

VILLAGE OF WESLEY CHAPEL
COUNCIL MEETING
MINUTES

April 14, 2008 – 7:00 P. M.

The Council of the Village of Wesley Chapel, North Carolina, met in the Fellowship Hall of the Wesley Chapel United Methodist Church at 120 Potter Road South, Wesley Chapel, North Carolina, with Mayor Tracey Clinton presiding.

Present: Mayor Clinton, Mayor Pro-tem Croffut, Council Members Bradford, Horvath, Pierce

Others Present:

Village Clerk/Finance Officer: Cheryl Bennett

Planning/Zoning Administrator: Justin Krieg

Tax Collector: Nancy Schneeberger

Concerned citizens: Chuck Philips, Brian Carlton, Carol Mullis, Shirley & Dave Casper, Ray Davis, Max Melton, Matt Carroll, Mike & Kathy Patterson, Carl Redemann, Maria & Michael Land, Tony Patterson, Delano Patterson, R. Kolsa, J. Gibson, Michael Lincoln, Cindy Francin, Dick Raby, Stan Schwartz, tom & Betsy Lever, Charlie Martin, Pat Stitt, Julie Brown.

Meeting was called to order at 7:00 PM and a quorum was present.

1. PLEDGE OF ALLEGIANCE / INVOCATION

Mayor Clinton led the Pledge of Allegiance and Croffut gave the invocation.

2. INFORMAL PUBLIC COMMENTS – RECEIVE INDIVIDUAL COMMENTS FROM THE PUBLIC WHO HAVE SIGNED IN WITH THE VILLAGE CLERK TO SPEAK TO THE COUNCIL

Max Melton, representing Hospice, spoke regarding a new Hospice House being built. The first hospice house in N.C. was built in Monroe 14 years ago. They have had two houses for 10 years. They are building a new 12,300 sq. ft. house, it will provide specialized medical care in house. The cost is \$4 million, and currently 52% cash is pledged, and \$750,000 in kind contribution is pledged. Monroe pledged \$50,000 over two years; and they are asking other municipalities for \$5,000 each.

Dick Raby, who lives in Stonegate, said he is opposed to the current proposed firearms ordinance. He urged Council to move slowly and do research, since there are a lot of nuances involved if you don't have a good knowledge of firearms. He noted guns are tools and can be used well or illegally; just like an ordinance is a tool. He suggested dialogue between the three positions, and suggested a committee be appointed.

3. ADDITIONS, DELETIONS, AND / OR ADOPTION OF AGENDA

Item 18A- "CLOSED SESSION PER NC GS 143-318.11(a) (3) Attorney Client Privilege re: Village of Wesley Chapel v. Union County (ETJ) and Plyer, etc. v. Village of Wesley Chapel"; Item 18B- "CLOSED SESSION PER NC GS 143-318.11(a) (3) Attorney Client Privilege re: ordinances"; and Item 18C – "Decisions from Closed Sessions" were added. Bradford made a motion to approve the agenda with the above changes; Croffut seconded the motion.

The motion was approved unanimously.

4. PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31

The public hearing was opened. There were no speakers. The public hearing was closed.

5. PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.2

The public hearing was opened. There were no speakers. The public hearing was closed.

6. APPROVE MINUTES FOR:

Council Meeting March 10, 2008

Closed Minutes for Item 19, February 11, 2008

Pierce made a motion to approve the minutes of the Council Meeting March 10, 2008 and the closed minutes for Item 19, February 11, 2008; Horvath seconded the motion.

The motion passed unanimously.

7. STAFF REPORTS

- a. Review and approve the Village Financial Reports dated March 31, 2008, submitted by Cheryl Bennett, Finance Officer.

Two Certificates of Deposit are coming due; Croffut made a motion that we check for rates, and reinvest the funds. Bradford seconded the motion.

The motion passed unanimously.

