



APEX Town Council Meeting

Tuesday, January 3, 2017

Lance Olive, Mayor
Nicole L. Dozier, Mayor Pro Tempore
William S. Jensen, Eugene J. Schulze, Denise C. Wilkie,
and Wesley M. Moyer, Council Members
Drew Havens, Town Manager
Tim Donnelly, Assistant Town Manager
Donna B. Hosch, CMC, NCCMC, Town Clerk
Laurie L. Hohe, Town Attorney

The Regular Meeting of the Apex Town Council scheduled for Tuesday, January 3, 2017, at 7:00 p.m. was held in the Council Chamber of Apex Town Hall, 73 Hunter Street

In attendance were Mayor Lance Olive, Mayor Pro Tem Nicole L. Dozier, and Council Members William S. Jensen, Eugene J. Schulze, Denise C. Wilkie, and Wesley M. Moyer. Also in attendance were Town Manager Drew Havens, Assistant Town Manager Tim Donnelly, Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe.

COMMENCEMENT

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

PRESENTATION

There were no presentations to be made.

CONSENT AGENDA

- Consent 01 Set the Public Hearing on January 17, 2017 for a 2030 Land Use Map amendment from Medium Density Residential to Office Employment, and rezoning #16CZ33 (Roberts Road) to rezone 6.39 ± acres located at 7421, 7429, & 7433 Roberts Road from Rural Residential (RR) to Office and Institutional Conditional Zoning (O&I-CZ)
- Consent 02 Designation of Evoqua Water Technologies LLC as the Town's sole source, full-service odor control provider, and authorization for the Town Manager to execute a standard services agreement with Evoqua Water Technologies LLC for a term of one year

Consent 03 Set the Public Hearing on January 17, 2017 for rezoning application #16CZ30 (Preserve at White Oak Creek-revised PUD) to rezone 133.02± acres located at 0 Secluded Acres Road, 0 White Oak Creek Drive, 1104 White Oak Creek Drive, 1113 White Oak Creek Drive, and 0 Jenks Road from Rural Residential (RR) and Planned Unit Development-Conditional Zoning (PUD-CZ) to Planned Unit Development-Conditional Zoning (PUD-CZ)

Consent 04 Amendment of Town Code Chapter 18, Section 18-8 “Trees, Shrubs or Flowers, Cutting, Injuring, Etc.”

Mayor Olive requested the addition of the following:

Add On Item PULLED FOR DISCUSSION AS NEW BUSINESS 02: Appointment of the following individuals to the Planning Board: Margo Bills, Michael Marks, Tommy Morgan, and David Hooks, all terms of 1/1/2017 through 12/31/2019; and the appointment of Margo Bills and Chair and Michael Marks as Vice Chair

Council Member Moyer requested the Add On Item be pulled for discussion.

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE CONSENT AGENDA WITH THE ADD ON ITEM TO BE DISCUSSED AS NEW BUSINESS 02. COUNCIL MEMBER MOYER MADE THE MOTION; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

REGULAR MEETING AGENDA

Mayor Olive stated the requestor asked that Public Hearing 02 be withdrawn (not continued). Mayor Olive also requested the addition of a Closed Session item to review the performance of the Town Manager.

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE REGULAR AGENDA WITH THE ABOVE MODIFICATIONS.
COUNCIL MEMBER SCHULZE MADE THE MOTION; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

PUBLIC FORUM

JC Knowles introduced himself as the Apex Ambassador and editor and publisher of the Apex Gazette for the last 23 years. He will be branching out with The Gazette to make it a total community newspaper. The first order of business was to recognize those in the community who exhibited true man- and womanhood. Bruce Radford was recognized the previous night for his civic and regular life contributions to Apex. The woman of the year exemplifies the true meaning of womanhood. He read and presented the award to Mayor Pro Tem Nicole Dozier.

Lisa Vadmetz spoke about development and expansion. Growth is not being smartly done in regards to protecting water resources. Apex was the number one town in 2015, and this year it is not even in the top 50. She mentioned Cary is on the list, and we will never be in the top again if smarter planning is not put in place. She talked about traffic, land drainage, and overdevelopment in the Neuse River Basin.

PUBLIC HEARINGS

Public Hearing 01 : Amanda Bunce, Senior Planner

This item was continued from the December 20, 2016 Town Council meeting.

Public Hearing on rezoning application #16CZ26 (Pricewood PUD) to rezone 86.93± acres at 0, 1600, 1612, 1617, 1632, 1641 & 1645 Pricewood Lane from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ)

Staff oriented Council to the site. A neighborhood meeting was held. The Parks and Recreation Commission recommended a fee in lieu. The Planning Board recommended approval considering liability of the pond. Staff recommended approval with conditions proposed by the applicant. Staff answered Council questions regarding lot sizes and stormwater management.

