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# 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

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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

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There were no Presentations to be made.

## CONSENT AGENDA

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- 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.

Khristin 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

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There were no Old Business items for consideration.

## UNFINISHED BUSINESS

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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 16<sup>th</sup> and July 7<sup>th</sup> meetings to allow for longer breaks for staff, moving the November 3<sup>rd</sup> meeting date because of election day, and canceling the December 15<sup>th</sup> 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 3<sup>rd</sup> 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 3<sup>rd</sup> meeting to March 4<sup>th</sup>, canceling the July 7<sup>th</sup> meeting, and moving the November 3<sup>rd</sup> meeting to November 4<sup>th</sup>;

Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

## NEW BUSINESS

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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

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There were no Closed Session items for consideration.

Mayor Gilbert called for a 10-minute break.

## WORK SESSION

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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.

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



# Apex Town Council Pre-Retreat

Thursday, January 9, 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 Pre-Retreat Meeting of the Apex Town Council scheduled for Thursday, January 9, 2020, at 6:00 p.m. was held at the Halle Cultural Arts Center, 237 N. Salem 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 stated the purpose of the pre-retreat was to promote team building. He introduced Lou O'Boyle, Director of Engagement for Zelos. Ms. O'Boyle stated she was honored to be a part of this meeting, and she was confident of the results that tonight's enhanced synergy would bring. We are all servants and want to help people. She was excited to have the exciting privilege of working with Council.

Ms. O'Boyle gave her background working in government, which she loved. She spoke about how local government handles issues and sets policies for communities. This makes an impact on those living there.

She shared what would take place the following day. She asked Council why they selected to be in public office. Consensus was that Council felt they could make a difference and make a big impact. The power impact that government makes was discussed briefly. She used to work in the private sector but couldn't get as excited as what happens at the local government level. Ms. O'Boyle stated Apex is a great town!

Mayor Gilbert then turned attention to Matt and Amy Savage of Rhythm Alive Drum Circles who use drum playing to install team-building skills in a group of individuals. This was not only a fun but rewarding exercise for Council and staff.

## ADJOURNMENT

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

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



# Apex Town Council Strategic Planning Retreat

Friday, January 10, 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 Strategic Planning Retreat of the Apex  
Town Council scheduled for Friday, January 10,  
2020, at 8:30 a.m. was held at the Public Works  
Administration Building, 105-B Upchurch 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 Managers Shawn Purvis and  
Marty Stone, Town Clerk Donna B. Hosch, Town Attorney Laurie L. Hohe, and all Department Directors

## COMMENCEMENT

Mayor Gilbert welcomed the group, stating that this would be an interactive session.

The Retreat's facilitator was Lou O'Boyle, Director of Engagement for Zelos. Ms. O'Boyle also facilitated the Pre-Retreat the previous evening. Ms. O'Boyle introduced herself and gave a brief history of her life's background. She gave an overview of how the day would proceed.

The majority of the day, Council and staff collaborated to formulate and decide upon a mission statement for the Town. The following was formulated:

### Our Vision:

A community unified in the stewardship of our small town charm, natural environment, and vision for a future where all succeed.

### Our Mission:

The mission of the Town of Apex to provide exceptional public service that cultivates opportunity for the individual and community to live, thrive, and reach their peak.

**ADJOURNMENT**

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

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



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# Apex Town Council Meeting

Tuesday, January 21, 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 21, 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 Shawn Purvis, Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe.

## COMMENCEMENT

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Mayor Gilbert called the meeting to order. He recognized David Gantt, former Buncombe County Commissioner, who was in attendance. The Invocation was delivered by Asa Clark, Youth Pastor at Apex First Baptist Church. Mayor Gilbert led the Pledge of Allegiance.

## PRESENTATIONS

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Mayor Jacques K. Gilbert

Presentation of a Resolution declaring February African-American/Black History Month in Apex

Mayor Gilbert and the Council Members each recited parts of the Resolution declaring February African-American/Black History month in Apex.

## CONSENT AGENDA

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CN1 Donna Hosch, Town Clerk

Apex Tax Report dated December 3, 2019

- CN2 Mayor Jacques K. Gilbert  
Appointments to the Tree Citizen Advisory Panel
- CN3 Dianne Khin, Planning and Community Development 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 DRP NC 4, LLC (Roberts Crossing) property containing 27.75 acres located at 0, 7013, 7019, 7021, 7029 and 7113 Roberts Road , Annexation #675 into the Town's corporate limits.
- CN4 Steve Maynard, Purchasing and Contracts Manager  
Contract to Stella-Jones for the purchase of utility poles and authorization for the Town Manager to sign said contract
- CN5 Steve Adams, Utilities Acquisition Specialist  
Abandonment of the greenway area shown on Book of Maps 2016 Page 751 labeled "New Town of Apex & Cary Greenway Easement 10,190SF/0.234AC"
- CN6 Dennis Brown, Construction Project Manager  
Approval and authorization for the Town Manager to execute Amendment GMP 1 with Construction Manager at Risk, J M Thompson, in amount of \$9,219,199.39 for the new Pleasant Park Project. This is Guaranteed Maximum Price 1 (GMP 1) which includes site grading, utilities and retaining walls. The final Guaranteed Maximum Price will be added to this contract by an amendment after subcontractor bidding is completed for all other items required for the project.
- CN7 Brian Meyer, Assistant Town Attorney; and John Letteney, Police Chief  
Ordinance amending Chapter 20, Article X, "Parades and Demonstrations", of the Town of Apex Code of Ordinances.

Town Manger Havens directed Council to the contract amendment referred to in Consent 6 which was handed out on this evening.

Mayor Gilbert called for a motion to adopt the Consent Agenda. Council Member Dozier made the motion, including the stated contract amendment;  
Council Member Killingsworth seconded the motion.  
The motion carried by a 5-0 vote.

## REGULAR MEETING AGENDA

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Town Manager Havens requested the addition of a New Business item, Resolution to Forego Collection of Any Interest Due Under a Loan Agreement Between the Town of Apex and Capital Area Preservation, which would become New Business 3.

Mayor Gilbert called for a motion to adopt the Regular Meeting Agenda. Council

Member Gantt made the motion with the addition of the New Business 3 item;

Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

## PUBLIC FORUM

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Eric Kalin spoke about two roundabouts in his neighborhood. Several weeks ago, a member of the neighborhood recommended removing the roundabouts. Because of development in the area, Mr. Kalin felt it premature for them to be removed. Mr. Kalin stated that his neighbor commented it was difficult to see the roundabouts at night. The Town has added signage and reflectors to help with this. Mr. Kalin wanted to see the results of these efforts. His neighbor stated there was a unanimous vote for removal. However, not all homes were represented for that vote – over 70% of the neighbors were not in attendance and were not noticed that the roundabouts would be discussed at the meeting.

Leah Krevat stated there had been six threats of gun violence at her school, which should not happen. The principal failed to address the threats. The community was, therefore, requesting the Town host a meeting for the community calling for representatives, a psychologist and therapist, and Police Chief Letteney to speak. The students would advertise the meeting and secure the speakers. She asked the Town to secure the meeting space. Ms. Krevat stated she wanted to do all she could to prevent gun violence before she graduates this year.

Larry Harris stated he was representing the Friendship community. He asked for historic markers at the Rosenwald schools. Mr. Harris presented a background on the schools and for whom they were named. He explained that the schools are iconic, showed pictures of them, and explained how they were funded. This important history should not be lost forever. Mr. Harris recognized those in the audience who gave the land for the schools. It will make the community proud if the markers were obtained.

Cricket Thornton reported on the success of the Mormon Temple 5K race held last year which had over 600 participants. She talked about how they complied with Town specifications for the run and for the clean up after the event. There were no issues with over congestion; the greenway could still be used as normal. Ms. Thornton thanked the Town for its approval for this first-of-its-kind, successful event.

## PUBLIC HEARINGS

PH1 Dianne Khin, Planning and Community Development Director

Ordinance 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.

Staff oriented Council to the site. Many staff members worked on this annexation, Assistant Town Manager Purvis in particular. Neighbors needed water services as their wells were failing. Community Development Block Grant (CDBG) funds were used for the water main construction. Staff recommended approval.

Mayor Gilbert declared the Public Hearing open. With no one wishing to speak, Mayor Gilbert declared the Public Hearing closed.

Council and the Mayor commented this was a win/win for everyone, with kudos particularly to Purvis.

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.

PH2 Dianne Khin, Planning and Community Development Director

Ordinance 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.

Staff oriented Council to the site, stating that staff 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 Dozier made the motion to adopt the Ordinance; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

PH3 Sarah Rayfield, Senior Planner

Rezoning Application #19CZ12 Kissena Lane PUD. The applicant, Hector Cuales, seeks 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).

Staff oriented Council to the site. A neighborhood meeting was held. Staff overviewed the amendment. The project proposed 100% affordable houses which could also be afforded by Town staff. Staff recommended approval with conditions; the Planning Board unanimously recommended approval. Staff answered Council questions related to driveways, sidewalks, buffers, stormwater, and water resources.

Jeff Roach, Peak Engineering and Design, representing the applicant, stated the land owners and Habitat representative, Mr. Bill Ahern, were present. Mr. Roach thanked staff for their assistance in this first-of-its-kind project that he's seen since being in Apex. He responded to Council questions related to sidewalks, buffers, and the stormwater pond. He clarified the housing would be for sale and not for rent. Habitat would have the first right of refusal when homeowners wanted to sell. He spoke about transportation routes. Mr. Roach answered Council questions about drainage, pipe size, and buffers.

Mr. Ahern, CEO of Habitat for Humanity, presented his background with Habitat. He has heard a lot about affordable housing and liked how talk was now turning into actions. They are meeting more and more with municipalities. Housing prices are increasing quicker than incomes. Habitat is one of the largest in the world, and Mr. Ahern gave figures on how many homes they have built. It would be a real joy to build in Apex. Habitat is very interested in the property, stating that they needed to discuss if it could be developed at a reasonable cost.

Mayor Gilbert declared the Public Hearing open.

Ingrid Coulson thanked Council for responding to her emails. Neighbors were spoken to, and there was a 41 signature petition where all shared the same concern. Ms. Coulson asked that the Habitat homes should have the same standards as their homes in size, garages, etc. Drainage remained a concern.

Beth Bordeaux, Western Wake Crisis Ministry and Western Affordable Housing Action Group, stated 13 homes are lost to eviction each day. Western Wake is not reaching everyone who needs their support. Ms. Bordeaux gave figures on affordable housing unit deficits. She talked about high gross rents, stating that students are experiencing homelessness. Ms. Bordeaux wants to find a way to grow stronger and urged Council to approve the request.

Phil Welch spoke in support of the project. He has listened to the various points of view and understood why some neighbors were opposed. He wanted everyone to be able to live in a safe and convenient neighborhood. Mr. Welch has been a Habitat volunteer for over 10 years and he explained why. Habitat would build the types of houses needed to meet the needs of local, working families.

Carl Zeller stated he's built with Habitat and does so any time he can. His issue was not getting notice as a resident in the area; most residents did not know of the project. Since they do not have an HOA, there was no one to represent the neighbors. He stated there should be a flow into a neighborhood or the inclusion of buffers, and there were neither of these. There needed to be a step change, since the Habitat houses would not conform with the current houses.

Michele Harrison stated she approved of the zoning. As a housing counselor, she gets calls from those living in cars, who are homeless, or sofa surfing. These people can't afford a place to rent. We have to get over the "not in my backyard" mentality. People deserve to live in a safe and affordable place. No one has taken the offered first time homebuyers classes because there is nowhere for people to live.

Mary Johnson was concerned about a street being built beside her house. There was not a lot of room on the site for a development. Where would the animals go [when the property is cleared]. Ms. Johnson spoke about how close the development would be to her yard, and she was concerned about her grandchildren as they played and how close the streets would be to her house.

Mayor Gilbert declared the Public Hearing closed.

Mr. Roach addressed Council concerns about the Tingen Road addresses which the houses will not have, a right of way, a fence that cannot be taken down, selling of surrounding private properties, and placement of a monument.

Mr. Ahern answered Council questions related to affordability in perpetuity, the housing blending into other homes in the community, and individuals qualifying for the homes. The pros and cons to keeping affordability in perpetuity were discussed.

Council stated the notification area seemed insufficient. We need to do more so neighbors aren't surprised. The major issue was about water runoff, but he was more concerned about the buffers.

Council spoke about the notice area and how there could be more communication about this if so desired. She was concerned about those most affected by life challenges. She was excited about this first-time project and wanted to continue working on issues, i.e., buffers, for those who would be directly affected.

Council stated the neighborhood would be a step change to this 20 year old neighborhood. But his job was to look out for the community, and this overrode the cons of the project.

Council stated all want good things and quality of life for Apex. She stated the median housing figures. We are way short on providing affordable houses, and she wanted to make this a win/ win for everyone in the community.

Council stated a few characteristic changes could be made which would still maintain the affordability of the houses.

Mayor Gilbert called for a motion. Council Member Dozier made a motion to approve the rezoning; Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

PH4 Lauren Staudenmaier, Planner I

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).

Staff oriented Council to the site. There is an existing structure on site which has been designated historic. A neighborhood meeting was held. Staff stated the three conditions offered by the applicant. The Planning Board recommended approval; staff recommended approval with conditions offered by applicant. Staff provided basic answers to Council questions related to moving the house; questions could be further answered by Capital Area Preservation (CAP).

The applicant, Cara Powell, presented her background. She talked about how important it was to her to find and renovate an historic home. She found this one, fell in love with it, and CAP has helped her through the possible restore process. Previously there had not been a suitable person to take on the undertaking of restoring the home. She was definitely interested and would be able to keep the majority of the land intact.

Gary Roth with CAP stated the house was going to be burned in a fire exercise. It was extremely important, however, to save the home. It holds an important place in Apex history. He totally supported the rezoning and Cara. She is a partnership.

Ms. Powell answered Council questions about a shuttle and parking.

Mayor Gilbert declared the Public Hearing open.

Jeff Hastings, on behalf of Wake County and Apex historical societies, stated they were looking at the Tunstall House about 10 years ago and this [Cara's] concept came up. Council at the time wanted private entities in the building. He was glad Cara's house would be taken care of in perpetuity. He had faith in Cara and CAP that this will come to fruition and make everyone proud.

Mayor Gilbert declared the Public Hearing closed.

Council stated there was a strong need in this area, Cara's energy was amazing, she was very dedicated to this project, and an asset to our community.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to approve the Amendment; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

## OLD BUSINESS

There were no Old Business items for consideration.

## UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

## NEW BUSINESS

NB1 Dianne Khin, Planning and Community Development Director

Authorization for an Historical Marker Program within Apex's jurisdiction

Staff stated a group from the Friendship community approached staff about markers. Staff appreciated this, and patterned the proposed program after the façade program in Apex. Staff worked with neighbors and the historical marker program with the State. Staff went over the key components of the program. Staff recommended approval.

Staff answered Council questions related to how the markers would be unveiled, stating Friendship neighbors really wanted the program. The Apex Historical Society was involved in the program, and staff spoke about the historic stories behind some of the buildings.

Mayor Gilbert called for a motion. Council Member Dozier made the motion to authorize the Program; Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

NB2 Marty Stone, Assistant Town Manager

Amendment to Section 14-17.2 of the Code of Ordinances of the Town of Apex to restrict firearms and deadly weapons on town property

Staff stated realized was a need to make a change to be in compliance with our policies. The change would include all parks.

There was discussion on areas which cannot be regulated. Council was disappointed that we could not go further in some common sense ways.

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

The motion carried by a 5-0 vote.

#### Add on Item

NB 3 Drew Havens, Town Manager

Staff stated this add on related to a Resolution regarding the Upchurch Williams House. When the house was being moved, the Town entered into a loan agreement of \$75,000 with CAP to help them relocate the home and to get it prepared for sale. The loan provided for two years without interest, after which interest was to accrue. This would have started accruing in October of 2019. About \$690 of interest has accrued, and the Resolution would allow for foregoing collection of the interest assuming the property closes. The principle would be worked into the closing. Staff stated any other similar type agreement would come before Council.

Mayor Gilbert called for a motion. Council Member Dozier made the motion to adopt the Resolution; Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

#### 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 adjourned the meeting.

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



# Apex Town Council Meeting

Tuesday, February 04, 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 4, 2020, at 6:00  
p.m. was held in the Council Chamber of 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, presented a statement related to diversity and inclusion as related to religious beliefs, asked for a moment of silence, and led the Pledge of Allegiance.

## PRESENTATIONS

PR1 Anne Tazewell, Senior Special Projects Manager

NC Clean Energy Technology Center / NC State University

Presentation by Anne Tazewell to the Town of Apex in recognition of our achieving the Gold level designation under SolSmart, a program led by the International City/County Management Association and The Solar Foundation, along with a team of partners with deep expertise in solar energy and local governments that recognizes efforts to reduce barriers to development of solar energy.

Ms. Tazewell stated the Center's mission. One of her special projects has been working with Apex to achieve the Gold level solar designation. Ms. Tazewell talked about the soft costs of installing solar on homes and businesses, Apex being one of close to 350 communities that has made strides in reducing these costs. Hence, Apex has earned the Gold level designation with special recognition in permitting and inspections.

Ms. Tazwell thanked the Town for their leadership in making it easier for business and residences to go solar. This is admirable. Council took pictures with Ms. Tazwell, inviting former Council Member Bill Jensen, who had been instrumental in the Town's solar projects, to be included.

PR2 Mayor Jacques Gilbert

Presentation of Proclamation to the Matthews Family honoring C.W. Matthews

Mayor Gilbert read the Proclamation before presenting it to past employee and great granddaughter of C.W. Matthews, Karen Lee, and other members of the Matthews family. Pictures were taken with Mayor Gilbert and the Matthews family.

PR3 Bo Howes – Triangle Land Conservancy

Presentation by Bo Howes from the Triangle Land Conservancy relative to their plans for conserving land in the Jordan Lake watershed.

Mr. Howes spoke about the Jordan Lake Watershed conservation strategy, beginning with a brief history of the Conservancy. They are 35 years old and have conserved over 20,000 acres in the Triangle over that time period. Mr. Howes presented their Mission Statement and their Water Goals by the year 2025.

## CONSENT AGENDA

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CN1 Dianne Khin, Planning and Community Development 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 Doug Behan & Sohini Sengupta property containing 2.208 acres located at 7617 Reams Court, Annexation #671 into the Town's corporate limits.

CN2 Sarah Rayfield, Senior Planner

Statement of the Town Council and Ordinance for Rezoning Case #19CZ12 Kissena Lane PUD. Jeff Roach, Peak Engineering & Design, PLLC / Hector Cuales, petitioners for the properties located on 0 and 1105 Tingen Road.

CN3 Lauren Staudenmaier, Planner I

Statement of the Town Council and Ordinance for 2045 Land Use Map amendment and Rezoning Case #19CZ24 Upchurch-Williams House, Cara Powell/Capital Area Preservation, Inc., petitioners for the property located on 7213 Roberts Road.

- CN4 Shelly Mayo, Planner II  
Set the Public Hearing for the February 18, 2020 Town Council meeting regarding Rezoning Application #19CZ21 Heelan PUD and Ordinance. The applicant, Jason Barron for Morningstar Law Group, seeks to rezone approximately 141.732 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.
- CN5 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 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.
- CN6 Shelly Mayo, Planner II  
Set the Public Hearing for the February 18, 2020 Town Council meeting regarding Rezoning Application #19CZ25 Jenks & Wimberly Mixed Use PUD. The applicant, Taylor Morrison of Carolinas, Inc., seeks 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.
- CN7 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 owners, Ivan Peter Ryzebol and Lily Ryzebol regarding Wake County, NC, PIN#0721-91-7087, Lot 15 Verona at Bella Casa, Phase 9, Section 2 as shown and recorded in Book of Maps 2016, Page 1360, 2145 Vecchio Lane, Apex, NC 27502.

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

The motion carried by a 5-0 vote.

## REGULAR MEETING AGENDA

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Town Manager Havens requested a second Closed Session related to land acquisition.

Mayor Gilbert called for a motion to adopt the Regular Meeting Agenda. Council Member Killingsworth made the motion with the addition of the Closed Session; Council Member Stallings seconded the motion.  
The motion carried by a 5-0 vote.

## PUBLIC FORUM

Lindsay Logan stated she was returning regarding a previous request to consider modifying Ordinance 14-28 [of the Town Code of Ordinances] related to playing in the streets. She spoke about a neighbor complaining of excessive playing by children in the streets and sometimes crossing the streets. She was presenting a memo with four options in regards to the Ordinance. Ms. Logan spoke about Scotts Mill in particular. Children playing outside is one of the most appealing aspects of living there. Ms. Logan outlined the four options, giving her thoughts on each. She asked Council to consider the options and promote what would be best for the children.

## PUBLIC HEARINGS

PH1 Dianne Khin, Planning and Community Development Director  
Ordinance on the Question of Annexation – Apex Town Council’s intent to annex DRP NC 4, LLC (Roberts Crossing) property containing 27.75 acres located at 0, 7013, 7019, 7021, 7029 and 7113 Roberts Road, Annexation #675 into the Town’s corporate limits.  
Staff oriented Council to the site, stating that staff 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 Gantt 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

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UB1 Drew Havens, Town Manager

Discussion to direct staff to prepare, for Council consideration, amendment(s) to the Town of Apex Code of Ordinances relative to playing upon streets.

Staff stated this was the follow up to Lindsay Logan's appeal before Council. Staff sent an email stating what other cities and towns do. Recited was the wording of our current Ordinances. Staff came up with four options, and the pros and cons of each were stated. Tonight staff needed to know what ordinance Council wanted developed and brought back to Council.

Council's preference was to define direct supervision. Staff spoke to how police would respond to calls in these situations. The Mayor gave information on how police look at this situation, stating their goal would not be to enforce but to problem solve. Staff stated the police have attempted mediation in this case.

Council stated he was in favor of option four to repeal. He wished to put in a word for 'play streets', and he explained how they work.

Council stated she was conflicted, because we are trying to solve a problem between a neighbor's interpretation and that of another neighbor. She wanted to solve the problem but didn't want to create another problem at the same time.

Council were in favor of option four. The State Statutes stated it was admissible to let a child learn to ride a bike in the street.

Mayor Gilbert called for a motion. Council Member Gantt made the motion to adopt option four; Council Member Mahaffey seconded the motion.

Council stated the wish to make it crystal clear that the Town was not promoting playing in the streets. The Mayor stated we should try to make sure safety is first and paramount. There should be a clear way of police knowing what to do in this type situation, and he would prefer option four. The Mayor offered to mediate with the neighbors.

Staff stated it was working on 'vision zero'. A proposal would be brought back to Council which would advocate for changes regarding pedestrian and motor safety laws and our wanting zero fatalities.

Council Members Gantt, Mahaffey, Dozier, and Stallings voted in the affirmative;  
Council Member Killingsworth voted in the negative.  
The motion carried by a 4-1 vote.

## NEW BUSINESS

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There were no New Business items for consideration.

## CLOSED SESSION

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Laurie Hohe, Town Attorney

Closed Session pursuant to NCGS 143-318(a)(3) to discuss the handling of the matters of Town of Apex v. Beverly Rubin and Beverly Rubin v. Town of Apex, et al.

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

The motion carried by a 5-0 vote.

Mayor Gilbert called for a return to Open Session with no objections from Council

## WORK SESSION

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There were no Work Session items for consideration.

## ADJOURNMENT

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

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



# Apex Town Council Joint Conversational Meeting with the Cary Town Council

Thursday, February 13, 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 Joint Conversational Meeting between the Apex Town Council and Cary Town Council scheduled for Thursday, February 13, 2020, at 6:00 p.m. was held in at the Halle Cultural Arts Center, 237 N. Salem Street, Apex

In attendance from the Town of Apex 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 Shawn Purvis, Assistant Town Manager Marty Stone, Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe

In attendance from the Town of Cary were District C Representative Jack Smith, At-Large Representative Ed Yerha, District D Representative Ya Liu, Mayor Harold Weinbrecht, District A Representative Jennifer Robinson, Mayor Pro Tem and District B Representative Don Frantz, At-Large Representative Lori Bush, Town Manager Sean Stegall, Deputy Town Manager Russ Overton, Town Attorney Chris Simpson, APR Chief Strategic Communications Officer Susan Moran, and Town Clerk Ginny Johnson

## COMMENCEMENT

Mayor Gilbert welcomed everyone to this casual meeting. All in attendance introduced themselves, stated their day job, and named their super hero.

In this casual environment, the following subjects were touched upon:

- managed growth
- affordable housing
- trusting experience and knowledge of staff
- Cary being successful because of mayor

- communication being key in development projects
- consequences of development
- how to keep business going and maintain friendships
- how valuable it is to develop the town
- how empowering council members are and can be
- legislative agendas and authorities
- all council showing up for important events
- water shed fee
- benefits of joint board and committee meetings
- cleaning up street names
- trail around the CSX line

It was agreed upon that both municipalities would benefit from continued collaboration in various areas of municipal operations and efforts. The meeting was felt to be successful, appreciated, and enjoyed.

## ADJOURNMENT

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

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



# Apex Town Council Budget Retreat

Friday, February 14, 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 Budget Retreat of the Apex Town Council scheduled for Friday, February 14, 2020, beginning at 8:30 a.m. was held at the Public Works Administration Building, 105-B Upchurch 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 Shawn Purvis, Assistant Town Manager Marty Stone, Town Clerk Donna B. Hosch, Town Attorney Laurie L. Hohe, and all Department Directors with the addition of the Current Planning Manager and the Transportation Manager

## COMMENCEMENT

Mayor Gilbert welcomed the group, stating the purpose of the Retreat.

Alicia Arnold, Director of the Equitable Housing & Community Development Division at Wake County, presented on Housing Affordability in Wake County. The following subjects were covered:

- Housing affordability components
- Types of housing – naturally occurring affordable housing and legally-blind subsidized housing
- Eligibility requirements for subsidized housing
- Who in the community is served and why housing affordability is important
- Rental cost impact
- Understanding the housing affordability need
- Areas where preservation of subsidized units should focus
- Housing cost burden
- Creating municipal strategies

There was discussion based on the above and how it relates to supporting individuals who acquire affordable housing that would make their lives more whole and that would integrate them more into the community. Asked was how many citizens in Apex take advantage of the offered programs.

Natalie Britt, Vice President of Real Estate Development for DHIC, gave a brief overview of DHIC and what it's about. She spoke on subsidizing affordable housing and the various aspects involved in LIHTC. A flow of how the money works was presented. She showed pictures of redevelopment as well as development projects. She outlined the story behind each of the projects. Questions from Council were answered.

Dianne Khin, Planning and Community Development Director, presented on a DHIC project in Apex – Broadstone Apartments. A tax credit was applied for but denied. However, with assistance and advice from staff, the developer will attempt to acquire the tax credit again this year. Council questions were answered related to how the projects were chosen, the projects being affordable for a great many years,

Mayor Gilbert thanked staff for taking affordable housing seriously, as this is where he grew up. Standing ovation was given to Greg Warren, DHIC, who was present, was given a standing ovation for this 34 years of service. He is set to retire shortly.

Vance Holloman, Finance Director, presented a financial update. Last year the General Fund Balance increased by \$5 million, and it was explained why. Further questions as to why from Council were answered. Utility Fund Results were presented, staff stating that the figures were affected by a lawsuit against the Town. He reassured that the Town had money in capital reserve funds, and we were able to pay the suit without going into debt. A detailed explanation of outstanding debt as of December 2019 was presented.

Amanda Grogan, Budget and Management Analyst, presented the purpose and major objectives of the CIP, stating that the CIP had seven elements. Council conversation ensued as to what projects should be assigned to the four quartiles which indicate order of importance.

Council began stating those items they wished to see addressed under the headings of High Performing Government, Healthy and Engaged Community, Environmental Leadership and Responsible Development, Economic Vitality, and Safe Community and Reliable Infrastructure.

Shannon Cox, Long Term Transportation Manager, stated that further staff study as requested by Council had been completed. It was determined that a bus route in Apex could, in fact, be fare free. This could be an amenity and benefit to the community.

A paratransit update was presented. Staff presented the particulars and estimated operating costs for a fare-based route which would cost the Town approximately \$330,000. The Wake Transit FY21 Draft Work Plan was presented.

Shawn Purvis, Assistant Town Manager, presented the effects of a re-evaluation and the tax rate. There was Council discussion as to the tax rate.

Mike Deaton, Utility Engineering and Stormwater Manager, presented the current stormwater program. Most complaints received were nuisance flooding related. Our riparian buffers program is one of the best things that we do. Staff outlined what should be considered as far as future programs, i.e., private drainage assistance program, proactive floodplain tree/debris/beaver control program, tree canopy program, SCM retrofits/stream restoration, and grant opportunities.

The pros and cons of a proposed stormwater utility fee were presented. There was quite a bit of discussion between Council and staff on the fee, how it could be fairly calculated, and what it would be used for. Consensus was to not have a study done by consultants, to enhance the current stormwater level of service, to fund the additional cost associated with this through the General Fund, and to increase funding of the enhancements to the current level of service.

## ADJOURNMENT

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

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor

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# 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

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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

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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

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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

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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

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There were no New Business items for consideration.

## CLOSED SESSION

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There were no Closed session items for consideration.

## WORK SESSION

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There were no Work Session items for consideration.

## ADJOURNMENT

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

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor

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# Apex Town Council Meeting

Wednesday, March 04, 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 Wednesday, March 4, 2020, at  
6:00 p.m. 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,  
Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe

## COMMENCEMENT

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Mayor Gilbert called the meeting to order and presented a statement regarding diversity and inclusion as it relates to religion and unity. Fernando Rodriguez gave the Invocation, after which Mayor Gilbert led the Pledge of Allegiance.

## PRESENTATIONS

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PR1 Amanda Bunce, Current Planning Manager

Special presentation on the importance of counting all Apex citizens in the 2020 Census

Staff stated that the census has been mandated by the US Constitution since 1790, and she explained how the figures are used in the community and by the government.

Staff stated Apex has grown by about 16,000 people. We lose between \$1,500 and \$2,500 per year for those not counted, and this would be our loss for another ten years. Staff explained what this affects. A

committee has been formed to get the word out about the importance of completing the forms accurately.

Staff spoke about reaching out to the historically undercounted and showed areas that had low response scores. We are reaching out to the Latino community, as they are one of the undercounted. The Mayor will be sending out a letter explaining the importance of the census, kiosks will be set up at various locations, and there will be a census mobile unit. Other efforts include banners, yard signs, a census day event, and representation at the farmer's market and PeakFest.

Staff explained the four ways to respond to the census, and presented some 'myth busters'. Council questions related to the Town's text features were answered.

PR2 Mayor Jacques Gilbert

Presentation of the Environmental Stewardship Award

Yume Iwakura, a junior at Apex Friendship High School, presented the history of award recipient Johan Tondeur having solar installed on his home. Mr. Tondeur's HOA is now encouraging others in his neighborhood to do so also.

Council Member Dozier gave the history of the Environmental Committee, noting that former Council Member Bill Jensen was a part of this Committee. We want to see better for our community. Mr. Tondeur spoke about wind power, going back to its use by Christopher Columbus to how it is being used currently.

Mayor Gilbert thanked Council Member Killingsworth for running in the County elections even though she didn't get her desired outcome. The outcome for Apex is that we will benefit from Council Member Killingsworth remaining a part of our Council.

## CONSENT AGENDA

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CN1 Donna Hosch, Town Clerk

Minutes of the Council Pre-Retreat on January 9, 2020, the Council Strategic Planning Retreat on January 10, 2020, and the Regular Council Meeting on February 4, 2020

CN2 Donna Hosch, Town Clerk

Apex Tax Report dated January 2, 2020

- CN3 Amanda Bunce, Current Planning Manager  
Set the Public Hearing for the March 17, 2020 Town Council meeting regarding various amendments to the Unified Development Ordinance
- CN4 Shelly Mayo, Planner II  
Statement of the Town Council for Rezoning Case #19CZ25, Jeremy Medlin, Taylor Morrison of Carolinas, Inc., Jason Barron, Morningstar Law Group, petitioners, for the property located on 7912, 8000, & 8016 Jenks Road & 1533 Wimberly Road
- CN5 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 owners, David Lawrence Martin and Liesl Martin regarding Wake County, NC, PIN#0710-22-6578, Lot 382 Jordan Pointe, Phase 2D as shown and recorded in Book of Maps 2019, Page 664, 2836 Horton Elms Drive, New Hill, NC 27562
- CN6 David Wood, Cultural Arts Center Manager  
Close the Depot parking lot on April 1st, 2020 for Census Day Event from 8:00 a.m.-7:00 p.m.
- CN7 Vance Holloman, Finance Officer  
Budget Amendment No. 12 appropriating funds to reimburse a developer for additional public right of way (ROW) along Kelly Road dedicated as part of the Peak 502 project in accordance with UDO Section 13.15
- CN8 Vance Holloman, Finance Officer  
Capital Project ordinance Amendment No. 2020-11 appropriating funds for the Apex Peakway at NC 55 Project to pay project costs
- CN9 Mayor Jacques K. Gilbert  
Appointments, including Chair and Vice-Chair, to the Transit Advisory Committee
- CN10 Vance Holloman, Finance Officer  
Capital Project Ordinance Amendment No. 2020-12 appropriating funds for the James Street to Downtown Pedestrian Project to pay project costs
- CN11 Mary Beth Manville, Human Resources Director  
Position reclassification requests, as recommended from the Personnel Committee

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

The motion carried by a 5-0 vote.

## REGULAR MEETING AGENDA

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Mayor Gilbert called for a motion to adopt the Regular Meeting Agenda. Council Member Gantt made the motion; Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

## PUBLIC FORUM

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Ann Nylund spoke about the electric operations center. The Town is wrong – this use does not qualify as government use. Ms. Nylund presented her utility bill which showed her owing sales tax to the State of NC. So this is a business. Ms. Nylund stated the Town is in violation of State law. If this goes to court and the neighbors win, what will happen when the Town can't use the facility. The Town should examine the case law.

Beartha AlChacan stated she was working with the special events office to put on an international food festival type of event. She explained the benefits of such an event, especially since Apex has a large, diverse community. Their goal is to bring people together for good things.

## PUBLIC HEARINGS

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PH1 Amanda Bunce, Current Planning Manager

Ordinance on the Question of Annexation – Apex Town Council's intent to annex Ronald and Linda Padgett (single-family) property containing 2.70 acres located at 7101 Beaver Trail, Annexation #684 into the Town's corporate limits.

Staff oriented Council to the site.

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 Killingsworth made the motion to adopt the Ordinance; Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

## OLD BUSINESS

There were no Old Business items for consideration.

## UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

## CLOSED SESSION

Laurie Hohe, Town Attorney

Pursuant to N.C.G.S. 143-318.11(a)(3) to preserve attorney-client privilege, and pursuant to N.C.G.S. 143-318.11(a)(1) to prevent the disclosure of information that is privileged or confidential pursuant to state law

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

The motion carried by a 5-0 vote.

Mayor Gilbert called for a motion to return to Open Session with no objections from Council.

Mayor Gilbert called for a motion to adopt Resolution No. 20-0304-03 Resolution Authorizing Eminent Domain Proceedings to Acquire Sewer and Greenway Easements. Council Member Killingsworth made the motion; Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

## NEW BUSINESS

There were no New Business items for consideration.

Mayor Gilbert called for a 15 minute recess, after which the Work Session moved to the third floor Training Room.

## WORK SESSION

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WS1 Colleen Merays, Downtown & Small Business Development Coordinator & David Wood, Halle Cultural Arts Center Manager

Special Event Permit requests and Town Co-Sponsorship requests for 2020 and 2021.

Representatives requesting Town approval of their events were in attendance.

Staff explained the benefit of the events to our lives. Several have been going on for years, several are new. Explained what Town services would be required, the closing of streets, and use of the Halle and the Depot.

Staff went through the list of 16 events and answered Council questions, in particular about the Farmer's Market. Council asked about the Town's funding of the Market. As expenses grow, it seems inappropriate that there is another Board governing the Market. The Town should have more say so in spending, operation of the board, etc. Council stated she brought up last year the Town possibly taking over this function.

Discussion ensued on the Bone Suckin Sauce Peak City Pig Fest. Council questions were answered by staff and event representatives. Council stated his preference was to pay for the dumpsters and not for police, which would be comparable to other festivals. Net proceeds and where they go in the community were stated by Pig Fest representative.

Council asked the Farmer's Market representative about their accepting SNAP. The representative stated their vendors are small and cannot accept SNAP at this time. However, they are working on this.

Information was presented on the international festival, and the representative answered questions posed by Council. Shown was a synopsis of the events of this festival which is held in Raleigh. Council requested that Apex people are included. Council was concerned about the possible impact of a for-profit organization from outside of Apex coming into Apex and how this would affect Apex organizers. There was further conversation from Council as to the impact of such a festival to the other businesses and its cost to the town. There was also some discussion about a cap on events downtown. Council will further consider approving this event request.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to approve as was presented, with the discussed change for Sunrise Rotary and the removal of the international festival; Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

Staff will come back with answers to Council questions about the international festival at the next Council meeting. There was discussion regarding a cap on events so as to have a ratio of non-profit to profit events.

WS2 Steve Chandler, Chandlerthinks; Stacie Galloway, Communications Manager

Discussion of community branding study results and recommendations with consultant.

Mr. Chandler explained the purpose of branding and how challenging the process can be. He presented the proposed logo and its possible uses. Council expressed comments related to colors/color combinations, the logo being liked, but wanting to think about it more. Staff provided a history of the current logo. The new logo would look clean and work well with our signage.

## ADJOURNMENT

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

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor

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# Meeting with Town Representatives and the NC Department of Transportation

Friday, March 6, 2020

12:000 Noon – Third Floor Training Room at Town Hall

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In attendance at this meeting were:

NCDOT and consultants: Brian Speight, Eddie McFalls, Jason Orthner, Julie White, Marston Raue, Cheryl Collins

Town of Apex: Brett Gantt, Cheryl Stallings, Drew Havens, Jacques Gilbert, Laurie Hohe, Russell Dalton, Shannon Cox, Shawn Purvis, Terry Mahaffey

NCDOT, their consultants and Town of Apex representatives met to discuss the following:

- The NCDOT S-Line Initiative and possible Town of Apex resolution of support
- Town of Apex interests and opportunities related to the initiative including:
  - o Move rail switching operations out of downtown
  - o CSX property purchase, including Seaboard Street and Depot building site
  - o Pedestrian crossing permission – Tingen Road
  - o Roadway crossings including Apex Peakway Southwest (U-5928) and crossings identified in the Southwest Area Study
  - o Possible shared use or conversion of the SDS line between Apex and Durham
  - o Coordination of railroad maintenance activity
- Considerations for a possible pilot of passenger rail between Sanford and Raleigh

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

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# Apex Town Council Meeting

Tuesday, March 17, 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, March 17, 2020, at 6:00  
p.m. 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, Town Clerk Donna B. Hosch,  
and Town Attorney Laurie L. Hohe

## COMMENCEMENT

Mayor Gilbert called the meeting to order, read a diversity and inclusion statement as it relates to religion, gave the Invocation, and led the Pledge of Allegiance.

Mayor Gilbert stated that [due to the Coronavirus situation] there would not be a Public Form or Public Hearings at this meeting. This additionally included Presentations.

## PRESENTATIONS

- PR1 Mayor Jacques K. Gilbert  
Presentation of the Proclamation declaring March 20, 2020 as Arbor Day in the Town of Apex.
- PR2 Roy Jones, CEO  
Presentation of Exceptional Achievement in the Area of Workforce Development from the Public Power Association

## CONSENT AGENDA

CN1 Donna Hosch, Town Clerk

Minutes of the Joint Conversational Meeting with Cary Town Council on February 13, 2020, the Council Budget Retreat on February 14, 2020, the Regular Council Meeting on February 18, 2020, and the Regular Council Meeting on March 4, 2020

CN2 Mayor Jacques K. Gilbert

Appointment of Tim Carley to the Environmental Advisory Board as the "Development Community" representative with the term expiring on 12/31/2020

CN3 Personnel Committee: Mayor Pro Tem Dozier and Mayor Jacques Gilbert

The addition of a full-time Deputy Town Clerk to the current number of authorized positions and set the Pay Grade at 19

CN4 Dennis Brown, PE

Approval of and authorization for Town Manager to execute design agreement contract with Davis Kane Architects for design for Public Safety Station #6 in the amount of \$450,000.00

The Town Manager requested additional Consent Agenda items regarding traffic calming devices and a revised Caregiver Leave Policy. He also requested the addition of three items for New Business. Council Member Gantt asked that the traffic calming request be moved to New Business.

Being polled by Mayor Gilbert, Council were in unanimous agreement to set the  
Consent Agenda with the modifications as stated.

## REGULAR MEETING AGENDA

The Town Manager requested amendments to the Regular Agenda. (1) Removing Public Forum, adding that the required one Forum for the month had been satisfied. (2) Continuing Public Hearing 01 to the first meeting in May. (3) Rescheduling New Business 01 as the applicant had withdrew the request. This would come back before Council as staff would need direction from Council. (4) Not hearing New Business 01, as there was no sense of urgency related to this request.

The Town Manager also requested the following items to be added under New Business: the item related to traffic calming as stated earlier; Ordinance 2020-0317 regarding utility billing and collections; a Remote Participation Policy for Meetings by the Apex Town Council prepared by the Town Attorney; amendment of the Town Council Meeting Schedule to cancel the first meeting in April and also canceling the first meeting in April of the Planning Board.

Mayor Gilbert called for a motion. Council Member Gantt made the motion to approve the Regular Agenda as requested; Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

## PUBLIC FORUM

As stated earlier, Public Forum was not held at this meeting.

## PUBLIC HEARINGS

PH1 Amanda Bunce, Current Planning Manager

Public Hearing and possible motion regarding various amendments to the Unified Development Ordinance

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to continue the Public Hearing to the May 5, 2020 Council Meeting; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

## OLD BUSINESS

There were no Old Business Session items for consideration.

## UNFINISHED BUSINESS

UB1 Colleen Merays, Downtown & Small Business Development Coordinator and David Wood, Halle Cultural Arts Center Manager

Review of Apex Special Event Policy and research on other local municipalities

As stated earlier, Unfinished Business was not heard at this meeting.

## NEW BUSINESS

NB1 John M. Brown, Director Parks, Recreation, and Cultural Resources and Craig Setzer, Park Operations Manager

Motion to approve implementation of Adopt a Park / Adopt a Trail Program

As stated earlier, New Business 1 was not heard at this meeting.

