

DRAFT MINUTES

TOWN OF APEX REGULAR TOWN COUNCIL MEETING TUESDAY, AUGUST 13, 2024 6:00 PM

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, August 13th, 2024 at 6:00 PM in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town's YouTube Channel. The recording of this meeting can be viewed here:

<https://www.youtube.com/watch?v=WW6HWjR-FwM>

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (presiding)
Mayor Pro Tempore Ed Gray
Councilmember Audra Killingsworth
Councilmember Arno Zegerman
Councilmember Terry Mahaffey
Absent: Councilmember Brett Gantt

Town Staff

Town Manager Randy Vosburg
Deputy Town Manager Shawn Purvis
Assistant Town Manager Marty Stone
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
All other staff members will be identified appropriately below

[COMMENCEMENT]

Mayor Gilbert called the meeting to order and welcomed all who were in attendance and watching.

Mayor Gilbert then took a moment of silence for the invocation and a moment of peace and then lead those in attendance in the Pledge of Allegiance.

[CONSENT AGENDA]

A **motion** was made by **Mayor Pro Tempore Gray**, seconded by **Councilmember Killingsworth**, to approve the Consent Agenda as presented.

VOTE: UNANIMOUS (4-0), with Councilmember Gantt absent

CN1 Agreement - Active Network, LLC - Recreation Programming Registration Software - September 1, 2024 through June 30, 2025 (REF: CONT-2024-211)

Council voted to approve a Product and Services Agreement between Active Network, Inc and the Town of Apex, to change the terms of the annual subscription from varying service and transaction fees to an annual subscription fee and lower charges per transaction, effective September 1, 2024 through June 30, 2025, and authorize the Town Manager and/or their designee to execute on behalf of the Town.

CN2 Agreement - Interlocal Agreement - Emergency Dispatch and Communications Systems - Town of Apex, Town of Cary, and Town of Morrisville (REF: CONT-2024-212)

Council voted to approve a new Interlocal Agreement between the Town of Apex, Town of Cary, and Town of Morrisville (CAM Agencies) for Emergency Dispatch and Communications Services for the Town of Apex, effective three (3) years from the date listed in the first paragraph and automatically renew for up to nine (9) successive (3) year renewal terms.

CN3 Annexation No. 785 - Elevate 64 West - 35.15 acres (REF: RES-2024-044, RES-2024-045, and OTHER-2024-086)

Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for August 27, 2024, on the Question of Annexation - Apex Town Council's intent to annex 35.15 acres, known as Elevate 64 West, Annexation No. 785, into the Town Corporate limits.

CN4 Annexation No. 787 - Chapel Ridge North - 21.56 acres (REF: RES-2024-046, RES-2024-047, and OTHER-2024-087)

Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for August 27, 2024, on the Question of Annexation - Apex Town Council's intent to annex 21.56 acres, known as Chapel Ridge North, Annexation No. 787, into the Town Corporate limits.

CN5 Appointment(s) - Parks, Recreation, and Cultural Resources Advisory Commission

Council voted to reappoint the following members to the Apex Parks, Recreation and Cultural Resources (PRCR) Advisory Commission for three-year terms each and expiring June 30, 2027:

PRCR-006 - Lisa Esterrich - reappointment for 3rd Term

PRCR-007 - Michael Kanters - reappointment for 4th Term

AND

Council voted to appoint the follow member to the Apex Parks, Recreation and Cultural Resources (PRCR) Advisory Commission for a three-year term and expiring June 30, 2027.

PRCR-008 - Lisa Montoya - initial appointment (first term)

CN6 Appointment(s) - Parks, Recreation, and Cultural Resources Advisory Commission - Chair-Vice-Chair

Council voted to confirm the following leadership positions on the Parks, Recreation, and Cultural Resources (PRCR) Advisory Board for fiscal year 2024-2025:

Darryl Lanier, Chair of the Parks, Recreation, and Cultural Resources (PRCR) Advisory Board
Matt Carusona, Vice-Chair of the Parks, Recreation, and Cultural Resources (PRCR) Advisory Board

CN7 Construction Contract Award - W.C. Construction Company - Columbarium Project Budget Ordinance Amendment No. 1 and Capital Project Ordinance

Amendment No. 2025-1 (REF: CONT-2024-219, ORD-2024-062, and ORD-2024-063)

Council voted to award a construction contract agreement between W. C. Construction Company and the Town of Apex, for Phase 2 of the Apex Cemetery Columbarium Project, and adopt Budget Ordinance Amendment 1 and corresponding Capital Project Ordinance Amendment 2025-1, and authorize the Town Manager, or their designee, to execute on behalf of the town.

CN8 Contract Multi-Year - Blink Charging Co. - Install New EV Charging Infrastructure - August 2024 through August 2029 (REF: CONT-2024-214)

Council voted to approve a multi-year agreement between Blink Charging Co and the Town of Apex, to install charging infrastructure and provide network and data portal access and service warranties, effective August 2024 through August 2029, and to authorize the Town Manager, or their designee, to execute on behalf of the Town.

CN9 Contract - Single Source Vendor - Borders States - Regulator Controllers at Mount Zion Substation - Eaton CL-7 Series (REF: CONT-2024-215)

Council voted to approve Sole Source Vendor, Border States, to replace the regulator controllers at Mount Zion Substation.

CN10 Contract Agreement Amendment - Municipal Fire Protection with Wake County - Fiscal Years 2023 through 2025 (REF: CONT-2024-216)

Council voted to approve a second amendment to the Fiscal Year 2023-2025 Wake County Fire Protection to add funds approved in the Fiscal Year 2025 adopted budget for the provision of Fire Services under the Agreement, effective through June 30, 2025, and to authorize the Town Manager, or their designee, to execute on behalf of the Town.

CN11 Council Meeting Minutes - Various

Council voted to approve, as submitted or amended, Meeting Minutes from the following meetings:

June 11, 2024 - Regular Town Council Meeting Minutes

June 18, 2024 - Town Council Work Session Meeting Minutes

June 25, 2024 - Regular Town Council Meeting Minutes

June 27, 2024 - Special Town Council Meeting Minutes

CN12 Human Resources (HR) Policy Updates - Town's Personnel Policies (REF: PLCY-2024-009)

Council voted to approve the revisions to the Special Event Pay policy of the Town's Personnel Policies Manual.

CN13 Memorandum of Agreement (MOA) between Town of Apex, State of North Carolina Division of Water Resources, and the Lower Neuse Basin Association and Permittees - In-Stream Monitoring Requirements (REF: CONT-2024-217)

Council voted to approve a Memorandum of Agreement (MOA) between the State of North Carolina's Division of Water Resources, the Lower Neuse Basin Association and Permittees, and the Town of Apex, to fulfill the in-stream monitoring requirements required by the NPDES wastewater permit, effective through July 2029, and to authorize the Town Manager, or their designee, to execute on behalf of the Town.

CN14 Rezoning Case No. 22CZ27 - Center City Townhomes - Statement and Ordinance (REF: ORD-2024-064)

Council voted to the Statement of the Town Council and Ordinance for Rezoning Application No. 22CZ27, Jason Barron, Morningstar Law Group, applicant for the properties located at 1316, 1314, 0, 1320, 1332, 1400, 1328, and 0 Center Street (PINs 0741994612, 0741993895, 0741993581, 0741995716, 0741996516, 0741997663, 0741995786, & 0741995610).

CN15 Rezoning Case No. 24CZ05 - 2228 Kelly Road - Statement and Ordinance (REF: ORD-2024-065)

Council voted to approve the Statement of the Town Council and Ordinance for Rezoning Application No. 24CZ05, Matthew Carpenter, Parker Poe, applicant for 2228 Kelly Road (PIN 0732257946).

CN16 Rezoning Case No. 24CZ08 - 0 and 1341 Perry Road - Statement and Ordinance (REF: ORD-2024-066)

Council voted to approve the Statement of the Town Council and Ordinance for Rezoning Case No. 24CZ08, Matt Wetherell, Facilities & Grounds Manager, applicant, for property located at 0 & 1341 Perry Road (PINs 0741326706, 0741427922).

CN17 Tax Report - May 2024 (REF: OTHER-2024-088)

Council voted to approve the Apex Tax Report dated June 03, 2024.

