

VILLAGE OF WESLEY CHAPEL  
COUNCIL MEETING  
MINUTES

May 12, 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: Butch Plyler, Becky Plyler, Carol Mullis, Scott Garner, MarkDiBiasio, Linda Smosky, Sean Collingsworth, Thelma Munguia

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

Linda Smosky from the Council on Aging spoke regarding their efforts as a service organization to help the 26,158 people age 60 and over in Union County. She noted they have 7 clients in Wesley Chapel and 5 on their wait list. Ms. Smosky noted the fastest growing age group is 85 plus; and the Alzheimer's rate in Union County is twice the state rate. The Council on Aging would like to talk to us in the future; and maybe offer a site here. They had a Senior Wellness Expo at the Ag Center, and plan a Senior Scam Jam for June 24.

Sean Collingsworth, a member at large of the Charlotte Rifle and Pistol Club, who lives in Weddington, spoke in support of Dr. Land. He noted Dr. Land has received numerous impolite e-mails, and read a letter to Dr. Land which included threatening language.

Thelma Munguia from Turning Point spoke regarding their efforts to offer alternatives to victims in violent relationships, by providing crisis intervention. Their goal is to prevent injury or death. They often accompany clients to the courthouse. The shelter is open 24/7. Their bills run \$2,000 monthly, and they appreciate any donations.

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

The Planner search will be discussed under Item 15- Other Business.

Item 16 was changed to 16A; and two items were added: Item 16B. 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, and Item 16C. CLOSED SESSION PER NC GS 143-318.11(a) (3) Attorney Client Privilege re: Legal Basis and Implications of Ordinance Enforcement. Bradford made a motion to approve the agenda with those changes; Horvath seconded the agenda.

The motion passed unanimously.

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

The public hearing was opened. Mark DiBiasio spoke as a member on the original task force for APFO; he encouraged Council to add the amendment to our ordinance noting we need schools before we build more homes.

Butch Plyler spoke regarding the fire department amendment. He noted their architect was present. They plan on building a space sufficient for 40-50 years; there will be 1400 square feet on the second floor for Sheriff deputies which will add visibility for Wesley Chapel. He noted the Planning Board and Planning/Zoning Administrator unanimously supported the amendment.

Scott Garner, the architect for the proposed fire station said given the type of land here they need a two story building, with trucks on the first floor. The design is used widely and causes a need to increase the height slightly. Mr. Garner said he has designed 35 fire stations, and it should fit nicely with the residential and nearby shopping center.

5. PRESENTATION BY CATAWBA LANDS CONSERVANCY

Jenny LeBlanc from the Catawba Lands Conservancy discussed their local land trust program in the six county area. They have 7300 permanently protected acres, with 500 acres in the pipeline in Union County. Two years ago they were tasked with making a difference in Union County. Their number one issue is quality of life. They have raised money to be used only in Union County for donated conservation easements and fee acquisition. They worked with the Town of Mineral Springs, and on the Carolina Thread Trail greenway program. Without a local match it is hard to compete; Mecklenburg County leveraged \$18 million; but Union County only leveraged \$1.5 million. With Union County being a huge priority, they are asking the towns to be corporate partners, which Mineral Springs and Marvin have done. Ms. LeBlanc left packets, and said they would love the opportunity to work with Council.

6. APPROVE MINUTES FOR:

Council Work Session Meeting March 18, 2008  
Public Hearing April 1, 2008  
Council Advance April 11 and 12, 2008  
Council Meeting April 14, 2008  
Council Work Session Meeting, April 22, 2008  
Closed Minutes for Item 18 and Item 18A, March 10, 2008  
Closed Minutes for Item 18A and Item 18B, April 14, 2008

One change was made to the Council Public Hearing on April 1 minutes , Speaker 18, “lies” was corrected to “likes”; and another change was made to the Council Advance minutes on April 11 and 12, at the top of the last page regarding anniversary celebration, the name should be Pierce, not Bradford. Pierce made a motion to approve the minutes of the Council Work Session Meeting March 18, 2008; Public Hearing April 1, 2008; Council Advance April 11 and 12, 2008; and Council Meeting April 14, 2008 with the stated changes. Horvath seconded the motion.

The motion passed unanimously.

Pierce made a motion to approve the closed minutes for Item 18 and Item 18A, March 10, 2008; and the Closed Minutes for Item 18A and Item 18B, April 14, 2008. Horvath seconded the motion.

The motion passed unanimously.

7. STAFF REPORTS

- a. Review and approve the Village Financial Reports dated April 30, 2008, submitted by Cheryl Bennett, Finance Officer.

Bennett noted the April revenues were \$15,668, and expenditures were \$24,953. Year to date surplus is \$197,003. We paid some bills with the credit card; QuickBooks payroll renewal \$199, the domain \$45.10, and cleaning supplies of \$28.27. Horvath made a motion to approve the April 30, 2008 financial reports; Bradford seconded the motion.

The motion passed unanimously.

- b. Tax Report Update dated April 30, 2008 prepared by Nancy Schneeberger

Schneeberger reported in April she collected \$733.80 in 2007 taxes; 2007 taxes receivable are \$2163.72. She collected \$65.39 in delinquent taxes, and for the years 1998-2006 we have taxes receivable of \$786.91. Bradford made a motion to approve the April 30, 2008 tax report; Horvath seconded the motion.

The motion passed unanimously.

