



APEX TOWN COUNCIL MEETING

TUESDAY, NOVEMBER 15, 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 15, 2016, at 7:00 p.m. was held in the Council Chamber of Apex Town Hall, 73 Hunter Street

COMMENCEMENT

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

PRESENTATIONS

There were no Presentations to be made.

CONSENT AGENDA

- Consent 01 Minutes of the Regular Council Meeting on November 1, 2016
- Consent 02 Budget ordinance amendment and capital project ordinance amendment to increase funding in the amount of \$50,000.00 for the Public Safety Station 5 project to cover additional costs
- Consent 03 Findings of Fact, Conclusions of Law, and Decision approving the Special Use Permit for Elite Waste Services located at 520 Pristine Water Drive. On November 1, 2016, Town Council approved Special Use Permit 16SUP01 for Elite Waste Services located at 520 Pristine Water Drive
- Consent 04 Lot 40 Plots B, C, G, and H to be reconveyed back to Apex Town Cemetery
- Consent 05 Municipal agreement with NCDOT to secure 50% of the additional project cost in federal funds up to \$130,000, requiring 50% matching local (Town of Apex) funds, in order to add turning lanes at the intersection of Kelly Road at Olive Chapel Road and sidewalk along Kelly Road from Olive Chapel Road to Evening Star Drive in TIP Project No. U-5118 AF. Construction is underway.
- Consent 06 Utility Relocation Agreement with Duke Energy with an estimated cost of \$108,012.01 as part of the Lake Pine Drive Improvement Project, TIP Project No. U-5537, and authorize the Town Manager to execute same
- Consent 07 \$150,000 grant from the Federal Land and Water Conservation Program for use on Phase II of Salem Pond Park and a budget ordinance amendment and capital project ordinance amendment associated with that grant

- Consent 08 Change order to Kimley-Horn contract to add Phase II of the Beaver Creek Greenway between Kelly Road Park and the Apex Nature Park and authorization for the Town Manager to sign all related documents
- Consent 09 Co-Sponsorship for Special Event Application of the ADBA Christmas on Salem Street
- Consent 10 Budget ordinance amendment to replace Parks, Recreation, and Cultural Resources Department vehicle #166

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 5-0 VOTE.

REGULAR MEETING AGENDA

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

PUBLIC FORUM

In accordance with North Carolina General Statute 160A-81.1, the Apex Town Council will hold Public Forum during the first Regular Council Meeting of each month

PUBLIC HEARINGS

Public Hearing 01 : Brendie Vega, Principal Planner

Public Hearing and 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.

Staff oriented Council to the site. A neighborhood meeting was held and staff recommended approval as proposed by the applicant. Responding to Council, staff clarified setbacks. Ken Resnick with Withers & Ravenel further clarified these setbacks.

Mark Ashness with the CE Group, speaking on behalf of the applicant, gave a brief history of the property and oriented Council to the site. He outlined their plan for the types of buildings for the property, in addition to the traffic plans, place making, and school impacts. Rynal Stephenson spoke on the traffic impacts and the intended road improvements which would help traffic conditions.

Mayor Olive declared the Public Hearing open. With no one wishing to speak, Mayor Olive declared the Public Hearing closed.

Council asked the applicants about possible increased traffic with the amended plan vs. the original plan. Accessory apartments and flats were discussed in relation to traffic. Council questioned how much office space would be present to accommodate possible employment for the individuals living in the flats. Gordon Poulson and Marvin Waldo of Retail Strategies added further clarity to this subject, noting that this 'special' concept would be exciting. They noted their experience in the mixed use concept and that their concept will be designed for smaller retailers.

Council asked more questions about setbacks and garages, the applicant stating that residential is under development. It would now be difficult to go back and change lot sizes.

Council asked for more detail on traffic during peak times. The applicant noted there would be a super street intersection on 64, and explained traffic turning patterns.

Responding to Council, the applicant spoke further about persons/square foot in the business environment. The live/work concept was discussed along with the B units and making the lots wider. The applicant explained only the garages would be made larger; the homes would remain the same size and with the same placement. The applicants assured Council that this project would be truly special and truly nice aesthetically.

At the request of Council, the applicant agreed to 80,000 square feet of office space as soon as this could be done.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE REZONING WITH 80,000 SQUARE FEET OF OFFICE SPACE AS A MINIMUM OVER TIME; COUNCIL MEMBER MOYER SECONDED THE MOTION. COUNCIL MEMBERS JENSEN, MOYER, SCHULZE, AND WILKIE VOTED IN THE AFFIRMATIVE, COUNCIL MEMBER DOZIER VOTED IN THE NEGATIVE. THE MOTION CARRIED BY A 4-1 VOTE.

