

Minutes 02.12.07
Approved 03.12.07

VILLAGE OF WESLEY CHAPEL
COUNCIL MEETING
MINUTES
February 12, 2007 – 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 Horvath, Mullis, Pierce

Others Present:

Interim Village Clerk/Finance Officer: Cheryl Bennett
Planning/Zoning Administrator: Justin Krieg
Village Attorney: George Sistrunk
Concerned citizens

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. ADDITIONS, DELETIONS, AND / OR ADOPTION OF AGENDA
In Item #4, the Special Meeting January 30, 2007, Closed Session January 30, 2007 and Closed Sessions January 8, 2007 minutes were deleted; Item #7 “REPORT BY WELCOME COMMITTEE” was deleted. Item #13, “DISCUSS HAMPTON MEADOWS ROAD ISSUES” was moved to item #7. Items # 16, “MOTION TO CALL FOR CLOSED SESSION PER NC GS 143-318.11(a) (3) ATTORNEY CLIENT PRIVILEGE” and Item # 17, “MOTION TO CALL FOR CLOSED SESSION PER NC GS 143-318.11(a) (6) (to consider the qualifications of a public employee)” was moved after Item 20. Croffut made a motion to approve the agenda with these changes; Pierce seconded the motion.
The motion was approved unanimously.
3. INFORMAL PUBLIC COMMENTS
Cheryl Sain representing Gene and Catherine Sain spoke regarding their desire to have their parcels 06-045-005F (2.01 acres) and 06-045-005G (3.97 acres) annexed into Wesley Chapel. The parcels are on either side of an existing Wesley Chapel parcel owned by Dale Paxton.

Steve Pitt who lives in the northernmost area of ETJ spoke requesting Council reconsider their decision. He read a paragraph from the State Statutes regarding notifying all parcel owners by first class mail, and said he did not receive the

Minutes 02.12.07

Approved 03.12.07

letter; he copied the letter from the website; and said he had always gotten his tax bill.

Donna Pascinta from Hampton Meadows spoke regarding their road problem; she has talked to Justin Krieg and has found that Bowie Motors is responsible for the road since it was never turned over to the State. She noted the poor road condition can cause kids to get hurt, and the potholes are large. Bowie Motors is still in operation, they were in Monroe, but now in Chapel Hill.

Jean Cason, who lives in Hampton Meadows, spoke regarding a need for a leash law, and also concerns about people shooting guns late at night.

Stanley Schwartz who represents Silver Creek's HOA said he has two thirds of the homeowners who have signed to be annexed, and wants to officially get on our agenda.

Harry Martin from the ETJ area spoke against it; he feels voluntary annexation is the way it should work. He feels that the majority didn't vote, and the tax rate would go up to cover roads expenses.

Glen Gaines from Hampton Meadows complained of burning of copper wire, and the resulting toxic gases, which even comes through windows. He said it was illegal, and has called the State, but gotten no return calls. Mullis suggested he call the Union County Fire Marshall's office.

4. APPROVE MINUTES FOR:
Special Meeting December 27, 2006,
Council Meeting January 8, 2007,
Closed Session January 8, 2007, Item
Work Session and Public Hearings January 16, 2007, incl. closed items 11 and 12.

Horvath made a motion to approve the minutes. The motion died.

Pierce made a motion to approve the above minutes, which excludes the January 8, 2007 closed sessions minutes that were originally on the agenda. Horvath seconded the motion.

The motion was approved unanimously.

5. FINANCIAL STATEMENTS AND TAX REPORT

- a. Review and approve the Village Financial Reports dated January 31, 2007, Submitted by Cheryl Bennett, Finance Officer. (See Attachment A)
Mullis made a motion to approve the Village Financial Reports dated January 31, 2007; Horvath seconded the motion.

The motion was approved unanimously.

- b. Tax Report Update January 31, 2007 Prepared by Cheryl Bennett.
(See attachment B) Pierce made a motion to approve the tax report update of January 31, 2007; Mullis seconded the motion.
The motion was approved unanimously.
- c. Approve Refund of Property Tax Overpayments.
Refunds total \$602.75; \$72.10 to St. Lawrence Homes; \$213.47 to First American, \$39.11 to Michelle Vereckey; \$59.22 to Di-tech.com; \$26.99 to Horack, Talley, Pharr & Lowndes, PA; \$44.65 and \$76.25 to Attorney Lisa Jarvis; \$14.39 to Faye Strawn; \$5.50 to Chase Plastic Services and \$51.07 to Wallace, Pittman & Webb PLLC. Croffut made a motion to approve the \$602.75 in refunds; Pierce seconded the motion.
The motion was approved unanimously.

