

VILLAGE OF WESLEY CHAPEL
COUNCIL MEETING MINUTES
WESLEY CHAPEL UNITED METHODIST CHURCH
120 Potter Road, Wesley Chapel, NC 28110
December 17, 2013 – 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, Mayor Pro Tem Como, Council Members Kenary, Rosoff and Plyler

Others Present:

Clerk/Finance Officer Cheryl Bennett, Planning/Zoning Administrator Bill Duston

Citizens Present: Carol Mullis, Ronald George Vance, Vicki Helms, Gayla Adams, Sondra Bradford, Elisabeth and Francisco Espinosa, Stephen Bennett, Redd Osborne, Roy Munao, Kameelah Blackwell, Ron Griffin, Chris Hope, Scott Balough and others
The 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 Council Member Rosoff gave the invocation. Mayor Horvath said Council Member Plyler has elected to resume her position as an elected official.

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

Item #8 was tabled by the developer's request to January 17, 2014. Council Member Plyler made a motion to approve the amended agenda; Council Member Rosoff seconded the motion. The motion passed unanimously.

3. PUBLIC HEARING ON RE-ZONING REQUEST 13-3 TO RE-ZONE 3.152 ACRE
PARCEL 06-042-002 ON WAXHAW-INDIAN TRAIL ROAD FROM R-40 TO B-2

Planning/Zoning Administrator Bill Duston reported this is a proposed straight re-zoning to B-2. The parcel is surrounded by a church across the street, the lots next door on either side are in the County, and behind it is Weddington land. Our land use plan shows it as low density residential, and the adjacent areas also call for low density residential. The County land use plan is undergoing an update which should be completed by mid-2014. Mr. Duston contacted the County who did not respond, and Weddington who said Duston's staff report sums it up. The zoning stays with the property, not with the owner. The choices are to do a straight re-zoning, a parallel conditional use re-zoning (you can add reasonable conditions, but this is not on the table tonight), or any district between R-40 and B-2. The Land Use Map and issue of spot zoning were reviewed.

The property owner's wife Elisabeth Espinosa spoke; she said it has been a commercial site for more than 60 years, and should have been zoned commercial years ago.

Stephen Bennett, attorney for the property owner, went over the history of uses on the parcel, before it was acquired in March of 2011. He said the Land Use Plan designates Waxhaw-Indian Trail Road and Hwy. 84 as the commercial center, but does not restrict commercial development elsewhere. He said the location can support a business and is not out of character with the area

with a church across the street. He said spot zoning is not illegal in North Carolina, courts generally hold smaller lots as spots but this is not a half acre; it is compatible with the comprehensive plan, the benefits and detriments would be an increased tax value and promoting local business, and increases services to the community. The detriments are to Mr. Espinosa if you don't rezone, due to the underground tanks on the property it is not cost effective to build on it. Mr. Bennett continued that the relation between uses under new zoning and current adjacent uses – this just keeps it like it has been used.

Espinosa Francisco showed pictures of the tax bill from 2012 which states “Commercial”, and showed pictures of the land as a junkyard when he bought it and how it looks after cleanup. He showed a map of the property, with a pond, parking, and a building, in his dream he saw a different building there. He contacted an investor, and disposed of scrap metal and tires to recyclers. In 1975 when zoning was put in place in the County it was zoned R-40; in 2003 when annexed it remained R-40. He showed some metal from the tanks. Mr. Espinosa got a water extension line, which benefits six neighbors including the house across the street.

Redd Osborne said he is a lifelong resident, (lives a mile away), and knows it has been a business in the past, for the present is it cleaned up, and for the future there will be more tax value; and asked Council to consider the request.

Roy Munao, has lived here 38 years, and spoke of the work and how good a job he has done, and said Mr. Espinosa is a good man.

Kameelah Blackwell, said she has been here two years and is a friend of Mr. Espinosa and supports his petition.

Ronald George Vance said he is a trustee for Central Baptist Church and supports this; getting the water line will help the Church.

Vicki Helms said she is a resident who attends Central Baptist Church and supports Mr. Espinosa's dream; bringing water will help the church.

Ron Griffin supported the re-zoning, he said he lives in Heather Glen and is a neighbor of Mr. Espinosa who is a hardworking individual, and asked support for his dream.

Chris Hope, a civil engineer, said there is contaminated soil, and is very expensive to clean up as a residence.

Scott Balough, a resident for seven years, said he supported the petition, the property was an embarrassment. It is across from a church and school, so why not have a business as well. He said don't adhere too rigidly to rules developed long ago; and said the quality of Mr. Espinosa's work is very high.

Sondra Bradford applauded Mr. Espinosa for his entrepreneurship, but was troubled by the assertion it was zoned incorrectly; she asked Council to consider the master plan survey that the commercial area at the corner was enough for the area, it is not even built out fully yet.

