



# REGULAR TOWN COUNCIL MEETING

Tuesday, February 23, 2021 at 6:00 PM

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

THIS WAS A VIRTUAL MEETING

## 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, Town Clerk Donna B. Hosch, Town Attorney Laurie L. Hohe, and Deputy Town Clerk Tesa Silver.

## COMMENCEMENT

Mayor Gilbert called the meeting to order and called roll call for attendance. Mayor Gilbert read a statement on diversity and inclusion as it relates to religious beliefs. He asked for a moment of silence for those who have passed from COVID-19 and for those facing hardship in Texas. Mayor Gilbert led the Pledge of Allegiance.

## PRESENTATIONS

PRI Mayor Jacques Gilbert and the Apex Town Council

Proclamation recognizing John M. Brown for 35 years of service to the Town and people of Apex as Parks, Recreation, & Cultural Resources Director

Mayor Gilbert read and presented the Proclamation recognizing John M. Brown for his service to the Town, and presented John M. Brown with the Governor's Order of the Long Leaf Pine. Director Brown expressed his gratitude for all those who have contributed to his career and the citizens of the Town of Apex. Council thanked Director Brown for his service to the Town, acknowledged his accomplishments during his career, and shared well wishes in his upcoming retirement.

PR2 Mary Beth Manville, Human Resources Director  
Presentation announcing the new Town of Apex Retiree Recognition Board.

Staff presented a sample of the Town of Apex Retiree Recognition Board. The board list the names of employees who retired from the Town with a minimum of 5 years of service. The board will be displayed in Town Hall.

PR3 Jacques Gilbert, Mayor  
Presentation of Women's History Month Proclamation

Mayor Gilbert and Town Council read the Proclamation declaring the month of March Women's History Month.

CONSENT AGENDA

CN1 Donna Hosch, Town Clerk and Tesa Silver, Deputy Town Clerk  
Motion to approve Council Meeting Minutes

CN2 Terry Mahaffey, Council Member  
Motion to adopt a Resolution supporting the Energy Innovation and Carbon Dividend Act

CN3 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 March 9, 2021 on the Question of Annexation – Apex Town Council's intent to annex Lufkin Leased Fee, LLC (3050 Lufkin Road) property containing 3.33 acres located at 3050 Lufkin Road, Annexation #707 into the Town's corporate limits.

CN4 Mary Beth Manville, Human Resources Director  
Motion to approve the addition of one Diversity Officer position, salary Grade 27, for the Administration Department.

CN5 Marty Stone – Assistant Town Manager  
Motion to approve an encroachment agreement between the Town and Daniel Gerard O'Sullivan and wife Kyra Lynn O'Sullivan to install a fence of which 330 S.F. will encroach onto the Town's 20' wide Public Utility Easement and authorize the Town Manager to execute the same.

CN6 Marty Stone – Assistant Town Manager  
Motion to approve an encroachment agreement between the Town and William David Paxton and wife Vicki Thomas Paxton to install 100 S.F. and 84 S.F of fence

