



Special Apex Town Council Meeting

Tuesday, April 07, 2020

Jacques K. Gilbert, Mayor
Nicole L. Dozier, Mayor Pro Tempore
Brett D. Gantt, Audra M. Killingsworth, Cheryl F. Stallings,
and Terry Mahaffey, Council Members
Drew Havens, Town Manager
Shawn Purvis, Assistant Town Manager
Marty Stone, Assistant Town Manager
Donna B. Hosch, MMC, NCCMC, Town Clerk
Laurie L. Hohe, Town Attorney

The Special Meeting of the Apex Town Council
scheduled for Tuesday, April 07, 2020, at 9:00
AM will be held in the Council Chamber of
Apex Town Hall, 73 Hunter Street. The meeting
will adjourn when all business is concluded or at
10:00 PM, whichever comes first.

COMMENCEMENT

Call to Order : Invocation : Pledge of Allegiance

PRESENTATIONS

CONSENT AGENDA

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 will present the Consent Agenda to be set prior to taking action on the following items:

[CN1](#) Mary Beth Manville, Human Resources Director

Motion to approve the Water Resources Program Support Specialist position (Grade 15) to a Senior Program Support Specialist position (Grade 17).

[CN2](#) Mary Beth Manville, Human Resources Director

Motion to adopt the FMLA Leave Expansion and Emergency Paid Sick Leave Policy in accordance with the Families First Coronavirus Act (FFCRA).

REGULAR MEETING AGENDA

Mayor Gilbert will call for additional Agenda items from Council or Staff and set the Agenda prior to taking action

PUBLIC FORUM

Public Forum allows the public an opportunity to address the Town Council. The speaker is requested not to address an item that appears as a Public Hearing scheduled on the Regular Agenda. The Mayor will recognize those who would like to speak at the appropriate time. Large groups are asked to select a representative to speak for the entire group. Comments must be limited to 3 minutes to allow others the opportunity to speak.

PUBLIC HEARINGS

OLD BUSINESS

UNFINISHED BUSINESS

[UB1](#) Marty Stone, Assistant Town Manager

Discussion and possible motion on various mitigation measures to address concerns shared by residents who live near the site of the new Electric Department Facility.

NEW BUSINESS

[NB1](#) Shawn Purvis, Assistant Town Manager

Discussion and possible motion to give staff direction regarding the creation of an Emergency Loan Program for small businesses.

[NB2](#) Drew Havens, Town Manager and Laurie Hohe, Town Attorney

Discussion and possible motion to approve a policy to permit remote public participation in Town meetings.

[NB3](#) Vance Holloman, Finance Director

Possible motion to approve resolution authorizing the filing of an application with the Local Government Commission to issue \$3.2 million of General Obligation Refunding Bonds and \$1.8

million of General Obligation Parks and Recreational Facilities Bonds and setting a public hearing for April 21, 2020.

CLOSED SESSION

WORK SESSION

ADJOURNMENT

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: April 7, 2020

Item Details

Presenter(s): Mary Beth Manville, Human Resources Director

Department(s): Human Resources

Requested Motion

Motion to approve the Water Resources Program Support Specialist position (Grade 15) to a Senior Program Support Specialist position (Grade 17).

Approval Recommended?

Unanimous approval from the Personnel Committee.

Item Details

The Water Resources Program Support Specialist position was classified as a Senior Water Resources Support Specialist (Grade 17) in August 2017 due to the responsibilities of the position. The position was subsequently downgraded to a non-senior level position (Grade 15) in February 2019 when the incumbent was promoted to a coordinator position within the Water Resources Department with the plan that all of the senior level responsibilities would be taken to the new position. Since being in the Coordinator Role, the incumbent has transitioned several of the responsibilities back to the Program Support Specialist role including the following:

- Review and verify records and reports for correct information; process documents based on review and verification; file and retrieve materials based on limited information and perform periodic follow-up activities; create, maintain and update data bases requiring knowledge of and ability to interpret and apply ordinances, regulations, and procedures.
- Screen and route materials according to content of communications; write responses; research alternatives; draft recommendations; related materials from files.
- Support the department or division head in overall departmental projects; organize the administrative work flow; identify and develop database and other records management systems.
- Take information for work orders and assign to staff; track progress and inform citizens of timeframes.
- Use specialized programmatic software to track and assign work orders; produces reports.
- Work closely with department head in budgeting, purchasing, and procurement of equipment, supplies, and materials for the department; handle contract files for a variety of projects; prepare invoices; track payments and past dues.
- Handle public requests for services or information with limited review and based on program and policy knowledge; often resolve problems or complaints without management's assistance.



- Maintain personnel files; track training, handle confidential or sensitive information in an appropriate manner.
- Maintain staff calendars as requested; schedule meetings.
- May plan and assign work of office staff; keep staff and management informed on issues.
- Compose drafts or final letters, memoranda, reports and other materials; review work for both form and content; proofreads final proof of materials.
- Maintain inventory or activity records and files; initiate appropriate follow-up or further action based on the status of program activity.
- Plan, coordinate and purchase items for special events.
- Ensure that assigned web pages are up to date; add new content and makes revisions.

As the current duties of the position are more in line with the Senior Program Support Specialist the request is being made to reclassify the position from the Program Support Specialist (Grade 15) to the Senior Program Support Specialist (Grade 17).

Attachments

- None



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: April 7, 2020

Item Details

Presenter(s): Mary Beth Manville, Human Resources Director

Department(s): Human Resources

Requested Motion

Motion to adopt the FMLA Leave Expansion and Emergency Paid Sick Leave Policy in accordance with the Families First Coronavirus Act (FFCRA).

Approval Recommended?

Unanimous approval from the Personnel Committee.

Item Details

As a public employer, the Town is required to provide the new, paid leave options under the FFCRA to our employees. Because this is a policy, we need Town Council's approval; however, given that the mandated effective date is fast approaching, we are implementing the new policy now, and asking Council to ratify the policy retro-active to April 1, 2020. The Town's interpretation of the Act is that we can provide no less than 2/3 of pay, so we have opted to pay 100% of the employees' pay, but will still comply with the daily and total maximums. The policy is below.

FMLA Leave Expansion and Emergency Paid Sick Leave Policy (COVID-19)

Purpose

To comply with the Families First Coronavirus Response Act and to assist employees affected by the COVID-19 outbreak with job-protected leave and emergency paid sick leave. This policy will be in effect from April 1, 2020, until December 31, 2020.

The Town's existing FMLA leave policy still applies to all other reasons for leave outside of this policy.

Expanded FMLA Leave

Eligibility



All full-time, part-time and limited service employees who have been employed with the Town of Apex for at least 30 days.

Reason for Leave

Eligible employees who are unable to work (or telework) due to a need to care for their child when the school or place of care has been closed, or the regular childcare provider is unavailable due to a public health emergency with respect to COVID-19.

"Child" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is-

- (A) under 18 years of age; or
- (B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

"Childcare provider" means a provider who receives compensation for providing childcare services on a regular basis, including:

- a center-based childcare provider
- a group home childcare provider
- a family childcare provider (one individual who provides childcare services for fewer than 24 hours per day, as the sole caregiver, and in a private residence)
- other licensed provider of childcare services for compensation
- a childcare provider that is 18 years of age or older who provides childcare services to children who are either the grandchild, great grandchild, sibling (if such provider lives in a separate residence), niece, or nephew of such provider, at the direction of the parent.

"School" means an elementary or secondary school.

Duration of Leave

Employees will have up to 12 weeks of leave to use from April 1, 2020, through December 31, 2020, for the purposes stated above.

Pay During Leave

Leave will be unpaid for the first 10 days of leave; however, employees may use any accrued paid vacation, sick or other available leave during this time. The employee may also elect to use the paid leave provided under the Emergency Paid Sick Leave Act, as further explained below. After the first 10 days, leave will be paid at no less than two-thirds of an employee's regular rate of pay for the number of hours the employee would otherwise be scheduled to work. Pay will not exceed \$200 per day, and \$10,000 in total. Any unused portion of this pay will not carry over to the next year.

For employees with varying hours, one of two methods for computing the number of hours paid will be used:

- The average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes leave, including hours for which the employee took leave of any type. Or,
- If the employee has worked less than 6 months, the expected number of hours to be scheduled per day at the time of hire.



Employee Status and Benefits During Leave

While an employee is on leave, the Town will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. While on paid leave, the employer will continue to make payroll deductions to collect the employee's share of the premium. During any unpaid portions of leave, the employee must continue to make this payment per instructions from the HR department.

If the employee contributes to a life insurance or disability plan, the employer will continue making payroll deductions while the employee is on paid leave. During any portion of unpaid leave, the employee may request continuation of such benefits and pay his or her portion of the premiums. If the employee does not continue these payments, the employer may discontinue coverage during the leave.

Procedure for Requesting Leave

All employees requesting FMLA leave must provide written notice by submitting the online form made available through HR. The notice the employee provides should include a reason for leave, and if possible, the expected duration.

On a basis that does not discriminate against employees on FMLA leave, the Town may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work.

Employee Status After Leave

Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The Town may choose to exempt certain key employees from this requirement and not return them to the same or similar position when doing so will cause substantial and grievous economic injury to business operations. Key employees will be given written notice at the time FMLA leave is requested of his or her status as a key employee.

Please contact the Human Resources with any questions.

Carryover

Any unused paid family medical leave will not carry over to the next year or be paid out to employees.

Emergency Paid Sick Leave**Eligibility**

All full-time, part-time and limited service employees.

Reason for Leave

Eligible employees who unable to work (or telework) due to one of the following reasons for leave:

1. The employee is subject to a federal, state or local quarantine or isolation order related to COVID-19.
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
4. The employee is caring for an individual who is subject to either number 1 or 2 above.
5. The employee is caring for his or her child if the school or place of care of the child has been closed, or the childcare provider of such child is unavailable, due to COVID-19 precautions.



6. The employee is experiencing any other substantially similar condition specified by the secretary of health and human services in consultation with the secretary of the treasury and the secretary of labor.

"Child" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is-

- (A) under 18 years of age; or
- (B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

Amount of Paid Sick Leave

All eligible full-time employees will have up to 80 hours of paid sick leave available to use for the qualifying reasons above. Eligible part-time and limited service employees are entitled to the number of hours worked, on average, over a two-week period.

For employees with varying hours, one of two methods for computing the number of hours paid will be used:

- The average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes leave, including hours for which the employee took leave of any type. Or,
- If the employee has worked less than 6 months, the expected number of hours to be scheduled per day at the time of hire.