6. REPORT BY ASTON PROPERTIES ON VILLAGE COMMONS

Kevin Flynn from Aston Properties reported that in three weeks they should be seeding the Village property at Village Commons and we should get geo-technical observation reports soon thereafter. Repairs have been completed to the dome. Currently, in Phase II, CVS is open, and soon to open is the gas station. Last week they completed the transaction with Target, which plans to open in July 2008. It will be similar in mass and quality to the Blakeney store, and be 128,000 square feet; it is not a Super Target. Target is excited to be here. Construction will commence in September 2007; there will be more road improvements, but not any major tearing up of the road. The design architect, 575 Design, is based in Boulder, Colorado. Flynn showed a building for a coffee type shop, 8000 square feet of retail attached to Target; possibly a BB&T, ChickFilA. The Main Street will give a sense of place and downtown; with outdoor plazas and gathering places. There will be fast casual dining as well as larger formal restaurants; also specialty retail. They will be using traffic calming technologies on site; such as a roundabout. There will be a gate to Wesley Oaks which can be closed at night. A citizen asked about water features; Flynn said no, they would have to be fenced, and chlorinated. The project will be built out in 24-30 months. Citizen questions included: showing movies like in Mint Hill, answer – haven't ruled it out; an enclosed playground?, answer – probably no. The Mayor noted the Master Plan committee is looking for input and encourages folks to participate. Flynn noted Aston has commitments regarding security, and they have a large investment to protect. Target does high quality videotapes of all parts of their property. A citizen questioned on Aston contributing to building a town hall; Flynn noted Aston has donated the land to the town, as well as a significant contribution in fill and grading the land. There will be sidewalks all along Highway 84 on their property; they currently have sidewalks on Waxhaw-Indian Trail Road connecting to Wesley Oaks. The detention pond will have a fountain, and they will install two more sediment ponds. The parking lots toward 84 will be buffer landscaped towards the road. Croffut inquired regarding the bugger between Target and the Essex portion of Wesley Oaks; there is about two hundred feet between the back of the homes and Target, and a six foot privacy fence. Mayor Clinton inquired regarding a message board; Aston has committed to this in Phase 1 & 2, it should be ready in about 90 days for Phase I at the corner near Kami.

Minutes 02.12.07

Approved 03.12.07

7. DISCUSS HAMPTON MEADOWS ROAD ISSUES

Krieg reported he had called Scott Cole from DOT and gone out with him and reviewed the site. The roads are in extremely poor condition. Donna Pascinta got the maintenance certificate from the Register of Deeds and Bowie Motor Company is apparently responsible for the road. Krieg spoke to Mary Oaks at Bowie; they are being helpful. Krieg called Scott Cole; DOT had a petition by Bowie in 1991 to turn the roads over to the State; in 1994 the State had 3 or 4 points they sent to Bowie, and there the trail stops. Krieg will talk to Bowie and Boggs Paving, and should have information for the March meeting. Krieg noted the "gatorbacking" on the roads is a worse problem than the potholes.

A 3-4 minute recess ensued.

8. DISCUSS AND VOTE ON ETJ TEXT CHANGES

The ETJ Boundary Ordinance was approved 3-1 at our January 18, 2007 meeting. The following are the Subdivision Ordinance, Zoning Ordinance and Planning Board Rules of Procedure changes proposed:

Subdivision Ordinance Changes

Section 104 Jurisdiction

~~The regulations contained herein, as provided in G.S. 160A, Article 19, Part 2 shall govern each and every subdivision of land within the Village of Wesley Chapel.~~
ges:

The regulations contained herein, as provided in G.S. 160A, Article 19, Part 2 shall govern each and every subdivision of land within the Village of Wesley Chapel corporate limits and the Extra Territorial Jurisdiction Area.

Section 113. Other Definitions

Extra Territorial Jurisdiction. The legal ability of a government to exercise authority beyond the incorporated municipal limit.

