



APEX TOWN COUNCIL MEETING

TUESDAY, JUNE 7, 2016

Lance Olive, Mayor
Nicole L. Dozier, Mayor Pro Tempore
Eugene J. Schulze, William S. Jensen, Denise C. Wilkie,
and Wesley M. Moyer, Council Members
Drew Havens, Town Manager
Timothy L. Donnelly, Assistant Town Manager
Donna B. Hosch, CMC, NCCMC, Town Clerk
Laurie L. Hohe, Town Attorney

The Regular Meeting of the Apex Town Council scheduled for Tuesday, June 7, 2016, 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 Eugene J. Schulze, William S. Jensen, Denise C. Wilkie, and Wesley M. Moyer
Also in attendance were Town Manager Drew Havens, Assistant Town Manager Tim Donnelly, 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.

PRESENTATIONS

Presentation 01 : Nicole Dozier, Mayor Pro Tem

Awards Ceremony for Think Apex

Flanked by the entire Council, Mayor Pro Tem Dozier gave a brief history of the initiative of Think Apex. She stated these inaugural awards were for businesses and individuals who went above and beyond their normal activities for the benefit of Apex and its citizens.

The nominees for the Individual or Group Category were named, the first Top Thinker Award being presented to Mr. J.C. Knowles. The second Top Thinker Award was presented to Kyle and Megan Denis. The Honorable Mention for this category went to Christine Hilt.

The nominees for the Business Category were named, the first Top Thinker Award being presented to the Academy for the Performing Arts. The second Top Thinker Award was presented to Promotional Partners, with the Honorable Mention going to Pathways Treatment Center.

The nominees for the Non-Profit Category were named, with St. Mary A.M.E. Church being presented with the first Top Thinker Award. The second Top Thinker Award was presented to Western Wake Crisis Ministry, with the Honorable Mention going to the Apex Festival Commission.

Ms. Dozier thanked everyone for making this program a success and stated she hoped this would continue since the program recognizes people for their good work when they think no one is watching.

CONSENT AGENDA

- Consent 01 Minutes of the May 17, 2016 Regular Council Meeting
- Consent 02 Apex Tax Report dated 04/08/2016
- Consent 03 Closing of the parking lot in front of the Chamber of Commerce from 5:00 p.m. until 9:00 p.m. on August 26th for a “music concert” as part of that evening’s Finally Friday event
- Consent 04 Encroachment Agreement for driveway on 20 foot public utility easement (drainage) at 2825 Flora Oaks Way Lot 297 Enclave at White Oak Creek Phase I
- Consent 05 Amendment to Section 20-166 of the Town of Apex Code of Ordinances to establish a second loading zone parking space on West Chatham Street, adjacent to Commerce Street, and establish additional restrictions on loading and unloading activities within the existing and proposed loading zone spaces on East Chatham Street and West Chatham Street including: 15 minute maximum duration, loading zone in effect from 6:00 a.m. to 5:00 p.m. only, and 4-way flashers required while parked in loading zone spaces
- Consent 06 Amendment to Traffic Schedule I and Traffic Schedule II of the Town of Apex Code of Ordinances
- Consent 07 Personnel Committee recommendations to revise the Town’s personnel policies related to Position Reclassification and Tuition Reimbursement
- Consent 08 Personnel Committee’s recommendation to adopt the Town’s Position Classification Plan for FY16-17
- Consent 09 Resolution as requested by NCDOT for the Town to operate and maintain James Street and James Extension Street west of Tingen Road
- Consent 10 Street closures for 2016 Peak City Pigfest on June 17 and 18, 2016
- Consent 11 Statement of the Town Council and Ordinance for Rezoning Case #16CZ02, Meritage Homes of the Carolinas/Beth Rhew, petitioners for the property located at 417 and 425 New Hill Olive Chapel Road
- Consent 12 Statement of the Town Council and Ordinance for Rezoning Case #16CZ12, Josh Lambert, Strong Rock Development Company, LLC, petitioner for the properties located at 1112, 1114 and 1116 Olive Chapel Road
- Consent 13 Contract with Bobbitt Design-Build, Inc. for a limited renovation of the Public Works Operations Building
- Consent 14 Waterline construction contract with Southern Cross Utilities, Inc. and allow the town manager to execute same

