



APEX TOWN COUNCIL MEETING

TUESDAY, JUNE 21, 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 21, 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 William S. Jensen, 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
Absent were Council Members Eugene J. Schulze and Denise C. Wilkie

COMMENCEMENT

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

PRESENTATIONS

There were no presentations made.

CONSENT AGENDA

- Consent 01 Minutes of the May 25, 2016 Budget Workshop and the June 7, 2016 Regular Meeting
- Consent 02 Apex Tax Report dated 05/02/2016
- Consent 03 Budget ordinance amendment to appropriate insurance proceeds which have been received by the Town and the proceeds of the sale of a surplus vehicle for the replacement of a pickup truck used by the Fire Department
- Consent 04 Budget ordinance amendment to appropriate insurance proceeds which have been received by the Town for the replacement of a car used by the Police Department

- Consent 05 Construction contract and authorization for the Town Manager to execute same, and budget ordinance amendment and capital project ordinance amendment for KELLY ROAD WIDENING FOR PUBLIC SAFETY STATION #5 project
- Consent 06 Construction contract and authorization for the Town Manager to execute same for 2016 Road Rehabilitation project
- Consent 07 Facility Encroachment Agreement between the Town of Apex and CSX Transportation, Inc. and authorization for the Town Manager to execute the Agreement
- Consent 08 Trademark License Agreement with Scott Holdings Group of Apex
- Consent 09 NCDOT and Town of Apex Utility Agreement for Project Number R-2635B, I540 Section B and the associated Budget Ordinance Amendment No. 27 and Capital Project Ordinance Amendment
- Consent 10 Set the Public Hearing on July 19, 2016 for rezoning application #15CZ34 (Empire Estate, LLC) to rezone 1.47± acres located on E. Williams Street approximately 500 feet south of its intersection with NC 55 Bypass from Rural Residential (RR) to Neighborhood Business-Conditional Zoning (B1-CZ)
- Consent 11 Set the Public Hearing on July 19, 2016 for rezoning application #16CZ01 Bristol Assemblage PUD to rezone +/-150 acres located near the intersections of New Hill Olive Chapel Road and Old US 1 Hwy from Wake County R-40W to Planned Unit Development-Conditional Zoning
- Consent 12 Set the Public Hearing on July 19, 2016 for rezoning application #16CZ19 to rezone 6.68± acres located at 0 Ramblewood Drive which is accessed from Bay Bouquet Lane from Residential Agricultural (RA) to Medium Density Residential-Conditional Zoning (MD-CZ)
- Consent 13 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 Bristol Assemblage (Bristol PUD) property containing 149.995 acres located at 2433, 2505, 2513, 2517, 2521 and 2701 New Hill Olive Chapel Road, Annexation #571 into the Town’s corporate limits
- Consent 14 Set Public Hearing for the July 19, 2016 Town Council Meeting regarding an amendment to the Unified Development Ordinance
- Consent 15 Equipment Lease Agreement between the Town and Wake County and authorization for the Town Manager to execute the same
- Consent 16 Annual Agreement for Provision of Emergency Medical Services with the Wake County EMS System for FY17, Business Associate Agreement and Ambulance Lease Agreement (Ambulance use agreement required for Wake County to bill for transport services. This is not related to the Equipment Lease Agreement for vehicles purchased by Wake County and leased to the TOA for the purpose of providing emergency medical services).

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE CONSENT AGENDA. COUNCIL MEMBER
JENSEN MADE THE MOTION; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

REGULAR MEETING AGENDA

Mayor Olive pointed to the Public Hearings which were requested to be heard on July 19th instead of this evening: 1, 2, 3, 4, 5, and 9. Public Hearings 7 and 8 would need to be renoticed and were requested to be heard on July 19th as well.

Mayor Olive addressed a recent request to hear from an applicant even if a continuance was asked for. According to the UDO, stated the Mayor, an applicant has the right to ask for one continuance; and the Council would need to grant that continuance.

MAYOR OLIVE CALLED FOR A MOTION TO GRANT THE ABOVE-STATED CONTINUANCES AND RESCHEDULES.

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

THE MOTION CARRIED BY A 3-0 VOTE.

Mayor Olive stated Town Attorney Hohe requested a Closed Session for the purposes of consulting with the Town Attorney regarding the City of Fayetteville and the Public Works Commission of the City of Fayetteville v. North Carolina Environmental Management Commission; North Carolina Department of Environment and Natural Resources and Town of Cary and Town of Apex.

Mayor Olive stated new information was received on Unfinished Business 01. The request, therefore, was to remove this item and have it come back before Council when staff had time to vet the new information with regard to buffers.

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE AGENDA WITH ALL THREE REQUESTED MODIFICATIONS.

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

THE MOTION CARRIED BY A 3-0 VOTE.

