



## APEX TOWN COUNCIL MEETING TUESDAY, JANUARY 5, 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, Interim Town Manager  
Tim Donnelly, Interim 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, January 5, 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 Interim Town Manager Drew Havens, Interim Assistant Town Manager Tim Donnelly, Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe

### COMMENCEMENT

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

### PRESENTATIONS

#### **Presentation 01 : Mayor Olive**

#### **Presentation of Service Award to Lisa Carley**

Mayor Olive stated Ms. Carley spent time with the Town of Apex on the Planning Board. He read the plaque which was then presented to her. Ms. Carley stated it was a pleasure serving and working with great people, staff, and leaders. The common goal was making Apex the best it could be.

#### **Presentation 02 : Allie Prelaske, Senior and Special Populations Program Specialist**

#### **Presentation on the Retire NC program**

Staff stated we were asked to research this program, which basically is to encourage economic development. Council was shown what Pittsboro, for example, gets on the program website. Outlined were the requirements to join, benefits to the increasing senior population, and the cost of the program. Staff did not find any real value in joining. Pittsboro did not fund the program, and it is hard to quantify if the program is successful. They will probably renew, and Pittsboro will contribute 25% of the cost.

Mayor Olive reminded Council that it wanted more information on this program. There are some possibilities for Council – do nothing; send this to committee; or if there is sufficient motivation, entertain a motion for something else. Council weighed in and stated she wanted to hear more from her colleagues, but she was not sure this was something we should pursue now. Maybe we already have the capacity to do some of the things that the program does. Several Council Members were in agreement. If the private sector wants to pursue this, then the Town would be willing to be the applicant.

Mayor Olive thanked staff for the information and time spent. We will put this on the shelf for now to be picked up at a later time if we wish.

## CONSENT AGENDA

- Consent 01 Changes to Section 6-7 of the Code of Ordinances related to the maintenance of the Town's Cemetery
- Consent 02 Changes in our official representatives the ElectriCities Board of Commissioners and Rate Committee
- Consent 03 Statement of the Town Council for Rezoning Case #15CZ26, Baker Residential/Glenda Toppe, petitioners for the property located at 4105 Green Level West Road, 0 and 809 Wimberly Road
- Consent 04 Statement of the Town Council and Ordinance for Rezoning Case #15CZ35, Jason Bertoncino, petitioner for the property located 2299 Toad Hollow Trail
- Consent 05 Set the Public Hearing on January 19, 2016 for Rezoning application #15CZ32 (Smith Farm) and Ordinance to rezone 23 parcels totaling 270.514± acres located south of US 64, east of the American Tobacco Trail, and north of Olive Chapel Road, from Residential Agricultural (RA) and R-80W to Planned Unit Development – Conditional Zoning (PUD-CZ)
- 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 Western Wake Ventures, LLC property (Deer Creek) containing 78.708 acres located east side of New Hill Holleman Road and south of US 64 W Annexation #561 into the Town's corporate limits
- Consent 07 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 (see attached list-Exhibit A; Smith Farm) properties containing 271.862 acres located on the north side of Olive Chapel Road, east of the American Tobacco Trail and north of Richardson Road, Annexation #562 into the Town's corporate limits
- Consent 08 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 James and Tiffany Stopper property containing .8851 acres located at 1404 Salem Church Road, Annexation #563 into the Town's corporate limits

- Consent 09 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 JVI Development II, Inc. (Manors Phase 8C) property containing 7.5585 acres located at 2919 Evan Road, 0, 2813 and 2817 Walden Road, Annexation #564 into the Town’s corporate limits
- Consent 10 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 Beth H. Rhew property (Deer Creek) containing 3.003 acres located at 417 and 425 New Hill Holleman Road, Annexation #565 into the Town’s corporate limits
- Consent 11 Set the Public Hearing on January 19, 2016 for possible changes to Peak Plan 2030: The Apex Comprehensive Plan to reduce Medium Density Residential from 6 units per acre to 5 units per acre; and 2030 Land Use Map Amendments
- Consent 12 Set Public Hearing for the January 19, 2016 Town Council Meeting regarding various amendments to the Unified Development Ordinance
- Consent 13 Set Quasi-Judicial Public Hearing for the January 19, 2016 Town Council Meeting regarding a Major Site Plan for The Flats at 540, a portion of 28.561 acres located at 2501 Creekside Landing Drive
- Consent 14 Statements of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the Unified Development Ordinance (UDO) Amendments of December 15, 2015
- Consent 15 Statement of the Town Council and Ordinance for Rezoning Case #15CZ15, Standard Pacific Homes, petitioners for the property located 1523 and 0 Salem Church Road
- Consent 16 Set Public Hearing for the January 19, 2016 Town Council Meeting regarding Rezone #15CZ36 to rezone 1.75 acres located at the northwestern quadrant of the intersection of Kelly Road and Olive Chapel Road from Neighborhood Business Conditional Use to Neighborhood Business Conditional Zoning
- Consent 17 Town of Apex requested easement for the purpose of installing electrical facilities on jointly owned property at the Cary/Apex Water Treatment Facility (CAWTF), 1400 Wimberly Road in Apex
- Consent 18 Town of Apex requested easement for the purpose of installing electric and water lines on jointly owned property at the Beaver Creek Pump Station in Apex
- Consent 19 Apex Tax Report dated 11/09/2015
- Consent 20 PULLED TO BE DISCUSSED AS NEW BUSINESS: Co-sponsoring with the Apex Downtown Business Association a Founders Day Celebration on Saturday, March 19, 2016

Council Member Moyer asked to pull Consent 20 for further discussion. Mayor Olive stated it would go to New Business 01. A correction to Consent 01 was distributed because of a typo.