[PRESENTATIONS]

PR1 Proclamation - Apex Outreach Service Project (AOSP) - Celebrating 25 Years of Service and Success [REF: PRO-2024-023]

Mayor Gilbert, along with the rest of the Town Council, read the Proclamation - Apex Outreach Service Project (AOSP) - Celebrating 25 Years of Service and Success. He invited Pastor Laura Katherine Stern and Tanner Johnson and others to accept the proclamation and take a picture.

Tanner Johnson, Youth Pastor of Apex United Methodist Church, said that he was always amazed of the heart and love for neighbors people showed through the Apex Outreach Service Project.

Wally Jordan said he had been doing this for 17 years and the last 6 or 7 he had been in charge of pulling together the projects and that he goes out and meets the homeowners, determines which project to do, and puts the budget together. He said they have been to over 250 homes, and it will continue growing.

1 **Mayor Gilbert** presented a commemorative coin of the Town of Apex's 150th
2 Anniversary for doing work at the Christian Home Church, the oldest Church in Apex.

3
4 **[REGULAR MEETING AGENDA]**

5 **Mayor Gilbert** noted there would be two Closed Session Items added to consult with
6 the Town Attorney, one prior to New Business, and one during normal Closed Session time.

7
8 A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember**
9 **Mahaffey**, to approve the Regular Meeting Agenda with the addition of the two Closed
10 Session Items.

11
12 **VOTE: UNANIMOUS (4-0), with Councilmember Gantt absent**

13
14 **[PUBLIC FORUM] (NOTE: To view Public Forum and Public Hearing Sign-in Sheets, see**
15 **OTHER-2024-090)**

16 **Mayor Gilbert** opened up the Public Forum and invited the first speaker up.

17
18 First to speak was **Elizabeth Stitt** at 3113 Friendship Road:

19 "Mayor, Town Council, good evening, in the very near future perhaps even tonight
20 you're going into Closed Session to discuss the big branch force main. That discussion will
21 only have partial information and you may be asked to make a decision based on incomplete
22 data because we, the impacted property owners, are not allowed to participate, and as such
23 we are not able to help you understand our issues, or even opportunities for the alternatives. I
24 have been told by several of the Council that your lack of direct engagement with us may be
25 in part due to a fear of a lawsuit. To be clear, it has been the Town that has been promoting
26 the use of litigation, not us in the community. It was the Town who planned behind closed
27 doors for at least four years to take our land and only notified us when the town was legally
28 required to, we received a 30-day notice that you were going to come onto our properties
29 and do field work. We since that time, that was April of 2022 and then in July of 2022, you had
30 a work session where the town staff told you the condemnation was likely, and you voted to
31 go forward with the current route on our properties knowing that condemnation was the plan.
32 Since that time, we property owners have been forced to take off time from our jobs, we use
33 our vacation time to coordinate all of the different subcontractors that have come in and off of
34 our property, it has not been without hardship, there's been no compensation, no empathy,
35 no working with us, it has been a battle. But nonetheless, we keep showing up and we keep
36 showing up because we want to work with you because there are other alternatives, but it's
37 very hard to convince you of other alternatives when you're being told from the Town staff
38 that this is what they want to do. So, I did some conversations with some prior Council
39 Members and said hey, you know in the past, I know about the lawsuit with the New Hill
40 Community over the water treatment facility, the lawsuit against Beverly Ruben and the
41 impact to her property, the lawsuit with developers on impact fees and I said hey, in these

1 Closed Sessions, what happens you know, help me understand and basically I've been told
2 by multiple former council members that the conservation is, you get advised and you take
3 the information the best that you have and you make decisions accordingly. And then I asked
4 the question, well now that the time has passed and you could look back on the lawsuit that
5 the New Hill Community had, how they delayed construction of the Wastewater facility for 5
6 years, how they were able to get a half million dollars for the community center, how they
7 were able to get domes put over sewage ponds, I said do you feel like you were given
8 enough information to avoid a 5-year delay and of course the answer was no. You pose the
9 same question on the Beverly Ruben case to say hey, you sat in Closed Session, you made a
10 decision to do eminent domain on her property, 9 years later the Town is still in litigation, if
11 you had known that you were still going to be in litigation 9 years later, would you have made
12 the same decision or would you maybe have tried to do something to have a different
13 outcome, maybe shorten the length of time, you know something and the answer is of course
14 yes. You have the same question about the impact fees that you charged to developers. Hey if
15 you had known that you didn't have the authority from the general assembly and that you
16 needed to go do these certain steps with the general assembly, would you have made a
17 different decision and each time the answer is yes. So I lay this out in painful detail is because
18 we know, the property owners know, that there are things that you don't understand and we
19 don't know how to engage with you, we get this 3 minute or 9 minute monologue, but we
20 never really get to have a conversation, so how do we effectively work through tough
21 problems if you won't engage. We're not the ones filing the lawsuit here, it is the Town that's
22 filing the lawsuit, and we will respond because we have our constitutional rights to be able to
23 respond, but we have opportunity even now to continue to work through alternatives, so we
24 in the community have worked with Duke Energy and NCDOT, we have gotten concessions,
25 we have moved the needle without your help and we need more help. There are more things
26 that can be achieved. So, the town in February did start having some of those conversations
27 because we open the door and our understanding is, got a yes, but yes with constraints that it
28 may not be you know, as attractive as initially understood, so we are going back to NCDOT
29 and Duke Energy to have more conversation. Our ask is to figure out how do we have a
30 conversation with you as a part of it, do you need to bring an attorney with you, you know,
31 how do we move this to where we're working with each other, because there are things that
32 you don't know and you're going to make decisions in closed session without having all the
33 facts. We don't want to be 9 years down the road fighting at all, but we've come two years in
34 this effort to say, hey, let's have a dialogue and we're still not able to have a dialogue, and so
35 while I appreciate the Mayor's comments in the beginning that we are united as a community
36 and we want to work together. I see that with the different proclamations and different
37 groups, every group but us. So the ask is, what do we need to do, what do we need to do
38 differently, how do we make the ask in order to have conversations to figure out how we
39 minimize the impact, because it is good for the community, it's good for you, it's good for us,
40 litigation is only good for attorneys, but you're not giving us a choice. So, I have a list of a
41 couple of things to share with you guys, because we can't go through all of the things that
42 you should need to consider. Here is a short list of some things that we would like for you to

ask during these closed sessions, but we would really like for you to have a conservation one at a time if need be. Don't we deserve it, and don't the taxpayers of Apex deserve to know that you've done everything in your power as an individual leader to have a better outcome for the community? It's a simple ask, I understand it's hard. Some of these conversations are really hard, but how do you get through it unless you have the conversation. So, I apologize for not dropping this off to the Town Clerk, but you know, please review this and please consider having conversation with us. Thank you very much."

Mayor Gilbert thanked Ms. Stitt and called the next speaker.

Next speaker was **Dawn Cozzalino**:

"Good evening, Town Council and Mayor. I was very moved by Elizabeth's discussion. I think we are trying to open the doors and very committed, we work very hard to partner up, we have a lot of great ideas, a lot of creativity in our environment and we care about our community. So I just want to echo, because it is our future, very important. So, I want to thank the Planning Department, so we had Jenna, Diane and Amanda, we had a couple of Zoom calls about our New Hill Friendship Historic overlay district, and it was really a great partnership. So, really appreciate the time that the staff spent with us to understand the concepts in the document and want to be engaged to prepare it to put out there for public input. We were very pleased with that partnership; we had the due date last week that everything was submitted and we're looking forward to that coming before the Planning Board shortly. In between that there is a draft that's going to be re-written and we're just asking for a little bit more time and the reason we're asking for a little bit more time before that September 9th Board date, Planning Board date is because it gives us very little time, less than two weeks to look at the material and we all work full-time, we're very busy, everybody has personal commitments and we want to make sure that all the data is complete and I'll echo the points of what you heard already is that sometimes these decisions are made without complete data and an example I'll give you is the traffic study or the accident studies that were done for our study area did not include secondary roads that are not managed by Apex, they're managed by the North Carolina Department of Transportation and that would be, not everybody reports accidents, you hope they do, but that would be reported by Wake County Sheriff and the North Carolina Highway Patrol. So, those entitles data inputs are not getting into the system, into Apex's data which is really important because this kind of gives you a little snippet of really the big picture, so in order to ensure, you know some of those really important points because traffic is dangerous, it's getting more congested, there, we need really good data to support a good decision so we want to make sure that we have a lot of the time to do that. So, I'd just like to ask for a little bit more time so that we can gather that data, and I appreciate it. Thank you."

