



Apex Town Council Meeting Tuesday, April 2, 2019

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, April 2, 2019, 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, called for a moment of silent reflection, and led the Pledge of Allegiance.

PRESENTATIONS

ADD ON Presentation 01 : Mayor Lance Olive

Presentation of Proclamation to Mike Sayers proclaiming 2019 as American Legion Year

Mayor Olive stated several members of the Apex American Legion were in attendance. He read the Proclamation prior to presenting it to Mr. Sayers.

CONSENT AGENDA

Consent 01 Apex Tax Report dated 02/04/2019

Consent 02 Master Services Agreement, valid through June 30, 2022, with Alternative Power Sales & Rental, LLC., and authorization for the Town Manager to execute same for electrical service and repair

- Consent 03 Master Services Agreement, valid through June 30, 2022, with Griffin Sales, Inc., dba Rodders & Jets Supply Co., and authorization for the Town Manager to execute same for miscellaneous repair service for CCTV equipment and other sewer related tools and equipment
- Consent 04 Memorandum of Understanding (MOU) between the County of Wake and the Town of Apex for Census 2020
- Consent 05 Statement of the Town Council and Ordinance for Rezoning Case #19CZ01 (Summit Church) located on 3000 Lufkin Road. The petitioner for the property is Heritage Leadership Academy.
- Consent 06 Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the Unified Development Ordinance (UDO) Amendments of March 19, 2019 related to subdivisions
- Consent 07 Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the various Unified Development Ordinance (UDO) Amendments of March 19, 2019
- Consent 08 Statement of the Town Council and Ordinance for 2045 Land Use Map amendment and Rezoning Case #18CZ35, ST Investments One, LLC, Anil Singh, and Glenn Futrell, petitioners for the properties located at 8201, 8217, 8209, & 8233 Green Level Church Road
- Consent 09 Statement of the Town Council and Ordinance for Rezoning Case #19CZ03 Broadstone Station PUD amendment, KRG Peakway @ 55, LLC/Timothy Fisher, DHIC, LLC petitioners for the property located at 0 Apex Peakway
- Consent 10 Set Public Hearing for the April 16, 2019 Town Council meeting regarding various amendments to the Unified Development Ordinance
- Consent 11 Master Services Agreement, valid through June 30, 2022, with Charles R. Underwood, Inc., and authorization for the Town Manager to execute same for pump station equipment repair and service
- Consent 12 Special Event Permit requests and Town Co-Sponsorship requests for 2019 and 2020

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

REGULAR MEETING AGENDA

Mayor Olive stated Council Member Jensen wished an addition to the Agenda related to environmental boards. This would be added as New Business. Council Member Dozier asked for a New Business item on how to handle requests (funding) for human services and human resources.

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE REGULAR AGENDA. COUNCIL MEMBER JENSEN
MADE THE MOTION WITH THE ADDITIONAL TWO REQUESTS; COUNCIL MEMBER GANTT SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

PUBLIC FORUM

John Buck stated he was in support of New Business 01 [affordable housing]. He looked forward to Council's continuing support of this endeavor.

Jeff Hastings spoke in support of Peak Fest and presented figures on how much has been given in grants. He stated the grant window was now open, these scheduled to be given out at Peak Fest.

PUBLIC HEARINGS

Public Hearing 01 : Liz Loftin, Senior Planner

Continued From the March 19, 2019 Meeting

Ordinance on the Question of Annexation – Apex Town Council's intent to annex John Norman, Randel and Janet Sink, Sandra Barefoot, Timothy and Lori McKinnish, Owen and Joann Wynne, Zachary and Christina Darden and Philip and Cynthia Johnson (Olive Ridge PUD) properties containing 58.87 acres located at 2125, 2205, 2217, 2237 and 2301 New Hill Olive Chapel Road; 8836 and 8848 Twin Ponds Lane, Annexation #652 into the Town's corporate limits
and

Public Hearing 02 : Liz Loftin, Senior Planner

Rezoning Case #18CZ34 Olive Ridge PUD and Ordinance. The applicant, Weekley Homes, LLC, seeks to rezone approximately ±57.17 acres located at 2125, 2205, 2217, 2237, 2301 New Hill Olive Chapel Road; and 8836, 8848 Twin Ponds Lane from Wake County R-40W to Planned Unit Development-Conditional Zoning (PUD-CZ)

Staff oriented Council to the site. A neighborhood meeting was held. The Parks, Recreation and Cultural Resources Commission recommended a fee in lieu. Planning staff recommended approval with conditions offered by the applicant, as did the Planning Board.

