current code. Mainly the old fire station is in a bad location, congested with traffic, and in the opinion of the Police Department, is congested with parked cars, narrow passage with fire trucks. The biggest problem is it can be slow and it can be blocked by oncoming vehicular traffic and pedestrian traffic (children and senior citizens on the sidewalk) and of course the station fronts that. The same problems exist with railroad tracks if there's a train there. Cost of renovation of the old station to the modern building code would be substantial. The proposed Hunter Street station would be located within one and one-half miles of the existing station but closer to where most of the new growth, residential and commercial has occurred and strategically located to allow rapid access to NC55, to east/west thoroughfares - Hunter Street, Olive Chapel Road, Old Raleigh Road, and the near soon to be section of the Peakway; and strategically located to serve the maximum amount of the core of Apex.





## Item # 2 – Hunter Street Fire Station

He continued the Hunter Street Fire Station would provide a stable base of operation for a municipal fire department. The Town has and is willing to make and always has said that the Hunter Street station would be fully available to the volunteers and have always sought cooperation with the volunteers. He continued President Brian Yates at one of the depot meetings had stated he would be willing to staff the new fire station with equipment. He continued that he didn't believe the 6 rating obtained by the Town is in any jeopardy, with the program being submitted to the State Fire Marshall as received in the information package outlining the program. Town knows the requirements to keep the 6 rating and there has to be a pumper acquired, and various other equipment. This was approved and that the Town was on the right track to what has to be done to keep the 6 rating and would be enhanced by a new building.

Louis Cherry, Cherry Huffman Architects had no new information regarding the bid on reduction in price or cost savings to Town. There were no questions directed to him. Commissioner Jones complemented the architect in that he had followed through and done his best in regard to the follow up to reductions in cost with the contractors as instructed over the last couple of weeks.

Mayor Weatherly recollected since 1993 there had been no question of the efficiency and dedication of the AVFD and their services and fire protection to the community. He could remember one of the earlier issues had been to look into a location for a primary fire station, a goal, and that it be done as soon as possible. The County was willing to give the site for use for public safety facility and then quickly realized this was a place to site the station and a place for volunteers and Town of Apex firemen to join together for a modern efficient fire station. He thought it unanimous at each discussion that this was a good location and good decision to build a new modern fire station, that most communities our size has, to serve our people. Site plan approval was unanimous, the support was there for the right reasons, it was a good thing to do, we had money to do it, with no debt or cause for the tax rate to go up and consistently for a number of years had moved in that direction. Now we have allowed additional comments and consideration regarding and have been sensitive to issues raised by the volunteer firemen who opposed the Town of Apex building a new station. We went through that process, a very deliberate thoughtful way using every bit of information and documentation the Town had. He noted we are at the time we need to move ahead to award the bid so, we can, as soon as possible, realize that dream of a good location and he believes a very efficient station. He continued for whatever motivated people to say that there are members of this Board who doesn't value the services of the volunteer fire fighters, that is an incorrect story, and speaking for himself, he has never heard one utterance of any, and hope on our part that we continue to have service of our volunteer firemen for as many years we can project in the future that we can have fire service in our community, predicated on continued good service of the volunteers. As Apex continues to grow there would be necessary adjustments for fire service to be second to no other community, that we continue to need capable assistance of the volunteers and building this fire station at this time is the right thing to do for the right reasons and welcomes active participation of the volunteers to use the facility for as long as they choose to do so.

Commissioner Meckes commented the discussion was unique in that the committee system of this board, sometime upon occasion would preclude intimate knowledge by other board members what particular committees are doing. All being involved in various committees, and because of the events over last couple months, Commissioner Jones and himself having met with AVFD, all have become more significantly informed on this issue many times than on other issues, in which we rely upon our peers to guide and direct in making decisions. He noted the appointment of Attorney Hank Fordham, as negotiator, and felt was a wonderful opportunity for both Town and volunteers to each seek best outcome; he had always envisioned a merger coming to past, in his mind; it may well be the volunteers have indicated they not interested in merger rather, they would be interested in an a cooperative agreement, a mutual supporting agreement, and certainly he's amenable to any type arrangement that is satisfactory to everyone. He continued as we've gone through this process, he has to say what ever happens in Long Island, New York was of no consequence to him. He's concerned about the Town of Apex and what we ultimately do to serve our citizens and provide fire services for our community. We've already established the volunteer fire service group in the last few years, and necessary for the Town to employ fulltime fire service personnel so that services could be provided upon occasions when perhaps the volunteers were not available.





Item #2 continued –  
Fire Station Hunter Street

He thought again and had to reiterate what the Mayor says, there's no doubt in his mind that the volunteers have a proud tradition of service to this community and have gone above and beyond the call of duty for many years, taking care of the people of Apex, and our hats are off to them, and felt he spoke for all the Board, there's never been one disparaging remark made about any of the activities of the volunteer fire department. They are wonderful and dedicated to the service of the community and we are proud of you and everything that you've done for the Town of Apex. He read an excerpt from the proposed agreement, " .....recognizing these services provided by the volunteers .....", again he agrees hold hardly, we want the volunteers to be actively involved in our community. But ultimately it comes down to a decision that the Board has to make, and he always likes to think they can learn from the lessons of history and as previous boards have done, he mentioned during the grand opening for the Town Hall and Community Center, that's a direct result of decisions that previous boards have made to be physically responsible and to ensure the Apex community acted within and lived within budget (ex. Agreement with Cary for more than adequate water supply for years to come; wisely made decision to build the wastewater treatment plant for the capacity to be doubled – now an issue for new capacity). Those boards looked not one year out, not two, but many years out to make a decision for the best of all Apex citizens on a long-term basis. He's making his decision based on not anything that will come to pass in the next 2 or 3 years but 10-15-20 years as to what will be the best for our community and he's proud to be a part of this Board because he thinks that upon most occasions, and situation that decisions are based upon is what is ultimately best for our community. He thinks the decision that this Board makes will be the best for the community. He urges the volunteers and representative Tidball to continue working, admitting ours is not a perfect agreement nor is theirs a perfect agreement under which we can operate, but somewhere there is an opportunity for each group to make their best deal and provide service to Apex community.

Commissioner Hilt, Liaison to the Fire Department, commented on a management letter distributed by the AVFD that painted an unfavorable portrait of the Fire Chief. That was the last meeting she attended; she shared specific concerns for the volunteers future, not just this board, but future boards, with leadership being the most critical part of the organization. She noted that when they say the volunteers are an important part of the community, as long as they want to be, they are dead serious. Her concern that she's had for a long time is in the lack of good judgment of some of the leaders of the volunteers in doing extremely unprofessional things representing this community. When a letter is distributed for an example, it affects everyone in the community because the name of APEX is on the side of every engine that goes out of the fire station. Because Apex is on the side of those engines, it affects us when poor judgment and lack of professionalism hurts someone who is a part of this community. It also concerns this board and her in particular it is poor judgment that concerns her about future decisions made for the volunteers. She hopes this board hears in the future from the 50 volunteers and not just leadership that at sometimes we are afraid does not represent you in your best interests. We hope you will always understand you are a part of this community. Please understand that we share the name Apex and that anything that is done hurts this community and hurts this board. Any decisions we need to make for the future leadership of the volunteers, we need to take into consideration whether good judgment can be made in the future. Please when you vote in your leaders, please realize there are going to the bargaining table for you, representing you in this community and how absolutely critical it is that they take as much pride in the name Apex as they do the name volunteers.

Commissioner Jensen stated when the suggestion to build a new fire station came up and the presentation made to the fire committee, everything looked good and he was in favor. The more he dug into it, the more concerns he had if it were worthwhile at what it's going to cost, especially considering the station is less than one mile from where the station is now. If we found a way to agree with the volunteer fire department, and assumed equity in the fire house and the equipment; he ran through numbers depend on how they work out, but in the first year we'd save between \$800,000 to \$1.3 million with the volunteers estimate \$1.4 million. On a year-to-year basis if the volunteers fades away, and they may, it could be additional cost to the Town \$200,000 to \$300,000. He thinks it's a lot of money to have a new fire station, less than a mile away from they fire station that we have. In terms of access, he looks at Salem and noted it can get congested, but there's an access behind the station in a bad situation. It's been pointed





Item #2 continued –  
Fire Station Hunter Street

out that there is danger of traffic accidents, but doesn't believe there has been one on Salem as a result of the fire trucks. One note was made regarding opening car doors, and anyone would not open a door if there were sirens coming down the street. The site of the new fire station was presented as a gift from the county with a very low rental rate for 50 years with the original thought being for a police station before moving here; no thought whatsoever was given at that time for a fire station at that site. The site is along side a subdivision that will have to endure sirens and tests and if we build this fire station and the volunteers gradually fade away and we do away with the station downtown we've lost an anchor point for the downtown businesses. That station is a collecting point and part of town, and has been there for over 50 years, built by Town people, and we would lose a lot if we take a chance on losing that fire station. He's talked with one of the county commissioners; one of the pressures we seem to be under is that we need to do this right now because we are under the gun; she indicated there probably would be no problem to extend that agreement and not build right away and take the time to make the right decision. Take time to discuss this with the volunteer fire department. The agreement could be amended in 3-months and there still would be plenty of time to make a decision to move on and build the station if that's what the board decides. In addition, there's a school down the street, a danger point with kids. He thinks that it's such an expensive item, it's not in the best place when considering the other station; we need to take time to make this decision. He noted the newspaper noted response time, 85% of the time, trucks need to be on the scene in 5 minutes and doesn't see how Apex can do this with one fire house and will eventually have to build more fire houses and if we put all of our money into a new fire house here, we might have to raise tax to build a firehouse on NC55/Walden Woods and would be substations and a lot smaller. He thinks this could be delayed without any trouble, with the county willing and thinks we should give plenty of time to play out whatever negotiations we are having with the volunteer fire department. Leaderships change and knows the volunteer fire department leaders have made mistakes in the past and he told them the exact same thing; that they have made a mistake, especially with the letter and the answer was, "yes they did". He noted Presidents, Nixon, Clinton made mistakes and now Bush has the opportunity to make mistakes. The main thing is to put this off to a later date and take time to make the decisions and have all the facts. With the CSX crossing, we didn't have all the facts, voted on it, and were upset over the estimates, and according to DOT was twice as high; we didn't have all the facts, but moved on. He hopes tonight, we don't move on and go ahead and put this off for six months so we have time to get all the facts and make the right decision.

Manager Sutton commented bids received have gone over the time limit but contractors will hold the bids. Mayor Weatherly responded we're at the end of the building cycle and commitments need to be made to start construction soon, as far as the bid process we'd have to start over and probably see additional inflation.

Commissioner Grimes agrees with Commissioner Meckes put his finger on it, that no, we don't have to do this tonight, next week, nor next month, nor next year, but it needs to be done and there's really no better time to do it; yes, we might be able to drag negotiations out with the volunteer fire department and finally come up with some mutually acceptable agreement that we'll have for another year or two or maybe we want, but he doesn't think this building and the good sense to build this building should be held hostage by an agreement that may or may not come to pass. Tidball admitted he came forward with what he regards as an imperfect agreement; he thinks if he already knows it's imperfect before it was brought here, that we can hardly be expected to embrace it, which of course he doesn't think they do, he certainly did not and thinks it incumbent on the volunteers to come in at this late date to present an agreement that was compellingly good and one that was practically undeniable but that's not the case and we're still working on it and hopefully we can come up with one that we all will be happy with, but doesn't think this building should be held up for another year or two or whatever in order to be able to consummate such a deal.





Item #2 continued –  
Fire Station Hunter Street

Commissioner Jones noted good points were made from one table to the other during the last few minutes regarding this issue, both good points from Commissioner Meckes and Commissioner Jensen. This has been ongoing for a long time, knowing lots of facts that has been on the table, and thinks we have all the facts we are going to have relative to how to deal with the issue and it's inevitable there will be a vote taken and he's been in favor of delaying to this point in hopes that we would have a mutual, beneficial agreement and still hopes we will regardless of the vote taken tonight and thinks we all do; that we reach an agreement that is in the best interest of both parties, that's its in the best interest of the Apex and Hipex Fire District; we're the parties who are trying to do that on their behalf, and very important. He wants to make the point again, which has been said already, and deserves to be said again, that the volunteers have been very important from the beginning of fire service to the Town of Apex (1939) continuing to be very important and hopes for the next 100 years, that the volunteers will continue to be active in fire safety and response to Town of Apex because it would be totally "stupid" for us to do otherwise and the volunteers provide a very valuable service. Regardless of this vote tonight, he hopes everyone keeps this in mind as we move forward to reach an agreement.

Mayor Weatherly noted the discussion for contract negotiations; the volunteers signaled the town that they did not intend to renew the current contract for services with the Town in late March and there's been sufficient time and good faith proposals for the terms of the contract that we have known since March, the leadership of the volunteer fire department did not intend to renew the current one, and then for us to delay twice on the issue of the building which need not be related directly to the contract for services with the volunteer fire department, after delaying twice, then come up tonight with a brand new proposal that we are suppose to set everything back further and maybe probably miss the bid process, so that was set in motion in March with the indication that the current contract would not be renewed, therefore, a new contract needed to be proposed but was only tonight (yesterday) that we saw the terms.

Mayor Weatherly asked if there were a motion to be made?

**Action:** Commissioner Jensen made a motion to delay award of bid for the Hunter Street Fire Station for six months. For lack of a second, the motion died.

Mayor Weatherly asked if there was a further motion to be made in regard to award of bid for construction?

**Action:** Motion by Commissioner Grimes and second by Commissioner Hilt to award contract as proposed by the documents and expressed earlier by Architect Louis Cherry.

Commissioner Jensen noted the job as Commissioners is not to include a motion into any decision, but feels there is a motion here, but the job is to get the best service for the dollar and thinks that waiting for a short period of time to insure that we get the best service for the dollar for the Apex citizens and don't spend money on items that doesn't provide better service; he thinks we should wait.

Commissioner Hilt continues to support and feels it the fiduciary responsibility to create this investment; and currently we do not have an investment of a building for our fire department and feels this is an investment for the Town's future.

Commissioner Jensen agrees we need to have equity in a building and thinks there's an opportunity to do so elsewhere other than this station. He thinks we're jumping in just like CSX crossings.

Vote on the motion was 4 in favor with 1 being opposed (Commissioner Jensen). Motion carried to award the contract. Mayor Weatherly expressed appreciation to Louis Cherry and looks forward to progress reports regarding the facility at the appropriate times.

**End of Old Business**





## PUBLIC COMMENT

**Public comment is welcome. Anyone may address the Board concerning any item.**

**Mayor Weatherly will recognize those wishing to speak at the appropriate time.**

**We ask that you limit your comments to 3 minutes to allow others to speak.**

Anne Grebing, N. Salem Street, expressed unhappiness with the decisions made. She recalled the volunteers and their efforts and death from lung problems (Shaub, Bennett, Baucom and Seagroves) from inhalation of smoke from fires and their efforts to save downtown, leaving their churches and jobs, giving to the Town, as they fought barn fires with the red fire truck they bought. She feels the Town has given little to fire protection. Volunteers were called the fire department with fundraisers being a part of the Town. She was distressed at the approach being taken towards hiring more people, some can't leave businesses, there are no fancy suits; she views attitudes as distressing – volunteers who found it would be upset to see the attitudes. She hopes to find a way to work with this and not follow every fine line and rush in and pay the price; she begged to work with the volunteers. She asked that if a hot head sends a letter, go to the Chief, or President Yates and talk with them, but let the organization handle it. She noted the Police Department and the volunteers are congenial and went out over weekend one time after another. She wanted to maintain Apex pride and not be Cary or Raleigh but keep a good attitude and working together it can happen. She was leaving with a heavy heart and disappointment.

Bill Bernecki had attended a meeting a couple of weeks ago and offered apology for his rude behavior noting it "improper". He had been caught up with the situation and noted the Board has to make decisions with the information they have. He stated to Commissioner Grimes that it was not his intent to embarrass the Board of Commissioners and that's how it had come across. He expressed his sincere apology and accepts responsibility for it and noted that it was uncalled for and would not happen again.

Shirley Harris expressed her disappointment and asked the Board to look into their hearts and if their action was the best for the citizens, she hoped that was true. She didn't want Town citizens to be placed in the same spot to pay like with Shearon Harris and Electricities. She noted to loose the volunteers – they could not be replaced and noted they can't do like they use too. She asked consideration regarding cost of building and equipment and upkeep of a new building.

Herman Jaffee listened but didn't understand those not tied into the group, but notes the volunteers give a lot and in New York were well appreciated (building bowling alley for them and held picnics). He asked what's planned for the building and should be user friendly to volunteers and if not it would be a problem. He noted the current building could be used for recreation facility for volunteers at small cost and to allow time to continue negotiations, three or four months to make sure the volunteers are happy and if it's not the best place; railroad tracks will always be there that's life.

**End of public comment**

**Mayor Weatherly called for a recess at 8:30 p.m. The meeting reconvened at 8:40 p.m.**



## NEW BUSINESS

Assistant Town Manager Mike Wilson presented the following contracts:

### **ITEM # 1 - Grounds Maintenance Contract**

Possible motion to renew contract with Green Level Gardening for grounds maintenance.

Competitive bids have not been offered in the past but there was a competitive bid; the existing contract prevailed by \$30,000. Recommend award to Green Level Gardening for grounds maintenance.

Assistant Town Manager recommended the following solid waste and recycling contracts be renewed with Waste Industries, as Town receives continued quality service at an excellent price.

### **ITEM # 2 - Residential Solid Waste Collection**

Possible motion to renew contract with Waste Industries for residential solid waste collection.

### **ITEM # 3 - Curbside Recycling**

Possible motion to renew contract with Waste Industries for curbside recycling.

### **ITEM # 4 - Commercial Dumpster Service**

Possible motion to renew contract with Waste Industries for commercial dumpster service.

Feltonville Landfill is a benefit to the Town in that it's in close proximity to Apex. There has been no interest shown in the contract by other competitors. There is a slight increase due to rise in gas cost and labor market (an overall 4.9% adjustment – lower than last year). Residential carts up by 3 cent and recycling up by 9 cent and commercial dumpsters up by 8% - Other competitors are allowed to serve the Town as an option to reduce costs; calling attention to increased tipping fees which may call for slight adjustment.

Commissioner Jensen called attention to the US64 medians and the Knollwood Buffer being unkempt and asked about the costs. It was noted DOT mows the medians and he asked this be verified. Mayor Weatherly agreed for need of more attention by DOT and the price for the contract was the better price. Commissioner Jensen was concerned with grown up weeds. Assistant Manager will look at this. Commissioner Jones also saw the unkempt situation.

Commissioner Jensen asked if the contract included pick-up for recycled cardboard. Town's Public Works Department will pick it up but there is no provision for cardboard under curbside. It was noted Cary has a stronger program. Commissioner Jensen asked if we could look at a stronger recycle program. Assistant Manager noted Cary's program being more extensive and significantly more price. Apex's approach meets specific mandated state goals to reduce waste. Cary added items such as plastics and paper – Cary pays 25% more but does not capture 25% more in volume and divert from the landfill and expansion and change for trade off may not make a difference in landfill. Commissioner Jensen noted an N&O article regarding increase in trash flow to the dump. Assistant Manager responded it was misleading on a per person basis and not household level (not being recycled) There is no program to deal with it on a per person basis and was unfair. Commissioner Meckes noted it an individual commitment with Apex participation 60-70%. Commissioner Hilt state mandate on community and schools will see big reduction on non-residential. Assistant Manager noted if one calls cardboard will be picked up. Commissioner Jensen asked to see comparisons (information will be shared with him).

**Action:** Motion by Commissioner Jones and second by Commissioner Grimes to approve the New Business Items 1-4. Motion carried.





**ITEM # 5 - Steering Committee Appointments**

**Director of Planning David Rowland**

Possible motion to form a 7 to 9 member Steering Committee for Downtown Apex to focus on specific projects and address issues such as parking and fixing up buildings, making recommendations and implementing them. Planning Staff would work with the committee.

Commissioner Meckes encouraged the committee, as he had had discussed with Tim Carley the parking issues; other committees having given good ideas. He felt this was a great concept and a big help. Mayor Weatherly noted downtown revitalization had received favorable comments with the decorative lights.

**Action:** Motion by Commissioner Meckes and second by Commissioner Grimes to approve appointments to the Steering Committee for Downtown. Motion carried.

**End of New Business**

**EXECUTIVE SESSION**

**Possible motion to go into executive session to discuss personnel.**

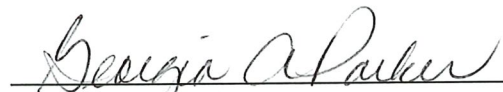
Motion by Commissioner Grimes and second by Commissioner Jones to enter into executive session to discuss personnel issues. Motion carried. The minutes are recorded separately. Executive session ended at 9:40 p.m. and the meeting reconvened in open session.

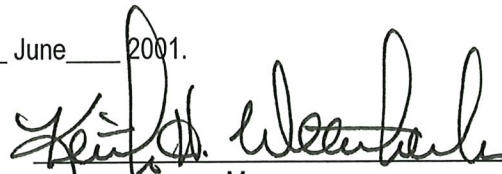
**End of executive session**

**ADJOURNMENT**

With no further business to come before the Board, the meeting stood adjourned at 9:42 p.m.

The above minutes were approved on the \_ 19th \_ day of \_ June \_ 2001.

  
Town Clerk

  
Mayor

# TOWN OF APEX BOARD OF COMMISSIONERS'

Minutes of June 19, 2001 Meeting

7:00 p.m.

Apex Town Campus  
73 Hunter Street



Mayor: Keith H. Weatherly

Commissioners:  
Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Website: [www.apexnc.org](http://www.apexnc.org)

Mayor Weatherly called the regular meeting of the Town of Apex Board of Commissioners to order at 7:00 p.m., in the Apex Town Hall, 73 Hunter Street. Commissioners Jensen, Jones, Grimes and Hilt were present. Commissioner Meckes was absent.

Welcome by Mayor Weatherly  
Prayer  
Pledge of Allegiance

## CONSENT AGENDA

**Mayor Weatherly presented the consent agenda to be set and asked for a call for action.**

**Action:** Motion by Commissioner Jones and second by Commissioner Grimes to approve the consent agenda as presented. Motion carried.

1. Minutes of June 5, 2001 Board of Commissioners meeting.
2. Minutes of June 5, 2001 Executive Session (separate cover).
3. Rezoning Case #01CU03, Ronald & Ann Poe Grebing, Findings of Facts, Conclusions of Law & Ordinance rezoning .84 acres located at 316 N. Salem Street from Neighborhood Business District to medium Density Residential District.
4. Rezoning Case #01RZ02, Robert & Amy Rossi, Ordinance, .82 acres located at back portion, 2633 Schieffelin Road from Residential Agricultural District to Light Industrial District.
5. Site plan – Coastal Federal Credit Union, out parcel of Olive Chapel Village, Olive Chapel Road & Apex Peakway.
6. Site plan – North State Storage, NC55 south of US1 (with conditions).
7. Site plan - Retail Shopping Center, Ten-Ten Road, south of US1 (with recommendation).
8. Site plan – Lisbon Concrete, Lot 63, Pinnacle Park.
9. Site plan – Site plan for Lot 47, Pinnacle Park.
10. Resolution accepting dedication of streets in Golders Green Townhomes development (formulizes transaction).
11. Award of bid for proposed additions to Apex Public Works facility.
12. Annexation Petition # 318 – Public Service Company of NC, owner/petitioner, to annex 10.54 acres;  
1) Resolution to investigate petition 2) Certificate of Sufficiency 3) Resolution for Public hearing 07/17/2001.
13. Budget Ordinance Amendment # 3.
14. Capital Project Ordinance Amendments # 4.
15. Resolution authorizing Wake County Revenue Director to collect taxes on behalf of the Town.
16. Wake County Tax Report for Town of Apex.
17. Resolution to condemn water line easements on the west side of South Salem Street to serve water tank site.

End of Consent Agenda





## REGULAR MEETING AGENDA

Mayor Weatherly presented the regular meeting agenda to be set, asking it be amended to include executive session to receive legal advice from Town Attorney regarding extension of Cooperative Agreement with Apex Volunteer Fire Department, and asking New Business Item # 3 be considered after executive session.

**Action:** Motion by Commissioner Grimes and second by Commissioner Jones to amend the agenda as recommended. Motion carried. The Regular Meeting Agenda was set as amended.

## PUBLIC HEARINGS

There were no scheduled public hearings.

## OLD BUSINESS

There were no Old Business items to be considered.

## PUBLIC COMMENT

Public comment is welcome. Anyone may address the Board concerning any item.

Mayor Weatherly will recognize those wishing to speak at the appropriate time.

**We ask that you limit your comments to 3 minutes to allow others to speak.**

Herman Jaffee asked the Board to install sidewalks on Laura Duncan Road, per several requests, and if not, seek acquiring the road from DOT. Commissioner Hilt explained the issue was bigger than it appeared as far as cost, and includes road improvements, curb, gutter and widening. She noted projects are chosen by priority and the Board makes choices to carefully manage money and not raise property taxes to build roads, etc. Jaffee continued the cost of approximately \$150,000 was pennies in the \$30 million budget. This project would protect the citizens and asked the board not to worry about the few homeowners who had not wanted sidewalks. He continued, the road was approximately 27 feet; wasteful decisions had been made regarding some moneys; he was displeased with response he had received from staff; and he came to the Board seeking knowledge and desiring to get something done and would continue to come to the meetings until the Board took this under advisement and completed the project.

End of public works

## NEW BUSINESS

### **ITEM # 1 - Economic Development Report**

Susan LoPresti, Apex Chamber of Commerce, presented the attached Second Quarter Economic Development Report.

### **ITEM # 2 - FY2001-2002 Annual Budget Ordinance – Town Manager**

Manager Sutton presented the 2001-2002 Annual Budget in Ordinance form with revenue and expenditure levels established, the tax rate set, adjustments made in fees and charges, and special authorizations for the Budget Officer and reflection a \$25,000 appropriation to Wake County SPCA from General Fund contingency. The NCLM assures reimbursements are forth coming to municipalities. Senate version includes the reimbursements and good for two years. Consideration is being given to replacing inventory tax reimbursements with sales tax, two years hence; sales tax grows as revenue grows and would be better for the local governments.



Manager Sutton requested a special meeting July 29, 2001 at 12-noon with the following agenda:

- 1) Adopt the final budget with or without tax rate adjustment, and
- 2) Appointment of Town Manager.

He reported current fund balances: General Fund \$5,700,000 - \$700,000 more than budget; with Wake County estimates being conservative due to revaluation; setting revenue neutral tax rate (noting \$0.01 generates \$180,000); \$430,000 back could cut tax \$0.02 and some in contingency.

Electric Fund \$2,200,000 – get 6% wholesale rate increase next year – not grown as has in past; Water/Sewer Fund - \$5,300,000; Water/Sewer Reserve - \$3,500,000 – future Waste Water Treatment facility; Perry Library - \$90,000 Recreation Reserve - \$50,000; Transportation Reserve - \$450,000

General Fund could supplement these three funds as they have not built up rapidly or could float bonds and pay off debt service – Town currently has an "AA" rating; Contingency Reserve Recreation bond shows \$100,000 for ongoing Recreation facilities study. Future recreation/transportation could be biggest; Peak Way build out is 2 miles and ready to build 1/3 mile (Center Street to Old Raleigh Road) with 3 miles not built out. Town may want to build connecting roads but would expensive. Commissioner Jensen asked if there was a way to recoup money from the developers if the Town had built out a portion of the Peakway? Manager response: A portion of the Peakway was built by Town and portion by developer FMRK. Ex. Should Trackage Development occur, Town may want to build Peakway from Laura Duncan to North Salem to carry traffic. Commissioner Jensen commented on Old Raleigh and SR1010 not being improved completely and desired Town put in road improvements when property is developed along the Peakway and the developer should owe Transportation Improvement Fees and receive no credit for the Road.

Manager Sutton noted pros and cons with Tax Decrease; inventory tax good for 2 years with a chance to replace it with sales tax based on county needs, and felt it would pass this with a need for a more permanent source of funding. Mayor Weatherly desires should there be more revenues raised, it should belong to tax payers, as a matter of principle and surplus revenues doesn't belong to the Town. Commissioner Jones agrees as long as there's a continued plan. Discussion continued on revaluation and possible tax reduction with the Finance Director commenting on the County revaluation and property taxes. Manager Sutton stated if the Senate and House both act, there would be a greater level of comfort at the end of the month. Attorney Fordham advised it was proper to hold the special meeting on the 29 th. of the month.

Commissioner Jensen asked questions concerning contingency of Fire Reserve. The Assistant Manager noted it wise to continue a savings account for additional fire facilities, as future costs could be higher. Commissioner Jensen felt the current situation with the fire department would cover citizen's needs for a number of years and continue to save. Manager Sutton responded as Town grows, (Sunset Lake Road area) it would need a station on the other side of US1. Commissioner Jensen asked the time response to this area, with Manager Sutton responding 5 or 6 minutes. Commissioner Jensen confirmed costs regarding purchase of water from Raleigh and possible contract extension. Mayor Weatherly responded the Raleigh Mayor had been agreeable to help. Manager Sutton noted the water plant was complete with 24 mgd and awaiting the Interbasin transfer. Commissioner Jensen asked questions regarding irrigation and use of the park water from the lake and a benefit to invest in conservation. Recreation Director noted the Town's engineering staff had made calculations regarding the lake water. Commissioner Jensen commented on the take off of the Swift Creek stream and should there be problems, address them, possibly shutting off use in daytime hours. Mayor Weatherly commented the Lake replenishes itself.

**No Action was taken regarding this item.**

**End of New Business Item # 3**





**THIS ITEM WAS MOVED TO THE END OF THE MEETING**

**ITEM # 3 - Budget Ordinance Amendment # 4 – Town Manager**

Possible motion to approve Budget Ordinance Amendment # 4.