Mayor Gilbert thanked Ms. Cozzalino and called the next speaker.

Next speaker was **Beth Bland** at **3724 Friendship Road**:

1 "I'm not going to talk real long tonight, I've been on a plane for way too long, not a lot of
2 sleep. But, I really felt it was important to be here tonight, just very quickly, the Friendship
3 Road signalization I hope that's pretty much a non-problem for you to approve, it's so
4 needed. All the development going on Old US 1 on Woods Creek and then you have
5 Friendship Innovation Park and none of its done and they're all using Friendship Road and it's
6 just going to continue to get worse and worse, it's really needed, so that's that part. The other
7 part, the force main, so Elizabeth went over that pretty well tonight but I wanted to bring up
8 our property specifically because we did have the surveyor, we asked the Town, the surveyor
9 came out and marked our property for where the force main is going to go through and even
10 though we were told our buffer would not be impacted, that's not true, so part of it's going to
11 come down and expose us to US 1, so when I talked with Mike Deaton and we still have to get
12 back with him, we have been gone for 3 weeks, so he did reach out, we're going to go back
13 with him, but after we had it marked, Mike came out, Steve came out and the appraiser came
14 back out to look at it just to make sure they had all the information and when I went back at
15 Mike with email concerning that it's not drawn and we were promised our buffer would not
16 be touched his response back to me was uh well they were trying to protect more of your
17 trees, so the threat was oh okay, well if you don't let us take your buffer, we're going to take
18 more of your trees, so there's already 70 some trees coming down on our property alone, we
19 only have 5 acres and there is a solution to that, they can put a bend so that it doesn't affect
20 any more trees. So, that one of the conversations I'll be having with him, but I just wanted you
21 to understand that Elizabeth is correct, that you don't have all the information, and it is
22 possible to move it to the South side. So, I'm asking for all of your support and trying to move
23 it to the South side and for all the reasons that have been presented already, it makes a lot of
24 sense. Thank you."

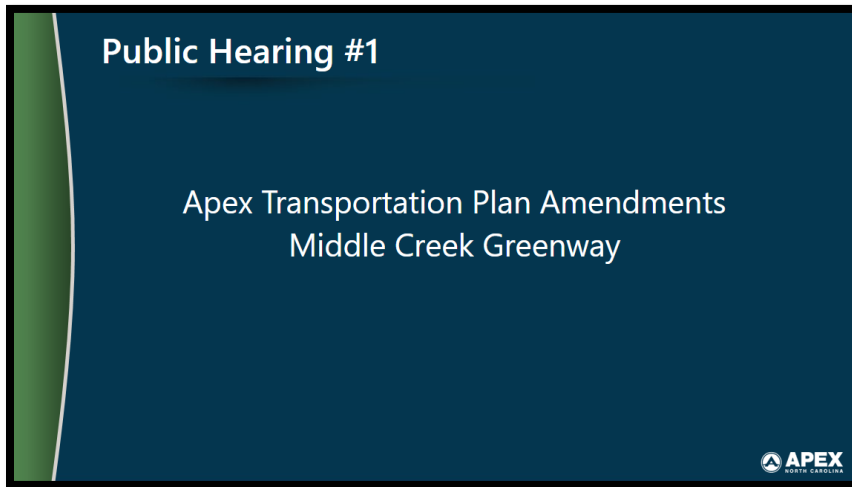
25 **Mayor Gilbert** thanks everyone that came out to speak. He closed the Public Forum
26 and moved to Public Hearings.

27
28 **[PUBLIC HEARINGS]**

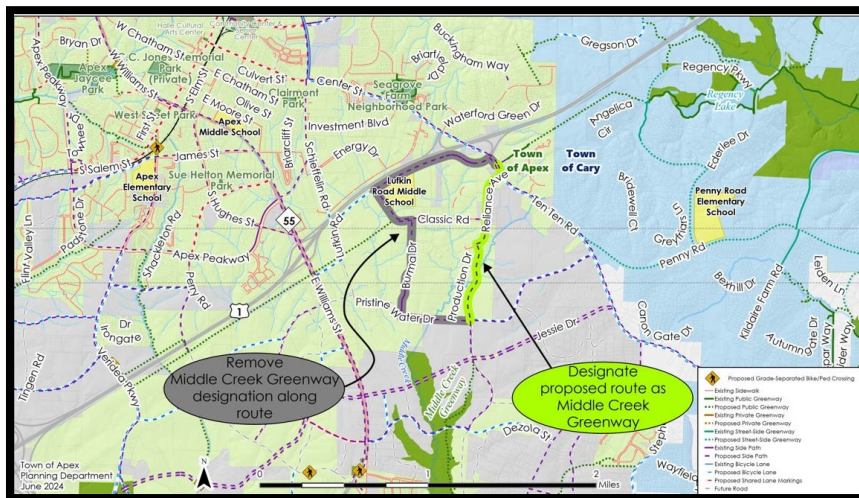
29 **PH1 Apex Transportation Plan Amendments - Middle Creek Greenway**

30 **Angela Reincke**, Parks Planning Manager, Parks, Recreation, and Cultural Resources
31 Department gave the following presentation:
32
33
34
35
36

1 [SLIDE 1]



2
3 [SLIDE 2]



4
5 **Ms. Reincke** asked if there were any questions.

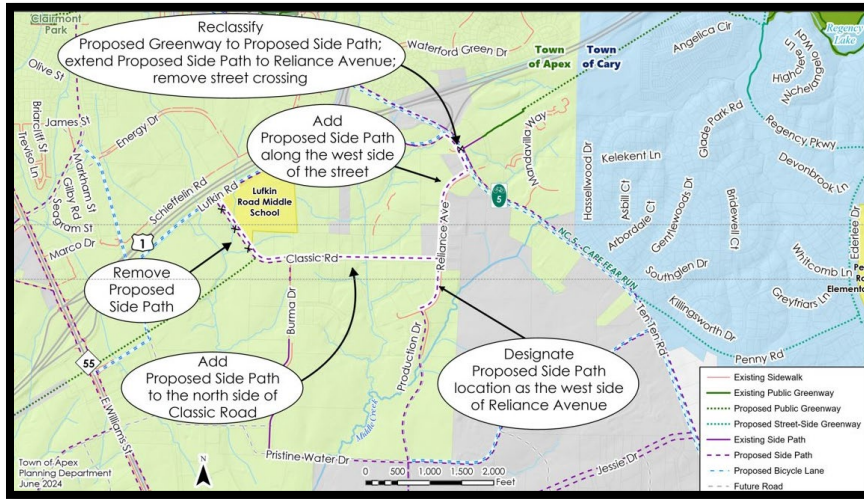
6 **Councilmember Mahaffey** asked what the motivation was.

7 **Ms. Reincke** said that the motivation was to look at the connection of the Corridor to
8 achieve completion from Jessie Drive to Ten-Ten Road.

9 **Councilmember Mahaffey** asked what the motivation was to move the route that
10 goes by the middle school to the Eastern path.

11 **Ms. Reincke** said the impacts of the type of traffic and use on some of the roads
12 nearby.

[SLIDE 3]



Mayor Gilbert thanked Ms. Reincke asked if there were any questions.

Councilmember Zegerman said it looked like there would be a proposed greenway along Classic Road which would require a road crossing, and asked if it would be better to leave the proposed path the way it is.

Ms. Reincke said it was already a developed property and there's a side path there on one side. She said that it was taken from the south side because it wasn't as visible in the study to see how that side of the trail would be utilized. She said there would be a sidewalk designated.

Councilmember Zegerman confirmed this was a change from the original recommendation of a 10-foot sidepath.

Mayor Gilbert opened up for public hearing for comment, with no one signed up to speak he closed public hearing and moved discussion back to Council.

