



# Apex Town Council Meeting

Tuesday, August 21, 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 21, 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 Assistant Town Manager David Hughes, Town Clerk Donna B. Hosch,  
and Town Attorney Laurie L. Hohe

## **COMMENCEMENT**

Mayor Olive called the meeting to order, Matt Mitchell, Lead and Co-Founding Pastor of Potter's Hand Church, gave the Invocation, and Mayor Olive led the Pledge of Allegiance.

## **PRESENTATIONS**

**Presentation 01 : Mayor Lance Olive**

**Proclamation to Nicole Bernard, Director of Shield NC, proclaiming Human Trafficking Awareness Week 2018**

Mayor Olive read the Proclamation and presented it to Nicole Bernard and Whitney Ludlow. This organization has been working with Apex Police to plan events to help eliminate this type of crime in our country and especially in Apex.

Ms. Bernard thanked Apex Police and Mayor Olive for helping to recognize this important issue.

## **CONSENT AGENDA**

**Consent 01 Minutes of the Regular Town Council meeting of August 7, 2018**

**Consent 02 Apex Cemetery Transfer Request from E.C. and Janet Hughes of Lot 305 Plot E in the Apex Cemetery**

- Consent 03 Apex Cemetery Refund Request from Brenda McFarland for Lot 71 Plot E in the Apex Cemetery
- Consent 04 Apex Tax Report dated 07/05/2018
- Consent 05 Amendment of Town Code Chapter 20, Article III, "PARKING" Section 20-162
- Consent 06 Amendment of Town Code Chapter 20, Article III, "PARKING" Section 20-164
- Consent 07 Budget ordinance amendment to appropriate insurance proceeds for the repair of a Fire Department vehicle
- Consent 08 Amendment to the reimbursement agreement with Meritage Homes of The Carolinas, Inc. for the Deer Creek subdivision
- Consent 09 Purchase of 1.97 acres at 8170 Jenks Road for future water tower lot
- Consent 10 Amendment to the reimbursement agreement with WS-JPA, LLC for the Jordan Pointe Subdivision
- Consent 11 Three year contract with A & D Services, LLC. and authorization for the Town Manager to execute same for wastewater components service and repair
- Consent 12 Findings of Fact, Conclusions of Law, and Decision approving the Marriott SpringHill Suites Major Site Plan
- Consent 13 Three year contract with Clearwater, Inc. and authorization for the Town Manager to execute same for sales, service and repair of water and wastewater infrastructure and appurtenances
- Consent 14 Three year contract with Dun-Right Services, Inc. and authorization for the Town Manager to execute same for lining, sealing, and grouting services for manhole and wet well rehabilitation
- Consent 15 Three year contract with Eurofins Eaton Analytical, LLC. and authorization for the Town Manager to execute same for chemical testing for collected water samples
- Consent 16 Three year contract with Frye Fence Company, Inc. and authorization for the Town Manager to execute same for fence sales, service and repair
- Consent 17 Three year contract with Hydrostructures, P.A. and authorization for the Town Manager to execute same for pumping, hauling, pipe cleaning and video inspection services
- Consent 18 three year contract with On Site Hose, Inc. and authorization for the Town Manager to execute same for sales, service and repair of hydraulic hose and appurtenances
- Consent 19 Three year contract with Pete Duty & Associates, Inc. and authorization for the Town Manager to execute same for pump repair and other related services for water and wastewater system components
- Consent 20 Three year contract with R&J Mechanical & Welding Service, LLC. and authorization for the Town Manager to execute same for metal repair and fabrication services
- Consent 21 Three year contract with State Industrial Products Corporation and authorization for the Town Manager to execute same for chemical and pump service

