



Apex Town Council Meeting

Tuesday, July 18, 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, July 18, 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 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 Shawn Purvis,
Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe
Absent was Mayor Pro Tem Nicole L. Dozier

COMMENCEMENT

Mayor Olive called the meeting to order, Pastor R. J. Hoggard of Summit Church 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 June 20, 2017 Regular Council Meeting and Minutes of the Closed Session of the June 6, 2017
(*Closed Session Minutes recorded separately*)
- Consent 02 Lot 133 with 11 Plots reconveyed back to Town of Apex Cemetery
- Consent 03 One "Sergeant" badge and one handgun declared "surplus", the price for such handgun set at \$1.00 (One Dollar), and the badge and handgun to be awarded to Sergeant Flaughner
- Consent 04 Revisions to the Town Standard Specifications & Standard Details
- Consent 05 Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the various Unified Development Ordinance (UDO) Amendments relating to Park, Recreation, and Open Space standards of June 20, 2017

- Consent 06 Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the various Unified Development Ordinance (UDO) Amendments of June 20, 2017
- Consent 07 Agreement between Wake County Public School System and the Town of Apex for the design and construction of a multi-use path along Apex Barbecue Road between Woodall Estates and the eastern Scotts Ridge Elementary School driveway, and authorization for the Town Attorney and Town Manager to approve minor modifications to the agreement, except as to the allocation of funding, and authorization for the Town Manager to approve and execute the final agreement
- Consent 08 "First Amendment to Interlocal Agreement for the Administrative Distribution of the Wake County \$7 Vehicle Registration Tax" and the "Wake Transit Master Participation Agreement" in support of the implementation of the Wake Transit Plan
- Consent 09 Budget Ordinance Amendment No. 1 to appropriate fund balance to complete Electric Capital Projects identified in the Capital Improvement Plan
- Consent 10 Encroachment Agreement and authorization for the Town Manager to execute the same for five Storm Drainage Encroachment areas, four Sidewalk Encroachment areas, and one Sanitary Sewer Encroachment area across a 22,865 SF Public Utility Easement
- Consent 11 Resolution to join the Interlocal Risk Financing Fund of North Carolina and authorization for the Mayor to sign the Interlocal Agreement for the Town to be a member of the Group Self-Insurance Pool for Property and Liability Risk Sharing administered by the NC League of Municipalities
- Consent 12 Agreement for the Provision of Emergency Medical Services Contract with the Wake County EMS System and associated Ambulance Lease Agreement for FY18
- Consent 13 Resolution to Abandon a 20' Public Drainage Easement

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

REGULAR MEETING AGENDA

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE REGULAR AGENDA WITH THE EXCEPTION OF HEARING PUBLIC HEARING 03
FIRST IN CONSIDERATION OF AUDIENCE MEMBERS. COUNCIL MEMBER JENSEN MADE
THE MOTION, COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

PUBLIC FORUM

Chris Shaw relayed the message that most of the homeowners in his neighborhood are in support of the Friendship Station PUD. Some owners will remain as neighbors of the project. The homeowners feel the project is well planned and will be a great benefit to residents in the area. He asked for Council approval.

Charles Sandhuffer spoke about yard waste collection. He stated that the clubhouse in his condo neighborhood is not charged a collection fee. Forty of the condo residents don't have street frontage, and Mr. Sandhuffer provided figures on how much they paid in fees last year. He asked that they be treated like apartments and be exempt from the yard waste fee. Any bulk items they put out would be handled by the condo.

Jim Middleton spoke representing Habitat of Wake County. They are having problems finding land to build on, but there is a potential location in Apex. Mr. Middleton explained how Habitat is structured and to whom they sell. With the assistance of Stuart Jones, they have come across an opportunity for affordable lots for townhouses in Friendship Station. The developer agreed to provide these lots, and Mr. Middleton explained the benefits of these homes. He urged Council to support the PUD.