Added N2 : Russell Dalton, Senior Transportation Engineer

Construction contract to Eastern Services LLC DBA Raleigh Paving in the amount of \$8,140.00 for installation of two asphalt speed humps with signs and markings on Straywhite Avenue in the Miramonte subdivision recommended in accordance with the UDO process

Staff provided history on the request. Council asked if there was a process to re-evaluate the standards in order to avoid negative issues. Staff explained the re-evaluation policy, stating that the Town has a scientific process for studying traffic for humps. The humps will be paid for in part by the Town and in part by the HOA.

Council asked what was the criteria for setting the petition boundary, and staff explained how the boundary was devised. Staff explained the HOA has to approve the Town's plan; about 70% of the residents are in agreement. Staff spoke about perception vs. actual data collected. Council thanked staff for his knowledge.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to approve the contract; Council Member Stallings seconded the motion,  
The motion carried by a 5-0 vote.

Added NB3 : Drew Havens, Town Manager

Ratification of actions taken by the Town Manager and Ordinance 2020-03-17 ...

Staff stated he was seeking ratification of actions he'd previously taken to suspend disconnection of customer utilities for non payment because of the Coronavirus. The Ordinance would modify the fee

structure reaching through May 12, 2020, an eight week window. Staff would let customers know they still have to pay their bills, and staff was working on ways for customers to make payment arrangements.

Council Member Killingsworth made the motion to adopt the Ordinance  
with a May 12, 2020 extension date.

Council asked if the date could be extended if needed. Staff stated the situation would be re-evaluated as times go on, and that the matter may come back before Council with further modifications.

Council stated he would be more comfortable extending the date now.

Council Member Dozier seconded the motion.

She then spoke about executive orders and the Town's possible flexibility via these orders. She appreciated what staff was doing in this situation and being proactive. Conversation ensued with the Town Attorney regarding payments and fees and extending the date.

Council Member Mahaffey made a substitute motion to amend the date to July 1, 2020.

Council asked staff if this could be done, his stating 'yes' if this was the direction of Council. But we would have to be careful in messaging this to people so they truly understand they would still have to pay their utility bills. This was not a waiver but our not charging late fees accrued during this time and not doing disconnects.

Council Member Killingsworth stated she was in agreement with the July 1 date.

Mayor Gilbert redirected Council to the motions on the table.

Conversation ensued about the Town's flexibility and ability to operate effectively. Staff stated there could be a compromise of a June 5 date. Council mentioned the possibility of never having a shut off date. Council stated the latter would be a separate conversation. There was agreement with the June 5 date. Council asked the Town Attorney could the Town Manager be directed to extend beyond the decided date, the Town Attorney explaining that this would need to be done via Ordinance, ratifying if necessary.

Council Member Killingsworth was in agreement with a June 5, 2020 date,  
with extending if necessary, as was Council Member Dozier.

The motion carried by a 5-0 vote.

ADDED NB 3 – Laurie Hohe, Town Attorney

Remote Participation Policy for Meetings of the Apex Town Council

Staff stated that in the event one or more Council Members were unable to attend a Council meeting in this current climate, this policy would provide some degree of remote participation. This would still require a quorum to be present – a minimum of three Council Members. This would make it less likely to be a possible legal challenge.

Council questioned if we could have the same type of policy for Public Hearings. He thought it a good way to go in the future. There was brief discussion about online signup, which one Council Member was in disagreement. Conversation ensued about alternate way to make it easier for the public. She suggested the question going to the School of Government and League of Municipalities so that they could do the research and come back to us with suggestions. The Town Attorney stated that while it would not be the same as speaking in Public Forum, Council's contact information is available to the public.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to adopt the policy as presented; Council Member Dozier seconded the motion with the addition that staff ask the League and School of Government for information on how we could be more accessible to the public.

The motion carried by a 5-0 vote.

Added NB 4 – Amending the Apex Town Council schedule of Regular Meetings to remove the April 7, 2020 Meeting from the official calendar and to amend the Apex Planning Board regular schedule of meetings to remove the April 13, 2020 meeting from the official calendar

Staff stated the building would be closed to the public during these times, extending to April 15. Conversation ensued on the impact of this to upcoming meetings. Council asked that upcoming Public Hearings be spread out as much as possible to more than just one meeting. Staff stated that Council might want to consider having a two-night Council Meeting if the workload is too high. Responding to Council question, staff stated the budget process would not be affected if we could get back to a normal way of life.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to adopt amending the schedule as presented; Council Member Stallings seconded the motion.

Council express concern if the situation continues or gets worse; at some point we have to just do Town business. Council discussed Council having flexibility as far as time.

The motion carried by a 5-0 vote.

Mayor Gilbert stated it was Women's History Month and recognized Mayor Pro Tem Dozier, Council Members Killingsworth and Stallings, and Town Clerk Hosch and Master Officer Kalinowski who was in attendance.

He praised "our great leader" Town Manager Drew Havens in getting things done during this pressing time along with Town Attorney Hohe.

#### 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.

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



# Apex Town Council Special Meeting

Tuesday, April 07, 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 Special Meeting of the Apex Town Council  
scheduled for Tuesday, April 7, 2020, at 9:00  
a.m. 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,  
Town Clerk Donna B. Hosch (remotely), and Town Attorney Laurie L. Hohe

## COMMENCEMENT

Mayor Gilbert called the meeting to order, read a statement of diversity and inclusion as it related to religion, gave the Invocation, and led the Pledge of Allegiance. All members of Council offered their words of thanks, encouragement, and appreciation to staff and the citizens of Apex.

## PRESENTATIONS

There were no presentations to be made.

## CONSENT AGENDA

- CN1 Mary Beth Manville, Human Resources Director  
Water Resources Program Support Specialist position (Grade 15) to a Senior Program Support Specialist position (Grade 17)
- CN2 Mary Beth Manville, Human Resources Director

FMLA Leave Expansion and Emergency Paid Sick Leave Policy in accordance with the Families First Coronavirus Act (FFCRA)

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

The motion carried by a 5-0 vote.

## REGULAR MEETING AGENDA

Council Member Mahaffey requested the New Business items be heard prior to the Unfinished Business item. Town Attorney Hohe noted that Public Forum would not be heard as this was a Special Meeting.

Mayor Gilbert called for a motion to adopt the Regular Agenda. Council Member Mahaffey made the motion with the requested changes; Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

## PUBLIC FORUM

Public Forum was not held as this was a Special Meeting.

## PUBLIC HEARINGS

There were no Public Hearings for consideration.

## OLD BUSINESS

There were no Old Business items for consideration.

## NEW BUSINESS

NB1 Shawn Purvis, Assistant Town Manager

Discussion to give staff direction regarding the creation of an Emergency Loan Program for small businesses

Staff stated this related to small businesses that needed to cut back or shut down due to COVID-19. The draft was presented for discussion. Staff stated there were details to work through with direction from Council.

Council stated the maximum loan amount was a question mark for him. Depending upon the number of applications, he was not sure we would have the budget for this. Staff stated the \$25,000 loan amount figure was a place holder and that Council was correct in that there was no way we could allot enough money for everyone. Everyone was struggling, and a cut off would need to be decided. Staff explained how this is being handled in other areas. Businesses needed to know that everyone may not be eligible; and that even if they were, funds may not be received because of late applications or funds running out. Staff suggested a loan amount of \$10,000, not to exceed three months of operational expenses.

Council stated it was hard to come up with an amount and that she was in agreement that we would not know how this would impact the budget. She valued the small businesses in Apex. She would like to see the \$25,000 amount if it could be worked out. There will most likely be another stimulus coming from the government. Council was unsure as to where to start with a number. Staff stated other communities just picked a number because this was hard to quantify. The number would be whatever Council was comfortable with and would stop there. Staff stated she only looked at like communities in North Carolina and was seeing a lot of these loans in the \$10-15,000 range. Some were issuing monies in the form of small grants. Grants were not what Apex was proposing.

Council stated he has been speaking with the Town Manager. This was an important tool as small businesses are trying to survive. Several other programs are coming that we don't even know about right now. But businesses are struggling today and are in danger of closing. We have \$8 million in Fund Balance. He was comfortable with the \$25,000 loan amount up to \$1 million. We could revisit this to see how it was going.

Council asked if this would include owners with only two full time employees, to which staff responded it would. Staff also stated that it was mentioned to use a third-party administrator. Council asked if we could use the Rural Center, staff responding 'yes' but that they were busy and not returning her calls. Staff agreed that a local administrator would work hard for us. Council stated she would reach out to the Rural Center if staff reminded her to do so. Staff stated she had several other contacts, but they had been missing connecting with each other.

Staff stated she had a record of the total small businesses in town that could qualify for this loan. Depending upon how small business was defined, she could go through the list and provide a good figure of those with 25 employees or less. Staff was asked if we were looking at businesses which were industry specific or if we planned to proceed on a first come, first served basis. Staff explained that some programs identify businesses that are not eligible. Our Council could deem these eligible.

Council asked if there could be another meeting if we found the demand high for the loans. He realized it would depend on how good the other programs are going to be. He asked that we revisit this and change the terms based on how well our program is received. Council asked how we arrived at the 625 credit score, staff stating it was a placeholder based on the average of what she'd seen. Some programs, however, don't require a credit score. We could make this number as difficult or as easy as Council preferred. Staff felt it would be prudent for the number to fall somewhere in the middle. The credit score could be changed or taken out altogether.

The Town Attorney stated businesses needed to be reminded that this would not be a gift and that we would need to be good stewards of the Town's money. We would need to figure out what to do on the back end if the loan couldn't be paid back. Looking at a business' credit score or profitability would help to determine if the loan could be paid back. We also needed to look at collateral. Some businesses may not make it through, and we would need to be able to collect. Some criteria on the front end would be necessary in order to determine a business' ability to repay.

Council suggested two changes to the proposed program – first, moving the credit score of 625 down a bit; he felt 625 was aggressive. 575 or 600 would allow more breathing space for a business doing okay. Second, Council did not want to see people going into bankruptcy and was concerned about a personal guarantee. He wanted to see a person's interest limited to the business itself.

The Town Attorney asked staff if personal guarantee comes into play when personal assets do not. She was comfortable that most individuals are secured by some asset of the business. The Town Attorney asked staff if she'd seed statistics on personal guarantee vs. secured assets. Staff responded that not all programs require personal guarantee. Staff noted that even with this loan, some business still may not make it. What would we do at that point even if we help them. How comfortable would we be in recouping our resources. The Town Attorney stated the lower the credit score, the higher the risk of collecting on the back end. If we lowered the credit score, the administrator would be looking at this and possibly suggesting a higher interest rate on the loan. Staff stated we would look toward the

administrator to provide guidance on this. The Town Attorney stated that if Council was comfortable lowering the credit score, that direction be given to staff to work with the administrator on this.

Council stated he would want to increase the cap instead of lowering the credit score. He felt the Town will lose money on this.

Council stated we are not in this to make money.

Council Member Dozier made the motion to adopt the program as proposed by staff and working with an administrator.

Council stated working with an administrator may result in changes to Council's two points [identified earlier in conversation]. She did not want to see this held up any longer. We will be able to revisit if necessary. We need to take the advice of the administrator. We are not financial experts.

Council Member Killingsworth seconded the motion with an amendment to allow flexibility for the credit score and personal guarantee based on administrator recommendations.

Council asked if changes from the administrator could be approved via email, the Town Attorney stating 'no', but that the matter could come back to Council at a meeting for ratification of what had been worked out with the administrator. Council wanted checks written as soon as possible. Details could be changed mid-stream.

The Town Attorney asked if the Fund Balance cap would be \$1 million. Council asked what would happen if there were many more applications after hitting cap. The Town Attorney asked for clarification of application deadlines and who would be eligible. Responding to Council, staff stated this loan was to fill the gap until other assistance becomes available.

Council Member Dozier amended her motion: to adopt the Small Business Loan program policy as drafted, directing staff to engage with the third party administrator on the two key items related to credit scores and the personal guarantee, adding a cap of \$1 million, and a \$25,000 loan amount for businesses; Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

Council stated he wished to give direction to staff on COVID relief. As part of budget, he wished to see grants to non-profits as they are struggling because of this situation. He felt it appropriate to revisit grant amounts for the 21 non-profits to help them reach their level of service. Council wished staff to review the original requests and come back with a budget amendment after reaching out to the non-profits. This would only involve those approved in the budget.

NB2 Drew Havens, Town Manager and Laurie Hohe, Town Attorney

Discussion and possible motion to approve a policy to permit remote public participation in Town meetings

Council stated the latest draft included minor differences. We still need to conduct some of the Town business and hold Council meetings, and the Town needs to be able to communicate. The policy would allow the public to provide comments online, via emails, or to call and leave voice messages at a designated number. This process would be publicized. Responding to Council, staff stated comments would be read at Council meetings and into the record. The current rules regarding time would remain in place.

Council worried that people may not see the policy on the website or via social media. Discussion ensured as to the various means of getting the information to the public, i.e., utility bills, press release, social media.

Council stated he felt rezonings should be delayed until in person meetings restarted. Alternate methods of communication would not have the same impact as citizens appearing before Council in person. The Town Attorney advised the policy stated this cannot be done for quasi-judicial meetings. Conversation ensured about who would decide what would be heard. Staff stated controversial items can be delayed, Council agreeing with this. Staff stated the applicant would not be happy, but they might have a better outcome if they wait. The Town Attorney stated it would be best to postpone as many hearings as possible because of legal statutes. Council stated delaying could be discussed if it was something the applicant did not want to do.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to approve the Policy; Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

NB3 Vance Holloman, Finance Director

Resolution authorizing the filing of an application with the Local Government Commission to issue \$3.2 million of General Obligation Refunding Bonds and \$1.8 million of General Obligation Parks and Recreational Facilities Bonds and setting a public hearing for April 21, 2020

Staff stated this was the debt issue discussed during the retreat. He detailed the presented documents.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to adopt the Resolution and set the public hearing; Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

## UNFINISHED BUSINESS

UB1 Marty Stone, Assistant Town Manager

Various mitigation measures to address concerns shared by residents who live near the site of the new Electric Department Facility

Staff thanked Council for their support of staff during this difficult time. He presented background on this issue including actions taken on the part of staff. The screening wall was the main point of litigation. Residents are somewhat okay with the wall, but what some really wanted was for the project to be stopped. Residents subsequently presented additional requests. Staff stated we have received best cost analysis from our consultant, which was outlined in a memo from staff. We are at a critical point in the project, and direction was needed on this day from Council on the measures it wished to implement. Any changes would be in the form of a budget amendment from Fund Balance.

Staff spoke about where the wall would need to be placed, providing dimensions and figures on several options. He talked about relocation of the dumpster and figures to do so. The dumpster will hold the same types of materials as at other Town operations; there will not be a smell. Moving the dumpster from one side of the site to another is not the way to address a possible smell issue. Staff did not recommend doing so as it would not change anything and the dumpster will not be visible where it is slotted to be located. There will be a barrier around the area.

Staff spoke about additional landscaping at the gravel lot. Screenings can be added, and figures to do so were presented. Residents have been appreciative of this consideration. Staff recommended this

option, as it would add opacity to the buffer. Staff explained additional planting on the eastern buffer and gave the cost to do so.

Staff explained the cost associated with replacing the fencing with alternate materials. From a screening standpoint, this would not make a difference as most comments came from residents looking out the second story windows of their homes. One resident was concerned about children being able to get on the drive of the facility. Staff talked about what the resident wanted, stating this was not relevant. If a fence were put up, it would be going up on private property, and this was not recommended.

Staff presented a summary of potential costs. A decision was needed on this day, because anything delaying the contractor would cause extra money. Staff recommended plantings, how this could be done, and by whom.

Council asked about the possibility of fencing around the entire facility. Staff explained the approved plans and that anything done now would be to mitigate three residents. None of these residents attended the meeting that we reached out to them to attend.

Council was concerned that mitigation efforts did not include the whole neighborhood, for example, cross walks. Staff stated no requests had been made for crosswalks, even after neighbors being made aware of where on the site the facility would go.

Council stated there were two sets of people – those impacted and those who felt they were impacted. She was leaning towards what people were asking for because of this. Staff clarified that people were not necessarily asking for a wall. They were more interested in the facility not being there. Staff explained the fence will be inside our buffers. There are plantings that are a part of the plan. We are looking at moving towards trees that will be large and grow fast. This would be an effective way to mitigate. It was explained the fence will be vinyl coated and blend with the environment. The fence is not for screening, but for keeping people out. Several Council members liked the larger, more expansive greenery.

Council wondered about investment in the screening wall, to which staff responded that vegetation would serve the same purpose. Responding to Council, staff explained the proposed fence would not impact any more trees and that several types of walls were considered. He explained that product has already been ordered and any mitigation will cost us money whether or not the product is used. Staff responded to a few Council questions about a sound wall.

Mayor Gilbert called for a motion. Council Member Killingsworth made a motion to continue with the original fencing that has been approved, and landscaping with more mature trees. This would be approval of presented options 4 and 5.

Council stated that later we could look at other options to address traffic concerns, which is what she's mostly heard from neighbors. Staff added that a school bus stop will be addressed later and that there will be high visibility cross walks.

Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

Council stated appreciation to staff for the time it took to look into this matter. A lot of time was spent on this specific issue.

#### 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 adjourned the meeting.

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor

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# Apex Town Council Meeting

Tuesday, April 21, 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, April 21, 2020, at 6:00  
p.m. 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 (remotely), 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 Shawn Purvis, Town Clerk Donna B. Hosch (remotely), and Town Attorney Laurie L. Hohe.

## COMMENCEMENT

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Mayor Gilbert called the meeting to order and read a diversity and inclusion statement as it related to religion. Council Member Cheryl Stallings gave the Invocation, and Mayor Gilbert led the Pledge of Allegiance.

## PRESENTATIONS

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There were no presentations to be made.

## CONSENT AGENDA

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- CN1 Donna Hosch, Town Clerk  
Apex Tax Report dated February 4, 2020
- CN2 Shawn Purvis, Assistant Town Manager  
Proposed changes to Non-Profit Funding Policy
- CN3 Michael Deaton, Water Resources Director

Multi-year Master Services Agreement with J & D Tree Pros, Inc., valid until June 30, 2023, for tree trimming/removal and stump grinding services for multiple departments and authorization for the Town Manager to execute same on behalf of the Town

CN4 Shannon Cox, Long Range Planning Manager

Capital Project Ordinance Amendment No. 2020-13 appropriating funds for the preliminary project costs related to the GoApex Route 1 Bus Stop Improvements

CN5 Marty Stone, PE

Contract with ElectriCities of North Carolina, valid until July 31, 2020, for Electric Vehicle Strategic Plan for the Town and authorization for the Town Manager to execute same on behalf of the Town

CN6 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, ITM Real Estate Management, LLC regarding Wake County, NC PIN#0741-29-1415, 400 West Street, as recorded in Deed Book 17269, Page 1555, Apex, NC 27502

CN7 Russell Dalton, Sr. Transportation Engineer

Amendment to Traffic Schedule I and Traffic Schedule II of the Town of Apex Code of Ordinances in accordance with the provisions of Sections 20-60.1, 20-68, 20-69, and 20-70

CN8 Shawn Purvis, Assistant Town Manager

Resolution of Intent for the closing of a right-of-way (ROW) on Hasse Avenue, located between two Sweetwater Property Owner Association Open Space tracts, and to call for a Public Hearing at the May 19, 2020 Council Meeting

Town Manager Havens requested add-on items for a cemetery refund of \$1,500 to Mr. and Mrs. William Spillane and closing parking spaces on Seaboard Street on May 2 and May 9 for the Farmers Market to hold a drive through market.

Mayor Gilbert called for a motion to adopt the Consent Agenda. Council Member Killingsworth made the motion with the requested additions; Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

## REGULAR MEETING AGENDA

Town Manager Havens requested the addition of an Unfinished Business item related to the Emergency Loan Program.

Mayor Gilbert called for a motion. Council Member Gantt made the motion to adopt the Regular Agenda with the additional requested item; Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

## PUBLIC FORUM

No one wished to speak during Public Forum. No citizens provided input by any of the three methods available to them to do so.

## PUBLIC HEARINGS

PH1 Vance Holloman, Finance Director

Order authorizing \$1,800,000 General Obligation Park and Recreational Facilities Bonds and a Resolution to adopt that Order

Staff stated the preliminary Resolution was adopted at the previous Council meeting. Tonight the request was to hold a Public Hearing adopting the Order which is required prior to issuing any new general obligation bonds. The next step would be going to the LGC for approval before going to market.

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 Killingsworth made the motion to adopt the Order; 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

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Added UB 01 Joanna Helms, Economic Development Director

### Small Business Emergency Loan Program

Staff reviewed the previous decisions of Council: Council approved a \$1 million loan fund with a \$25,000 cap per loan per business. Staff was directed to finalize the details with a third party administrator, the NC Rural Center being selected. The Rural Center, however, prefers and is more familiar with loan caps of \$50,000. Staff noted that some Apex businesses in the pipeline are asking for loans more in the amount of \$37,000. In more conversations with the Rural Center, talk was focused on how a loan cap could be determined. The Center is supportive of our goals and wants to be flexible in the process.

Staff pointed to the funding cap information forwarded to Council earlier this day which detailed three scenarios. Joining the meeting as a resource was Barry Ryan, Vice President of the Rural Center. Council asked if staff had a strong preference for either of the options and if either option had any administrative restrictions which would delay the program. Staff stated there was not a preference, outlining the pros and cons of each. The Rural Center did not see businesses asking for the \$50,000 cap, and staff did not see any administrative restrictions.

Council questioned if the terms of our program were similar to those of the NC Rapid Recovery Program. Mr. Ryan complimented the great working relationship with Ms. Helms and her staff. He felt the terms were aligned.

Council asked if a business is awarded through the Golden Leaf Fund, would it prevent them from applying for the Apex program. Staff stated some businesses will get funded through Golden Leaf, which is managed through the Rural Center. They would, therefore, not be able to ask for the Apex loan which would also be funded through the Rural Center. Staff clarified that for those businesses which applied and were not provided a loan because funding ran out, they could apply again should another round of funding become available.

Council stated he did not want our program to push Golden Leaf out of Apex. However, he was interested in trying to give a leg up to small businesses in Apex – which our program would do. Mr. Ryan explained how Apex businesses would be considered.

Council asked about the State's stimulus package and how people would know funds were available and how they would apply. Mr. Ryan stated they would work with Ms. Helms to ensure that any information the Rural Center had was passed on for advertisement to businesses. He stated businesses

would not need to apply, that the Rural Center would contact the businesses to ask if they wished to apply for Apex funds or wait for something else.

Council Members each stated their preference for the three options. There was some conversation about fairness, the possible gambling aspect of the situation, and putting more money in the program if necessary.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to approve Option A; Council Member Stallings seconded the motion.

Council stated he hoped this program would be used as a tool in the future to show that Apex is willing to help its businesses in time of need. Staff stated that Council being this proactive speaks volumes for support of our businesses. It will help going forward with business opportunities. None of her counterparts had anything in the works until they found out what Apex was doing. Staff stated that checks would be written following the public hearing, and that finalizing details with the Rural Center was underway. Council thanked staff for all the work done on this effort.

The motion carried by a 5-0 vote.

## NEW BUSINESS

NB1 Shawn Purvis, Assistant Town Manager

General Fund appropriations to non-profit agencies providing a public service and the subsequent budget amendment

Staff stated this was in response to Council request from the last Council meeting. Staff reached out to the non-profits, and the \$36,000 Budget Amendment reflected additional monies requested by four agencies. Staff outlined what the additional monies would cover. The amount was a recommendation to which modifications could be made.

Responding to Council, staff explained why the amount shown for White Oak was \$3,000 less than their ask – the \$3,000 would go for stipends to the volunteers. Council stated we should think about respecting volunteers' time and supporting them if needed.

Council agreed stating that volunteers need gas money, i.e., and she was fine with the extra \$3,000.

Council agreed, asking if this would be the first time stipends were being asked for by an agency. Staff stated this was not something that we typically do. Organizations typically apply for program needs or other tangibles needed by the organization.

Council stated with this being a crisis of a different level, White Oak identified what they felt was a need in helping to provide for people who are trying to help other people.

The Town Attorney stated her concerns for being careful about gifts. She explained how, in her opinion, giving stipends crossed the line a little bit. Caution in this case was warranted.

Council stated we are providing taxpayer money to charities which citizens can donate to. It feels good to give this kind of money, but donated money could be used, for example, for stipends.

Council stated he understood the concern, but did not see this as a showstopper.

Council reiterated the concern of the Town Attorney and that she should be listened to.

There was some conversation as to whether or not other organizations are providing stipends. Council stated Western Wake has full time employees, and did not specify specifically where the \$20,000 that they asked for was going to be spent. It certainly could be going to stipends as well. She did not have a problem providing stipend money for White Oak but understood the concerns.

The Mayor stated that even though there was legal question about funding stipends, it seemed Council wanted to move forward with this.

Council stated all four entities have staff and volunteers. In a crisis, there are things that are being waived at all levels of government with the understanding that this situation is different. She stated older volunteers, for example, may be making efforts to support the people of Apex. We, in turn, need to support them. She wished she could volunteer but did not have the time. Therefore, she was fine helping those who did have the time.

Council asked if language could be inserted stating a waiver for stipends in this situation. The Town Attorney stated this was a constitutional provision that we could not waive.

Mayor Gilbert expressed his concern about the constitutional aspect. He knew of other opportunities being worked on in the community which would help White Oak, Council stating this was good to know. He did not want to delay monies getting to the organizations.

Mayor Gilbert called for a motion. Council Member Gantt made the motion to approve the item as presented; Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

### 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 adjourned the meeting.

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor

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# Apex Town Council Budget Workshop

Thursday, April 23, 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 Budget Workshop of the Apex Town Council scheduled for Thursday, April 23, 2020, at 2:30 p.m. was held in the Third Floor Training Room, 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 Managers Shawn Purvis and Marty Stone, Town Clerk Donna B. Hosch, Town Attorney Laurie L. Hohe, Budget and Management Analyst Amanda Grogan, Human Resources Director Mary Beth Manville, Police Chief John Letteney, Fire Chief Keith McGee, Electric Utilities Director Eric Neuman, Parks and Recreation Director John Brown, Budget Technician Jessica Hoffman, Economic Development Director Joanna Helms, Public Works and Transportation Director Jose Martinez, Water Resources Director Mike Deaton, Building and Inspections Director Rudy Baker, Communications Manager Stacie Galloway, Finance Director Vance Holloman, and IT Director Erika Sacco.

## COMMENCEMENT

Mayor Gilbert welcomed everyone to the workshop. He thanked staff for the work that has been done on the budget. He was proud of how things have been kept moving through COVID-19.

Assistant Town Manager Purvis presented the agenda and explained how the meeting would progress. He presented the Town's vision, mission, and strategic goals.

### Specific Council Initiatives

Purvis stated Council initiatives were showing in the budget. We have already started working on some of these. Work with the school system is ongoing.

### Total Budget

Purvis presented the General, Electric, Water and Sewer, and Minor Fund numbers totaling \$150,241,900.

### COVID-19 Response and Adjustments

Purvis showed figures on the economic impact from the current quarter and fiscal year 20/21. He presented an overview of how the impact will be mitigated. The first few months, we were exceeding budget projections. Purvis hoped we would still end on a positive note at the end of this fiscal year. The first three quarters of the year, we were really strong. Explained were the challenges and how we're going to be progressing.

As for disaster response, we have a bit of this but nothing to offset any losses. We may be able to recoup a small amount of our expenses. Responding to Council, Purvis stated our sales tax distribution is based on population. We will get a bigger share of the pie because of our growth. There has been some talk about bankruptcy in municipalities, but this will probably be unlikely in North Carolina.

### General Fund Revenue Summary

Purvis spoke about the \$71,642,400 total revenues and the \$.38 tax rate which included \$2,070,000 from Fund Balance. The tax rate is a bit over revenue neutral. Ad valorem taxes mitigate against other economic impacts.

Purvis went over General Fund revenues by source, motor vehicle and waste collections, property tax rates, and other rates for planning and the cemetery. Council was glad to see increases for commercial properties. Responding to Council, Purvis explained the discount for military persons purchasing cemetery plots, Council stating the 20% discount was fair. Purvis explained tier rates that are in place for commercial but not residential. Council expressed concern about residents being penalized for their specific situations, i.e., having a moderate income but being home during the day. Havens stated this would be looked at this structure during the coming year.

Purvis showed the expenditure summary. There was some conversation about how our sales tax compares to other municipalities. The General Fund is balanced at this point. General Fund Revenues vs. Expenditures were presented. Each year since 2011, these have been close.

Responding to Council, Purvis answered questions related to the deputy clerk and sustainability positions.

Purvis stated there would be a one-year hiatus from the standard merit-based compensation plan and that there would be a change in healthcare and dental insurance carriers. He further stated that some employees were not earning a living wage. The Mayor expressed thanks to those who instituted the 7% increase in order to get to that living wage. Havens stated the cost to implement this 7% was close to what it would have otherwise been. Havens explained the decision to change insurance carriers. Council stated she felt it very good to move to CIGNA.

Responding to Council about the impact of OPEB, Purvis stated the recommendation was to cease this for employees hired after July 1, 2020, which is something other municipalities are doing. Right now, this is not a high recruiting factor. Staff stated we can find other ways for employees to plan for their retirement. Further explained was that OPEB was not in any collective bargaining agreements. The Town is looking at what it can do now for employees, such as health savings accounts. This change would not affect any current employees. Council was interested in any push back once this change is published.

Purvis stated we are not making any swap outs on rolling stock capital. He showed those items which had been backed out of large capital. He spoke about how and when revenues and expenditures can be adjusted. Purvis stated that improvements to the Eva Perry Library, a Town building, had been taken out of the budget at this point. He explained the County is making improvements and explained how they will be reimbursed.

Purvis showed the capital reserves and projects, stating that Council could re-prioritize these if desired. He spoke a bit about the Salem Street study, responding to Council question. Council were disappointed about the study being taken out of the budget. Conversation ensued on possible swap out alternatives, i.e., for Richardson Road. Purvis spoke about the grants which had been applied for and how getting them would affect some of the projects.

Purvis presented the Fund Balance and explained what the figures represented. Speaking about non-profit support, Purvis cleared up the legality of funding the school. He explained we don't have statutory authority to fund this. Council stated she wanted to know more about Jobs for Life. She had not received any further information on them, so she did not recommend funding.

#### Water Sewer Fund Revenues

Purvis presented these figures. Council asked if we expected these revenues to increase, Purvis explaining how the process works. He presented revenue trends, fund rates, and the expenditures summary, which

was balanced. Responding to Council, Purvis spoke about the renovation of Sunset Hills pump station that correlates with a high school.

Purvis reviewed the Water Sewer Fund and Electric Fund revenues. He presented Electric Fund revenue trends and the Electric Fund rates to which no changes were proposed. Electric Fund rates were overviewed and summarized. Purvis showed those items which were removed and decreased. Responding to Council, conversation ensued about replacing all the street lights, which would cost about \$2 million. There was also conversation about lighting the Tingen Road water tower, even if it were with the current system as on the Hunter Street tower, since lighting was taken out of the budget. Purvis would look at making adjustments for this. Purvis showed the cumulative effect of rate changes on residents.

Council spoke about COVID-19 and its unknown impacts. She wants us to be in a good starting place and in a healthy situation. Growth and staff have helped with this. Because of the economic recession, we want to be as responsible as possible.

Council expressed appreciation for all the work and the predictions. She did not want Apex to be forgotten in funding just because we're an affluent town.

Council Members thanked everyone for their work on the budget. The budget is broadly in line with what was talked about at the retreat earlier this year.

## ADJOURNMENT

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

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



# Special Apex Town Council Meeting

Monday, April 27, 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 Special Meeting of the Apex Town Council  
scheduled Monday, April 27, 2020, at 4:00 p.m.  
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 (remotely), and Council Members Audra M. Killingsworth, Brett D. Gantt, Cheryl F. Stallings, and Terry Mahaffey (remotely)

Also in attendance were Town Manager Drew Havens, Assistant Town Manager Shawn Purvis, Town Clerk Donna B. Hosch (remotely), and Town Attorney Laurie L. Hohe

## COMMENCEMENT

Mayor Gilbert called the meeting to order, read a diversity and inclusion statement as it relates to religion, gave the Invocation, and led the Pledge of Allegiance.

## PUBLIC HEARING

PH1 Joanna Helms, Economic Development Director

Appropriation of funds in the amount of \$1,000,000 to establish a Small Business Emergency Loan Program to assist small businesses in Apex that are experiencing hardships as a result of the COVID-19 pandemic. The Town intends to appropriate fund balance in the General Fund to cover the aforementioned costs. The purpose of the proposed loans is to increase the business prospects of the Town by assisting small businesses impacted by the pandemic in maintaining their employment and business opportunities.

Staff stated the purpose of the Public Hearing. The loan was intended to be a bridge to help businesses get through this emergency. The loan cap/business would be \$50,000/business, the administrator of the program being the NC Rural Economic Development Center. Staff stated it was anticipated that the program would open within a day or two, pending finalization of the agreement.

Responding to Council, staff stated the Rural Center acts as administrator for several funding initiatives. Golden Leaf had provided funds for the recovery. The Apex program would be only for Apex Businesses. Staff thought the Rural Center might again receive funds which would be available across the state. If some businesses in Apex had not received funding, they could possibly receive those coming in at a later date.

Mayor Gilbert declared the Public Hearing open.

Nicholas Blatchford's comments submitted via online form were read:

*"I commend the Town Council for its foresight in establishing this program. Our local businesses are key to keeping Apex the Peak of Good Living and the loans will help them survive this crisis and will help maintain the commercial tax base in the future. So, I support this program, but was interested in how it is funded. So here are my questions:*

- 1. Where did the Council find the \$1 million for this program--from the Rainy Day Fund, the operating budget, the capital budget? Did anything have to be deferred to pay for this?*
- 2. When (and if) the loans are repaid, do those funds go back into the budget where they came from?*
- 3. Do we have any sense from the businesses that will get these loans how they will use the money? Will it enable them to keep employees on their payroll?*
- 4. Do we have any sense of how much of a bridge this will be for these businesses, that is, how long it will keep them afloat?*

*Thanks, and keep up the good work! Mark Blatchford"*

Mayor Gilbert declared the Public Hearing closed.

Staff stated when loan payments come in, the funds would go as Council directs. Unless other specified, the funds would go back into General Fund.

Responding to Council, staff stated there were no specific restrictions on how the businesses could use the money whether it be for rent, mortgages, utilities, ecommerce, day to day operations, etc. Council asked how this would bridge the needs in Apex, staff responding that this was hard to estimate because of the various kinds of businesses. However, we would estimate funding would last for two months' operating expenses.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to approve Budget Amendment #14 in the amount of \$1,050,000.00;

Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

Mayor Gilbert referenced an article in the Triangle Business Journal which reflected the great work by [Economic Development Director] Joanna Helms and her team and the entire staff.

## ADJOURNMENT

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

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



# Apex Town Council Meeting

Tuesday, May 5, 2020

*This meeting was additionally conducted by use of simultaneous communication*

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, May 05, 2020, at 6:00  
p.m. 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 (remotely), 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 Shawn Purvis, Town Clerk Donna B. Hosch (remotely), and Town Attorney Laurie L. Hohe. All attendees participating remotely arrived prior to 6:00 p.m.

## COMMENCEMENT

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

## PRESENTATIONS

PR1 Chief John Letteney

Presentation of National Police Week Proclamation

Mayor Gilbert stated he believed the Apex Police Department to be one of the best in America, and that he was proud to have served on the police force and to see what it is today. Mayor Gilbert read the Proclamation, stating it was his honor to sign such.

PR2 Drew Havens, Town Manager

Proclamation recognizing May 3-9 as Public Service Recognition Week

Council Member Gantt read the Proclamation, stating it was his honor to do so. Mayor Gilbert signed the Proclamation.

PR3 Chief John Letteney  
Presentation of National Telecommunicator Week Proclamation

Council Member Mahaffey read the Proclamation before it being signed by Mayor Gilbert.

## CONSENT AGENDA

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- CN1 Donna Hosch, Town Clerk  
Minutes of the April 7, 2020 Special Council Meeting and the April 21, 2020 Regular Council Meeting
- CN2 Donna Hosch, Town Clerk  
Apex Tax Report dated March 4, 2020
- CN3 Mayor Jacques Gilbert and Mayor Pro Tem Nicole Dozier  
Request to the General Assembly for a Charter amendment regarding Clerk appointment
- CN4 Shannon Cox, Long Range Planning Manager  
Resolution Supporting the Development of the Rail Corridors Referred to as the S-Line and SA-Line for the Benefits of Improved Passenger Rail, Improved Freight Movement, Improved Commuting Options and Economic Development
- CN5 Shannon Cox, Long Range Planning Manager  
Resolution of the Apex Town Council to the North Carolina General Assembly supporting rail as an integral component of North Carolina's transportation future
- CN6 Amanda Bunce, Current Planning Manager  
Set the Public Hearing for the May 19, 2020 Town Council meeting regarding various amendments to the Unified Development Ordinance as requested by Planning staff
- CN7 Mary Beth Manville, Human Resources Director  
Reclassification of one of the Water Resources Department's Senior Engineer positions, Grade 28, to Environmental Engineering Manager, Grade 29, and Stormwater & Utility Engineering Manager position, Grade 31, to Utilities Engineering Manager, Grade 29
- CN8 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 1800 N Salem, LLC property containing 1.97 acres located at 1800 N Salem Street, Annexation #688 into the Town's corporate limits

CN9 Adam Stephenson, Engineering Supervisor

Revisions to the Town Standard Specifications and Details.

CN10 Shawn Purvis, Assistant Town Manager

Set the Public Hearing concerning the proposed Fiscal Year 2020-2021 Budget including expenditures for Economic Development (pursuant to NCGS 158-7.1), for Tuesday, May 19, 2019 at 6:00 p.m. at the Apex Town Hall

CN11 Michael Deaton, Water Resources Director

Sewer main construction contract to Carolina Civilworks, Inc. and authorization for the Town Manager to execute the contract on behalf of the Town

CN12 Adam Stephenson, Engineering Supervisor

Capital Project Ordinance Amendment No. 2020-14 appropriating an additional \$5,935 in funds for the Laura Duncan Multi Use Path project

CN13 Marty D. Stone, Assistant Town Manager

Resolution to authorize Town Manager or his designee to execute Right of Way Encroachment Agreements with North Carolina Department of Transportation

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

The motion carried by a 5-0 vote.

## REGULAR MEETING AGENDA

Council Member Mahaffey requested a Closed Session prior to New Business.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to adopt the Regular Meeting Agenda with the requested modification; Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

## PUBLIC FORUM

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Public comment from Mark Urban submitted via online form was read:

*"I want to express concern that Apex Police seem to be poorly used. These brave men and women protect this community and investigate the crimes that happen here, but I'm shocked at the number of times I see them doing speed traps, especially on state roads that are already patrolled by the SHP (64, 55). What a waste, and the additional contact during the pandemic just underscores the hazards of this activity. If this is being done because of funding needs, then that's just wrong: the Police are our shield, not our piggy bank. I ask the Council to consider directing the Chief to re-prioritize the Officers towards more criminal enforcement. Thank you for your time. [If the Council is curious, I haven't gotten a ticket in 15 years]"*

## PUBLIC HEARINGS

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PH1 Amanda Bunce, Current Planning Manager

Various amendments to the Unified Development Ordinance

Staff oriented Council to the amendments related to composition of the Planning Board. The Planning Board recommended approval but disagreed with the change to the length of terms and the number of terms, recommending both remain as they are currently. Council clarified the reasons the Planning Committee unanimously recommended its changes. Staff stated the terms of the other advisory boards. Conversation ensued surrounding all the terms being consistent.

Staff oriented Council to the proposed compensation to boards as authorized by the Town Council in the annual budget. The Planning Board recommended Council approve up to a \$50 per meeting reimbursement rather than compensation. Responding to Council, staff stated the amount was as suggested by the Planning Board. Staff also clarified that compensation could cause more paperwork for staff. Council stated he preferred the stipend-type compensation [reimbursement] and making this a straight model. Council expressed her views on compensation, pointing out the possible paperwork and rules that would be involved, several Council Members being in agreement.

Staff oriented Council to the amendments recommended by staff related to uses and standards. She detailed what staff recommended. A clean up item was also detailed. Planning Board recommended approval of these items.

Mayor Gilbert declared the Public Hearing open. With no one wishing to speak, Mayor Gilbert declared the Public Hearing closed.

Council outlined the items he initially took to the Planning Committee for consideration and thanked Council for his assistance with these. He stated his intentions and reasons for suggesting the changes to the Planning Board.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to approve the request as presented; Council Member Killingsworth seconded the motion.

Council Member Gantt requested an amendment to extend Planning Board terms from four to five, to which Council Members Mahaffey and Killingsworth had no objection.

The motion carried by a 5-0 vote.

## OLD BUSINESS

There were no Old Business items for consideration.

## UNFINISHED BUSINESS

UB1 Vance Holloman, Finance Director

Resolution Providing for the Sale and Issuance of \$1,800,000 General Obligation Parks and Recreation Bonds, Series 2020A, the Resolution Providing for the Sale and Issuance of \$28,000,000 General Obligation Parks and Recreation Bonds, Series 2020B and the Resolution Providing for the Sale and Issuance of Not to Exceed \$3,200,000 General Obligation Refunding Bonds, Series 2020

Giving some good news, staff stated that on this day, the Local Government Commission approved the issuance of \$1.8 of our requested bonds. In addition, Standard and Poor's and Moody's Investors Services gave the Town a AAA rating for all three of our bond issues, reaffirming our AAA rating. He stated this reflects on the leadership of Council and the Manager and of all departments.

Staff detailed the request. He pointed out the inclusion of language to allow the Finance Director to shorten the length of the term of the two-thirds bonds as suggested by our financial advisor. He detailed the financial impact of this.

Responding to Council, staff spoke on his thoughts on the current debt market. He stated he saw good improvement and that we will be very successful.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to Approve the request; Council Member Killingsworth seconded the motion.  
The motion carried by a 5-0 vote.

## CLOSED SESSION

Mayor Gilbert called for a motion to go into Closed Session. Council Member Gantt made the motion; Council Member Stallings seconded the motion.  
The motion carried by a 5-0 vote.

