



TOWN COUNCIL MEETING

TUESDAY, DECEMBER 2, 2014

William M. Sutton, Mayor
Eugene J. Schulze, Mayor Pro Tempore
William S. Jensen, Scott R. Lassiter, Nicole L. Dozier,
and Denise C. Wilkie, Council Members
Bruce A. Radford, Town Manager
Drew Havens, Assistant Town Manager
Donna B. Hosch, CMC, NCCMC, Town Clerk
Laurie L. Hohe, Interim Town Attorney

The Regular Meeting of the Apex Town Council scheduled for Tuesday, December 2, 2014, at 7:00 p.m. was held in the Council Chamber of Apex Town Hall, 73 Hunter Street

In attendance were Mayor William M. Sutton, Mayor Pro Tem Eugene J. Schulze, and Council Members William S. Jensen, Scott R. Lassiter, Nicole L. Dozier, and Denise C. Wilkie. Also in attendance were Town Manager Bruce A. Radford, Assistant Town Manager Drew Havens, Town Clerk Donna B. Hosch, and Interim Town Attorney Laurie L. Hohe.

COMMENCEMENT

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

PRESENTATIONS

Presentation 01 : Mayor Bill Sutton

Resolution to Lee Smiley, retired Finance Director

Mayor Sutton read the Resolution to Mr. Smiley from the NC League of Municipalities honoring him for his lasting contributions to local government.

Assistant Town Manager Drew Havens introduced Sunny Hwang, the Town's new IT Director.

Presentation 02 : Keith Joyce, Joyce and Company

June 30, 2014 Audit Report

Keith Joyce provided highlights from the CAFR document, noting that the Town received a clean audit. We received the Certificate of Excellence for 2013 and will apply for the certificate for 2014.

Mr. Joyce noted and described three items of some concern not a part of the CAFR document – New World software issues, procurement card issues, and grant payments. There were significant deficiencies in the report, those being goods received prior to the PO being issued and electronic signatures on some PO's. Both issues have been addressed. Next year, new major standards will come into play. Mr. Joyce congratulated Mr. Radford and Mr. Smiley on the audit.

CONSENT AGENDA

- Consent 01** Minutes of the November 10, 2014 Council Workshop, the November 18, 2014 Regular Council Meeting, and the Closed Session Minutes from the November 18, 2014 Regular Meeting (Closed Session Minutes recorded separately)
- Consent 02** Statement of the Apex Town Council for Rezoning Case #14CZ05, Beazer Homes-Raleigh (Stillwater), petitioners for the property located at 0, 8312 Ragan Road and 2505, 2428, 2504, 2510 Richardson Road
- Consent 03** Statement of the Town Council and Ordinance for Rezoning Case #14CZ17 (Greenmoor), Pulte Homes petitioners, for the property located at 7716 and 7616 Green Level Church Road
- Consent 04** Statement of the Town Council and Ordinance for Rezoning Case #14CZ24, Smith & Smith Surveyors, P.A., petitioners for the property located at 3913 US 64 Hwy West
- Consent 05** Statement of the Town Council and Ordinance for Rezoning Case #14CZ26, J.W. Shearin, petitioner for the property located at 6516 Apex Barbecue Road
- Consent 06** Resolution Directing the Town Clerk to Investigate Petition Received, Certificate of Sufficiency by the Town Clerk, and Resolution Setting Date of Public Hearing on the Question of Annexation – Apex Town Council's intent to annex Marvin & Dianne Welton property containing 18.231 acres located at 2713 Olive Chapel Road, Annexation #519 into the Town's corporate limits
- Consent 07** Resolution Directing the Town Clerk to Investigate Petition Received, Certificate of Sufficiency by the Town Clerk, and Resolution Setting Date of Public Hearing on the Question of Annexation – Apex Town Council's intent to annex Apex Olive, LLC property containing 29.430 acres located at 0 and 2904 Old US 1 Hwy, Annexation #526 into the Town's corporate limits
- Consent 08** Public Hearing on December 16, 2014 for rezoning application #14CZ15 (Arcadia Ridge West PUD) to rezone 46.13± acres located at 2625 Olive Chapel Road from PUD-CZ & Wake County R-80W to Planned Unit Development-Conditional Zoning
- Consent 09** Public Hearing on December 16, 2014 for rezoning application #14CZ19 (Middleton PUD) to rezone 73± acres located at Holt Road between Jenks Road and Hasbrouck Drive from Rural Residential to Planned Unit Development-Conditional Zoning

