



| REGULAR TOWN COUNCIL MEETING

August 24, 2021 at 6:00 PM

Council Chambers - Apex Town Hall, 73 Hunter Street

The meeting will adjourn when all business is concluded or 10:00 PM, whichever comes first

Town 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: Catherine Crosby | Assistant Town Managers: Shawn Purvis and Marty Stone
Town Clerk: Donna B. Hosch, MMC | Town Attorney: Laurie L. Hohe

In attendance were, Mayor Pro Tem Nicole L. Dozier, and Council Members Audra M. Killingsworth, Brett D. Gantt, Terry Mahaffey, and Cheryl F. Stallings. Also in attendance were Town Manager Catherine Crosby, Assistant Town Manager Shawn Purvis, Deputy Town Clerk Tesa Silver, and Town Attorney Laurie L. Hohe. Absent was Mayor Jacques K. Gilbert.

COMMENCEMENT

Mayor Pro Tem Dozier called the meeting to order, asked Council to express thoughts of gratitude, called for a moment of silence, and led the Pledge of Allegiance.

PRESENTATIONS

PR1 Keith McGee, Fire Chief

Presentation of Medal of Honor to Captain Christopher Scott Pearson

Chief McGee relayed the events that occurred on Thursday, May 20, 2021 at 1118 Blackburn Road. While off duty Captain Christopher Scott Pearson, observed smoke from a fire and decided to investigate. Captain Pearson arrived on scene to find that the Whittens were still trapped in their home, despite efforts from neighbors trying to evacuate them from their home. Captain Pearson entered the home, without equipment, to attempt to safely rescue the Whittens. He was able to rescue Mrs. Whitten safely. Despite being injured, he attempted to rescue Mr. Whitten.

Chief McGee presented Captain Pearson with the Chief's Challenge Coin for excellence and with the Medal of Honor. Captain Pearson thanked Chief McGee, Chief Maynard, Chief Harrison, and the C-

Shift, his family, and he thanked Council for providing the equipment needed for Fire staff to be able to perform their jobs.

PR2 Vance Holloman, Finance Director

Presentation of an Update on the Town's Customer Assistance Program.

Staff provided an update on the Town of Apex Customer Assistance Program (CAP). The town received 48 applications, and 43 of those applications have been approved. Staff will continue to work with residents to ensure that as few residents as possible are cut off.

CONSENT AGENDA

CN1 Donna B. Hosch, Town Clerk

Minutes of the August 10, 2021 Regular Council Meeting

CN2 Donna Hosch, Town Clerk

Apex Tax Report dated July 4, 2021.

CN3 Colleen Merays, Downtown & Small Business Development Coordinator

Special Event Permit request and Town Sponsorship request for Apex Chanukah Festival on Sunday, November 28, 2021 in the Apex Depot Parking Lot and Plaza.

CN4 Shelly Mayo, Planner II

Statement of the Town Council and Ordinance for Rezoning Case #21CZ04 Williams Farm PUD. Jessie Hardesty from the McAdams Co., is the petitioner for the property located at 4525 Green Level West Road.

CN5 Shelly Mayo, Planner II

Statement of the Town Council and Ordinance for Rezoning Case #21CZ09 Alderwood PUD. Jessie Hardesty from the McAdams Co., is the petitioner for the properties located at 1533 Wimberly Road and 7912, 8000 and 8016 Jenks Road.

CN6 Shelly Mayo, Planner II

Statement of the Town Council and Ordinance for Rezoning Case #21CZ16 Heelan PUD Amendment. Jason Barron, for M/I Homes, is the petitioner for the properties located at 8824 & 8829 New Hope Farm Road, 3108 & 3120 Olive Farm Road, and 0 Humie Olive Road.

CN7 Amanda Bunce, Current Planning Manager

Set Public Hearing for the September 14, 2021 Town Council meeting regarding various amendments to the Unified Development Ordinance (UDO).