## NEW BUSINESS

NB1 Marty D. Stone, Assistant Town Manager

Future use of Town properties located at 320 and 322 N. Mason Street and direction on the same  
Staff stated these properties are the site of the Old Grocery Boy Junior purchased in 2017 because of its proximity to Town campus and the potential for office space in the future. In 2019, we purchased the residential house on the site, which would open up flexibility for us. The intention was to demolish the house when it was purchased. There are now options to consider: the Old Junior Boy could be renovated adding new space, or it could be taken down to start the whole site with a clean slate. Staff presented reasons why keeping the Old Junior Boy may not be a good decision because of its closeness to the road and the structural elements of the building.

Raising both structures would allow a new building design that would be in keeping with the Town's architectural standards for the small town overlay district without the need for exceptions. Once a decision was made for the property, staff would move forward with the consultant for a design that would be efficient and effective for the citizens.

Responding to Council, staff answered questions about the surrounding neighbors being consulted. Staff stated that the zoning for the property has been changed, and we are within our rights to develop for office space. We have had conversations with the owner of the surrounding houses, ensuring her that there would be a good buffer between our property and her houses. Signage will go up, and we can mail something out to the HOA and adjacent neighbors informing them of what would be coming. Staff added that being able to start with a blank canvass would allow us easier building of something more fitting to the neighborhood.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to move forward on these properties with a clean slate, taking down the two existing buildings; Council Member Stallings seconded the motion.

Council Member Gantt stated he initially wanted to reuse the building, but it didn't make sense in this case.

The motion carried by a 5-0 vote.

Mayor Gilbert wished Mr. Stone Happy Birthday on behalf of the Council!

## WORK SESSION

There were no Work Session items for consideration.

## ADJOURNMENT

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

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor

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*This meeting was additionally conducted by use of simultaneous communication*

# REGULAR TOWN COUNCIL MEETING

Tuesday, May 19, 2020 at 6:00 PM

Council Chamber at Apex Town Hall, 73 Hunter Street

## 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 Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier,  
and Council Members Brett D. Gant, Audra M. Killingsworth,  
Cheryl F. Stallings, and Terry Mahaffey

Also in attendance were Town Manager Drew Havens, Assistant Town Manager Shawn  
Purvis, Town Clerk Donna B. Hosch, MMC(remotely), and Town Attorney Laurie L. Hohe

## COMMENCEMENT

Mayor Gilbert called the meeting to order, read a statement of inclusion and diversity related to religion, and led the Invocation followed by a moment of silence. Mayor Gilbert then led the Pledge of Allegiance.

## PRESENTATIONS

PR1 Mayor Pro Tem Nicole Dozier

Presentation of Proclamation declaring Asian American Pacific Islander Heritage Month

Mayor Pro Tem Dozier read an opening statement embracing the history and heritage of Asian American Pacific Islanders. Each Council Member shared in the reading of the Proclamation.

## CONSENT AGENDA

CN1 Donna Hosch, Town Clerk

Minutes of the April 23, 2020 Budget Workshop, the April 27, 2020 Special Meeting, and the May 5, 2020 Regular Meeting

- CN2 Donna Hosch, Town Clerk  
Sell-back of cemetery plots to the Town from Mr. and Mrs. Dalton in the amount of \$1,200.00
- CN3 Steve Adams, Real Estate and Public Utilities Specialist  
Contract between the Town and Jordan Oil company to trade portions of property as related to the construction of the Apex Senior Center
- CN4 Amanda Bunce, Current Planning Manager  
Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the various Unified Development Ordinance (UDO) Amendments of May 5, 2020
- CN5 Russell H. Dalton, PE, Senior Transportation Engineer  
Ordinance amending Section 20-164 with the addition of subsection (37) to enforce a No Parking restriction along both sides of both directions of Great Lawn Road and along both sides of Sunflower Road
- CN6 Laurie Hohe, Town Attorney  
Repealing the Remote Participation Policy for Meetings of the Apex Town Council adopted on March 17, 2020
- CN7 Drew Havens, Town Manager  
Amending the current Apex Farmers Market Special Event Permit to allow for drive-thru pickup along Seaboard Street on Saturday, May 16, 23, and 30, and June 6, 13, 20, and 27, and Friday, July 3, to close marked parking spaces along the east side of Seaboard Street from 8:00 a.m. until 1:00 p.m. these days.
- CN8 Jenna Shouse, Long Range Planner  
Temporarily dedicating and marking eight existing on-street parking spaces along Hunter Street to serve as a bus layover location for GoApex Route 1 beginning in March 2021

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

The motion carried by a 5-0 vote.

#### REGULAR MEETING AGENDA

Town Manager Havens requested that Public Hearing 05 be heard prior to Public Hearing 04.

Mayor Gilbert called for a motion to adopt the Regular Meeting Agenda with the requested change. Council Member Stallings made the motion;

Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

PUBLIC FORUM

Bridgett Taylor spoke about Council representing and honoring their oaths. Council should let the U.S. Constitution convey its actions so as to not impede upon the rights to which each individual is entitled. Ms. Taylor spoke about government Orders related to COVID-19 not being consistent with the Constitution. Civil rights under the Color of Law had been taken away.

PUBLIC HEARINGS

PH1 Dianne Khin, Director

Ordinance on the Question of Annexation – Apex Town Council’s intent to annex 1800 N Salem, LLC property containing 1.97 acres located at 1800 N Salem Street, Annexation #688 into the Town’s corporate limits

Staff oriented Council to the site. Staff 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 Gantt made the motion to adopt the Ordinance; Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

PH2 Shannon Cox, Long Range Planning Manager

Amendment to the Bicycle, Pedestrian, and Equestrian Plan map of the Comprehensive Transportation Plan; the Bike Network map of the Comprehensive Bicycle Plan; and the Parks, Recreation, Greenways, and Open Space Master Plan map

Staff oriented Council to the Amendment. The Planning Board unanimously recommended approval. The Amendment would be shared with the Parks, Recreation, and Cultural Resources Commission at their next meeting. Planning staff and Parks and Recreation staff recommended approval.

Council stated that because of the design of the map, it was a bit difficult to read. Even so, combining the maps could have some value.

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 approve the Amendment; Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

PH3 Amanda Bunce, Current Planning Manager

Various Amendments to the Unified Development Ordinance

Staff oriented Council to the Amendments. The Planning Board 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 Killingsworth made the motion to approve the Amendments; Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

PH5 Jenna Shouse, Long Range Planner

Associated Amendments to the Transit Plan Map of the Comprehensive Transportation Plan

Staff oriented Council to the Amendments. Responding to Council, staff answered questions related to the routes and their associated stops. Staff and the Transit Committee unanimously recommended approval of the Amendments. The Planning Board recommended approval of all Amendments except route 311. They additionally expressed concern about GoTriangle not being able to adequately obtain public input on the service changes to route 305. If Council had concern about route 311, staff suggested asking GoTriangle delay the service changes to January 2021.

Responding to Council, staff elaborated on how adjustments were balanced based on ridership data, transfers, and wait times. Jennie Green (remotely), Transit Service Planner with GoTriangle, clarified ridership according to data they have collected.

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 approve the Amendments; Council Member Gantt seconded the motion.

Council expressed concern about Planning Board comments related to public input for route 311 and if Council was satisfied with the response from GoTriangle. Staff stated the

change had been studied and that there had been public engagement for the long-range planning efforts. Staff clarified that Council could approve the Amendment and submit comment to GoTriangle that the service change be delayed until January.

Council Member Dozier amended her motion to approve the Amendments to the Transit Plan Map and the Comprehensive Transit Plan consistent with the time that there would be an increase in route 305 or January 2021; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

PH4 Shawn Purvis, Assistant Town Manager

Order Closing a portion of the right-of-way (ROW) located between two Sweetwater Property Owner Association Open Space tracts

Staff stated this was a realignment so that the road could be completed. Responding to Council, staff stated that the typography in the area did not quite line up.

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 Killingsworth made the motion to approve the Order; Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

PH6 Shawn Purvis, Assistant Town Manager

To receive citizen input on the Fiscal Year 2020-2021 Annual Budget including proposed economic development expenditures

Staff stated this budget was a culmination of past meetings, a public hearing, and workshops. A brief overview of the budget was presented, staff stating the budget was basically flat.

Mayor Gilbert declared the Public Hearing open.

Read from Elizabeth Brunner : *Hello: I feel strongly that there should not be any increased fees passed to town residents, given the pandemic, the recession, and the high unemployment rate. This is a time for compassion, when every penny counts to many local families. For example, our sewer rate already seems extremely high and should not increase. Similarly, the Municipal Vehicle Tax should not be increased. Instead, the town should look for ways to decrease all fees and taxes applied to individuals.*

*The property tax rate should come down to the neutral rate of \$.3493. Many local homeowners saw an extreme increase in the county's appraised value of their home. I've owned my 1957 house for seventeen years and plan to live here for the rest of my life. Since I do want to sell, the housing market is irrelevant. But the increased property tax is an extraordinary burden, especially this year.*

*I am glad that sidewalks, pedestrian amenities, and a local bus route appear to be budget priorities.*

Read from Carl Ziller : *Six years ago in 2015, Apex voters approved \$15 million in bonds for road projects, including the completion of the Apex Peakway. So far we have nothing but paper to show for it. The last mayor ran on that platform and nothing came of it. Traveling in, around, and through Apex would be much easier and less congested with the Peakway completed. We are talking about a bridge on the west side, and the Hwy55 to Schiefflin Road both of which have had plans out for years now. The Peakway should be a high priority for the town which would benefit both the residents and businesses along it. Start making the developers shoulder the financial responsibility of parks and/or park space in this booming housing market. Can this project be expedited, and when will contracts be awards and construction begin?*

Mayor Gilbert declared the Public Hearing closed.

Council discussed when there could be a follow up budget meeting, consensus being Tuesday, May 26<sup>th</sup>, at 4:00 p.m. For this upcoming meeting, Council asked for a possible response to what the County will be providing as far as cash assistance resulting from COVID-19.

#### OLD BUSINESS

OB1 Shawn Purvis, Assistant Town Manager

Receipt of information regarding Executive Order 124 and the Town's suspension of utility late fees and disconnects, including the Town's proposed payment plan agreement

Staff stated this was to ask direction on letting its previous direction expire or to extend it. A payment plan would be devised based on this direction. He stated that we could delay disconnects and delay late fees further or extend the payment plan.

Council stated that in order to support the citizenry, she wished to extend what is currently in place and that we keep in close contact with other levels of government and cash assistance in supporting municipalities.

Council questioned if there was concern for the amount of money owed to the Town which was rising exponentially. Council stated she was concerned about people first over the amount of money owed the Town.

Council stated she also preferred to extend the payment plan and suspend disconnections.

Council stated he was concerned that the money would be gone forever and that taxpayers would be responsible for lost revenue. Staff explained efforts could be put in place, i.e., letters, to encourage those who can pay to pay.

Council stated he felt some of the amounts could be recoverable. He wondered if there was a middle ground to not make disconnects and to encourage people to pay as well.

Staff stated a payment plan agreement letter was being drafted. In that letter, we could easily remind citizens that the suspension does not remove the obligation to pay at some point – we cannot legally waive these payments. No letters have been sent since March. Staff, responding to Council, stated that bills show uncollected amounts. There was further conversation about the type of letter/notice to be sent.

There was brief discussion surrounding Council comment that he would never want to see utilities disconnected. Council was in agreement with extending the current suspension date.

Council questioned if we could separate out commercial and residential, staff stating this would be a lot of work because of the way our system is set up. Responding to Council, staff stated there hasn't been a lot of chatter on this subject. Many municipalities have tied themselves to Executive Order 124 and have payment plans and letters ready to be sent out.

Staff stated we will send out letters giving guidance on the payment plan. We will begin working with the public to try to get people who can pay to start moving in that direction. Council questioned what the increase would be in rates for those amounts we would not be able to recover.

Council Member Mahaffey made a motion to postpone the disconnect date to August 31<sup>st</sup> and to direct staff to try to convert balances to payment plans and to report progress to Council on a monthly basis; Council Member Killingsworth seconded the motion.

Council spoke briefly about our advocacy with the County on funding, payment plans, and programs which would help citizens with payment.

The motion carried by a 5-0 vote.

UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

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 adjourned the meeting.

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



*This meeting was additionally conducted by use of simultaneous communication*

## TOWN COUNCIL BUDGET WORKSHOP

Tuesday, May 26, 2020 at 4:00 PM

Third Floor Training Room at Apex Town Hall, 73 Hunter Street

### 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 Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier,  
and Council Members Brett D. Gant, Audra M. Killingsworth,  
Cheryl F. Stallings, and Terry Mahaffey

Also in attendance were Town Manager Drew Havens, Assistant Town Manager Shawn  
Purvis, Town Clerk Donna B. Hosch, MMC(remotely), and Town Attorney Laurie L. Hohe

### COMMENCEMENT

Mayor Gilbert called the meeting to order.

Staff presented a high-level overview of the budget. Responding to Council, staff clarified how rate changes will impact each household. Adjustments in Funds were related to COVID-19. Sales tax calculations were explained, going from worst to best case scenarios. There is a mix of what other municipalities are doing for property tax, although most are going above revenue neutral.

Staff presented its cost-cutting methods and stated that Council had been previously informed as to what Capital items had been cut. Staff presented options as to how we might move forward with other potential cuts. He explained how we get from what management wants vs. what Council wants. Personnel items could be adjusted, and this would free up money for projects. Staff spoke about OPEB expenses and how this could be affected. Staff explained how Fund Balance could be used to cover Revenue shortfalls.

Staff spoke about the proposed 7% salary increase and how delaying this until October could work. He did not advise delaying OPEB. He felt we would be okay even if these two expenses were incurred beginning in July. The draft budget would be managed as it was presented, and staff explained how this could be done. We don't want to cut back on services. Staff again talked about delaying the 7% increase, which would normally happen on October 1st. He explained that there would not be personnel cuts or furloughs.

Council Chair of the Personnel Committee stated she believed staff understood this was a health crisis and what Council is trying to do to help staff. Council stated there was a commitment to a living wage prior to COVID. She felt staff would understand they still would have a salary that is decent. Staff stated that the initial conversation with staff was for the increase to be effective July 1st. However, he felt that the move to October 1st could be explained. Staff felt this date change was responsible and would make the current budget more comfortable. He spoke about staying away from employee impacts. OPEB could be recovered, and how this could be done was explained. We are already paying for these benefits.

Conversation ensued about the possibility of delaying projects. Council spoke about the funding which would be coming in to the County. Staff stated we have reached out to the County but have not heard back from them. Previously, the thought was that some funding would be used to help with utility bills. However, we don't have the final say on that. Council stated there would need to be another meeting by the County to discuss the \$150 million funding. Municipalities have asked for \$75 million of this funding to come to them, the decision being made that the County would distribute the funds. Council was disappointed that there was not a policy out yet on this funding.

Staff provided an update on the Beaver Creek intersection. Most projects are dependent upon money from DOT, and these monies will be delayed. Staff spoke about Powell Bill money and how it might be affected. Conversation ensued about projects being delayed until it's determined funding will be coming in.

Staff stated that if the budget were to stay as it was, people would understand that some projects won't happen. We will not start projects just in case monies don't come in. Reiterating what was heard from Council, staff stated that the 7% increase would be delayed to October 1st. He explained what else could be cut from the budget.

Council stated he was in favor of delaying the 7% increase to October 1st and to not make other possible personnel cuts. Staff would find other monies in Capital to cut. If things were to look good throughout the year, then we could start back up with projects. Discussion by Council about whether OPEB trust expense should be delayed.

Council spoke about the impact of asking people to stay at home. More utilities will be used by doing so. Therefore, she questioned an increase in rates as some would be unable to pay them. Conversation ensued along these lines. Staff stated the solid waste increase was from the provider.

The consensus of Council was to fund additional OPEB trust, delay the salary increase to October 1st and to match that amount 2 to 1 with reductions in Capital. Council also wished a solid message to employees explaining the crisis and the Town's values.

Staff explained why some things cannot be funded from Fund Balance. He talked more about the increase in rates and how the budget was balanced with the rates presented.

Council spoke about affordable housing, and how there may be a program coming through to help with newer homes. He asked where our figures came from for affordable housing and was there a need in the community. Staff stated the figures were based on a combination of need and the ability to manage projects. The affordable housing program is independent of the budget. Staff explained how these types of programs have worked elsewhere. We want to make a big difference with a little bit of money.

Both Town Managers agreed that Apex is in better shape than other municipalities. Council would be provided a list based on what was heard in this workshop of what had been removed and the respective dollar amounts.

ADJOURNMENT

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

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



# REGULAR TOWN COUNCIL MEETING

Tuesday, June 02, 2020 at 6:00 PM

Council Chamber at Apex Town Hall, 73 Hunter Street

## 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 Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier, and Council Members Brett D. Gantt, Audra M. Killingsworth, Cheryl F. Stallings, and Terry Mahaffey. Also in attendance were Town Manager Drew Havens, Assistant Town Manager Shawn Purvis, Town Clerk Donna B. Hosch (remotely), and Town Attorney Laurie L. Hohe

## COMMENCEMENT

Mayor Gilbert called the meeting to order, Pastor Jahmar Cobb of Oak Grove Missionary Baptist Church gave the Invocation, and Mayor Gilbert led the Pledge of Allegiance.

## PRESENTATIONS

PR1 Mayor Pro Tem Nicole Dozier

Environmental Stewardship Award to the Apex Mosque

Mayor Pro Tem Dozier stated the purpose of the award, encouraging all to be good stewards of our environment. Mayor Pro Tem Dozier, Mayor Gilbert, and Council Member Gantt presented the Award to Mr. Asif Ansari. Mr. Ansari thanked Council on behalf of the Mosque for the award, stating that all in the Mosque were behind this initiative. Concern for saving the environment is all our concern. He encouraged all to consider going this route as well.

PR2 Mayor Jacques Gilbert

Proclamation - Community and Firearms Safety Awareness Day

Council Member Stallings stated the Proclamation was the product of the time and effort of several individuals passionate about the Town and wanting the best for Apex. She thanked all for their participation. All Council Members shared in the reading of the Proclamation.

PR3 Mayor Jacques Gilbert

Proclamation – Love and Unity Month

Mayor Gilbert spoke about the pandemic currently facing us and the situation currently existing due to police action. He spoke about his passion for unifying people and this community. This was about all coming together in unity to promote change.

Council Member Killingsworth gave remarks related to June being LGBTQIA month, calling for all to become more understanding and more accepting of this dynamic group of people. She spoke of the beauty and diversity of LGBTQIA individuals. Council Member Killingsworth led as all Council followed to share in the reading of the Proclamation.

Mayor Gilbert noted that Ms. Joanna Emery helped in construction of the Proclamation.

#### CONSENT AGENDA

CN1 Amanda Bunce, Current Planning Manager

Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the various Unified Development Ordinance (UDO) Amendments of May 19, 2020

CN2 Amanda Bunce, Current Planning Manager

Set the Public Hearing for the June 16, 2020 Town Council meeting regarding various amendments to the Unified Development Ordinance as requested by Planning staff

CN3 Sarah Van Every, Senior Planner

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 Tony Karr, Timothy V. Streeter, Billy Ray Wolfe, Sarah W. Ronk, Willie T. Wolfe, Jr., Donna G. Wolfe, William D. Bunce II and Gail E. Bunce and John Terry Paton, (Rezoning Case #19CZ22 Wolfe Properties PUD) property containing 44.357 acres located at 1209, 1401, 1405 and 1409 Wimberly Road and 1000 & 1012 Double Helix Road, Annexation #677 into the Town’s corporate limits

CN4 Sarah Van Every, Senior Planner

Set Public Hearing for the June 16, 2020 Town Council meeting regarding Rezoning Application #19CZ22 Wolfe Properties PUD and Ordinance. The applicant, Josh Swindell, Envision Homes, LLC., sought 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, 0723504154, 0723508938, &

- 0723601654) from Wake County R-80W and Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ).
- CN5 Sarah Van Every, Senior Planner  
Set Public Hearing for the June 16, 2020 Town Council Meeting regarding Rezoning Application #19CZ23 2524 & 2604 Kelly Road. The applicant, Brian Griffith, sought to rezone approximately 2.1 acres located at 2524 & 2604 Kelly Road (PINs 0731433004 & 0731424892) from Rural Residential (RR) to Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ).
- CN6 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 on the Question of Annexation – Apex Town Council’s intent to annex ATM Development, LLC (New Hill Holleman Road) property containing 0.981 acres located at 3036 New Hill Holleman Road, Annexation #685 into the Town’s corporate limits
- CN7 Shelly Mayo, Planner II  
Set the Public Hearing for the June 16, 2020 Town Council meeting regarding Rezoning Application #20CZ02 3036 New Hill Holleman Road and Ordinance. The applicant, Alonzo Wilson for ATM Development, sought to rezone approximately 0.981 acres from Wake Co. GB to Medium Density-Conditional Zoning (MD-CZ). The proposed zoning is located at 3036 New Hill Holleman Road.
- CN8 Lauren Staudenmaier, Planner I  
Set Public Hearing for the June 16, 2020 Town Council meeting regarding Rezoning Application #20CZ03 James Street. The applicant, Jones & Cossen Engineering, PLLC., sought to rezone approximately 4.09 acres for the property located at 1200 James Street (PIN 0741789012), from Medium Density Residential (MD) to Tech/Flex-Conditional Zoning (TF-CZ).
- CN9 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 Jason Lucia and Trish Klenow (1121 Twin Creek Road) property containing 2.938 acres located at 1121 Twin Creek Road, Annexation #689 into the Town’s corporate limits
- CN10 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 Jainix, LLC (Jainix Green) property containing 6.5791 acres located west of 540 and south of Spire Bend (Greenmoor subdivision) Annexation #690 into the Town’s corporate limits

- CN11 Vance Holloman, Finance Officer  
Budget Ordinance Amendment No. 15 and Capital Project Ordinance Amendment No. 2020-15 to appropriate the proceeds of the Town's recent sale of general obligation bonds
- CN12 Michael Deaton, Water Resources Director  
Emergency interconnection between the Town's water system and Aqua North Carolina, Inc. water system that currently serves the Merion public water system in the area near Colby Chase Road
- CN13 Mary Beth Manville, Human Resources Director  
Five (5) year contract with Cornerstone OnDemand, and authorization for the Town Manager to execute the same, for Recruiting, Performance and Learning Management Software Services
- CN14 Vance Holloman, Finance Officer  
Designation of J. P. Morgan Chase Bank as an official depository for the Town of Apex
- CN15 Mary Beth Manville, Human Resources Director  
FY20-21 Position Classification Plan and Salary Ranges
- CN16 Mary Beth Manville, Human Resources Director  
Approval and amendment of Personnel Policies
- CN17 Vance Holloman, Finance Director  
Resolution authorizing the Wake County Revenue Director to collect taxes on behalf of the Town of Apex
- CN18 Michael Deaton, Water Resources Director  
Fee-in-lieu for 169 linear feet of 8" gravity sewer as part of the Smith Farm Phase 2 development. Due to environmental impacts, this section of sewer cannot be permitted and built at this time. Once development proceeds upstream and this section of sewer is required, the fee-in-lieu funds can be utilized.
- CN19 Colleen Merays, Downtown and Small Business Development Coordinator  
Apex Chamber of Commerce and Town of Apex special event permit application for a banner and yard sign. Signage to include (25+/-) yard type signs installed at various intersections and locations around Apex, and a banner hung across N. Salem Street.
- CN20 Vance Holloman, Finance Director  
Budget Ordinance Amendment No. 16 which appropriates fund balance in the Recreation Capital Reserve Fund for the purpose of transferring those funds to the Recreation Capital Project Fund
- CN21 Mike Deaton, Water Resources Director  
Capital Project Ordinance Amendment No. 2020-16 to appropriate funds for the Inflow and Infiltration Reduction Program & Filter Upgrades Project

CN22 Keith McGee, Fire Chief

Authorization for the Town Manager to sign a Right of Entry Permit between Wake County and the Town to allow a training exercise between Apex, Cary and Morrisville Fire Departments to be held on the Wake County owned parcel of land behind Fire Station 3 (736 Hunter Street)

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

The motion carried by a 5-0 vote.

#### PUBLIC FORUM

Bridgett Taylor spoke on the fiscal year 2020/2021 Budget and Fee Schedule, stating there was no reason to raise any rates seeing as reserve monies are set aside every year. Those savings could be used to meet the budget needs. Too many residents are trying to recover from the shutdown and shouldn't be burdened with additional fees.

Phil Welch offered words of thanks and appreciation for keeping greenways open the past few months. Doing so has been a lifesaver for exercise and contemplation. The greenways were maintained, his bumping into staff dumping trashcans, etc. He even bumped into Council Members along Beaver Creed Greenway in particular. Even though there may have been risks, his experience was that residents were sensitive to keeping distances and being friendly and being sensitive to the conditions we are under due to COVID-19.

#### PUBLIC HEARINGS

There were no Public Hearings for consideration.

#### OLD BUSINESS

There were no Old Business items for consideration.

UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

NEW BUSINESS

NB1 Colleen Merays, Downtown and Small Business Development Coordinator  
Closure of up to 30 on-street parallel parking spaces along N. Salem Street from Saunders 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 September 30, 2020.

Staff stated her department was looking to extend and amend Town Ordinances per Executive Order by Governor Cooper to allow for this request. She asked for one amendment – for this to extend through September 18 to allow for Peak Fest to have the spaces available for them during their event. Responding to Council, staff explained the unassigned spaces process. The spaces would be considered private dining spaces and comply with government guidelines. The spaces would be the personal design of the businesses, plans for which would come back to TRC to ensure adherence to town guidelines.

Staff stated that a letter from the ADBA which included retail businesses and restaurants fully supported the request. All conversations were positive, and all were looking forward to helping their neighbors to head towards 'normal'.

Council stated the change of date was a smart thing to do. Responding to Council, staff stated one day would be enough for clean up after Peak Fest and that staff would work with the restaurants to ensure their items are moved. Staff stated that if July 4<sup>th</sup> events occur, we would work within whatever parameters to accommodate the event. Staff stated the idea was to get broad authority to close the spaces for this length of time. If another event does occur, we would let the restaurants know that they would need to move their items and we would move the barricades.

Responding to Council, staff stated that after going through TRC approval, it would take about a week for staff to have the spaces become usable by the restaurants. The spaces would be closed down all at the same time.

Mayor Gilbert called for a motion. Council Member Killingsworth made a motion to approve the request with the September 18<sup>th</sup> change of date;

Council Member Dozier seconded the motion.

Council stated she was glad that we were able to do this for the businesses and that the ADBA was supportive. She was looking forward to this being a permanent situation where people could safely engage with the community.

Council stated this felt like a dry run for coming years and that this would be great for businesses. This will help restaurants who are only allowed 50% inside capacity; the expansion will allow them to almost meet their previous capacity. Upcoming ABC license changes will also help.

Council stated the parklet was a nice beginning experiment, this now coming full scale. He was looking forward to it becoming permanent.

The motion carried by a 5-0 vote.

NB2 Shawn Purvis, Assistant Town Manager

FY2020-2021 Annual Budget Ordinance and FY2020-2021 Fee Schedule

Staff gave a brief update on changes made between the Workshop and now. He stated we would not depend on grants. We will plan for them, but they would not be set up until funds become available. Responding to Council, staff explained the cuts/changes in capital items.

Mayor Gilbert called for a motion. Council Member Gantt made a motion to adopt the Budget Ordinance and Fee Schedule; Council Member Dozier seconded the motion.

Council thanked staff for the input he felt he was able to make into the budget. The process was smooth, and he appreciated the level of engagement. Staff put together something 'miraculous' while managing to keep the tax rate flat. He spoke about supporting the tax increase, which was partly directed by the voters.

Council stated the budget is an indication of the priorities of Council collectively. He was excited about the projects and spoke about being able to see immediate benefits of spending locally. The budget affects the day to day lives of the community, and Council stated he enjoyed having a strong impact on the local level.

Council agreed with the presented Council comments. The budget process does reflect Council priorities and citizen input. She thanked staff and Council for the collaborative efforts.

Council was also in agreement with presented comments. Everyone shared in things that the people wanted to see. The budget represented everyone paying to help all community members.

Council stated she agreed that the budget reflected the value of the Council and citizens. She was excited about the need to invest in affordable housing and hoped that Apex would be a leader in this and other areas.

The Mayor stated that Apex, speaking of being a leader, was the leader in adopting its budget before anyone else in Wake County.

The motion carried by a 5-0 vote

NB3 Shawn Purvis, Assistant Town Manager

FY2020-2021/24 Capital Improvement Program and associated capital project ordinances

Staff stated these projects were not part of the operating budget, that these were things which would carry over multiple years. He explained some projects would be added to and some would be new. We want to get these set up so that we can get started at the appropriate time. These projects may be the hardest to prioritize and staff thanked everyone for their guidance.

Council asked about the Salem and Saunders Streets projects. Staff stated Fund Balance was appropriated to keep these moving as requested by Council. He explained the timing perspective and logistics issues of the projects.

Council stated he was anxious to get something going on the downtown project; he did not want the projects to languish. He asked about the Tunstall House renovation and the timeline for this. He did not want to see the house decay for another year. Staff explained the steps to the renovation and noted that discussions would need to take place for the use of the property. He stated that the project would move forward over consecutive years. He spoke briefly about the property needing to conform to historic guidelines.

Council asked if there was any idea on grant funding for the Peakway project, staff stating that this was indefinite at this point. However, there was an update forthcoming after which there would be a work session to let Council know where projects would be heading.

Mayor Gilbert called for a motion. Council Member Killingsworth made a motion to adopt the Program and Ordinances; Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

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 adjourned the meeting.

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor

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*This meeting was additionally conducted by use of simultaneous communication*



# REGULAR TOWN COUNCIL MEETING

Tuesday, June 16, 2020 at 6:00 PM

Council Chamber at Apex Town Hall, 73 Hunter Street

## 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 Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier, and Council Members Brett D. Gantt, Audra M. Killingsworth, Cheryl F. Stallings, and Terry Mahaffey. Also in attendance were Town Manager Drew Havens, Assistant Town Manager Shawn Purvis, Town Clerk Donna B. Hosch (remotely), and Town Attorney Laurie L. Hohe

## COMMENCEMENT

Mayor Gilbert called the meeting to order, read a statement of diversity and inclusion related to religion, and gave the Invocation followed by asking for a moment of silent reflection. Mayor Gilbert led the Pledge of Allegiance.

## PRESENTATIONS

PR1 Mayor Jacques Gilbert

Presentation of National Parks and Recreation Month Proclamation

Mayor Gilbert read the Proclamation before presenting it to the 'legendary' Parks and Recreation Director John Brown. The Mayor thanked Mr. Brown and complimented his amazing staff. Mr. Brown stated he was blessed to have a supportive community and elected officials and for having a great team with which to work.

## CONSENT AGENDA

CN1 Amanda Bunce, Current Planning Manager

Set Public Hearing for the July 21, 2020 Town Council meeting regarding an amendment to the 2045 Land Use Map and Rezoning Application #20CZ01 Depot 499 PUD. The applicant, Stephen Dorn, Lennar, sought to amend the 2045 Land Use Map

classification of approximately 5.41 acres, a portion of 0 Apex Barbecue Road (PIN 0731761944), from Office Employment to High Density Residential and to rezone approximately 200.8 acres located at 0 Kelly Road; 1216, 1300, 1330, 1420, 1525, and 1604 S. Salem Street; 0 and 6401 Apex Barbecue Road from Residential Agriculture (RA) and Neighborhood Business-Conditional Zoning (B1-CZ #09CZ01) to Planned Unit Development-Conditional Zoning (PUD-CZ)

CN2 Sarah Van Every, Senior Planner

Set Public Hearing for the July 21, 2020 Town Council meeting regarding Rezoning Application #20CZ05 West Village PUD Amendment in order to revise a zoning condition related to a buffer. The applicant, Josh Decker, McAdams Company, sought to rezone approximately 35.36 acres located at 2412 Kelly Road (PIN 0731331798) from Planned Unit Development-Conditional Zoning (PUD-CZ #15CZ33) to Planned Unit Development-Conditional Zoning (PUD-CZ).

CN3 Amanda Bunce, Current Planning Manager

Set the Public Hearing for the July 21, 2020 Town Council meeting regarding various amendments to the Unified Development Ordinance

CN4 John M. Brown, Director

Amend section 15-10 of the Town Code of Ordinances to approve the use of roller skates at the Apex Skate Plaza

CN5 Vance Holloman, Finance Director

Resolution to amend the Town of Apex Local Government OPEB Trust Agreement to reflect changes in the personnel policy that were adopted by Council on June 2, 2020

CN6 Adam Stephenson, Engineering Supervisor

Award construction contract for 2020 Road Rehabilitation Project (R-20-4) to FSC II, LLC, dba Fred Smith Company and authorization for the Town Manager to execute the contract on behalf of the Town

CN7 Keith McGee, Fire Chief

Approval for the Town Manager to sign a one-year extension of the Fire Protection Agreement between Wake County and the Town of Apex

CN8 Keith McGee, Fire Chief

Authorization for the Town Manager to sign an agreement with the City of Raleigh to provide technician level hazardous materials response by the Raleigh Fire Department's Hazardous Materials Response Team within the Town of Apex

CN9 Donna Hosch, Town Clerk

Apex Tax Report dated 5/13//2020

CN10 Donna Hosch, Town Clerk

Minutes of the Regular Council Meeting of May 19, 2020 and the Budget Workshop of May 26, 2020

- CN11 Eric Neumann  
Capital Project Ordinance Amendment No. 2020-22 to appropriate funds for the Laura Duncan substation
- CN12 Vance Holloman, Finance Officer  
Capital Project Ordinance Amendment No. 2020-24 appropriating funds for various capital projects and Budget Amendment No. 17 which provides funding for some of those projects
- CN13 Mike Deaton, Water Resources Director  
Capital Project Ordinance Amendment No. 2020-23 to appropriate funds for the Lawrence Crossing Sewer Rehab project and to approve Budget Amendment No. 18 which will appropriate funds for a portion of the cost
- CN14 Drew Havens, Town Manager  
Appointment of the following persons to the Parks, Recreation, and Cultural Resources Advisory Commission for three year terms effective July 1, 2020 and ending June 30, 2023:  
Lisa Gerboth - Initial Appointment  
Tom Colwell - Reappointment  
Alan Buck - Reappointment  
and, appointment for a one year term July 1, 2020 and ending June 30, 2021 as  
Chair: Renee Pheifer - Reappointment  
Vice-Chair: Alan Buck - Reappointment  
and, appointment of the following persons to the Public Art Committee for three year terms effective July 1, 2020 and ending June 30, 2023:  
Sean Durham - Reappointment  
Lafayette Trawick - Initial Appointment  
and, appointment for a one year term July 1, 2020 and ending June 30, 2021 as  
Chair: Tom Colwell - Reappointment  
Vice-Chair: Bethany Bryant - Reappointment

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

The motion carried by a 5-0 vote.

#### REGULAR MEETING AGENDA

Mayor Gilbert stated there was an additional request to the Closed Session items, the item to state: pursuant to N.C.G.S. §143-318.11(a)(3) to preserve attorney-client privilege and pursuant to N.C.G.S. §143-318.11(a)(1) to prevent the disclosure of information that is

privileged or confidential pursuant to N.C.G.S. §143-318.10(e) and pursuant to N.C.G.S. §143-318.11(a)(5) to establish and instruct Town staff regarding the Town's negotiating position with respect to real property.

Mayor Gilbert called for a motion to adopt the Regular Meeting Agenda.

Council Member Killingsworth made the motion with the Closed Session addition;

Council Member Stallings seconded the motion.

Council Member Gantt stated he planned to make a process-based vote against the Regular Agenda. He felt New Business 03 was more appropriate as a Proclamation, and he objected to the timing being near the end of the month when it would be difficult for educational or celebratory events to be planned.

Mayor Gilbert re-called for a motion following Council Member Gantt's comments.

Council Member Mahaffey made the motion to adopt the Regular Meeting Agenda;

Council Member Dozier seconded the motion.

Council Members Mahaffey, Dozier, Killingsworth, and Stallings voted in the affirmative; Council Member Gantt voted in the negative.

The motion carried by a 4-1 vote.

#### PUBLIC FORUM

Tahira Hyman spoke about several incidents occurring at Apex Friendship High School involving racial comments made by fellow students. She stated the personal, negative effects of the comments. Ms. Hyman proposed launching a Town of Apex Diverse Committee to focus on outreach projects in the community that target young minority men and women, especially the Black community. It would also provide volunteer opportunities to students as well as allowing more Black owned business to come to Apex. Ms. Hyman planned for the Committee to become a staple in Apex. She asked Council to become a part of the solution.

Allison Best thanked Council and staff for all that they do. She spoke about a safety issue on her street which backs up to an unpaved County road. It is a cut through for the middle and high schools and has seen increased traffic. She has worked with Apex PD and the County to get the road paved and has had no success. Ms. Best exemplified what happens on the street. Her community asked for a temporary fix – a pedestrian barricade until the County could address the road condition.

Anthony Barnes, Jr., representing Black Lives Matter Apex, stated he was one of the organizers of the June 5<sup>th</sup> protest march in Apex. He outlined the key concepts he believed needed to be achieved in order to make progress towards a better future for all Americans. Mr. Barnes gave a brief outline of his background and his relationship with his White girlfriend and speaking with her parents about what actions he would take if ever pulled over while driving. He talked about African Americans' fear of the police and how he hoped this would not carry over to his family members. Mr. Barnes stated now is the time for change and urged Apex PD to look at use of force polices and the targeting of Black Americans. He wanted Apex PD to be a model for the county. Mr. Barnes then stated his demands for change.

Rev. Tracy Johnson, representing Felton Grove Baptist Church, spoke about racial injustice and her experiences with such. She spoke about how she was seen as a threat, inferior, and less than. She urged Council to make decisions of the Town for all residents. Rev. Johnson talked about being told it was not in Apex's and the County's jurisdiction to speak to the youth at her church.

Brianna Baker spoke about the similarities between her and Ayanna Jones who was shot and killed by the police while sleeping on her grandmother's couch. She was present to speak on behalf of all those who barely got to live. Ms. Baker spoke about Black women being the unsung heroes of her generation. She pleaded for the protection of Black women.

Amber Johnson, who attends Greater Felton Grove Missionary Baptist Church, related her story about how students are being taught in relation to racial injustice and how she offered a solution which was basically ignored. She asked Council if they were a part of the problem or a part of the solution.

Stancey Dunn spoke about profiling and being a Black man in America. Police officers now make him nervous, and he wondered if he would be the next hash tag because of the way he looks. Mr. Dunn questioned how the Black community could regain trust in police officers. He does not trust a single one, even though he knows there are good cops. He wanted to regain trust for police officers in Apex, in particular, because this is where he goes to church and where he is employed.

Melissa Moss Oliver, representing Felton Grove Baptist Church, stated she was an assistant principal in the Wake County school system. She provided her family history living here in Apex and stated that she believes Apex is still a wonderful place to live. Ms. Oliver presented her early experiences of racism in Apex. She sees Apex on social media trying

to move in the right direction. Ms. Oliver asked the Mayor to continue taking the stand he was taking. She loves her home town of Apex and still says it's the peak of good living.

Mallory Harris talked about her family teaching her the value of diversity and celebrating differences. She spoke about racism being present, in many forms. Ms. Harris spoke about her experience with racial injustice in school. Lotorius Adams, representing Felton Grove Baptist Church, quoted James Baldwin and spoke about the difficult time the world is going through. She spoke about what she is trying to instill in her daughter. Ms. Adams stated we should all be playing by the same rules in order to not cause unjust loss of life. She spoke about racism being a social disease and how it can infect people in the community. Ms. Adams stated she spoke for 'e-racism'. She spoke about her daughter's experiences in school.

Raven Baker, member of Greater Felton Grove Missionary Baptist Church, spoke about wanting to be a police officer but now changing her mind because of being in a country where all are not forced to be treated fairly. She would now focus on basketball.

Mayor Gilbert stated all comments were well-received by Council and staff and that we are committed to doing what we need to do to make necessary changes.

Jennifer Job submitted comments questioning why Apex has not signed an ongoing proclamation declaring LGBTQ communities welcome and protected and declaring June as Pride Month. She asked that the LGBTQ communities be acknowledged as well as Pride Month.

Kevyn Creech submitted comments related to June being Pride Month. He agreed with the love and unity proclamation, which did mention the LGBTQ community. However, Pride Month was not centered in the proclamation. He spoke about one of his experiences with an LGBTQ youth and the purpose of Pride Month. He asked Apex to take the next opportunity to proclaim June as Apex Pride Month.

Vivian Magarino, art teacher at Apex Elementary, submitted comments on behalf of her students proposing a sustainability partnership between the school and the Town. They have launched a garden club that teaches a variety of subjects. They are hoping it becomes fiscally sustainable. Ms. Magarino spoke about their farm to table initiative and the research activities they went through. She was happy to hear that the Town has approved a Sustainability Coordinator and hoped they would be able to work in partnership with that person, using the school as a pilot for zero trash sustainability. Ms. Magarino outlined how they hoped the initiative would grow.

Council Member Killingsworth was excused from the dais.

Council Member Killingsworth returned to the dais.

PUBLIC HEARINGS

PH1 Sarah Van Every, Senior Planner

Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Tony Karr, Timothy V. Streeter, Billy Ray Wolfe, Sarah W. Ronk, Willie T. Wolfe, Jr., Donna G. Wolfe, William D. Bunce II and Gail E. Bunce and John Terry Paton, (Rezoning Case #19CZ22 Wolfe Properties PUD) property containing 44.357 acres located at 1209, 1401, 1405 and 1409 Wimberly Road and 1000 & 1012 Double Helix Road, Annexation #677 into the Town’s corporate limits.

AND

PH2 Sarah Van Every, Senior Planner

Rezoning Application #19CZ22 Wolfe Properties PUD and Ordinance. The applicant, Josh Swindell, Envision Homes, LLC., sought to rezone approximately 43.52 acres located at 1405, 1409, 1209, & 1401 Wimberly Road and 1012 & 1000 Double Helix Road from Rural Residential (RR) & Wake County R-80W to Planned Unit Development-Conditional Zoning (PUD-CZ).

Staff oriented Council to the sites and details of the requests. A neighborhood meeting was conducted. The PUD will address economy housing. The Parks, Recreation, and Cultural Resources Commission recommended a land dedication contiguous to the future park property and a public greenway easement. Josh Swindell, Envision Homes, spoke to the reason for the odd shape of the entrance. Council asked about solar and the energy efficiency of the project. Council asked about tree replacement, which staff stated the applicant would speak to and how it would impact the ultimate layout. Staff and the Planning Board recommended approval with additional conditions offered by the applicant.

