



REGULAR TOWN COUNCIL MEETING

Wednesday, November 04, 2020 at 6:00 PM
Council Chamber at Apex Town Hall, 73 Hunter Street

Council and Administration

Mayor: Jacques K. Gilbert | Mayor Pro Tem: Nicole L. Dozier

Council Members: Brett D. Gantt; Audra M. Killingsworth; Cheryl F. Stallings; Terry Mahaffey

Town Manager: Drew Havens | Assistant Town Managers: Shawn Purvis and Marty Stone

Town Clerk: Donna B. Hosch, MMC | Town Attorney: Laurie L. Hohe

In attendance were Mayor Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier, and Council Members Audra M. Killingsworth, Brett D. Gantt Cheryl F. Stallings, and Terry Mahaffey. Also in attendance was Town Manager Drew Havens, Assistant Town Manager Shawn Purvis, Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe.

COMMENCEMENT

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

Mayor Gilbert asked all staff members in attendance to stand and be recognized; they were applauded. The Mayor stated that staff is not always recognized for all they do for the Town.

Mayor Gilbert and all Council Members shared in the reading of a Proclamation recognizing Small Business Saturday in Apex.

PRESENTATIONS

P1 Jacoby and Tayon Dancy, Event Organizers

Presentation of proposed events to commemorate the Martin Luther King, Jr. holiday in 2021

Ms. Dancy outlined the events which she and her husband tentatively planned for this holiday. It involves three days of events at several locations within the Town. Municipalities surrounding Apex participate in the holiday, and Ms. Dancy was glad to participate in such for Apex. Council stated she wondered why Apex had been participating with events in the past and thanked Ms. Dancy for her participation.

CONSENT AGENDA

- CN1 Donna Hosch, Town Clerk
Minutes of the October 6, 2020 Regular Council Meeting
- CN2 Donna Hosch, Town Clerk
Apex Tax Report dated September 7, 2020
- CN3 Amanda Bunce, Current Planning Manager
Statement of the Town Council and Ordinance for Rezoning Case #20CZ10 109 Holleman Street, Charles Duane Taylor, Jr and Sherry Bailey Taylor, petitioners for the property located at 109 Holleman Street
- CN4 Shelly Mayo, Planner II
Resolution Directing the Town Clerk to Investigate Petition Received, Certificate of Sufficiency by the Town Clerk, and Resolution Setting Date of Public Hearing for November 17, 2020 on the Question of Annexation – Apex Town Council's intent to annex Florence S. Morrison Family Living Trust (Holleman Hills South) properties containing 10.16 acres located at 5131 and 5145 Church Road, Annexation #696 into the Town's corporate limits
- CN5 Shelly Mayo, Planner II
Set the Public Hearing for the November 17, 2020 Town Council meeting regarding Rezoning Application #20CZ09 Holleman Hills South and Ordinance. The applicant, Alonzo Wilson, sought to rezone approximately 10.16 acres from Wake County R-30 to Medium Density-Conditional Zoning (MD-CZ). The proposed rezoning is located at 5131 and 5145 Church Road.
- CN6 Amanda Bunce, Current Planning Manager
Set the Public Hearing for the November 17, 2020 Town Council meeting regarding various amendments to the Unified Development Ordinance
- CN7 Adam Stephenson, Engineering Supervisor
Set the Public Hearing for the November 17, 2020 Town Council meeting regarding amendments to the Unified Development Ordinance related to the Flood Damage Prevention Overlay District
- CN8 Jose Martinez, Director
Approval of and authorization for the Town Manager to execute the same for an Encroachment Agreement between the Town and property owners, Brett Davidson and wife, Lisa A. Davidson (Grantees), regarding Wake County, NC PIN#0722-85-8381, 102 Duncroft Court, as recorded in Book of Maps 2001, Page 1251, Wake County Register of Deeds
- CN9 Mitch McKinney, Deputy Chief of Police
Appropriation of funds received from an insurance reimbursement in the Apex Police Department Capital Outlay Account of the General Fund
- CN10 John Letteney, Chief of Police

Approval of IntelliComm Contract

CN11 Joanna Helms, Economic Development Director

Set the public hearing for the November 17, 2020 Town Council meeting to consider and receive public input on providing an economic development incentive for "Project Protein" in accordance with the Town's policy (Development Investment Grant)

Mayor Gilbert stated there was an amendment to the language for Consent 09 and read the revised wording.

