

Apex Town Council Meeting

Tuesday, September 19, 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
David Hughes, Assistant Town Manager
Shawn Purvis, Assistant Town Manager
Donna B. Hosch, MMC, NCCMC, Town Clerk
Laurie L. Hohe, Town Attorney

The Regular Meeting of the Apex Town Council
scheduled for Tuesday, September 19, 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 Eugene J. Schulze, Denise C. Wilkie, and Wesley M. Moyer

Also in attendance were Town Manager Drew Havens, Assistant Town
Manager David Hughes, Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe

Absent was Council Member William S. Jensen

COMMENCEMENT

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

PRESENTATIONS

There were no Presentations to be made.

CONSENT AGENDA

- Consent 01 Minutes of the September 5, 2017 Regular Council Meeting
- Consent 02 Statement of the Town Council for Rezoning Case #17CZ14, New Hill Development, petitioners for the property located at 0 Garris Road
- Consent 03 3-year renewing service agreement with BHS to provide Employee Assistance Program services to Town of Apex employees and authorization for the Manager to sign the service agreement
- Consent 04 Lot 299 Plots C and D reconveyed back to Town of Apex Cemetery
- Consent 05 Minor modifications to Special Events Guide and change to the Co-Sponsor application deadline
- Consent 06 Set the Public Hearing on October 3, 2017 for consideration of a proposed contract for the acquisition of real property for the purpose of economic development for industrial or commercial use under G.S. 158-7.1

- 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 Duane D. Raver (single-family) property containing 4.565 acres located at 2641 Whistling Quail Run, Annexation #613 into the Town's corporate limits
- Consent 08 Apex Tax Report dated 8/4/2017
- Consent 09 Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the Unified Development Ordinance (UDO) Amendments of September 5, 2017 related to Veridea
- Consent 10 "Special Event Permit" requested by the Apex American Legion for a Car Show on October 7, 2017 to be located in the Town Hall Parking Lot from 7:30am-6:00pm. This is not a co-sponsored application, the American Legion will be responsible for all costs associated with the event. The Legion is requesting to use the parking lot at no charge.
- Consent 11 Resolution and associated Agreement for a grant from the North Carolina Governors Highway Safety Program for the purchase of a new motorcycle to supplement the Police Department's Traffic Unit.
- Consent 12 Amendment to Apex Code of Ordinances, Chapter 12, Section 12-48 Capital Reimbursement Fees established of the Apex Code of Ordinances

The Mayor stated there was a request for an add-on item: approval of a Medicare List Billing Agreement with Blue Cross Blue Shield NC.

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE CONSENT AGENDA. COUNCIL MEMBER SCHULZE MADE THE MOTION TO APPROVE WITH THE ADDITIONAL ITEM; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

REGULAR MEETING AGENDA

Mayor Olive stated the applicant for Public Hearing 05 requested this to be continued to the October 3, 2017 Regular Council Meeting. Therefore, he requested this item to be moved prior to Public Hearing 01 for Council action on the request.

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE REGULAR AGENDA. COUNCIL MEMBER SCHULZE MADE THE MOTION TO APPROVE WITH THE REQUESTED CHANGE; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

PUBLIC FORUM

In accordance with North Carolina General Statute 160A-81.1, the Apex Town Council will hold Public Forum during the first Regular Council Meeting of each month

PUBLIC HEARINGS

Public Hearing 05 : Amanda Bunce, Planning Manager

Amendments to the 2030 Land Use Map and rezoning application #17CZ19 (Horton Park PUD). The applicant, MFW Investments, LLC seeks to amend the 2030 Land Use Map classification of ±42.67 acres located at 5101 & 5220 Jessie Drive from Medium/High Density Residential and Office Employment/Industrial Employment to High Density Residential, Office Employment/Commercial Services and Medium/High Density Residential and to rezone ±149.029 acres located at 5100, 5101, 5125, & 5220 Jessie Drive, 0 Dezola Street, and 8140 & 8308 Smith Road from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ) and Light Industrial-Conditional Zoning (LI-CZ).

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER WILKIE MADE THE MOTION TO APPROVE THIS ITEM BEING CONTINUED TO THE OCTOBER 3, 2017 REGULAR MEETING; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

Public Hearing 01 : Shelly Mayo, Planner II

Rezoning application #17CZ12. The petitioner, Alemfeb Woreta for Cash for Houses, LLC, wished to rezone ±1.2651 acres located at 0 & 2248 East Williams Street from Rural Residential (RR) to Neighborhood Business-Conditional Zoning (B1-CZ). Staff oriented Council to the site. Three neighborhood meetings were held. Planning Board and staff recommended approval. Staff answered Council questions related to uses and acreage size.

Alem Woreton of Cash for Houses outlined their request for building on this site. Mr. Woreton answered Council questions related to a building currently on the site.

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

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE THE REZONING; COUNCIL MEMBER SCHULZE SECONDED THE MOTION. COUNCIL MEMBERS MOYER, SCHULZE, AND WILKIE VOTED IN THE AFFIRMATIVE; COUNCIL MEMBER DOZIER VOTED IN THE NEGATIVE.
THE MOTION CARRIED BY A 3-1 VOTE.

Public Hearing 02 : Amanda Bunce, Planning Manager

Rezoning application #17CZ17 (804 S. Salem Street PUD). The applicant, Jennifer A. Quick, sought to rezone approximately 7.17± acres located at 0 & 800 S. Salem Street from Medium Density Residential (MD) to Planned Unit Development-Conditional Zoning (PUD-CZ). The area to be rezoned is located within the Small Town Character Overlay District.