- CN8 Marty Stone, Assistant Town Manager
Encroachment agreement between the Town and property owners Joseph David Cusumano and wife Reagan Layne Cusumano to install two private driveways that will encroach a total of 765 S.F. onto the Town's 20' Public Waterline and Electric Easements and authorize the Town Manager to execute the same.
- CN9 Craig Setzer, Director, Parks, Recreation & Cultural Resources
Changes to the FY 2021-2022 Fee Schedule to include rental fees for Apex Senior Center.
- CN10 Colleen Merays, Downtown & Small Business Development Coordinator
Ordinances modifying Town Code Section 14-14 as to the Parking Lot at 112 Saunders Street closed for a Special Event(s) during American Legion Oktoberfest & Car Show on October 30, 2021.
- CN11 Michael Deaton, P.E., Director
Amendment to Town of Apex Ordinance 12-78 *Limitations on Discharge* to allow the Water Resources Director to authorize exemptions for warranted cases to discharge to the sanitary sewer.
- CN13 Keith McGee, Fire Chief
An additional full-time firefighter position in the fire department and corresponding Budget Ordinance Amendment 4.
- CN14 Dennis Brown, Senior Capital Projects Manager
Contract Amendment #3 for GMP 3 with Construction Manager at Risk, J M Thompson, in the amount of \$13,226,438.60 for the new Pleasant Park Project, and authorization for the Town Manager to execute.
- CN15 Mary Beth Manville, Human Resources Director
COVID-19 Vaccine Incentive Policy for Town employees.
- CN16 Mary Beth Manville, Human Resources Director
Personal Use of Social Media Policy for Town employees.
- CN17 Council Member Audra Killingsworth
Ordinance prohibiting possession of venomous and exotic dangerous animals within town limits.

Mayor Pro Tem Dozier stated that Consent Agenda Item 12 needed to be removed from the Consent Agenda.

Mayor Pro Tem Dozier called for a motion to adopt the Consent Agenda.

Council Member Killingsworth made the motion with the requested change;

Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

REGULAR MEETING AGENDA

Mayor Pro Tem Dozier stated that Public Hearing 2 needed to be heard before Public Hearing 1.

Mayor Pro Tem Dozier called for a motion to adopt the Regular Meeting Agenda.

Council Member Gantt made the motion with the requested change;

Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

PUBLIC FORUM

Jamie Hackney, asked Council to support the Hackney PUD project, and briefly spoke about growth and development in Apex.

Chris Raleigh, stated that a modified condition needed to be added to the rezoning application in Unfinished Business item 2. The modification changed the 5 affordable town home units to 10 affordable town home units, and he asked for Council's support on the item.

Elizabeth Perkins, questioned the rate of growth and development in Apex, her concerns were in reference to Unfinished Business items 1 and 2. She stated that there are not enough schools, and that the proposed development will increase traffic in already congested area. She mentioned the affect that growth and development are causing to the environment, and asked the Town to slow down growth and build infrastructure to support the rate of growth.

Tim Baldwin, stated that the development proposed in Unfinished Business items 1 and 2 will cause water flow issues, and that it will cause water to run onto his property. He stated that the development will cause an increase in traffic and that it also poses other environmental concerns. He stated that the developers would take land away from residents.

PUBLIC HEARINGS

PH2 Liz Loftin, Senior Planner

Rezoning Application #21CZ15 Chapel Ridge Towns PUD. The applicant, Toll Brothers, Inc., seeks to rezone approximately 21.60 acres from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 1412 Olive Chapel Road; 1400, 1401, 1408, 1409 Barnside Lane and Barnside Lane right-of-way.

Staff stated that the applicant requested a continuance until the September 28, 2021 Regular Town Council Meeting.

Mayor Pro Tem Dozier called for a motion. Council Member Gantt made the motion;

Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

PH1 Liz Loftin, Senior Planner

Rezoning Application #21CZ13 Evans Road PUD. The applicant Jason Vickers for Beazer Homes, seeks to rezone approximately 34.57 acres from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 0, 0, 2921, 2929, 3025, 3027, 3029, 3033 Evans Road, 0, 7616, 7628 Humie Olive Road & 0, 0, 2825, 2828, 2905, 2909, 2912, 2917, 2925 Walden Road.

Staff oriented Council to the site and a neighborhood meeting was conducted. The development will include 115 residential units with no more than 50 townhomes. A letter of impact was received from Wake County Public Schools and there will be insufficient school capacity. A preapplication meeting was held with the Environmental Advisory Board, and The Parks and Recreation Advisory Commission unanimously approved fee in lieu for the construction of a greenway trail. A public hearing was held before the Planning Board and the Planning Board recommended approval. Planning staff recommended approval.