PUBLIC FORUM

Sandra Webb addressed Council about the notification distance for rezonings. She suggested the 300 foot notification to property owners is too short. She researched and found municipalities are able to develop their own distance, and she would like Council to consider expanding the distance whether it's inside or outside the Town limits. Doing so would allow more opinions to be heard and possibly more tweaks being made.

Gladys Logan addressed Council about the Weddington project and passed out a map. She talked about the stream and stream buffer on her mother's property. Her mother's request was to delay approval until access 1 could be re-evaluated and the property owners given the opportunity for complete information and input. Ms. Logan did not know how the project would affect her property, but she wanted the entrance closest to her mother's property to be moved slightly to the east. The plans came out late and all the sheets of the plan were not on the website.

Steve Swamp from the ETJ talked about the UDO and the commercial node. He gave examples of negative effects on the area and asked Council to strengthen the UDO. The developers should be held accountable for more quality projects. He wanted to see a mix of commercial and residential.

Anne Cain talked about developers who often don't provide or finish recreation areas.

Mike Watkins talked about the Kelly Road and Olive Chapel intersection and what goes on there. He moved to Apex because of the character of the town. He was concerned that the feel at the intersection would change if the bit of land left gets developed with retail. He advocated for a way to save the older trees which add character.

Mayor Olive clarified that the notification distance issue was considered in a Planning Committee meeting. It was felt the distance was sufficient.

PUBLIC HEARINGS

Public Hearing 01 : Brendie Vega, Principal Planner

The applicant has requested that this public hearing be continued to the July 19, 2016 Town Council meeting Public Hearing and possible motion 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)

COUNCIL CONTINUED THIS HEARING TO JULY 19, 2016.

Public Hearing 02 : Amanda Bunce, Senior Planner

The applicant has requested that this public hearing be continued to the July 19, 2016 Town Council meeting Public Hearing and possible motion 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).

COUNCIL CONTINUED THIS HEARING TO JULY 19, 2016.

Public Hearing 03 : Shelly Mayo, Planner

The applicant has requested that this public hearing be continued to the July 19, 2016 Town Council meeting

Public Hearing and possible motion 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 (RR) and Wake Co R-80W to Medium Density - Conditional Zoning (MD-CZ)

and

Public Hearing 04 : Shelly Mayo, Planner

The applicant has requested that this public hearing be continued to the July 19, 2016 Town Council meeting

Public Hearing and possible motion to adopt an Ordinance 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

COUNCIL CONTINUED THESE HEARINGS TO JULY 19, 2016.

Public Hearing 05 : Liz Loftin, Planner

The applicant has requested that this public hearing be continued to the July 19, 2016 Town Council meeting.

Public Hearing and possible motion regarding Rezoning #16CZ13, James Street PUD Plan, to rezone 2.49± acres located at 210 James Street, from Residential Agricultural (RA) to Planned Unit Development Conditional Zoning (PUD-CZ)

COUNCIL CONTINUED THIS HEARING TO JULY 19, 2016.

Public Hearing 06 : Mike Clark, Senior Planner

Public Hearing 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 (RR) to Neighborhood Business- Conditional Zoning (B1-CZ)

Staff oriented Council to the site and stated this was part two of a zoning heard last month. A neighborhood meeting was held, and the applicant provided additional conditions. The Planning Board and staff recommended approval as submitted.

Ed Tango with Glenda S. Toppe and Associates, represented the applicant. This was a companion case which came in separately. He requested Council 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 REZONING; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

Public Hearing 07 : Mike Clark, Senior Planner

This public hearing will be re-advertised for the July 19th Town Council Meeting due to error on the public notification
Public hearing and possible decision 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)

COUNCIL AGREED TO HOLD THIS HEARING ON JULY 19, 2016.

Public Hearing 08 : Mike Clark, Senior Planner

This public hearing will be re-advertised for the July 19th Town Council Meeting due to error on the public notification
Public hearing and possible motion 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)

COUNCIL AGREED TO HOLD THIS HEARING ON JULY 19, 2016.

Public Hearing 09 : Amanda Bunce, Senior Planner

The applicant has requested that this public hearing be continued to the July 19, 2016 Town Council meeting
Public Hearing and possible motion on 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)

COUNCIL CONTINUED THIS HEARING TO JULY 19, 2016.

Public Hearing 10 : Dianne Khin, Planning Director

Public Hearing and Ordinance 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
Staff oriented Council to the site. The applicant, Tom Beebe, stated a part of this project is in Cary and Apex has been through the approval process.

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 ADOPT THE ORDINANCE; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

Public Hearing 11 : Brendie Vega, Principal Planner

Public Hearing and amendment to the Unified Development Ordinance

Staff reminded Council this concerned parking for the Apex High School area. This would be to repeal parking on residential properties. The Planning Board was pleased it was being repealed. The Planning Board and 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 MOYER MADE THE MOTION TO APPROVE THE AMENDMENT; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

Public Hearing 12 : Shannon Cox, Senior Planner - Transportation

Public hearing and amendment to the Transportation Plan's Thoroughfare and Collector Street Plan map as requested by the Planning Committee of Town Council

Staff oriented Council to the property affected by the amendment.