Staff oriented Council to the site. A neighborhood meeting was held. The Parks and Recreation Commission recommended a fee in lieu of parkland dedication. Staff outlined street connections and accesses. Staff recommended approval. The Planning Board recommended approval with a note to Council for the limiting of building height and number of buildings. Staff answered questions from Council on buffers.

Stuart Jones, Jones and Cnossen Engineering, representing the applicant, further oriented Council to the site. He pointed out those things which had been changed since Council last heard this item, and how the changes took into consideration comments from Council, the Planning Board, staff, and neighbors. Mr. Jones answered questions from Council related to building height and scale.

Mayor Olive declared the Public Hearing open.

Cindy Nelson, speaking on behalf of the Sugarland community, stated they were opposed to the PUD as submitted and gave their reasons why. She outlined what they would like to see.

Stephanie Figo echoed Ms. Nelson's comments about their concerns not being addressed, where the homes will be located, home height, roof pitch on the townhomes, and limiting the number of units.

Mayor Olive declared the Public Hearing closed.

Mr. Jones presented his rebuttal which addressed the height of both the homes and townhomes.

Council expressed concern about three possible stories in the townhomes. Two Council Members stated they felt this PUD would be appropriate and compatible. Council stated she did not feel the neighbors had been heard.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE
THE REZONING; COUNCIL MEMBER WILKIE SECONDED THE MOTION.

Council further expressed their reasons for supporting and not supporting this request.

COUNCIL MEMBERS MOYER AND WILKIE VOTED IN THE AFFIRMATIVE; COUNCIL MEMBERS SCHULZE AND DOZIER
VOTED IN THE NEGATIVE. MAYOR OLIVE CAST THE TIEBREAKER VOTE IN THE AFFIRMATIVE.
THE MOTION CARRIED BY A 3-2 VOTE.

Public Hearing 03 : Shelly Mayo, Planner II

Ordinance on the Question of Annexation – Apex Town Council's intent to annex the ATM Development, LLC properties containing 5.5475 acres located at 0 Church Rd and 3024 & 3028 New Hill Holleman Road, Annexation 61 I, into the Town's corporate limits.

and

Public Hearing 04 : Shelly Mayo, Planner II

Rezoning application #17CZ22 and Ordinance. The petitioner, Alonzo Wilson for ATM Development, LLC, wished to rezone +/- 5.5475 acres located at 5112 Church Road, 3028 & 3024 New Hill Holleman Road from Wake County R-30 & GB to Medium Density-Conditional Zoning (MD-CZ).

Staff oriented Council to the site. A neighborhood meeting was held. The Planning Board and staff recommended approval. Questions on conditions from Council were answered by staff.

Alonzo Wilson, applicant, stated he has been in conversation and is in agreement with the developer. There was no opposition to the request in the neighborhood meeting. Mr. Wilson stated his desire to bring affordable housing to the area and how this would be a good development. He asked for Council's approval of the request.

Mayor Olive declared the Public Hearing open.

Michael Foley spoke in favor of the project and further oriented Council to the site.

Mayor Olive declared the Public Hearing closed.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE
THE ANNEXATION AND THE REZONNG WITH THE PROPOSED CONDITIONS AND ITS ORDINANCE;
COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

Public Hearing 06 : Shawn Purvis, Assistant Town Manager

Closing of a right-of-way (ROW) along former Technology Drive near NC-55 and consideration of an Order to close the right-of-way

Staff oriented Council to the site and stated that NC DOT had completed their part of this closing.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER WILKIE MADE THE MOTION TO APPROVE
THE CLOSING; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

Public Hearing 07 : Amanda Bunce, Planning Manager

Various amendments to the Unified Development Ordinance related to parking

Staff oriented Council to the amendments, answering Council questions regarding an exemption and parking.

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

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER DOZIER MADE THE MOTION TO APPROVE
THE AMENDMENTS; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

OLD BUSINESS

There were no Old Business items for consideration.

UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

NEW BUSINESS

New Business 01 : Shelly Mayo, Planner II

Point at Lake Castleberry Master Subdivision Plan located at 4213 & 0 Wimberly Road containing ±35.74 acres and 47 single family homes

Staff oriented Council to the site. A neighborhood meeting was held. The Parks and Recreation Commission recommended a fee in lieu, and the request was consistent with Town Plans. Staff and the Planning Board recommended approval.

Staff answered Council questions related to development potential and RCA.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER SCHULZE MADE THE MOTION TO APPROVE
THE PLAN; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

CLOSED SESSION

(1) To consult with the Town Attorney related to handling of the matter of the City of Fayetteville and the Public Works Commission of the City of Fayetteville v. NC Environmental Management Commission, NC Department of Environmental and Natural Resources and the Town of Cary and the Town of Apex; and (2) to discuss a personnel matter

MAYOR OLIVE CALLED FOR A MOTION TO GO INTO CLOSED SESSION. COUNCIL MEMBER DOZIER
MADE THE MOTION; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

MAYOR OLIVE CALLED FOR A MOTION TO RETURN TO OPEN SESSION. COUNCIL MEMBER DOZIER
MADE THE MOTION; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 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, MMC, NCCMC
Town Clerk

ATTEST:

Lance Olive
Mayor