Public Hearing 02 : Shelly Mayo, Planner

Public Hearing and 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)

Staff oriented Council to the site. Planning Board and staff recommended approval as submitted by the applicant. Staff, responding to Council, spoke about densities. There was no commitment from the applicant for garages or parking. Staff explained the types of buffers which would be used.

Council expressed concern about traffic, staff responding that DOT has plans to address this. Council expressed concern about the live/work factor, staff responding that this could be addressed at a later stage.

The applicant, Josh Lambert, walked the property with a neighbor, looking at the traffic flow. Mr. Lambert spoke about density. Responding to Council, he agreed to a cap of ten units/acre. A pedestrian trail was discussed.

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 REZONING WITH A CAP OF 10 UNITS/ACRE AND THE EXPLORATION OF
A PEDESTRIAN TRAIL; COUNCIL MEMBER SCHULZE SECONDED THE MOTION.

Council Member Jensen stated that whenever a subdivision comes before Council, he would be looking very strongly at connectivity or supplemental non-residential. He will start voting 'no' on a lot of these projects if they are without these things. We need to help make Apex a live/work environment.

THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 03 : Michael Clark, Senior Planner

Public Hearing and Ordinance 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 and

Public Hearing 04 : Michael Clark, Senior Planner

Public Hearing and rezoning application #16CZ23 (Mercer Estates PUD) to rezone 19.377± acres located along Wimberly Road, south of Castleberry Road from R-80W to Planned Unit Development-Conditional Zoning (PUD-CZ)

Staff oriented Council to the annexation site, noting that corrected copies of staff documents were distributed to Council. The Planning Board and staff recommended approval as amended. Staff clarified lot sizes, the keeping of the pond, and zoning.

Jeff Roach, Peak Engineering Design, representing the applicant, clarified lot sizes and wanting to keep the rural feel. They will not be keeping the pond, and he explained why not. He asked Council for support of the annexation request.

Mayor Olive declared the Public Hearing open for the annexation. With no one wishing to speak, Mayor Olive declared the Public Hearing closed.

Mayor Olive declared the Public Hearing open for the rezoning. With no one wishing to speak, Mayor Olive declared the Public Hearing closed.

Council stated this is something he'd been looking for for a long time, noting that there are people in Apex who would like the larger lot sizes.

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

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

Council stated he believed we need more of the large-lot types of development. In addition, in the future we wished to see some type of connectivity between something like this and some type of non-residential. He believed, however, that this was a good project.

Public Hearing 05 : Brendie Vega, Principal Planner

Public Hearing and rezoning application #16CZ29 (4213 Green Level West) to rezone 28.84± acres located at 4213 Green Level West Road from Rural Residential (RR) to Low Density Residential-Conditional Zoning (LD-CZ)

Staff oriented Council to the site. A neighborhood meeting was held. The Planning Board and staff recommended approval with conditions proposed by the applicant.

Josh Lambert, representing the applicant, stated he walked the area with a neighbor and staff. There were no real concerns coming out of the neighborhood meeting.

Mayor Olive declared the Public Hearing open. With no one wishing to speak, Mayor Olive declared the Public Hearing closed.

Council discussed densities and average lot sizes. Council felt this should be tied to non-residential in some manner. Council wished to see this closer to true low density. The applicant pointed out they are planning for some type of gathering space.

Council stated he was not comfortable with voting on this request this evening. The applicant asked for a continuance in order to come back with a more appropriate density or an average lot size.

MAYOR OLIVE CALLED FOR A MOTION TO CONTINUE THIS HEARING TO THE DECEMBER 6, 2016 MEETING. COUNCIL MEMBER JENSEN MADE THE MOTION; COUNCIL MEMBER SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 06 : Dianne Khin, Planning Director

Public Hearing and Ordinance 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

Staff oriented Council to the site. The subdivision was approved a few months ago by Council. 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 JENSEN MADE THE MOTION TO APPROVE THE ORDINANCE; COUNCIL MEMBER WILKIE SECONDED THE MOTION.

Council asked about whether or not solar would be put up on the property. Council stated he'd spoken with the applicant, and this would not be profitable for them at the time. Therefore, they are going to try to put solar on the homes.

THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 07 : Dianne Khin, Planning Director

Public Hearing and Ordinance on the Question of Annexation – Apex Town Council's intent to annex Crossroads Holdings, LLC (Quick Lane Tire & Auto) property containing 2.380 acres located at 0 Pine Plaza Drive, Annexation #584 into the Town's corporate limits

Staff oriented Council to the site. 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 WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 08 : Dianne Khin, Planning Director

Public Hearing and Ordinance 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

Staff oriented Council to the site. 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 ORDINANCE; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
COUNCIL MEMBERS MOYER, WILKIE, SCHULZE, AND DOZIER VOTED IN THE AFFIRMATIVE;
COUNCIL MEMBER JENSEN VOTED IN THE NEGATIVE.
THE MOTION CARRIED BY A 4-1 VOTE.