Extra Territorial Jurisdiction Area. - The area outside the municipal limits, but within the Extra Territorial Jurisdiction of the Village, as may from time to time be adopted by the Village.

Zoning Ordinance Changes

Section 1.3 Jurisdiction

~~These regulations shall govern the use of all land and the development thereof within all of the incorporated area of the Village of Wesley Chapel, North Carolina.~~

These regulations shall govern the use of all land and the development thereof within the planning jurisdiction of the Village of Wesley Chapel corporate limits and the Extra Territorial Jurisdiction Area.

Section 2.2 Definitions of Specific Terms and Words

Extra Territorial Jurisdiction. The legal ability of a government to exercise authority beyond the incorporated municipal limit.

Extra Territorial Jurisdiction Area. The area outside the municipal limits, but within the Extra Territorial Jurisdiction of the Village, as may from time to time be adopted by the Village.

Section 11.1.2 Establishment of Zoning Board of Adjustment

The Board of Adjustment shall consist of five (5) regular members who are residents of the Village of Wesley Chapel and shall be appointed by the Village Council. In addition, two (2) alternate members who are residents of the Village of Wesley Chapel, and appointed by the Village Council shall serve on the Board of Adjustment in the absence of any regular member.

Additionally, the Board of Adjustment will include two (2) members from the Extra Territorial Jurisdiction (ETJ) Area. This number is based on proportionate population representation and should be periodically reviewed by the Village Council to ensure adequacy. ETJ members shall have and may exercise all powers and duties of regular members.

The terms of office of the members of the Board of Adjustment shall be for overlapping terms of three (3) years. Initial appointment of the members shall be as follows:

One (1) regular member shall be appointed by the Village Council for a one-year term; two (2) for two-year terms; and two (2) for three-year terms. Thereafter, members shall be appointed for three (3) years each. Alternate members shall be appointed for a term of three (3) years each. Nothing herein contained shall be so interpreted as to forbid any member from being appointed to succeed himself.

Vacancies occurring for any reason other than expiration of term shall be filled as soon as is reasonably possible after such vacancy occurs by the Village Council making the appointment, and such appointment shall only be for the period of the unexpired term.

Minutes 02.12.07

Approved 03.12.07

Members may be removed for cause by the Village Council upon written charges and after public hearing.

At time of appointment, the Council shall designate one regular member as Chairman. Such alternate member(s), while attending any regular or special meeting of the Board of Adjustment and serving in the absence of any regular member shall have and may exercise all the powers and duties of such regular members.

11.1.3 Jurisdiction

Each member of the Board of Adjustment shall have equal rights, privileges, and duties in all matters coming under the Board's purview.

Planning Board – Rules of Procedure Changes

Add Section 3-3 to Article 3

3-3 The Planning Board shall also include two (2) members from the Extra Territorial Jurisdiction (ETJ) Area. The number of ETJ members is based on population and should be periodically reviewed by the Village Council to maintain adequate representation. ETJ members shall have and may exercise all the powers and duties of regular members.

Article 7, Section 7-2

A quorum of the Planning Board shall be required to open any meeting and to conduct business. A quorum shall consist of at least ~~three (3)~~ four (4) Planning Board members.

Article 8, Section 8-6

- (b) Determination of Quorum (need 3- 4 present to make decisions and vote).

Mullis suggested a word change to Sec. 11.1.2, that instead of periodically it should specify annually; and a change that the initial appointment be one two year and one three year term, with three year renewal terms so that the terms are staggered. Pierce made a motion to change “periodically” to “annually” in paragraph 23 of Section 11.1.2 and Section 3-3 of the Planning Board Rules of Procedure; to add language to make the initial appointment be one 2 year term and one 3 year term, with renewal terms of 3 years. Horvath seconded the motion.

The motion was passed unanimously.

Pierce made a motion to update the Subdivision Ordinance, Zoning Ordinance and Planning Board Rules of Procedures. Horvath seconded the motion.

The motion was passed unanimously.

Minutes 02.12.07

Approved 03.12.07

9. DISCUSS AND VOTE ON ETJ ZONING MAP

Krieg said we basically took the county zoning and applied the same Village zoning, i.e. County R-40 becomes Village R-40. It was decided to change the title of the map to take out "proposed". Horvath made a motion to approve the ETJ Zoning Map and amend it into the overall zoning map. Croffut seconded the motion. Mullis said he will vote for this, but he doesn't like what the County did with taking the schools out of the ETJ area.

