



APEX TOWN COUNCIL MEETING

TUESDAY, DECEMBER 6, 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, December 6, 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, Council Member Wilkie gave the Invocation, and Mayor Olive led the Pledge of Allegiance.

PRESENTATION

Presentation 01 : Graham Wilson, Apex Sunrise Rotary Club
Presentation by Graham Wilson from the Apex Sunrise Rotary Club reporting on Peak City Pig Fest 2016

Mr. Wilson stated this was the first time Pig Fest had a title sponsor, which is a major money generator. There were approximately 30,000 in attendance and 48 cook teams. Added this year was a rib eating contest between Apex Police and Fire, and Mr. Wilson stated they are looking forward to making this a permanent part of the competition. The pig races, as always, were a crowd favorite.

They received a proclamation from the governor declaring this a state championship so that the winner could go to the national championship and qualify for the international championship. Downtown businesses were encouraged to become a part of the event, and they were offered free booths in front of their businesses for food.

Pig Fest has raised over \$100k in three years, with Western Wake Ministries being the biggest charity to which they donate. The competition has gained national recognition, and Mr. Wilson is engaged in telling others how the Apex event is organized. June 16-17, 2017 are the dates for next year. The contest will be part of the Old North State Championship, which will help attract more teams.

Presentation 02 : Mayor Lance Olive
Presentation of the Town of Apex Arbor Day Proclamation

Mayor Olive read and presented the proclamation to David Wood, Parks and Recreation, and several members of Tree CAP (Citizens Advisory Panel). He explained the purpose of this Panel and what it will be doing, including seeking to make Apex a Tree City USA.

Presentation 03 : Keith Joyce, Joyce and Company
Presentation of June 30, 2016 audit report from Joyce and Company

Mr. Joyce spoke briefly about the highlights of the audit, pointing to the distributed CAFR. Apex had a clean report and received the Certificate of Excellence for the 22nd consecutive year. Only 15% of municipalities across the county receive this Certificate. There were no severe material weaknesses, the purchase order process improved drastically from the prior year, previous New World issues have been resolved, and Mr. Joyce presented a few suggestions for improvement.

CONSENT AGENDA

- Consent 01 Minutes of the November 15, 2016 Regular Council Meeting
- Consent 02 Budget ordinance amendment for engineering studies in support of the Encroachment Proposal for future Richardson Road through the Little Beaver Creek Conservation Easement
- Consent 03 Amendment to Section 20-166 of the Town of Apex Code of Ordinances to apply the existing loading zone parking space restrictions on West Chatham Street, adjacent to Commerce Street, only on the days of Monday through Friday
- Consent 04 Resolution of Intent to consider the closing of a portion of James Street Extension, reserving a variable width electric easement, and calling for a Public Hearing at the January 17, 2017 Town Council Meeting
- Consent 05 Statement of the Town Council and Ordinance for Rezoning Case #16CZ23 Mercer Estates PUD, Jeff Roach, Peak Engineering & Design/Wimberly Estates, LLC, petitioners for the property located at 816 Wimberly Road
- Consent 06 Statement of the Town Council and Ordinance for Rezoning Case #16CZ28. Josh Lambert representing The Strong Rock Development Company is the petitioner for the property located at 1100 Center Street.
- Consent 07 Set the Public Hearing on December 20, 2016 for rezoning application #16CZ26 (Pricewood PUD) to rezone 86.93± acres located at 0, 1600, 1612, 1617, 1632, 1641 & 1645 Pricewood Lane from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ)
- Consent 08 Set Public Hearing for the December 20, 2016 Town Council Meeting regarding various amendments to the Unified Development Ordinance
- Consent 09 Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the Unified Development Ordinance (UDO) Amendments of November 15, 2016
- Consent 10 Pole Attachment Agreement with AT&T and authorize the Town Manager to execute same
- Consent 11 Budget ordinance amendment for \$40,000 for the estimated construction cost of Marco Drive Access

