



Apex Town Council Meeting

Tuesday, February 7, 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
Timothy L. Donnelly, Assistant Town Manager
David Hughes, 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, February 7, 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 Tim Donnelly, Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe

COMMENCEMENT

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

PRESENTATIONS

Presentation 01 : Mayor Lance Olive

Justice Paul Newby will administer the oath of office for Mayor Lance Olive to serve as a member of the North Carolina Code Officials Qualification Board, which took effect December 31, 2016

Mayor Olive requested for this to be performed following New Business to accommodate Justice Newby's schedule. There was no objection from Council.

CONSENT AGENDA

- Consent 01 Minutes of the January 17, 2017 Regular Council Meeting and the Closed Session Minutes of March 1, 2016, May 3, 2016, and June 7, 2016 (*Closed Session Minutes recorded separately*)
- Consent 02 Corrected Attachment A - Legal Description for the Ordinance for Rezoning Case #16CZ21, Sweetwater PUD Amendment, to substitute the corrected Attachment A - Legal Description for the former Attachment A, and to repeal Ordinance #16CZ21 to the extent that the former Attachment A - Legal Description omits a portion of PIN# 0722544769

- Consent 03 Statement of the Town Council and Ordinance for Rezoning Case #16CZ29 Green Level West Road, Josh Lambert, VP Land Development; The Strong Rock Development Company/ Charles W. Chewning, petitioners for the property located at 4213 Green Level West Road
- Consent 04 Statement of the Town Council and Ordinance for Rezoning Case #16CZ33, Stuart Jones, Jones & Cnossen Engineering, PLLC, petitioners for the property located at 7421, 7429, and 7433 Roberts Road
- Consent 05 Set the Public Hearing on February 21, 2017 for rezoning application #17CZ03 (Smith Farm PUD Amendment) to rezone 1.234± acres located south of US 64, east of the American Tobacco Trail, and north of Olive Chapel Road, from R-80W to Planned Unit Development – Conditional Zoning (PUD-CZ)
- Consent 06 Moved to New Business: 17 requested special events for calendar year 2017 and to approve Town acting as a co-sponsor for the events
- Consent 07 Cancellation of the July 4, 2017 Town Council meeting
- Consent 08 Findings of Fact, Conclusions of Law, and Decision approving the Meridian at Nichols Plaza Major Site Plan
- Consent 09 Authorization for the Town Manager to execute the License Agreement for Railroad Right-of-Way Encroachment for water line to serve Weddington Subdivision
- Consent 10 Statement of the Town Council and Ordinance for Rezoning Case #16CZ30, Raleigh Land Fund I, LLC; Taylor Morrison of Carolinas, Inc., petitioners for the property located at 0 Secluded Acres Road, 0 White Oak Creek Drive, 1104 White Oak Creek Drive, 1113 White Oak Creek Drive, 0 Jenks Road
- Consent 11 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 Albert Womble property (Townes at North Salem) containing 48.16 acres located at N. Salem Street, east of the US 64 exit ramp and north of US 64 Hwy W, Annexation #586 into the Town's corporate limits
- Consent 12 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 Tommy and Nancy King (Salem Pointe PUD) property containing 2.067 acres located at 1605 Salem Church Road, Annexation #587 into the Town's corporate limits
- Consent 13 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 Ted Mills (portion of Sweetwater) property containing .117 acres located southwest of Vanclaybon Drive and east of future Richardson Road, Annexation #590 into the Town's corporate limits
- Consent 14 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 Raleigh Land Fund I, LLC and Jeff and Lindy Morris (The Preserve at White Oak Creek) property containing 9.2394 acres located at White Oak Creek Drive and Secluded Acres Road, Annexation #591 into the Town's corporate limits
- 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 T. Lacey Williams Farm, LLC and Marth Smith Family LP (portion of Smith Farm Phase 1) property containing 1.234 acres located at 0 and 2820 Olive Chapel Road, near Richardson Road, Annexation #592 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 Lori McKinnish (Touch Integrated Veterinary Hospital) property containing 2.1138 acres located at 740 S. Salem Street, Annexation #593 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 Staley Smith (Magnolia Office) property containing 2.062 acres located at 1005 N. Salem Street, Annexation #594 into the Town's corporate limits
- Consent 18 Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the Unified Development Ordinance (UDO) Amendments of January 17, 2017
- Consent 19 Appointment of Danielle Bedotto, 102 Chapel Valley Lane to the Planning Board - Term: 2/7/2017 - 12/31/2019
- Consent 20 Report to Town Council on the terms of an agreement between the Town and the Oaks at Salem

