

DRAFT MINUTES

**TOWN OF APEX
SPECIAL TOWN COUNCIL MEETING
FRIDAY, JANUARY 12, 2024
2:00 P.M.**

The Apex Town Council met for a Special Meeting on Friday, January 12, 2024 at 2:00 p.m. at the 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:

https://www.youtube.com/watch?v=T1c_GKnL-18

[ATTENDANCE]

Elected Body

- Mayor Jacques K. Gilbert (*presiding*)
- Mayor Pro-Tempore Ed Gray
- Councilmember Brett Gantt
- Councilmember Audra Killingsworth (*arrived late, see note below*)
- Councilmember Terry Mahaffey
- Councilmember Arno Zegerman
- Absent: None

Town Staff

- Interim Town Manager Shawn Purvis
- 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 led those in attendance in a recitation of the Pledge of Allegiance.

[CONSENT AGENDA]

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

Councilmember Gantt asked that the motion be amended to pull Consent Item No. 5 (CN5) for discussion prior to Closed Session.

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2 A **motion** was made by **Councilmember Gray**, seconded by **Councilmember**
3 **Zegerman**, to approve the Consent Agenda, with the removal of Consent Item No. 5 (CN5).

4
5 **VOTE: 4-0, with Councilmember Killingsworth absent**

6
7 **CN1 2024 Town Council Meeting Calendar Amendments (REF: OTHER-2024-002)**

8 Council voted to amend the 2024 Town Council Meeting Calendar.

9 **CN2 Agreement - Badger Meter, Inc. - New Water Meters - Meter System Upgrade**
10 **Project (REF: CONT-2024-008)**

11 Council voted to award an agreement with Badger Meter, Inc. as Sole Source Vendor for the
12 purchase of new water meters required for the Meter System Upgrade Project, and authorize
13 the Interim Town Manager, or their designee, to execute on behalf of the Town.

14 **CN3 Agreement - North Carolina Department of Transportation (NCDOT) and Town of**
15 **Apex - Extend Completion Date for Apex Peakway Project. (REF: CONT-2024-**
16 **009)**

17 Council voted to approve Supplemental Agreement ID No. 12773 with North Carolina
18 Department of Transportation (NCDOT) to extend the completion date for project U-5928,
19 Apex Peakway, to December 31, 2028.

20 **CN4 Annexation No. 745 - The Preserve at Holt - 5.367 acres (REF: RES-2024-001,**
21 **RES-2024-002, and OTHER-2024-003)**

22 Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition
23 Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a
24 Resolution Setting the Date of a Public Hearing for January 23, 2024, on the Question of
25 Annexation - Apex Town Council's intent to annex 5.367 acres, located at The Preserve on
26 Holt, Annexation No. 745 into the Town Corporate limits.

27 ~~**CN5 REVISED Appointment(s) - Board of Adjustment**~~

28 This item was removed from the Consent Agenda.

29 **CN6 Capital Project Ordinance Amendment No. 2024-10 - GoApex Bus Stop**
30 **Improvements (Four Locations) and Sidewalk Connection Project (REF: ORD-**
31 **2024-001)**

32 Council voted to adopt Capital Project Ordinance Amendment 2024-10 allocating funding
33 for the GoApex Bus Stop Improvements (Four Locations) and Sidewalk Connection Project.

34 **CN7 Council Meeting Minutes - Various**

35 Council voted to approve, as submitted, the Meeting Minutes from the following meeting:
36 November 28, 2023 - Town Council Regular Meeting Minutes
37 November 30, 2023 - Town Council Work Session - Public Safety
38 December 12, 2023 - Regular Town Council Meeting
39 December 14, 2023 - Town Council Work Session

40 **CN8 Human Resources (HR) Policy Updates - Town's Personnel Policies (REF: PLCY-**
41 **2024-001)**

42 Council voted to approve an amendment to the Town's Personnel Policies.

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CN9 Ordinance - Authorizing Creation of and Establishing Procedures for the Petty Cash and Cash Change Funds (REF: ORD-2024-002 and PLCY-2024-002)

Council voted to approve an Ordinance authorizing the creation of the petty cash and cash change drawer funds, as well as establishing operating procedures.