**ITEM # 4 - Resolution - Zeno Road (SR1161) and Green Level Road (SR1600) – Director of Planning**

Possible motion concerning Resolution requesting Zeno Road be reconnected to and aligned with Green Level Church Road.

Director of Planning David Rowland presented a resolution to be forwarded to DOT requesting Zeno Road be reconnected to and align with Green Level Church Road, gaining access onto US64 to the southwest quadrant of US64 to NC55 for the proposed development of Beaver Creek Commons. Staff sees need for an additional full service access to serve the commercial development as it will generate a significant amount of traffic. Plans call for a full service access point on NC55.

Commissioner Hilt asked if the impact of the connectors to Green Level Church Road and Olive Chapel Road had been considered, and invitation for another north/south road parallel to NC55, and it being a collector street, making a cut through to US64, and not just for access to the commercial property. She wanted to carefully look at the pros and cons for the future 540/54 and this being between. She noted strong north/south roads (Davis Drive) and this one would not be just for access but would make a major impact. Director of Planning noted more north/south grids would better disburse traffic, and if it functions as a cut through, it would work with NC55 and Olive Chapel Road; the spacing would help overall traffic flow. She wanted to look at the bigger picture 10 years from now and the impact and profile of Green Level Church Road. Director of Planning noted without an additional access there would be more problems and staff felt the need for this additional access to disburse traffic; he will look at the thoroughfare plan but felt this would be best. Commissioner Hilt desired to avoid another Walnut Street as in Cary and avoid the actions taken by other towns; and asked if it were logical for a curb cut for this commercial development on US64?

Commissioner Jones asked questions regarding the 540 and the tie into Kelly Road and the location of the interchange? Staff will look at these issues and sees the need for a full service access.

Manager Sutton reported on the safety problems on US64 and turning left onto Green Level Church Road to get to RTP; with traffic moving very fast there without a light; and the light at Green Level Church Road and Zeno Road would make it more accessible.

Commissioner Hilt supports multiple-access but continue to view the much bigger picture and not letting the project drive this, being a good thing for a transportation engineer to look at and consider the huge volume of traffic. She proposed a thoroughfare study, as this project would generate additional users and desires input from the public; wishes for staff to evaluate funding of commercial tracts and not end up with a Walnut Street. Commissioner Jensen shared the same concerns regarding the tremendous traffic flow and noting this a trade-off on NC55 and Green Level Church Road and to make a full access he agrees with a traffic study.

Commissioner Grimes agrees with a thoroughfare study for the northwest quadrant of Apex. Director of Planning noted a tie in to the Land Use Plan and the focus on major intersections and this commercial project showing one access off NC55; staff feels agrees with Kimley Horne that one access is not enough and need for another (traffic study for project was done by Rainey Kemp). Commissioner Jones agrees with a resolution and to contract Kimley Horne for a traffic study for the entire growth area. Commissioner Hilt agreed with a request to DOT regarding access but not at this specific location. Director of Planning desires to line up Zeno at US64, as it was severed by road cuts. Commissioner Jensen agrees to adopt the resolution and at the same time have Kimley Horne conduct a study. Commissioner Hilt noted if the design to carry traffic required spending more money to improve it, then it should be done, and if not the "headache would be our fault", and the Town should still have control. Director of Planning noted the pressure to develop the Green Level Church Road area was great and was a changing area. Commissioner Jensen desires to see alternatives regarding the Zeno Road/ US64 rather than a cut-across.



**Action:** Motion by Commissioner Hilt and second by Commissioner Jensen to adopt the resolution regarding access to US64. Motion carried.

**End of New Business Item #4**

**ITEM # 5 - Planning Board Appointment – Mayor Weatherly**

Mayor Weatherly recommends the appointment of Tommy Morgan to the Apex Planning Board to fill the unexpired term of Carolyn Gaul ending 12/31/2002.

**Action:** Motion by Commissioner Jones and second by Commissioner Hilt to approve the appointment. Commissioner Jensen was in favor but asked consideration be given to persons from planning university, etc. Motion carried.

**End of New business Item #5**

**ITEM # 6- Meeting Schedule - Manager**

Manager Sutton recommends a special meeting be held Friday, June 29 at 12-noon to adopt the budget and appoint the Town Manager; and the July 3 meeting be canceled. Town Clerk will put out notice for the meeting schedule.

**Action:** Motion by Commissioner Grimes and second by Commissioner Jones. Motion carried.

**End of New Business Item #6**

**ITEM # 7- Apex Growth Management Plan – Director of Planning**

Possible motion concerning adoption of the Apex Growth Management Plan.

Matt Goebel, Clarion & Associates presented the revised draft of the Apex Growth Management Plan based on comments from the past meetings, noting a tighter document and elimination of specific recommendations (schools adequate public facilities ordinance and temporary wastewater treatment plant; adding lists from Planning Board comments and staff comments at the conclusion of the plan. Goebel added benefit to the plan allows for flexibility and a variety of policy decisions could be made to implement the plan.

Commissioner Jensen wasn't pleased with the deletion of the school ordinance, believing in supplying adequate facilities for schools and not busing kids due to growth and over congestion.

Mayor Weatherly noted the process had taken a considerable long length of time and the Growth Management Plan sets forth goals best for the future of Apex, and noting quality economic development was a positive light with the high quality growth community work in progress with the plan evolving around use with this guide. He noted the plan might be right for today and not be right ten or fifteen years from now. He notes Apex on the cutting edge and using this progressive growth management plan to insure quality of life is complemented and not diminished.

Commissioner Grimes commented on Tom McKay's comments: "master growth management plan" and being comfortable a growth boundary and a growth rate. He felt Planning Board points were well taken with the 4% being less at times and wise to have a 4% average and not get to the growth limit in too short of a period of time.

Commissioner Jensen questioned absolute 4% cap vs. average? Goebel noted the plan was not to control the rate of growth but mentions 4% flexibility for an average system, not tied into any one system, as complex or as simple and policy decisions to think about.





Commissioner Hilt commented the plan allows a look at different ways to manage growth. Mayor Weatherly notes flexibility in the plan for options to pick/choose projects. Goebel agreed with putting an average in place.

Commissioner Jensen commented on an average out or rollover. Goebel noted flexibility in the Plan for the Board allowing separate pools for project consideration and giving specific merit to negotiate an approval with lots of tools to work with. Commissioner Jones noted numerous ordinances and plans in place for the plan to survive.

**Action:** Motion by Commissioner Grimes and Commissioner Jensen to approve the Growth Management Plan. Motion carried.

**End of New Business Item #4**

**EXECUTIVE SESSION**

Mayor Weatherly called for a motion to enter into executive session to receive legal advice from the Town Attorney.

**Action:** Motion by Commissioner Grimes and second by Commissioner Jones to enter into executive session at 8:30 p.m. Motion carried. Minutes of Executive Session are recorded separately.

**Action:** Motion by Commissioner Jones and second by Commissioner Grimes to go back into open session at 8:52 p.m. Motion carried.

With the Board of Commissioners back in regular session the following action was taken.

**Action:** Motion by Commissioner Jones and second by Commissioner Hilt to extend the cooperation agreement with the Apex Volunteer Fire Department. Motion carried.

**ITEM # 3 - Budget Ordinance Amendment # 4 – Town Manager**

Possible motion to approve Budget Ordinance Amendment # 4.

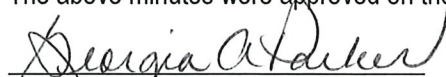
Manager Sutton advised this item was being withdrawn, requiring no action at this time.

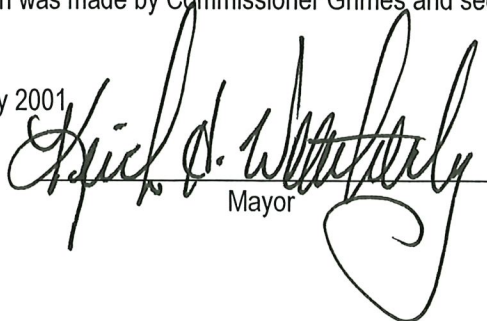
**End of New Business Item # 3**

**ADJOURNMENT**

With no further business to come before the Board, a motion was made by Commissioner Grimes and second by Commissioner Jensen to adjourn at 8:55 p.m.

The above minutes were approved on the 17<sup>th</sup> day of July 2001

  
Town Clerk

  
Mayor

# TOWN OF APEX BOARD OF COMMISSIONERS'

Minutes of the Special Meeting of June 29, 2001

12:00 noon

Apex Town Campus  
73 Hunter Street



Mayor: Keith H. Weatherly

Commissioners:  
Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Website: [www.apexnc.org](http://www.apexnc.org)

Mayor Weatherly call the special meeting of the Apex Board of Commissioners to order at 12:00 noon in the Apex Town Hall, 73 Hunter Street. Commissioners Meckes, Jones, Grimes and Hilt were present. Commissioner Grimes was absent.

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

## SPECIAL MEETING AGENDA

### ITEM # 1

#### FY2001-2002 Annual Budget – Town Manager

Town Manager Sutton presented the FY2001-2002 Annual Budget Ordinance for adoption, reflecting a 2-cent reduction in tax rate from current \$0.42 to \$0.40 as a result of reimbursements of inventory tax to the Town of (\$430,000), placing Apex with the 2<sup>nd</sup> lowest tax rate in the county, following Raleigh. Mayor Weatherly supports the reduction in taxes. Commissioner Jones noted estimates were conservative, but revenues exceeded projections and agrees with the tax reduction. Commissioner Jensen agrees with the reduction, complementing Manager Sutton for an excellent job and for focusing on the tax rate. **Action:** Motion by Commissioner Jones and second by Commissioner Meckes to adopt the Budget Ordinance for FY2001-2002 effective July 29, 2001. Motion carried.

End of Item #1

### ITEM # 2 – Appointment of Town Manager– Mayor Weatherly

Mayor Weatherly advised of Town Manager William Sutton's retirement August 1, 2001, and commending him for his excellent service to Apex in a time of change and challenge, expressing sorry in his leaving. He noted this a new era for Apex, and an excellent and capable person had been chosen after an exhaustive search to lead the Town. He noted all top four candidates interviewed as excellent and could bring great strengths to the Town, with the candidate selected as being unique and an excellent choice to take charge of the Town of Apex Administration. **Action:** Motion by Commissioner Jones and second by Commissioner Meckes to approve an Employment Agreement between the Town of Apex and Bruce A. Radford with an effective employment date of August 1, 2001. Mayor Weatherly commented Mr. Radford had served in the Town of Selma since 1992 and brings with him many years of experience having served in three other towns as well. Motion carried.

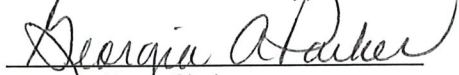
Radford accepted the Boards invitation to serve and expressed gratitude for their offer. He noted he had served as an intern to William Sutton in Waynesville, and known him since 1984 and having the highest esteem for him. He noted Assistant Manager Mike Wilson's willingness to work with him and the confidence placed in them and staff.

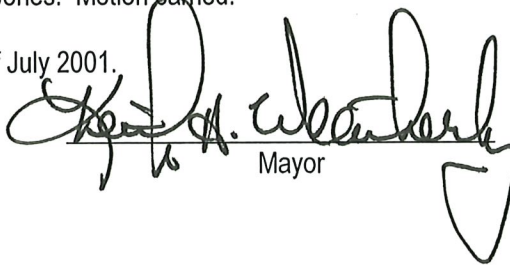


Mayor Weatherly responded he was confident this strong team would serve the citizens of Apex very well. Comments by the Board: Commissioner Hilt noted Manager Sutton's sense of humor, and needed by a Town Manager. Commissioner Jensen echoed his sentiment, and noted Manager Sutton had done a great job. Manager Sutton made humorous remarks regarding his tenure.

With no further business to come before the Board, the meeting adjourned at 12:20 p.m. with a motion by Commissioner Meckes and a second by Commissioner Jones. Motion carried.

The above minutes were approved on the 17<sup>th</sup> day of July 2001.

  
Town Clerk

  
Mayor

**ADJOURNMENT**

# TOWN OF APEX BOARD OF COMMISSIONERS'

Minutes of July 17, 2001 Meeting

7:00 p.m.

Apex Town Campus  
73 Hunter Street



Mayor: Keith H. Weatherly

Commissioners:  
Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Website: [www.apexnc.org](http://www.apexnc.org)

Mayor Weatherly called the regular meeting of the Town of Apex Board of Commissioners to order Tuesday, July 17, 2001, 7:00 p.m. in the Apex Town Hall, 73 Hunter Street. Commissioners Jensen, Meckes, Jones, Grimes and Hilt were present.

Welcome by Mayor Weatherly  
Prayer by Commissioner Grimes  
Pledge of Allegiance

Mayor Weatherly noted this would be Manager Sutton's last meeting prior to his retirement date of July 31.

## INTRODUCTION OF TOWN EMPLOYEE

Town Manager Sutton introduced Ray Echevarria, Chief of Apex Fire Department, and effective July 10.

## CONSENT AGENDA

Mayor Weatherly presented the consent agenda to be set and asked for a call for action. Commissioner Jensen asked Item 6 – Site plan for Apex Steel be considered separately.

**Action:** Motion by Commissioner Jensen and second by Commissioner Grimes to consider this item under New Business. Director of Planning informed the Applicant had requested last minute changes in the site plan. Staff felt changes were significant and should be reviewed prior to a decision being made and asked to defer action to the August 7 meeting. Applicant was in agreement to defer action on the item. There was no vote on the motion. The motion and the second were withdrawn.

**Action:** Motion by Commissioner Jones and second by Commissioner Jensen to defer this item to the August 7 meeting for consideration. Motion carried.

**Action:** Motion by Commissioner Jones and second by Commissioner Grimes to approve the consent agenda as amended with deferral of Item #6. Motion carried.





### Consent Agenda continued

1. Minutes of June 19, 2001 Board of Commissioners meeting.
2. Minutes of June 19, 2001 Special Board of Commissioners meeting (Executive Session - separate cover).
3. Minutes of June 24, 2001 Special Board of Commissioners meeting (Executive Session – separate cover).
4. Minutes of June 29, 2001 Special Board of Commissioners meeting.
5. Annexation Petition #319 Town of Apex, owners/petitioners, seeking to annex 2.981 acres (Town of Apex Lift Station No. 4) Schieffelin Road, US Highway 1 and Lufkin Road;  
1) Resolution directing Clerk to investigate petition; 2) Certificate of Sufficiency of Petition; and  
3) Resolution setting date of public hearing for August 7, 2001.
6. Site plan – Apex Steel, US64 between North Salem Street and Laura Duncan Road (deferred).
7. Update 2010 land Use Plan based on zoning changes reflecting already developed areas on Schieffelin Road from medium-high density residential to Light Industrial.
8. Approve Municipal Records Retention and Disposition Schedule Amendments.

### End of Consent Agenda

## REGULAR MEETING AGENDA

Mayor Weatherly presented the regular meeting agenda to be set. With no modifications, the regular agenda was set as presented.

## PUBLIC HEARINGS

### Public Hearing # 1 – Annexation Petition #318

Public hearing regarding Annexation Petition #318, Public Service Company of NC, owner/petitioner; possible motion to adopt ordinance to extend the corporate limits.

Director of Planning noted the location of the property on Schieffelin Road, with a petition from Public Service Company to annex 10.54 acres. Mayor Weatherly opened the public hearing at 7:07 p.m. With no one speaking in favor or in opposition to the annexation, the hearing was closed.

**Action:** Motion by Commissioner Hilt and second by Commissioner Meckes to approve Annexation Petition #318 by adoption of an ordinance to extend the corporate limits by the 10.54 acres. Motion carried.

### End of public hearing

## OLD BUSINESS

### ITEM # 1 – Addendum – Extension of Cooperation Agreement

Manger Sutton advised Town Attorney Fordham had recommended approval of an Addendum to Extension of Cooperation Agreement with Apex Volunteer Fire Department. Fire Chief Echevarria agreed with the additional conditions. Attorney Fordham felt the addendum would not affect the functions of the fire department and felt flexibility at this point was worthwhile in future dealings. He advised the Fire Department's attorney had not wanted to start the initial process for agreement over again and that he, himself, had wanted the extension to the original agreement in place and was the reason for the addendum.

**Action:** Motion by Commissioner Jones and second by Commissioner Meckes to approve the addendum as presented. Motion carried.

### End of Old Business



## PUBLIC COMMENT

Public comment is welcome. Anyone may address the Board concerning any item.

Mayor Weatherly will recognize those wishing to speak at the appropriate time.

**We ask that you limit your comments to 3 minutes to allow others to speak.**

**Dave Duncan**, resident of Abbington Subdivision, had been notified by Public Works to remove 3 trees he had planted in the front of his home between the sidewalk and curb, to buffer the walkway and to be esthetically pleasant. He had been told no plants greater than 30" in height and there were concerns with utilities being placed at risk. He understood this situation had occurred before and was there to encourage and ask consideration for tree-lined streets and to allow others to do the same.

Manager Sutton responded the plantings were in the right-of-way where all utility lines are located and as roots grew bigger in time, there would be damage to the lines and would need repair. Public Works has agreed for the plantings to be removed in the fall, allowing a better chance for their survival, and should the plantings be allowed to remain, would set precedent for others to do the same.

Commissioner Jensen desires to look into and agrees with shade trees, and notes this an item the Appearance Commission was reviewing, and to look at ways to protect by spreading the lines out and placing metal guards where the trees would be.

**Herman Jaffee** continues to ask the Town to place sidewalks along Laura Duncan Road and to acquire from DOT the portion of the road from US64 to Hunter Street. He continued other sidewalks should be placed along Hunter to NC55 down to Zeno with the continued growth at US64/NC55, along Olive Chapel Road to Kelly Road and over to the nice park. He asked the sidewalks be complete and not pieced together.

End of public comment

## NEW BUSINESS

### **ITEM # 1 – Status Report from Construction Management**

Director of Construction Management gave a Residential Activity Report and Wastewater Allocation Status Report (attached). This represents the end of the second year of the 4-year wastewater allocation plan with total permits remaining 2,886. Adjustment in the allocation in January spurred activity. Manager Sutton reported CO's for the year and the number of permits was very close (past 6 months) at 5.7% and for annual rate it was determined to be approximately 11 or 12%.

### **ITEM # 2 - Watershed Management Task Force for Wake County**

Possible motion to approve an appointment of an elected official to serve on the Watershed Management Task Force for Wake County.

Mayor Weatherly recommended the appointment of Commissioner Don Grimes to serve on the Watershed Management Task Force for Wake County.

**Action:** Motion by Commissioner Jones and second by Commissioner Hilt to approve the appointment as recommended. Motion carried. (Commissioner Meckes left the meeting before the vote).

End of New Business





Mayor Weatherly recognized Town Manager Sutton for final words. Manager Sutton expressed appreciation for his tour he had served and for the support of his wife (Pat). He noted in the 8 plus years with the Town, population had quadrupled and the time was exciting, challenging and gratifying – he had been at the right place at the right time and was grateful for the opportunity.

Mayor Weatherly and the Commissioners returned their gratefulness to him for serving, Commissioner Hilt noting his sense of humor, Commissioner Grimes assuring his vote for him eight years ago had been the right vote and his successor too had a good sense of humor, and Commissioner Jones agreeing as well the past 8 years had proven his selection as Manager was the right choice.

### ADJOURNMENT

With no further business to come before the Board there was a motion by Commissioner Jones and second by Commissioner Grimes to adjourn at 7:35 p.m. Motion carried.

The above minutes were approved on the 7<sup>th</sup> day of August 2001

Georgia A. Parker  
Town Clerk

Keith D. Weatherly  
Mayor

# TOWN OF APEX BOARD OF COMMISSIONERS'

Minutes of August 7, 2001 Meeting



Mayor: Keith H. Weatherly

Website: [www.apexnc.org](http://www.apexnc.org)

Commissioners:  
Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Mayor Weatherly called the regular meeting of the Town of Apex Board of Commissioners to order, Tuesday, August 7, 2001 at 7:00 p.m. in the Apex Town Hall, 73 Hunter Street. Commissioners Jensen, Meckes, Jones and Hilt were present. Commissioner Grimes was absent.

Welcome by Mayor Weatherly  
Invocation by Commissioner Meckes  
Pledge of Allegiance

## INTRODUCTION OF TOWN EMPLOYEES

Mayor Weatherly welcomed newly hired Town Manager Bruce A. Radford to the meeting. Mr. Radford noted his first week was busy, meeting new employees and he found a committed group, professional and experienced and those not experienced being taught. He appreciates the opportunity and looks forward to serving the Town.

### Directors introduce newly hired Town of Apex Employees.

Telecommunications, Robyn Best and Doyle Simmons  
Information Services, Stacey Rogan  
Finance, Kathy O'Brien

General Services, Jeremy Postreich  
Waste Water Pretreatment Coordinator, David Hardin  
Street Utility Maintenance Worker, Steve Shontz

## CONSENT AGENDA

Mayor Weatherly presented the consent agenda to be set and asked for a call for action.

Action: Motion by Commissioner Hilt and second by Commissioner Jones to approve the consent agenda as printed.  
Motion carried.

1. Minutes of July 17, 2001 Board of Commissioners meeting.
2. Minutes of July 25, 2001 Finance Committee meeting.
3. Authorization to "piggyback" the bid award by the City of Durham for industrial tractor with backhoe.
4. Approval of Wake County Tax Report.

End of Consent Agenda





## REGULAR MEETING AGENDA

Mayor Weatherly presented the regular meeting agenda to be set. There were no amendments to the printed agenda and was set as printed.

### PUBLIC HEARINGS

#### Public Hearing # 1 – Rezoning Case # 01RZ04 - Director of Planning

Public hearing regarding Rezoning Case # 01RZ04, Summit Management Company, to rezone from High Density Residential to Office & Institutional, 1.43 acres located at the northeast corner of Reunion Creek Parkway and NC55.

Director of Planning reported the Planning Board had reviewed this rezoning request on July 9 and unanimously recommends approval. Adjacent properties are zoned high-density and O&I. This rezoning is not a part of the NC55 Corridor Plan. Staff concern is with the access, that when developed, it should be located off Reunion Parkway and not off NC55 and so stated at site plan review. Staff advised this rezoning is not conditional but Petitioner is in agreement with staff to the access location. Attorney Fordham advised if this were not a condition of the rezoning, the Board could not consider any specific promise by the petitioner regarding conditions nor rely on any promise from petitioner regarding access.

Mayor Weatherly opened the hearing at 7:10 p.m.

#### **Speaking in favor of the rezoning:**

Barry Bowling, on behalf of petitioner, stated he had no problem with access from Reunion Park and could be added at site plan approval.

#### **Speaking in opposition to the rezoning:**

Brenda Sapp, property owner, opposes the rezoning if there's not an access road; and if built, it not be built on NC55 due to the number of accidents and near misses, heavy congestion, and notes the time she has to leave home early to get to school on time. She verified with staff this rezoning would not have any bearing on the surrounding properties and their current zoning. Staff response was that it would not.

#### **The hearing was closed at 7:15 p.m.**

Commissioner Hilt addressed limiting access onto NC55, and asked the petitioner if he were willing to amend the petition to have access onto Reunion Park and his response was that he was willing to do so. It was noted by staff to start a new process to amend the petition would take at least two months. Commissioner Jensen asked if there was a plan time to develop the site. Petitioner stated the site plans were being reworked, but all plans show access onto Reunion Park. Attorney Fordham advised this was not a conditional use proposal, and the petitioner would have to come back for reconsideration, should the general use rezoning be granted.

Commissioner Jones doesn't agree to another access onto NC55. Attorney Fordham advised this could be NCDOT's call, but could be a problem due to the road frontage. Attorney Fordham advised if the site plan were legal in all areas and safe, and if the state granted a permit for access, the Board would have to approve the plan, only with the right to deny if it were not safe. Commissioner Hilt felt the rezoning was a good land use, but was concerned with the access and didn't want to fail the rezoning, and petitioner have to wait one year, but to have an opportunity to come back sooner than one year. Mayor Weatherly noted to modify would mean a new application and continued the discussion regarding time to process modifications with the Planning Director.

**Action:** Motion by Commissioner Meckes and second by Commissioner Jensen to table this item for two weeks. Motion carried.

End of Public Hearing # 1



**Public Hearing # 2 – Annexation Petition # 319 - Director of Planning**

Public hearing concerning Annexation Petition # 319 Town of Apex, owner/petitioner, 2.981 acres ( Town of Apex Lift Station No. 4 ) Schieffelin Road / US Highway 1 & Lufkin Road; possible motion to adopt ordinance to extend the corporate limits.

Director of Planning oriented to the location of the property and recommends annexation of the Town's Lift Station. The hearing was opened at 7:25 p.m. With no one speaking in favor or in opposition, the hearing was closed.

**Action:** Motion by Commissioner Jones and second by Commissioner Meckes to adopt an ordinance to extend the corporate limits by the 2.981 acres. Motion carried.

**End of public hearings**

**OLD BUSINESS**

**ITEM # 1 – Animal Sanitation Ordinance - Commissioner Meckes**

Commissioner Meckes requested the Board revisit the Animal Sanitation Ordinance, adopted April 3, 2001, because it was not working like he had envisioned, and was creating a problem within the community. He noted it not a violation for an animal to defecate off its on premises, and not being able to dictate where a dog wanted to do so.

Ellen Koch, 1002 Camberley Drive, presented sample legislation for consideration for wording an ordinance. She addressed responsible pet ownership and disposal of animal waste. She had not visited the park since April, not wanting anyone pointing to the Town's ordinance regarding this issue. She asked reconsideration of the wording of the law.

Joanne \_\_\_\_\_, 309 Stargate Drive, Holly Springs, animal trainer and pet owner noted the wording of the ordinance making it unlawful to walk pets and if allowing them to defecate, you could be fined. She asked the wording be revised to make pet owners more responsible.

Mayor Weatherly advised the initial wording was addressed and allows defecation and clean-up, but not on another persons yard. Enforcement would follow reoccurring violators and understood as worded, it could intimidate law abiding dog owners. Attorney Fordham noted the ordinance "not strict liability", not being a violation to allow an animal to defecate, only a violation when not properly cleaned up; as written places a burden on the owner to have an animal defecate before going onto public property. Issue being a policy question, to clean up or not.

Commissioner Jensen wishes to encourage a mechanism to clean up, at least show intent. Commissioner Hilt noted the law useless, unless people carry bags or gloves, etc. Commissioner Meckes doesn't feel the ordinance is where it should be and needs a mechanism built-in for immediate removal. Commissioner Jones felt there was misunderstanding; this ordinance didn't state you couldn't walk a dog. Commissioner Hilt was in agreement the ordinance state a time period for clean up as well as Commissioner Jensen. Town Attorney will consider recommendations regarding the ordinance.

**End of Old Business**





## PUBLIC COMMENT

Public comment is welcome. Anyone may address the Board concerning any item.

Mayor Weatherly will recognize those wishing to speak at the appropriate time.

**We ask that you limit your comments to 3 minutes to allow others to speak.**

John Hibbard, 1016 N. Wellonsburg Place, addressed flooding in Sterling (Buckingham) and notes flooding steadily increasing, showing photos and footage of the recent rains of July 4 and 9 along the stream path (150' in width). He noted water flows in relation to his house and the street, and one source of the problem being the drainage flow from Saint Andrews Church. With a drop-off of his property, the water in some areas will reach a depth of 6'. He feels an increase in construction and spill-over brings more run-offs.

James Sasser, 1008 Mellonsbury Drive, noted the location of his home in proximity to the stream path and an increase of frequency of rains that fills up the drain pipe and floods the property. From the last rain flooding his air conditioning unit was covered with about a foot of water. Sediment was cleared a few years ago, but continues to build back up. He asked that engineers be consulted to survey the area and put together a plan regarding flooding. He notes this as a safety issue and doesn't want any more building in this area, specifically Saint Andrews Church. He noted there is no place for the water to go and wants the problem fixed.

Joseph Burkey, 1022 N. Wellonsburg Place, notes the creek flows at the back of his property and continues to overflow, spilling over into his property, and requiring some clean-up; and being a nuisance as he's not able to keep grass growing. He noted the 100' floodplain on the survey, but that there's not been a lot of rain, but a lot of run-off. The July 4 storm brought the water from the stream up to his deck and into the crawl space of his home (about one inch), the first time at this intense level, bringing silt and sand that had to be cleaned up. The July 9 storm moved his bridge off the foundation and caused down trees (part of his foundation). He noted over a period of time, the water flow has caused a change to the creeks design, bringing sediments (silt) and erosion leaving standing water with a back-up in the creek. He has concerns for the future with the pattern of rains.

Ginger Moser, 1012 N. Wellonsburg Place, places cause for flooding on the development of homes in the surrounding area with flood waters worsening over the past 9 years along the stream path from Sterlington Drive to N. Wellonsburg. Water had reached the 100' flood line. Photos indicate sand deposits along the creek with massive amounts of water going down stream (Fran). The manhole area was flooded and completely submerged, engulfing the culvert (1 foot of water). She asked the Town to consider options regarding the flooding issues.

Mike Godfrey, 2006 W. Sterlington Place, showed photos of the flooded culvert and believes it to be the choking point for the creek. He notes problems with drainage from Saint Andrews Church and is looking into granting an easement to correct the drainage problem. Other concerns were lighting and landscape. He has spent money to have the waters diverted away from his home.

**End of Public Comment**



## NEW BUSINESS

### ITEM # 1 – Site Plan – Apex Steel - Director of Planning

Possible motion concerning site plan for Apex Steel located on US64 between North Salem St. & Laura Duncan Rd.

Commissioner Meckes stated Paul Creech, representing one of the parties, was his corporate attorney and asked if this were a conflict of interest for him. Town Attorney advised it was not.

Diane Khin, Planner, presented the site plan for Apex Steel, orienting to the site which is outside the town limits and being a planned warehouse with associated office space, consistent with the 2010 Land Use Plan. Drive access easement exceeds 25' and requires an agreement with the affected property owner, Extra Attic Self Storage (Mr. Roger Honbarrier) as a condition of site approval.

