



Apex Town Council Meeting Tuesday, May 7, 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, May 7, 2019, 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, Wesley M. Moyer, Audra M. Killingsworth, and Brett D. Gantt
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 Bryan Finley of Hope Church in Apex gave the
Invocation, and Mayor Olive led the Pledge of Allegiance.

PRESENTATIONS

Presentation 01 : Mayor Lance Olive

Proclamation recognizing National Police Week and Peace Officers' Memorial Day

Mayor Olive read the Proclamation and presented it to Police Chief John Letteney. Chief Letteney
spoke about the role his officers play in the Town and how proud of them he is. He was happy to honor
the officers with the Proclamation and spoke briefly about the brave, fallen officers across the country.

Presentation 02 : Mayor Lance Olive

Proclamation recognizing May 5, 2019 – May 11, 2019 as Public Service Recognition Week

Mayor Olive read the Proclamation and presented it to Human Resources Director Mary Beth Manville.
Ms. Manville spoke about the great employees in Apex and thanked everyone in Town for their support.

Presentation 03 : Mayor Lance Olive

Proclamation recognizing May 2019 as Building Safety Month

Mayor Olive read the Proclamation and presented it to Director of Permits and Inspections Rudy Baker. Mr. Baker thanked everyone who supports them in doing their jobs every day.

Presentation 04 : Mayor Pro Tem Nicole Dozier

Mayor Pro Tem Dozier presented the fourth annual "Think Apex" awards. Awards will be given to the "Top Thinker" and "Honorable Mention" in the categories of: Business; Individual or Group; and Non-Profit.

Council Member Dozier asked Council to join her in presenting the awards. She thanked everyone for attending and stated her vision for these awards. She explained who is recognized and how the nominations were considered. The nominees were named:

- Individual or Group category: Asif Ansari, Barbara Cross, Diana Hasegawa Brown, Doris Battle, Rick Gardner, Robert Cadran, Shane Reese, and Stacy Kivett
- Business category: Louie D'Elia, Neighbor Boy Inc., and The Rusty Bucket

Council Member Dozier gave background on the winner of the:

- Honorable Mention in the Individual Category. Stacy Kivett was presented with the award.
- Top Thinker in the Individual Category. Rick Gardner was presented with the award.
- Honorable Mention in the Business Category. Neighbor Boy was presented with the award.
- Top Thinker in the Business Category. Rusty Bucket was presented the award.
- Honorable Mention in the Non Profit Category. Peak Lab Rescue was presented with the award.
- Top Thinker in the Non Profit Category. Apex Sunrise Rotary Found was presented with the award.

Council Member Dozier thanked the Think Apex team and the Town of Apex and congratulated all the nominees and winners.

CONSENT AGENDA

- Consent 01 Minutes of the Regular Town Council Meeting of March 19, 2019
- Consent 02 Apex Tax Report dated March 4, 2019
- Consent 03 Budget Ordinance Amendment No. 15 and Capital Project Ordinance Amendment No. 2019-9 to fund certain projects in the Water Sewer Capital Project Fund and an amendment to Resolution No. 18-0619-11 regarding the use of water and sewer capital reimbursement fees
- Consent 04 Budget Ordinance Amendment No. 14 which will establish the budget for Fund 74, Water Sewer HB 463 Capital Reserve

