



Apex Town Council Meeting Tuesday, November 6, 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, November 6, 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 Shawn Purvis, 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

There were no presentations to be made.

CONSENT AGENDA

- Consent 01 Minutes of the Regular Town Council meetings of October 2 and October 16, 2018 and the Town Council Workshop of October 25, 2018
- Consent 02 Cemetery Refund Request from Patrick and Pameula Kane, Lot 268 Plots C and D, in the Apex Cemetery
- Consent 03 Cemetery Refund Request from William "Todd" King, Lot 256 Plots A, E, H, D, B, and C, in the Apex Cemetery
- Consent 04 Cemetery Transfer Request from Wilton Hafer, Lot 225 Plot H, in the Apex Cemetery
- Consent 05 Amend Town Code of Ordinances Section 14-33 to restrict noise from construction activities
- Consent 06 Budget Ordinance Amendment No. 7 for an additional reimbursement of \$98,840 to be made to WS-JPA LLC per the amendment to the Developer's Agreement

- Consent 07 Statement of the Town Council for Rezoning Case #18RZ26 (Olive Farm Park), Drew Havens, Town Manager, Town of Apex petitioner for the property located at 0, 0, 3020, and 3024 Olive Farm Road
- Consent 08 Amend Town Code of Ordinances Section 20-143 to restrict the use of scooters and skateboards on downtown sidewalks
- Consent 09 Master Services Agreement, valid through June 30, 2021, with Piedmont Hoist & Crane, Inc. and authorizing the Town Manager to execute same for vehicle hoist and crane repair
- Consent 10 Budget Ordinance Amendment No. 6 for reimbursement to be made to Meritage Homes of the Carolinas, Inc. for the Deer Creek subdivision per the second amendment to the Developer's Agreement
- Consent 11 Statement of the Town Council and Ordinance for Rezoning Case #18CZ01, Sweetwater PUD Amendment, Mark Ashness, CE Group/ExperienceOne Homes & KEP Apex, LLC, petitioners for the property located at 0 Core Banks St and 0, 3115, 3233 US 64 HWY West
- Consent 12 Statement of the Town Council and Ordinance for Rezoning Case #18CZ22 Jones & Cnossen Engineering, PLLC, petitioner for the properties located at 1805, 1745, & 0 Holt Road
- Consent 13 Statement of the Town Council and Ordinance for Rezoning Case #18CZ24, Peak Engineering & Design PLLC, petitioner for the property located at 1200 & 1204 Old Raleigh Road
- Consent 14 Set Public Hearing for the November 20, 2018 Town Council Meeting regarding Rezoning Application #18CZ28 (Olive Chapel Road Assemblage PUD) and Ordinance. The applicant, Toll Brothers, Inc., sought to rezone approximately 70.80 acres located at 3417, 0, 3329, 0 & 3309 Olive Chapel Road and 0 New Hill Olive Chapel Road from Wake County Residential (R-80W) to Planned Unit Development-Conditional Zoning (PUD-CZ).
- 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 Katherine Chalk, James Lawrence, Kathy and John Bartholomew, Peggy Gray, Trustee Survivor's Trust A, Grace and Don Goodwin and Amy and Joseph Power (Olive Chapel Road Assemblage) property containing 70.79 acres located at 3417, 0, 3329, 0 & 3309 Olive Chapel Road and 0 New Hill Olive Chapel Road, Annexation #645 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 Cariello Holdings, LLC (Green Level Market) property containing 3.67 acres located at 3705 Green Level West Road, Annexation #648 into the Town's corporate limits
- Consent 17 Apex Friendship High School Academy of Engineering and DACA to coordinate with Town staff to transform the tree set up in front of the Depot into a "Performing Tree" by synchronizing lights on the tree with music
- Consent 18 NCDOT Certification of Municipal Declaration to Enact Speed Limits and Request for Concurrence 1074310, 1074312, and 1074316 for 45 mph speed limit along Richardson Road south of Olive Chapel Road within Apex municipal limits
- Consent 19 Lease agreement with CSX for improvements to Seaboard Street to accommodate an off street parking area and to authorize Town Manager to execute the lease

The Town Manager requested an Add-on Item for a claims release related to damage to a police vehicle and a modification to Consent 19, a lease agreement with CSX.

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

PUBLIC FORUM

Samantha Oleschuk, along with two other students from Apex Friendship High School, spoke about their involvement in the Make A Wish program. Explained was their hope that with support from Town, they could achieve their goal of contributing to this program. The ask was to transform the Christmas tree in front of the Depot into a performing tree. In addition, groups from the school would come out and perform for the community. Ms. Oleschuk stated the need to maintain a connection with the Town in order to keep their program going. She was sure they would be able to grant a wish with the Town's help.

PUBLIC HEARINGS

Public Hearing 01 : Dianne Khin, Planning Director

Ordinance on the Question of Annexation – Apex Town Council's intent to annex Joanne Satterfield Shaheen, Mark & Kristy Seaboch, Robert Andrew Henry and Edge Real Estate Company, LLC properties (Castleberry Trails) containing 12.182 acres located east of Dorset Grove Road between Wimberly Road and the American Tobacco Trail, Annexation #646 into the Town's corporate limits

Staff oriented Council to the site, noting that a part of the subdivision had previously been approved. Staff 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 JENSEN MADE THE MOTION TO APPROVE THE ORDINANCE; COUNCIL MEMBER GANTT SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

An audio recording of the following Quasi-Judicial Public Hearings 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.