The proposed landscape plan meets UDO requirements for buffers, general landscape and vehicle use area landscape, except for the 100' controlled access highway buffer along US64. Board of Adjustment granted a variance to reduce the 100' buffer to 15' where the 25' access easement exists and serves as the sole public access to the property. Applicant is asking to reduce the 100' buffer to 40' along the remainder of the property line adjacent to US64. Staff believes due to topography between US64 and the property, a reduction to 40' would be acceptable, as the highway sits above the roofline of the building and trees would not be visible until they reach a 30'/35' height. A letter from Ronald E. Clemmons, President of Apex Steel indicates in exchange for reduction to the 100' buffer along US64 to 40', Apex Steel would plant 2 rows of loblolly pine trees in the DOT right-of-way. The first row will be 30' from the eastbound travel lane, with a second row being 38' with the trees staggered 8' on center. The size of the pines will be a minimum bare root or 1 gallon pots.

The property lies within the Swift Creek Watershed Protected Area, meeting the impervious surface limitations. The on-sight stream is not perennial so a 100' buffer is not required; a 50' buffer is provided around the stream.

The proposed driveway onto US64 aired concern for safety, even though a traffic analysis was not required, due to the configuration of the driveway, staff requested a traffic study be conducted, and it was found the drive is acceptable. Lighting also meets the UDO requirement

Staff recommends approval of the site plan with the following conditions:

1. The Board finds that the reduction in the 100' buffer to a 40' Type A buffer is acceptable.
2. Improvements shown to the 25' access easement indicate significant impact beyond the 25' easement limit. As the fill along the entire proposed roadbed exceeds the 25' easement limit, an agreement with the affected property owner, Extra Attic Self Storage (Roger Honbarrier) is required as a condition of site approval.
3. ADA code standards will have to be met at the construction plan stage.

Planning Board at their July 9 meeting unanimously recommends approval with the same conditions as cited by staff.

Applicant is willing to comply with the planting in accordance with the July 30 letter regarding condition #1. Applicant has also provided a letter of July 3, stating he is willing to comply with three recommendations listed above. Applicant now requests a revision to condition #2 above regarding access easement (discussed by applicant and shown on provided revised Conditions list and attached).

It was noted by Khin there is a right turn lane onto US64, and acceptable by DOT. Chief of Police Hearn suggested a light on the signage, but it is not required or allowed by DOT.



**New business #1 continued**

Melanie Brethauer, Brethauer Consulting Engineer, reviewed plans for reduction in buffer from 100' along US64 to 40' and notes a hardship due to topography of the land, whereby reduction to front buffer would allow a save to the larger trees along the rear stream and the RCA would have a larger contiguous area. The main building would sit closer to the front and at a higher elevation to act as a screen for the rear yard. The railroad track buffers and plantings would be in addition to the required buffers. Plans for the retention pond would be oversized to look like a water feature vs. a retention pond.

The Board of Adjustment granted a variance to reduce the 100' buffer to 15' in the area shown on the site plan in order to align the driveway with the existing access easement. She spoke with DOT and a designer was hired to insure safety and reviewed by DOT. It was assured the de-acceleration lane was adequate. DOT allows additional plantings of the two rows of pines with the first row being 30' from the eastbound travel lane.

Commissioner Jensen addressed the size of the pines and noted they may not perish unless they are larger. Brethauer assured the weeds would be cut back for the plantings and would allow flexibility with the pines to provide additional buffering. Commissioner Jones noted recent removal of trees in the same area and confirmed it was approved by DOT to plant within the 30'. Brethauer noted the removal was on the other side. Commissioner Jensen was in agreement with the 2 rows of pines.

Eric Braun, Womble & Carlyle, noted the site plan meets the UDO requirement; however, there are private property rights issues to be addressed with Mr. Honbarrier. Two alternatives have been provided (attached) to utilize the 25' access easement with Alternative 1 being that the Town accepts the access to the site using property outside the existing 25' easement area shown on the applicant's site plan. As far as safety, it was noted traffic is a minimal 2/4 or 6 trucks a day and was assured by engineers access was adequate. Older plans were modified to address concerns. He asked the Board to approve the plan and indicated, they in turn would work out private property issues with Mr. Honbarrier, either in the courts or otherwise. Braun indicated he was working for a long term plan and should it not be agreed to this plan, or a new plan.

Bill Hood, Engineer, reported on the traffic impact study which addressed safety concerns, noting it was not a capacity issue, and that the right turn meets DOT requirements. Brethauer discussed the grading issue and fill on site, noting the site plan had been reviewed by the Town's Planning, Engineering, and Safety staff and meets all the requirements. Explanation of grading design was addressed regarding the easement. Brethauer made additional comments on the grading and fill on site and easement.

Mayor Weatherly asked if issues regarding eminent domain should be discussed publicly or in executive session. Attorney noted either way.

Roger Honbarrier, Extra Attic Self Storage, addressed his concerns in an August 1 letter in regards to the 25' easement and its use. He noted the use addresses the re-arrangement of his front entrance that would create a hazard to his facility and his customers, inviting accidents to occur. He noted the plans suggest going beyond the 25' easement onto his property and was more than just a private dispute. In addressing the redesign, notes it would take additional property beyond the 25' encroaching into the right-of-way and potential for traffic nightmares, asking rejection of the change and being opposed to other encroachments. He notes storm water from the detention pond would discharge directly towards his property and requires maintenance that had not been agreed to at his site plan approval. He noted drive alternatives indicates rear parking, eliminating front parking and planting of trees on the embankment which is not agreed to, and violating the Town's ordinance. Other issues are addressed in his letter, to include a paint booth that may over spray reaching the property and equipment in his storage facility. As an engineer, he doesn't agree a road could be placed in a 25' easement and cross the creek on site without encroaching onto his property. He feels the traffic study is invalid, as it doesn't show a complete traffic count and doesn't project into the future; he disagrees with the redesign on the area in front of Extra Attic; study doesn't address the hairpin turn needed to get steel trucks off US64 and onto the 25' drive, safety of employees, nor future development creating increased traffic needs for ingress and egress.





## New business #1 continued

He notes alternative routes would be better for cell tower employees, a public crossing for fire trucks, and referring to the 700' along the railroad to take care of all future development. He asked denial of the site plan because he doesn't agree that the 25' right of way is legal, there's no unified comprehensive plan and there's the safety issue off US64. Honbarrier is willing to give up more property to the rear of the site for a safe plan that would benefit and that the 700' along the Booth/Goodwin property line may be a viable solution as an alternative for a public crossing. Offer of dedication would allow the 60' right of way to enter the property, having all parking at the rear, and maintaining the front area and would not be a safety issue for large trucks making the hairpin turn. He reports in conversation with Town Engineer Robert Gron, he had agreed it would be a better solution to extend the road straight off the highway avoiding the hairpin turns; again restating the traffic study doesn't take future traffic issues into account.

Honbarrier stated he has worked with the applicant, but has not resolved with a satisfactory plan.

Paul Creech, Attorney, notes a great deal of money and time had gone into trying to put "a square peg into a round hole". He had missed the exit himself, noting the hairpin turn, and that use of the 60' right-of-way for safety made sense and referenced the offer for easement on the back side of property. He noted Honbarrier had purchased the property in 1994 and had given the 25' easement for vehicle/pedestrian access into the property for Mr. Booth and never contemplated it to be used by 18 wheel trucks and doesn't agree that 25' is sufficient.

Creech continued to point out the slope easement backs to Honbarrier's facility and with the current plan intending to have improvements run over into the property slope area; not being an acceptable plan or a safe plan.

Creech continued there are numerous overriding issues and asked the Board to deny the approval of the plan. He noted condemnation for public purpose had not been an issue for the last 6 years, with no one showing any interest, but had been so only during the last 6 months. He noted this to clearly be a private issue.

Commissioner Jensen asked if a fee were charged regarding the slope easement. Creech responded there was a legal valid document and Honbarrier had gone to a great deal of expense to build and support his parking lot and the current plan would interfere with this.

Response: addressed the drainage, in that it's not uncommon for DOT to use easements for drainage to an existing drain. He further notes in reality, you can't address all future issues regarding rerouting of the access, but there's limited site distance – the 60' or hairpin turn into the only access on US64. He noted storage of boats and heavy equipment use has not been an issue and requests Apex Steel not go on this property until there's a way figured out to get it done, and continued that the slope document was confusing as there was no description on it, that it was not clear and the issue would have to be resolved.

Brethauer commented on the plans for extension of pipes due to the fill, and the railroad crossing not being a public access, and that all plans meet the Town's requirements. She noted the back drive provision would take additional work and reviewed and needed approval of the other property owners and doesn't change anything. She noted the stuff in the easement is rendered unusable, unless pulled back and go with the 25' easement.

Mayor Weatherly asked for a motion to go into executive session to receive advice from Town Attorney at 9:20 p.m.

**Action:** Motion by Commissioner Meckes and second by Commissioner Jensen to do so. Motion carried. Minutes are recorded separately. Motion by Commissioner Jones and second by Commissioner Meckes to return to open session. Motion carried.





**New business #1 continued**

Mayor Weatherly asked Planner Khin if the site plan were viable with the 25' easement. Khin responded it had not been demonstrated it could be done, but she's not saying it couldn't be done. Mayor Weatherly noted the appropriate steps: to build with the 25' easement or not at all; approve a conditional site plan by obtaining additional easement; staff noting the 25' was not in or out and couldn't determine if the site plan was viable, as it meets all the specifications and has a legal right to use the 25' and noted the hardship issue. Conditions are that it meets ADA code standards, and the buffer be reduced to Type A from 100' to 40' if granted by the Board with additional plantings in the right-of-way.

Commissioner Jensen felt it was good to save trees and an improvement to have the additional plantings if they will survive the one gallon size and should be placed as high as possible. Mayor Weatherly noted the re-forestry program uses seedlings. Commissioner Hilt reminded the Board there should be a trade-off for reduction and felt the intent of the buffer met the requirements and felt pines were critical to US64 buffer and placing them close together made a more natural buffer, not necessarily on right-of-way, but on the property. Commissioners Hilt and Jensen agreed with 200 pines one to three feet being a good mix.

Commissioner Jones agrees to approve the site plan as shown and staying within the 25' easement; he noted there were storm water issues to be resolved, and private legal issues to be resolved.

**Action:** Motion by Commissioner Meckes to approve the site plan with an entrance by either Alternatives # 1 or # 2 to the site, with either means of access being acceptable, and if established by staff that it will work and with Alternative # 1 having the right to do so, and if the approved plan finds an acceptable buffer from 100' to 40' and the ADA is acceptable with the site plan. He further extended the motion to include that the 100 or 200 pine trees be planted in DOT right-of-way or in existing buffer and recognizing the hardship in nature of the land as a benefit to save trees. Second by Commissioner Jones.

**Action:** Motion by Commissioner Jensen to amend the motion that the plantings be planted as high on the slope that is acceptable by DOT per letter attached, dated July 30. Second to the amendment by Commissioner Meckes. Motion carried.

Motion on the original motion carried.

**End of New Business #1**

**ITEM # 2 - Kelly Road Pumping Station – Director of Public Works**

Possible motion to declare an emergency at the Kelly Road Pumping Station in order to make necessary repairs.

Manager Radford reported the Kelly Road Pumping Station was a heavily used station and serves Beaver Creek pumping an average flow of 900,000 gallons per day including flows from three other lift stations. He reported the base mounting plate restraining bolts are failing and must be pulled to service them. He recommends declaration of an emergency in order to obtain a contractor to make the necessary repairs at an approximate cost of \$150,000. Director of Public Works Tim Donnelly answered questions regarding the station and the repairs.

**Action:** Motion by Commissioner Hilt and second by Commissioner Jones to expedite the repairs on an emergency basis. Motion carried.

**End of New Business Item #2**



**ITEM # 3 – Flooding problems - Commissioner Jensen**

Commissioner Jensen requests this item concerning flooding be placed on the agenda.

Commissioner Jensen presented a list of items and suggestions to be considered regarding flooding. He noted there may be some state money available to subdivisions that had flooding prior to '93. Suggestions for corrective action are attached and one being #8 – a program to assist homeowners in diverting storm water, and noting street contributions and the need to minimize the impact by solving the problem at the source.

He views Items # 1, # 2, and # 3 as being the most important.

# 1 – Installation of a large retention pond to moderate flooding and used as a passive water park for Surry Meadows, Vintage Grove and Oakcrest Subdivisions.

# 2 – Expand the retention pond at the upper end of Shepherd's Vineyard to minimize storm water inflow to this area.

# 3 – An existing pond could be purchased and used for storm water runoff for current and new development.

# 5 – A new retention pond for Shepherd's Vineyard.

# 6 – Cleanout of culvert at West Sterlington Place at Mellonsbury Drive, noting it's undersized.

Mayor Weatherly noted a sedimentation/erosion control structure moved from Shepherd's Vineyard as it had little impact on storms. Commissioner Meckes noted the ponds are designed for where they are placed. Commissioner Hilt commented on maintenance of the ponds and streams with some looking like mud-holes.

Commissioner Jensen felt there should be a balance and staff could review these suggestions for example, upgrade of storage; there is serious damage being caused to homeowners and water quality. He noted the Neuse River having 50' of existing vegetation to keep banks where they need to be. He feels with additional storage, homeowners should be educated to help prevent worsening of situations as noted in # 8.

# 9 - No new development in locations that impact the Williams Creek branch of Swift Creek unless a minimum 4" retention pond is constructed.

# 10 – Sec. 6.1.3 B&C of the UDO should require existing developments in Swift Creek Watershed meet storm water run-off requirements within 5 years or at time of redevelopment or expansion (idea of amortization).

He would like the retention ponds as they increase in size and come back down to have gravel and plantings; making them look decent but still be functional.

He would like these suggestions to be considered by staff and then to the Planning Committee. Mayor Weatherly asked Manager Radford to work with staff to see if the ideas were reasonable and permissible and also consider staff time and cost and meet with Planning Committee. Manager Radford noted it may take 2 or 3 people about 3 or 4 weeks to consider sizes, the areas in question, run-off and capacity. Director of Public Works Donnelly noted control and site availability and design would have to be considered, value of land and felt there would be a significant cost involved from \$35,000 to \$65,000 (example: a 10 acre site with a 4" run off. ) and a cost benefit analysis.

Commissioner Hilt commented on degradation of existing streams and possible grants to homeowners in subdivisions to repair streams and prevent such problems. Commissioner Jensen commented there are lots of options, even though you can't fix all the problems, even 20% would help.



**New Business #3 continued**

Commissioner Jensen continued that # 1 was a huge opportunity to save a nice piece of property with use of a grant and an application deadline of December 1, 2001, desiring # 1 be a priority and indicated his willingness to work on this alone. Commissioner Meckes understood Sterling hand not wanted a pond and wanted to ensure all the neighbors agreed. Commissioner Jensen had spoken with Robin Oke and she was excited about a park that would benefit the folks there; also Shepherds Vineyard was interested. Mayor Weatherly noted small ponds breed mosquitoes if they are too small; and understood this was for a water retention pond with a park around it.

Director of Parks and Recreation John Brown, informed the update of the master plan was underway, and part of the plan looks at future locations. His concern is with how it fits into the location of ponds/parks, some working while others may not. Some issues are maintenance, smell, mosquitoes, and liability. Another issue would be with resources, does it go for a retention pond or natural park.

Commissioner Jones appreciates Commissioner Jensen's willingness to work on grant applications, and thinking if this is the right use of a grant. He was not opposed, but felt staff should work on the grant process to assure all are in agreement. Commissioner Jensen's concern is that the opportunity is there, but needs to be worked on quickly due to the deadline of December 1. Commissioner Hilt would like to have the Planning Committee review the application. Commissioner Jensen again expressed excitement with the site nested among those three subdivisions except Surry Meadows. He noted parks are not necessarily needed, but he was looking at it as a park use, but decided this was the best spot. He's look at the place for two years, where there's a split rail cabin sitting on site.

**Action:** Motion by Commissioner Meckes and second by Commissioner Jones to refer this item to the Planning Committee. Motion carried.

Commissioner Jensen noted he would get the application for the grant. It was a consensus of the Board to he acquire the application and forward it to staff to contact the proper person.

**End of New Business****WORK SESSION****ITEM # 1 – Proposed Amendments to the Unified Development Ordinance - Director of Planning**

Review of proposed amendments of the Unified Development Ordinance with regard to Watershed Protection Overlay Districts.

Director of Planning recognized Nancy Dunn, Law Student, Chapel Hill, intern, who had prepared the proposed draft of the ordinance. Director of Public Works, Tim Donnelly advised the proposed amendments to the UDO with regard to Watershed Protection Overlay Districts were a result of a charge by the Board to unify the existing rules; comply with existing mandates of Jordan Lake and Swift Creek (primary areas) ; utilize central statutory authority; comply with storm water mandates; adoption of Neuse like buffers by January; compliance of the Cape Fear rules; buffers on intermittent streams and 100' average buffers with a 60' minimum, with an average of 100' on perennial streams; use Swift Creek impervious rules for all streams; built in mechanisms for special sites; mechanism to review stream classification; identify field mechanisms; be consistent with the Neuse rules and he hopes to delegate those rules.

Director of Planning pointed out the primary and secondary watershed districts. Board had asked for flexibility in 60' minimum average buffers. In the two state mandated areas which already exists under watershed rules, Town has no flexibility, State requires it to be 100'.



**Worksession continued**

The primary areas, Jordan Lake and Swift Creek required State 100' buffer (red on map); flexibility and Town mandated rules could be applied to (brown area). White areas are 100' buffer and the blue areas are 50' or intermittent streams.

Exemptions are the central business district and lots of 2 acres or less (brought forward from the existing ordinance) primarily non-residential lots (smaller type business uses). Commissioner Jensen asked what percent of Apex was under the exemption. Dunn then noted she thought the non-residential was removed. Director of Planning stood corrected, but in the existing ordinance, it doesn't specify residential. Khin noted this to be consistent with state code.

Jordan Lake has a 24% or greater average for retention ponds, Swift Creek is 12% or greater for retention ponds; and 12% in the Town controlled area, and with Jordan Lake to be 12%. Neuse rules have a 50' buffer; there are no perennial streams at the top of hills and Apex is at the top of the hill and has run-off problems because our soils don't hold it, but let it go. Donnelly pointed out the 100 year flood line, and the 100' buffer rule. On perennial streams, the 100' buffers are smaller in a lot of cases than the flood plain. Donnelly noted we want to push people away from flood plains, makes development more expensive, but precludes complaints 10 years from now.

Director of Planning noted primary commercial sites are beyond the Old Ramada Inn, where the Town would be initiating buffers (NC55 & US1). Mayor Weatherly had wanted to see how much land would be taken from private land owners when requiring a 100' buffer, when it's proposed over the 100 year flood plain, and he's told in most cases it's not much, but would be sensitive to what we're doing to private land owners in those key commercial sites. Those are in the Neuse and only require 50' buffers. Mayor Weatherly noted only in the perennial streams, would we have the 100' requirement, which was correct. The Barker property was located and noted in the Neuse Basin. Commissioner Meckes noted the Town hasn't done much with any land, in the specific lands looked at.

Donnelly noted the Town is creating an obligation that (site plans will comply because of Neuse rules) 10 years from now, if a homeowner decides to mow down everything to see the creek, the Town will have a duty to stop that; nature takes care of the banks and that's why there are rules for water quality and stabilization of the banks. Director of Planning noted floodplains and RCA's will not have lots, but owned by the homeowners associations, and could be used, but try to keep it in the most natural form. Commissioner Hilt noted there are not a lot of problems with Neuse buffers on really big sites, only those that have a lot of veins running through; natural features protect those; what kills is making too many stream cuts.

Commissioner Meckes referred to the NC55 Corridor study, and that it looks like a developmental nightmare to do anything with it; it being the major employment center. Khin noted those areas on the map, and those with environmental constraints on the property. Commissioner Meckes noted the area of Jesse Road Extension; Commissioner Hilt noted the flatness of the site, noting it's awful for development.

It was noted a public hearing must be held before adoption of the amendments to the ordinance. The Planning Board has asked to review it again, prior to the adoption.

Commissioner Jensen had concerns with the variable buffer line, could there be monuments for the buffer boundary so you could tell where it is and would remind the property owner. Donnelly said with new subdivisions, it would be recorded; but could be done.





**Worksession continued**

Commissioner Jensen noted 6.1.12 Modifications by Variance, if the modification allowed is up to 26.4% (State minimum) and asked if we were already into the high density zone. This allows a 10% variation from the minimum requirement. It was noted even if in low density, and asking for a variation, it would have to be granted, it's not a right, and has to show a hardship. Dunn noted the State does not want to see anything less than their minimum.

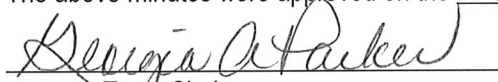
There will be some minor corrections to the ordinance and returned to the Planning Board for a final inspection. Commissioner Jensen wanted to include monuments in the amendments.

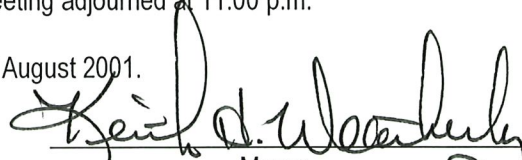
**End of Worksession.**

## ADJOURNMENT

With no further business to come before the Board, the meeting adjourned at 11:00 p.m.

The above minutes were approved on the 21<sup>st</sup> day of August 2001.

  
\_\_\_\_\_  
Town Clerk

  
\_\_\_\_\_  
Mayor

# TOWN OF APEX BOARD OF COMMISSIONERS'

Minutes of the August 21, 2001 Meeting

7:00 p.m.

Apex Town Campus  
73 Hunter Street



Mayor: Keith H. Weatherly

Commissioners:  
Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Website: [www.apexnc.org](http://www.apexnc.org)

Mayor Weatherly called the regular meeting of the Town of Apex Board of Commissioners to order on Tuesday, August 21, 2001 at 7:00 p.m. in the Apex Town Hall, 73 Hunter Street. Commissioners Jensen, Meckes, Jones, Grimes and Hilt were present.

Welcome by Mayor Weatherly  
Invocation by Commissioner Hilt  
Pledge of Allegiance

## PROCLAMATION

Mayor Weatherly recognized by Proclamation, Constitution Week, August 17 – 23. Members of the National Society of the Daughters of the American Revolution were present to receive the Proclamation.

## CONSENT AGENDA

Mayor Weatherly presented the consent agenda to be set and asked for a call for action.

**Action:** Motion by Commissioner Meckes and second by Commissioner Jensen to approve the consent agenda as printed. Motion carried.

1. Minutes of August 7, 2001 Board of Commissioners meeting.
2. Minutes of August 7, 2001 Board of Commissioners Executive Session (separate cover).
- \* 3. Site Plan – Empire Warehouse, 1012 Investment Boulevard.
- \* 4. Minor Site Plan – Faith Baptist Church Addition, US64/Shepherd's Vineyard Drive.
5. Resolution Authorizing Condemnation of Water Line Easements to Facilitate Use of New Water Tank.
6. Approval of Wake County Tax Report.

\* Items 3 and 4 received unanimous approval by the Planning Board at their August 13 meeting.

End of Consent Agenda





## REGULAR MEETING AGENDA

Mayor Weatherly presented the regular meeting agenda to be set asking if there were any amendments.

**Action:** Commissioner Jensen asked to amend the agenda to include discussion regarding flooding and to expand on the Planning Committee Meeting of August 22 to include all of Apex, making his request in the form of a motion.

Commissioner Grimes responded the Planning Committee would be hearing the facts, at the already advertised meeting of August 22, in regards to flooding issues, not specific to any one area. Consensus of the Board was to discuss these issues at the Committee meeting with no expansion to the notice required. Commissioner Jensen withdrew his motion.

The regular meeting agenda was set as printed.

## PUBLIC HEARINGS

### Public Hearing # 1 –UDO Amendment - Director of Planning

Public hearing regarding UDO amendment to allow gymnastic facilities in Light Industrial; possible motion regarding same.

Director Rowland advised a request was received from Real Estate Advisor Tom Colhoun, to allow gymnastic facilities in Light Industrial District. This request was considered by the Planning Board at their August 13 meeting. Staff advised Cary, Raleigh and Garner allows this type facility in industrial districts and are typically large, box like structures with high ceilings, which are typically seen in industrial districts. Staff recommends UDO be amended as requested and also with the inclusion that gym-like facilities in O&I District be lower scale. Planning Board unanimously recommended approval to amend the UDO and were in agreement with staff to assure distinction between O&I District to allow for smaller scale and Light Industrial District to allow for high-bay scale. Staff noted current Apex Gymnastics located on Schieffelin Road is not high-bay and was non-conforming to the current UDO; also, the existing Dream Sports Center is a similar facility and not high-bay.

Mayor Weatherly opened the public hearing at 7:12 p.m. With no one speaking in favor or opposition, the hearing was closed.

**Action:** Motion by Commissioner Jensen and second by Commissioner Jones to amend the Unified Development Ordinance as approved by the Planning Board.

End of public hearings

## OLD BUSINESS

### ITEM # 1 – Animal Sanitation Ordinance – Attorney Fordham

Possible motion to adopt an Amendment to Animal Sanitation Ordinance.

Commissioner Meckes advised that he and Attorney Fordham had communicated regarding a draft amendment to the Animal Sanitation Ordinance. Attorney Fordham briefed on the amendment included in the agenda packet and an alternate amendment provided as a handout.

**Old Business Item continued**

Mayor Weatherly notes as written one is either in compliance or not in compliance, as the alternate outlines, and refers to proper disposal mechanisms. Commissioner Jensen agreeing with the intent, notes it slim chance to catch someone, but with this provision, that one could be asked to leave the park if not showing responsibility for their pet. Commissioner Meckes agrees the amendment shows responsible pet ownership. Commissioner Grimes agreeing it shows intent to dispose of "it." Commissioner Meckes agreed with inclusion of (b) and (a) assumption being the mechanism must be available, and with Commissioner Jensen's point being well taken that without a mechanism one would be in a position to not have dogs walking in the Park.

**Action:** Motion by Commissioner Meckes and second by Commissioner Jones to accept the alternative amendment, Sec. 4-1. (a), (b), (c) to be included in the ordinance. Motion carried.

**End of Old Business****PUBLIC COMMENT**

Public comment is welcome. Anyone may address the Board concerning any item.  
Mayor Weatherly will recognize those wishing to speak at the appropriate time.

**We ask that you limit your comments to 3 minutes to allow others to speak.**

David Szilezy, 414 Maple Creek Court, addressed drainage issues at Scotts Mill due to recent rains over the past months. He noted the Greens development fences and ponds had failed, and with each rain conditions worsen; placing blame on new development. He asked Town to look at the issues and enforce regulations on development; need to construct 4-inch retention ponds rather than 1-inch and to achieve results and may require eminent domain for the ponds. He continued that smaller streams fill with silt and line creek beds, and with abundant rains, forces spill over from the creeks. He met with NCDNR and notes recommendation to dredge and relocate sediment from Lawrence Prong. Earlier removal was done by developer McKay (report included in his handout), and the silt was thrown to the other side of the creek and now has washed back. Notes sediment is choking Kelly Road Bridge and asked it be removed before matters worsen; noted impassable road conditions. He asked Town to help with inspections, as he considers this to be a safety hazard and possible for adult/child to fall into it. Video footage showed spill waters, location of the sewer easement in his back yard; noted there was no flood plain indicated for his property; noted location of the open drain with whirling waters around it, and as the water swells, the creek grows to 100' in width. The land is swampy and washes away, and doesn't allow mowing or use for walking or playing. Continued footage showed failure of the fencing around new development, with silt washing into the streets.

Steve Goff, 506 Hickory View Lane, notes the creek has reached its capacity and progression in the flooding problems. He encouraged the storm water planner to review, and enforce the handling of additional storm water runoff from new impenetrable surfaces. Other homeowners from Scott's Mill were present.

Wiley and Pam Adams addressed drainage issues in Claremont Subdivision, noting conditions worsen with each rain. Information was provided to each Board member. They asked an assessment be made to evaluate the problems. Noted upstream drainage pipe was 48" and downstream pipe was 30" (Olive Street). He felt new pipe calculations were made for the 48" pipe. His major concern is water will reach under his house, as it has risen close to his air conditioning unit.





**Public comment continued**

Commissioner Hilt has the same situation at her house. She stated the Planning Committee has an opportunity to meet with staff to discuss issues at hand and valuable information had been collected from all areas, realizing there is a problem. Committee plans to take information and work with it. She assured the citizens present that their information was not lost. Adams felt his concerns were brushed away with larger problems and desired a plan to improve the situation. Commissioner Hilt encouraged him to attend the meeting, but dialogue would be between staff and the Committee. She noted their input may be asked for, but highly unlikely and answered questions from other individuals regarding the meeting.

A Scotts Mill resident asked who was accountable - McKay, Town, or property owner; he had spent money of his own to correct a drainage problem on his property. Mayor Weatherly assured compliance of the ordinances, but noted if it were a landowner issue, it was between he and his neighbor; but there was no way to know who's accountable. Attorney Fordham advised the Town could not give legal advice to him, but he could retain a private attorney if he felt he had a legitimate dispute, but developers were held accountable to the ordinances.

Commissioner Grimes stated the Planning Committee was meeting to determine the extent of the problem based on information received and what action, if any, the Town has the authority to take, with the committee bringing back to the Board any recommendations.

Commissioner Jones noted the Board was charged with policy setting on recommendations received from the Committee and action would be conveyed to staff to deal with the situations.

Commissioner Meckes addressed difficulty in coming up with a resolution; seeing over the last 7 months, as he was one of the first residents to live there, but seeing the downside as the area is being cleared, creating increase in run-off and worsening with another phase of building to begin with more land clearing. He noted a dilemma in how to resolve this issue.

