

VILLAGE OF WESLEY CHAPEL
COUNCIL MEETING MINUTES
WESLEY CHAPEL UNITED METHODIST CHURCH
120 Potter Road, Wesley Chapel, NC 28110
October 18, 2011 – 7:00 P. M.

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

Present: Mayor Horvath; Council Members Ormiston and Hess

Absent: Mayor Pro-tem Bradford, Council Member Brotton

Others Present:

Village Clerk/Finance Officer: Cheryl Bennett; Planning and Zoning Administrator Joshua Langen

Concerned citizens: Carol Mullis, Karen Izzo, Sharon Rosche, John Lepke, Suzanne Walters, Gayla Adams, Julie Brown

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

1. PLEDGE OF ALLEGIANCE / INVOCATION

Mayor Horvath led the Pledge of Allegiance and gave the invocation.

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

The “Chamber of Commerce Presentation” and “Consideration of the Dam Drain” (under Parks and Rec Committee Update) were added; and the following items were deleted: “Discussion of Components of Downtown Resolution Using Approach Approved September 12th”, 2011”, “Discussion of Possible Village Website Enhancements”, and “Town Seal Discussion”. Hess made a motion to adopt the agenda with these changes; Ormiston seconded the motion.

The motion passed unanimously.

3. PUBLIC HEARING ON CHANGES TO SUBDIVISION ORDINANCE AND ZONING ORDINANCES

SUBDIVISION ORDINANCE:

- Section 411 Homeowners’ Associations
- Section 405 Road Standards and Buffering along Thoroughfares

ZONING ORDINANCE

- Article 2 Definitions of Graffiti and Subdivision
- Article 4.7.3 Temporary Uses
- Article 4 .16 Applicability of Planned Right-of-Way
- Article 4.17 Graffiti

- Article 6.13 Transportation Impact Analysis
- Article 10.3 Zoning Permit

Mayor Horvath opened the public hearing. Langen noted the Planning Board did not recommend the graffiti text changes as they felt it was unfair to make owners financially responsible. The public hearing was closed.

4. A. CHAMBER OF COMMERCE PRESENTATION

Sharon Rosche, President of the Chamber and Suzanne Walters, Business Development Associate were present. Sharon Rosche noted when she came in nine months ago a study showed the County was 85% residential and 15% commercial. She noted there were nice commercial areas in Wesley Chapel. Ms. Rosche said the Chamber hopes to attract projects to the area and we can come to them for any help such as advocating for business needs. She noted we are going through a transition, and they are centering on events for small businesses to improve awareness and they offer classes for small business owners. Suzanne Walters was hired because there are 621 square miles and they are servicing the entire county. Hess said small businesses are the lifeblood of the economy and where jobs grow. Langen said COG put together a large brownfield grant; Rosche said the Union County Partnership for Progress would focus on that. Langen asked about airport expansion; Rosche said they are approved for runway extensions and applying for customs which is important for small international jet flights. Langen asked about funds to widen Airport Road and had they dropped in funding status; Rosche said she will find out but due to the regional nature of roads we tend to get what is left after Charlotte's share. Mayor Horvath said Airport Road was higher in ranking, and that was the first he had heard of the ranking dropping. He noted the County is split between the Rocky River Planning Organization and MUMPO which also hurts our funding. Council thanked Sharon Rosche and Suzanne Walters for their presentation.

