



# Apex Town Council Meeting

Tuesday, August 1, 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, August 1, 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 David Hughes, Town Clerk Donna B. Hosch, and Assistant Town Attorney Brian Meyer

Absent was 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

There were no Presentations to be made.

## CONSENT AGENDA

- Consent 01 Minutes of the July 20, 2017 Regular Council Meeting
- Consent 02 Statement of the Town Council and Ordinance for Rezoning Case #17CZ09 located at 3621, 3705, & 0 Green Level West Road. Don Mizelle and WithersRavenel are the petitioners
- Consent 03 Set the Public Hearing on August 22, 2017 for an amendment to the 2030 Land Use Map and rezoning application #17CZ13 (Crossroads Holdings, LLC). The applicant, Crossroads Holdings, LLC, seeks to amend the 2030 Land Use Map classification from Right-of-Way to Mixed Use: High Density Residential/Office Employment/Commercial Services and to rezone approximately 0.36± acre located at 0 N. Salem Street from Residential Agricultural to Planned Commercial-Conditional Zoning (PC-CZ).

- Consent 04 Set the Public Hearing on August 15, 2017 for rezoning application #17CZ14. The petitioner, Mike Foley for New Hill Development, LLC, wishes to rezone +/- 18.74 acres located at 0 Garris Road from Wake Co. R-30 & GB to Medium Density - Conditional Zoning (MD-CZ).
- Consent 05 Set the Public Hearing on August 15, 2017 regarding Rezoning Application #17CZ15 (Peak City Properties LLC). The applicant, Kelly Viau, seeks to rezone approximately 0.18± acres located at 200 W. Chatham Street from Mixed Office - Residential - Retail - Conditional Use (#05CU11) to Mixed Office - Residential - Retail - Conditional Zoning, to include additional uses.
- Consent 06 Set the Public Hearing on August 15, 2017 for Land Use Map Amendment and rezoning application #17CZ16 to rezone 1.897± acres located at 8732 Castleberry Road from Wake County Zoning R-80W to Low Density Conditional Zoning (LD-CZ)
- Consent 07 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 Betty Twiggs Property (Single-family home) property containing 1.897 acres located at 8732 Castleberry Road, Annexation #605, into the Town's corporate limits
- Consent 08 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 La Mission De L'Esprit Saint Erl (Garris Road) property containing 18.740 acres located at 0 Garris Road, Annexation 608 the Town's corporate limits
- Consent 09 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 Ralph Gregory McGhee and Tina Bailey McGhee (single-family home) property containing 1.909 acres located at 200 Howell Road, Annexation #610 into the Town's corporate limits
- Consent 10 Set Public Hearing for the August 15, 2017 Town Council Meeting regarding various amendments to the Unified Development Ordinance related to the sale of alcohol
- Consent 11 Set Public Hearing for the August 15, 2017 Town Council Meeting regarding amendments to the Unified Development Ordinance related to Veridea
- Consent 12 Statement of the Town Council for Rezoning Case #17CZ04, Jones & Cnossen Engineering, PLLC & Friendship Station, LLC petitioners for the properties located at 0,3148, 3136, 3113, and 3232 Olive Farm Road; 0, 2916, 2908, 2816, and 2804 Richardson Road; 0, 0, 8004, 8025, 8129, 8109, 8105, 8132, 8021, and 8116 Humie Olive Road; 2900 OLD US 1 HWY, 2712 and 2705 Butterfinger Lane; and parts of 8217 Humie Olive Road, 2740, 2800, and 2732 Richardson Road
- Consent 13 Reclassification of one Street Maintenance Worker position at Salary Grade 13 to new position of Street Signs Technician at Salary Grade 16
- Consent 14 Set a Public Hearing on August 15, 2017 for the purpose of considering whether to enter into an installment financing agreement (the "Agreement") pursuant to Section 160A-20 of the General Statutes of North Carolina obligating the Town to make installment payments thereunder in a principal amount not to exceed \$6,000,000, plus interest thereon, for the purpose of providing funds, together with any other available funds, to pay the costs of acquiring land and making any necessary improvements thereto for parks and recreational purposes of the Town. Section 160A-20(g) of the General Statutes of North Carolina requires that the Town hold a public hearing prior to entering into the Agreement.