Cross conversations occurred between the Board and the citizens, wanting to know would policies be retroactive. Mayor Weatherly responded consideration would be given to the Committee's response. Commissioner Grimes responded the Committee had to meet with staff first; being fully aware of most of the situations and their seriousness. Conversations continued. Residents didn't feel their concerns were addressed by town employees and was the reason they came to the Board. Commissioners Grimes and Hilt advised staff had informed them of the incidents, whether they had their concerns resolved or not, the information has been made available to the Board to study the issues, consider policy and address issues at hand.

Commissioner Hilt continued homeowners may need to be educated regarding realities that must be faced. The Board would enforce what could be enforced, but there would be a need to educate the public regarding drainage, as she had to educate herself in her own situation. She advised 40% of impervious surface run-off comes from roof tops and individuals need to better understand these responsibilities to be better stewards, because this water drains onto someone else's property.

Commissioner Jensen advised should there be an emergency situation, to call public works immediately.

**End of public comment on flooding issues**

**Public comment continued**

Herman Jaffee addressed the Board regarding storage of waste at CP&L, noting it the largest waste site in the County. His view was it would attract terrorists and possible system failure like 3 Mile Island, causing an uncontrollable fire with no way to survive. He asked the Board to contact other governments and take action to not fill those pools by having \$4 charged as a tax to the citizens to take away dry-cast storage. Pay off to progress energy would be about \$1 million yearly.

Mayor Weatherly responded the Town has been on record within the last three years being opposed to Harris Plant action with the NRC giving a full review of the situation. Jaffee lashed out the state was taking no action and a disaster would shut down the entire state. He noted he spoke with experience and knowledge that 3 Mile Island would not operate again, but no one paid attention to him, and the situation was short of a national disaster. He noted the entire eastern North Carolina could burn and be contaminated. He begged the Board to reconsider and not sit and do nothing about this situation.

**End of public comment****NEW BUSINESS**

Commissioner Jensen left the room at 8:00 p.m. and returned at 8:07 p.m.

**ITEM # 1 – Triangle Transit Authority**

Jim Ritchey, General Manager for Triangle Transit Authority, briefed the Board on the bus service routes now available between Apex, RTP and the surrounding areas ( Apex Route 311), with transferable service to other areas. Fairs to RTP is \$1.50 and to Chapel Hill \$2.00. He noted advertising would begin in September as drivers were familiar with the routes, etc. He hopes individuals will find it a workable service and TTA is open for comments and open for ideas. He noted staff was a big help in implementing this service. He looks forward to NC55 being complete and being able to look further at a different range of services.

**End of New Business #1**

Commissioner Jones left the room at 8:07 p.m. and returned at 8:08 p.m.

**ITEM # 2 – South Salem Elevated Storage Tank - Director of Public Works**

Possible motion to Award Contract 2 for South Salem Elevated Storage Tank.

Director Donnelly noted bids were received on August 8 for the South Salem Street Elevated Storage Tank Project, which was separated into two contracts: Contract 1 for the Elevated Tank and Contract 2 for piping along Salem Street and Tingen Road. He noted an insufficient number of bidders offered on Contract 1 and has scheduled re-bid for August 30. He continued at the second bid, if there was only one bid, it could be opened and could be accepted. There were 7 bidders for Contract 2 to connect the waterline to the existing distribution system, with the low responsible bidder being Mecklenburg Utilities, Inc. He noted the initial bid under the \$2 million budgeted figure. He recommends the bid be award to Mecklenburg Utilities, Inc. at a construction price of \$170,902 and there be a Contingency of \$17,000. Bid tabulations are attached.

**Action:** Motion by Commissioner Hilt and second by Commissioner Grimes to award the bid as recommended with contingency. Motion carried.

**End of New Business**





## WORKSESSION

### ITEM # 1 – Recreation Update - Director of Parks, Recreation and Cultural Resources

Progress report on Parks, Recreation, Greenways, and Open Space Master Plan Update.

Director Brown asked Jim Haden, Haden-Stanziale, PA to give a progress report on the update of the existing Parks, Recreation, Greenways, and Open Space Master Plan. Haden reported the project had been ongoing for several months; there had been various surveys and much response. The project takes into account the adopted guidelines for population and geographic development and addresses major parks and recreation issues such as location of parks and open space, setting priorities for greenway acquisitions, development, connection, floodplain issues, water quality, and habitat.

The plan is being conducted in conjunction with Wake County in an effort to preserve open space and also with the Advisory Commission. Haden hopes Town will take advantage of available grant funding from the bond moneys. Other scheduled meetings are set in place and his hopes are to have a draft plan by October.

End of Worksession

## EXECUTIVE SESSION

Mayor Weatherly called for a motion to go into executive session to discuss litigation with the Town Attorney. Motion by Commissioner Grimes and second by Commissioner Jones to do so at 8:45 p.m. Motion carried. Minutes are recorded separately. Motion by Commissioner Grimes and second by Commissioner Hilt to go back into regular session at 9:30. Motion carried.

## ADJOURNMENT

With no further business to come before the Board, a motion was made by Commissioner Jones and second by Commissioner Meckes to adjourn at 9:35 p.m. Motion carried.

The above minutes were approved on the

4th

day of September 2001

Georgia A. Parker  
Town Clerk

Keith D. Weatherly  
Mayor

# TOWN OF APEX BOARD OF COMMISSIONERS'

Minutes of the September 4, 2001 Meeting  
Continued to September 14, 2001



Mayor: Keith H. Weatherly

Website: [www.apexnc.org](http://www.apexnc.org)

Commissioners:  
Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Mayor Weatherly noted the meeting is a continuation of the September 4, 2001 meeting. The meeting began at 12:00 noon in the Town Hall with the Mayor calling the meeting of the Town of Apex Board of Commissioners to order. Commissioners Jensen, Meckes, Jones, Grimes and Hilt were present. Attorney Fordham, Manager Radford and Assistant Manager Wilson were also present.

Motion by Commissioner Grimes and second by Commissioner Jones to enter into executive session to discuss litigation and personnel. Motion carried. Minutes are recorded separately. Motion by Commissioner Hilt and second by Commissioner Meckes to go back into regular session. Motion carried.

With no further business to come before the Board, the meeting adjourned at 2:40 p.m.

The above minutes were approved on the 2nd day of October 2001.

Georgia A. Parker  
Town Clerk

Keith H. Weatherly  
Mayor



# TOWN OF APEX BOARD OF COMMISSIONERS'

Minutes of the September 4, 2001 Meeting

Mayor: Keith H. Weatherly



Website: [www.apexnc.org](http://www.apexnc.org)

Commissioners:  
Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Mayor Weatherly called the regular meeting of the Town of Apex Board of Commissioners meeting to order on Tuesday, September 4, 2001 at 7:00 p.m. in the Apex Town Hall, 73 Hunter Street. Commissioners Jensen, Meckes, Jones, Grimes and Hilt were present.

Welcome by Mayor Weatherly  
Invocation by Commissioner Jensen  
Pledge of Allegiance

## CONSENT AGENDA

Mayor Weatherly presented the consent agenda to be set and asked for a call for action.

**Action:** Motion by Commissioner Jones and second by Commissioner Grimes to approve the consent agenda as printed. Motion carried.

1. Minutes of August 21, 2001 Board of Commissioners meeting.
2. Minutes of August 21, 2001 Board of Commissioners Executive Session (separate cover).
3. Minutes of August 22, 2001 Planning Committee meeting.
4. Annexation Petition # 320, Steve J. Frisch and Gwen C. Frisch, and Steven B. Bond and Kyle R. Bond, and Rodney Nyland and Margaret Nyland, owner(s)/petitioners; petitioning to annex 11.454 acres, Lots 1, 3 and 4 of the Salem Woods Subdivision, and located on Salem Church Road;
  - 1) Resolution directing Clerk to Investigate Annexation Petition;
  - 2) Certificate of Sufficiency of Petition; and
  - 3) Resolution setting date of public hearing for October 2, 2001.

End of Consent Agenda



## REGULAR MEETING AGENDA

There were no items scheduled to be considered at this meeting.

Mayor Weatherly asked if there were any items that anyone wished to place on the agenda for consideration.

Manager Radford asked to brief the Board regarding the Storm Water Task Force (New Business Item # 1).

Commissioner Jensen asked to discuss feasibility of leasing the third floor of Town Hall (New Business Item # 2).

Attorney Fordham asked to enter into Executive Session to discuss litigation (Executive Session Item # 1).

Mayor Weatherly asked inclusion in Executive Session discussion regarding Personnel (Executive Session Item # 2).

**Action:** Motion by Commissioner Grimes and second by Commissioner Hilt to amend the Agenda to include these items. Motion carried. The agenda was set as amended.

## PUBLIC HEARINGS

There were no scheduled Public Hearings.

## OLD BUSINESS

There were no Old Business items to consider.

## PUBLIC COMMENT

Public comment is welcome. Anyone may address the Board concerning any item.

Mayor Weatherly will recognize those wishing to speak at the appropriate time.

**We ask that you limit your comments to 3 minutes to allow others to speak.**

No one spoke during public comment.

## INTRODUCTION OF TOWN EMPLOYEE

Manager Radford introduced Town Employee Tracy Seabright, Information Services Technician.





## NEW BUSINESS

### Item # 1 – Lease Space Town Hall

Commissioner Jensen requested staff evaluate the possibility of leasing the third floor of the Town Hall to government or other acceptable organizations. Items to consider were to consider:

- 1) Acceptable organizations
- 2) Break-even costs to Apex
- 3) Acceptable return on costs
- 4) Type of allowable construction
- 5) Recommended lease period
- 6) Termination procedure

It was the consensus of the Board to have the Town Manager look into the possibility and report back to the Board.

### Item # 2 – Storm Water Task Force

Manager Radford reported due to concerns regarding the flood water problems within the Town, a Storm Water Task Force, combined of seven staff members was established to look at potential options to consider regarding the Williams Creek and Beaver Creek Basins. Committee meets Tuesdays at 2 p.m. Members have been broken down and assigned to seven areas of Town to review, receive information and report back to the full committee. Mike Wilson will assimilate the comments and report their findings to the Planning Committee and then to the full Board.

End of New Business

## WORKSESSION

There were no Worksession items.

## EXECUTIVE SESSION

Mayor Weatherly called for a motion to enter into executive session to discuss litigation and personnel matters.

**Action:** Motion by Commissioner Grimes and second by Commissioner Meckes to enter into executive session at 7:10 p.m. Motion carried. Minutes of executive session are recorded separately. Motion by Commissioner Grimes and second by Commissioner Jones to move back into regular session at 8:00 p.m. Motion carried.

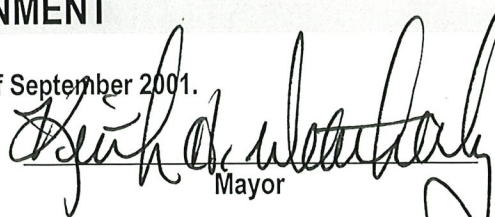
With the meeting back in regular session, motion by Commissioner Grimes and second by Commissioner Jones to continue this meeting to Friday, September 14, 2001 at 12 o'clock noon and to move back into executive session to further discuss litigation and personnel matters. Motion carried. Time 8:00 p.m.

End of Executive Session

## ADJOURNMENT

The above minutes were approved on the 4<sup>th</sup> day of September 2001.

  
Town Clerk

  
Mayor

# TOWN OF APEX BOARD OF COMMISSIONERS'

Minutes of the September 18, 2001 Meeting

7:00 p.m.

Apex Town Campus  
73 Hunter Street



Mayor: Keith H. Weatherly

Commissioners:

Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Website: [www.apexnc.org](http://www.apexnc.org)

Mayor Weatherly called the regular meeting of the Town of Apex Board of Commissioners meeting to order on Tuesday, September 2, 2001 at 7:00 p.m. in the Apex Town Hall, 73 Hunter Street. Commissioners Jensen, Meckes, Jones, Grimes and Hilt were present.

Welcome by Mayor Weatherly.

Mayor Weatherly asked for a moment of silence, recognizing all those lost and those who are involved in the devastation of this week before leading the Invocation.

Pledge of Allegiance led by Scout Troop # 316.

## CONSENT AGENDA

Mayor Weatherly presented the consent agenda to be set and asked for a call for action.

**Action:** Motion by Commissioner Grimes and second by Commissioner Hilt to pull Item # 5 Green at Scotts Mill, Phase 4 and it be continued to the October 2 meeting in order to consider the Planning Committee meeting in regard to storm water issues. Motion carried.

**Action:** Motion by Commissioner Jones and second by Commissioner Grimes to approve the consent agenda with the exclusion of Item # 5. Motion carried.

1. Minutes of September 4, 2001 Board of Commissioners meeting (continued to 09/14/2001)  
continuation of minutes will be included in the October 2, 2001 minutes.
2. Minutes of September 4, 2001 Board of Commissioners Executive Session (separate cover).
3. Minutes of August 29, 2001 Planning Committee meeting.
- \* 4. Site plan – Bank of America, Olive Chapel Road on NC55 and Apex Peak Way.
- \* 5. Site plan – The Green at Scotts Mill, Phase 4, Town Side Drive off Apex Barbecue Road.  
(this item was continued to the October 2 meeting).

Consent Agenda continued





- \* 6. Changes/clarifications to existing use/rental policies for Apex Community Center and picnic shelters (changes are attached and incorporated as a part of the minutes).
- 7. Budget Ordinance Amendment #1 (General Fund) reimbursement of part-time salaries by Apex Volunteer Fire Department.
- 8. Wake County Tax Report.

\* Items #4 and #5 were given unanimous approval by the Planning Board

\* Item 6 was given unanimous approval by the Parks and Recreation Commission

End of Consent Agenda

## REGULAR MEETING AGENDA

Mayor Weatherly presented the regular meeting agenda to be set and asked it be amended to recognize the firemen fund raiser achievements due to the recent disaster, prior to the public hearings.

**Action:** Motion by Commissioner Grimes and second by Commissioner Jones to do so. Motion carried.

Mayor Weatherly asked to include New Business Item # 2 to consider the hire of a Town Attorney.

**Action:** Motion by Commissioner Grimes and second by Commissioner Meckes to add this item. Motion carried.

Mayor Weatherly asked to amend executive session ....litigation regarding Haddon Hall, possible litigation with the Town Attorney, and a personnel matter.

Motion by Commissioner Jones and second by Commissioner Meckes to do so.

The regular meeting agenda was set as amended.

## RECOGNITION

Mayor Weatherly recognized Chief Ray Echevarria Apex Fire Department, and Assistant Fire Chief Jeff Maynard of the Apex Volunteer Fire Department to report on community support fund raiser for families of the firefighters who lives were lost in the recent disaster in New York. Further recognized was Captain Hinson of the AVFD, instrumental in getting the project moving and the money handler of the project. Assistant Chief Maynard reported the project "New York Fire 911 Relief Fund" had raised throughout various areas of Town over \$68,000 and will be collecting for several more days. He expressed appreciation for the Board's support in this effort.

End of Recognition



## PUBLIC HEARINGS

### Item # 1 – Public Hearing – Rezoning # 01RZ06- Jessie Gaster

#### (Staff & Planning Board recommends approval)

Public hearing - Rezoning case # 01RZ06, Jessie Gaster, petitioner, seeking to rezone from Planned Commercial to Office & Institutional, 5.55 acres located off James Street between E. Williams and Markham Streets; possible motion regarding rezoning.

David Rowland, Director of Planning oriented to the location of the property and surrounding zonings as indicated above and noted this rezoning to down-zone approximately 1.85 acres from Planned Commercial to Office and Institutional. Planning Board reviewed this on August 13 and recommends approval. Staff also recommends approval.

Mayor Weatherly opened the public hearing at 7:15 p.m. with John Gaster speaking for the petitioner in support of the rezoning. No one spoke in opposition. The hearing was closed.

Director of Planning noted the 4 – 1 vote by the Planning Board, with the 1 no vote having concern with the street connection and its alignment on NC55. This will be discussed with site plan process. He noted the location on the map and indicating where Perry Road is stubbed and where the alignment is at Dallas and the vacated Popeys building on NC55, with a strip being located there to access the commercial site.

**Action:** Motion by Commissioner Jensen and second by Commissioner Jones to approve the rezoning request. Motion carried.

### **End of Public Hearing #1**

### Item # 2 – Public Hearing – Rezoning # 01TRZ08

#### (Staff & Planning Board recommends continuation of this hearing to the October 8 Planning Board meeting and to the October 16 Board of Commissioners meeting).

Public hearing – Rezoning case # 01TRZ08 and associated amendments to the Unified Development Ordinance; possible motion regarding rezoning.

Diane Khin, Planner gave staff comments to the rezoning and associated amendments to the Unified Development Ordinance (UDO). There are 4 properties in the downtown area zoned under the old ordinance as high-density single family and now does not meet the basic requirements of the zoning district (non-conformities) under the UDO. Staff is proposing they be high-density multi-family. These properties would have limitations on expansions and rebuilding after a fire or other disaster. By changing the zoning, these properties will no longer be non-conforming and will not have the limitations of non-conformities. Properties are located at 209 N. Mason Street, 308 Center Street, 310 Culvert Street, and 107 S. Mason Street. Approve changes will be reflected on the zoning map.

Review of staff comments (which is attached and incorporated as a part of the minutes) reflects the action as noted above. Several properties within nearly every zoning classification were affected by the match in zoning classifications from the old ordinance to the UDO. The above changes are consistent with the 2010 Land Use Plan



**Public hearing # 2 continued**

Town further proposes to designate high-density areas with single-family homes as high density single-family (HDSF) and those with multi-family units as High Density Multi-Family (HDMF) as outlined in paragraph 2 page 2 of staff report. This prevents apartments from being carved out of single-family homes in existing single-family subdivisions.

Khin continued with the next portion regarding the UDO amendments that goes in hand with the rezoning. Sections being revised to ensure consistency with rezoning #01RTZ08 are included in the referenced Ordinance attached to the Planning Board Agenda of September 10, 2001 and incorporated as a part of the minutes and affection sections of Article 3, 4 and 5 of the UDO.

Commissioner Hilt asked if this hearing is being continued and the reason the hearing is being conducted now. She continued that we may be misleading the public if the printed document noted the continued hearing. Director of Planning Rowland responded he felt the Board would wish to hear comments from the public at this meeting; the notice only announced the hearing at this meeting. Commissioner Hilt continued this was confusing and she wanted to be assured no one was excluded from this notice. Rowland continued everyone was notified by mail and with the normal publication, as well as posting signage.

Khin continued with her presentation, with staff recommending approval of the rezoning and associated changes to the UDO. Planning Board reviewed the proposed rezoning and associated amendments at their September 10, 2001 meeting and continued their public hearing until their October 8, 2001 meeting in order to receive clarification from staff regarding two issues.

- 1) Vested rights pertaining to this rezoning, and
- 2) Animals allowed within RA and RR zoning districts, and within the Town in general.

Staff does recommend continuation of this public hearing to the October <sup>16</sup>~~2~~, 2001 meeting so the Planning Board could make their recommendation at this time.

Mayor Weatherly opened the public hearing at 7:26 p.m. with Ross Olive, 1210 Old Raleigh Road speaking. He does not live in town but has property at 109 S. Mason Street and adjacent to the 107 S. Mason Street. The property has a single-family dwelling on it and with the change in rezoning this changes aspects from when he purchased the property several years ago. They do not live there, but has refurbished the older home and rents it. He would like, should a disaster occur (house fire) be allowed to put additional units on this site. The lots in the area are various in sizes in an older part of town; across from the welding shop on Mason, are blue apartments across from it on the corner, and close to 109 S. Mason Street. He would like to leave it for development of multi-family should a disaster occur. There is approximately 3+ acres, and larger lots with single family residents close by.

No one else speaking, Mayor Weatherly asked for a motion to continue the hearing to October 16, 2001.

**Action:** Motion by Commissioner Jones and second by Commissioner Grimes to continue the hearing as requested. Motion carried.

**End of public hearing # 2**



Public hearings continued

**Item # 3 – Public Hearing – Rezoning # 01CU09**

**(Staff and Planning Board recommends approval)**

Public hearing – Rezoning case # 01CU09, Wendy Luihn, petitioner, seeking to rezone from Residential Agricultural to Medium density Residential Conditional Use, 1.00 acres, located at 250 James Street; possible motion regarding rezoning.

Director of Planning Rowland and Wendy Luihn, Petitioner were sworn by the Town Clerk. Director of Planning oriented to the location of the property and noted the current zoning classifications surrounding the site as outlined in the staff report of the September 10, 2001 Planning Board Agenda, attached and incorporated as a part of the minutes and including conditions 1 – 4.

- 1) One (1) Duplex.
- 2) Exterior finishes similar to the homes on Glaston Court (cement type clap board).
- 3) Privacy fence erected similar to the one between this lot and Glaston Court.
- 4) Petitioner shall remove all debris, cars, trucks, tires, parts, structures, and so forth to the satisfaction of the Code Enforcement Officer prior to a Certificate of Occupancy.

The structure is in place and if rezoned would be converted into duplex with similar finish, permanent foundation with crawl space.

Planning Board and staff recommends approval of the conditional use rezoning request.

Mayor Weatherly opened the hearing with Wendy Luihn, Petitioner, speaking in favor of the rezoning. Intent is to refinish the building to complement the existing homes on Glaston Court . From James Street will be one single drive to the duplex with a split. Street front will reflect a single-family home. It's a one acre lot with street frontage of 65'. It's a stick build home; will strip the outside and dispose of exterior in accordance with State regulations; rewire from the outside to code; re-insulate and finish outside; re-shingle and remodel interior. She notes the photo is taken from the west side and the structure has now been turned.

Commissioner Jensen asked if the dump trucks were a part of the debris to be removed. Staff noted this belongs to the Stewart property next door. He is working on moving debris, cleaning and mowing the lot. Luihn noted he has begun work on the lot.

No one else spoke. The hearing was closed at 7:37 p.m.

**Action:** Motion by Commissioner Jones and second by Commissioner Meckes to approve the rezoning. Motion carried.

**End of public hearing # 3**





Public hearings continued

**Item # 4 – Public Hearing – Site Plan – Peak Way Market Square**  
**(Staff and Planning Board recommends approval with conditions).**

Public hearing – Site Plan for Peak Way Market Square located on NC55 at Apex Peak Way; possible motion regarding site plan.

Dianne Khin, Planner, oriented to the site and briefed from the staff report of the September 10, 2001 meeting attached and incorporated as a part of the minutes. Photos show the vegetated site off NC55 and showing the grading of Olive Chapel Village; site is for mixed use development and consistent with the 2010 Land Use Plan. Staff report notes building description; landscape/Buffer plans (minor change with willow oak being shifted from island away from fire hydrant); Resource Conservation Area; Floodplain/Watershed; Street Access and Traffic Impact Analysis (TIA) and referenced in the Planning Board Agenda Packet of September 10, 2001 and incorporated as a part of the minutes and including road way improvements; Lighting plan.

Staff recommends approval of the site plan with conditions:

- 1) Willow oak shown to be planted in the same island as the fire hydrant must be shifted away from the fire hydrant
- 2) The measures outlined in the arborist's report are required to be implemented.

Planning Board at their September 10, 2001 meeting recommended approval with the same conditions as staff and added to condition #2 and a request: that applicant do whatever is possible to expedite getting a traffic signal at NC55 and the Apex Peak Way, however, this is not a condition of approval.

- 1) Willow oak shown to be planted in the same island as the fire hydrant must be shifted away from the fire hydrant
- 2) The measures outlined in the arborist's report are required to be implemented; however, the arborist needs to be contacted again regarding the pavers being installed per the manufacturer's specifications. If the arborist finds the manufacturer's specifications to be acceptable, the pavers can be installed per those specifications.

Khin advised the applicant has provided a letter from the arborist (attached), but does not state the manufacturer's specifications are acceptable, nor does it state they are not acceptable, staff now recommends an additional condition that a note be placed on the site plan stating every effort to protect the 36" oak will be done, but in the event the 36" oak does not survive three years from the date of approval, a caliper per caliper replacement will be done, location of such trees to be determined at construction plan review. Applicant agrees to comply with the condition.

Commissioner Meckes confirmed the alignment on NC55 and the zoning of the property (O&I owned by Olive Chapel Village and unsold).

Commissioner Jensen questioned where the water run-off is on site, with 3.5 acres of impervious surface. Khin responded it filters through the natural areas (RCA) to low points on site and not directed in any one specific direction; dumping into pond and drainage area.

**Public hearings continued**

Commissioner Jensen asked about the planting replacements should the oak fail. Khin responded caliper per caliper (3" plant or 12 trees / 4" plant or 8 trees), and most likely planted near the front of the site with planted areas, not natural areas. Khin read type trees to be planted on site as planned and meeting requirements of the UDO. Jensen noted some parking lots still look like a sea of asphalt. Khin feels this plan is good and indicated the areas where the trees would be planted.

Mayor Weatherly opened the hearing at 7:50 p.m.

Representative of Cline Design Associates spoke on behalf of Louis Iannone, assuring this plan meets the UDO regulations; there are no issues with conditions regarding the willow oak; willing to comply with the 3 year plan regarding the 36" oak and should it not survive would be willing to place trees ( 9 - 4" caliper trees on site ) in front and in the larger islands, and noting there is an extraordinary amount of planting on the site and will be spread out throughout the parking area. Rear parking is about 61%.

Commissioner Jensen asked that in regard to the arborist report would be keeping bulldozers off the roots of the trees. Khin responded this was the reason for the additional condition; Cine representative notes it inevitable to keep equipment off the area, but need to develop and have access for facility. Commissioner Jensen asked who would follow up on this in three years. Khin responded their RCA would have to be recorded and noted on the plat with a date.

Commissioner Jensen asked if storm water regulations were applied to this property. Khin noted the requirements under the UDO for a detention pond. He asked if staff felt this was a better approach then sheeting. Khin continued this project was not in a protected district and not required.

Speaking in opposition:

Richard Nowak expressed safety concerns with traffic and if the study addressed the issue of the stop light. Khin responded the Planning Board had recommended applicant do whatever was possible to expedite a traffic signal at NC55 and Apex Peak Way, however, it is not a condition of approval. He noted the light there and another at Olive Chapel and NC55 and further down should the shopping center go into place, there would be another one. Concern is a back log! He asked if the traffic study took into account all the additional lights; noting NC55 as a main thoroughfare. He's a resident and feels there will be a huge back log of traffic. Khin notes the light would be NC55/PeakWay and would like it expedited. There will not be an additional light. Nowak asked if the lights in the parking lot would be standard. Khin explained there would not be as much light (150 watt bulb vs. 400 watt bulbs with pole being 25-foot mounted in the vehicular use area). He recommended replicating lights that are in the downtown district, making it an extension of Old Apex. Khin explained the lighting was a condition of the conditional use rezoning and this type fixture must be used – not allowed to do any other type (restricted). Colored photos were passed around of the project.

The hearing was closed at 8:00 p.m.



**Public hearings continued**

Commissioner Jones asked if the rear lighting was the same as the front (yes). Commissioner Jensen asked how one anticipated expedite of the traffic light with NCDOT; that it seemed like a hollow request, as there is no control. Khin responded, traffic would have to warrant a light, large amounts of traffic and accidents. She didn't know if the applicant could expedite it and is why it was recommended and not a condition of the rezoning. One could seek to expedite it. Commissioner Jensen asked if there were methods to time the lights, so they would not back up traffic. Kelly Grady, representing Kimley Horn and Associates, notes in the traffic study, it wasn't recommended signals be a part of this development because NCDOT must warrant the need for a signal on their roadways; they didn't anticipate an amount of volume to warrant such with this development and the developments approved at this time for NCDOT to allow it. As more development occurs, it is a possibility; new development will be required to do a traffic study and when it warrants such, will be submitted to NCDOT for approval. As far as timing, equipment is in place to do such, to avoid backup.

Commissioner Jensen noted traffic would increase and asked if we were looking at fiber optic systems concerning timing. Khin noted Engineer Robert Gron had noted as part of the Thoroughfare Plan, traffic signal study would figure out the need in the future (timing, etc). Staff is now making comments on the proposal and could take 6 months to a year.

Motion by Commissioner Jones and second by Commissioner Meckes to approve the plan with the conditions proposed by the Planning Board and the stipulation placed on the developer for tree replacement after 3 years or before if determined the tree is not going to make it.

Commissioner Hilt reviewed the grading plan (with no comments).

The hearing was reopened for Herman Jaffee to speak. His concern was with NCDOT to expedite the light. Noting the 65,000 square foot to be built. He asked the builder be required to put aside the money to expedite it; notes NCDOT listens when the money is in hand.

The hearing was closed at 8:10.

Commissioner Hilt noted a good portion of this site will do a good job carrying storm water. She noted impoundments create a negative impact and there was good filtering taking place on about one-third of the property. She recognizes notes in regard to storm water management, however, when site plans come before them, it is staffs responsibility to encourage the engineer to evaluate this situation. Site designers are encouraged to look at this, while the rear of the property does a good filtering job for the area, the area of concern is the parking lot in front with large islands, that doesn't discharge water as slowly. She noted the location of the pipes and some of the property would experience tremendous impacts from the water flow. She asked the applicant to reconsider storm water techniques regarding the management; analyze it a bit more. She asked to see if he could get the islands down; additional measures would do a great job with storm water.

Louis Iannone noted storm water had been discussed from the beginning with staff and agreed impoundments were not the best situation and had looked at alternatives and was happy to comply. Commissioner Hilt noted staff could work with them. Iannone noted use of RCA as filtration asking all to give consideration to minimizing ponds; pond requirement disturbs the RCA.

