



REGULAR TOWN COUNCIL MEETING

Tuesday, February 09, 2021 at 6:00 PM

~~Council Chamber at Apex Town Hall, 73 Hunter Street~~

THIS MEETING WAS HELD VIRTUALLY

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 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, Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe.

Absent was Mayor Jacques K. Gilbert.

COMMENCEMENT

Mayor Pro Tem Dozier called the meeting to order and asked for a moment of silence to honor those affected by COVID-19. She led the Pledge of Allegiance.

PRESENTATIONS

PR1 Mayor Pro Tem Dozier

Presentation of the Government Finance Officers Association's (GFOA's) Distinguished Budget Presentation Award to Shawn Purvis, Assistant Town Manager MPT Dozier stated this was the second year in a row that Apex has won this award because of our high principles of government budgeting. She stated the four categories of the award, for which we were proficient in all. Assistant Town Manager Purvis stated this was a teamwork project. Vance Holloman, Amanda Grogan, and Jessica Hoffman and her team did the bulk of the work. He stated that we are continuing to work to make sure that this document serves all and that it is transparent.

PR2 John Lynde, Apex Leos (Youth Club of Lions International)

Presentation by member of the Apex Leos regarding a mental health program

Mayor Pro Tem Dozier stated that the presenter asked for this item to be heard at a later date.

PR3 Nicole Bernard

Presentation by Nicole Bernard, Director, Shield NC

Ms. Bernard stated they are partnered with Apex PD; Officer Kenneth Ragland, Community Policing and Crime Prevention Officer, would do the first part of the presentation. The Officer explained what Shield NC is about and what they do to protect people from human trafficking through prevention and awareness. In 2019, Shield NC and the Police Department made a decision to bring together non-profits, service providers, and leaders in the community to build a network to empower those involved in human trafficking.

The Officer presented their Mission and Vision statements. He spoke about human trafficking issues and their organization's involvement in such related to education to help reduce vulnerabilities. They have been able to identify several victims of human trafficking and assisted local victims who had been human trafficked. He thanked Council and all others involved in their efforts.

Ms. Bernard spoke about their community prevention model. It has been used in the human trafficking field as one of the best practices. She explained how they strategically select speakers for their meetings and how they follow up with the attendees of the meetings. She explained how others in the community can get involved. Ms. Bernard thanked Council for the time and opportunity to present tonight.

Council stated she has sat in on most of their meetings and was impressed and appreciative of the professional job they do. This is a great community service.

Council asked how others can get involved in a different way. Ms. Bernard stated that if someone is serving any group of people, they would be happy to have them join.

Council stated she has attended a few of the meetings virtually and appreciated the opportunity to attend in this way.

MPT Dozier stated she asked Ms. Bernard and others to join her in speaking with Senator Burr's office related to what local governments needed to help support people, especially small business owners. Ms. Bernard brought to the table the piece about people being unprotected during COVID-19, which was a good prospective to take to the Senator's office.

PR4 Nicole Powell

Presentation by Nicole Powell regarding the Carbon Dividend Act

Ms. Powell stated she was a member of the citizens climate lobby, a non-profit, non-partisan advocacy organization. There are currently volunteers across the county reaching out to organizations and individuals forming relationships on common ground to create sustainable climate solutions. Their main focus is to support the passage of an act in Congress to support their goals.

Ms. Powell asked Council to pass a resolution supporting EDICA and explained what this would do related to fuels and how the fees would be distributed. If an act was implemented, there would be a 90% reduction of carbon emissions by 2050, and it would create jobs and economic growth and lower public health risks. Apex would join 128 other local governments, organizations, and individuals who have joined, including with several surrounding municipalities. Passing of the resolution would show Congress that the bill is supported nationwide. Support for the law would benefit the entire town.

Council asked if there was a resolution template, Sharon Bagatel responding 'yes' and that she would share it with us. She stated she has worked with Chapel Hill and Durham on their resolutions. Council asked if there was a sponsor in Congress to introduce this, Ms. Bagatel stating 'yes', they do have bi-partisan sponsors. She added they have support in both Houses.

Council asked how this went with the Environmental Advisory Board. Ms. Powell stated she had spoken with them, there were a few questions, and the Board would not say whether or not the Town would be supported in this. They were there primarily to listen.

Mayor Pro Tem Dozier conducted a roll call of those Council Members present.

