



APEX TOWN COUNCIL MEETING

TUESDAY, NOVEMBER 1, 2016

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
Timothy L. Donnelly, Assistant Town Manager
David Hughes, 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, November 1, 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, Eugene J. Schulze, 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.

Mayor Olive recognized Girl Scout Troop 4907 and Boy Scout Troop 222. Prior to the Council Meeting, the Troops met with the Mayor for an overview of municipal government.

PRESENTATION

Presentation 01: Mayor Lance Olive

Proclamation for Apex Geographic Information Services (GIS) Day

Mayor Olive read and presented the Proclamation to Erika Sacco, IT Director. Ms. Sacco gave a brief description of what GIS is and how it helps enhance and promote resources. Ms. Sacco recognized our GIS Administrator, Steve Nelson.

CONSENT AGENDA

- Consent 01 Minutes of the October 18, 2016 Regular Council Meeting
- Consent 02 Statement of the Town Council and Ordinance for Rezoning Case #16CZ24, Jeff Roach, Peak Engineering & Design/Empire Contractors, Inc. (Goldenvue PUD), petitioners for the property located at 210 & 250 James Street
- Consent 03 Statement of the Town Council and Ordinance for Rezoning Case #16CZ27, Stuart Jones, Jones & Crossen Engineering/Ray Anthony & Varlia Rogers Powell, petitioners for the property located at 7904 Humie Olive Road
- Consent 04 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 Jenks Investment, LLC (Mercer Estates PUD) property containing 19.377 acres located at 0 and 816 Wimberly Road, Annexation #581 into the Town's corporate limits
- Consent 05 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 and Jennifer Galton and Lake Time, LLC (Abbey Run Master Subdivision) properties containing 7.343 acres located at 1112, 1114 and 1116 Olive Chapel Road, Annexation #583 into the Town's corporate limits
- 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 Rebecca Roberts, Trustee FBO Brandon Roberts (Weddington Master Subdivision) property containing 50.129 acres located at 4105 Green Level West Road, Annexation #585 into the Town's corporate limits
- Consent 07 Set Public Hearing for the November 15, 2016 Town Council Meeting regarding Rezoning Application #16CZ21 (Sweetwater PUD Amendment). The applicant, Experience One Homes LLC seeks to rezone approximately 164.79 acres located at 3233 US Hwy 64 West from Planned Unit Development- Conditional Zoning to Planned Unit Development - Conditional Zoning
- Consent 08 Set Public Hearing for the November 15, 2016 Town Council Meeting regarding rezoning application #16CZ23 (Mercer Estates PUD) to rezone 19.377± acres located 0 and 816 Wimberly Road from R-80W to Planned Unit Development-Conditional Zoning (PUD-CZ)
- Consent 09 Set Public Hearing for the November 15, 2016 Town Council Meeting regarding Rezoning Application #16CZ28 (1100 Center Street). The applicant, The Strong Rock Development Company seeks to rezone approximately 7.43 acres located at 1100 Center Street from Residential Agriculture (RA) to High Density Multi-Family – Conditional Zoning (HDMF-CZ)
- Consent 10 Set Public Hearing for the November 15, 2016 Town Council Meeting regarding Rezoning Application #16CZ29 (4213 Green Level West Rd). The applicant, Josh Lambert, VP Land Development for The Strong Rock Development Company, seeks to rezone approximately 28.84 acres located 4213 Green Level West Rd from Rural Residential (RR) to Low Density Residential - Conditional Zoning (LD-CZ)
- Consent 11 Set Public Hearing for the November 15, 2016 Town Council Meeting regarding various amendments to the Unified Development Ordinance
- Consent 12 Construction contract and authorization for the Town Manager to execute same for pavement markings on Salem Street and Hunter Street
- Consent 13 General services agreement for consulting services with Green Infrastructure Center Inc.

- Consent 14 Management Control Agreement between the Police and Information Technology Department pursuant to the CJIS Security Policy and authorization for the Chief of Police and the Director of Information Technology to execute
- Consent 15 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 Crossroads Holdings, LLC (Quick Lane Tire & Auto) property containing 2.230 acres located at 0 Pine Plaza Drive, Annexation #584 into the Town’s corporate limits
- Consent 16 Resolution to rename a portion of Old Holly Springs Apex Road to Veridea Parkway

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

REGULAR MEETING AGENDA

Council Member Moyer requested the addition of a New Business item to give an update on our storm relief donations.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER WILKIE MADE THE MOTION TO APPROVE THE AGENDA WITH THE ADDITION OF THE REQUESTED NEW BUSINESS ITEM; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

PUBLIC FORUM

Richard Beaver expressed appreciation for the crosswalk that was recently painted in his neighborhood. This has been needed for a long time. Mr. Beaver gave suggestion for where it might be beneficial to paint another crosswalk.