Stuart Jones, representing the applicant for Friendship Station PUD, stated that they have made a few changes since being before Council previously. He explained what those changes were.

Terry Olive spoke on behalf of his family in relation to the Friendship UD. His land represents about 100 acres of the PUD, this appears to be the best opportunity for them to develop the land, and he encouraged approval by Council.

Linda Brown stated their land has been in her family for 200 years. Her great, great grandfather would love to see the Friendship PUD developed there.

John Butler stated he was not just a seller of property but that he will remain on part of his land. He supported the PUD.

Shannon Flaherty, Apex Chamber of Commerce, read a formal statement from her board of directors in support of the PUD.

Steve Swamp, representing several in attendance, gave a presentation on Westwinds' goals, concerns, and site plan. They have come up with what they feel are solutions to issues related to safety, traffic flow, and traffic overload. He thanked all involved in making West Village something of which to be proud.

Willie Walden stated he was now used to new development around him and supported the PUD.

Audra Killingsworth spoke about concerns not being addressed in the Villages of Apex. Some of their streets are used as a shortcut, there is a problem with speeding, and there is curb parking hindering turning traffic. Residents are concerned children will get killed or hurt. Their suggestions for fixing this problem have been turned down by the Town. Speed bumps or curb extensions will help calm traffic. Ms. Killingsworth was again asking for speed bumps and no parking on certain parts of the street.

PUBLIC HEARINGS

Public Hearing 03 : Shawn Purvis, Assistant Town Manager

Closing of a right-of-way (ROW) remnant adjacent to N. Salem St. at the intersection of N. Salem St. and US-64 and consider an order to close the right-of-way

Staff stated the applicant had submitted the proper paperwork. This is DOT property that is no longer needed as an access point. Staff answered Council questions about buffers and if DOT would allow us to keep and plant the property since it is an entranceway to the Town.

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 WILKIE MADE THE MOTION TO APPROVE THE ORDER; COUNCIL MEMBER SCHULZE SECONDED THE MOTION. COUNCIL MEMBERS WILKIE AND SCHULZE VOTED IN THE AFFIRMATIVE; COUNCIL MEMBERS JENSEN AND MOYER VOTED IN THE NEGATIVE. WITH MAYOR OLIVE NEEDING TO CAST A TIE-BREAK VOTE, HE VOTED IN THE AFFIRMATIVE.
THE MOTION CARRIED BY A 3-2 VOTE.

Public Hearing 01 : Dianne Khin, Planning Director

Ordinance on the Question of Annexation - Apex Town Council's intent to annex Paul and Dorothy Madritch property (single-family home) containing 2.226 acres located at 1106 Olive Chapel Road, Annexation #607 into the Town's corporate limits

Staff oriented Council to the site. Staff recommended approval.

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 JENSEN MADE THE MOTION TO APPROVE THE ORDINANCE; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

Public Hearing 02 : Liz Loftin, Planner

Rezoning Application #17CZ11 (Villages of Apex South PUD Amendment). The applicant, Peter Cnossen, Jones & Cnossen Engineering, on behalf of NC II LP LTD Partnership, seeks to rezone approximately 12.35± acres located at 76 Hunter Street,

0 Laura Duncan Road, and 1960 Apex Peakway from Planned Unit Development - Conditional Zoning (#14CZ04) to Planned Unit Development - Conditional Zoning, to change conditional zoning conditions.

Staff oriented Council to the site and stated the changes requested by the applicant. A neighborhood meeting was held. Staff recommended approval with the conditions stated. The Planning Board unanimously recommended approval. Staff answered questions from Council on uses and retail spaces.

Peter Crossen, representing the applicant, stated one concern was that there was no potential for retail. They were not offering this. He spoke about the existing office buildings in the PUD.

Moss Withers presented his credentials and work history. He stated they were trying to find the correct uses for spaces in the PUD. There were two major restrictions - layout and competition with surrounding roads. He answered Council questions on where he envisioned retail going.

