



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

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

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

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

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

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.

Donna B. Hosch, MMC, NCCMC
Town Clerk

ATTEST:

Jacques K. Gilbert, Mayor