- Consent 05 Capital Project Ordinance Amendment No. 2019-8 which will budget for the transfer of certain revenues from the Street Improvement Project Fund to the Transportation Capital Reserve
- Consent 06 Temporary parking ordinance to prohibit on-street parking on from Saturday, May 11, 2019 at 11:00 p.m. through Sunday, May 12, 2019 at 8:00 a.m. on specified streets to allow the moving of a house from 323 N. Mason Street to 305 Saunders Street
- Consent 07 Abandonment of the easements shown on Exhibit A as "30' Access Easement" and "Temporary Construction Easement" by the terms stated in the Resolution
- Consent 08 Encroachment Agreement and Town Manager authorization to execute the same for Grantee to install certain improvements, more particularly described as a concrete driveway and lead walk that will encroach into the Town's Public Utility Easement
- Consent 09 To be discussed as New Business: Ordinance amendment to the Apex Town Code to establish an Appointments Committee
- Consent 10 Resolution correcting the Ordinance for Rezoning Case #18CZ31 Westford PUD Amendment. Jones & Crossen Engineering, PLLC/ Westford Commercial WEH LP, Westford Apartments WEH LP, and Taylor Morrison of Carolinas, Inc., petitioners for the property located on 0 & 8101 Jenks Road and 2812, 2900 & 3300 US Hwy 64 West
- Consent 11 Resolution to provide a grant of up to \$8,900 to Operation Coming Home to cover the actual costs for Building Plan Review, Building Permits/Inspections, fees associated with Building Permits/Inspections, and town utility fees related to their project
- Consent 12 Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the various Unified Development Ordinance (UDO) Amendments of April 16, 2019
- Consent 13 Set the Public Hearing for the May 21, 2019 Town Council Meeting regarding Rezoning Case #19CZ07, Town of Apex Fire Administration Office. The applicant, Town of Apex, seeks to rezone approximately ±.39 acres located at 315 West Williams Street from High Density Single Family (HDSF) to Office & Institutional -Conditional Zoning (O&I-CZ).
- Consent 14 Set Public Hearing for the May 21, 2019 Town Council Meeting regarding Rezoning Application #19CZ05 (Jainix Green). The applicant, Vipresh Bobby Jain, seeks to rezone approximately 6.5 acres located at 0 Jenks Road from Rural Residential (RR) to Medium Density-Conditional Zoning (MD-CZ).
- Consent 15 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 Caryco, Inc. and Rogers Road 3415 LLC (Green Level Market Lot 2) property containing 6.09 acres located at 3651 and 3675 Green Level West Road, Annexation #656 into the Town's corporate limits.
- Consent 16 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 Shree Girirajgoverdham Properties, LLC and Sameer Dave (Freedom Square) property containing 5.35 acres located at 8375 Green Level Church Road, Annexation #657 into the Town's corporate limits.
- 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 Kelly and Tina Labunski (future single-family home) property containing 0.230 acres located on the south side of the end of Lynch Street, Annexation #659 into the Town's corporate limits.

- Consent 18 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 Town of Apex (portion of future Jenks Road right-of-way) property containing 0.0041 acres located at the southwest quadrant of the intersection of Jenks Road and Wimberly Road, Annexation #661 into the Town’s corporate limits.
- Consent 19 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 Town of Apex (portion of Walden Road right-of-way) property containing 0.0198 acres located at the southeast quadrant of the intersection of Terrmini Drive and Walden Road, Annexation #662 into the Town’s corporate limits.

Council Member Moyer asked for Consent 09 to be pulled; Mayor Olive stated it would be discussed as New Business 05. Staff stated Consent 06 had been modified to reflect a new moving date as set by NC DOT.

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

REGULAR MEETING AGENDA

Mayor Olive requested moving New Business 04 before New Business 01. He stated he might choose to leave early because of family matters.

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

PUBLIC FORUM

Daniel Khodaparast, speaking on behalf of his immediate neighbors, stated they approved of the roundabout and extension of the street in the New Business item. He spoke about how both of these would increase safety and the attractiveness into Apex.

Laura Holley, volunteer member of the Town’s Public Art Committee, thanked Council for its support of the arts. She talked a bit about what public art is and provided a brief history. There are pieces that were birthed around the country under great controversy. Public art is neither straight forward nor easy, but it should not be cause for alarm. Ms. Holley explained the good that public art promotes and how the

pieces have challenged her to become a better human being. She asked for continued support of the process regardless of this night's decision.

Nicole Bernard, Director of Shield NC, spoke at length about human trafficking and the lengths that have been gone to by many individuals to stop this injustice. This has included partnering with state and local organizations, a meeting with President Trump, and Ms. Bernard's pod cast. Ms. Bernard detailed what has been done in Apex to bring light to ending human trafficking.

Agent Karl Wall, Special Agent in Charge with the NC State Bureau of Investigation, stated he was pleased to work with Shield NC, the Town of Apex, and Chief John Letteney on this issue. The Proclamation would put Apex on the cusp of something that only one other municipality has accomplished by bringing light to human trafficking. He hoped Apex would become the model for other cities to see what works in this effort.

Council stated JC Knowles asked for the reading of an email from him since he could not be attendance due to family matters. Mr. Knowles was in opposition to the art piece proposed for downtown as, in his opinion, it did not fit the historic character of downtown. He asked Council to continue its search for something more appropriate. The Mayor stated he was not recommending the reading of emails as a precedent. However, as JC Knowles was the Ambassador of Apex and given his situation, the Mayor felt this exception was reasonable. Not every email will be read into the record going forward.

PUBLIC HEARINGS

Public Hearing 01 : Shawn Purvis, Assistant Town Manager

Citizen input on the Fiscal Year 2019-2020 Annual Budget including proposed economic development expenditures

Staff provided an overview of the proposed budget. The process moving forward was explained.

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

OLD BUSINESS

Old Business 01 : Council Member Audra Killingsworth

Discussion regarding the decision made at the April 16, 2019 Council Meeting relative to placing a sculpture, as part of the Town's Public Art effort, in a space between Salem Street and the Depot's parking lot

Council stated that after thinking about the previous meeting's vote, the piece of art, and looking into it, she had problems with the art and its placement. She wished to address two issues: the art being placed in front of the Depot and the Public Art Policy.

