



Apex Town Council Meeting

Tuesday, August 15, 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 15, 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 and Council Members William S. Jensen, Eugene J. Schulze, and Wesley M. Moyer
Also in attendance were Town Manager Drew Havens, Assistant Town Manager Shawn Purvis, Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe
Absent were Mayor Pro Tem Nicole L. Dozier and Council Member Denise C. Wilkie

COMMENCEMENT

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

PRESENTATIONS

There were no Presentations to be made.

CONSENT AGENDA

- Consent 01 Minutes of the Regular Council Meeting held on August 1, 2017
- Consent 02 Resolution codifying the Town's Code of Ordinances and the Unified Development Ordinance
- Consent 03 Encroachment Agreement and to authorize the Town Manager to execute the same for a 5-foot private sidewalk easement to encroach upon a portion of the Public Utility Easement
- Consent 04 Findings of Fact, Conclusions of Law, and Decision approving the Special Use Permit 17SUP02 East Williams Street Cell Tower located at 1501 East Williams Street
- Consent 05 Request from NCDOT to repeal an obsolete ordinance and enact three new ordinances to restore the currently posted 45 mph speed limit on SR 1600 (Green Level Church Road) within Apex corporate limits

- Consent 06** Motion to approve Resolution of Intent for the closing of a right-of-way (ROW) along former Technology Drive near NC-55 and to call for a Public Hearing at the September 19, 2017 Council Meeting
- Consent 07** Statement of the Town Council and Ordinance for Rezoning Case #17CZ11, Jones & Cnossen Engineering, petitioners for the property located at 76 Hunter Street, 0 Laura Duncan Road, 1960 Apex Peakway
- Consent 08** 2017-2018 Rental Agreement with Lufkin Middle School for use of the Apex Community Center for Volleyball and Basketball and to authorize Director of Parks, Recreation, and Cultural Resources to sign on behalf of the Town
- Consent 09** Three items related to the provision of School Resource Officer (SRO) and off duty police officer services to the Wake County Public School System (WCPSS)

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE CONSENT AGENDA. COUNCIL MEMBER SCHULZE MADE THE MOTION; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

REGULAR MEETING AGENDA

Mayor Olive stated that there were requests to hear Public Hearing 10 first and Public Hearing 02 before Public Hearing 01.

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE REGULAR AGENDA WITH THE ABOVE MODIFICATIONS.
COUNCIL MEMBER JENSEN MADE THE MOTION; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

PUBLIC FORUM

In accordance with North Carolina General Statute 160A-81.1, the Apex Town Council will hold Public Forum during the first Regular Council Meeting of each month

PUBLIC HEARINGS

Public Hearing 10 : Amanda Bunce, Planning Manager

Public Hearing and various amendments to the Unified Development Ordinance related to Veridea

Mayor Olive stated that there was a request was to continue this Hearing to the September 5th Meeting when all Council Members were scheduled to be in attendance.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE CONTINUANCE; COUNCIL MEMBER SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

Public Hearing 02 : Mike Clark, Senior Planner

Public Hearing and 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

Mayor Olive stated that the applicant wished for this item to be continued to the October 3rd Meeting.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE
THE CONTINUANCE; COUNCIL MEMBER SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

Public Hearing 01 : Vance Holloman, Finance Director

Public Hearing and selection of a financial institution to provide funding, making findings and determinations regarding the need to finance the purchase of land for Parks and Recreation, and authorizing staff to file an application with the Local Government Commission to approve an installment financing agreement for the project for the purchases of up to \$ 6 million

Staff stated Council called for a public hearing regarding this request at a previous meeting. He explained the items seeking Council approval.

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

Staff clarified how the proposals were distributed and evaluated.

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE REQUEST. COUNCIL MEMBER MOYER MADE
THE MOTION; COUNCIL MEMBER JENSEN SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

Public Hearing 03 : Liz Loftin, Planner II

Public Hearing and Ordinance on the Question of Annexation - Apex Town Council's intent to annex Betty Twiggs Property (single-family home) containing 1.897 acres located at 8732 Castleberry Road, Annexation #605, into the Town's corporate limits

and

Public Hearing 04 : Liz Loftin, Planner II

Public Hearing and 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)

Staff oriented Council to the site. A neighborhood meeting was held. Planning Board and staff recommended approval. Staff answered questions regarding access and units/acre.

The applicant, Betty Twiggs, spoke about the reasons for her request and answered questions from Council.

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

Staff answered questions from Council about surrounding lot sizes, road access, and zoning designations.

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE ORDINANCE, AMENDMENT, AND REZONING.
COUNCIL MEMBER SCHULZE MADE THE MOTION. THERE WAS NO SECOND TO THE MOTION.
THE MOTION DIED.

Council discussed densities and stated he did not like combining items into one motion. He wished for more time to speak with the developer, the Mayor stating these were not good reasons to delay the vote.