Amanda Bambrick, Attorney with the Morningstar Law Group, gave a brief overview of the process. She spoke about trees and their understanding that this may be the largest tree replacement process so far. She spoke about the economy housing and how these will fit with the other units. Ms. Bambrick explained the needed easements. All homes will be fitted with conduit for future solar panels, and all will have an energy star certification. For those who wish, an electric charging station will be installed in the garage. All conditions related to the fire station were aligned with what the Town envisions. A sidewalk gap would be addressed with a fee in lieu with potential connectivity in the future. Their team could

not address a second greenway in the northeastern corner, and Ms. Bambrick explained why.

Responding to Council about the Wake County median income, Mr. Swindell stated this was a fee simple offering and spoke about what could and could not be controlled. After reviewing how the condition was written, he stated they would allocate about 25% to the Wake County median income. Ms. Bambrick clarified all homes would be within the energy star certification standards, Mr. Swindell clarifying the added options.

Council asked about charging stations at any future amenities, to which Ms. Bambrick stated there would be no amenities.

Mayor Gilbert declared the Public Hearing open. With no one wishing to speak, Mayor Gilbert declared the Public Hearing closed.

Council thanked the applicants for their package and for their collaboration with staff. Council concerns were heard. The package took small steps in the direction the Town wants to go, and he didn't think this was the end of the journey for us. Council talked a bit more about the tree canopy and affordable housing. He wanted to see what more could be done to drive down housing price points.

Council stated she was glad the applicants listened to staff, neighbors, and Council.

Mayor Gilbert called for a motion. Council Member Gantt made the motion to approve the Annexation Ordinance, the Rezoning Application, and the Rezoning Ordinance with the amended conditions and conditions offered by the applicant; Council Member Mahaffey seconded the motion.

Council stated she appreciated the applicant being open to her request and demonstrating being a trail blazer.

Council stated she appreciated the applicant's response to the Town's concerns.

The motion carried by a 5-0 vote.

PH3 Sarah Van Every, Senior Planner

Rezoning #19CZ23 2524 & 2604 Kelly Road. The applicant, Brian Griffith, sought to rezone approximately 2.1 acres located at 2524 & 2604 Kelly Road from Rural Residential (RR) to Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ).

Staff oriented Council to the site. A neighborhood meeting was conducted. Planning staff recommended approval with conditions as offered by the applicant as did the Planning Board.

Responding to Council, staff detailed distance standards for the entrance and stated the entrance would not cause any problems on the roadway. Conversation ensued about property lines and if the entrance would shift at some point in the future.

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 Killingsworth made the motion to approve the rezoning; Council Member Gantt seconded the motion.

Council stated the entrance was not what was originally expected. He was concerned there would not be an entrance with internal connection and that the entrance would be developed independently of the adjacent village. He ideally wanted to see these developed together; he viewed a substandard outcome.

Council Members Killingsworth, Gantt, Dozier, and Stallings voted in the affirmative; Council Member Mahaffey voted in the negative.

The motion carried by a 4-1 vote.

PH4 Shelly Mayo, Planner II

Ordinance on the Question of Annexation – Apex Town Council’s intent to annex ATM Development, LLC (New Hill Holleman Road) property containing 0.981 acres located at 3036 New Hill Holleman Road, Annexation #685 into the Town’s corporate limits  
AND

PH5 Shelly Mayo, Planner II

Rezoning Application #20CZ02 3036 New Hill Holleman Road and Ordinance. The applicant, Alonzo Wilson for ATM Development, sought to rezone approximately 0.981 acres from Wake County GB to Medium Density-Conditional Zoning (MD-CZ). The proposed zoning is located at 3036 New Hill Holleman Road.

Staff oriented Council to the sites. A neighborhood meeting was conducted. Planning staff recommended approval of the annexation and rezoning; the Planning Board recommended approval of the rezoning.

Responding to Council as to incorporating the homes into the HOA, staff stated this had not yet been finalized. The subdivision is currently under construction, the first plat being

under review. A cul de sac or stub street to the next property would be reviewed when a subdivision plan was received. Staff outlined what we would be looking for in the area regarding residential and commercial. There would be sidewalks.

Alonzo Wilson, applicant, thanked staff for working with him on this request. He asked Council for its support and approval. Responding to Council, staff stated the intent was to support affordable housing. At the moment, there was no condition to offer tree replacement, Mr. Wilson stating he would look at this when the development plan is complete. However, he would consider this. Mr. Wilson offered he does have other properties in the area targeted for affordable housing.

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 Killingsworth made the motion to approve the Annexation Ordinance, the Rezoning Application, and the Rezoning Ordinance with the offered conditions; Council Member Gantt seconded the motion.

Council stated he felt this property would be really nice when developed, and that he was excited to see the progress. Council agreed, stating it was a great property to be developed at this time.

The motion carried by a 5-0 vote.

PH6 Lauren Staudenmaier, Planner I  
Rezoning Application #20CZ03 James Street. The applicant, Jones & Cnossen Engineering, PLLC, seeks to rezone approximately 4.09 acres for the property located at 1200 James Street (PIN 0741789012), from Medium Density Residential (MD) to Tech/Flex-Conditional Zoning (TF-CZ)

Staff oriented Council to the site. Planning staff and the Planning Board recommended approval with additional conditions offered by the applicant. Responding to Council, staff explained the meaning of a pilot plant.

Patrick Kiernan, Jones & Cnossen Engineering, representing the applicant, thanked staff for their cooperation. A neighbor concern about addressing off of Energy Drive had been resolved. A condition had been added related to site lighting. He addressed a flooding issue as it related to the pond, indicating resolution would be to drain the pond. Responding to Council, Mr. Kiernan spoke to the design of the site in relation to the land after the pond was drained. He did not envision a smaller pond going back on the property.

Mayor Gilbert declared the Public Hearing open.

The Town Manager stated a comment from Angie Gardner had been received prior to the applicant addressing concerns stated above. The recorded comment was presented.

Mayor Gilbert declared the Public Hearing closed.

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

Council expressed appreciation to the applicant for listening to neighbor concerns.

Council asked if vehicles associated with the request would touch the cul se sac on James Street, the applicant stating the road would only be used when draining the pond. He explained the location of the entrances for construction traffic.

Council asked if the property value question by a resident had been mitigated, Mr. Kiernan stating it had been.

The motion carried by a 5-0 vote.

Mayor Gilbert called for a ten-minute recess.

PH7 Dianne Khin, Director of Planning and Community Development  
Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Jason Lucia and Trish Klenow (1121 Twin Creek Road) property containing 2.938 acres located at 1121 Twin Creek Road, Annexation #689 into the Town’s corporate limits  
Staff oriented Council to the site and stated staff 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 Dozier made the motion to approve the Ordinance; Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

PH8 Dianne Khin, Director of Planning and Community Development  
Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Jainix, LLC (Jainix Green) property containing 6.5791 acres located west of 540 and

south of Spire Bend (Greenmoor subdivision) Annexation #690 into the Town's corporate limits

Staff oriented Council to the site and stated staff 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 Gantt made the motion to approve the Ordinance; Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

PH9 Amanda Bunce, Current Planning Manager

Various amendments to the Unified Development Ordinance as requested by Planning staff

Staff oriented Council to the amendments, stating the Planning Board 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 Dozier made the motion to approve the amendments; Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

#### OLD BUSINESS

There were no Old Business items for consideration.

#### UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

#### NEW BUSINESS

NB1 John M. Brown, Director

Craig Setzer, Park Operations Manager

Implementation of Adopt-A-Park / Adopt-a-Trail Program

Staff detailed how these programs would allow citizens to be more involved by including them in the cleanup of the parks. Staff stated he works with groups wanting to do things to keep the parks nice. He showed examples of signage that would be placed with the names of those selected to participate. Responding to Council, staff stated that if a business wanted to install public art in the parks or along the greenway, it would follow the Public Art Plan. If the request was from a neighborhood, for example, such a request would be brought before Council for approval.

Responding to Council, staff stated that no groups would be excluded from participating but priority would be given to Apex-based groups and residents. Staff further explained the application process, stating that no one or no groups have been turned down as yet. Council thanked staff for this great idea!

Mayor Gilbert called for a motion. Council Member Stallings made the motion to approve the Program; Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

NB2 Drew Havens, Town Manager

\$20,000 contribution to the Apex Chamber of Commerce/Apex Sunrise Rotary Club Angel Fund, a \$20,000 contribution to the Apex Chamber of Commerce for their operational expenses, and Budget Amendment #19 to appropriate Fund Balance to cover these unbudgeted expenditures

Staff outlined the Angel Fund and stated that the Chamber would be looking to make grants fairly soon. The additional operational expenses could be explained by Ms. Flaherty.

Shannon Flaherty, Executive Director of the Apex Chamber of Commerce, spoke more about the Angel Fund for which funding is short. They went through the applications again yesterday; they are wanting to do their part to assist affected businesses. The Mayor pointed out one doesn't need to be a Chamber member to receive funding. It's more about the businesses.

Ms. Flaherty spoke about the community-minded projects in which they're involved. Some Chamber members cannot renew because of the economy situation, but they were not being removed from the process because of this. Therefore, revenues are down. Ms. Flaherty stated they would be grateful for any consideration.

Responding to Council, Ms. Flaherty stated that the requested amount from Council would not meet the Chamber's goals, but it would make such a difference. She stated that there was one municipality that matched Angel Funds and that she would provide numbers for

other municipalities. This request would be a 100% grant, Ms. Flaherty stating the Chamber would want to begin distributing funds by week's end.

Mayor Gilbert called for a motion. Council Member Dozier made the motion to approve the requests; Council Member Killingsworth seconded the motion.

Council stated he was pleased to see this request come through. As time goes by, it will get harder to fundraise. He stated that the ADBA is in a similar situation, unable to hold events and raise funds.

Council stated she hoped that the Town would receive other funding that trickles down and that there would be other things that we could do to support people as other levels of government are getting money down to us.

Council asked if word had come from the County regarding reimbursement of this type of funding from the Town. Staff stated we had received guidance from the County for the application process for certain qualifying expenses related to COVID. We are going through the policy, because we can't overlap what has already been received, i.e., through FEMA. Responding to Council, staff stated this particular action would not be covered; it is not in the policy guidelines. He explained what would be covered.

The motion carried by a 5-0 vote.

NB3 Council Member Audra Killingsworth

Resolution recognizing June as LGBTQIA Month

Council Member Killingsworth stated she was asked by the Mayor to explain the background of the Pride Month Resolution and Love and Unity Day Proclamation. She outlined the process behind a Pride Month proclamation, which the Mayor was not agreeable supporting. He proposed a Love and Unity Proclamation which was not as she originally submitted, but she agreed with the concept of love and unity of all people.

Council Member Killingsworth, however, stated she did not speak up about her additional thoughts, and she expressed those thoughts. In not speaking up, it didn't give the Mayor the time or opportunity to withdraw or adjust the proclamation and she apologized. Council Member Killingsworth stated she had received emails about the subject, and apologized for any problems the process caused.

Council Member Killingsworth named and spoke about many LGBTQIA individuals left out of history, feeling it was important not to forget them. She talked about outcomes of some of their lives. She talked about LGBTQIA youth being homeless and incarcerated and why.

Council Member Killingsworth stated why a Pride Month resolution was asked for. Recognizing such acknowledges not forgetting where they've been, where they are, and where they still need to go. Recognizing such takes pride in their truth of their selves. Council Member Killingsworth read the Resolution.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to adopt the Resolution; Council Member Mahaffey seconded the motion.

Council thanked Council Member Killingsworth for bringing the Resolution forward and acknowledged the importance of naming those who had been/are marginalized in our community and beyond.

Council appreciated the history and the explanation of the path that got us here on this night. She also appreciated those being named.

The Mayor stated he appreciated the apology, but that it was not necessary. This was just a misunderstanding. We will continue to work together and get it right for the future - we will make it work.

The motion carried by a 5-0 vote.

#### CLOSED SESSION

CS1 Laurie Hohe, Town Attorney

Closed Session pursuant to N.C.G.S. §143-318.11(a)(3) to preserve attorney-client privilege and pursuant to N.C.G.S. §143-318.11(a)(1) to prevent the disclosure of information that is privileged or confidential pursuant to N.C.G.S. §143-318.10(e) and pursuant to N.C.G.S. §143-318.11(a)(5) to establish and instruct Town staff regarding the Town's negotiating position with respect to real property

Mayor Gilbert called for a motion to go into Closed Session. Council Member Gantt made the motion; Council Member Mahaffey seconded the motion.

The motion carried by a 5-0 vote.

With no objection from Council, Mayor Gilbert called for a return to Open Session.

WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

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

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



# REGULAR TOWN COUNCIL MEETING

Tuesday, July 21, 2020 at 6:00 PM

Council Chamber at Apex Town Hall, 73 Hunter Street

## 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 Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier, and Council Members Brett D. Gantt, Audra M. Killingsworth, Cheryl F. Stallings, and Terry Mahaffey. Also in attendance were Town Manager Drew Havens, Assistant Town Manager Shawn Purvis, Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe

## COMMENCEMENT

Mayor Gilbert called the meeting to order. He read a statement of diversity and inclusion related to religion and asked for a private moment of silence, after which he gave the Invocation and led the Pledge of Allegiance.

## PRESENTATIONS

There were no Presentations to be made.

## CONSENT AGENDA

CN1 Donna Hosch, Town Clerk

Minutes of the June 2, 2020 and June 16, 2020 Regular Council Meetings

CN2 Amanda Bunce, Current Planning Manager

Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the various Unified Development Ordinance (UDO) Amendments of June 16, 2020

CN3 Sarah Van Every, Senior Planner

Statement of the Town Council for Rezoning Case #19CZ22 Wolfe Properties PUD, Josh Swindell, Envision Homes, LLC/Tony Streeter & Timothy V. Karr, Billy Ray Wolfe, Sarah W. Ronk, Willie T. Jr and Donna G. Wolfe, William D. II and Gaile E. Bunce, and John Terry

Paton for the property located on 1405, 1409, 1209 & 1401 Wimberly Road and 1012 & 1000 Double Helix Road

CN4 Sarah Van Every, Senior Planner

Statement of the Town Council and Ordinance for Rezoning Case #19CZ23 2524 & 2604 Kelly Road, Brian Griffith petitioner, for the properties located on 2524 & 2604 Kelly Road

CN5 Lauren Staudenmaier, Planner I

Statement of the Town Council and Ordinance for Rezoning Case #20CZ03, Patrick Kiernan, Jones & Crossen Engineering, PLLC./Cathleen & Kenneth Watson petitioners, for the property located on 1200 James Street

CN6 Dianne Khin, 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 Charles and Annette Herndon and J Dallas Herndon Heirs (Tullamore) property containing 10.1869 acres located at 1745 and 1805 Holt Road, Annexation #686 into the Town's corporate limits

CN7 Dianne Khin, 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 Faithwill Homes, LLC (Ananda at Bella Casa) property containing 2.0058 acres located at 2708 Blazing Trail Drive, Annexation #691 into the Town's corporate limits

CN8 Dianne Khin, 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 Construction Masters, LLC (Humie Olive Place) property containing 2 acres located at 7904 Humie Olive Road, Annexation #694 into the Town's corporate limits

CN9 Marty Stone, Assistant Town Manager

Authorization for the Town Manager to execute the same for an Encroachment Agreement between the Town and property owner, Tri Pointe Homes, Inc. regarding Wake County, NC PIN#0742-68-5065, 816 Amley Place, as recorded in Book of Maps 2020, Page 205, Wake County Register of Deeds

CN10 Marty Stone, Assistant Town Manager

Authorization for the Town Manager to execute the same for and Encroachment Agreement between the Town and property owner, Tri Pointe Homes, Inc. regarding Wake County, NC PIN#0742-68-5061, 820 Amley Place, as recorded in Book of Maps 2020, Page 205, Wake County Register of Deeds

CN11 Marty Stone, Assistant Town Manager

- Authorization for the Town Manager to execute the same for an Encroachment Agreement between the Town and property owners, James T. Macdonell and wife Katharine G. Macdonell regarding Wake County, NC PIN#0722-64-5123, 2671 Timken Forest Drive, as recorded in Book of Maps 2008, Page 34, Wake County Register of Deeds
- CN12 Marty Stone, Assistant Town Manager  
Authorization for the Town Manager to execute the same for an Encroachment Agreement between the Town and property owner, Pulte Home Company, LLC., regarding Greenmoor Phase 1B Subdivision as shown on the plat recorded in Book of Maps 2017, Pages 1027-1031, Wake County Register of Deeds
- CN13 David Wood, Halle Cultural Arts Center Manager  
Resolution designating Apex, North Carolina as a BEE CITY USA® affiliate
- CN14 Amanda Bunce, Current Planning Manager  
Resolution reaffirming Sarah Van Every as a Wake County Review Officer subsequent to her changing her name from Sarah M. Rayfield to Sarah Van Every. She is already recognized as a Wake County Review Officer in order to certify that each map and plat presented to the Wake County Register of Deeds for recording satisfies the statutory requirements for recording.
- CN15 Russell Dalton, Senior Transportation Engineer  
Resolution to Support Vision Zero Apex
- CN16 Drew Havens, Town Manager  
Amendment to the current Apex Farmers Market Special Event Permit to allow for drive-thru pickup along Seaboard Street on each Saturday, beginning July 11, 2020 and ending April 24, 2021, to close marked parking spaces along the east side of Seaboard Street from 8:00 a.m. until 1:00 p.m. these days, and rescind the prior approval to close the Depot parking lot for the Farmer's Market
- CN17 John Letteney, Chief of Police  
Contract for Off-Duty Police Officer Services provided to the Wake County Public School System (WCPSS) and authorization for the Chief of Police to execute the contract
- CN18 John Letteney, Chief of Police  
NC Governor's Highway Safety Program Local Government Resolution
- CN19 Dennis Brown, Construction Project Manager  
Renewal of lease with NC SECU and authorization for the Town Manager to sign lease for new ATM to be located in the new Mason Street parking lot near the Community Center
- CN20 Eric Neumann

Authorization for the Town Manager to execute the same for an Encroachment Agreement and a Utility Relocation Agreement between the Town and NCDOT. Remove overhead fiber line and relocate to underground.

CN21 Drew Havens, Town Manager

Ordinance to amend the Apex Town Code Chapter 20 related to Towing

CN22 Donna B. Hosch, Town Clerk

Apex Tax Report

Town Manager Havens stated there was a requested add on item: Resolution supporting clean water and the continued monitoring, testing, and removal of regulated contaminants to ensure Apex's drinking water remains safe.

Mayor Gilbert called for a motion to adopt the Consent Agenda. Council Member Mahaffey made the motion with the addition of the stated Resolution;

Council Member Killingsworth 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 Gantt seconded the motion.

The motion carried by a 5-0 vote.

#### PUBLIC FORUM

Larry Harris, Sr., representing the Friendship community, made a presentation to Mayor Pro Tem Nicole Dozier for her efforts in recognizing Juneteenth as a Town holiday. He expressed his appreciation to the entire Council for their recognition of the holiday and the significance of this action. Mr. Harris stated we are moving from protest to policy, and he wants to see us continue to do the good things that change our lives and redeem those who have suffered the oppression of slavery.

Mr. Harris stated his gratitude to MPT Dozier for pushing this action forward. He stated the community's gratitude and presented her with the gift of a Juneteenth tee shirt, which she wore for the remainder of the meeting. MTP Dozier thanked Mr. Harris and the community.

PUBLIC HEARINGS

PH1 Sarah Van Every, Senior Planner

Rezoning Application #20CZ05 West Village PUD Amendment. The applicant, Josh Decker, McAdams Company, seeks to rezone approximately 35.36 acres located at 2412 Kelly Road (PIN 0731331798) from Planned Unit Development-Conditional Zoning (PUD-CZ #15CZ33) to Planned Unit Development-Conditional Zoning (PUD-CZ)

Staff oriented Council to the rezoning specifics. A neighborhood meeting was held. An email from neighbors Mr. and Mrs. Tim Donnelly was read in support of the request. Planning Board and staff recommended approval with conditions offered by the applicant.

Responding to Council, staff answered questions about the 40-foot buffer. Josh Decker, representing McAdams Company, explained the situation with the buffer, stating that their action was to the satisfaction of one of the neighbors.

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 to approve the rezoning. Council Member Mahaffey made the motion; Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

PH2 Shelly Mayo, Planner II

Quasi-Judicial - Revised Major Site Plan for 540 Flex and Business Park located at 1600 Olive Chapel Road. The subject properties are identified on Wake County Tax Maps as PINs 0732235461 & 0732234710.

Mayor Gilbert read a statement outlining the process of the Quasi-Judicial Hearing.

Mayor Gilbert declared the Public Hearing open. All those wishing to speak were sworn in by the Town Clerk.

All Council Members stated they had no communication with the applicant, there were no financial conflicts, and that they could all decide the matter impartially. None had viewed the site.

OPENING STATEMENT BY STAFF: Staff member Shelly Mayo stated her credentials and employment history.

She then oriented Council to the site. A portion of the plan which needed to be adjusted would be discussed this evening. A virtual neighborhood meeting was held. The project complied with all UDO standards.

OPENING STATEMENT BY APPLICANT: David Godfrey, Savage & Godfrey, representing the applicant, stated staff eloquently and accurately reflected the reasons for this request.

CROSS EXAMINATION OF STAFF BY COUNCIL: Council asked about the loss of canopy cover and if this had been discussed with the applicant, staff stating it had not. However, a zoning condition added in 2018 did address tree screening. Responding to Council, staff stated there may be options for additional plantings on the property, but it would be the applicant's job to agree or disagree to doing so.

Responding to Council, staff addressed questions related to RCA.

CROSS EXAMINATION OF STAFF BY APPLICANT: Mr. Godfrey posed several questions to staff regarding the amendment.

There was no non-repetitive rebuttal from staff or the applicant.

TESTIMONY BY APPLICANT: Peter Cnossen, Jones Cnossen Engineering, stated his credentials and professional background and was presented as an expert witness.

Responding to Mr. Godfrey, Mr. Cnossen distributed to Council and into the record Exhibit A and Exhibit B which showed the area of interest. Mr. Cnossen further explained the details of the request and provided background as to why the request was being made. He stated all Standards and Requirements had been met or exceeded.

Mr. Cnossen confirmed to Mr. Godfrey that no tress had been removed in a particular area.

CROSS EXAMINATION OF APPLICANT: None.

REBUTTAL BY STAFF: None.

CLOSING ARGUMENTS BY STAFF: None.

CLOSING ARGUMENTS BY APPLICANT: None.

There were no questions or statements from Council related to the Checklist.

Mayor Gilbert declared the Public Hearing closed.

Mayor Gilbert called for a motion to approve the revised Plan. Council Member Mahaffey made the motion; Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

PH3 Shannon Cox, Long Range Planning Manager

Amendments to the Transit Plan map and the Thoroughfare and Collector Street Plan map of the Comprehensive Transportation Plan

Staff oriented Council to the amendments related to rail and bus transit centers. Staff talked about the spacing of the stations and how this related to densities. Design constraints were viewed. Planning Board and staff recommended approval. The Transit Advisory Committee had not had an opportunity to formulate a recommendation; the amendment had been shared with them.

Responding to Council, staff answered questions related to bus stops.

Staff presented and detailed Scenarios 1 and 2 related to changes which would be further addressed in Public Hearing 4 related to the thoroughfare and collector maps. Staff outlined the similarities and differences between the two scenarios. There had been substantial public interaction. Staff recommended approval of Scenario 1 as did the Planning Board.

Staff responded to Council questions related to changes staff wished to see in Scenario 2. However, staff reminded Council it did not recommend this scenario. Because of that, if we were to move forward with this scenario, we would need to look at and evaluate any further any changes. Staff responded to questions related to the possible underestimate of traffic flow and impact.

**and**

PH4 Amanda Bunce, Current Planning Manager

Amendment to the 2045 Land Use Map and Rezoning Application #20CZ01 Depot 499 PUD. The applicant, Stephen Dorn, Lennar, sought to amend the 2045 Land Use Map classification of approximately 5.41 acres, a portion of 0 Apex Barbecue Road (PIN 0731761944), from Office Employment to High Density Residential and to rezone approximately 200.8 acres located at 0 Kelly Road; 1216, 1300, 1330, 1420, 1525, and 1604 S. Salem Street; 0 and 6401 Apex Barbecue Road from Residential Agricultural (RA) and Neighborhood Business-Conditional Zoning (B1-CZ #09CZ01) to Planned Unit Development-Conditional Zoning (PUD-CZ).

Staff oriented Council to the amendment and rezoning request. Two neighborhood meetings were held. An affordable housing zoning condition was offered by the applicant. The Parks, Recreation, and Cultural Resources Commission recommended a fee in lieu. Planning staff recommended approval of the amendment but not the rezoning unless changes were made by the applicant, those changes being identified. Planning Board did not recommend approval of the amendment or the rezoning and reasons why were stated.

Responding to Council, staff addressed questions about the design of the crossing presented by the applicant as well as the traffic impact analysis. Looking at the latter, staff recommended an alternative to the presented analysis to which the applicant agreed. Staff explained possible future concerns about widening of the bridge and other roadways. Staff recommendations were presented to the applicant.

Jamie Schweder, Parker Poe, representing the applicant, covered the key aspects of the development. She urged Council to approve Scenario 2.

Ronald Stevenson, Rainey Kemp and Associates, covered the two transportation pieces of this plan which were not necessarily exclusive of each other.

Betty Parker, Senior Director of Real Estate Services for the Wake County Board of Education, spoke about the need for schools in relation to the PUD. She spoke about their looking for sites for schools and the collaboration from the community to accommodate student capacity in the area. Ms. Parker spoke about the explosive growth in Apex and how this relates to their future build plans.

Responding to Council, Ms. Parker answered questions related to affordable housing, the prioritization of a pre-K and other types of centers, and getting the maximum use out of land space.

Mayor Gilbert called for ten-minute recess.

Upon returning to the meeting, Mayor Gilbert declared the Public Hearings open.

Emmett Haywood, attorney from Raleigh, accompanied by land owner Pam Utley, gave background on Ms. Utley's property which she agreed to sell for a new school. Also accompanying Ms. Haywood was property owner Cary Hunter whose land has been in his family since the 1700's. In 2010, DOT took most of Mr. Hunter's property, the remaining acreage now being landlocked. Mr. Hunter agreed to the selling a portion of his property to the school board. Both land owners asked for the rezoning to be approved, allowing

non-residential uses on their properties. Ms. Haywood talked about the grade separation bridge that would have a negative effect for the property owners.

Doug Poe, spoke about the farm where he lives, bought by his grandfather in 1930 because of the reputation of the school system. He spoke a bit about the Town back then and how the businesses met the needs of the people. Mr. Poe likes how Apex has planned for change. He thanked Lennar for their project and stated he supported the rezoning.

Responding to Council, Bob Zimmalt with McAdams, stated the new condition that they worked on with staff regarding grade separated crossings. He explained what a tower might look like and how it would function. Staff stated if this condition was approved, it would need to come back to Council for a bicycle and pedestrian systems plan map update amendment. Council questions were answered related to turn lanes. Responding to Council, staff spoke to the impact on traffic flow in the surrounding area resulting from the transportation improvements being offered. Ms. Schweder elaborated a bit more about intersections and the right of way of which DOT did not mandate approval.

Council heard recorded comment from Karen Davis related to the proposed amendments to the thoroughfare and street plan maps. She reiterated her concern for a reduction in the speed limit on a portion of the road and the resulting benefits to the residents.

Council heard recorded comment from Kathleen Freer related to the rezoning and her opposition to high density. She did not want the land use changed. The school system in itself should have been enough to deny the rezoning.

Mayor Gilbert declared the Public Hearings closed.

Responding to Council, staff spoke about the 35-mph speed limit and how it may not affect safety because of the road being a major collector street which would then go into a residential area. A speed study could be done if there were perceived problems in the future.

Council presented development figures for projects that are approved or pending.

Council was glad to see this type of mixed use and recognized that there is a high need for a school in this area.

Council stated he approved of the affordable housing aspect, tree canopy replacement, and infrastructure improvements. While there was not agreement on both sides for

everything, for a project this size, there was significant agreement on a lot of things. We are almost in a school crisis, and this project would solve that dilemma now and going into the future.

Council agreed with the uniqueness of the project. She was attracted to the affordable housing piece, tree preservation, aesthetic and cultural aspects, and the school and its varying centers.

Council stated this was not the original plan from 2004, but this was in the spirit of the plan. He was excited about the project and felt his neighborhood will benefit from the project, especially from the amenities that will be within walking distance. He hoped the commercial part would be a success.

Council stated she has enjoyed seeing the evolution of the project, her having met with the developers three times. The developers have done their utmost to comply with her requests, except for the transportation piece for which there was not total agreement. However, she was excited about the project.

Council Member Gantt made the motion to approve Scenario 2 from Public Hearing 03, with the thoroughfare and collector street plan map grouping and transit plan map amendments; Council Member Killingsworth seconded the motion.

Council stated he was appreciative of the dedication of staff and the Planning Board in defending the transit maps, and that he respected their judgments. We were about to make a trade off because of the need of a school. We were about to go in a different direction, and this was not a criticism of anything previously done.

Council stated he was disappointed with the transit portion. However, things needed to come together in order to get the commuter aspect going.

The motion carried by a 5-0 vote.

Mayor Gilbert called for a motion for Public Hearing 04. Council Member Killingsworth made the motion to approve the request with the Land Use Map amendment and the rezoning with the additional condition;

Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

Various amendments to the Unified Development Ordinance

Staff oriented Council to the amendments. Responding to Council, staff stated the UDO does not have a definition of affordable housing right now, but that this is being worked on. Once completed, amendments to the UDO will come before Council. Planning Board recommended approval.

Council briefly mentioned he was interested in community gardens in neighborhoods.

Staff continued orienting Council to the amendments. The remaining three amendments proposed by Planning staff were outlined, the Planning Board recommending approval. Responding to the Mayor, staff stated there have been complaints in the past about parking at the high schools.

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 to approve the amendments. Council Member Mahaffey made the motion; Council Member Dozier seconded the motion.

Council spoke about his and additional Council being on the Planning Committee and things moving in the right direction through incremental changes.

The motion carried by a 5-0 vote.

#### OLD BUSINESS

There were no Old Business items for consideration.

#### UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

#### NEW BUSINESS

NB1 Nicole Dozier, Mayor Pro-Tem

Amendment of the Town's Personnel Policies to include June 19, Juneteenth, as a paid Town Holiday for employees

Council stated the current paid holidays. As chair of the Personnel Committee, Council stated Juneteenth is the oldest nationally-celebrated commemoration of the end of slavery in the United States. She presented the history of slavery leading to Juneteenth and stated that the Personnel Committee recommended approval of the request.

Council Member Dozier made the motion to amend Town policies to include June 19, Juneteenth, as a paid holiday for Town employees; Council Member Mahaffey seconded the motion; Council Member Stallings made a third to the motion.

Council asked if there was consideration for this day to be a replacement for a revenue neutral switch and possibly looking at programs which would benefit the community with the revenue. Council stated she did not think about this because the cost to the budget as provided by the Town Manager would be minimal. She thought about the cost of people wanting to celebrate or be proud of June 19<sup>th</sup>, and she spoke more about her reasons for this. Council stated she would be happy to call a Personnel Committee meeting to discuss this further, but that she would much rather give people more than less because we tend to get better productivity this way. Council spoke about how the current holidays are not questioned regarding the revenue factor.

Council talked about possibly using one of the Christmas holidays for Juneteenth. He spoke about his advocacy for the neighborhood grant program and how it would be a high impact for a high number of people at a relatively low cost. Further conversation ensued concerning not taking holidays away from people as the down time is needed.

Council stated there is a floating holiday available for different faith traditions.

Council thanked MPT Dozier for bringing this to Council. He additionally thanked Wake County Commissioner Holmes and Raleigh Mayor Baldwin for bringing forth this issue. Celebrating this holiday is one of the most effective ways to raise awareness.

The Mayor also thanked MPT Dozier for her leadership, as this was something she had been passionate about. He stated two young people planned a Juneteenth event downtown this year and how important this was to them. It is important that we take care of the youth in the future.

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 adjourned the Meeting.

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



# SPECIAL TOWN COUNCIL WORK SESSION

Tuesday, July 21, 2020 at 5:00 PM

Training Rooms A and B at Apex Town Hall, 73 Hunter Street

## 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 Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier, and Council Members Brett D. Gantt, Audra M. Killingsworth, Cheryl F. Stallings, and Terry Mahaffey. Also in attendance were Town Manager Drew Havens, Assistant Town Managers Shawn Purvis and Marty Stone, Town Clerk Donna B. Hosch, Town Attorney Laurie L. Hohe, Senior Transportation Engineer Russell Dalton, Long Range Planning Manager Shannon Cox, Planning and Community Development Director Dianne Khin, Public Works & Transportation Director Jose Martinez, Sustainability Program Coordinator Megan Pendell, and Sustainability Analyst Valeria Mera.

Several interested citizens were also in attendance.

## COMMENCEMENT

Mayor Gilbert called the Work Session to order.

Staff outlined the main reasons DOT is having funding issues. Talked about was COVID relief funding and what it is scheduled to go towards. Council stated funding is still available that has not been dispersed.

DOT has stated that any projects not under construction will be delayed. Staff stated those projects for Apex which will be delayed. We have two projects ready to bid, but DOT will not let us move forward with these. We offered to defer our return, but DOT rejected this offer. We have three projects ready for construction authorization, but they will also be delayed.

Staff stated we are approaching the next application schedule. Explained was the time frame it takes from submittal of projects to the awarding of funds. We have successfully pursued LAPP funding for Town projects, and staff outlined those projects.

Responding to Council, staff talked about alternative funding sources. There is some funding for transit and greenways, but not for sidewalks. Staff talked about how bus route start dates would be affected if we can't build bus stops. Staff talked about projects using funding reserves and what projects we do have some funding for. Explained was that we can move forward with the bidding of projects, but we would not receive federal funds for these.

Staff stated the funding picture is changing regularly, and there is a monthly regional meeting with DOT from which we receive updates. Most municipalities don't have funding to move forward with projects on their own. Conversation ensued about bidding projects now which would come in lower than if we wait and don't get federal funding in the end.

Staff stated that bus ridership has declined across the county. It could decline even more if there is not a COVID vaccine by April of 2021. Staff talked about projects that we could possibly do today with possible lower pricing and the risks in doing so. Explained was how it would be costly to separate out the different aspects of a project. Staff stated we plan to keep working to move projects forward. We could bid out a particular project just to see what the cost would be, but it would not be advisable to do so for several projects.

Council stated he doesn't want to do nothing this year. Moving now would be a good way to get things done cheap, as prices will skyrocket in the future. Staff stated we do have projects that are not federally funded. The Chatham Street sidewalk project would be a good one to continue on with.

Consensus of Council was to keep moving forward with current projects and reporting back to Council with updates.

There was brief conversation about the Peakway bridge, its delays, and possible ways that we could move forward with this.

#### ADJOURNMENT

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

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



# REGULAR TOWN COUNCIL MEETING

Tuesday, August 04, 2020 at 6:00 PM

Council Chamber at Apex Town Hall, 73 Hunter Street

## Council and Administration

Mayor: Jacques K. Gilbert and 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

Absent was Mayor Pro Tem Nicole L. Dozier

In attendance were Mayor Jacques K. Gilbert and Council Members Brett D. Gantt, Audra M. Killingsworth, Cheryl F. Stallings, and Terry Mahaffey. Also in attendance were Town Manager Drew Havens, Assistant Town Manager Shawn Purvis, Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe.

Absent was Mayor Pro Tem Nicole L. Dozier.

Mayor Gilbert called the meeting to order, read a statement of diversity and inclusion related to religion, and called for a moment of silence. Council Member Cheryl Stallings gave the Invocation, after which the Mayor led the Pledge of Allegiance.

## PRESENTATIONS

PR1 Jessica Bolin, Environmental Engineering Manager

Introduction of newly hired Sustainability staff

Ms. Bolin presented bios as she introduced and welcomed two new staff members to the Town: Megan Pendell, Sustainability Program Coordinator and Valerie Mera, Sustainability Analyst.

## CONSENT AGENDA

CN1 Amanda Bunce, Current Planning Manager

Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the various Unified Development Ordinance (UDO) Amendments of July 21, 2020

CN2 Amanda Bunce, Current Planning Manager

- Set the Public Hearing for the August 18, 2020 Town Council meeting regarding various amendments to the Unified Development Ordinance
- CN3 Amanda Bunce, Current Planning Manager  
Statement of the Town Council and Ordinance for Rezoning Case #20CZ01 Depot 499 PUD, Stephen Dorn, Lennar, petitioner for the property located at 0 Kelly Road; 1216, 1300, 1330, 1420, 1525, and 1604 S. Salem Street; 0 and 6401 Apex Barbecue Road
- CN4 Sarah Van Every, Senior Planner  
Statement of the Town Council and Ordinance for Rezoning Application #20CZ05 West Village PUD Amendment. Josh Decker, McAdams Company, petitioner for the property located at 2412 Kelly Road (PIN 0731331798)
- CN5 Liz Loftin, Senior Planner  
Set Public Hearing for the August 18, 2020 Town Council meeting regarding Rezoning Application #20CZ06 204 & 206 Lynch Street. The applicant, Trinity Henderson, seeks to rezone approximately .45 acres for the properties located at 204 & 206 Lynch Street from High Density Single-Family Residential (HDSF) to High Density Single-Family Residential -Conditional Zoning (HDSF-CZ).
- CN6 Shelly Mayo, Planner II  
Findings of Fact, Conclusions of Law and Decision approving the 540 Flex and Business Park Major Site Plan located at 1600 Olive Chapel Road
- CN7 Dianne Khin, Director of Planning and Community Development  
Amendments to the Town of Apex Address Policy, originally approved on August 5, 2003, to clarify authority and update street naming processes
- CN8 Dianne Khin, Director of Planning and Community Development  
Amendment to Chapter 18 of the Apex Town Code to correspond to the Town's Address Policy
- CN9 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 owners, Rahul Govindan and Divya Sushma Nair, husband and wife regarding Wake County, NC PIN#0723-70-0306, 2678 Tunstall Grove Drive, as recorded in Book of Maps 2018, Page 01500, Wake County Register of Deeds
- CN10 Eric Neumann  
Approval and authorization for the Town Manager to execute an Encroachment Agreement between the Town of Apex and Town of Cary to relocate an underground primary electric line in a Town of Cary right-of-way on Westhigh Street
- CN11 Shawn Purvis, Assistant Town Manager  
Lease agreement between the Town and the Apex Chamber of Commerce for use of space in The Apex Depot
- CN12 Jessica Bolin, Environmental Engineering Manager

Approval and authorization for the Town Manager to execute the same for a Master Services Agreement between the Town and Aqualis Stormwater Management for monthly maintenance of all Town-owned Stormwater Control Measures (SCMs) for a 3-year period (ending 06/30/2023) with the option to approve two one-year contract extensions after that date

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

The motion carried by a 4-0 vote.

#### REGULAR MEETING AGENDA

Council Member Mahaffey requested that New Business 01 be pulled as more time was needed to evaluate the Ordinance.

Mayor Gilbert called for a motion to adopt the Regular Agenda. Council Member Mahaffey made the motion with the adjustment as stated to New Business 01;

Council Member Stallings seconded the motion.

The motion carried by a 4-0 vote.

#### PUBLIC FORUM

Annie Scott addressed Council about Apex Friendship High School students parking on her field. She stated she was reached out to by parents to allow this parking. Each year it gets tougher and tougher for students to find parking. There had been complaints stemming from people taking shortcuts and dropping off students but not from parking on her property. Ms. Scott stated she'd spoken with the principal, and he thought parking on her property a great idea. Most who park in her yard are those not fortunate enough to get parking spaces on school property. She asked that this parking be allowed.

Ms. Scott stated she has lived in the community 65 years and has always been a community person. She presented a petition started by family members. Ms. Scott stated that Town staff has bullied her about parking for four years, and she felt the situation got personal when she pushed back. She lives in the county and not in the city.

PUBLIC HEARINGS

PH1 Dianne Khin, Director of Planning and Community Development  
Annexation Ordinance – Charles and Annette Herndon and J Dallas Herndon Heirs  
(Tullamore) property containing 10.1869 acres located at 1745 and 1805 Holt Road,  
Annexation #686 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 to adopt the Ordinance. Council Member Gantt  
made the motion; Council Member Mahaffey seconded the motion.  
The motion carried by a 4-0 vote.

PH2 Dianne Khin, Director of Planning and Community Development  
Annexation Ordinance – Faithwill Homes, LLC (Ananda at Bella Casa) property containing  
2.0058 acres located at 2708 Blazing Trail Drive, Annexation #691 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 to adopt the Ordinance. Council Member  
Killingsworth made the motion; Council Member Stallings seconded the motion.  
The motion carried by a 4-0 vote.

PH3 Dianne Khin, Director of Planning and Community Development  
Annexation Ordinance - Construction Masters, LLC (Humie Olive Place) property  
containing 2 acres located at 7904 Humie Olive Road, Annexation #694 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 to adopt the Ordinance. Council Member  
Stallings made the motion; Council Member Mahaffey seconded the motion.  
The motion carried by a 4-0 vote.

Mayor Gilbert called for the return to Public Forum to hear a recorded comment from Alexia Kline. Ms. Kline stated she was an ambassador for the Borgen Project which seeks to engage local citizens for stronger U.S. leadership and to improve living conditions around the world. Ms. Kline outlined the importance of recognizing there is a global not just a local struggle during the pandemic. She spoke about how the pandemic will negatively affect the economy around the world. She wished for Council to pay more attention to this issue by calling on our legislators to support international development programs.

OLD BUSINESS

OB1 Tom Colwell, Chairman, Public Art Committee

Public art mural to be located on a wall of the public works warehouse building facing NC 55 and update on other public art initiatives being undertaken by the Apex Public Art Committee

Mr. Colwell provided an update on ongoing public art projects. The raised manholes have received positive feedback, and these will continue to be painted. The art walk sculpture show will have several sculptures on loan; and if successful, we can do this on an annual basis. The sculptures would show up in a short period time and be walkable for people to enjoy. The installation would be temporary, and a call would go out for artists this fall.

The mural for the Public Works building was put out for public comment. All comments received were well thought out. Mr. Colwell was happy to see the mural coming to Apex. The artist made tweaks based on public comments, and Mr. Colwell presented the final rendition. If approved by Council, the mural would be completed by the end of September.

