



Apex Town Council Meeting

Tuesday, January 7, 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, January 7, 2020, at 6:00
p.m. was held at 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 and read a statement on diversity and inclusion as it relates to religious beliefs. Bishop Jeremy Saints of the Church of Jesus Christ of Latter Day Saints gave the Invocation, and Mayor Gilbert led the Pledge of Allegiance.

PRESENTATIONS

There were no Presentations to be made.

CONSENT AGENDA

- CN1 Donna Hosch, Town Clerk
Minutes of the December 17, 2019 Regular Town Council Meeting
- CN2 Donna Hosch, Town Clerk
Apex Tax Report dated November 6, 2019

- CN3 Mayor Jacques K. Gilbert
Appointment of the Chair and Vice-Chair of the Environmental Advisory Board and appointment of a member of Town Council to serve as liaison to the Board
- 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 Iron Gate Subdivision properties located at 1003, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1016, 1017, 1018, 1020, 1021, 1022, 1023, 1026, 1027, 1029, 1037, 1038, 1039, 1040, 1041, 1042, 1043, 1044, 1045, 1046, 1047, 1048, 1049, 1050, 1052, 1053 & 1055, Irongate Drive, 1735, 1801 & 1805, Tingen Road, 2001 & 2002 Reedy Court, 3001, 3002, 3003, 3004, 3005 & 3006 River Circle and 2701 Veridea Parkway, Annexation #672 into the Town’s corporate limits.
- CN5 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 Robert and Amy Rossi (existing single-family dwelling) property containing 2.87 acres located at 7109 Beaver Trail, Annexation #683 into the Town’s corporate limits.
- CN6 Liz Loftin, Senior Planner
Ordinance to remove the Historic Landmark status for the property located at 4525 Green Level West Road in compliance with North Carolina General Statute 160A-400.4 through 160A-400.15.
- CN7 Liz Loftin, Senior Planner
Ordinance to designate the property located at 2708 Olive Chapel Road a Historic Landmark in compliance with North Carolina General Statute 160A-400.4 through 160A-400.15.
- CN8 Sarah Rayfield, Senior Planner
Set Public Hearing for the January 21, 2020 Town Council Meeting regarding Rezoning Application #19CZ12 Kissena Lane PUD. The applicant, Hector Cuales, sought to rezone approximately 1.74 acres located at 0 & 1105 Tingen Road (PINs 0741361302, 0741269237, & 0741268380) from Residential Agricultural (RA) and High Density Single-family Residential (HDSF) to Planned Unit Development-Conditional Zoning (PUD-CZ).

- CN9 Lauren Staudenmaier, Planner I
Statement of the Town Council and Ordinance for Rezoning Case #19CZ20, Jones & Crossen Engineering, PLLC., petitioners for the property located at 2708 Blazing Trail Drive.
- CN10 Lauren Staudenmaier, Planner I
Set Public Hearing for the January 21, 2020 Town Council Meeting regarding an amendment to the 2045 Land Use Map and Rezoning Application #19CZ24 Upchurch-Williams House. The applicant, Cara Powell, sought to amend the 2045 Land Use Map from Medium/High Density Residential to Office Employment and to rezone approximately 5.50 acres for the property located at 7213 Roberts Road, from Rural Residential (RR) to Office and Institutional-Conditional Zoning (O&I-CZ).
- CN11 Marty Stone, Assistant Town Manager
Approval and authorization for the Town Manager to execute the same for an Assumption of Agreement between the Town of Apex and North Carolina Department of Transportation.
- CN12 Vance Holloman, Finance Officer and Laurie Hohe, Town Attorney
Budget Ordinance Amendment No. 9 which appropriates \$80,000 in the Water and Sewer Fund to pay legal fees in connection with Rubin vs. Town of Apex.
- CN13 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 owner, Matthew Glen Pittman, regarding Wake County, NC, PIN#0723-15-1627, Lot 125, Lake Castleberry Phase 3, Book of Maps 2018, Page 02346, 205 Glenvale Street, Apex, NC, 27523.
- CN14 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 owner, MREC DT Beaver Creek, LLC, regarding Wake County, NC, PIN#0732-45-3603, Lot 6 Hempstead at Beaver Creek Phase 3 as shown and recorded in Book of Maps 2018, Page 00539, 1900 Creekside Landing Drive, Apex, NC 27502.
- CN15 Russell H. Dalton, PE, Senior Transportation Engineer
Budget Ordinance Amendment No. 10 and Capital Project Ordinance Amendment No. 9 appropriating \$144,950 in the Street Improvements Fund for traffic signals at South Salem Street at Tingen Road/Lynch Street and Old US 1 at New Hill Olive Chapel Road/New Hill Holleman Road

CN16 Michael Deaton, Water Resources Director

Water main construction contract to North State Water and Sewer, Inc and authorization for the Town Manager to execute the contract on behalf of the Town

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

The motion carried by a 5-0 vote.