Jason Barron, Morningstar Law Group, on behalf of the applicant, introduced the other members of his team. He expanded a bit more on the staff presentation, highlighting what they think will be a significant transportation improvement in the area. He clarified the liability concerns presented by the Planning Board, noting that the developer's actions will be ongoing. He believed the concerns would be covered by the end of the process.

Mayor Olive declared the Public Hearing open.

Leigh Thorne stated it was difficult to navigate this process and asked at what point something could be done. She supported the public forum speaker as her family would be impacted by this. Hers was no longer a quiet country road. Many people felt all these changes might be progress, but they are not good changes for Apex. She felt the developers were trying to address concerns about the pond, but she was concerned about the left lane that will be created. Wildlife has already left. She hoped Council would consider what this would do to Apex. She was concerned about the pond liability and the traffic impact and their quality of living.

Mayor Olive declared the Public Hearing closed.

Council asked the applicant to address concerns about bridge permits, which staff and Bob Zumwalt, McAdams, representing the developer, answered. Council asked about a 25 year stormwater

management possibility, Mr. Barron stating it is not now in the plan. Mr. Zumwalt and Mr. Barron answered questions about the houses being slab on grade.

Council stated he had a problem voting on more subdivisions not connected to economic development. Council was concerned about the traffic dumping onto existing roads. Council was concerned with the addition of more traffic to the area. She wanted to see more projects completed; this was the wrong location and time for her. Council liked the connectivity, giving three different outlets. Folks have the right to sell their property; it will be a nice area.

Regarding the traffic concerns, Mr. Barron asked what Council would like to see done. They have completed the traffic impact analysis and incorporated what it warranted. He addressed Council concerns about lot size and stated they would be willing to discuss this further with Council to offer additional conditions. Mr. Barron wished an opportunity to take Council feedback to the developer and then come back to Council with additional education. He asked that this be continued.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO CONTINUE THIS TO THE
FEBRUARY 7, 2017 REGULAR MEETING; COUNCIL MEMBER SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 02 : Brendie Vega, Principal Planner

This item was continued at the December 20, 2016 Town Council meeting at the request of the applicant

Public Hearing regarding an amendment to the Unified Development Ordinance Section 2.3.16(D) Sustainable Development Conditional Zoning District

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

Public Hearing 03 - Quasi Judicial : Amanda Bunce, Senior Planner

Quasi-Judicial Public Hearing regarding a Major Site Plan for Meridian at Nichols Plaza, 15.38 acres located at 0 Pine Plaza Drive (north side between Laura Duncan Road and Shepherds Vineyard Drive)

Mayor Olive declared the Public Hearing open. All those wishing to speak were sworn in by the Town Clerk. Mr. Barron was identified as representing the applicant. Lisa Valdmetz was in attendance representing the opponents.

There were no relational or financial conflicts from Council; all stated they would be able to decide the matter impartially. Council Member Jensen stated he spoke with the applicant about the preliminary site plan regarding the possibility of solar.

PRESENTATION OF EVIDENCE BY STAFF: Amanda Bunce presented her credentials and oriented staff to the site. A neighborhood meeting was held. The Parks and Recreation Commission recommended a fee in lieu and greenway and bridge paths.

CROSS EXAMINATION OF STAFF BY COUNCIL: Staff clarified the greenway trail specifications, the completed impact analysis, and a 25 year stormwater.

CROSS EXAMINATION OF STAFF BY APPLICANT: None.

CROSS EXAMINATION OF STAFF BY OPPONENT: Staff addressed opponent questions about traffic impact and other projects in the area and how they would relate to traffic improvements.

PRESENTATION OF EVIDENCE BY APPLICANT: Mr. Barron presented his credentials and reminded Council of the definition of ‘evidence’. They satisfied the UDO requirements, and he further oriented Council to the site. This project was approved by Council earlier.

Jon Callahan, President of John A. Edwards and Company, presented his credentials. He showed a rendering of the overall site and went through each standard.

CROSS EXAMINATION OF APPLICANT BY COUNCIL: Mr. Callahan answered questions related to building height, the retention pond, and the car wash.

CROSS EXAMINATION OF APPLICANT BY OPPONENT: Mr. Callahan answered questions about run off and flooding.

CROSS EXAMINATION OF APPLICANT BY COUNCIL: Mark Barker, Northview Partners, presented his credentials and answered questions related to a possible greenway connection.

CROSS EXAMINATION OF APPLICANT BY OPPONENT: Mr. Barker answered questions related to a boardwalk.

