



Apex Town Council Meeting

Tuesday, April 17, 2018

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, April 17, 2018, 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 David Hughes, Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe

COMMENCEMENT

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

PRESENTATIONS

Presentation 01 : Mayor Lance Olive

Think Apex Day Proclamation. Think Apex Day 2018 is Saturday, April 28. This is a day when Apex residents are encouraged to get out in the community and make a positive impact through selfless actions and volunteerism.

Mayor Pro Tem Dozier read the Proclamation following the Mayor's brief explanation of why Think Apex Day is important to the community. The Mayor presented the Proclamation to Joanna Helms, Economic Development Director.

Presentation 02 : David Sarkisian, NC State Clean Energy Technology Center

Results of the work done by the Clean Energy Technology Center relative to Town policies and procedures related to solar photovoltaic (PV) systems installed on dwellings and businesses in Town

Mr. Sarkisian gave a brief history of his organization. He stated that Apex asked the Center to determine if it would be easier for citizens or the town to adopt solar. Their findings were outlined. The Town Manager agreed to consider some of the items presented that were applicable to incorporate into some policy

recommendations. He stated our goal was to be one of the most solar friendly towns in the state. Mr. Sarkisian answered Council questions related to time of use rates.

CONSENT AGENDA

- Consent 01 Minutes of the April 3, 2018 Regular Town Council Meeting
- Consent 02 Apex Tax Report dated 03/01/2018
- Consent 03 Facility Encroachment Acceptance Agreement No. CSX846025 between the Town of Apex and CSX Transportation, Inc. and authorization for the Town Manager to execute the Agreement
- Consent 04 Relocation of an existing 3 phase overhead electric line for NCDOT to replace the bridge on Apex Barbecue Road
- Consent 05 Amendment to Section 20-164 with the addition of subsection (28) establishing No Parking zones on the east and west sides of Lake Pine Drive along the unpaved shoulders in the vicinity of Apex Community Park
- Consent 06 Contract for Sam's Xpress Car Wash for Town-owned Passenger Vehicles
- 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 Salem Baptist Church of Apex property (2 single-family units) containing 1.945 acres located at 1201 and 1220 Salem Church Road, Annexation #631 into the Town's corporate limits
- Consent 08 One "Lieutenant" badge and one handgun declared "surplus", the price for such handgun set at \$1.00 (One Dollar), and the badge and handgun awarded to Lt. Rhodes and one "Sergeant" badge and one handgun declared "surplus", the price for such handgun be set at \$1.00 (One Dollar), and the badge and handgun awarded to Sgt. Towell
- Consent 09 Resolution to direct Town staff to post the Town's System Development Fee analysis for the water and sewer systems to the Town's web site and to solicit and furnish a means for written comments concerning that analysis. The analysis must be displayed for 45 days prior to adoption of the fee by the Town.
- Consent 10 Set the Public Hearing concerning the proposed Fiscal Year 2018-19 Budget for Tuesday, May 1, 2018, at 7:00 p.m. at the Apex Town Hall

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

REGULAR MEETING AGENDA

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

PUBLIC FORUM

No one wished to speak during Public Forum.

PUBLIC HEARINGS

Public Hearing 01 : Liz Loftin, Planner II

Proposed 2030 Land Use Map Amendment and rezoning case #18CZ07 (MCI Business Park Expansion) for approximately 2.39± acres located at 5513 Eddie Creek Drive. The applicant, Jones & Crossen Engineering, PLLC, proposed amending the 2030 Land Use Map from Office Employment to Office Employment and Industrial Employment and rezone the property from Rural Residential (RR) to Light Industrial-Conditional Zoning (LI-CZ).

Staff oriented Council to the site. A neighborhood meeting was held. The Planning Board recommended approval. Staff answered Council questions related to kennels and surrounding land.

Patrick Kiernan, Jones and Crossen Engineering, representing the applicant, reiterated that this was an expansion of the MCI business park. He answered Council questions related to connections.

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 MOYER MADE THE MOTION TO APPROVE THE AMENDMENT AND REZONING; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 02 : Amanda Bunce, Planning Manager

Rezoning application #18CZ04 (Horton Park PUD amendment). The applicant, Jeff Roach, Peak Engineering & Design, on behalf of MFW Investments, LLC, sought to rezone approximately 146.899± acres located at 5100, 5101, & 5220 Jessie Drive; 0 Dezola Street; 8140, 8252, 8306, & 8308 Smith Road from Planned Unit Development-Conditional Zoning (PUD-CZ #17CZ19) and Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ).

Staff oriented Council to the site. A neighborhood meeting was held. Staff reviewed the six changes to the PUD. Staff summarized previously requested changes related to transportation. Planning staff and the Planning Board recommended approval. The Planning Board asked for consideration by Council to further define one of the conditions. Council expressed concern about the length of the development and wanting to see a multi-use path. Council asked staff to clarify a concern about density.

Jeff Roach, Peak Engineering and Design, representing the applicant, thanked staff for working with them on this project. He explained why they were asking to add acreage, noting that they will not be adding

units. He further explained the zero entry percentage and how they are willing to have flexibility on this point. Mr. Roach addressed the language of a signal installation as requested by Council. He answered Council questions about public art easements and honoring the history of the property with this art, along with questions related to solar properties.

Mike Whitehead, MFW Investments, representing the applicant, presented information regarding solar and answered Council questions related to such. He additionally answered questions related to housing affordability.