Public Hearing 02 – Quasi-Judicial : Shelly Mayo, Planner II

Special Use Permit (#18SUP03) for the South Landfill Public Safety Tower located at 6110 Old Smithfield Road. The subject property is identified on Wake County Tax Maps as PIN 0740437240.

The Mayor stated the procedure by which the Hearing would proceed.

Mayor Olive declared the Public Hearing open. The Town Clerk swore in all those wishing to speak.

Ronald Rodgers, Wake County, was in attendance for the applicant. There were no opponents in attendance.

All Council Members stated they had had no communications with the applicant, that there were no conflicts, and that they would be able to make impartial decisions. None had viewed the site.

OPENING STATEMENT BY STAFF: Shelly Mayo presented her credentials and her work history. Council was oriented to the site and the reason for the request was stated. A neighborhood meeting was held. Staff clarified questions by Council on the requested tower.

CROSS EXAMINATION OF STAFF BY APPLICANT: None.

OPENING STATEMENT BY APPLICANT: Ron Rodgers stated he concurred with staff evidence and asked for all materials to be submitted into evidence. This would be part of a county-wide upgrade. This Council approved a 400 foot tower previously. The current tower is old and needs to be replaced.

John Higgins, IT Director and Chief Technology Officer for Wake County, spoke about the number of radios in the system and who uses those radios. The current tower is reaching the end of its life and it is at its max capacity. A new tower is needed for new digital technology. Mr. Higgins stated other benefits of a new tower. John Goins, TEP, answered Council question as to the structural design of the tower.

CROSS EXAMINATION OF APPLICANT BY STAFF: None.

EVIDENCE PRESENTED BY APPLICANT: Mr. Rodgers detailed how all Standards had been met.

REBUTTAL EVIDENCE BY STAFF: None.

CLOSING ARGUMENT BY STAFF: None.

CLOSING ARGUMENT BY APPLICANT: None.

Mayor Olive declared the Public Hearing closed.

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

Public Hearing 03 – Quasi-Judicial : Sarah Rayfield, Senior Planner

Major Site Plan for Hanna Imports Parking Improvements, 12.5 acres located at 1405 Vision Drive. The subject property is identified on Wake County Tax Maps as PIN 0732781596.

Mayor Olive declared the Public Hearing open. All those wishing to speak were sworn in by the Town Clerk.

William (Bill) Daniel, registered professional engineer, stated he was representing the applicant. There were no opponents in attendance.

The Town Attorney clarified the limitations by which Mr. Daniel's presentation would be subject. Mr. Daniels was comfortable with the limitations and was ready to proceed.

All Council stated there had been no communication with the applicant, that there were no conflicts, and that each could decide the case impartially.

OPENING STATEMENT BY STAFF: Sarah Rayfield presented her credentials and work history. Staff oriented Council to the site. A neighborhood meeting was held. Staff directed Council to updated information placed at their seats. Staff recommended approval with conditions.

Staff answered Council questions related to land swaps, possible changes to the Master Plan, and road connectivity.

OPENING STATEMENT BY APPLICANT: Mr. Daniel presented his background and his work history. He detailed the compatibility of the project with surrounding areas and how the site plan met the Standards.

CROSS EXAMINATION BY STAFF OF APPLICANT: None.

REBUTTAL BY STAFF: None.

REBUTTAL BY APPLICANT: None.

Mayor Olive declared the Public Hearing closed. The Town Attorney asked that the Staff Report distributed at this meeting be made part of the record.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE
THE PLAN; COUNCIL MEMBER MOYER 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 : John Letteney, Police Chief; Keith McGee, Fire Chief; Shawn Purvis, Assistant Town Manager
Transitioning Apex's primary public-safety answering points (PSAP) from Raleigh-Wake Communications to the Town of Cary and
possible motion to approve the associated budget amendment**

Assistant Town Manager Purvis presented background on PSAP options and stated the Chiefs would outline the benefits and challenges of the request.

Chief Letteney described how the current 911 call routing works and how it would work in the future. He outlined the current concerns and how we are looking to improve the overall operation of the system. A major concern was that we do not have a backup system which was removed without the Town's knowledge or approval. The benefits of the CAM partnership were presented.

Chief McGee presented challenges of the current system affecting the Fire Department, giving an example of an unacceptable situation the past. He presented an alarm processing performance comparison.

Staff presented the annual operating costs of the service, stating there was a March 5th target date for implementation. Council questions were answered related to contract length and other towns possibly sharing this partnership.

The Mayor and Council spoke on the need for continuous improvement and how important this effort is to the lives of our citizens. The Town Manager praised the work of this team and the detailed thought that went into this proposal.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER KILLINGSWORTH MADE THE MOTION TO APPROVE THE TRANSITION AND BUDGET AMENDMENT; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

New Business 02 : Council Member Bill Jensen

Discussion and request for staff direction regarding implementation of a Property Assessed Clean Energy (PACE) financing program

Council outlined the PACE program. He thought the Town could make financing less expensive than banks/lenders for solar. We would make money doing so in the long run. Council stated he was asking for permission for staff to look into this and come back with recommendations. The concept is popular on the west coast. Council presented questions for which staff will obtain answers.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO ASK STAFF TO EXPLORE WHAT IT WOULD TAKE FOR THE TOWN TO IMPLEMENT A PACE PROGRAM;
COUNCIL MEMBER GANTT SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

CLOSED SESSION

Closed Session : Laurie Hohe, Town Attorney

To consult with the Town Attorney regarding the handling of the matter of the Town of Apex v. Beverly L. Rubin

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

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

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