4. B. POSSIBLE VOTE ON AMENDMENTS TO SUBDIVISION AND ZONING ORDINANCES

Subdivision Ordinance: Section 411 – Homeowners' Associations – Langen said this change would require HOA's only for subdivisions with amenities; smaller items like gates and walls may not require an HOA. Requiring notice to each successive purchaser of a lot was deleted, since it is out of our realm. Details at 411.2(a) and (b) were deleted since there are rules at the State level regulating HOA's. Langen said the Planning Board did not want to actively promulgate liens if members did not pay their dues; and the attorney agreed with taking the language out. The proposed last paragraph required full disclosure about the HOA's; Langen said the developer can put the wording on the subdivision plat; it may or may not get into the hands of the homeowners. Hess said if there are things that need to be maintained it will drive the development into an HOA but the last paragraph takes away the largest incentive to pay dues. Section 411.2(a) is the only part the Village has interest in; why legislate what residents have interest in anyway. Mayor Horvath asked why we are singling out the item in the

last paragraph since state statutes supersede us. Hess said it could be a long and expensive way to bring this to the attention of the state legislature.

Hess made a motion to approve the text changes to Section 411, with the deletions of the last two sentences. Ormiston seconded the motion.

The motion passed unanimously.

The requirement for a written statement was discussed. Hess made a motion to reconsider the motion. Ormiston seconded the motion.

The motion passed unanimously.

Hess made a motion to adopt the changes to Section 411 of the Subdivision Ordinance, with deletion of the last two sentences, noting the action is reasonable and in the public interest. Ormiston seconded the motion.

The motion passed unanimously.

The approved text is as follows:

SECTION 411. Homeowners' Associations Required

~~411.1 New major subdivisions in which public or private streets are proposed or necessary shall establish a homeowners' association for the maintenance of improvements and common areas not dedicated to and accepted by a public authority for the purposes of maintenance. Improvements and common areas, that may be required by this Ordinance and that shall be maintained by the homeowners' association, include but are not limited to: streets not yet accepted into the public street system for maintenance by NCDOT, sidewalks, curbs and gutters, street lighting, and landscaped thoroughfare buffers. The homeowners' association also shall be responsible for maintenance of common improvements and common areas that are proposed by the subdivider for the benefit of all residents of the subdivision although not required by this Ordinance, including but not limited to entry signs, monuments, perimeter walls, entry gates and gatehouses, clubhouses, ponds and lakes including dams and other associated structures, and parking areas and driveways serving common areas.~~

New major subdivisions, consisting of twenty-five (25) houses or more, which include facilities requiring maintenance, such as private roads, pools, tennis courts, parks, facility parking, stormwater facilities beyond curb and gutter, and clubhouses shall establish a homeowner's association for the maintenance of those facilities. Subdivisions providing only amenities, such as sidewalks, fountains, monument signs, street lighting, walls, gates, planting areas, flower beds and sculpture, are not required to be maintained through a homeowners' association and, therefore, a homeowners' association is not required, as long as no common open space is proposed.

411.2 The homeowners' association shall be organized and established as a legal entity prior to or as a part of the final plat approval and recording process. Membership in the homeowners' association shall be mandatory for each original purchaser of a residential lot within the subdivision ~~and each successive purchaser of such lot.~~ The homeowners' association shall be organized so that it has clear legal authority to maintain and exercise control over the required improvements, common areas

and facilities, as specified in Section 411.1, and not dedicated to and accepted by a public authority for the purposes of maintenance.

~~a) The homeowners' association shall be responsible for the payment of premiums for liability insurance, local taxes, maintenance of recreational and other facilities located on the common areas, and payment of assessments for public and private capital improvements made to or for the benefit of the common areas. It shall be further provided that: 1) upon default by the homeowners' association in the payment to the governmental authority of an ad valorem tax levied against the common areas or assessments for public improvements to the common areas; and, 2) should such default continue for a period of six (6) months; then, each owner of a residential lot in the development shall become obligated to pay to the taxing or assessing governmental authority a portion of such taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the governmental authority by the total number of residential lots in the development. If the sum is not paid by the owner within thirty (30) days following receipt of notice of the amount due, then the sum shall become a continuing lien on the real property of the then owner, his heirs, devisees, personal representatives and assigns of such lot, and the taxing or assessing governmental authority may either bring an action at law against the owner obligated to pay the same or may elect to foreclose the lien against the real property of the owner.~~

