



APEX TOWN COUNCIL SPECIAL MEETING

TUESDAY, JUNE 28, 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, Town Manager
Timothy L. Donnelly, Assistant Town Manager
Donna B. Hosch, CMC, NCCMC, Town Clerk
Laurie L. Hohe, Town Attorney

The Special Meeting of the Apex Town Council
scheduled for Tuesday, June 28, 2016, at 5:00
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 Tim Donnelly,
Town Clerk Donna B. Hosch, and Assistant Town Attorney Brian M. Meyer

COMMENCEMENT

Mayor Olive called the meeting to order, stating that the purpose was to hear one Quasi-Judicial Public Hearing to reconsider the site plan for Apex Friendship Middle School. Council Member Schulze gave the Invocation, and Mayor Olive led the Pledge of Allegiance.

PUBLIC HEARINGS

Public Hearing 01 : Shelly Mayo, Planner

Quasi-Judicial Public Hearing and possible motion regarding a Major Site Plan for Apex Friendship Middle School, a portion of 112.39 acres located at 7701 Humie Olive Road

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

Mayor Olive read the prepared Statement and gave definition of a quasi-judicial public hearing. All Council Members confirmed they were in possession of a copy of the Checklist.

Mayor Olive declared the Public Hearing open. All persons intending to testify were sworn in by the Town Clerk.

Kenneth Haywood, Attorney on behalf of the Wake County Board of Education, applicant, introduced the members of his team.

No one in attendance was opposed to the site plan.

Mayor Olive explained he would ask for judicial notice of the evidence presented at the March 15, 2016 meeting to be included with this night's Hearing.

MAYOR OLIVE ASKED FOR A MOTION TO APPROVE JUDICIAL NOTICE OF THE EVIDENCE PRESENTED AT THE MARCH 15, 2016 HEARING. COUNCIL MEMBER SCHULZE MADE THE MOTION; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION PASSED BY A 5-0 VOTE.

Mayor Olive asked Council if there were any communications or conflicts related to this case and if Council would be able to decide the case impartially. Council Members stated general conversations had taken place but nothing specific. Council Member Wilkie stated she was recused from the March 15th Hearing since she was then employed by the school system. Since her retirement, her conversations have been general in nature. Mayor Olive stated he'd additionally answered a question for the news media in late March/early April. All Council felt they could decide the case impartially.

OPENING STATEMENT BY APPLICANT: Haywood stated he appreciated being able to work with the Town to set up this procedure in regards to the March 15th meeting. He talked about the various findings of facts that they must bring forward and the evidence of the March 15th meeting. He would not repeat the March 15th information unless there were questions. This evening they would talk about new evidence from their traffic engineer. The bi-directional amplifier was no longer an issue; they will be glad to install this. Haywood stated the high school was 90% complete and would be ready to go in the upcoming school year. He pointed to the letter received by Council on this day by Joshua Reinke.

EVIDENCE FROM STAFF: Shelly Mayo, Planner, presented her credentials and professional background. Russel Dalton, Transportation Engineer, presented his credentials and professional background. Dalton stated he met with traffic engineers and others at Wake County Schools. He was no longer recommending the two turning lanes.

CROSS EXAMINATION OF STAFF BY APPLICANT: Haywood asked Mayo if she believed, other than the traffic issues, that all requirements of the UDO had been met, to which Mayo responded in the affirmative.

QUESTIONS FROM COUNCIL TO STAFF: Council asked if the bell schedule changed in the future and it started to cause problems, could the turn lanes be added at that later date. Dalton stated we would not be able to enforce any future issues.

Mayor Olive asked Council if there were any observations of the site, Council responding there were none for this meeting. There were no questions by Haywood for Council as to their visiting the site.

STATEMENT BY THE APPLICANT: Haywood introduced Ronald Stephenson, Manager and Engineer, who presented his credentials and professional background. Haywood stated he wished for the letter distributed earlier to Council to be a part of the record. Stephenson provided more information on bell schedules and explained the assumptions made during the first study. He stated he had spoken with NC DOT. The conclusions found with the new bell schedule show very little overlap between middle and high school bell times. They felt like they met the findings of fact of the UDO.

Haywood asked Stephenson about the original Traffic Impact Analysis. Stephenson understood the applicant was still planning to make predetermined improvements at one intersection but determined the others were not necessary. There was no need, under the Town's UDO, to make improvements.

CROSS EXAMINATION OF APPLICANT BY COUNCIL: Council questioned the percentage overlaps, what they meant, and the type of traffic. Stephenson explained the thought process behind the percentage. Council asked about bell times. Council asked what would happen if the school goes over capacity, to which Stephenson responded he used the enrollment maximum in his figures. Stephenson further clarified the bell schedule and percentage overlap.