- c. Request tax refund for 2006 tax - parcel 06048309 \$69.39 to Clyde M. and Dora Battle

Another refund in the amount of \$17.15 was requested to First American for 2007 taxes on parcel 09402091 for the account of Michael Shepard. Pierce made a motion to approve the two refunds; Croffut seconded the motion.

The motion passed unanimously.

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

Permitting has been light. The Master Plan Committee will present their final draft Wednesday May 14 at 7 pm at the Church. Two retail stores have started construction between CVS and the gas station. The Local Area Regional Transportation Plan has a meeting in Charlotte scheduled for May 21<sup>st</sup>, but may change to May 28<sup>th</sup> due to scheduling conflicts. Bradford asked regarding a percentage of coverage by landscaping at the substations; Krieg said he talked to Dwight Hollifield and he said it is hard to come up with a percentage, and also the landscaping is phased in.

## 8. CONSIDER APPROVAL OF FIREARMS ORDINANCE

Bradford said after the last meeting there was talk of a potential committee, but after months of work and input she felt that was not necessary. Council agreed. She has done some additional research on the ordinance. In Section 3 (D), she added skeet shooting with a shotgun; the shotgun range is significantly shorter than a rifle. The Wildlife Commission attorney suggested adding the section on clearly marked property lines. Bradford clarified if people have a large piece of property and are hunting more than 450 feet from the property line; they do not need any neighbors' approval. The purpose of the registration requirement is so that if someone hears shooting, they can call, and find out if the property is registered for hunting. Croffut suggested we change it to register the property rather than people, and have it be a one time procedure; the information would be sent on to the Sheriff. A question arose as to whether air soft guns are included with bb guns in Section 1 definitions; Sistrunk said they would be excluded because the rim fire says "discharged by means of burning of gunpowder". Effective vs. maximum ranges were discussed; Mr. Collingsworth said a .22 has an effective range of one mile. A question was posed as to whether the registration would involve a fee, and if it would be public record, there would probably not be a fee, and it would be public record. Someone asked if it would be a liability issue for the public to know who owns a gun. Pierce noted on Section 3 D, that attorney McGuirt had suggested we change "neighbors" to "others". Dr. Land asked if we can legally require registration. Pierce asked regarding Section 3 C if we needed to add reptiles; Sistrunk said they are included under animals. Shooting skeet/trap was added to Section 4. Dr. Land reported, for the record, that the NRA report showed his range is very safe, and he provided copies to the Village and the press. Horvath asked on Section 3 E if training

hunting dogs when hunting then becomes hunting. The Sheriff's attorney has not seen this revised ordinance yet. Croffut recommended we get the changes done and get it to him before the meeting next week. Bradford said she would do more research on registration and would check with the Sheriff to see if it would be helpful to them. Pierce made a motion to table the ordinance to the work session meeting; Horvath seconded the motion.

The motion passed unanimously.

9. **CONSIDER APPROVAL OF ORDINANCE 2008-08 PRIVILEGE LICENSE TAX ORDINANCE OF THE VILLAGE OF WESLEY CHAPEL.**

The changes from the previous ordinance are: we added Article I, Section 1D to define who the tax collector is; in Article II, Section 3 Levy, we refer to a privilege license schedule in the fee schedule; and at the very end it says the Ordinance is effective today to ensure continuity. Horvath made a motion to approve Ordinance 2008-08, incorporated herein. Pierce seconded the motion.

The motion passed unanimously.

Effective 05.12.08

**Ordinance 2008-08  
PRIVILEGE LICENSE TAX ORDINANCE  
OF THE VILLAGE OF WESLEY CHAPEL**

This Ordinance supersedes the previous Privilege License Ordinance adopted as Resolution 2004-06.

**ARTICLE I GENERAL**

**Section 1. Definitions.** When used in this ordinance (unless the context requires a different meaning):

- (a) "Person" includes any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.
- (b) "Business" includes each trade, occupation, profession, business, and franchise taxed under this ordinance.
- (c) A business is "seasonal" in nature when it is conducted for profit six months out of the year or less.
- (d) "Tax Collector" is the person designated by the Village as responsible for the issuance of privilege licenses.

**Section.2. Construction of This Ordinance.** This ordinance is enacted for revenue purposes only. Therefore, it should be construed to require payment of the maximum tax permitted under its terms. In addition, issuance of a license in accordance with this ordinance does not excuse a licensee from compliance with any other applicable ordinance or statute. This ordinance does not prevent the village from imposing license

taxes on additional businesses, from increasing or decreasing the amount of any license tax, or from regulating any business taxes.

## **ARTICLE II LEVY**

**Section 3. Levy of Tax.** An annual privilege license tax is hereby levied on each business conducted within this village in the amounts set forth in the Privilege License Section of the Village Fee Schedule.

**Section 4. Who Must Pay Tax.** Each person who conducts a business within this village is subject to this ordinance. A person “conducts business” when he engages in one act of business taxed under this ordinance. He conducts the business “within the Village” if he maintains a business location within the village; or if, either personally or through agents, he (1) solicits business within the village limits or (2) picks up or delivers goods or services within the village limits.

### **Section 5. Period of License; Due Date.**

(a) **Annual licenses.** Unless the section of this ordinance levying the privilege license tax applicable to a particular business provides otherwise, a license issued in accordance with this ordinance is good for the twelve-month period beginning July 1 and ending June 30. The tax is due on July 1 of each year. However, if a person begins a business after July 1 of a year, the tax for that year is due before the business is begun.