- Consent 22 Three year contract with Sunbelt Rentals, Inc. and authorizing the Town Manager to execute same for equipment rental services
- Consent 23 Municipal agreement with NCDOT to be eligible for 70% reimbursement of project right of way and construction costs up to \$647,500, requiring up to \$277,500 in matching local (Town of Apex) funds for a total of \$925,000, to construct a contiguous pedestrian route from Olive Chapel Elementary School to Scotts Ridge Elementary School along Kelly Road and Apex Barbecue Road in TIP Project No. U-5604 AA, and authorization for the Town Manager to execute same; and motion to approve Capital Project Ordinance Amendment No. 2019-3 in the amount of \$171,600 to increase the budget to the projected costs, reduce Town funding and increase Federal funding in accordance with the reimbursement agreement
- Consent 24 Statement of the Town Council and Ordinance for Rezoning Case #17CZ20 Roberts Crossing PUD, Stuart Jones, Jones & Cnossen Engineering, PLLC, petitioners for the property located at 0, 7013, 7019, 7021, 7029, & 7113 Roberts Road
- Consent 25 Memorandum of Agreement with Triangle local government jurisdictions and their water supply authorities and authorization for the Town Manager to execute same to create a successor to the Jordan Lake Partnership, to be called the Triangle Water Supply Partnership
- Consent 26 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 Crescent Apex, LLC (Linden Grove Way R/W) property containing .484 acres located at Pricewood Lane and Olive Chapel Road, Annexation #642 into the Town’s corporate limits
- Consent 27 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 JVI Building & Development, Inc. (Winston & Toad Hollow) property containing 13.990 acres located at 1912 & 1920 Kelly Road, Annexation #644 into the Town’s corporate limits
- Consent 28 Statement of the Apex Town Council for the 2030 Land Use Map Amendment and rezoning case 18CZ12 Olive Glen PUD, Jason Barron, Morningstar Law Group and Virginia Goodwin Heirs, petitioners for the property located at 433 New Hill Olive Chapel Road
- Consent 29 Statement of the Town Council and Ordinance for Rezoning Case #18CZ15, Glen Arbor Capital, LLC, petitioner for the property located at 314 N. Mason Street
- Consent 30 Two-year contract with Integrity Services Group and authorization for the Town Manager to execute same for painting services for town buildings and facilities
- Consent 31 Two-year contract with Socaz, Inc. and authorization for the Town Manager to execute same for painting services for town buildings and facilities
- Consent 32 Fifth Addendum to the Lease Agreement between the Town of Apex and the Apex Chamber of Commerce for a term beginning October 1, 2018 and ending September 30, 2019 unless otherwise amended

- Consent 33 Encroachment Agreement and authorization for the Town Manager to execute the same for a 10 x 22' deck to encroach upon a portion of the Town's Public Drainage Easement
- Consent 34 Encroachment Agreement and authorization for the Town Manager to execute the same for the Grantee to install Storm Drainage, Curb and Sidewalk Improvements that will encroach portions of the Town's Public Utility Easements.

Mayor Olive drew Council's attention to the Add-on Consent Item regarding advertisement of Public Hearing 06, which would not be heard this evening.

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

## **REGULAR MEETING AGENDA**

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE REGULAR MEETING AGENDA WITH THE REMOVAL OF PUBLIC HEARING 06.  
COUNCIL MEMBER KILLINGSWORTH MADE THE MOTION; 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

2030 Land Use Map Amendment and rezoning application #18CZ20. The petitioners, Lufkin Leased Fee, LLC, wished to amend the 2030 Land Use Map for +/- 3.33 acres located at 3050 Lufkin Road from Commercial Services to Industrial Employment. They also wished to rezone this property from Planned Commercial - Conditional Use (PC-CU) to Tech/Flex - Conditional Zoning (TF-CZ).

Staff oriented Council to the site. Planning staff recommended the removal of 20 uses, the applicant agreeing to 18. Staff also recommended seven conditions. The Planning Board recommended approval with the additional conditions to which the applicant agreed. Planning staff did not recommend the Land Use Map amendment and reasons for this were stated.

Staff answered Council questions related to staffs' recommendation for non-approval, zoning concerns, uses, and what the location would look like in the future. The Senior Transportation Engineer explained where DOT is in this process.

Bill Marlowe, Brookwood Capital Partners, applicant, spoke to why they requested the particular rezoning, truck traffic, and uses. He addressed Council questions related to neighborhood concerns.

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

Council expressed concern about the applicant not removing the two uses suggested by staff. Council was concerned about traffic safety and not knowing DOT's plans. Council expressed concern about large truck traffic. Council stated he was agreeable to this request and stated the reasons why. He received clarification from staff on outside storage.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE THE REQUEST AS SUBMITTED BY THE APPLICANT WITH THE ASSOCIATED LAND USE MAP AMENDMENT.  
THERE WAS NOT A SECOND; THEREFORE, THE MOTION FAILED.

There was further discussion from Council as to safety concerns.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER DOZIER MADE THE MOTION TO DENY THE REQUEST; COUNCIL MEMBER KILLINGSWORTH SECONDED THE MOTION.

Council received guidance on how the matter would proceed should the request be denied. There was additional conversation on elevation of the building. The applicant spoke further on the elevation and site lines, fencing, truck traffic concerns, and the building supplies use.

COUNCIL MEMBERS DOZIER AND KILLINGSWORTH VOTED IN THE AFFIRMATIVE;  
COUNCIL MEMBERS GANTT, MOYER, AND JENSEN VOTED IN THE NEGATIVE.  
THE MOTION TO DENY FAILED BY A 3-2 VOTE.