- Consent 10** Public Hearing for the December 16, 2014 Town Council Meeting regarding Rezone #14CZ22, Salem Creek PUD Plan Amendment 8.4 acres located at 620 South Salem Street from Planned Unit Development Conditional Zoning (PUD-CZ) to Planned Unit Development Conditional Zoning (PUD-CZ)
- Consent 11** Public Hearing for the December 16, 2014 Town Council Meeting regarding Rezone #14CZ25 (Old Jenks and Thorn Hollow Road), +/- 58 acres located at Old Jenks Road South to Thorn Hollow Drive from Rural Residential, Residential Agricultural and Low Density – Conditional Use to Medium Density Conditional Zoning
- Consent 12** Public Hearing for the December 16, 2014 Town Council Meeting regarding Land Use Map Amendment and Rezone #14CZ29 (Apex Olive LLC), +/- 28.34 acres located at on Old US 1 Hwy from R-40 W to Medium Density Conditional Zoning
- Consent 13** Encroachment Agreement with Apex Orchard Villas, LLC and to authorization for the Town Manager to execute same
- Consent 14** Resolution approving donation of surplus personal protective equipment
- Consent 15** Road closure request for Founders Day 5K race/walk on February 28, 2015
- Consent 16** Memorandum of Agreement (MOA) Between the United States of America and the Town of Apex and Wake County and the North Carolina Wildlife Resources Commission for the purposes of constructing Town-owned utilities across US government property and authorization for the Town Manager to execute the MOA and the Town Manager and Attorney to make minor modifications to the MOA

MAYOR SUTTON CALLED FOR A MOTION TO APPROVE THE CONSENT AGENDA. COUNCIL MEMBER WILKIE MADE THE MOTION; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

REGULAR MEETING AGENDA

Council Member Lassiter requested the addition of New Business 05, a Resolution in response to citizen complaints. Mayor Sutton requested that the Closed Session item concerning personnel be removed and added as New Business 06. Council was in agreement with these requests.

PUBLIC FORUM

Kate McDonald, resident, asked Council about the development and growth of the Town. She was excited that Council asked for comments from citizens and wished to know how Council wanted this input. Council stated she could use emails, these meetings, or public hearings – there is not a philosophical sound-off except for the 2030 Plan. Ms. McDonald stated she is concerned about

commercial vs. non-commercial and school caps in light of the residential growth. Responding to her request for broader conversation, Council stated it may be a good idea to look at a Town Hall meeting as was done years ago. It would also be good to bring in other community leaders.

William Hill stated he doesn't see any commercial growth and wanted to know how we're going to sustain what we're building – how is infrastructure being measured against the growth and how is this reviewed? The Town Manager offered to speak with Mr. Hill on this matter. Mr. Hill asked about the Economic Development position. Council stated this is a new position and the director will do things of which we will be proud. She has done a good job so far, but it's difficult to turn the momentum around. The director also needs cooperation from the community. The infrastructure will need to be in place so that she can do her job.

PUBLIC HEARINGS

Public Hearing 01 : Lauren Simmons, Planner II

Public Hearing and Ordinance on the Question of Annexation – Apex Town Council's intent to annex Willow Michael property containing 2.772 acres located at 1508 Kelly Road, Annexation #523, into the Town's corporate limits

Staff oriented Council to the site. Staff recommended approval.