Commercial often begets more commercial; and insure unintended consequences do not occur.

Mayor Horvath read three letters from people who could not attend. Robert Van Dale Jr. wrote to voice his support for Francisco Espinosa, noting he is a very hard worker, there has always been a business there, and this will be a local business and the property looks great after the cleanup. Ciro Faraci wrote as a character reference for Mr. Espinosa, he has been an exemplary neighbor and friend, and felt what he does with the property will be to the betterment of Wesley Chapel. Tim Whitaker wrote that he rents property from Mr. Espinosa, and lives in the property next door; he said he is the hardest working man he ever met, and thought it would add to the community.

Bill Duston said Planning Board recommended 3-2 against the re-zoning, concerns were it setting a precedent, and the land use plan. The Zoning Administrator also recommended it not be approved.

Council Member Plyler asked about the commercial 2012 tax bill from the County. Mayor Horvath said the rates are the same as if it was residential, and the valuation is the same as if residential. Stephen Bennett said the 2013 tax bill shows residential. Mr. Espinosa said when he bought the property the bill became residential.

Council Member Plyler asked why Wesley Chapel didn't show it as commercial on the Land Use Plan. Mayor Horvath said it was zoned R-40 by the County and we absorbed it as such; other parcels zoned commercial may have already been zoned commercial.

Bill Duston reported per Article 7, a non-conforming use that is discontinued after 180 days cannot remain or be re-established. The Board of Adjustment cannot do a use variance. Mr. Duston said the options tonight are to consider re-zoning, consider all uses in B-2, the Land Use Plan is not etched in stone, it is a living breathing document, and this land is not part of the town center.

Mayor Pro Tem Como asked about the intent stated in the application to beautify the property; and why didn't he look into the zoning when he bought the property. Mr. Espinosa said it was advertised as commercial, and he didn't look into it for a month. Water was the first priority; he filled out a form and had it tested, and paid for it to be brought in; he needs a building permit by April or they could turn it off then.

Council Member Rosoff asked about the contaminated soil. Mr. Espinosa said the soil has to be removed to a processing center, you would have to take out the existing warehouse, but it could not be rebuilt without new zoning. He didn't know what it would cost, but the best guess was \$40,000. Chris Hope said he thinks more than that; for residential you can build a house if there is water and sewer and you don't have to remove the tank.

The public hearing was closed.

4. PRESENTATION OF PROCLAMATION IN HONOR OF THE MILITARY ORDER OF THE PURPLE HEART

Mike Stubbs, Commander of Chapter 164 (who served in Vietnam), introduced four other members who represent all Purple Heart members. Mayor Horvath presented a proclamation which was adopted in October, honoring the Military Order of the Purple Heart.

The Purple Heart is the oldest military decoration in the world in present use; all members have sustained a wound inflicted by a declared enemy in combat.

5. DISCUSSION WITH BRIAN MATTHEWS REGARDING ROADS

Brian Matthews, Executive Director of Planning for Union County, was invited to our meeting to share his experience with roads. He said the County is working on an option to provide a similar service to building inspections for plan review and inspections of roads at no cost to the towns – the costs would be passed on to the developers. As Town Manager of Stallings, he had experience maintaining 45 miles of roads. Bill Duston said our engineer review roads on plat plans for DOT and for our own road standards; NC DOT signs off on curb cuts and will continue to do so. DOT was doing road inspections as roads were built and took them over after a certain density was met; but maintenance of subdivision roads will no longer be done by DOT, and the County does not do this now. Mr. Matthews noted in the future, there may be a push for the

County to do road maintenance. He said it takes about ten years before a road needs maintenance; but unknowns are the subsoil and other items do come up. DOT will still review subdivision roads in County subdivisions, and they will inspect to the County standards. Regarding private roads, Brian Matthews said in the long run he has seen an outcry on the costs to maintain and then citizens want the roads to be taken over by the public. He said statutes do not require you to take over maintenance of streets; the developer has the option to dedicate streets to the public, but you do not have to take them over. Mayor Horvath said he spoke to Rick Flowe from N-Focus and they also have someone who does road inspections, it could be incorporated into our contract and the costs passed on to the developers.

6. OVERVIEW OF TOWN ZONING MAP AND LAND USE PLAN

Council Member Plyler asked that before any changes are made to the Land Use Plan Map, that we should have land owner involvement. Council Member Kenary noted that on the zoning map there should be a correction that the roads are not Union County Roads, since they do not own any roads. RUC Zoning is shown for some developments built under County standards and then annexed. Council Member Kenary said the map does not show what size the lots are, so the visual is incorrect. Stonegate is shown as R-20. Mayor Horvath said under County R-40 zoning developments were allowed to develop at a higher density. Bill Duston noted that our setbacks did not match Union County's, and with RUC we accept Union County's setbacks. Council Member Kenary said our definition shows R-40 requires a 40,000 square foot lot, and some lots here are not that large. Mayor Horvath said the County allowed including the common area in the lot size. Council Member Kenary thought there should be a new zoning district. Bill Duston will do some spot checks on lot sizes in some subdivisions.