Rate of Pay

Paid emergency sick leave will be paid at the employee's regular rate of pay, or minimum wage, whichever is greater, for leave taken for reasons 1-3 above. Employees taking leave for reasons 4-6 will be compensated at no less than two-thirds their regular rate of pay, or minimum wage, whichever is greater. Pay will not exceed:

- \$511 per day and \$5,110 in total for leave taken for reasons 1-3 above;
- \$200 per day and \$2,000 in total for leave taken for reasons 4-6 above.

Interaction with Other Paid Leave

An employee may use emergency paid sick leave under this policy before using any other accrued paid time off for the qualifying reasons stated above.

Employees on expanded FMLA leave under this policy may use emergency paid sick leave during the first 10 days of normally unpaid FMLA leave.

Procedure for Requesting Emergency Paid Sick Leave

All employees requesting emergency paid sick leave must provide written notice by submitting the online form made available through HR. The notice the employee provides should include a reason for leave, and if possible, the expected duration.

Once emergency paid sick leave has begun, the employee and his or her manager must determine reasonable procedures for the employee to report periodically on the employee's status and intent to continue to receive paid sick time.

Carryover



Paid emergency sick leave under this policy will not be provided beyond December 31, 2020. Any unused paid sick leave will not carry over to the next year or be paid out to employees.

Job Protections

No employee who appropriately utilizes emergency paid sick leave under this policy will be discharged, disciplined or discriminated against for work time missed due to this leave.

Please contact Human Resources with any questions.

Attachments

- None



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: UNFINISHED BUSINESS

Meeting Date: April 7, 2020

Item Details

Presenter(s): Marty Stone, Assistant Town Manager

Department(s): Administration

Requested Motion

Discussion and possible motion on various mitigation measures to address concerns shared by residents who live near the site of the new Electric Department Facility.

Approval Recommended?

N/A

Item Details

Under Old Business at the November 6th meeting, Council discussed concerns of residents who live near the new Electric Department Facility. Staff was directed to look at options to mitigate concerns and provide order of magnitude costs to Council for consideration.

During a Work Session on January 7th, staff was directed to meet with residents living on Lea Island Cove to discuss the potential of constructing an architectural wall along the eastern border of the site to help block the view and reduce possible noise. Following that meeting, a memorandum was written to Drew Havens, Town Manager, that summarized the meeting including additional mitigation requests for the Council to consider. Staff needs final direction on whether or not to add additional mitigation measures to the project.

Attachments

- Memorandum to Drew Havens dated December 31, 2019
- Memorandum to Drew Havens dated January 31, 2020
- Memorandum to Drew Havens dated April 2, 2020





MEMORANDUM

Date: December 31, 2019

To: Drew Havens, Town Manager

From: Marty Stone, Assistant Town Manager

Re: Work Session
Electric Operations Center

At the November 6th meeting of the Town Council, staff was directed to investigate options and the associated magnitude of costs to mitigate certain concerns of the residents living near the new electric operations center and to bring back the information to Council for their consideration. Below are things the Council wanted evaluated followed by staff's findings:

1. Exterior wall cladding for the pole barn on the exterior walls to provide screening on sides facing south (toward Milano) and east (facing to Bella Casa HOA).

Provide independent pierced brick screen wall approximately 16 feet in height. The total cost is estimated to be \$300,000 including the design. Potential examples are shown below.



4. Fencing other than vinyl coated chain link.

Provide 8' dark tan vinyl fence on the west, north and east sides of the property at an estimated additional cost of \$360,000. Alternatively, provide 8' dark tan vinyl fence on the east side of the property only for an estimated additional cost of \$125,000.

5. Additional plantings to create more opacity.

Provide additional landscaping to increase opacity for a total estimated cost of \$150,000 including redesign. This estimate is based on making improvements along the east side of the property as outlined by Planning below:

If the currently proposed chain link fence is used, do the following:

- Replace 10 Nellie Stevens with 10 Southern Magnolia (8-10' tall) planted 10' on center. Additional Wax Myrtles should be planted between these trees if there is adequate space.
- Replace 10 of the 13 Wax Myrtles adjacent to the retaining wall with 10 Green Giant Arborvitae (8-10' tall) planted 6-7' on center
- Additional plantings may be required to meet the type A buffer standard and placement of plants and trees will need to be coordinated with the zoning compliance officer.

If the chain link fence is replaced with a solid fence 6-8' tall, the number of Wax Myrtles (shrubs) may be reduced by half. The number of trees would remain unchanged.

It is noted that there is no fence proposed along the driveway to the security gate. If the fence is added, we suggest the following changes to ensure more opacity above the top of the fence:

- Replace 2 Magnolia Grandiflora with 2 Green Giant Arborvitaes planted per plan
- Replace 7 Wax Myrtles with 7 Nellie Stevens planted 10' on center. The remaining 7 wax myrtles should be planted between each Nellie Steven.

6. Construction of a sound wall versus a berm or a fence.

In lieu of improvements considered in items 1, 2, 4, and 5 above (total estimated cost ranging between \$625,000 and \$860,000), construct 500 linear feet of 15' tall architectural precast screen thin wall (see examples on following page) along the eastern boundary for an estimated total cost ranging between \$300,00 and \$350,000. The thin wall is projected to reduce "highway" noise by 33% at 10 feet tall. Alternatively, construct a 15' tall precast concrete sound wall (see examples on page 5) for 500 linear feet along the eastern boundary for an estimated cost ranging between \$510,000 and \$560,000. The sound wall is approximately twice as thick as the thin wall and should reduce sound levels more, but the difference has not been quantified. The thin wall is recommended by the manufacturer for sites. The precast concrete sound wall is typically used in highway applications.



Thin Wall Examples



Example of Sound Wall



Example of Sound Wall

7. Plan in case of an emergency at the facility.

The electric department is working with fire and police on individual plans for emergencies associated with their support. In addition, the town's *Spill Prevention, Control, and Countermeasure Plan* for Electric Facilities will be updated when the construction of the facility is completed to reflect the new retention pond as the closest water source.

8. Theft concerns during and after construction.

During construction, the site will be secured by the contractor based on standard construction practices. After construction, the facility will be gated and have security cameras installed in areas of interest that will be monitored by police as are all town cameras. Materials of value typically stolen at these facilities will be housed in secure locations.

9. Can bulk chemicals be stored offsite and only have chemicals on site that are immediately needed?

Bulk chemicals could be stored offsite, but other than herbicides, the electric department does not store any “bulk” chemicals. Below is a picture of our existing inventory of herbicides that fits in a small locked cabinet and does not exceed 50 gallons total. The department will order chemicals on demand and will have ½ of what is in this picture in the new facility.



10. What is to be stored in the gravel lot at the back of the site?

The gravel lot in the rear of the facility will be the town’s training facility for linemen. The final design of the training facility is not complete, but it will have poles installed for climbing, underground pad-mounted and overhead transformers. A trailer storing equipment and tools needed for training will be parked on the lot. Occasionally, the lot may be used to temporarily store deliveries for large projects, but it is not known how often it would be used for this purpose.

11. Policy to only use Milano for ingress and egress.

Milano is a “Major Collector” road and is designed to handle the larger truck traffic. It is anticipated Milano will be the preferred access for electric operations, and more specifically, Milano to Richardson will be the route generally used for large trucks pulling trailers in order to avoid the traffic circles. However, there will be occasions the electric operations will need to transverse all roads in Bella Casa for operational / maintenance reasons.

12. Help HOA identify owner of 30' easement adjacent to the eastern border of the Electric Operations Center.

According to the staff's research and the known public record, the Deed of Easement was recorded on November 7, 2003. Please refer to Book: 010538 Page: 00849 – 00852.

Mr. Fred Wallace Jr. (unmarried) conveyed the interest to:

Charles E Walden
Theodore Walden Jr.
Rufus Pernell Walden
Dorothy M. Richardson
Anthony Richardson and wife Delois
Rufus Gray Richardson
Margaret R. Bland
Linner E. Richardson

The referenced deed above calls out these same names and explains the easement interest.



MEMORANDUM

Date: January 31, 2020

To: Drew Havens, Town Manager

From: Marty Stone, Assistant Town Manager

Re: Summary of January 23rd Meeting with Lea Island Cove Residents
Electric Operations Facility

At the January 7th meeting of the Town Council, staff was directed to meet with residents living on Lea Island Cove to discuss the potential of constructing an architectural wall along the eastern border of the site to help block the view and reduce possible noise. On January 10th, I emailed the residents living on Lea Island Cove and invited them to a meeting to be held at the Public Works Administration Building on January 23rd from 6 to 7 p.m. At the meeting on January 23rd, Amanda Bunce, Eric Neumann, Dennis Brown, Laurie Hohe, and I met with the owners / residents of 1705, 1711, and 1724 Lea Island Cove. There were 6 adults and 1 child in attendance. Please see attached sign-in sheet for resident information. It should be noted that the 4 residents living at 1717, 1720, 1721, and 1725 Lea Island Cove are renters and they did not attend the meeting. In the email invitation, we had requested that renters let the property owners know of the meeting, but we do not know if the owners were notified or not. We were informed by someone attending the meeting that all the owners of the rental properties are believed to reside outside the United States. In any case, no owners of the rental properties attended.

After brief opening comments and introductions, Laurie Hohe left the meeting as requested by the meeting attendees. I provided an overview of the project and then discussed the potential of constructing a 15' tall architectural wall along the eastern border of the site versus a berm. We explained that the site was not conducive for a berm because its width would impact the natural area proposed between the facility and the residents. We discussed the purpose of the wall, potential for noise reduction, and options for wall finishes. Please see the attached slides shared with the residents.

There was no opposition to the wall; in fact, the residents were generally supportive of the wall concept, but there were some questions and concerns that they wanted to be addressed concerning the wall specifically and the site overall. Below are things (in no particular order) the group wanted more information on, had concerns with, or wanted Town Council to consider in order to make the situation better from their viewpoint. The staff's response to the residents follows the concern and/or question in red.

1. Can a thicker sound wall be constructed?

We received an email on January 29th from Smith-Columbia stating that they no longer are going to be offering the architectural thin wall as they previously recommended. They now only offer a precast concrete sound wall option (typically used along highways) that is approximately three-quarters of an inch thicker than the thin wall and costs approximately \$500,000 to \$560,000 installed. This is assuming no rock will be encountered in setting the piles. More information on precast concrete sound walls can be found at <https://smithmidland.com/smith-columbia-precast-concrete-products/columbia-sound-retaining-walls> and <https://smithmidland.com/sound-wall>.

2. Can the town provide technical data on sound walls?

Please see <https://static.tti.tamu.edu/tti.tamu.edu/documents/166-3.pdf> and https://www.fhwa.dot.gov/ENVIRONMENT/noise/noise_barriers/design_construction/design/design03.cfm for technical information on sound walls. Noise reduction resulting from a sound wall is a complex calculation that depends on how close the source of the noise is to the wall, the wall height, density of the wall, the distance on the other side of the wall to the point you're measuring the sound, weather, frequency of sound, etc.; however, one should note that noise **reduction** is generally highest closest to the sound wall as shown below.