~~b) The homeowners' association shall be empowered to levy assessments against the owners of residential lots within the development for the payment of expenditures made by the homeowners' association for the items set forth in the preceding subparagraph and any such assessments not paid by the owner against whom such are assessed shall constitute a lien on the residential lot of the owner.~~

ea) As a part of the final plat approval process, the developer shall submit to the Village the following documents, should an association be required, for review:

1. Proposed Articles of Incorporation for the association. Such Articles of Incorporation shall provide for homeowners control when over 50% of the lots are sold.
2. Proposed bylaws of the association. Such bylaws shall provide for annual meetings of the association, election of officers and distribution of an annual financial accounting to members.
3. Proposed annual budget of the association showing monthly assessments. The monthly assessments must be set at a sufficient

level to insure success of the association and necessary capital expenses.

4. Proposed restrictions and covenants for the common areas.

- d. b)** All proposed common areas shall be designated on the subdivision plat as common areas to be held in separate ownership for the use and benefit of residents occupying residential lots in the subdivision. Should these common areas contain and facilities which require maintenance, Approval of these common areas by the Village Council as part of the final plat approval process requires submission by the developer of restrictions and covenants that will govern the ownership, management, and maintenance of the facilities within those common areas. The Village Council reserves the right to conditionally deny approval of final subdivision plats if it finds that the restrictions and covenants do not properly address issues of ownership, management and maintenance of common areas. There shall be full disclosure that potential home-buyers understand the obligations and requirements of homeowners' associations.

Subdivision Ordinance - Section 405 Road Standards and Buffering along Thoroughfares – Langen noted these recommendations come from the LARTP. The requirement for multiple entrances for every 150 lots comes from York County's ordinance. Langen said the attorney sent him state law on what we can require from developers, and it is okay to require items on their own property, but not elsewhere. If you do improvements at each entrance, it helps out later on for the whole road. Deceleration lanes will be right turn lanes into subdivisions, Langen looked at the state highway manual and they start at a 180 foot length and goes up; so he decided to start with the minimum in case we got questioned in court. The other part is the taper length; it would be half the length of the deceleration lane for speeds equal to or less than 40 miles per hour, and one third of the length for faster speed limits. You don't see a requirement for left hand turn lanes because it will require pavement on someone else's property. The access distance proposed is 250 feet between entrances for major subdivisions and to align or have them be 90 foot offset is common practice. Hess asked about the definitions of major and minor thoroughfares and which roads are which. The question was asked do we have a subdivision with deceleration lanes; no, only at Target. Hess asked to see the background for the numbers; Langen will send it out with explanations. Ormiston noted requiring sidewalks on both sides of the road is a huge expense, and we might also consider deceleration lanes only on Highway 84. Langen said this is only for major and minor roads, which is only a few roads in our Village.

Zoning Ordinance – Article 2 Definition of Graffiti, and Article 4.17 Graffiti – Langen said this spells out what graffiti is; most places allow the town to go on premises and remove the graffiti and bill the owner; however he thought we should start small and he added graffiti as Section 4.17. Hess said he was

concerned with expanding the definition of graffiti. Langen said the wording came from other towns, he was not sure if they were local towns or not. Mayor Horvath said the Planning Board concern was that it can be a zoning violation. Hess said we need to define what an eyesore is. Langen used whether consent of the property owner was obtained. Mayor Horvath noted we only had one instance of graffiti, do we need to pursue this. Hess and Ormiston agreed not to pursue it.

Zoning Ordinance Article 2 Definition of Subdivision – Langen said a few years ago we updated the Subdivision Ordinance definition of subdivision but neglected to update the definition in the Zoning Ordinance. Hess made a motion to approve the definition; the reason being it is in the public interest because this brings us into conformity with state law; Ormiston seconded the motion.

The motion passed unanimously.

The approved definition in Section 2 of the Zoning Ordinance is as follows:

Subdivision.

