



## Apex Town Council Meeting

Tuesday, January 16, 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, January 16, 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 David Hughes, Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe

### **COMMENCEMENT**

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

Mayor Olive recognized members of Boy Scout Troup 224 who were in attendance as a requirement to obtaining their Building a Better World badge.

### **PRESENTATIONS**

**Presentation 01 : Stacie Galloway, Communications Manager and Jason Morado, Senior Project Manager, ETC**  
**Presentation of the results of the community survey for the Town of Apex**

Ms. Galloway stated this presentation was to give the results of the first community satisfaction survey for Apex. Three national firms were vetted; ETC came highly recommended.

Mr. Morado stated why this survey was conducted and how. The goal was to receive 400 responses; 554 were received. Some of the major findings were highlighted. Mr. Morado stated Apex responses were some of the very best in the country. He overviewed those areas in which respondents felt there could be some improvement.

## CONSENT AGENDA

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- Consent 01 Minutes of the Regular Town Council Meeting of January 3, 2018
- Consent 02 Public Forum and Public Hearing Participation Policy effective January 16, 2018.
- Consent 03 Award of a construction contract and authorization for the Town Manager to execute same for construction to provide access to the Cash Corporate Center property
- Consent 04 Findings of Fact, Conclusions of Law, and Decision regarding Special Use Permit #17SUP04, Apex Mosque Pre-School
- Consent 05 Statement of the Town Council and Ordinance for Rezoning Case #17CZ24, Vineyard Development, LLC & Brookfield Properties, LLC, petitioners for the property located at 750 Laura Duncan Road
- Consent 06 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 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 Hipex Properties, LLC (Pinnacle Park) property containing 2.0 acres located at 2430 Reliance Avenue, Annexation #627 into the Town’s corporate limits
- Consent 08 Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the various Unified Development Ordinance (UDO) Amendments of December 19, 2017
- Consent 09 Supplemental municipal agreement with NCDOT to secure 50% of the additional project cost in federal funds up to \$302,500, requiring \$302,500 in matching local (Town of Apex) funds, in order to add turning lanes at the intersections of Olive Chapel Road and NC 55 at the Apex Peakway in TIP Project No. U-5118 AE. Construction is underway
- Consent 10 Tyler Technologies ExecuTime contract agreement for a multi-year term to include implementation, configuration, and software maintenance, and authorization for the Town Manager to sign the contract
- Consent 11 Amend an Ordinance adopted by the Town Council in 2004 that delegated authority for purchasing to the purchasing manager by adding Section 1 (j) which shall read: “to serve as a deputy finance officer in accordance with GS 159-28(a1) for the purpose of performing the preaudit of purchase orders”
- Consent 12 Sale of Lot 154, Plots C and D, in the Apex Cemetery, to the Town of Apex for \$700.00 as requested by Adonica Tucker
- Consent 13 Apex Tax Report dated 12/03/2017
- Consent 14 Agreement between the Town of Apex and Tim Seagroves related to the cemetery and authorization for the Town Manager to sign the agreement
- Consent 15 Proposal to Wake County requesting funds from the Wake County Hospitality Tax Small Capital Projects Fund to aid in the development of Phase I of Pleasant Park and authorization for the Town Manager to sign all documents related to the submission of the application

Mayor Olive stated it was requested for Consent 06 to be removed for consideration.

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE CONSENT AGENDA WITH THE REQUESTED MODIFICATION.

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

THE MOTION CARRIED BY A 5-0 VOTE.

## **REGULAR MEETING AGENDA**

Council Member Killingsworth requested a New Business item in order to provide an update on a recent health initiative.

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE REGULAR AGENDA WITH THE REQUESTED ADDITION. COUNCIL MEMBER

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

THE MOTION CARRIED BY A 5-0 VOTE.

## **PUBLIC FORUM**

Jessy MacNair spoke about cervical cancer, cervical screenings, and this cancer's death rate across the country. She provided her history of having it. As Mrs. Apex international 2018, Mrs. MacNair stated that January was cervical cancer awareness month worldwide. She stated her goal for spreading awareness and asked all to take a stand with her.

## **PUBLIC HEARINGS**

Public Hearing 01 : Shelly Mayo, Planner II

Ordinance on the Question of Annexation – Apex Town Council's intent to annex Trevel Construction Property (future single-family home) containing .404 acres located at 3004 Garris Road, Annexation #617 into the Town's corporate limits  
and

Public Hearing 02 : Shelly Mayo, Planner II

Rezoning application #17CZ25 and Ordinance. The petitioner, Louis Levert for Trevel Construction, wishes to rezone +/- 0.41 acres located at 3004 Garris Road from Wake Co. R-30 to Medium Density-Conditional Zoning (MD-CZ)

Staff oriented Council to the site. Two neighborhood meetings were held. Staff and the Planning Board recommended approval. Staff cited the ten conditions which needed to be met and clarified density.

The applicant, Mr. Lavert, stated he wished to build one single family home on the property and agreed for this to be a condition.

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 ANNEXATION AND REZONING WITH THE STATED CONDITION;  
COUNCIL MEMBER MOYER SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

**Public Hearing 03 : Liz Loftin, Planner II**

**Amendment to the 2030 Land Use Map and Rezoning application #17CZ26. The petitioner, Laketime Development, LLC, sought to amend the 2030 Land Use Map for +/- 6.89 acres located at 7124 and 0 Apex Barbecue Road from Medium Density Residential to Low Density Residential and to rezone the properties from Rural Residential (RR) to Low Density-Conditional Zoning (LD-CZ)**

Staff oriented Council to the site. A neighborhood meeting was held. Staff and the Planning Board recommended approval as proposed. Staff answered Council questions related to acreage, road connection, and a cul de sac.