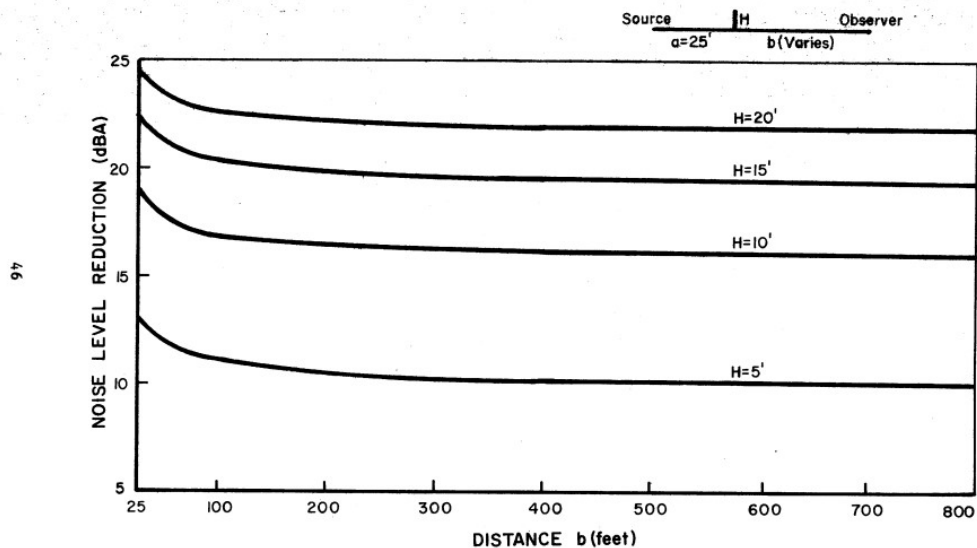


Figure 23. Noise reduction - source to wall distance 25 feet.

3. Residents requested that the dumpster be moved away from the eastern boundary so that they cannot see or smell it.

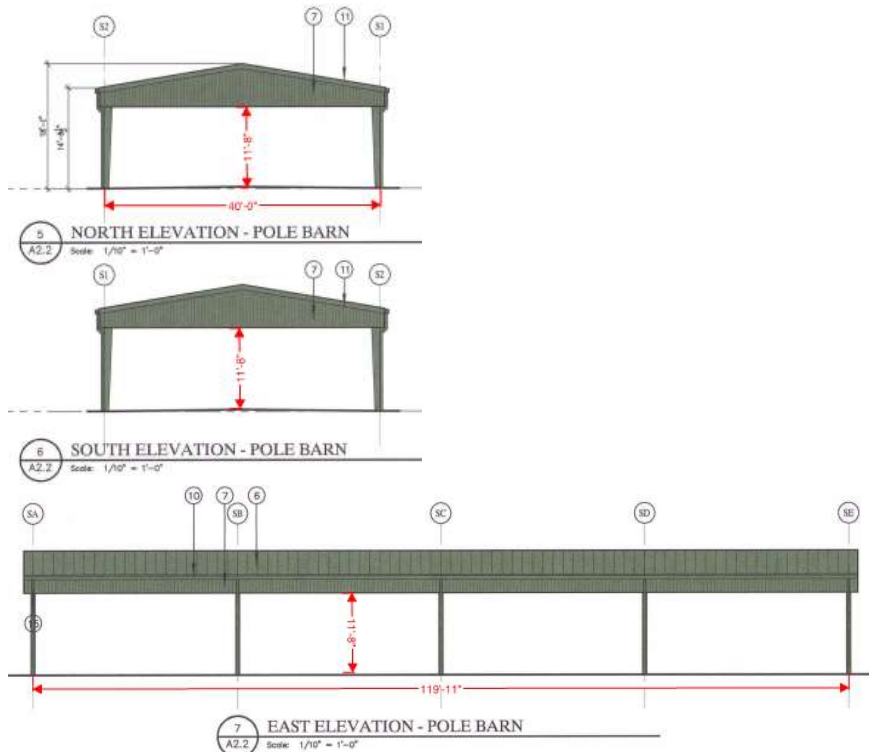
If a sound wall is constructed, the dumpster will not be visible from Lea Island Cove (see below for lines of sight), and as shown above, the sound attenuation will be higher located near the wall versus farther away. As for smell, the dumpsters will be holding office/packaging trash. The trash is not expected to be any different than what the dumpsters at town hall or the warehouse at public operations contains and there have been no nuisance odors documented.

If there is an odor issue, moving the dumpster across the parking lot will not fix the problem. The town would clean the dumpsters to eliminate an odor problem if one ever developed. For these reasons and for operational purposes, staff recommends leaving the dumpster located as designed if the wall is constructed.

4. Will stop signs be at the exits onto Milano and can the delivery entrance be video monitored?
Yes, stop signs will be at the exits and staff recommends video monitoring of the delivery entrance.

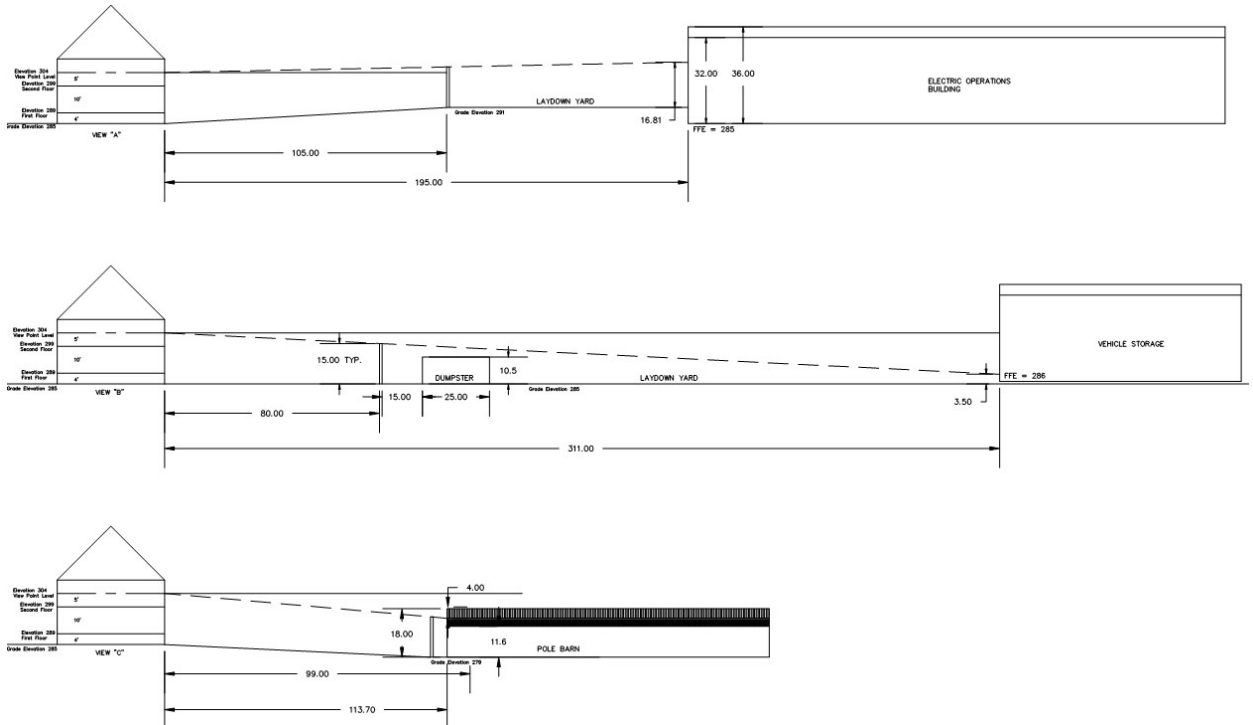
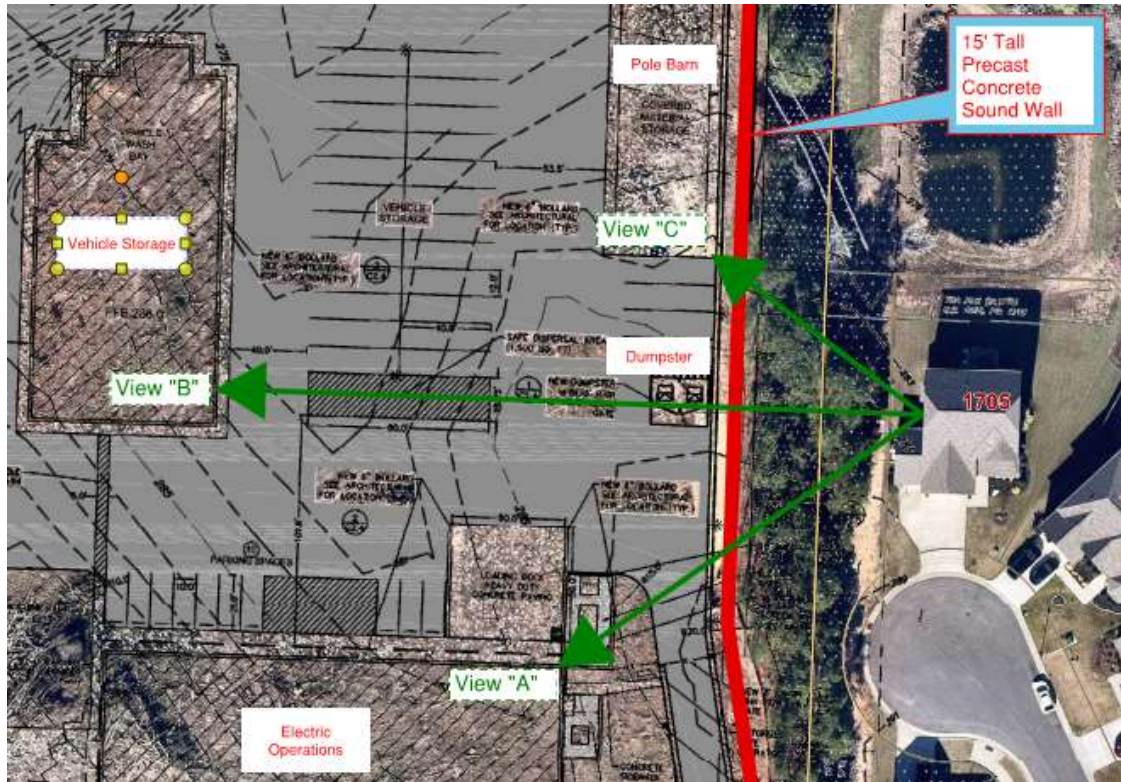
5. Concern that 1705 Lea Island Cove will be able to see the dumpster and inside of the pole building / shelter.