Mayor Olive recognized Danielle Bedotto, the subject of Consent 19, who was in the audience.

Council Member Moyer requested Consent 06 be pulled for further discussion. Mayor Olive stated this would be heard as New Business.

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE CONSENT AGENDA. COUNCIL MEMBER
SCHULZE MADE THE MOTION MINUS CONSENT 06; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

REGULAR MEETING AGENDA

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

PUBLIC FORUM

Ken Fersch spoke about the Middleton PUD and presented a report he wrote with the cooperation of neighboring citizens. He outlined its content, pointing to a pond which needs assistance. New land developments need to be workable for all stakeholders. He asked for Council to return several meetings from now with their questions and reactions to his report.

Ken Muzillo praised the assistance of Town staff. He asked for Council support to have the post office trailer removed, which has not been utilized in over 7 years. Mr. Muzillo pointed to its dilapidated state. He is working with the postmaster to tear it down and maybe put up a new brick building or to do

something different. He's formulated a letter to the district manager in Greensboro and asked for Council to also sign the letter.

Beth Messersmith and Tina Sherman spoke about the proposed paid parental leave for Town employees. Ms. Messersmith presented national figures related to mothers going back to work early after birth. She spoke about the health impacts and infant mortality rates, along with stating there are significant benefits of such a policy to employers. Other employers are offering this benefit.

Ms. Sherman stated her case for paid parental leave, detailing the circumstances surrounding the births of her sons, the last one being paid leave for her. She talked about the difficulties encountered with the other three. Ms. Sherman presented a list of employers in Apex offering the policy and was overjoyed that the Town is thinking about doing so also. This is a no-brainer looking at the value of Town employees who should enjoy the benefits she and her husband enjoy.

Doug Meckes spoke about the Fire Department, telling the story of when lightning hit their house and started a fire. Their insurance agent said that if the Apex Fire Department were not timely, they would have lost their entire roof. He and his wife were appreciative and eternally thankful for the Fire Department response.

PUBLIC HEARINGS

Public Hearing 01 : Drew Havens, Town Manager

To receive citizen input regarding the formulation of the Fiscal Year 2017-18 Annual Budget

The Town Manager explained the budget process, stating this would be the time for citizens to give their input to Council.

Mayor Olive declared the Public Hearing open.

Mark Blatchford stated he's done large budgets and knows tough decisions have to be made. He related a story about Parks and Recreation and the Community Center which he and his wife use five days a week. This has made an incredible difference in their lives, and he feels the tax dollars were well spent. He also told a story of how our EMTs were called when he was having chest and hand pains. They quickly attended to him, put him in the ambulance, and got him to the hospital. The EMTs stayed with him, which was paramount, because they recognized he was going into cardiac arrest. They performed life saving measures prior to his going to surgery. One of the EMTs returned to the hospital the next day to check on and visit with him.

Connie Snyder, on behalf of the Charleston Village residents, spoke about the connector bridge and how thankful they are that the Town is working forward to address this issue.

Mayor Olive declared the Public Hearing closed.

Staff stated the various other ways citizens could submit their input. The Mayor stated we will find out what we could do about the trailer; this would have to be navigated carefully. He assured the audience we don't just listen and then forget.

Public Hearing 02 : Amanda Bunce, Senior Planner

This item was continued from the January 3, 2017 Town Council meeting.

