



Apex Town Council Meeting

Tuesday, October 15, 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, October 15, 2019, at
7:00 PM 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, Wesley M. Moyer, Brett D. Gantt, and Audra M. Killingsworth
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 was Mayor Pro Tem Nicole L. Dozier

COMMENCEMENT

Mayor Olive called the meeting to order, presented words of reflection, and led the Pledge of Allegiance.

PRESENTATIONS

PR1 Mayor Lance Olive

Presentation of Proclamation to Nicole Bernard, Western Wake Crisis Ministry

Mayor Olive stated this presentation would take place at a future date due to the unavailability of the recipient and a need for revised wording.

CONSENT AGENDA

CN1 Amanda Grogan, Budget & Management Analyst

Updates to the 2019/2020 Fee Schedule

CN2 Amanda Bunce, Current Planning Manager

Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the various Unified Development Ordinance (UDO) Amendments of October 1, 2019

CN3 Dianne Khin, Planning Director

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 Don F. and Callie Sorrell (single-family) property containing 22.418 acres located at 1221 Salem Church Road, Annexation #654 into the Town’s corporate limits

CN4 Dianne Khin, Planning Director

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 Treva Weaver (single-family) property containing .959 acres located at 1608 Salem Church Road, Annexation #665 into the Town’s corporate limits

CN5 Marty Stone, Assistant Town Manager

Approve and authorize the Town Manager to execute the same for an Encroachment Agreement between the Town of Apex and Toll NC II LP, a North Carolina Limited Partnership, regarding Wake County PIN#0723-75-5956, Lot 114, Regency at White Oak Creek Phase 6, Book of Maps 2018, Page 00596, 2501 Cedar Hedge Court, Apex, NC, 27502

CN6 Mary Beth Manville, Human Resources Director

Addition of one position for the Permits and Inspections Department to add a Residential Field Supervisor, Grade 27

CN7 Shawn Purvis, Assistant Town Manager

Resolution of Intent for the partial closing of a right-of-way (ROW) between Chatham St. and Olive St. adjacent to 314 E. Chatham St. and to call for a Public Hearing at the November 19, 2019 Council Meeting

The Town Manager stated that staff requested Consent 7 be discussed as New Business¹. Also, a continuance had been requested for Public Hearing 3. The Town Manager asked that Public Hearing 3 be moved to follow Public Hearing 1.

Mayor Olive called for a motion to approve the Consent Agenda. Council Member Jensen made the motion with the stated modifications;

Council Member Gantt seconded the motion.

The motion carried by a 4-0 vote.

REGULAR MEETING AGENDA

Mayor Olive called for a motion to approve the Regular Meeting Agenda. Council Member Moyer made the motion; Council Member Killingsworth seconded the motion.

The motion carried by a 4-0 vote.

PUBLIC FORUM

Peter Kaplan stated he was against Morris Acres because growth needs to be controlled. The Town had done an exceptional job on the 2045 Plan. This plan may not be perfect, but it should be our touchstone for controlled growth – the Plan has massive growth built into it. Mr. Kaplan stated there are unelected special interests, in and out of government, who have their own idea of how Apex should grow. The 2045 Plan can and should be our guidepost going forward. Mr. Kaplan wanted to see an end to ratcheting growth density and felt that zoning changes should require unanimous approval from the Planning Board and Council.

Sid Basu spoke in opposition to the Wake County public school system reassignments. He detailed the reasons for his opposition which included the issue of crowding and a calendar change.

Xin Xu distributed a handout for Council. He spoke about the school rezoning, crowding, and calendar variations. Mr. Xu felt it would be easier to add trailers to White Oak Elementary School than to move the students. His district has changed and is losing voting power for school board members. Mr. Xu also spoke about students now having to cross very busy roadways.

Farida Oonwala stated the traditional school calendar going to the year round calendar doesn't work for them. She did not understand why they are being zoned out to a new school, and she wanted this looked into. They were given an option to choose where their children would go to school when they moved to the community. It is not right to take it away now. Safety is a concern to have to move the children to the other side of the highway.