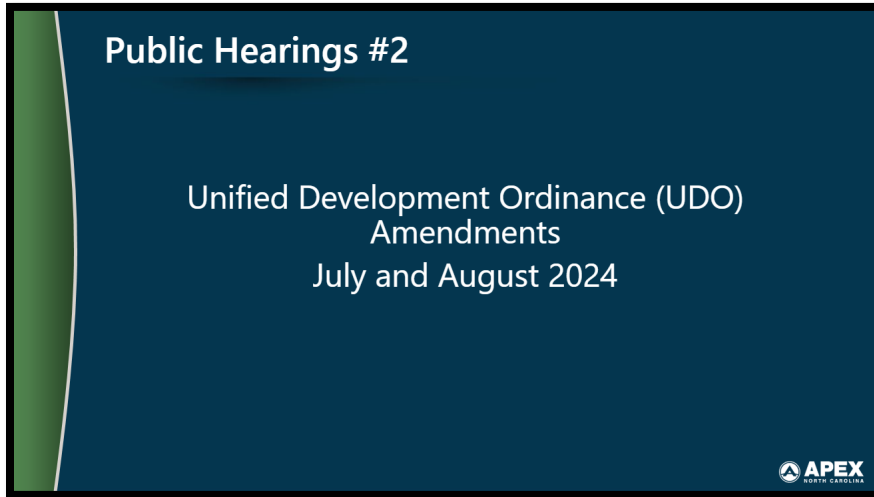
A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember Killingsworth** to approve Apex Transportation Plan Amendments – Middle Creek Greenway.

VOTE: UNANIMOUS (4-0), with Councilmember Gantt absent

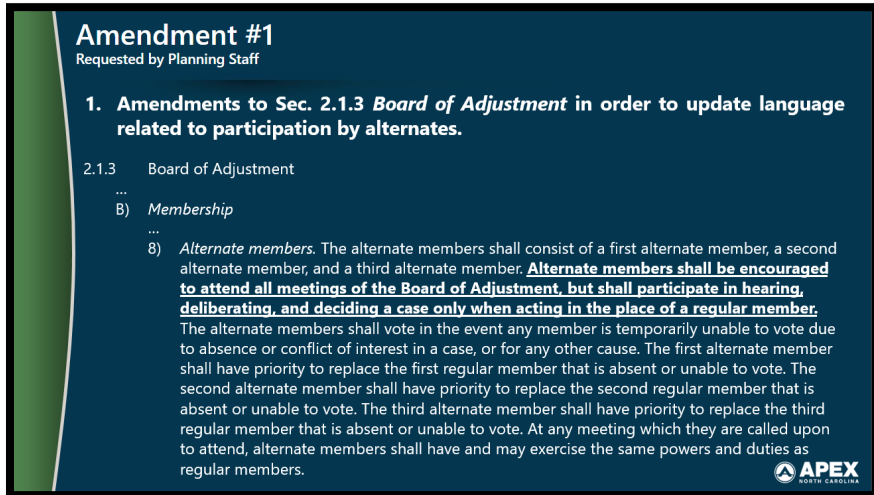
PH2 Unified Development Ordinance (UDO) Amendments - July and August 2024 (REF: ORD-2024-067)

Amanda Bunce, Current Planning Manager, Planning Department gave the following presentation:

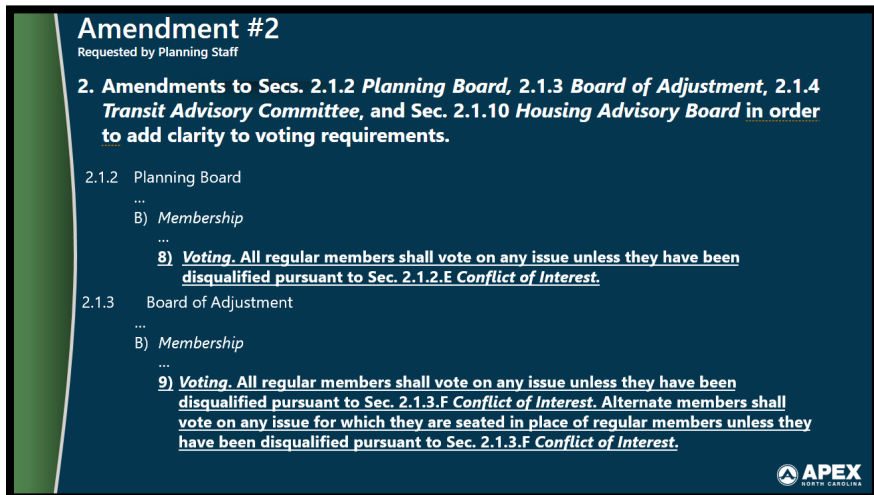
1 [SLIDE 1]



2
3 [SLIDE 2]



4
5 [SLIDE 3]




6

1 [SLIDE 4]

Amendment #2
Requested by Planning Staff

2.1.4 Transit Advisory Committee
...
B) *Membership*
...
6) Voting. All regular members shall vote on any issue unless they have been disqualified pursuant to Sec. 2.1.4.E Conflict of Interest

2.1.10 Housing Advisory Board
...
B) *Membership*
...
6) Voting. All regular members shall vote on any issue unless they have been disqualified pursuant to Sec. 2.1.10.E Conflict of Interest.




2
3 [SLIDE 5]

Amendment #3
Requested by Planning Staff

3. Amendment to Sec. 2.3.12.C Appeals, Procedures in order to change the vote needed to reverse a contested decision or interpretation from four-fifths to a majority in accordance with State law.

2.3.12 *Appeals*
...
C) *Procedures*
...
5) *Action by the Board of Adjustment.* At the hearing on the appeal, the Appellant or the Appellant's agent shall state the grounds for the appeal and include any materials or evidence to support the appeal. The Planning Director, or a designated representative, shall be provided the opportunity to respond, as well as any other persons the Board of Adjustment deems necessary. After the conclusion of the hearing, the Board of Adjustment shall either affirm, affirm with modifications, or reverse the contested decision or interpretation, based on the standards in Sec. 2.3.12.E Standards. The concurring vote of four-fifths **A majority vote** of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination on appeal.




4
5 [SLIDE 6]

Amendment #4
Requested by Planning Staff

4. Amendment to Sec. 5.2.5 Bulk Measurement and Requirements in order to revise the calculation of built-upon area to refer to definition of the term in Sec. 12.2 Terms Defined.

5.2.5 Bulk Measurement and Requirements
A) *Built-upon Area*
Calculation of the ~~b~~**B**uilt-upon area within the proposed development shall **is defined in Sec. 12.2 Terms Defined** include, but not be limited to, all existing public and private streets, proposed public streets, sidewalks, driveways, rooftops, parking lots, patios, and all other impervious and partially impervious surfaces, including CABC and gravel within the development. The calculation of built-upon area is expressed as a percentage of total site area. Swimming pools and wooden decks shall not be included in the calculation of the built-upon area.



6

Mayor Gilbert opened up for public hearing for comment, with no one signed up to speak he closed public hearing and moved discussion back to Council.

A **motion** was made by **Mayor Pro Tempore Gray** and seconded by **Councilmember Mahaffey** to approve the Unified Development Ordinance (UDO) Amendments - July and August 2024.

VOTE: UNANIMOUS (4-0), with Councilmember Gantt absent

[CLOSED SESSION]

A **motion** was made by **Councilmember Killingsworth**, seconded by **Councilmember Mahaffey** to enter into Closed Session pursuant to NCGS § 143-318.11(a)(3) to consult with the Town Attorney.

VOTE: UNANIMOUS (4-0), with Councilmember Gantt absent

Council entered into Closed Session at **6:37 P.M.**

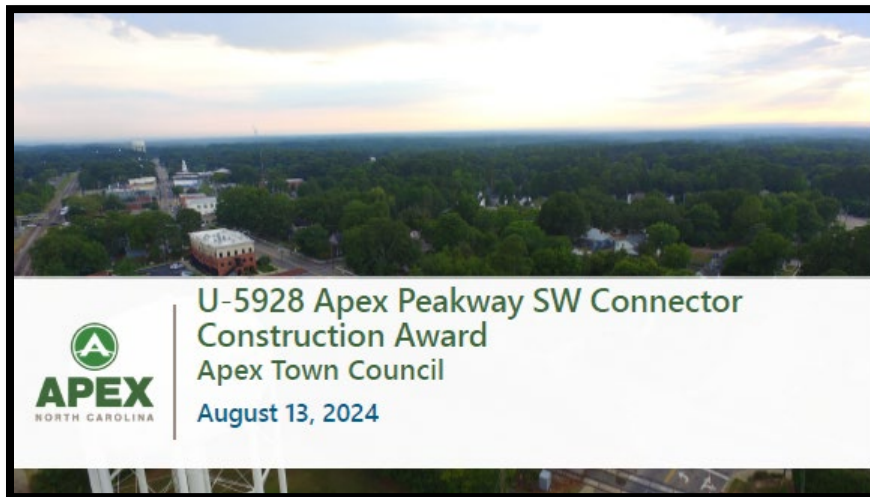
Council returned to Open Session at **7:13 P.M.**

