



Apex Town Council Meeting Tuesday, February 5, 2019

Lance Olive, Mayor
Nicole L. Dozier, Mayor Pro Tempore
William S. Jensen, Wesley M. Moyer, Audra M. Killingsworth, and
Brett D. Gantt, 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, February 5, 2019, 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, presented thoughts of thanks and appreciation and healing, provided time for silent reflection, and led the Pledge of Allegiance.

PRESENTATIONS

Presentation 01 : Beth Bordeaux, Executive Director, Western Wake Crisis Ministries

Update on the impact WWCM is making in our community, their outcomes from 2018, and what they are seeing as needs for 2019

Mayor Olive stated that this presentation would not be heard on this evening due to illness of the presenter.

CONSENT AGENDA

- Consent 01 Minutes of the Regular Town Council Meeting of January 15, 2019 and the Joint Conversational Meeting with Holly Springs on January 29, 2019
- Consent 02 Reconveyance of cemetery plots from Todd King to the Town in the amount of \$3,600
- Consent 03 Construction contract and authorization for the Town Manager to execute same for Microsurfacing Project (R-19-1), bid alternate A
- Consent 04 Contract for audit services for the fiscal year ending June 30, 2019
- Consent 05 Resolution of Intent for the closing of a right-of-way (ROW) on Wilcon Way, a cul-de-sac located on the south side of Energy Drive, and to call for a Public Hearing at the March 5, 2019 Council Meeting
- Consent 06 Design agreement contract with Davis Kane Architects for pre-design study for the Renovation and Addition of Fire Station 1 and authorization for the Town Manager to execute the design agreement contract

- Consent 07 Utility Construction Agreement for Project Number R-2635A, I540 Section A between North Carolina Department of Transportation and the Town and authorization for the Town Manager to execute the Agreement on behalf of the Town. Also Capital Project Ordinance Amendment 2019-6 to appropriate additional funds for the project.
- Consent 08 Updated Interlocal Agreement between Apex, Cary, and Chatham County for service to Chatham County to continue to access their Jordan Lake water supply allocation via the Cary/Apex Jordan Lake intake facility and associated Resolution and authorization for the Town Manager to execute the Agreement on behalf of the Town of Apex
- Consent 09 Statement of the Town Council and Ordinance for Rezoning Case #16CZ32, Trinity Apex PUD, Page Two Holdings, LLC and Rodessa, LLC petitioners for the property located at 0 and 1709 E. Williams Street
- Consent 10 Statement of the Town Council and Ordinance for Rezoning Case #18CZ29, Courtyard on Holt PUD, EPCON Communities/Jason Barron, Morningstar Law Group petitioners for the property located at 305 & 313 Catlette Street; 0, 1345, 1313, & 1337 Holt Road
- Consent 11 Statement of the Town Council and Ordinance for Rezoning Case #18CZ32 Old Mill Village Lot 1 PUD, Apex First Development, LLC, petitioners for the property located on 400 & 450 North Mason Street
- Consent 12 Statement of the Town Council and Ordinance for Rezoning Case #18CZ33, Jeffrey & Lindy Morris, petitioners for the property located on 7800 Secluded Acres Road
- Consent 13 Construction contract with Southern Solar Systems and authorization for Town Manager to execute same for installation of Solar PV panels on Town of Apex buildings
- Consent 14 Set Public Hearing for the February 19, 2019 Town Council meeting regarding various amendments to the Unified Development Ordinance
- Consent 15 License agreement between the Town of Apex and Wake County to establish the framework from which Wake County EMS will continue to house an ambulance in the Fire Administration building located at 315 W. Williams Street
- Consent 16 Set the Public Hearing for the February 19, 2019 Town Council Meeting regarding Rezoning Case #18CZ30. The applicant, Cozy Homes, LLC, seeks to rezone approximately ±4.12 acres, for the properties located at 7808 & 7824 Stephenson Road, from Rural Residential (RR) to Medium Density Residential-Conditional Zoning (MD-CZ).
- Consent 17 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 Empire Estate, LLC (Stop-n-Go) property containing .73 acres located at the southeast quadrant of the intersection of NC 55 Bypass and E. Williams Street, Annexation #649 into the Town’s corporate limits
- Consent 18 *Removed at the Request of the Requestor* – 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 MFW Investments, LLC, (Colby Crossing) property containing 7.578 acres located along a portion of the future connection of Colby Chase Drive between Merion and Pemberley subdivisions, Annexation #651 into the Town’s corporate limits
- Consent 19 3-year term Master Service Agreement with Enviro-master Services and authorization for the Town Manager to execute agreement. Enviro-master Services is a “Deep Cleaning Restroom Hygiene and Sanitization Services” company to be used on an individual request to clean a restroom beyond normal custodial cleanings/capabilities.
- Consent 20 Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the various Unified Development Ordinance (UDO) Amendments of January 15, 2019