Tara McMahon stated her son loves his current friends and teachers. They just bought their first house, and the school is five minutes down the road. The rezoning looked mainly at data and potential growth and did not consider the children and the changes they will go through and their emotional well-being. Ms. McMahon asked why White Oak can't be capped and send the overflow elsewhere. They chose the traditional school zone in order to help with her family seeing her parents in Ireland.

Nate Burram looked into school districts before buying his house and has been blindsided by the rezoning. He was excited by the greenway which would have allowed them to take their kids to school on foot. Mr. Burram talked about how friendships are forged between children in the same area.

Jagroop Singh stated they bought their house close to the school that they wished their children to attend. He spoke about his children growing up with a traditional school schedule and how year-round is unacceptable to them as a parents. One of their children would not be on the same schedule, and he asked Council to stop the rezoning.

The Mayor stated the County runs the schools, and the Town does not have much say at all in their operation. Former school board member and now commissioner Ms. Evans was in attendance and heard the concerns. The Mayor was sure she still has contacts on the school board, and she is an Apex resident. He understood the difficulty felt by the parents, and encouraged them to contact Lindsey Mahaffey who is on the school board and would be able to talk to them and understand their problems. Council stated he did not understand why there were not mobil classrooms. This would be better for the environment in terms of traffic, etc.

PUBLIC HEARINGS

PH1 Sarah Rayfield, Senior Planner

Amendment to the 2045 Land Use Map and Rezoning Case #19CZ02 Morris Acres PUD. The applicant, Kaplan Residential, sought to amend the 2045 Land Use Map from Medium Density Residential to High Density Residential and 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 stated she wished to defer to the applicant. Jason Barron, Morningstar Law Group, on behalf of the applicant, stated his client has made categorical changes to density, nature of the use, and reduced

building height. The request for a land use map amendment, therefore, is now not needed. Mr. Barron stated he could not present this evening because they have to go back through the process again.

There was brief conversation clarifying what would be needed from Council this evening because of the significant changes in the request.

Mayor Olive called for a motion. Council Member Killingsworth made the motion to refer the request to the Planning Board; Council Member Gantt seconded the motion.

The motion carried by a 4-0 vote.

Council Member Killingsworth was excused from the dais.

PH3 Amanda Bunce, Current Planning Manager

The applicant has requested that this item be continued to the November 6, 2019 meeting.

Public Hearing and possible motion on Rezoning Application #19CZ16 Horton Park PUD Amendment & TF-CZ. The applicant, MFW Investments, LLC, seeks to rezone approximately 146.9 acres located at 5100, 5101, & 5220 Jessie Drive; 0 Dezola Street; and 8140 (portion of), 8252, 8306 & 8308 Smith Road from Planned Unit Development-Conditional Zoning (PUD-CZ #18CZ04) to Planned Unit Development-Conditional Zoning (PUD-CZ) and Tech/Flex-Conditional Zoning (TF-CZ).

Jeff Roach, Peak Engineering Design, representing the developer, requested the continuance because of the tight timeline between last night's Planning Board meeting and this meeting.

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

The motion carried by a 3-0 vote.

Council Member Killingsworth returned to the dais.

PH2 Shelly Mayo, Planner II

Public Hearing and possible motion on Rezoning Application #19CZ15 Mt. Zion Church Road PUD. The applicant, Vaughn King, sought to rezone approximately 11.3 acres located at 2504, 2508, 2512, 2516 & 2600 Mt. Zion Church Road (PINs 072143255, 0721435444, 07214355322, 0721434156 &

0721424940) from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ).

Staff oriented Council to the site. Planning staff and the Planning Board recommended approval. Staff answered Council questions related to RCA and a crosswalk.

Jeff Roach, Peak Engineering Design, representing the applicant, spoke about the crosswalk. If they can get one placed there, they will absolutely do so. In terms of the realignment, they looked at the transportation plan; and Mr. Roach spoke about how this property is sort of a donut hole. They held two neighborhood meetings and made changes, along with talking to Council Member Moyer. Subsequently, they removed the townhomes at the request of staff and Council Member Moyer.

