



Apex Town Council Meeting Tuesday, August 7, 2018

Lance Olive, Mayor
Nicole L. Dozier, Mayor Pro Tempore
William S. Jensen, Wesley M. Moyer, Audra M. Killingsworth, and
Brett D. Gantt, 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, August 7, 2018, 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, Wesley M. Moyer, Audra M. Killingsworth, and Brett D. Gantt

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

COMMENCEMENT

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

PRESENTATIONS

Presentation 01 : Mayor Lance Olive

Proclamation to Alexis Jossen, Executive Director & Market Manager, Apex Farmers Market & Local Food Alliance, proclaiming Apex Farmers Market Week

Mayor Olive read the Proclamation and presented it to Ms. Jossen. He stated he was at the Farmers Market the past Saturday and enjoyed his visit. Ms. Jossen thanked everyone for their efforts and invited all to visit on Saturdays.

Presentation 02 : Russell Dalton, Senior Transportation Engineer

Findings of the Apex Peakway Southeast Connector Feasibility Study from NC 55 to Schieffelin Road

Staff stated this project started last year. He presented the purpose of the project, gave the project description, and presented an aerial view of the area. There was a public open house and surveys were

conducted. Staff briefly overviewed the survey responses, traffic flows were described, project concerns were addressed, and Council questions were answered. Staff outlined the next steps moving forward.

Presentation 03 : Karen Firehock, Green Infrastructure Center, Inc.

Karen Firehock of Green Infrastructure Center, Inc. on the findings and recommendations of an 18-month long study called Trees to Offset Stormwater

Staff introduced Ms. Firehock, adding that this has been an 18-month project for which there was a matching grant.

Ms. Firehock described this project that is spanning six states encompassing all types of environments. She stated they are looking at the landscape and how it may change in the future and the course of water runoff. The benefits of well-treed communities were stated, and Ms. Firehock explained how trees can assist with runoff. She talked about taking better care of our trees and which neighborhoods and areas might benefit from being greener. Ms. Firehock has provided Apex with a spreadsheet that will calculate canopy scenarios. Based on their policies, Ms. Firehock presented recommendations for plantings. She touched on the benefits of a stormwater fee. She answered questions from Council.

CONSENT AGENDA

- Consent 01 Minutes of the Regular Town Council meeting of July 17, 2018
- Consent 02 Amended Schedule of Rates and fees to modify outdoor lighting rates and to add a new classification for outdoor lighting to reflect the transition to LED fixtures
- Consent 03 Amended electric utility/finance policies to allow for residential solar photovoltaic installations up to 20 kW, allow the customer to choose between a time of use or standard rate schedule, and remove the annual reset of energy credits under the net meter renewable energy facilities credit rider
- Consent 04 Capital Project Ordinance Amendment No. 2019-2 to provide additional funding in the amount of \$523,274 to cover design costs for the Electric Operations Center project
- Consent 05 Design agreement contract for new Town of Apex Electric Operations Center with CRA, Inc. (architect)
- Consent 06 First Amendment and Lease Extension between the Town of Apex and Wake County to continue the lease arrangement of the Eva Perry Library, and Memorandum of Lease to be recorded at Wake County Registry and authorize the Town Manager to execute same
- Consent 07 3-year contract with J & D Tree Pros, Inc. and authorization for the Town Manager to execute same for tree trimming/removal and stump grinding services
- Consent 08 3-year contract with Pace Analytical Services, LLC. and authorization for the Town Manager to execute same for chemical testing and bacteriological testing services for collected water samples