(b) **Licenses for periods shorter than one year.** If the section of this ordinance levying the privilege license tax applicable to a particular business so provides, a license may be issued for a period of one day, one week or some comparable period of less than a full license year. A person may not commence a business conducted within the village and taxed under such a provision until the privilege license tax due is paid and may not continue such a business beyond the period for which the license is issued.

**Section 6. Proration of tax.** If a business is begun after January 31 and before July 1, the amount of tax due is half the amount otherwise due. If a business is seasonal in nature and if the amount of tax is not based on gross receipts, the amount of tax due is half the amount otherwise due.

**Section 7. Refunds.** If for any reason a licensee discontinues his or her business during the license year, he or she is not entitled to a refund.

**Section 8. Separate Businesses.** A separate license is required and a separate privilege license tax must be paid for each place of business unless two or more places of business under common ownership are contiguous to each other, communicate directly with and open into each other and are operated as a unit. In addition a separate privilege license tax must be paid for each business taxable under this ordinance conducted by the taxpayer at any one location; however, the tax collector may issue a single license for all taxable business conducted at one location by a single taxpayer.

**Section 9. Computation of Tax Based on Gross Receipts.**

- (a) Whenever this ordinance levies a privilege license tax computed on the basis of gross receipts, "gross receipts" means the amount reported as gross receipts on a business's state income tax return, or on the federal income tax return filed with the state income tax return if the state return does not separately state gross receipts for the most recently completed tax year.
- (b) If a business has not been in operation long enough for the information required in subsection (a) of this section to be available, the tax collector shall estimate gross receipts for the business on the basis of gross receipts of comparable businesses, or any other information that the tax collector considers useful.

On or before July 31 immediately after the license year, each licensee who paid the tax for the past license year based on estimated gross receipts shall submit to the tax collector a sworn final report showing the amount of gross receipts for the license year. If the amount shown is more than estimated gross receipts, the licensee shall pay the amount of additional tax that would have been due had the estimate been accurate. If the amount shown is less than estimated gross receipts, the village shall refund to the licensee the difference between the actual tax paid and the amount of tax that would have been due had the estimate been accurate.

**Section 10. Exemptions.**

- (a) **Generally.** Except as otherwise provided in this section or by state law, no person is exempt from the payment of a privilege license tax levied by this ordinance.
- (b) **Charitable organizations.** A person who operates a business for a religious, educational, civic, patriotic, charitable, or fraternal purpose, when the entire gross income of the business is used for such a purpose, is exempt from paying any privilege license tax levied by this ordinance.
- (c) **Blind persons and members of the armed forces and merchant marine.** Blind persons and persons who serve in the United States armed forces or the merchant marine are exempt from paying any privilege license tax levied by this ordinance to the extent provided by G.S. 105-249 and G.S. 105-249.1.
- (d) **Must obtain license.** A person exempt from paying a privilege license tax levied by this ordinance shall nevertheless obtain a license from the tax collector. The license shall state that the licensee is exempt from paying the privilege license tax.

**ARTICLE III. LICENSES**

**Section 11. Application.** A person shall apply to the tax collector for each license required by this ordinance no less than thirty days before the date the tax is due.

The application, which shall be submitted on forms provided by the tax collector, shall contain:

- (a) The name of the applicant and whether the applicant is an individual, a partnership, a corporation, or some other entity.
- (b) The nature of the business.
- (c) Where the business is conducted.
- (d) An address where notices and statements may be mailed to as required by this ordinance.
- (e) Whether the business is regulated by a state occupational licensing board subject to G.S. chapter 93B, and if so, the serial number of the state license the applicant currently holds.
- (f) Any other information the tax collector determines to be necessary to compute the amount of tax due.

**Section 12. Reasons for Refusal or Revocation of a License.** The tax collector shall refuse to issue a license or shall revoke a license for either of the following reasons:

- (a) The applicant misrepresents a fact relevant to the amount of tax due or his or her qualifications for a license.
- (b) The applicant refuses to provide information necessary to compute the amount of tax due.

**Section 13. Unqualified Applicants: Right to a Conference.** After receipt of the completed application, if the tax collector believes that a reason exists for refusing a license under Section 12 of this ordinance, the tax collector shall refuse to accept payment of the tax and shall not issue the license. At the applicant's request, the tax collector shall, in accordance with Section 22 of this ordinance, give the applicant a written statement of the reason for refusing the license. The applicant may, within ten days after the day the statement is received, request a conference to discuss the refusal. In the request, the applicant shall specify why the applicant for a license should not be refused. The tax collector shall arrange the conference within a reasonable time.

If the tax collector refuses to issue a license, the applicant may reapply for a license at any time thereafter. If the reason for which the application was refused no longer exists, and if no other reason exists for refusing to issue a license, the tax collector shall issue the license in compliance with Section 14 of this ordinance.

**Section 14. Tax Collector to issue License: Payment of Tax a Prerequisite.**

After receipt of the completed application, if the tax collector believes that no reason exists for refusal of a license under Section 12 of this ordinance, the tax collector shall determine the amount of tax due and notify the applicant of that amount. The tax collector shall not issue a license until the tax is paid.

**Section 15. Amount of Tax Disputed.** If disputes arise over the amount the tax collector determines to be due, the applicant may either refuse to pay and request a conference with the tax collector to discuss the determination or pay the amount and request a conference to discuss the right to a refund. If a conference is requested, the tax collector shall arrange it within a reasonable time.

