



MINUTES - REGULAR TOWN COUNCIL MEETING

MARCH 22, 2022 AT 6:00 PM

COUNCIL CHAMBERS – APEX TOWN HALL, 73 HUNTER STREET

WELCOME AND COMMENCEMENT

The regular meeting of the Apex Town Council was called to order by Mayor Gilbert. The Mayor began the meeting with a welcome and invocation saying

“The Town of Apex values and celebrates diversity and inclusion. We see diversity as a strength that binds the community together. Inviting members from different faith communities to deliver an invocation at the beginning of our council meetings supports this unity, recognizes that not everyone practices the same traditions, we welcome you to have a private moment of silence.” He expressed a desire for peace at this chaotic time.

The mayor asked Councilman Gray to lead those attending in the Pledge of Allegiance. Council member Gray asked the audience to join in reaffirming our commitment to freedom in America. Mayor Gilbert also asked that members of the audience wishing to speak to please use the signup sheets in the front of the room.

Town Council and Administration:

In attendance were Mayor Jacques K. Gilbert, Mayor Pro Tem Audra M. Killingsworth, and Council Members Brett D. Gantt, Terry Mahaffey, Cheryl F. Stallings and Edward Gray. Also, in attendance were Town Manager Catherine Crosby, Assistant Town Managers Shawn Purvis and Marty Stone, Interim Town Clerk Julie Reid, and Town Attorney Laurie L. Hohe.

CONSENT AGENDA

A motion was made to remove Item CN1 from the consent agenda. A motion was made to approve the amended consent agenda. (Motion: Mayor Pro Tem Killingsworth\Second: Council Member Stallings, Vote: Approved 5-0).

- CN1 Removed**
- CN2 Approval of the Apex Tax Report dated February 5, 2022**
- CN3 Approval of a donation of public art from CAPS-Citizen for Apex Parks and approval of placement at its current location.**
- CN4 Approval to appoint Jennifer Arey and Kimberly Brugh to the Bee City Committee**
- CN5 Approved and authorized the Town Manager to execute a Funding Agreement between the Town of Apex and Wake County for the Apex West Greenway, subject to terms and conditions**

acceptable to the Town Attorney; and approve and authorize the Town Manager to execute a Maintenance Agreement between the Town of Apex and Wake County for the Apex West Greenway, subject to terms and conditions acceptable to the Town Attorney.

- CN6** Approved and authorized the Town Manager to execute a Funding Agreement between the Town of Apex and Wake County for the Middle Creek Greenway (PHI and PHII), subject to terms and conditions acceptable to the Town Attorney.
- CN7** Approved the Statement of the Town Council and Ordinance for Rezoning Case #21CZ14 Holland Road Mixed Use Assembly PUD, Geno Ray, LG Investments Inc., petitioner, for the properties located at 7528 Humie Olive Rd; 2236 Old US 1 Hwy, 1001, 1004, 1005 Red Cardinal Lane 3104; & 3116 Holland Rd (PINs 0720992587, 0720998487, 0730095707, 0731001087, 0731003359, 0731004075, 0730091779).
- CN8** Awarded a sewer rehabilitation contract to Tri-State Utilities, LLC, and authorized the Town Manager to execute the contract on behalf of the Town.
- CN9** Approves amendments to the Apex/Western Wake Crisis Ministry, Inc. Agreement for Utility Customer Assistance Program Administration Services, Exhibit A – Apex Customer Assistance Program Guidelines and delegated authority to the Town Manager to sign this amendment. (Two additional handouts explaining AMI for qualifying potential buyers)
- CN10** Approved the extension of the Emergency Sick Leave and Quarantine Leave provisions of the COVID-19 Vaccine Incentive Policy for Town employees, until such time as deemed appropriate by the Town Manager.

PRESENTATIONS

- PR1** Julie Coco, PE, North Carolina Department of Environment Quality, gave a brief overview of the Sedimentation and Erosion Control Program. She explained that erosion and the resulting sedimentation is the largest threat to the quality of water supplies in the State. She explained that the State established the program, determined the goals and objectives of the program and established the rules and regulations to meet those goals and objectives. The local governments have implemented the program. The local governments are audited for compliance with the regulations. The State seeks to recognize outstanding local programs. The Apex Erosion and Sedimentation is being recognized for its excellence for Small Programs for 2021. They are recognized for their excellence in education and training, meticulous site inspections, effective pre-construction conferences with developers, enforcement and outstanding outreach program with a website featuring checklists, flowcharts and easily understood requirements for compliance. The group has also given presentations to public groups and to the schools. The group meets and coordinates with other municipalities in the area to improve their response to issues. This joint effort is recognized as setting the standard for the rest of the State. The State has been impressed that with a staff of only three and recently with the addition of a fourth, monitors 90 active sites and just under 2000 acres. She recognized James Misciagno, Anthony Scott, Jimmy McClure and Rachel Gamble as responsible for the excellence of the program in Apex and awarded the Town of Apex Erosion and Sedimentation program the Award of Excellence for Small Programs for 2021. The staff was recognized by the Town Council for their work in the community.