Council stated the manhole covers look good. He thought about the covers in the roadways and not just on the greenways. Mr. Colwell said the ones in the greenways were a test to see if the artwork was liked and if they would hold up. Potentially, these can be expanded.

Responding to Council, Mr. Colwell clarified the art work for the art walk. It was hoped to have 6 and 8 pieces of art work for the walk.

Council stated she liked the "people/personholes". Council stated he felt art helps to improve the quality of life in Apex. Mayor Gilbert thanked Mr. Colwell for getting this done.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to approve the mural; Council Member Gantt seconded the motion.

The motion carried by a 4-0 vote.

UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

NEW BUSINESS

NB1 This item was pulled from the Agenda as requested by Council

Terry Mahaffey, Council Member

Discussion and possible motion to amend Section 14-33 of the Apex Code of Ordinances related to prohibited noises

CLOSED SESSION

CS1 Laurie Hohe, Town Attorney

Closed Session pursuant to N.C.G.S. §143-318.11(a)(3) to preserve attorney-client privilege; pursuant to N.C.G.S. §143-318.11(a)(3) related to the matter of AB Goodrich Contracting, LLC v. Town of Apex and Stewart Cooper Newell, Architects, P.A.; and pursuant to N.C.G.S. §143-318.11(a)(1) to prevent the disclosure of information that is privileged or confidential pursuant to N.C.G.S. §143-318.10(e)

Mayor Gilbert called for a motion to go into Closed Session. Council Member Gantt made the motion; Council Member Stallings seconded the motion.

The motion carried by a 4-0 vote.

Mayor Gilbert called for a return to Open Session with no objections from Council.

WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

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

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



# REGULAR TOWN COUNCIL MEETING

Tuesday, August 18, 2020 at 6:00 PM

Council Chamber at Apex Town Hall, 73 Hunter Street

## 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 Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier, and Council Members Brett D. Gantt, Audra M. Killingsworth, and Cheryl F. Stallings. Also in attendance were Town Manager Drew Havens, Assistant Town Manager Marty Stone, Town Attorney Laurie L. Hohe, and Council Member Terry Mahaffey and Town Clerk Donna B. Hosch (both remotely).

## COMMENCEMENT

Mayor Gilbert called the meeting to order and read a statement of diversity and inclusion related to religion. Imam Muaz from the Apex Mosque gave the Invocation, after which Mayor Gilbert led the Pledge of Allegiance.

## PRESENTATIONS

PR1 Mayor Jacques Gilbert

Proclamation recognizing the League of Women Voters of Wake County

The entire Council present shared in the reading of this important Proclamation. Dianna Wynn, President of the League of Women Voters of Wake County, stated Women's Equality Day next week was to certify the 19<sup>th</sup> Amendment into law. It is important to put this into a larger historical context. Men and women of color fought for years for full voting rights. Ms. Wynn encouraged voting in spite of the challenges before us. She thanked Council for the Proclamation, which Mayor Gilbert then presented to her.

PR2 John Bosio, Principal – MERJE with Jenna Shouse, Long Range Planner – Town of Apex Updates on the Town of Apex Wayfinding Signage Program, including a summary of the Wayfinding Analysis Report and a proposed sign design concept Staff stated the purpose of the Program. The resulting products will give us wayfinding and messaging plans. The Town has partnered with MERJE to lead the project.

Mr. Bosio stated the intent of a wayfinding program which would market Apex and cut down on signage clutter. The branding has been brought into the project. There are many gateways into Apex, and this is complicated to work with. They have been looking a lot at downtown for its natural and perceived boundaries, which will have more pedestrian-oriented elements. People need to get to parking, and Mr. Bosio wanted to help with this.

Mr. Bosio presented examples of what types of signs might be included. Signs for parks will remain and not change because they are well identified. However, improved will be directions to the parks. Mr. Bosio identified four options: 1-architecture, 2-brand heavy, 3-classic, and 4-elegant charm – which was not particularly liked. With input from various individuals and DOT, they would continue working on an alternate to option four. Mr. Bosio outlined the preferred designs and elements of the signage. They would make sure Apex is different from other municipalities. A new map for downtown would be designed which would be a simplified orientation of where things are.

In looking at the \$75,000 budget, Mr. Bosio broke down the plan into phases. He felt monies should be spent mostly downtown. They would then move further out and to the gateways.

Council was mainly in agreement with the appearance of the signage. Responding to Council, Mr. Bosio explained the accessibility factor of the signage for braille and contrast requirements. He stated there would also be accessibility around the signs.

Responding to Council, staff stated we received 15 survey responses out of the 39 people invited to the initial meetings. Council asked if the general public was invited to the meetings. Staff stated most comments came from staff and businesses. Council stated she felt this was a missed opportunity. Council asked if there could be input from the general public, and that this was something she wanted to see. Mr. Bosio stated the project was at a point where this could, in fact, be done.

#### CONSENT AGENDA

- CN1 Donna Hosch, Town Clerk  
Minutes of the July 21, 2020 Work Session, the July 21, 2020 Regular Council Meeting, and the August 4, 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 for September 1, 2020 on the Question of Annexation – Apex Town Council's intent to

- annex Hector Cuales (Perry Hills Phase 6) property containing 1.66 acres located at 0 and 1105 Tingen Road, Annexation #695 into the Town's corporate limits
- CN3 Michael Deaton, Water Resources Director  
Approval and authorization for the Town Manager to execute the same for an Encroachment Agreement between the Town and Colonial Pipeline Company (CPC) regarding an existing CPC easement located adjacent to the intersection of S. Salem Street and Sugarland Drive in Apex, NC
- CN4 Angela Reincke, Parks and Greenways Planner  
Encroachment agreement with NCDOT relative to the Apex West- American Tobacco Trail greenway connection and authorize Town Manager to sign all necessary documents
- CN5 Mary Beth Manville, Human Resources Director  
Amendment to the Town's Employee Assistance Program contract with Behavioral Health Services (BHS), extending the contract term to September 18, 2023
- CN6 David Dillon, Deputy Fire Marshall  
Ordinance amending Section 20-164 with the addition of subsection (38) to enforce a No Parking restriction along both sides of Sunny Creek Lane and Windy Creek Lane, north and south of Evening Star Drive.
- CN7 Drew Havens, Town Manager  
Amendments to the Town's Special Event Policy to put into writing the existing position that use of town property for a special event at no cost is considered co-sponsorship of that event under our policy and to state more clearly that the Town will not co-sponsor political events.
- CN8 Jose Martinez, PW&T Director  
Cooperative Purchasing Agreement between the Town and Wake County concerning Disaster Debris Monitoring Services and to approve related Cooperative Purchasing Agreement with HDR Engineering, Inc. of the Carolinas and authorization for the Town Manager to execute both agreements
- CN9 Steve Adams  
Contract between the Town and Halle Properties to trade a Town owned property at Old Mill village for a Halle owned property on Hunter Street

Town Manager Havens stated staff requested the removal of CN9 to be heard at a later date. Additionally, there was a corrected page to CN8.

Mayor Gilbert called for a motion to adopt the Consent Agenda. Council Member Stallings made the motion with the requested changes; Council

Member Killingsworth seconded the motion.

The motion carried by a 4-0 vote.

REGULAR MEETING AGENDA

Town Attorney Hohe requested two additional Closed Session items: (1) Pursuant to NCGS 143-318.11(a)(3) to consult with the Town Attorney to preserve attorney client privilege; and (2) Pursuant to NCGS 143-318.11(a)(3) to discuss the handling of the matter of Torres v. Tracy Lynn Carter, et al.

Mayor Gilbert called for a motion to adopt the Regular Agenda. Council Member Gantt made the motion with the requested changes; Council Member Stallings seconded the motion.  
The motion carried by a 4-0 vote.

PUBLIC FORUM

Tom Land addressed Council about the parking situation downtown on Salem Street. Foot traffic has been reduced since the installation of the barricades. Mr. Land felt he had begun to recover at phase 2, but things changed when the barricades went up. He hears complaints about parking, and the downtown charm is gone. Mr. Land realized the intent was for all merchants to benefit, but that has not been the case. He thought the plan would be modified to bring folks back downtown. He wanted parking put back in some places. The tables in front of his store are not used, and this is lost parking to the stores.

Mr. Land stated with the current plan set to expire in September, the merchants hoped that on the 19<sup>th</sup> all parking spaces would be opened back up. He spoke about holiday sales and how the merchants need easy access for customers.

Annie Scott asked Stacy Strong to speak for her in addressing Council. The following individuals spoke in support of continued parking for school students on Ms. Scott's property: Ryan Page, Trish McCabe, Kristi Manning, Lisa Veach, Stacy Strong, Carly Strong, Kate Macdonnell, Micelle Pana, Skip Stam, and recorded comments from Kathy Miles and Kathy Grandshaw. Comments were cited concerning: no adequate parking at the high school, not wanting to quit athletics because of no parking, traffic and safety concerns were unfounded, no accidents or incidents on Ms. Scott's property, accidents at the school occurring but not having to be reported, Ms. Scott's son organizes parking with no issues, and there being no spots for juniors and not all seniors at the high school.

Also offered was appreciation for Ms. Scott providing a place for the kids, congestion is alleviated, Ms. Scott's spaces being a necessity and not a luxury, children being asked to leave if they are not respectful after warning, Ms. Scott watching out while children go to their vehicles, and Ms. Scott being a patriot.

Supporters stated that decisions are being made about Ms. Scott's property [not in Town limits] and she cannot vote for or against issues, parking on the property began before the Ordinance went into effect, no evidence that Ms. Scott's property is affecting home sales, students parking only during the day, and Ms. Scott being extended grace since she was there before the high school was built.

Skip Stam stated he'd sent a letter to Council. 706 people signed a supportive petition which was given to Council. Mr. Stam clarified that Ms. Scott has been faced several times with civil penalties. He did not think Council had the full story before it acted. Now that the full story was known, he asked that the UDO be rescinded to make it possible for students to park on Ms. Scott's property.

Juan Ortega, business owner in downtown, stated barriers are tremendously affecting the businesses. This has been a double whammy since COVID started. His customers and friends have given reasons why barriers are ineffective. He wanted the barriers removed now and not later, because their sales for the rest of the year are crucial. The barriers don't look good, and some spaces are not being used for tables.

Jeff Roach spoke about fee waivers and the noise ordinance. He elaborated on the changing times for construction workers.

Recorded comments from Marshall Barnes, downtown business owner, were presented. He agreed with modification to the parking spaces. However, barricades impede pedestrian traffic. As for parking to dining, he thought the town was going to move to Phase 3 when this happened.

#### PUBLIC HEARINGS

PH1 Liz Loftin, Senior Planner  
Rezoning Application #20CZ06 204 & 206 Lynch Street. The applicant, Trinity Henderson, sought to rezone approximately ±0.45 acres for the properties located at 204 & 206 Lynch Street, from High Density Single Family (HDSF) to High Density Single Family-Conditional Zoning (HDSF-CZ).

Staff oriented Council to the request. Two neighborhood meetings were held. The Planning Board and staff recommended approval. Responding to Council, staff and the petitioner stated no one showed up for the neighborhood meetings.

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 approve the rezoning; Council Member Gantt seconded the motion.

The motion carried by a 4-0 vote.

PH2 Amanda Bunce, Current Planning Manager

Various amendments to the Unified Development Ordinance as requested by Planning staff

Staff oriented Council to the amendments. The Planning Board and staff 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 Killingsworth made the motion to approve the modification; Council Member Stallings seconded the motion.

The motion carried by a 4-0 vote.

#### OLD BUSINESS

OB1 Colleen Merays, Downtown and Small Business Development Coordinator

Modification of current Parking-to-Dining Program layout adopted by Town Council on June 2, 2020 to new layout presented

Town Manager Havens stood in for Ms. Merays regarding the parking to dining barricades to allow street side shopping and dining. Dining is happening but shopping is not. The Apex Downtown Business Association (ADBA) asked for modification to open eight parking spots on the east side and four spots on the west side. This would be easy enough to do.

Staff stated doing so would change the risk profile slightly, and he explained where vehicles could strike the barricades. However, because the barricades are so heavy and with the way the transition would be structured, staff did not think this a huge safety concern. The concern was someone jumping the barricades, which are not easy to get over, but which has been happening since the beginning.

Police staff stated a vehicle struck the parklet, but the driver was drunk. We are a Vision Zero town, and we don't want to do anything to affect this. He was also concerned about texting while driving. If we open up the spaces, some citizens will cross the street at those points, and this potentially increases risk. Responding to Council, he stated we could

reduce concern about hitting barriers if we were to remove the ones in front of several of the stores, leaving an entire area open for parking on that side.

Staff stated we should do what we can to help the downtown businesses. We will make any adjustments as safe as possible from an engineering standpoint. He thought what was proposed would work fine.

Responding to Council, staff clarified the specifics of the crash. Council asked could we increase awareness to the public. Staff stated we could put signs on the barricades that say, 'do not cross'. He felt the ADBA's request was reasonable, but we could re-evaluate the situation if we needed to. The changes could be done before the end of the week.

Responding to Council, Mr. Reese from the ADBA stated they were appreciative of Council's willingness to implement this. He presented background on why the request was made – in response to requests from restaurants to service its customers. Staff and the ADBA developed this plan through negotiation. He believed customers would use the cross walks, and he spoke about possible signage. Mr. Reese stated they preferred 15 minute parking, but did not know if this could be implemented. The request was initiated by the retail businesses because downtown has been barren since COVID and they needed to get restaurants back up.

Council preferred a modification to the request which would be to remove the barrier in front of Stylish Living as requested earlier by its owner. Staff stated this would reduce the number of tables for restaurants in that area. He did not know if tables at this location were highly used. Staff did not want to start picking winners and losers.

The Mayor recalled Mr. Reese who offered background on why the modification was important. Mr. Land then spoke about the parking spot at Mission Market and what modification would be beneficial for them. After certain hours, the tables are not used. He further explained parking usage.

Responding to Council, Mr. Dennis, business owner, spoke about parking at his store. He didn't feel the extra parking spots would make that big of a difference. He had spent \$1,400 on the tables.

Council stated this was temporary; we should think long term. The Downtown Plan provides for permanency, and this Plan should not be derailed. Right now, this was a fit, but it was not an apples-to-apples comparison.

Council echoed Council's concern. This situation is not what it will be in the long-term Plan. He did not think it should prejudice the Plan. He supported the request by the ADBA, and he talked about the flexibility for the Plan at this point. He was not sure this is the solution, but he was willing to give it a try.

Mayor Gilbert called for a motion. Council Member Gantt made the motion to approve the modification; Council Member Dozier seconded the motion.

Council stated she wanted to see signage and the option to reevaluate the changes.

Council stated we should maintain the spaces she mentioned earlier. Staff stated we will see if we can pick up one more space so everyone wins, but pedestrian safety is going to be number one.

The Mayor talked about an apparent hardship to almost all business owners. He complimented businesses and staff for working together.

The motion carried by a 4-0 vote.

OB2 Drew Havens, Town Manager

Temporary Ordinance Modifications extending the current suspension of utility disconnections and application of penalties and fees for unpaid utility balances  
Staff provided a history of this action, stating that the Governor's order sunsetted in July. Some municipalities had severe hardship, but not Apex. Our action will sunset on August 31<sup>st</sup>. Staff presented figures on monies owed for services, noting that the number of customers has increased. We sent out letters in June about available payment plans; we have had zero takers. Staff stated the thought that until we get to our sunset, people will not make payment plans. If Council extends the sunset date, we would send out the same letter as previously. We are holding out hope that federal or state funding is coming for those with demonstrated need.

Responding to Council, staff spoke to the impact of our missing revenue. We have no issue with solvency of either electric or water, and staff explained how funds were budgeted. He was not concerned with lack of solvency at this point.

Responding to Council, staff stated we are running a tight ship right now. If suspensions continue, we will continue to find ways to keep the belt tight. We are able to pay our bills, and we are not going broke. If we extend the suspension and our financial situation

changes, we will be back before Council. Staff will find out if there is a predicted date when the red flag may go up.

Council stated she wanted to extend suspensions through September 11. She wanted to hold people harmless as much as possible. People need to not be compromised by not having services. She had engaged US Senators Tillis and Burr and was delightfully surprised at their responses. Council explained the conference call with Senator Burrs' office and the main points that were brought out. It was made clear that Apex needs commitment from the federal level to support local governments. Conversations will be ongoing. Council thanked Council for having the conversation. Her preference was to extend to the end of September and to see where it went from there.

Council stated the Town has been compassionate and a leader. He was concerned about zero takers on the payment plan as this was a red flag. He would not support the extension. This was an unfunded liability, and he had no faith in the State.

Mayor Gilbert called for a motion. Council Member Dozier made the motion to adopt the Ordinance extending through September 30; Council Member Killingsworth seconded the motion.

Council stated that if there was some plan to take care of the liability, then he would be happy to extend.

Council stated we have not lived through this before. Poverty is hidden in Apex, and people are experiencing what they haven't before. We are not in any financial stress.

Council stated he didn't think we have insight as to people's motivation. He thought that people received the first letter and needed to make the tough decision as to what would not be paid if they paid for electricity. People are in need; they don't have the money. The unemployment program just ended, so the situation is now more dangerous. Shutting off services is not going to make the money materialize. Council stated reasons why he felt this was a good idea. We have gone to extended lengths to help businesses. We should go longer to help people.

Council Members Dozier, Killingsworth, and Stallings voted in the affirmative;  
Council Member Gantt voted in the negative.  
The vote carried by a 3-1 vote.

UNFINISHED BUSINESS

There were no Unfinished Business items for discussion.

NEW BUSINESS

NB1 Drew Havens

Providing financial support for the Kissena Lane Affordable Housing project in the form of waivers of administrative fees and issuance of grants from the Affordable Housing Fund for Water and Sewer Capital Reimbursement Fees and Recreation Fees-in-lieu contingent upon application for annexation of the associated property into the Apex town limits

Staff stated that Council was familiar with the lots which were previously approved. The property owner was asking for a grant for fees as outlined. This would be somewhat of a precedent. We can't waive some of the fees, but they could be paid out of affordable housing which is in the budget this year.

Jeff Roach, Peak Engineering and Design, talked about Habitat working with the requestor. Whatever money is granted or given back will go back to Habitat to keep lot prices as low as possible. Staff has been great to work with. He hoped Council could support this for the nine lots.

Responding to Council, staff stated other municipalities do this type of grant. He explained the financial structure but didn't know if this was on or under par. The Affordable Housing Plan will help to provide more solid guidance as it is developed. The Plan will be complete by the end of the year.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to approve the request; Council Member Stallings seconded the motion.

The motion carried by a 4-0 vote.

NB2 Drew Havens, Town Manager

One-time grant to the ADBA to cover expenses related to their now-cancelled PeakTique fund raiser

Staff stated this annual fundraiser, moved to September, was cancelled due to COVID. The incurred expenses were made from their planning prior to COVID. The ADBA has provided us receipts.

Mack Thorpe, Rusty Bucket owner, explained that the event insurance had a clause specifically spelling out that the policy would be nullified if the event was cancelled due to COVID.

Staff stated this was an unusual situation, and the ADBA did what they should have done. The expense amount was a little over \$1,200.00

Mayor Gilbert called for a motion. Council Member Dozier made the motion to approve the requested expenses; Council Member Gantt seconded the motion.

The motion carried by a 4-0 vote.

NB3 Terry Mahaffey, Council Member

Amendment of Section 14-33 of the Apex Code of Ordinances related to prohibited noises

Council outlined the various ordinances from municipalities throughout Wake County. Apex has a lot of construction noise which is a quality of life issue, and Council felt 8:30 p.m. too late a shut off time. Council presented Holly Springs and Cary Ordinances. It is more appropriate to have an ordinance which matches our neighbors than to match Raleigh's ordinance, which our ordinance does.

After discussion in committee, Council engaged other stakeholders to get more feedback to try to come to some compromise. The proposal is midway between Apex, Cary, and Holly Springs ordinances. The proposed ordinance would change our times to 7 a.m. to 7 p.m. Council stated the language was clarified for loud and excessive construction noise activity and would apply when two or more people complain about the noise.

Council clarified that this does not cover owners working on their own small projects in their homes, making this proposal more permissive for homeowners. Council stated he explored a seasonal schedule, but there would be legal issues about how noise would be regulated. The effective date would change to January 1, 2021 to accommodate current construction which may be impacted.

Council asked were there a lot of concerns from builders about this modification. Council stated they would have wanted more time for evaluation, but the proposal was a compromise which integrated builder concerns. Council noted that there are no concerns about Cary's and Holly Springs' ordinances.

Council stated he was sensitive to noise, noting that any concerns would go away after a house is built. In committee he suggested a little later time on Saturdays and Sundays. As

a note, Council thought that if we wanted to improve quality of life, we should do train quiet zones. He recognized this was not what was being talked about on this evening.

Council agreed trains are an issue but not what was being talked about this evening. Housing builds could last a year, and we need to improve the quality of life for citizens. He did not see a reason we should not help to improve quality of life.

Council clarified he proposed a two-hour delay in the mornings on Saturday and Sunday to take care of early mornings in the weekend time.

Council asked if working on Sundays was relatively new in Apex, Council responding that contractors normally don't work on these days, but they may use them as rain make up days.

Council stated she was concerned about not having any construction at all on weekends. She was agreeable as long as construction was not loud and excessive.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to approve the amendment; Council Member Dozier seconded the motion.

Council, in reference to quiet zones with the trains, stated Council worked for several years on this issue. Trying to get the quiet zones was an impossibility even with the help of congressional members and our paying a significant amount of money for one zone which is still not a quiet zone. Council stated he thought it was still worth pursuing. He added he did not know the cost consequences of this proposal.

Council Members Dozier, Killingsworth, and Stallings voted in the affirmative;

Council Member Gantt voted in the negative.

The motion carried by a 3-1 vote.

#### CLOSED SESSION

CS1 Mayor Pro Tem Dozier

Closed Session (1) To discuss a personnel matter; (2) Pursuant to NCGS 143-318.11(a)(3) to consult with the Town Attorney to preserve attorney client privilege; and (3) Pursuant to NCGS 143-318.11(a)(3) to discuss the handling of the matter of Torres v. Tracy Lynn Carter, et al.; and (3) To discuss a personnel matter

Mayor Gilbert called for a motion to go into Closed Session. Council Member Gantt made the motion; Council Member Dozier seconded the motion.

The motion carried by a 4-0 vote.

WORK SESSION

There were no work Session items for consideration.

ADJOURNMENT

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

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



# REGULAR TOWN COUNCIL MEETING

Tuesday, September 01, 2020 at 6:00 PM  
Council Chamber at Apex Town Hall, 73 Hunter Street

## 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 Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier, and Council Members Brett D. Gantt, Audra M. Killingsworth, Cheryl F. Stallings, and Terry Mahaffey. Also in attendance were Town Manager Drew Havens, Assistant Town Manager Shawn Purvis, Town Clerk Donna B. Hosch (remotely), and Town Attorney Laurie L. Hohe.

## COMMENCEMENT

Mayor Gilbert called the meeting to order and read a statement of inclusion and diversity related to religion. Mallory Harris, Felton Grove Baptist Church, gave the Invocation, after which Mayor Gilbert led the Pledge of Allegiance.

## PRESENTATIONS

PR1 Nicole Dozier, Mayor Pro Tem

Nicole Dozier, Mayor Pro Tem presented the Think Apex Awards

MPT Dozier welcomed everyone to the 2020 Think Apex Awards ceremony and gave background on her creating the Think Apex initiative. She thanked all who made nominations before announcing all those who were nominated in the various categories. Individual or Group Category: Doris Battle, Garrett Raczek, Hector Cuales, Ive Jones, Paul Stam, Stephen West, Sucharitha Murugu, and Tina Sherman. Nominees for the Business Category were: Apex Fencing Academy, Avalon Peaks Apartments, Common Grounds Coffee House and Desserts, Fresh Local Ice Cream, Jenny Midgley Photography, Lake Pine Animal Hospital, and Utica Bakery. Nominees for the Non-Profit Category were: Apex Chamber of Commerce and Apex Public School Foundation.

MPT Dozier read the nomination for the Individual or Group Category, after which she presented the Honorable Mention award to Hector Cuales. She then read the nomination for the Top Thinker in this category, after which she presented the award to Stephen West.

MPT Dozier read the nomination for the Business Category, after which she presented the Honorable Mention award to Common Grounds Coffee House and Desserts. She then read the nomination for the Top Thinker in this category, after which she presented the award to Apex Fencing Academy.

MPT Dozier read the nomination for the Non-Profit Category, after which she presented the Honorable Mention award to the Apex Chamber of Commerce. She then read the nomination for the Top Thinker in this category, after which she presented the award to Apex Public School Foundation.

MPT Dozier stated it has been her pleasure to do this initiative. While things are different, things are still moving on. She thanked all for what they do, all who nominated, and all those in attendance. She was appreciative for what the award winners do every day. MPT Dozier thanked Council and staff for their support.

PR2 Anne Harrison, Simple Gifts Community Garden

Presentation from Anne Harrison, representing Simple Gifts Community Gardens

Ms. Harrison stated that her friend Sandra Webb was in attendance with her. She gave the history of how the Garden got started. A project that stuck in her head was the growing of a community garden. Jean Hack offered her land for the Garden for as long as she was alive, which started in 2009. They have expanded over the years, adding various types of gardens. If a family wanted to join the Garden, it would cost them \$15. If they worked, they could take home part of the produce. The Garden supports five local foodbanks as it is important to get food to those who are food insecure.

Ms. Webb stated food is only one dimension of the Garden. She talked about how the Garden is taken care of using natural elements. They have donated over 20,000 pounds of food to the local foodbanks. They are also creating educational opportunities. Another dimension is the community aspect. Everyone is welcomed, respected, and valued. They have aligned with Apex United Methodist Church, but have quotes posted on their shed from all kinds of traditions. Ms. Webb talked about the other various projects in which they are involved. She hoped Council could find ways to partner with them to continue their effort.

Ms. Harrison stated their future is uncertain with the passing of Ms. Hack. She talked about what is located on the property. She thought the property would make a great park and there would be a lot to be gained by saving what is there. Ms. Webb thanked Ms. Harrison for her work over the last 12 years. Ms. Harrison figured out how to continue to grow the Garden even in the midst of COVID.

The Mayor stated he had been to the Garden, and it is beautiful.

CONSENT AGENDA

- CN1 Donna Hosch, Town Clerk  
Minutes of the March 17, 2020 Regular Council Meeting
- CN2 Amanda Bunce, Current Planning Manager  
Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the various Unified Development Ordinance (UDO) Amendments of August 18, 2020
- CN3 Lauren Staudenmaier, Planner I  
Set Public Hearing for the October 6, 2020 Town Council meeting regarding Rezoning Application #20CZ07 2309 Old US 1 Highway. The applicant, Rich Levert, sought to rezone approximately 1.60 acres for the property located at 2309 Old US 1 Highway (PIN 0720985958), from Rural Residential (RR) and Tech/Flex-Conditional Zoning (TF-CZ #15CZ25) to Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ).
- CN4 Marty Stone, Assistant Town Manager  
Approval of and authorization for the Town Manager to execute the same for an Encroachment Agreement between the Town and property owner, Katharine Heinkel, regarding Wake County, NC PIN#0722-68-8817, 727 Meadowside Court, as recorded in Book of Maps 2018, Page 00062, Wake County Register of Deeds
- CN5 Marty Stone, Assistant Town Manager  
Approval of and authorization for the Town Manager to execute the same for an Encroachment Agreement between the Town and property owners, Hyun J. Woo and spouse David W. Lee, regarding Wake County, NC PIN#0723-60-4354, 2712 Tunstall Grove Drive, as recorded in Book of Maps 2018, Page 00961, Wake County Register of Deeds
- CN6 John Letteney, Police Chief and Vance Holloman, Finance Officer  
Budget Ordinance Amendment No. 1 which appropriates Fund Balance in order to purchase body worn cameras for all sworn members of the Apex Police Department
- CN7 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 for September 15, 2020 on the Question of Annexation – Apex Town Council's intent to

- annex MFW Investments, LLC (Colby Crossing) property containing 7.578 acres located along a portion of the future connection of Colby Chase Drive between Merion and Pemberley subdivisions, Annexation #651 into the Town's corporate limits
- CN8 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 for September 15, 2020 on the Question of Annexation – Apex Town Council's intent to annex Kimberly & Loomis Horton, III, Mary Elizabeth Horton, Dwight Marvin Wright, MFW Investments, LLC, and MFWIRA, LLC (Horton Park PUD) property containing 101.356 acres located at 8140, 8252, 8306 and 8308 Smith Road, 0 East Williams Street, 0,0,0,0 & 0 Dezola Street and 5220 Jessie Drive, Annexation #687 into the Town's corporate limits
- CN9 Patrick Lechner, Facilities & Grounds Manager  
Approval of and authorization for the Town Manager to sign three-year contract agreements with Gregory Poole Generator inspection/maintenance
- CN10 Patrick Lechner, Facilities & Grounds Manager  
Approval of and authorization for the Town Manager to sign three-year contract agreement with FESS Fire protection
- CN11 Mary Beth Manville, Human Resources Director  
Auto-renewing contract with Delta Dental of North Carolina, effective July 1, 2020

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

#### REGULAR MEETING AGENDA

Mayor Gilbert stated there was a request to add a second Closed Session item to discuss the location of a business or industry in the Town of Apex.

Mayor Gilbert called for a motion to adopt the Regular Agenda. Council Member Gantt made the motion with the stated addition; Council Member Dozier 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, Director of Planning and Community Development  
Ordinance on the Question of Annexation – Apex Town Council's intent to annex Hector Cuales (Perry Hills Phase 6) property containing 1.66 acres located at 0 and 1105 Tingen Road, Annexation #695 into the Town's corporate limits  
Staff oriented Council to the site which is the site Mr. Cuales was recognized for tonight with a Think Apex award. Staff 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 Dozier made the motion to adopt the Ordinance; Council Member Killingsworth seconded the motion.  
The motion carried by a 5-0 vote.

OLD BUSINESS

There were no Old Business items for consideration.

UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

NEW BUSINESS

NB1 Mike Deaton, Water Resources Director  
Waive the \$4,700 Civil Penalty that was assessed to the Center Street Pharmacy property owner on March 19, 2020. The property owner failed to submit an annual inspection report for the on-site stormwater control measure (SCM) in accordance with UDO Section 6.1.12(l) (1).  
Staff stated the penalty was for not submitting an annual inspection report for the owner's onsite stormwater control measure as required by the UDO. Over 11 years, none of the SCM inspection reports were submitted in a timely manner. Seven violation notices have been issued, and staff has worked with the property owner to remind them of their obligation. The property owner has stated hardships have made the penalty payment difficult. The SCM is now in compliance, and the property owner states he will not miss future deadlines.

Dr. Raj Polavaram, property owner, stated this has been a sore spot for him and his business partner. He stated they couldn't get the property rented; therefore, they have received no income. They have, however, kept up with the taxes and other things having to do with the property. The inspection is compliant as of October. The other property owner, who lives out of the country, was supposed to take care of this. However, he only paid his half of what was due. Dr. Polgyaram stated he was out of town, and it was not his intention to be non-compliant. He has been trying to do what else was needed on the property which is why he asked for this waiver. He will try to be compliant in the future. Responding to Council, Dr. Polgyaram stated that from now on, he would pay the fees himself. He stated there are hardships between him and his partner.

Council asked what procedures Dr. Polgyaram has put in place so this would not happen again. He restated that he, himself, would pay from this point forward and not rely on his partner who lives outside the country. His partner is not happy because the property is not making money.

Council stated the Town has been very lenient since 2009 and that others also struggle to pay. She asked was there consideration for a flexible payment plan. Also, Dr. Polgyaram stated he would try to be compliant, and trying and doing are two different things. She wanted to be sure that Dr. Polgyaram was treated equitably to someone else who would do the same thing. Dr. Polgyaram stated that no matter what, he will not rely on his partner and pay regardless. As for a payment plan, it would have been tough on him because of the circumstances of the building.

Responding to Council, staff confirmed the property has passed inspection and the report has been received from the consultant.

Council asked what was involved in the inspection process and how much it cost. Staff stated the process, the cost being about \$400-\$600 by the consultant.

Council asked how many of these penalties we assess in a year, staff stating this was the first for a stormwater control measure. Sometimes the requirement is not met, and the person is sent an NOV. This has worked well to get penalties paid. Staff stated the accrual process has been 47 days in this case. Council asked the Town Attorney if we could reduce instead of eliminating the penalty, to which she answered it could be reduced, waived, or stand as is.

The Mayor asked how responsive was Dr. Polgyaram to us as far as communication throughout the process. Staff stated the property owner is tough to get in touch with. We

have used email and phone calls to try to reach him. We have been to the property, but it is vacant. The penalties and NOV were sent to his Cary address.

Council understood situations for this year. She was concerned with the history of how long this has been going on.

Council agreed and stated the penalty was due in April and now we're in September. She asked why are we looking at this now? She wanted to be fair but equitable. She thought we needed to talk more about options. The Town has bent over backwards over the past 11 years. She did not know if this was something we could do for every business in this way. She was okay with reducing the amount, but it needed to make sense what it would be reduced to and a timeframe for payments needed to be set.

Council agreed the history of non-compliance was perplexing – why did this take 11 years. If this was the first time we were trying to issue this penalty and then we waive on doing so, it would take away some of the enforcement action. He was not in favor of a complete waiving of fees. He was happy to see Dr. Polgyaram was in compliance at this point. He was sympathetic because of the times, but wanted some penalty associated with this to settle.

Council agreed. This has been many years of this same problem, and this is concerning. There is no guarantee this won't be an issue next year and so on. She agreed with reducing the amount and possibly doing some type of payment plan.

Council stated he would not support waiving the penalty, because it's a bad precedent. We have our rules and should be able to enforce them. He was okay with some sort of payment plan.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to reduce the penalty to \$1,500, Council Member Killingsworth seconded the motion.

Responding to Council question, Council explained the \$1,500 was large enough to still feel like a penalty, but he felt it recognized the economic situation and showed some flexibility on the Town's part.

Council stated she needed for this to make sense and wanted guidance from staff as to what a reasonable amount would be. She also wanted to receive from staff what would be appropriate in similar situations.

Responding to Council staff stated our ordinance states penalties up to \$100 per day. It would be hard to come up on the fly with something that's not arbitrary. We would also want to look at how we would handle similar situations. Council stated she would be more comfortable with staff coming up with something in case there were similar situations.

Dr. Polgyaram restated his partner lives outside the country. Therefore, he has taken over the entire responsibility. This will be the last time this happens. If he was given one more chance and he defaulted again, then he would go back and pay the whole amount.

Council stated she was a business owner also, and this was about business decisions and managing business. This was about the history of 11 years of non-payment and not just this year.

Council conversation ensued about doing something outside the policy and making it clear about how they arrived at a reduced number, and more clarity to the policy.

Council stated our rules are crystal clear, and now we're not following them. It is muddling things.

Council stated his goal was to compel compliance and now Dr. Polgyaram is in compliance.

Council stated she wanted to be able to show, should someone else come before Council, that we are being equitable according to the situation. Again, this is September – what happened in April?

Council Member Mahaffey was in agreement with revising his motion for staff to come back with the recommendation of a reduced amount; Council

Member Killingsworth was in agreement to second the motion.

Council Members Mahaffey, Dozier, Killingsworth, and Stallings voted in the affirmative; Council Member Gantt voted in the negative.

The motion carried by a 4-1 vote.

Responding to Council, staff cleared up why this was before Council and not the Board of Adjustment. The Board of Adjustment hears the violation. In this case, the violation is not being contested; the only body that can waive the fee is Council.

NB2 Joanna Helms, Economic Development Director

Extension of a ground lease agreement and an option to purchase agreement with Jack1, LLC regarding the Cash Corporate Center economic development site. Staff briefly oriented Council to the site. Apex entered in a development agreement with the property owner. The site has become NC certified, and all milestones have been reached for pre-development. An addendum to the lease describes an initial term of 3 years with the Town having the option to extend for three more 3-year terms. To extend beyond the initial term, the Town must give the owners a 90-day notice. The initial term expires in December, and staff recommended extending the lease since this is our only marketable industrial site that is shovel ready.

Staff showed charts of the number of site inquiries. There are currently three very active projects looking at the Center. Also, 4 parties have expressed interest in looking at the entire site, and staff explained the terms of this in the lease agreement. Staff stated the site is doing what it was expected to do.

Responding to Council, staff clarified the terms of the agreement to extend. The Town can buy down portions of the property in year three, there being a fixed price.

Responding to Council, staff explained why there have not as yet been any projects, mainly because this is a competitive market.

Mayor Gilbert called for a motion. Council Member Gantt made the motion to approve the extension of the ground lease and the option to purchase agreement; Council Member Mahaffey seconded the motion.

The motion carried by a 5-0 vote.

#### CLOSED SESSION

CS1 Laurie Hohe, Town Attorney

Closed Session (1) pursuant to GS 143-318.11(a)(3) to consult with the Town Attorney concerning the handling of the matter of Torres v. Tracy Lynn Carter, et al., and (2) to discuss the location of a business or industry in the Town of Apex

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

The motion carried by a 5-0 vote.

WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

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

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



## AGENDA | REGULAR TOWN COUNCIL MEETING

Tuesday, September 15, 2020 at 6:00 PM

Council Chamber at Apex Town Hall, 73 Hunter Street

### 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 Manager: Shawn Purvis |

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 Brett D. Gantt, Audra M. Killingsworth (remotely), Cheryl F. Stallings, and Terry Mahaffey. Also in attendance were Town Manager Drew Havens, Assistant Town Manager Shawn Purvis, Town Clerk Donna B. Hosch (remotely), and Town Attorney Laurie L. Hohe.

### COMMENCEMENT

Mayor Gilbert called the meeting to order and spoke about those who lost their lives during 911. He asked for a moment of silence to pay respect to these individuals. Mayor Gilbert then led the Pledge of Allegiance.

### PRESENTATIONS

ADDED PR2 Beth Bordeau, Executive Director, Western Wake Crisis Ministries

Ms. Bordeau, speaking remotely, stated she wished to share with Council what they are seeing in the community during COVID. She stated their Vision Statement and explained how this Statement was being met. She also spoke about their core values. WWCM services have changed since COVID, and Ms. Bordeau outlined those changes. She also outlined the programs they've recently started. Ms. Bordeau presented figures on what they've been spending on housing assistance.

WWCM has spent the \$40,000 which the Town provided in grants a few weeks ago. Charts showing housing debt were presented, and Ms. Bordeau explained how COVID has impacted the families.

Racial inequities are highlighted at this time, especially Hispanics and Latin-x's, and Ms. Bordeau explained how this is so. Predators are seeking these vulnerabilities and taking advantage, particularly in the areas of human trafficking and the homeless.

Ms. Bordeau was thankful to the Town for the extended moratorium on utility cutoffs and asked for these efforts to continue until people can stabilize. She also thanked the Town for its continued efforts on affordable housing and where it may lead for the community.

Responding to Council, Ms. Bordeau stated she can compile figures on the number of how many homes/families the agency has touched since COVID and forward to Council. The food insecurity number is not much higher than normal since a lot is being done in the community for this. She spoke about the Family Recovery Fund and what the response has been. Last month they met their spending goal, the funds being spent quicker than they originally thought. She commented the community has been amazing with its outreach and support.

Council encouraged Ms. Bordeau to keep in contact with staff and letting the Town know how we can support them. He expressed concern that people in Apex don't know about the utility program at the County. Council asked about the rental program from the County, how it has been going, and how Apex citizens could get assistance. Ms. Bordeau stated they did not have infrastructure in place to handle the COVID impact. Their shelters filled up pretty quickly. In the County programs, some vulnerable folks were sent to hotels. In reality there is a capacity issue, and there is not a lot of movement out of the shelters. She explained how folks are moved through their waiting list. Wake Prevent is working in the same way. Most services are going to the lowest income folks who have the least capacity to recover. WWCM has opened a new infrastructure program, but it will take time for this to be set in place.

Responding to Council, Ms. Bordeau spoke about uninsured people. Pretty regularly, there are requests from folks asking for help for medical bills, this not being something they've paid for in the past. WWCM has directed these individuals to social workers or other such individuals.

Council thanked Ms. Bordeau and her staff for their excellent work in the community. They are appreciated beyond words, and Ms. Bordeau was asked to keep the Town informed. People in the community would like to continue to support WWCM's efforts. These thoughts were echoed by the Mayor.

PRI Shannon Cox, Long Range Planning Manager with HR&A Advisors, Inc.

Informational update to the Town Council regarding the ongoing development of the Town of Apex Affordable Housing Plan

Staff stated we have an expert consultant on board, HR&A, helping with this project. Sarah Kirk and Phillip Cash from HR&A were joining via Teams. They developed the affordable housing plan for Wake County, and they are working with Cary.

Staff stated they have been working to adopt our plan in an 8-month period. So far, focus has been on housing needs assessment. We are now turning our attention to developing recommendations and tools and a preliminary plan which will be presented for public comment before going to the Planning Board and to Council for consideration of adoption. We have a robust steering committee made up of a large and diverse group of individuals.

Staff stated affordable housing has a lot of complex issues. She explained what was found from the housing needs assessment. A public survey was done which reached 1,200 participants. HR&A additionally held interviews with developers, service providers, and realtors to get more details about what's going on in Apex. Individuals were interviewed regarding housing issues in Apex. Staff stated some of the resulting sentiments.

Staff stated the data shows the majority of new Apex residents are White, affluent, and highly educated. Apex is losing moderate income households while gaining higher income renters and homeowners. Staff shared public input – it's hard to live here as a single parent, people should be able to live and work in the same city, people should be able to live here as they approach retirement, be able to afford starter homes, and then there were those who stated there are no issues with housing and people don't want their property values to be impacted. Home values have been increasing. If this trend continues, there will be limited access to median income housing without homeowners being house burdened. Staff spoke about the gap in the supply of housing for lower income renters. This gap is expected to increase over the next 10 years.

Staff stated Apex's job growth is expected to be in the income of \$75,000 or less, so there is a need for affordable housing. Over the past 10 years, new apartments have been developed. But these are considered market rate or luxury apartments. The only affordable units were built prior to 2000. High land cost and the lack of qualifying sites contribute to this.

Staff stated we now need to think about going to the recommendation phase. She listed what needs to be thought about. The next step will be to work with the steering committee

to work on goals going forward. The focus will then be on recommendations and tools, after which a plan can be formulated.