Mr. Roach spoke about zero entry homes, the landscape buffer, points of access, and the RCA. He read a statement related to solar installations and outlined what they're willing to make a condition. Council applauded Mr. Roach for his listening to and working with the neighbors.

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 Killingsworth made the motion
to approve the request with the added condition related to solar;

Council Member Moyer seconded the motion.

The motion carried by a 4-0 vote.

PH4 Jenna Shouse, Long Range Planner

Presentation of *Town of Apex Transit Circulator Study Draft Recommendations* with an associated amendment to Transit Plan Map of the Comprehensive Transportation Plan

Staff outlined the formation of the various Plans of the Study and how this was in cooperation with Cary. Discussed would be the new local bus route, funding opportunities, and next steps. Staff outlined why a local bus in Apex was considered, and the proposed route and stops were shown.

The needs of the bus stops were outlined, and staff answered Council questions related to these. Cary staff answered Council questions related to ridership and service being on time. There was some discussion about a market plan and Sunday service. Funding opportunities were outlined as well as the next steps.

Council stated he did not feel this fit with Council's priorities even though he appreciated the effort put forth by staff. Council stated she supported the project and explained why.

Mayor Olive declared the Public Hearing open.

Susan Evans, from the Wake County Board of Commissioners, stated her support for the direction in which the staff proposed moving and presented her reasons why. She wanted to see the Eva Perry library on the route. Perhaps it can be so at a later date as this becomes more and more of a success. Ms. Evans encouraged Council to move forward with this. Wake County has had a lot of luck with their youth program, and Ms. Evans explained how if they start young, youth are more willing to use public transit in the south.

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

Council stated free ridership the first few years would be beneficial in building group ridership along with interfacing with other bus lines.

Council wanted to see a higher priority on bus shelters.

Council Members Jensen, Killingsworth, Dozier, and Gantt voted in the affirmative;

Council Member Moyer voted in the negative.

The motion carried by a 3-1 vote.

Mayor Olive called for a five minute recess.

PH5 Amanda Bunce, Current Planning Manager

Various amendments to the Unified Development Ordinance

Staff oriented Council to the amendments, of which the Planning Board recommended approval of all.

Staff answered Council questions related to gravel.

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

The motion carried by a 4-0 vote.

OLD BUSINESS

There were no Old Business items for consideration.

UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

NEW BUSINESS

NB1 Shawn Purvis, Assistant Town Manager

Resolution of Intent for the partial closing of a right-of-way (ROW) between Chatham St. and Olive St. adjacent to 314 E. Chatham St. and to call for a Public Hearing at the November 19, 2019 Council Meeting

Staff stated the request was made for a half closing. The applicant understood there might be some question from Council related to the Downtown Plan where there are plans for use of spaces such as this. Staff explained the 10 foot strip is between Chatham and Olive. The closing would expand the requestor's property by five feet.

Council expressed his thoughts to not grant the request based on how he viewed use of the property in the Plan.

Council stated he was inclined not to move ahead as it may take away our options for the future.

The Mayor was not in favor of the closing and stated his reasons why.

Staff stated he would contact the requestor that Council was not in favor of the closing.

CLOSED SESSION

Laurie Hohe, Town Attorney

To consult with the Town Attorney to protect attorney-client privilege (GS 143-318.11(a)(3)) and to discuss the Town's negotiation position for acquisition of real property (GS 143-318.11(a)(5)).

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

The motion carried by a 4-0 vote.

Mayor Olive called for a return to Open Session with no objections from Council.

Mayor Olive called for a motion to adopt a Resolution Authorizing Eminent Domain Proceedings Related to the Laura Duncan Road Multi-use Path Project. Council Member Jensen made the motion; Council Member Killingsworth seconded the motion.

The motion carried by a 4-0 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 adjourned the meeting.

Donna B. Hosch, MMC, NCCMC

Town Clerk

ATTEST:

Lance Olive

Mayor

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