Based on our analysis, the residents of 1705 Lea Island Cove will not be able to see the dumpster or inside the pole barn if a 15' high sound wall is constructed. Please see below for elevations of the pole barn and schematics representing the viewpoint from a window on the second floor based on design grade elevations, estimated first floor elevations, and the viewpoint being 5' above the second-floor elevation.



ELEVATION LEGEND

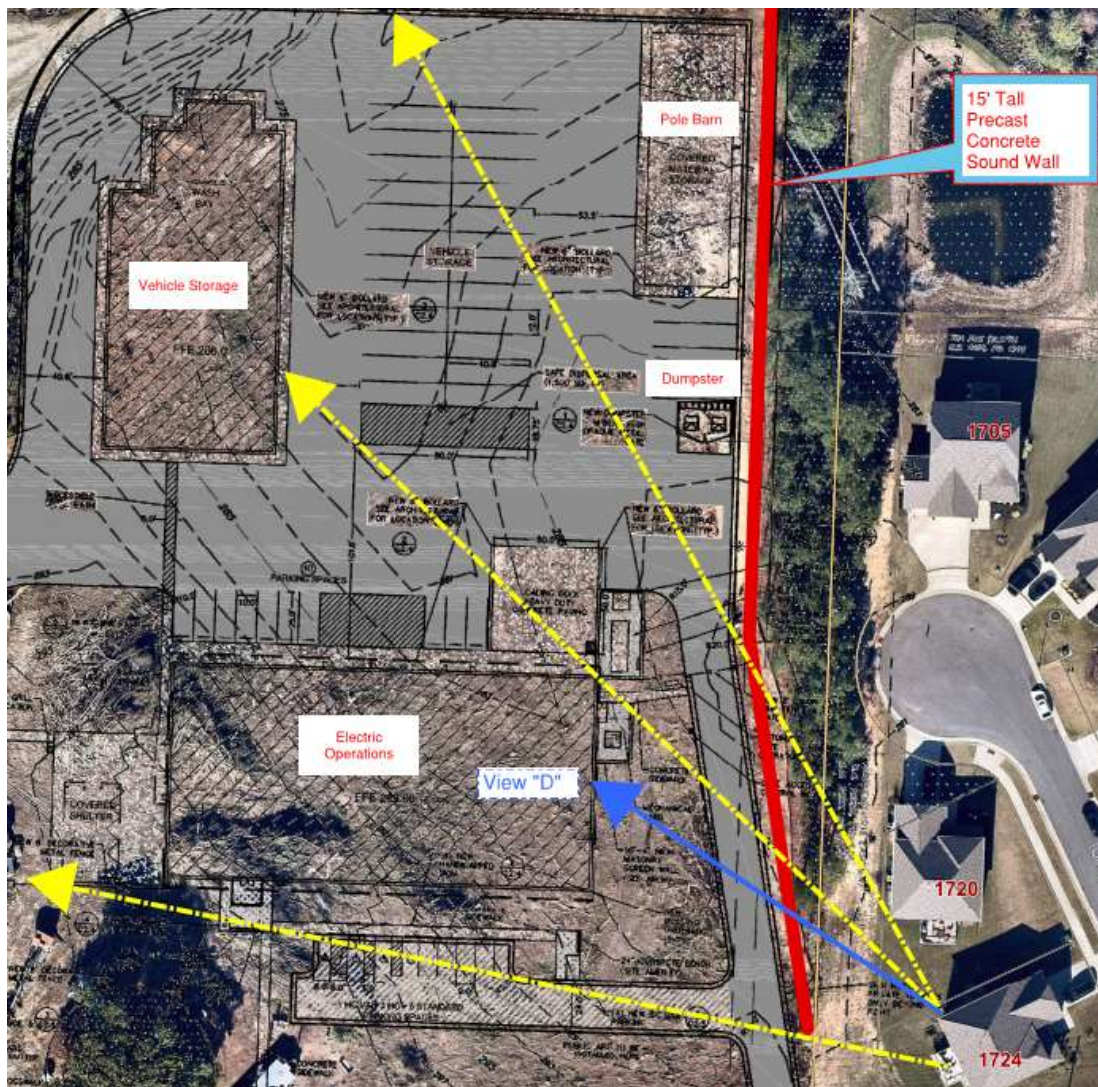
1 FACE BRICK "A" RUNNING BOND	11 PREFINISHED METAL FASCIA PANEL
2 FACE BRICK "A" ROWLOCK COURSE/SILL	12 ALUMINUM BEAM
3 ALUMINUM STOREFRONT	13 SUSPENDED ALUMINUM SCREEN
4 WOOD-TEXTURED CONCRETE COLUMN	14 FACE BRICK "A" DOUBLE SOLDIER LINTEL
5 DECORATIVE ALUMINUM FENCE	15 PREFINISHED METAL DOWNSPOUT
6 2" HIGH STANDING SEAM ROOF	16 INSULATED CEILING SERVICE DOOR
7 METAL WALL PANEL	17 FRP DOOR IN ALUM. STOREFRONT
8 NOT USED	18 PREFINISHED ALUMINUM LOUVER
9 ALUMINUM COLUMN	19 PREFINISHED METAL FLASHING
10 PREFINISHED METAL GUTTER	20 FACE BRICK "A" ROWLOCK CAP



As shown above, the line of sight goes over the top of the dumpster, and the line of sight to the pole barn intersects with the wall panel that extends down from the roof.

6. Concern that 1724 Lea Island Cove will be able to see the entire site and kids from neighborhood will not be protected by the wall. More specifically, the resident wants the wall to be extended or a fence to be provided on 1724 Lea Island Cove to prevent kids from being able to leave property and enter into drive of the electric operations facility.

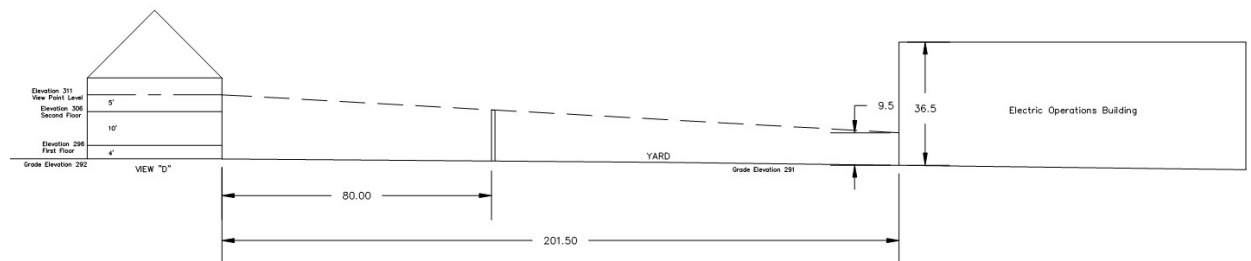
The wall cannot be extended onto the adjacent property owned by the Bella Casa Homeowner's Association (HOA), which has an access easement on it belonging to a third party, without appropriate approvals. The HOA would have to get permission from the parties with an interest in the easement in order for the wall to be extended. More importantly, it does not appear from the schematics below that the residents of 1724 Lea Island Cove will be able to see any objectionable areas of the site as previously identified (i.e., the dumpster and the contents of the pole barn). As for the request for a fence on the property, staff does not recommend constructing a fence on private property.



Based on our analysis, the view from the patio area as represented by the yellow line extending west from the back of the house past the end of the proposed wall does not allow someone to see the operations going on in the rear of the facility.

The 2 yellow lines leaving the north side of the house and extending northwest represent the viewing extents from a window on the second floor based on design grade elevations, estimated first floor elevations, and the viewpoint being 5' above the second-floor elevation. As shown, the view is limited by the electric operations rooftop and the house located at 1720 Lea Island Cove. Neither the dumpster nor the contents of the pole barn are visible from this perspective.

Lastly, view "D" below shows the line of site from the second story window over the wall towards the electric operations building.



7. Concern over sewer service through an existing easement.
Staff committed to clearing the minimum amount of trees/vegetation to construct the sewer service to meet the needs of the site. It should be noted that the easement for the sewer extension was recorded and available for the residents of Lea Island Cove to review prior to purchasing their properties.
8. Residents concerned over deliveries before 8:30 a.m. because of school schedule.
There is no regulatory authority for the town to limit delivery times for businesses; however, the town will request that deliveries be made after 8:30 a.m. when possible.
9. Can the bus stop be moved?
The town will reach out to Wake County Transportation to determine if the bus stop at the southwest corner of Mt. Zion and Milano Avenue needs to be moved to a different location.
10. Residents were upset that Council had what the residents believed to be a closed session to discuss the electric operations facility on January 7.
We explained that the discussion on the electric operations facility was done in a work session that was open to the public.
11. Residents were very upset that they were not informed about the January 7th work session.
We explained that the work session was clearly on the agenda available for the public to review online. Also, we let the residents know that they would not have had the opportunity to talk at the work session as that would have had to been done in public forum.
12. Residents concerned over size of trucks, not traffic related to the facility.
Milano Avenue is designed to handle truck traffic, and the individuals operating the town vehicles are properly licensed for the vehicle class they drive. Staff also explained that the trucks are going to be equipped with GPS units by the time the facility opens that will allow us to confirm our trucks are being operated safely.

13. Residents asked about additional plantings on east side of wall.

The town cannot plant trees on private property and the HOA would need to get approval from parties having an interest in the 30' easement that is adjacent to the town property before planting. The town could possibly supplement some additional plantings in the protected areas if approved by Council. This work would have to be coordinated in the field with planning staff.

In summary, staff believes a sound wall will offer a benefit to the residents on Lea Island Cove. The estimated cost is higher than originally anticipated, but the actual cost will not be known until the wall is designed and costs are received from contractor(s). The residents did not offer a preference on the finish for the wall. It is recommended that our planning department work with the residents to identify a finish that compliments the site. If Council chooses to move forward with a sound wall, staff will need to move quickly to get the wall designed and coordinated with the ongoing construction to minimize change orders caused by time delays, coordination, design changes, etc.

In addition to Council direction on the sound wall, staff needs direction on the following:

- Relocating the dumpster (see items 3, 5, and 6 for information)
- Video monitoring of the delivery entrance (see item 4)
- Extending the sound wall or constructing a privacy fence for 1724 Lea Island Cove (see item 6)
- Providing supplemental plantings within protected area based on field conditions (see item 13)

If there are questions or concerns, please let me know.



MEMORANDUM

Date: April 2, 2020

To: Drew Havens, Town Manager

From: Marty Stone, Assistant Town Manager

Re: Council Direction Needed
Mitigation Options for Lea Island Cove Residents
Electric Department Facility

This is a follow up to the memorandum sent to your attention on January 31, 2020. Staff has worked with our consultant, CRA Associates, on possible mitigation measures to determine estimated costs. The project is at a critical stage where staff has to have final direction from Council on what additional mitigation measures, if any, are going to be added to this project. It should be noted that costs associated with any additional mitigation work (items 1-7) will likely require a budget amendment using Fund Balance.

