



Apex Town Council Meeting

Tuesday, December 4, 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, December 4, 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

Presentation 01 : Keith McGee, Fire Chief

Introduction of Preston Clark, the new Assistant Fire Chief

Chief McGee introduced Assistant Fire Chief Clark and outlined the process by which he was employed. His past exemplary employment and educational background were outlined, Chief McGee stating that these things helped to separate Assistant Chief Clark from the rest of the applicants.

Presentation 02 : Laurie Hohe, Town Attorney

Introduction of Chris Welch, the new Assistant Town Attorney

Hohe introduced Assistant Attorney Welch and outlined his educational background.

Presentation 03 : Mayor Lance Olive

Presentation of the Proclamation declaring December 12, 2018 as Arbor Day in the Town of Apex

Mayor Olive read the Proclamation before presenting it to John Brown, Parks, Recreation, and Cultural Resources Director. Brown spoke briefly about the Tree Canopy Study, those associated with the project, and what it entailed. The tree planting will be advertised on the Town website.

CONSENT AGENDA

- Consent 01 Ordinance modifying Section 18-11 of the Town of Apex Code of Ordinances
- Consent 02 Ordinance modifying Article VIII – Parking - of the Town of Apex Code of Ordinances
- Consent 03 Ordinance modifying Section 20-71 of the Town Code of Ordinances with the addition of subsection (b) (3) establishing one-way traffic flow on Hudson Avenue with traffic moving from West Moore Street to Holleman Street
- Consent 04 Resolution correcting the Ordinance for Rezoning Case #04CU09, Pointe at Davis Drive, petitioners for the property located at 1001 Davis Drive
- Consent 05 Statement of the Town Council and Ordinance for Rezoning Case #18CZ27, 540 Flex & Business Park, LLC, petitioner for the property located at 1600 Olive Chapel Road
- Consent 06 Resolution Directing the Town Clerk to Investigate Petition Received, accepting Certificate of Sufficiency by the Town Clerk, and adoption of a Resolution Setting Date of Public Hearing on the Question of Annexation – Apex Town Council’s intent to annex AmandaLee2, LLC (Sutton Pointe) property containing 5.13 acres located at 7429 and 7433 Roberts Road, Annexation #650 into the Town’s corporate limits
- Consent 07 Set the Public Hearing for the December 18, 2018 Town Council Meeting regarding Rezoning Case #18CZ29 Courtyards on Holt PUD. The applicant, EPCON Communities, sought to rezone approximately ±28.839 acres - for the properties located at 305 & 313 Catlette Street and 0, 1345, 1313, & 1337 Holt Road - from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ)
- Consent 08 Set Public Hearing for the December 18, 2018 Town Council meeting regarding Rezoning Application #18CZ31 Westford PUD Amendment. The applicant, Jones & Crossen Engineering, PLLC, sought to rezone approximately 98.653 acres located at 0 & 8101 Jenks Road and 2812, 2900 & 3300 US Hwy 64 West from Planned Unit Development-Conditional Zoning (PUD-CZ) to Planned Unit Development-Conditional Zoning (PUD-CZ) to amend sign requirements.
- Consent 09 Statement of the Town Council for Rezoning Case #18CZ17 Jordan Vistas PUD, Jeff Roach, Peak Engineering & Design, PLLC/ William and Deborah Elmore, Nina Lynn Church, Michelle Demers, Kenneth and Jennifer Proulx petitioners for the property located at 2500, 2508, 2520, & 2532 New Hill Olive Chapel Road
- Consent 10 Statement of the Town Council for Rezoning Case #18CZ28 Olive Chapel Road Assemblage PUD, Toll Brothers, Inc. petitioner for the property located at the southeast corner of Olive Chapel Road and New Hill Olive Chapel Road
- Consent 11 Set Public Hearing for the December 18, 2018 Town Council Meeting regarding various amendments to the Unified Development Ordinance
- Consent 12 Sale of Lot 214 Plot D in the Apex Cemetery to Jay Bowers
- Consent 13 Five (5) year contract with Marsh & McLennan Agency and authorization for the Town Manager to execute the same for Benefits Consulting Services
- Consent 14 Three (3) year contract with Cornerstone OnDemand and authorization for the Town Manager to execute the same for Performance and Learning Management Software Services
- Consent 15 Personnel Committee recommendations to reclassify one Senior Planner position, Grade 26, to Long Range Planning Manager, Grade 29, effective January 1, 2019, and to approve revisions to the Apex Personnel Policy Manual effective January 1, 2019 as noted

Consent 16 *Pulled for Discussion:* Appointments to the Board of Adjustment, the Planning Board, and the Parks, Recreation, and Cultural Resources Commission

Consent 17 Appointments to the Tree Citizen Advisory Panel (TreeCap)

Council Member Killingsworth requested that Consent 16 be pulled for discussion. Mayor Olive stated this item would become New Business 02.

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

REGULAR MEETING AGENDA

The Mayor stated that along with the addition of New Business 02, the Town Attorney requested a Closed Session to discuss positions for property.

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

PUBLIC FORUM

Walter Manthey, speaking for a group, stated his comments concerned the 64 improvement project, specifically related to Lane Pine Drive and Shepherds Vineyard Drive. Mr. Manthey presented a third concept which he felt was superior to the other concepts. He detailed what his concept would involve and how it would be an unprecedented improvement to non-motorized traffic. He also spoke about the proposed tunnel. Mayor Olive asked the Town Manger to look into what Mr. Manthey presented to determine if the third option could be considered.