[NEW BUSINESS]

NB1 Construction Contract Award - S. T. Wooten Corporation - Apex Peakway Southwest Connector (REF: CONT-2024-218)

Russell Dalton, Traffic Engineering Manager, Transportation and Infrastructure Dev. Department, and **Adam Stephenson**, Transportation Engineering Manager, Transportation and Infra. Dev. Dept. gave the following presentation:

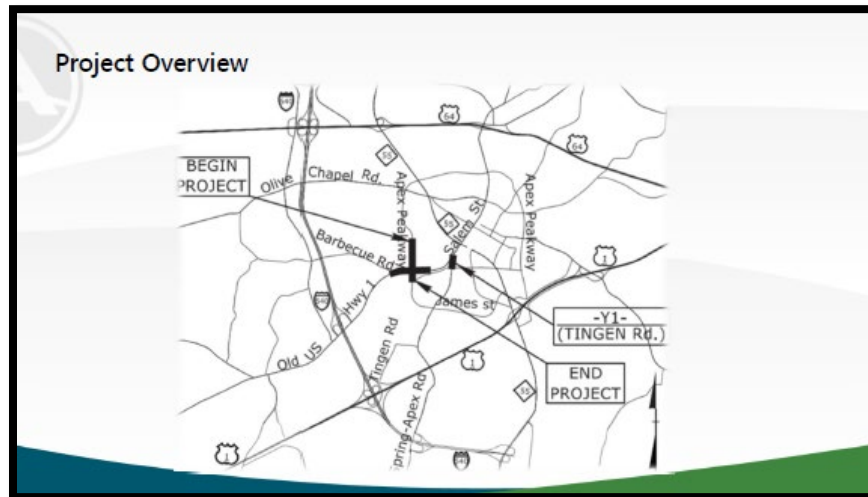
[NB1 - SLIDE 1]



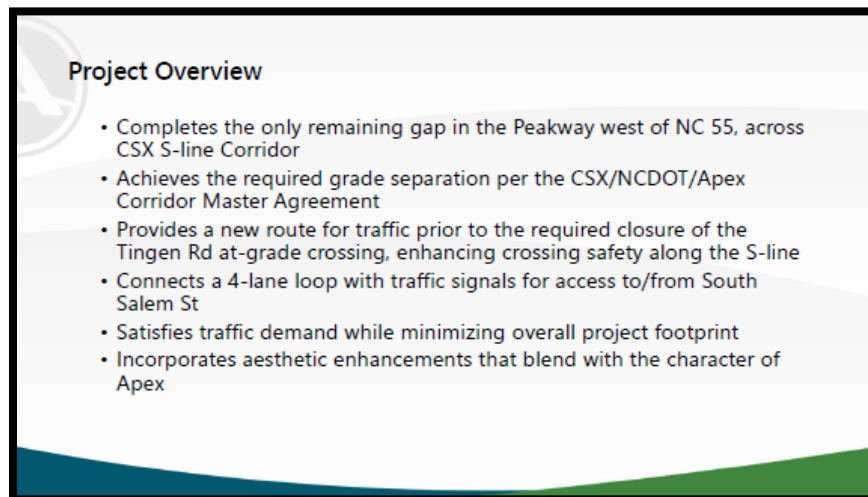
1 **[NB1 - SLIDE 2]**



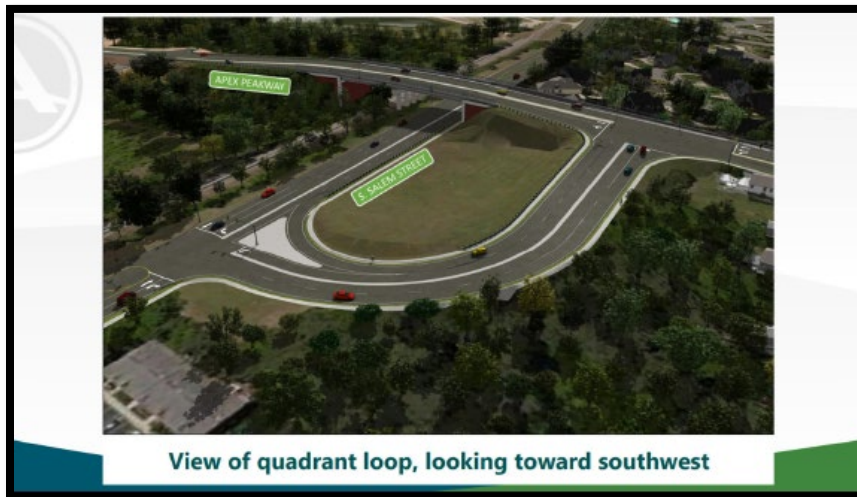
2
3 **[NB1 - SLIDE 3]**



4
5 **[NB1 - SLIDE 4]**



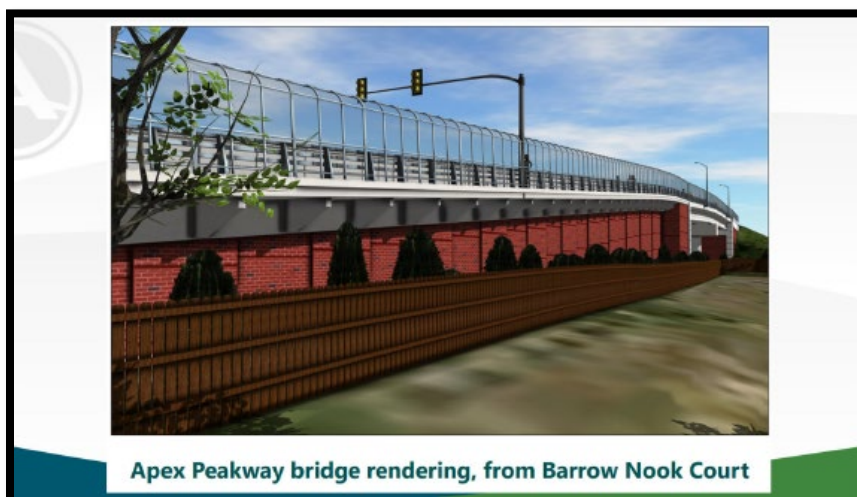
1 **[NB1 - SLIDE 5]**



2
3 **[NB1 - SLIDE 6]**



4
5 **[NB1 - SLIDE 7]**



6

1 [NB1 - SLIDE 8]



2
3 [NB1 - SLIDE 9]

Project Funding

- **2015 Transportation Bond**
 - Funding for design, permitting, utility relocation and right of way acquisition
- **2021 Streets and Sidewalks Bond**
 - Additional funds needed for construction, including the construction agreement with CSXT, Town utility work, construction management, and inspections
- **Federal Funding**
 - A total of up to \$12.5 million in federal funds have been awarded as a 50% matching grant toward construction

4
5 [NB1 - SLIDE 10]

Project Funding

| Current Budget | |
|---|---------------------|
| Design | \$1,530,000 |
| Property Acquisition | \$1,330,000 |
| Railroad and Utilities | \$1,410,000 |
| Construction w/ 10% Contingency & Inspections | \$25,170,000 |
| NCDOT Management Fees (est.) | \$630,000 |
| Total | \$30,070,000 |
| Federal Reimbursement | \$12,500,000 |
| Remaining Cost to Apex* | \$17,570,000 |

*Pending additional funding from CAMPO and reallocated NCDOT resurfacing funds for Old US 1 within project limits; both can reduce Apex final obligation

1 [NB1 - SLIDE 11]

| Bid Summary Results | | | | | |
|---|------------------|--------------|------------------|-------------|-----------|
| <ul style="list-style-type: none"> Bid Advertisement: June 3, 2024 Bid Opening Date: July 25, 2024 7 bids received | | | | | |
| COMPANY | BASE BID | BASE/ENG EST | ALTERNATE BID | ALT/ENG EST | DBE (10%) |
| S. T. WOOTEN CORPORATION | \$ 21,419,463.12 | -15% | \$ 21,254,463.12 | -16% | 10.02% |
| BLYTHE CONSTRUCTION | \$ 22,464,726.97 | -11% | \$ 22,326,226.97 | -11% | 10.34% |
| FRED SMITH COMPANY | \$ 23,235,953.40 | -8% | \$ 22,886,453.40 | -9% | 10.00% |
| CONTI CIVIL | \$ 24,957,442.00 | -1% | \$ 24,957,442.00 | -1% | 10.05% |
| ENGINEER'S ESTIMATE | \$ 25,182,351.88 | | \$ 25,182,351.88 | | |
| CROWDER CONSTRUCTION | \$ 27,144,240.84 | 8% | \$ 26,876,040.84 | 7% | 10.00% |
| BRANCH CIVIL | \$ 27,850,000.00 | 11% | \$ 27,130,000.00 | 8% | 10.00% |
| THALLE CONSTRUCTION | \$ 38,121,269.50 | 51% | \$ 37,671,269.50 | 50% | 10.00% |