Council stated affordable housing has been difficult nationally in high demand areas. He asked what are we looking at as far as the model plan. Phillip Cash stated no community is knocking this out of the park. However, we are looking at several communities. He spoke about the challenges, Minneapolis being one doing better than most.

Council asked about barriers to affordable housing in Wake County and Apex. Mr. Cash talked about these and what can be done. He reiterated there is a great need and COVID is accelerating this need.

Council stated she's attended presentations on affordable housing needs for several years, and the numbers keep getting worse and worse. There are more needs and less units being provided. She was looking forward to seeing the goals and tools so Council can start addressing these needs in a more meaningful way.

Council asked how it is going nationally that in the midst of COVID more people are wanting housing with more space and how this can hinder any type of affordable housing effort. Mr. Cash stated our plan will look at how the market is shifting because of COVID and the challenges of affordability.

Mayor Gilbert gave assurance that Council is supportive in continuing to move forward with this effort.

#### CONSENT AGENDA

- CN1 Donna Hosch, Town Clerk  
Minutes of the August 18, 2020 Regular Council Meeting and the September 1, 2020 Regular Council Meeting
- CN2 Donna Hosch, Town Clerk  
Apex Tax Report dated July 16, 2020
- CN3 Donna Hosch, Town Clerk  
Ratification of the Town Clerk in making a refund of \$600 to the Willie Robinson Heirs for cemetery Lot 150 Plots A, B, C, and D which were sold back to the Town
- CN4 Amanda Bunce, Current Planning Manager  
Set the Public Hearing for the October 6, 2020 Town Council meeting regarding various amendments to the Unified Development Ordinance
- CN5 Shelly Mayo, Planner II

- Set the Public Hearing for the October 6, 2020 Town Council meeting regarding Rezoning Application #19CZ21 Heelan PUD and Ordinance. The applicant, Jason Barron for Morningstar Law Group, sought to rezone approximately 141.7 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.
- CN6 Shelly Mayo, Planner II  
Set the Public Hearing for the October 6, 2020 Town Council meeting regarding Rezoning Application #20CZ08 Apex Friendship Elementary. The applicant, Betty Parker for Wake County Public School System, sought to rezone approximately 5.762 acres from Planned Unit Development-Conditional Zoning (PUD-CZ) to Rural Residential-Conditional Zoning (RR-CZ). The proposed rezoning is located at 7901 Humie Olive Road.
- CN7 Liz Loftin, Senior Planner  
Set Public Hearing for October 6, 2020 Town Council meeting regarding Rezoning application #20CZ04 Kobra Tract PUD. The applicant, WithersRavenel, sought to rezone approximately 24.63 acres for the properties located at 7500 Green Level Church Road & 7501 Jenks Road (PINs 0733102211 & 0732196422) from Rural Residential (RR) to Planned Unit Development Conditional Zoning (PUD-CZ).
- CN8 Liz Loftin, Senior Planner  
Statement of the Town Council and Ordinance for Rezoning Case #20CZ06, Trinity Henderson, petitioner, for the property located at 204 & 206 Lynch Street
- CN9 Marty Stone, Assistant Town Manager  
First amendment to the Utility Infrastructure Reimbursement Agreement with Pulte Home Company, LLC, Standard Pacific of the Carolinas, LLC, and Taylor Morrison of Carolinas, Inc. and authorization for the Town Manager to execute the same
- CN10 Steve Adams  
Contract between the Town and Halle Properties to trade a Town owned property at Old Mill Village for a Halle owned property on Hunter Street
- CN11 Marty Stone, Assistant Town Manager and Vance Holloman, Finance Director  
Budget Ordinance Amendment No. 2 appropriating funds for the purpose of reimbursing a developer for completion of the Hasse Avenue Extension connecting the Sweetwater and Linden Subdivisions
- CN12 Marty Stone, Assistant Town Manager and Vance Holloman, Finance Director  
Budget Ordinance Amendment No. 3 appropriating funds for the purpose of refunding a payment in lieu of streets made by a developer to the Town
- CN13 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

October 6, 2020 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 8824 & 8829 New Hope Farm Road, 0 Humie Olive Road and 3108 & 3120 Olive Farm Road, Annexation #676 into the Town's corporate limits

CN14 Mary Beth Manville, Human Resources Director

Reclassification of the Administration Department's Construction Manager position, Grade 25, to Senior Capital Projects Manager, Grade 29

Mayor Gilbert stated the Town Clerk requested modification to the Council Minutes of August 18, 2020 related to 540 eminent domain actions coming out of Closed Session.

Mayor Gilbert called for a motion to adopt the Consent Agenda with the requested modification. Council Member Mahaffey made the motion;

Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

#### REGULAR MEETING AGENDA

Mayor Gilbert stated the Town Attorney requested an additional Closed Session related to the purchase of real property and to prevent disclosure of information that is privileged and confidential.

Mayor Gilbert called for a motion to adopt the Regular Meeting Agenda. Council Member Gantt made the motion with the requested addition;

Council Member Stallings 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, Director of Planning and Community Development

Ordinance on the Question of Annexation – Apex Town Council's intent to annex MFW Investments, LLC (Colby Crossing) property containing 7.578 acres located along a

portion of the future connection of Colby Chase Drive between Merion and Pemberley subdivisions, Annexation #651 into the Town's corporate limits  
Staff stated the requestor asked for a continuance to the October 6, 2020 meeting due to contractual obligations of the purchase of the property.

Mayor Gilbert called for a motion. Council Member Dozier made the motion to continue the Public Hearing to the October 6, 2020 Regular Meeting;

Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

PH2 Dianne Khin, Director of Planning and Community Development

Ordinance on the Question of Annexation – Apex Town Council's intent to annex Kimberly & Loomis Horton, III, Mary Elizabeth Horton, Dwight Marvin Wright, MFW Investments, LLC, and MFWIRA, LLC (Horton Park PUD) property containing 101.356 acres located at 8140, 8252, 8306 and 8308 Smith Road, 0 East Williams Street, 0,0,0,0 & 0 Dezola Street and 5220 Jessie Drive, Annexation #687 into the Town's corporate limits

Staff stated this was the same requestor as Public Hearing 1, and that he was asking for a continuance to the October 6, 2020 meeting.

Mayor Gilbert called for a motion. Council Member Gantt made the motion to continue the Public Hearing to the October 6, 2020 Regular Meeting;

Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

Mayor Gilbert noted that with Council Member Killingsworth participating remotely, public comments would be held open for 24 hours following this meeting.

PH3 Shannon Cox, Long Range Planning Manager

Resolution regarding the Town-initiated proposed renaming of "Lynch Street" within the Town of Apex

Staff stated the Town has an address policy with a framework for potential street renamings. The Town initiated renaming Lynch Street by proposing a suitable replacement road name – Lynn Council Street. Staff explained the steps which involved informing citizens of the proposed change. From the responses received, one citizen preferred no road name change, 12 suggested Lynn Council Street, and 12 suggested other road names. Staff stated the approvable suggested names received and the meaning behind those names. There would be a public hearing, a resolution would be adopted, and the property owners would be informed of the new name. The new name would become effective January 2021.

Council stated youth talked to the Mayor and staff around the research they were doing on the historical context. She asked if the students were involved. Staff stated they were not involved in the potential renaming, but they did speak with staff and received substantial information which was used in the report they provided as to the history of the naming of Lynch Street.

Responding to Council about how many homes were on Lynch Street, staff stated 50 letters were sent and 24 responses were received.

Council felt this should be given more time. Staff explained the notification process to neighbors which included the suggested names.

Council stated this sounded like an affirmative for the name change, to which staff stated this was the case.

Council asked would there be ways to help support people in changing their address. Staff stated staff provided a summary of what occurs and what property owners would have to do. The Town would take care of the street signs, and we would notify the postal service. Property owners would need to update NC DMV records. Property owners would probably notice delays in deliveries from Amazon, FedEx, and UPS as they would need to update their databases.

Council stated a list of things could be done at the DMV and wanted to know if an address change was one of them, to which staff replied in the affirmative.

Council asked if we would be willing to assist individuals online to make changes, staff being unsure of this assistance.

Mayor Gilbert declared the Public Hearing open.

Randolph McMillan, owner and operator of Brookridge Assisted Living, asked for a change to occur. He receives calls daily, and it is difficult to explain the name to his business callers. He has been receiving these calls since 2009. He suggested Rosewater Place, something nature based and neutral. Mr. McMillan stated we need to look ahead and give value to the community. He did not want to get into pitting families against each other with the naming process. Mr. McMillian stated he has been asked by government officials why he didn't do something about the current name; it just doesn't look right. He does not even use the Lynch Street name for his business; he uses a PO box. It takes away everything

communication wise; it destroys the conversation immediately when talking with other people. Mr. McMillan asked Council to lift up the community with a nice name that can be used to eternity. He asked for assistance door to door in helping the property owners make the change.

Patricia Winkler stated she just moved in and had changed her address on everything. She had no issue with the name Lynch but understood those who do. She would have to change 35-40 things if the name were changed. This costs money and people are stressed financially with COVID. This would be another burden. Those who don't go online would need help changing their addresses. What Mr. Council went through was horrendous, but he would be better honored with a street in a new development right from very start.

Vanessa Thomas stated she has lived on Lynch Street for 40 years. She has never had a problem with the name. She understood the history of Mr. Council, but it would be an inconvenience for older neighbors who have been there longer than she has. There would be so much to change, and some don't know about the internet. This was a lot to take into consideration.

Mayor Gilbert declared the Public Hearing closed.

Council stated we were here to listen and to hear. She wanted to hear the Mayor's comments since he lived there at one point.

The Mayor stated he spent 21 years on First Street, having to look at the Lynch Street sign. There was always a question for him and other family members. No one knew the background of the name; they just had to accept it was a challenge. Many in the community share his concerns. The Mayor realized it would be an inconvenience, but he thought many people would say the name needs to be changed. He thanked staff for their work on this matter. There may be another opportunity to talk to the neighbors on Lynch Street and others in the community who may have issues. Maybe Peak Academy graduates and community youth could assist. The Mayor stated many came to him with this matter when he took office. He liked the idea of finding something neutral. He wanted to make sure we get this right even if that means going back and touching every door.

Council suggested having a non-binding sense of the resolution, stating what we intend to do. He would like to go on the record tonight to state that we will or will not make the change. We should continue the final vote until October 21; and in the meantime, send out a letter with three ideas and a space for a write in vote. He suggested Lynn Council, Clarice Atwater, and then something neutral suggested by staff. Then we should commit

to reimburse all real costs associated with changing the name as well as committing staff to offer assistance.

The Town Attorney stated it was fine for Council to give a preview of what the expectation will be next time Council takes this up. She cautioned that we would need to look at if the Town reimbursing citizens for the renaming is something that we would be legally authorized to spend money on.

Council stated she would be happy to move forward with changing the name, and that we should think about a name not tied to a person. When people have to rehearse their story, it causes them harm. She felt we could come up with a beautiful name for a beautiful community of people and then think of another way to honor people like Mrs. Atwater and Mr. Council. Council didn't want to create barriers on how to pay for the name change in light of what was currently going on.

Council agreed that the name needs to be changed because of the negative history. She wanted staff to work with residents on fitting possibilities, and she wanted historical names integrated into the community in other ways. Council supported finding how residents could be helped financially and with physical help.

Council agreed with the comments. Changing the name seemed to be the consensus. She didn't want to cause harm to people, and the current name brings negative connotations. She agreed with the Mayor that there needs to be more outreach to the community and maybe going out to the surrounding neighborhood to determine a name.

Council stated we are balancing a hurtful name vs. the inconvenience people feel. The name is bigger than the inconvenience, and he supported the idea of giving people names to choose from.

The Mayor stated the action would be to move forward with the recommendation of the intent to change the name, and for staff to get more feedback from the community.

Council asked about how the others felt about sending out a ballot of three names. Council stated she felt there would be a better response sending a person out rather than a piece of mail to be returned.

Council stated she was in agreement but wondered if more work needs to be done to come up with the three names. Would staff need to do more work with the residents for a consensus of the three names. She wanted one more effort from staff to get as much

consensus as possible. Conversation ensued along these lines in order to get this right and to take more time to do so if necessary.

The Town Manager stated there was a clear desire to change the name of the street. We have a policy, but we would depart from that in this case. If we are to go door to door, then we would need more than a month to do so. For future cases, it would be easiest to follow the policy. He asked for Council guidance on how to solicit for names.

Council asked for clarification on the policy, the Town Manager stating the policy has been followed up until this evening. This is a consequential decision. There was no problem departing a bit in this case, but we want to be careful for the future in going to each home. If we do that for this one renaming with 50 homes, then why not do it for larger street renamings?

Council conversation ensued about how to solicit for names and if more work needs to be done, how to narrow down the names to finalists, and who would do this. Should we ask for more names or use what we sent out. We don't know the reason some neighbors didn't return their ballots. This is a significant change for a specific reason. We need to do as much outreach as possible and get input from as many as we can who live there. There was hesitancy due to COVID of going door to door. Perhaps those who didn't respond were not able to mail back the letter or just didn't understand it. The community needs to be involved; we need more time for this.

Staff stated that if we want to get this done by January 1<sup>st</sup>, the more time that it takes to make a decision, the more the burden on people to make changes in time. The actual change can be moved out. The January deadline was suggested to not interfere with holiday packages, election mail, etc.

Council stated maybe there could be a neighborhood meeting with Council for input. Mr. McMillian stated this would be a good idea, and he thought it would take the scariness out of talking to Council. He stated it would be good to have a meet and greet with the neighbors for better communication.

Council stated he wanted to hear the practicality of helping financially. The existing policy wasn't written during something like this. Maybe we could change the policy to include neighborhood meetings, two rounds of public hearings, etc.

OLD BUSINESS

OB1 Colleen Merays, Downtown and Small Business Development Coordinator

Extend current Parking-to-Dining Program layout adopted by Town Council on August 18, 2020 until October 21, 2020 to allow for extended outdoor dining and alcohol consumption as permitted by ABC Law or regulations, and to extend the 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 October 21, 2020

Staff stated we are now in Phase 2.5, and restaurants and retail are still limited. The ADBA Board voted to extend the Parking-to-Dining Program to October 21<sup>st</sup>. The last modification opened up half of the parking spaces. Normally, there are 30 spaces, and we have opened 14 of those. Staff talked about how beneficial the Program has been for the businesses.

Council asked had the business owners been contacted. Having an ADBA vote is different than knowing how the businesses feel. Responding to Council, staff stated she had spoken with the majority of the businesses and they are highly in favor. More than 12 of them are directly impacted. Those who did have objections to the Program previously, had been contacted personally and they understand the issues facing their neighbors. She has not had any negative feedback since the ADBA vote. Council stated she has had negative feedback and suggested talking to each owner to determine if the Program should be extended. Council understood that some business owners were told to be quiet about this issue. Therefore, she felt there are concerns out there which need to be addressed.

Council asked if heaters are allowed if it gets cold during this timeframe, staff stating she would check with the Fire Marshall. Staff stated there is a requirement for propane equipment to be spaced a certain distance from each other.

Council stated this Program has been a lifeline for merchants. When the weather changes, people will not want to sit outside. He stated he would like to see what can be done if we are still in this phase after October.

Council stated she was thinking about the holiday seasons for retail and what it will do for folks. Staff stated she has been working with the downtown community, and they have come up with promotions that they will have in conjunction with the Chamber of Commerce to help in getting people to shop and stroll downtown. Also, the ADBA has voted to put financial backing into promoting the retail aspect of downtown.

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

Council wanted to know what was behind people being told to be quiet, especially if this extension would hurt their business. Council stated this was why she wanted staff to speak with each individual business owner to find out their preference instead of just listening to the ADBA Board.

The motion carried by a 5-0 vote.

OB2 Vance Holloman, Finance Officer

Temporary Ordinance Modifications extending the current suspension of utility disconnections and application of penalties and fees for unpaid utility balances  
Staff stated he prepared a memo to the Town Manager in response to questions received about the impact to our utility funds upon extending utility cutoffs. He explained the three funds. The most immediate impact would be to the Electric Fund and staff explained why. The Town prefers to cut off electric services vs. water and sewer, explaining that the electric balance is the last one to be paid. Staff prepared a stress test of the Electric Fund if we cannot collect delinquent funds of past due amounts. He stated what annual revenue we would lose.

Staff stated the absolute dollars are increasing even though percentages are down, and he explained the latter. Based on the results calculated, he saw no concerns as of June 30, 2020. However, projecting through to fiscal year 2021 in the Electric Fund, if we do not collect the delinquent billings, we would probably incur a loss of about \$1.5 million. He explained the specifics of this figure, which would not be a knock out punch but one we would feel. We would then probably need to increase rates to make up for loss revenue, and this process was explained. If the percentage of non-payments were to increase, this would change his analysis.

Staff stated he understood the challenges our citizens are facing. He asked Council to consider that there is an expectation among our customers, those who have bought our debt, and among State agencies that we will do all we can to collect our debt. The longer we go without suspending collections, the larger our debt will be which will increase the amount we will ultimately not collect. Staff stated that until collection procedures go back to normal, there are programs for assistance. 125 customers have asked for payment plans, which will be finalized at the discontinuance of no cutoffs. He stated there are currently 1,675 delinquent accounts.

Staff stated a member of his staff did research on the potential for establishing a customer assistance program and gave details on the background of this program which is in use in other municipalities. We have an outside agency looking at this and determining its feasibility. As of now, no agencies have contacted us about the delinquencies; but at some point, we are expected to return to business as normal while helping citizens as much as we can.

Council thanked staff for the report which was useful and helpful.

Council stated exploring the customer assistance program would be a good idea. She and another Council Member had been on a call about educational disparities in our area. The Town of Apex's utilities are not a barrier right now, and she wanted to keep it this way. A social worker would be a good opportunity to work with customers on a customer assistance program.

Council stated it is important to figure out how impacted people can tap into these resources, but this can be very hard. She thought there should be a team approach dealing with COVID and that we should have a community crisis liaison to push initiatives and help ensure people sign up for help.

Council stated he remained opposed to an extension. He believed an extension would effectively forfeit customers from collecting help from Wake Helps. Conversation ensued about the facts surrounding the Wake Helps program. The majority of the outreach has been from Raleigh who is pushing this, and we need to jump on it. The belief was that Raleigh is back to its regular billing practices.

Staff stated six folks from Apex have gotten Wake Helps assistance. We have posted on a number of websites, as well as our own, information about the program. Ms. Bordeau stated WWCM refers folks to the Wake Helps program. WWCM will provide limited assistance for those who have not applied. She stated people are getting Wake Helps, and this is a quicker moving system than some of the other programs.

Council stated this is the most pressing issue before us as a body right now. The money owed does not exist; customers simply don't have it. He did not believe people have not paid just because it's an option. Turning off services is not going to make money appear. The amount owed the Town is not our out-of-pocket amount. The actual cost to customers is significantly lower. Going forward, Council stated focus needs to be on Wake Help and getting these funds to our folks. We need to get as big a share of these funds as possible for our citizens.

He talked about a way to get the word out to customers and following up with those most in arrears. A customer assistance program would be good to set up next year after Wake resources are exhausted. He felt we needed to hire additional staff to figure out a way to move forward with collecting debt. Seeing as we will resume regular practices at some point, we need to find motivation to get people to pay.

Council stated maybe a person would be helpful to help customers. She spoke about the stresses people are going through and how this person might help.

Council stated she lost her job. If she was single and cutoff was reinstated, she would probably be homeless and have her utilities cut off. As Council stated, the money is not there. Not having to worry about utilities is a God send. She preferred to continue and explore as many avenues as we can to help with case management services and to find sources to help people get through.

Council stated we should all encourage County Commissioners to make sure funds are properly allocated.

Council stated some businesses are unable to open and some can't open to full capacity. She spoke about the stress on families, children particularly, related to utilities being cut off. She was not going to tell people to do the best they could – she was going to do the best she could. Flyers need to be out everywhere telling people about programs.

Council Member Dozier made the motion to adopt the modified Ordinance including a full-court press on directing people to resources and a full-time person dedicated to this consistent with the Wake Helps money extending through the end of the year; Council Member Stallings seconded the motion.

Council stated we have other tools to help motivate people to pay, i.e., Wake Helps, which is free money. It expires and customers need to apply. There is a large pot of money that we can get with some effort.

Council Members Dozier, Stallings, Killingsworth, and Mahaffey voted in the affirmative; Council Member Gantt voted in the negative.

The motion carried by a 4-1 vote.

Mayor Gilbert called for a ten-minute recess.

UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

NEW BUSINESS

NB1 Audra Killingsworth, Council Member

Amending of section 14-18 of the Town Code of Ordinances to remove the age limit for Trick or Treating

Council stated this was talked about last year but the timing wasn't right. She wished to remove the age restriction but leave the time restriction as it is currently.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to approve the amendment; Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

NB2 Vance Holloman, Finance Director

Resolution authorizing the filing of an application with the Local Government Commission to issue \$32 million of General Obligation Refunding Bonds

Staff stated it was a good thing that we can borrow money at a cheaper rate during these times. He asked for permission to retire the stated bonds. If the sales goes through, the bonds would be taxable. Staff spoke about taxable rates, why we want to do things this way, and the savings we would realize.

Responding to Council, staff gave figures on what we would be saving. A lot of municipalities doing this, and we were fortunate to get our sale date which is before the election. He explained more about taxable and tax-exempt rates.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to adopt the Resolution; Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

Council Member Killingsworth was excused from the meeting at this point.

CLOSED SESSION

CS1 Laurie Hohe, Town Attorney

Closed session pursuant to NCGS 143-318.11(a)(3) to protect attorney-client privilege, and (a)(4) to discuss matters related to the location or expansion of businesses to the area, and pursuant to 143-318.11(a)(5) to instruct staff concerning

the purchase of real property, and pursuant to 143-318.11(a)(1) to prevent the disclosure of information that is privileged or confidential pursuant to GS 143-318.10(e)

Mayor Gilbert called for a motion. Council Member Gantt made the motion to go into Closed Session; Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

Mayor Gilbert called for a return to Open Session with no objections from Council.

Mayor Gilbert called for a motion to set a public hearing for the October 6, 2020 Council Meeting concerning the purchase of real property for Economic Development purposes. Council Member Mahaffey made the motion; Council Member Stallings seconded the motion.

The motion carried by a 4-0 vote.

Mayor Gilbert called for a motion to adopt the resolution authorizing eminent domain related to the apex transportation system. Council Member Mahaffey made the motion; Council Member Dozier seconded the motion.

The motion carried by a 4-0 vote.

WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

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

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



# SPECIAL TOWN COUNCIL MEETING

Wednesday, September 30, 2020 at 5:00 PM  
Council Chamber at Apex Town Hall, 73 Hunter Street

## 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 Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier, and Council Members Audra M. Killingsworth, Cheryl F. Stallings, and Terry Mahaffey.  
Absent was Council Member Brett D. Gantt

## COMMENCEMENT

Mayor Gilbert called the meeting to order.

Mayor Gilbert called for a motion to go into Closed Session.

Council Member Dozier made the motion; Council Member Killingsworth seconded the motion.

The motion carried by a 4-0 vote.

Council discussed a personnel matter.

Mayor Gilbert called for a motion to return to Open Session.

Council Member Stallings made the motion; Council Member Killingsworth seconded the motion.

The motion carried by a 4-0 vote.

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

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Terry Mahaffey, Council Member

ATTEST:

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Jacques K. Gilbert, Mayor



# REGULAR TOWN COUNCIL MEETING

Tuesday, October 06, 2020 at 6:00 PM

Council Chamber at Apex Town Hall, 73 Hunter Street

## 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 Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier, and Council Members Brett D. Gantt, Audra M. Killingsworth, Cheryl F. Stallings, and Terry Mahaffey. Also in attendance were Town Manager Drew Havens, Assistant Town Manager Shawn Purvis, Town Clerk Donna B. Hosch (remotely), and Town Attorney Laurie L. Hohe.

## COMMENCEMENT

Mayor Gilbert called the meeting to order and read a statement of diversity and inclusion related to religion. Paster Keith Waler, New Light Church, gave the Invocation after which Mayor Gilbert led the Pledge of Allegiance.

## PRESENTATIONS

PR1 Jacques K. Gilbert, Mayor

Presentation of Service Award to Jack Clark

Mayor Gilbert stated Mr. Clark was participating via livestream. Mr. Clark was being recognized for his years of service as a board member on the Planning Board and Board of Adjustment and the sacrifices he'd made to move the Town forward. Mayor Gilbert read a plaque which Dianne Khin, Planning Director, accepted on his behalf.

PR2 Jacques K. Gilbert, Mayor

Presentation of National Wildlife Federation's Mayors' Monarch Pledge Proclamation  
Mayor Gilbert recalled the efforts made by those being recognized for bringing this effort forward, stating that it was an educational experience for him. The Mayor called forward Katie Thompson, teacher from Pine Springs Academy in Holly Springs, and three of her students. Mayor Gilbert read the Proclamation before presenting it to Ms. Thompson,

stating he was proud to lead the way in the presentation of such. Ms. Thompson stated we don't have enough of these butterflies in Apex. The Mayor recognized David Wood, Halle Cultural Arts Center Manager, who was also a part of this effort.

PR3 Jacques K. Gilbert, Mayor

Presentation of Indigenous Peoples' Day Proclamation

The Mayor called forward C.G. Richardson and Sarah Hamilton. Each member of the Council shared in the reading the Proclamation before its presentation to Ms. Richardson and Ms. Hamilton.

PR4 Jacques K. Gilbert, Mayor

Presentation of Energy Efficiency Day Proclamation

Each member of the Council shared in the reading of the Proclamation before Mayor Gilbert made presentation to Megan Pendall, Sustainability Coordinator.

PR5 Jacques K. Gilbert, Mayor

Presentation of Fire Prevention Week Proclamation

Mayor Gilbert called Fire Chief Keith McGee forward and read the Proclamation before making its presentation.

PR6 Jacques K. Gilbert, Mayor

Presentation of Cyber Security Awareness Month Proclamation

Mayor Gilbert called forward John Lanzer, on behalf of the IT Department, and read the Proclamation before making its presentation.

#### CONSENT AGENDA

CN1 Amanda Bunce, Current Planning Manager

Set Public Hearing for the October 20, 2020 Town Council meeting regarding Rezoning Application #20CZ10 109 Holleman Street. The applicants, Charles Duane Taylor, Jr and Sherry Bailey Taylor, sought to rezone approximately 0.24 acre located at 109 Holleman Street (PIN 0742305576) from Office and Institutional (O&I) to Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ).

CN2 Shannon Cox, Long Range Planning Manager

Resolution to correct the recorded name for a remnant of Laura Duncan Road between Hunter Street/Old Raleigh Road and Old Mill Village Drive in favor of the functional name, North Mason Street

CN3 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 October 20, 2020 on the Question of Annexation – Apex Town Council's intent to annex Powell Property Holdings, LLC (The Upchurch) property containing 5.5021 acres located at 7213 Roberts Road, Annexation #698 into the Town's corporate limits
- CN4 Drew Havens, Town Manager  
Appointment of Darryl Lanier (108 Moss Mountain Way) to the Parks, Recreation, and Cultural Resources Advisory Commission to fill the remaining term of Lance Brown which ends on June 30, 2022; Jeff Hastings (3609 Friendship Road) to the non-voting Apex Historical Society Seat on the Planning Board with a term ending December 31, 2022; and Ryan Akers (805 Wasdell Way) to the non-ETJ/Corporate Limits Seat on the Planning Board with a term ending December 31, 2022
- CN5 Russell Dalton, Senior Transportation Engineer  
NCDOT Certification of Municipal Declaration to Enact Speed Limits and Request for Concurrence, State Ordinance Number 1078853 for a 25 mph speed limit along W Chatham Street (SR 1307) between Jones Street and Salem Street within Apex municipal limits. The current statutory speed limit is 35 mph for W Chatham Street within municipal limits. The request for concurrence is required by NCDOT before they can proceed with an ordinance enacting a 25 mph speed limit for the section noted.
- CN6 Drew Havens, Town Manager  
Ordinance amending various sections of the Town Code to make wording gender neutral
- CN7 Marty Stone, Assistant Town Manager  
Budget Ordinance Amendment No. 4 which appropriated funds to pay amounts due under the first amendment to the Utility Infrastructure Reimbursement Agreement with Pulte Home Company, LLC, Standard Pacific of the Carolinas, LLC, and Taylor Morrison of Carolinas, Inc. and which authorized a transfer of funds from the Water Sewer HB 463 Capital Fund to fund the payment
- CN8 Shannon Cox, Long Range Planning Manager  
Approval and authorization for the Town Manager to sign and execute the General Operating Agreement for Bus Operations – Community Funding Area Program for Wake Transit Fiscal Year 2021
- CN9 Shannon Cox, Long Range Planning Manager  
Approval and authorization for the Town Manager to sign and execute the Special Capital Funding Agreement for Bus Infrastructure – Community Funding Area Program for Wake Transit Fiscal Year 2021

CN10 Dennis Brown, Construction Project Manager  
Approval and authorization for the Town Manager to sign Consent to Use Easement Area for the Cardinal Pipeline Company easement through the Pleasant Park site

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

#### REGULAR MEETING AGENDA

Council Member Gantt requested Public Hearing 11 be heard before Public Hearing 07. Town Manager Drew Havens requested that Unfinished Business 01 and New Business 01 be heard ahead of the Public Hearings.

Mayor Gilbert called for a motion to adopt the Regular Meeting Agenda. Council Member Killingsworth made the motion with the requested modifications;  
Council Member Mahaffey seconded the motion.  
The motion carried by a 5-0 vote.

#### PUBLIC FORUM

No one in attendance wished to speak during Public Forum.

Recorded comment from Gabriel Schiada was heard regarding the completion of the greenway connection between Kelly Road and Abbingtion through Sweetwater. She spoke of the parks and greenway bonds which have been passed for the greenways and for some greenways for which work has not been started. Finalizing the greenways would make it safer to get around Town without navigating automobile traffic.

#### UNFINISHED BUSINESS

UB1 Vance Holloman, Finance Director  
Resolution providing for the Sale and Issuance of Not to Exceed \$32,000,000 Taxable General Obligation Refunding Bonds, Series 2020  
Staff stated our application was approved to issue the bonds. The sale was anticipated to occur on October 27<sup>th</sup>, and we would experience \$3.6 million in savings.

Mayor Gilbert called for a motion. Council Member Killingsworth made the

motion to approve; Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

NEW BUSINESS

NB1 Vance Holloman, Finance Officer

Resolution Authorizing the Execution and Delivery of a First Amendment to the 2014 Installment Financing Agreement and Related Documents in Connection with the Refinancing of the Outstanding 2014 Installment Financing Agreement and a Resolution Authorizing the Execution and Delivery of a First Amendment to the 2015 Installment Financing Agreement and Related Documents in Connection with the Refinancing of the Outstanding 2015 Installment Financing Agreement

Staff stated the bank has agreed to a rate modification which would lower both loans to 1.85%, resulting in over \$400,000 in savings.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to approve the request; Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

PUBLIC HEARINGS

PH1 Joanna Helms, Economic Development Director

Purchase of +/- 32 acres of the Cash Corporate Center located at 2100 Production Drive for \$1,905,792 for the purposes of Economic Development, and the subsequent approval of Capital Project Ordinance Amendment No. 2021-1 and Budget Ordinance Amendment No. 5

Staff gave a brief history of the agreement the Town entered into for Cash Corporate Center. There is a potential prospect who would need 30 acres to locate their business here which would satisfy the terms of our agreement. The proposed acquisition cost would be \$59,556/acre or \$1,905,792. Staff explained from where the funding would come and what the budget ordinance amendments would appropriate.

Staff stated the potential prospect is referred to as Project Delta, a large distribution and office operation. She presented statistics associated with the project from its size, to jobs, to capital expenditure. A rough sketch of the proposed location at the Center was shown. Staff stated this project is moving forward at a pretty rapid pace, noting it was not a done deal yet.

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 approve the request; Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

PH2 Dianne Khin, Director of Planning and Community Development  
Ordinance on the Question of Annexation – Apex Town Council's intent to annex MFW Investments, LLC (Colby Crossing) property containing 7.578 acres located along a portion of the future connection of Colby Chase Drive between Merion and Pemberley subdivisions, Annexation #651, into the Town's corporate limits  
Staff stated the requestor asked for this Hearing to be continued to the November 4<sup>th</sup> Council Meeting due to ongoing issues.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to continue the Hearing to November 4; Council Member

Gantt seconded the motion.

The motion carried by a 5-0 vote.

PH3 Dianne Khin, Director of Planning and Community Development  
Ordinance on the Question of Annexation – Apex Town Council's intent to annex Kimberly & Loomis Horton, III, Mary Elizabeth Horton, Dwight Marvin Wright, MFW Investments, LLC, and MFWIRA, LLC (Horton Park PUD) properties containing 101.356 acres located at 8140, 8252, 8306, and 8308 Smith Road; 0 East Williams Street; 0, 0, 0, 0, & 0 Dezola Street; and 5220 Jessie Drive, Annexation #687 into the Town's corporate limits.

Staff stated the requestor asked for this Hearing to be continued to the November 4<sup>th</sup> Council Meeting due to ongoing issues.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to continue the Hearing to November 4; Council Member

Gantt seconded the motion.

The motion carried by a 5-0 vote.

PH4 Shannon Cox, Long Range Planning Manager  
Amendments to the Thoroughfare and Collector Street Plan map associated with recommendations from the regional Southwest Area Study led by the Capital Area Metropolitan Planning Organization (CAMPO)

Staff stated Friendship Road and Bosco Road (future Richardson Road extension) would be addressed this evening.

(1) For Friendship Road, an analysis was calculated which analyzed daily traffic. She spoke about future traffic volumes. All amendments were reviewed with Town departments, and the Planning staff recommended approval as there were generally no major concerns. There was a benefit as far as connectivity and mobility.

Staff stated that consequently there was substantial public comment prior to the Planning Board meeting related to the Catholic church, the concern being the amendment would impact their ability to expand in the future. Also, there were concerns about the proximity of the thoroughfare to their playing field and noise near a place of worship. Planning staff now no longer recommended the amendment – only the shift in the minor collector street. The Planning Board supported the Planning staffs' recommendation.

Responding to Council, staff explained why the change was initially made – it came from the study. Staff explained what would happen if Council rejected the amendment. Also explained was future traffic.

(2) For Bosco Road, a minor change was made in the alignment, and staff pointed out what was being recommended. Planning staff and the Planning Board recommended the amendment.

(3) Needs for additional capacity were the next set of amendments, and staff explained what these were. There was no recommendation from Planning staff, and staff explained why. Planning Board recommended the amendment. Responding to Council, staff spoke to right of way and number of lanes questions.

(4) Staff explained the Center Street and Ten Ten Road amendment which showed future 6-lanes with median and explained the reasons for this. Planning staff and the Planning Board recommended approval.

(5) The North Salem Street amendment was to upgrade to a future 4-lane road, and staff explained the reasons for this. Planning Board and Planning staff recommended the change.

Responding to Council, staff explained why Planning staff did not make recommendation on several of the items – staff wanted the decision to be in Councils' hands.

Mayor Gilbert declared the Public Hearing open.

Mr. Lee spoke about staff recommendation #1 and how he was finally able to communicate with his parents in their language because of attending the church. The church also helps others who want to learn the language as well as learning the rich cultural history.

Mayor Gilbert declared the Public Hearing closed.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to approve amendment #1; Council Member Stallings seconded the motion.

Council explained why he was opposed to the amendment.

Council stated he felt Council's issues could be addressed in the future.

Council Members Killingsworth, Stallings, Dozier, and Mahaffey voted in the affirmative; Council Member Gantt voted in the negative.

The motion carried by a 4-1 vote.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to approve amendment #2; Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to approve amendment #3; Council Member Gantt seconded the motion.

Responding to Council, staff answered questions related to conceptual design.

Council felt that we would be jumping too early into this and explained his reasons for thinking so.

Council stated this would be more getting the plan on the books for State and Federal sources.

Council stated she was torn on this issue.

Council stated we have committed to a suburban feel in this area, thereby his supporting the amendment.

Council Members Killingsworth, Gantt, Dozier, and Stallings voted in the affirmative; Council Member Mahaffey voted in the negative.

The motion carried by a 4-1 vote.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to approve amendment #4; Council Member Killingsworth seconded the motion. The motion carried by a 5-0 vote.

Mayor Gilbert called for a motion.

Council expressed concern about the expectation for more traffic as long as there was an historical context to the area.

Council also expressed concern about the historical context and future traffic.

Council stated he felt expanding the lanes would encourage more traffic and this not being the way we would want people to get around town. He was also concerned about the historical context.

Council also spoke about traffic.

Council expressed concern about traffic and non-support of the amendment as did an additional Council Member.

The Mayor expressed traffic concerns, stating that he wished to refer to staff on this. Staff provided additional comments about the traffic concern.

Staff stated there would be future planning for this and when it would be done, hoping the encouragement would be for traffic to use the Peakway.

Council Member Stallings made the motion to approve amendment #5; Council Member Killingsworth seconded the motion. Council Members Stallings, Killingsworth, Dozier, and Gantt voted in the affirmative; Council Member Mahaffey voted in the negative. The motion carried by a 4-1 vote.

PH5 Jenna Shouse, Long Range Planner II

Amend the Bicycle and Pedestrian System Plan map associated with a proposed greenway connection to the proposed Apex Friendship Elementary School Staff explained the purpose of the amendment. Staff, Planning Board, and the Parks, Recreation, and Cultural Resources Commission recommended approval. Responding to Council, staff answered connectivity questions.

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 Stallings made the motion to approve the amendment; Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

PH6 Jenna Shouse, Long Range Planner II

Amendment of the Bicycle and Pedestrian System Plan map to revise facility types and add future greenway connections associated with The Park at Wimberly Master Subdivision Plan (formerly The Park at Jordan)

Staff explained the purpose of the amendment. Staff, Planning Board, and the Parks, Recreation, and Cultural Resources Commission recommended approval.

Responding to Council, staff answered questions related to connections and easements and who would construct the greenway.

Mayor Gilbert called for a motion. Council Member Dozier made the motion to approve the amendment; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

PH11 Amanda Bunce, Current Planning Manager

Rezoning Application #20CZ08 Apex Friendship Elementary School. The applicant, Betty Parker for Wake County Public School System, sought to rezone approximately 5.762 acres from Planned Unit Development-Conditional Zoning (PUD-CZ) to Rural Residential-Conditional Zoning (RR-CZ). The proposed rezoning is located at 7901 Humie Olive Road.

Staff oriented Council to the site. A neighborhood meeting was held. Planning Board and staff recommended approval. Responding to Council, staff answered questions related to RCA.

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 Killingsworth made the motion to approve the rezoning; Council Member Dozier seconded the motion.

Council directed questions to Betty Parker related to greenways, bike access, and the opportunity to work with the owners. She stated the project team committed to building

the greenway if there were sufficient funds and the proper conditions arose to do so, as there are mutual benefits. This had not been planned into the project.

Council stated we needed to keep in mind what was heard in the neighborhood meeting and communications with Council regarding safety, transportation, and traffic.

Council thanked everyone for addressing this major concern for him. With this change and the other school coming, we have made tremendous progress in addressing this.

The motion carried by a 5-0 vote.

PH7 Amanda Bunce, Current Planning Manager  
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 8824 & 8829 New Hope Farm Road, 0 Humie Olive Road and 3108 & 3120 Olive Farm Road, Annexation #676, into the Town's corporate limits

and

PH8 Amanda Bunce, Current Planning Manager  
Rezoning Application #19CZ21 Heelan PUD and Ordinance. The applicant, Jason Barron for Morningstar Law Group, sought to rezone approximately 141.732 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.

Staff oriented Council to the site. Affordable housing and tree canopy conditions were added. The Parks, Recreation, and Cultural Resources Commission recommended the required land dedication. Staff and the Planning Board recommended approval. Responding to Council, staff answered questions related to RCA.

Jason Barron, Morningstar Law Group, representing the applicant, named the team members in attendance with him. He stated this would be the best fit to the Town's adopted rezoning plans. Mr. Barron stated he would touch on nine aspects of the request; he stated how each aspect satisfied the Standards. Responding to Council, Mr. Barron answered questions about affordable housing and what they would be offering.

Mayor Gilbert declared the Public Hearing open.

Recorded comments were heard:

Deborah Peart stated she supported the request as the developer was offering a lot of benefits to the Town. Apex would be proud to have this as part of their community.

Jim Rozboril expressed concern for the developers being allowed to cut down all of the trees in the area as it would ruin the atmosphere. We do not need to make Apex another Cary.

Nancy Davis spoke about the Town's allowing the development of neighborhoods near Apex Friendship High School. She supported the effort for its many benefits -- affordable housing, a conservation easement, and a greenway. This will help Apex maintain it's status as one of the best places in the country to live.

Steve Kastleberg stated he supported this project. There would be many benefits including road connections and greenways to the park and other neighborhoods. Considerations for solar power and affordable housing have also been made.

Bill Ahern, CEO, Habit for Humanity, Wake County, thanked Council for attending the recent showing of their affordable housing options. He stated he was in support of this unique opportunity. This is an innovative way of approaching affordable housing, and Mr. Ahern stated he hoped it would be adopted by other Wake County municipalities.

Mayor Gilbert declared the Public Hearing closed.

Council asked Mr. Barron if they would find another 5 lots for a minimum of 15 townhomes for affordable housing, which Mr. Barron stated they were agreeable to doing.

Responding to Council, Mr. Barron stated offsite stream crossing was a zoning condition which they could not make a commitment to as part of the zoning process.

Responding to Council, Mr. Barron spoke about the number of things that would be a possibility because of the large size of the project. He explained how Habitat would interact with the project, Council wanting to see people going in housing and not simply a donation going to Habitat.

Council stated affordable housing, the canopy cover, and the mitigation were exceptional aspects of the project. He asked staff to step in and find a calculation for affordable housing and canopy which could be more of a standard and what the contribution would be. He thanked Mr. Barron for offering to willingly go above and beyond.

Council also thanked Mr. Barron for their efforts related to affordable housing as well as the other conditions offered.

Council asked Mr. Barron to be aware of the construction noise for those living in the area.

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

The motion carried by a 5-0 vote.

Mayor Gilbert called for a motion. Council Member Stallings made the motion to approve the rezoning with the updated mitigation language, the updated affordable housing number, and the additional language for the non-profit funding option; Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

Mayor Gilbert called for a ten-minute break.

PH9 Liz Loftin, Senior Planner

Rezoning Application #20CZ04 Kobra Tracts PUD. The applicant, WithersRavenel, sought to rezone approximately 24.63 acres for the properties located at 7500 Green Level Church Road & 7501 Jenks Road (PINs 0733102211 & 0732196422) from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ).