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

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO
ADOPT THE ORDINANCE; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE

OLD BUSINESS

Old Business 01 : Council Member Scott Lassiter

Reconsideration of the Manors at Bella Casa Phase 8B - Master Subdivision Plan - for the property located at 2801 Walden Road containing 22.7 acres and 47 lots

Council Member Dozier stated that when this was discussed previously, the Town Attorney asked her to recuse herself. Therefore, she was making the same request now.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION
TO RECUSE COUNCIL MEMBER DOZIER FROM THIS MATTER; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

Council Member Lassiter stated he previously voted the opposite of what is being considered this evening. At that time, Council sided with the property owner. However, she and the developer have met, and she now has a different opinion. Ms. Curry, property owner, stated previously she did want the stub. However, after reviewing the plans and seeing what would need to be done to make that happen and discussion with her children, she now wants no part of the development. She requested the stub street be removed from the adjacent property on Evans Road. The developer, Stuart Jones, stated he was fine with this, and he will now go back to the original plan.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION
TO GO BACK TO THE ORIGINAL PLAN AS PROPOSED BY THE DEVELOPER, ELIMINATING THE STUB STREET OUT TOWARDS
EVANS ROAD; COUNCIL MEMBER LASSITER SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

Council Member Dozier returned to Council.

NEW BUSINESS

New Business 01 : Lauren Simmons, Planner II

Change to the 2030 Land Use Map for the Gasiorowski/Eakes properties from Rural Density Residential to Low Density Residential

Staff oriented Council to the site. The Planning Committee and Council previously considered an item to change the land use map of the two properties, asking for a change in density to low and medium. Since that time, Mr. Gasiorowski has changed his request for only low density for the two properties. If Council agrees, staff will advertise the public hearings.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION
TO CONSIDER THIS REQUEST AT ANOTHER TIME; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Council stated this is getting into the Jordan lake area and hoped staff and owners could protect the lake.

New Business 02 : Mayor Bill Sutton

Reappointments and appointments to the Planning Board

Mayor Sutton requested approval of the following reappointments and appointments:

- David Hooks, reappointment as Chair, with appointment to this position to expire December 2015
- Tommy Morgan, reappointment as Vice Chair, with appointment to this position to expire December 2015
- Beth Godfrey, reappointment as Board Member, with appointment to expire December 2017
- Jack Clark, appointment as Board Member (replacing Chad Price), with appointment to expire December 2017
- Jim Mead, appointment as ETJ Representative (replacing Tom Colhoun whose terms for reappointment have expired), with appointment to expire December 2017

It was noted that Wake County will also need to approve the appointment of Jim Mead.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER WILKIE MADE THE MOTION
TO APPROVE ALL REAPPOINTMENTS AND APPOINTMENTS; COUNCIL MEMBER LASSITER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

New Business 03 : Chief John Letteney / Captain Jacques Gilbert / Corporal Eric Buchanan

New police car graphics

Staff presented the new design and its history. The current design was award winning in 2005, but the majority of staff now wishes to see the re-designed change. Two officers worked to identify the new design; the reasoning behind the black and white theme was explained. The new design is unique, customized, incorporates Apex's heritage, and is 100% reflective. Responding to Council, staff stated the current vehicles will not be redone. Therefore, there will be two styles until the current vehicles lifespan out. Additionally, the trend is going more towards SUV's because of their comfort and functionality.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER DOZIER MADE THE
MOTION TO APPROVE THE NEW GRAPHIC; COUNCIL MEMBER LASSITER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

New Business 04 : Council Member Gene Schulze, Chairman of the Personnel Committee

New positions as discussed in the Personnel Committee meeting of November 25, 2014

Council overviewed the positions discussed in the Personnel Committee meeting regarding School Resource Officers (SROs) for PD and a LSE-to-fulltime Planner for Planning. Council stated the Police positions are proactive.