The division of a tract of land into two (2) or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and including all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations of this Ordinance: (i) the combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the minimum standards set forth in this Ordinance, (ii) the division of land into parcels individually greater than ten (10) acres where no street right-of-way dedication is involved; or (iii) the public acquisition by purchase of strips of land for widening or opening streets; or (iv) the division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the minimum standards ~~set forth in this Ordinance, or~~ (v) ~~in residential districts only, the division of one (1) lot into two (2) lots so as to create one (1) additional lot~~ of the Village of Wesley Chapel as shown in the Subdivision Ordinance and the Zoning Ordinance.

Zoning Ordinance Article 4.7.3 Temporary Uses – Langen said he added wording on fireworks display requirements and government and non-profit sponsored events. Ormiston made a motion to approve the change to Zoning Ordinance Article 4.7.3 noting the action is reasonable in the public interest and further defines federal, state and local government sponsored events; Hess seconded the motion.

The motion passed unanimously.

The approved text is as follows:

4.7.3 Turkey shoots not prohibited by the Firearms Ordinance, sales of agricultural plant products (as defined in Article 2), 4-H shows, ~~and~~

charitable uses, Federal, State or Local Government-sponsored public events and/or non-profit organization-sponsored events of a limited nature and for a limited time may be allowed, but shall be specifically permitted. No vehicles may remain on the property overnight and no trailers shall be used for storage or other purposes other than the delivery of product. One (1) On-Premises sign, limited to twelve (12) square feet and not in violation of Section 8.4, shall be permitted for the duration of the use, as specified in an approved application. Parking, ingress and egress shall be adequate and not represent a safety hazard. The use shall not disturb neighboring properties with respect to noise, vibration, lighting or odor. Applications for fireworks displays shall provide proof of compliance with all applicable Federal, State, and Local regulations. Each such permit shall be issued for a period of forty-five (45) days. A waiting period of forty five (45) days shall be required between temporary permit applications by the same applicant. A Temporary use permit shall not be issued for any single property more than three (3) times per calendar year. Temporary use permits shall not be approved and can be revoked should the Zoning Administrator determine the required criteria have not been met, or acceptable remedy proposed/implemented, at any point during the application or operation of the temporary use.

Zoning Ordinance Article 4.16 Applicability of Planned Right-of-Way – Langen noted it is a lot cheaper to acquire right of way if expensive buildings are not located there; this would apply to roads shown in the LARTP. Bennett asked if it could prevent structures for example in the future extension of Billy Howey Road which might now be residential property. Hess said he was concerned if no easement is already granted. Mayor Horvath suggested striking “future” in the text. Langen will look at the transportation plans, and if it is in the state plan it might be okay.

Zoning Ordinance – Article 6.13 Transportation Impact Analysis – Langen said this is a new section, 99% is from the LARTP, and he took out the “such as” language. The LARTP minimum was 100 peak hour trips, the numbers here are 50 because the Planning Board felt homes might generate two to three peak hour trips per home, whereas the TIA assumes one peak hour trip per home. The numbers were used to generate standards of 50 houses and 100 non-residential trips. Procedurally it would go with the application for the preliminary plat or the CUP. Property like the individual property on Will Plyler Road would not trigger it. Lepke asked if Dogwood Part would trigger it; but peak hours at the park differ from normal peak hours. Langen said you might have a developer agreement to spell out what they will do as a layer of legal protection. He noted North Carolina is strict about not asking developers to do things. Ormiston asked what the average cost of a TIA is; Langen said it depends on the size of the project, but guesstimated \$5,000 to \$25,000. Ormiston asked to wait on this, we need a better understanding of the number of vehicular trips in Wesley Chapel and she would like to do some research. Langen said you can also look at the data

in our LARTP. Mayor Horvath also noted some of the language also exists in DOT manuals. Hess said we can also tie it to where the traffic is going, if the exits are only on local roads this wouldn't address that traffic.