The motion passed unanimously.

10. DISCUSS AND VOTE ON RESOLUTION 2007-03 TO REQUEST BOARD OF COUNTY COMMISSIONERS APPOINT ETJ MEMBERS TO WESLEY CHAPEL PB AND BOA.

The Mayor will detail the statute mandated procedures the county must follow in the cover letter. Pierce made a motion to approve Resolution 2007-03 to request the Board of Commissioners appoint ETJ members to Wesley Chapel's Planning Board and Board of Adjustments. Horvath seconded the motion.

The motion was passed unanimously.

RESOLUTION 2007-03
REQUEST UNION COUNTY BOARD OF COMMISSIONERS APPOINT ETJ
MEMBERS

WHEREAS, the Village of Wesley Chapel Council wishes to comply with NCGS 160A-362 which states that as a result of extraterritorial jurisdiction, a means of proportional representation based on population for residents of the extraterritorial area be provided, and;

WHEREAS, the Union County Board of Commissioners is the appointing authority for the extraterritorial jurisdiction area of Wesley Chapel; and

WHEREAS, two such representatives shall be appointed to the Village of Wesley Chapel Planning Board and two such representatives shall be appointed to the Village of Wesley Chapel Board of Adjustments;

THEREFORE BE IT RESOLVED that the Village of Wesley Chapel Council hereby requests the Union County Board of County Commissioners appoint two representatives from the extraterritorial jurisdiction area to the Village of Wesley Chapel Planning Board and two representatives from the extraterritorial jurisdiction area to the Village of Wesley Chapel Board of Adjustments, in accordance with NC GS 160A-362.

Adopted this 12 day of February, 2007.

Mayor Tracey Clinton

Attest: _____
Cheryl Bennett, Interim Village Clerk

11. DISCUSS POSSIBLE REVISIONS TO ANNEXATION POLICY FOR ETJ AREAS

Horvath said he thinks in the ETJ area the Village should be more accommodating to voluntary annexation requests. Croffut read a letter from the President of the HOA in Wesley Oaks; Centex won't pay for the unsold lots, but out of 251 occupied home sites, he has paperwork on 162 homes, and they would like to go ahead and be annexed in. Silver Creek has 110 out of 139 homes with paperwork done. Mayor Clinton said she is in favor of waiving the percentage on property in the ETJ area; and waiving fees for two certain times. Croffut made a motion to waive the percentage required for subdivisions in the ETJ area. Horvath seconded the motion.

The motion was passed 3 to 1, with Mullis voting nay.

Mullis made a motion to change the timing for one cycle, to allow petitions through March 12, 2007 for annexation effective August 30, 2007. Croffut seconded the motion.

The motion was passed unanimously.

The issue of waiving the fees was discussed; Horvath said he didn't see \$30 as being a huge burden. Croffut didn't see \$30 as swaying homeowners. Pierce was in favor of waiving the fee. Mullis was not in favor of waiving the fee.

Pierce made a motion to waive the \$30 annexation fee for anyone in the ETJ area for three annexation cycles. Croffut seconded the motion.

The vote was 2 for (Pierce and Croffut), and 2 against (Horvath and Mullis).

The Mayor broke the tie by voting for the motion.

The motion passed, 3 -2.

The three cycles are March 2007, July 2007, and January 2008. Council directed staff to refund to the three or four who have already paid the fee in the current annexation cycle.

12. DISCUSS OPEN PLANNING BOARD ALTERNATE POSITION

Council consensus was to advertise for the open alternate position on the Planning Board, and to check for old applications.

13. Item moved to Item #7.

14. DISCUSS AND VOTE ON RESOLUTION 2007-04 RESOLUTION OF CONSIDERATION

Horvath made a motion to approve Resolution 2007-04, Resolution of Consideration; Pierce seconded the motion.

The motion was passed unanimously.