POLICE SROs: Council stated it supports education; however, Wake County should be working with us to support what's needed at the schools. We should have more conversation with the County on this. We could ask for their help, explaining that money for additional SROs is not in our budget. Questioned was why Wake County is not putting dollars for the Friendship SRO in their budget seeing as the school is not yet built.

Council explained that Wake County will reimburse us for a portion of the Friendship SRO. The County does not have money for the middle school SROs. Apex middle schools are the only ones without SROs because of the quality of the Town and its schools. Originally it was stated that money could be put in next year's budget for these positions, but PD says the SROs need to be trained prior to being on the job. The Police Chief has spoken with Wake County officials about financing.

Council expressed concern about not waiting until budget time to fund the positions; it was not sure of the urgency. Staff stated that hiring now would be a good transition to getting training. It is critical to make sure the person is a good fit for the job. Council stated that even though the Police Chief addressed Wake County, Council should do so also. There was the thought that the County will not fund the positions, because it doesn't do so for other municipalities. But if there's a way to compromise, then Apex will step up to the plate and then ask the County to do what's right in the future. With further question from Council about the critical need for the middle school SROs, staff stated that PD will not hire these positions before they are needed.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER DOZIER MADE THE MOTION TO APPROVE THE POSITIONS WITH THE AGREEMENT THAT THERE WAS SUPPORT FROM COUNCIL AND THE POLICE DEPARTMENT TO TRY TO GET FUNDING FROM WAKE COUNTY; COUNCIL MEMBER LASSITER SECONDED THE MOTION. THE MOTION CARRIED BY A 5-0 VOTE.

Added New Business 05 : Council Member Scott Lassiter
Resoluituon reagrding CSX

Council stated there is a feeling among neighbors that they are helpless in the situation of noise from idling trains at night. A Resolution was presented to Council which would appeal to CSX and the

government in the coexistence of this railroad in Apex with its neighbors. Council Member Wilkie stated she had spoken with Congressman George Holding who stated that if we get him the information, he will pass it along to the Library of Congress to research and then see what he can do. Council stated that CSX should be ashamed of themselves because of the requirement in place to which they are not adhering. Since they are going against their own policy, maybe there could be an ordinance outlining idling conditions and fines if they don't adhere. There is a heater that automatically comes on and heats the engines so as not to waste diesel fuel and stink up the town. Council stated Congressman Holding forwarded information on idling and quiet free zones; he will be sent the Resolution if Council desired.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER DOZIER MADE THE MOTION TO APPROVE THE RESOLUTION; COUNCIL MEMBER JENSEN AMENDED THAT MOTION TO INCLUDE COUNCIL MEMBER WILKIE BEING ABLE TO COMMUNICATE WITH CONGRESSMAN HOLDING'S OFFICE; COUNCIL MEMBER LASSITER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Added New Business 06 : Mayor Bill Sutton
Selection of a new Town Attorney

The Mayor stated 52 applications have been received for the Town Attorney position, and the selection is strictly up to the Council. With so many applications to go through, the Mayor stated he wished an adhoc committee formed to come up with a reasonable number of applications to bring before Council for interviews along with the Human Resources Director. Council Members Dozier and Jensen stated they would be willing to be a part of this committee along with the HR Director. The committee will dissolve as soon as the attorney is selected.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER WILKIE MADE THE MOTION TO APPROVE THE AD HOC COMMITTEE; COUNCIL MEMBER LASSITER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

CLOSED SESSION

There were no Closed Session items for consideration.

WORK SESSION

There were no Work Sessions items for consideration.

ADJOURNMENT

With there being no further business,

MAYOR SUTTON CALLED FOR A MOTION TO ADJOURN. COUNCIL MEMBER JENSEN MADE
THE MOTION; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Donna B. Hosch, CMC, NCCMC
Town Clerk

ATTEST:

William M. Sutton, Mayor

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