- Consent 12 Resolution designating Amanda Grogan and Jose Martinez as the town's agents for State and Federal Emergency Management issues related to Hurricane Matthew disaster assistance
- Consent 13 Set Public Hearing for the December 20, 2016 Town Council Meeting regarding various amendments to the Unified Development Ordinance regarding the Veridea Project
- Consent 14 Set Public Hearing for the December 20, 2016 Town Council Meeting regarding various amendments to the Unified Development Ordinance for the purpose of regulating Wireless Support Structures and Wireless Communication Facilities in the Town's Rights-of-Way
- Consent 15 Amendment to the Town's Utility Customer Service Polices to amend certain fees related to the reconnection of service and returned checks which are currently at the levels adopted in 1995
- Consent 16 Resolution authorizing sale of two parcels consisting of approximately 7.72 acres of land for \$200,000.00 subject to the upset bid procedure
- Consent 17 Set the Public Hearing on December 20, 2016 for rezoning application #16CZ25 (Harris Property PUD) to rezone 1.29± acres located at 2010 Laura Duncan Road (PIN 0752-08-1005) from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ)
- Consent 18 Apex Tax Report dated 10/20/2016
- Consent 19 Award of badge and service handgun to Lieutenant Wayne English who will retire from the Apex Police Department as of January 1, 2017

The Mayor stated that the dollar amount in Consent 11 was modified from \$40,000 to \$50,000.

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

REGULAR MEETING AGENDA

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

PUBLIC FORUM

Brenda Wells addressed issues with the company behind her property, Hard Rock. They have violated the noise ordinance on several occasions, the Police Department being heavily involved. Sometimes the noise is constant and sometimes it's not; therefore, it makes investigation difficult. Ms. Wells stated the noise starts about 5/5:30 in the morning and goes until 10:00 at night, and she explained the noises heard.

Hard Rock stated to her that they are running a third shift and explained to Police that this is how they make their money. They operate seven days a week. Ms. Wells spoke with the owner who refused to do anything about the noise unless he's made to do so. She's made recordings of the noise on her phone. Ms. Wells stated this company should not be zoned to work in this area. The Town Manager will look into this.

Steve Swamp stated there is a growing problem in Apex and Wake County – folks are growing older. Senior care becomes necessary in many cases. He was seeking placement for his mother-in-law, but there were no long-term Medicare beds available within a 20 mile radius of Apex. All beds are full in the one such facility in Apex. A new facility is planned for Apex, but it will fill almost as soon as it opens. We need to be aware of the shortage, and Mr. Swamp asked that staff be directed to try to bring more such facilities to Apex.

Michael Hawley spoke about the development on Evans Drive. He met with the engineer and looked at the layout of the lots. He was told the houses would be the same style as those in Bella Casa. He asked that the Town monitor to ensure this is done, paying attention to drainage. He additionally asked for maximum privacy and compatible, similar-styled homes and aesthetic values.

Michael Hicks, Mobilitie, spoke regarding Consent Item 14. They are the largest such infrastructure company in the country. He asked that with the new ordinance, the town evaluate potential heights in certain parts of town. They would like to go to 75 feet in some areas. They wished to bring 5G to Apex and to avoid as many obstacles as possible.

PUBLIC HEARINGS

Public Hearing 01 : Brendie Vega, Principal Planner

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). This item is being continued from the November 15, 2016 Town Council Meeting.

Staff stated this was a continuation from the last Council meeting and oriented Council to the site. At the last meeting, Council talked about lot sizes and densities. No further information has been received from the applicant.

The applicant, Josh Lambert, stated it was difficult to talk about lot sizes and densities. Responding to Council, he stated the density was at 1.6 on the 28.8 acres. Minimum lot size has not been determined

as it's subject to change since topography figures into the layout. Council reminded the applicant that at the last meeting it was noted to him this would not be compatible with other developments in the area. The applicant talked about average lot sizes. The Mayor summed up the three conditions the applicant was offering.