**Section 16. Revocation.** The tax collector shall revoke a license if a reason exists to revoke it as set forth in Section 12 of this ordinance. Before revoking a license, the tax collector shall give the licensee written notice of the grounds for revocation, in accordance with Section 22 of this ordinance. The licensee may within ten days after the day on which notice is served request a conference with the tax collector in writing. The request shall specify the reason why the license should not be revoked. The tax collector shall arrange the conference within a reasonable time.

If the licensee fails to request a conference within ten days after the day on which notice is served, the tax collector shall revoke the license. If the licensee requests a conference, the tax collector may not revoke the license until after the conference.

If the tax collector revokes a license, the former licensee may apply for a new license at any time thereafter. If the reason for which the license was revoked no longer exists and if no other reason exists for refusing to issue a license, the tax collector shall issue the license in accordance with Section 14 of this ordinance.

**Section 17. Form and Contents of License.** A license shall show the name of the person licensed, the place where the business is conducted (if it is to be conducted at one place), the nature of the business licensed, the period for which the license is issued, and the amount of tax paid. In addition, if a machine is licensed, the license shall show the serial number of the machine. The tax collector shall keep a copy of each license issued.

**Section 18. Assignments.** A license may be assigned if (1) a business licensed under this ordinance and carried on at a fixed place is sold as a unit to any person, and (2) the purchaser is to carry on the same business at the same place. Such a change shall be reported to the tax collector in accordance with Section 19 of this ordinance. Otherwise, each license issued under this ordinance is a personal privilege and is not assignable.

**Section 19. Changes in the Business Conducted by Licensee during the Tax Year.** A licensee or an assignee shall report a change in the information contained in the license application to the tax collector within ten days after the change occurs. If information shown on the license itself is affected, the licensee or assignee shall surrender the license to the tax collector when reporting the change.

- (a) **Changes affecting the amount of tax due.** If there are no reasons for revoking the license under Section 12 of this ordinance and the change results in the imposition of a separate or additional tax, the tax collector shall reissue a license reflecting the change upon payment of the separate or additional tax.
- (b) **Changes not affecting the amount of tax due.** If there are no reasons for revoking the license under Section 12 of this ordinance and the change does not result in an imposition of a separate or additional tax, the tax collector shall reissue a license reflecting the change upon payment of a fee of \$10.00.
- (c) **Change requiring refusal of a license.** If there is reason for revoking the license under Section 12 of this ordinance, the tax collector shall refuse to reissue a license and shall instead begin proceedings to revoke the license in accordance with Section 6 of this ordinance.

**Section 20. Tax Collector to Furnish Duplicates.** Upon satisfactory proof that a license has been lost or destroyed, the tax collector shall furnish a duplicate for a fee of \$10.00.

**Section 21. Record of Conferences.** The tax collector shall maintain for three years a record of each conference held in accordance with this article. The record shall contain the applicant's or licensee's name, the date of the conference, and a brief statement of the issues discussed and the result reached. After three years, the tax collector shall dispose of the record in accordance with G.S. 121-5.

**Section 22. Providing Notice to an Applicant or Licensee.** Whenever this ordinance requires the tax collector to give a written statement or notice to an applicant or licensee, the tax collector may do so in one of three ways:

- (a) By personally delivering the statement or notice to the applicant or licensee;
- (b) By mailing the statement or notice by registered or certified mail and returning the receipt requested to the address specified for that purpose in the license application; or
- (c) By causing the statement or notice to be served on the applicant or licensee in accordance with the procedures for service of process under Rule 4, North Carolina Rules of Civil Procedure.

#### **ARTICLE IV. ENFORCEMENT AND COLLECTION**

**Section 23. Duty to Determine Whether Tax Due.** Each person has the duty to determine whether the business he or she conducts is taxed under this ordinance and if so, whether that tax has been paid for the current tax year.

**Section 24. Tax Collector to Investigate.** If the tax collector has reason to believe that a person is conducting a business in the village in violation of this ordinance, the tax collector shall conduct an investigation to determine the person's tax liability.

**Section 25. Duty to Keep Books.** Each person who conducts a business taxed under this ordinance shall keep all records and books necessary to compute the tax liability. If a person fails to keep books and records as required, the tax collector shall make a determination of that person's tax liability from the information available.

**Section 26. Duty to Permit Inspection.** Each person who conducts business in the village shall permit the tax collector to inspect the business premises during normal business hours to determine the nature of the business conducted there and to examine the books and records to determine the nature and amount of business transacted.

**Section 27. Duty to Post License.** A licensee shall post the license or licenses conspicuously in the place of business licensed. If the licensee has no regular place of

business, the license must be kept where it may be inspected at all times by the proper village officials. If a machine is licensed, the license shall be affixed to the machine.

**Section 28. Notice of Deficiency.** If the tax collector determines that a person has not paid the full amount of tax due under this ordinance, either for the current license year or for a prior license year, the tax collector shall give the person written notice of the deficiency, in accordance with Section 22 of this ordinance. The notice of deficiency shall specify the total amount of tax due; the section of this ordinance upon which the tax is based; the amount of tax paid; any interest due; the balance owed; the manner and time period in which the person may respond to the notice of the deficiency; and the consequences of failing to respond as specified.

**Section 29. Request for a Conference.** The person may, within ten days after the day on which notice is served, request a conference in writing. The request shall specify the person's objections to the notice of deficiency. By way of illustration but not limitation, a person who receives notice of a deficiency may object on the following grounds:

- (a) That the tax due has already been paid;
- (b) That the tax collector miscalculated the amount of tax due;
- (c) That the tax collector based his calculation on incorrect or insufficient information concerning either the nature or the amount of business conducted;  
or
- (d) That the tax collector based the determination on an erroneous interpretation of a section of this ordinance that establishes a category of business subject to a particular tax.