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 HEARINGS

Public Hearing 01 – Quasi Judicial : Shelly Mayo, Planner

Quasi-Judicial Public Hearing regarding a Special Use Permit for Elite Waste Services containing 37.27 acres located at 520 Pristine Water Drive

Mayor Olive read the Statement outlining the process of the public hearing. All those wishing to speak were sworn in by the Town Clerk.

Mayor Olive declared the Public Hearing open.

William Brian, Morningstar Law Group and attorney for the applicant, introduced the primary members of his team, Dan Wall, Elite Waste Services, and Jeff Roach, Peak Engineering and Design. Ted Oliver, representing Eagle Rock (for formality only, referred to as 'opponent'), stated he wished to present additional information but was not in opposition of the request.

Mayor Olive canvassed Council as to their ability to make impartial decisions in this Hearing, and to ensure they had no conflicts or any communication with the applicant. All Council Members and the Mayor stated they could be impartial and had no conflicts.

OPENING STATEMENT BY APPLICANT: Mr. Brian asked for all attachments presented to be entered into evidence. The site plan had been approved, and he stated that Mr. Roach and Joshua Reinke, Ramey Kemp & Associates, Inc., would speak to the plan. Mr. Brian believed they would show all criteria had been met for the special use permit and that it should be granted.

PRESENTATION BY STAFF: Ms. Mayo presented her credentials and oriented Council to the site. A neighborhood meeting was held, and staff recommended approval as presented. Dianne Khin, Planning Director, presented her credentials.

CROSS OF STAFF BY COUNCIL AND APPLICANT: Staff answered Council questions regarding buffers and a right of way on Jessie Drive. There was no cross by the applicant.

Council stated it had not observed the site. There were no questions from the applicant.

EVIDENCE FROM APPLICANT: Mr. Wall, who is also the property owner, presented reasons why this is a prime location for his business, Elite Waste Services. He thanked staff for their guidance and hoped the request would be supported by Council.

CROSS OF APPLICANT BY COUNCIL: None.

EVIDENCE FROM THE APPLICANT: Mr. Roach presented his credentials. He explained the intricacies of the site plan with the assistance of a PowerPoint presentation. Hard copies were distributed to Council, and

exhibits A through G were asked to be entered into evidence. Mr. Roach stated the site plan complies with the UDO, and staff requested four additional conditions.

CROSS OF APPLICANT BY COUNCIL: Mr. Roach addressed Council's questions about a buffer, Jessie Drive, traffic, impact of odors, and the impact on Veridea. There was no cross by staff or the opponent.

EVIDENCE FROM APPLICANT: Joshua Reinke, Traffic Engineer, presented his credentials. He explained how they looked at trips which would/might be generated, a full traffic impact analysis not being necessary in his professional opinion.

CROSS OF APPLICANT BY COUNCIL: Mr. Reinke answered questions regarding trips/minute.

CROSS OF APPLICANT BY OPPOSITION: Ted Oliver, attorney representing Eagle Rock Concrete, stated they are an adjoining property owner. He asked questions about truck traffic on Pristine Water Drive.

Mr. Brian requested that all presented evidence be moved into the record.

EVIDENCE BY OPPONENT: Mr. Olivier stated he had no problem with the requested uses, and that Eagle Rock accesses their property through an easement. He talked about the traffic which would be generated on Pristine Water Drive.

Mr. Brian stated he objected to Mr. Oliver testifying as an attorney.

CROSS OF APPLICANT BY COUNCIL: Council asked for clarification of the easement agreement across Lufkin Road.

REBUTTAL FROM STAFF: Ms. Vega asked Mr. Roach to clarify for Council the ROW for Jessie Drive and the width of a buffer.

Tim Donnelly, Assistant Town Manager, was sworn in by the Town Clerk. Mr. Donnelly presented his credentials. He spoke to who is responsible for the upkeep of Pristine Water Drive and its adequacy to support the type of trucks which would be using the road. He also answered questions about ownership of the road.