Mitigation measures to be considered are as follows:

1. Construction of a screen wall. Total estimated of **\$620,000**.

The 15' tall precast wall would be approximately 380' long and run along the eastern boundary from the pole barn back toward Milano Avenue.

2. Construction of a masonry screen wall (cladding) around 2 sides of the pole barn. Total estimated cost of **\$195,000***.

Through preliminary design study, it was determined that a screen wall constructed past the pole barn was not an option because of foundation issues associated with the retaining wall being utilized in the area to bring the site to grade. Instead of constructing a screen wall past the pole barn, the screen wall would stop just short of the pole barn and a masonry screen wall would be constructed on 2 sides of the pole barn to provide the anticipated screening as the single screen wall in the past. The masonry wall would be an independent, **solid** brick wall that is 11'-4" tall and 160' in total length.

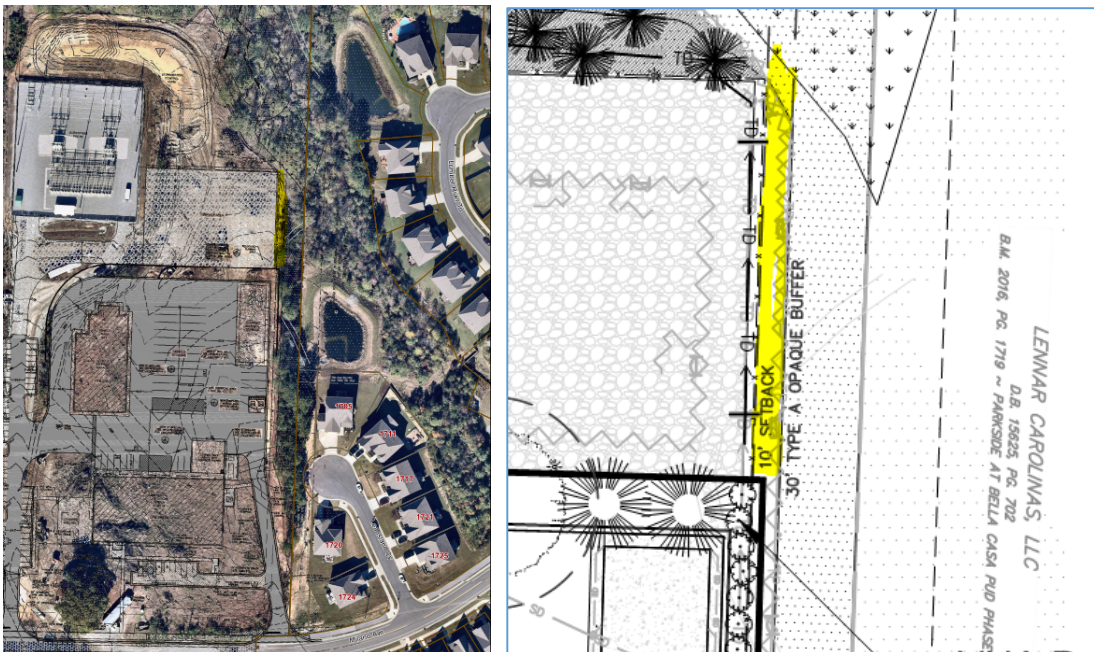
*To build the masonry screen wall on 3 sides of the pole barn is estimated to be \$250,000. This could be considered if the screen wall is not built.

3. Relocation of dumpster. Total estimated cost of **\$75,000**.

If a screen wall is constructed, the dumpster will not be visible from Lea Island Cove and noise could be louder (refer to memorandum dated January 31, 2020). Regardless of a wall, the dumpsters will be holding office/package trash and they are not anticipated to smell. The trash is not expected to be any different than what the dumpsters at town hall or the warehouse at public operations contain and there have been no nuisance odors documented. If there is an odor issue, moving the dumpster across the parking lot will not fix the problem. The town would clean the dumpsters to eliminate an odor problem if one ever developed. For these reasons and for operational purposes, staff recommends leaving the dumpster located as designed if the wall is constructed.

4. Additional landscaping on east side gravel lot. Total estimated cost of **\$35,000**.

In order to help increase screening, staff recommends that additional plantings be added to the project. More specifically, staff recommends that Green Giant Arborvitae (8-10' tall) be planted 6-7' on center generally within the area highlighted yellow below. This would add approximately 21 trees to that area. Additional evergreen shrubs may be added to the buffer if it is determined in the field by planning staff it is needed to satisfy the type "A" opaque buffer requirement.



5. Additional landscaping along the eastern boundary of the site. Total estimated cost of **\$150,000**.

In order to help increase screening, staff recommends that additional plantings be added along the eastern border as outlined below:

If the currently proposed chain link fence is used, do the following:

- Replace 10 Nellie Stevens with 10 Southern Magnolia (8-10' tall) planted 10' on center. Additional Wax Myrtles should be planted between these trees if there is adequate space.
- Replace 10 of the 13 Wax Myrtles adjacent to the retaining wall with 10 Green Giant Arborvitae (8-10' tall) planted 6-7' on center
- Additional plantings may be required to meet the type A buffer standard and placement of plants and trees will need to be coordinated with the zoning compliance officer.
- These additional plantings should be installed in the Type A buffer, outside of any fencing/retaining walls to achieve maximum opacity.

If the chain link fence is replaced with a solid fence 6-8' tall, the number of Wax Myrtles (shrubs) may be reduced by half. The number of trees would remain unchanged. See number 6 below for additional costs for replacing chain link fence with a solid fence.

6. Replace chain link fence with solid vinyl or composite fence on the east side of the property. Total estimated cost of **\$125,000***.

In lieu of a vinyl coated chain link fence or a screen wall as proposed in number 1 above, construct a dark vinyl or composite material fence along the east side of the property.

* The cost to replace the chain link with dark vinyl or composite material fence along the east, west, and north sides of the property is estimated to cost \$360,000.

7. Extend screen wall or provide a private fence to 1724 Lea Island Cove. Total estimated cost of **\$10,000**.

The resident of 1724 Lea Island Cove wants a screen wall to be extended or a fence to be provided for them to prevent kids from being able to leave property and enter into drive of the electric operations facility. A screen wall cannot be extended onto the adjacent property owned by the Bella Casa Homeowner's Association (HOA), which has an access easement on it belonging to a third party, without appropriate approvals. The HOA would have to get permission from the parties with an interest in the easement in order for the wall to be extended. More importantly, it does not appear from the schematics shown in the memorandum dated January 31, 2020, that the residents of 1724 Lea Island Cove will be able to see any objectionable areas of the site as previously identified (i.e., the dumpster and the contents of the pole barn). As for the request for a fence on the property, staff does not recommend constructing a fence on private property.

In considering the additional mitigation measures above, it should be noted that there are other costs associated with the Milano Avenue extension that the town is incurring. These costs include the realignment of the delivery driveway to avoid an easement that involves multiple parties (cost of \$30,000 includes for resubmittal to the Apex Technical Review Committee). In addition, Milano Avenue may have to be redesigned with retaining walls at its eastern and western ends to avoid having to obtain easements or rights of entry from the Bella Casa HOA (eastern end) and the Bella Casa Townes HOA (western end). Presently, staff is close to getting a right of entry from the Bella Casa HOA that would allow us to complete some grading on their property and avoid a rather long retaining wall structure on the eastern end of the road extension near the pool. If we cannot obtain the right of entry from the Bella Casa HOA, the estimated additional cost is \$200,000. On the western end, if we cannot get access approval for grading, it will cost the town an estimated \$110,000 to redesign approximately 200 feet of road in order to build a short retaining wall.

In summary, staff believes the estimated costs from our consultant are sufficient to complete the work; however, the actual costs will not be known until redesign is complete on any mitigation selected and costs are received from the contractor. The summary of potential additional costs follows:

Mitigation Construction Change	Estimated Total Cost
1. Screen Wall	\$620,000
2. Masonry Screen Wall (2 Sides of Pole Barn)*	\$195,000
3. Relocate Dumpster	\$75,000
4. Additional Landscaping (east side of gravel lot)	\$35,000
5. Additional Plantings along Eastern Boundary	\$150,000
6. Alternate Fence Material (east side only)**	\$125,000
7. Private Fence for 1724 Lea Island Cove	\$10,000

* Estimated cost to construct a masonry screen wall on 3 sides of the pole barn is \$250,000.

** Alternate fence material for east, north, and west sides for estimated cost of \$360,000.

If there are questions or concerns, please let me know.

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: NEW BUSINESS

Meeting Date: April 7, 2020

Item Details

Presenter(s): Shawn Purvis, Assistant Town Manager

Department(s): Administration

Requested Motion

Discussion and possible motion to give staff direction regarding the creation of an Emergency Loan Program for small businesses.

Approval Recommended?

Item Details

As the COVID-19 crisis evolved to require the closure of businesses, our small business community is suffering from the lack of revenue while expenses for rent, utilities, payroll, etc. continue. Staff in our Economic Development Department has been actively gathering information relative to state and federal relief programs and sharing that with our business community. They also researched the possibility of creating a local loan program to provide much needed short term relief. During this research process you also received a letter from the ADBA relative to this issue encouraging the creation of this kind of program.

Attached is a draft proposal for the creation of a program based upon what we have seen in looking at the few local programs that exist and how some other similar programs are structured. Staff would like direction in terms of pursuing this idea further and in terms of maximum loan amounts and the size of the "fund" to be established for these loans.

Attachments

- Draft Program Outline
- Letter from ADBA





March 25, 2020

Apex Town Council
73 Hunter Street
P.O. Box 250
Apex, NC 27502

Mayor Gilbert, Mayor Pro Tem Dozier, Council Member Killingsworth, Council Member Gantt, Council Member Stallings and Council Member Mahaffey:

The Apex Downtown Business Association (ADBA) represents dozens of small businesses in Historic Downtown Apex, many of which have been severely impacted by the COVID-19 crisis and related economic halt. Because some of these businesses may need immediate financial support in order to remain viable, the ADBA supports the contents of the [article](#), "Local Government as Lender: Emergency Loans for Small Businesses," written by the UNC School of Government's Tyler Mulligan and recently discussed with ADBA liaison Council Member Mahaffey. As the article states, "Local governments may have the means and desire to offer their own local loan programs for small businesses during a crisis. Such loans could provide financing for businesses that cannot qualify for SBA loans or may provide bridge financing until an SBA loan is obtained."