Staff oriented Council to the site. A neighborhood meeting was held. The applicant agreed to an additional condition related to solar, and concerns from adjacent property owners had been resolved. The Parks, Recreation, and Cultural Resources Commission recommended a fee in lieu. Affordable housing language had been added. Planning staff recommended approval with the offered conditions as did the Planning Board. Responding to Council about accessory dwelling units, the applicant stated they could add these.

Brendie Vega, WithersRavenel, read a letter from Tom Bebe, one of the owner representatives. The property had been in the family for decades and was no longer a working farm. He wanted to see if the development fit into the area, and he was in agreement with what had been proposed, especially with the extension of sewer. Mr. Bebe, on behalf of the owners, requested approval from Council.

Ms. Vega, representing the applicant, spoke about the uniqueness of this multi-generational project. The aspects of the project were outlined. Responding to Council, Ms. Vega spoke about driveway access.

Armando Echevarria, engineer for the project, spoke about sewer options.

The Town Manager clarified the Town's contribution to the affordable housing fund. Responding to Council, Ms. Vega spoke to their contribution to affordable housing. She stated they did not partner with Habitat since the project is very small and coordination of the project with Habitat may not have worked.

Mayor Gilbert declared the Public Hearing open.

No one in audience wished to speak.

Recorded comment from Raju and Mahi Gadirau was heard requesting a stop light vs. a roundabout at Jenks and Green Level Church Roads. It is hard to get out onto Kelly Road because of a curve and a hill. A roundabout would do a better job in providing safety.

Mayor Gilbert declared the Public Hearing closed.

Responding to Council, staff answered questions related to a traffic signal for which the Town is holding a bond.

Mayor Gilbert called for a motion. Council Member Killingsworth made the Motion to approve the rezoning with the added conditions; Council Member Gantt seconded the motion.  
The motion carried by a 5-0 vote.

PH10 Lauren Staudenmaier, Planner I

Rezoning Application #20CZ07 2309 Old US 1 Highway. The applicant, Rich Levert, sought to rezone approximately 1.60 acres located at 2309 Old US 1 Highway (PIN 0720985958), from Rural Residential (RR) and Tech/Flex-Conditional Zoning (TF-CZ #15CZ25) to Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ).

Staff oriented Council to the site. A neighborhood meeting was held. The Planning Board and staff recommended approval with conditions offered by the applicant. Responding to Council, staff answered questions related to access.

Jeff Roach, Peak Engineering Design, spoke about why the rezoning was being requested. At some point, there will be a traffic study. There was one non-conformity which would be addressed. Responding to Council, Mr. Roach answered questions related to zoning.

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 Killingsworth made the motion to approve the rezoning; Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

PH12 Amanda Bunce, Current Planning Manager

Various amendments to the Unified Development Ordinance as requested by Planning staff

Staff oriented Council to the amendments. Planning Board and staff 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 Stallings made the motion to approve the amendments; Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

OLD BUSINESS

There were no Old 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 adjourned the Meeting.

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor

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# REGULAR TOWN COUNCIL MEETING

Tuesday, October 20, 2020 at 6:00 PM

Council Chamber at Apex Town Hall, 73 Hunter Street

## 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 Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier, and Council Members Brett D. Gantt, Audra M. Killingsworth, Cheryl F. Stallings, and Terry Mahaffey. Also in attendance were Town Manager Drew Havens, Assistant Town Manager Shawn Purvis, Town Clerk Donna B. Hosch (remotely), and Town Attorney Laurie L. Hohe.

## COMMENCEMENT

Mayor Gilbert called the meeting to order and read a statement on diversity and inclusion related to religion. He talked about unity in Apex, encouraging all citizens to continue to work together. Mayor Gilbert led the Pledge of Allegiance.

## PRESENTATIONS

PR1 Mayor Jacques K. Gilbert

Proclamation declaring October 22, 2020 as Arbor Day in the Town of Apex  
The entire Council shared in the reading of the Proclamation.

PR2 Jacques K. Gilbert, Mayor

Breast Cancer Awareness Month Proclamation  
The entire Council shared in the reading of the Proclamation.

## CONSENT AGENDA

CN1 Donna Hosch, Town Clerk

Minutes of the September 15, 2020 Regular Council Meeting

CN2 Amanda Bunce, Current Planning Manager

Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the various Unified Development Ordinance (UDO) Amendments of October 6, 2020.

CN3 Shelly Mayo, Planner II

Statement of the Town Council for Rezoning Case #19CZ21 Heelan PUD, Jason Barron for Morningstar Law Group, petitioner, for the properties located at 8824 & 8829 New Hope Farm Road, 3108 & 3120 Olive Farm Road, and 0 Humie Olive Road

CN4 Liz Loftin, Senior Planner

Statement of the Town Council and Ordinance for Rezoning Case #20CZ04, Kobra Tracts PUD, WithersRavenel, petitioner, for the property located at 7500 Green Level Church Road & 7501 Jenks Road

CN5 Lauren Staudenmaier, Planner I

Statement of the Town Council and Ordinance for Rezoning Case #20CZ07, Jeff Roach, Peak Engineering/Rich Levert petitioners, for the property located on 2309 Old US 1 Highway

CN6 Shelly Mayo, Planner II

Statement of the Town Council and Ordinance for Rezoning Case #20CZ08 Apex Friendship Elementary School. Betty Parker for Wake County Public School System, petitioner, for the property located at 7901 Humie Olive Road

CN7 Amanda Bunce, Current Planning Manager

Resolution Directing the Town Clerk to Investigate Petition Received, Certificate of Sufficiency by the Town Clerk, and Resolution Setting Date of Public Hearing for November 4, 2020 on the Question of Annexation – Apex Town Council's intent to annex Lecter Marie Atwater, Donna M. Atwater and Jerome Kenneth Atwater HEIRS (Kings Grant) property containing 11.275 acres located at 2504, 2508, 2512, 2516 and 2600 Mt. Zion Church Road, Annexation #693, into the Town's corporate limits

CN8 Colleen Merays, Downtown & Small Business Development Coordinator

Special Event Permit and Town Co-Sponsorship request for the 2020 Chanukah Festival on Sunday, December 13, 2020, from 5:00 PM to 7:00 PM in the Apex Depot Parking Lot and Patio

CN9 Colleen Merays, Downtown & Small Business Development Coordinator

Amendment to Special Event Permit for the American Legion Fall Car Show originally scheduled for Saturday, November 3 to Saturday, November 7, 2020 from 8:00 AM to 2:00 PM in the Town Hall Parking Lot

CN10 Michael Deaton

Amendment to the Conservation Easement Ruth Holleman Property and authorization for the Town Manager to sign all related documents on behalf of the Town

CN11 Jose Martinez, Director

Approval and authorization for the Town Manager to execute the same for an Encroachment Agreement between the Town and property owners, Joshua R. Klatt

and Elizabeth T. Klatt (Grantees), regarding Wake County, NC PIN#0732-70-6379, 104 Gullane Court, as recorded in Book of Maps 2003, Page 00812, Wake County Register of Deeds

- CN12 Mary Beth Manville, Human Resources Director  
Three (3) year contract with CCS Medical to administer the "Living Connected" Diabetes Management Program for Town employees covered under the Town's health insurance plan. At the end of the 3 year term, the contract will auto-renew for periods of one (1) year.
- CN13 John M. Brown, Parks and Recreation Director  
Ordinance amendment to add Salem Pond Park to section (a) (1) of Section 15-6 of the Town of Apex Code of Ordinances and set its hours of operation
- CN14 John M. Brown, Parks and Recreation Director  
Extending summer park operating hours through February 28, 2021

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

The motion carried by a 5-0 vote.

#### REGULAR MEETING AGENDA

Mayor Gilbert stated he wished to move the Work Session to the November 4, 2020 Regular Council Meeting.

Mayor Gilbert called for a motion. Council Member Dozier made the motion to adopt the Regular Meeting Agenda with the requested modification;

Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

#### PUBLIC FORUM

Nadia Howard spoke about the allowance of goats in the Town, pointing to the Town Ordinance. She explained why she felt goats would be appropriate and presented facts related to goats and why they make great pets and how they bring joy to their owners.

PUBLIC HEARINGS

PH1 Lauren Staudenmaier, Planner I  
Ordinance on the Question of Annexation – Apex Town Council's intent to annex Powell Property Holdings, LLC (The Upchurch) property containing 5.5021 acres located at 7213 Roberts Road, Annexation #698, into the Town's corporate limits  
Staff oriented Council to the site. Staff 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 Stallings made the motion to adopt the Ordinance; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

PH2 Amanda Bunce, Current Planning Manager  
Rezoning Application #20CZ10 109 Holleman Street. The applicants, Charles Duane Taylor, Jr. and Sherry Bailey Taylor, sought to rezone approximately 0.24 acre located at 109 Holleman Street (PIN 0742305576) from Office and Institutional (O&I) to Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ).

Staff oriented Council to the rezoning. The property contains an historic home. Planning staff and the Planning Board recommended approval.

Responding to Council, staff stated they were able to help the property owner with the rezoning, noting that this situation has not come up with any frequency.

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 approve the rezoning; Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

OLD BUSINESS

OB1 Colleen Merays, Downtown and Small Business Development Coordinator  
Extending the current Parking-to-Dining Program layout adopted by Town Council on September 15, 2020 until November 1, 2020 to allow for extended outdoor dining and alcohol consumption as permitted by ABC Law or regulations, and to extend the 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 November 1, 2020.

Staff stated this was an extension recommended by ADBA. As requested by Council, staff surveyed businesses, 70% of the them stating they wished for the extension. 23% did not. Comments received from the businesses were presented.

Responding to Council, staff clarified the survey was to extend to November 1. She has not heard anything from ADBA about extending, but a good number of the impacted businesses would like for the date to be extended. Staff stated that maybe when the holidays are over, we could revisit this concept.

Council stated if we extend just to November 1, it would be the end of the program which would be prior to the next Council meeting. Extending further would give Council a chance to re-evaluate at the next Council meeting. The program has been successful, and he was worried what will happen to the businesses afterwards during the winter months.

Council stated she also thought about the November 1 date. Any certainty we could provide would be helpful; she wanted to see extension to the end of the November 1 week. She also wanted to do what we can to help support businesses during the winter months.

Responding to Council, staff spoke about restaurants and what could be done to shelter during the winter months. She explained that the heaters are loud and could hinder one's dining experience. She spoke about what else businesses could do to help bring in customers.

Council asked what other colder states are doing. Staff stated Chicago is doing a competition to address the issue, D.C. is doing grants, and N.Y. folks are putting on layers and sitting outside and rushing through their meals. No one has any solid answers as no one thought we would be looking at this issue through the winter.

Council stated our role is to be supportive to our businesses and to find a way to do so. We should not expect businesses to purchase heaters, for example, if this is a viable option. We should take advantage of the good weather and extend the program until the weather turns.

Council stated parking would be important to businesses during the holiday rushes, i.e., Small Business Saturday. However, he supported extending the date.

Council stated the Town Manager suggested extending to November 8. Conversation ensued along the lines of an extend-to date, and business wanting to keep the program in place as long as possible.

Mayor Gilbert called for a motion. Council Member Dozier made the motion to extend the program to November 8; Council Member Mahaffey seconded the motion.

The motion carried by a 5-0 vote.

UNFINISHED BUSINESS

UB1 Mike Deaton, Water Resources Director

Reduction of the Civil Penalty that was assessed to the Center Street Pharmacy property owner on March 19, 2020, from \$4,700 to \$2,000

Staff recapped the situation with the assessment, recommending a reduction to \$2,000. Staff explained the criteria used for this assessment. He stated staff will develop amendments to the UDO to further clarify this process. The requestor did not respond as to whether or not he would be in attendance at this meeting [he was not].

Council stated appreciation for the logic of developing a sensible number.

Council stated making this reduction would be muddling the process and that he could not support this.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to approve the reduction; Council Member Stallings seconded the motion.

Council Members Killingsworth, Stallings, and Mahaffey voted in the affirmative;

Council Members Gantt and Dozier voted in the negative.

The motion carried by a 3-2 vote.

NEW BUSINESS

NB1 Nicole Dozier, Mayor Pro Tem

Town of Apex Living Wage resolution and an amendment to the Personnel Policies Manual to include a Living Wage policy

Council gave background on why she wished to do this, noting she is Chair and has been a member of the Personnel Committee. She operates on centering people and recognized what our people have been doing even in the midst of a pandemic. It was time to let the public know of our recognition of staff with the living wage. Also, they should understand the values the Committee shares. Council read the Resolution.

Mayor Gilbert called for a motion. Council Member Dozier made the motion to approve the Resolution and amendment; Council Member Killingsworth seconded the motion.

Responding to Council, the Mayor Pro Tem stated why this was important to put into the budget. The Mayor stated seeing as he was a retired staff member, this was a strong message. He appreciated management's support in moving this forward.

Council stated this shows where Council's values are and she strongly supported this because Town employees are worth it. The sentiment was echoed by Council.

Responding to Council, Mayor Pro Tem spoke about other businesses which have adopted the living wage. Staff clarified those municipalities which have adopted such a policy and stated that we could talk to other counterparts about doing the same.

Council thanked his colleagues for pushing this issue, which has been worked on for a few years.

Mayor Pro Tem thanked staff for pushing this along and making sure it was supported by the budget.

The motion carried by a 5-0 vote.

NB2 Shannon Cox, Long Range Planning Manager with Shawn Purvis, Assistant Town Manager

Implementation of the proposed Apex Cares Housing Rehabilitation Program with an annual funding allocation from the Affordable Housing Fund

Staff stated she would be outlining a possible new program. We are still working on the affordable housing plan; this would be an early implementation item. She outlined what the Steering Committee has been working on. Because of NC laws, there is not much we can do about tenant rights.

The program would provide assistance to homeowners with needed repairs. Staff went over several of the highlights of the guidelines. The Town currently has a \$1 million annual allocation to the Affordable Housing Fund. The recommendation here was to allocate \$250,000 annually to the new program, Apex Cares, the details being presented. Wake County has similar programs with a few differences. None of the County's programs have been utilized in Apex because citizens are not aware of them. Staff spoke to Council questions about advocacy for awareness building.

Staff stated we have connected with Dan Sargent, Executive Director, Rebuilding Together of the Triangle, to roll in with his program. Mr. Sargent explained how they service the County with the work that they do. There is need even in places one would not expect. They have a waiting list which includes a few Apex residents. Mr. Sargent spoke about their having an opportunity to address the utility piece.

Responding to Council, Mr. Sargent spoke about the challenge in finding people who need help. He spoke to means testing. They have explored having a cap on the value of homes in order to balance the home worth with income and funding. Staff stated we don't have this qualifier and would have to feel it out. Mr. Sargent stated their program is built around the value of the home and what the owner's goals are. They do not want to improve for resale.

Responding to Council, Mr. Sargent spoke to how people in Apex may benefit from the program. They currently know of seven or eight homeowners here, and he believed there would be more.

Staff spoke to how they arrived at the dollars. We wanted to make sure we cover the needed cost, and several factors were used in coming up with a round number. We have not yet finalized any agreement – we were waiting to see in which direction Council wanted to go. Mr. Sargent explained how they balance the funds on their end with the municipalities with whom they are working.

Responding to Council, staff spoke more about advocacy which is emerging. Tools will need to be paired with education and public engagement. She explained the information they received from the public input, stating that most respondents didn't think such a program was needed in Apex. She explained the strategies of the Steering Committee. Apex Cares is in their top three priorities.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to approve the Program and allocation; Council Member Stallings seconded the motion.

Council stated the more people learn and understand, the more they may be empathetic to such a program, especially in the midst of COVID. Staff stated there will be opportunities to share information with the public.

Council stated this was a fantastic program and wanted the public to recognize that the program is about helping people to stay in their homes. This gives them an option and

addresses a dimension of affordable housing. Council was in agreement, and she provided examples of what situations may arise which would cause a need for this program.

Council stated affordable housing looks different in each area. She exemplified another municipality's efforts in addressing affordable housing. Rehabilitation was one way to keep affordable housing from leaving. The program may get more interest than we think. This is a great first step, and she couldn't wait to see what happens.

Council thanked staff and the Steering Committee for their efforts. We have a lot of disparity in Apex, and she was concerned about the condition of housing. She hoped this program could help some of our neighbors in difficult housing situations.

The motion carried by a 5-0 vote.

NB3 Audra Killingsworth, Council Member

Amendment of Section 4.3 of the Town of Apex Code of Ordinances to allow the keeping of dwarf/pygmy goats within the town limits

Council stated we added miniature pigs to the Ordinance a while ago. Looking through the slide show during Public Forum, pygmy goats are adorable. They are smaller than some dogs, and they are taken care of like a dog or a cat. As far as noise, Council stated she has received complaints about dogs. She did not believe the goats would be as big of a problem. Nancy Howard contacted neighbors and received good feedback. Council recommended to follow the Ordinance similar to that for pigs.

Council stated the presentation brought a lot of joy.

Council asked if the Town has the authority to pre-empt an HOA Covenant on this. The Town Attorney stated 'no' and explained why. Council asked if there would be a maximum number per dwelling, Council responding it would be what people could take care of and house reasonably, adding that breeding was a consideration for the number of pigs.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to approve the amendment; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

NB4 Cheryl Stallings, Council Member

Discussion regarding recent amendments to the Transportation Plan Map and direction to staff to begin the process to re-examine two changes to allow for additional public input

Council stated there were five amendments, three having consistent recommendation from staff and the Planning Board. The two which did not, Council struggled with. After further reflection, Council was concerned. She wanted to create more opportunities for public input because of the potential impact on homes and businesses.

Council stated maybe we could do a social media push on the two items and go through the process again to the Planning Board and Council.

Council also had trouble with the two items, along with the one related to the church. He wanted to engage with the church community for them to get more information from us. He wondered if there was a way to engage more citizens when it comes down to Council making a decision.

Council asked staff to weigh in on this. Staff stated this was a difficult question. Amendments came from the study, and there was public engagement. A lot of amendments don't have this level of engagement, and she stated the various avenues of public input. Staff had conversations with the church and explained this may or may not happen, but they were still concerned. Staff explained It will become difficult if we start to target areas around transportation amendments. She was not sure what additional information we would get if we redid the public notice. Staff was hesitant to do target mailing around specific projects.

Council stated there was more concern for those amendments for which staff had no recommendations. Council echoed this sentiment. Staff stated we can use Council feedback to make recommendations in the future. Responding to Council, staff stated that if we go through process once more, it would be the same public notice as was previously posted. She spoke about what would happen if a development came in one of the corridors.

Council stated it would be better to get more information in writing and this would make her feel better about the long range plan. Council was in agreement.

Staff stated they could think about the staff report and provide more information that way.

Council stated Council should be making the call. He asked the Town Attorney could a motion to reconsider be made. The answer was 'no', and the Town Attorney explained why. Council stated maybe a FaceBook page could be created for all public hearings as is done for rezonings.

Council agreed that any way to get public comment is good.

Council agreed Council should be making the decision. He didn't think hearing any negative comments would impact his vote. He thought reposting would confuse the information without new information being provided.

Council stated she had no problems making tough decisions. But, it was harder to assess, for example, a roadway going from two to six lanes.

Council stated it was a good idea to have public input even if Council would have to go through this twice.

The Town Attorney clarified that staff would bring back the two amendments after going through the process again.

Mayor Gilbert called for a motion. Council Member Stallings made the motion to bring back the two amendments after going through the process again;

Council Member Mahaffey seconded the motion.

Council Members Stallings, Mahaffey, Killingsworth, and Dozier voted in the affirmative; Council Member Gantt voted in the negative.

The motion carried by a 4-1 vote.

Council clarified for staff to expand all public hearing posts on FB and not just rezonings. Conversation ensued around doing so. Council stated it would be better to err on the side of more conversation rather than less.

#### CLOSED SESSION

CS1 Jacques K. Gilbert, Mayor  
Closed Session to discuss a personnel matter

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

The motion carried by a 5-0 vote.

Mayor Gilbert called for a motion to return to Open Session. Council Member Killingsworth made the motion; Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

WORK SESSION

WS1 Shannon Cox, Russell Dalton, Vance Holloman, Shawn Purvis  
Receive information regarding cost and timing of transportation projects and existing debt capacity in order to consider possible financing options to fund transportation projects

Council voted to move this item to the November 4, 2020 Regular Meeting.

ADJOURNMENT

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

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



# SPECIAL TOWN COUNCIL MEETING

Tuesday, October 27, 2020 at 4:00 PM

Council Chamber at Apex Town Hall, 73 Hunter Street

## 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 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 was Town Manager Drew Havens.

## COMMENCEMENT

Mayor Gilbert called the meeting to order.

Mayor Gilbert called for a motion to go into Closed Session.

Council Member Dozier made the motion; Council

Member Killingsworth seconded the motion.

The motion carried by a 4-0 vote.

Council discussed a personnel matter.

Mayor Gilbert called for a motion to return to Open Session.

Council Member Stallings made the motion; Council

Member Killingsworth seconded the motion.

The motion carried by a 4-0 vote.

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

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Donna B. Hosch, MMC, Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



# REGULAR TOWN COUNCIL MEETING

Wednesday, November 04, 2020 at 6:00 PM  
Council Chamber at Apex Town Hall, 73 Hunter Street

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

## COMMENCEMENT

Mayor Gilbert called the meeting to order, gave the Invocation, and led the Pledge of Allegiance.

Mayor Gilbert asked all staff members in attendance to stand and be recognized; they were applauded. The Mayor stated that staff is not always recognized for all they do for the Town.

Mayor Gilbert and all Council Members shared in the reading of a Proclamation recognizing Small Business Saturday in Apex.

## PRESENTATIONS

P1 Jacoby and Tayon Dancy, Event Organizers

Presentation of proposed events to commemorate the Martin Luther King, Jr. holiday in 2021

Ms. Dancy outlined the events which she and her husband tentatively planned for this holiday. It involves three days of events at several locations within the Town. Municipalities surrounding Apex participate in the holiday, and Ms. Dancy was glad to participate in such for Apex. Council stated she wondered why Apex had been participating with events in the past and thanked Ms. Dancy for her participation.

CONSENT AGENDA

- CN1 Donna Hosch, Town Clerk  
Minutes of the October 6, 2020 Regular Council Meeting
- CN2 Donna Hosch, Town Clerk  
Apex Tax Report dated September 7, 2020
- CN3 Amanda Bunce, Current Planning Manager  
Statement of the Town Council and Ordinance for Rezoning Case #20CZ10 109 Holleman Street, Charles Duane Taylor, Jr and Sherry Bailey Taylor, petitioners for the property located at 109 Holleman Street
- CN4 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 November 17, 2020 on the Question of Annexation – Apex Town Council's intent to annex Florence S. Morrison Family Living Trust (Holleman Hills South) properties containing 10.16 acres located at 5131 and 5145 Church Road, Annexation #696 into the Town's corporate limits
- CN5 Shelly Mayo, Planner II  
Set the Public Hearing for the November 17, 2020 Town Council meeting regarding Rezoning Application #20CZ09 Holleman Hills South and Ordinance. The applicant, Alonzo Wilson, sought to rezone approximately 10.16 acres from Wake County R-30 to Medium Density-Conditional Zoning (MD-CZ). The proposed rezoning is located at 5131 and 5145 Church Road.
- CN6 Amanda Bunce, Current Planning Manager  
Set the Public Hearing for the November 17, 2020 Town Council meeting regarding various amendments to the Unified Development Ordinance
- CN7 Adam Stephenson, Engineering Supervisor  
Set the Public Hearing for the November 17, 2020 Town Council meeting regarding amendments to the Unified Development Ordinance related to the Flood Damage Prevention Overlay District
- CN8 Jose Martinez, Director  
Approval of and authorization for the Town Manager to execute the same for an Encroachment Agreement between the Town and property owners, Brett Davidson and wife, Lisa A. Davidson (Grantees), regarding Wake County, NC PIN#0722-85-8381, 102 Duncroft Court, as recorded in Book of Maps 2001, Page 1251, Wake County Register of Deeds
- CN9 Mitch McKinney, Deputy Chief of Police  
Appropriation of funds received from an insurance reimbursement in the Apex Police Department Capital Outlay Account of the General Fund
- CN10 John Letteney, Chief of Police

Approval of IntelliComm Contract

CN11 Joanna Helms, Economic Development Director

Set the public hearing for the November 17, 2020 Town Council meeting to consider and receive public input on providing an economic development incentive for "Project Protein" in accordance with the Town's policy (Development Investment Grant)

Mayor Gilbert stated there was an amendment to the language for Consent 09 and read the revised wording.

Mayor Gilbert called for a motion to adopt the Consent Agenda. Council Member Killingsworth made the motion with the amended wording to Consent 09; Council Member Dozier 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 Gantt made the motion; Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

PUBLIC FORUM

No one in attendance wished to speak.

Played was a recorded comment from Jayashree Patel asking if the Town had plans to expand sidewalks and roads resulting from the development of homes. On some roads, if a car breaks down, there is nowhere to pull over which is very risky at night time.

PUBLIC HEARINGS

PH1 Dianne Khin, Director of Planning and Community Development

Public hearing and possible motion to adopt an Ordinance on the Question of Annexation - Apex Town Council's intent to annex MFW Investments, LLC (Colby Crossing) property containing 7.578 acres located along a portion of the future connection of Colby Chase Drive between Merion and Pemberley subdivisions, Annexation #651 into the Town's corporate limits.

Staff stated that the developer requested this annexation be continued to the December 15, 2020 Regular Council Meeting. This was the second request to continue. If the matter was not ready to go before Council in December, the developer would need to start the process all over again.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to continue as requested; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

PH2 Dianne Khin, Director of Planning and Community Development  
Public hearing and possible motion to adopt an Ordinance on the Question of Annexation – Apex Town Council's intent to annex Kimberly & Loomis Horton, III, Mary Elizabeth Horton, Dwight Marvin Wright, MFW Investments, LLC, and MFWIRA, LLC (Horton Park PUD) properties containing 101.356 acres located at 8140, 8252, 8306, and 8308 Smith Road; 0 East Williams Street; 0, 0, 0, 0, & 0 Dezola Street; and 5220 Jessie Drive, Annexation #687 into the Town's corporate limits.

Staff stated that the developer requested this annexation be continued to the December 15, 2020 Regular Council Meeting. This was the second request to continue. If the matter was not ready to go before Council in December, the developer would need to start the process all over again.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to continue as requested; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

PH3 Dianne Khin, Director of Planning and Community Development  
Ordinance on the Question of Annexation – Apex Town Council's intent to annex Lecter Marie Atwater, Donna M. Atwater and Jerome Kenneth Atwater HEIRS (Kings Grant) property containing 11.275 acres located at 2504, 2508, 2512, 2516 and 2600 Mt. Zion Church Road, Annexation #693 into the Town's corporate limits

Staff oriented Council to the site. Staff recommended approval of 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 Killingsworth made the motion to adopt the Ordinance; Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

*An audio recording of the following Quasi-Judicial Public Hearing made by the Town Clerk is incorporated into these Minutes by reference. The audio recording or transcript of the Hearing should be used as the verbatim record of the questions, testimonies, evidentiary rulings, and discussions that occurred at the Quasi-Judicial Hearing.*

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PH4 Shelly Mayo, Planner II

Quasi-Judicial Public Hearing regarding a Major Site Plan for Apex Friendship Elementary School located at 7901 Humie Olive Road.

Mayor Gilbert read an opening statement explaining the process by which this Hearing would proceed.

Council Member Mahaffey asked to be recused because of being related to a member of the governing body of the applicant.

All Council Members were in agreement with Council Member Mahaffey being recused. Council Member Mahaffey left the dais.

All those wishing to speak were sworn in by the Town Clerk.

Kenneth Haywood, attorney with Howard Stallings Law Firm, identified himself as being present on behalf of the applicant, the Wake County Board of Education. Those in support of the project identified themselves: Bob Williams, Boomerang Design, design firm for the school; Alice Reese, CLH Design, architects for the project; Josh Renke, Ramey Kemp & Associates, Traffic Engineer; and Shane Webster, Wake County Public Schools, Sr. Facility Planner. There was no one in opposition of the project.

In response to question from the Mayor, all Council Members stated they had not had any communications with the applicant, there were no relational or financial conflicts, and that all could be impartial in their decisions. No Council Member had viewed the site.

OPENING STATEMENT BY STAFF: Shelly Mayo, Planner II, stated her credentials. She oriented Council to the site. A virtual neighborhood meeting was held. Details of a sewer easement were outlined, and the applicant would pay half of a fee in lieu which the applicant and staff felt was fair.

Responding to Council, staff explained coordination between the school and Friendship Station and spoke about the school's size. She explained why the school wished to build a school larger than originally planned. Staff thought this a much better use of and fit for the resources.

Responding to Council about a communications device on the roof, staff stated Wake County has agreed to put these in all new schools.

OPENING STATEMENT BY APPLICANT: Mr. Haywood stated they were excited to work with the adjacent property owner to acquire the additional property for this larger school. He re-identified the members of his team.

Alice Reese identified herself and stated her credentials. She answered introductory questions from Mr. Haywood. She presented an overview of the school campus and showed pictures of the site plan changes.

Bob Williams spoke about the aesthetics and flow of the buildings. Responding to Council, he spoke about the features of the building which enhance safety for students as well as an area for resources, i.e., food pantries which are being programmed into future schools. Mr. Williams stated his credentials.

Mr. Haywood stated they were not aware of any transportation issues. To answer question from Council, Mr. Renke identified himself and stated his credentials. He spoke about a traffic impact analysis which had been updated, the staggering of school start times, and intersection signals.

CLOSING ARGUMENTS FROM APPLICANT: Mr. Haywood highlighted several factors in the staff report. He stated all standards had been met and requested approval of the major site plan based on testimony. There was no one present in opposition, and no testimony had been challenged. Mr. Haywood stated he appreciated the report done by staff and working with them on this project.

CLOSING ARGUMENTS FROM STAFF: None.

The Mayor asked Council to review their checklist for clarity. Mr. Webster presented his credentials and responded to Council question about communication boosters. They are pretty much standard and are on all their schools.

Mayor Gilbert declared the Public Hearing closed.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to approve the Plan; Council Member Dozier seconded the motion.

The motion carried by a 4-0 vote.

Council Member Mahaffey returned to the dais.

OLD BUSINESS

OBI Colleen Merays, Downtown and Small Business Development Coordinator  
Extend current Parking-to-Dining Program layout adopted by Town Council on October 17, 2020 until a date selected by Town Council, and to allow for extended outdoor dining and alcohol consumption as permitted by ABC Law or regulations, and to extend the 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 same date as selected by Town Council.

Staff stated this was a continuance of the discussion from the last time Council met. She asked if Council wished to end the Program on November 8<sup>th</sup>. There was forecasted a good weather week coming up. Holiday decorations would be going up on November 16<sup>th</sup>. Staff recommended an extension only to the 15<sup>th</sup> so as not to impede with the latter.

Responding to Council, staff stated that Phase III would still impact restrictions in restaurants. She had not seen any issues with parking. Some retail wanted to see the extension end earlier. This was a balancing act. Staff spoke about the effects of the cold weather on people eating outside and what businesses could potentially do when this Program goes away. Discussions with the ADBA would continue.

Council stated support for an extension to the 15<sup>th</sup>. He gave his thoughts as to each phase and asked how the Town could remain involved to help the businesses, i.e., utility offsets, a grant program to help mitigate the costs of COVID. In the Spring, maybe we could bring back Parking-to-Dining.

Council agreed with the 15<sup>th</sup> date. He asked, however, are we thinking bigger – i.e., January 1<sup>st</sup> to March 31<sup>st</sup> having the street closed and putting up a tent which could be used by the businesses. Hopefully something could be discussed with the ADBA. Council, in response, was not opposed to talking about any idea. No one has gone through a pandemic winter, and maybe something could be extended to all restaurants, not just the ones on Salem Street.

Council agreed with the 15<sup>th</sup>; we need to think big. Perhaps we could make a recommendation to the ADBA and other stakeholders as to what this would look like. Our staff would need to think about this also.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to approve the extension as requested to the 15<sup>th</sup> and to look forward to hearing from our stakeholders regarding this winter phase; Council Member Dozier seconded the motion.

Conversation ensued about a grant program. Staff will outline such for the upcoming meeting.

The motion carried by a 5-0 vote.

#### UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

#### NEW BUSINESS

NB1 Council Members Audra Killingsworth and Nicole Dozier  
Town sponsorship and funding for Martin Luther King, Jr. celebration events in 2021 in the amount of \$3,300.00

Council stated she was excited to see this, and she was glad the Mayor Pro Tem was interested in participating. The amount requested during Presentations was acceptable.

Council stated this would commemorate the spirit of Martin Luther King and the collaborative spirit of the community. She appreciated the flexibility in the proposal recognizing the uncertainties of COVID. She spoke about how the proposed events would be morale builders for our youth.

Council Member Dozier made the motion to approve the funding as requested;  
Council Member Killingsworth seconded the motion.

Council stated she was excited to see this and glad we are moving forward. She appreciated the Dancy's mapping out the program. It also fits in with our strategic goals of a healthy and engaged community and inclusion and diversity.

The Mayor stated he was glad to see this also, as the past year he went to events in Holly Springs because there was nothing in Apex. This was something we can build on, his wanting to see a parade. The Mayor thanked Council for bringing this forward.

The motion carried by a 5-0 vote.

The Meeting moved to Training Room A for the Work Session and Closed Session.

WORK SESSION

WS1 Shannon Cox, Russell Dalton, Vance Holloman, Amanda Grogan

Information regarding cost and timing of transportation projects and existing debt capacity in order to consider possible financing options to fund transportation projects

Staff stated the purpose of the meeting was to make updates to projects and CIP requests. There would be an overview on the roadway, transit, bicycle and pedestrian plans and other projects.

TRANSPORTATION CIP UPDATES AND REQUESTS

Non-Roadway Projects

Wayfinding Signage Fabrication and Install : staff stated the wayfinding program would be phased over five years for a cost of \$1.2 million. An overview of the various phases was given.

Tingen Road Pedestrian Bridge : staff stated we tried to get a crossing here, but it is not allowed by CSX. Therefore, staff wanted Council to consider a pedestrian bridge in this location. We would want to do a study first and then move into design and construction. This project may be good for potential grant funding. Conversation ensued on how much a bridge would be used, why CSX rejected a crossing, and what facts we can present for the need for a crossing and how we might get them to reconsider.

Center Street Railroad Crossing Improvement and Sidewalk : staff gave an overview of the project and stated there may be an opportunity for grant funding.

Chatham Street Railroad Crossing Improvement and Sidewalk : staff stated we would want to do this project at the same time as the previous one in order to receive funding. Responding to Council, staff answered grant questions.

NCDOT Projects Participation : staff overviewed three future projects.

Major Projects

Pavement Management Backlog : staff stated this will help to maintain street conditions. We have identified funding to help catch up.

Cash Corporate Center : staff talked about access needs into and out of the Center and provided cost estimates. Responding to Council, staff spoke about possible upgrades, stating we are not proposing any upgrades.

Jessie Drive Extension and Improvement : staff explained the project. Council asked should we get this done pretty soon, and staff spoke about how that would help. Conversation ensued about Jessie Drive connecting to crappy streets and the number of roadway lanes.

Davis Drive Realignment and Widening : staff stated we were asked for an extension of the roadway. We are proposing a study to make sure of what we're doing. We want to look at improvement options vs. a full upgrade.

Apex Peakway Southeast Connector : staff stated we have done a feasibility study. The next phase is the final design.

Apex Peakway North Widening : staff stated this roadway is very busy, and DOT is looking at adding a turn lane. Even with DOT budget issues, they plan to continue forward.

Staff presented an overview of active projects. The oldest projects are moving forward. Staff reviewed each of the six active projects.

The Town Manager asked Council to clarify shifting funds to projects which are more important and for LAPP funding as previously discussed.

#### DEBT CAPACITY

Staff gave an update on debt capacity and tax supported debt. Responding to Council, staff stated money is open to a variety of projects as long as they fit the definition of streets and sidewalks.

Staff stated he wished for Council to meet again to further discuss this subject. Council stated they would meet in a work session again in two weeks.

#### 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)

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

The motion carried by a 5-0 vote.

Mayor Gilbert called for a motion to return to Open Session. Council Member Stallings made the motion; Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

ADJOURNMENT

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

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Donna B. Hosch, MMC, Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



# REGULAR TOWN COUNCIL MEETING

Tuesday, November 17, 2020 at 6:00 PM

Council Chamber at Apex Town Hall, 73 Hunter Street

## 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 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 Shawn Purvis, Town Clerk Donna B. Hosch (remotely), and Town Attorney Laurie L. Hohe.

## COMMENCEMENT

Mayor Gilbert called the meeting to order. Following statement from himself, he asked Council Members to express thoughts of what they were thankful for. He led the Pledge of Allegiance.

## PRESENTATIONS

PR1 Mayor Jacques Gilbert

Presentation to Police Officer Steven LaFemina

Mayor Gilbert stated this presentation meant so much to him because it told the story of what policing should be about – compassion. Many police officers in Apex and across the nation sacrifice their lives to protect the public. The Mayor stated it was important to recognize the men and women of our community who put people first.

Mayor Gilbert told the story of a friend whose life was saved because of the good work of a police officer. He stated circumstances of his friend's life, stating that everyone's life in the community means something and everyone should be treated with dignity and respect. Mayor Gilbert outlined how Officer LaFemina saved the life of his friend. He also stated that Officer LaFemina saved another life in months prior.

Mayor Gilbert called Officer LaFemina, his wife, and son to come forward. He read the first section of the Award of Commendation. He stated that his friend stated he was thankful for the actions of Officer LaFemina.

Mayor Gilbert read the second section of the Award stating that in another instance, Officer LaFemina gave CPR to a resident which saved his life. Mayor Gilbert presented the Award.

Mayor Gilbert additionally recognized Lt. Tom Parady who put the Narcan program together.

Mayor Gilbert then recognized Commander in Chief of the Apex Police Department, John Letteney [retiring from Apex in January]. Mayor Gilbert called Chief Letteney forward and thanked him for a job well done and for his service to this community. His work will never go unnoticed. Chief Letteney praised the phenomenal work of his staff and for the support his team has received from Council in providing opportunities for training and in putting together programs.

PR2 Colleen Merays, Downtown and Small Business Development Coordinator  
Shannon Flaherty, Executive Director, Apex Chamber of Commerce  
Presentation of Apex Small Business Saturday Promotion

Staff recognized Shane Reese, President of the ADBA and owner of STR Strategies, Nicholas Bryant, VP of the ADBA and owner of the Apex Gallery, and Shannon Flaherty, President of the Apex Chamber of Commerce.

Ms. Flaherty stated the new collaboration with Ms. Merays in the Depot has been awesome. She thanked her for all the support of small businesses, which are the heartbeat of any town.

Mr. Reese thanked Council and staff and the people of the small business community. We are starting to build the connective tissue, and Mr. Reese thanked Council for giving them Ms. Merays.

Ms. Merays gave directions to the small business Saturday page on the website showing all the specials that would be available on Small Business Saturday. She encouraged all to shop small, shop local, and shop often.

PR3 North Carolina Chapter of the American Planning Association  
Presentation of the Marvin Collins Small Area Plan Award from the North Carolina Chapter of the American Planning Association

Shannon Cox, Long Range Planning Manager, stated this award was a high honor in the planning field. It was awarded to Apex and Stantec Urban Places led by Project Manager Amanda Morrell and represented by Timothy Tresohlavy for the Downtown Master Plan and Parking Study. Ms. Cox stated this has been the highlight of her career – a plan for an amazing place of special and committed people. They were already working towards implementation. She invited the Steering Committee to come forward for a photo opportunity, their being joined by Council Member Brett Gantt.

Council Member Gantt stated it was an honor being the Council liaison for this committee. They were innovative, creative, and exciting people to work with. The product shows an amazing plan worthy of the award.

#### CONSENT AGENDA

- CN1 Donna Hosch, Town Clerk  
Minutes of the September 30, 2020 Special Council Meeting, the October 20, 2020 Regular Council Meeting, and the October 27, 2020 Special Council Meeting
- CN2 Shelly Mayo, Planner II  
Findings of Fact, Conclusions of Law and Decision approving a Major Site Plan for Apex Friendship Elementary School located at 7901 Humie Olive Road
- CN3 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 MCI Enterprises LLC (MCI Business Park Buildings 3 & 4) property containing 5.53 acres located at MCI Business Park, Annexation #697 into the Town's corporate limits
- CN4 Vance Holloman, Finance Director  
Budget Ordinance Amendment No. 7 appropriating the proceeds of the 2020 Taxable General Obligation Refunding Bonds
- CN5 Russell Dalton, Sr Transportation Engineer and Vance Holloman, Finance Director  
Design Services Agreement with Stantec Consulting Services Inc. for Downtown Streetscape and Parking Design in the amount of \$614,597 and the corresponding Capital Project Ordinance Amendment No. 2021-02
- CN6 Erika Sacco, IT Director  
ILA with Cary NC to connect resources by Town of Apex and Cary owned fiber

The Mayor stated there was a requested add-on item, Budget Amendment 8 to reimburse Experience One Homes for costs incurred in the construction of the Sweetwater greenway.

Mayor Gilbert called for a motion to adopt the Consent Agenda. Council

Member Gantt made the motion with the add on Budget Amendment 8;

Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

#### REGULAR MEETING AGENDA

Mayor Gilbert stated there was staff request to hear Public Hearing 08 before Public Hearing 01.

Mayor Gilbert called for a motion to adopt the Regular Meeting Agenda. Council

Member Killingsworth made the motion with the requested Public Hearing modification;

Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

#### PUBLIC FORUM

Dr. David Bernhart spoke regarding work on the transportation bond, which has the potential to work on multiple construction projects throughout Apex. One important item to them was the southwest Peakway connector project. Originally CSX demanded the building of a bridge or tunnel, with the bridge being the first project to move forward. In 2015 a bond for \$15 million was pushed forward toward the project which has now ballooned to \$25 million and the need for another bond referendum.

Federal and State funding has dried up thanks to the pandemic. He stated with all the other projects, this is a large sum of money to spend on building a bridge that would support only a small portion of the community. The request from him and his neighbors was for the money to be allocated to more important development projects which would benefit many people.