- Consent 15 Amend the budget for the Second Street Improvements Project to reflect funds received by and expended by Wake County on the Town's behalf
- Consent 16 Resolution authorizing the Wake County Revenue Director to collect taxes on behalf of the Town of Apex
- Consent 17 Policy covering requests to hold a special event on public property within the corporate limits of the Town of Apex
- Consent 18 Developer agreement with Beaver Creek-Apex L.P. for the Reserve at Beaver Creek
- Consent 19 Set Public Hearing for the June 21, 2016 Town Council Meeting regarding a proposed 2030 Land Use Map Amendment and Rezoning Case #16CZ06 (Jenks Crossing PUD) for +/-10.37 acres located at 1921 and 1929 Holt Rd, 0 and 6786 Old Jenks Road . The applicant proposes amending the 2030 Land Use Map from Medium Density Residential to Medium Density Residential; and Commercial Services and Office Employment, and changing the zoning district from Rural Residential (RR) to Planned Unit Development Conditional Zoning (PUD-CZ)
- Consent 20 Set the Public Hearing on June 21, 2016 for a rezoning application #16CZ08 (Meridian at Nichols Plaza PUD) to rezone 15.37± acres located on the north side of Pine Plaza Drive from Residential Agricultural (RA) to Planned Unit Development-Conditional Zoning (PUD-CZ)
- Consent 21 Set Public Hearing for the June 21, 2016 Town Council Meeting regarding Rezoning Application #16CZ10 and Ordinance. The applicant, Stuart Jones representing Parkside Builders, LLC, seeks to rezone approximately 7.99 acres located at 2632 Olive Chapel Road from Rural Residential and Wake Co R-80W to Medium Density Conditional Zoning (MD-CZ)
- Consent 22 Set the Public Hearing on June 21, 2016 for a 2030 Land Use Map amendment from Medium Density Residential to Office Employment and rezoning application #16CZ11 to rezone 8.7± acres located at 1409 & 1429 Chapel Ridge Road from Rural Residential (RR) to Office & Institutional-Conditional Zoning (O&I-CZ)
- Consent 23 Set the Public Hearing on June 21, 2016 for rezoning application #16CZ13 (James Street PUD) to rezone 2.49± acres located at 210 James Street from Residential Agricultural (RA) to Planned Unit Development Conditional Zoning (PUD-CZ)
- Consent 24 Set Public Hearing for the June 21, 2016 Town Council Meeting regarding Rezoning Application #16CZ14. The applicant, Glenda S. Toppe representing Meritage Homes of the Carolinas, LLC, seeks to rezone approximately 2.436 acres located at 3917 US 64 Hwy W. from Rural Residential to Neighborhood Business- Conditional Zoning (B1-CZ)
- Consent 25 Set Public Hearing for the June 21, 2016 Town Council Meeting regarding Rezoning Application #16CZ15. The applicant, Jason Barron representing North View Partners, seeks to rezone approximately 10.00 acres located at 2030 Laura Duncan Road from Rural Residential to High Density Multi-Family Conditional Zoning (HDMF-CZ)
- Consent 26 Set Public Hearing for the June 21, 2016 Town Council Meeting regarding Rezoning Application #16CZ16. The applicant, Joseph V. Iannone, Jr seeks to rezone approximately 8.05 acres located at 1109 Markham St, from Planned Unit Development – Conditional Zoning (PUD-CZ) to Planned Commercial – Conditional Zoning (PC-CZ)
- 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 Parkside Builders, LLC (Rezoning Case #16CZ10) property containing 8.322 acres located at 2632 Olive Chapel Road, Annexation #576 into the Town's corporate limits

- 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 William Dean Haley and Lewis Lynch Family Ltd Partnership (The Glen at Westhigh) property containing 1.94 acres located at 0 and 1523 Salem Church Road, Annexation #578 into the Town’s corporate limits
- Consent 29 Set Public Hearing for the June 21, 2016 Town Council Meeting regarding an amendment to the Unified Development Ordinance
- Consent 30 Proposed design for use on Apex water towers and possible promotional items
- Consent 31 Resolution and an Abandonment of Easement to abandon a portion of electric utility easement in trade for a new electric only utility easement on developer’s property
- Consent 32 Resolution requesting the North Carolina Department of Transportation to release a portion of Walden Road from the State highway system for inclusion in the Town’s street system and request Capital Area Metropolitan Planning Organization to approve the same
- Consent 33 Resolution of Intent to consider the closing of portions of Walton Road and to call for a Public Hearing at the July 19, 2016 Council Meeting
- Consent 34 Development Agreement with Apex Pointe, LLC related to Publix Pointe development, authorization for the Town Manager and Town Attorney to make minor modifications to the agreement, and authorizing the Town Manager to execute the Agreement

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

REGULAR MEETING AGENDA

There were no requested modifications to the Agenda from Council or staff.