- and 78 S.F. of stairs that will encroach onto the Town's 30' Sanitary Sewer Easement and authorize the Town Manager to execute the same.
- CN7 Marty Stone, Assistant Town Manager and Vance Holloman, Finance Director  
Motion to approve Budget Ordinance Amendment No. 12 appropriating funds for the purpose of reimbursing a developer for completion of the Reliance Avenue Extension connecting to the Meridian at Ten Ten Apartment Complex.
- CN8 Keith McGee, Fire Chief  
Motion to approve Town Manager to sign an amendment to the Fire Protection Agreement Apex and a Business Associate Agreement that are required for Apex Fire Department to provide assistance at the mass vaccination site hosted by Wake County.
- CN9 Russell Dalton – Sr Transportation Engineer  
Motion to approve a reimbursement agreement between the Town and NCDOT for construction of EB-6046, West Chatham St Sidewalk, and authorize the Town Manager to execute the same.
- CN10 Michael Deaton, Water Resources Director  
Motion to approve revisions to the Policy Regarding Town Participation in Utility Projects.
- CN11 Michael Deaton, Water Resources Director  
Motion to approve a Utility Infrastructure Reimbursement Agreement with MFW Investments, LLC, and to authorize the Town Manager the same for construction of the Middle Creek Regional Pump Station 2 and associated gravity sewer and force main infrastructure.
- CN12 Colleen Merays, Downtown & Small Business Development Coordinator  
Motion to close up to 13 on-street parallel parking spaces along N. Salem Street from Center St. to Chatham St. to allow for extended outdoor dining and alcohol consumption as permitted by ABC Law or regulations, and to approve an ordinance temporarily modifying Town Code Sections 14-14 and 18-11 as they relate to sidewalk dining and alcohol consumption on public streets and sidewalks through May 31, 2021.
- CN13 Steve Adams, Utility Acquisition Specialist  
Motion to approve purchase of +/- 5 acres located at 736 Hunter Street for \$467,000, to grant authority to the Interim Town Manager to execute the contract and authority to the Interim Town Manager and Finance Director to execute all closing documents on behalf of the Town, and to approve Budget Ordinance Amendment 13.
- CN14 Megan Pendell, Sustainability Coordinator  
Motion to approve amendments to Apex Town Code section 2-58 in regards to membership on the Environmental Advisory Board.
- CN15 Russell Dalton – Sr Transportation Engineer

Motion to approve a 2nd supplemental reimbursement agreement between the Town and NCDOT for construction of U-5537, Lake Pine Drive Improvements, and authorize the Town Manager to execute the same.

CN16 Amanda Grogan, Budget & Management Analyst

Motion to approve Budget Ordinance Amendment No. 14 to account for COVID expense reimbursements and distribution of those funds to department budgets and to allocate fund balance to cover additional onboarding and personnel costs

Mayor Gilbert corrected the date in Consent Agenda Item 12. Council Member Killingsworth stated that the language in Consent Agenda Item 4 is now gender neutral.

Mayor Gilbert called for a motion to adopt the Consent Agenda.  
Council Member Stallings made the motion with the stated changes;  
Council Member Killingsworth seconded the motion.  
The motion carried by a 5-0 roll call vote.

#### REGULAR MEETING AGENDA

Mayor Gilbert called for a motion to adopt the Regular Agenda.  
Council Member Gantt made the motion;  
Council Member Killingsworth seconded the motion.  
The motion carried by a 5-0 roll call vote.

#### PUBLIC FORUM

Carol Ferguson, Dan and Karen Willis, Jay Smith, and Micky and Peggy Smith; congratulated Parks, Recreation and Cultural Resources Director John M. Brown well wishes on his retirement.

Marcellus Howard; asked if some of the tennis courts at Apex Nature Park and Kelly Road Park could be repurposed as pickleball courts.

Lori Nelson; expressed concern over the state of the Apex Police Department. She asked for action to continue to be taken by the Mayor, Town Council and the Interim Police Chief, and that a citizen review board be created to address some of the issues that the Police Department is facing.

Carla Gregg-Kerns, Darlene Oglesby, Jessica Matthews, Kevin Nelson, Ross Pierson, Stephanie Mitchell, and Reid Pierson, S. Peoples; stated that they stood with Lori Nelson

and the call for police reform in Apex based on the Apex Police Department Cultural Assessment.

PUBLIC HEARINGS

PH1 Shannon Cox, Long Range Planning Manager  
Possible motion to continue the public hearing for proposed Transportation Plan amendments associated with Rezoning Application #20CZ12 Felton Grove High School. Due to the Planning Board continuing their vote from February 10, 2021 to March 8, 2021 and the fact that 30 days will not have passed from the date of the first Planning Board public hearing, this item will not be heard by Town Council at this time, so a continuance of the Town Council public hearing to March 23, 2021 is requested.

AND

PH2 Shelly Mayo, Planner II  
Possible motion to continue the public hearing for Rezoning Application #20CZ12 Felton Grove High School. The applicant, Wake County Board of Education, seeks to rezone approximately 60.68 acres located at 8550 Stephenson Road from Medium Density Residential-Conditional Zoning (MD-CZ #12CZ14) to Medium Density Residential-Conditional Zoning (MD-CZ). Due to the Planning Board continuing their public hearing from February 10, 2021 to March 8, 2021 and the fact that 30 days will not have passed from the date of the first Planning Board public hearing, this item will not be heard by Town Council at this time, so a continuance of the Town Council public hearing to March 23, 2021 is requested.

