



"The Peak of Good Living"

OFFICE OF THE TOWN CLERK

TOWN OF APEX NORTH CAROLINA

CLERK'S CERTIFICATION

I, Allen L. Coleman, Town Clerk to the Apex Town Council, North Carolina, do hereby certify the following **ORDINANCE** and action(s) taken by the Apex Town Council:

ORD-2022-071

AN ORDINANCE TO AMEND SECTION 12-21 OF APEX TOWN CODE

The Apex Town Council, at their Regular Meeting on April 12, 2022, voted in open session 4-0, with Councilmember Audra Killingsworth absent, to amend Article III "Water and Sewers", Subsection 12-21. "Out of town water and sewer service" of Chapter 12 of the Town of Apex Code of Ordinances. This item was included on the consent agenda as item number CN21.

The attached ordinance was adopted but was not fully executed, therefore, an unsigned copy is attached and a copy of the meeting minutes documenting the approval.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official Seal of the Town of Apex, North Carolina, this the 30th day of December, 2024.

Allen L. Coleman, CMC, NCCCC
Town Clerk to the Council

SEAL

ORDINANCE NO. 2022-0222-__

**AN ORDINANCE TO AMEND SECTION 12-21
OF APEX TOWN CODE**

THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF APEX AS FOLLOWS:

Section 1. Subsection (b) of section 12-21 of the Town of Apex Code of Ordinances is hereby amended to read as follows with deletions shown as struck-through text:

Sec. 12-21. - Out of town water and sewer service.

- (b) Notwithstanding anything in subsection (a) of this section, the town may offer and provide new utility services to customers located outside of the town's municipal corporate limits, as extended from time to time, as follows:
 - (1) New water customers may be connected to water lines existing as of September 7, 1999, which are located outside of the town's municipal corporate limits, to the extent that such connections facilitate the reimbursement of acreage fees to a party who constructed the water lines in reliance on a valid acreage fee reimbursement agreement with the town; such customers shall be subject to the same terms and conditions as applied on September 7, 1999, and shall submit a covenant to be annexed upon the availability of sewer service; and
 - (2) The town may provide new municipal water and sewer service to any construction and debris landfill located outside of the town's municipal corporate limits (but within the town's extraterritorial jurisdiction) at the town's then prevailing in-town rates, rents, fees or other charges for such services (other than acreage fees and capacity fees), subject to such terms and conditions as the town deems necessary or desirable as reflected in an agreement approved by the town council, in consideration of the landfill's owner and operator permitting the town, for a period of not less than five years, to deposit, dump or otherwise dispose of at the landfill, **agreed-upon** ~~unlimited~~ quantities of grass clippings, yard waste, leaves, wood chips and other organic debris collected by the town from properties located within the town's municipal corporate limits and extraterritorial jurisdiction, without charge to the town.

Section 2. It is the intention of the governing body, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances and the sections of this ordinance may be renumbered to accomplish such intention.

Section 3. Severability, Conflict of Laws. If this ordinance or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to the end the provisions of this ordinance are declared to be severable. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4. Effective Date. This ordinance shall be effective upon adoption.

Introduced by Council Member: _____

Seconded by Council Member: _____

This the 22nd day of February, 2022.

Jacques K. Gilbert
Mayor

ATTEST:

Julie A. Reid
Interim Town Clerk

APPROVED AS TO FORM:

Laurie L. Hohe
Town Attorney



MINUTES - REGULAR TOWN COUNCIL MEETING

APRIL 12, 2022 AT 6:00 PM

COUNCIL CHAMBERS – APEX TOWN HALL, 73 HUNTER STREET

WELCOME AND COMMENCEMENT

The regular meeting of the Apex Town Council was called to order by Mayor Gilbert. The Mayor began the meeting with a welcome and invocation saying

“The Town of Apex values and celebrates diversity and inclusion. We see diversity as a strength that binds the community together. Inviting members from different faith communities to deliver an invocation at the beginning of our council meetings supports this unity, recognizes that not everyone practices the same traditions, we welcome you to have a private moment of silence.” He spoke on the unity of the community and on the people within the community. He recognized the members of the community.

The mayor asked those attending to join in the Pledge of Allegiance.

Town Council and Administration:

In attendance were Mayor Jacques K. Gilbert, and Council Members Brett D. Gantt, Terry Mahaffey, Cheryl F. Stallings and Edward Gray. Also, in attendance were Town Manager Catherine Crosby, Assistant Town Manager Marty Stone, Interim Town Clerk Julie Reid, and Town Attorney Laurie L. Hohe.

