



Apex Town Council Meeting

Tuesday, November 19, 2019

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
Shawn Purvis, Assistant Town Manager
Marty Stone, 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 19, 2019, at
7:00 PM 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 Assistant Town Attorney Brian Moyer

COMMENCEMENT

Mayor Olive called the meeting to order, asked for a moment of silent reflection, and led the Pledge of Allegiance.

PRESENTATIONS

PR1 Lance Olive, Mayor

Presentation of the Government Finance Officers Association's (GFOA's) Award for Excellence in Financial Reporting to Vance Holloman, Finance Officer and Suzanne Parmentier, Accounting and Budget Manager

Mayor Olive presented the Certificate to Vance Holloman and Suzanne Parmentier, stating that this had been the 25th consecutive year the Town has received the award. Mr. Holloman thanked staff for their support and he thanked Keith Joyce. He additionally thanked Ms. Parmentier and her staff for all their hard work. Mr. Holloman introduced his newest employee, Preeta Nayak.

PR2 Keith Joyce, Joyce and Company, Independent Auditor

Presentation of June 30, 2019 audit report from Joyce and Company

Mr. Joyce congratulated the Town for its receipt of the Award, noting that only a small percentage of municipalities receive this Award, even fewer receiving it so many consecutive years. He presented highlights of the audit. There was one interim finding and a management letter item, each of which was explained.

CONSENT AGENDA

- CN1 Donna Hosch, Town Clerk
Cemetery refund of \$1,200 to H.R. and Brenda M. Morton
- CN2 Donna Hosch, Town Clerk
Apex Tax Reports dated September 4, 2019 and October 1, 2019
- CN3 Mary Beth Manville, Human Resources Director
Addition of one position for the Permits and Inspections Department to add a Code Enforcement Officer, Grade 21
- CN4 Adam Stephenson
Revisions to the Town Standard Specifications and Details.
- CN5 Adam Stephenson
Construction contract and authorization for the Town Manager to execute same and corresponding Budget Ordinance Amendment No. 6 and Capital Project Ordinance Amendment 7 for U-5530AC James Street to Downtown Pedestrian Improvements
- CN6 Russell Dalton
Chatham Street Sidewalk Review and Oversight Agreement with NCDOT and corresponding Capital Project Ordinance Amendment 2020-6
- CN7 Amanda Bunce, Current Planning Manager
Statement of the Town Council for Rezoning Case #19CZ16, Horton Park PUD Amendment and TF-CZ, MFW Investments, LLC, petitioner for the property located 5100, 5101, & 5220 Jessie Drive; 0 Dezola Street; and 8140 (portion of), 8252, 8306 & 8308 Smith Road
- CN8 Sarah Rayfield, Senior Planner
Findings of Fact, Conclusions of Law, and Decision approving the Reserve at Mills Farm Major Site Plan

CN9 Marty Stone, Assistant Town Manager

Approval and authorization for the Town Manager to execute the same for an Encroachment Agreement between the Town of Apex and the Townes at North Salem Homeowners Association, Inc. The grantee wishes to install art pieces within the Town's right-of-way in accordance with the approved Master Subdivision Plan approved on September 20, 2016.

Mayor Olive called for a motion to approve the Consent Agenda. Council Member Killingsworth made the motion; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

REGULAR MEETING AGENDA

Mayor Olive stated that the Town Manager requested the addition of a New Business item: to permit an organized fun run on a portion of the Beaver Creek Greenway on Thursday, November 28, 2019 beginning at 9:00 a.m.

Council Member Killingsworth requested the addition of an Unfinished Business item to present general comments.

Mayor Olive called for a motion to approve the Regular Meeting Agenda. Council Member Gantt made the motion with the addition of the stated items;
Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

PUBLIC FORUM

Joseph Malfeo spoke about the funding of the Electric Operations building, stating that notice of the project was made to him via his HOA. He stated he received this notice after grading began. He asked that the project be stopped until further talks with neighbors. The neighbors were opposed to a cell tower. They foresaw safety issues.

Ann Nyland stated they have asked for additional information regarding the electric operations building that has yet to be received. She spoke about the change in the dynamics of the property now that a residential neighborhood is in place. Children will be at risk because of truck traffic.