CN10 Resolution - Amendment to Designated Deputy Finance Officers (REF: RES-2024-003)

Council voted to amend resolution designating the Deputy Finance Officer position with the authority of the Finance Officer for the purposes of complying with the Local Government Budget and Fiscal Control Act.

CN11 Rezoning Case No. 23CZ16 - Friendship Station Sec 3 PUD Amendment - Statement and Ordinance (REF: ORD-2024-003)

Council voted to approve the Statement of the Town Council and Ordinance for Rezoning Case No. 23CZ16 Friendship Station Section 3 PUD Amendment, Charm City Developers, LLC, petitioner, for the property located at 0 Humie Olive Road (PIN 0721306888).

CN12 Speed Limit Revision - North Carolina Department of Transportation (NCDOT) - Olive Chapel Road between New Hill Olive Chapel Road and Apex Peakway, 45mph (REF: OTHER-2024-004)

Council voted to approve North Carolina Department of Transportation (NCDOT) Certification of Municipal Declaration to Enact Speed Limits and Request for Concurrence for a 45-mph speed limit on Olive Chapel Rd between New Hill Olive Chapel Road and Apex Peakway, and revert the speed limit to 35-mph on Olive Chapel Road between Apex Peakway and NC 55 as its within municipal limits.

CN13 Tax Report - November 2023 (REF: OTHER-2024-001)

Council voted to approve Apex Tax Reports dated December 11, 2023.

[CONSENT ITEM 5]

Councilmember Gantt said he had been looking through the candidates, and has a newfound appreciation of the importance of the board, and wanted to spend some time discussing the options before voting on the appointees.

Councilmember Killingsworth arrived at 2:04 p.m.

Mayor Gilbert thanked him for bringing it up. He said he speaks to the individuals interested in these seats, and also looks at what may be missing on the boards. He said it's also important to have some stability on the Board of Adjustment, and it is currently a young board. He said he saw Ms. Sico's experience in the Wake County DA's office as valuable, as well as her understanding of the quasi-judicial process. He said he said he also looked at trying to ensure there was more balance in the diversity of voices on the boards. He said he is open to discussion.

Councilmember Mahaffey said his desire was to increase the legal expertise that was on the Board of Adjustment. He said 3 or 4 people stood out to him, and one person in particular, Mr. William Hart. He said the town would be well-served to have someone of his

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1 character and experience on the board. He said he also concurred with the Mayor on Ms.
2 Sico, given her legal experience, and those were the two people he would support today.

3 **Councilmember Zegerman** asked how Councilmember Mahaffey assessed Mr. Hart's
4 legal experience. He said he does not see that reflected in the application.

5 **Councilmember Mahaffey** said he was a judge's advocate, which is a military judge.
6 He said he has respect for that position, and the character he brings would speak volumes to
7 the town.

8 **Mayor Pro Tempore Gray** said Mr. Hart would be a great board member. He said as
9 a quasi-judicial body, the Board of Adjustment makes findings of facts and then make
10 decisions based on those. He said this is an area where having more lawyers can complicate
11 things. He said that waters down the advice given to the board by Town Attorneys, and rather
12 than relying on them they may look inwardly to themselves or each other for legal opinions.
13 He said having as broad of a cross-section from the community as possible would be the best
14 way to keep the board independent and operate on its own. He said this is for the 3rd
15 alternate position, and he would like to fill those spots with less lawyers rather than more
16 lawyers.

17 **Councilmember Mahaffey** said he is looking to affect change immediately on the
18 Board of Adjustment. He said he would like to go with Mr. Hart for the open seat instead of
19 re-appointing Mr. Johnson, and concur with the Mayor's recommendation to appoint Ms.
20 Sico to the 3rd alternate seat.

21 **Mayor Gilbert** asked how much experience Mr. Johnson serving on the Board of
22 Adjustment

23 **Councilmember Mahaffey** said he's served two terms.

24 **Mayor Pro Tempore Gray** wanted to clarify that Mr. Johnson still wished to continue
25 serving.