CONSENT AGENDA

CN1 Sarah Van Every, Senior Planner

Statement of the Town Council and Ordinance for Rezoning Case #20CZ11, Justin Michela/Matthew & Michelle Michela, Justin & Maryann Michela and Matthew & Michelle Michela, and Justin & Maryanne Michela petitioners, for the property located on 7517 Roberts Road, 2310 Pollard Place and 2000 Cabin Cove Road.

CN2 Sarah Van Every, Senior Planner

Statement of the Town Council for Rezoning Case #20CZ13, Bill Zahn, Humie Olive Associates/Yumeewarra Farm, LLC, petitioners, for the property located on 0 and 8633 Humie Olive Road.

- CN3 Lauren Staudenmaier, Planner I
Statement of the Town Council and Ordinance for Rezoning Case #20CZ15, Spencer B. Terry III, P.E, Carolina Land Development Group, Inc., petitioners, for the property located on 5920 and 0 Old Smithfield Road.
- CN4 Lauren Staudenmaier, Planner I
Resolution Directing the Town Clerk to Investigate Petition Received, Certificate of Sufficiency by the Town Clerk, and Resolution Setting Date of Public Hearing for February 23, 2021 on the Question of Annexation – Apex Town Council's intent to annex Joseph D. Cusumano and Reagan L. Cusumano property containing 1.914 acres located at 2609 New Hill Olive Chapel Road, Annexation #705 into the Town's corporate limits.
- CN5 Lauren Staudenmaier, Planner I
Set Public Hearing for the February 23, 2021 Town Council meeting regarding Rezoning Application #20CZ16 Cusumano Property and Ordinance. The applicant, Joseph D. Cusumano, seeks to rezone approximately 1.90 acres for the property located at 2609 New Hill Olive Chapel Road (PIN 0710847078), from Wake County Residential-40W (R-40W) to Medium Density-Conditional Zoning (MD-CZ).
- CN6 Sarah Van Every, Senior Planner
Set Public Hearing for the February 23, 2021 Town Council meeting regarding Rezoning Application #21CZ01 Wolfe Properties PUD Amendment. The applicant Josh Swindell, Envision Homes, LLC., seeks to rezone approximately 43.52 acres located at 1405, 1409, 1209, & 1401 Wimberly Road and 1012 & 1000 Double Helix Road (PINs 0722595328, 0722598851, 0723406397, 0723504154, 0723508938, & 0723601654) from Planned Unit Development-Conditional Zoning (PUD-CZ #19CZ22) to Planned Unit Development-Conditional Zoning (PUD-CZ).
- CN7 Shelly Mayo, Planner II
Set the Public Hearing for the February 23, 2021 Town Council meeting regarding Rezoning Application #20CZ12 Felton Grove High School. The applicant, Wake County Board of Education, seeks to rezone approximately 60.68 acres from Medium Density – Conditional Zoning (MD-CZ) to Medium Density – Conditional Zoning (MD-CZ). The proposed rezoning is located at 8550 Stephenson Road.
- CN8 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 February 23, 2021 on the Question of Annexation – Apex Town Council's intent to annex Wake County Board of Education (Felton Grove High School) property containing 68.06 acres located at 8550 Stephenson Road, Annexation #700 into the Town's corporate limits.

- CN9 Marty Stone – Assistant Town Manager
Encroachment agreement between the Town and Matthew Paul Donohue and wife Kacie Smith Donohue to install 75 SF of a 3' wide concrete walkway and 203 SF of concrete driveway that will encroach onto the Town's 20' Public Sanitary Sewer Easement and authorize the Town Manager to execute the same.
- CN10 Marty Stone, Assistant Town Manager
Encroachment agreement between the Town and Tri Pointe Homes Holdings, Inc. to install 11 SF of private sidewalk and 13 SF of a private driveway that will encroach onto the Town's 20' Public Storm Drainage Easement and authorize the Town Manager to execute the same.
- CN11 Marty Stone, Assistant Town Manager
Encroachment agreement between the Town and Tri Pointe Homes Holdings, Inc. to install 52 SF of private sidewalk and 64 SF of private driveway that will encroach onto the Town's 20' Public Storm Drainage Easement and authorize the Town Manager to execute the same.
- CN12 Shawn Purvis, Assistant Town Manager
Appointment of Assistant Town Manager Shawn Purvis as commissioner for the Town of Apex on the North Carolina Eastern Municipal Power Agency Board of Commissioners and Assistant Town Manager Marty Stone as first alternate to the NCEMPA Board of Commissioners.
- CN13 Adam Stephenson, Engineering Supervisor
Construction contract and authorization for the Town Manager to execute same, and corresponding Budget Ordinance Amendment No. 2021-11 and Capital Project Ordinance Amendment 2021-05 for U-5537 Lake Pine Drive Improvements.
- CN14 Mary Beth Manville, Human Resources Director
Revisions to the Town's Drug & Alcohol Testing Policy.
- CN15 Mary Beth Manville, Human Resources Director
Increasing the authorized FTE of the Fire Department's Senior Program Support Specialist position from .875 (35 hours/week) to 1.00 (40 hours/week).
- CN16 Mary Beth Manville, Human Resources Director
Addition of the Athletics & Grounds Maintenance Worker I and II (Grade 13), Athletics Technician (Grade 14), and Parks Operations Worker I and II (Grade 15) to the Town's Position Classification Plan. Reclassification of the Athletics and Grounds Specialist position from Grade 14 to 15, the reclassification of the Parks Operations Technician position from Grade 16 to 15, and the Parks Operations Specialist position from Grade 15 to 16.
- CN17 Mayor Jacques Gilbert
Reappointment of Chair and Vice Chair positions on the Environmental Advisory Board.