STATEMENT BY THE APPLICANT: Haywood called Joe Desomeaux, Superintendent of Facilities, who addressed the afternoon bell schedule. He stated he was involved in the March meeting and the discussion of the original assumptions in the Transportation Impact Analysis. Desomeaux state the had provided the bell schedule and new information regarding the schedule.

CROSS EXAMINATION BY COUNCIL: Council asked about the time between bells, Desomeaux stating another team member would answer that question. Desomeaux clarified his relationship to the bell schedules. Council asked for a 50 minute gap between morning and afternoon bells, Desomeaux stating he could

not commit to that. He provided the time frames of most of the schools. Council asked about the history of the bell schedules, when they're updated, and have they been updated. Desomeaux provided that information. Council asked if extracurricular activities were taken into consideration.

STATEMENT BY THE APPLICANT: Haywood called Josh Reinke who provided his credentials. Haywood asked him about the letter dated this day and the staggering of times between bell schedules. Reinke stated their analysis was conservative, and he talked about the peak hour factor.

CROSS EXAMINATION OF APPLICANT BY COUNCIL: Council asked about the numbers from the original study. Reinke talked about core capacity and how this figures in and how it cannot be exceeded. Council stated the letter received on this day should have been more detailed. Reinke talked about the 40 vs. 50 minute overlap, noting the morning time would be the bigger issue. Council asked for the letter to be updated and for Reinke to sign off certifying the numbers as being valid. Council asked for opinion of the Town Attorney on the bell schedule changing in the future.

Mayor Olive called for a two-minute recess.

Following recess, Desomeaux explained the way the schedules are set up, all schools being set up the same way. At last update, all schools were put on the same, standard time schedule. He confirmed that schools on the same campus stagger their times.

CONCLUSION OF APPLICANT EVIDENCE: Haywood stated this concluded their evidence which included the evidence from today, the March meeting, and the letter from Reinke as part of the record.

REBUTTAL FROM STAFF: None.

FINAL QUESTIONS FROM COUNCIL FOR STAFF: Council asked the Town Attorney if the bell schedule changes in the future, would we have recourse to get the intersection approved. The Town Attorney stated he did not believe so since Council would be approving the site plan presented on this evening. Council asked could we request a minimum stagger time, to which the Town Attorney stated we was not certain because we would have no control over what the school schedule would be. Council was concerned about something changing in the future, the Town Attorney stating he did not know of a recourse we would have for then.

FINAL QUESTIONS FROM APPLICANT FOR STAFF: None.

REBUTTAL FROM APPLICANT: None.

CLOSING ARGUMENT FROM APPLICANT: Haywood thanked Council for holding this special hearing at a time which accommodated Wake County schedules. He provided a brief history of the school campus site. Wake County wants to move forward with the middle school within their budget. Adding items would cause them a hardship. Staff informed them that with the new information presented this evening, the request meets requirements. Haywood stated the original concerns no longer existed, and there was no evidence from anyone for rebuttal. They met the UDO and the Findings of Fact. There would not be traffic that will overlap between the high school and the middle school that will burden the roads. Haywood stated they were asking for the Plan to be approved with the condition of the amplifier to which they were in agreement.

CLOSING ARGUMENT FROM STAFF: None.

Mayor Olive declared the Public Hearing closed.

The Mayor asked Council to go over the UDO checklist, letter, and traffic study. The Council was in agreement with numbers 1, 2, 3, 4, 5, 7, and 8. In reference to 6, Council stated the applicant agreed to update the letter and have the numbers signed off on.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE SITE PLAN AS PRESENTED, WITHOUT THE TURN LANE CONDITIONS THAT WERE PREVIOUSLY IMPOSED, BUT WITH THE UPDATE TO THE LETTER PRESENTED BY RAIMEY, KEMP, AND ASSOCIATES AS PREVIOUSLY DISCUSSED TO ENSURE THE TIMES, THE STAGGERS, THE DATES, THE BELL TIMES, ETC., ARE IN AGREEMENT WITH THE DISCUSSION AND EVIDENCE PRESENTED TONIGHT AND CARRYING FORWARD THE PREVIOUS CONDITION FOR THE BI-DIRECTIONAL AMPLIFIER; COUNCIL MEMBER WILKIE SECONDED THE MOTION.

Council questioned the likelihood of the school coming back and asking for turn lanes onto their property if the school reached full capacity. He talked a bit more about development and mitigating the traffic impact. Council stated the school has a roadway which could accommodate storage, but this was not discussed. Discussion ensued about the traffic impact on future developments. Council thanked the school system for their efforts.

THE MOTION CARRIED BY A 5-0 VOTE.

Mayor Olive thanked all for the new information presented. He stated this could have all been avoided if the information had been presented the first time around. He talked about our relying on the school for a workable bell system and stated the wants to see traffic in general addressed.

ADJOURNMENT

With there being no further business,

MAYOR OLIVE ADJOURNED THE MEETING.

Donna B. Hosch, CMC, NCCMC
Town Clerk

ATTEST:

Lance Olive
Mayor