26 **Mayor Gilbert** said he has not heard anything about Mr. Johnson not performing to
27 their expectations.

28 **Mayor Pro Tempore Gray** said he was not inclined to make a replacement in this
29 case, unless Mr. Johnson wanted to step down. He said he understands what Councilmember
30 Mahaffey is trying to do, but he would not want to do that at this stage.

31 **Councilmember Mahaffey** said it was his desire to affect change, and opportunities
32 to put new people on boards do not always line up with when Council wants to do it. He said
33 this would be a case where they could impact change, to get somebody new on the board at
34 the end of an expired term. He said Mr. Johnson has served well, and this is not a reflection of
35 his service. He said they have an opportunity once a year to affect change via appointments,
36 and he wants to look at that here.

37 **Mayor Gilbert** asked what kind of change he is trying to make.

38 **Councilmember Mahaffey** said he wants to see more legal expertise and legal
39 procedure understanding get onto the board, and filling an expired seat is the most
40 immediate way to do that.

41 **Councilmember Gantt** said he agreed with the desire to have a lot of procedural
things happening, and having legal experience would be good for the board.

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1 **Councilmember Mahaffey** said he’s happy this conversation is happening, as this
2 board has actual statutory authority.

3 **Mayor Gilbert** added that he decided they would increase training for the Board of
4 Adjustment, which will help everybody on the Board.

5 **Town Attorney Hohe** said the Board of Adjustment is having training Tuesday,
6 January 17th, and that in the future, there will be a member of the Town Attorney’s office at
7 every Board of Adjustment meeting. He said they will be ensuring the Board knows that if
8 they have questions, they need to be asking the town’s legal staff.

9 **Town Clerk Coleman** said they could split up the 3 motions from the original
10 Consent item: one to fill the vacant seat on the Board, one to move up Alternates 2 and 3 one
11 spot, and one to appoint Ms. Sico to Alternate 3.

12
13 A **motion** was made by **Councilmember Mahaffey**, seconded by **Councilmember**
14 **Gantt**, to fill the vacant seat on the Board of Adjustment by ballot vote between the two
15 nominees, Bryan Johnson and William Hart.

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17 **VOTE: 4-1, with Mayor Pro Tempore Gray dissenting**

18
19 The following votes for appointment to the Regular Seat on the Board of Adjustment (Term:
20 January 1, 2024 - December 31, 2026) were captured by ballot and announced by the Town
21 Clerk:

- 22 **Mayor Pro Tempore Gray** for Bryan Johnson
- 23 **Councilmember Mahaffey** for William Hart
- 24 **Councilmember Killingsworth** for William Hart
- 25 **Councilmember Gantt** for William Hart
- 26 **Councilmember Zegerman** for Bryan Johnson

27 **Vote Results:** William Hart, 3-2

28
29 A **motion** was made by **Councilmember Gantt**, seconded by **Councilmember**
30 **Mahaffey**, to move Alternate 2, Michael Sayers, to Alternate 1 and keep term (February 28,
31 2023 - February 28, 2026), and to move Alternate 3, William Hollenbeck, to Alternate 2 and
32 keep term (February 28, 2023 - February 28, 2026).

33
34 **VOTE: UNANIMOUS (5-0)**

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36 A **motion** was made by **Councilmember Mahaffey**, seconded by **Councilmember**
37 **Zegerman**, to concur with Mayor Gilbert’s recommendation and appoint Heidi-Marie Sico as
38 the Board of Adjustment’s Alternate 3 (Term: January 1, 2024 - December 31, 2026).

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40 **VOTE: UNANIMOUS (5-0)**

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42 **[CLOSED SESSION]**

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A **motion** was made by **Councilmember Killingsworth**, seconded by **Mayor Pro Tempore Gray**, to enter in to Closed Session pursuant to NCGS § 143-318.11(a)(6).

VOTE: UNANIMOUS (5-0)

Council entered into Closed Session at **2:23 p.m.**

Council returned to Open Session at **6:13 p.m.**

Mayor Gilbert adjourned the meeting at **6:13 p.m.**

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 _____.