Mayor Pro Tem Dozier declared the Public Hearing opened.

Neil Gosh, attorney for the applicant, stated the development will include both townhomes and single-family homes, and is consistent with the Town's plans and requirements. He stated that the developer is seeking to have NCDOT abandon its portion of Walden Road, allowing the developer to implement

road improvements and upon completion the road would become a Town road. He addressed concerns about the increase of traffic and stated that traffic calming devices could be included. The developer negotiated to obtain a private agreement that will help the Town increase infrastructure. The developer worked with staff to ensure that the development included greenways and crosswalks, and addressed concerns with school capacity by having a minimum of 10% of the homes have a primary bedroom located on the first floor. The developer committed to a donation to the Affordable Housing Fund of \$215 per plot at the time of the final plat.

Larry Harris Sr, stated that he supports the development of the Evans Road Project. He explained the history of the area and how the development would be beneficial.

Brian Feekers, voiced concerns about children not being able to go to school in the Town that they live in and the issues the Town is facing with school capacity. He asked Council to build responsibly.

Katie Nash, reiterated what Mr. Feekers said. She talked about the rapid rate of growth in the Town, voiced concern on school capacity, and asked if growth in Town could be slowed down

Kevin Thorpe, Minister of Mt. Zion Baptist Church, thanked Council. He discussed his ancestors, the land that was left to him, and how the development would affect him. He stated that he supports the project, and expressed appreciation for the collaboration between the land owners and the developer.

Mark Steele, stated that he was in support of the project. He stated that the project meets all the Town's guidelines and will provide a wider range for housing diversity at various economic levels.

Mayor Pro Tem Dozier declared the Public Hearing Closed.

Council questioned if there were any affordable homes in the project and asked if they could increase the amount of homes with a primary bedroom located on the first floor. The applicant stated that this development was not a great site for affordable housing, and that they could increase the amount of homes with a primary bedroom located on the first floor from 10% to 25%. Council felt this change would help facilitate the concerns with school capacity.

Council questioned if the homes were energy efficient and how the developer planned to honor the Friendship legacy. The applicant stated that the homes will be energy efficient and that they are providing additional cemetery access, intend to keep Walden Road named as it is honoring one of the founding family's namesakes, and plan to use other family namesakes to name streets throughout the subdivision.

Council asked if the developer planned a tree canopy or for tree preservation. Jeff Roach with Peak Engineering and Design, stated that the developer will donate \$7,300 to a tree fund. Council asked the affordability of the townhomes, and the applicant stated that the townhomes would be priced in the \$400,000 range.

Council expressed appreciation for the efforts made to honor the people and history of Friendship, but asked for something additional to honor the people and community. Council stated that affordable housing should be considered in the development.

Mayor Pro Tem Dozier called a ten-minute break.

The applicant stated that they will continue to work with community on naming rights and will include historical markers within the development. The applicant stated that 10% of the townhomes could have a reduced lot size, which would reduce the cost of the townhomes.

Council asked if a public art easement would be included in the cemetery driveway entrance, and the applicant explained that the access would be on the backside. Council asked how the cemetery would be maintained in the future and the applicant stated that the family will be responsible for maintenance; they are not acquiring the property within the cemetery, they are only beautifying the area.

Council asked if the developer had addressed the concerns of the people most impacted, and what had been done to accommodate the concerns of the neighbors. The applicant stated that they had accomplished both of these tasks.

Mayor Pro Tem Dozier called for a motion. Council Member Gantt

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

Council suggested that staff and future applicants take steps to address school capacity in future applications. Council also asked for additional or amended conditions to be brought to their attention prior to meetings.

The motion carried by a 5-0 vote.

PH3 Amanda Bunce, Current Planning Manager

Various amendments to the Unified Development Ordinance (UDO).

Staff oriented Council to the amendments. The first set of amendments were previously discussed by Council in a work session, and are regarding the processes for Quasi-Judicial proceedings, Major Site Plans, and Minor Site Plans. The final amendments were to special uses and special use permits.

Mayor Pro Tem Dozier declared the Public Hearing opened. With no comments, Mayor Pro Tem Dozier declared the Public Hearing closed.

Mayor Pro Tem Dozier called for a motion.