PUBLIC HEARINGS

PH1 Sarah Rayfield, Senior Planner

Rezoning Case #19CZ02 Morris Acres PUD. The applicant, Kaplan Residential, sought to rezone approximately ±17.4376 acres, for the properties located at 0, 7208, & 7208B Morris Acres Road (PINs 0732289587, 0732382530, & 0732382709) from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ).

Staff oriented Council to the site. A neighborhood meeting was held and a traffic study was done. A fee in lieu was recommended. Planning staff recommended approval with conditions offered by the applicant; Planning Board also recommended approval. Staff answered Council questions related to fees and stormwater mitigation.

Jason Barron, Morningstar Law Group, explained they tried to work with neighbors to get this to something that would fit. At the neighborhood meeting, they presented the updated plans to what seemed to be to the satisfaction of the neighbors. He detailed all the changes they were able to make. Mr. Barron pointed out the recommendation of approval from staff and the Planning Board. He respectfully asked for approval by Council.

Mayor Olive declared the Public Hearing open.

Ryan Simmons presented concerns of several neighbors related to buffers, sanitary lines, and stormwater issues.

Mayor Olive declared the Public Hearing closed.

Council questioned staff about water flow in relation to storm events. Mr. Peter Clossen, Jones and Clossen Engineering, stated a flood study was done; but they've never gone to a 100 year stormwater design. Conversation ensued along these lines. The applicant also answered Council questions related to setbacks and buffers. Mr. Barron will speak with his client about the other concerns presented by Mr. Simmons. He explained why this development would be in the best interest of the public. After conferring with his client, Mr. Barron stated they would commit to increasing buffer size on part of the property.

Council stated he felt this should be held off until further development of the area.

Council stated she felt the proposed development could be beneficial at some point in the future.

Council stated he hoped the family would be able to sell the property and move forward with their lives.

Council stated he was concerned about the quality of the development.

Mayor Olive called for a motion. Council Member Gantt made the motion to deny the rezoning with the additional stated condition; Council Member Dozier seconded the motion.

Council Members Gantt, Dozier, Jensen, and Killingsworth voted in the affirmative; Council Member Moyer voted in the negative.

The motion for denial carried by a 4-1 vote.

PH2 Liz Loftin, Senior Planner

Rezoning Application #19CZ18 (113 West Street). The applicant, Maureen Hughes, sought to rezone approximately 0.19 acres located at 113 West Street (PIN 0741295052) from Office and Institutional (O&I) to Medium Density-Conditional Zoning (MD-CZ).

Staff oriented Council to the site. Planning staff recommended approval as did the Planning Board.

Mayor Olive declared the Public Hearing open.

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

Mayor Olive called for a motion. Council Member Killingsworth made the motion to approve the rezoning; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

PH3 Amanda Bunce, Current Planning Manager

Ordinance on the Question of Annexation – Apex Town Council's intent to annex David L. Heidinger and New Hill Baptist Church & Cemetery Trustees property containing 3.992 acres located at 3605 and 3700 Old US 1 Highway, Annexation #674, into the Town's corporate limits.

This item is to be heard with Rezoning #19CZ19 3605 & 3700 Old US 1 Hwy.

PH4 Amanda Bunce, Current Planning Manager

Rezoning Application #19CZ19 3605 & 3700 Old Us 1 Hwy and Ordinance. The applicants, Michael Pfeifer & Jennifer Crank, sought to rezone approximately 4.33 acres located at 3605 & 3700 Old

US 1 Hwy from Wake County Residential-40W (R-40W) & Wake County Highway Commercial (HC) to Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ).

Staff oriented Council to the site. Staff recommended approval as did the Planning Board. Staff answered Council questions related to zoning and the existing cemetery.

The applicant answered Council questions related to why the wells were contaminated and with what.

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 adopt the Annexation Ordinance and the rezoning and to adopt the Ordinance related to rezoning;

Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

PH5 Dianne Khin, Planning Director

Ordinance on the Question of Annexation – Apex Town Council’s intent to annex William and Marilyn Shenton (single-family) property containing 2.859 acres located at 2013 Ramblewood Drive, Annexation #678, into the Town’s corporate limits

Staff oriented Council to the site and stated it recommended approval.

Mayor Olive called for a motion. Council Member Dozier made the motion to adopt the Ordinance; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

PH6 Amanda Bunce, Current Planning Manager

Various amendments to the Unified Development Ordinance

Staff oriented Council to the amendments. The Planning Board recommended denial of the first amendment, staff outlining the reasons why. Staff answered Council questions related to types of continuances and conversation ensued along this line.