Mayor Pro Tem Dozier stated there was Interest in removing Consent 14.

Mayor Pro Tem Dozier called for a motion to adopt the Consent Agenda. Council Member Killingsworth made the motion with the removal of Consent 14;
Council Member Gantt seconded the motion.
The motion carried by a 5-0 roll call vote.

REGULAR MEETING AGENDA

Mayor Pro Tem Dozier stated there was the request for an additional Closed Session: To consult with the Town Attorney pursuant to GS 143-318.11(a)(3) and the removal of Closed Session 2.

Mayor Pro Tem Dozier called for a motion to adopt the Regular Meeting Agenda.
Council Member Killingsworth made the motion with the stated modifications;
Council Member Stallings seconded the motion.
The motion carried by a 5-0 roll call vote.

PUBLIC FORUM

No one wished to speak during Public Forum.

PUBLIC HEARINGS

PH1 Russell Dalton, Sr. Transportation Engineer
Modifying Jessie Drive Phase 1 final design plans to remove the proposed U-turn bulb-out and include the Sweetgum Access Alternative while keeping Sweetgum Drive connected to Jessie Drive as a right-in/right-out access as presented; and, Possible Motion to recommend continuing the 10-foot side path westward along the north side of Jessie Drive in the Phase 1 final design plans to the intersection at future Production Drive/Horton Park Drive.

Staff stated responses from the public had been posted online. He oriented Council to the project, presenting the highlights. He overviewed the process timeline, the public meeting map highlighting Sweetgum Drive, resident comments and concerns, preliminary access alternatives, NCDOT comments, public outreach, and next steps – Sweetgum access alternative and the 10-foot side path.

Council conversation ensued with staff about long-term and full access points, Council wanting to be certain that this was possible and/or sustained, the 10-foot side path and its

use, the necessity of the cul-de-sac, permanence of the options, possible further studies, and environmental issues.

Mayor Pro Tem Dozier declared the Public Hearing open.

Staff summarized the public comments received related to Sweetgum Drive, those comments incorporated by reference.

Mayor Pro Tem Dozier declared the Public Hearing closed.

Mayor Pro Tem Dozier reminded that this item would be left open for 24 hours.

OLD BUSINESS

There were no Old Business items for consideration.

UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

NEW BUSINESS

There were no Old Business items for consideration.

PRESENTATION BY TOWN MANAGER

Mayor Pro Tem Dozier welcomed Interim Town Manager Ralph Clark. Mr. Clark stated it was an honor to serve in this position. He has been impressed with the quality of the staff that will take Apex forward. He was looking forward to being a part of this effort.

CLOSED SESSION

- CS1 Steve Adams, Utilities Acquisition Specialist
Closed session to establish the Town's negotiation position for acquisition of real property pursuant to NCGS 143-318.11(a)(5).
- CS2 REMOVED FROM THE AGENDA - Drew Havens, Former Town Manager
Closed Session per Council direction to discuss approving vacation leave payout to retired Police Chief John Letteney for 96 hours of leave accumulated in excess of what is allowed by policy.

ADDED CS3 Closed Session to consult with the Town Attorney pursuant to GS 143-318.11(a)(3).

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

The motion carried by a 5-0 roll call vote.

Mayor Pro Tem Dozier stated that Council would not return to Open Session, that Council would adjourn from Closed Session.

WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

With no further business and without objection from Council, Mayor Pro Tem Dozier adjourned the meeting from Closed Session.

Donna B. Hosch, MMC, Town Clerk

ATTEST:

Nicole L. Dozier, Mayor Pro Tem