Rezoning application #16CZ26 (Pricewood PUD) to rezone 86.93± acres at 0, 1600, 1612, 1617, 1632, 1641 & 1645 Pricewood Lane from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ)

Summary of the revisions and new conditions that have been submitted since that meeting:

- **Proposed minimum lot size increased from 5,000 to 6,000 square feet**
- **Proposed minimum lot width increased from 50 to 60 feet**
- **Addition of a proposed average lot of size of 7,500 square feet**
- **Addition of condition setting the maximum number of lots between 6,000 to 7,000 square feet at 15% of the total lots**

Staff reoriented Council to the site and to the revised and new conditions. Planning Board and staff recommended approval.

Jason Barron, representing the applicant, reoriented Council to the site. Based on previous Council feedback, Mr. Barron stated they have been trying to address Council concerns and explained the details of their modifications.

Mayor Olive declared the Public Hearing open.

Sharon Heaton, Bill Ott, Glenn Rinne, Joy Wilkes, and Sherry Bass were all in favor of the project, offering the following types of comments: the community as a whole decided to move on, they are glad for the new traffic lanes, the time for change has come, the area is no longer successful farmland, they are glad the developer will provide recreation land, there is potential for a quality development. Council was asked to revisit the 2030 Land Use Plan. There were concerns about land density, the intersection at Apex Barbecue Road and Olive Chapel, and the clearcutting of trees.

Leigh Thorne, in opposition, still felt the same about the project in spite of the changes by the developer. The PUD would be taking away the country feel of Apex. The Town has become overdeveloped, and Ms. Thorne talked about the effects of traffic.

Mayor Olive declared the Public Hearing closed.

Council questions concerning buffers were answered by staff and the applicant. The developer agreed to the modification/addition of a buffer if so desired by Ms. Thorne, property owner.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER SCHULZE MADE THE MOTION TO APPROVE WITH ADDITIONAL CONDITIONS PROPOSED BY THE APPLICANT AND A TYPE A BUFFER IF DESIRED BY THE PROPERTY OWNER; COUNCIL MEMBER WILKIE SECONDED THE MOTION.

Council thanked the developer for its work on this project. Council expressed concern about not seeing anything different about this project and the safety of the students who will walk the area. She could not support the project. Council stated this is a nicer project than has been seen in most of the area, but adding more houses does not balance our community to for a live/work environment.

The Town Attorney requested width clarification of the Type A buffer. Council spoke about the benefits of the project and its constitutionality.

COUNCIL MEMBERS SCHULZE, MOYER, AND WILKIE VOTED IN THE AFFIRMATIVE;
COUNCIL MEMBERS JENSEN AND DOZIER VOTED IN THE NEGATIVE.
THE MOTION CARRIED BY A 3-2 VOTE.

Mayor Olive requested the swearing in to take place after a two minute recess since Justice Newby had arrived. There was no opposition from Council.

Chief Justice Newby spoke about how the Statutes address how hard it can be to set aside personal interests and do what is right and fair and just and in the best interest of the entire community. We are all saddened by some of the sharp language used in the political arena; but Justice Newby felt that if we just back up a bit, we would find our commonality - love of country, state, and city.

Chief Justice Newby administered the Oath of Office of the NC Code Officials Qualification Board to Mayor Olive. Mayor Olive explained how the Board helps certify inspectors of municipalities and counties.

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 : Eleanor Green, Human Resources Director

Paid Parental Leave policy for Town employees

Staff gave a listing of those municipalities and private employers who have passed such a policy. This came as a result of a request from Mayor Pro Tem Dozier. Staff explained the details of the proposed policy.

Staff answered Council questions about eligibility, percentage of employees in their child bearing years, female employees who came back to work before the 12 week period was up, how the policy is looked at as being 'free' from a budget impact, how employees may leave our employ because of not having this benefit, the disadvantages of short term disability, and adoption.

Council asked that this go back to Committee in order to come up with an agreeable policy, Council answering that this has been talked about since last November. Staff answered Council questions surrounding a person taking leave and then not working long enough for the Town not to recoup its money. Council stated he has not seen employee demand for such a policy. We would be solving a problem we don't have right now.