CONSENT AGENDA

The Mayor explained that all Consent Agenda items are considered routine, to be enacted by one motion with the adoption of the Consent Agenda, and without discussion. If a Council Member requests discussion of an item, the item may be removed from the Consent Agenda and considered separately. The Mayor presented the Consent Agenda to be set prior to taking any action on the following items:

He said item CN17 has been requested to be removed from the consent agenda and moved to new business. A motion was made to approve the amended consent agenda. (Motion: Council Member Gray\Second: Council Member Gantt, Vote: Approved 4-0).

- CN1 Approval of the minutes of the March 8, 2022 and March 22, 2022 meetings of the Regular Town Council Meeting.**
- CN2 Approval of Town Co-Sponsored Special Event Requests for 2022.**
- CN3 Approval of revisions to the Town Standard Specifications and Details.**

- CN4** Approval to set a Public Hearing for the April 26, 2022 Town Council meeting regarding Rezoning Application #21CZ26 Humie Olive Commercial. The applicant, Jeff Roach, Peak Engineering & Design PLLC., seeks to rezone approximately 7.69 acres from Rural Residential (RR) to Neighborhood Business-Conditional Zoning (B1-CZ). The proposed rezoning is located at 0 & 7525 Humie Olive Road.
- CN5** Approval to set a Public Hearing for the April 26, 2022 Town Council meeting regarding Rezoning Application #22CZ03 Sweetwater PUD Amendment. The applicant, David Schmidt, ExperienceOne Homes, LLC, seeks to rezone approximately 44.76 acres from Planned Unit Development-Conditional Zoning (PUD-CZ #18CZ01) to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 0 & 3233 US 64 Hwy W, 0 Core Banks St, and 1051 & 1075 Newland Ave.
- CN6** Approval 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 Date of Public Hearing for April 26, 2022, on the Question of Annexation – Apex Town Council’s intent to annex the Jessica and Abel Figueroa property containing 5.88 acres located at 804 and 808 Wimberly Road, Annexation #723 into the Town’s corporate limits.
- CN7** Approval to set a Public Hearing for the April 26, 2022 Town Council meeting regarding Rezoning Application #22CZ04 804 & 808 Wimberly Road and Ordinance. The applicant, Zak Shipman, of Shipman Engineering, PLLC., seeks to rezone approximately 5.84 acres from Wake County Residential-80W (R-80W) to Rural Residential-Conditional Zoning (RR-CZ). The proposed rezoning is located at 804 & 808 Wimberly Road.
- CN8** Approval of a Statement of the Town Council and Ordinance for Rezoning Case #21CZ32 Chapel Ridge Towns PUD, Toll Bros., Inc., petitioner, for the properties located at 1412 Olive Chapel Road; 1400, 1401, 1408, 1409 Barnside Lane; and Barnside Lane right-of-way.
- CN9** Approval 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 Date of Public Hearing for April 26, 2022, on the Question of Annexation – Apex Town Council’s intent to annex the Tony C. Sears and Judy T. Sears property containing 1.6209 acres located at 0 Kelly Road, Annexation #731 into the Town’s corporate limits.
- CN10** Approval 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 Date of Public Hearing for April 26, 2022, on the Question of Annexation – Apex Town Council’s intent to annex the WFINV, LLC property containing 1.910 acres located at 1016 N. Salem Street, Annexation #730 into the Town’s corporate limits.
- CN11** Approval of a 3-year agreement with Buckhorn Vegetation Control, LLC., and to authorize the Town Manager to execute the agreement on behalf of the Town.
- CN12** Approval of an amendment to Ordinance 20-61, with the addition of part (2) under subsection (a) prohibiting the left turn movement on Knollwood Drive approaching Laura Duncan Road on days that school is in session for Apex High School between the hours of 6:45 a.m. and 7:30 a.m.
- CN13** Approval of the installation of a traffic calming speed hump device on Blackburn Road.