REGULAR MEETING AGENDA

PUBLIC FORUM

Mayor Gilbert called for members of the public that wished to address the Town Council. Mr. Jeff Hastings wished to thank the Town and specifically the fire fighters that saved his livestock and limited the spread of a fire that destroyed his home. He said he appreciates the money spent on Public Safety in the Town of Apex. He also asked for an update on the Tunstall house on behalf of the Historical Society.

PUBLIC HEARINGS

PH1 Rezoning Request #21CZ32 Public Hearing and Possible Action

From Rural Residential (RR) to Planned Unit Development- Conditional Zoning (PUD-CZ)

Name of Development: Chapel Ridge Townhome PUD

Applicant: Toll Brothers, Inc.

Location: 1412 Olive Chapel Road; 1400, 1401, 1408, 1409 Barnside Lane and Barnside Lane right-of-way (21.5 acres).

PINs

Staff member, Amanda Bunce, gave a briefing to the Council. Information regarding surrounding land uses (large lot residential) and existing use of the site (large lot residential) with office type development across the street. The staff reviewed the existing 2045 land use designations for the site. Permitted uses within the proposed development were reviewed. The proposed design controls were also reviewed, including maximum density, height, setbacks, buffers built upon area and Resource Conservation Area (RCA). Additional 20-foot type B buffer and fencing is proposed along Chapel Ridge Road. Parks and Recreation unanimous recommends a fee in-lieu of land dedication. Staff indicated that it did not recommend the earlier proposal due to the impact on the neighborhood and the likelihood that additional development would closely follow.

The developer noted the project had been substantially revised. The proposed use will be age restricted housing, reducing the impact of the school system. The units will be single family detached houses and two-story town homes that will blend better with the existing neighborhood. He also indicated that two housing unit will be dedicated to affordable housing using the AMI formula. It also will reduce traffic in peak times. He discussed the possible use of the play area teamed with adult programming combining these efforts for both of their senior developments.

Mayor Gilbert invited the public to address the Town Council. They expressed their disappointment that several of their neighbors had consolidated their land and offered it for sale. They expressed that this has been a very stable neighborhood with a country like setting employing large lots.

There was discussion of a cross walk across Chapel Ridge Road to connect the neighborhood with the commercial area. The Town's traffic engineer said that the grades in the areas make it difficult to provide a crossing for walking traffic. The developer agreed to explore the possibility of the

crosswalk, but was unable to agree to construction as a condition because it may not be feasible to build. He understands that a crosswalk would still need both Town and NCDOT approval.

There was discussion of ramps or other accessibility issues. The developer stated grading around the project and movement both in and outside the units take into consideration the mobility of the residents. There was a question relating to the timing of the development and whether the entire neighborhood should be re-developed at one time. The representative said that the land owners should be able to develop consistent with the Town's adopted plans.

The general consensus was that senior housing is needed.

A motion was made to approve the rezoning with the agreed upon conditions. (Motion: Mayor Pro Tem Killingsworth, Second: Council Member Stallings, Vote: 4-1 with Council Member Gant casting the dissenting vote, citing the continuity of the neighborhood.

PH2 Mr. Shawn Purvis, Assistant City Manager presented the request for providing an economic development incentive for "Project Real" in accordance with the Town's policy (Development Investment Grant). This is a request for the standard incentive policy of nine percent grant back for three years for a distribution center. There will be job creation of approximately 200 positions with slightly higher than average salary threshold. This took into consideration that the project is located in Chatham County and averaged the salaries with Wake County. There will be an investment of 25.5 million dollars. The project meets the criteria for the award of the incentive. The award is dependent on the actual construction and implementation of the project. The mayor asked for any public comment. Hearing none he closed the public hearing.

A motion was made to approve the incentive for the Real Project. (Motion: Mayor Pro Tem Killingsworth, Second: Council Member Stallings, Vote: 5-0)

PH3 The next three items related to the same development. Amanda Bunce, Current Planning Manager presented the first of the three items, regarding an amendment to the 2045 Land Use Map in the vicinity of NC 751 and US 64. She noted this was the first development in Chatham County for the Town of Apex. The Chatham County Land Use Plan had been designated for a job creation center. The amendment would allow for a similar designation as there had been no joint Land Use Plan for the area. No formal plan for a joint land use plan or transportation plan at this time.

AND

PH4 Amanda Bunce, Current Planning Manager, presented the annexation request for the proposed project containing 132.11 acres located at 104, 106 and Unassigned Off NC Hwy 751, Chatham County, Annexation 726 into the Town's corporate limits. This would be the first annexation into Chatham County.