Pierce made a motion that we have a policy to reinvest all maturing CD's. Croffut seconded the motion. Croffut amended the motion to keep the term less than 18 months.

The amended motion was passed unanimously.

Bradford made a motion to approve the March 31, 2008 financial statements; Pierce seconded the motion.

The motion passed unanimously.

b. Consider Budget Amendment #3 – Ordinance 2008-05.

This budget amendment is to provide funds for MUMPO dues, and for mileage for sign removal. Council directed Bennett to check with the sign collector, and ask him to go back to removing signs four times monthly instead of more frequently. Horvath made a motion to approve Budget Amendment #3 – Ordinance 2008-05, incorporated herein. Pierce seconded the motion.

The motion passed unanimously.

Budget Ordinance 2007/08 #3 – Ord. 2008-05

BE IT ORDAINED by the Governing Board of the Village of Wesley Chapel, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2008:

Section 1. To amend the General Fund, the appropriations are to be changed as follows:

	Decrease	Increase
<u>Expenditures:</u>		
<u>Operating expenditures:</u>		
Contingency	\$4,200.	
Dues		\$3,600
Sign Removal Mileage		\$ 600

Section 2. Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and the Finance Officer for their direction.

Adopted this 14th day of April, 2008.

Cheryl Bennett, Clerk

Mayor Tracey Clinton

c. Tax Report Update dated March 31, 2008 prepared by Nancy Schneeberger

Schneeberger reported on taxes collected in March. \$1562.19 in 2007 taxes, and \$71.70 in delinquent taxes were collected. Outstanding 2007 taxes receivable are \$2,897.52; and 1998-2006 taxes receivable are \$852.30.

Croffut made a motion to approve the March tax report; Bradford seconded the motion.

The motion passed unanimously.

- d. Request tax refunds for: 2007 tax - \$1.82 for parcel 06078006G James and Pamela Stitt; \$4.98 for parcel 06024161 to Albernini Hossam; and 2006 tax - parcel 06048310 \$71.84 to Barbara & Robert Baker; and parcel 06048311 \$57.26 to Andrew & Deidre Olson. Total refunds are \$135.90.

Pierce made a motion to approve tax refunds for \$135.90 for the above parcels. Croffut seconded the motion.

The motion passed unanimously.

- e. Monthly planning report, submitted by Justin Krieg, Planning and Zoning Administrator.

Krieg reported 18 permits were issued in March. The final draft of the Master Plan was reviewed by the Master Plan committee April 9; the plan will be presented to the community at the May 14 Master Plan Committee meeting. The Mayor asked that the meeting be well advertised; since a quorum of Council may be present at the May 7 and May 14 Master Plan Committee meetings, it will be posted. Krieg reported plans were approved for two small buildings between the Market Express and Target at Village Commons, as well as a national shoe retailer next to Target. The Local Area Regional Transportation Plan (LARTP) continues to move forward; Mineral Springs has decided not to join. Horvath questioned the amounts required of the other four towns. Krieg reported a final ranking session of the Union Co. transportation projects for the Long Range Transportation Plan (2035 Update) will take place April 21. A proposal was sent to Mary Oaks regarding Hampton Meadows roads. Horvath reported she wants DOT, the homeowners, and the Village to participate in the funding. It was forwarded to the current President of Bowie Motors, Robert Taylor, who should contact Horvath next week.

8. CONSIDER APPROVAL OF FIREARMS ORDINANCE

Bradford took comments from the Public Hearing on April 1 and showed how they impacted the ordinance. Mayor Clinton suggested we focus on what we want the ordinance to cover. Bradford will work with the attorney and staff. Sistrunk did talk to the Sheriff's office. Horvath said we want to limit or regulate the firing of firearms, specifically gunpowder originated projectiles; based on the size of the property to protect the majority of the public. Croffut said he is trying to determine what guns are used for all types of hunting; he felt the proximity level is appropriate, and wants to make sure the rights of hunters are protected. Pierce likes the addition of rim fire; in speaking with a Wildlife Enforcement Officer on commissioned game land they use the 450 feet rule. Bradford said she put in the 450 feet from the property line, not the dwelling, because people use their yard as well as their dwelling. Horvath agreed for safety purposes, people are outside, and with subdivisions and smaller lots it is appropriate. Horvath spoke regarding training dogs, using blanks, there is no projectile. Bradford said the trainer usually uses blanks, occasionally not. This resident has a large piece of property and it does not impact neighbors. She also allows skeet shooting,