**Section 30. Deficiency to Become Final.** If the taxpayer fails to request a conference under Section 29 of this ordinance, the deficiency becomes final and the tax collector shall proceed to collect the deficiency.

**Section 31. Conference Held.** If the taxpayer requests a conference, the tax collector shall not proceed to collect the deficiency until hearing the taxpayer's objections and determining that the deficiency should become final. The tax collector shall maintain a record of each conference held for three years in accordance with Section 29 of this ordinance. The record shall contain the name of the taxpayer, the date of the conference, a brief statement of the issues discussed, and the results of the discussion. After three years the tax collector shall dispose of the record in compliance with G.S. 121-5.

**Section 32. Collection of Deficiency.**

(a) The tax collector may use any of the following methods to collect a deficiency:

- (1) Criminal prosecution in accordance with section 33(a) of this ordinance;
- (2) Equitable relief in accordance with section 33(b) of this ordinance;

(3) The remedies of levy, sale, attachment and garnishment in accordance with G.S. 160A-207; or

(4) The remedies of levy and sale of real and personal property of the taxpayer within the village in accordance with the provisions of G.S. 105-109.

(b) Any person who commences or continues to conduct a business taxed under this ordinance without payment of the tax is liable for the additional tax of 5 (five) percent of the amount of the license every thirty days for a maximum of 25 (twenty-five) percent, with a minimum penalty of \$5 (five dollars) as imposed by G.S. 105-236(2).

**Section 33. Enforcement of Ordinance.**

(a) **Criminal Remedies.** Conducting business within this Village without having paid the privilege license tax imposed by this ordinance, or without a valid license issued in accordance with this ordinance, or without posting a license in compliance with Section 27 of this ordinance is a misdemeanor, punishable as provided in G.S. Section 105-109. Each day that a person conducts business in violation of this ordinance is a separate offense. Payment of a fine imposed in criminal proceedings in accordance with this section does not relieve a person of the liability for taxes imposed under this ordinance.

(b) **Equitable Remedies.** In addition to the criminal remedies set forth in subsection (a) of this section and in compliance with G.S. 160A-175(d), the Village may seek an injunction against any person who conducts a business in violation of this ordinance.

Adopted the 12<sup>th</sup> day of May, 2008.

Effective immediately.

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Mayor Tracey Clinton

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Cheryl Bennett, Clerk

10. **CONSIDER APPROVAL OF PRIVILEGE LICENSE FEE SCHEDULE WITH CHANGE IN MAXIMUM ON RETAIL AND WHOLESALE TO \$5,000.**

The fee schedule has one change to category 275 Retail Merchant; the maximum is changing from \$1,000 to \$5,000. This also affects code 277 Wholesale Merchants, which refers to code 275.

Horvath made a motion to approve the privilege license fee schedule incorporated herein; Bradford seconded the motion.

The motion passed unanimously.

**VILLAGE OF WESLEY CHAPEL      PRIVILEGE LICENSE Fee Schedule      May 12, 2008**

<b>CODE</b>	<b>CATEGORY</b>	<b>TAX</b>	<b>CODE</b>	<b>CATEGORY</b>	<b>TAX</b>
102	Auctions	50.00	230	Itinerant Merchant	100.00
103	Advertisers	35.00	231	Ice Cream/Ice Vehicle	75.00
104	Advertisers - Outdoor	35.00	232	Specialty Market Operator	200.00
105	Agriculture Machine Manufacturer	300.00	236	Janitorial Services	25.00
106	Alarm Systems	0.00	237	Jewelry	25.00
107	Amusements	25.00	240	Junk Dealers	62.50
108	Antiques, second hand	37.50	242	Laundries	50.00
111	Auto/Truck rental: 10 or less	37.50	244	Laundries, off site	50.00
112	Auto/Truck rental: 11 to 25	50.00	243	Lawn Equipment-Sales/Repair	50.00
113	Auto/Truck rental: 26 and up	75.00	245	Lawn Maintenance/Landscaping	50.00
114	Auto Service/Repair	12.50	251	Loan Companies/Check Cashing	100.00
115	Motorcycle Dealer/Service	12.50	252	Locksmiths	30.00
116	Motor Parts - Wholesale	37.50	257	Lunch stands, per seat	0.50
117	Motor Vehicle Dealer*add rental fee if appl	25.00	263	Manufacturer:	
118	Motor Vehicle Dealer - Temporary	300.00		Up to \$ 50,000	50.00
119	Assembly Auto Parts	600.00		Up to \$ 100,000	100.00
120	Awning, Tent Makers/Installation	22.50		Up to \$ 200,000	150.00
121	Baker, Wholesale	150.00		Up to \$ 300,000	200.00
122	Baker, Retail	37.50		Up to \$ 400,000	300.00
123	Balloons, Flags, Novelties - Year	37.50		Up to \$ 500,000	400.00
124	Balloons, Flags, Novelties - Week	15.00		Up to \$ 750,000	500.00
125	Balloons, Flags, Novelties - Day	4.50		Up to \$ 1,000,000	600.00
126	<b>Barber - Beauty Shop (per person)</b>	2.50		Up to \$ 2,000,000	700.00
127	On-premises malt beverage	15.00		Up to \$ 3,000,000	800.00
128	Off-premises malt beverage	16.50		Up to \$ 4,000,000	900.00
129	Wholesale, beer & wine	62.50		Up to \$ 5,000,000	1000.00
130	Bicycle Dealer/Repair	25.00	275	Retail Merchants - \$ 15.00 plus .40 per	
131	Bankrupt or Fire Sale	450.00		\$1000 over \$5000 (maximum \$5,000)	
132	Banks, Savings & Loans, Credit Unions	0.00	277	Wholesale Merchants (see # 275)	
133	Wholesaler, beer only	37.50	284	Movie Theatre	200.00
134	Wholesaler, wine only	37.50	285	Movie Theatre (3 days or less)	100.00
135	On-premises wine	15.00	286	Theatre, outdoor	100.00
136	Off-premises wine	10.00	287	Music Machines (each)	5.00
139	Bowling Alley, per lane	10.00	290	Newsstand	30.00
141	Pawnbroker	275.00	293	Oil Dealers	25.00
142	Building Contractor*must be state licensed	10.00	301	Package Delivery	75.00
148	Campgrounds	12.50	302	Painting Contractor (each)	15.00