7. DISCUSSION AND POSSIBLE DECISION ON RE-ZONING REQUEST 13-3

Council Member Plyler questioned why the site was not put on the land use plan as commercial like the corner at Waxhaw-Indian Trail Road and New Town Road. Mayor Horvath said they were grandfathered in; Sothern Whimsy was zoned commercial and stays commercial. Council Member Plyler said all but one speaker were in favor of the re-zoning. Council Member Rosoff said what Mr. Espinosa did is a benefit to the town and she thanked him for it. She said there are some problems with the property, particularly the tanks, it is surrounded by R-40, and she is in favor of planned commercial, not spots of commercial. Council Member Kenary said the map shows it surrounded by two churches, would someone want to build a home here; the other side is the range of B-2 uses; she agreed hodgepodge businesses are not what she envisioned. She added conditional zoning could have alleviated some of this.

Bill Duston said we do have a parallel conditional zoning process; Mr. Espinosa can ask for that and he would have to disclose his plans for the property. Our code requires you to submit a lot of information so there is a large cost and no guarantee. Conditional zoning is not as burdensome and requires a public involvement session. Mayor Pro Tem Como commended Mr. Espinosa for all his work; he noted if he sells the land in a couple of years we have given up all control.

Mayor Horvath said our table of uses allows churches only in residential districts, not in business districts.

Council Member Plyler asked about Henley Tree Company next to the property; Bill Duston said it is in the County and zoned residential.

Mayor Pro Tem Como motioned to approve the re-zoning, this is doing what we want to make Wesley Chapel a better place to live; he did not want to change the Land Use Plan, but for the consistency statement he cited the tract is small; the action is incompatible with the land use plans of Wesley Chapel, Union County and the Town of Weddington, each of which calls for low-density residential development in the area; the re-zoning would allow a wide variety of non-residential uses to be built on a parcel that lies solidly within an area that three different jurisdictions have called for in their respective land use plans to be developed for residential purposes, and aside from a church, there are currently no non-residential uses near the tract. Council Member Kenary seconded the motion. Council Member Rosoff said she did not support the zoning change, and was sorry the owner didn't know the zoning before purchasing the property. Council Member Plyler said seeing what it was and what he did to the property is an asset, and she had no problem with it, she thought we have to take a chance on it. Council Member Kenary said character comes into the decision; he deserves the opportunity to develop a business to benefit us all. Mayor Horvath said he agreed with Council Member Como; every decision is unto its own; Mr. Espinosa is vested in the community and he agreed with the majority. Mayor Pro Tem Como amended his motion to add the reasonableness statement is the history of the property, the tax record before it was purchased, and it is consistent with other commercial parcels in the town. Council Member Kenary seconded the amendment.

The motion passed 3-1, with Council Member Rosoff voting nay.

8. DISCUSSION AND POSSIBLE DECISION ON PRELIMINARY PLAT APPROVAL FOR BROOKMEADE SUBDIVISION

Tabled by the developer's request to January 17, 2014.

9. EXPLANATION ON CHRISTMAS TREE SALES PRIVILEGE LICENSE AND TEMPORARY USE PERMITS

Mayor Horvath said the Horne's property is zoned RA-40, and the ordinance says you can sell what you grow on the property but the Christmas trees were brought in and sold; the fee for selling Christmas trees has been on the privilege license ordinance since 2004. He stopped by the Horne's home and they sell cattle and eggs they raise there, and he sold 167 Christmas trees. Bill Duston said there were four tree dealers in town; the one next door at the school paid their fees, he gave the information to apply to Mr. Horne, the one at the Village Commons paid today after he called Aston; and the one on New Town Road is on an island in the town; when he realized they were in the town he went out again yesterday and they had closed the tree stand. Council Member Kenary asked about our town's responsibility for places selling food; this is regulated by the County health department.

Item 12 was discussed next.

10. PARKS AND REC COMMITTEE UPDATE

a. Update on construction

Mayor Pro Tem Como said with wet weather delays they are a month behind; last night the Committee discussed the grand opening being at the end of April. They have met with 4-5 Eagle Scouts who will submit proposals; one completed several picnic tables.

b. Other Park & Rec matters, as necessary

Council Member Rosoff said regarding parking; she spoke with the Pastor at Southbrook Church, and they had questions about the liability, also WCWAA uses the lot for overflow parking on Saturdays.

Mayor Pro Tem Como said they would like to do hotdogs on a grill at the grand opening, and we will investigate what we would need to get approved. Mayor Horvath said he will talk to Dominic Morlando regarding the amphitheater footings.

11. TOWN HALL BUILDING COMMITTEE UPDATE

a. Update on construction

Council Member Kenary gave a construction update. The gravel has to dry out in order to do the parking lot paving. We now need five phone lines – one for the fire alarm, and we had approved four lines so she made a motion to approve an additional line. Mayor Pro Tem Como seconded the motion.

The motion passed unanimously.

b. Update on recommendations for grand opening

The Committee recommended January 11th be the ribbon cutting by invitation, and an open house be held on January 13th before the meeting. Mayor Horvath noted if we are planning on keepsake invitations, some firms close between Christmas and New Year's. Discussion on whether the building will be ready by January 11th was held. Council Member Kenary will check with Butch Plyler about the date. Refreshments will just be water and cookies and should be less than \$500, so doesn't need Council approval. There were questions on who will be the agenda speakers.

c. Other Town Hall matters, as necessary

12. PRESENTATION OF AUDIT REPORT FOR JUNE 30, 2013

Auditor Kendra Gangal said things went smoothly in the audit, it takes a little longer the first time around but she was pleasantly surprised – things were in good order. She noted it is not cost effective to hire several people. She had no issues or concerns; and noted it is good for Council to remain involved and not micro manage. Mayor Pro Tem Como asked if there were any recommendations for the future; Ms. Gangal said you might do something like printing out a check register and mark every 5th check and examine the backup. She said she pulled a sample of checks and did not find any issues; keep communication open and continue what you are doing. Mayor Horvath said he signs all larger checks and he looks at the back-up and verifies the check. Council Member Plyler said on the printout when there is a reimbursement she didn't want us to put "reimburse", just what the item is. She also questioned the lines for payroll. Finance Officer Bennett said the lines represent regular pay, vacation pay, and holiday pay. This is done by the QuickBooks software, and she cannot change it. Each item could be budgeted separately, but Ms. Gangal suggested looking at whether it is worthwhile and keep in mind materiality; you want to follow the amount of detail in the budget.

The next item discussed was item 10.

13. REPRESENTATION OF TOWN COUNCIL AT PUBLIC FUNCTIONS

2013.12.17 minutes

Council Member Kenary said each year Target has “Shop with a Cop”, and it would be nice to have town representation. Mayor Horvath said he would be happy to attend, but had never been invited.

14. **CONSIDER APPROVAL OF RESOLUTION 2013-04 AUTHORIZING DISPOSITION OF CERTAIN PERSONAL PROPERTY BY PRIVATE SALE**

Council Member Kenary motioned to approve Resolution 2013-04 to sell surplus items on Craig’s list; Mayor Pro Tem Como seconded the motion. The motion and second were then rescinded. Council Member Plyler motioned to change the resolution to give the surplus items to Turning Point, and if they can’t pick them up, then give them to Habitat of Union County. Council Member Rosoff seconded the motion.

The motion passed unanimously.

Notice will be posted of the intent to donate the items.

**Village of Wesley Chapel, NC Resolution 2013-04
Resolution Authorizing the Disposition of Certain Personal Property
By Private Sale**

WHEREAS the Council of the Village of Wesley Chapel, NC desires to dispose of certain surplus property of the Village;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL THAT:

1. The following described property is declared to be surplus to the needs of the Village :
 - Five wooden desk pieces that join together
 - Wood frame sofa and chair
 - Coffee table
 - End Table
 - Lamp
 - Panasonic fax machine
2. The Village Administrator is authorized to dispose of the described property by donation to Turning Point, or if they cannot pick it up to Habitat – Union County.
3. The Village Administrator shall post public notice summarizing this resolution on the Village website.
4. The donation may be consummated not earlier than 10 days from the date of publication.

Adopted this 17th day of December, 2013.

Mayor Brad Horvath

Attest:

Village Clerk, Cheryl Bennett

15. DESIGNATE SIGNATORIES FOR BANK ACCOUNTS

Mayor Pro Tem Como motioned to approve the bank account signatories for the accounts at Fifth Third Bank and BB&T Bank be Mayor Brad Horvath, Mayor Pro Tem Mike Como, and Finance Officer Cheryl Bennett. Council Member Plyler seconded the motion.

The motion passed unanimously.

16. OTHER BUSINESS

Mayor Horvath reported the clerk would be out of the office tomorrow, we will put notice on the website. The Youth Council Committee meets Thursday night, and their time capsules are completed and ready to be buried.

17. COUNCIL COMMENTS - none.

18. ADJOURNMENT

Council Member Kenary made a motion to adjourn; Mayor Pro Tem Como seconded the motion. The meeting ended at approximately 10:57 pm.

The motion passed unanimously.

Respectfully submitted,

Cheryl Bennett, Clerk

Mayor Brad Horvath