



Apex Town Council Meeting

Tuesday, May 2, 2017

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
David Hughes, Assistant Town Manager
Shawn Purvis, Assistant Town Manager
Donna B. Hosch, MMC, NCCMC, Town Clerk
Laurie L. Hohe, Town Attorney

The Regular Meeting of the Apex Town Council scheduled for Tuesday, May 2, 2017, 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 Shawn Purvis, Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe

COMMENCEMENT

Mayor Olive called the meeting to order, Pastor John Mark Harrison of Apex Baptist Church gave the Invocation, and Mayor Olive led the Pledge of Allegiance.

PRESENTATIONS

There were no Presentations made.

CONSENT AGENDA

- Consent 01 Amendment to Code of Ordinances Section 20-162 regarding parking in town owned and leased parking lots
- Consent 02 Resolution that the Town of Apex has no objection to the relinquishment of 15 acres of property within the Swift Creek Watershed from Raleigh's ETJ to Wake County
- Consent 03 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 Don and Sharon Lawrence (Jordan Point Pump Station #2) property containing 2.2765 acres located on Horton Road, northwest of Horton Ridge Drive, Annexation #599 into the Town's corporate limits

- 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 Judith Louise Freeman (Ellington Cove) property containing 7.8933 acres located at Laura Duncan Road and Bay Bouquet Lane, Annexation #600 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 Sarah Fowler, Gerald and Sandra Harris (The Reserve at Mills Farm) property containing 11.23 acres located at 2010 and 2030 Laura Duncan Road, Annexation #602 into the Town's corporate limits
- Consent 06 Rescind prior award and award a construction contract and authorization for the Town Manager to execute same for U-5118 AE NC 55 Operational Improvements
- Consent 07 Municipal agreement with NCDOT to secure 70% of the project construction cost in federal funds, requiring 30% matching local (Town of Apex) funds for James Street to Downtown Apex Pedestrian Project, TIP Project No. U-5530 AC and Capital Project Ordinance Amendment to appropriate funds for preliminary work on the project
- Consent 08 Budget Ordinance Amendment Numbers 29 and 30 for reimbursement to be made to MREC KLP Stillwater LLC per the Developer's Agreement
- Consent 09 Set the Public Hearing on May 16, 2017 for rezoning application #17CZ05 (Jordan Pointe Pump Station #2) and Ordinance to rezone 2.28± acres located at 0 Horton Road from Wake County R-80W to Rural Residential (RR)
- Consent 10 Set the Public Hearing on May 16, 2017 for rezoning application #17CZ06 (Jordan Manors PUD amendment). The applicant, Meritage Homes seeks to rezone approximately 121.10± acres located at 0, 2208, 2312, 2340, 2408, 2412, 2424 New Hill Olive Chapel and 9225 Barker Road from Planned Unit Development-Conditional Zoning (PUD-CZ #15CZ05) to Planned Unit Development-Conditional Zoning (PUD-CZ).
- Consent 11 Set the Public Hearing on May 16, 2017 for rezoning application #17CZ07. The petitioner, Jeff Mangum from Triangle Landscaping Supplies, wishes to rezone +/- 4.83 acres located at 2010 Lufkin Road (PIN 0751174098) from Light Industrial - Conditional Use (LI-CU) to Light Industrial - Conditional Zoning (LI-CZ).
- Consent 12 Encroachment Agreement and authorization for the Town Manager to execute the same for fence to encroach across a portion of the 20 foot wide Sanitary Sewer Easement

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE CONSENT AGENDA. COUNCIL MEMBER SCHULZE

MADE THE MOTION; COUNCIL MEMBER MOYER SECONDED THE MOTION.

THE MOTION CARRIED BY A 5-0 VOTE.

REGULAR MEETING AGENDA

The Manager requested the addition of a Closed Session item to instruct staff on the Town's negotiating position in relation to acquiring property.

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

PUBLIC FORUM

Cindy Foster, Mary Lee Blatchford, Ron Ateshian, Josh Bloom, Scott Dupree, Jimmy Perry, and Marlow Campbell all stated support for the full bond and presented the following types of comments: the tax dollars would be well used; if we don't act now, the window of opportunity will close and future generations will be short changed; field space is hard to come by right now and fields at Pleasant Park would help to bring in tournaments and revenue for the Town; the fields would help with quality of life; CAPS also has support for this; wanted is for teams to play and stay in Wake County.

Ken Fersch stated he'd given Council a *Proposed Bill of Rights for Citizens Neighboring New Development Projects* and that he had not heard back from anyone.