- Consent 21 Contract and authorization for the Town Manager to execute same for Building Automation System upgrade for all HVAC-controlled buildings operated by Town. The Town's Building Automation System (BAS) is the system that controls the HVAC system for all buildings within the town. Currently, the Town uses the legacy "Insight Workstation" which has been in existence since 1998. This new update to the "Desigo CC Workstation" will be required to operate our HVAC system in the future.
- Consent 22 3-year term Master Service Agreement with Siemens Industry, Inc and authorization for the Town Manager to execute the agreement. Master Service Agreement will cover work with HVAC repairs, Mechanic, Automation, Energy, Fire, Security, Electrical Specialists, and Monitoring.
- Consent 23 Surplus of Aries camera sewer equipment with an estimated value of \$80,000
- Consent 24 Set a Public Hearing to consider and receive public input on providing an economic development incentive for Project Protein in accordance with the Town's policy (Development Investment Grant)

The Town Manager stated that the requestor asked for Consent 18 to be removed from the Agenda.

MAYOR OLIVE CALLED FOR A MOTION TO ACCEPT THE CONSENT AGENDA WITH THE REMOVAL OF CONSENT 18.

COUNCIL MEMBER KILLINGSWORTH MADE THE MOTION; COUNCIL MEMBER GANTT SECONDED THE MOTION.

THE MOTION CARRIED BY A 5-0 VOTE.

REGULAR MEETING AGENDA

Council Member Jensen stated he wished to reverse the order of the two New Business items.

MAYOR OLIVE CALLED FOR A MOTION TO ACCEPT THE REGULAR AGENDA WITH THE STATED

MODIFICATION. COUNCIL MEMBER KILLINGSWORTH MADE THE MOTION;

COUNCIL MEMBER DOZIER SECONDED THE MOTION.

THE MOTION CARRIED BY A 5-0 VOTE.

PUBLIC FORUM

Harvey Richmond gave his work background as an environmental science professional. He asked for adoption of the resolutions proposed by Council Member Jensen.

John Buck presented his background as a special needs educator. He stated that sustainable housing is unattainable for many groups in our society. CASA works to provide affordable housing for those who might not otherwise be able to afford such. Mr. Buck has spoken with CASA's CEO to ask what the community can do to help, noting that Chapel Hill is the only municipality to have an affordable housing

community. This is very significant, and Mr. Buck hoped affordable housing will be a part of the UDO. He provided information on what Chapel Hill uses as their model.

PUBLIC HEARINGS

**Public Hearing 01 : Shannon Cox, Long Range Planning Manager and Allison Fluit, Kimley Horn and Associates
Advance Apex: The 2045 Transportation Plan and Advance Apex: The 2045 Land Use Map Update**

Staff stated the reasons both Plans were being heard together. Outlined were the three phases of the process and what had been accomplished in each. Staff stated the public was involved during each process.

Focus areas were identified and alternatives were presented to the public. Final recommendations were made as a way of moving forward. Public comments were received since posting of the Transportation Plan last year. Staff explained the public comments and presented recommendations to which the Planning Board was in agreement.

Staff answered Council questions related to density, equestrian use, rail and bus use, project timelines, ease of access, public comments, development standards, and a citizen request from the past. Staff explained how these would affect the development plans cycle. Staff recommended adoption of the Plans.

Mayor Olive declared the Public Hearing open.

Jason Barron, Morningstar Law Group, representing two clients, asked for a change in density classification which would help his clients achieve their wishes. He was personally opposed to the minimums, because it would constrain creativity coming out of zoning.

Dan Baucom, representing the family owning the property, read a letter from his family members. They wished to see medium density zoning maintained, and he gave the reasons why.

Andrew George, speaking for a large number of residents in attendance, spoke to traffic, buffers, compromising the small town feel, water runoff, and visual obstructions. They were concerned that the new designation of high density would not be responsible growth and not have the proper infrastructure. They wished for Council to delay adoption 30 days to give residents time to go over the draft Plan.

John Kozlowski agreed with the comments presented by Mr. George.

Tim Brent, on behalf of his family trust, spoke about their property in the future Land Use Plan related to density and future connectors. His recommendation was to keep the family parcels medium density as was the case with two surrounding projects.

Jim Mead stated that he was thankful Castlewood residents were listened to about a change in density. They plan to live in Apex for the long term.

Sarah Merz, representing AHA and herself, stated the Plans would promote health in Wake County. Work done on these Plans was health wise, supporting more walking and biking. She felt that some high density and paying attention to paths would really promote health.

Mayor Olive declared the Public Hearing closed.

Council stated she wished not to make a decision this evening in order to give the public more time to review the Plans and to allow the comments heard this evening a chance to sink in. Based on comments this evening, she would like this sent back to staff to see if we could do this well and timely and determine if there were alternatives as were given in the other phases.

Council stated there were quite a few changes to this big Plan. Most of it was done well. She agreed we should step back and look at areas more closely to address some concerns that came up tonight.

