



Apex Town Council Meeting

Tuesday, February 18, 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 18, 2020, at
6:00 PM was held in the Council Chamber of
Apex Town Hall, 73 Hunter Street

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, Assistant Town Manager Shawn Purvis, Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe.

COMMENCEMENT

Mayor Gilbert called the meeting to order and read a statement recognizing diversity in religion, J.C. Knowles, Apex Ambassador, gave the Invocation and led the Pledge of Allegiance.

PRESENTATIONS

PR1 Mayor Gilbert

Presentation of Women's History Month Proclamation

Mayor Gilbert and all Council Members shared in the reading of the Proclamation.

CONSENT AGENDA

CN1 Donna Hosch, Town Clerk

Minutes of the January 7, 2020 Regular Town Council Meeting and the January 21, 2020 Regular Council Meeting

CN2 Dianne Khin, Director of Planning and Community Development

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 Ronald and Linda Padget (single-family) property containing 2.70 acres located at 7101 Beaver Trail, Annexation #684 into the Town’s corporate limits

CN3 Shawn Purvis, Assistant Town Manager

Cosponsored Special Event Permit request for 2020 St. Patrick’s Day NC State Pipes and Drums at Salem Street Pub on March 17, 2020

CN4 Vance Holloman, Finance Director

Contract for audit services for the fiscal year ending June 30, 2020

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

The motion carried by a 5-0 vote.

PUBLIC FORUM

No one wished to speak during Public Forum.

PUBLIC HEARINGS

PH1 Dianne Khin, Planning and Community Development Director

Ordinance on the Question of Annexation – Apex Town Council’s intent to Doug Behan & Sohini Sengupta property containing 2.208 acres located at 7617 Reams Court, Annexation #671 into the Town’s corporate limits

Staff oriented Council to the site and stated the applicant’s reasons for 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 Dozier made the motion to adopt the Ordinance; Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

PH2 Shelly Mayo, Planner II

Public Hearing and possible motion to adopt an Ordinance 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.

Heelan PUD Conditional Zoning #19CZ21 associated with this annexation was tabled at the February 10, 2020 Planning Board meeting. Therefore, neither the rezoning nor the annexation can be heard at the February 18, 2020 Town Council meeting. The public hearing for the annexation at Town Council will need to be re-advertised if and when the project moves forward in the future.

Mayor Gilbert stated there was a request to remove Public Hearings 2 and 3 from this Agenda, to be heard at a later date.

PH3 Shelly Mayo, Planner II

Public Hearing and possible motion on Rezoning Application #19CZ21 Heelan PUD. The applicant, Jason Barron for Morningstar Law Group, seeks to rezone approximately 141.73 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.

The Heelan PUD Conditional Zoning #19CZ21 was tabled at the February 10, 2020 Planning Board meeting. Therefore, this rezoning cannot be heard at the February 18, 2020 Town Council meeting. Public hearings for both Planning Board and Town Council will need to be re-advertised if and when the project moves forward in the future.

PH4 Shelly Mayo, Planner II

Rezoning Application #19CZ25 Jenks and Wimberly Mixed Use PUD. The applicant, Taylor Morrison of the Carolinas, Inc., sought 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.

Staff oriented Council to the site and stated the applicant's proposal for rezoning.

Council expressed concern that commercial may not happen in this area. Staff stated the commercial applications in surrounding areas. Staff answered Council questions related to the gas easement and affordable housing.

Jason Barron, Morningstar Law Group, representing the applicant, answered Council questions related to affordable housing, stating their housing would start about at \$250,000. He gave the names of those who were in attendance accompanying him. The Plan is consistent with all Town Plans and policies. Mr. Barron stated the builder wished to install a pollinator garden. All of the neighborhood meetings went very well. Mr. Barron talked about commercial use in the area and its compatibility with the homes which would be built. Mr. Barron answered Council questions related to energy star certification, marketing commercial products, and affordability related to solar.

Mayor Gilbert declared the Public Hearing open.

Teri Costner spoke about their attempts to sell land and how previously approved development is hampering that.

Ken Lewis stated how his property is difficult to rent with everything that's going on around him. The developer has done an excellent job in presenting to the Town. He asked Council to approve the project.

James Costner stated they are trying to sell their home. They cannot even rent it. He hoped the project would go through.

Alison Cleary stated the building has come up with the best plan for the use at this time. She asked for approval of the project.

Mayor Gilbert declared the Public Hearing closed.

Mr. Barron stated he would need to come back to Council with a definitive answer to solar and affordability questions. Council stated his dissatisfaction with RCA and commercial use calculations. He did not see anything about the project which stood out. Council stated he was unhappy with the commercial use and how the property seemed very suitable for mixed use.

Mayor Gilbert called for a motion. Council Member Gantt made the motion to deny the rezoning; Council Member Mahaffey seconded the motion.

The motion carried by a 5-0 vote to deny.

PH5 Vance Holloman, Finance Director

Resolution approving in principle, solely for purposes of meeting the requirements of the Internal Revenue Code and for the Bonds to be Issued by the Public Finance Authority to Thales Academy, the issuance of up to \$40,000,000 in Educational Facilities Revenue Bonds (the "Bonds") by the Authority which in no way obligates the Town for repayment of said bonds or creates any liability to the Town.

Staff briefly explained the project and debt and reiterated that this would not require funding from the Town.

Mayor Gilbert declared the Public Hearing open.

Mary Nash Rusher explained more in depth the bonds and their refinancing. She answered Council questions related to frequency of refinancing, why Apex's name was used in this request, the source of bonds between public and private schools, and who would hold the bonds.

Mayor Gilbert declared the Public Hearing closed.

Mayor Gilbert called for a motion. Council Member Gantt made the motion to approve the Resolutions; Council Member Mahaffey 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

Ordinance 2020-0218-09 to repeal Section 14-28 of the Town of Apex Code of Ordinances.

Staff stated this was at the request of Council. He stated we would now follow the State Statute, which was read by the Town Attorney. Council presented his reasons for asking for this option, stating that the State Statute gives our officers all they need to perform their duties in this instance.

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.

NEW BUSINESS

There were no New Business items for consideration.

CLOSED SESSION

There were no Closed session items for consideration.

WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

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

Donna B. Hosch, MMC, NCCMC
Town Clerk

ATTEST:

Jacques K. Gilbert, Mayor

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