Shawn Smith, applicant, thanked staff for working with them on this project. Mr. Smith spoke about buffers, a stormwater pond, density, and their plans for an HOA. He answered Council questions related to buffers, the installation of a solar system on one of the houses as an example, LED lights, insulated garage doors, and three pane windows. Mr. Smith additionally answered questions on concerns related to the neighborhood meeting, preserving the property as much as possible, and lot size.

Mayor Olive declared the Public Hearing open.

Roberto Vila, representing 28 families in Bella Casa, asked Council to vote no to the amendment and gave an overview of the neighborhood. Development will change the nature of the community. Neighbors asked for adjustments at the neighborhood meeting but no adjustments were made. Mr. Vila spoke about safety, tree buffers, and lack of trust between their established neighborhood and the developer. They were not against development, they just wanted reasonable solutions.

Terry Mahaffey concurred with Mr. Vila. He asked for an additional buffer and spoke about the character of the proposed subdivision. Mr. Mahaffey's major concern was a blind corner at one of the intersections; he was also concerned about traffic in general. He asked Council to look at any subdivision using Apex Barbeque Road into town.

Mr. Smith clarified and gave examples of where he had, in fact, communicated with residents of Bella Casa. He stated he would look into extra buffer space. Staff answered Council questions related to road connections and traffic signals, improvements to the bridge, lot size, and buffers.

Mayor Olive declared the Public Hearing closed.

Council presented her concerns about road safety, location, the bridge, buffers, elevations, and the neighbors feeling like they were not heard. Council presented his appreciation for the thoughtful development of the site. Council stated he liked that views would be improved. However, there was a concern about road safety. Council spoke about the connection to Apex Barbeque Road and the speed limit on this road. Council felt her concern for certain things still needed to be addressed. She spoke about those things in which she was in agreement.

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

Council stated she hoped the applicant would reach out to all, that this could be a condition, and that the speed limit could be addressed. Council spoke about the continuance of stubs.

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

The Town Manager stated that the plan for the bridge will be vetted in May of this year.

Mayor Olive called a three minute recess.

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

**Ordinance on the Question of Annexation – Apex Town Council's intent to annex Calvary Chapel (Schieffelin Road) property containing 1.6367 acres located at 2633 Schieffelin Road, Annexation #623 into the Town's corporate limits**

Staff oriented Council to the site, stating that staff recommended approval in order for the site to receive Town Services. The applicant, Lance Bell, was in attendance to answer questions.

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 ANNEXATION; COUNCIL MEMBER DOZIER SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

**Public Hearing 05 – Quasi-Judicial : Shelly Mayo, Planner II**

**Application for a Special Use Permit (#17SUP05) for the East Williams Street Cell Tower located at 1501 East Williams Street**

Mayor Olive presented the procedure for how the Hearing would be conducted.

Mayor Olive declared the Public Hearing open. The Town Clerk swore in all those intending to speak.

Tom Johnson with Nexen Pruet stated he was in attendance on behalf of the applicant. There was no one in opposition.

Mayor Olive asked Council if any had communication with the applicant, if there were any relational or financial conflicts, and if all could make an impartial decision. All Council stated there was no communication or conflicts and that they could decide the matter impartially. None had viewed the site.

**OPENING STATEMENT BY APPLICANT:** None.

**OPENING STATEMENT BY STAFF:** None.

**EVIDENCE PRESENTED BY STAFF:** Shelly Mayo presented her credentials and employment history. She oriented Council to the site. A neighborhood meeting was held. She presented the background on access to the property and what staff required in order for requirements to be met. This had been done. Ms. Mayo stated staff recommended approval.

**CROSS EXAMINATION OF STAFF BY COUNCIL:** None.

**CROSS EXAMINATION OF STAFF BY APPLICANT:** None.

**EVIDENCE PRESENTED BY APPLICANT:** Mr. Johnson presented a more detailed history of access onto an unmarked drive. All access issues had been resolved.

**CROSS EXAMINATION OF APPLICANT BY COUNCIL:** Mr. Johnson answered questions about cell towers and their use and longevity. He referred to a recent Bill passed by Legislature for tower use. He responded to a question related to RCA.

**REBUTTAL BY STAFF:** None.

**REBUTTAL BY APPLICANT:** None.

**CLOSING ARGUMENTS BY STAFF:** None.

**CLOSING ARGUMENTS BY APPLICANT:** None.

Mayor Olive declared the Public Hearing closed.

In reference to the Checklist, there were no concerns from Council.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE  
THE REQUEST; COUNCIL MEMBER KILLINGSWORTH 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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### **Council Member Audra Killingsworth**

Council stated she was invited to a yoga for health/health for humanity event this past weekend, the event itself spanning two weeks. She was asked to attend and speak on some of the benefits of yoga found through research, yoga and exercise in general being a benefit. She enjoyed being in attendance and the interaction with the community. Council hoped more people would participate in the future. International Yoga Day is coming up in June.

## **CLOSED SESSION**

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Closed Session 01 : 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

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

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

## **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 adjourned the meeting.

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Lance Olive  
Mayor