



## | REGULAR TOWN COUNCIL MEETING

April 27, 2021 at 6:00 PM  
Council Chambers - Apex Town Hall, 73 Hunter Street

### Town 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  
Interim Town Manager: Ralph Clark | 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, Terry Mahaffey and Cheryl F. Stallings. Also in attendance were Interim Town Manager Ralph Clark, Assistant Town Managers Shawn Purvis and Marty Stone, Deputy Town Clerk Tesa Silver, and Town Attorney Laurie L. Hohe.

### COMMENCEMENT

Mayor Gilbert called the meeting to order. He led everyone in a moment of meditation and the pledge.

### PRESENTATIONS

PR1 Allyson Coltrane, Long Range Transit Planner II

Staff presented Council with updates on transit plans and services. The updates included information on GoApex Route 1, Regional Routes, Transportation Demand Management, Wake Transit Work Plan, Metropolitan Transportation Work Plan, and grants that the Town are seeking.

PR2 Christine Hilt, President (CLH design, p.a.) and Alice Reese, Project Manager (CLH design, p.a.)  
Presentation by CLH design, p.a. in regards to the proposed columbarium wall at the Apex Town Cemetery.

Staff explained that there are no available plots in the Town cemetery. The Town can either purchase additional land for the cemetery, or consider using columbarium. Staff introduced Christine Hilt, President of CLH Design.

Christine Hilt of CLH presented phase one of a project plan to install a columbarium wall at the Apex Cemetery. The plan includes a universal design that would serve as the gateway entrance to cemetery, upgrades to the parking lot, seating privacy and shade structures.

PR3 Tom Colwell, Chairperson

Presentation by Tom Colwell in regards to the Apex Sculpture Walk.

Mr. Colwell stated that the Apex Sculpture walk was installed two weeks ago. The walk is one mile, includes ten sculptures and will be exhibited through March of 2022. The Public Art Committee would like to receive feedback from Council and the public in order to determine how to proceed with the sculpture walk in the future. Mr. Colwell stated that an award would be given for the sculptures deemed the people's choice and the best in show. He also asked Council to consider allocating funds in next year's budget to purchase one or two of the pieces to begin a collection for the Town.

PR4 Jacques K. Gilbert, Mayor

Presentation of the 52nd Annual Professional Municipal Clerks Week Proclamation

Council read the proclamation for the 52<sup>nd</sup> Annual Professional Municipal Clerks Week.

PR5 Mayor Jacques K. Gilbert

Presentation of the Proclamation declaring April 30, 2021 as Arbor Day in the Town of Apex

Council read the proclamation for Arbor Day in the Town of Apex.

#### CONSENT AGENDA

CN1 Donna Hosch, Town Clerk

Motion to approve the Apex Tax Report dated 03/03/2021

- CN2 Russell Dalton, Senior Transportation Engineer  
Motion to approve Supplement to Interlocal Agreement with Town of Cary authorizing an additional \$617,413.50 reimbursement from Town of Cary toward construction of Lake Pine Drive Improvements, U-5537.
- CN3 Amanda Bunce, Current Planning Manager  
Motion to approve the Statement of the Apex Town Council pursuant to G.S. 160D-605(a) addressing action on the Unified Development Ordinance (UDO) Amendment of April 13, 2021.
- CN4 Shannon Cox, Long Range Planning Manager  
Possible motion to approve, and to authorize the Interim Town Manager to sign and execute, the municipal agreement for NCDOT Administered - Transit-Oriented Development Planning.
- CN5 Dianne Khin, Director of Planning and Community Development  
Motion to adopt a resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk and to adopt a Resolution Setting Date of Public Hearing for May 11, 2021 on the Question of Annexation - Apex Town Council's intent to annex HARP-BARR, LLC, Memphis & Maddox, LLC, Sweet Willie, LLC, William Douglas and Jean S. Poe, Daryl and Jeanne Poe properties containing 157.234 acres located at 6401 Apex Barbecue Road and 1216 & 1330 South Salem Street, Annexation #706 into the Town's corporate limits.
- CN6 Dianne Khin, Planning and Community Development Director  
Possible motion to approve update to the Historical Marker Program application to allow 1" letters.
- CN7 Brian Meyer, Deputy Town Attorney; Mitchell McKinney, Deputy Police Chief  
Motion to approve a Resolution adopting an Involuntary Commitment Custody and Transportation Agreement.
- CN8 Colleen Merays, Downtown & Small Business Development Coordinator  
Motion to amend the approved date of (Sunday, July 4, 2021) for the Annual 4<sup>th</sup> of July Celebration to (Saturday, July 3, 2021).
- CN9 Shawn Purvis, Assistant Town Manager  
Motion to approve Pipeline Accommodation Agreement with Colonial Pipeline Company and authorize the Town Manager to execute the same and to approve Budget Amendment #19 for the agreement

CN10 Jose Martinez, Public Works Director; Shawn Purvis, Assistant Town Manager

Motion to approve closing of sidewalks as identified on the pedestrian safety plan for Highline Building and to temporarily mark three spaces on the west side of Salem St. as a loading zone of 8 am - 5 pm, Mon. - Fri. until the loading zone can reopen on Saunders St.

Mayor Gilbert called for a motion to adopt the Consent Agenda. Council Member Killingworth made the motion; Council Member Mahaffey seconded the motion. The motion carried 5-0.

#### REGULAR MEETING AGENDA

Mayor Gilbert called for a motion to adopt the Regular Agenda. Council Member Gantt made the motion; Mayor Pro Tem Dozier seconded the motion. The motion carried 5-0.

#### PUBLIC FORUM

There were no Public Forum comments.

#### PUBLIC HEARINGS

PH1 Allyson Coltrane, Long Range Transit Planner II

Public hearing and possible motion regarding proposed amendments to the Transit Plan map related to GoApex Route 1.

Staff oriented Council to the proposed amendments. The Transit Advisory Committee recommended approval and the Planning Board recommend approval.

Mayor Gilbert declared the Public Hearing opened. There were no comments. Mayor Gilbert declared the Public Hearing closed.

Council Member Gantt made the motion to approve; Council Member Mahaffey seconded the motion. The motion carried 5-0.

*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.*

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PH2 Shelly Mayo, Planner II

Quasi-Judicial Public Hearing and possible motion regarding a Major Site Plan for Felton Grove High School located at 8550 Stephenson Road. This item was continued from the April 13, 2021 meeting.

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

All those wishing to testify were sworn in by the Deputy 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: Renee Pfeifer, CLH Design, PA, design firm for the project, Hal Bowen, RATIO Architects, Principal & Raleigh Studio Leader, & Douglas Congdon, Wake County Public Schools Program Executive. Emma Haywood, attorney with Nicholls & Crampton, P.A., identified herself as being present on behalf of the adjacent property owner, Mark Cumalander.

Council Member Mahaffey asked to be recused due to a personal relationship to a member of the governing body of the applicant.

Mayor Pro Tem Dozier made the motion to recuse Council Member Mahaffey; Council Member Killingsworth seconded the motion. The motion carried 5-0.

Council Member Mahaffey left the dais.

In response to question from the Mayor, all Council Members stated they had not had any communication with the applicant, there were no rational or financial conflicts, and that all could be impartial in their decision. 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 neighborhood meeting was held on April 7, 2021. Details of the utility plan, access to the facility, and the construction of roads were outlined.

Russell Dalton, Senior Transportation Engineer stated his credentials. He provided an overview of the traffic impact analysis scope. The presentation included recommendations from both the consultant and Town staff.

Opening Statement by the Applicant: Mr. Haywood provided an overview of the community meeting held on April 7, 2021. He addressed concerns stated at prior meetings and gave an overview of the benefits that the project would provide. He identified the members of his team.

Renee Pfeifer identified herself and stated her credentials. She presented an overview of the school campus and showed pictures of the site plan.

Mrs. Haywood, attorney for the adjacent property owner cross examined Mrs. Pfeifer.

Hal Bowen identified himself and stated his credentials. He briefly reviewed the floor plans and elevations of the site plan.

Mrs. Haywood, attorney for the adjacent property owner cross examined Mr. Bowen.

Opening Statement by the Opponent: Ms. Haywood stated that the site plan should be denied because it does not meet compatibility and that the dedication of a right-of-way will have an adverse effect on the area. She qualified Mark Cumalander as a real estate expert, which was objected to by Mr. Haywood, attorney for the applicant.

Mark Cumalander identified himself and stated his credentials. He stated that the proposed site is not compatible, that it would have an impact on public facilities, that it would destroy a community that provides affordable housing, is an inferior site, and has outlined a traffic plan that presents a danger to children and others.

Mayor Gilbert called for a short break.

Closing Arguments from Staff: None

Closing Arguments from Applicant: Mr. Haywood stated that the consideration of whether or not the roads are considered public or private have no bearing in terms on the site plan. He stated that Council should only consider the requirements for a site plan.

Closing Arguments from Opponent: Mr. Cumalander stated that the lawsuit needs to be resolved before a decision should be made.

Council Member Gantt made the motion to go into Closed Session to confer with the Town Attorney; Mayor Pro Tem Dozier seconded. The motion carried 4-0.

With no objection from Council, the Mayor called for a return to Open Session.

Mayor Gilbert declared the Public Hearing closed.

Council Member Stallings made the motion to approve; Council Member Stallings seconded. The motion was denied 3-2. Mayor Pro Tem Dozier and Council Member Gantt voted against.

Council Members Killingsworth and Stallings voted in the affirmative. Mayor Gilbert voted against.

During Hearing proceedings, Leslie Martinez translated for Spanish speaking audience members. Council Member Mahaffey returned to the dais.

Public Hearing and possible motion to approve Rezoning Application #21CZ08 Cash Corporate Center Amendment. The applicants, Town of Apex and Jack 1, LLC., seek to rezone approximately 121.30 acres located at 0 Pristine Water Drive, 2100 Production Drive, 0 and 1201 Burma Drive (PINs 0751138504, 0751244221, 0751143089, and a portion of former PIN 0751136687) from Light Industrial-Conditional Zoning (LI-CZ #18CZ19) to Light Industrial-Conditional Zoning (PUD-CZ).

Staff oriented council to the site and stated the applicants' purpose for rezoning. Staff recommended approval and the Planning Board recommended approval. Staff clarified that there would be no changes to the existing uses, and that an additional use of a botanical garden would be added.

Mayor Gilbert declared the Public Hearing opened. There were no comments. Mayor Gilbert declared the Public Hearing closed.

Council Member Killingsworth made the motion to approve; Mayor Pro Tem Dozier seconded the motion. The motion carried 5-0.

PH4 Vance Holloman, Finance Director

Public hearing concerning the validity and advisability of issuing up to \$42 million of General Obligation Street and Sidewalk Improvement Bonds and a possible motion to adopt and publish the bond order introduced at the April 13<sup>th</sup> Council meeting.

Staff stated that Council is considering the issuance of up to \$42 million of General Obligation Street and Sidewalk Improvements Bonds. Staff reviewed the timeline bond project discussion and the identified CIP projects that would be funded by the bonds.

Mayor Gilbert declared the Public Hearing opened. There were no comments. Mayor Gilbert declared the Public Hearing closed.

Council Member Killingsworth made the motion to approve; Mayor Pro Tem Dozier seconded the motion. The motion carried 5-0.



OLD BUSINESS

UNFINISHED BUSINESS

UB1 Liz Loftin, Senior Planner

Public hearing and possible motion to adopt an Ordinance on the Question of Annexation - Apex Town Council's intent to annex Edwin A. Goodwin, Testamentary Trust/Judy G. Hackney, Trustee (Hackney Tracts) property containing 2.867 acres located at 2600 Olive Chapel Road, Annexation #701 into the Town's corporate limits.

AND

UB2 Liz Loftin, Senior Planner

Possible motion to approve Rezoning Application #20CZ14 Hackney PUD and Ordinance. The applicant, Brendie Vega, WithersRavenel, seeks to rezone approximately 73.64 acres located at 0, 2500, and 2600 Olive Chapel Road (PINs 0721492629, 0722406699, & 0722411102) from Rural Residential (RR) and Wake County R-80W to Planned Unit Development-Conditional Zoning (PUD-CZ). This item was continued from the March 25, 2021 meeting.

Staff briefly reviewed the site and the applicant's purpose for rezoning. The application has proposed several revisions. The applicant read the revised conditions

Council Member Killingsworth made the motion to approve annexation# 701 and rezoning application #20CZ14; Council Member Gantt seconded the motion.

Council Member Stallings expressed concern about school capacity, especially considering the site plan for Felton Grove High School was denied. Council Member Gantt stated that he was unsure how an approval of this would affect school capacity. Council Member Mahaffey stated that he was unsure of how the Council would move forward with the approval of any residential construction based on the action that was taken tonight, and that he would not be voting in favor of this.

Mayor Pro Tem Dozier stated that she has expressed concerned over the project, and that she would not be able to support this project. Council Member Stallings stated that she will not be able to support this until a solution is made in regards to school capacity.

Council agreed that they needed to determine a plan to resolve the issues surrounding school capacity and how to move forward.