Mayor Gilbert called for a motion to adopt the Consent Agenda. Council Member Killingsworth made the motion with the amended wording to Consent 09; Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

REGULAR MEETING AGENDA

Mayor Gilbert called for a motion to adopt the Regular Meeting Agenda. Council Member Gantt made the motion; Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

PUBLIC FORUM

No one in attendance wished to speak.

Played was a recorded comment from Jayashree Patel asking if the Town had plans to expand sidewalks and roads resulting from the development of homes. On some roads, if a car breaks down, there is nowhere to pull over which is very risky at night time.

PUBLIC HEARINGS

PH1 Dianne Khin, Director of Planning and Community Development

Public hearing and possible motion to adopt an Ordinance on the Question of Annexation – Apex Town Council's intent to annex MFW Investments, LLC (Colby Crossing) property containing 7.578 acres located along a portion of the future connection of Colby Chase Drive between Merion and Pemberley subdivisions, Annexation #651 into the Town's corporate limits.

Staff stated that the developer requested this annexation be continued to the December 15, 2020 Regular Council Meeting. This was the second request to continue. If the matter was not ready to go before Council in December, the developer would need to start the process all over again.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to continue as requested; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

PH2 Dianne Khin, Director of Planning and Community Development
Public hearing and possible motion to adopt an Ordinance on the Question of Annexation – Apex Town Council's intent to annex Kimberly & Loomis Horton, III, Mary Elizabeth Horton, Dwight Marvin Wright, MFW Investments, LLC, and MFWIRA, LLC (Horton Park PUD) properties containing 101.356 acres located at 8140, 8252, 8306, and 8308 Smith Road; 0 East Williams Street; 0, 0, 0, 0, & 0 Dezola Street; and 5220 Jessie Drive, Annexation #687 into the Town's corporate limits.

Staff stated that the developer requested this annexation be continued to the December 15, 2020 Regular Council Meeting. This was the second request to continue. If the matter was not ready to go before Council in December, the developer would need to start the process all over again.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to continue as requested; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

PH3 Dianne Khin, Director of Planning and Community Development
Ordinance on the Question of Annexation – Apex Town Council's intent to annex Lecter Marie Atwater, Donna M. Atwater and Jerome Kenneth Atwater HEIRS (Kings Grant) property containing 11.275 acres located at 2504, 2508, 2512, 2516 and 2600 Mt. Zion Church Road, Annexation #693 into the Town's corporate limits

Staff oriented Council to the site. Staff recommended approval of the request.

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

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

The motion carried by a 5-0 vote.

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

PH4 Shelly Mayo, Planner II

Quasi-Judicial Public Hearing regarding a Major Site Plan for Apex Friendship Elementary School located at 7901 Humie Olive Road.

Mayor Gilbert read an opening statement explaining the process by which this Hearing would proceed.

Council Member Mahaffey asked to be recused because of being related to a member of the governing body of the applicant.

All Council Members were in agreement with Council Member Mahaffey being recused. Council Member Mahaffey left the dais.

All those wishing to speak were sworn in by the Town Clerk.

Kenneth Haywood, attorney with Howard Stallings Law Firm, identified himself as being present on behalf of the applicant, the Wake County Board of Education. Those in support of the project identified themselves: Bob Williams, Boomerang Design, design firm for the school; Alice Reese, CLH Design, architects for the project; Josh Renke, Ramey Kemp & Associates, Traffic Engineer; and Shane Webster, Wake County Public Schools, Sr. Facility Planner. There was no one in opposition of the project.

In response to question from the Mayor, all Council Members stated they had not had any communications with the applicant, there were no relational or financial conflicts, and that all could be impartial in their decisions. No Council Member had viewed the site.

OPENING STATEMENT BY STAFF: Shelly Mayo, Planner II, stated her credentials. She oriented Council to the site. A virtual neighborhood meeting was held. Details of a sewer easement were outlined, and the applicant would pay half of a fee in lieu which the applicant and staff felt was fair.