sometimes in connection with dogs. Croffut said with skeet shooting the projectory will be much smaller and will fall within her land. Sighting a gun would fall within hunting use. Both should be protected within the ordinance. Bradford had a concern regarding what firearms are used with shooting targets, because the range varies widely. Sistrunk spoke to Bill McGuirt, the Sheriff's office attorney. The Sheriff needs a certified copy of the ordinance; they distribute it to the officers. If a deputy is present when an incident occurs, they can make an arrest. If they are not present, they need a witness to take out a warrant at the magistrate's office, which would then be served by the deputy. He had a little concern about the presence of deputies here, since we do not have 24 hour coverage here, there was a little concern with the speed in which that could be done. Bradford asked about penalties. Mr. McGuirt was present; he said in Section 1D, regarding reasonable regard, to change it to include reasonable regard for others and not just neighbors, either change the paragraph or add a paragraph. In Section 6, he noted we have a mutual aid contract of all the Police Departments in the County, so a Stallings or Monroe police officer might respond, so we might change it to add any other law enforcement officers authorized; this would also cover us if we had our own Police Department in the future. Regarding property lines, he said they are hard to find, but it is easy to measure from a building. He urged Council to tweak the ordinance. He said certain crimes that occur not in the officer's presence; they can't immediately arrest, but would have to get a warrant first. Normally they do not arrest, they usually issue citations or criminal summons, and demand they come to court. Sistrunk said if you include provisions redundant of State law, like the juvenile provision, it is subjective whether you include it but if you do, make it repetitive of the State statute. Sistrunk said also the state statute definitions may differ. Horvath asked what is the difference between sighting of a rifle and repeated shooting. Mayor Clinton noted we have gun uses for hunting, target shooting, and training dogs; what makes one activity more dangerous than another. Mayor Clinton felt we should look at what types of firearms are allowed, and appropriate distances, not what the uses are. Bradford said certain weapons are allowed by the Wildlife Commission; Mayor Clinton asked if we should allow only the weapons allowed by them. Croffut said we need to add sport shooting and sighting.

Bradford said a resident told her there were deer stands twenty feet from the new elementary school land; they may not be 450 feet from the school. McGuirt said he will talk to Bureau of Alcohol, Tobacco and Firearm (ATF), he thinks you cannot shoot 1,000 feet from a school, by federal law.

The NRA has some compilation of firearms law, and the ATF has a book also. Bradford made a motion that said she would meet with Croffut and look at the ordinance to broaden activities, allow for appropriate footage and firearms, and consult with appropriate knowledgeable citizens. Pierce seconded the motion.

The motion passed unanimously.

Chuck Phillips, President of the Charlotte Rifle and Pistol Club offered to help.

9. CALL FOR PUBLIC HEARING ON CHANGES TO ZONING ORDINANCE FOR: APFO AMENDMENT; LIQUOR BY THE DRINK CHANGES; AND FIRE DEPARTMENT HEIGHT AMENDMENT

Pierce asked about the fire department height amendment if this is a text amendment to the overall ordinance, the answer was yes. Mayor Clinton said the findings of fact could be used to approve something different than the ordinance requires. Krieg said in his review process he will require them to make revisions based on our regulations. A variance relates to a specific quality of the land. Mayor Clinton asked if this would set precedence for all buildings; Krieg said if you set it as only public safety stations, it would only be for them. Pierce said she toured the new fire station; the height has to do with their equipment, diesel fuels, and the fact that people sleep there. Pierce made a motion to have a public hearing for the fire height amendment. Pierce then withdrew the motion. Bradford made a motion to have a public hearing at 7 pm on May 12, 2008 at Wesley Chapel United Methodist Church on changes to zoning ordinance for: APFO amendment; liquor by the drink changes; and fire department height amendment. Pierce seconded the motion.

The motion passed unanimously.

10. CONSIDER APPROVAL OF ORDINANCE 2008-06; AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE VILLAGE OF WESLEY CHAPEL, NORTH CAROLINA. (contiguous annexation)

Croffut made a motion to approve Ordinance 2008-06, an ordinance to extend the corporate limits of the Village of Wesley Chapel, North Carolina. (contiguous annexation), incorporated herein. Bradford seconded the motion.

The motion passed unanimously.

Ordinance 2008-06
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE VILLAGE OF WESLEY CHAPEL, NORTH CAROLINA

WHEREAS, the Village of Wesley Chapel has been petitioned under G.S. 160A-31 to annex the area described below; and

WHEREAS, the Village of Wesley Chapel Council has directed the Village Clerk to investigate the sufficiency of the petitions; and

WHEREAS, the Village Clerk has certified the sufficiency of the petitions and a public hearing on the question of this annexation was held at Wesley Chapel United Methodist Church at 7:00 PM on April 14, 2008, after due notice by publication on March 26, 2008; and

WHEREAS, the Village of Wesley Chapel Council finds that the petitions meet the requirements of G.S. 160A-31;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Wesley Chapel, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the Village of Wesley Chapel as of June 30, 2008:

Wesley Oaks- Contiguous		All Waxhaw, 28173	
TAX #	Lot #	St. #	Street
06-048-201	291	6600	Blackwood Lane
06-048-514	99	712	Cavendish Lane
06-048-576	68	715	Springwood Lane
06-048-592	55	6613	Walton Hall Ct
 Twelve Oaks		 All Waxhaw, 28173	
06-051-265	19	5000	Butler Ct
06-051-264	18	5004	Butler Ct
06-051-266	20	5005	Butler Ct
06-051-263	17	5008	Butler Ct
06-051-267	21	5009	Butler Ct
06-051-262	16	5012	Butler Ct
06-051-261	15	5016	Butler Ct
06-051-257	11	5100	Rhett Ct
06-051-251	5	5101	Rhett Ct
06-051-256	10	5104	Rhett Ct
06-051-252	6	5105	Rhett Ct
06-051-255	9	5108	Rhett Ct
06-051-253	7	5109	Rhett Ct
06-051-254	8	5112	Rhett Ct
06-051-259	13	1100	Tara Plantation Blvd
06-051-260	14	1101	Tara Plantation Blvd
06-051-258	12	1104	Tara Plantation Blvd
06-051-268	22	1201	Tara Plantation Blvd
06-051-269	23	1301	Tara Plantation Blvd
06-051-270	24	1305	Tara Plantation Blvd
06-051-250	4	1306	Tara Plantation Blvd
06-051-247	1	1401	Tara Plantation Blvd
06-051-249	3	1404	Tara Plantation Blvd

06-051-248	2	1405	Tara Plantation Blvd
Common	Open	Parcels:	
06-051-271	COS#		
	1		
06-051-272	COS#		
	2		
06-051-273	COS#		
	3		

Section 2. Upon and after June 30, 2008, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Village of Wesley Chapel and shall be entitled to the same privileges and benefits as other parts of the Village of Wesley Chapel. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the Village of Wesley Chapel shall cause to be recorded in the office of the Register of Deeds of Union County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections, as required by G.S. 163-288.1.

Adopted this 14th day of April, 2008.