R-2007-04

(RESOLUTION OF CONSIDERATION)

A RESOLUTION IDENTIFYING THE AREA DESCRIBED HEREIN AS BEING
UNDER CONSIDERATION FOR ANNEXATION AND NOTIFICATION TO
CERTAIN PROPERTY OWNERS FOR THEIR RIGHTS TO DELAYED
ANNEXATION OF QUALIFIED PROPERTIES

BE IT RESOLVED by the Village Council of the Village of Wesley Chapel that:

Section 1. Pursuant to G.S. 160A-37(i), the following described areas are hereby identified as being under consideration for future annexation by the Village of Wesley Chapel, under the provisions of Chapter 160A, Article 4A, Part 2 of the General Statutes of North Carolina:

See attached map, "Village of Wesley Chapel, Resolution of Consideration, Initially adopted February 10, 2003, Re-adopted February 12, 2007."

Section 2. Owners of agricultural land, horticultural land and forestland within the areas under consideration for annexation as described in Section 1 above are hereby notified that they may have rights to a delayed effective date of annexation. G.S. 160A-37(f1) and (f2) provide that land being taxed at present-use value qualifies for delayed annexation, and land that is eligible for present-use value taxation but which has not been in actual production for the time period required by G.S. 105-277.3 may qualify for delayed annexation by making application to the Union County Tax Assessor for certification. For qualified tracts, the annexation will not become effective for most purposes until the last day of the month in which the tract or part thereof becomes ineligible for present-use value classification under G.S. 105-227.4 or no longer meets the requirements of G.S. 160A-37(f1)(2). Until annexation of a tract becomes effective, the tract will not be taxed by the Village and will not be entitled to services from the Village.

Section 3. A copy of this resolution shall be filed with the Village Clerk.

Section 4. This resolution shall remain effective as provided by G.S. 160A-37(i).

Re-Adopted this 12th day of February, 2007.

Tracey L. Clinton, Mayor

ATTEST

Cheryl Bennett, Clerk

15. REPORT BY SAFETY COMMITTEE

Brian Raughley, Chairman of the Safety Committee, said they have met four times, their mission statement is to be Council's policy advisor; and to use national standards to apply to issues brought to them. They seek to understand facts from emotions. They are building relationships, and they have met with the school principal. They have several projects, law enforcement including neighborhood watch; fire protection including ensuring an adequate water supply and fire hydrants, and keeping our fire taxes in our area; safety network; educational presentations; and citizen issues.

18. ANNOUNCEMENTS

Mullis said the MUMPO meeting is this week.

19. OTHER BUSINESS

There was no other business.

20. COUNCIL COMMENTS

Horvath and Croffut met with County Commission Chairman Pressley and Commissioner Baucom, they spent a cordial hour, but it was not very fruitful. Their two alternatives were an inter-local agreement, (but the Institute of Government said you cannot tie a future board's hands regarding re-zoning), and a referendum (but any referendum would have to go to the State Legislature, and they don't approve many; also it is not just about ETJ owners, Village residents should also have a say).

Mayor Clinton noted that the Advance is scheduled for March 2/3; dinner at 6:30 Friday night at the SPCC, and Saturday from 9-4:30 at the Union West branch of the Library in Indian Trail.

16. MOTION TO CALL FOR CLOSED SESSION PER NC GS 143-318.11(a) (3)
ATTORNEY CLIENT PRIVILEGE

Mullis made a motion to call for closed session per NC GS 143-318.11(a) (3) attorney client privilege; Horvath seconded the motion.

The motion was approved unanimously.

After discussing this item, Pierce made a motion to come out of closed session; Horvath seconded the motion.

The motion was approved unanimously.

Minutes 02.12.07
Approved 03.12.07

This page is left blank for closed session minutes.

Minutes 02.12.07

Approved 03.12.07

17. MOTION TO CALL FOR CLOSED SESSION PER NC GS 143-318.11(a) (6)
(to consider the qualifications of a public employee)

Pierce made a motion to go into closed session per NC GS 143-318.11(a) (6) (to consider the qualifications of a public employee); Croffut seconded the motion.

The motion was approved unanimously.

Croffut made a motion to consider re-advertising for a part time tax collector only, and advertise for two weeks. Pierce seconded the motion.

The motion was passed unanimously.

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

The motion was passed unanimously.

21. ADJOURNMENT

Pierce made a motion to adjourn the meeting; Croffut seconded the motion.

The motion was passed unanimously. The meeting was adjourned at 10:40 pm.

Respectfully submitted,

Cheryl Bennett, Interim Clerk

Mayor Tracey Clinton