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE REGULAR AGENDA AS SUBMITTED. COUNCIL MEMBER MOYER MADE THE MOTION; COUNCIL MEMBER JENSEN SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

PUBLIC FORUM

Randy Clayton, bank commercial loan officer, addressed Council regarding the 30% of mixed use properties for commercial projects. Mr. Clayton stated he understood this was to bring in more commercial and less residential, but developers think differently on this. The 30% eats into developer profits, their ability to repay loans, and maximize their earnings. He urged letting the Planning Board dictate the percentage of mixed use and not making this a cookie cutter process.

PUBLIC HEARINGS

Public Hearing 01 : Brendie Vega, Principal Planner

Public Hearing and amendments to the 2030 Land Use Map to require 30% minimum non-residential in Mixed Use areas of 3 or more Land Use Classifications (stripes)

and

Public Hearing 02 : Brendie Vega, Principal Planner

Public Hearing and various amendments to the Unified Development Ordinance related to amendments to the 2030 Land Use Map to require a minimum percentage of non-residential in Mixed Use areas of 3 or more Land Use Classifications (stripes)

Mayor Olive stated that if there were no objections from Council or the Town Attorney, he would open both Public Hearings at the same time. They would, however, be voted on separately. There were no objections.

Staff oriented Council to the Map and the proposed changes. The Planning Board held a public hearing and recommended limiting the non-residential acreage to 20%. They felt this was reasonable and in line with what our neighbors are doing. This would give us a competitive edge.

Mayor Olive declared the Public Hearing open. With no one wishing to speak further (Mr. Clayton's comments being heard during Public Forum), Mayor Olive declared the Public Hearing closed.

Staff clarified for Council locations and undeveloped land. Council conversation ensued regarding the 30%, with thoughts not changing from previously, no stats being presented to support 30% being an effective way of bringing in business, agreement with the Planning Board, Pinnacle Park having figures supporting 30%, there needing to be some guidance, the need for the opportunity for people to live and work in Apex, and the Council being responsible for the long-term vision of the Town.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE
THE 30% MINIMUM ON THE MAP; COUNCIL MEMBER MOYER SECONDED THE MOTION.

Council stated she was concerned about how much land this would entail. She was in agreement since the portion was so small. Council talked about a person wanting to sell their property and not being able to because of the zoning.

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

Council Member Wilkie stated she was disappointed because this will make it difficult for Economic Development to get more business here.

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

Public Hearing 03 : Dianne Khin, Planning Director

Public Hearing and Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Reliance LLC (Harmony Animal Hospital) property containing 2.275 acres located at 2401 Reliance Avenue, Annexation #577 into the Town’s corporate limits

Staff oriented Council to the site, stating 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 SCHULZE MADE THE MOTION TO APPROVE THE ORDINANCE; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 04 : Drew Havens, Town Manager

Public Hearing regarding the FY 2016/2017 Economic Development Budget

Staff stated that we’ve had the Budget Public Hearing, but a recent change in State law dictated that we have to have a separately-advertised public hearing for the Economic Development portion of the budget. This Hearing would ensure compliance with the Statute.

Mayor Olive declared the Public Hearing open. With no one wishing to speak, Mayor Olive declared the Public Hearing closed. Mayor Olive stated no further action/vote was needed.

OLD BUSINESS

There were no Old Business items for consideration.

UNFINISHED BUSINESS

Unfinished Business 01 : Drew Havens, Town Manager

Fiscal Year 2016 – 17 Budget and Schedule of Fees

Havens stated the only change in the Budget since the last workshop in May was to Special Appropriations. Also, a statement was added to the Ordinance about Economic Development.

Council expressed concern about the tax increase. Later we will want to pass a parks bond and the County wants a tax increase. He was concerned about the cumulative effect of this on citizens. Council agreed that we need to be cautious and considerate in the future for people with low or fixed incomes having to pay higher tax rates.

Council stated we have to move ahead because this area is growing and we need facilities which requires an investment in the necessities. Apex is one of the fastest growing towns and the increase asked for is needed to implement our future needs. Council stated that compared to our neighbors, we are still on the bottom rung.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE BUDGET AND SCHEDULE OF FEES; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

The Mayor thanked staff for providing the information early so Council would have the time to go through it. The information presented was at the right level of detail, and the Mayor was pleased that the Manager did what he was hired to do. The tax will go to 38 cents. He was very happy Council was able to put together a Budget that works.