Parks Hunter stated they wish to put a childcare center on six acres of the site. This is a need underserved in the area. There would be preschool and after school for up to 300 children daily. This would also provide service for kids who are ill so their parents could work during the day. Mr. Hunter answered Council questions about competition or lack of in the area.

Eric Rifkin spoke about office square footage and its flexibility. He added there has been a lot of interest for daycare in the area. Mr. Rifkin answered Council questions about retail space.

Mayor Olive declared the Public Hearing open.

Barbara Collins stated she'd been before Council previously talking about requirements. She indicated she had a statement from the residents which she would not read. She spoke about options for retail in this area. Their neighborhood wanted to continue the restrictions on retail and asked Council to deny the rezoning. They also wished a resolution stating that Council would never change the rezoning for the spaces.

Kathy Muccioli, speaking for herself and husband, stated they were excited for retail to be near them. Not enough has been done so far to bring in retail.

Mayor Olive declared the Public Hearing closed.

Council spoke about being promised retail when this matter came before Council previously. There probably is a market for childcare, but this was not what residents and Council were told would be in the

space. Council saw pluses and minuses in the current plan. Council liked the office component, but there is a need for daycare according to demographics. Council continued that both staff and the Planning Board recommended approval, and she looked at them as being the experts. Council was concerned about the drastic decrease in retail. Conversation ensued on densities, types of retail options, and if the applicant would offer a different condition for retail. The applicant offered to increase the retail minimum. Council was agreeable to delay voting on this matter in order to find out more from the applicant about their thought processes.

MAYOR OLIVE CALLED FOR A MOTION TO CONTINUE THIS ITEM TO THE REGULAR MEETING OF AUGUST 1, 2017.

COUNCIL MEMBER MOYER MADE THE MOTION; COUNCIL MEMBER SCHULZE SECONDED THE MOTION.

THE MOTION CARRIED BY A 4-0 VOTE.

OLD BUSINESS

Old Business 01 : Shawn Purvis, Assistant Town Manager

Bond order authorizing the issuance of up to \$48 million in Parks and Recreation Facilities Bonds subject to approval by the voters at a November 7, 2017 referendum, direction for the Finance Officer to file with the Town Clerk a Sworn Statement of Debt and a Statement of Total Estimated Interest and call for a public hearing on August 1, 2017 concerning the validity of the bonds and the advisability of issuing the bonds

Staff stated this was step two of three toward introducing the referendum in November. He explained what paperwork had been completed. The next step would be a public hearing in August.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE THE REQUEST; COUNCIL MEMBER WILKIE SECONDED THE MOTION. COUNCIL MEMBERS MOYER, WILKIE, AND JENSEN

VOTED IN THE AFFIRMATIVE; COUNCIL MEMBER SCHULZE VOTED IN THE NEGATIVE.

THE MOTION CARRIED BY A 3-0 VOTE.

UNFINISHED BUSINESS

Unfinished Business 01 : Mike Clark, Senior Planner

This item was continued from the June 20, 2017 meeting.

Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Willey R. Walden, G.H. Harris Heirs, Carolyn O. Thompson, Elizabeth H Olive, Terry M. Olive, 3 Boys Capital, LLC, Joyce H. Bunch and Sharon Shields, Buckingham Pines, LLC, Donald F. Richardson, John D. and Patricia L Butler, Linda Walden Brown, Jean Holloway Walden, Cheryl Renee and Elton Roland Wright and Dianne O. Ellis (Friendship Station PUD) properties containing 184.836 acres located at the south side of Humie Olive Road, east of Olive Farm Road and west side of Richardson Road, Annexation #597 into the Town’s corporate limits.

and

Unfinished Business 02 : Mike Clark, Senior Planner

This item was continued from the June 20, 2017 meeting.