The Mayor thanked everyone for coming out and ensured them the Council heard what they had to say. He stated to Mr. Fersch that staff has been going through the notebook he presented and finding things to work on. We will be able to talk more thoroughly further down the road.

PUBLIC HEARINGS

Public Hearing 01 : Drew Havens, Town Manager

Public Hearing to receive citizen input on the Fiscal Year 2017/2018 Town Budget

The Manager gave a brief history of how this year's budget was formulated. An overview of the budget was presented.

Mayor Olive declared the Public Hearing open.

Mark Blatchford spoke about the five key questions the budget needed to answer for him as he sat through several budget meetings. He was impressed with the amount of thought and detail that went into the budget on the part of staff and was confident it will serve the needs of the community.

Charles Sandhofer stated he is on the finance committee at his condo community and spoke about trash pick-up fees. Most of the people paying the fees don't require the service as they only own the interior

of their units. He noted that apartments are exempt from these assessments. He felt funds were available in the budget to exempt condos also.

Carlaine Reynolds with the Farmers' Market stated they have strived hard to be a Saturday morning destination and named the activities going on there. They want to continue to grow and are pleased with the support they receive from the town.

Audra Killingsworth stated she is taking her children to Cary to use their summer camps. She spoke about the conveniences in Cary for working parents that Apex doesn't have. She asked that the Parks and Recreation budget be increased so that full time working parents can take advantage of Apex's programs.

Jennifer Ferrell supported the budget as related to Parks and Recreation Phase II of the Middlecreek Greenway. She spoke about the poor connection right now and how difficult it is to get around on the roads. There is little to no sidewalk space, and she goes to other towns to shop because it's easier. She has had successful communication with the Parks and Recreation staff and asked Council to approve the amount requested.

Mayor Olive declared the Public Hearing closed.

Council asked about the upcoming workshop which the Manager stated will be scheduled soon.

An audio recording of the following two 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 Hearing.

Public Hearing 02 - Quasi-Judicial : Shelly Mayo, Planner

Quasi-Judicial Public Hearing and application for a Special Use Permit (#17SUP01) for Heritage Leadership Academy located at 2030 East Williams Street in the Hope Community Church building

The Mayor explained the process of the Checklist.

Mayor Olive declared the Public Hearing open.

All those wishing to speak were sworn in by the Town Clerk.

Paul Stam, Attorney, stated he was representing the applicant, and he introduced their witness, Josh Renke.

There was no opposition to the request.

Mayor Olive asked Council if there were any relational or financial conflicts and if all could decide the matter impartially based on evidence. There were no conflicts and all stated they could make an impartial decision. Two Council members stated they attend church at or near the campus, but would be able to decide impartially. Mayor Olive asked Council if they had viewed the site, all answering in the negative.

OPENING STATEMENT BY APPLICANT: Mr. Stam stated Georgeanna Wiest would be the head of what would be a new private school. Mr. Renke would talk about how traffic will be managed.

EVIDENCE PRESENTED BY STAFF: Shelly Mayo stated her position and presented her credentials. Staff oriented Council to the site and explained this was coming back before Council to add an additional use. A neighborhood meeting was held. Staff recommended approval.

CROSS EXAMINATION OF STAFF BY COUNCIL: Council asked about the maximum number of students.

CROSS EXAMINATION OF STAFF BY THE APPLICANT: Staff answered questions posed by Mr. Stam.

EVIDENCE PRESENTED BY THE APPLICANT: The applicant, Georgeanna Wiest, identified herself and answered questions posed to her regarding the operations of her school [Heritage Leadership Academy] by Mr. Stam.

CROSS EXAMINATION OF APPLICANT BY COUNCIL: The applicant answered questions posed by Council. Responding to Mr. Stam, the applicant described how they will serve financially disadvantaged students.

CROSS EXAMINATION OF WITNESS BY APPLICANT: Joshua Renke identified himself and presented his credentials. His company provided the Traffic Impact Analysis. He explained their analytical process and some of the results.

CROSS EXAMINATION OF WITNESS BY COUNCIL: Mr. Renke answered Council questions about carpooling.

REBUTTAL BY STAFF: None.

REBUTTAL BY APPLICANT: None.

CLOSING ARGUMENT BY APPLICANT: The applicant waived providing a closing argument.

Mayor Olive declared the Public Hearing closed.

There were no Council remarks related to the Checklist.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE
SPECIAL USE PERMIT; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 03 - Quasi-Judicial : Amanda Bunce, Principal Planner

Quasi-Judicial Public Hearing and Major Site Plan for Westford Apartments, 24.72 acres located at 0 Jenks Road and 2900 & 3300 US 64 Hwy West (north of US 64 between Jenks Road and Sunset Meadows Drive)

Mayor Olive declared the Public Hearing open.

