

DRAFT MEETING MINUTES

TOWN OF APEX REGULAR TOWN COUNCIL MEETING TUESDAY, AUGUST 23, 2022 6:00 P.M.

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, August 23, 2022 at 6:00 p.m. The meeting was held in the Council Chamber on the 2nd Floor of Apex Town Hall located at 73 Hunter Street in Apex, North Carolina.

The 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 meeting recording can be viewed at the following link:

<https://www.youtube.com/watch?v=IPffaB9psFA>

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (*presiding officer*)

Mayor Pro-Tempore Audra Killingsworth

Councilmember Cheryl Stallings

Councilmember Ed Gray

Councilmember Terry Mahaffey

ABSENT: Councilmember Brett Gantt

Town Staff

Town Manager Catherine Crosby

Assistant Town Manager Shawn Purvis

Assistant Town Manager Marty Stone

Town Attorney Laurie Hohe

Town Clerk Allen Coleman

[COMMENCEMENT]

Mayor Jacques K. Gilbert called the meeting to order at **6:00 p.m.** and announced that Councilmember Brett Gantt was absent. He welcomed those in attendance and read the Town's diversity commitment statement.

Mayor Gilbert recognized Wake County Sheriff's Deputy Ned Byrd whose life was honored yesterday and offered a moment of silence for his family, his life of service, and a private moment of silence as the invocation.

Mayor Gilbert led the Pledge of Allegiance.

[CONSENT AGENDA]

A **motion** was made by **Mayor Pro-Tempore Audra Killingsworth**, seconded by **Councilmember Terry Mahaffey** to approve the consent agenda as amended, with removing consent item no. eight (8) and moving it to New Business for additional discussion.

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

The following items were included on the consent agenda:

CN1 BUDGET ORDINANCE AMENDMENT NO. 2 - DEER CREEK 2022 CAPITAL REIMBURSEMENT FEES

Council adopted Budget Ordinance Amendment No. 2 which appropriated funds to pay amounts due under the second amendment to the Utility Infrastructure Reimbursement Agreement with Meritage Homes of Carolinas, Inc. and authorized a transfer of funds from the Water Sewer HB 463 Capital Fund to fund the payment.

CN2 BUDGET ORDINANCE AMENDMENT NO. 3 - JORDAN POINTE 2022 CAPITAL REIMBURSEMENT FEES

Council adopted Budget Ordinance Amendment No. 3 which appropriated funds to pay amounts due under the first amendment to the Utility Infrastructure Reimbursement Agreement with WS-JPA, LLC and authorized a transfer of funds from the Water Sewer HB 463 Capital Fund to fund the payment.

CN3 CONSTRUCTION AGREEMENT - CSX TRANSPORTATION INC. - WIDENING PLEASANT PLAINS ROAD - PLEASANT PARK PROJECT

Council approved a construction agreement between the Town and CSX Transportation for road and signal improvements related to the Pleasant Park project; authorized the Town Manager to execute the same; and authorized the Town Manager to make changes to the agreement if the changes do not substantially alter the agreement and do not make the agreement, as a whole, less favorable to the Town.

CN4 CONTRACT MULTI-YEAR - CINTAS - UNIFORMS - AUGUST 22, 2022 THROUGH AUGUST 21, 2027

Council approved a five (5) year Agreement, beginning August 22 2022 through August 21, 2027, with Cintas and to authorized the Town Manager to execute the agreement on behalf of the Town.

CN5 ENCROACHMENT AGREEMENT - 1835 FIRENZA DR LOT 39

Council approved an encroachment agreement between the Town and property owners Douglas Ahrens and spouse Tracy Ahrens to install a fence that will encroach 253 square feet onto the Public Utility Easement (Sewer) and authorized the Town Manager to execute the same.

CN6 FEE-IN-LIEU (FIL) OF LAND DEDICATION - ESTATES AT WHITE OAK

Council voted to accept a Fee-in-Lieu of Land Dedication for the Estates at White Oak Subdivision.

CN7 LEASE AGREEMENT RENEWAL - NEW CINGULAR WIRELESS PCS, LLC. TINGEN - JULY 1, 2023 THROUGH JUNE 30, 2038

Council approved a lease renewal agreement with New Cingular Wireless PCS, LLC, beginning July 1, 2023 through June 30, 2038, and to authorized the Town Manager to execute the agreement on behalf of the Town.