Responding to Council, staff explained coordination between the school and Friendship Station and spoke about the school's size. She explained why the school wished to build a school larger than originally planned. Staff thought this a much better use of and fit for the resources.

Responding to Council about a communications device on the roof, staff stated Wake County has agreed to put these in all new schools.

OPENING STATEMENT BY APPLICANT: Mr. Haywood stated they were excited to work with the adjacent property owner to acquire the additional property for this larger school. He re-identified the members of his team.

Alice Reese identified herself and stated her credentials. She answered introductory questions from Mr. Haywood. She presented an overview of the school campus and showed pictures of the site plan changes.

Bob Williams spoke about the aesthetics and flow of the buildings. Responding to Council, he spoke about the features of the building which enhance safety for students as well as an area for resources, i.e., food pantries which are being programmed into future schools. Mr. Williams stated his credentials.

Mr. Haywood stated they were not aware of any transportation issues. To answer question from Council, Mr. Renke identified himself and stated his credentials. He spoke about a traffic impact analysis which had been updated, the staggering of school start times, and intersection signals.

CLOSING ARGUMENTS FROM APPLICANT: Mr. Haywood highlighted several factors in the staff report. He stated all standards had been met and requested approval of the major site plan based on testimony. There was no one present in opposition, and no testimony had been challenged. Mr. Haywood stated he appreciated the report done by staff and working with them on this project.

CLOSING ARGUMENTS FROM STAFF: None.

The Mayor asked Council to review their checklist for clarity. Mr. Webster presented his credentials and responded to Council question about communication boosters. They are pretty much standard and are on all their schools.

Mayor Gilbert declared the Public Hearing closed.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to approve the Plan; Council Member Dozier seconded the motion.

The motion carried by a 4-0 vote.

Council Member Mahaffey returned to the dais.

OLD BUSINESS

OBI Colleen Merays, Downtown and Small Business Development Coordinator
Extend current Parking-to-Dining Program layout adopted by Town Council on October 17, 2020 until a date selected by Town Council, and to allow for extended outdoor dining and alcohol consumption as permitted by ABC Law or regulations, and to extend the ordinance temporarily modifying Town Code Sections 14-14 and 18-11 as they relate to sidewalk dining and alcohol consumption on public streets and sidewalks through same date as selected by Town Council.

Staff stated this was a continuance of the discussion from the last time Council met. She asked if Council wished to end the Program on November 8th. There was forecasted a good weather week coming up. Holiday decorations would be going up on November 16th. Staff recommended an extension only to the 15th so as not to impede with the latter.

Responding to Council, staff stated that Phase III would still impact restrictions in restaurants. She had not seen any issues with parking. Some retail wanted to see the extension end earlier. This was a balancing act. Staff spoke about the effects of the cold weather on people eating outside and what businesses could potentially do when this Program goes away. Discussions with the ADBA would continue.

Council stated support for an extension to the 15th. He gave his thoughts as to each phase and asked how the Town could remain involved to help the businesses, i.e., utility offsets, a grant program to help mitigate the costs of COVID. In the Spring, maybe we could bring back Parking-to-Dining.

Council agreed with the 15th date. He asked, however, are we thinking bigger – i.e., January 1st to March 31st having the street closed and putting up a tent which could be used by the businesses. Hopefully something could be discussed with the ADBA. Council, in response, was not opposed to talking about any idea. No one has gone through a pandemic winter, and maybe something could be extended to all restaurants, not just the ones on Salem Street.

Council agreed with the 15th; we need to think big. Perhaps we could make a recommendation to the ADBA and other stakeholders as to what this would look like. Our staff would need to think about this also.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to approve the extension as requested to the 15th and to look forward to hearing from our stakeholders regarding this winter phase; Council Member Dozier seconded the motion.

Conversation ensued about a grant program. Staff will outline such for the upcoming meeting.

The motion carried by a 5-0 vote.

UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

NEW BUSINESS

NB1 Council Members Audra Killingsworth and Nicole Dozier
Town sponsorship and funding for Martin Luther King, Jr. celebration events in 2021 in the amount of \$3,300.00

Council stated she was excited to see this, and she was glad the Mayor Pro Tem was interested in participating. The amount requested during Presentations was acceptable.