COUNCIL MEMBER GANTT MADE AN ALTERNATE MOTION TO CONTINUE FOR THE PURPOSES OF EVALUATING USE TYPES, TYPES OF ALLOWABLE TRUCKS, AND THE APPLICANT CONTINUING TO COORDINATE WITH STAFF ON THE ADVANCE APEX PLAN AND THAT THIS BE DONE BY SEPTEMBER 18, 2018;  
COUNCIL MEMBER JENSEN SECONDED THE MOTION.

Council expressed concern about truck traffic. Council expressed concern about the working with staff and Advance Apex aspect.

THE MOTION CARRIED BY A 5-0 VOTE.

**Public Hearing 02 : Dianne Khin, Planning Director**

**Ordinance on the Question of Annexation – Duane D. Raver (single-family) properties containing 4.565 acres located at 2637, 2641, and 2701 Whistling Quail Run, Annexation #626 into the Town’s corporate limits**

Staff oriented Council to the site. Staff recommended approval.

Mr. Raver, the applicant, stated they were wishing to obtain water and sewer via this annexation.

Staff answered Council questions related to lot sizes, zoning, and stubs.

Mayor Olive declared the Public Hearing open.

Jeff Babcock, who lives close to the applicant, explained the agreement he has with the applicant regarding the property. He spoke about how he’s been approached by developers and asked for protection from Council for the neighborhood properties to remain as they are.

Mayor Olive declared the Public Hearing closed.

Staff answered Council questions related to services.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER GANTT MADE THE MOTION TO APPROVE  
THE ORDINANCE; COUNCIL MEMBER MOYER SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

**Public Hearing 03 : Dianne Khin, Planning Director**

**Ordinance 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**

Staff oriented Council to the site. The request was in order to receive water and sewer. Staff recommended approval.

Staff answered Council questions related to zoning.

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 KILLINGSWORTH MADE THE MOTION TO APPROVE  
THE ORDINANCE; COUNCIL MEMBER MOYER SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

**Public Hearing 04 : Dianne Khin, Planning Director**

**Annexation Ordinance #637 - ARNS Associates, LLC (Economy Exterminators) property containing 2.679 acres located at 2160 N. Salem Street**

Staff oriented Council to the site. The request was to obtain water and sewer due to negative water testing for which the applicant was eligible for a grant.

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 ORDINANCE; COUNCIL MEMBER GANTT SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

**Public Hearing 05 : Dianne Khin, Planning Director**

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

staff oriented Council to 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 KILLINGSWORTH MADE THE MOTION TO APPROVE  
THE ORDINANCE; COUNCIL MEMBER GANTT SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

**Public Hearing 06 : Dianne Khin, Planning Director**

**Public Hearing and possible motion to adopt an Ordinance 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**

As voted on earlier by Council, this Hearing was set to be heard at the September 4, 2018 Regular Council meeting.

**Public Hearing 07 : Dianne Khin, Planning Director**

**Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Jose Rigoberto Guevara and Gilma Rosibel Argueta (single-family home) property containing 0.464 acre located at 1304 N. Salem Street, Annexation #643 into the Town’s corporate limits**

Staff oriented Council to the site and stated it recommended approval in order for the applicant to receive water and sewer. Questions from Council were answered related to why these types of requests were being received.

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 KILLINGSWORTH MADE THE MOTION TO APPROVE  
THE ORDINANCE; COUNCIL MEMBER DOZIER SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

**Public Hearing 08 : Shannon Cox, Senior Transportation Planner**

**Multiple proposed amendments to the Transportation Plan’s Thoroughfare and Collector Street Plan map associated with the Apex Peakway Southeast Connector, Walden Road, and Kelder Lane**

Staff oriented Council to the various amendment requests which were related to the feasibility study report. The Planning Board recommended approval as did staff.

Staff answered Council questions related to the report, intersection design, road connection, and posting requirements.

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 KILLINGSWORTH MADE THE MOTION TO APPROVE  
THE AMENDMENTS; COUNCIL MEMBER DOZIER SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

**OLD BUSINESS**

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There were no Old Business items for consideration.



## **UNFINISHED BUSINESS**

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There were no Unfinished Business items for consideration.

## **NEW BUSINESS**

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There were no New Business items for consideration.

## **CLOSED SESSION**

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There were no Closed Session items for consideration.

## **WORK SESSION**

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There were no Work Session items for consideration.

## **ADJOURNMENT**

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

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Lance Olive  
Mayor

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