Mayor Olive declared the Public Hearing open.

Steven Rhodes asked questions related to a particular intersection. His main concern was traffic and a bridge across Jessie Drive.

Mr. Roach answered further questions from Council. Staff summarized the five new conditions asked for during discussion.

Mayor Olive declared the Public Hearing closed.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER KILLINGSTORTH MADE THE MOTION TO APPROVE THE
REZONING WITH THE FIVE NEW CONDITIONS; COUNCIL MEMBER MOYER SECONDED THE MOTION.

Council expressed thanks for those things which were improvements and benefits. However, she also noted those things for which she was displeased. She would not be able to support the project. Council spoke about the gap of affordable housing becoming wider and wider and wanting to have conversation on how to address this.

COUNCIL MEMBERS KILLINGSWORTH, MOYER, JENSEN, AND GANTT VOTED IN THE
AFFIRMATIVE; COUNCIL MEMBER DOZIER VOTED IN THE NEGATIVE.
THE MOTION CARRIED BY A 4-1 VOTE.

Mayor Olive called for a five minute recess.

Public Hearing 03 : Amanda Bunce, Planning Manager

Amendments to the Unified Development Ordinance related to lighting standards

Staff oriented Council to the amendments requested by the Olive Chapel Swim and Tennis Club and outlined the proposed changes. Planning staff and the Planning Board recommended approval.

Mayor Olive declared the Public Hearing open.

Chris Davies, representing a group of individuals, provided background on why the swim club made this request. He stated the benefits of the improvements they have already made. He explained that after installation, it was discovered that the use was not permitted by the Planning Department. He explained the dissenting vote at the Planning Board.

John Staley stated he supported the request.

Stan Thompson presented visuals showing why he was in opposition to the request. He talked about how the requestor was at fault for not following proper procedure before installing the lights, how the lights do not save money, and how they are not state of the art.

Leonard Jeffries stated that the lights installed produce a lot of glare, and there is not much of a barrier from the trees when the leaves fall.

Ismail Said stated he realized there was a permitting problem, but they have tried to do things correctly and felt the amendments were a reasonable compromise. He spoke about how they are trying to ensure no noise, etc.

Jennifer Yglesias stated they were excited about the lights because they could exercise in the evening after their work hours. She lives within site of the court, and the lights can be seen from her house. However, it is not an issue for them. The benefits of the lights outweigh any perceived negatives.

Terry Hengse stated he was in attendance representing his family and the swim club. His family has made many friends because of being at the courts. Given work schedules, it was of benefit for them to be able to use the courts when dark.

Will Scudder gave a perspective from the youth of the area. He supported the lights because the time spent by youth at the courts was better than time spent elsewhere.

Mayor Olive declared the public hearing closed.

Staff answered Council questions related to usage of the lights at the swim club and what the town does and does not allow. She showed examples of other courts in Apex and those nearby with extra lighting.

She stated there were no requested changes that would affect public parks. Council expressed concern about the glare, referring to information by IDS.

Staff stated this was not an easy standard to write and would need to be done so by an expert in the field. Council offered that screening on the fencing would help with minimizing glare. He was in agreement with the lighting being of benefit to extending playing time on the courts. There was Council discussion regarding whether there were other ways which might help the glare issue. Staff offered we do not have the equipment or expertise to properly measure glare according to industry reports. There was further discussion about buffers and what could be asked for during the permitting process.

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 5-0 VOTE.

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 : Sarah Rayfield, Senior Planner

South Walk Townhomes Master Subdivision Plan for the properties located at 0 & 804 South Salem Street containing 7.13 acres and 40 lots

Staff oriented Council to the Plan. A neighborhood meeting was held. The Parks and Recreation Commission recommended a fee in lieu. Planning staff recommended approval. Staff answered Council questions about the greenway, property owners possibly being boxed in in the future, and stream buffers. Council addressed solar home preparation with the developer, who committed to solar conduits.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE
THE PLAN; COUNCIL MEMBER MOYER SECONDED THE MOTION. COUNCIL MEMBERS JENSEN, MOYER, KILLINGSWORTH,
AND GANTT VOTED IN THE AFFIRMATIVE. COUNCIL MEMBER DOZIER DID NOT INDICATE A VOTE.
THE MOTION CARRIED BY A 5-0 VOTE.

New Business 02 : Drew Havens, Town Manager

Amendment of Section 4-3 of the Apex Code of Ordinances to allow the keeping of miniature pigs within dwellings in the Town of Apex

Staff gave the conditions upon which the Ordinance would allow miniature pigs. People with pet allergies are not sensitive to pigs, they are trainable, and highly intelligent. The Planning Committee recommended that this change be made.

The Mayor recalled his experience visiting a family member who had one of these animals. He confirmed that the pigs are very intelligent and not a problem at all. Council related a similar story, indicating the intelligence of the miniature pigs.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE
THE AMENDMENT; COUNCIL MEMBER JENSEN SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE OF OINKS.

CLOSED SESSION

Closed Session 01 : Laurie Hohe, Town Attorney

To consult with the Town Attorney regarding HH Trinity Apex Investments, LLC, et. al. v. Town of Apex, and Upright Builders, Inc. v. Town of Apex

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

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

WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

With there being no further business and with no objection from Council, Mayor Olive declared the meeting adjourned.

Donna B. Hosch, MMC, NCCMC
Town Clerk

ATTEST:

Lance Olive
Mayor