Council stated he would like to see a written list of the changes proposed this evening.

Council was opposed because the longer we wait, we would run into existing projects.

Staff stated it was prepared with recommendations based on comments heard this evening related to the Heelan and Morris Acres properties. Recommendation was for them to remain as they currently are, to which the audience expressed vast approval. Staff also recommended the Jenks and Wimberly property remain as is. Council asked for clarification of densities which staff explained, along with an O&I designation.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER KILLINGSWORTH MADE THE MOTION TO APPROVE THE PLAN AND MAP UPDATE WITH THE FOLLOWING CHANGES; COUNCIL MEMBER DOZIER SECONDED THE MOTION:
1) KEEP 2030 LAND USE MAP DESIGNATION FOR HEELAN PROPERTIES; 2) KEEP 2030 LAND USE MAP DESIGNATION FOR MORRIS ACRES AREA; 3) KEEP 2030 LAND USE MAP DESIGNATION FOR JENKS ROAD AT WIMBERLY;

4) USE THE WORD "PREFERENCE" IN SECTION REGARDING DENSITY MINIMUMS; 5) AMEND AREA AT 2008 OLD US 1 TO ALL OFFICE EMPLOYMENT WHERE IT IS SHOWN AS STRIPED OFFICE EMPLOYMENT/MEDIUM DENSITY RESIDENTIAL.

Council felt the recreational use, in particular, was brilliant.

THE MOTION CARRIED BY A 5-0 VOTE.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER DOZIER MADE THE MOTION TO APPROVE THE ADDENDUM WITH THE FOLLOWING LANGUAGE; COUNCIL MEMBER KILLINGSWORTH SECONDED THE MOTION: ANY APPLICATION FOR DEVELOPMENT THAT DOES NOT HAVE SITE OR SUBDIVISION PLAN APPROVAL AT THE TIME OF ADOPTION OF ADVANCE APEX: THE 2045 TRANSPORTATION PLAN MUST MEET THE REQUIREMENTS OF ADVANCE APEX: THE 2045 TRANSPORTATION PLAN, UNLESS OTHERWISE SPECIFIED IN APPROVED ZONING CONDITIONS.

THE MOTION CARRIED BY A 5-0 VOTE.

Mayor Olive called for a six minute recess.

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 : Council Member Bill Jensen

Resolution Supporting the Goals of the Paris Climate Change Agreement

Council Member Jensen stated it was a team effort with the other Council Members to formulate the Resolution. Council Member Gantt read the resolution.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO ADOPT THE RESOLUTION; COUNCIL MEMBER GANTT SECONDED THE MOTION.

Council stated this would have zero impact and he did not believe this was necessary to do. Council stated she looked forward to supporting this. Council stated this was consistent with an executive order which can help to roll out programs related to this. Council stated he is a life-long environmentalist and felt it was a privilege for him to vote for this.

Council Member Jensen stated this would not economically impact our community. We will be saving money for our taxpayers with the installation of solar.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO ADOPT THE RESOLUTION; COUNCIL MEMBER GANTT SECONDED THE MOTION. COUNCIL MEMBERS JENSEN, GANTT, DOZIER, AND KILLINGSWORTH VOTED IN THE AFFIRMATIVE; COUNCIL MEMBER MOYER VOTED IN THE NEGATIVE. THE MOTION CARRIED BY A 4-1 VOTE.

New Business 02 : Council Member Bill Jensen

Resolution Endorsing the Goals of Achieving 100% Clean Energy by 2050

Council Member Jensen read the Resolution. Council asked where this was on the Council's priorities list and questioned what the budget allocation was for such. Council Member Jensen stated the allocation and explained how this would benefit the Town in the long run. There was Council discussion regarding solar and renewable energy.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO ADOPT THE RESOLUTION; COUNCIL MEMBER GANTT SECONDED THE MOTION. COUNCIL MEMBERS JENSEN, GANTT, DOZIER, AND KILLINGSWORTH VOTED IN THE AFFIRMATIVE; COUNCIL MEMBER MOYER VOTED IN THE NEGATIVE. THE MOTION CARRIED BY A 4-1 VOTE.

CLOSED SESSION

Closed Sessions : Joanna Helms, Economic Development Director and Laurie Hohe, Town Attorney

(1) The location or expansion of business or industry in the Town of Apex, and (2) handling of the matter of Upright Builders v. Town of Apex

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

MAYOR OLIVE CALLED FOR A RETURN TO OPEN SESSION WITH NO OBJECTION FROM COUNCIL.

Mayor Olive stated there was a disparaging comment on Next Door [social media] regarding the Town Manager. The Mayor stated the comments were inappropriate and inaccurate.

WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

With there being no further business and with no objection from Council, Mayor Olive declared the meeting adjourned.

Donna B. Hosch, MMC, NCCMC
Town Clerk

ATTEST:

Lance Olive, Mayor