Langen noted it was recommended by the LARTP; the state is out of money for roads, and will push more and more onto local governments. The backdrop is we want to be equitable; want everyone to contribute along the way instead of the last one being stuck with the cost.

Zoning Ordinance - Article 10.3 Zoning Permit - Langen said this amendment is to hold up zoning permits if there are any outstanding violations.

Ormiston made a motion to approve the text change to Article 10.3 of the Zoning Ordinance, noting it is reasonable and in the public interest and ensures any proposed request can't proceed until the violation is cleared up; Hess seconded the motion.

The motion passed unanimously.

The approved text is:

Section 10.3 Zoning Permit

It shall be unlawful to commence the excavation or filling of any lot for the construction of a building or structure, or to begin the construction of any building or structure or part thereof, or to erect or replace a sign (except as permitted in Section 8.2) or to move, alter or add to any structure, or to begin the development of land, until the Zoning Administrator has issued a Zoning Permit for such work. No zoning permit shall be issued except in conformity with the provisions of this Ordinance unless after written order from the Board of Adjustment. No zoning permit shall be issued should the applicant(s) property be associated with any outstanding zoning violations.

5. TOWN HALL BUILDING COMMITTEE UPDATE ON ROAD PROPOSAL

Mayor Horvath reported there was no update yet from Aston; he had handouts showing the location of the building on the land and the two possible floor plans and elevations. Thursday night is the public forum.

6. PARKS AND REC COMMITTEE UPDATE

- POSSIBLE DECISION ON WIRTH CONTRACT
- ACCEPT RESIGNATION OF MEMBER
- CONSIDERATION OF DAM DRAIN

John Lepke, Chairman of Parks and Rec reported that he had tied a list of specific services as Attachment C to the contract, and they agreed on architectural services for an amphitheater and boardwalk but not for restrooms as we don't know yet where they will be. Other adjustments to the contract include taking out adding 10% to cost for reimbursables, and setting a maximum for permitting fees and reimbursement expenses. A TIA is specifically excluded. The contract went through legal review and changes were made. Last night the Parks and Rec Committee approved it. Ormiston asked if the allowance of \$12,500 for permits was in Wirth's proposal; Lepke said no, but it was now put in. Ormiston asked

where we make up the \$12,500, recognizing the amount has to come out of the budget. Mayor Horvath said the financial timeline does show \$59,000 left at the end. Ormiston asked about task 2A, that it doesn't mention trails. Lepke responded that task 2A is the construction docs for the first phase of the park which includes trails; Council requested the trail design be included in the text of the contract. Ormiston asked about the wording on the acres we don't yet own. Lepke asked if we can get full access to the land we don't own yet; and Parks and Rec wanted to know if we could recoup the additional costs we are incurring to meet the seller's needs. Hess said it may be a wash between the pro-rated taxes the seller will pick-up and the legal fees we incur. Hess said unfettered access differs from clearing trees. Hess made a motion to approve the contract with Wirth & Associates with the addition to task 2A of the design of trails. Ormiston seconded the motion.

The motion passed unanimously.

Mayor Horvath accepted the resignation of Parks and Rec Committee member Kim Bayha and Regina Hilbert. Lepke said they are recruiting new members.

Lepke said we need to clear the dam drain, and the beavers had also built a dam on the spillway; Wirth came up with a quote of \$1,700 which included clearing the brush, taking away the obstruction, and allowing the level to drop until we can see the spillway; if we clear the brush it would be \$1,500. Discussion was held on whether this should come from the Capital Project or the maintenance budget. Hess said we shorted ourselves on the Park and Rec maintenance budget. Lepke said one large tree needs to be removed professionally. It was noted we also need funds to pay the \$10,000 tax bill on the land. Hess said per the CIP we should have given Parks and Rec more for maintenance.