Rezoning application #17CZ04 (Friendship Station PUD) and Ordinance and amendments to the 2030 Land Use Map. The applicant, Jones and Cnossen seeks to rezone approximately 203.7± acres located at 0, 3148, 3136, 3113, and 3232 Olive Farm Road; 0, 2916, 2908, 2816, and 2804 Richardson Road; 0, 0, 8004, 8025, 8129, 8109, 8105, 8132, 8021, and 8116 Humie Olive Road; 2900 Old US 1 HWY, 2712 and 2705 Butterfinger Lane; and parts of 8217 Humie Olive Road, 2740, 2800, and 2732 Richardson Road from R-40W and Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ) and amend the 2030 Land Use Map from Low Density Residential, Medium Density Residential, and Mixed Medium Density Residential and Commercial Services to Medium Density Residential and Mixed High Density Residential, Office Employment, and Commercial Services.

Staff oriented Council to the site. Staff highlighted the changes which had taken place since the June 20, 2017 Council meeting. Staff's position had not changed on this matter. Council discussed residential and nonresidential in the area and presented their likes and dislikes for the project.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER WILKIE MADE THE MOTION TO APPROVE THE REZONING, ORDINANCE, AND ASSOCIATED LAND USE MAP AMENDMENTS; COUNCIL MEMBER MOYER SECONDED THE MOTION.

There was Council discussion about the concept presented, what types of jobs the project would provide, the setting aside of land for more retail, the maximums for residential units, the Habitat homes, and densities.

COUNCIL MEMBERS WILKIE, MOYER, AND SCHULZE VOTED IN THE AFFIRMATIVE;
COUNCIL MEMBER JENSEN VOTED IN THE NEGATIVE.
THE MOTION CARRIED BY A 3-1 VOTE.

NEW BUSINESS

New Business 01 : Mike Clark, Senior Planner

West Village Master Subdivision Plan located at 1820, 1828, and 1908 Old US 1 Hwy; 0 2420, and 2517 Kelly Road containing 163.34± acres and 380 dwelling units

Staff oriented Council to the site. A neighborhood meeting was held. The Planning Board recommended approval as did staff with stipulation.

Staff answered Council questions related to transportation issues.

The applicant, responding Josh Decker with McAdams Company, will make a change to the buffer as requested by Council in the residential area. Council expressed being pleased with this project and what it will afford the Town.

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

Council expressed his displeasure with traffic issues. Council expressed her pleasure with the project.

COUNCIL MEMBERS MOYER, WILKIE, AND JENSEN VOTED IN THE AFFIRMATIVE;

COUNCIL MEMBER SCHULZE VOTED IN THE NEGATIVE.

THE MOTION CARRIED BY A 3-1 VOTE.

New Business 02 : Drew Havens, Town Manager

Ordinance to allow sale of alcoholic beverages beginning at 10:00 am in accordance with Session Law 2017-87

Staff pointed to two versions of a proposed ordinance - one for all licensed premises and one for restaurants and eating establishments.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE ORDINANCE FOR ALL

LICENSED ESTABLISHMENTS; COUNCIL MEMBER SCHULZE SECONDED THE MOTION.

THE MOTION CARRIED BY A 4-0 VOTE.

CLOSED SESSION

Closed Session to (1) discuss matters relating to the location or expansion of industries or businesses to the Town of Apex and (2) to consult with the Town Attorney

MAYOR OLIVE CALLED FOR A MOTION TO GO INTO CLOSED SESSION. COUNCIL MEMBER MOYER

MADE THE MOTION; COUNCIL MEMBER WILKIE SECONDED THE MOTION.

THE MOTION CARRIED BY A 4-0 VOTE.

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

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE A RESOLUTION AUTHORIZING EMINENT DOMAIN PROCEEDINGS

FOR THE IMPROVEMENT OF THE APEX ELECTRIC SYSTEM. COUNCIL MEMBER JENSEN

MADE THE MOTION; COUNCIL MEMBER SCHULZE 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

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