The applicant clarified the length of the road, and there was further discussion about road length and its possibly becoming a through road. The applicant spoke about what alternate condition would be acceptable to her in response to lot size.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION
TO APPROVE BOTH REQUESTS WITH THE DISCUSSED CHANGE IN DENSITY;
COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

Public Hearing 05 : Shelly Mayo, Planner II

Public Hearing and Ordinance 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
and

Public Hearing 06 : Shelly Mayo, Planner II

Public Hearing and rezoning application #17CZ14. The applicant, Michael Foley from New Hill Development, LLC, wishes to rezone +/- 18.740 acres located at 0 Garris Road from Wake County R-30 and GB to Medium Density – Conditional Zoning (MD-CZ)

Staff oriented Council to the site. A neighborhood meeting was held. Planning Board and staff recommended approval.

Mike Foley, applicant, spoke about how they will ensure a quality product on the property.

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

Council stated he had a problem with medium density in the area and explained why. The applicant answered questions about lot size.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER SCHULZE MADE THE MOTION TO APPROVE
THE ORDINANCE AND REZONING. THERE WAS NO SECOND TO THE MOTION.
THE MOTION DIED.

Council discussed developing a more integrated town. Council offered his thoughts on lot sizes. Council talked about wanting this item to come before full Council. The applicant asked for a continuance to the September 5th meeting.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO CONTINUE
AS REQUESTED; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

Public Hearing 07 : Dianne Khin, Planning Director

Public Hearing and Ordinance 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

Staff oriented Council to the site, stating it recommended approval.

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

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER SCHULZE MADE THE MOTION TO APPROVE
THE ORDINANCE; COUNCIL MEMBER JENSEN SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

Public Hearing 08 : Shannon Cox, Senior Transportation Planner

Public Hearing and amendments to the Transportation Plan's Thoroughfare and Collector Street Plan map to add a future Local Connector street from Old Grove Lane toward Center Street

Staff oriented Council to the amendments, stating the Planning Board and staff recommended approval.

Mayor Olive declared the Public Hearing open.

Rhonda Henderson expressed concern that after 20 years her property was being taken away. She understood that if properties were developed, one of them would be annexed to build a road. Staff clarified the terms of a possible future development, who would and would not be responsible for connector roads, and future annexation.

Mayor Olive declared the Public Hearing closed.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE
THE AMENDMENTS; COUNCIL MEMBER JENSEN SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

Public Hearing 09 : Amanda Bunce, Planning Manager

Public Hearing and various amendments to the Unified Development Ordinance related to the sale of alcohol

Staff oriented Council to the amendments, detailing each one. There was Council discussion about amplified sound and establishments being informed of these amendments.

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

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE
THE AMENDMENTS WITH THE DISCUSSED MODIFICATION; COUNCIL MEMBER SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

OLD BUSINESS

There were no Old Business items for consideration.

UNFINISHED BUSINESS

Unfinished Business 01 : Shawn Purvis, Assistant Town Manager

Purchase of two properties of +/-12.13 acres and +/-10.04 acres from Jerry Lewter located at 1133 Wimberly Road

Staff oriented Council to the sites and their future possible use. The price per acre was \$100,000.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER SCHULZE MADE THE MOTION TO APPROVE
THE PRUCHASES; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

Unfinished Business 02 : Mike Clark, Senior Planner

Purchase of property of +/-7.61 acres from Haywood and Victoria Mills located at 1200 Hickory Hill Lane

Staff oriented Council to the site and its future intended use for park development. The price per acre was \$100,000.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE
THE PURCHASE; COUNCIL MEMBER SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 VOTE.

NEW BUSINESS

New Business 01 : Mike Clark, Senior Planner

Mercer Estates Master Subdivision Plan located at 816 Wimberly Road containing 19.48± acres and 19 single family dwelling units

Staff oriented Council to the site. The Parks and Recreation Commission recommended a fee in lieu, a neighborhood meeting was held, and the Planning Board and staff recommended approval.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER SCHULZE MADE THE MOTION TO APPROVE
THE PLAN; COUNCIL MEMBER JENSEN SECONDED THE MOTION.
COUNCIL MEMBERS SCHULZE AND JENSEN VOTED IN THE AFFIRMATIVE; COUNCIL MEMBER MOYER VOTED IN THE NEGATIVE.
THE MOTION CARRIED BY A 2-1 VOTE.

New Business 02 : Mike Clark, Senior Planner

Revisions to the Smith Farm 2-4 Subdivision Plan located at a Tract of Land south of US 64, west of the American Tobacco Trail, north of Olive Chapel Road, containing 172.99± acres and a total of 439 dwelling units

Staff oriented Council to the revisions. Planning Board and staff recommended approval as submitted. There was brief Council discussion about buffers, lot sizes, and dwelling unit count.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER SCHULZE MADE THE MOTION TO APPROVE
THE REVISED PLAN; COUNCIL MEMBER JENSEN SECONDED THE MOTION.
THE MOTION CARRIED BY A 3-0 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.

Donna B. Hosch, MMC, NCCMC
Town Clerk

ATTEST:

Lance Olive
Mayor