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

Council discussed why they would and would not be in favor of this request. Council understood there were restraints with the Tobacco Trail.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER WILKIE MADE THE MOTION TO APPROVE THE APPLICATION WITH THE THREE CONDITIONS OFFERED BY THE APPLICANT; COUNCIL MEMBER MOYER SECONDED THE MOTION.

There was further Council conversation about compatibility with other developments in the area, specifically average lot sizes. The applicant additionally offered a Type B Buffer.

COUNCIL MEMBERS WILKIE, MOYER, JENSEN, AND DOZIER VOTED IN THE AFFIRMATIVE;
COUNCIL MEMBER SCHULZE VOTED IN THE NEGATIVE.
THE MOTION CARRIED BY A 4-1 VOTE WITH THE FOUR OFFERED CONDITIONS.

An audio recording of the following Quasi-Judicial Public Hearings made by the Town Clerk is incorporated into these Minutes by reference. The audio recording or transcript of the Hearings should be used as the verbatim record of the questions, testimonies, evidentiary rulings, and discussions that occurred at the Quasi-Judicial Hearings.

Public Hearing 02 - Quasi Judicial : Amanda Bunce, Senior Planner

Major Site Plan for Apex High School Renovations, 50.57 acres located at 1501 Laura Duncan Road

Those wishing to speak were sworn in by the Town Clerk.

Mayor Olive declared the Public Hearing open.

OPENING STATEMENT BY APPLICANT: Everett Bolton, Attorney, representing the school board, introduced himself.

There was no one in attendance who opposed the Plan.

There were no observations from Council related to the site, and there were no relational or financial conflicts. Council Member Wilkie stated she could be unbiased even though she previously worked at the school.

TESTIMONY BY STAFF: Amanda Bunce presented her credentials and oriented Council to the site. Two neighborhood meetings were held. Staff recommendations were addressed in the Plan, including a repeater to assist public safety.

CROSS OF STAFF BY APPLICANT: None.

TESTIMONY BY APPLICANT: Renee Pfeiffer, landscape architect with CLH Design, presented her credentials and provided an overview of the site plan.

CROSS OF APPLICANT BY COUNCIL: Ms. Pfeiffer answered Council questions related to ball fields, stormwater management, and traffic and parking flow.

CROSS OF APPLICANT BY COUNCIL: Donna Francis, architect, presented her credentials and answered Council questions related to square footage and retrofitting the roof tops for conduits.

TESTIMONY BY APPLICANT: Ashley Clowes, engineer, presented her credentials. They formulated the impact analysis, working with the Town on recommendations. They are in agreement with what was recommended by staff, and she outlined those recommendations.

REBUTTAL BY STAFF: None.

REBUTTAL BY APPLICANT: None.

CLOSING STATEMENT BY APPLICANT: Mr. Bolton requested approval of the Plan based on all standards being met.

CLOSING STATEMENT BY STAFF: None.

Mayor Olive declared the Public Hearing closed.

Mayor Olive went over the Standards with Council. For Standard 7, Council was not thrilled with the Type E buffer, although it met the UDO. He stated that the school and Town could partner so that the Town could use the turf field.

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

Mayor Olive called a five minute recess with no objection from Council.

Public Hearing 03 – Quasi Judicial : Mike Clark, Senior Planner

Major Site Plan for Meridian at Ten Ten, 19.55 acres located at 2005, 2021, and 2023 Ten Ten Road

Those wishing to speak were sworn in by the Town Clerk.

Mayor Olive declared the Public Hearing open.

OPENING STATEMENT BY APPLICANT: Jason Baron, Morningstar Law Group, stated he would be representing the applicant.

All Council Members stated they had no conflicts and that this case could be heard impartially. No Council Members had visited the site.

TESTIMONY BY STAFF: Mike Clark presented his credentials and oriented Council to the site.

CROSS OF STAFF BY COUNCIL: Staff responded to questions regarding color schemes.

CROSS OF STAFF BY APPLICANT: None.

TESTIMONY BY APPLICANT: David Lasley, Piedmont Land Design, presented his credentials. He stated the typography, transition lines, and easements have been challenging. He addressed the Standards. Mr. Lasley stated they are excited about bringing this project to Apex.