Alison Gantt stated she was opposed to funding of the Peakway bridge. Compared to the bridge, there are more important and impactful projects ready to pursue. Many people characterize this as not the Town's most important project. The projected cost has skyrocketed while State and Federal funding has been depleted. Ms. Gantt stated it is fiscally irresponsible to fund this project. With the need for other proposed projects, the need for the bridge will be dramatically reduced. The bridge project would displace underserved in the community; the onramp could be used for something more effective in the community. Ms. Gantt stated their homes would be impacted negatively by the building of the bridge.

PUBLIC HEARINGS

PH8 Joanna Helms, Economic Development Director

To provide economic development incentives for Project Protein in accordance with the Town's Policy on Economic Development Incentives and to direct staff and the Town Attorney to draft an agreement between the Town and the company according to terms provided herein by Council and to authorize the Town Manager to approve and execute the final agreement

Staff outlined the incentive grant policy. Council approved a \$78,435 grant to Project Protein based on their \$7 million investment. This is a bio ag industry project, and staff outlined the company's proposal. There have been a few internal twists and turns in the company, but they maintain their interest at the Cash Corporate Center. They have notified us that their investment is now \$9 million with the creation of 30-40 jobs. Therefore, the grant eligibility has risen to \$106,448. Economic Development recommended awarding the grant.

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 Killingsworth made the  
Motion to approve the increased grant funding to \$106,448;

Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

PH1 Shelly Mayo, Planner II

Ordinance – Apex Town Council's intent to annex Florence S. Morrison Family Living Trust (Holleman Hills South) properties containing 10.16 acres located at 5131 and 5145 Church Road, Annexation #696 into the Town's corporate limits. This annexation will be heard concurrently with Rezoning Application #20CZ09.

and

PH2 Shelly Mayo, Planner II

Rezoning Application #20CZ09 Holleman Hills South and Ordinance. The applicant, Alonzo Wilson, seeks to rezone approximately 10.16 acres from Wake County R-30 to Medium Density-Conditional Zoning (MD-CZ). The proposed rezoning is located at 5131 and 5145 Church Road

Staff oriented Council to the site. A neighborhood meeting was held. Planning staff recommended approval with a zoning condition, and staff explained the reason for that condition.

Responding to Council, staff spoke about road improvement details of the UDO. We can only require the developer to do certain things as far as this was concerned. Staff added further explanation of what we can require.

Jeff Roach, Peak Engineering and Design, working with the applicant, identified other members of the team and explained the request. He spoke about the unimproved roads noting the one here is a State road. Mr. Roach answered Council question about the RCA. He answered affordability questions and read White Oak's commitment statement. He did not know yet if they would be able to build affordable housing. The stream buffer was clarified.

Council asked Mr. Roach about affordable housing questions in the neighborhood meeting, responding that this was not the intent of the developer. Council did not feel affordable housing would be done as part of project, and that funding would go straight to a donation. Mr. Roach stated the original plan was to bring this in as a market rate project.

Council did not understand the objection to the stream buffer condition, stating that we are trying to set policy to address zoning conditions. He did not want to set a precedent of not doing what we seek to do in the policy. Mr. Roach stated he was not against the buffer and that it could be added to the project.

Council felt the Town could come up with a legally justifiable condition.

Council stated her appreciation for conditions which are important to the Town.

Mayor Gilbert declared the Public Hearing open.

Alonzo Wilson, applicant, expressed he was thankful for those willing to stand up and make this a better place to live. He was proud to be standing before Council to speak. Mr. Wilson asked for support and stated his mission to bring affordable housing to Apex. His strategy was to follow the process. He wants to develop property to bring affordable housing to the table once they get their entitlements. Council thanked Mr. Wilson for his mission for housing affordability. The Mayor stated he knew where Mr. Wilson's heart was and what he was trying to accomplish. He appreciated everything Mr. Wilson was doing.

Rev. Tyner stated he wanted to make housing affordable to all citizens, and he talked about the importance of having home ownership. Rev. Tyner has built in Durham, and now he's working in Apex. He built the first seven houses on Lynch Street. Rev. Tyner talked about attempting to purchase land for housing for Habitat, but this fell through with the bank. So,

Habitat purchased the land from them. This project ought to be for affordable housing, but Mr. Wilson couldn't do so because of cost. He asked Council to help in this effort. Land prices are too high, there's no money in building affordable housing, and incentives are needed because of cost.

The Mayor pointed out the amazing job done on Lynch Street.

Mayor Gilbert declared the Public Hearing closed.

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

The motion carried by a 5-0 vote.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to approve the rezoning with conditions offered by the applicant;

Council Member Stallings seconded the motion.

Council added comments relating to being impressed with what's been offered, the RCA, and canopy covers not being an issue.

The motion carried by a 5-0 vote.

PH3 Adam Stephenson, Engineering Supervisor

Amendments to the Unified Development Ordinance related to the Flood Damage Prevention Overlay District

Staff explained the language of the amendments was taken from the model ordinance from the NC Department of Public Safety. Most of the changes were minimal. He highlighted the significant two significant changes. Staff shared flood insurance data. Planning Board approved the amendments.

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 approve the UDO amendments; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote

PH4 Amanda Bunce, Current Planning Manager

Various amendments to the Unified Development Ordinance as requested by Planning staff

Staff detailed the amendments and answered Council questions related to such. Planning Board 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 Dozier made the motion to approve the UDO amendments; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote

PH5 Shannon Cox, Long Range Planning Manager

Amendments to the Thoroughfare and Collector Street Plan map associated with review of data from Advance Apex: The 2045 Transportation Plan

Staff outlined the amendments. Planning reviewed the amendments with several other Town departments and there were no concerns. Staff and the Planning Board recommended approval. Staff responded to questions asked by Council and clarified how they try to avoid existing structures in roadway projects.

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 approve the amendments to the Thoroughfare and Collector Street Plan Map;

Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote

PH6 Jenna Shouse, Long Range Planner II

Amend the Bicycle and Pedestrian System Plan map to add side path, a grade-separated pedestrian crossing, and greenway associated with the approved Depot 499 Planned Unit Development (PUD)

Staff oriented Council to the amendments. Staff and Planning Board 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 Gantt made the motion to approve the amendments to the Bicycle and Pedestrian System Plan Map;

Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

Mayor Gilbert called for a ten-minute recess.

PH7 Shannon Cox, Long Range Planning Manager

Proposed amendments to the Thoroughfare and Collector Street Plan map associated with the possible reversal of amendments made according to recommendations in the Southwest Area Study pertaining to New Hill Olive Chapel Road and North Salem Street

Staff oriented Council to the first amendment, noting that this has been heard previously. Staff and Planning Board recommended rejecting the reversal of the previously approved amendments. Responding to Council, staff answered questions related to historic structures and number of road lanes.

Staff oriented Council to the second amendment. Planning staff and the Planning Board recommended rejecting the reversal of the previously-approved amendment.

Responding to Council, staff answered questions about collaboration with Thales about the traffic at their location. Besides improving the road, staff did not see what else could be done to help the traffic situation there.

Mayor Gilbert declared the Public Hearing open.

Recorded comments were heard. Mike Hicks was opposed to widening the road to four lanes with a median. The majority of traffic was from through traffic. This has increased because of new development and will continue. However, it still didn't warrant a change in lanes with median. He talked about resulting negatives and stated that amendments to other roads would be more beneficial.

Patrick and Kim Tierney moved to Olive Chapel Road for many reasons. They supported the expansion to four lanes with median and explained why. They felt the lanes would support traffic once developments were developed to full capacity.

Rebecca Ward stated support of expanding New Hill Olive Chapel Road. This is no longer a rural road with all the houses being built, and this is dangerous. Ms. Ward was in favor of the expansion which would help with safety and in keeping traffic to a minimum.

In attendance, Jess Hastings, President of Apex Historical Society and Vice Chair of the Wake County Historical Commission, spoke about the road improvement plans. He spoke about the seven historical structures in the area. He was most concerned about Salem Street. A new road would be very close to their front doors. He was asked about possibly moving the houses and explained the process to do so and the associated costs. Mr. Hastings stated that we would lose seven structures that are a draw to downtown. He made suggestion as to how to mitigate the traffic situation.

Erin Bridges asked Council to leave Salem Street alone. She disagreed with the reasoning behind the changes as there is no room to widen the road. There is only 30 feet between the sidewalk and her front door. If this goes through, there would only be about 10 feet. This does not fit a residential area. Ms. Bridges also stated that a car dealership was not consistent with the neighborhoods and that the school problem should be solved using school property.

Mayor Gilbert declared the Public Hearing closed.

Council stated he supported the amendment to modify New Hill Olive Chapel Road back to two lanes. This road has rural character that should be retained. We should look at this as being a transition. In addition, the graveyard is a deal breaker, and graves may have to be moved in the future.

Council agreed, stating that there is a tension between development and traffic and maintaining ruralness and historic structures.

Council thanked staff for more information and the reaching out of the public. She was against Crossroads Ford at our entranceway; it doesn't belong there. After further thought and thinking of those most affected in the area, she was in agreement with reverting back to a two-lane road.

Council stated that since we are trying to balance development and keeping our historical nature, this would be difficult unless historical houses were moved. There would be major issues getting around the houses and the cemetery. We will lose the small town feel that people enjoy. Council stated the historical nature was more important, so she supported staying with two lanes.

Council disagreed because of looking at traffic projections on other maps. Preserving structures would inconvenience many who have not yet moved to Apex. Traffic will be terrible and future Councils may wonder why we stayed at two lanes. On Tingen, we are suffering from negative feedback where we didn't plan very well. On Salem Street, there are not pretty gateway buildings. Combine with this traffic jams, and he wondered how people will feel looking at constant traffic jams in front of their homes.

Council stated we will have other options along the way. Widening Salem is not a solution to the problem. We should be thinking about ways to get traffic off of Salem. Council agreed, stating that she consistently voted against developments in certain areas in order to maintain small town character.

The Mayor asked how it would impact funding if we change what's in our long-range planning. Staff stated what the process would be. In most cases, CAMPO will honor local wishes. Conversation ensued as to what could be another solution for encouraging traffic off of Salem Street.

Council asked about a bypass in the New Hill area. Staff stated this was an additional recommendation from the study which we are working to further vet.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to approve downgrading Salem Street to a future three lane thoroughfare; Council Member Stallings seconded the motion. Council Members Mahaffey, Stallings, Dozier, and Killingsworth voted in the affirmative; Council Member Gantt voted in the negative.  
The motion carried by a 4-1 vote.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to approve downgrading New Hill Olive Chapel Hill road to an existing rural road two-lane thoroughfare; Council Member Stallings seconded the motion. Council Members Mahaffey, Stallings, Dozier, and Killingsworth voted in the affirmative;  
Council Member Gantt voted in the negative.  
The motion carried by a 4-1 vote.

#### 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 New Business items for consideration.

CLOSED SESSION

There were no Closed Session items for consideration.

The Meeting moved to Training Room A for the Work Session.

WORK SESSION

WS1 Amanda Grogan, Budget and Management Analyst; Shawn Purvis, Assistant Town Manager

Financing options to fund transportation projects presented at the November 4, 2020 Council Meeting Work Session

Staff outlined last year's ranking of CIP projects by Council. Funding for these projects now needs to be available instead of at the end of a project.

Staff asked how Council wished the \$12 million to be allocated. Conversation ensued related to the bridge, the Peakway, and the public's perception of what the bond would be used for; the opportunity to get things done to improve the quality of life; and wording on the ballot related to bond funding.

The majority of Council was in agreement to allocate \$5 million to pavement management backlog and \$7 million to the Apex Peakway Bridge.

Further conversation ensued about CSX and another possible bond to build the bridge.

ADJOURNMENT

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

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Donna B. Hosch, MMC, Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



# SPECIAL TOWN COUNCIL MEETING

Tuesday, November 24, 2020 at 4:00 PM  
Council Chamber at Apex Town Hall, 73 Hunter Street

**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 Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier,  
and Council Members Audra M. Killingsworth, Brett D. Gantt,  
Cheryl F. Stallings, and Terry Mahaffey

COMMENCEMENT

Mayor Gilbert called the meeting to order.

Mayor Gilbert called for a motion to go into Closed Session. Council Member Dozier made the motion; Council Member Killingsworth seconded the motion. The motion carried by a 5-0 vote.

Mayor Gilbert called for a motion to return to Open Session. Council Member Mahaffey made the motion; Council Member Gantt seconded the motion. The motion carried by a 5-0 vote.

ADJOURNMENT

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

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Nicole L. Dozier, Mayor Pro Tem

ATTEST:

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Jacques K. Gilbert, Mayor

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# REGULAR TOWN COUNCIL MEETING

Tuesday, December 01, 2020 at 6:00 PM

Council Chamber at Apex Town Hall, 73 Hunter Street

## 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 Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier, and Council Members Audra M. Killingsworth, Brett D. Gantt, and Cheryl F. Stallings. Also in attendance were Town Manager Drew Havens, Assistant Town Manager Shawn Purvis (remotely), Town Clerk Donna B. Hosch, and Town Attorney Brian Meyer.

Absent were Council Member Terry Mahaffey and Town Attorney Laurie L. Hohe.

## COMMENCEMENT

Mayor Gilbert called the meeting to order, read a statement of diversity and inclusion related to religion, gave the Invocation, and led the Pledge of Allegiance.

## PRESENTATIONS

PR1 Shannon Cox, Long Range Planning Manager with HR&A Advisors, Inc.

Informational update to the Town Council regarding the ongoing development of the Town of Apex Affordable Housing Plan

Staff overviewed the various aspects of the presentation. They have been working on the identified housing needs, drafting the affordable housing plan, and reviewing with the steering committee. Recommendations would be presented this evening. The full plan will be presented to the public for comment, and asking Council for adoption of the plan would be forthcoming in January. Staff stated the steering committee used public input to develop the plan, vision, and goal. She presented the developed vision and goal statements. We will be gathering additional public input on these statements.

Sarah Kirk, HR&A Advisors, Inc., talked about the three types of actions taken to achieve the goals laid out by staff. She detailed the recommendations. Staff outlined the next steps in the process, giving dates and times as to when each step would occur.

Responding to Council, staff presented background on the steering committee and its members. She spoke about the County having direct input into our plan which was helpful in filling in gaps and showing where there might be partnering opportunities.

PR2 Drew Havens, Town Manager

Brief update from Town Manager on various topics

The Mayor requested that this presentation be moved prior to Closed Session.

#### CONSENT AGENDA

CN1 Amanda Bunce, Current Planning Manager

Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the various Unified Development Ordinance (UDO) Amendments of November 17, 2020

CN2 Adam Stephenson, Engineering Supervisor

Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the Unified Development Ordinance (UDO) Amendments of November 17, 2020 related to the Flood Damage Prevention Overlay District

CN3 Amanda Bunce, Current Planning Manager

Set the Public Hearing for the December 15, 2020 Town Council meeting regarding various amendments to the Unified Development Ordinance

CN4 Shelly Mayo, Planner II

Statement of the Town Council for Rezoning Case #20CZ09 Holleman Hills South. Alonzo Wilson is the petitioner for the properties located at 5131 and 5145 Church Road.

CN5 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 MCI Enterprises LLC (MCI Business Park Buildings 3 & 4) property containing 5.53 acres located at MCI Business Park, Annexation #697 into the Town's corporate limits

CN6 Michael S. Deaton, P.E. - Director

Approval and authorization for the Town Manager to execute the same for an Encroachment Agreement between the Town and property owners, Wesley Pitman and wife, Jessica Szydowski (Grantees), regarding Wake County, NC PIN#0722-30-5447, 2901 Water Tower Lane, recorded in Book of Maps 2018, Page 923, Wake County Register of Deeds

- CN7 Shawn Purvis, Assistant town Manager  
Set the Public Hearing for Tuesday, December 15, 2020 at 6:00 pm to receive citizen input regarding the formulation of the Fiscal Year 2021-2022 Annual Budget
- CN8 Jeffrey Maynard, Assistant Chief of Fire  
Budget Ordinance Amendment No.10 appropriating funds received from an insurance reimbursement to the Apex Fire Department Vehicle Maintenance and Repairs Account of the General Fund
- CN9 Keith McGee, Fire Chief  
Authorization for the Town Manager to sign a Memorandum of Understanding (MOU) between the Town of Apex (Apex Fire Department) and Wake Technical Community College (WTCC) to allow WTCC instructors to utilize Town of Apex owned equipment while instructing members of the Apex Fire Department and others who are registered to participate in certification courses. The MOU covers the five-year period from January 1, 2021 through December 31, 2025.
- CN10 Joanna Helms, Economic Development Director  
Set the Public Hearing for the December 15, 2020 Town Council meeting to consider and receive public input on the conveyance of +/-28 acres of the Cash Corporate Center located at 2100 Production Drive for \$2,105,880.00 for the purposes of Economic Development, pursuant to N.C.G.S 158-7.
- CN11 Russell Dalton, Senior Transportation Engineer  
Resolution requesting the North Carolina Department of Transportation to release a portion of Kings View Trail (SR 6112, Wake County) for inclusion in the Town's street system
- CN12 Marty Stone, Assistant Town Manager  
Resolution to Abandon Portions of Existing Public Utility Easements in Sweetwater Subdivision

Mayor Gilbert called for a motion to adopt the Consent Agenda. Council Member Killingsworth made the motion; Council Member Stallings seconded the motion.  
The motion carried by a 4-0 vote.

#### REGULAR MEETING AGENDA

Mayor Gilbert called for a motion to adopt the Regular Meeting Agenda. Council Member Dozier made the motion; Council Member Gantt seconded the motion.  
The motion carried by a 4-0 vote.

PUBLIC FORUM

Tommy Williamson spoke about life risks and mitigating those risks. DHHS statistics state that the risk of death for youth athletes is low. None of the NC deaths due to the pandemic have been by school children, and Dr. Fauci says deaths in this age range are low. So students should be allowed to play various sports games. NC has taken no action to shut down football, and those individuals are older and at higher risk of death than high school basketball. Mr. Williamson asked Council to consider facts, be flexible, reverse status, and reopen winter basketball.

OLD BUSINESS

There were no Old Business items for consideration.

UNFINISHED BUSINESS

UB1 Jenna Shouse, Long Range Planner II

Updates on the Town of Apex Wayfinding Signage Program including a summary of public input received on the sign design and gather input from Town Council on sign design, kiosk display type, and gateway options.

Staff stated the purpose of the program. We are now working on programming and what signs will look like. Staff asked for Council input on the flat or scalloped edging on the signs. Council conversation ensued about the scalloped design being unique to Apex, and there was conversation about if the curvature of gateway signs could be used. Consensus was the scallops would be used for uniqueness. Staff overviewed the two types of display kiosks. Conversation ensued about the preference for each and how many of each should be purchased. Consensus was to use all static kiosks with the opportunity to update in the future.

Staff overviewed the gateway sign options. Conversation ensued as to placement of the signs and Council's preference for each. Council went with the first choice.

PUBLIC HEARINGS

PH1 Joanna Helms, Economic Development Director by Assistant Town Manager Shawn Purvis

Purchase of +/-10 acres of the Cash Corporate Center located at 2100 Production Drive for \$595,560.00 for the purposes of Economic Development, pursuant to N.C. G. S 158-7, and Budget Ordinance Amendment No. 9 to allocate money from General Fund balance

Staff reviewed the site. There were no questions or concerns from Council.

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 Killingsworth made the motion to approve the \$595,560.00 purchase and Budget Ordinance Amendment No. 9; Council Member Dozier seconded the motion.  
The motion carried by a 4-0 vote.

PH2 Joanna Helms, Economic Development Director by Assistant Town Manager Shawn Purvis  
Conveyance of +/-10 acres of the Cash Corporate Center located at 2100 Production Drive for \$752,100.00 for the purposes of Economic Development, pursuant to N.C.G.S 158-7.

Staff outlined this would be for Project Protein and gave a brief overview of what the project would bring to the Town. He additionally outlined the next steps, stating this is moving forward pretty quickly.

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 approve the conveyance of +/- 10 acres at Cash Corporate Center;  
Council Member Stallings seconded the motion.  
The motion carried by a 4-0 vote.

PH3 Dianne Khin, Director of Planning and Community Development  
Public hearing and possible motion to adopt an Ordinance on the Question of Annexation – Apex Town Council's intent to annex MCI Enterprises LLC (MCI Business Park Buildings 3 & 4) property containing 5.53 acres located at MCI Business Park, Annexation #697 into the Town's corporate limits.

The public hearing will not be held until December 15th, 2020.

Staff stated that due to a miscommunication in noticing this Hearing, the process would need to start over.

*An audio recording of the following Quasi-Judicial Public Hearing made by the Town Clerk is incorporated into these Minutes by reference. The audio recording or transcript of the Hearing should be used as the verbatim record of the questions, testimonies, evidentiary rulings, and discussions that occurred at the Quasi-Judicial Hearing.*

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PH4 Sarah Van Every, Senior Planner

Quasi-Judicial Public Hearing regarding a Major Site Plan for Crossroads Ford Truck Center located at 1200 Key Ring Drive

Mayor Gilbert read the Statement detailing the process and procedures for this Hearing.

All those wishing to speak were sworn in by the Town Clerk.

No one in attendance was in opposition to the request.

In response to question from the Mayor, all Council Members stated they had not had any communications with the applicant, there were no relational or financial conflicts, and that all could be impartial in their decisions. No Council Member had viewed the site.

Mayor Gilbert declared the Public Hearing open.

OPENING STATEMENT BY STAFF: Mrs. Van Every stated her credentials. She oriented Council to the site. A neighborhood meeting was held. Responding to Council, staff explained why the parking spaces triggered this review, including questions about stormwater and traffic flow.

OPENING STATEMENT BY APPLICANT: Leann Brown, attorney, representing the applicant, called upon Bill Daniel with William G. Daniel & Associates to detail the project.

Mr. Daniel introduced himself and stated his credentials. He detailed the various aspects of site and the project. Responding to Council, he clarified fencing around the pond and his response to a neighbor about trees. Council thanked Mr. Daniel for the buffer they would provide. He answered questions about light pollution.

Ms. Brown asked for incorporation of their presentations and Mr. Daniel's testimony into the record.

Responding to Council, staff clarified the question of amenities.

Mayor Gilbert asked Council to review their Checklist. There were no questions or concerns.

Mayor Gilbert declared the Public Hearing closed.

Mayor Gilbert called for a motion. Council Member Gantt made the motion to approve the Major Site Plan; Council Member Killingsworth seconded the motion. The motion carried by a 4-0 vote.

PR2 Drew Havens, Town Manager

Brief update from Town Manager on various topics

Staff stated he was asked to provide the public an update on projects and other things going on around town. He outlined the \$70 million of large capital projects that are ongoing. They are all on schedule.

Staff outlined the activity going on with the Senior Center, Pleasant Park, Electric Operations Center, the Greenway Projects, and signal projects. There is an upcoming pre-budget public hearing, and staff encouraged the public to come speak at that hearing with their wishes or to submit those via email.

Firefighters have painted hydrants orange to show support for one of our firefighters battling leukemia. They are also doing other things to help support him and his family. Electric and Parks and Recreation have teamed up to add lights to the volleyball and basketball courts. Economic Development graduated 14 from the Launch Apex Program. They asked everyone to shop local and shop small, especially during holiday times. Work on the audit is done. Human Resources will wrap up the required diversity and inclusion training for all employees.

Staff took the opportunity to brag on staff during this pandemic. Business has continued without interruption. Everyone adjusted with great speed. We have made some adjustments which follow public health guidelines. Staff has been at work in person or virtually without complaint. Staff stated he could not overemphasize the quality of our staff serving the people of this Town. Council gave a standing ovation to staff.

#### 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 no further business and without objection from Council, Mayor Gilbert adjourned the meeting.

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Donna B. Hosch, MMC, Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



# REGULAR TOWN COUNCIL MEETING

Tuesday, December 15, 2020 at 6:00 PM  
Council Chamber at Apex Town Hall, 73 Hunter Street

## 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 Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier (remotely), and Council Members Audra M. Killingsworth, Brett D. Gantt, Terry Mahaffey, and Cheryl F. Stallings. Also in attendance were Town Manager Drew Havens, Assistant Town Manager Shawn Purvis, Town Clerk Donna B. Hosch (remotely), and Town Attorney Laurie L. Hohe.

## COMMENCEMENT

Mayor Gilbert called the meeting to order, gave the Invocation, and led the Pledge of Allegiance.

Mayor Gilbert stated that Mayor Pro Tem Dozier was attending remotely but that she would not be voting.

## PRESENTATIONS

PR1 Keith Joyce of Joyce and Company, Independent Auditor

Presentation of June 30, 2020 audit report from Joyce and Company

Mr. Joyce presented highlights of the audit report. The audit opinion was clean, and the Town was awarded the Certificate of Excellence, a nationwide award, which has been received 26 years in a row. There was one finding but no Management Letter. There was one deficiency similar to the one from the prior year, this year's deficiency most likely being related to COVID.

CONSENT AGENDA

- CN1 Donna Hosch, Town Clerk  
Minutes of the November 4, 2020 Regular Council Meeting, the November 17, 2020 Regular Council Meeting, the November 24, 2020 Special Council Meeting, and the December 1, 2020 Regular Council Meeting
- CN2 Donna Hosch, Town Clerk  
Apex Tax Report dated October 5, 2020
- CN3 Jacques K. Gilbert, Mayor  
Reappointment of all members of the Bee City Committee – Kaitlin Hartman, Michael Erana, Heidi Deja, Guy Loeffler, and Jennifer Springer – to a second term and appointment of a new member, Kimberly Rossi, to a first term to fill the current vacancy on the Committee
- CN4 Jacques K. Gilbert, Mayor  
Re-appointment of Reginald Skinner and Tim Royal to the Planning Board as their terms expire December 31, 2020, and naming Michael Marks as Chair and Reginald Skinner as Vice Chair
- CN5 Jacques K. Gilbert, Mayor  
Approval of Renisha Battle to fill a vacant seat left by Jane Wolfgang on the Public Art Committee
- CN6 Sarah Van Every, Senior Planner  
Findings of Fact, Conclusions of Law and Decision approving a Major Site Plan for Crossroads Ford Truck Center located at 1200 Key Ring Drive
- CN7 Amanda Bunce, Current Planning Manager  
Set the Public Hearing for the January 12, 2021 Town Council meeting regarding amendments to the Unified Development Ordinance related to the deadline for the submittal of requested quarterly receipts for businesses that serve alcohol for on-premise consumption
- CN8 Russell Dalton, Sr Transportation Engineer  
Amendment to Design Services Agreement – Supplemental 1 with Stantec Consulting Services Inc., for Downtown Streetscape and Parking Design in the amount of \$10,000 and the corresponding Capital Project Ordinance Amendment No. 2021-03.
- CN9 John M. Brown, Director  
Contract with Field Turf USA Inc. for conversion of multi-purpose athletic field at Salem Pond Park to synthetic turf and authorize Town Manager to sign all related documents / agreements
- CN10 Marty Stone, Assistant Town Manager  
Encroachment Agreement and authorization for the Town Manager to execute the same for Lennar Carolinas, LLC to install a private water line that will encroach on the Town's right-of-way and public drainage easement

CN11 Mitch McKinney, Deputy Chief of Police

One "Chief of Police" badge and one handgun to be declared "surplus", that the price for such handgun be set at \$1.00 (One Dollar), and that the badge and handgun be awarded to Retiring Police Chief John W. Letteney

CN12 John M. Brown, Director

Temporary change in park hours at Apex Nature Park

The Mayor stated that there was a change to the public hearing date in Consent 07 from January 12<sup>th</sup> to January 26<sup>th</sup>, and there was an add-on related to the COVID leave policy.

Mayor Gilbert called for a motion to approve the Consent Agenda. Council

Member Killingsworth made the motion with the requested changes;

Council Member Gantt seconded the motion.

The motion carried by a 4-0 vote.

#### REGULAR MEETING AGENDA

Mayor Gilbert called for a motion to approve the Regular Meeting Agenda.

Council Member Mahaffey made the motion; Council

Member Killingsworth seconded the motion.

The motion carried by a 4-0 vote.

#### PUBLIC FORUM

Nicholas Brautcher, Peak of the Vine, spoke about his business and its business model. They are a retail wine shop with membership. He stated that with less parking and less foot traffic, he cannot compete with other larger businesses. Because of the pandemic, they are holding activities outside, which are being stopped by the police. He spoke about the hardships and harassment they face because of permitting to which other businesses don't have to comply.

Michelle Phoenix spoke about music at their place of business, Peak of the Vine, for which they have been thanked by the public. They were forced to move from their old location to the new location (on Salem Street). While they have been successful here, they are being forced to be outside because of COVID. They wanted music and outdoor seating, bringing in revenue to the Town, and they are being attacked and harassed by cops being sent to their location. They were asking for solo duo before 10:00 p.m. on Friday and Saturday nights with the playing of music during COVID. Ms. Phoenix felt

they are bringing people and revenue into the community, and simply wanted outdoor seating and music on Fridays and Saturdays.

Elvis Greer, designated speaker for the Stillwater community, asked for a greenway project to be placed in the upcoming budget. At the end of Ragan Road, there is a space that is a clear path to the American Tobacco Trail. They wished for the Town to acquire legal permission to cross through that area and to clear some of the debris to provide a safe walking path, other communities being in support. Right now, there is not a safe place to walk around their neighborhood.

Juan Ortega, Sophie and Mollies Boutique, spoke in support of Peak of the Vine. Downtown Apex's history is music, i.e., Apex Jazz Festival. These venues have stopped across the country, and there are only places like Peak of the Vine left to enjoy. Downtown businesses were in the news, Peak of the Vine included, for the creative things they are trying to do to stay alive. The news showed Peak of the Vine's winter wonderland with lights and guitar playing. For them to be harassed by the police, the Town, and the alcohol bureaus is unacceptable. Mr. Ortega was upset that this continues to happen and that there is no support from the community. He asked Council to fight for them.

Laurie Nelson, Brookfield subdivision, spoke about her holiday card that depicted a Black Lives Matter photo. She thought her card would bring joy, but it brought anger to one neighbor, David Swope, a police officer. He sent her an angry text message. She was wondering what would happen when his tolerance ran out. There are those who have signs displayed in yards that depict Black children. Will her Black Lives Matter car sticker make her a target for other officers who felt the same way? Ms. Nelson reported her concerns to Officer McKinney, and found this was a pattern that causes concerns about Apex PD. Officer McKinney, while polite, left her questioning herself – she did not feel heard or safe. Ms. Nelson formally requested a cultural assessment of the police department be initiated immediately to understand diversity, equity, and inclusion issues in the police department – especially as we prepare to hire a new police chief. She hoped the new chief will respect the dignity and cultural diversity of the community. She hoped this would be a first step in developing a police advisory board where all cultural and diversity concerns could be heard by all.

PUBLIC HEARINGS

PH1 Joanna Helms, Economic Development Director by Assistant Town Manager Shawn Purvis

Conveyance of +/-26 acres of the Cash Corporate Center located at 2100 Production Drive for \$1,955,460.00 for the purposes of Economic Development, pursuant to N.C.G.S 158-7

Staff stated this was similar to the public hearing heard two weeks ago. Council has provided for purchase of the property. Staff oriented Council to the site, which would be for Project Delta. Responding to Council, staff stated Project Protein was looking to close within the next 45-60 days.

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 Stallings made the motion to approve the conveyance of +/- 26 acres for \$1,955,460.00;

Council Member Gantt seconded the motion.

The motion carried by a 4-0 vote.

PH2 Shawn Purvis, Assistant Town Manager and Amanda Grogan, Budget & Management Analyst

Citizen input regarding the formulation of the Fiscal Year 2021-2022 Annual Budget Staff stated this would give the community an opportunity for feedback into the budget. She stated there was a public participation and prioritization tool on the website, detailing what was included.

Responding to Council, staff stated public input was for board projects, and that we can determine if respondents live within the town limits. The rough budget calendar was stated. Staff responded that prioritization was better done through the survey than through emails. However, emails are monitored and responded to year-round. Most responses come after the budget is adopted, most being complimentary.

Mayor Gilbert declared the Public Hearing open. With no one wishing to speak, Mayor Gilbert declared the Public Hearing closed.

Council stated that prior to his becoming a Council Member, he and his neighbors used the email address which can be a useful tool to get what want is wanted as a need in the community. Council stated this is where there is the most citizen impact for certain projects. Both hoped these tools were something that the community would use this year.

PH3 Dianne Khin, Director of Planning and Community Development  
Ordinance on the Question of Annexation – Apex Town Council's intent to annex MFW Investments, LLC (Colby Crossing) property containing 7.578 acres located along a portion of the future connection of Colby Chase Drive between Merion and Pemberley subdivisions, Annexation #651 into the Town's corporate limits  
Staff oriented Council to the site. The subdivision was approved previously, and staff 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 Stallings made the motion to approve the Ordinance related to Annexation #651; Council Member Killingsworth seconded the motion.  
The motion carried by a 4-0 vote.

PH4 Dianne Khin, Director of Planning and Community Development  
Ordinance on the Question of Annexation – Apex Town Council's intent to annex Kimberly & Loomis Horton, III, Mary Elizabeth Horton, Dwight Marvin Wright, MFW Investments, LLC, and MFWIRA, LLC (Horton Park PUD) properties containing 101.356 acres located at 8140, 8252, 8306, and 8308 Smith Road; 0 East Williams Street; 0, 0, 0, 0, & 0 Dezola Street; and 5220 Jessie Drive, Annexation #687 into the Town's corporate limits  
Staff oriented Council to the site which was in a similar location to that in Public Hearing 3. Staff 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 Gantt made the motion to approve the Ordinance related to Annexation #687; Council Member Mahaffey seconded the motion.  
The motion carried by a 4-0 vote

PH5 Dianne Khin, Director of Planning and Community Development  
Ordinance on the Question of Annexation – Apex Town Council's intent to annex MCI Enterprises LLC (MCI Business Park Buildings 3 & 4) property containing 5.53 acres located at MCI Business Park, Annexation #697 into the Town's corporate limits

Staff oriented Council to the site, which was also in the same general vicinity as Public Hearings 3 and 4. Staff recommended approval.

Mayor Gilbert declared the Public Hearing open. With no one wishing to speak, Mayor Gilbert declared the Public Hearing closed.

Responding to Council, staff answered questions about any future environmental remediation for which the property owner would have responsibility.

Mayor Gilbert called for a motion. Council Member Stallings made the motion to approve the Ordinance related to Annexation #697; Council

Member Killingsworth seconded the motion.

The motion carried by a 4-0 vote

PH6 Shelly Mayo, Planner II

2020 Annual Hazard Mitigation Action Plan Update

Staff stated two federal acts require these Plans in order to be eligible for federal money. This was a group project with a lot of input, and staff identified those persons in the group. Staff spoke about several of the items in the action plan. Exciting was the completion of the White Oak Greenway, and staff explained how this can help in an evacuation effort. Three new items were added – Public Stations 6 and 7 and the future fire administration building.

Staff spoke briefly about ongoing items and stated those with a concrete ending point. Beaver Creek greenway, Middle Creek greenway, Apex West greenway, the Beaver Creek sewer line improvement, the Peakway loop are in the works. Staff spoke about updates to the UDO. Police and Fire and IT are working together to improve our communication abilities.

Responding to Council, staff spoke to how this document influences CIP decisions which will be made by Council. We try to get major projects on as many documents as possible to increase the likelihood of federal funds. The Town Manager explained this information will be incorporated in the upcoming CIP discussion with Council.

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 Killingsworth made the motion to approve the Mitigation Action Plan; Council Member Stallings seconded the motion.

Council stated he likes doing this type of planning as disasters are not well predicted and not always well planned for. He felt comfortable that we will be prepared as best we can because of this plan.

Council stated sometimes we undersell to the public and hazard mitigation should be a larger topic of information.

The motion carried by a 4-0 vote

PH7 Amanda Bunce, Current Planning Manager  
Various amendments to the Unified Development Ordinance  
Staff oriented Council to the amendments.

Responding to Council, staff spoke about non-ETJ areas and these areas being counted as offsite RCA. Staff stated we requested ETJ expansion in 2007, but this was not granted by the County. Staff explained there are benefits to having people annexed when they get rezoned. The ETJ is not necessarily beneficial for many reasons. Council expressed wanting to hear more about this.

Planning staff and the Planning Board 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 Killingsworth made the motion to approve the UDO Amendments; Council Member Stallings seconded the motion.

Council stated excitement in seeing the RCA changes, and he talked about our policy goals and what he hopes to see happen in the future.

Council spoke about the benefit of being able to expand for park purposes.

Council appreciated the work done by everyone and how this is tied to our strategic goals.

The motion carried by a 4-0 vote

OLD BUSINESS

OBI Vance Holloman, Finance Officer

Temporary Ordinance Modifications extending the current suspension of utility disconnections and application of penalties and fees for unpaid utility balances  
Staff stated there was updated information to the cover sheet – we have 2,083 accounts subject to disconnection totaling \$967,566, and slightly under a fourth have set up payment plans. He explained possibilities as to why there has not been a larger percentage of those setting up payment plans. Staff expounded more on account figures and revenues. He stated there are two surrounding municipalities that plan to reinstate cutoffs in January.

Responding to Council, staff spoke about the average number of people in arrears and where we stood compared to the Statewide average. He spoke about a utility relief program of another municipality and how that program works.

Conversation ensued among Council about our citizens being impacted by the pandemic, how we are not able to forgive utility debt, how we will need to get back to a regular billing process, and our possibly transitioning to a way/program going forward to help our customers. Wake Helps is now closed.

Council stated he would oppose approval because of too much uncertainty and the million-dollar figure is only going to grow. Council stated that if we decided to stop the effort, it did not mean we would get the money. Council provided information leading to more conversation of possible funding that may be forthcoming from the government. Conversation ensued on the Town implementing its own assistance program.

Mayor Gilbert called for a motion. Council Member Killingsworth made a motion to extend suspension of utility disconnections and application of penalties and fees for unpaid utility balances to February 28, 2021;

Council Member Stallings seconded the motion.

Council stated this is the fault of COVID and not the fault of our customers. The Mayor stated that he receives emails weekly from citizens and business owners asking how they can get back on track. We must continue to move forward during these unprecedented times to help the citizens and business owners.

Council Members Killingsworth, Stallings, and Mahaffey voted in the affirmative. Council Member Gantt voted in the negative.

The motion carried by a 3-1 vote.

Mayor Gilbert called for a ten-minute break.

UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

NEW BUSINESS

NB1 Shawn Purvis, Assistant Town Manager

General Title VI Nondiscrimination Policy and associated grievance procedures  
Staff stated this was part of the requirement for us to receive federal and state funding, especially for DOT. We have had the required practices in place, but DOT has asked for a formal approval statement. This is the first step to putting us in compliance; other policies are being reviewed. There was an immediate need and deadline for this presented piece.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to approve the General Title VI Nondiscrimination Policy and associated grievance procedures; Council Member Stallings seconded the motion.

The motion carried by a 4-0 vote.

NB2 Shawn Purvis, Assistant Town Manager

Financial support to DHIC for the affordable housing project at Broadstone Walk in the form of grants from the Affordable Housing Fund for Water and Sewer Capital Reimbursement Fees and Recreation Fees-in-lieu and a loan for construction contingent upon final project approval

Staff stated we received two letters from DHIC, Tim Fisher being on line if questions. The first was for grant funding to cover the cost of water and sewer capital reimbursement fees. Council considered this request when the project was in a different phase and design over a year ago, the request being approved. The second letter was a request for a loan of \$1million to mirror what the County does for their housing. This would fill in the gap from other funding sources. Staff explained why DHIC was asking for the \$1 million. Staff was confident with the model in order to market the product. This will also help to assure affordability stays lower, which is what DHIC recommended.

Council stated this request was coming before the final plan and wanted to know what is the biggest bang for the buck in the affordable housing plan. Is this an effective use of the money, and is it the best use of affordable housing money? Staff stated the biggest impact is a reality thing; it helps the 164 units get built for more affordable housing in the town. There are other needs, but DHIC would look to other programs for these.

Staff stated the 4% tax credit is guaranteed money but takes more partnerships. It would be a good thing to do the 4% if we and the County could swing it. DHIC tried but did not get the 9%, which is more competitive and more limited. The County is committing a bit over \$3 million to the project.

Staff stated DHIC would not need funds until this time next year when actual construction begins. We could split funding between this year and next. Staff stated this project was presented at the retreat earlier this year, and the funding was about \$3 million at that time for us and the County. DHIC has figured out a way to lessen our share.

Council stated this would be guaranteed affordable housing that people need. We would be putting our money where our mouth is at this point.

Council asked if the same project came tomorrow, would we have to raise the amount. Council responded saying that this is DHIC's committed focus, doing so in an equitable way and connecting people with resources. We would get people who feel they belong in this community and hopefully they would stay. If we get another project, we would address it when it came along.

Staff stated that if another project comes along, the numbers would be brought before Council. There is a banked fund to be able to use for these types of projects that could be extended. We can prioritize as we go along.

Yolanda Winstead, new president of DHIC, thanked Council for the opportunity. She presented more background on DHIC, which has been in business for over 45 years, and their past and current projects. She expressed the quality and maintenance of their projects. She explained the funding piece, stating their intention to maintain the affordability and that the Town's investment would be well spent.

Council stated she appreciated the range of incomes. Responding to Council, staff stated we are doing a good job of getting started. She spoke about the experience of other municipalities who have been doing this for a while, our being able to benefit from their experiences. Responding to Council, Mr. Fisher spoke a bit about their past relationship with the County and decisions that were made in dealing with them.

Council stated he was not skeptical of DHIC. He was skeptical, however, that we may get pushed soon. Staff stated that money to the fund would be added annually and that this is a loan. Things may happen, but there is an expectation that money will be coming back because this is a loan.

Council stated this was a great use of funding and explained why. He stated that we should try to do this every time such requests come before Council.

Mayor Gilbert called for a motion. Council Member Stallings made the motion to approve the grant funding to cover the cost of water and sewer capital reimbursement fees and the \$1million loan; Council Member Gantt seconded the motion.

The motion carried by a 4-0 vote.

CLOSED SESSION

CS1 Laurie Hohe, Town Attorney

To consult with the Town Attorney pursuant to NCGS 143-318.11(a)(3) to discuss the handling of the matter of Empire Contractors, Inc. v. Town of Apex

CS2 Jacques K. Gilbert, Mayor

To discuss a personnel matter

Mayor Gilbert called for a motion to go into Closed Session. Council Member Mahaffey made the motion; Council Member Stallings seconded the motion.

The motion carried by a 4-0 vote.

With no objection from Council, Mayor Gilbert called for a return to Open Session.

WORK SESSION

There were no work Session items for consideration.

ADJOURNMENT

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

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Donna B. Hosch, MMC, Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor