



Apex Town Council Meeting

Tuesday, February 04, 2020

Jacques K. Gilbert, Mayor
Nicole L. Dozier, Mayor Pro Tempore
Brett D. Gantt, Audra M. Killingsworth, Cheryl F. Stallings,
and Terry Mahaffey, 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, February 4, 2020, at 6:00
p.m. was held in the Council Chamber of Apex
Town Hall, 73 Hunter Street, Apex

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 were Town Manager Drew Havens, Assistant Town Manager Marty Stone,
Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe

COMMENCEMENT

Mayor Gilbert called the meeting to order, presented a statement related to diversity and inclusion as related to religious beliefs, asked for a moment of silence, and led the Pledge of Allegiance.

PRESENTATIONS

PR1 Anne Tazewell, Senior Special Projects Manager

NC Clean Energy Technology Center / NC State University

Presentation by Anne Tazewell to the Town of Apex in recognition of our achieving the Gold level designation under SolSmart, a program led by the International City/County Management Association and The Solar Foundation, along with a team of partners with deep expertise in solar energy and local governments that recognizes efforts to reduce barriers to development of solar energy.

Ms. Tazewell stated the Center's mission. One of her special projects has been working with Apex to achieve the Gold level solar designation. Ms. Tazewell talked about the soft costs of installing solar on homes and businesses, Apex being one of close to 350 communities that has made strides in reducing these costs. Hence, Apex has earned the Gold level designation with special recognition in permitting and inspections.

Ms. Tazwell thanked the Town for their leadership in making it easier for business and residences to go solar. This is admirable. Council took pictures with Ms. Tazwell, inviting former Council Member Bill Jensen, who had been instrumental in the Town's solar projects, to be included.

PR2 Mayor Jacques Gilbert

Presentation of Proclamation to the Matthews Family honoring C.W. Matthews

Mayor Gilbert read the Proclamation before presenting it to past employee and great granddaughter of C.W. Matthews, Karen Lee, and other members of the Matthews family. Pictures were taken with Mayor Gilbert and the Matthews family.

PR3 Bo Howes – Triangle Land Conservancy

Presentation by Bo Howes from the Triangle Land Conservancy relative to their plans for conserving land in the Jordan Lake watershed.

Mr. Howes spoke about the Jordan Lake Watershed conservation strategy, beginning with a brief history of the Conservancy. They are 35 years old and have conserved over 20,000 acres in the Triangle over that time period. Mr. Howes presented their Mission Statement and their Water Goals by the year 2025.

CONSENT AGENDA

CN1 Dianne Khin, Planning and Community Development 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 Doug Behan & Sohini Sengupta property containing 2.208 acres located at 7617 Reams Court, Annexation #671 into the Town's corporate limits.

CN2 Sarah Rayfield, Senior Planner

Statement of the Town Council and Ordinance for Rezoning Case #19CZ12 Kissena Lane PUD. Jeff Roach, Peak Engineering & Design, PLLC / Hector Cuales, petitioners for the properties located on 0 and 1105 Tingen Road.

CN3 Lauren Staudenmaier, Planner I

Statement of the Town Council and Ordinance for 2045 Land Use Map amendment and Rezoning Case #19CZ24 Upchurch-Williams House, Cara Powell/Capital Area Preservation, Inc., petitioners for the property located on 7213 Roberts Road.

- CN4 Shelly Mayo, Planner II
Set the Public Hearing for the February 18, 2020 Town Council meeting regarding Rezoning Application #19CZ21 Heelan PUD and Ordinance. The applicant, Jason Barron for Morningstar Law Group, seeks to rezone approximately 141.732 acres from Wake Co. R-40W to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 8824 & 8829 New Hope Farm Road, 3108 & 3120 Olive Farm Road, and 0 Humie Olive Road.
- CN5 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 on the Question of Annexation – Apex Town Council’s intent to annex Henry Steven Kastelberg, Carol B. Heelan Irrevocable Trust c/o George Heelan, Edward and Deborah Peart and Jerfi and Lisa Cicin (Heelan PUD) property containing 141.732 acres located at 0 ,8824 and 8829 Humie Olive Road and 3108 and 3120 Olive Farm Road, Annexation #676 into the Town’s corporate limits.
- CN6 Shelly Mayo, Planner II
Set the Public Hearing for the February 18, 2020 Town Council meeting regarding Rezoning Application #19CZ25 Jenks & Wimberly Mixed Use PUD. The applicant, Taylor Morrison of Carolinas, Inc., seeks to rezone approximately 14.68 acres from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 1533 Wimberly Road and 7912, 8000, and 8016 Jenks Road.
- CN7 Marty Stone, Assistant Town Manager
Approval and authorization for the Town Manager to execute the same for an Encroachment Agreement between the Town and property owners, Ivan Peter Ryzebol and Lily Ryzebol regarding Wake County, NC, PIN#0721-91-7087, Lot 15 Verona at Bella Casa, Phase 9, Section 2 as shown and recorded in Book of Maps 2016, Page 1360, 2145 Vecchio Lane, Apex, NC 27502.