Mayor Tracey Clinton

ATTEST:

APPROVED AS TO FORM:

Clerk Cheryl Bennett

Village Attorney George Sistrunk

11. CONSIDER APPROVAL OF ORDINANCE 2008-07; AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE VILLAGE OF WESLEY CHAPEL, NORTH CAROLINA (satellite annexation)
Pierce made a motion to approve Ordinance 2008-07; an ordinance to extend the corporate limits of the Village of Wesley Chapel, North Carolina (satellite annexation), incorporated herein. Bradford seconded the motion.
The motion passed unanimously.

Ordinance 2008-07
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
VILLAGE OF WESLEY CHAPEL, NORTH CAROLINA

WHEREAS, the Village of Wesley Chapel has been petitioned under G.S. 160A-58.1 to annex the area described below; and

WHEREAS, the Village of Wesley Chapel Council has directed the Village Clerk to investigate the sufficiency of the petition; and

WHEREAS, the Village Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at Wesley Chapel United Methodist Church at 7:00 PM on April 14, 2008 after due notice by publication on March 26, 2008; and

WHEREAS, the Village of Wesley Chapel Council finds that the petition meets the requirements of G.S. 160A-58.1(b), to wit:

- a. The nearest point on the proposed satellite corporate limits is not more than two (2) miles from the primary corporate limits of the Village or is contiguous to the satellite corporate limits of the Village;
- b. No point on the proposed satellite corporate limits is closer to another municipality than to the primary corporate limits of the Village, except that this subdivision does not apply if the area proposed for annexation is contiguous to the satellite corporate limits;
- c. The area described is so situated that the Village will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;
- d. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits does not exceed ten percent (20%) of the area within the primary corporate limits of the Village; and

WHEREAS, the Village of Wesley Chapel Council further finds that the petition has been signed by all the owners of real property in the area who are required by law to sign; and

WHEREAS, the Village of Wesley Chapel Council further finds that the petition is otherwise valid, and that the public health, safety and welfare of the Village and of the area proposed for annexation will be best served by annexing the area described;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Wesley Chapel, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-58.2, the following described non-contiguous territory is hereby annexed and made part of the Village of Wesley Chapel as of June 30, 2008:

Parcel 06-048-483; Lot 1 Wesley Oaks, at 610 Springwood Drive, Waxhaw NC 28173

Section 2. Upon and after June 30, 2008, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Village of Wesley Chapel and shall be entitled to the same privileges and benefits as other parts of the Village of Wesley Chapel. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the Village of Wesley Chapel shall cause to be recorded in the office of the Register of Deeds of Union County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections, as required by G.S. 163-288.1.

Adopted this 14th day of April, 2008.

Mayor Tracey Clinton

ATTEST:

APPROVED AS TO FORM:

Clerk Cheryl Bennett

Village Attorney George Sistrunk

11. **CONSIDER REDUCTION OF KINGS GRANT SUBDIVISION BONDS**
Krieg reported the engineer had inspected King's Grant, and recommended the maintenance bond be reduced from \$24,734.85 to \$12,804.15, and the performance bond from \$161,463 to \$4,500.

Croffut made a motion to approve the reduction of the Kings Grant Subdivision bonds as stated above; Horvath seconded the motion.

The motion passed unanimously.

13. **DISCUSSION ON PLANNING AND ZONING ADMINISTRATOR POSITION**

Mayor Clinton noted Krieg is leaving us about June 1, and we need to look for a new planner. She recommended we use the previous work done by COG in our planner search; advertise on the list serv, and in other applicable places.

Applications will be reviewed by Bennett and Krieg, and the qualified applications sent on to Council. This will be done as soon as possible. Pierce made a motion to approve this procedure; Bradford seconded the motion. The motion passed unanimously.

14. CONSIDER CHANGES TO FEE SCHEDULE TO ADD COMPUTER DISK \$1.00, AND TO ADJUST MAXIMUM ON RETAIL IN PRIVILEGE LICENSE SCHEDULE TO \$5,000.