Council Member Jensen stated he was not happy with the PUD.

Public Hearing 09 : Amanda Bunce, Senior Planner

Public Hearing and various amendments to the Unified Development Ordinance

Staff oriented Council to the amendments, and answered several questions from Council. The Planning Board recommended approval as did staff.

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 WILKIE MADE THE MOTION TO APPROVE THE AMENDMENTS; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 10 : Shannon Cox, Transportation Planner

Public Hearing and amendment to the Transportation Plan's Thoroughfare and Collector Street Plan map as requested by the Town of Apex Planning Department

Staff oriented Council to the amendment. Staff did not recommend making the change and its reasons were presented. Staff did recommend alternate changes and those were presented. The Planning Board

recommended approval of the two proposed alternate staff amendments; staff detailed the Planning Board vote and the associated conditions.

Staff explained the various types of traffic calming devices, these devices not being recommended on minor collectors.

Mayor Olive declared the Public Hearing open.

John Grotevant, representing the residents of Padstone, spoke about their concerns about the speed of traffic. He requested Padstone go from a collector to a through street in order to get calming devices. The neck down calming device has not worked in this area. Signs have not worked. He asked that the Town do a traffic study for better data.

Keith Andes, resident, stated there are recreational fields across from Padstone. It is a safety hazard when cars go fast by this area.

Greg James, resident, stated there are speeding problems. He did not want to see Padstone create a problem at the top of the hill. He asked if it was possible to separate how the potential James Street extension is labeled.

Mayor Olive declared the Public Hearing closed.

Council asked the difference between a collector and a neighborhood street, staff explaining the various differences. Most notably, one would allow a speed bump and one would not. Staff additionally spoke about traffic studies by the Police Department (PD) and when they are most warranted. PD indicated speeding did not seem to be a problem in the area at this time.

Council stated she was not ready to make a decision on this this evening. She would like to see PD do a study. Staff stated PD has indicated the problems they have seen are related more to construction traffic. The Mayor stated it would be beneficial to have data on what is going on on Paddington. The Mayor stated this could be continued to the December 20, 2016 meeting if Council desired.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER SCHULZE MADE THE MOTION TO MOVE THIS ITEM
TO THE DECEMBER 20, 2016 MEETING; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

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 : Michael Clark, Senior Planner

Buckhorn Preserve Master Subdivision Plan for the properties located at 2301 and 2505 Richardson Road containing 124.642 acres and 340 single-family lots

Staff oriented Council to the Plan, pointing out a change in the distributed documents. The Planning Board and staff recommended approval. Staff answered Council questions on number of units and play lots.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER SCHULZE MADE THE MOTION TO APPROVE THE PLAN; COUNCIL MEMBER WILKIE SECONDED THE MOTION. COUNCIL MEMBERS SCHULZE, WILKIE, DOZIER, AND MOYER VOTED IN THE AFFIRMATIVE; COUNCIL MEMBER JENSEN VOTED IN THE NEGATIVE.

THE MOTION CARRIED BY A 4-1 VOTE.

New Business 02 : Brendie Vega, Principal Planner

Woodbury Master Subdivision Plan (formerly Bristol PUD) for the properties located at 2433, 2505, 2513, 2517, 2521 New Hill Olive Chapel Road containing ±149.995 acres and 311 single-family lots and 89 townhomes

Staff pointed to a change in the distributed documents and oriented Council to the plan. A neighborhood meeting was held. The Parks and Recreation Advisory Commission recommended a 10' multi use path, the pursuit of 10 additional acres for a future community center, and payment in lieu. The Planning Board and staff recommended approval.

Council spoke about concern for points of exit. He wished to propose a condition for connectors. Randy King, Pulte Group, clarified their establishing collectors and points of access throughout the neighborhood. He also spoke about dedication of right of ways. Council delegated staff the authority to work through the connector issue with the applicant in order to not come back before Council.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE THE PLAN WITH THE CONDITION RECOMMENDED BY STAFF AND WITH STAFF WORKING THROUGH THE CONNECTOR ISSUE WITH THE DEVELOPER; COUNCIL MEMBER SCHULZE SECONDED THE MOTION. COUNCIL MEMBERS MOYER, SCHULZE, AND WILKIE VOTED IN THE AFFIRMATIVE; COUNCIL MEMBERS JENSEN AND DOZIER VOTED IN THE NEGATIVE. THE MOTION CARRIED BY A 3-2 VOTE.

CLOSED SESSION

There were no Closed Session items for consideration.

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