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

## REGULAR MEETING AGENDA

Mayor Olive asked if there were any requested changes to the Regular Agenda to which there were none.

## PUBLIC FORUM

JC Knowles stated this was his first opportunity to officially congratulate the newly elected officials and the entire board for the hard work that they will be doing in the next year. He asked Council to dispel with any vendettas or vindictive issues so that every action would be in the best interest of all citizens of Apex. Citizens say we truly live in the greatest town in America, and they respect and support the Council and will work with them to make Apex even greater.

Tom Colhoun spoke about notifications and the 2030 Land Use Plan. He didn't understand the arbitrary way of picking areas of property to make changes to when it took 1½ years for the entire town to come together and make the map. Notice of this went only to those folks in the specified areas. He asked about vertical mixed-use and the definition of such. Would it have not been better to identify those who would be impacted most and meet with them for clarifications before going to a public hearing? Mr. Colhoun did not understand the 24-hour notice for a planning session and then not allowing citizens to speak. If Council is going to be transparent, then it needs the voice of the people to be heard.

Bob Kelly outlined his family's history in the area. He is trying to age in place, but it's getting more and more difficult. There is an Unfinished Business item on a study of properties in the Friendship and New Hill areas. He and his neighbors have been excluded from a lot of discussions from neighboring towns. Let's not make the same mistakes that have been made in the past. He encouraged Council to get a representative from his area to be on the study so as to get their input. He stated some of the large land owners have this for their retirement.

A student talked about the issue of parking at someone's house. She has heard they are not allowed to do this and talked about how difficult it would be if this is not allowed. She asked not to enforce a change until the new high school is built.

Lynne Smith in reference to the parking situation in Knollwood stated she was told that very soon she would not be able to park in Knollwood and expressed how stressful this would be for the students. She parks in Mr. Graff's yard, and a large number of cars are parked in other residents' yards. She gave the benefits of this, and stated taking the spots away would be a hardship.

Linda Barrett asked for parking not to be addressed until the end of the year, listing some of the difficulties if it were. Next year won't be such an issue with the new school coming online. She found out Sunday that there wouldn't be space to park on Monday. The kids should be home studying for exams, but they were at this meeting because this is important. She asked Council to determine if there are any emergent issues that would make this happen now vs. waiting until the end of the school year.

Mayor Olive stated the concerns were heard and that we are looking at alternative solutions. Council asked to pass this on to the Planning Committee to determine options and then come back with suggestions. Staff stated this could be deferred until the next Planning Committee meeting. The action was being driven by residents in the area who complained numerous times. We realize students don't need this stress, and that is not our intent. Staff would need to know if Council wants to change its law and if it wanted the Planning Committee to come up with a suggestion. The Mayor proposed that after the Planning Committee meeting, Council would consider the output from the Committee for the first meeting in February. The matter would then go to the Planning Board and back to Council for a decision. Council asked that the Committee understand this would only be temporary until next year.

## **PUBLIC HEARINGS**

**Public Hearing 01 : Dianne Khin, Planning Director**

**Public Hearing and Ordinance on the Question of Annexation – Apex Town Council's intent to annex Ronald and Ellen Rose, Thomas E. and Jeanne Whittlesey, Grayson and Blaine Kelley and HYCK Associates (The Reserve at Beaver Creek) property containing 41.612 acres located at 1201, 1309, 1313, 1325 & 1333 Kelly Road, Annexation #560 into the Town's corporate limits**

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

## OLD BUSINESS

---

Old Business 01 : Council Member Bill Jensen

Reconsideration of Parkside at Bella Casa, Phase 14 - Master Subdivision Plan - for the property located at 2324 Mt. Zion Church Road containing 10.1 acres and 52 lots

Council explained why he was against this at first. However, After review, he found the densities and amenities are acceptable for the development as a whole. Therefore, he wished to bring this back before Council for reconsideration.

MAYOR OLIVE CALLED FOR A MOTION TO BRING THIS BACK BEFORE COUNCIL FOR RECONSIDERATION. COUNCIL MEMBER JENSEN MADE THE MOTION; COUNCIL MEMBER SCHULZE SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE MASTER SUBDIVISION PLAN. COUNCIL MEMBER JENSEN MADE THE MOTION; COUNCIL MEMBER SCHULZE SECONDED THE MOTION.