AND

PH3 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 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. **The applicant requests this item be continued to the March 23, 2021 meeting.**

Mayor Gilbert called for a motion to continue Public Hearing 1, 2, and 3 until the March 23, 2021 regular scheduled meeting. Council Member Gantt made the motion;

Council Member Killingsworth seconded the motion.

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

PH4 Lauren Staudenmaier, Planner I  
Public hearing and possible motion to adopt an Ordinance 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.

AND

PH5 Lauren Staudenmaier, Planner I

Public Hearing and possible motion to approve 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).

Staff oriented Council to the site and stated the applicant's proposal for rezoning. The Environmental Advisory Board has reviewed the application and did not recommend any additional zoning conditions. The rezoning is consistent with the 2045 Land Use Plan and it is compatible with the existing area. The Planning Board recommended approval. Staff recommended approval.

Mayor Gilbert declared the Public Hearing Opened. There were no comments. Mayor Gilbert declared the Public Hearing Closed. Mayor Gilbert stated that no action would be taken and that a vote would be held at the meeting scheduled for Thursday, February 25, 2021 at 4:00 pm.

PH6 Sarah Van Every, Senior Planner

Public Hearing and possible motion to approve 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).

Staff oriented Council to the site, stated the applicant's proposal for rezoning and explained the PUD Amendment. The Planning Board recommended approval. Staff recommended approval.

Mayor Gilbert declared the Public Hearing Opened.

John Shell; asked several questions related to the White Oak Site Plan.

Mayor Gilbert declared the Public Hearing Closed. Mayor Gilbert stated that no action would be taken and that a vote would be held at the meeting scheduled for Thursday, February 25, 2021 at 4:00 pm.

PH7 Shannon Cox, Long Range Planning Manager  
Public hearing and possible motion regarding proposed amendments to the 2045 Land Use Map related to transit-oriented development.

Staff oriented Council to the amendments, and provided public feedback on the amendments. Staff provided updated recommendations to the 2045 Land Use Map. The Planning Board recommended approval.

Mayor Gilbert declared the Public Hearing Opened.

Sarah Sleight and Peter Muecke; asked that Council deny the proposed amendment of the lot at 0 W. Williams Street due to the lot's unique topography, the surrounding infrastructure and housing, and the stream.

Mayor Gilbert declared the Public Hearing Closed. Mayor Gilbert stated that no action would be taken and that a vote would be held at the meeting scheduled for Thursday, February 25, 2021 at 4:00 PM

#### OLD BUSINESS

There was no Old business.

#### UNFINISHED BUSINESS

UB1 Russell Dalton, Sr. Transportation Engineer  
Possible Motion to recommend 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 reviewed the design plan for modifying Jessie Drive Phase 1 and the various options that have been considered. Staff summarized the public comments received after the Public Hearing.

Nate Nicholes; agreed with the new connector road to provide left turns versus U-turn, but he was against the proposed connector route. He favored pursuing a connector route south of the pipeline.

Amy Marshall; against the proposed connector route and cited request for traffic signal at Ten Ten Road. She cited concerns with any restrictions to existing Sweetgum Drive residents and emergency access. She suggested the use of 4801 Jessie Drive for a roundabout or turnaround leaving Sweetgum Drive access as is.

Elizabeth Farquhar and Zach Wienandt; opposed to the Jessie Drive project and cited concerns with access, environmental impact and home values due to Jessie Drive project.

Brian Bradley; cited concern with any restriction to existing Sweetgum Drive and requested a traffic signal at Ten Ten Road. He suggested a connector route directly parallel to the west side of the pipeline.

Rebecca Mitchell; against the proposed connector route and cited request for a traffic signal at Ten Ten Road. She was in favor of new access to Sweetgum Drive and suggested the route west of the pipeline.

Brent Cadd; proposed alignment east of the pipeline on Jessie Drive that would curve behind 2512 and 2528 Sweetgum Drive and asked for further evaluation based on the proposed suggestion.