Ormiston made a motion to amend the budget ordinance to move \$8,555 from Contingency to the Parks and Rec Maintenance/Grounds line item. Hess seconded the motion.

The motion passed unanimously.

It was noted vendors need to obtain a village privilege license.

Lepke asked for approval to pay TK Browne \$1500 for the work on the dam. We would also need an insurance certificate from them. Ormiston asked if we would get three quotes, and discussion was held on the threshold of getting three quotes. Hess made a motion that any expense over \$1000 requires three bids. Ormiston seconded the motion.

The motion passed unanimously.

Hess made a motion that we approve TK Browne doing the work if they come in at \$1000 or less; if not the Clerk will get three quotes, and the vendor must have insurance and a privilege license; the maximum price would be \$1,500. Ormiston seconded the motion.

The motion passed unanimously.

Lepke reported there will be workdays on Saturday October 29 and December 3 to clear the shrubs on the dam. He has waivers and bright stickers to show they have been signed. He will have someone from Parks and Rec there to supervise,

and if workers are under age 18 their parents must sign the waiver. He hopes to recruit students at Cuthbertson High and Weddington High Schools.

7. CONSIDER APPROVAL OF PURCHASE OF COMPUTER

Bennett provided quotes for a replacement computer, since hers is running on Windows 2002 which is no longer supported, and does not have enough memory to update to a newer system. Hess expressed concern on security of a laptop. Prices were obtained on two Dell systems, a Samsung from Office Depot and a Dell from Best Buy. Hess made a motion to amend the budget ordinance to move \$1200 from Contingency to Office Equipment; Ormiston seconded the motion.

The motion passed unanimously.

Ormiston made a motion to approve the purchase of a computer with a maximum of \$1,200 including software. Hess seconded the motion.

The motion passed unanimously.

8. REVIEW OF CAPITAL IMPROVEMENT PLAN BUDGET AND POSSIBLE DECISION ON MOVING THE CONTRACT DEPUTY START DATE TO DECEMBER 1, 2011

Hess said it looks okay to start funding a deputy. Ormiston said Sheriff Cathey is collecting applications. Ormiston made a motion to approve the change in the CIP budget and to hire the deputy one month sooner and amend the budget ordinance to move \$6,000 from Contingency to Public Safety. Hess seconded the motion.

The motion passed unanimously.

9. DISCUSSION OF COMPONENTS OF DOWNTOWN RESOLUTION USING APPROACH APPROVED SEPTEMBER 12TH, 2011

Types Of Housing

- Retirement Community
- Work/Life Residences
- Town Houses
- Assisted Living
- Other

Density

This item was taken off tonight's agenda.

10. REVIEW DRAFT AGENDA FOR JOINT MEETING WITH UNION COUNTY BOARD OF COMMISSIONERS AND DETERMINE ROLES

One change was made to the proposed agenda; "Downtown Committee Resolution" was changed to "Downtown Planning Considerations". Mayor Horvath said he thought the meeting would be about 1.5 hours; we will have refreshments that night.

11. DISCUSSION AND POSSIBLE APPROVAL OF A STANDARD FOR MINUTES

This item was postponed.

12. DISCUSSION OF POSSIBLE VILLAGE WEBSITE ENHANCEMENTS

This item was taken off tonight's agenda.

13. TOWN SEAL DISCUSSION

This item was taken off tonight's agenda.

14. OTHER BUSINESS

Ormiston asked about an application form for committee applicants; we will work on a generic form and use it for the Youth Council Committee. She will also obtain a timeline. Ormiston said the Safety Committee got plaques for the Explorer's Post and will be getting them for EMS, police and fire for their help in National Night Out.

15. COUNCIL COMMENTS - none

16. ADJOURNMENT

Ormiston made a motion to adjourn; Hess seconded the motion.

The motion passed unanimously.

The meeting was adjourned.

Respectfully submitted,

Cheryl Bennett, Clerk

Mayor Brad Horvath