Staff answered Council questions related to the amount of the fee in lieu and road improvements.

Jason Barron, Morningstar Law Group, on behalf of the applicant, introduced the members of his team. He noted that the applicant landowners were also present. He spoke about development density and other elements of the plan. He spoke about conditions and how his firm worked hard to address concerns raised as a part of this process. He spoke about the additional trees that will be provided. He clarified questions related to road improvements and signaling. Mr. Barron provided further explanation related to buffers and answered Council questions related to the possible removal of mature trees. Council asked for every effort to be made to save the trees.

Mayor Olive declared the Public Hearing open.

Wendy Barefoot spoke about her family's consideration in selling their property. They fully supported the project and were impressed with the builder.

Tim McKinnish thought he would never be leaving the area. What has been proposed is setting a standard for other builders to follow and meet.

Michelle Gardner supported the project and felt it would be an asset to New Hill.

Terry Mahaffey did not oppose development in general or this project. He was opposed to the plan due to conservation issues. He spoke about the concerns he has expressed in the past and how he felt there had been little to no addressing of these concerns. He also expressed his concerns about the changes the applicant proposed on this evening.

Owen Wynne, property owner, spoke about how this project would affect him and the other property owners. He presented his personal reasons for wanting to move on and the financial impact not doing so would have on him and his family.

Mayor Olive declared the Public Hearing closed.

Mr. Barron presented draft wording related to tree saving which was acceptable to Council. Council stated her biggest issue continued to be traffic and no assurance as to when road improvements would be made. Staff answered a question related to and provided the total unit numbers at two other developments. He was concerned about traffic in a curve. He was also concerned about upgraded/LED signage in that curve.

Council stated she appreciated the landowners and those most impacted. She remained unsupportive of this project, at this time, in this location. Council spoke to the developer adhering to what we want our Town to look like according to the approved Plan and what value will be brought to the Town. Council stated he has become a bit weary of the growth in New Hill. With all things considered, he is now in support of the project after careful consideration on his part.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE ANNEXATION ORDINANCE #652, REZONING #18CZ34, AND THE LATTER'S ASSOCIATED ORDINANCE INCLUDING ALL CONDITIONS AND THE GOOD FAITH EFFORT TO SAVING TREES; COUNCIL MEMBER GANTT SECONDED THE MOTION.

Council stated he would like to see lower density on these projects which would need to be done through the UDO. He gave an example of where solar could go.

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

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 03 – Quasi-Judicial : Shelly Mayo, Planner II
Special Use Permit #19SUP01 for Heritage Leadership Academy located at 3000 Lufkin Road

Mayor Olive read the Opening Statement.

Mayor Olive declared the Public Hearing open.

All those wishing to speak were sworn in by the Town Clerk. Paul “Skip” Stam identified himself as representing the applicant. There was no one in attendance in opposition.

No Council Member had any communication with the applicant or financial or relational conflicts, and all stated they were able to make an impartial decision in this matter. No Council Member had viewed the site.

OPENING STATEMENT BY STAFF: None.

OPENING STATEMENT BY APPLICANT: Mr. Stam introduced those on this team who would be able to speak if the need arose. Also, the administrator and head of the school were in attendance in case there are questions for them. Mr. Stam stated this would be a private school inside a church.

EVIDENCE PRESENTED BY STAFF: Shelly Mayo presented her credentials. She oriented Council to the site. A neighborhood meeting was held.

CROSS EXAMINATION OF STAFF BY COUNCIL: Staff answered questions related to linear footage and whether or not the public school stipulation could be removed.