Council stated he would like to read more information. Why are we giving both males and females the same amount of time off, and he questioned the adoption process.

Council stated we are not at a competitive disadvantage if we don't have this. We need to take baby steps to get something like this in place.

Council thanked the Town Manager, HR Director, and those in attendance who supported this. She talked about how she believes staff puts family second sometimes to take care of the community. We have held several meetings on this subject, and Council should have been there to have their questions answered. She spoke about how her job supported her when she had her children. Council agreed to send this to Committee.

After brief discussion about all Council needing to attend a meeting on this subject, the Town Attorney stated this meeting would need to be a Work Session. The Town Manager would set this up, the Mayor asking Council to send any questions to the Town Manager for compilation.

New Business 02 : Council Member Bill Jensen

Direction to staff to solicit proposals from solar energy contractors for the installation of solar photovoltaic systems on Public Safety Station 5 and/or the Public Works Operations Building

Council Member Jensen stated that without subsidies, the rate of return is now positive on solar. He wished for this to go out to bid for the fire house and public works buildings, each separately. We can then see if this would gel and if we would be able to make a purchase if desired. The Town Manager will put together an RFP.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO
CONSTRUCT AN RFP; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

New Business 03 : Council Member Denise Wilkie

Use of the Town Hall Campus and Tunstall House grounds for music events aimed to create awareness of the historic Tunstall House and potentially raise funds for its restoration

Council Member Wilkie stated she was trying to bring more attention to the Apex Historical Society with the hopes of pulling closer the old and new Apexes. We could do "Music on the Lawn" events one Sunday afternoon a month between April and October on the Tunstall lawn. The hope would be to raise funds to restore the Tunstall house so that it would be sustainable on its own. The Historical Society wishes to raise funds and bring awareness to cultural arts and the downtown. Donations from the musical events would be split as follows, the Historical Society feeling this would be fair: 50% to Historical Society, 30% to the Town, and 20% to the band.

One of the Boy Scouts stated he felt his Troop would be willing to help with gardening around the house. The Town Manager stated it would cost approximately \$750 to restore the house. We cannot renovate, we need to restore since the house is in our historical district. This will be in the CIP again this year.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER WILKIE MADE THE MOTION TO APPROVE USE
OF THE CAMPUS AND GROUNDS FOR MUSICAL EVENTS TO RAISE AWARENESS AND
FUNDS FOR RESTORATION OF THE TUNSTALL HOUSE; COUNCIL MEMBER JENSEN SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

ADDED NEW BUSINESS 04: Council Member Wesley Moyer/David Wood, Halle Cultural Arts Center Manager

17 requested special events for calendar year 2017 and approval of the Town acting as a co-sponsor for the events

Council Moyer stated some of the cost figures presented by staff. He wanted to know our policy to mitigate some of these expenses, especially if the number of events grows.

Staff stated this process started last year in order to get an idea of the cost of the events. He explained the process the requests went through. The Mayor stated the benefits of the process. He suggested the Parks and Recreation Committee look further at the policy in order to help decide the fairest route to take.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE
THE REQUESTED EVENTS; COUNCIL MEMBER SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

CLOSED SESSION

To consult with the Town Attorney related to handling of the matter of the City of Fayetteville and the Public Works Commission of the City of Fayetteville v. NC Environmental Management Commission, NC Department of Environmental and Natural Resources, and the Town of Cary and the Town of Apex; handling of the matter of the Town of Apex vs. Rubin; and a property acquisition negotiating position

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

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

MAYOR OLIVE CALLED FOR A MOTION TO AUTHORIZE THE TOWN ATTORNEY OR HER DESIGNEE TO SEND
NOTICE OF ENTRY LETTERS FOR THE PURPOSE OF INVESTIGATING ALTERNATIVE MEANS OF PROVIDING
SEWER TO THE RILEY'S POND SUBDIVISION TO ADJACENT PROPERTY OWNERS.
COUNCIL MEMBER SCHULZE MADE THE MOTION; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

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