IDENTIFICATION OF APPLICANT: Jason Barron, Morningstar Law Group, identified himself as representing the applicant.

IDENTIFICATION OF OPPONENTS: None.

Mayor Olive asked Council if there were any relational or financial conflicts and if all could decide the matter impartially based on evidence. There were no conflicts and all stated they could make an impartial decision. Mayor Olive asked Council if they had viewed the site, all answering in the negative.

OPENING STATEMENT BY APPLICANT: Mr. Barron stated they believed their application satisfied all conditions and asked for Council approval.

OPENING STATEMENT BY STAFF: None.

EVIDENCE PRESENTED BY STAFF: Amanda Bunce stated her position and presented her credentials. Staff oriented Council to the site. A neighborhood meeting was held.

CROSS EXAMINATION OF STAFF BY COUNCIL: Staff answered questions posed by Council related to buildings, traffic, and buffers.

CROSS EXAMINATION OF STAFF BY APPLICANT: None.

TESTIMONY OF WITNESS: Matt Ansley, J. Davis Architects, presented his credentials. Mr. Ansley presented information on the buildings which would be located on the site.

CROSS EXAMINATION OF WITNESS BY COUNCIL: Mr. Ansley answered questions posed by Council.

CROSS EXAMINATION OF WITNESS BY STAFF: None.

TESTIMONY OF WITNESS: Peter Clossen, Jones and Clossen Engineering, PLLC, presented his credentials and work experience. Mr. Clossen stated they have worked closely with staff on this request and asked Council for approval. He detailed elements of the site.

CROSS EXAMINATION OF WITNESS BY COUNCIL: Mr. Clossen answered questions posed by Council.

CROSS EXAMINATION OF WITNESS BY STAFF: None.

TESTIMONY OF WITNESS: Kevin Dean, Kimley-Horne and Associates, Inc., stated his position and presented his credentials. His firm worked with DOT and staff to come up with a traffic study for the area. He stated the improvements they recommended.

CROSS EXAMINATION OF WITNESS BY COUNCIL: Mr. Dean answered questions from Council.

CROSS EXAMINATION OF WITNESS BY STAFF: None.

TESTIMONY OF APPLICANT: Mr. Barron asked Eric Rifkin, The Halle Companies, questions which clarified earlier questions of Council.

REBUTTAL BY STAFF: None.

REBUTTAL BY APPLICANT: None.

CLOSING ARGUMENTS BY STAFF: None.

CLOSING ARGUMENTS BY APPLICANT: Mr. Barron stated they believed all testimony pointed to satisfaction of the conditions. He asked Council for approval of the request.

Staff answered questions posed by and which clarified earlier concerns of Council.

Mayor Olive declared the Public Hearing closed.

In reviewing the Checklist items, Council expressed concern about what she saw as an adverse impact based on what's been planned and is already underway in the area since approval of the PUD. Council asked questions related to taxes and the percentage of apartments. Council expressed concern about traffic congestion. Council stated he felt this was the best we would see on this site.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE SITE PLAN WITH A MINIMUM OF A TYPE B BUFFER ALONG JENKS ROAD WHEREVER THE ROAD IS DISTURBED; COUNCIL MEMBER WILKIE SECONDED THE MOTION.

Council asked staff to apply extra scrutiny to upcoming projects. Council stated he hoped the developer would put as much non-residential on the remainder of the PUD as possible.

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 04 : Dianne Khin, Planning Director

Public Hearing and Ordinance on the Question of Annexation – Apex Town Council's intent to annex Erick C. and Zulice C. Juarez property containing .804 acres located at 1101 Twin Creek Road, Annexation #601 into the Town's corporate limits

Staff oriented Council to the site. A neighborhood meeting was held. 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.

OLD BUSINESS

There were no Old Business items for consideration.

UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

NEW BUSINESS

There were no New Business items for consideration.

CLOSED SESSION

Laurie Hohe, Town Attorney

Closed Session to (1) consult with the Town Attorney, and (2) instruct staff on the Town's negotiating position in relation to acquiring property

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 RETURN TO OPEN SESSION WITH NO OPPOSITION FROM COUNCIL.

WORK SESSION

There were no Work Session items for consideration.

The Town Manager introduced to Council the new Assistant Town Manager, Shawn Purvis. Mr. Purvis gave a brief history of his educational accomplishments and work experiences.

ADJOURNMENT

With there being no further business, Mayor Olive adjourned the meeting.

Donna B. Hosch, MMC, NCCMC
Town Clerk

ATTEST:

Lance Olive
Mayor

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