CROSS OF APPLICANT BY COUNCIL: Council stated a citizen questioned the US1 Ten Ten bridge, Mr. Lasley responding that this was beyond the scope of anything they could do in their project. They were, however, making improvements via the TIA.

TESTIMONY BY APPLICANT: Mark Barker, Northview Partner, presented his credentials. He stated they were requesting a single palette of colors for various reasons and he stated those. Basically, it's their preference and feel it's the best way of doing the project. They were evaluating pre-wiring for solar.

Mr. Baron asked for the staff report to be entered into evidence.

There were no opponents to the project.

REBUTTAL BY STAFF: None.

REBUTTAL BY APPLICANT: None.

CLOSING ARGUMENT BY APPLICANT: Mr. Baron asked for approval as all Standards had been met.

CLOSING ARGUMENT BY STAFF: None.

Council asked about the traffic study proposed by staff, the applicant stating it had been incorporated into the Plan.

Mayor Olive declared the Public Hearing closed.

Mayor Olive went over the Standards. For Standard 1, Council stated this was not a live/work project.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER WILKIE MADE THE MOTION TO APPROVE
THE SITE PLAN; COUNCIL MEMBER SCHULZE 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 : Tim Donnelly, Assistant Town Manager

Direction to staff on possible additions to the Town of Apex Cemetery

Staff presented a brief history on the cemetery, which is now full with a waiting list. Several citizens have approached us with scenarios to make more spots; staff detailing three of those scenarios. The cemetery is not a money maker for the Town; it's a service we provide. Staff explained what maintenance we do and stated we don't do vertical stacking.

Staff stated Tom Seagroves was willing to purchase land from the Seymour heirs, have it zoned properly, and turn it over to the Town if the Town agreed to the land being used for his family at \$125/plot. The Town would additionally need to perpetually maintain the land. Mr. Seagroves talked about how the cemetery ran out of space in previous years and how he's willing to assist the Town with acquiring more land. Staff reminded Council that this would mean the Seagroves incurring quite a bit of expense.

Mr. Smith would like the Town to buy back the piece of land he has, which would not be in line with our policy since the records are not as good as we would like. There are bodies interred but we are not sure how many. Staff could meet with Mr. Smith, see how many viable plots he has, and then pay him the customary rate or more. We would do as much due diligence as possible, and even ask Mr. Smith to offer down because of our not knowing the number of interred bodies.

Council was in agreement with staff pursuing a possible agreement with Mr. Seagroves for \$125/burial plot and bringing this back to Council for final approval. Council was also in agreement with pursuing a possible agreement with Mr. Smith for purchasing his land at \$600/burial plot, the number of plots to be determined, and bringing this back to Council for final approval.

New Business 02 : Council Member Bill Jensen

Revised Development Investment Grant Policy

Council stated Committee is trying to help the smaller businesses come in. He talked about the State matching grant, how this would help businesses come in, and how it would help bring us to the table. The grants would not have to be awarded if we do not wish so. The Committee tried to make this policy so that we would be at the front of the list. It can be changed later if we become inandated.

Staff stated previous guidelines were very broad and not defined. Having a policy is important for site consultants. This is not a given; each would be looked at case by case. She further explained how the

policy would work, citing examples. Council and staff discussed this process, its pros and cons and benefits and pitfalls. Staff also made it clear that this would not be a reward.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO ADOPT THE REVISED POLICY AS WRITTEN; COUNCIL MEMBER JENSEN SECONDED THE MOTION. COUNCIL MEMBERS MOYER, JENSEN, DOZIER, AND WILKIE VOTED IN THE AFFIRMATIVE; COUNCIL MEMBER SCHULZE VOTED IN THE NEGATIVE. THE MOTION CARRIED BY A 4-1 VOTE.

CLOSED SESSION

Closed Session to (1) discuss negotiating positions to be taken on behalf of the Town in negotiating material terms of a proposed contract for the acquisition of real property; and (2) to consider possible settlement of a claim

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