CROSS EXAMINATION OF APPLICANT BY COUNCIL: Kevin Dean, Kimley-Horn, presented his credentials. He assisted in performing the traffic study and answered questions related to buildout levels of service and traffic impacts.

CROSS EXAMINATION OF APPLICANT BY OPPONENT: Jie Tang asked question about traffic counts associated with growth.

Mr. Barron requested that the staff report be entered into evidence.

PRESENTATION OF EVIDENCE BY OPPOSITION: Ms. Valdmetz stated the site plan could not be approved as it violated the Apex ordinance related to buffers. She presented her educational credentials and talked about stormwater retention.

CROSS EXAMINATION OF OPPONENT BY COUNCIL: Ms. Valdmetz talked about the RCA, buffers, and perennial streams.

CROSS EXAMINATION OF OPPOSITION BY STAFF: Dianne Khin presented her credentials and asked the opponent about the Town's watershed guidelines and presented the watershed overlay district map. The latter was shown to Council by Ms. Khin.

CROSS EXAMINATION OF OPPOSITION BY APPLICANT: None. The applicant objected to the opposition.

REBUTTAL BY STAFF: staff clarified the stream being intermittent and the legal ad being posted according to General Statute.

REBUTTAL BY APPLICANT: None.

CLOSING ARGUMENT BY APPLICANT: Mr. Barron reiterated that the evidence must be competent and substantiated. He spoke about owner rights and this being a difficult process for lay people. The project met all standards, and Mr. Barron requested approval.

CLOSING ARGUMENT BY OPPOSITION: None.

CLOSING ARGUMENT BY STAFF: None.

Mayor Olive declared the Public Hearing closed.

Mayor Olive went through the Standards with Council from which there were no objections.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER WILKIE MADE THE MOTION TO APPROVE THE
SITE PLAN; COUNCIL MEMBER SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Mayor Olive called for a five minute recess.

OLD BUSINESS

There were no Old Business items for consideration.

UNFINISHED BUSINESS

There are no Unfinished Business items for consideration

NEW BUSINESS

New Business 01 : Joanna Helms, Economic Development Director

Establishment of the Certified Apex Small Enterprise (CASE) program and to authorize collection of a \$25 non-refundable fee

Staff oriented Council to this program which was recommended by the Economic Development Committee. She detailed the program benefits, i.e., being able to track small businesses in Apex, and described the proposed website. There would be a nominal membership fee of \$25.

Council asked what would be the measure of success, staff stating they would be thrilled to see 50 members. They would start off slow and build as time goes on. The difference between CASE and THINK APEX and other existing programs were discussed as well as how this program would be rolled out to the community.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE THE
PROGRAM AND MEMBERSHIP FEE; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

New Business 02 : Mayor Lance Olive

Appointment of the following individuals to the Planning Board: Margo Bills, Michael Marks, Tommy Morgan, and David Hooks, all terms of 1/1/2017 through 12/31/2019; and the appointment of Margo Bills as Chair and Michael Marks as Vice Chair

Council asked about the members being appointed or reappointed, Mayor Olive stating they were reappointments. Council stated he would like to see new people start to cycle onto the Planning Board. The Mayor stated he has more appointments to bring before Council, which he hoped to do very shortly. He talked about the possibilities of those who have submitted board applications.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE THE REAPPOINTMENTS AND APPOINTMENTS; COUNCIL MEMBER SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

CLOSED SESSION

Closed session to (1) consult with the Town Attorney to preserve attorney client privilege, and (2) to discuss a personnel matter

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

MAYOR OLIVE CALLED FOR A MOTION TO RETURN TO OPEN SESSION WITH NO OBJECTIONS FROM COUNCIL.
THE MOTION CARRIED BY A 5-0 VOTE.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE RESOLUTION AUTHORIZING EMINENT DOMAIN PROCEEDINGS RELATED TO THE EVANS ROAD SIDEWALK PROJECT FOR THE IMPROVEMENT OF THE APEX STREET AND SIDEWALK SYSTEM; COUNCIL MEMBER SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

MAYOR OLIVE CALLED FOR A MOTION TO RETURN TO CLOSED SESSION WITH NO OBJECTIONS FROM COUNCIL.
THE MOTION CARRIED BY A 5-0 VOTE.

MAYOR OLIVE CALLED FOR A MOTION TO RETURN TO OPEN SESSION WITH NO OBJECTIONS FROM COUNCIL.
THE MOTION CARRIED BY A 5-0 VOTE.

WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

With there being no further business, Mayor Olive adjourned the meeting.

Donna B. Hosch, CMC, NCCMC
Town Clerk

ATTEST:

Lance Olive
Mayor