**Consent 15 Budget Ordinance Amendment No. 2 to allocate funding for construction of multi-use path along Apex Barbecue Road between Woodall Estates and the eastern Scotts Ridge Elementary School driveway**

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

## **PUBLIC FORUM**

Sarah Hale spoke about the Tunstall house, she being the granddaughter of the Tunstalls. She provided a history of their lives in the house and in Apex, along with a history of her grandparents and their involvement in the community. It is difficult for her family to see the house in disrepair and it being vacant for eight years. Her grandmother wanted the house cared for. Ms. Hale could see this as a community space for rent. She thanked those who came out this evening to support her request and offered that her family would help any way they could.

Dee Harman appeared as liaison to her community swim team whose meets are on private and not public property. There have been complaints about noise, so they sought to get a permit. However, they cannot because of the pool being on private property. Apex PD informed her that possibly she could get a petition to go past the 10:00 p.m. noise ordinance. Ms. Harman stated there is an exception and read the ordinance. The Mayor stated Town staff would work with Ms. Harman to try to find a solution.

Peter Cnossen spoke about Rezoning #17CZ11 on Unfinished Business. They have revised the rezoning and increased the retail square footage. He spoke about the adjustments made shown on the sheet handed out to Council. Talked about was what the 18,000 square feet could accommodate. There are two contract holders on two parcels of the property. One will bring in 50 jobs and the other would be a daycare. There are also plans for an office building. Mr. Cnossen stated they have tried to strike a balance to get the parcels developed. He believed what they presented would be of real benefit to the Town.

Jeff Hastings spoke on behalf of the Apex Historical Society. He has been in conversation with the Manager to figure out what to do with the Tunstall house. As a board, they will help facilitate ways to improve the structure and raise money. They want to see this done to a point of their having skin in the game. The Society wants to help the project to move forward.

Carl Helton also spoke about the Tunstall house. We have a big need for a wedding and gathering venue. He spoke with the previous Manager as well as the current Manager about remodeling and renovating. His mother-in-law will turn 90, and she wants a big party. This would have been good to have in the Tunstall house. If done right, the project will help pay for itself.

Barbara Collins spoke about the Trackside rezoning, of which she is in favor. She read favorable comments from her neighbors. She agrees with the 18,000 square foot minimum; we probably don't need an anchor store in this location.

Andrew Kelton spoke about the rezoning also. He was impressed that a range of space sizes could be put together. We should go with the economy and give the developer controlled flexibility. Mr. Kelton spoke about the types of businesses he'd be excited to see in the location. He was in favor of the request and looked forward to seeing some activity that will help the economy and spur growth.

Kathy Muccioli spoke against the Trackside rezoning. She appreciated the increase in space offered by the applicant, but the Council would not be sticking to its guns as to what is supposed to be in the location if the approved the rezoning.

## **PUBLIC HEARINGS**

*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.*

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**Public Hearing 01 – Quasi Judicial : Shelly Mayo, Planner II**

**Quasi-Judicial Public Hearing and application for a Special Use Permit (#17SUP02) for the East Williams Street Cell Tower located at 1501 East Williams Street**

Mayor Olive read the opening statement explaining the criteria for this Hearing and its process.

Mayor Olive declared the Public Hearing open.

The Town Clerk swore in all those wishing to speak.

David Robinson, representing TowerCom, LLC, introduced himself and stated he was accompanied by three witnesses.

There was no one in attendance in opposition of the request.

The Mayor polled Council and none had previous communications about the case, none had any relational or financial conflicts, and all stated they could impartially make a decision based on the evidence that would be presented. None had viewed the site.

**OPENING STATEMENT BY STAFF:** Shelly Mayo, Planner II, presented her credentials and gave her work history with the Town of Apex.