COUNCIL MEMBER KILLINGSWORTH MADE A MOTION TO RECONSIDER HER PREVIOUS MOTION TO APPROVE THE ART AND TO ENGAGE IN FURTHER DISCUSSION; COUNCIL MEMBER DOZIER SECONDED THE MOTION. COUNCIL MEMBERS KILLINGSWORTH, DOZIER, JENSEN, AND MOYER VOTED IN THE AFFIRMATIVE; COUNCIL MEMBER GANTT VOTED IN THE NEGATIVE.
THE MOTION CARRIED BY A 4-1 VOTE.

Council stated her new thought was that she liked the art but that the Depot was not a good place for it. Possibly this could be kicked back to the Public Art Committee to find a more appropriate place in a newer, more contemporary area. Maybe we could find something with more historical context to go in front of the Depot. People should feel good about public art, and it should fit with the context of its placement.

Council agreed the Depot may not be the best fit for that piece of art but that art is subjective. The Public Art Committee did a lot of work on the project, but folks felt like there wasn't enough time or opportunities outside of Council meeting for public input. Since public input is related to the Downtown Plan, Council wondered if there could be consideration for this to be sent back to the Committee and have this pulled into that Plan.

COUNCIL MEMBER KILLINGSWORTH REVISED HER MOTION: MOTION TO APPROVE THE ART CONDITIONED UPON THIS GOING BACK TO THE PUBLIC ART COMMITTEE, FINDING A DIFFERENT PLACE FOR THE SCULPTURE AND BRINGING THIS BACK TO COUNCIL FOR APPROVAL, AND TO ALSO ASK THE COMMITTEE TO INCORPORATE ART INTO THE DOWNTOWN PLAN AS A VENUE FOR FORWARD-LOOKING ART SELECTIONS, LOCATIONS, ETC.

Council stated this piece of art is meant to be interactive, and he didn't know another place where this could happen. He was concerned about keeping downtown the same sleepy old town; this artwork will make it more vibrant. Council also pointed out that this will attract younger folks downtown. The art won't be representing the building, because it would be close to the road and not the building. The art would be associated with the downtown area and not just the Depot building. If placed elsewhere, the art won't get walking-by inter-activeness like this spot would.

Council stated he was disappointed with the previous decision because of his thoughts about using public funds for art and was glad this was being reconsidered. He did not like the art, but stated that art is subjective. Council did not feel this art would fit with the history of the Town in the proposed spot. He

suggested speaking with Ambassador J.C. Knowles, who knows much of the Apex history, for his thoughts. Maybe we should not be in a hurry to place something, and Council asked that we think local and find an artist here.

Council explained why this was back on the table. Reconsideration for her was because of personal contact and not seeing where there was an appropriate venue for public input and not because of pressure from social media posts.

Council stated he liked the art but was in agreement with JC Knowles that it didn't fit the area. He was in favor of incorporating art into the Downtown Plan and giving the Committee an opportunity to expand its viewpoint. He was sure that the Committee tried to find someone local.

The Mayor stated he was surprised the art was approved and that anyone thought the Depot was an appropriate placement. The art could go elsewhere, such as on the Town campus, or somewhere similar where it could still be interactive. He liked the element of art in the Downtown Plan. He spoke about the climate of downtown Apex and how art should fit into that. If we only received two local submissions, maybe we need to keep looking. We should not feel like we are in a hurry.

Staff stated we have not contracted for this particular piece of art.

Council asked for clarification of what could happen if this subject goes through the Downtown Plan. Council answered and stated that she felt there should be more robust public input. She felt we should make a decision this evening because of the grant. We should also think local.

THE MOTION CARRIED BY A 5-0 VOTE.

Council spoke about her second concern, the Public Art Policy. She realized she didn't see public comment in regards to this and in the process, and that bothered her. She wished to revisit the Policy and look at its specifications. Public input should be important. She explained, for example, how displays can be utilized to get what people feel is best and then take the matter under advisement. Staff stated he felt a modified policy which includes public input can be accomplished.

COUNCIL CONSENSUS WAS TO TURN THIS OVER TO STAFF FOR FURTHER ACTION IN
COOPERATION WITH THE PUBLIC ART COMMITTEE.

UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

NEW BUSINESS

New Business 04 : Mayor Lance Olive

Resolution incorporating an anti-human trafficking contract clause and directing the Town Attorney to incorporate such clause into the Town's standard contract language

Mayor Olive thanked Ms. Bernard and Agent Wall. He spoke about going to Houston on a grant to discuss human trafficking issues. Because we adopted a Proclamation and a pod cast was launched, it kicked open doors that he would not have believed. These things are putting this issue on the map faster than he was aware. The Mayor explained what he had to do in order to receive the grant. He spoke about the pitfalls of human trafficking and the importance of an appropriate human trafficking clause being part of our contracts.