Council Member Killingsworth made the motion to approve;

Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

PH4 Vance Holloman, Finance Director

Findings and determinations regarding the need to finance the cost of acquiring, constructing and equipping a new Public Safety Facility and acquiring, constructing and equipping a new office building for use by the Town's Inspection Department, selecting a financial institution to provide financing and authorizing staff to file an application with the Local Government Commission to approve an installment financing agreement for the projects of up to \$8.7 million.

Staff stated that Council was considering borrowing up to \$8,700,000 for Public Safety Station 36 and Mason Street renovations. Staff stated that Council would also be considering a resolution regarding the terms and interest rate for the installment financing.

Mayor Pro Tem Dozier declared the Public Hearing opened. With no comments, Mayor Pro Tem Dozier declared the Public Hearing closed.

Mayor Pro Tem Dozier called for a motion.
Council Member Stallings made the motion to approve;
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

UB1 Liz Loftin, Senior Planner

Ordinance on the Question of Annexation - Apex Town Council's intent to annex Edwin A. Goodwin, Testamentary Trust/Judy G. Hackney, Trustee (Hackney Tracts) property containing 2.867 acres located at 2600 Olive Chapel Road, Annexation #701 into the Town's corporate limits

AND

UB2 Liz Loftin, Senior Planner

Rezoning Application #20CZ14 Hackney PUD, Statement of Town Council, and Ordinance. The applicant, Brendie Vega, WithersRavenel, seeks to rezone approximately 73.64 acres located at 0, 2500, and 2600 Olive Chapel Road (PINs 0721492629, 0722406699, & 0722411102) from Rural Residential (RR) and Wake County R-80W to Planned Unit Development-Conditional Zoning (PUD-CZ). This item was continued from the April 27, 2021 meeting.

Staff stated that a Public Hearing was held in March and continued to the regular April Town Council meeting. At the April meeting the item was continued to October, due to new circumstances the applicant requested that Council reconsider earlier. The Planning Board recommended approval. Staff briefly reviewed the site with Council and stated that the development would-be built-in phases.

Council asked that the applicant address the concerns that were brought forth during Public Forum. Brendie Vega, Chris Raleigh, and Ed Tang addressed the concerns that were brought forth during Public Forum. The collector road was taken into consideration and was the final recommendation from

staff because it would impact fewer homes. A temporary construction easement would be needed for construction, but the developer would not take any land from any of the property owners, and they would be responsible for any cost incurred. The developer stated that they will comply with all stormwater requirements. Council thanked the developer for all their work and efforts on the project.

Mayor Pro Tem Dozier called for a motion.

Council Member Mahaffey made the motion to approve the annexation and rezoning with the added condition. Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

UB3 Amanda Bunce, Current Planning Manager

Amendment to the Unified Development Ordinance (UDO) requested by Tutu School Apex related to the Personal Service use in storefront locations downtown. The Public Hearing was held on July 27, 2021 and the vote continued to August 24, 2021.

Staff reviewed the amendment and stated that revisions have been made by the applicant. Ms. O'Brien, thanked Council for the opportunity to speak, explained the benefits of having a Tutu School in Apex. She asked Council to support the amendment.

Council stated that the ADBA requested to keep UDO as is and offered suggestions as to other places the school could be placed. Council expressed concern that by supporting the amendment Council is amending the UDO to fit a specific business' needs.

Mayor Pro Tem Dozier called for a motion.

Council Member Killingsworth made the motion to deny;

Council Member Stallings seconded the motion.

The motion carried by a 4-1 vote; Mayor Pro Tem Dozier and Council Members Killingsworth, Stallings, and Mahaffey voted in the affirmative;

Council Member Gantt voted against.

NEW BUSINESS

There were no New Business items for consideration.

UPDATES BY TOWN MANAGER

TM1 Catherine Crosby, Town Manager

Updates on Town Operations by Town Manager Crosby.

Town Manager Crosby congratulated Chief McGee on 30 years of service and Captain Pearson on receiving the Medal of Honor. She congratulated Tesa Silver for her work with the North Carolina Association of Municipal Clerks. She stated that the Finance department received the GFOA Award this year and has received each year since 1994. She stated that youth sports started this week. She encouraged everyone to wear mask and to get vaccinated.

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, Mayor Pro Tem Dozier adjourned the meeting.

Tesa Silver, CMC, Town Clerk

ATTEST:

Nicole L. Dozier, Mayor

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