- Consent 09 3-year contract with Water and Waste System Construction, Inc. and authorization for the Town Manager to execute same for service and repair of pump station and associated appurtenances
- Consent 10 3-year contract with Bitting Electric, Inc. and authorization for the Town Manager to execute same for electrical service and repair for water/wastewater components
- Consent 11 3-year contract with Carolina Management Team, LLC. and authorization for the Town Manager to execute same for lining, sealing, and grouting services for manhole and wet well rehabilitation
- Consent 12 3-year contract with Carolina Tractor & Equipment Company and authorization for the Town Manager to execute same for equipment sales, service, and rental
- Consent 13 3-year contract with Dixie Electric Motor Service, Inc. and authorization for the Town Manager to execute same for pump repair and other related services for water/wastewater system components
- Consent 14 3-year contract with Jack Moore & Associates, Inc. and authorization for the Town Manager to execute same for valve maintenance sales and service
- Consent 15 3-year contract with JWC Environmental, LLC. and authorizing the Town Manager to execute same for wastewater component sales, service and rental services
- Consent 16 3-year contract with Vision NC, LLC. and authorization for the Town Manager to execute same for pumping, hauling, pipe cleaning, and video inspection services
- Consent 17 Apex Friendship High School Senior Parade (8/27) and Town of Apex Chanukah Festival (12/2) Special Event Applications
- Consent 18 Changes to the existing Public Art / Art in Apex Plan and map with suggestions for the placement of future public art projects
- Consent 19 Statement of the Town Council and Ordinance for Rezoning Case #18CZ14, JVI Building & Development, Inc., petitioner for the property located at 1912 Kelly Road
- Consent 20 Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the Unified Development Ordinance (UDO) Amendments of July 17, 2018 related to parking
- Consent 21 Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the Unified Development Ordinance (UDO) Amendments of July 17, 2018 related to new uses
- Consent 22 Set Public Hearing for the August 21, 2018 Town Council Meeting regarding 2030 Land Use Map Amendment and Rezoning Application #18CZ20 (3050 Lufkin Road). The applicant, Lufkin Leased Fee, LLC., sought to amend the 2030 Land Use Map from Commercial Services to Industrial Employment and rezone approximately 3.33 acres located at 3050 Lufkin Road from Planned Commercial – Conditional Use (PC-CU) to Tech/Flex - Conditional Zoning (TF-CZ).
- Consent 23 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 Maude C. Mann Heirs (single-family home) property containing 1.190 acres located at 1809 N. Salem Street, Annexation #635 into the Town's corporate limits
- Consent 24 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 Lotta Ann Crabtree and Majid Khazaei (single-family home) property containing 2.00 acres located at 1041 Twin Creek Road, Annexation #640 into the Town's corporate limits

- Consent 25 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 #626 into the Town’s corporate limits
- Consent 26 Apex Tax Report dated 06/11/2018
- Consent 27 Cemetery Refund Request from Adam Khan for Lot 135 Plot D in the Apex Cemetery
- Consent 28 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 Jose Rigoberto Guevara and Gilma Rosibel Argueta (single-family home) property containing .464 acres located at 1304 N Salem Street, Annexation #643 into the Town’s corporate limits

Mayor Olive stated there were two add-on items. Council Member Moyer elaborated his thoughts on public art [Consent 18] as discussed in a previous Committee meeting.

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE CONSENT AGENDA. COUNCIL MEMBER KILLINGSWORTH MADE THE MOTION WITH THE ADDITION OF THE TWO ADD-ON ITEMS; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

REGULAR MEETING AGENDA

Mayor Olive stated Public Hearings 5 and 6 would not be heard on this evening; they would be scheduled for the August 21, 2018 meeting. Mayor Olive stated that the Town Attorney requested the addition of a Closed Session to meet with the Town Attorney to discuss the handling of the matter HH Trinity Apex Investments LLC et al v. Town of Apex.

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE REGULAR MEETING AGENDA. COUNCIL MEMBER KILLINGSWORTH MADE THE MOTION WITH THE STATED MODIFICATIONS; COUNCIL MEMBER GANTT SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

PUBLIC FORUM

No one wished to speak during Public Forum.

PUBLIC HEARINGS

Public Hearing 01 : Shelly Mayo, Planner II

Continued from the June 19, 2018 Town Council Meeting

Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Virginia Goodwin Heirs (Olive Glen PUD) property containing 36.54 acres located at 433 New Hill Olive Chapel Road, Annexation #633, into the Town’s corporate limits and

Public Hearing 02 : Shelly Mayo, Planner II

Continued from the June 19, 2018 Town Council Meeting

2030 Land Use Map Amendment, rezoning application #18CZ12 (Olive Glen PUD) and Ordinance. The petitioner, Morningstar Law Group, sought to amend the 2030 Land Use Map for ±36.46 acres located at 433 New Hill Olive Chapel Road from Rural Density Residential to Low Density Residential and to rezone this property from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ).

Staff oriented Council to the site. A neighborhood meeting was held; staff outlined the uses proposed by the applicant. The Parks and Recreation Commission recommended a fee in lieu. Staff recommended denial of the Amendment, the reasons why were presented, and staff gave its recommendations to the applicant. The Planning Board recommended approval with buffer changes.

Staff answered Council questions related to roadways, buffers, restricted neighborhood developments, and issues from the Planning Board which did not 100% recommend approval.

Jason Barron, Morningstar Law Group, representing the applicant, stated this age-restricted community would be the first of its kind in Apex. Mr. Barron presented their three top reasons why this would be an appropriate development – lack of senior housing in Apex and benefits of such housing, their agreement with the Jordan Lake Rules, and this being an appropriate transition as a land planning use. One of the neighbors has stated their agreement with the development.

Mr. Barron stated they were excited about this development and respectfully asked support from Council. Council questions were answered related to housing market rates and affordable housing, transportation, enforcement of age restrictions, lot sizes, and buffers.