**Public hearings continued**

Commissioner Jensen agreed on small site with respect to ponds; on the other hand the UDO watershed may look at grouping small sites and utilizing a single pond which is more efficient if need to. He continued as far as the trees, you don't have to have a round or square pond, use creativity. He continued the UDO watershed had been ongoing for one year, and has gone through the Planning Board twice and will go again and it's interesting to see this site looked at from that point of view. He notes the north side slopes off fast into the lake by Haddon Hall but doesn't function as a retention pond (water runs in and out, functioning as an impermeable surface). He asked if anyone had looked at down stream pond and make it function as a receptor for the water off this site. Iannone says in regard to the large pond, there's so much water in this pond the run-off doesn't impact it. The Engineer of the project noted the pond is a retention pond and reported it functions as a wet pond with everything to settle, it rises and comes back down. Commissioner Jensen confirmed water runs off at a slower rate, rising up and coming back down.

**Action:** Motion carried.

**End of Public Hearing #4**

Mayor Weatherly called for a break at 8:20 p.m. and reconvened at 8:26 p.m.

**Item # 5 – Public Hearing – SUP01 MC Precast Concrete**  
**(Staff and Planning Board recommends approval with conditions).**

Public hearing – SUP01 - MC Precast Concrete - Special Use Permit and Site Plan, 15.78 acres located at 520 Pristine Water Drive; possible motion regarding permit and site plan.

Director of Planning Rowland was previously sworn and Stuart Jones, Engineer was sworn.

Director of Planning noted this, the first Special Use Permit under the UDO and is treated as a rezoning, with property owners within 300' being contacted; being advertised, having sworn testimony and that conditions can be placed on special use permits.

He oriented to the site location and sounding land uses being residential, industrial, and commercial. He showed photos of the site with existing buildings in use. The site has been used in the past as a sand blasting type operation. The proposed site plan shows access on 520 Pristine Water Drive; also indicates the RCA area and the creek on site. Building elevations indicate an industrial type building, metal structure. The landscape plan shows a series of trees with buffer along the street and Pristine Water Drive. There will be a collection type pond used to filter run-off from the site before entering the adjoining stream. One opportunity in the special use permit system is that conditions can be attached to the application and has done so, and are recommended by the Planning Board. Director of Planning summarized those conditions being Items 1-11 and a part of the staff report of the September 10, 2001 Planning Board meeting and being incorporated as a part of the minutes.

Director of Planning noted other operations on site have been asked to come in for a site plan. He continued there was some confusion at first about this operation as it was already in existence. In terms of being a previous industrial use, this also was industrial use and not a change of use and does not trigger a site plan. He continued a concrete facility requires a special use permit, so this triggered this site plan.





**Public hearings continued**

Planning Board recommends approval with the conditions and a number of standards outlined in a letter of August 3, 2001 that Stuart Jones agrees to, and is incorporated as a part of the minutes. Staff agrees and recommends approval with the conditions and the standards as stated.

Mayor Weatherly opened the public hearing with Stuart Jones speaking.

He noted the process confusing and this was a Precast Concrete Plant and does not make concrete, but makes forms precast on site and distributed. He noted the site has been cleaned up and improved; stabilized the road and diligent in improvements to the site. The buildings are temporary and will come down. Owners have no problems to comply with the conditions imposed and agrees with all the standards and are willing to work with staff.

He reviewed the standards of his letter. He notes residential sites are vacant; site next door is for storage, and industrial use; fence with black screening will be installed; trees and shrubs, and some type bearm behind it. Staff noted large trees and fence around stock yard at outside would be best for the industrial area. Commissioner Jensen and Hilt commented on the fence and Commissioner Meckes commented on the bearm. Jones noted concern with activity from the adjoining site, and the fence helps with this. Commissioner Grimes asked if the fencing could be green vs. black (not stripped fence). Jones is ok with this. Delivery and loading would be behind the fence; helps define the site. Environmental impact is minimum; there is a spray used on coating the forms; there's little run-off from wash down of forms; silt basins will be detention ponds and will control erosion and run-off from site and will require some maintenance. Commissioner Jensen asked how it will be assured that maintenance will be done; like retention ponds – once a year. Jones noted when construction drawings come in, there could be a set inspection schedule. Commissioner Jensen asked about the size and how to monitor levels that may run off to Middle Creek. Jones responded it has water in it most of the time and that he hopes to sheet flow into the earth line channels into the basins then over the 4 acres of RCA areas before hitting the stream – would have to meet the 10 year criteria. Size is based on sediment basin size and a full water size retention pond; getting a normal water wash, he'd rather keep a sheet flow. Site has no public sewer or water, but Apex power. There was a well on site and is working with health department to assure its ok. He agrees to all plans as it meets all the criteria.

Commissioner Jensen asked the percent of impervious surface including gravel – 65%. He asked if RCA was included in the calculations. To him it seems that with storms of any size, these ponds would be overwhelmed. Jones noted at design stage these would be looked at.

No one spoke in opposition. The hearing was closed at 8:50 p.m.

Commissioner Hilt noted recommendations on a special use permit, asking if the condition for the bearm would be a condition and then the maintenance schedule of the ponds. Attorney Fordham understood that the applicant consented to them and asked it be verified and clear in the record. Jones understood and agreed.



**Public hearings continued**

Commissioner Jensen still shared concern with the caustic aspect of the liquid ph running into the streams and maybe if it were under a 10-year plan and with some acidic soils – did staff have recommendations to monitor the flow.

Tim Donnelly, Director of Public Works was sworn and stated Phase II of the storm water program will take care of issues such as this; also the expectation of the run-off would be basic and North Carolina's soils would attenuate it very well and neutralize itself.

**Action:** Motion by Commissioner Hilt and second by Commissioner Jensen to approve the plan with conditions as agreed to by the applicant as required by Sec. 2.3.5D and of the UDO, along with the listed standards in letter of applicant dated August 31, 2001 items 1-7 (attached).

Commissioner Jensen noted we were making this site better out of something bad. Commissioner Meckes noted the process worked as it was supposed to. Motion carried.

**End of Public Hearing # 5**

**Item # 6 – Public Hearing – Watershed Protection Overlay Districts**  
**( Planning Board does not have a recommendation – Staff recommends hearing be conducted).**

Public hearing regarding amending Article 6 of the Unified Development Ordinance (UDO) regarding Watershed Protection Overlay Districts.

Director of Planning noted an attempt is being made to apply watershed rules for the entire town. He indicated the state mandated watershed protected areas on the map, and areas not under the state mandate is the area the Town would require standards being primary areas and secondary areas, where town would enforce, ponds, streams, buffers, etc. Neuse standards and Swift Creek standards town wide in terms of retention ponds and anything over 12% up to 70% would require a retention pond and also require stream buffers. He noted low and high density options, also some flexibility where stream buffers could be 100' average but 60' minimum. State mandate does not allow this flexibility. Primary areas, perennial streams, are 100' and secondary areas, the perennial streams would be 60' minimum and 100' average. Intermittent streams in the primary areas is 50' and also in secondary they are 50'. Under primary and secondary options, anything over 12% up to 70% in both areas would require a retention pond.

Planning Board reviewed this at their last meeting and have concerns as outlined and incorporated as a part of the minutes from the cover sheet for this item. Staff believes the Planning Board will be in a position to make a recommendation after their October 8 meeting regarding the proposed ordinance. Director of Public Works will attend their next meeting to answer their questions.

Director of Planning noted this was about water quality issues but in view of recent events deals with water quantity as well. He recommends hearing be conducted.





## Public hearings continued

Mayor Weatherly opened the hearing at 9:05 p.m.

Stewart Jones noted storm water quantity doesn't always match with quality and he had met such issues in the past. He hopes this will be looked at in both ways at the same time. He noted the earlier site plan had several places for storm water to filter to an RCA – it was a perfect situation; you could require each site to have a pond, and all the storm water would have been in one spot, cut down trees, to put in the pond. That's not necessarily better than what they have. He offered to talk with staff, sometime storm water quantity doesn't go with quality.

Commissioner Jensen asked if we went to larger ponds, to contain more water, it could cause a quality problem, if you require ponds rather than filtering through the RCA – Jones answered this is right. Larger ponds have to have so much storage there's a depth problem. A certain amount of water has to be maintained just for fish, and there are unattractive things, then quantity on top can create deep slopes, and so far down from a normal water level that kids can't come fish safely.

Commissioner Jensen asked if more regional ponds were the way to go. Jones agreed – small ponds can be effective in a small storm, but large storms no; maintenance is a problem – some being so small that it doesn't take hardly anything to cause a severe problem – even leaves can clog them. Jones referred to a Garner project – Garner being approved by the state for regional water quality pond and similar in nature to our public park. They have not done so yet. He notes having pond such as around the community park, but have developers pay a fee to the Town for long term maintenance of the pond. The lake is acting effectively.

Commissioner Meckes asked if it makes more sense to disburse water over RCA rather than put a pond there. He was talking about a regional plan and town would have to go back and start over and look at the whole community. To move in that direction would mean to start with nothing and go through areas in the community and designate them as future regional ponds. Jones notes it tough in Apex because we are on top and it flows in every direction. Garner flows in one direction. Jones didn't know if it would work for Apex, with Commissioner Meckes, commenting there would have to be one on each side of NC55.

Commissioner Jensen felt hybrid systems were the most stable and with flexibility in the UDO felt it's the right way to go; he agrees with sheeting; if developer needs too put in a pond. Jones responded some sites lend to one pond; trees, etc.

Commissioner Meckes called attention to Scotts Mill and not being able to establish a regional pond there now; an alternative one acre pond, a mile and a-half deep. We need to look down the road at the future for regional ideas (15-20 years out).

Commissioner Hilt noted Garner flows to Lake Benson; reality, you want to acquire the land just beyond the Corp of Engineers property from the drinking supply; you're not helping up here but protecting down. Commissioner Jensen wants to look 12% on the Jordan Lake side.

**Action:** Motion by Commissioner Meckes and second by Commissioner Grimes to continue the public hearing to October 16, 2001.

**Public hearings continued**

Commissioner Jensen wanted to assure alternative to single retention pond and that we haven't covered the number of properties that could have a single collective pond, that we have a mechanism that would be a sub-regional pond, a mechanism for property owners to join together and do so, with the objective to get rid of single little ponds.

Tim Donnelly Director of Public Works, explained the ordinance was based on direction from the Board, going primary and secondary, due to conflicts with the State. He agrees with regional ponds being the best collective approach. Garner situation, within the last 3 or 4 years, regulators have decided they want off-stream treatment. In the past when a regional pond is proposed, you buy a lot of land and develop it as a recreational lake or pond on a natural watershed, being the easiest and cheapest to construct. The State now in their thinking is that we are giving up too much of what we already have – we have a stream, that we don't want to give up for regional treatment, so what they want is to build everything off stream, putting control structures, filters for wetlands out of the natural water bodies that already exist. The answer yes you get the "best for the buck" in a collective approach, letting multiple property owners develop a single structure, by the same time, you have a physical construction problem in how it's done and not utilize the existing nature to achieve your goals, that seems outdated with the State. His hope is that the State looks at this and develop a criteria where they can judge the best for the buck - ten little ponds vs. 1 really nice structure. State doesn't want you going on stream; there's not much way to construct the size of natural drainage, big enough to equivalent to the Town's reservoir. There's no way unless you have an old rock quarry, or clay pit, off stream to store storm water. Commissioner Meckes confirmed regional ponds is now negated by the currently philosophy of the state. Donnelly noted it's a real problem with environmental regulations in that they have many goals, each one stumbling over the other one. They want to create wetlands, nice water bodies, at the same time don't take out wetlands that retains water on the small stream to make bigger water bodies, net result, more wetlands, they want both. Goals are good, but having thought through how to do this. Regulations are this way – you have regulations with good intent, but unintended consequences. You solve those and you find more, and this goes on step by step. There's never an end point. As long as we continue to grow, we create more issues that need to be solved, we're running out of land, not running out of people.

Commissioner Jensen suggests we permit the grouping of ponds when possible; Donnelly responded, to allow staff to draft ordinances, so there's maximum flexibility to achieve the goals that we are proposing for water quality, not particularly a quantity issue. If someone offers a shared pond, to construct wetlands, or filters, etc., give staff that judgment to try it, as long as it meets requirements. Commissioner Jensen asked when placing ponds on streams, if this was perennial streams, or do they consider intermittent streams. Donnelly responded they are not to aggressive to perennial streams, and more aggressive on intermittent streams because you're draining a lot of acreage. Commissioner Jensen referred to an area that flows to Beaver Creek where it was intermittent before a perennial stream; would the state look at this as an acceptable or not acceptable situation. Donnelly feels they would frown on it, but could ask; but we're getting into waters of the State, both wetlands and waters of the state expect water to be there and they are trying to protect it, and become very aggressive.

Motion carried to continue the public hearing to October 16, 2001.

**End of public hearing # 6**





Public hearings continued

**Item # 7 – Public Hearing – Amendments to the Unified Development Ordinance (UDO)**  
**(Staff and Planning Board recommends approval).**

Public hearing – Amendments to certain sections of the Unified Development Ordinance; possible motion to approve amendments.

Diane Khin, Planner, presented proposed UDO amendments as outlines in the attached Ordinance and incorporated as a part of the minutes. Planning Board and staff recommends approval.

Mayor Weatherly opened the public hearing at 9:20 p.m. with no one speaking in favor or in opposition. The hearing was closed

**Action:** Motion by Commissioner Grimes and second by Commissioner Hilt to approve the amendments by adoption of the Ordinance to Amend Certain Sections of the Unified Development Ordinance. Motion carried.

End of public hearings

## OLD BUSINESS

There were no Old Business items to consider.

## PUBLIC COMMENT

Public comment is welcome. Anyone may address the Board concerning any item.  
Mayor Weatherly will recognize those wishing to speak at the appropriate time.

### **We ask that you limit your comments to 3 minutes to allow others to speak.**

Mary Baker, Scotts Mill, expressed concern with the clear-cut of the Green at Scotts Mill, indicating the 25' buffer was not enough to stop erosion. With no trees, the creek floods, and there's steep slopes, and with every rain conditions worsen. Robert Ross, Public Works has looked at this. She noted the land topography has changed and when she purchased the property, she was told this wouldn't happen. She asked if the Town could get this person to replant, and to place mechanisms to deal with this, as there were two more lots that this could happen to. Manager Radford assured there are mechanisms in force to deal with this. She was assured by Tom McKay the woods would always be there. Director of Planning advised the owner of the lot requested it be cleared except the 25' buffer along the stream; Baker explained how the water flows to this site. Commissioner Meckes noted the Planning Committee would meet again to discuss storm water further. Commissioner Jensen asked if this were under the UDO, he guessed not, thought consideration was given concerning steep slopes. Director of Planning stated this was prior to the UDO. It's about an 8 to 10,000 square foot lot. Commissioner Meckes noted every issue brings new consequences, and that more is known about such impacts than ever known.

Kathy Carlson, Olive Chapel Road is an Apex Volunteer and comes into town regularly. She fights traffic from Olive Chapel Road to Hunter Street, and either waits for the light or has to go in a different direction. She hopes to have control of the lights issue, as some cut through the gas stations or other subdivision. She would like this to be looked at. She thanks the Board for their concern of trees.

**Public hearings continued**

Herman Jaffee made comments regarding people coming to the trade center, RTP, and Harris Plant. He again referred to the filling of the waste pools with nuclear wastes and being the largest dump site in the United States. Will they come - possible terrorists. He noted the wastes was uranium, and if it burns will not be able to put the fire out. Asked the Board to act with Orange County and Chapel Hill, and NC Warn and people who have reviewed the plan to save \$25 million over the next 5 years. How safe is the dump - he asked to stop progress energy. He noted the size and structure that could be destroyed with small explosive charges. He encourages \$1.00 per household to reduce risk profile. He asked the Board to contact Wake County's Board about these concerns. He asked the Board to make a statement. Mayor Weatherly thanked him, and noted the Board was on record in regard to being in opposition of the storage at the Harris Plant.

**End of public comment****NEW BUSINESS****Item # 1 – Elevated Storage Tank and Waterline Improvements and Budget Ordinance Amendment (Director of Public Works and Finance Director)**

Possible motion to award Contract 1 for the South Salem Elevated Storage Tank, and to adopt Budget Ordinance Amendment # 2 to the Water/Sewer Fund for construction of elevated storage tank and related waterline improvements.

Director of Public Works Donnelly showed photos of 2 designs for water tanks. The project was divided into two contracts with Contract 2 awarded August 21. To encourage competition, 3 types of tanks were allowed in the re-bid – multi-leg tank, a fluted steel column tank, and a composite concrete. Low Bidder was Caldwell Tanks (\$1,525,000 – multi-leg tank) with other bids attached and incorporated as a part of the minutes. He was pleased with the competitiveness. He noted the different in esthetics and gave the advantages of the tanks. Multi-legged fitting the theme of the Town and cheapest to construct, but more costly to maintain, with control structures in the wall and being harder to access. The second option (composite tank) is \$41,000 more, being esthetically different, being cheaper to maintain and a cost savings of \$50,000 over a period of time; control structures are inside the column and easier to access. Both would be one year projects. Staff had rather have the composite tank for easier access. Structure was discussed (Cary had gone with this tank). It was noted Landmark meets the experience requirements. Commissioner Meckes preferred continuity regarding esthetics throughout Town. Donnelly discussed with the Board both views, with the site being small and located on the road and the multi-legged looking like Apex and filling the site. From the ground it would be 150'. The tanks can be seen from the Duncan tank site position. Donnelly noted the total award of contracts, with Caldwell Tanks low bid, being \$1,945,902.

**Action:** Motion by Commissioner Jones and second by Commissioner Meckes to Caldwell Tanks, Inc. and as outlined in the agenda item for a total of \$1,945,902. Motion carried.

**Action:** Motion by Commissioner Jones and second by Commissioner Grimes to adopt a budget ordinance to amend the Water/Sewer Fund for construction of elevated storage tank and related waterline improvements. Motion carried.

**End of New Business #1**





Public hearings continued

**Add on New Business Item # 2 – Town Attorney**

Mayor Weatherly commented this additional item was to hire a Town full-time on staff Attorney due to the continued growth of the Town and it being economically wise to do so. Applicants have been reviewed and interview process conducted, further asking for a motion to act on the appointment.

**Action:** Motion by Commissioner Grimes and second by Commissioner Jones to approve the appointment of Jason Kaus as the first full-time on staff Town Attorney. Motion carried.

Attorney Kaus, expressed appreciation to the Board for this appointment and is looking forward to serving the Town. He introduced his wife Susan.

**End of New Business**

**WORKSESSION**

There were no Worksession items.

**EXECUTIVE SESSION**

**Possible motion to enter into executive session to discuss litigation and personnel matters.**

**Action:** Motion by Commissioner Jones and second by Commissioner Meckes to move into executive session to discuss litigation of Haddon Hall, to discuss possible litigation with the Town Attorney and to discuss a personnel issue. Motion carried. The minutes of executive session are recorded separately.

**Action:** Motion by Commissioner Meckes and second by Commissioner Grimes to move back into regular session at 10:49 p.m. Motion carried.

With the meeting being back in regular session action was taken as follows:

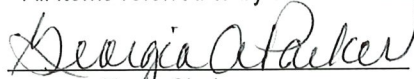
**Action:** Motion by Commissioner Grimes and second by Commissioner Jones to approve settlement of lawsuit designated as Haddon Hall Limited partnership vs. Town of Apex, 00 CVS 00039 Wake County in accordance with settlement documents designated as Exhibit A bearing title "Release of All Claims" and the attached thereto designated as Exhibit B "Second Amended Complaint". Motion Carried.

**ADJOURNMENT**

With no further business to come before the Board, there was a motion by Commissioner Jones and second by Commissioner Meckes to adjourn at 10:50 p.m. Motion carried.

The above minutes were approved on the 2nd day of October 2001.

\* All items referred to by attachment will be reflected in the minutes and placed in the official minute book.

  
Town Clerk

  
Mayor

# TOWN OF APEX BOARD OF COMMISSIONERS'

Minutes of October 2, 2001

7:00 p.m.

Apex Town Campus  
73 Hunter Street



Mayor: Keith H. Weatherly

Commissioners:  
Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Website: [www.apexnc.org](http://www.apexnc.org)

Mayor Weatherly called the regular meeting of the Town of Apex Board of Commissioners to order on October 2, 2001 at 7:00 p.m. in the Apex Town Hall, 73 Hunter Street. Commissioners Jensen, Meckes, Jones, Grimes and Holt were present.

Invocation by Commissioner Jones

Pledge of Allegiance

Welcome by Mayor Weatherly

## INTRODUCTION OF EMPLOYEES

Director John Brown, Parks, Recreation & Cultural Resources introduced Gina Ennis, Office Assistant at the Community Center.

## RECOGNITION

Mayor Weatherly presented a Plaque to Attorney Hank Fordham for his service as Town Attorney since December 1995. Attorney Fordham chose to continue in private practice rather than serving with the Town. Attorney Fordham expressed his appreciation for the opportunity to have served the Town, and commended the Board for following the law and making his job much easier. Commissioner Jones further complimented the Attorney for his legal guidance to the Board.

## CONSENT AGENDA

Mayor Weatherly presented the consent agenda to be set and asked for a call for action.

**Action:** Motion by Commissioner Jones and second by Commissioner Jensen to approve the consent agenda. Motion carried.

Continued on Page 2





1. Minutes of September 4, 2001 Board of Commissioners meeting (continued to 09/14/2001)  
Minutes of the continuation of 09/14/2001.
2. Minutes of September 14, 2001 Board of Commissioners Executive Session (separate cover)  
and part of the continued 09/04/2001 Board of Commissioners meeting.
3. Minutes of September 18, 2001 Board of Commissioners meeting.
4. Minutes of September 18, 2001 Board of Commissioners Executive Session (separate cover).
5. Annexation Petition # 321 – Drees Homes (Charleston Village Subdivision) Lots 171, 172, 173 and 174;  
Resolution to investigate petition; Certificate of Sufficiency of Petition; and Resolution setting date of  
Public Hearing for October 16, 2001.
6. Ordinance for Rezoning #01RZ06, Jessie Gaster petitioner, rezoning 5.55 acres off James Street  
between E. Williams and Markham Streets, from Planned Commercial to Office & Institutional.
7. Findings of Fact, Conclusions of Law, Decision and Ordinance regarding Rezoning #01CU09, Wendy  
Luihn, petitioner, rezoning 1 acre at 250 James Street from Residential Agricultural to Medium Density  
Residential Conditional Use.
8. Findings of Fact, Conclusions of Law, and Decision for special use permit #SUP01 Jones & Cnossen,  
petitioner for MC Precast Concrete located at 520 Pristine Water Drive.

**End of Consent Agenda**

## REGULAR MEETING AGENDA

Mayor Weatherly presented the regular meeting agenda to be set. Manager Radford asked to amend the agenda to include Executive Session items to include two Personnel items and to receive advice from the Town Attorney; and New Business Item #4 Request from Appearance Commission for approval of Depot Renovations.

**Action:** Motion by Commissioner Grimes and second by Commissioner Hilt to set the Regular Meeting Agenda with the amendments. Motion carried.

## PUBLIC HEARINGS

### Item # 1 – Public Hearing – Annexation Petition # 320

Public hearing concerning Annexation Petition # 320, Steve J. Frisch and Gwen C. Frisch, and Steven B. Bond and Kyle R. Bond, and Rodney Nyland and Margaret Nyland, owner(s) / petitioners, petition to annex properties 1401 Salem Church Road, 1421 Salem Church Road and 1505 Salem Church Road being a total of 11.454 acres; possible motion to adopt ordinance to extend the corporate limits.

Director of Planning oriented to the location of the lots located on Salem Church Road noting these lots currently receive water and sewer and should be annexed into the Town's corporate limits.

Mayor Weatherly opened the public hearing at 7:10 p.m. With no one speaking in favor or in opposition to the hearing, it was closed.

**Action:** Motion by Commissioner Meckes and second by Commissioner Jones to approve Annexation Petition #320 and to adopt the ordinance to extend the corporate limits by the 11.454 acres. Motion carried.

**End of public hearings**



## OLD BUSINESS

There were no Old Business items to consider.

## PUBLIC COMMENT

Public comment is welcome. Anyone may address the Board concerning any item.

Mayor Weatherly will recognize those wishing to speak at the appropriate time.

We ask that you limit your comments to 3 minutes to allow others to speak.

Herman Jaffee addressed the issue of transporting of Nuclear Waste on US1 and the danger involved with filling spent fuel pools at Shearon Harris and the potential for radioactive release from damaged pools. He read an article from the N&O, expressing this was not safe and could easily be sabotaged. He asked the Board to visit the plant to get a clear picture.

End of public comment

## NEW BUSINESS

### Item # 1 – The Green at Scotts Mill, Phase 4

Possible motion to approve site plan for The Green at Scotts Mill, Phase 4, located on Town Side Drive off Apex Barbecue Road.

Staff Planner Khin gave the staff report on the Green at Scotts Mill, Phase 4, attached and incorporated as a part of the minutes, and orienting to the location, showing photos, and giving the proposed mixed use: Retail, Office, and Residential on the 2.289 acres. Building descriptions indicate 22 town homes units, 16 condominium units, and 43,260 square feet in the mixed use buildings, proposed to be varying shades of brick and masonry, meeting the Code prior to the UDO. The proposed plan meets the Code requirements for vehicular use area landscape and the TNDs approved street tree plan. The property is not located in a Watershed Protected Area, or within a FEMA designated floodplain. The plan meets the parking space requirements of the Code and proposed to have two full service driveways, one from Town Home Drive and one from Heritage Village Lane. The lighting plan proposes 14 acorn fixtures on 14 foot poles mounted in the vehicular use area and match those throughout the TND, with wattage not exceed 100 watts.

Planning Board reviewed this plan at their September 10 meeting and unanimously recommends approval. Staff also recommends approval. Since the original review of this Phase 4 section, the developer is now looking at storage of storm water within subsurface structures located in the parking lot. Khin noted there are no impermeable surface limitations; it's not required.

Tom McKay noted building #1 is 24,000 square feet not 18,700; building #9 is a series of buildings (6 total). Storm water Management at approximately 85% - wanting to mitigate some of the water run-off. The storm drain structure has oversized pipes to store and discharge water over a slower period of time, noting this as the same run-off capacity with surrounding subdivisions. McKay noted his commitment to protect the area and was willing to put this on the plan. Example: watching a North Raleigh parking lot that has the same storm drain structure.





## Continued: The Green at Scotts Mill, Phase 4

McKay continued that rear yards are different in this phase than the other phases. He noted 15 acres of the 75 acres is being preserved for water quality. He noted the new urbanism for the mixed use and the adjoining neighborhood standards are being applied and will be sufficient.

Pete Cnossen gave the storm drainage pipe requirement of 15" RCP with a 24" design giving additional capacity for excess storm water – reduces to .45 for single family development. Commissioner Jensen asked the structure was built with the 10 year design for storm drainage. Cnossen noted the holding capacity of 7.2" per hour. The holding capacity is based on 6" storm. Commissioner Jensen didn't seem to think it could retain this much capacity for one hour. McKay gave calculations based on the 24" pipe from Engineer Stewart Jones; noting the engineer says it works, and he assumes it does. Commissioner Jensen continued the discussion on the discharge the pipe size and 10 year storm water design, and to him the ration didn't make sense.

McKay continued he had worked hard to handle all the problems for the site plan and construction drawings was a another step and asked the Board move forward with the site plan approval while staff is reviewing the construction drawings, feeling the plan blended with the urban development. He continued he had given commitment to manage the storm water issues and felt once buildings were begun, it would be better than what's there now. His intent is to manage the storm water, control silt and run-off, and the sooner the development, much less run-off, and noting lots of problems could be solved by developing. He feels comfortable with the engineering staff to deal with the construction drawings and run-off issues and he was willing to work with staff to solve these engineering problems.

Mayor Weatherly agreed with McKay's request on moving forward on the site plan, and staff working on the construction plans because the proposed plan meets all the requirements and is consistent with the ordinances.

Commissioner Hilt asked if there had been any discussion of the R6 density, knowing the site plan complies with the code, would there be any objection to looking at R4 density, noting the density of R6 could create more storm water problems. McKay responded he was willing to look at this, but doesn't think he had a problem, but would like the engineer's opinion on this. After some consideration, McKay gave his willingness to do this, using .35 and would make it work. Commissioner Hilt used Raleigh as an example, noting it does work. McKay gave his commitment, that if it makes it better, he was willing to do so.

Commissioner Jensen noted his appreciation for McKay's willingness to make it work in the Town's favor, but doesn't see the numbers working out, the 36 vs. 24, length is twice the volume. McKay responded that he trust his engineers certification and was willing to share the figures. Commissioner Hilt felt the engineers should decide this. Commissioner Jones agreed and noted the Town staff and Engineers would be reviewing this together. Commissioner Jensen asked the time frame for re-submittal. Commissioner Hilt stated her confidence in staff's ability to review and approve the design and doesn't feel the need to do anything but approve the plan, and asked that staff implement the construction issues, and hopes the commissioners understood the Board sets policy and the Town had a very able bodied staff. Commissioner Jensen noted he had no problem with this but still had his concerns with the numbers, not liking what he saw, but would be happy for vote for this under that understanding.

**The Green at Scotts Mill, Phase 4**

McKay noted he didn't make the last date to meet the building permit date to allow him to finish structures to make pre leasing commitments various businesses and doesn't want to miss it again by not approving the site plan now, asking the Board to make a decision, and again expressing his willingness to meet the .35 maximum calculations with staff working out the other issues in regard to storm water damage. He doesn't want problems down the road with other schedules.

Attorney Fordham advised the willingness to meet the .35 maximum calculations should be noted on the plan and incorporated in the motion, being part of the public record.

**Action:** Motion by Commissioner Hilt and second by Commissioner Grimes to approve the site plan for the Green at Scotts Mill, Phase 4 with the condition to use the .35 maximum calculations to determine storm water regulations.