Bennett said there is no fee on our schedule for a computer disk, so this is an addition. Horvath made a motion to approve adding the \$1 fee for computer disks to our fee schedule; Pierce seconded the motion.

The motion passed unanimously.

Bennett said in looking at the privilege license ordinance, if we raise the minimum on retail to \$5,000 from \$1,000 it would generate additional revenue on the largest stores. The fee schedule refers to the privilege license schedule in the ordinance, so this should be adopted as an ordinance. Council approved for this change to be brought back at the work session meeting.

15. CONSIDER WORKING WITH SENATOR GOODALL ON LOCAL LEGISLATION FOR LONG TERM LEASE OF VILLAGE LAND

Mayor Clinton reported the YMCA is doing a feasibility study right now in Union County on where to locate their first Union County Y and what amenities to include. The YMCA Committee thought it made sense to do a long term lease, and currently we are limited to 10 years (it may have been changed recently to 15 years). The short session of the legislature is coming up, and the Mayor spoke with Senator Goodall about doing this. We are not ruling out a sale of the land at this time. Croffut made a motion to approve working with Senator Goodall on legislation for a long term lease; Bradford seconded the motion.

The motion passed unanimously.

16. ANNOUNCEMENTS

Pierce spoke with Karen Partee at Aston Properties, and Target will have their red corvette with their mascot to lead the parade at the 10th birthday celebration. Horvath said this Saturday the cleanup will take place – meet at the WCWAA at 8 am. Mayor Clinton said she had a press release from the Sheriff's office regarding what was perceived as an attempted car jacking; the press release said it was not an attempted carjacking, and the officers talked to the participants who were having a dispute with each other, and later worked things out. They would like to have our Safety Committee contacts to be able to send information out. Regarding the Wesley Chapel v. Adams lawsuit, the Adams attorney filed dismissal without prejudice, it is expected to be refiled in state court, they have one year to do so.

17. OTHER BUSINESS – none.

18. COUNCIL COMMENTS

Croffut thanked everyone for attending and their input on the proposed firearms ordinance.

A five minute recess was held.

18A. CLOSED SESSION PER NC GS 143-318.11(a) (3) Attorney Client Privilege re: Village of Wesley Chapel v. Union County (ETJ) and Plyer, etc. v. Village of Wesley Chapel

Croffut made a motion to go into closed session per NC GS 143-318.11(a)(3) for Attorney Client Privilege re: Village of Wesley Chapel v. Union County (ETJ) and Plyer, etc. v. Village of Wesley Chapel. Bradford seconded the motion.

The motion passed unanimously.

The Council consulted with the attorney.

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Pierce made a motion to go back into open session; Croffut seconded the motion.
The motion passed unanimously.

18B. CLOSED SESSION PER NC GS 143-318.11(a) (3) Attorney Client
Privilege re: ordinances

Bradford made a motion to go into closed session per NC GS 143-318.11(a) (3),
attorney client privilege re: ordinances. Horvath seconded the motion.

The motion passed unanimously.

The attorney recommended we go out of closed session and go back into closed
session for attorney client privilege re: firearms ordinance.

Croffut made a motion we go back into open session. Pierce seconded the
motion.

The motion passed unanimously.

Pierce made a motion we go into closed session per NC GS 143-318.11(a) (3),
attorney client privilege re: firearms ordinance. Croffut seconded the motion.

The motion passed unanimously.

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Pierce made a motion to leave closed session; Horvath seconded the motion.
The motion passed unanimously.

18C. DECISIONS FROM CLOSED SESSIONS

Pierce made a motion to direct George Sistrunk to file an appeal for the two ETJ lawsuits and a motion to stay the enforcement of judgment. Horvath seconded the motion.

The motion passed unanimously.

19. ADJOURNMENT

Croffut made a motion to adjourn; Bradford seconded the motion.

The motion was approved unanimously.

The meeting was adjourned at 10:25 pm.

Respectfully submitted,

Cheryl Bennett, Clerk

Mayor Tracey Clinton