Mayor Olive declared the Public Hearing open.

Jeff Roach stated that asking for a continuance is never taken lightly by them, and he explained the consequences to the builder as well as to the community if the process was removed.

Mayor Olive declared the Public Hearing closed.

Item one: Council wondered if anyone else in the builder community had weighed in, the Mayor and Town Manager responding 'no'.

Council stated he could not see denying this outright.

Council stated he wanted the automatic part to remain in the the Ordinance.

Council Member Jensen made a motion to deny a change to item one;

Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

Items two through five: staff stated the Planning Board recommended approval of these items.

Mayor Olive called for a motion. Council Member Dozier made the motion to adopt Items two through five; Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

Mayor Olive called for a ten minute recess.

Mayor Olive, needing to leave the meeting, requested that Mayor Pro Tem Dozier continue with the meeting.

OLD BUSINESS

OB1 Bill Jensen, Council Member

Direction to staff to move work on the proposed study relative to meeting the Council's Clean Energy Goals from the Fiscal 2020-21 budget and work plan, to the current year budget and work plan

Council stated he voted for this but was unaware of what he voted for. He wanted to see this done this fiscal year, moving ahead if that could be done at a reasonable cost. Maybe the study could be broken into two parts – one for lights and one for canopies. Council spoke about the advances being made in this area. He requested taking a look at this issue this fiscal year, the study being done with the possibility of a bond issue in November.

Council stated moving this would affect the current budget, it would push staff, and a bond for this issue was not at the top of what she was hearing from citizens. She wanted the item to remain where it was prioritized, where it would be predictable for staff.

Council agreed, stating that they wanted the Environmental Committee to interact with the study because he felt they would do so effectively.

Council agreed, stating she wanted to see this done but did not want it rushed. The public is telling them that there are other priorities, and she didn't want to see this as a bond issue.

Council Member Jensen made a motion to deny the request;

Council Member Killingsworth seconded the motion.

The motion to deny carried by a 5-0 vote.

UNFINISHED BUSINESS

UB1 Audra Killingsworth, Council Member

ADDED ITEM : Council stated a Transgender Day of Remembrance vigil would be held at the State Capitol tomorrow, Wednesday.

Council stated she should have said something earlier about this, and that she apologized for not doing so. She stated that earlier in the year, she had the support of three of the Council Members in supporting a Resolution for LGBTQIA Pride Month. Several residents reached out to her expressing their thanks.

The dissenting member of Council made disparaging comments about the LGBTQIA community, stating they are not relevant to Apex, as well as making disrespectful comments about the African American community and Juneteenth, dismissing them as sarcasm. These comments were made specifically to Mayor Pro Tem Dozier, and the comments continued as Council went into Closed Session. Council stated

she was in shock and disappointed in herself for not standing up and putting a stop the comments. She apologized.

Council spoke about anti-racism and how everyone deserves respect and servility. She cited quotes from several well-known individuals. Council stated the Mayor Pro Tem had earned the respect of Council and deserved respectful treatment.

NEW BUSINESS

NB1 Drew Havens, Town Manager

ADDED ITEM : Staff stated Paul Petersen, owner of Wake Zone, intended to have a few runners gather at his location for a fun run to support Western Wake Crisis Ministry. He thought he would get only a few interested runners, but the event grew larger than he'd planned. Staff explained the route and how the run would be managed. Mr. Peterson was asking for the run to take place on a portion of the Beaver Creek Greenway.

Council asked if guidelines are being worked on for such events, staff responding 'yes'. Staff did not see any major problems from the request. Council asked that staff would devise guidelines that would allow staff to approve such requests during some situations without Council approval.

Mayor Pro Tem Dozier called for a motion. Council Member Killingsworth made the motion to approve the request; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

CLOSED SESSION

Drew Havens, Town Manager

To discuss a personnel matter

Mayor Pro Tem Dozier called for a motion to go into Closed Session. Council Member Gantt made the motion; Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

Mayor Pro Tem Dozier called for a return to Open Session with no objections from Council.

WORK SESSION

There were no Work Session items.

ADJOURNMENT

With there being no further business and without objection from Council, Mayor Pro Tem Dozier adjourned the meeting.

Donna B. Hosch, MMC, NCCMC
Town Clerk

ATTEST:

Nicole Dozier, Mayor Pro Tem