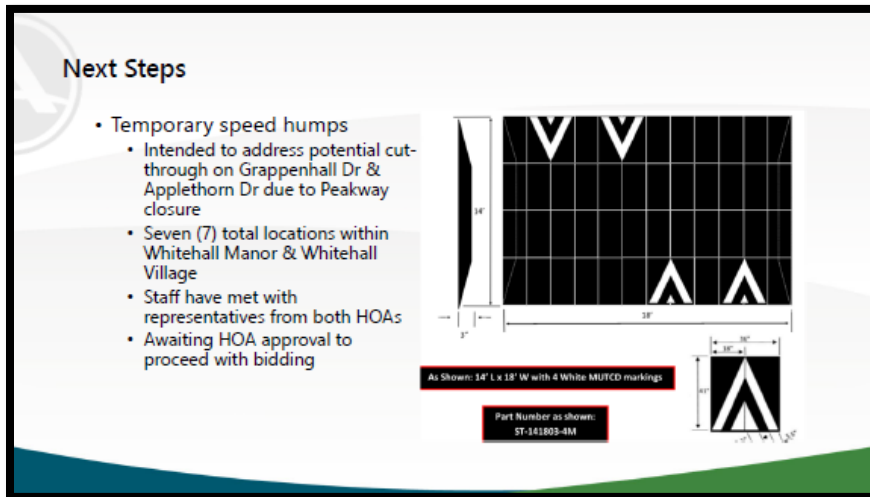
2 [NB1 - SLIDE 12]

| Recommendation | |
|--|--|
| <ul style="list-style-type: none"> Award Alternate bid to S. T. Wooten Corporation in the amount of \$21,254,463.12 (contingent on NCDOT concurrence) and authorize Town Manager to execute contract. | |

4 [NB1 - SLIDE 13]

| Next Steps | |
|--|--|
| <ul style="list-style-type: none"> Town to submit Award Concurrence Request to NCDOT Town Manager to execute contract with contractor (4-6 weeks) Request \$802,000 from CAMPO in additional federal funds <ul style="list-style-type: none"> Requires 50% matching local funds (supplemental agreement) Budget adjustment with RK&K for adding utility relocation coordination services pending NCDOT approval (amount included in previous summary) Construction Schedule <ul style="list-style-type: none"> 3-year construction schedule Tentative Notice to Proceed – October 1, 2024 Tentative Completion – September 30, 2027 | |

1 [NB1 - SLIDE 14]



2
3 [NB1 - SLIDE 15]



4
5 [NB1 - SLIDE 16]



6

1 [NB1 - SLIDE 17]



2 **Mayor Gilbert** thanked Mr. Dalton and Mr. Stephenson.

3 **Mayor Gilbert** asked about the potential construction noise and nighttime work.

4 **Mr. Stephenson** said that is to be determined and they would coordinate with the
5 contractor to find out what they propose.

6 **Councilmember Mahaffey** asked if South Salem would be open.

7 **Mr. Stephenson** said it would remain open during the day.

8 **Councilmember Mahaffey** said that the Apex Peakway would be closed off at some
9 point but South Salem itself would be accessible. He asked if South Salem would be closed
10 overnight.

11 **Mr. Stephenson** said that there were lane closure restrictions during peak hour but
12 that South Salem would remain open. He said he did not think it would be a need to close
13 South Salem during the project.

14 **Councilmember Zegerman** said that he would like to be proactive with any traffic
15 issues before traffic gets heavy.

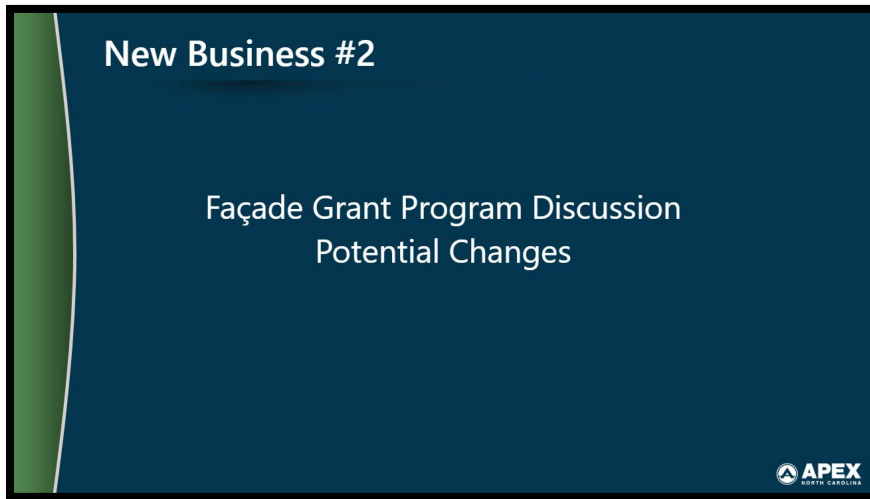
16 A **motion** was made by **Councilmember Mahaffey** seconded by **Councilmember**
17 **Killingsworth** to approve the Construction Contract Award for the Alternative Bid to S. T.
18 Wooten Corporation for the Apex Peakway Southwest Connector.

19 **VOTE: UNANIMOUS (4-0), with Councilmember Gantt absent**

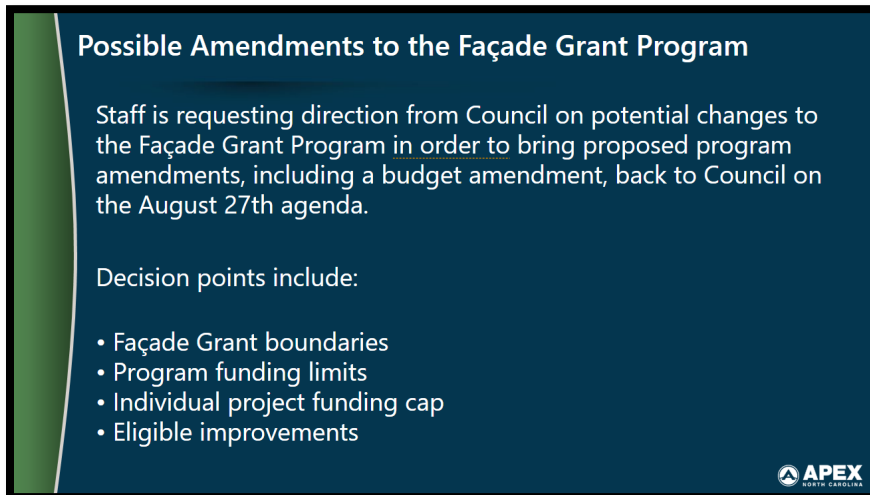
20
21
22 **NB2 Façade Grant Program Discussion - Potential Changes**

23 **Dianne Khin**, Planning Director, gave the following presentation:

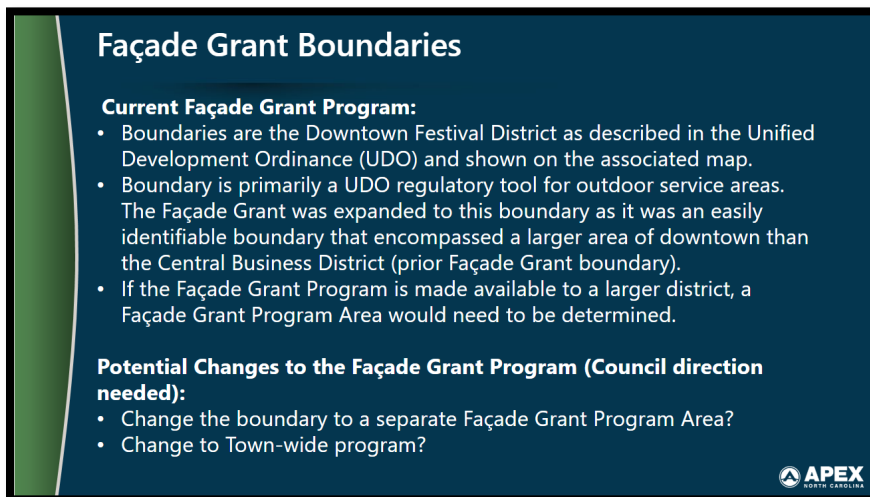
1 [SLIDE 1]