Commissioner Meckes commented that for the past 6 years, staff had directed and encouraged the Board to seek alternatives to current development trends that they have gone through and that the neo-traditional neighborhoods or new urbanism seems to eliminate many problems associated with traditional development in the past. Not to say there are not consequences in this form of development that will have to be dealt with. He noted great steps had been taken to deal with these issues, and a great host of problems are being solved with Retail, Commercial and Residential when looking at the consequences of urban sprawl and supports and encourages this type development for the future of our community.

Commissioner Jensen agrees with Commissioner Meckes and is happy with the .35 calculations, sees this reasonable and hopes with density of this kind would look at the same program. He feels its good to see cluster housing as long as there's lower density around it to have an average density that's reasonable; he's not happy with the average density, it's not that high here. He felt McKay had done a good job. At first, his thoughts were no to the plan, but with McKay's commitment to the numbers, he now acceptable.

**Vote on the motion:** Motion carried unanimously.

**End of New Business #1****Item # 2 – Apex Fire Facilities Strategic Plan**

Director of Construction Management to brief on Apex Fire Facilities Strategic Plan and to make recommendation; possible motion regarding same.

Director of Construction Management Jackson gave a progress report on the Apex Fire Facility on Hunter Street noting this an opportunity to address future needs for the community proposing to reprogram space in the fire station.

Recommendations: up fitting a portion of the apparatus area for additional fire staff office space and training/meeting space. (This additional space will reduce the amount of needed business space in future satellite stations resulting in lower construction costs and will also maximize the possibility for the Apex Volunteer Fire Department to use the facility.) Increase in space is approximate 1600 sq. feet with an estimated cost at \$120,000. He continued timing is critical with the project underway and to complete a timely design with the architect. He noted the firefighters were excited about it. He asked support of this recommendation.





**New Business Item 2 continued**

Commissioner Hilt noted the expense was pretty much a wash with the receipt of the grant.

Commissioner Jensen commented we have the old fire house and the Town is negotiating with for the office space if we are going to use both buildings. He felt if something does come from the discussions, there would be a lot of opportunity to evaluate different scenarios and from his view point, it may be a wash, but it's still \$120,000. He asked if we have to do it now, or should wait to find out what type department there will be at the end of the negotiations before spending this \$120,000. He noted the design was from last year and now it's being modified and at \$120,000, it's a tenth of the cost to put roads in as the whole fire house is costing; he felt it should be looked at closer and consider the tax situation.

Jackson continued this was a practical time to do this and would not be a better time and from a strategic operation perspective, would be a decision for the Town Manager to comment on.

Mayor Weatherly commented on the \$120,000, being less now than opposed to being (maybe 75% more considered) after the building was completed. Commissioner Jones noted one advantage was being under a live contract. Jackson continued it doesn't include intangible costs, an advantage to construction operations.

Commissioner Hilt commented the change adapts to the needs and asked if there has been input from the volunteers. Chief Echevarria advised the volunteers seem to be in favor of the proposes and there are some issues, if worked out, could consider other things. Chief continued with the scenario from an operational perspective having a house adequate for a family. He commented on the idea of clustering resources in one location and referenced the Wake County EMS guidelines recommending the philosophy to un-cluster resources, and not having them all in one location for quick response to the citizens. He agrees.

Commissioner Jensen felt he was hearing the same philosophy from the volunteers when considering the building and was good to hear. He noted cutting the 5 bays to 4 and cutting the chief's car bay and when presented it would be the key house to serve Apex for a long time to come without a satellite house and asked if this were still capable to have adequate storage for the trucks, even if we don't reach an agreement with the volunteers.

Fire Chief Ray Echevarria noted the national standards criteria as far as insurance rating requirements, one recommending to have a pumper truck within one and one-half miles of built up areas of the community to provide for them the highest level of protection. Whether to do so or not, to provide this level of protection there would still have to be stations built. This addition would reduce the costs of a future station.

Commissioner Jensen commented he was saying what the volunteers had already said; saying we're not going to need all the space in this station because in fact we will have to have satellite stations to keep the insurance costs down. Chief Echevarria thinks it's a better use of this space as is being proposed and recommends it whether or not an agreement is worked out with the volunteers.

**New Business Item 2 continued**

Manager Radford commented he and Chief Echevarria had met with the volunteers and staff in regards to the proposed consolidation of the two fire departments, with Mr. Jensen being correct, the volunteers said this is what we've been saying all along, when he addressed this to them. They were happy to hear of the increase in people space, and be able to sleep 6 in 2 different rooms giving a future opportunity to allow volunteers at any given time to spend the night in the station. It's more than just career staff but double manpower or more with the volunteers and their ability to spend the night in the house.

Another issue was the town had budgeted \$350,000 for a fire truck in this current year and the grant is for the same amount; \$119 from \$350 is \$231 which is a sizable contribution for a sizeable fire truck down the road in a capital improvement budget. We kill several birds with one stone.

In regard to future sub-stations, this particular one is a larger station (Ex. Station on Lake Boone Trail a smaller substation within in one and one-half miles to provide service to the most developed areas). It deals with the ISO rates that decrease insurance rates of all people in Apex. He feels it's an excellent time to do this while the mortar is wet, before floor drains are poured – water runs one way and it will not look as if it were readapted.

Commissioner Jones asked the number of bays there typically is in a station; Chief Ray responded 2 bays; with his philosophy to uncluster. He continued he had worked on a prototype space for the County and explained its space.

Commissioner Jensen asked Manager Radford if we put extra bunk space into this station and we reach an agreement, he suspects there will be an agreement with the volunteers, he asked what we do with the old station. It has bunk space but he understands nights, they stay in the same house, not in the old station. Manager Radford responded it has not been decided and is one of the strong points from the perspective of the volunteers that the existing station remain in service, but not decided nor written. Chief Ray Echevarria noted the volunteers do want to maintain use of that facility whatever form of organization we end up. This is still under discussion.

Commissioner Jensen noted a decision has to be made; it would be nice if it was made later but we can't because we are constructing and we don't have an agreement. In listening to what Jackson had said, to make that decision tonight, he thinks it's unfortunate that we have gotten to this point, because it's money that comes out of our citizen's pocket.

Chief Echevarria commented at the volunteers meeting, they were talking about how they are going to structure their training; currently 40 or 50 people all come to the same training room and receive the same training those 20 years or 6 months. They want to do higher level of training for the experienced folks and a basic training for new folks. They talked about having training in two different areas one in training room and one in bay area, and if this works out with the volunteers, there's still going to be a need for this to give flexibility to meet the different needs of the fire department.

Commissioner Jensen asked if he were saying the volunteer fire department is in favor of changing this bay into a classroom and bunk room. Chief answered yes; they've talked about it and everybody that he's spoke to is glad to hear it and been in favor of it; he said there may one person out there who may think it's a bad idea; he hasn't heard this, but there's always a possibility.



**New Business Item 2 continued**

Commissioner Jones has asked two and heard from one. He agrees the time is awkward but the right time during construction.

**Action:** Motion by Commissioner Jones and second by Commissioner Hilt to approve the recommendations as presented. Motion carried unanimously.

Commissioner Jensen commented he had not been in favor of the fire house at this spot and didn't agree with the money, but thinks we've committed to it and with what has been said we should do this; he can't see gambling the money, but feels we should do it.

**End of New Business #2****Item # 3 – Cancellation of Meeting**

Possible motion to cancel the November 6, 2001 Board of Commissioners meeting.

**Action:** Motion by Commissioner Grimes and second by Commissioner Jensen to cancel the meeting of November 6, 2001.

**End of New Business**

Mayor Weatherly called for a recess at 8:20 p.m. and reconvened at 8:30 p.m.

**Item # 3 – Add on – Depot Renovation Project**

Director of Planning David Rowland presented a request from the Appearance Commission asking approval of Phase I for improvements to the Depot (current Apex Chamber of Commerce Office). The scope of work includes (1) clean up the existing trees, (2) add three new shade trees (3) replace the two sided planters with brick planters and new plants (4) add bushes on the Center street side of the site (5) mulch the front landscape areas (6) install two arbor swings at the Depot site and two more on the Town Campus (7) patch existing brickwork. He assured cost would be well below the budgeted \$50,000; one-half or less. Estimate is with Bland Landscape, and he didn't have it in hand. He noted the Appearance Commission, the Historic Society and the Chamber and Downtown Merchants had all reached a consensus on the scope of work. Rowland feels there will be adequate money to do a Phase II. Consensus from the Board was to cap the renovation at \$25,000 for completion of Phase I. Mayor was willing to approve Phase I for \$25,000 and not hold up their work. The brick work is a liability issue. Mayor wanted to assure them there is still a \$50,000 budget.

Commissioner Meckes asked if there was any further information on the stroll way. Rowland noted no, but plans to reapply for those funds; we've missed funds twice. Commissioner Hill noted a technicality with the railroad from the tracks to Salem. Rowland thought it was clear, but had to get separate permission from the railroad to cross the track and in negotiations. The stroll way is actually outside the right of way and not the part going across.

**Action:** Motion by Commissioner Hilt and second by Commissioner Grimes to approve Phase I of the Depot Renovation project not to exceed \$25,000 with a clear understanding to the Appearance Commission that there is still a \$50,000 budget. Motion carried. The Board asked to see an estimate in the next packet.

**End of New Business**



Mayor Weatherly moved from regular session into the work session at 8:37 p.m.

## WORKSESSION

### Report on Kelly Road Pump Station

Mayor Weatherly called on Director of Public Works Tim Donnelly to update the Board on the Kelly Road Pump Station. He reported 68% of the Town's drainage goes through this station and there have been no spills. More corrosion had built up to the walls than anticipated, there were plans to recoat, but had to re-grout has raised the price. Motors were rebuilt and shaft then warped and had to be rebuilt; one shipped was rejected for an oil seal leak. Parts come from Sweden and have not been delivered. Costs are expected to exceed \$150,000. New pump cost is \$40/\$50,000. Bolt mechanism was bad and provided for by manufacturer; but a specialized piece of equipment.

### Report from the Planning Committee regarding storm water management issues.

Commissioner Grimes commented on the report from Town Staff in response to citizens concerns with storm water. An August 21 public opportunity to be heard regarding flooding conditions from different parts of town; individuals who had observed and/or experienced situations where water had spilled over their banks and being contiguous to their properties: Sterling, Olive Street, Beaver Creek and Scotts Mill.

The Report indicates flood waters had not reached any furnished floor elevations but flooded creek waters had come in contact with some foundations. Report indicates unprecedented events of July 4 and July 9 with no further events other than those two which created these conditions. It was further noted some properties have designated flood plains and in looking at maps prepared by staff, it was observed a number of properties (large portions of lots) in the Scotts Mill Subdivision had been built within a flood plain. Staff informed that FEMA designated flood boundaries are indicated on the recorded plats of these subdivisions where the problems have been in the Scotts Mill area and the subdivisions in the Beaver Creek area. The Town has operated under the standard for some time that finished floors of residential and even non-residential have to be a least two feet above a designated flood plain. This provision has been sufficient to prevent the incursion of water into the finished floor areas. None have indicated finished floors have been affected in any way.

Commissioner Hilt reported on the basic principles rather than impoundment, with the best principle to stay out of the flood plains. People may have flooding in their foundation but their floors are above; water goes under a basement; staff recommendation has been to map the floodways (nothing in the floodways); keep all permanent structures out of the floodplain. She thinks homes were bought by people thinking you'd never have water coming up to them; she thinks what is allowed should not be allowed. She thinks buildings should be pulled out of the floodplain. Commissioner Meckes asked if this precluded any fill into a floodplain and she answered yes. She continued staff was right and the best way to handle flood management is to allow "Mother Nature" to do what she does and what's always been there; creeks broaden out and then they come back in.

Recommendations by staff: 1) map the floodways up to 50-acre drainage way or more and 2) map the floodplains (FEMA maps 100 acres or more, wants to tighten up on the ridges) and 3) keep grading out and 4) not impede flood waters.





### Worksession continued

She noted the UDO has great amendments for buffer protection and should be implemented quickly; other items discussed were increased buffers run in the 100 year flood plain along the Cape Fear; property lines outside the flood plain, that developers could not map those as a part of the lot; more diligent enforcement; increase of fines for erosion control (she gave support to fines). Commissioner Grimes continued lots should not be in floodplain once the UDO is in effect because of the RCA; this would provide better drainage system retaining natural environment.

Commissioner Hilt noted one of the things looked at was films of the property owners, but all needed to take into consideration that everyone is a violator; everyone helps make this situation by building sheds in the floodways, etc. She feels it will take an active role on everybody's part to help improve these conditions. She felt developer McKay was going well beyond what is required, proactive on part of Commissioner Jensen to help move this along. She thinks from now on the Board should look at site plans and look at the impact it makes and make it better.

Commissioner Meckes asked Commissioner Hilt to distinguish between floodway and floodplain. Floodway in a highest density storm is an area of highest energy of the stream (if you have a pipe across the creek it can't exceed the floodways, it must be above the floodway elevations); floodplain can go over a creek, but technically you're not allowed to exceed the flow of the flood waters (that's the highest energy of a high intensity storm and you need to leave it alone). She concluded they are all mapped.

Commissioner Grimes noted the only concrete recommendation was to replace culverts on Olive Street, 700 Block and 500 block, one of which was damaged and should be replaced and the other at the location of the Adams home. There were no other specific recommendations of the Public Works, but he doesn't take exception to any of the recommendations made by the staff, he feels they were all well considered and he wants to personally commend them for the high quality of work completed in a very limited amount of time to address a multitude of issues, not only where we are now, but where we will be shortly in terms of the application of the UDO and where the UDO will further enhance and should; this is a problem we can avoid; we have mechanism to improve them, and no reason why they should be.

Commissioner Hilt continued beside changes in the policy, there is \$200,000 worth of improvements that will make an immediate impact. She addressed the Adams concern regarding the pond. The pond is over the top and doesn't do what they hope it would do, for it to work; it needs to be lower to collect water. She would like to look at the improvements and see if it helps now. Commissioner Jones would like to see if it works as well.

Adams showed pictures of the pond and how the body of water works, noting the pond configuration had changed. They would like the town to approach the owner of the pond about selling or maintaining the pond upstream. He noted the water coming down stream feeds no wildlife, but creates a marshy area for mosquitoes.

Town Manager noted his appreciation for the concerns about the pond. He noted if there are existing problems there, it would not be in the best interest of the town to absorb those liability issues especially since the pond is some distance from their home.

**Worksession continued**

Manager continued consideration must be given as to how the water dissipates over a distance from where they are and the movement of the water. Town realizes their concern but can't accept liability. Adams interjected it joins with public property (Clairmont Park) and suggests consideration of liability from there. He continued the upside would be if maintained on the city's part, it would be great for the area to have a nice waterway park. Manager continued it's not in a drainage way, and not a collector for that drainage. If the Town did take responsibility, Town would want it to be a retention basin in a catch way, then only then would it be considered to be a public purpose. Adams suggested this would enhance the community. The Manager understood his suggestion.

Commissioner Jensen commented on the drainage situation and noted the geological survey maps noting the pond on top. It appeared to him it does collect some in looking at the survey map. He continued there would have to be an onsite evaluation, and maybe should do this. He asked could the Town notify the owner there is a problem and maybe he would on his own lower the lake a foot or so which will help it function as a collector, not for a 4" storm but at least get it out of the functioning of effecting the impermeable surface because it's up to the top and it's running down.

Commissioner Hilt saw nothing wrong with asking the property owner to take it on his own, as long as we're not telling him what to do, telling him property owners below him are concerned over the increase and let him deal with them; she doesn't want to get into telling people what to do with their own property in terms of liability.

Attorney Fordham commented there is a law that adopts as a part of the town's area to be maintained and the criteria of a private area vs. a public area, and the town gets involved in maintaining or designing it, then design maintenance becomes predominant feature of how the property is used and the Town becomes liable if anything goes wrong with it. Mayor Weatherly asked if the town should be involved in contacting the owner that there's a potential for problems with that dam. Director of Public Works Donnelly stated the state has a dam safety act that regulates dam safety. He doesn't think this meets the criteria or classification but there are experts that could look at this. He recollects the liability is on the property owner.

Commissioner Hilt continued approving \$200,000 is being proactive. She is empathetic and not sympathetic to the property owners (Ex. Her back yard and the limitations). She says we're not seeing living rooms washed out with mud, but unfortunately seeing a condition we allow throughout North Carolina, that we are now making better by changing policy. She noted approval of the fire station to protect the public's health, safety and welfare and a valuable \$120,000. She thinks increasing the size for training for emergency services was a good value. She gets concerned as a Board that when spending a lot of money on protecting people property that is not their actual physical living quarters, they need to keep a balance. As a public official with a set budget, they are spending it tonight. She wants to assure any policies established for the Town overall are one's that are in the best of the public's interest, health, safety and welfare. She noted there's a limited source of funding to do this.

Commissioner Grimes agreed with her, and feels it's important; he continued he had not yet seen or heard any evidence of any serious problems at this point and hopes to avoid any in the future. He thinks there has to be a compelling hardship to justify spending a great deal of money that may or may not have any realistic impact.



**Worksession continued**

He continued it was unfortunate the UDO isn't already in effect on the properties that has been discussed and are not under the protection of that particular ordinance. Progress has been made but progress is slow and unfortunate and sometimes disappointing, but it's getting there, hopefully sooner than later.

Commissioner Jones felt it important to learn from experiences, from what we are hearing and seeing to minimize the chances of these things happening again. We are not aware of any property being significantly impacted that we are aware of. We have taken steps to insure it doesn't get any worse and hopefully we make it better. Big steps are taken in this direction. He noted the immediate steps recommended is the Olive Street culverts and would see what happens. We can see if the pond is effected and how fast the water travels; we've proposed a \$50,000 study on Williams Creek; \$100,000 to clean out the West Sterling culvert and added a new inlet – we're talking a significant amount of money and a response since July. Not often this Board has spent \$200,000 for items that have come up within 3 months.

Commissioner Meckes noted we're really only spending \$150,000 with \$50,000 being a direct result of what we've gone through. He noted everything has worked as it was suppose to. We've come to recognize the problem and are now taking action to avoid these problems in the future; we envision Trackside community that could be developed here between Hunter Street and US64, but before anything like this comes to pass, we have to have this kind of information so the effect on the rest of the community that's already established.

Mayor Weatherly asked if this should be on the next agenda for adoption and obligation of those funds. Commissioner Grimes said he was not going to suggest we obligate money we don't have, except for Olive Street. He doesn't know what funds are available to do a study. Commissioner Grimes felt we should recommend adopting the proposals as far as buffers, sedimentation and erosion control of the UDO enhancements, showing floodways on plats, posting monuments in the floodplains, making 75 acre or more calculations for floodplain audit, because people have to know where the floodplain is in order to be informed if they want to buy property or not. He noted these things could be done with staff time, but important. He felt we should proceed on with the recommendations of Donnelly. As far as the money is concerned he wants more information on those sources, if any.

Manager Radford noted: 1) Replacing the culverts on Olive Street is a true and existing infrastructure issue and something we realize. 2) Detailed study of Williams Creek Basin - he would like to refer to a retreat, as it is a large amount of money and consider the elements; the issue of the proposed Trackside and what it would do to that basin if built out – long term issues. 3) Adopt buffer programs - will bring back - something we've talked about with staff. 4) Clean out and straighten the channel of the Sterling culvert, about \$100,000 in the event we had to replace wetlands – refer this a retreat. 5) Update the sedimentation and erosion control plan – issue of the first notice of violation and fine going out today \$500.

Action he would like is: Do #1 immediately with existing funds, # 3 next month, #5 next month and the study of Williams Creek and Sterling at the retreat.

**Worksession continued**

Commissioner Jensen shared concerns and noted in July we had these high flood plains and hopes the homeowners could show where the flood lines came. Maybe this could be done right away. With respect to the retention pond, he agrees with the Adams these retention ponds should be looked at as a recreational place. There's a number of houses there and a second pond on NC55 near Bryan Drive and urges the Town to write the letters to the owners. He sees no help to the people immediately in Beaver Creek. He noted what would have been done should have been done 10 years ago, but no one knew, and we're getting to be a cutting edge town and feels this is good. He would like to see those letters written to help Beaver Creek. He noted Commissioner Hilt's comments to look at yards and minimize run-off as being the best thing we all can do. He noted in these drainage basins it wouldn't get better unless we stop water. If we keep letting 35% impermeable and don't maximize the methods of stopping this, we've got a problem and he wants to go beyond our UDO in the predevelopment situation with the MEC. And long term, make it better, so it doesn't get any worse. We've done a lot with UDO and thinks some areas should go beyond what was done.

Commissioner Meckes referred to a comment by Commissioner Hilt that flow of water into ponds and on property in essence the volumes were the same before Brittany Trace was built, before any land was there the volume was the same as it was after everything was cleared before Brittany Trace except the water was muddy. Commissioner Hilt noted with a 4 or 5 inch storm, there was a lot of water, but color was different. Commissioner Meckes continued that in moving everything out of the flood plain, this situation existed before anything was put in it and will be there after. She agreed. With afternoon storms for a week the ground is saturated. Commissioner Jensen explained the theory of Peak flow if it were a natural area – total volume. He noted peak flow would be much higher than impermeable surface. Commissioner Hilt agreed and stated no matter what we do, in new subdivisions they will be out of the floodplains, but fact of the matter is no matter how much we protect, a 4" storm in an hour will bring a big wall of water. Reality is "Mother Nature" wins out every time.

Commissioner Meckes noted all should look at the prepared map and see the difference where Scotts Mill Houses are on the floodplain and then the Green where everything is moved back.

**End of Worksession****EXECUTIVE SESSION**

Mayor Weatherly asked for a motion to enter into executive session at 9:30 p.m. to discuss two personnel issues and to receive legal advice from the Town Attorney.

**Action:** Motion by Commissioner Grimes and second by Commissioner Hilt to do so. Motion carried. Minutes of Executive Session are recorded separately.

**Action:** Motion by Commissioner Grimes and second by Commissioner Meckes to go out of executive session and back into open session at 10:10 p.m. Motion carried.





With the meeting back in regular session the following action was taken.

**Action:** Motion by Commissioner Jones and second by Commissioner Meckes to approve the Employee Agreement with the newly appointed Town Attorney, Jason J. Kaus. Motion carried.

**Action:** Motion by Commissioner Meckes and second by Commissioner Hilt to approve purchase of Town Manager's residence. Motion carried.

End of Regular Session

## ADJOURNMENT

With no further business to come before the Board, there was a motion by Commissioner Jones and second by Commissioner Meckes to adjourn at 10:12 p.m.

The above minutes were approved on the 16<sup>th</sup> day of October 2001.

Georgia A. Parker  
Town Clerk

John D. Wainwright  
Mayor

# TOWN OF APEX BOARD OF COMMISSIONERS'

Minutes of October 16, 2001

7:00 p.m.

Apex Town Campus  
73 Hunter Street



Mayor: Keith H. Weatherly

Commissioners:

Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Website: [www.apexnc.org](http://www.apexnc.org)

Mayor Weatherly called the regular meeting of the Town of Apex Board of Commissioner's meeting to order on Tuesday, October 16, 2001 at 7:00 p.m. in the Apex Town Hall, 73 Hunter Street. Commissioners Jensen, Meckes, Jones, Grimes and Hilt were present.

Invocation and Pledge of Allegiance led by Mayor Weatherly.

Welcome by Mayor Weatherly, with special welcome to Girl Scout Troop 917 and to newly hired Town Attorney Jason Kaus.

## PRESENTATION

Mayor Weatherly presented AICP Awards to Apex Planning Department employees, Dianne Khin and Keith Lankford.

## INTRODUCTION OF EMPLOYEES

Department Heads introduced newly hired Town of Apex Employees:

Police: Betty Hobson, Ben Byrne, Richard Davis, Shawn Conley, Susan Sellers and Robyn Betts.

Fire: Roy Moore, Sean Woody and Kevin Rink.

Planning: Rosetta Radtke

Public Works: Tony Cannady and Dan LaMontagne

End of Introductions





## CONSENT AGENDA

Mayor Weatherly presented the consent agenda to be set and asked for a call for action.

**Action:** Motion by Commissioner Grimes and second by Commissioner Jones to approve the consent agenda as set. Motion carried unanimously.

1. Minutes of October 2, 2001 Board of Commissioners meeting.
2. Minutes of October 2, 2001 Board of Commissioners Executive Session (separate cover).
3. Minutes of October 1, 2001 Planning Committee meeting.
4. Updated Contract between the State of North Carolina and the Towns of Cary and Apex for Water Supply Storage in B. Everett Jordan Lake.
5. Annexation Petition # 323 – Town of Apex, property owners/petitioner, (parkland, south of Holland's Crossing located off Olive Chapel Road between Apex Barbecue Road (SR 1162) and Richardson Road (SR 1145) and being conveyed to Town of Apex by Pulte Home Corporation, and containing 43.470 acres. (1) Resolution to investigate petition; (2) Certificate of Sufficiency of Petition; and (3) Resolution setting date of public hearing for November 20, 2001.
6. Order to Amend Board of Commissioner's Previous Order Entitled: "Order Closing Portion of Thompson Street," dated May 2, 1995.
7. Ordinance to Amend Section 20-68(b) of the Code of Ordinances for Town of Apex relating to and including attached list of Stop Intersections.
8. Ordinance to Amend Section 20-100 of the Code of Ordinances for Town of Apex relating to and including an additional Item "7" regarding Speed on Certain Streets to 20 M.P.H. Zones.
9. Wake County tax report.

### End of Consent Agenda

## REGULAR MEETING AGENDA

Mayor Weatherly presented the regular meeting agenda to be set and asked it be amended to include the following:

Commissioner Hilt to offer a proposal concerning the Town Hall Wet Detention Pond (Old Business).  
Commissioner Jensen to discuss the Shearon Harris Plant Nuclear Waste Storage (New Business).  
Executive Session: Add discussion of pending litigation.

**Action:** Motion by Commissioner Jones and second by Commissioner Meckes to set the regular meeting agenda as amended. Motion carried unanimously.



## PUBLIC HEARINGS

### **Public Hearing # 1 – Rezoning #01TRZ08 Town of Apex**

Public Hearing regarding Rezoning #01TRZ08 Town of Apex seeking to rezone properties throughout the corporate limits and extra-territorial jurisdiction of Town and associated amendments to the Unified Development Ordinance; possible motion to adopt ordinance regarding same.

Dianne Khin, Planner oriented to the properties located at 209 N. Mason Street, 308 Center Street, 310 Culvert Street, 107 S. Mason Street and 109 S. Mason Street, seeking to rezone from High Density Multi-Family rather than High Density Single-Family; changes should be made the official zoning map.

Property at 109 S. Mason Street is owned by Ross and Nancy Olive and should be rezoned multi-family as it's adjacent to the quadplex at 107 S. Mason Street, and in an area identified for high density residential on the Land Use Plan, with property owners supporting a HDMF designation (letter attached).

Additional property at 404 Williams Street and owned by A. T. Seymour Heirs should be rezoned HDSF rather than Conservation Buffer, as it is not part of the Town Cemetery as thought.

Also, property at 310 Salem Street and owned by Sidney Seymour, Jr. currently zoned Office and Institutional shall not be rezoned and shall remain Office and Institutional.

These changes will be reflected in the official zoning district map. Planning Board reviewed the proposed rezoning and associated amendments at their October 8, 2001 meeting and unanimously recommends approval of the rezoning and associated amendments to the UDO with the above referenced changes to the zoning map. Commissioner Grimes verified the changes to the map, with no changes in the zoning. Khin responded.

Mayor Weatherly opened the public hearing at 7:15 p.m. With no one speaking in favor or in opposition, the hearing was closed.

**Action:** Motion by Commissioner Jones and second by Commissioner Meckes to approve as presented changes to the zoning district map and adoption of an ordinance concerning associated amendments to the UDO. Motion carried unanimously.

### **End of public hearing #1**

### **Public Hearing # 2 - Annexation Petition # 321**

Public hearing concerning Annexation Petition # 321 – Drees Homes owner(s)/petitioners, petition to annex properties within the Charleston Village Subdivision, Phase 6, Old Jenks Road and being known as Lots 171, 172, 173 and 174 and including the public Right of Way, and containing a total of one acre of land; possible motion to adopt an ordinance to extend the corporate limits.





**Public hearing #2 continued**

David Rowland, Director of Planning, oriented to the location of the one acre tract, being a parcel that was a portion of an Estate and not included in the legal description, but included in the master subdivision plan for Charleston Village. Houses are being built on these lots, but have not been conveyed and have sewer.

Mayor Weatherly opened the public hearing at 7:20 p.m. With no one speaking in favor or in opposition, the hearing was closed.

**Action:** Motion by Commissioner Meckes and second by Commissioner Hilt to approve Annexation # 321 by adoption of an ordinance to extend the corporate limits. Motion carried unanimously.

**End of public hearing #2**

**Public Hearing # 3 – Rezoning #01CU10 – Drees Homes**

Public Hearing regarding Rezoning and Conditional Use Case #01CU10, Drees Homes, owner/petitioner, seeking to rezone from Wake County Designation to Medium Density Residential Conditional Use and containing 1.00 acre located at the end of Housatonic Court in Charleston Village Subdivision; possible motion regarding same.

Director of Planning gave sworn testimony to the rezoning and conditional use case, seeking rezoning from the Wake County Designation to Medium Density Residential Conditional Use within the Charleston Village Subdivision. Planning Board recommends approval.

Mayor Weatherly opened the hearing at 7:24 p.m. With no one speaking in favor or in opposition to the rezoning, the hearing was closed.

**Action:** Motion by Commissioner Hilt and second by Commissioner Grimes to approve the rezoning and conditional use case #01CU10. Motion carried unanimously.

**End of public hearing #3**

**Continuation of Public Hearing # 4– Watershed Protection Overlay Districts – Amend UDO**

Continuation of Public hearing regarding amending Article 6 of the UDO regarding Watershed Protection Overlay Districts; possible motion to adopt ordinance regarding same.