Council Member Killingsworth withdrew her previous motion.

Council Member Killingsworth made the motion to continue annexation #701 and rezoning application #20CZ14 to the Regular Meeting on October 26, 2021; Mayor Pro Tem Dozier seconded the motion. The motion carried 4-1. Mayor Pro Tem Dozier and Council Members Stallings, Killingsworth, and Mahaffey voted in the affirmative; Council Member Gantt voted against.

UB3 Vance Holloman, Finance Director

Motion to approve a Resolution providing for the Sale and Issuance of a \$5,000,000 Town of Apex, North Carolina General Obligation Street and Sidewalk Improvement Bond, Series 2021. The resolution also authorizes the execution and delivery of a Bond Purchase Agreement with Pinnacle Bank.

Staff stated that the resolution before Council is for the issuance of a \$5,000,000 in General Obligation Bonds. These bonds were approved by voters in 2015. The resolution also authorizes the execution and delivery of a bond purchase agreement.

Council Member Killingsworth made the motion to approve; Council Member Gantt seconded the motion. The motion carried 5-0.

Mayor Gilbert stated that staff asked to move New Business 1 and New Business 2 to the next regular meeting.

Council Member Mahaffey made the motion; Council Member Stallings seconded the motion. The motion carried 5-0.

UB4 Vance Holloman, Finance Director

Motion to approve proposed guidelines for the Town's Customer Assistance Program, approve an agreement with Western Wake Crisis Ministries to assist the Town in determining eligibility of customers to participate in the program and authorize staff to execute that agreement. Also to approve Budget Ordinance Amendment No. 18 which appropriates funds to provide aid eligible customers and pay associated administrative cost.

Staff stated that Council is being asked to approve the guidelines for the Town's Customer Assistance Program, to approve an agreement with Western Wake Crisis Ministries to assist the Town in determining the eligibility of customers wanting to participate in the program, for staff to authorize the agreement with Western Wake Crisis Ministries, and to approve Budget Ordinance Amendment Number 19.

Staff provided a breakdown of the requested proration; staff presented three prorated levels to determine eligibility (with proration at 150% not 100% would receive 100% of the benefit, 151% to 175% of the poverty level would receive 75%(\$477), and 176-200% of the poverty level would 50%(\$318).

Council suggested that once the program begins that staff receive feedback from Western Wake Crisis Ministries to make any necessary adjustments needed for the program.

Council Member Killingsworth recused herself from voting; she sits on the Western Wake Crisis Ministries Board.

Mayor Pro Tem Dozier made the motion to approve the originally proposed guidelines, to authorize the agreement with Western Wake Crisis Ministries, to authorize staff to execute the agreement, and to approve Budget Ordinance Amendment Number 19;  
Council Member Stallings seconded the motion. The motion carried 4-0.

#### NEW BUSINESS

NB1 Dianne Khin, Director of Planning and Community Development

Possible motion to approve Tree Planting Grant Program. The Tree Planting Grant Program is designed to provide incentive funds to tenants and property owners to install trees on

residential private properties within Apex's corporate limits. The grant can provide up to 100% of the cost of the tree purchase and installation, up to a maximum of \$750 per property.

This item was continued to the Regular Meeting scheduled for May 11, 2021.

- NB2 Colleen Merays, Downtown & Small Business Development Coordinator  
Possible motion to approve the Special Event Permit requests and Town Co-Sponsorship requests for 2021.

This item was continued to the Regular Meeting scheduled for May 11, 2011.

- NB3 Shawn Purvis, Assistant Town Manager  
Possible motion to approve a Road and Utility Infrastructure Reimbursement Agreement with BIN - APEX LLC and to authorize the Town Manager to execute the same

Staff stated that the reimbursement agreement was for phase one of the extension of Burma Drive at Cash Corporate Center. The developers will build the road per the Town's specifications and the Town will reimburse them.

Council Member Killingsworth made the motion to approve; Council Member Stallings seconded the motion. The motion carried 5-0.

#### UPDATES BY TOWN MANAGER

- TM1 Ralph Clark, Interim Town Manager  
Updates on Town operations by Interim Town Manager Ralph Clark

Interim Manager Clark stated that the Rotary Club will hold a Christmas parade on December 4, 2021.

#### CLOSED SESSION

There was no Closed Session.

#### WORK SESSION

There was no Work Session.

ADJOURNMENT

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

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Tesa Silver, CMC, Deputy Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor

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