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

Council commented on the smaller lot sizes being appropriate for the aging community, protection of the drinking water, and the inclusion of solar. Council further commented on housing for the aging.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER KILLINGSWORTH MADE THE MOTION TO APPROVE ALL REQUESTS; COUNCIL MEMBER MOYER SECONDED THE MOTION.

COUNCIL MEMBERS KILLINGSWORTH, MOYER, JENSEN, AND GANTT VOTED IN THE
AFFIRMATIVE; COUNCIL MEMBER DOZIER VOTED IN THE NEGATIVE.
THE MOTION CARRIED BY A 4-1 VOTE.

Public Hearing 03 : Liz Loftin, Planner II

Continued from the July 17, 2018 Town Council Meeting

Rezoning case #18CZ15 for approximately ± .52 acre located at 314 N. Mason Street. The applicant, Glen Arbor Capital, LLC., proposes to rezone the property from Medium Density Residential (MD) to Planned Unit Development -Conditional Zoning (PUD-CZ).

Staff oriented Council to the site. A neighborhood meeting was held. A fee in lieu would be paid at the time of the subdivision plat. Staff recommended approval as did the Planning Board. Questions from Council were answered related to lot width.

Jill Lyeon, developer for Glen Arbor Homes, presented architectural plans for the housing, speaking further about driveways and access points. Ms. Lyeon elaborated on how she was able to keep two additional trees based on comments from the neighborhood meeting. She spoke about how the building of two story houses would fit into the area.

Mayor Olive declared the Public Hearing open.

Bryan Johnson, neighbor and architect, spoke in support of the rezoning. He stated this would be a positive contribution to the neighborhood, adding to its revitalization.

Sean Uhrig, neighbor, expressed support for the project. He expressed his appreciation for Ms. Lyeon's proposed housing for the property. The project would add character to the street, which now looks dead.

Mayor Olive declared the Public Hearing closed.

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

Council complimented the developer on this project.

THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 04 : Amanda Bunce, Planning Manager

Continued from the July 17, 2018 Town Council Meeting

Rezoning application #17CZ20 (Roberts Crossing PUD). The applicant, Stuart Jones, Jones & Clossen Engineering, PLLC, sought to rezone approximately ±35.6 acres located at 0, 7013, 7019, 7021, 7029, & 7113 Roberts Road from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ)

Staff oriented Council to the site. In trying to address the affordable housing issue, a unique use – economy uses – was being proposed. Staff recommended approval as did the Planning Board with a note to Council. Staff answered Council questions regarding a traffic study, stormwater management, pedestrian friendliness, number of affordable units, and densities.

Stuart Jones, Jones and Crossen Engineering, representing the applicant, offered two new conditions which he stated. He addressed the economy housing condition and the theory behind it. A traffic letter had been completed. Mr. Jones asked for Council support. Council questions regarding history of the property and housing cost were answered.

Mayor Olive declared the Public Hearing open.

Alan Hoffler, property owner, stated this project would change the nature of the area. He had concerns about vehicle and foot traffic and asked Council to take these into consideration. Mr. Hoffler stated he wanted preserved the character of the large tracts.

Harold Meder, property owner, was concerned about the density and how it may not fit into the area. He understood the need for affordable housing, but he wanted to stick with what was stated in the original neighborhood meeting a year ago. Mr. Meder requested more fencing to establish boundaries and prevent shortcuts through private property. He expressed concern about drainage.

Mike Smith stated he lives across the street from the proposed development. He was concerned about density and traffic. He felt the results of a traffic study would have been different if it were conducted at a different time. He asked for a new traffic study to be required to determine if a Traffic Impact Analysis (TIA) should be done.

Mayor Olive declared the Public Hearing closed.

Staff answered council questions regarding stub outs, RCA, the traffic study vs. a TIA, sidewalks, and buffers.

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

Council expressed concern about drainage and stormwater management, solar, and legislative considerations. Council expressed his appreciation for everything this developer has done on this project.

COUNCIL MEMBERS MOYER, GANTT, DOZIER, AND KILLINGSWORTH VOTED IN THE
AFFIRMATIVE; COUNCIL MEMBER JENSEN VOTED IN THE NEGATIVE.
THE MOTION CARRIED BY A 4-1 VOTE.

Mayor Olive called for a ten minute recess.

Public Hearing 05 : Dianne Khin, Planning Director

Ordinance on the Question of Annexation – Apex Town Council’s intent to annex ARNS Associates, LLC (Economy Exterminators) property containing 2.679 acres located at 2160 N. Salem Street, Annexation #637, into the Town’s corporate limits

This Hearing was moved to be heard at the August 21, 2018 Regular Meeting.