AND

PH5 **Rezoning Request #22CZ02 Public Hearing and Possible Action From R-1 to Light Industrial-Conditional Zoning (LI-CZ)**
Name of Development: Beacon Development
Applicant: Maggie Houston

Location: 104 NC Hwy 751, NC Hwy 751, 106 Off NC Hwy 751, Off NC Hwy 751. (approximately 132.11 acres)

Amanda Bunce briefed the council of the rezoning request including potential uses of the property. The thirty-three uses proposed include outdoor storage of materials. All storage uses will be screened from the road. She reviewed the surrounding existing uses. Three uses are proposed as conditional uses. They are machine shop or welding shop allowed except welding associated with automotive, building supply wholesale storage not exceeding 200,000 square feet and not more than 15% of the square footage of the building in outside storage, and glass sales shall be all inside except what is on a truck in the truck storage.

The Environmental Board recommendations include tree replanting and management of a 25-year stormwater. Additional conditions include architectural design conditions, dedication of right-of-way at the intersection of US Highway 64 and NC 751 per NCDOT plan. Dedicate a sixty-foot right-of-way with a 30-foot easement on either side for a public roadway extending from NC 751 to the eastern boundary of the site. The final transportation condition is that all parcels have frontage on a public street. The development will construct a minimum of two stub street connections to adjacent parcels that have no frontage along public roads. An increased fee-in-lieu as agreed.

The developer said there have been issues of timing and the complexity of the process. The project is to be a master planned business park. Their emphasis has been on life sciences and research. The first anchor would be Coca Cola of Durham. The first building is \$25 million and \$75 million for the second building. There are a projected 500 plus jobs. There are \$9.8 million in infrastructure costs including additional capacity. There will be 15 acres dedicated to public use and an additional three acres for a collector road. He proposed the payment of \$1,000,000 in-lieu of constructing the public road across the property because the NCDOT does not have finalized plans yet and it does not make sense to construct a road only to have it removed, relocated or destroyed in the near future.

The CEO of Coke Cola of Durham stated they have four coke territories in their organization and have been in business for 116 years. This site is good for them because of its access to US Highway 64 and NC 751. They are a zero-waste facility permanently. They have agreed to move their building approximately 600 feet to accommodate buffers for the existing residents and to provide adequate buffering for streams.

Discussion followed regarding the ability to extend a road across the property. This is complicated due to the stream crossings and wetland designations.

The mayor asked for public comment. There was concern expressed about the proximity to the lake and streams, the large amount of wildlife in the area and the impacts of noise and traffic on these features. There was concern expressed about the proximity of large truck traffic to the school across the road. There was also concern expressed about a historic property in the area. The neighbors would like a traffic study to be done before the zoning is approved. Being no further public comment, the mayor closed the public hearing. There was discussion of the water and sewer lines are being extended and oversized to the site. It was said that no residential connections to these lines would be allowed. Water extensions are predicated on annexation.

The Town of Apex has not had interest in annexing residential properties in Chatham County. Future land use plans for Chatham County may include such provisions.

A motion was made to approve the amendment to the 2045 Land Use Plan, to adopt an Ordinance on the Question of Annexation- Apex Town Council's intent to annex the William Stephen Mills, Ronald Horton Mills, Jr and Peggy Gray, Trustee property, to rezone the subject property to LI-CZ. (Motion: Mayor Pro Tem Killingsworth, Second: Council Member Mahaffey, Vote: 5-0)

PH6 Shannon Cox, Long Range Planning Manager presented amendments to the Transportation Plan for North Salem Street between Davis Drive and Laura Duncan Road. The proposed amendment would show proposed widening from a existing two lane road to a three lane throughfare for North Salem Street between Davis Drive and Laura Duncan Road.

They mayor asked for public comment. There being none, he closed the public hearing.

A motion was made to approve the proposed amendments to the Transportation Plan. (Motion: Council Member Gant, Second: Council Member Mahaffey, Vote: 5-0)

OLD BUSINESS

There was no Old Business.

UNFINISHED BUSINESS

There was not Unfinished Business.

NEW BUSINESS

There was no New Business.

UPDATES BY TOWN MANAGER

Town Manager Catherine Crosby remarked on the seven trees planted, one for each year Apex has been a Tree City, on Arbor Day by the Town Council and the public.

She briefed the Council on the installation of bee hives in the electrical easements and noted there are four certified bee keepers amongst the Town staff. An addition two employees are also bee keepers, but are not certified.

She talked about the coming Earth Fest Event, April 23, 2022, the first time it will be held on the Town campus.

Town Manager Catherine Crosby commended employees for the recent 2021 Excellence Award for the Erosion and Sedimentation program.

She briefed the Council on the progress of the Tunstall house. She said they had received estimates for the work on the exterior of the house. She said there has been the issuance of the RFQ for work on the exterior and repair any structural issues of the house.

CLOSED SESSION

There was no Closed Session.

WORK SESSION

There was no Work Session.

ADJOURNMENT

With no further business and no objections for the Council, Mayor Gilbert adjourned the meeting.

Julie A. Reid, Interim Town Clerk

ATTEST:

Jacques K. Gilbert, Mayor