Mayor Gilbert called for a motion to adopt the Consent Agenda. Council Member Killingsworth made the motion; Council Member Mahaffey seconded the motion.

The motion carried by a 5-0 vote.

REGULAR MEETING AGENDA

Town Manager Havens requested a second Closed Session related to land acquisition.

Mayor Gilbert called for a motion to adopt the Regular Meeting Agenda. Council Member Killingsworth made the motion with the addition of the Closed Session; Council Member Stallings seconded the motion.
The motion carried by a 5-0 vote.

PUBLIC FORUM

Lindsay Logan stated she was returning regarding a previous request to consider modifying Ordinance 14-28 [of the Town Code of Ordinances] related to playing in the streets. She spoke about a neighbor complaining of excessive playing by children in the streets and sometimes crossing the streets. She was presenting a memo with four options in regards to the Ordinance. Ms. Logan spoke about Scotts Mill in particular. Children playing outside is one of the most appealing aspects of living there. Ms. Logan outlined the four options, giving her thoughts on each. She asked Council to consider the options and promote what would be best for the children.

PUBLIC HEARINGS

PH1 Dianne Khin, Planning and Community Development Director
Ordinance on the Question of Annexation – Apex Town Council’s intent to annex DRP NC 4, LLC (Roberts Crossing) property containing 27.75 acres located at 0, 7013, 7019, 7021, 7029 and 7113 Roberts Road, Annexation #675 into the Town’s corporate limits.
Staff oriented Council to the site, stating that staff recommended approval.

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 Gantt made the motion to adopt the Ordinance; Council Member Stallings seconded the motion.
The motion carried by a 5-0 vote.

OLD BUSINESS

There were no Old Business items for consideration.

UNFINISHED BUSINESS

UB1 Drew Havens, Town Manager

Discussion to direct staff to prepare, for Council consideration, amendment(s) to the Town of Apex Code of Ordinances relative to playing upon streets.

Staff stated this was the follow up to Lindsay Logan's appeal before Council. Staff sent an email stating what other cities and towns do. Recited was the wording of our current Ordinances. Staff came up with four options, and the pros and cons of each were stated. Tonight staff needed to know what ordinance Council wanted developed and brought back to Council.

Council's preference was to define direct supervision. Staff spoke to how police would respond to calls in these situations. The Mayor gave information on how police look at this situation, stating their goal would not be to enforce but to problem solve. Staff stated the police have attempted mediation in this case.

Council stated he was in favor of option four to repeal. He wished to put in a word for 'play streets', and he explained how they work.

Council stated she was conflicted, because we are trying to solve a problem between a neighbor's interpretation and that of another neighbor. She wanted to solve the problem but didn't want to create another problem at the same time.

Council were in favor of option four. The State Statutes stated it was admissible to let a child learn to ride a bike in the street.

Mayor Gilbert called for a motion. Council Member Gantt made the motion to adopt option four; Council Member Mahaffey seconded the motion.

Council stated the wish to make it crystal clear that the Town was not promoting playing in the streets. The Mayor stated we should try to make sure safety is first and paramount. There should be a clear way of police knowing what to do in this type situation, and he would prefer option four. The Mayor offered to mediate with the neighbors.

Staff stated it was working on 'vision zero'. A proposal would be brought back to Council which would advocate for changes regarding pedestrian and motor safety laws and our wanting zero fatalities.

Council Members Gantt, Mahaffey, Dozier, and Stallings voted in the affirmative;
Council Member Killingsworth voted in the negative.
The motion carried by a 4-1 vote.

NEW BUSINESS

There were no New Business items for consideration.

CLOSED SESSION

Laurie Hohe, Town Attorney

Closed Session pursuant to NCGS 143-318(a)(3) to discuss the handling of the matters of Town of Apex v. Beverly Rubin and Beverly Rubin v. Town of Apex, et al.

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

The motion carried by a 5-0 vote.

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

WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

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

Donna B. Hosch, MMC, NCCMC
Town Clerk

ATTEST:

Jacques K. Gilbert, Mayor