2
3 [SLIDE 2]

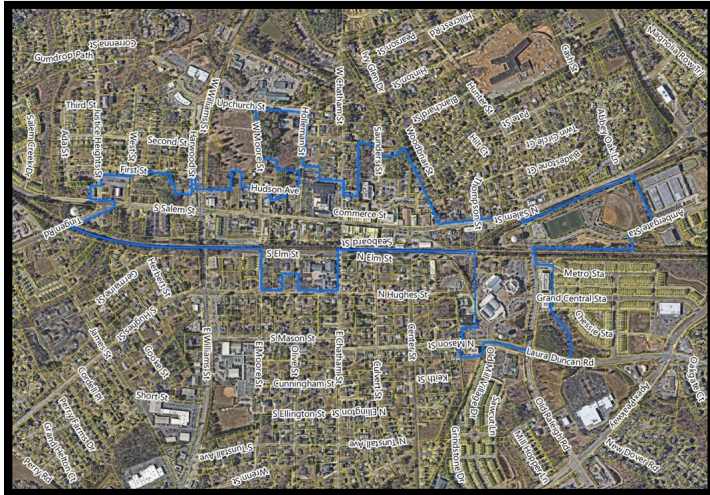


4
5 [SLIDE 3]



6

1 [SLIDE 4]



2
3 [SLIDE 5]


Program Funding Limits

Current Façade Grant Program:

- Staff approval
- First-come, first-served
- \$20,000 total budget

Potential Changes to the Façade Grant Program (Council direction needed):

- Possible approval by Planning Board or Town Council?
- Keep approval process first-come, first-served?
- Authorize higher total program budget?



4
5 [SLIDE 6]

Individual Project Funding Cap - formula changes


Current Façade Grant Program:

The Façade Grant provides up to 50% of the cost of the exterior rehabilitation based on the following:

- Tier 1** - up to a maximum of \$2,000.00 per façade for paint and awnings, or 50% of the cost, whichever is less.
- Tier 2** - up to a maximum of \$5,000.00 per façade for structural improvements including window replacement, brick repair and repointing, door replacement, ADA accessible entrance improvements, and similar structural repairs or replacement, or 50% of the cost, whichever is less.
- Applicants can submit for one Tier 1 grant and one Tier 2 grant within the same fiscal year; if both are granted, no one property can receive more than \$7,000 in one year.
- No more than \$10,000 can be issued to any one property within any 36 month period.
- Total grants issued per fiscal year shall not exceed the amount budgeted for that given year.

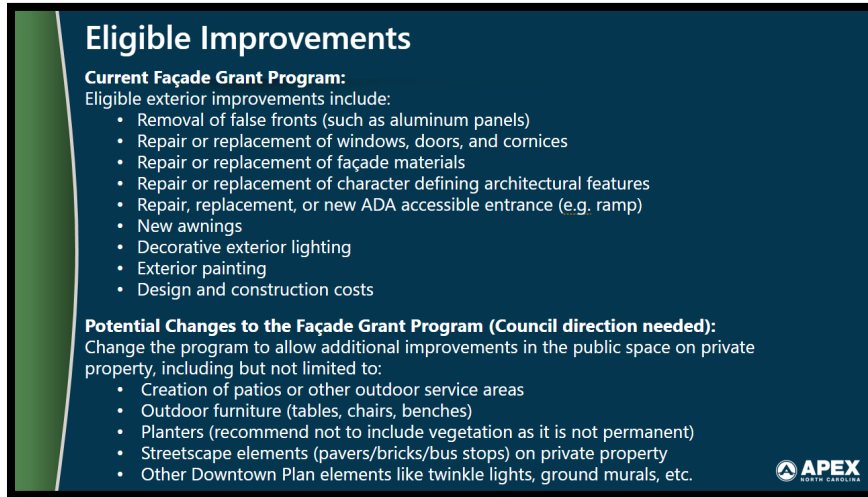
Potential Changes to the Façade Grant Program (Council direction needed):

- Change the formula to be a percentage based on investment with a higher overall cap per project?
- Should investment considered in the cap represent just the exterior improvements or total cost invested in business?



6

[SLIDE 7]



Mayor Gilbert asked if there were any questions or discussions.

Mayor Pro Tempore Gray said that he would like a little more time and to get a little more information.

Councilmember Killingsworth agreed.

Councilmember Zegerman agreed.

Mayor Pro Tempore Gray thanked Director Khin for bringing this before the Council.

Mayor Gilbert asked Town Manager Vosburg about establishing a timeline to bring this back to Council.

Town Manager Vosburg said that he would like to bring this back to the next Council meeting.

Director Khin said that she did not think this timeline would work and suggested to have it on the September 17th Work Session.

Mayor Gilbert said that the September 17th Work Session would be fine.

Councilmember Killingsworth said she loved the idea of expanding the area of this program.

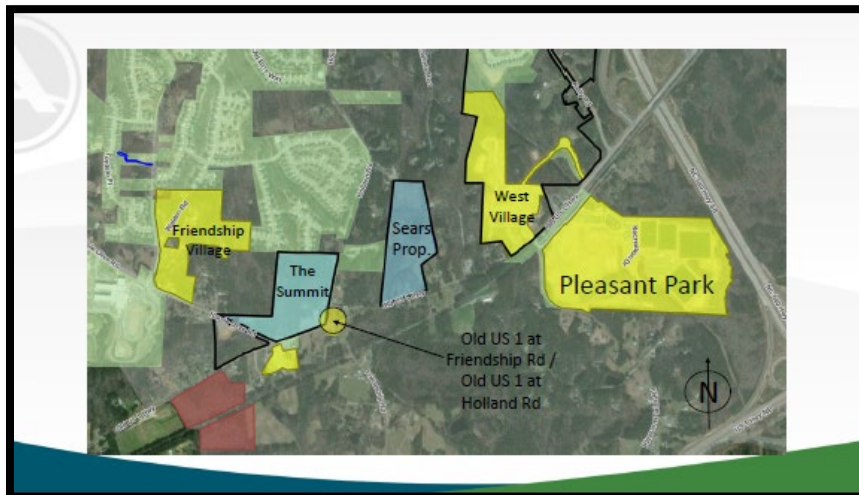
NB3 Old US Highway 1 at Friendship Road and Holland Road Improvements

Russell Dalton, Traffic Engineering Manager, Transportation and Infrastructure Development Department gave the following presentation:

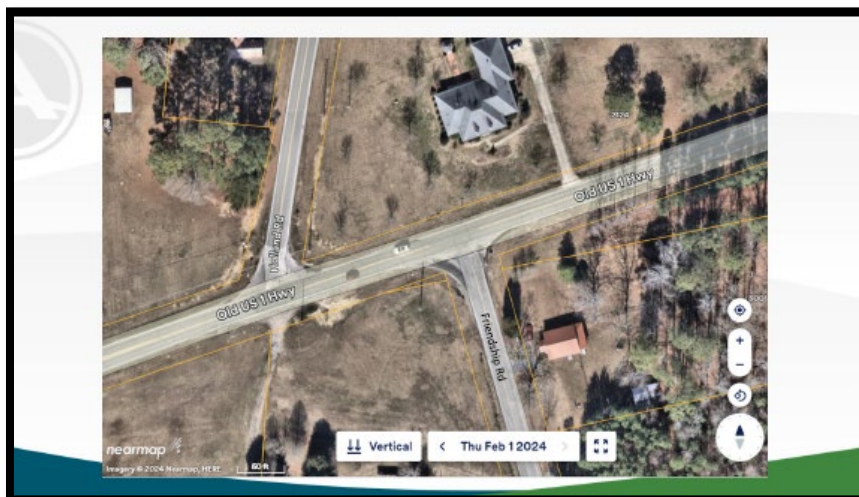
1 [NB3 - SLIDE 1]



2
3 [NB3 - SLIDE 2]