Director of Planning David Rowland informed this was a continued public hearing from September 18, 2001 meeting and pending a recommendation from the Planning Board. Hearing was to consider amendments to Article 6 of the UDO. Planning Board recommends approval (6-1) and offered the following recommendations and comments for consideration:

**Public hearing #4 continued**

- Encourage the use of alternate methods for water quality such as created wetlands, sand filtering, underground storage...instead of ponds.
- To this end, offer incentives for use of alternate methods instead of ponds which are usually the least expensive method.
- Encourage shared structures to serve multiple lots instead of each lot having its' own structure.
- Use the full intent of the UDO and this proposed ordinance to keep grading to a minimum and not change the natural grade to route storm-water to a structure.
- Revisit the proposed ordinance on an annual basis to see if changes are needed.

Dianne Khin, Planner, reviewed the amended changes of the UDO. Before Khin's presentation, Mayor Weatherly asked who would handle the discussion on the Planning Board recommendations and comments. Rowland informed there is a section in the Ordinance (Alternate Methods) and suggested it be strengthened. Mayor Weatherly wasn't sure he understood the recommendations, asking how they would be incorporated prior to adoption of this ordinance. Rowland responded it could be done at a later date. Mayor Weatherly confirmed these recommendations were unanimous by the Planning Board. He responded they were, but noted the Ordinance didn't have them included in their entirety.

Director of Public Works Donnelly responded that he had supplied answers to the Planning Board at the time these concerns were addressed. He advised all recommendations except the incentives could be addressed by policy. Financial items would need Board approval. He suggested Board allow staff to return with incentive ideas, but fully intends to address the other recommendations, as it makes water quality better. He noted the reason for incentives was that generally economics allows a developer to do what they know how to do and it may take incentives to push other ideas. He recommended Board direct the staff to implement all the other items except the incentives.

Dianne Khin, Planner, reviewed amendments to the sections of Article 6 of the UDO regarding the Watershed Protection Overlay Districts, attached and incorporated as a part of the minutes.

Mayor Weatherly reopened the continued public hearing at 7:30 p.m. With no one speaking in favor or in opposition, the hearing was closed.

Commissioner Grimes referred to a section in the ordinance referring to wet retention ponds:... all high density development shall use wet retention ponds, or approved structures... and asking if we need to address this or not. Director of Planning asked if he wanted examples of equivalent structures. Commissioner Grimes didn't want them exclusive, but including, but not limited to the pond. Commissioner Hilt also agreed with encouragement to do alternatives.

Manager Radford asked if language could be added to include other generally accepted practices and should talk about new technologies as well in same way. Donnelly felt offering examples would encourage the practice. Commissioner Grimes felt as long as there was flexibility, it was fine with him. Commissioner Jones liked the idea of encouraging use of some alternative method, advising a neighboring municipality does encourage use of alternate methods, but understands it does cost more in fees. Donnelly stated he would bring back to the Board recommendations for incentives; he noted RCA as an incentive; and developers continue to build ponds as it's the cheapest way.



**Public hearing #4 continued**

Commissioner Jensen suggested several possibilities for pushing away from the pond; one being to charge higher fees for the ponds because the Town has to manage them down line and felt this justifiable from an economic standpoint; another is down line, require storm capability for retention ponds and lesser storm capability for the alternate methods. Donnelly responded, the Town has tried not to be in the business of managing storm water ponds, except the one the Town owns; ponds are generally owned by the business, or the homeowners associations. Commissioner Jensen noted another side, if it were sheet flowing into a natural area it seeps into the ground and it's not seen, except maybe later down stream it has to be managed; feels it's a good reason to push it economically. Commissioner Grimes asked clarification of the high density definition. Rowland responded 12% impervious surface triggers high density.

Commissioner Jensen suggests the Planning Department review some of the areas to see what properties might utilize a community pond and try to promote multiple lot use of one pond. He hopes to put this information out to developers ahead of time, before they begin work on properties. Rowland felt this would be an advantage in the future at a subdivision that's just beginning and work out the RCA and retention pond for the overall subdivision upfront and eliminating ponds all over the place. Commissioner Jensen's concern was with one acre lots at Pinnacle Park where they haven't been required before; and the need to look at this. He continued, "Even though the Town doesn't have the authority to tell them you have to do this, you just nudge them along in the right direction."

**Action:** Motion by Commissioner Jensen and second by Commissioner Jones to adopt the amendments of Article 6 to the UDO regarding Watershed Protection Overlay Districts. Motion carried.

As a technicality, Rowland asked if in the motion should say associated amendments. Response was it did not. Planning Board recommendations will be covered at a future meeting.

**End of public hearing #4****Public Hearing # 5- Amendments to UDO**

Public hearing regarding amendments to certain sections of the Unified Development Ordinance; possible motion to adopt ordinance regard same.

Dianne Khin, Planner, reviewed proposed amendments to certain sections of the UDO and being included in the attached ordinance and incorporated as a part of the minutes.

- Vehicle repair and service: - repair and maintenance general in Planned Commercial District (Good Year and Mineke would now be conforming uses as out parcels in shopping centers).
- Repair and maintenance general standards - included in the amendments.
- Height of water towers to be not more than 200 feet (current height 175 feet - allows for town's new water tower).
- 

Mayor Weatherly opened the hearing at 7:43 p.m. With no one speaking in favor or in opposition, the hearing was closed.

**Action:** Motion by Commissioner Hilt and second by Commissioner Grimes to approve the amendments as presented by adoption of the ordinance. Motion carried unanimously.

**End of public hearings**



**OLD BUSINESS**

**Item # 1 – Recreation**

Update on Parks, Recreation, Greenways, and Open Space Master Plan.

John Brown, Director of Parks, Recreation and Cultural Resources, reported on the process of the development of the plan and gave recognition to Planners Keith Lankford and Dianne Khin for their input and assistance to putting the plan together. Jim Hayden and Sara Chambers with Haden-Stanziale, PA presented the document. Park's Recreation and Cultural Resources Advisory Commission unanimously recommends adoption of the plan.

Hayden expressed his appreciation to the Planning and Recreation staff for their dedication in preparation of the plan and to the Advisory Commission. He asked the Board to allow Chambers to make the entire presentation before answering questions, review the document over the next few weeks and provide comments to the Director should they need to be incorporate in the final update to be presented to the Board of Commissioners at their November 20 meeting.

Chambers reviewed the methodology of the product and noted the product was derived from the mission statement. Existing site conditions were reviewed; citizen input received; looked at adjacent communities for what they provide; looked at facility availability, with all being considered to form a recommendation. Various document charts show facilities and people served. All information shows where Apex is ranked in comparison to our neighbors. Charts weight the system to understand the needs and use of school facilities. Wake County open space initiatives were addressed to consider the most important needs (water, air, and public access to land) ranking those needs. The most important issue for this community is provision of parks (active recreation being the most important). Important highly ranked people issues were: more parks; walkways; greenways; water quality; air quality; open space; land acquisition; and preserving views.

Immediate term needs (gets you to where you should be currently), near term needs (as population increases you look at more needs), and long term needs (land acquisition) were addressed. There are active and passive recreation needs; and to acquire land, they looked at population and geographic data.

Greenways: Immediate needs: recommends two and one-half miles of greenway.

Near term need: recommends 4.85 miles of greenway, and

Long term need: recommends about eleven miles of greenway and increasing with development.

Sees an immediate need to move forward with greenways along Beaver Creek and Lexington area.

Chart is included for sidewalk connectivity (highly requested).

Recreation facilities were addressed by citizen input (chart) and includes the following: baseball fields, volley ball courts, playground equipment, and multi-use fields. Survey: most were interested in walking, swimming (provide year round facilities for this); soccer and playground equipment, bicycling, picnicking, basketball, roller blades, running and jogging, arts and crafts, wildlife observation, etc.



**Old Business # 1 continued**

Survey indicates citizens are happy with current programs, but currently have a wait list (mostly sports programs), facilities aren't there. Would like to see additional class times and schedules. Future programs: adult education classes, environmental classes, expand events in the downtown, dog support facilities and skate park facilities.

Worked with planning design staff to establish standards for sidewalks to accommodate pedestrian needs; wants to look at greenway overlay district. Other: Ownership opportunities; established RCA; establish watershed protection districts; add tributaries to the watershed protection overlay district to protect water quality of the streams; land dedication and easement opportunities.

Extremely important to look at grant opportunities and DOT funding (thinks Apex is in a perfect spot to do this). Bonds: opportunity for bond issues (user fee structure to accommodate costs). Staff needs: citizens spoke highly of current staff and would like to see more programs that may require additional staffing, especially to oversee greenway efforts.

Cost estimates are covered in the last part of the document (aquatics cost is not included). It was suggested Town may want to consider private source to accommodate aquatic needs for a year round facility (YMCA, or Public Recreation); estimate cost \$6.5 million. Town may need to address this, but not necessarily assume costs.

Hayden felt Town had done an excellent job in looking after the Town's needs considering the growth and to continue to look at what's out there to meet future needs. He noted other needs will have to be met with continued development. He noted this was an opportunity for the Town to find partnership, land resources and funding. He continued there's a lot of information included in the document and asked questions and concerns and comments be funneled through Director John Brown; he in turn would forward them. Total costs were in the millions of dollars (does not include golf course). Commissioner Jones appreciates their efforts on this project.

No action was taken at this meeting.

**End of Old Business Item #1****Add on: Old Business Item # 2 – Town Campus Retention Pond**

Commissioner Hilt acquired drawings from Planning Department of the Town Campus retention pond. Her concern with the Retention Ponds is an environmental issue, where we fertilize the lawn around it and the nitrogen runs into the pond creating the algae. Recommended solution is to plant around the pond. She feels there's a good water level. She proposes the pond be converted to a wetland and will help reduce nitrogen and pollutants from the parking lot. She notes the project as educational. She suggests this fall; invite one of the elementary schools to participate in the planting of native trees, shrubs, herbaceous plants and grass and similar to a project she did before and educates children. She wants to follow through on this plan and noted this would be an observation area, with trails, and with signage explaining the benefit of this project. She proposes a project at a cost of \$815 with free labor (includes plant materials and a bluebird house). Reports algae would leave by the end of summer next year and the plants would increase wildlife habitat. Shrubs and blueberries would be planted there, making this area a naturalized landscape and feels this is the direction the Town is moving in terms of the ponds. She would begin by stopping the mowing of the area. Wildflowers are weeds and will cover the area as well. Ex. Yates Mill Elementary School – received Award for Best Managed Storm water Practice.

**Old Business # 2 continued**

Commissioner Grimes and Jensen recommended looking at other types of houses, with Commissioner Jensen suggesting bat houses to keep down mosquitoes. Commissioner Hilt agreed the woods would be good for this. Commissioner Grimes would like to combine the project of the pond with the wooded area adjacent to it. Commissioner Meckes commented it sets an example for others, in view of the recent storm water issues – it's not a manicured lawn, has shrubs, but more natural. Commissioner Hilt continued certain bushes and shrubs bring birds, some plants grow in the water (cypress) which is good for oxygenation. She doesn't suggest a fountain in the water, due to maintenance – nor fish (carp). The depth of the pond is an average three feet, even though shallow, feels it will function well to absorb some of the run-off (cypress, swamp white oaks, and various others will be planted, all native to this community.

Manager Radford added Commissioner Hilt has agreed to do the project without compensation, donating her time and labor, with the Town merely reimbursing her for the actual cost of any necessary supplies and materials at a proposed cost of \$810.00. He expressed appreciation for this service. She will begin work on this project in the fall.

**End of Old Business****PUBLIC COMMENT**

**Public comment is welcome. Anyone may address the Board concerning any item.  
Mayor Weatherly will recognize those wishing to speak at the appropriate time.  
We ask that you limit your comments to 3 minutes to allow others to speak.**

Leona Coosa is most interested in the greenways plan and encouraged the Board to acquire the property across the street from the Town Campus, to combine an education project such as this one with an area for a sports facility that supports downtown. She feels this would encourage spending more time in the downtown, while making this a wonderful park area. She asked to work hard to get this land and consider grants, find a means, but make it an unusual center for activities that focus on the downtown area. She was informed that the owner at present time was not willing to sell.

**End of public comment****NEW BUSINESS****Item # 1 – Financial Summary**

Review of the 1st. Quarter FY01-02 Financial Summary.

Manager Radford on behalf of the Finance Director presented the finance summary for the first quarter with a benchmark for the first quarter of 25% for revenues and expenditures. Variances were noted. He noted spending had been gradual at the beginning of the year since the majority of the money is collected by mid December. Report is attached. He is pleased with the report and its conditions at this time of the year and feels it will move smoothly throughout the entire year and at the end of the year could contribute to additional fund balance.

**End of Item #1**



**New Business continued****Item # 2 – Public Safety Reception**

Mayor Weatherly proposed community hold a Public Safety Appreciation Reception for the Police, Fire, and EMS personnel, recognizing their efforts and contributions to the Town, as so much attention has been given to those in New York. He was open for suggestions; had spoken with Bruce Lawson of the Festival Commission, taking into consideration all seasons are covered with day events. He felt the Community Center was an excellent facility for such an event, inviting the business community to be able to express their appreciation and hopes they would participate, and suggesting a weekday evening event, 6 p.m. to 8 p.m. with a few goodies.

Discussion of such an event was considered to be tied in with concerts in the downtown (last one is this weekend – next one in the spring), a Saturday morning event with vehicles for kids to see (day of the Christmas parade with the crowds and preceding the parade and possibly serving hot cider afterwards, or maybe in conjunction with the pancake breakfast). Burden of extra work on the police department was discussed with Chief Hearn advising parade lineup begins at 2 pm. Cat Kearns, Apex Chamber, was present to listen to the discussion. Chief Hearn responded years prior there was a public safety day welcoming the community and noting it's participation by the employees and well attended, and if so decided, the mornings would be better for the police employees, since they are busy with the parade. Mayor Weatherly indicated this was to start a thought process and not to particularly set an event, but to think about a community wide event and not just for town employees. It was noted Garner holds an appreciation event. The last one held in Apex was held at the Foodlion lot.

Expressed concern was with the time being so near the holidays and being able to coordinate an event with everyone participating. It was further expressed there may be better participation if there were more than a reception. Date considered for the Community Center was December 11, as other nights being used by public. Mayor Weatherly left the thought process open. Commissioner Jensen noted the pressed time because of the end of the year and suggests consideration of another time of the year maybe with warmer weather and suggested Memorial Day weekend.

No action was taken.

**End of Item #2****Item # 3 – Apex Appearance Commission**

Mayor Weatherly recommended to the Board of Commissioners and asked approval of an appointment and a reappointment of members to the Apex Appearance Commission as follows:

Appointment of Eb Bailey, 920 Brittley Way (fill unexpired term of Dolly Sickles) term expires 10/15/2003;  
Reappointment of Hamilton Martin, 103 S. Salem Street for a 3 year term expiring 10/15/2004.

**Action:** Motion by Commissioner Grimes and second by Commissioner Hilt to approve the recommendations from the Mayor to the Appearance Commission. Commissioner Jensen thanked the Mayor for the resume and hopes to see more. Motion carried unanimously.

**End of Item # 3**

**New Business continued****Add on: Item # 4 - Shearon Harris**

Commissioner Jensen addressed security issues and possibilities that could happen with Shearon Harris Plant, not so much the facility as the repository for the rods being stored there and concentrated at this one spot. He feels there's not a lot Apex can do, but suggests writing a letter to the department of energy or whoever handles Yucca Flats Depository. He continued power production companies have paid millions of dollars on Yucca Flats facility and citizens haven't gotten anything out of it other than studies. He feels it's in the best interest of the citizens to write a letter to the correct federal agencies that oversees this and to the state representatives, maybe a small act but a great time to open eyes and asks, "Why are we dragging our feet on Yucca Flats."

Mayor Weatherly commented the problem was political and all administrations agree Yucca Flats is the only place to put nuclear waste, but the two US Senators from there have consistently said absolutely no. Commissioner Meckes felt we had to appreciate their position as well. Mayor Weatherly continued the nuclear regulatory would be meaningless in this issue. He continued it's agreed in our delegation, Yucca Flats bill passed the house but has not passed the senate and he doesn't feel it ever will, it's a local parochial issue.

Commissioner Jensen continued they have the right to turn us down, but he hopes consideration would be given to writing a letter to put pressure on to get this moving. Mayor Weatherly noted he could contact Helms and Edwards to check the status and see what citizens wanted to do. Commissioner Jensen agrees it's been hung-up forever. Commissioner Jones responded not specifically Yucca Flats, but any safer alternative. Commissioner Meckes noted we have any alternative now; the only reason CP&L stores waste here is due to Yucca Flats. All agreed. Mayor Weatherly noted as far as security, he's not aware of any fear of sabotage over storage but the re-actor – Commissioner Meckes interjected it could be worse with storage. Commissioner Jones noted the security of the storage; Commissioner Hilt calling attention to power outages. Commissioner Jensen commented on the concrete facility that neither may nor may not stop an aircraft or whatever loaded with explosives. He understands the pools where the radioactive rods has much less structure around them.

Commissioner Meckes suggests a presentation from CP&L on the current state of security. Commissioner Hilt noted in US News and World Report an article on terrorist attacks on Nuclear Plants and the power being knocked out and spent fuel rods being vulnerable; an article on this all before the NY accident.

Commissioner Meckes noted the controversy of the pool storage vs. the dry cast storage and Mr. Jaffee reporting this on numerous occasions; he's curious as to CP&L's position. Commissioner Jensen commented with dry cast storage, not knowing it's that much safer with this type of attack, because the rods are planted relatively deep. Water level in the pools were discussed and it's proximity of the fuel rods to each other; a radio active release inter acting with each other; that's why dry cast is safer because there's more distance between them.

Manager Radford commented on an invitation to CP&L; recently Chief Echevarria and Chief Hearn requested a discussion with them, and they were not willing to talk about security, and would not come here to talk about their plans or safety for security purpose. He commented on a program a few weeks ago in regard to alternatives and safety measures that apply. Commissioner Jensen asked could it be done at the next meeting with Radford noting it may take more time than they are willing to spend but could share it individually.

**End of New Business**





### WORKSESSION

There were no Work Session items scheduled for this meeting.

### EXECUTIVE SESSION

Mayor Weatherly asked for a possible motion to enter into executive session to discuss a real estate matter and potential litigation at 8:50 p.m. Motion by Commissioner Grimes and second by Commissioner Jones to move into closed session to discuss a real estate matter and to discuss potential litigation with the Town Attorney. Motion carried. Minutes are recorded separately. Motion by Commissioner Meckes and second by Commissioner Grimes to move out of executive session at 9:06 p.m. Motion carried.

### ADJOURNMENT

With no further business to come before the Board, motion by Commissioner Meckes and second by Commissioner Grimes to adjourn at 9:07 p.m. Motion carried.

The above minutes were approved on the 20<sup>th</sup> day of November 2001.

Georgia Parker  
Clerk

Keith D. Weatherly  
Mayor

# TOWN OF APEX BOARD OF COMMISSIONERS'

Meeting of November 20, 2001

7:00 p.m.

Apex Town Campus  
73 Hunter Street



Mayor: Keith H. Weatherly

Commissioners:  
Mike Jones, Chris Hilt,  
Bill Jensen, Don Grimes,  
Doug Meckes

Website: [www.apexnc.org](http://www.apexnc.org)

Mayor Weatherly called the regular meeting of the Town of Apex Board of Commissioners to order on Tuesday, November 20, 2001, 7:00 p.m., Apex Town Hall, 73 Hunter Street. Commissioners Jensen, Meckes, Jones, Grimes and Hilt were present.

Invocation and Pledge of Allegiance led by Mayor Weatherly  
Welcome by Mayor Weatherly, with a special welcome to Scout Troop 205.

## Proclamation

Mayor Weatherly endorsed by Proclamation the "2001 Scout Luminaries Project" sponsored by participating scout troops in the Apex Community. Scout Abel Shores, Troop 205 accepted the proclamation.

## Congratulations

Mayor Weatherly extended congratulations to Commissioners Mike Jones and Doug Meckes on their re-election to the Board to Commissioner Elect Eugene Schulze.

## CONSENT AGENDA

Mayor Weatherly presented the consent agenda to be set and asked for a call for action.

**Action:** Motion by Commissioner Jones and second by Commissioner Meckes to approve the consent agenda as set. Motion carried.

1. Minutes of October 16, 2001 Board of Commissioners meeting.
2. Minutes of October 16, 2001 Board of Commissioners Executive Session (separate cover)
3. Minutes of November 8, 2001 Personnel Committee meeting.

Consent Agenda continued





**Consent Agenda Continued**

4. Findings of Fact, Conclusions of Law, and Decision for Conditional Use Permit #01CU10, Drees Homes, located at the end of Housatonic Court, Charleston Village containing 1 acre of land being zoned to Medium Density Residential Conditional Use.
5. Annexation Petition # 322 – Town of Apex, owners/petitioners amending prior Annexation Ordinances and annexing intervening rights-of-ways with the Town's Separating Areas" and containing 69.910 acres; 1) Resolution directing Clerk to investigate petition; 2) Certificate of Sufficiency of Petition by Clerk; and 3) Resolution setting date of public hearing for December 18, 2001.
6. Adopt Resolution to approve Landscape Agreement between NCDOT and Town of Apex – to install landscape plantings along NC55 and US1 corridor as part of Project R-2905 in Apex and Project 8.1402601-Wake County.
7. Adoption of Budget Ordinance Amendment Number 3, transferring of fine money from General Fund to Appearance Commission budget, and allocation of remaining funds from Appearance Commission Depot project to supplemental landscaping on Town Hall Campus.
8. Site plan – Apex Electric, 809 1/2 Center Street.
9. Resolution requesting Wake County Board of Commissioners amend short-range urban service area and extend extraterritorial jurisdiction of the Town of Apex.
10. Order closing portions of Salem Street and Chamber of Commerce Parking lot for the annual Christmas on Salem Street event to be held on November 30, 2001 beginning at 5:30 p.m.
11. Order closing portions of Salem Street, Hunter Street, and Moore Street for the annual Apex Christmas Parade to be held on December 1, 2001 at 5:00 p.m.
12. Personnel Committee – Reclassification of one Fire Captain's position to Fire Marshal.
13. Personnel Committee – Policy revision: Military Leave.
14. Appointment of Town Manager Bruce Radford to replace former Town Manager Bill Sutton, as Commissioner on the Board of NC Eastern Municipal Power Agency and authorization for Town Clerk in the capacity of Notary to administer an Oath of Office.
15. Resolution to release Town of Apex's share of Economic Development monies from the State Budget Office to the Triangle J. Council of Governments in the amount of \$1294.46.
16. Wake County Tax Report.

**End of Consent Agenda**

## **REGULAR MEETING AGENDA**

Mayor Weatherly presented the regular meeting agenda to be set, and asked it be amended to extend to CP&L representatives the courtesy of speaking first to allow them to meet another engagement.

**Action:** Motion by Commissioner Grimes and second by Commissioner Jones to do so. Motion carried.

With no further amendments to the regular meeting agenda, it was set as amended.



**New Business Item #4 – Shearon Harris Plant Security**

CP&L representatives Marty Clayton and Jeanne Bonds addressed the Board, giving assurance of the plant security at the Plant. There was a brief question and answer session. Manager Radford will arrange a tour of the Plant. Mayor Weatherly extended his appreciation for the update.

**PUBLIC HEARINGS**

**Item # 1 – Public Hearing – Annexation Petition # 323**

Public hearing concerning Annexation Petition # 323, Town of Apex, owner/petitioner petitioning to annex 43.470 acres known as Tracts A & B Town of Apex Parkland, south of Holland's Crossing located off Olive Chapel Road between Apex Barbecue Road (SR1162) and Richardson Road (SR1145) and being conveyed to the Town by Pulte Home Corporation; possible motion to adopt ordinance to extend the corporate limits.

Director of Planning oriented to the location of the lands being described and noting conveyance from Pulte Home Corporation. Mayor Weatherly opened the public hearing at 7:27 p.m. With no one speaking, the hearing was closed.

**Action:** Motion by Commissioner Hilt and second by Commissioner Jensen to approve Annexation Petition #323 and adopt the ordinance to extend the corporate limits by the 43.470 acres. Motion carried.

**End of public hearing #1**

**Item # 2 – Public Hearing – Transportation Improvement Program**

Public hearing regarding Transportation Improvement Program Priorities request for FY2004-2010; possible motion to adopt Resolution approving same.

Planner Khin advised every two years Capital Area Metropolitan Planning Organization (CAMPO) asks each municipality for a list of priorities to be included in the Transportation Improvement Program (TIP). CAMPO prioritizes the request and submits it to NCDOT. Apex has submitted the same list for the past two request periods with one exception. Appearance Commission requests US64/Laura Duncan Road Pedestrian Underpass be included as an enhancement project, which means 20% local funding match would be required, an amount equal to \$147,000.

Priorities are: NC55 Widening, Apex Peakway (Eastern Leg), Apex Peakway (Western Leg), US1 Interchange and Jessie Drive Extension, and Salem Church Road and Davis Drive Re-alignment. CAMPO allows five items and with consent to request the underpass this would remove Salem Church Road and Davis Drive Re-alignment. CAMPO would amend any changes in the roadways included in the TIP to match CAMPO Thoroughfare Plan and only done once a year in the spring. Staff would submit changes and amendments in spring of 2002. Manager Radford and Director of Planning noted the outer loop (540) as being a project specific to Apex, with staff agreeing the list should be submitted as presented.

Mayor Weatherly opened the public hearing at 8:10 p.m. With no one speaking, the hearing was closed.





Commissioner Jensen asked if Town would be more successful to submit the smaller projects requiring less money. Director of Planning discussed prioritization with Kimley Horne concerning safety and money availability and felt this list appropriate as presented. Commissioner Jones made comments regarding the Peakway; Commissioner Grimes made comments on new #1 to US64.

Manager Radford commented on the bridge work (NC55). Commissioner Meckes commented this may not be necessary if the outer loop came to pass. Commissioner Jones assured the outer loop would come to pass and #1 may not be necessary. Director of Planning assured NC55 would be widened before the outer loop came to pass.

Commissioner Hilt made comments on the art-deco of the train trestle and its historical significance. Commissioner Jensen made comments on the upgrade of the Olive Chapel Road/NC55 intersection as being of most importance. Discussion followed regarding the need for the by-pass to relieve traffic on NC55; improvements of NC55 for five lanes from Holly Springs to US64; the 540 to be a solution and should be top priority. Shared information: Town of Cary has funded other lanes southward on. Commissioner Hilt commented the Town has more control over design and how it affects the community.

Director of Planning will submit the prioritized list with amendments to the thoroughfare sections of the Peakway and Jesse Drive to include the underpass. Mayor Weatherly made comments on the exercise the Town would go through for DOT regarding the bypass and giving access to the Park. Khin advised the Town would receive extra points for a park or school issue listed and the importance as an enhancement. Director of Planning will pursue funds to help with the Salem Church Road project. Commissioner Meckes gave his support to the list with the underpass, with the others being in agreement.

**Action:** Motion by Commissioner Hilt and second by Commissioner Meckes to adopt the resolution for the Transportation Improvement Program Priorities Request for FY2004-2010 with the amendments. Vote on the motion was unanimous. Motion carried.

## End of Public Hearing #2

## OLD BUSINESS

### Item #1 – Parks, Recreation, Greenways and Open Space Master Plan

Possible motion to approve Parks, Recreation, Greenways and Open Space Master Plan.

Commissioner Jones, Liaison to the Recreation Advisory Commission made comments on the progress of the proposed plan and that it is in conjunction with the County's Master Plan. Director of PRCR gave an overview; he noted the US64 overpass was included.

Commissioner Jensen asked about boat use on the Lake and did not see it included in the priority. Director of PRCR stated it didn't rank highest in priorities, but was considered in the original plan, but listed issues of concern: liability, location; requirement of road through wetlands; separate boat dock; and CP&L easement location. Advisory Commission looked at community interests and this was not mentioned, but could be considered. Commissioner Jones commented the facilities list were to meet demand. Director of PRCR had submitted all insurance information to the Town Attorney regarding boats on the lake. Commissioner Grimes added this could be a desirable recreation facility in the future.



Mayor Weatherly confirmed the \$15 million plan doesn't include the Aquatic facility, noting the Plan being a wish list and designed for long range planning that could be spread over time. Commissioner Jones noted the plan addresses immediate, near-term and long-term needs. Staff recommends Plan needs be discussed and prioritized in more detail at the Annual Board of Commissioners retreat.

**Action:** Motion by Commissioner Jones and second by Commissioner Hilt to approve the Plan. Motion carried.

**End of Old Business**

## **PUBLIC COMMENT**

Public comment is welcome. Anyone may address the Board concerning any item.  
Mayor Weatherly will recognize those wishing to speak at the appropriate time.

**We ask that you limit your comments to 3 minutes to allow others to speak.**

Herman Jaffee asked the Board if CP&L were invited to speak (response was yes). He further asked the Board to send letters regarding waste pools being emptied and stored in dry cast on individual sites as there was money already collected to be used. He continued Wake County would not respond or even talk about this. He knew the Town to be on record, but requested new letter.

Tom Calhoun asked to the Board to consider the property located at Green Level Church Road and US64 next to the proposed 540 being moved into the ETJ of Apex and that the focus of this property was not for O&I zoning. He noted the great supply of O&I zoning on the market, feeling this site best suited for commercial development. He advised several box retailers were interested in the NC55/US64, and would increase tax base for the town.

Howard Frank addressed the Perry Road extension and proposed development on E. Williams Street (NC55), and asking staff look at the road elevation, particularly crossing the creek. He noted buffers were non-existent on Perry Farms side, and wetlands were on NC55 side; the road elevation being 5 or 6 foot higher than the land and isolating it; asked extension of the drainage on the south side and providing an open catch basin for run-off, as his land is in jeopardy of water. He noted the road was proposed to carry regular house traffic and the land was rezoned for business; now truck traffic will conflict with the houses; and Hughes Street has buffers but not on the east side.