While Federal and State economic recovery programs may offer significant help to small businesses, we believe a local government emergency lending program by the Town of Apex could serve as a backstop to Federal and State efforts, providing vital support so the entire small business community in Apex can maintain its vibrancy.

The ADBA appreciates your consideration of an emergency lending program as described in Mr. Mulligan's article, and we thank you for your leadership during these challenging days.

Sincerely,

A handwritten signature in blue ink, appearing to be 'SR' followed by a long horizontal stroke.

Shane Reese
President
Apex Downtown Business Association

Town of Apex Emergency Small Business Loan Program (COVID-19)

PURPOSE

The purpose of the Apex Emergency Small Business Loan Program is to assist established small businesses in Apex that are experiencing financial hardships due to ongoing efforts of Federal, State, and local governments to mitigate the impacts of COVID-19 pandemic. This loan is intended to provide funds to a business for a short period to help get the business through the emergency (i.e. pay employees, pay bills, etc.).

AMOUNT

- Maximum Loan amount per business - 25,000 (less? More?)
- Businesses will be required to provide a minimum of one year of tax returns. The maximum loan available to a small business will be limited to three months of fixed operating expenses.

TERMS

The loan terms are designed to be flexible and simplified so as not to cause additional strain on the business/business owner while meeting applicable legal requirements:

- Interest rate is risk adjusted as determined by a third party administrator
- Six month payment deferral period.
- Six month initial interest deferral period. Interest on unpaid balances will begin to accrue in the seventh month.
- Interest only payments due beginning in the seventh month.
- Five year repayment period.
- No prepayment penalty.
- The Town of Apex will cover any application and administrative fees associated with obtaining a loan under this program.

ELIGIBILITY

Applicant/Business must:

- be located within Town of Apex corporate limits or ETJ
- have been in operation for at least 12 months
- have at least two full-time (equivalent) employees
- provide a Profit and Loss statement indicating profitability prior to coronavirus pandemic
- have no judgements or liens
- have a credit score of 625 or higher
- provide a personal guarantee of all owners with 20% or more interest in the company
- allow for an asset lien on the business
- provide tax returns for previous year

PROCESS

Each business must complete an application to determine eligibility. Applications are reviewed by an independent, third party. Third party determines risk, adjusts interest rate, and administers the loan.

SOME Q&A

Who decides the loan amount and interest?

We will engage a third party to underwrite the risk and loan amount. Our team is familiar with one such organization, BEFCOR (Business Expansion Fund Corporation) based in Charlotte (they have partnered with the NC Rural Center on some of their community loan programs). We spoke with them this week and found they would do a “trimmed down” review of applications and administer the loans. They would charge an initial 2% fee for review and processing and they receive ½ of interest payments received. We would get more details if this is the direction we want to go (using a third party) and would seek out other similar organizations to get proposals.

What is the current need?

We do not know the current level of interest from our business community, but know we received a letter from the ADBA encouraging this type of program.

Will this kind of loan interfere with a businesses’ eligibility for SBA loans?

The short answer is no. This type of loan does not disqualify a business and if approved for EIDL (Economic Injury Disaster Loans) through the SBA, a business may use those funds to repay other loans, including one from the town if the EIDL terms are better for the business.

Why would we do this if the SBA has programs for businesses?

The short answer here is speed. We believe that, with Council approval, we can have a program up and running in a matter of a couple of weeks, while the SBA process will take much longer. So, we can have funds in the hands of our business owners much quicker. Also, it shows the town’s (elected leadership) support for our small business community.

Can we offer 0% interest and/or forgive these loans?

Per the UNC School of Government, loan forgiveness is not permitted. Forgiveness would amount to an unconstitutional gift to the business. Similarly, we must charge an interest rate that is comparable to commercial loans as offering low-interest loans would essentially place us in direct competition with banks, which generally violates the law (per UNC School of Government).

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: NEW BUSINESS

Meeting Date: April 7, 2020

Item Details

Presenter(s): Drew Havens, Town Manager and Laurie Hohe, Town Attorney

Department(s): Administration, Legal

Requested Motion

Discussion and possible motion to approve a policy to permit remote public participation in Town meetings.

Approval Recommended?

Yes

Item Details

Following a declaration of state of emergency by the Governor, the Chairman of the County Board of Commissioners, and the Mayor, the Apex Town Council, the state and local authorities have issued stay at home orders. Further, in consideration of the recommendations on social distancing from the Centers for Disease Control and Prevention (CDC), the North Carolina Department of Health and Human Services, and the Wake County Human Services, as well as measures taken across the nation and across the state, the Council may restrict or ban public access to Council and other public meetings. However, public participation in those meetings and public hearings is necessary and remains an important concern. The proposed policy will permit the Town to continue necessary actions while allowing remote participation by the public through email, voice messages and online form submissions and all while adhering to the state and county stay at home order and social distancing recommendations. As usual, the Council meetings will be live streamed and will be made available on demand through YouTube. The Council will limit public hearings and quasi-judicial hearings to the greatest extent possible for the duration of the state of emergency.

Attachments

- Draft Policy



REMOTE PUBLIC PARTICIPATION POLICY FOR OFFICIAL MEETINGS OF THE TOWN OF APEX

Following a declaration of state of emergency by the Mayor, the Apex Town Council may restrict members of the public from physically attending meetings of the Apex Town Council (“Council”), Planning Board, Council Committees, and Citizen Advisory Boards. Taking into consideration the recommendations on social distancing from the Centers for Disease Control and Prevention (CDC), the North Carolina Department of Health and Human Services, and the Wake County Human Services, as well as measures taken across the nation and across the state, the Council may restrict or ban public access to Council and other public meetings. As usual, the Council meetings will be live streamed and will be made available on demand. The Council will limit public hearings and quasi-judicial hearings to the greatest extent possible for the duration of the state of emergency.

1. **Public Comment Period.** Comments may be made using any of the following methods: (1) using the online form provided (linked to website); (2) by sending an email to the following address listed on website (public.forum@apexnc.org) or (3) by leaving a voice message at _____. The comment will be limited to 350 words on the online form or email, and limited to three (3) minutes if made via voice message or teleconference. Comments must be sent by 12:00 p.m. on the day of each Council meeting during the state of emergency. All public comments must otherwise adhere to the rules set forth in the Apex Town Council Public Forum and Public Hearing Participation Policy, attached as Exhibit A.
2. **Public Hearings.** Comments may be made using any of the following methods: (1) using the online form provided (linked to website); (2) by sending an email to the following address listed on website (public.hearing@apexnc.org) or (3) by leaving a voice message at _____. The comment will be limited to 350 words on the online form or email, and limited to three (3) minutes if made via voice message or teleconference. Comments must be sent by 12:00 p.m. on the day of the meeting during the state of emergency. All public comments must otherwise adhere to the rules set forth in the Apex Town Council Public Forum and Public Hearing Participation Policy, attached as Exhibit A.

Citizens are still encouraged to contact their elected and appointed representatives directly via email as needed.

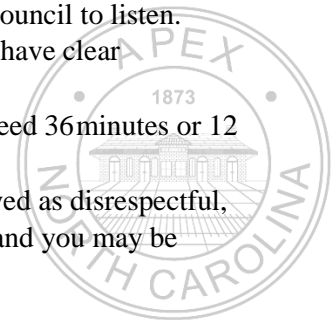
EXHIBIT A

APEX TOWN COUNCIL

PUBLIC FORUM AND PUBLIC HEARING PARTICIPATION POLICY

The Town Council hereby establishes the following guidelines for participation in public forum and public hearings:

- Those who wish to comment during public forum or a public hearing must appear in person. If you wish to speak, please sign in with the Town Clerk at the beginning of the meeting. The purpose of this is to make sure we spell your name correctly in the minutes and gives us a way to follow up with you if necessary.
- If you're speaking for a group, include the group for whom you are speaking, approximately how many of that group are present, and how you have the authority to do so (e.g. HOA President, designated speaker). Please designate one person per household to speak, or share the time allotment and speak together as a household.
- If you have handouts to share, please bring 10 copies and give the copies to the clerk at the beginning of the meeting. The clerk will distribute the copies for you. Electronic presentations, such as PowerPoint, require advance coordination with our IT Department.
- Present relevant comments. The topic or issue should be within the purview of the Council or town government to address.
- Avoid repetition; if other speakers before you have already made a certain point, please don't repeat those comments.
- If you are part of a group, designate a spokesperson prior to the hearing. This is the most effective way for a group to relay their comments and avoid repetition. The spokesperson may recognize the group by asking them to stand. The spokesperson for a group of four or more persons may speak for up to 9 minutes.
- Individual's comments are limited to three minutes. There is a timer on the podium. You'll see a green light for the first 2 minutes and 30 seconds, a yellow light the last 30 seconds, and a red light when your time has expired. The Mayor will politely interrupt you to remind you that your time has expired and will call the next speaker to the podium. Individuals may not yield their time to another person.
- You may raise your hand or raise your hands and wiggle them (in the manner of ASL Deaf Applause) to indicate agreement with a speaker, but please refrain from applauding and speaking out from the audience.
- This is your opportunity to provide input. This time is for you to speak and council to listen. Neither council nor staff will engage in dialog, although open questions that have clear answers may be addressed at that end of the period
- The public comment time for any item, including public forum, may not exceed 36 minutes or 12 individual speakers whichever comes first.
- Speak professionally and respectfully. Any speech or actions that are perceived as disrespectful, unprofessional, hateful, or potentially inciting or dangerous will be stopped and you may be escorted from the building.



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: NEW BUSINESS

Meeting Date: April 7, 2020

Item Details

Presenter(s): Vance Holloman, Finance Director

Department(s): Finance Department

Requested Motion

Possible motion to approve resolution authorizing the filing of an application with the Local Government Commission to issue \$3.2 million of General Obligation Refunding Bonds and \$1.8 million of General Obligation Parks and Recreational Facilities Bonds and setting a public hearing for April 21, 2020.

Approval Recommended?

Yes

Item Details

This resolution states that the Town has determined there is an economic benefit to refunding all or a portion of the General Obligation Street and Sidewalk Improvement Bonds, Series 2009 currently outstanding, authorizes and directs staff to file an application with the North Carolina Local Government Commission for approval of up to \$3.2 million of bonds for that purpose and the need for financing for parks and recreation facilities up to \$1.8 million, and authorizes the Town Clerk to publish a notice of intent to file that application and designates Womble Bond Dickinson (US) LLP as the bond attorney and Davenport & Company LLC as the financial advisor in connection with the authorization, sale and issuance of the bonds. A referendum is not required for refunding bonds.

Attachments

- Preliminary Resolution
- Notice to Be Published \$3,200,000 Refunding Bond
- Notice to Be Published \$1,800,000 Parks and Recreation Facilities Bond
- Sworn Statement of Debt
- Statement of Estimated Interest



The Town Council of the Town of Apex, North Carolina met in a special meeting in the Council Chambers of the Town Hall located at 73 Hunter Street in Apex, North Carolina, the regular place of meeting, at 9:00 a.m. on April 7, 2020.