PUBLIC HEARINGS

Public Hearing 01 : Shawn Purvis, Assistant Town Manager
Citizen input regarding the formulation of the Fiscal Year 2019-2020 Annual Budget

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

The Town Manager stated the process by which citizens could contact staff with comments concerning the budget.

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 : Tom Colwell, Public Art Committee Chair

Call for artists to submit proposals for a mural to be located on the north-facing façade of Fire Station 1 and approval for location of APIX Spot in front of the train depot along Salem Street

Mr. Colwell stated that the two projects with which they wish to proceed were approved last year in the budget. The projects would be a mural and a sculpture downtown. Outlined were the particulars of the projects. Mr. Colwell stated the Committee felt these two artworks would be attractive in downtown. Mr. Colwell asked for approval of both projects and the Committee being able to proceed with the call for artists.

The mural would be on the side of Fire Station 1 and the sculpture would be in front of the Depot. Staff stated there needed to be caution about Station 1 since it will be renovated the following fiscal year. It was not known at the time if the brick on the side of the building would remain intact. Responding to Council, the Town Manager answered questions related to the design of the Station. Mr. Colwell stated they are flexible in terms of the timeline.

Mr. Colwell stated the Committee looked for other art options, but all had one hurdle or another. The Committee was open to other recommendations or suggestions. Mr. Colwell answered Council questions related to the design of the frame in front of the depot and of what it would be made. The Town Manager stated the funds for the mural could be placed into a forthcoming fiscal year budget. Mr. Colwell stated Planning supported the location of the frame in front of the Depot.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER DOZIER MADE THE MOTION TO APPROVE THE REQUEST AS PRESENTED; COUNCIL MEMBER KILLINGSWORTH SECONDED THE MOTION. COUNCIL MEMBERS DOZIER, KILLINGSWORTH, JENSEN, AND GANTT VOTED IN THE AFFIRMATIVE; COUNCIL MEMBER MOYER VOTED IN THE NEGATIVE. THE MOTION CARRIED BY A 4-1 VOTE.

**Added New Business 02: Council Member Killingsworth
Appointments to the Board of Adjustment, the Planning Board, and the Parks, Recreation, and Cultural Resources Commission**

Council stated she asked for this to be pulled from Consent for discussion because of the problems it presented. She recommend that Council vote on the nominees and then direct staff to make changes to the Ordinances and UDO to create an appointment committee to review all board applications prior to the nominees being placed on the Agenda for approval.

The Mayor spoke about how with a committee this process would take a longer amount of time. He talked about the process as it was when he was elected Mayor, there being no real process. He consequently asked to have a form put on the website for interested persons. The Mayor thought that if the process was too formal, it might stifle participation. He wanted the process to be more transparent and explained how he viewed the process he instituted. The Mayor stated he had no problem following Council guidance. He felt he had been fair in his selections.

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

The Mayor stated this might be a good time to have one-on-ones with new board members with staff. He wished the Planning Board, in particular, to become more functional so that outcomes from that Board coming before Council are thoroughly considered by all. The Mayor stated Council will want to know from Planning the reasons behind 'no' votes from the Planning Board. There is some perception that Council does not listen to the Planning Board.

Council stated the Mayor has done an open and fair job in putting Boards in place. He agreed with Council's intent regarding a committee, but he was not sure he wanted to drag the process out by going to a committee for selection. Conversation ensued about attendance/quorum issues and how to best address this.

COUNCIL MEMBER KILLINGSWORTH MADE A MOTION TO MAKE CHANGES TO ORDINANCES GOING FORWARD RELATED TO THE APPOINTMENTS OF MEMBERS TO THE PARKS AND RECREATION ADVISORY COUNCIL, THE TREE ADVISORY COMMITTEE, AND SIMILAR COMMITTEES; AND CHANGES TO THE UDO RELATED TO APPOINTMENTS TO THE PLANNING BOARD AND BOARD OF ADJUSTMENT BEING REFERRED TO AN APPOINTMENT COMMITTEE TO MAKE DECISIONS REGARDING RECOMMENDATIONS FOR APPOINTMENTS THAT WOULD BE BROUGHT BEFORE COUNCIL; COUNCIL MEMBER DOZIER SECONDED THE MOTION.

Discussion ensued with reasons Council would or would not be in support of an appointment committee and the proposed process. The Mayor stated he would make sure Council was furnished background information on proposed appointees.

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

CLOSED SESSION

Closed Session : Laurie Hohe, Town Attorney
Closed Session to consult with the Town Attorney

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

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

The Mayor expressed appreciation to staff for their involvement in the holiday festivities the past weekend. He found staff to be friendly, visible, and helpful. He loved the new route for the horses.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER KILLINGSWORTH MADE A MOTION TO APPROVE THE RESOLUTION AUTHORIZING EMINENT DOMAIN PROCEEDINGS RELATED TO THE JAMES STREET SIDEWALK PROJECT FOR THE IMPROVEMENT OF THE APEX STREET AND SIDEWALK SYSTEM; 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 and with no objection from Council, Mayor Olive declared the meeting adjourned.

Donna B. Hosch, MMC, NCCMC
Town Clerk

ATTEST:

Lance Olive, Mayor

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