**End of public comment**

## **NEW BUSINESS**

### **Item # 1 – Town of Apex Comprehensive Annual Financial Report**

Keith Joyce, Mills, Rouse & Company presented the June 30, 2001 Audit Report. The report is enclosed. Audit review noted no matters involving internal control structure and its operations were considered to be material weakness. Improvements could be made to telephone billing and miscellaneous accounts receivable reconciliation as noted in the reporting letter.





**New business continued**

Manager Radford made congratulatory comments, due to increases in all funds, and it being a banner year for the Town.

**End of New Business #1**

**Item # 2 – Apex Chamber of Commerce Economic Development Report**

Director of the Apex Chamber of Commerce, Cat Kearns, presented the quarterly report informing the Board of the economic development activities from July – October 2001 (attached). She extended an invitation to the Chamber of Commerce Open House December 6. She shared the Chamber would be one of the Historic sites on Tour this year. She noted the \$3,000 grant distribution to charities benefiting the Apex Community.

**End of New Business #2**

**Item # 3 – Personnel Committee Recommendation – Pay Plan Study**

Personnel Committee recommends adopting the pay plan study recommendations made by Human Resources Consultant John Brooks.

Commissioner Meckes, Chair of the Personnel Committee reported on the meeting held November 8, 2001 and had two of their recommendations under consent agenda for approval: the reclassification of the one Fire Captain's position to Fire Marshal, and policy revision to Military Leave.

John Brooks, Consultant, reviewed recommendations for changing the Town's pay plan and related pay policies. A review of the process addressed key issues, significant findings, and recommendations. There are no costs to implement the changes, thus proving to be a more effective use. COLA increases are recommended. Personnel Committee and Staff recommended approval of the recommendations which are included. Brooks responded to the Commissioner's comments on the pay plan recommendations and gave a few examples to better understand the criteria.

**Action:** Motion by Commissioner Meckes and second by Commissioner Jensen to approve the recommendations as presented. Motion carried.

**End of New Business Item # 3**



New business continued

**Item # 5 – Site plan – Saint Andrews Catholic Church**

Site plan for improvements to St. Andrews Catholic Church, 3008 Old Raleigh Road.

Planner Diane Khin reviewed the site plan for Saint Andrews Catholic Church, as outlined in the staff report. Staff recommended approval of the site plan. Planning Board recommended approval with installation of caution signage for storm water retention on site, and maintenance of rip/rap area.

Commissioner Jensen clarified the 12% impervious surface area with the Engineer noting the percentage was based on undeveloped portion and 12% additional impervious surface being based on 7.7 acres of undeveloped land. Also, the calculations were based on a 10 year storm producing a 4" rain in 5 minutes (intensity of the storm). Commissioner Jensen discussed water quality vs. quantity, and the retention pond vs. bearms and not emitting fertilizers into the stream (no nitrogen control). He felt removing vegetation to build the facility didn't make sense; it places a burden on the town to maintain, is a nuisance to the neighbors, and in many cases downstream conditions worsen. He desires a plan that will not allow nitrogen to enter into the stream and not impact houses, and was a good time to open up the drain on the street. Commissioner Hilt addressed the Planning Board conditions of the retention site, the parking levels, curbs and the area of the pond, disagreeing with the signage. She further didn't feel necessary to maintain the rip/rap.

**Action:** Motion by Commissioner Hilt and second by Commissioner Meckes to approve the site plan without the conditions of the Planning Board. Motion carried.

**End of New Business #6**

**Item # 6 – Appearance Commission Members**

Discussion to allow a business owner/operator to serve on the Apex Appearance Commission.

Town Manager Radford advised consideration for a business owner to serve on the Apex Appearance Commission had come from Commissioner Meckes. Commissioner Meckes advised there had been an interest to serve by persons not living in Apex, and these positions had been difficult to fill. He felt criteria should be established to allow owners/operators of business in town to be involved and felt it was a good fit.

Mayor Weatherly advised a business owner had been recommended by the Chamber of Commerce, but not meant to seat on the Commission, but one who pays taxes on a business. Commissioner Jones clarified a non-resident business owner/operator. Mayor Weatherly referred this item to the Planning Committee for consideration.

**End of New Business #6**

**Item #7 – Board of Commissioners Annual Retreat**

Town Manager Radford recommended the Board of Commissioners Annual Retreat be held in the usual format at the Town's Community Center with a catered lunch on either Friday of February 15 or 22.

**Action:** Motion by Commissioner Grimes and second by Commissioner Meckes to hold the Board of Commissioners's Annual Retreat on Friday, February 15, 2001 in the Community Center. Motion carried.

**End of New Business #7**





New Business continued

Item # 8 – January 1, 2002 Board of Commissioner's Meeting

Town Manager Radford recommended cancellation of the January 1, 2002 meeting of the Apex Board of Commissioners as it falls on New Years Day.

Action: Motion by Commissioner Jones and second by Commissioner Meckes to cancel the January 1, 2002 meeting. Motion carried.

End of New Business Items

**WORKSESSION**

There were no Worksession items.

**EXECUTIVE SESSION**

Action: Motion by Commissioner Jones and second by Commissioner Hilt to enter into executive session at 9:20 p.m. to discuss land acquisition. Motion carried. Minutes of executive session are recorded separately. Motion by Commissioner Grimes and second by Commissioner Hilt to go back into regular session at 9:42 p.m. Motion carried.

**ADJOURNMENT**

With no further business to come before the Board, there was a motion by Commissioner Grimes and second by Commissioner Meckes to adjourn at 9:43 p.m. Motion carried.

The above minutes were approved on the 14<sup>th</sup> day of December 2001.

Georgia A. Parker  
Town Clerk

Kevin D. Weatherly  
Mayor

**TOWN OF APEX  
BOARD OF COMMISSIONERS'**

**Minutes of the  
Special Meeting of November 23, 2001**

Mayor Weatherly called the special meeting of the Town of Apex Board of Commissioners to order on Friday, November 23, 2001, 4:00 p.m., Apex Town Hall, 73 Hunter Street. Commissioners Jensen, Meckes, Jones, Grimes and Hilt were present. Also in attendance were Manager Radford, Assistant Manager Mike Wilson and Commissioner Elect Schulze.

Mayor Weatherly stated the purpose of the meeting to discuss approval of the Wastewater Treatment Agreement with the City of Raleigh.

Manager Radford highlighted contents of the Agreement allowing Apex 1.0 mgd (average day capacity) sewer for \$3.49 per gallon (\$3,490,000). Other charges are calculated as indicated on Exhibit 2, Exhibit 3, and Exhibit 6. Town would be responsible for operation and maintenance of the existing 16-inch sewer force main, as well as the sewer pumping station. When Town opts to close its wastewater facility, the excess nitrogen could be purchased by Raleigh, if they so choose, at \$22 lb. x 10 years and discounted 25%. Sale of nitrogen allocation would be \$6,690,750. Value could be less/more at time of abandonment of facility due to market changes, etc., and if Raleigh refused to purchase nitrogen allocation could be retained by Town to offer for sale or dedication to another entity. Manager Radford asked the Board for approval and to allow him to negotiate further with Raleigh City Manager. He further asked to approve the Budget Amendment for \$3,490,000. Manager Radford stated the Town was fortunate to have an opportunity to have such an Agreement with Raleigh, and was a small fee to put the 16 inch line already in place back in service. Money would be taken out of Capital Reserve Sewer Fund and would leave about \$2.4 in reserve.

Commissioner Meckes clarified nitrogen goes only to Neuse River Basin; City of Raleigh could pay lesser value for nitrogen; maximum flow was 1.0 mgd or 2,800 gallons per minute; term was for ten years from date of execution of document. All was correct.

Commissioner Hilt led a brief discussion on the merits of the Agreement and not knowing how many years away a regional facility could be; she was in hopes the Board would encourage more non-residential development to balance the tax base.

Commissioner Jensen asked why the Town had only dealt with one Town. Response was the Town of Cary had given an ultimatum "a finite decision" for 1% growth rate, in writing, and wanting to place their demands, including adequate transportation and schools programs" on Apex. Commissioner Hilt and Commissioner Jones had spent a lot of time on this issue and it was clear to them Cary had not wanted to work with Apex. Commissioner Jones added they had tried to talk with Cary and they were not willing to be reasonable, with the talk being one-sided, therefore, they moved on to the next option. Commissioner Jensen's response was "...we had shut them off." Commissioner's Hilt and Jones response was "...there was no negotiating, only an ultimatum, and no reasonable growth rate". Commissioner Jensen indicated he would not be in agreement with 1%.

Mayor Weatherly noted all was contingent upon building a plant, and agreeing to be a customer of Cary. Commissioner Hilt added Cary had sent the last letter and had made no attempt to re-enter conversation, it was "all or nothing" and they could not put Apex in this position. Commissioner Jensen was not sure this was the end of the negotiations. Commissioner Meckes noted the proposal as "ludicrous".





Commissioner Grimes asked what would happen in ten years. Mayor Weatherly responded we must have a regional plant, but may be allowed to continue upon this agreement depending on circumstances.

Mayor Weatherly asked Commissioner Jensen if he had spoken with Mayor Lang in Cary and his response was he didn't call and hadn't talked with him, but had talked with Cary but not to get any message to Mayor Lang. Heated discussion continued regarding talks with Cary.

Commissioner Jones called for the question.

Commissioner Grimes noted with extenuating circumstances, we may not get a regional facility. Manager Radford would hope both parties could renew the agreement. Commissioner Hilt asked if we needed an ambassador. Mayor Weatherly had met with Mayor Coble, and he would be a party to this, with the Manager willing to help.

Commissioner Jensen expressed concern of how the costs would be pro-rated, not wanting extra costs to be placed on taxpayers currently here, but placed on new development, not seeing benefit to those currently living here, but maybe to business owners, land owners, and construction industry. Commissioner Jones felt the ones here would get the benefit from growth. Commissioner Jensen didn't agree and wanted to review the rates.

Commissioner Meckes noted the costs less to treat and would reduce our plant volume. Commissioner Jensen questioned the 25% discount on the nitrate costs. Commissioner Meckes noting this as speculative. Commissioner Jensen disagreed. It was noted the Finance Committee would have a chance to go over how the costs are distributed at a later date.

Commissioner Jensen was concerned the vote on the Agreement had to come so quickly when there was a full month to go before a decision had to be made. Mayor Weatherly stated after the first week in December, it would be different with new officials, he knew the deal now, could be even better, but was a great deal now.

**Action:** Motion by Commissioner Meckes and second by Commissioner Jones to approve the Agreement. Vote on the motion was 4 in favor and 1 opposed (Commissioner Jensen being opposed). Motion carried.

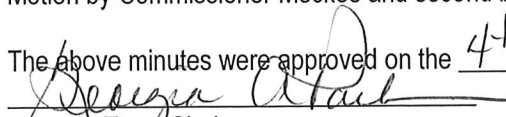
**Action:** Motion by Commissioner Jones and second by Commissioner Meckes to approve the Budget Amendment. Vote on the motion was 4 in favor and 1 opposed (Commissioner Jensen being opposed). Motion carried.

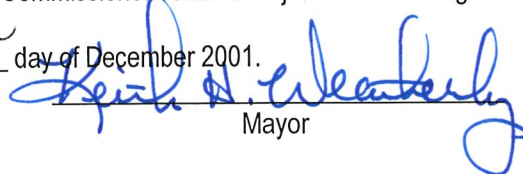
**Action:** Motion by Commissioner Grimes and second by Commissioner Meckes to authorize Bruce Radford, Town Manager to be the representative to continue negotiations and to execute Agreement. Motion carried.

Commissioner Hilt stated she had faith and confidence in the Finance Committee. Town Manager Radford expressed appreciation to Director of Public Works Tim Donnelly for all his hard work, and that City Manager of Raleigh, Russell Allen was willing and forthright to expedite the agreement.

Motion by Commissioner Meckes and second by Commissioner Jones to adjourn the meeting at 4:37 p.m.

The above minutes were approved on the 4th day of December 2001.

  
Town Clerk

  
Mayor

# TOWN OF APEX BOARD OF COMMISSIONER'S

## *Organizational Meeting*

*Apex Town Hall, 73 Hunter Street  
Tuesday, December 4, 2001  
7:00 p.m.*

*Mayor Keith H. Weatherly*



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

Commissioners:  
*Mike Jones, Doug  
Meckes, Chris Hilt,  
Don Grimes, and  
Bill Jensen*

## CALL MEETING TO ORDER

*Mayor Keith H. Weatherly Presiding*

## INVOCATION

*Pastor Phil Qualls  
Apex Baptist Church*

## PRESENTATION OF COLORS AND PLEDGE OF ALLEGIANCE

*Scout Troop # 205.*

## WELCOME AND RECOGNITION OF SPECIAL GUESTS

*Mayor Weatherly*

## CONSENT AGENDA

Mayor Weatherly will present the consent agenda to be set and will ask for a call for action.

1. Minutes of November 20, 2001 Board of Commissioner's Meeting.
2. Minutes of November 20, 2001 Board of Commissioner's Executive Session (Separate cover).
3. Minutes of November 23, 2001 Board of Commissioner's Special Meeting.

End of Consent Agenda

## OLD BUSINESS

There are no Old Business Items to consider.





# CEREMONIAL PROCEEDINGS OF THE TOWN OF APEX BOARD OF COMMISSIONERS

*December 4, 2001*

MAYOR KEITH H. WEATHERLY PRESIDING

RECOGNITION OF OUTGOING COMMISSIONER

*Christine L. Hilt*

*December 2, 1997 to December 4, 2001*

*(Commissioner Hilt leaves her seat)*

CEREMONIAL OATH ADMINISTERED TO COMMISSIONERS

*(Family members may join Elected Official during the Swearing in Ceremony  
and may participate by holding the Bible)*

Commissioner Michael L. Jones

*Administered by*

*Celia P. Jones*

*Notary, Wake County*

*Signing of Oath with Town Clerk*

*(Commissioner Jones is seated)*

Commissioner R. D. "Doug" Meckes

*Administered by*

*The Honorable Kristin H. Ruth*

*Wake County District Court Judge*

*Signing of Oath with Town Clerk*

*(Commissioner Meckes is seated)*

Commissioner Elect Eugene J. Schulze

*Administered by*

*The Honorable Kristin H. Ruth*

*Wake County District Court Judge*

*Signing of Oath with Town Clerk*

*(Commissioner Schulze is seated)*

ELECTION OF MAYOR PRO TEMPORE

APPOINTMENTS OF STANDING COMMITTEES AND LIAISONS

*(Committee and Liaison List Attached)*

END OF THE ORGANIZATIONAL MEETING

*Mayor Weatherly will call for a brief recess prior to the beginning of the regular meeting to  
allow for photos.*

\*\*\*\*\*RECEPTION TO FOLLOW COUNCIL MEETING IN ATRIUM\*\*\*\*\*



TOWN OF APEX BOARD OF COMMISSIONERS  
APPOINTMENTS TO COMMITTEES AND LIAISONS

COMMITTEES:

FINANCE

PLANNING

PERSONNEL

FIRE & EMS SERVICES

LIAISONS:

PARKS, RECREATION, CULTURAL RESOURCES ADVISORY COMMISSION

APEX APPEARANCE COMMISSION

APEX FIRE DEPARTMENT

APEX CHAMBER OF COMMERCE

TRIANGLE J COUNCIL OF GOVERNMENTS

TRANSPORTATION ADVISORY COMMISSION

WAKE COUNTY GROWTH MANAGEMENT TASK FORCE

WAKE COUNTY WATERSHED MANAGEMENT TASK FORCE





## REGULAR MEETING AGENDA

Mayor Weatherly called the regular meeting back into session, and presented the regular meeting agenda to be set as follows.

### PUBLIC HEARINGS

There are no scheduled public hearings.

### PUBLIC COMMENT

Public comment is welcome. Anyone may address the Board concerning any item.  
Mayor Weatherly will recognize those wishing to speak at the appropriate time.  
Please limit your comments to 3 minutes to allow others to speak.

### NEW BUSINESS

#### Item #1 – Request for Consideration by Commissioner Jensen

Request by Commissioner Jensen to consider Ordinance for Neighborhood School Preservation.

End of New Business

### ADJOURNMENT

# TOWN OF APEX BOARD OF COMMISSIONER'S

## *Minutes of the Organizational Meeting*

*Apex Town Hall, 73 Hunter Street  
Tuesday, December 4, 2001  
7:00 p.m.*

**Mayor Keith H. Weatherly**



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

**Commissioners:**  
**Mike Jones, Doug**  
**Meckes, Chris Hilt,**  
**Don Grimes, and**  
**Bill Jensen**

Mayor Keith H. Weatherly Presided over the Organizational meeting of the Board of Commissioners, calling it to order on Tuesday, December 4, 2001 at 7:00 p.m. in the Apex Town Hall, 73 Hunter Street. Commissioners Jensen, Meckes, Jones, Grimes and Hilt were present.

Pastor Phil Qualls, Apex Baptist Church, led the Invocation.  
Presentation of Colors and Pledge of Allegiance was led by Scout Troop # 205.

Mayor Weatherly extended a welcome and recognized Special Guests.

## CONSENT AGENDA

Mayor Weatherly presented the consent agenda to be set and asked for a call for action.

**Action:** Motion by Commissioner Hilt and second by Commissioner Grimes to approve the items on the consent agenda. Motion carried.

1. Minutes of November 20, 2001 Board of Commissioner's Meeting.
2. Minutes of November 20, 2001 Board of Commissioner's Executive Session (Separate cover).
3. Minutes of November 23, 2001 Board of Commissioner's Special Meeting.

**End of Consent Agenda**

## OLD BUSINESS

There were no Old Business Items to consider.





## CEREMONIAL PROCEEDINGS OF THE TOWN OF APEX BOARD OF COMMISSIONERS

December 4, 2001

Mayor Keith H. Weatherly presided over the Ceremonial Proceedings of the meeting.

Mayor Weatherly recognized outgoing Commissioner Christine L. Hilt and honored her with a plaque for her service as Town Commissioner was December 2, 1997 to December 4, 2001. Commissioner Hilt chose not to run for re-election, and rendered remarks of praise to the Board in their decisions made and for their service to the Town prior to leaving her seat as Commissioner.

Ceremonial Oaths were administered to the Commissioners. Family members joined Elected Officials during the Swearing in Ceremony and participated by holding their Bible.

Celia P. Jones, Notary of Wake County, administered the official Oath to Commissioner Michael L. Jones for a four year term. Both signed the official Oath with the Town Clerk. Commissioner Jones took his seat as a re-elected Commissioner for the Town of Apex.

Comments were rendered by Kristin H. Ruth, Wake County District Court Judge, prior to administering oaths of office and praising elected officials in their decision making.

The Honorable Kristin H. Ruth, Wake County District Court Judge, administered the official Oath to Commissioner R. D. "Doug" Meckes for a four year term. Both signed the official Oath with the Town Clerk. Commissioner Meckes took his seat as a re-elected Commissioner for the Town of Apex.

The Honorable Kristin H. Ruth, Wake County District Court Judge, administered the official Oath to Commissioner Elect Eugene J. Schulze for a four year term. Both signed the official Oath with the Town Clerk. Commissioner Schulze made brief remarks for support especially from his family during his campaign and looks forward to serving; and took his seat as a newly elected Commissioner for the Town of Apex.

Mayor Weatherly opened the elections for Mayor Pro tempore. Commissioner Meckes nominated Commissioner Mike Jones and Commissioner Grimes gave a second to the nomination. With no others to be nominated, Mayor Weatherly closed the nominations.

**Action:** Motion to approve Commissioner Mike Jones as Mayor Pro tempore carried unanimously.



Mayor Weatherly made the following appointments to standing committees and liaisons.

**COMMITTEES:**

FINANCE – Chair, Commissioner Mike Jones, and Commissioner Don Grimes

PLANNING – Chair, Commissioner Don Grimes and Commissioner Gene Schulze

PERSONNEL – Chair, Commissioner Doug Meckes and Commissioner Bill Jensen

FIRE & EMS SERVICES – Chair, Mayor Keith Weatherly and Vice Chair, Commissioner Gene Schulze and Commissioner Mike Jones and Commissioner Doug Meckes.

**LIAISONS:**

PARKS & RECREATION ADVISORY COMMISSION – Commissioner Mike Jones

APEX APPEARANCE COMMISSION – Commissioner Doug Meckes

APEX FIRE DEPARTMENT – Commissioner Gene Schulze

APEX CHAMBER OF COMMERCE – Commissioner Doug Meckes

TRIANGLE J COUNCIL OF GOVERNMENTS – Commissioner Don Grimes

TRANSPORTATION ADVISORY COMMISSION – Mayor Keith Weatherly and Alternate, Commissioner Mike Jones

WAKE COUNTY GROWTH MANAGEMENT TASK FORCE – Mayor Keith Weatherly and Commissioner Don Grimes, Alternate and Commissioner Mike Jones

WAKE COUNTY WATERSHED MANAGEMENT TASK FORCE – Commissioner Don Grimes

Mayor Weatherly closed the Organizational Meeting and moved into the regular meeting noting a reception would be held following the regular meeting in the Atrium.





## REGULAR MEETING AGENDA

Mayor Weatherly called the regular meeting back into session, and presented the regular meeting agenda to be set and asked it be amended to include consideration of a Resolution in support of Neighborhood Schools – Item # 2 under New Business. Motion by Commissioner Jones and second by Commissioner Jensen to add the item to the regular agenda. Motion carried. The meeting agenda was set as amended.

## PUBLIC HEARINGS

There were no scheduled public hearings.

## PUBLIC COMMENT

Public comment is welcome. Anyone may address the Board concerning any item.

Mayor Weatherly will recognize those wishing to speak at the appropriate time.

Please limit your comments to 3 minutes to allow others to speak.

Herman Jaffee addressed the Board encouraging responsibility and accountability to the people regarding terrorist acts and concerns for storage of nuclear waste at the Shearon Harris facility. He asked the Board contact the County and endorse by Resolution a Plan to Decrease Risks from Terrorism at Nuclear Power Plants.

End of Public Comment

## NEW BUSINESS

### Item #1 – Request for Consideration by Commissioner Jensen

Commissioner Jensen requested consideration of an Ordinance for Neighborhood School Preservation, designed to limit growth in areas where schools are overcrowded (an adequate public facilities approach). The proposed ordinance would tie the construction of homes to the availability of school capacity and protect children from deteriorating education opportunities. He noted the schools were controlled by the county and would help the citizens in Apex by keeping children in local schools. He proposed a mechanism be in place once growth is stopped in an area, where the school board would consider the population (school attendance level) going into it and it be adjusted from the actual attendance level, but not eliminate another school in this area, and calling for an Agreement with Wake County Schools. He addressed percentages of overcapacity and service levels of which school property must be purchased and be under construction.

**Action:** Commissioner Jensen made a motion to send this item to the Planning Committee for further consideration. Mayor Weatherly asked if there were a second to the motion. There was no second on the motion. The motion died for lack of a second.

Mayor Weatherly commented at the most recent retreat there was discussion at length of a public facilities ordinance with growth consultants, and with the exception of Commissioner Jensen, there was no support to this approach, and obviously has not changed.

End of New business #1



**Item #2 – Request for Consideration by Mayor Weatherly**

Mayor Weatherly presented a Resolution In Support of Neighborhood Schools opposing mass re-assignment and supports instead, a neighborhood school assignment plan, expressing concern for neighborhood schools concept as well as re-assignment of Apex students outside of Town for no apparent reason but for certain diversity formulas to fill the schools. He read aloud the ordinance. He announced Holly Springs has adopted a similar resolution for children of Holly Springs. He feels the School Board doesn't care about neighborhood schools, School Board looking at this as a county issue and not a local government issue. He considers this ordinance expressing support of Apex children being educated in our local schools, and giving more support to all local school activities.

Mayor Weatherly noted as schools are built there has to be assignments to fill the schools, but maintains the object is to make sure desks are filled by students in Wake County, students who live within the vicinity of the school, and avoiding this stressful re-assignment. He felt it was time for the community to use whatever to convince the School Board we expect new schools in areas where growth is occurring and allow those moving in to attend those schools. Commissioner Schulze commented the plans are still open for public hearing and school board still needs a final vote.

Commissioner Jensen noted it goes to the school board on December 10, and is fighting this re-assignment for his own child. He supports the resolution but has concerns that his proposed ordinance did not receive support and this resolution would be a bit "hollow" – growth going like crazy in Apex and Apex not helping out. He believes in neighborhood schools and doesn't believe in busing children. He noted the growth and pushing children further out, but should base assignment on population. He notes we're not addressing growth but addressing the busing issue. He feels the Town has responsibility that was just shunned and should address the Town's growth issue, so schools would not be over-burdened.

Commissioner Schulze has empathy with what Commissioner Jensen is trying to accomplish, but sees "APF" (adequate public facilities) as only one piece of the puzzle. His opinion is Apex and all municipalities would require complete co-operation from the School Board to solve the over-crowding issue. Commissioner Jensen agrees County is the controlling factor, but asked where does the co-operation start. He feels his proposed ordinance is critical, but certainly this resolution makes a statement and he's proud to support it, but feels the "APF" has more substance, and understands Apex doesn't have full control, but does have a part in getting dialog going.

Mayor Weatherly continued dialog on-going with Wake County Mayors. For over two years, the Mayors had tried to get members from the Wake County School Board to meet and discuss these issues (facilities construction plan and re-assignment) but not one would come at any time for no apparent reason. Finally, did after a considerable period of time, and they are eager for continued dialog concerning frustration by this and wants results from the Wake County Board of Education.

Commissioner Jensen talked with Wake County PTA President Diane Bater and Dr. Ramey Beavers regarding "APF" and both agree.

Commissioner Grimes commented growth management plans and tools are in place and are being appropriately applied. He feels those should be applied before moving forward with matters that has been considered thoroughly and decided would not be appropriate for Apex by the growth consultants.





Commissioner Meckes commented staff is currently working on the new criteria for development and approval, certainly school sites, and feels we have the criteria to meet the needs for the growth in our community. Commissioner Jensen appreciates that, but at the same time feels guiding filters wouldn't hurt.

Commissioner Meckes called for the question.

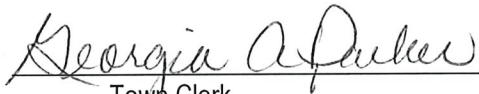
**Action:** Commissioner Jones made a motion to adopt the Resolution supporting neighborhood schools with a second by Commissioner Jensen. Motion carried unanimously.

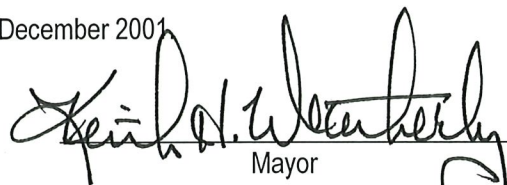
End of New Business

### ADJOURNMENT

With no further business to come before the Board, a motion was made by Commissioner Grimes and second by Commissioner Jones to adjourn at 7:50 p.m. Motion carried to adjourn.

The above minutes were approved on the 18<sup>th</sup> day of December 2001.

  
Town Clerk

  
Mayor

# TOWN OF APEX BOARD OF COMMISSIONER'S

Meeting Agenda for Tuesday, December 18, 2001  
Apex Town Hall, 73 Hunter Street  
7:00 p.m.



Mayor Keith H. Weatherly

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

Commissioners:

Mike Jones  
Don Grimes  
Doug Meckes  
Bill Jensen  
Gene Schulze

Mayor Weatherly will call the meeting to order.  
Invocation  
Pledge of Allegiance  
Welcome by Mayor Weatherly

## CONSENT AGENDA

Mayor Weatherly will present the consent agenda to be set and will ask for a call for action.

1. Minutes of December 4, 2001 Board of Commissioner's Meeting.
2. Annexation Petition #324, Beckett Crossing Phase IIIB, Comstock Homes of NC., LLC, owner/petitioner; 1) Resolution directing Clerk to Investigate Annexation Petition; 2) Certificate of Sufficiency of Petition by Clerk; 3) Resolution to set date of Public Hearing for January 15, 2002.
3. Ordinance for Rezoning Permit #01TRZ08, Town of Apex, for certain lands located throughout the corporate limits and extraterritorial jurisdiction of the Town of Apex.
4. Site plan for Reunion Park amended by deleting requirement for extension of Reunion Park Drive.
5. Site plan for Kelly Road Daycare, Kelly Road and Olive Chapel Road.
6. Site plan for Commercial Properties Building, 1150 West Williams Street, Apex Professional Park
7. Transfer Cemetery Lot # 138, Plots A, B, C & D in Town of Apex Cemetery to Betsy S. Gay & children.
8. Wake County Tax Report.

End of Consent Agenda





## REGULAR MEETING AGENDA

Mayor Weatherly called the regular meeting back into session, and presented the regular meeting agenda to be set as follows.

### PUBLIC HEARINGS

**Public Hearing # 1 – Annexation Petition #322**

Public hearing concerning Annexation Petition #322, Town of Apex, North Carolina, owner(s)/petitioners; possible motion to adopt an ordinance to extend the corporate limits.

**Public Hearing # 2 – Amendments to the UDO**

Public hearing regarding amendments to certain sections of the Unified Development Ordinance; possible motion regarding same.

End of Public Hearings

### OLD BUSINESS

There are no Old Business Items to consider.

### PUBLIC COMMENT

Public comment is welcome. Anyone may address the Board concerning any item.

Mayor Weatherly will recognize those wishing to speak at the appropriate time.

Please limit your comments to 3 minutes to allow others to speak.

### NEW BUSINESS

**Item # 1 – Request by Commissioner Jensen**

Request by Commissioner Jensen regarding Citizen Advisory Committee on Education.

**Item # 2 – Downtown Steering Committee**

Mayor Weatherly will recommend appointments to a Downtown Steering Committee; possible motion regarding same.

**Item # 3 – Planning Board Appointment**

Mayor Weatherly will recommend appointment to the Apex Planning Board; possible motion regarding same.

End of New Business

### ADJOURNMENT