CN8 ORDINANCE AMENDMENT FOR ARTICLE I OF CHAPTER 10

Council voted to remove this item from the consent agenda and discuss separately under New Business.

CN9 RESOLUTION - PUBLIC UTILITY EASEMENT ABANDONMENT

Council approved a Resolution to Abandon a Portion of an Existing 5' Public Utility Easement.

CN10 Tax Report - July 2022

Council accepted the Apex Tax Report dated July 05, 2022.

[PRESENTATIONS]

PR1 FINANCIAL UPDATE - CUSTOMER ASSISTANCE PROGRAM (CAP) AND FISCAL YEAR END OPERATING RESULTS

Finance Director Vance Holleman said that on April 27, 2021, the Council established a Customer Assistance Program (CAP) to assist utility customers behind on their bills due to the economic hardships caused by COVID-19. He said that the Town initially appropriated \$503,000 for assistance and allowed qualified applicants to receive up to \$636 in assistance if they met all of the program's eligibility requirements. He said that Western Wake Crisis Ministry Inc. was contracted to administer the program on behalf of the Town.

In addition, **Director Holleman**, provided Council with an update on the financial condition and operating results of the Town's major funds including the

General Fund, Electric Fund, Water and Sewer Fund, through the fiscal year end June 30, 2022.

Mayor Gilbert and Councilmembers discussed the financial update and recognized Director Holleman for his exceptional service and financial leadership for the Town of Apex and wished him well in his retirement.

[REGULAR MEETING AGENDA]

A **motion** was made by **Councilmember Edward Gray**, seconded by **Councilmember Cheryl Stallings** to set the regular meeting agenda as presented, with the addition of New Business Item No. 1 (previously CN8, under the consent agenda).

VOTE: UNANIMOUS (4-0) – with *Councilmember Brett Gantt absent.*

[PUBLIC FORM]

Mayor Jacques K. Gilbert opened the public forum comment period and provided instructions related to the process. The following individuals spoke during the public forum and a brief description of their remarks are noted below each name:

1. Elizabeth Stitt – 3113 Friendship Road, Apex, NC
 - a. Referenced the public participation policy and a potential revision to include decorum language.

[PUBLIC HEARINGS]

PH1 2022 GENERAL OBLIGATION BOND EXTENSION - \$15 MILLION STREET AND SIDEWALK IMPROVEMENT BONDS

Finance Director, Vance Holleman, provided an overview of the item and included the following background information:

The Council previously approved the submission of an application to extend the Bond Order authorizing the \$15,000,000 Street and Sidewalk Improvement Bonds to the Local Government Commission. That application was approved by the commission on July 12, 2022.

The Bond Order was originally approved by voters on November 3, 2015 and will expire seven (7) years after that date. The Order under consideration would extend the Bond Order for an additional three years.

The Resolution also directs the Town Clerk to publish the Order and a Notice that the order was adopted, will take effect in 30 days, and any action questioning the validity of the order must be originated within 30 days of the publication of the notice.

Councilmembers commented and asked questions at the conclusion of the presentation.

Mayor Gilbert opened the public hearing for the above-mentioned item (PH1).

With no one signed up to speak, **Mayor Gilbert** closed the public hearing and asked the Council if there was a motion to adopt the ordinance as presented.

A **motion** was made by **Mayor Pro-Tempore Audra Killingsworth**, seconded by **Councilmember Terry Mahaffey** to adopt an order extending the bond order authorizing \$15 million of street and sidewalk improvement General Obligation Bonds and directed the Town Clerk to publish the order notice.

VOTE: UNANIMOUS (4-0) - *with Councilmember Brett Gantt absent.*

**PH2 ANNEXATION NO. 733 - ADAMS PROPERTY PUD - 23.92 ACRES
AND
PH3 REZONING CASE NO. 22CZ08 - ADAMS PROPERTY PUD**

Senior Planner, Liz Loftin, provided a PowerPoint presentation for the proposed annexation petition and rezoning case no. 22CZ08 - Adams Property PUD.

Councilmembers commented and asked questions at the conclusion of the presentation.

Mayor Gilbert opened the public hearing for the above-mentioned items (PH2 and PH3).