Public Hearing 06 : Dianne Khin, Planning Director

Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Cathel Scott Brown (Friendship Station Section 7) property containing 0.020 acre located at the end of MacBeth Lane, Annexation #638 into the Town’s corporate limits

This Public Hearing was moved to be heard at the August 21, 2018 Regular Meeting.

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 07 – Quasi-Judicial : Liz Loftin, Planner II

Major Site Plan for SpringHill Suites, 5.29 acres located at 1100 Marco Drive

Mayor Olive declared the Public Hearing open.

Mayor Olive read the Statement pertinent to these types of hearings. The Town Clerk swore in all those wishing to speak. There were no opponents to the request.

Council Members Dozier, Killingsworth, Gantt, and Moyer stated they had not had any communications with the applicant or any conflicts. They stated they would be able to decide the matter impartially. None had visited the site in relation to this matter.

Council Member Jensen asked to be recused due to prior conversation with the applicant.

COUNCIL MEMBER KILLINGSWORTH MADE THE MOTION TO RECUSE
COUNCIL MEMBER JENSEN; COUNCIL MEMBER GANTT SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

OPENING STATEMENT BY STAFF: None.

OPENING STATEMENT BY APPLICANT: None.

EVIDENCE PRESENTED BY STAFF: Liz Loftin presented her credentials and work history. She oriented Council to the site. A neighborhood meeting was held.

CROSS EXAMINATION OF STAFF BY COUNCIL: Staff answered questions related to bicycle parking and height of the building.

CROSS EXAMINATION/DIRECT OF STAFF BY APPLICANT: Staff answered questions about preparation of her report and the Standards being met.

EVIDENCE PRESENTED BY APPLICANT: Dave Neill, Peak Hotels LLC, representing the applicant, asked that staff testimony and all supporting documents be made part of the record and serve as additional support for the request [*these documents reside in the Planning Department*]. Mr. Neill introduced Neal and Anita Patel as the owners, Stuart Jones as the engineer of record, Joshua Reinke with Ramey Kemp and Associates, and Zak Strowd, 161 Architecture, as the architect of record. Mr. Neill offered all except Neal and Anita Patel as experts in their fields.

Anita and Neill Patel stated they are the current owners of the Comfort Inn and have a strong relationship with Apex. Mr. Patel stated they are looking forward to adding this property, stating that they felt Apex needed an upscale brand. They were fortunate to have partnered with Marriott on this project and thanked the Town for their consideration.

Mrs. Patel stated she and her husband have managed the Comfort Inn since it opened. They have a great relationship with Apex and love having their projects here and not in neighboring towns. She talked about how their clientele loves the uniqueness of Apex. This new project will help the Town and all who live here.

Stuart Jones, founder and managing partner of Jones Crossen Engineering, presented his credentials and background. He answered questions posed by Mr. Neill regarding his role in this development and town standards and ordinances.

Joshua Reinke stated his credentials and experience. He provided the trip generation letter and answered questions posed by Mr. Neill.

Russell Dalton, Senior Transportation Engineer with the Town, stated his credentials. Mr. Dalton spoke on the history of the extension of Marco Drive and its improvements. He answered questions posed by Mr. Neill.

Zack Strowd stated his credentials. Answering questions posed by Mr. Neill, he stated he prepared the architectural rendering and materials board. He was familiar with the Town's plans; there would be some visibility from US1.

Mr. Neill summarized the testimony of his expert witnesses. Since there was no rebuttal, Mr. Neill asked Council for their approval.

REBUTTAL EVIDENCE BY STAFF - None.

REBUTTAL EVIDENCE BY APPLICANT - None.

Mayor Olive directed Council to the Checklist, to which there were no questions from Council.

Mayor Olive declared the Public Hearing closed.

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

Council expressed pleasure in seeing this project come to Apex. The Mayor talked briefly about the need for a convention center atmosphere if that was in the Patel's plans.

THE MOTION CARRIED BY A 5-0 VOTE.

OLD BUSINESS

There were no Old Business items for consideration.

UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

NEW BUSINESS

There were no New Business items for consideration.

CLOSED SESSION

Added Closed Session: Laurie Hohe, Town Attorney

Consult with the Town Attorney to discuss the handling of the matter HH Trinity Apex Investments LLC et al v. Town of Apex

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

MAYOR OLIVE CALLED FOR THE RETURN TO OPEN SESSION WITH NO OBJECTION FROM COUNCIL.

WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

With there being no further business and with no objection from Council, Mayor Olive declared the meeting adjourned.

Donna B. Hosch, MMC, NCCMC
Town Clerk

ATTEST:

Lance Olive
Mayor

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