REGULAR MEETING AGENDA

Town Manager Havens requested to reverse the order of the two Work Sessions.

Mayor Gilbert called for a motion to adopt the Regular Meeting Agenda. Council Member Killingsworth made the motion with the stated request; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

PUBLIC FORUM

Bridgett Taylor spoke about changing the time of Council meetings and how it may affect those in the community. Doing so helps the Board but not necessarily the citizens. On the Downtown Plan, she saw issues related to removing parking spots with no solutions to doing so. She was confused about Council wanting to remove the trailer park and how it would affect the residents living there. She was confused about how the Town could remove the trailer park without owning the land. She did not see the Plan addressing any of the current problems.

Laura Wygendt thanked the Town for what it has done for tennis in the community – refurbishing courts, the nature park, and more courts on the way. 200 players have been introduced to the sport as a result. Ms. Wygendt spoke about the longevity and health benefits to the elderly who play tennis. She spoke about the amazing employees in the Parks and Recreation Department.

Jim Ahler requested Council approval to remove two roundabouts in his neighborhood, Regency at White Oak Creek. The homeowners met at their annual meeting and unanimously requested this change. He visited with the Fire Chief, Senior Transportation Engineer, and the Town's Planner and received helpful information. Mr. Ahler gave the history of the placement of the roundabouts and the danger that they

present. They supported roundabouts, but their neighborhood streets are too narrow and lack the traffic to warrant them. Mr. Ahler stated they were formally requesting removal without charge to homeowners.

Edward O’Boyle spoke about the intersection at Kelly and Chapel Hill Roads and how hard it is to get out of. He presented examples of the heavy traffic that occurs on some of the streets. This trouble goes on for about a quarter mile.

Kristin Kullmann spoke about the skate park. Most kids are good about sharing the park, but sometimes the more experienced users can be a bit of a danger to the smaller kids. She would like to see a time set apart for the little kids so that they will not get hurt. Ms. Kullmann polled the users, and almost all of them said the small children do get in their way and that they have to watch out for them. Additionally, small kids can be there without supervision from their parents. Ms. Kullmann asked the larger kids if they would be willing to assist the little ones and teach them the ropes of the sport, and they said they would. It would be nice for the larger kids to have a time set aside for themselves.

Ann Nylund spoke about the electric operations building. She talked about the Town violating its own UDO, how the project should be stopped, and how the Town should not waste tax paper dollars on something that is not correct. The project should not be constructed at the location because the Town has ignored its own laws. A letter had been handed to the Town from their attorneys, and Ms. Nylund requested an immediate answer.

PUBLIC HEARINGS

PH1 Dianne Khin, Planning Director

Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Crescent Apex, LLC (Linden Subdivision) property containing 4.513 acres located at Linden Grove Drive and Olive Chapel Road, Annexation #679 into the Town’s corporate limits.

Staff oriented Council to the site, stating it 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 Mahaffey made the motion to adopt the Ordinance; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

PH2 Dianne Khin, Planning Director

Ordinance on the Question of Annexation – Apex Town Council’s intent to annex James and Jennifer Davis, Charles Catlette Jr., Martha B. Catlette Revocable Trust and Jennifer Davis (Courtyards on Holt) property containing 26.897 acres located at 0, 1337 and 1345 Holt Road, 305 and 313 Catlette Street, Annexation #680 into the Town’s corporate limits.

Staff oriented Council to the site, stating it recommended approval. Staff answered Council questions related to sewer.

Mayor Gilbert called for a motion. Council Member Killingsworth 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 Nicole Dozier, Mayor Pro Tem

Amendment to the 2020 Calendar of Town Council meetings

Council stated this was to further discuss cancelling the June 16th and July 7th meetings to allow for longer breaks for staff, moving the November 3rd meeting date because of election day, and canceling the December 15th meeting in order to allow staff more time with family during the holiday. Staff was directed to come back to Council with comments or concerns, particularly since there was not a desire to make things harder for staff or for citizens.