Mayor Gilbert closed the public hearing and asked the Council if there was a motion on this item.

A **motion** was made by **Councilmember Terry Mahaffey**, seconded by **Councilmember Cheryl Stallings** to continue the discussion for both of these items (PH2 and PH3) until the September 27, 2022 Town Council Meeting and consider a final vote at that time.

VOTE: UNANIMOUS (4-0) - *with Councilmember Brett Gantt absent.*

**PH4 ANNEXATION NO. 737 - 905 WIMBERLY ROAD - 7.21 ACRES
AND
PH5 REZONING CASE NO. 22CZ14 - 905 WIMBERLY ROAD**

Planner II, Lauren Staudenmaier, provided a PowerPoint presentation on the proposed annexation petition and rezoning case no. 22CZ14 - 905 Wimberly Road.

Councilmembers commented and asked questions at the conclusion of the presentation.

Mayor Gilbert opened the public hearing for the above-mentioned items (PH4 and PH5).

Mayor Gilbert closed the public hearing and asked the Council if there was a motion on this item.

A **motion** was made by **Councilmember Edward Gray**, seconded by **Councilmember Cheryl Stallings** to adopt an ordinance on the question of annexation - Apex Town Council's Intent to Annex 7.21 acres located at 905 Wimberly Road, Annexation No. 737 into the Town's Corporate Limits, and, approved Rezoning Application Case No. 22CZ14 - 905 Wimberly Road which rezones approximately 7.21 acres from Wake County Residential-80W (R-80W) to Residential Agricultural-Conditional Zoning (RA-CZ). The proposed rezoning is located at 905 Wimberly road.

VOTE: UNANIMOUS (4-0) - *with Councilmember Brett Gantt absent.*

PH6 ANNEXATION PETITION NO. 739 - TRIAD EDUCATION SERVICES (TMSA) - 6.524 ACRES

Planning and Community Development Director, Dianne Khin, provided a PowerPoint presentation which provided an overview of the annexation petition no. 739 - Triad Education Services (TMSA).

Councilmembers commented and asked questions at the conclusion of the presentation.

Mayor Gilbert opened the public hearing for the above-mentioned item (PH6).

With no one signed up to speak, **Mayor Gilbert** closed the public hearing and asked the Council if there was a motion on this item.

A **motion** was made by **Mayor Pro-Tempore Audra Killingsworth**, seconded by **Councilmember Edward Gray** to adopt an ordinance on the question of annexation - Apex Town Council's intent to annex 6.524 acres as petitioned by Triad Education Services; Triangle Math and Science Academy (TMSA), Annexation No. 739 into the town's corporate limits.

VOTE: UNANIMOUS (4-0) - *with Councilmember Brett Gantt absent.*

PH7 REZONING CASE NO. 22CZ10 CALYX SENIOR LIVING (KOBRA PUD AMENDMENT)

Senior Planner, Liz Loftin, provided a PowerPoint presentation which provided an overview of the rezoning case application no. 22CZ10 - Calyx Senior Living (KOBRA PUD Amendment).

Councilmembers commented and asked questions at the conclusion of the presentation.

Mayor Gilbert opened the public hearing for the above-mentioned item (PH7).

Mayor Gilbert closed the public hearing and asked the Council if there was a motion on this item.

A **motion** was made by **Mayor Pro-Tempore Audra Killingsworth**, seconded by **Councilmember Edward Gray** to approve Rezoning Application #22CZ10 Calyx Senior Living Apex (Kobra PUD Amendment), which rezoned approximately 5.738 acres from Planned Unit Development-Conditional Zoning (PUD-CZ #20CZ04) to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 7501 Jenks Road.

VOTE: UNANIMOUS (4-0) - *with Councilmember Brett Gantt absent.*

Mayor Jacques K. Gilbert announced a recess until 8:00 p.m.

Mayor Jacques K. Gilbert reconvened the meeting at 8:02 p.m.

PH8 REZONING CASE NO. 22CZ15 - CARSPACE APEX

Current Planning Manager, Amanda Bunce, provided a PowerPoint presentation which provided an overview of the rezoning case application no. 22CZ15 - Carspace Apex and said that the proposed rezoning was located at 1720 and 1740 Pinnacle Center Drive.

Councilmembers commented and asked questions at the conclusion of the presentation.