4
5 [NB3 - SLIDE 3]



6

1 **[NB3 - SLIDE 4]**

Pleasant Park

- Site Plan Committed Improvements for Friendship Rd
 - Construct 150' westbound left turn lane
 - Construct 100' northbound left turn lane
 - Phased to opening of ballfields (Phase 3A)- end of 2026



2
3 **[NB3 - SLIDE 5]**

The Summit PUD

- Zoning Condition for Friendship Rd
 - Lengthen northbound left turn lane +50'; assumed prior construction*
- Zoning Conditions for Holland Rd
 - Construct 75' eastbound left turn lane
 - Construct 350' southbound right turn lane
 - Install traffic signal when warranted, or if not warranted by 100th platted lot pay fee-in-lieu
- Additional Commitment to NCDOT for Holland Rd
 - Construct 100' westbound right turn lane

*Roadway plans for The Summit Residential Phase (Beazer Homes) include the northbound and westbound left turn lanes at Friendship Rd to be constructed subject to funding agreement with Town of Apex

4
5 **[NB3 - SLIDE 6]**

Friendship Road Traffic Signal

- Fall 2023: Apex study showed a signal is warranted
- Spring 2024: NCDOT agreed to permit a signal
 - Signalizing Friendship Rd requires signalizing Holland Rd together due to close spacing
 - There are no developer commitments for a traffic signal at Friendship Rd

6

1 [NB3 - SLIDE 7]



2 [NB3 - SLIDE 8]
3

Holly Springs Fee in Lieu

- Spring 2024
- Friendship Innovation Park zoning condition for \$133,000 fee in lieu toward roadway improvements at Friendship Rd
- Goodwin (Yield North) Phase 1 zoning condition for \$9,220 fee in lieu toward roadway improvements and \$8,033 toward a traffic signal at Friendship Rd
- Apex staff have discussed possible agreement with Holly Springs staff to transfer payment toward completing turn lane improvements & traffic signal

4 [NB3 - SLIDE 9]
5

| Intersection | Improvements | Total Cost | Estimated Funding Breakdown | | |
|--------------------------|---|----------------------|-----------------------------|------------------|------------------|
| | | | Beazer Homes | Apex | Holly Springs |
| Old US 1 / Holland Rd | Old US 1 EB LT + WB RT + Holland Rd SB RT | Unknown | 100% | \$0 | \$0 |
| | Holland Rd Traffic signal | \$150,000 | \$0 | \$150,000 | \$0 |
| Old US 1 / Friendship Rd | Old US 1 WB Left Turn Lane | \$278,000 | \$167,000 | \$39,890 | \$71,110 |
| | Friendship Rd NB LT | \$230,000 | \$152,000 | \$6,890 | \$71,110 |
| | Friendship Rd Traffic signal | \$150,000 | \$0 | \$141,967 | \$8,033 |
| | | \$808,000 | \$319,000 | \$338,747 | \$150,253 |
| | | Est. Cost Share (%): | 39.5% | 41.9% | 18.6% |

6

1 **Councilmember Zegerman** asked for clarity of the turn lane going onto Friendship
2 Road.

3 **Mr. Dalton** said that going into Friendship Road would be a westbound left turn lane
4 and the northbound left turn lane.

5 **Councilmember Mahaffey** asked about conversations about Holly Springs and
6 funding for the improvements.

7 **Mr. Dalton** said that there had been discussions with Holly Springs, and they were
8 open.

9 **Town Manager Vosburg** said that he had a conversation recently with Mr. Harrington,
10 Holly Springs Town Manager, and that everyone seems to be onboard.

11 **Councilmember Mahaffey** confirmed that included the developed in Holly Springs.

12 **Town Manager Vosburg** confirmed.

13 **Councilmember Mahaffey** asked what is the projected dates for the project
14 beginning and when could he expect to see the traffic signal.

15 **Mr. Dalton** said that the construction should start this fall and roadway improvements
16 should happen next year.

17 **Councilmember Mahaffey** asked what a realistic timeline would be to have a traffic
18 signal.

19 **Mr. Dalton** said that likely the end of 2025 or beginning of 2026. He explained that
20 there were a lot of variables in terms of installation which could affect the timing.

21 **Chair Mason** asked if there was any assistance needed with NCDOT from Apex.

22 **Mr. Dalton** said no. He said that NCDOT has agreed to permit the traffic signal and as
23 soon as funding was available that they would enter into a design agreement.

24 **Councilmember Mahaffey** asked what the next steps were to proceed with this
25 project.

26 **Mr. Dalton** said that there was a Developer Agreement that would need to be
27 executed.

28 **Councilmember Mahaffey** asked if the realignment at Holland Road would be safer,
29 faster, or cheaper.

30 **Mr. Dalton** said it was not faster or cheaper to realign the roads. He said it was the
31 involvement of properties that were not involved in the development plans so there are
32 significant impacts. He said that realignment could end up incurring significant costs.

33 **Councilmember Zegerman** asked if the signalization is not 100% dependent on the
34 turn lanes being there. He asked if the Town could do both projects.

35 **Mr. Dalton** said that they could design the traffic signal concurrent with the turn lanes.

36 **Councilmember Mahaffey** asked where they were with the easements with this
37 project.

38 **Mr. Dalton** said that it is his understanding that the developer had not had any issues
39 with acquiring any of the easements, but they don't know if there will be additional
40 easements necessary until they get deeper into the planning process.

41 **Councilmember Zegerman** asked if something could be done intermittently with the

signals for the existing roadways while the turning lanes are being built.

Mr. Dalton said that since there was not a signal agreement and design that there would not have a signal design ready.

Councilmember Zegerman said he was just trying to have some relief for the residents in the meantime.

Mr. Dalton said that doing something like that would run into other capacity issues because of the turning traffic and may cause more congestion on Friendship Road and Old US 1 if it is signalized without turn lanes being in place.

Mayor Gilbert asked if there were any other questions.

Mayor Pro Tempore Gray said that he did not see any reason to wait to do this project and is in favor.

Council consensus was for staff to continue with this project.

Mayor Gilbert thanked all of the community members who have presented information and spoke at Holly Springs during their public meetings making sure that this stayed as a priority. He asked Mr. Dalton to keep them updated so that Council could let the residents know.

[UPDATES BY TOWN MANAGER]

TM1 Police Chief Recruitment Process Overview

Town Manager Vosburg said that the Town had started the recruitment process for a new Police Chief. He invited up the consultant, Mr. Charles Kimble to talk about the process.

Mr. Kimble introduced himself as the Sr. Vice President for Executive Recruiting for Strategic Government Resources, referred to as SGR in the Field. He said that he had met with Senior Staff and talked about the timelines and the process. He said that he would be meeting with the Police staff and the Community. He said that he would provide a brochure that would go out throughout the country. He said that he would reach approximately 40,000 people with other resources such as LinkedIn. He said that he is on a 10-to-12-week timeline. He said that he anticipated about 60 to 70 applications and explained the process to get the semi-finalists with generally having 5 finalists. He would work with the Town Manager on what that will look like. He went through the assessments and the process of identifying the finalist.

Mayor Pro Tempore Gray asked about looking at internal candidates.

Mr. Kimble said that he would be looking for the best fit for the organization and if it is an internal candidate that is an added bonus.

Mayor Gilbert thanked Mr. Kimble for the update.

[CLOSED SESSION]

A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember Mahaffey** to enter into Closed session pursuant to NCGS § 143-318.11(a)(1), NCGS § 143-318.11(a)(3), and NCGS § 143-318.11(a)(5).

VOTE: UNANIMOUS (4-0), with Councilmember Gantt absent

Council entered into Closed Session at **7:56 PM.**

CS1 Steve Adams, Utilities Acquisition and Real Estate Specialist

NCGS §143-318.11(a)(5):

"To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease."

CS2 Laurie Hohe, Town Attorney

RE: Williams v. Town of Apex

NCGS § 143-318.11(a)(3)

"To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body."

CS3 Allen Coleman, Town Clerk

NCGS §143-318.11(a)(1):

"To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes."

[ADJOURNMENT]

Council returned to Open Session at **8:41 PM.**

Mayor Gilbert adjourned the meeting at **8:41 PM.**

Jacques K. Gilbert
Mayor

Allen Coleman, CMC, NCCCC
Town Clerk to the Apex Town Council

Submitted for approval by Town Clerk Allen Coleman and approved on _____.