CROSS EXAMINATION OF STAFF BY APPLICANT: Staff answered questions related to compatibility, adverse impacts, environmental impacts, public facilities impacts, and compliance with other provisions of the UDO. Staff added there would be offset operation times in order to help with operating hours of other surrounding schools. There was an added condition related to stacking.

EVIDENCE PRESENTED BY THE APPLICANT: Rynal Stephenson, Ramey Kemp and Associates, presented his credentials and past work history. A Traffic Impact Analysis was done and they were following NCDOT guidelines related to this project.

REBUTTAL BY STAFF: None.

REBUTTAL BY APPLICANT: None.

CLOSING ARGUMENT BY STAFF: None.

CLOSING ARGUMENT BY APPLICANT: Mr. Stam restated this being the co-operating use of one facility, and he hoped the request would pass.

Mayor Olive declared the Public Hearing closed.

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

OLD BUSINESS

There were no Old Business items for consideration.

CLOSED SESSION

Closed Session 01 : Laurie Hohe, Town Attorney
To consult with the Town Attorney

MAYOR OLIVE CALLED FOR A MOTION TO GO INTO CLOSED SESSION. COUNCIL MEMBER DOZIER MADE THE MOTION; COUNCIL MEMBER KILLINGSWORTH 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.

UNFINISHED BUSINESS

Unfinished Business 01 : Dianne Khin, Planning Director

Continued from the March 19, 2019 meeting; the Public Hearing on this item was closed.

Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Bovestments, LLC (Crossroads Ford Truck Center) property containing 18.0558 acres located at 1402 North Salem Street, Annexation #655 into the Town’s corporate limits

Staff did not have any additional information to present.

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

COUNCIL MEMBERS JENSEN, GANTT, KILLINGSWORTH, AND MOYER VOTED IN THE AFFIRMATIVE;

COUNCIL MEMBER DOZIER VOTED IN THE NEGATIVE.

THE MOTION CARRIED BY A 4-1 VOTE.

NEW BUSINESS

New Business 01 : Drew Havens, Town Manager

Resolution entitled “Town of Apex Resolution Granting Funds for Affordable Housing to DHIC”

Staff explained it would be important for DHIC to have a partnering relationship with the Town so that they could obtain additional funding. Something similar to this was done more than 20 years ago. This would be a \$150,000 grant.

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

Staff further explained how our participation will make DHIC look better in the eyes of those distributing the grant. Affordable housing was a priority at our retreat and this would be a good way to successfully achieve that goal. It would be a big win for Council. Council was excited about this possibility.

THE MOTION CARRIED BY A 5-0 VOTE.

ADDED New Business 02 : Council Member Bill Jensen

Environmental Boards

Council stated he wished to recommend the formation of an environmental review board to look at projects early on. He wanted staff to look at the projects and provide feedback. The Mayor requested changing this type of review to a citizen’s advisory board for consistency. There was discussion about leaving this as “environmental” or removing environmental to make the scope more broad. After some discussion, Apex Environmental Advisory Board was proposed. Consensus was that this will be passed

along to the Town Manager to make further assessment. Council discussed how this Board would work in conjunction with the Environmental Committee.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER DOZIER MADE A MOTION FOR THIS TO GO TO THE TOWN MANAGER FOR FURTHER ASSESSMENT; COUNCIL MEMBER KILLINGSWORTH SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

**ADDED New Business 03 : Council Member Nicole Dozier
Funding Requests for Human Services and Resources**

Council stated this was brought up leading to the new budget. Folks have been talking to Council about what they'd like to see happen in the way of assistance. Council mentioned our current policy. This would be a good time to take a good policy and make it exceptional and more transparent. Council wanted to make sure any requests for funding went through a committee or Council so everyone would hear the requests. The decisions need to be made as a body.

The Town Manager explained the process of the current policy. Council explained what further changes she would like to see related to requests outside of the budget cycle. The Town Manager stated there is a contingency line in the budget that could be used for such and explained how it works. He explained fund balance related to monies not expended at the end of the budget year. The Town Manager will consider Council's request and bring back recommendations.

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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