- CN14** Approval of an encroachment agreement between the Town and property owner Lennar Carolinas, LLC to install a driveway that will encroach 334 square feet (SF) onto the Public Utility Easement and a sidewalk that will encroach 14 square feet (SF) onto the Public Drainage Easement and authorize the Town Manager to execute the same.
- CN15** Approval of an encroachment agreement between the Town and property owners Colin John McGinley and spouse Melissa Beth McGinley to install a fence that will encroach 370 square (SF) onto the Town's Public Utility Easement and authorize the Town Manager to execute the same.
- CN16** Approval of the enclosed resolution to apply for an Asset Inventory and Assessment (AIA) grant from the NC Division of Water Infrastructure (DWI).
- CN17** Removed from the Consent Agenda.
- CN18** Approval of a Budget Ordinance Amendment No. 18 which appropriates insurance proceeds to be used for the purchase of a replacement Police vehicle.
- CN19** Approval of a Duke Energy Progress (DEP) easement and authorization for Town Manager to sign easement.
- CN20** Approval to award a sewer rehabilitation contract to Pipeline Utilities, Inc and to authorize the Town Manager to execute the contract on behalf of the Town and approve Budget Ordinance Amendment 17 and Capital Project Ordinance Amendment 2022-03.
- CN21** Approval of an amendment to Section 12-21 of the Apex Town Code.
- CN22** Approval of an Apex Yard Waste Agreement with Greenway Waste Solution of Apex LLC.
- CN23** Approval of the American Rescue Plan Act policies (Nondiscrimination, Cost Principles, Eligible Use, Project Review, ARPA Real Property, Record Retention, Providing Pandemic Recovery Grants to Nonprofit Agencies) Uniform Guidance Procurement and Conflict of Interest Policy.
- CN24** Approval and the authorization of seven (7) full-time positions, increasing the FTE of the Lab Supervisor position from .875 FTE to 1.0 FTE, and corresponding Budget Ordinance Amendment 19.

PRESENTATIONS

- PR1** The Mayor and Council read a proclamation declaring April 10th through April 16, 2022 National Telecommunicator Week. Deputy Chief McKinney expressed the gratitude of the police department and said the Town recognized the large contributions they make every day.
- PR2** The Mayor gave a brief history of the "Think Apex" awards. "The 2022 Think Apex Awards nominees and winners gave back to Apex in multiple ways in 2021, uniquely impacting those around them. On April 12, 2022, town officials recognized them for their dedicated and outstanding service to others and the Apex community." (Town of Apex website) The Mayor and Council along with former Mayor Pro Tem Nicole Dozier presented the "think Apex" awards. The awards were as follows:

Top Thinkers:

Individual or Group:

Tayon Nicole Dancy

Individual or Group - Youth:

Indya Nivar

Non-Profit:

Western Wake Alumnae Chapter of Delta
Sigma Theta Sorority, Inc.

Business:

NC Tutors & Educational Services

Honorable Mentions:

Individual or Group:

Dr. Jodi Reed and Jason Lendhart

Individual or Group - Youth:

Miguel Guerra

Non-Profit:

Endless Sports

Business:

Melissa Ragan, Owner of The Ragan
Realty Team

- PR3** The Mayor introduced Donald Gintzig, President and CEO of WakeMed Health and Hospitals and Rick Shrum, Vice President and Chief Strategy Officer of WakeMed Health and Hospitals. The gentlemen gave the Town of Apex an update on Behavioral Health in Wake County. They explained the eight mental health truths in Wake County. They reviewed the numbers of patients from Apex, the number of those with behavioral health issues, the number of suicides and homicides and the number of drug overdoses. They described the impacts of COVID on patients, particularly the rise in pediatric cases. They discussed how people are transported into the hospitals and what steps are taken to evaluate and refer patients for care. They outlined the next steps needed to address the rising problem and the associated costs. They are looking to the Cities and Towns to partner with them to address these issues, using ARPA funding available to the communities. Finally, they described how the funds would be used.
- PR4** The Mayor and Council read a National Science Appreciation Day Proclamation and expressed their gratitude for advances in all fields of research and development.
- PR5** The Mayor and Town Council read an Autism Awareness & Acceptance Month Proclamation and encourages the community to join advocacy efforts. They expressed their desire that these citizens receive all the opportunities afforded to other members of the community.

REGULAR MEETING AGENDA

The Mayor asked if there were any changes to the regular agenda. Hearing none, he asked for a motion to approve the agenda as presented. (Motion: Council Member Stallings\Second: Council Member Gray\Vote 4-0.)

PUBLIC FORUM

Mayor Gilbert called for members of the public that wished to address the Town Council. Hearing none, he closed the Public Forum.