**Unfinished Business 02 : Council Members Wesley Moyer and Denise Wilkie
Update on Public Arts efforts**

Council Member Moyer stated the Parks and Rec Commission worked diligently to come up with a statement and recommendation for the Parks and Rec Committee:

"The Apex Town Council recognizes the value and importance of Public Art in the community and is committed to the development of a Public Art Master Plan to ensure that future Public Art opportunities and projects are well integrated into the Town's planning process, support economic development, create visual interest, engage the community and enhance the character of Apex."

Council was concerned with the word 'public', asking could this word be changed to 'private', Council Member Moyer saying this was just a statement. Council Member Wilkie stated she'd spoken with developers who asked if they could put art on their properties. Council talked about artists coming to events such as Finally Friday. Council stated he did not want this to be paid-for art; he would want the

Town out of this business. Council Member Moyer stated we would not necessarily have to pay for the art. Council was okay with our being a part of the regulation process.

Tom Colwell of the Parks and Recreation Commission stated the idea was to create a master plan for some type of structure and a plan for what type of art pieces would be appropriate in what places. The Committee would work with the Commission to vet the art. Discussion ensued on artists possibly putting their art on loan, having rotating exhibits, or walking tours. This is being done everywhere.

The Mayor talked about moving into the master plan stage on this. Council reiterated he would not approve money for public art, that the money would much better be spent on non-profits, one other Council Member being in agreement. Council stated she was glad this was being done and looked forward to "good stuff".

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

NEW BUSINESS

New Business 01 : Council Member Nicole Dozier

Discussion regarding workforce Housing

Council stated this would be defined as having the availability for people in the area to have housing regardless of income or type of job, which is a bit different than affordable housing. We should start the conversation that everyone who works here should be able to live here if they wish. Maybe we could start out with a pilot for housing for Public Works, EMS, Fire, and Police to see if there are people who already live here and if there are people who would like to live here. Council stated this would assume there is an affordability issue and that staff would want to live here but their salaries make it prohibitive. Council asked for this to be sent to the Planning, Personnel, and Finance Committees. She also wanted to bring in the Wake County Housing Coalition. Council gave the example that an SRO living in the community would be well entrenched. Also, if employees needed to work long shifts or in inclement weather conditions, it would be better if they lived here and they would be closer to their families.

The Mayor recommended a pilot program if this was what Council believed it should pursue. He thanked Council for her assumptions. He asked Council if they wanted to better understand this matter and vet some of the assumptions. The matter could then go to the Planning Committee to see what type of

housing would be available and if this would be a real option. If Council was in agreement, then we could start talking about solutions. The conversation would be limited right now to staff and Committees only. If Council did not feel like this had legs, then the matter could be called out.

Council stated she also wanted to do this for others; but she thought that if the focus was smaller, then we'd have better data. The other mentioned organizations could help us get to the point of affordable housing, and Council stated she's waiting for results from listening sessions to determine what was learned. Council stated he agreed with a study as it would help understand housing. Maybe the results could tell us where to zone for higher density on the Land Use Plan. He wanted to eventually include the teachers in this study. Council explained why she wants to bring in the County. She also felt this was important for helping staff.

MAYOR OLIVE ASKED FOR A MOTION FOR THIS MATTER TO GO FIRST TO THE PERSONNEL COMMITTEE TO DETERMINE IF THERE IS A NEED AND DESIRE FOR STAFF TO HAVE A LIVE/WORK SITUATION AND FOR THE COMMITTEE TO DETERMINE WHAT THE DATA WILL MEAN. COUNCIL MEMBER DOZIER MADE THE MOTION; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

CLOSED SESSION

Closed Session 01 to consult with the Town Attorney to preserve the attorney-client privilege

Closed Session to establish and instruct Town staff regarding the Town's negotiating position for the acquisition of real property

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

MAYOR OLIVE CALLED FOR THE RETURN TO OPEN SESSION.
THE MOTION CARRIED BY A 5-0 VOTE.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE THE RESOLUTION AUTHORIZING EMINENT DOMAIN PROCEEDINGS FOR THE IMPROVEMENT OF THE APEX WATER SYSTEM AND TRANSPORTATION SYSTEM; COUNCIL MEMBER JENSEN SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 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, CMC, NCCMC
Town Clerk

ATTEST:

Lance Olive
Mayor