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 AMENDMENT; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

OLD BUSINESS

There were no Old Business items for consideration.

UNFINISHED BUSINESS

Unfinished Business 01 : Shelly Mayo, Planner

Villages of Apex Phase 4 Master Subdivision Plan - for 3 parcels totaling 3.22 acres that are bounded by the Apex Peakway to the south, Ambergate Station to the east and Branch Line Lane to the west

COUNCIL REMOVED THIS ITEM FROM THE AGENDA.

NEW BUSINESS

New Business 01 : Shelly Mayo, Planner

Old Mill Villages Lot 4 Master Subdivision Plan. The applicant, Peter Clossen for Jones & Clossen Engineering is proposing 14 townhomes on 1.58 acres located at 701 Sawcut Lane

Staff clarified the parcel as there was a bit of confusion. Staff oriented Council to the site. A neighborhood meeting was held and the request met Town Plans. The Planning Board and staff recommended approval as submitted. In response to Council, staff clarified the plans for the pond.

Applicant Peter Clossen noted the project met all PUD and UDO requirements. The ponds were mainly for the convenience store and mosque. The existing pond is undersized, so they will expand it to what it should have been.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE SUBDIVISION PLAN; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

New Business 02 : Mike Clark, Senior Planner

Weddington Master Subdivision Plan for the properties located at 4105 Green Level West Road, 809 Wimberly Road, and 0 Wimberly Road containing 134.85 acres and 190 single-family lots

Staff oriented Council to the site. A neighborhood meeting was held, and there was concern about unsafe conditions at one of the accesses. The applicant agreed this needed to be moved and it was. Staff clarified the recommended right turn, left turn, and two outbound lanes which provide nice spacing. Ms. Logan's request to shift the access further east was not understood, because the distance would be compromised if that was done. It will be a busy intersection, and a right turn lane will be added. Overall, what was decided was a safer solution. Staff clarified the retention pond and buffer between it and the property talked about in Public Forum. The Planning Board and staff recommended approval.

Council was concerned about Ms. Logan feeling like her questions were answered, Ms. Logan stating that they didn't have adequate time or information on the project – it was sprung on them after the Planning Board approved the project. She spoke about the sewage lines and someone on her property tagging trees without their permission. The Mayor explained that the site plan has been presented and he only saw where the right turn might impact her land.

Alicia Albenie with Withers and Ravenel spoke about sliding the road further to the east and why they didn't do this. They worked with DOT and collected data on the vertical site distance. The lane was pushed to where it would be safer for the public. As for the impact on Ms. Logan's mother's property, it would only be a few feet of pavement into the stream buffer and grading. Ms. Albenie did not anticipate a grading easement, but there could be one. Council asked Ms. Albenie to communicate better with the residents moving forward. Ms. Albenie explained the proposed buffers.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE SUBDIVISION PLAN; COUNCIL MEMBER MOYER SECONDED THE MOTION. ASKING THE DEVELOPER TO WORK WITH THE RESIDENTS.
THE MOTION CARRIED BY A 3-0 VOTE.

CLOSED SESSION

Closed Session 01 : for the purposes of consulting with the Town Attorney regarding the City of Fayetteville and the Public Works Commission of the City of Fayetteville v. North Carolina Environmental Management Commission; North Carolina Department of Environment and Natural Resources and Town of Cary and Town of Apex.

MAYOR OLIVE CALLED FOR A MOTION TO GO INTO CLOSED SESSION FOR THE PURPOSE STATED ABOVE. COUNCIL MEMBER DOZIER MADE THE MOTION; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

MAYOR OLIVE CALLED FOR A MOTION TO RETURN TO OPEN SESSION. COUNCIL MEMBER MOYER MADE THE MOTION; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

WORK SESSION

There were no Work Session items for consideration.

Mayor Olive reminded Council to email the entire Council if they were going to be absent from a Council Meeting.

Mayor Olive reminded Council of the Special Meeting on June 28th and hoped there would be more information on turn lanes.

Mayor Olive stated we would plan for two meetings in July. He asked Council to respond to Doodle in determining on what date the second meeting would be.

Council stated he's received emails regarding a date for the Town Hall Meeting. Mayor Olive stated he has not forgotten about this; we have just been slammed. It would most likely be another few months before we could have this meeting. Council discussed what type of format and what location might be appropriate, the Town Attorney reminding Council of the Open Meetings Law if it wished to hold something like a public forum on the website or phone meetings.

ADJOURNMENT

With there being no further business,

MAYOR OLIVE ADJOURNED THE MEETING.

Donna B. Hosch, CMC, NCCMC
Town Clerk

ATTEST:

Lance Olive
Mayor