Mayor Gilbert opened the public hearing for the above-mentioned item (PH8).

Mayor Gilbert closed the public hearing and asked the Council if there was a motion on this item.

A **motion** was made by **Councilmember Edward Gray**, seconded by **Mayor Pro-Tempore Audra Killingsworth** to approve Rezoning Application #22CZ15 Carspace Apex which rezoned approximately 6.92 acres from tech/flex-conditional zoning (TF-CZ #14CZ30) to light industrial-conditional zoning (LI-CZ). The proposed rezoning is located at 1720 and 1740 Pinnacle Center Drive.

VOTE: UNANIMOUS (4-0) - with *Councilmember Brett Gantt absent.*

PH9 UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENTS - AUGUST 2022

Current Planning Manager, Amanda Bunce, provided a PowerPoint presentation which provided an overview of the proposed Unified Development Ordinance Amendments (UDO). According to the coversheet prepared for this item, the following were the requested amendments:

REQUESTED BY PLANNING BOARD

Amendments to Sec. 2.2.6 Pre-Application Meeting and 2.2.7.B Neighborhood Meetings in order to require applicants to provide information in the neighborhood meeting notification letter and during the neighborhood meeting about amendments to any Long Range plans (ex: Transportation Plan, 2045 Land Use Map, etc.) that are directly associated with the proposed rezoning or development, to require that pre-application meetings with the Technical Review Committee be held prior to the mailing of the neighborhood meeting notification letter, and to correct a grammatical error.

REQUESTED BY PLANNING STAFF

Amendment to Sec. 4.4.3.G Supplemental Standards; Utilities; Utility, Minor in order to remove the height limitation for water towers.

Amendments to Sec. 8.2.7.A Fences, Walls, and Berms; Materials in order to allow the unfinished side of a fence to face an alley.

Amendments to Sec. 8.3.2 Off-Street Parking Requirements in order to add standards for the uses "Parking garage, public" and "Parking lot, public" and to

change the wording of the parking requirement for "Recreation facility, private (multi-family or apartment)" from "No requirement" to "None" for consistency.

Amendment to Sec. 8.3.6.E Parking Lot Design Standards, Dimensions in order to clarify that the standards for parking spaces are minimums not maximums

Amendments to Secs. 8.3.9.C Shared Parking in order to increase the percentage of parking for the use "Church or place of worship" that may be shared.

Councilmembers commented and asked questions at the conclusion of the presentation.

Mayor Gilbert opened the public hearing for the above-mentioned item (PH9).

Mayor Gilbert closed the public hearing and asked the Council if there was a motion on this item.

A **motion** was made by **Councilmember Cheryl Stallings**, seconded by **Councilmember Audra Killingsworth** to adopt the various amendments to the Town's Unified Development Ordinance (UDO), as presented by Town staff.

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

[OLD BUSINESS]

None Scheduled.

[UNFINISHED BUSINESS]

None Scheduled.

[NEW BUSINESS]

NB1 ORDINANCE AMENDMENT FOR ARTICLE I OF CHAPTER 10 - This item was removed from the consent agenda and added to new business.

Deputy Town Attorney, Brian Meyer, along with **Senior Zoning Compliance Officers, Mark Siburt and Trevor Johnson**, provided a PowerPoint presentation which provided an overview of the item.

Councilmembers commented and asked questions at the conclusion of the presentation. Discussion ensued regarding the proposed amendments.

A **motion** was made by **Councilmember Terry Mahaffey**, seconded by **Mayor Pro-Tempore Audra Killingsworth** to schedule a public hearing for September 13, 2022 and directed staff to prepare a revised ordinance amendment based on Council's feedback for consideration at that time.

VOTE: UNANIMOUS (4-0) - *with Councilmember Brett Gantt absent.*

[UPDATES BY THE TOWN MANAGER]

Town Manager, Catherine Crosby, provided updates related to various projects and events in the Town.

[CLOSED SESSION]

None Scheduled.

[ADJOURNMENT]

With no additional business being presented by the governing body, **Mayor Jacques K. Gilbert** adjourned the meeting at **8:32 p.m.**

Jacques K. Gilbert
Apex Mayor

Allen Coleman
Apex Town Clerk

Submitted for consideration and approved on _____.