Council stated this would commemorate the spirit of Martin Luther King and the collaborative spirit of the community. She appreciated the flexibility in the proposal recognizing the uncertainties of COVID. She spoke about how the proposed events would be morale builders for our youth.

Council Member Dozier made the motion to approve the funding as requested;
Council Member Killingsworth seconded the motion.

Council stated she was excited to see this and glad we are moving forward. She appreciated the Dancy's mapping out the program. It also fits in with our strategic goals of a healthy and engaged community and inclusion and diversity.

The Mayor stated he was glad to see this also, as the past year he went to events in Holly Springs because there was nothing in Apex. This was something we can build on, his wanting to see a parade. The Mayor thanked Council for bringing this forward.

The motion carried by a 5-0 vote.

The Meeting moved to Training Room A for the Work Session and Closed Session.

WORK SESSION

WS1 Shannon Cox, Russell Dalton, Vance Holloman, Amanda Grogan

Information regarding cost and timing of transportation projects and existing debt capacity in order to consider possible financing options to fund transportation projects

Staff stated the purpose of the meeting was to make updates to projects and CIP requests. There would be an overview on the roadway, transit, bicycle and pedestrian plans and other projects.

TRANSPORTATION CIP UPDATES AND REQUESTS

Non-Roadway Projects

Wayfinding Signage Fabrication and Install : staff stated the wayfinding program would be phased over five years for a cost of \$1.2 million. An overview of the various phases was given.

Tingen Road Pedestrian Bridge : staff stated we tried to get a crossing here, but it is not allowed by CSX. Therefore, staff wanted Council to consider a pedestrian bridge in this location. We would want to do a study first and then move into design and construction. This project may be good for potential grant funding. Conversation ensued on how much a bridge would be used, why CSX rejected a crossing, and what facts we can present for the need for a crossing and how we might get them to reconsider.

Center Street Railroad Crossing Improvement and Sidewalk : staff gave an overview of the project and stated there may be an opportunity for grant funding.

Chatham Street Railroad Crossing Improvement and Sidewalk : staff stated we would want to do this project at the same time as the previous one in order to receive funding. Responding to Council, staff answered grant questions.

NCDOT Projects Participation : staff overviewed three future projects.

Major Projects

Pavement Management Backlog : staff stated this will help to maintain street conditions. We have identified funding to help catch up.

Cash Corporate Center : staff talked about access needs into and out of the Center and provided cost estimates. Responding to Council, staff spoke about possible upgrades, stating we are not proposing any upgrades.

Jessie Drive Extension and Improvement : staff explained the project. Council asked should we get this done pretty soon, and staff spoke about how that would help. Conversation ensued about Jessie Drive connecting to crappy streets and the number of roadway lanes.

Davis Drive Realignment and Widening : staff stated we were asked for an extension of the roadway. We are proposing a study to make sure of what we're doing. We want to look at improvement options vs. a full upgrade.

Apex Peakway Southeast Connector : staff stated we have done a feasibility study. The next phase is the final design.

Apex Peakway North Widening : staff stated this roadway is very busy, and DOT is looking at adding a turn lane. Even with DOT budget issues, they plan to continue forward.

Staff presented an overview of active projects. The oldest projects are moving forward. Staff reviewed each of the six active projects.

The Town Manager asked Council to clarify shifting funds to projects which are more important and for LAPP funding as previously discussed.

DEBT CAPACITY

Staff gave an update on debt capacity and tax supported debt. Responding to Council, staff stated money is open to a variety of projects as long as they fit the definition of streets and sidewalks.

Staff stated he wished for Council to meet again to further discuss this subject. Council stated they would meet in a work session again in two weeks.

CLOSED SESSION

CS1 Laurie Hohe, Town Attorney

Possible motion to go into closed session to consult with the Town Attorney pursuant to NCGS 143-318.11(a)(3)

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

The motion carried by a 5-0 vote.

Mayor Gilbert called for a motion to return to Open Session. Council Member Stallings made the motion; Council Member Killingsworth seconded the motion.
The motion carried by a 5-0 vote.

ADJOURNMENT

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

Donna B. Hosch, MMC, Town Clerk

ATTEST:

Jacques K. Gilbert, Mayor