Present: Mayor Jacques Gilbert, presiding, and Council Members

Absent: Council Members

Also present: _____

* * * * *

_____ introduced the following resolution, the title of which was read and a copy of which had been distributed to each Council Member:

**RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS
AND AUTHORIZING AND RATIFYING THE FILING OF AN
APPLICATION WITH THE LOCAL GOVERNMENT COMMISSION IN
CONNECTION WITH THE PROPOSED ISSUANCE OF GENERAL
OBLIGATION REFUNDING BONDS AND GENERAL OBLIGATION
PARKS AND RECREATIONAL FACILITIES BONDS BY THE TOWN OF
APEX, NORTH CAROLINA**

BE IT RESOLVED by the Town Council (the “Town Council”) of the Town of Apex, North Carolina (the “Town”):

Section 1. The Town Council does hereby determine that:

(a) Preliminary studies have been completed to demonstrate (i) a benefit of refunding all or a portion of the Town’s outstanding General Obligation Street and Sidewalk Improvement Bonds, Series 2009, dated June 25, 2009 and (ii) the need for financing the cost of acquiring, constructing, expanding and improving various parks and recreational facilities for the Town, including, without limitation, recreation centers, athletic fields, public trails and greenways and any related land, rights of way and equipment.

(b) The Town Council wishes to commence the procedures for the issuance of not to exceed \$3,200,000 General Obligation Refunding Bonds and \$1,800,000 General Obligation Parks and Recreational Facilities Bonds at this time.

(c) The annual audits of the Town show the Town to be in strict compliance with debt management policies and that the budgetary and fiscal management policies are in compliance with law.

Section 2. The filing of an application of the Town with the North Carolina Local Government Commission for approval of the issuance of said General Obligation Refunding Bonds and General Obligation Parks and Recreational Facilities Bonds of the Town is hereby authorized, ratified and approved.

Section 3. The law firm of Womble Bond Dickinson (US) LLP is hereby appointed to serve, but solely at the pleasure of the Town, as bond counsel to the Town in connection with the issuance of said General Obligation Refunding Bonds and General Obligation Parks and Recreational Facilities Bonds of the Town.

Section 4. Davenport & Company LLC is hereby appointed to serve, but solely at the pleasure of the Town, as financial advisor to the Town in connection with the issuance of said General Obligation Refunding Bonds and General Obligation Parks and Recreational Facilities Bonds of the Town.

Section 5. This resolution shall take effect immediately upon its adoption.

Upon motion of Council Member _____, seconded by Council Member _____, the foregoing resolution entitled "RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS AND AUTHORIZING AND RATIFYING THE FILING OF AN APPLICATION WITH THE LOCAL GOVERNMENT COMMISSION IN CONNECTION WITH THE PROPOSED ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS AND GENERAL OBLIGATION PARKS AND RECREATIONAL FACILITIES BONDS BY THE TOWN OF APEX, NORTH CAROLINA" was adopted by the following vote:

Ayes: _____

Noes: _____

Thereupon, _____ introduced the following orders authorizing bonds the titles of which were read and copies of which had been previously distributed to each Council Member:

**ORDER AUTHORIZING
\$3,200,000 GENERAL OBLIGATION REFUNDING BONDS**

BE IT ORDERED by the Town Council of the Town of Apex, North Carolina:

1. That pursuant to The Local Government Bond Act, as amended, the Town of Apex, North Carolina, is hereby authorized to contract a debt, in addition to any and all other debt which said Town may now or hereafter have power and authority to contract, and in evidence thereof to issue General Obligation Refunding Bonds in an aggregate principal amount not exceeding \$3,200,000 for the purpose of providing funds, together with any other available funds, to (a) refund all or a portion of said Town's outstanding General Obligation Street and Sidewalk Improvement Bonds, Series 2009, dated June 25, 2009, and (b) pay the fees and expenses related thereto.

2. That taxes shall be levied in an amount sufficient to pay the principal of and the interest on said bonds.

3. That a sworn statement of debt of said Town has been filed with the Town Clerk of said Town and is open to public inspection.

4. That this order shall take effect upon adoption.

**ORDER AUTHORIZING \$1,800,000
GENERAL OBLIGATION PARKS AND RECREATIONAL FACILITIES BONDS**

BE IT ORDERED by the Town Council of the Town of Apex, North Carolina:

1. That pursuant to the Local Government Bond Act, as amended, the Town of Apex, North Carolina is hereby authorized to contract a debt, in addition to any and all other debt which said Town may now or hereafter have power and authority to contract, and in evidence thereof to issue General Obligation Parks and Recreational Facilities Bonds in an aggregate principal amount not exceeding \$1,800,000 for the purpose of providing funds, together with any other available funds, for acquiring, constructing, expanding and improving various parks and recreational facilities for said Town, including, without limitation, recreation centers, athletic fields, public trails and greenways and any related land, rights of way and equipment.

2. That taxes shall be levied in an amount sufficient to pay the principal of and the interest on said bonds.

3. That a sworn statement of debt of said Town has been filed with the Town Clerk and is open to public inspection.

4. That this order shall take effect 30 days after its publication following adoption, unless it is petitioned to a vote of the people within 30 days after the date of its publication as introduced as provided in G.S. 159-60, in which event it will take effect when approved by the voters of said Town at a referendum as provided in said Act.

5. That this order is adopted pursuant to the provisions of G.S. 159-49, which authorizes the issuance of bonds without a vote of the people for the purposes specified therein in an amount not exceeding two-thirds of the amount by which the outstanding indebtedness of said Town has been reduced in the preceding fiscal year.

The Town Council thereupon designated the Finance Director of the Town to make and file with the Town Clerk the sworn statement of debt of the Town which is required by The Local Government Bond Act, as amended, to be filed after the bond orders have been introduced and before the public hearing thereon. The Town Council also designated the Finance Director to file with the Town Clerk the statement of total estimated interest which is required by The Local Government Bond Act, as amended, to be filed with the Town Clerk at the time the bond orders are introduced and further directed the Town Clerk to file a copy of such statement with the Local Government Commission.

Thereupon, the Finance Director of the Town caused to be filed with the Town Clerk, in the presence of the Town Council, the sworn statement of debt and the statement of total estimated interest as so required.

Upon motion of Council Member _____, seconded by Council Member _____, the foregoing order entitled "ORDER AUTHORIZING \$3,200,000 GENERAL OBLIGATION REFUNDING BONDS" was adopted by the following vote:

Ayes: _____

Noes: _____

The Town Clerk of said Town was thereupon directed to publish the aforementioned order, together with the appended statement as required by The Local Government Bond Act, as amended, once in The News and Observer.

Upon motion of Council Member _____, seconded by Council Member _____, the foregoing order entitled "ORDER AUTHORIZING \$1,800,000 GENERAL OBLIGATION PARKS AND RECREATIONAL FACILITIES BONDS" was adopted upon introduction by the following vote:

Ayes: _____

Noes: _____

Thereupon, the Town Council fixed 6:00 p.m., April 21, 2020, in the Council Chambers of the Town Hall located at 73 Hunter Street in Apex, North Carolina, as the hour, day and place for the public hearing upon the order entitled "ORDER AUTHORIZING \$1,800,000 GENERAL OBLIGATION PARKS AND RECREATIONAL FACILITIES BONDS" and directed the Town

Clerk to publish said order, as required by The Local Government Bond Act, as amended, once in The News and Observer not later than the sixth day before said date.

* * * * *

I, Donna B. Hosch, MMC, NCCMC, Town Clerk of the Town of Apex, North Carolina, DO HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of the Town Council of said Town at a special meeting held on April 7, 2020, as it relates in any way to the adoption of the foregoing resolution, the adoption of a bond order authorizing general obligation refunding bonds of said Town and the introduction of an order authorizing general obligation parks and recreational facilities bonds of said Town and the calling of a public hearing upon such order and that said proceedings are to be recorded in the minutes of said Town Council.

I DO HEREBY FURTHER CERTIFY that proper notice of such special meeting was given as required by North Carolina law.

WITNESS my hand and the official seal of said Town this 7th day of April, 2020.

Town Clerk

[SEAL]

TO THE PUBLISHER OF THE NEWS AND OBSERVER:

Please publish the following once in The News and Observer on Friday, April 10, 2020:

**ORDER AUTHORIZING
\$3,200,000 GENERAL OBLIGATION REFUNDING BONDS**

BE IT ORDERED by the Town Council of the Town of Apex, North Carolina:

1. That pursuant to The Local Government Bond Act, as amended, the Town of Apex, North Carolina, is hereby authorized to contract a debt, in addition to any and all other debt which said Town may now or hereafter have power and authority to contract, and in evidence thereof to issue General Obligation Refunding Bonds in an aggregate principal amount not exceeding \$3,200,000 for the purpose of providing funds, together with any other available funds, to (a) refund all or a portion of said Town's outstanding General Obligation Street and Sidewalk Improvement Bonds, Series 2009, dated June 25, 2009, and (b) pay certain fees and expenses related thereto.

2. That taxes shall be levied in an amount sufficient to pay the principal of and the interest on said bonds.

3. That a sworn statement of debt of said Town has been filed with the Town Clerk of said Town and is open to public inspection.

4. That this order shall take effect upon adoption.

The foregoing order was adopted on the 7th day of April, 2020, and is hereby published this 10th day of April, 2020. Any action or proceeding questioning the validity of the order must be begun within 30 days after the date of publication of this notice. The Finance Director of said Town has filed a statement estimating that the total amount of interest that will be paid on the proposed bonds over the expected term of the bonds, if issued, is \$599,288. The estimate is preliminary, is for general informational purposes only, and may differ from the actual interest paid on such bonds. Such statement of estimated interest includes certain assumptions upon which such estimate is based, and there is no assurance that the circumstances included in such assumptions will occur. The validity of the proposed bonds is not subject to challenge on the grounds that the actual interest cost on the bonds when issued is different than the estimated interest amount set forth above.

Donna B. Hosch, MMC, NCCMC
Town Clerk
Town of Apex, North Carolina

TO THE PUBLISHER OF THE NEWS AND OBSERVER:

Please publish the following once in The News and Observer on Friday, April 10, 2020:

**ORDER AUTHORIZING \$1,800,000
GENERAL OBLIGATION PARKS AND RECREATIONAL FACILITIES BONDS**

BE IT ORDERED by the Town Council of the Town of Apex, North Carolina:

1. That pursuant to the Local Government Bond Act, as amended, the Town of Apex, North Carolina is hereby authorized to contract a debt, in addition to any and all other debt which said Town may now or hereafter have power and authority to contract, and in evidence thereof to issue General Obligation Parks and Recreational Facilities Bonds in an aggregate principal amount not exceeding \$1,800,000 for the purpose of providing funds, together with any other available funds, for acquiring, constructing, expanding and improving various parks and recreational facilities for said Town, including, without limitation, recreation centers, athletic fields, public trails and greenways and any related land, rights of way and equipment.