Minutes 2008.05.12, corrected 07.31.08, approved 07.31.08

149	Carnival Companies	100.00	303	Packing Houses - Meat	100.00
150	Carpet Cleaners	37.50	310	Peddler - Farm Only	25.00
153	Catering Trucks (each)	50.00	311	Peddlers (foot)	10.00
155	Child Care Home	10.00	312	Peddlers (vehicle)	25.00
156	Child Care Center: less than 50 children	50.00	313	Arcades / Pinball Machine	25.00
	50 - 99 Children	100.00	318	Pistols or Cartridges	50.00
	100 - 149 Children	200.00	322	Pool Tables (each business location)	25.00
	150 - 200 Children	300.00	328	Promotion Show - Profit	100.00
	More than 200 Children	400.00	329	Private detective / Investigator	0.00
157	Christmas Tree Dealer	50.00	330	Professional (*See Below)	0.00
158	Community Antenna / \$1000	15.00	333	Repair / Fix-It Shop	25.00
159	Circuses / Animals (per day)	25.00	334	Restaurant (0-4 seats)	25.00
163	Collection Agencies	50.00	336	Restaurant (5 or more seats)	42.50
164	Commissioned Brokers	50.00	335	Salvage	100.00
165	Cottage Industries - See # 275		337	Sundries (per location)	4.00
173	Curb Market	18.75	349	Service Company	50.00
174	Dances	25.00	355	Sign Hanger	100.00
175	Special Contractors (Plumbers, Ht & AC, Elect. Etc.)	50.00	356	Sign Painter	37.50
			358	Skating Rink	25.00
176	Computer Services, etc.	50.00	360	Sprinkler Systems	100.00
178	Dog / Cat Breeders	10.00	366	Tailoring, Custom	37.50
180	Dry Cleaners (solicits within county)	50.00	367	Tailoring / Alterations	15.00
181	Dry Cleaners (solicits outside county)	100.00	368	Taxicabs, Limos (per vehicle)	15.00
185	Electronics Sales / Service (#275)		369	Tanning Beds (each)	15.00
186	Elevator Systems	100.00	370	Tobacco Warehouse	50.00
187	Employment Agencies / Emigrant	100.00	380	Travel Agency	37.50
188	Engravers / Printing	50.00	384	Undertaker	50.00
190	Exhibitions	15.00	385	Mini Storage (per unit) *maximum \$200	5.00
191	Firearms (Dealer Shows - per day)	50.00	386	Warehouse - Merchandise Storage	75.00
205	Fortune Tellers	200.00	387	Watch, Jewelry Repair	25.00
200	Florist - \$25,000 or more	50.00	390	Welders	37.50
201	Florist - less than \$25,000	25.00	398	Wrecker Service (per wrecker)	15.00
205	Fortune Tellers	200.00	407	Flea Markets	100.00
210	Fur Wholesalers	450.00	408	Bar, Tap Room, Lounge	100.00
211	Games each, not video	20.00	414	Leasing Equipment *not vehicle	100.00
214	Gasoline	12.50	417	Security Guard Service	55.00
227	Gyms	25.00	423	Video Games (each)	5.00
228	Hotel, Motel, per room (min. \$25.00)	1.00	424	Video Rental	25.00
229	House Moving / Wrecking	37.50	425	Video Taping Service	25.00
			500	Adult Establishment	300.00

**Professional:** attorney, physician, veterinarian, surgeon, osteopath, chiropractor, chiropodist, dentist, ophthalmologist, optician, optometrist, engineer, land surveyor, architect, photographer, real estate broker, salesman, loan broker or appraiser, public accountant, embalmer, mortician, massage therapist, faith healer - see G.S. 105.41

11. CONSIDER APPROVAL OF RESOLUTION 2008-07 IN SUPPORT OF  
SOUND, FAIR AND UNIFORM MUNICIPAL ANNEXATION  
STATUTES

The League brought this to our attention; in the Legislature short session they are considering a bill to halt all city initiated annexations, and also any satellite annexations (which would affect us). They asked us to prepare resolutions in support of the annexation statutes. Pierce made a motion to approve Resolution 2008-07, incorporated herein. Croffut seconded the motion.

The motion passed unanimously.