PUBLIC HEARINGS

- PH1** Ms. Jenna Shouse, Senior Long Range Planner presented the amendment. Public hearing and possible motion regarding an amendment to the thoroughfare and Collector Street Plan for Pristine Water Drive. It is shown on the map as a minor collector. It is proposed shift to an

alignment to the south. There is an existing pipeline easement in the current alignment and it is not possible to construct the road in the easement. Argos has agreed to the construction of an intersection with Highway 55, Williams Street on the east side of the road along the new alignment. Additionally, future proposed construction across the road would be provided access via this new alignment, which would be constructed by Aqua Line Development. Planning and Community Development, the Planning Board, Public Works and Transportation, Fire and Police all support the proposal. Mr. Dalton indicated this issue has been ongoing with the NCDOT and property owners along this stretch of road. They have encouraged the property owners to work together to develop cross access amongst the adjoining properties. A motion was made to approve the amendment. There was no public comment. **(Motion: Council Member Stallings\Second: Council Member Gantt\Vote 4-0.)**

PH2 Ms. Jenna Shouse, Senior Long Range Planner presented the amendment. Public hearing and possible motion to amend the Bicycle and Pedestrian System Plan map to add a proposed greenway connection from the proposed Huxley subdivision to the proposed Reedy Branch Greenway. This was discussed at the time of the Huxley subdivision development, but a final alignment had not been determined. They will construct the greenway and the cost will be removed from their park contribution. There was no public comment. **(Motion: Council Member Gantt\Second: Council Member Gray\Vote 4-0.)**

PH3 Ms. Jenna Shouse, Senior Long Range Planner presented the amendment to the Bicycle and Pedestrian System Plan map to remove a segment of proposed greenway from the future Felton Grove High School site, realign and extend a proposed greenway through the future Felton Grove High School site, and add proposed side path along the south side of a proposed extension of Thriftwood Drive. The school will construct the greenway. There was no public comment. **(Motion: Council Member Stallings\Second: Council Member Gray\Vote 4-0.)**

PH4 Ms. Jenna Shouse, Senior Long Range Planner presented the amendment to Public hearing and possible motion to amend the Bicycle and Pedestrian System Plan map to add a proposed greenway between Termini Drive and Humie Olive Road. Friendship Village will provide an easement for the greenway and will pay for a portion of the alignment. There was discussion about a different alignment to create a safe bicycle crossing. The development is occurring ahead of the master plan, so staff does not want to miss an opportunity to get an alignment. Staff was focused on connecting the north and south greenway. There was no public comment. **(Motion: Council Member Gray\Second: Council Member Mahaffey\Vote 4-0.)**

OLD BUSINESS

There was no Old Business.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

CN17 Marty Stone, PE, Assistant Town Manager addressed the Council on a proposal to amend the electric / finance policies to remove the solar capacity limit. There is concern that those unable to afford their existing electrical bill would bear part of the cost of those developing solar in their homes. The Council also discussed their desire to continue to encourage development to employ

solar. The cost of purchasing excess power has to be balanced with the cost of maintaining the overall system. Programs are available to assist those having difficulty paying their bill such as utility assistance program and housing rehabilitation assistance. A comparison of initiating home programs improving weatherization and insulation would cost less than the cost to support solar development. The members agreed to monitor the solar program and its cost to determine when it becomes too costly. They also discussed the unintended issue of excessive power reimbursements being used for garbage collection, water and sewer bills. Council Member Stallings said at a recent Sierra club meeting that they would like to work with Apex and its Sustainability Plan and supporting the Apex Solar program. **(Motion: Council Member Mahaffey\Second: Council Member Stallings\Vote 4-0.)**

UPDATES BY TOWN MANAGER

The Town Manager wanted to congratulate the participants in the Think Apex program. She expressed her appreciation of those members giving back to the community, it strengthens the fabric of the community.

She also wanted to recognize and thank the telecommunications personnel. She noted that is how are our emergency responders know where to go to help those in need in the community.

She reminded the group of the upcoming EarthFest to be held on the Town Hall Campus on April 23, 2022.

Ms. Crosby also wanted to remind the group that Town office will be closed on Good Friday and will reopen the following Monday.

CLOSED SESSION

A motion was made to move into closed session pursuant to NC General Statutes NCGS 143-318.11(a)(4) and 143-318.11(a)(3). (Motion: Council Member Mahaffey\Second: Council Member Gantt\Vote: 4-0.)

The council reconvened. No action was taken.

WORK SESSION

There was no Work Session.

ADJOURNMENT

With no further business and no objections for the Council, Mayor Gilbert adjourned the meeting.

Julie A. Reid, Interim Town Clerk

ATTEST:

Jacques K. Gilbert, Mayor