Staff clarified the types of buffers for the project.

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

## UNFINISHED BUSINESS

---

Unfinished Business 01 : Stacie Galloway, Communications Manager

Selection of a winning design from the public logo contest

Staff stated that in August it asked for permission to paint a new design on the water tower. Prior to this, staff came up with a design with the help of a committee, but Council stated it wanted a public contest. One hundred submittals were received, a lot from young people and as far away as California. An internal staff committee narrowed the submittals down to two.

The Mayor asked if Council had sufficient options or if it wanted to discuss this further. Council stated he was not overly enthused with either design. He found two that he liked in the 100 that were submitted. He wanted Council to review all of the options or to reconsider a few more that he saw. He wanted this done right. Council asked about the committee, staff stating it was mostly internal. One member was a marketing consultant from the outside. This member pointed out what would and wouldn't go well for end products. Council stated he didn't want to make a decision this evening. Pointed out was the problem that the water towers are being painted, and we need to get something on them.

The Mayor stated his understanding was the base color could be done on the next one and then come back to the first one with a design. This wouldn't hurt from a cost perspective. Sometimes committees can get things just okay. He was fine with picking several more designs from the mix and having Council explain what was liked about them. Staff is competent enough to make design changes. The Mayor pointed out he did not want this to take months and didn't think anyone was trying to do so.

COUNCIL MEMBER SCHULZE MADE A MOTION FOR COUNCIL TO SUBMIT TWO TO THREE OF THEIR FAVORITE DESIGNS TO THE COMMUNICATIONS MANAGER WITHIN THE NEXT WEEK OR SO. SHE WILL PUT THE DESIGNS TOGETHER TO RESUBMIT AND THEN COUNCIL WOULD BE PREPARED TO VOTE. MAYOR OLIVE CLARIFIED NO MORE THAN TWO SUBMITTALS AND THAT THEY WOULD BE SUBMITTED THIS WEEK. COUNCIL MEMBER JENSEN SECONDED THE MOTION.

Council stated he did not see the notice asking for citizen input and asked how involved were the creative people in Apex. Staff stated this was publicized through social media and the internet. Some submittals were from Apex. She was not sure what more could have been done to receive more submittals from Apex. The Mayor stated we should have a traditional and a modern design as agreed to in the first place.

THE MOTION CARRIED BY A 5-0 VOTE.

**Unfinished Business 02 : Dianne Khin, Planning Director**  
**Proposed 2035 Land Use Map - Economic Study**

Staff stated meetings took place to discuss the potential for a study area to find better land uses for the community and for neighborhood mixed use nodes. The circles on the map are generic and underlying land uses were not defined because they were not a part of the original process. Staff explained why there is new interest in the area as well as stating the goal of the study. We would like to complete the study in three to four months. The Planning Committee recommended going forward, and the requirements were detailed. The Planning staff also recommended going forward so it can have better guidance.

Council stated the Committee discussed how to go about and how to minimize any property owners in the area. He understood the New Hill folks want to be more directly involved. At the end of the process, there will be a public hearing. Staff stated there will be three to four public meetings and then potentially one public hearing. Council stated we would have a lot of community input.

COUNCIL MEMBER JENSEN MADE A MOTION BASED ON THE PLANNING COMMITTEE'S SUGGESTION TO PARTICIPATE IN THIS STUDY TO A MAXIMUM OF \$28,000; COUNCIL MEMBER DOZIER SECONDED THE MOTION.

Council asked for clarification of the suggested guidelines as to property owners being under contract on their property, which staff provided. Responding to Council, staff clarified questions from Council on an area not on the map. This can be talked about off line, as agreed to by Council members. Staff clarified what the \$28,000 would encompass. The Mayor explained what the study will and won't tell us. The outcome will be an economic analysis and forecast with a breakdown of use types. It will also explain what the market will bear. Staff explained it is not equipped to do this study, because no one has the economic background and expertise.

THE MOTION CARRIED BY A 5-0 VOTE.

## NEW BUSINESS

**Added New Business 01: Council Member Moyer – from Consent Agenda 20**

**Co-sponsoring with the Apex Downtown Business Association a Founders Day Celebration on Saturday, March 19, 2016**

Council asked for more information on Founders Day. JC Knowles stated this would be discussed this week at their next meeting. When they have events such as this, they ask the Town to help advertise and promote the events. He did not foresee asking for funds or the closing of streets, but they were asking to use the Halle at no charge. They may also ask for a brochure to be put on the website. Staff stated we need to be a co-sponsor in order for the sign to go up on Salem Street.

Mr. Knowles spoke about the property on Salem and Sanders which the Town agreed for him to decorate. A citizen built the little free library and gave it to downtown for the garden. This has received national attention, and they have not asked the Town for money for its upkeep.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE THE REQUEST; COUNCIL MEMBER JENSEN SECONDED THE MOTION.

THE MOTION CARRIED BY A 5-0 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