Nicholas Ward; suggested a connector to Ten Ten Road be reconsidered, if it could provide long term left turn (turn in) and right turn (turn out) access to Sweetgum Drive. He was not in favor of direct impacts to any portion of the parcel located at 2528 Sweetgum Drive.

Donna Provance; requested further evaluation time to consider all options and was not in favor of impacts to the primary or secondary well.

Brian Dean; was in favor of new access to Sweetgum Drive and suggested the route west of the pipeline crossing the pipeline south of the house located at 2528 Sweetgum Drive.



Staff addressed the multiple obstacles the Town faced with the various options that could be completed at Jessie Drive, and recommended the U-turn bulb if Council is opposed to the connector route.

Council Member Mahaffey made the motion to decline to build the side path to the north of Jessie Drive; Council Member Killingsworth seconded. The motion carried by a 5-0 vote by roll call.

Council Member Mahaffey made the motion to direct staff to continue with the bulb out option and to further direct staff to consider transportation plan updates considering the lots for provide further connectivity to Sweetgum Drive; Council Member Gantt seconded. The motion carried by a 5-0 vote by roll call.

#### NEW BUSINESS

NB1 Mayor Jacques Gilbert and the Apex Council  
Possible motion to consider renaming the Apex Community Center to the John M. Brown Community Center

Mayor Gilbert read a Resolution recognizing the many contributions of Parks, Recreation, and Cultural Resources Director John M. Brown and his community involvement.

Council Member Killingsworth made the motion to adopt the Resolution to rename the Apex Community Center as the John M. Brown Community Center; Council Member Stallings seconded. The motion carried by a 5-0 vote by roll call.

NB2 Colleen Merays, Downtown & Small Business Coordinator  
Motion to approve the Special Event Permit requests and Town Co-Sponsorship requests for 2021 and 2022.

Staff reviewed Special Event Permit application requests the Town has received. Applications have been submitted for the farmers market, Music Festival and Peak Festival.

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

NB3 Vance Holloman, Finance Director

Consider information and data presented by Finance staff to provide direction to finalize the development of a utility customer assistance program

The Town suspended disconnections due to the Governor's Orders and has established payment plans for those who would be in jeopardy of their services being disconnected. Western Wake Ministry Crisis has assisted in establishing criteria for the assistance program. Staff reviewed the eligibility requirements. Staff will be directed to not turn off anyone who has applied for assistance until eligibility to participate in the program has been determined. Staff recommended to allow suspension to be lifted as of February 28, 2021, with no cutoffs the month of March and for cutoffs to begin with the April billing cycle.

Council agreed with the assistance program, but stated that they did not want to cut people off during the pandemic.

Council Member Killingsworth made the motion to extend the moratorium until May 31, 2021; Mayor Pro Tem Dozier seconded. The motion carried by a 5-0 vote by roll call.

NB4 Terry Mahaffey, Council Member

Discussion and the setting of municipal election filing fees for the Town

Council Member Mahaffey stated that the Council has the authority to set filing fees for office and asked if Council should consider adjusting the fees. He stated that he doesn't believe the fee should be tied to compensation.

Council Member Mahaffey made the motion to have staff prepare an ordinance to set the filing fees to \$50 for Council and \$75 for the Mayor, and report to the Board of Elections; Council Member Killingsworth seconded. The motion carried by a 5-0 vote by roll call.

#### PRESENTATION BY TOWN MANAGER

Interim Manager Clark stated that a process should be created to streamline citizen complaints and that he received all departmental reports.

CLOSED SESSION

CS1 Laurie Hohe, Town Attorney  
Possible motion to go into closed session to consult with the Town Attorney pursuant to NCGS 143-318.11(a)(3) and discuss a personnel matter pursuant to NCGS 143-318.11(a)(6).

Council Member Killingsworth made the motion to go into Closed Session; Council Member Mahaffey seconded. The motion carried by a 5-0 vote by roll call.

WORK SESSION

There was no Work Session

ADJOURNMENT

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

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Tesa Silver CMC, NCCMC  
Deputy Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor

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