Mr. Roach spoke about access easements which have been recorded. There is a gravel road of variable widths, and it is structurally sound. Council wanted to make sure staff was in agreement with the appropriateness of the structure of the roads.

Karl Huegerich, Fire Marshall with the Apex Fire Department, presented his credentials and spoke to the latter. All specifications have been met, and the Fire Department has no problems with access.

Council asked the applicant about time frames for their activities and whether or not they could be a good neighbor. Mr. Wall explained why the time frames are as they are, stating that their primary operations will be during normal working hours.

CLOSING ARGUMENT BY APPLICANT: Mr. Brian stated all specifications and standards had been met and asked Council to grant issuance of the permit.

Mayor Olive declared the Public Hearing closed.

The Mayor presented to Council the UDO standards and asked if it felt the six items had been met. Council agreed Standard 1 had been met. After asking for clarification on chipping and mulching, the height of walls for screening, turnover for mulch piles (unprocessed material), and recycling height, and staff stating the conditions had been met, Council agreed Standard 2 was met. Council was in agreement that the remaining Standards 3-6 had been met.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER SCHULZE MADE THE MOTION TO APPROVE THE
SPECIAL USE PERMIT WITH THE CONDITIONS PROPOSED AND AGREED TO BY THE APPLICANT;
COUNCIL MEMBER JENSEN SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Council Member Dozier asked to be excused from the remainder of the meeting for a work commitment. There was no objection from Council.

OLD BUSINESS

There were no Old Business items for consideration.

UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

NEW BUSINESS

New Business 01 : Brendie Vega, Principal Planner

Development schedule extending the time for the Master Subdivision Plans and Rezonings

Staff stated that at the Planning Committee meeting a few months ago, and development schedule changes were discussed for the master subdivision and zoning process, not including the planned development process. Average timeframes for these were presented, staff noting that there needed to be more review time to ensure accurateness. Staff gave the history of the current timeframe, explained why the cycle is so short, and detailed what they would like to see.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER SCHULZE MADE THE MOTION TO APPROVE THE DEVELOPMENT SCHEDULE WITH THE 6 MONTH TIMEFRAME; COUNCIL MEMBER JENSEN SECONDED THE MOTION.

Council argued that 6 months was excessive compared to surrounding municipalities. She preferred a 4-5 month timeframe. Council stated the process could be done faster; staff would not be locked into 6 months. Council talked a bit about what can/should be approved at staff level and the defining of a threshold. It was stated that the Planning Committee did not talk to developers about timeframes; the Committee asked staff to come up with revised figures.

There was brief discussion about this going back to Committee to find out what Cary is doing, Council wanting to see everything even if it's on the Consent Agenda, Committee looking also at the size of developments, and wanting input from the development community.

COUNCIL MEMBER SCHULZE AMENDED HIS MOTION TO TIMEFRAMES OF 3 MONTHS FOR REZONINGS AND 6 MONTHS FOR MASTER SUBDIVISIONS; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

New Business 02 : Brendie Vega, Principal Planner

Pursue the creation of a voluntary Rural Overlay District that would protect areas with rural character from being assembled and rezoned for suburban density development

Staff talked about how to protect rural areas from future development and the process involved in making a new overlay district. This came out of Planning Committee. Staff explained that an entire

neighborhood could undue an overlay at a future date. Staff was seeking permission to continue. The ordinance would be revised as proposed by staff only if there was enough neighbor interest.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE PROCEEDING WITH THE OVERLAY DISTRICT; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

**Added New Business 03: Council Member Wesley Moyer
Update on Recovery Logistics Relief Effort**

Council presented pictures of the Recovery Logistics Relief effort. Two U Hauls were filled and taken to Robinson County. This had a huge impact and Council thanked everyone for their participation.

CLOSED SESSION

Closed Session 01 : To consult with the Town Attorney

MAYOR OLIVE CALLED FOR A MOTION TO GO INTO CLOSED SESSION. COUNCIL MEMBER JENSEN MADE THE MOTION; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 4-0 VOTE.

MAYOR OLIVE CALLED FOR A MOTION TO RETURN TO OPEN SESSION. COUNCIL MEMBER SCHULZE MADE THE MOTION; COUNCIL MEMBER MOYER 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, CMC, NCCMC
Town Clerk

ATTEST: _____
Lance Olive
Mayor