**OPENING STATEMENT BY APPLICANT:** None.

Staff oriented Council to the proposed project and its site. Planning staff recommended approval, although not normal for them to do so in this type of Hearing, as the project met all requirements. There were no questions from Council.

**CROSS EXAMINATION OF STAFF BY APPLICANT:** None.

**PRESENTATION BY APPLICANT:** Mr. Robinson stated Verizon has seen the need for enhanced coverage in the area. He had no questions or comments regarding staff's presentation.

**CROSS EXAMINATION BY COUNCIL:** Mr. Robinson answered a Council question about the access road.

**CROSS EXAMINATION BY STAFF:** None.

There was no rebuttal.

**CLOSING ARGUMENTS BY STAFF:** None.

**CLOSING ARGUMENTS BY APPLICANT:** None.

Mayor Olive declared the Public Hearing closed.

Mayor Olive asked if any Council Member wished to point out any items contained therein, to which there were none.

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

Mayor Olive added that there was not any evidence that was not allowed to be presented.

**Public Hearing 02 : Vance Holloman, Finance Director**

**The validity of and advisability of issuing \$48 Million of GO Bonds for Park and Recreational Facilities and possible motions to adopt and publish the bond order introduced at the July 18<sup>th</sup> Council meeting, to call for a bond referendum, to set the date of November 7, 2017 for the referendum, to publish notice of the referendum, and establish the form of the ballot**

Staff reviewed the process from inception to now. Following the Public Hearing tonight, Council could approve the requests stated above.

Mayor Olive declared the Public Hearing open.

Greg Coley, President of CAPS, gave a brief history of the formation and purpose of CAPS and identified some of their past projects. He was excited about the bond which will increase quality of life using projects identified by citizens which are in the Master Plan. He thanked the Parks and Recreation Department for following the Plan. We currently don't have the space to accommodate our recreational programs. Some kids and seniors have to play in other municipalities. They are voting yes in November.

Cindy Foster thanked Council for listening to the residents for their being able to vote for the upcoming bond. She talked about what the bond will offer current and future citizens and how expansions will eliminate waiting lists. Ms. Foster talked about why seniors would support Pleasant Park and the bond.

Mark Blatchford spoke about the health and mental benefits of exercise and explained why he supported the whole of the bond. We need to continue to provide amenities for people of all ages. The price tag would be manageable for most families.

Mayor Olive declared the Public Hearing closed.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER WILKIE MADE THE MOTION TO ADOPT AND PUBLISH THE  
BOND ORDER INTRODUCED AT THE JULY 18<sup>TH</sup> COUNCIL MEETING, TO CALL FOR A BOND REFERENDUM, TO SET THE DATE OF  
NOVEMBER 7, 2017 FOR THE REFERENDUM, TO PUBLISH NOTICE OF THE REFERENDUM, AND ESTABLISH  
THE FORM OF THE BALLOT; COUNCIL MEMBER DOZIER SECONDED THE MOTION.

Council stated he opposed the request. He did not question a senior center, but this would be a large bond that would take a while to pay back. We have other bonds coming along as well. This will hit hard those on fixed incomes. We should proceed as funds become available; he would rather see us grow slow. All other Council Members weighed in stating we would not immediately purchase the bonds – this would just give us permission to do so; democracy is giving the people the opportunity to make this decision; this would be an opportunity to make projects come to life; even areas with lower wealth and growth have senior centers and it's time for this to happen here; even those with lower incomes want to get out and engage, and this will give them an opportunity to do so.

COUNCIL MEMBERS WILKIE, DOZIER, JENSEN, AND MOYER VOTED IN THE AFFIRMATIVE;

COUNCIL MEMBER SCHULZE VOTED IN THE NEGATIVE.

THE MOTION CARRIED BY A 4-1 VOTE.

## **OLD BUSINESS**

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There were no Old Business items for consideration.

## **UNFINISHED BUSINESS**

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**Unfinished Business 01 : Liz Loftin, Planner II**

This item was continued from the July 18, 2017 meeting.