2. That taxes shall be levied in an amount sufficient to pay the principal of and the interest on said bonds.

3. That a sworn statement of debt of said Town has been filed with the Town Clerk and is open to public inspection.

4. That this order shall take effect 30 days after its publication following adoption, unless it is petitioned to a vote of the people within 30 days after the date of its publication as introduced as provided in G.S. 159-60, in which event it will take effect when approved by the voters of said Town at a referendum as provided in said Act.

5. That this order is adopted pursuant to the provisions of G.S. 159-49, which authorizes the issuance of bonds without a vote of the people for the purposes specified therein in an amount not exceeding two-thirds of the amount by which the outstanding indebtedness of said Town has been reduced in the preceding fiscal year.

The foregoing order has been introduced and a sworn statement of debt has been filed under the Local Government Bond Act showing the appraised value of the Town of Apex, North Carolina to be \$7,082,297,591 and the net debt thereof, including the proposed bonds, to be \$105,360,000. The Finance Director of said Town has filed a statement estimating that the total amount of interest that will be paid on the proposed bonds over the expected term of the bonds, if issued, is \$579,674. The estimate is preliminary, is for general informational purposes only, and may differ from the actual interest paid on such bonds. Such statement of estimated interest includes certain assumptions upon which such estimate is based, and there is no assurance that the circumstances included in such assumptions will occur. The validity of the proposed bonds is not subject to challenge on the grounds that the actual interest cost on the bonds when issued is different than the estimated interest amount set forth above.

A tax may be levied to pay the principal of and interest on the bonds if they are issued. Anyone who wishes to be heard on the questions of the validity of the bond order and the advisability of issuing the bonds may appear at a public hearing or an adjournment thereof to be held at 6:00 p.m. on April 21, 2020, in the Council Chambers of the Town Hall located at 73 Hunter Street in Apex, North Carolina.

Donna B. Hosch, MMC, NCCMC
Town Clerk
Town of Apex, North Carolina

TOWN OF APEX, NORTH CAROLINA
SWORN STATEMENT OF DEBT MADE PURSUANT TO THE
LOCAL GOVERNMENT BOND ACT, AS AMENDED

I, T. Vance Holloman, Finance Director of the Town of Apex, North Carolina, having been designated by the Town Council of said Town to make and file with the Town Clerk a statement of the debt of said Town pursuant to The Local Government Bond Act, as amended, DO HEREBY CERTIFY that the following is a true statement as shown by the books in my office, not taking into consideration any debt incurred or to be incurred in anticipation of the collection of taxes or other revenues or in anticipation of the sale of bonds other than funding and refunding bonds:

(a) GROSS DEBT

a(1) Outstanding debt evidenced by bonds:

Street and Sidewalk Improvement Bonds, Series 2009	\$ 3,250,000
Wastewater System Bonds, Series 2012	30,555,000
Parks and Recreation Bonds, Series 2013	3,900,000
Refunding Bonds, Series 2013	2,470,000
Public Improvement Bonds, Series 2018	22,380,000
Refunding Bonds, Series 2018	<u>1,005,000</u>
Total	<u>\$63,560,000</u>

a(2) Bonds authorized by orders introduced,
but not yet adopted:

Parks and Recreational Facilities Bonds	\$1,800,000
Refunding Bonds	<u>3,200,000</u>
Total	<u>\$5,000,000</u>

a(3) Unissued bonds authorized by
adopted orders:

Street and Sidewalk Improvement Bonds (2015)	\$12,000,000
Parks and Recreational Facilities Bonds (2017)	28,000,000
Refunding (2018)	<u>395,000</u>
Total	<u>\$40,395,000</u>

a(4) Outstanding debt, not evidenced by bonds: \$ -0-

(a) GROSS DEBT, being the sum of a(1), a(2), a(3) and a(4): \$108,955,000

(b) DEDUCTIONS

b(1)	Funding and refunding bonds authorized by orders introduced but not yet adopted:	<u>\$3,200,000</u>
b(2)	Funding and refunding bonds authorized but not yet issued:	<u>\$ 395,000</u>
b(3)	The amount of money held in sinking funds or otherwise for the payment of any part of the principal of gross debt other than debt incurred for water, gas, electric light or power purposes or sanitary sewer purposes (to the extent that the bonds are deductible under G.S. 159-55(b)):	<u>\$ -0-</u>
b(4)	Bonded debt included in gross debt and incurred, or to be incurred, for water, gas, electric light or power purposes:	<u>\$ -0-</u>
b(5)	Bonded debt included in gross debt and incurred, or to be incurred, for sanitary sewer system purposes (to the extent that said debt is made deductible by G.S. 159-55(b)):	<u>\$ -0-</u>
b(6)	Uncollected special assessments heretofore levied for local improvements for which any part of the gross debt (that is not otherwise deducted) was or is to be incurred to the extent that such assessments will be applied, when collected, to the payment of any part of the gross debt:	<u>\$ -0-</u>
b(7)	The amount, as estimated by the Finance Director of special assessments to be levied for local improvements for which any part of the gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the special assessments, when collected, will be applied to the payment of any part of the gross debt:	<u>\$ -0-</u>
(b)	DEDUCTIONS, being the sum of b(1), b(2), b(3), b(4), b(5), b(6) and b(7):	<u>\$3,595,000</u>

(c) NET DEBT

(c)	NET DEBT, being the difference between the GROSS DEBT (a) and the DEDUCTIONS (b):	<u>\$105,360,000</u>
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(d) ASSESSED VALUE

(d)	ASSESSED VALUE of property subject to taxation by the Town, as revealed by the Town tax records and certified to the Town by the assessor:	<u>\$7,082,297,591</u>
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(e) PERCENTAGE

(e) Percentage which the NET DEBT (c) bears to the ASSESSED VALUE (d): 1.49%

The foregoing statement is true.

Finance Director

STATE OF NORTH CAROLINA)
)
COUNTY OF WAKE) ss.:

Subscribed and sworn to before me this ____ day of April, 2020.

[SEAL]

Notary Public

Printed Name: _____

My Commission expires _____.

I, Donna B. Hosch, MMC, NCCMC, Town Clerk of the Town of Apex, North Carolina, DO HEREBY CERTIFY that the foregoing is a true copy of a statement which was filed with me at a meeting of the Town Council of said Town held on April 7, 2020, after the introduction of orders authorizing bonds of said Town and prior to the public hearing in the case of the bond order authorizing the Parks and Recreational Facilities Bonds of the Town, and that said statement is open to public inspection in my office.

WITNESS my hand and official seal of said Town this 7th day of April, 2020.

Town Clerk

[SEAL]

TOWN OF APEX, NORTH CAROLINA
STATEMENT OF TOTAL ESTIMATED INTEREST PURSUANT TO THE
LOCAL GOVERNMENT BOND ACT, AS AMENDED

I, T. Vance Holloman, Finance Director of the Town of Apex, North Carolina (the “Town”), having been designated by the Town Council of the Town (the “Town Council”) to make a statement of total estimated interest pursuant to The Local Government Bond Act, as amended, DO HEREBY CERTIFY as follows:

1. On April 7, 2020, the Town Council introduced (a) a bond order authorizing the issuance by the Town of \$3,200,000 General Obligation Refunding Bonds (the “Refunding Bonds”) and (b) a bond order authorizing the issuance by the Town of \$1,800,000 General Obligation Parks and Recreational Facilities Bonds (the “Parks Bonds” and, together with the Refunding Bonds, the “Bonds”).

2. If the Bonds are duly authorized and issued, I have estimated that the total amount of interest to be paid by the Town over the expected terms of the Bonds to be \$1,178,962 (\$599,288 for the Refunding Bonds and \$579,674 for the Parks Bonds). Such estimate is based on the following assumptions:

(a) With respect to the Refunding Bonds:

(i) The Refunding Bonds will be issued in the aggregate principal amount of \$2,485,000 with an original issue premium of \$477,627.

(ii) The Refunding Bonds will mature annually on June 1, \$270,000 2021 and 2022, \$275,000 2023 to 2025, inclusive, and \$280,000 2026 to 2029, inclusive.

(iii) The Refunding Bonds will bear interest, payable semiannually on each June 1 and December 1, beginning December 1, 2020, at a true interest cost of approximately 0.95% per annum. Such interest cost is based on estimated market rates as of March 2, 2020 and used by the Town for planning purposes.

(iv) The Refunding Bonds will not be subject to redemption prior to their respective maturities.

(b) With respect to the Parks Bonds:

(i) The Parks Bonds will be issued in the aggregate principal amount of \$1,800,000 with a net original issue premium of \$260,442.

(ii) The Parks Bonds will mature annually on June 1, \$90,000 2021 to 2040, inclusive.

(iii) The Parks Bonds will bear interest, payable semiannually on each June 1 and December 1, beginning December 1, 2020, at a true interest cost of approximately 1.63% per annum. Such interest cost is based on estimated market rates as of March 2, 2020 and used by the Town for planning purposes.

(iv) The Parks Bonds maturing on or after June 1, 2031 will be subject to optional redemption on any date on or after June 1, 2030 at a redemption price equal to 100% of the principal amount of the Parks Bonds to be redeemed, plus accrued interest to the redemption date.

The total estimated amount of interest on the Bonds over the expected terms of the Bonds is preliminary and for general purposes only. The Town makes no assurances that the assumptions upon which such estimate is based will occur, and the occurrence of certain of such assumption is beyond the control of the Town. Differences between the actual circumstances at the times the Bonds are issued and the assumptions set forth above could result in significant differences between the total amount of estimated interest and the total amount of actual interest to be paid on the Bonds if and when issued. The validity of the Bonds is not subject to challenge on the grounds that the actual interest to be paid on the Bonds when issued is different than the total amount of estimated interest on the Bonds set forth above.

Signed this 7th day of April, 2020.

Finance Director

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I, Donna B. Hosch, MMC, NCCMC, Town Clerk of the Town of Apex, North Carolina, DO HEREBY CERTIFY that the foregoing is a true copy of a statement of total estimated interest which was filed with me at a meeting of the Town Council of said Town held on April 7, 2020, after the introduction of orders authorizing bonds of said Town and prior to the public hearing in the case of the bond order authorizing the Parks Bonds, and that said statement is open to public inspection in my office.

WITNESS my hand and official seal of said Town this 7th day of April, 2020.

Town Clerk

[SEAL]