RESOLUTION 2008-07 IN SUPPORT OF  
SOUND, FAIR AND UNIFORM  
MUNICIPAL ANNEXATION STATUTES

WHEREAS, the North Carolina General Assembly has determined that it is in the best interests of North Carolina citizens to allow municipalities authority to undertake annexation of adjacent developing areas under strict, specified circumstances and standards; and

WHEREAS, orderly growth through annexation provides a means for cost effective provision of needed municipal services; and

WHEREAS, such orderly growth helps prevent unnecessary duplication of services, proliferation of special taxing districts and promotes environmental protection and the economic strength of cities, towns and the state; and

WHEREAS, annexation allows municipalities, on behalf of their residents, to ensure that those who benefit from municipal services and their proximity to a municipality help pay a fair share of the cost of those services and benefits; and

WHEREAS, North Carolina municipalities are in the process of undertaking lawful annexation proceedings in accordance with longstanding state law; and

WHEREAS, municipal officials elected by the people of our cities and towns need adequate authority to address local issues and needs, and it is in the public interest for the city-initiated annexation statutes to remain uniform statewide;

NOW THEREFORE, BE IT RESOLVED that the Village of Wesley Chapel Council hereby declares its opposition to a moratorium on lawful municipal annexation proceedings, and its support for the underlying sound basic principles of North Carolina's annexation statutes.

Adopted: May 12, 2008

Mayor Tracey Clinton  
Mayor Tracey Clinton

Attest:

Cheryl Bennett  
Cheryl Bennett, Clerk

12. CONSIDER APPROVAL OF CHANGES TO ZONING ORDINANCE FOR APFO AMENDMENT; LIQUOR BY THE DRINK CHANGES; AND FIRE DEPARTMENT HEIGHT AMENDMENT

Krieg noted the recommendation of both the County and Village attorney is that we added the text to our Zoning Ordinance to adopt the APFO. Bradford made a motion to add the APFO text, as incorporated herein, to our Zoning Ordinance. Croffut seconded the motion.

The motion passed unanimously.

**Text Amendment to Incorporate Union Co. APFO into the Wesley Chapel Zoning Ordinance**

Appendix 17-C

Adequate Public Facilities

Any permit which authorizes the construction of a dwelling unit shall be subject to Section 360-373 of the Union County Land Use Ordinance (Adequate Public Facilities Section).

Liquor by the drink changes were addressed next. Krieg reported they went to the Planning Board in March, and they recommended adoption with one change, that restaurants be allowed by right in B1. Bradford noted ABC does not have a lot of distinction between a restaurant and bar. In a shopping center there is more interest in keeping it family friendly, but in B1 there is not as much peer pressure, thus she would like it conditional in B1. She spoke to Mr. Drucker at the School of Government and the ABC commission, and got two different answers, but ABC does tend to go with the town recommendations if we have something specified in our zoning ordinance. Krieg recommended the changes. The likelihood of having a restaurant of less than 2000 square feet, which is the cutoff for a CUP, is pretty unlikely. Pierce made a motion to approve the changes as recommended by the Planning Board, with restaurants allowed as a use by right in B1. Horvath seconded the motion.

The motion passed 3-1, with Bradford voting nay.

The ordinance changes are as follows:

Change:

**Restaurant** – As outlined in N.C.G.S. 18B-1000, an establishment substantially engaged in the business of preparing and serving meals. To qualify as a restaurant, an establishment's gross receipts from food and nonalcoholic beverages shall be not less than thirty percent (30%) of the total gross receipts from food, nonalcoholic beverages, and alcoholic beverages. A restaurant shall also have a kitchen and an inside dining area with seating for at least 36 people.

Change:

**Lounge** – An establishment (e.g., bar, tavern) used primarily for the serving of alcoholic beverages to patrons and where the sale of prepared food if provided, is accessory to the primary use.

Please note that state law per N.C. G.S. 18B-1000 does not draw a distinction between bars and restaurants for the purpose of alcoholic beverage sales. Like a restaurant, a lounge's total gross receipts from food and nonalcoholic beverages shall be not less than thirty percent (30%) of the total gross receipts from food, nonalcoholic beverages, and alcoholic beverages.

Any lounge which provides facilities or services which satisfy any portion of the definition of “adult establishment” per G.S. 14.202.10 shall be considered an “adult establishment”.

Add:

**Bar** – See “Lounge.”

Add:

**Nightclub** – See “Lounge.”

Add:

**Private Club** - As outlined in N.C.G.S. 18B-1000, an establishment authorized by the ABC Board to serve up to 100% alcohol that is organized and operated solely for a social, recreational, patriotic, or fraternal purpose and that is not open to the general public, but is open only to the members of the organization and their bona fide guests. This definition does not include Country Clubs, Non-Profit Clubs, or Lodges.

Change:

**Club or Lodge** to

**Non-Profit Club or Lodge** – A building or site used by a non-profit or not-for-profit membership organization for recreational or social purposes. Includes Service Organization Meeting Facilities (e.g., Union Hall, Boy Scout Hut, Elks Lodge, Masonic Lodge).

Add:

**Fraternal Lodges** – See “Non-Profit Club or Lodge.”

Change **Country Club** To:

A land area and buildings containing recreational facilities, clubhouses and usual accessory uses, open to members and their guests which is privately operated. Uses at a country club frequently include golf courses, swimming pools (outdoors), and club-houses. Meal service may be available, but is generally limited to members and their guests. A country club may be developed as a free-standing entity or as part of a residential community or planned residential development. *Reference N.C.G.S. 18B-1000 “Residential Private Club”.*

#### **Liquor by the Drink Ordinance Changes – Proposed Changes to Table of Uses**

Change “Private Club (See Lounge)” to “Private Club”. Allow as Conditional Use in B-1, B-2, L-1.