**Rezoning Application #17CZ11 (Villages of Apex South PUD Amendment). The applicant, Peter Cnossen, Jones & Cnossen Engineering, on behalf of NC II LP LTD Partnership, seeks to rezone approximately 12.35± acres located at 76 Hunter Street, 0 Laura Duncan Road, and 1960 Apex Peakway from Planned Unit Development - Conditional Zoning (#14CZ04) to Planned Unit Development - Conditional Zoning, to change conditional zoning conditions.**

Staff provided a brief summary of the request. Since last being before Council, the applicant amended their letter. Staff detailed the changes, and clarified office minimums.

Staff answered Council questions about what will be a part of the PUD. Council stated reasons why the request would be supported. Maybe the market is not there, pointing to outparcels at Food Lion. Council stated he'd met with the developer and discussed ideas. Council questioned what would happen if the applicant came back before Council with what they were unable to do. Council spoke about outparcel opportunities and how the developer should be worked with as they are open to ideas and suggestions.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE

THE APPLICATION; COUNCIL MEMBER JENSEN SECONDED THE MOTION.

THE MOTION CARRIED BY A 5-0 VOTE.

## **NEW BUSINESS**

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### [New Business 01](#)

#### **Council Member Denise Wilkie**

Council Member Wilkie engaged discussion on the future use of the Tunstall house and efforts to have it restored. She has been asked what Tunstall house is and what its purpose is. We have been trying to come up with possible uses. It comes down to money for restoring the house, our doing only a little here and a little there over the years.

Council Member Wilkie wants to raise money, but always gets the question, “what are you going to do with it [the house]”? She believes it should be a venue for receptions and community events. She distributed information on the Borden House in Raleigh, which is rented through Raleigh’s Parks and Recreation Department, showing its uses. The cost for other venues is outrageous. The Town has been entrusted with this house, and we let it go down. The picnic shelters are in better shape. This is a taxpayer owned house, and we need to do something about it.

The Fletcher Foundation has walked the house and asked what its purpose would be. We’ve had sponsorships and concerts to raise awareness more than money. We need to establish a purpose before talking about funding. Council Member Wilkie’s proposal was for an event center of which people in Apex will be proud and which rental funds will sustain. It will provide another option of where to rent.

Council responded with the following types of remarks: this is a great idea that is a part of Apex history that should be preserved; this is a gem that needs to be saved but opposed to private use for wedding receptions and parties because we would be competing with other businesses in town; would be unfair competition since we’re not paying taxes and other businesses are; this needs to be used for Town meetings, HOA meetings, etc.; don’t think we should get into commerce.

Council stated that maybe we should have a task force to brainstorm how to use the property. Preserving history is important and we appreciate what the family has and is still willing to do. Council Member Wilkie stated historical preservation is important and how we connect our past with the present. Even the Town goes outside of Apex for events because we don’t have a space here. Maybe CSX would want to help.

Council discussion continued: maybe it could be a museum-esc type of thing; maybe we could lease out the upstairs; we need to look at the return to taxpayers and how we can manage this and its cost; we could incorporate art and artifacts inside; this would not be competing with others as we already rent the Halle for weddings, etc. This is one of the oldest houses still standing; maybe people have artifacts

from the era for an info museum concept; would be a great civic space; we should renovate and take the opportunity to raise funds privately; don't think it should be used for commercial purposes.

Council Member Wilkie did not think people would want to see this set up as it originally was in the past. The rooms are big and could accommodate events. We could start small and gradually go bigger. Council thought there could be a blended museum and event space. This will be an expensive effort and we might not get enough money just from donations. Staff pointed out the house will now have to be restored not just renovated, which is specialized work. Ground imprint nor square footage will be added. Staff also reminded Council this project is in the CIP in year five.

COUNCIL MEMBER WILKIE MADE THE MOTION TO FORM A STEERING COMMITTEE, THE MANAGER TO WORK ON TYPES OF INDIVIDUALS TO APPOINT, WITH THOSE NAMES TO THEN BE SUBMITTED TO THE MAYOR; COUNCIL MEMBER DOZIER 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, Mayor Olive adjourned the meeting.

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Lance Olive  
Mayor

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