Staff stated the largest concern was canceling the June and July meetings because of the set amount of work and how it would lengthen the second meeting in July. Staff recommendation was to cancel the first meeting in July but not the one in June.

Council reiterated that it was acceptable to move the November meeting. There was discussion about the December meeting. Council stated March 3rd is also election day, and perhaps this date should be moved.

Mayor Gilbert called for a motion. Council Member Dozier made the motion to amend the 2020 Town Council meeting schedule as follows: moving the March 3rd meeting to March 4th, canceling the July 7th meeting, and moving the November 3rd meeting to November 4th;

Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

NEW BUSINESS

NB1 Tom Colwell, Chairman, Public Art Committee

Approval of three Public Art projects

Mr. Colwell presented an overview of what's been going on the past several months. There was a partnership with local schools for holiday painting downtown and partnership with the Planning Department for a map for a sculpture that a developer is putting up. A second one is going in as well. The community is getting involved with murals.

Mr. Colwell stated the United Arts Council wants to partner with us for a mural on the Public Works building. The Committee wants to do an art walk and sculpture show which has been talked about previously and that they're now able to move forward with. Mr. Colwell explained how the program of artwork being on display and for sale would work. He sought Council approval to proceed to the next steps.

There is interest at the Beaver Creek corridor to do artwork on the raised manholes. The idea came from a member of Parks and Rec and was agreed to by Public Works. The Committee would like to experiment with one manhole to ensure this would actually enhance the appearance and determine what kind of effort it would take.

Mr. Colwell answered Council questions related to being able to update the public art map when new art goes in, and he confirmed partnerships and funding available. High school students have been asked to become temporary members of the Committee, and the students would rotate on and off. Mr. Colwell explained that the paintings and sculptures will be done by professionals. Painting of the manholes will be under the guidance of professionals. The timeframe of the art projects was given.

One of the Committee members would be attending a grant workshop. Mr. Colwell explained what funding is available this year and how it will be appropriated. The three projects he outlined will be covered by this year's funding.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to approve the requested three projects; Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

CLOSED SESSION

There were no Closed Session items for consideration.

Mayor Gilbert called for a 10-minute break.

WORK SESSION

WS1 Shannon Cox, Long Range Planning Manager and Russell Dalton, Senior Transportation Engineer
Future of Richardson Road given the conservation easement along the planned road alignment of this critical roadway in the Town's Transportation Plan

Staff explained the importance of Richardson Road and the congestion we are starting to see. We will see congestion even with the 2045 funded projects. Staff spoke about the conservation easement and why we need to look further ahead. The 2019 request summary was stated. Staff went over IRT response and DEQ guidance. Staff stated they have brainstormed three potential next steps and outlined those for Council.

Council asked if an option could be to purchase additional land from Friendship Station, to which staff stated this has been tried in the past but to little or no avail. Council stated he would like to see the easement land purchased. Council did not like the idea of stopping this project, and various options were further discussed.

Council consensus was for staff to pursue the land purchase and return to Council with mitigation efforts.

There was brief discussion about a possible school.

WS2 Marty Stone, Assistant Town Manager

Discussion of possible mitigation measures to address concerns shared by residents who live near the site of the new Electric Operation Center in order to provide direction to staff on how to proceed with construction.

Staff stated staff was asked to look at options to mitigate citizen concerns. Presented tonight would be what was found, and staff would ask for a course upon which Council wanted to proceed. Staff presented and spoke about the following alterations to the site and their estimated costs: cladding for the pole barn; relocating the dumpster; reducing light on the site; alternate fencing material; and a sound wall vs. a berm or a fence. Examples of thin and sound walls were shown.

Council Member Killingsworth recommended a thin wall, dropping the cladding and fence, and using the light up front that is not used at present (going with 2, 3, and 6 on the list presented).

All Council were in agreement.

Staff stated communication will be made with neighbors concerning the options that are chosen. Emergency plans will be developed as needed, and spill prevention will be updated when construction is completed. Staff outlined procedures for theft concerns, bulk chemical storage, purpose of the gravel lot, considerations for ingress/egress, and an easement on HOA land.

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