Change “Restaurant, no Drive-in/Drive-Through, excluding Fast Food” to allow as Permitted by Right only in B-2, L-1 and B-1.

Change Lounge/Bar (Principal Use), allow Permitted by Right only in B-2, L-1. Allow as Conditional Use in B-1.

Add item to Table: Bar (See “Lounge”)

Add item to Table: Nightclub (See “Lounge”)

Add item to Table: Non-Profit Club – Supplemental Regulation 6.10.1, Cs in R-80, R-60, RA-40, R-40, RA-20, R-20; X in B-1, B-2, L-1, O-I.

Add item to Table: Lodge (See “Non-Profit Club”)

Change “Fraternal Lodges, includes...” to “Fraternal Lodges (See “Non-Profit Club or Lodge”)", move zoning information to “Non-Profit Club or Lodge” line.

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The last item is to add Section 4.8.3 to allow public safety stations to be 45 feet in height. Mayor Clinton asked how tall the New Town Road Fire Station is; Butch Plyler said probably 35 feet. Krieg noted measuring is done as an average of peak to gutters, so the ridge of the roof is 52 feet, and the gutter about 38 feet. Pierce made a motion to approve adding Section 4.8.3, incorporated herein. Horvath seconded the motion.

The motion passed unanimously.

4.8.3 Public Safety Stations (police, fire, rescue) may be 45 feet in height.

13. CONSIDER REDUCTION OF BOND AMOUNT FOR WESLEY CHASE SUBDIVISION

Krieg reported there are currently 3 bonds for Wesley Chase; roads \$25,634.52; water and sewer \$62,147.22 and performance \$99,570. The recommendation is to reduce the water and sewer bond to \$31,736.10 per Union County public works, and reduce the performance bond to \$89,820 per the Village engineer. Horvath made a motion to reduce the bonds as recommended; Bradford seconded the motion.

The motion passed unanimously.

14. ANNOUNCEMENTS

The work session next week has been moved from Tuesday to Wednesday, May 21. On Tuesday the Union County Land Use Plan Steering Committee will meet at 5 pm at the media center of Weddington High School. There may be a quorum of Council in attendance.

Pierce had a sample flyer and participation form for the 10<sup>th</sup> anniversary celebration. George will review the waiver and hold harmless forms, and make changes if necessary.

15. OTHER BUSINESS

Mark Ball at JDH told Krieg they weren't going to give us the 2.5 acres until they got their C.O. for Lowe's in March 2009, the reason being they wanted to get real revenue before they took the tax deduction for the land. Mayor Clinton asked how the sequence went in the donation of the land by the Aston shopping center. Krieg said nothing is in the conditions that ties approval to dedication of the land. The plat does show the 2.63 acres, and it is in the subdivision plat. Krieg said he could issue the zoning permit, but hold up on the zoning compliance. Carol Mullis asked why we were doing this. Mayor Clinton said we are getting to the point with the Master Plan where we want to make some long term decisions and having the land available is valuable to us. Becky Plyler said she had a problem with how we are treating them, as opposed to Aston. Mayor Clinton said the difference is in how they are treating us. Aston tries to partner with the town, and JDH has not done this. Pierce noted she had wanted to announce their new businesses in the newsletter, and they would not respond to e-mails or calls. Becky Plyler said the YMCA Committee involved Aston and the YMCA people. Mayor Clinton noted she fought Aston as hard as JDH before she was Mayor, but the decision had been made and now she is just trying to make things successful. Stanley Schwartz commented that the buildings at JDH look mismatched since

they are not mostly brick. Krieg reported they said they would dedicate the land 10 days after they receive their CO on Lowe's; he also said they only contact him when they need something, not when he needs something. DiBiasio said in the public hearings they discussed the land donation, although it is not expressly listed in the CUP. Krieg said since it is not included in the CUP he doesn't feel he has authority to withhold the zoning permit. Carol Mullis questioned whether it was blackmail to withhold the permit. The Mayor questioned why they would hold back something they promised us until they get what they want. Croffut made a motion for Krieg to work with Mark Ball, Lowe's and JDH on the zoning permit and getting a written agreement that they will donate the land to us before they get the certificate of occupancy. Pierce seconded the motion.

The motion passed unanimously.

Krieg and Bennett provided resumes of what they felt were the top four candidates for our planner position. Two candidates are local; two are out of state. Pierce made a motion for Krieg and Bennett to interview the candidates by phone and report back to Council. Croffut seconded the motion.

The motion passed unanimously.

16A. COUNCIL COMMENTS – none.

A five minute recess was held.

16B. 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) Attorney Client Privilege re: Village of Wesley Chapel v. Union County (ETJ) and Plyer, etc. v. Village of Wesley Chapel. Pierce seconded the motion.

The motion passed unanimously.

Council consulted with their attorney on the lawsuits.

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

16C. CLOSED SESSION PER NC GS 143-318.11(a) (3) Attorney Client Privilege re: Legal Basis and Implications of Ordinance Enforcement

Bradford made a motion to go into closed session per NC GS 143-318.11(a) (3) Attorney Client Privilege re: Legal Basis and Implications of Ordinance Enforcement. Pierce seconded the motion.

The motion passed unanimously.

The Council consulted with their attorney regarding legal basis and implications of ordinance enforcement.

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

17. ADJOURNMENT

Bradford made a motion to adjourn; Pierce seconded the motion.  
The motion was approved unanimously.  
The meeting was adjourned at 9:45 pm.

Respectfully submitted,

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Cheryl Bennett, Clerk

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Mayor Tracey Clinton