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

The Mayor talked extensively about being educated and informed about human trafficking and the plan he sees coming after tonight. This was a first step, and he was excited that Apex gets to be on the tip of this sphere. Council discussion ensued on what would happen if there was a breach of contract by a contractor and legal recourses of the breach.

THE MOTION CARRIED BY A 5-0 VOTE.

Mayor Olive called for a short recess, at which time he left the dais and passed the gavel to Mayor Pro Tem Nicole Dozier to continue the meeting.

New Business 01 : Russell Dalton, Senior Transportation Engineer

Presentation summarizing the proposal for a roundabout to be constructed at the intersection of South Salem Street and Tingen Road/Lynch Street

Staff stated this was a potential project that we started looking at six months ago. He overviewed the traffic patterns and how traffic may disburse in the future. He spoke about how signalization in this area was challenging and not a good idea. We have looked at a street extension. Staff showed the current road and bicycle plans.

We thought the roundabout would be the best solution now and in the future and staff explained why. We have been in conversation with some of the residents and businesses in the area that might be impacted. The time frame of the project and its cost was presented. There was concern about public thoughts and the overlapping of the Peakway project.

Staff answered Council questions related to the project and possible obstacles. Discussion ensued as to whether or not to delay this project until the Peakway is finished and whether or not the two aspects of the project could be separated out.

COUNCIL CONSENSUS WAS TO REVISIT LYNCH STREET AND TO ABANDON THE ROUNDABOUT.

New Business 02 : Shannon Cox, Long Range Planning Manager and Marty Stone, Water Resources Director

Amendment No. 1 to Client-Engineer Agreement from Highfill Infrastructure Engineering, P.C. to design approximately 800 feet of missing sidewalk along Chatham Street as part of the Chatham Street Waterline Project and authorization for the Town Manager to execute the same

Staff gave an overview of the project and stated policy recommendations. She explained why it's so expensive to build this sidewalk and how it will not be any less expensive in the future. Staff answered Council questions related to the water line, design process, Safe Routes to School, and other grant funding.

MAYOR PRO TEM DOZIER CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE COMMITTING \$57,600 FOR THE COMBINED PROJECT; COUNCIL MEMBER GANTT SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

New Business 03 : Drew Havens, Town Manager

Discussion regarding live streaming of Town Council meetings and Council direction to staff regarding same

Staff reiterated what had been discussed previously regarding live streaming, stating we are pretty much ready to go with this technology if that is what Council desires.

Council gave a background on this transparency task and talked about the progression of video to live streaming. Stated were the benefits of live streaming vs. next day viewing as talked about by citizens.

Staff stated it would be just the one camera for now which would be zero cost. We would be able to provide data on how many people are watching live. Discussion ensued on there being a delay in streaming and if this would be a need.

MAYOR PRO TEM DOZIER CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO DIRECT THE MANAGER TO GO FORWARD WITH STREAMING AND AN APPROPRIATE TIME DELAY, TO EXPLORE OPTIONS AT A LATER DATE FOR MAKE IT BETTER FOR PEOPLE TO ENGAGE DEPENDING UPON THE COST WHICH WILL BE BROUGHT BACK TO COUNCIL, AND TO FORMULATE A POLICY FOR LIVE STREAMING; COUNCIL MEMBER KILLINGSWORTH SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

**Discussion of Consent 09 : Ordinance amendment to the Apex Town Code to establish an Appointments Committee
Council Member Wes Moyer**

Council stated staff was supposed to look into this and get back to Council with a recommendation. He felt it was unnecessary to take this away from the mayor and that he was not in favor of doing so.

Council stated she originally suggested this idea to make appointments more transparent. The Mayor would still be a part of the process.

Council agreed and stated it would be a more robust conversation which include diversity if appointments were discussed in committee. The Mayor, however, would still be the decision maker.

Council stated he did not agree this being the only way to have transparency, and he was opposed to this. Council stated why he did not think the process is broken.

Discussion ensued on how the applicant information could be distributed to Council ahead of a proposed committee meeting. The Town Attorney explained how the proposed ordinance would work.

MAYOR PRO TEM DOZIER CALLED FOR A MOTION. COUNCIL MEMBER KILLINGSWORTH MADE THE MOTION TO PUT THIS OFF FOR TWO WEEKS AND TO HAVE DISCUSSION ON ADDING A POLICY; 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 and with no objection from Council, Mayor Pro Tem Dozier declared the meeting adjourned.

Donna B. Hosch, MMC, NCCMC
Town Clerk

ATTEST:

Lance Olive, Mayor

Nicole L. Dozier, Mayor Pro Tem

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