

VILLAGE OF WESLEY CHAPEL
COUNCIL MINUTES
6:30 PM, January 16, 2007

The Council of the Village of Wesley Chapel, North Carolina, met in the Wesley Chapel Elementary School Gym, with Mayor Tracey Clinton presiding.

Present: Mayor Clinton, Mayor Pro-tem Croffut, Council Members Mullis, Horvath, and Pierce.

Others Present: Cheryl Bennett, Interim Village Clerk
Justin Krieg – Planning and Zoning Administrator
George Sistrunk, Village Attorney (arrived at 6:42 pm)
Concerned citizens

1. PLEDGE OF ALLEGIANCE / INVOCATION

The meeting was called to order at 6:30 PM and a quorum was present. Mayor Clinton led the pledge, and Croffut did the invocation.

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

Pierce made a motion to amend the rules of procedure regarding speakers to give equal time to landowners for and against ETJ, in the ETJ area or in Wesley Chapel; and if time permits for others to speak. Horvath seconded the motion.

The motion was passed unanimously.

Horvath discussed the background, how Wesley Chapel was incorporated in 1998, and residents were concerned about maintaining the rural flavor of the Village with a small town feel. It is the Council's responsibility to protect the nature of the community, and the role of government to implement vision and preserve a town's character by enacting zoning ordinances. What happens at the town's borders has a direct affect on the town as a whole. Horvath reviewed the legislative aspects – ETJ is allowed under NC legislation, and 62% of all municipalities have some form of it. ETJ is not annexation, so no local taxation is involved; areas to be included in ETJ should be based upon existing or projected urban development and areas of critical concern to the municipality. ETJ requires approval of the Board of County Commissioners (BOCC); we received approval Nov. 4, 2006. The County repealed the Nov. 4th Resolution on December 5, 2006 and clarified in a subsequent notice dated Jan. 10, 2007 that the repeal was effective immediately. However by General Statute 160A-360(g), unless mutually agreeable, a two year notice is required. The Wesley Chapel planning board and board of adjustment must have proportional representation from the ETJ areas (appointed by the County BOCC). Horvath clarified recently published statements on ETJ; ETJ does not usurp property owner rights, ETJ can not be revoked immediately, Wesley Chapel has stated clearly and repeatedly that the purpose of ETJ is to respect the nature of the community and implement the vision for the greater Wesley Chapel area which is consistent with the

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legislative intent in allowing ETJ, Wesley Chapel does have a land use plan in place since Dec. 8, 2003; citizens did speak for ETJ at the November public hearing; the Village does offer planning and zoning administration services. Horvath discussed the ETJ Resolution Map, the initial discussion included all properties in the Village's Resolution of Consideration area, a public hearing was held Sept. 7, 2006, and subsequent deliberations by Council reduced the area included by nearly half, the area includes unincorporated internal properties, properties near critical intersections, parcels near our existing commercial areas, and parcels near existing village subdivisions. All parcels are currently covered by County Zoning rules, and the County designations are also recognized within the Village ordinances, i.e. R-40 County will become R-40 Village. There are no changes from the current designations. The Village classifications may have additional limitations on types of uses for that particular zoning; one example is the County can put landfill on property not allowed in our current ordinance. ETJ does not impact any current structures or uses for any property that were allowable under County rules. Horvath discussed benefits of ETJ – to preserve the look and feel of Wesley Chapel and the surrounding community, and it will protect residents within the Village boundaries and ETJ area from zoning uses inconsistent with the current Land Use Plan and the future Master Plan. Horvath went over the Public comment policy, those who are signed up may speak, comments must be limited to the topic of the public hearing, no sharing of minutes, there is a 3 minute limit (or 5 minutes if the speaker is representing a group). He thanked citizens for attending.

3. QUESTION AND ANSWER SESSION ON EXTRA-TERRITORIAL JURISDICTION

This session began at 7:05 pm.

A citizen questioned if the ETJ was repealed from the BOCC, why are we here tonight. Mayor Clinton explained that the process of ETJ takes time, and when they approved ETJ in November we still had to adopt a boundary ordinance, 60 days to apply zoning and to do necessary text changes; we believe what the County did is to give us two years notice that our ETJ authority will then expire. A citizen who lives in Demere subdivision said they thought they were in Wesley Chapel, Mayor Clinton explained they are not, nor are they in the ETJ area. A citizen questioned that they are not being annexed, and Mayor Clinton responded that we have an annexation policy, and we cannot involuntarily annex them, but citizens may petition for voluntary annexation. A citizen questioned on their voting rights – they can't vote for the Council, but they will have two members on the Planning Board and on the Board of Adjustments, the BOCC will appoint those members. A citizen asked if anything they built before is okay, and the answer was yes, and the ordinances are on our website. A citizen questioned if they would have building inspections by Wesley Chapel, and Justin Krieg explained that plans would be submitted to him, and he would check them for things such as setbacks, but plumbing, electrical, etc. inspections would be done by the County. Our building code is the same as the County. A citizen asked what R-40 and R-20 mean; Krieg said R-40 is residential on 40,000 square feet, and R-20 is residential on 20,000 sq. ft. A citizen asked if their farm, owned 35 years, would be R-40, and Krieg said we got a County zoning map and just changed from County R-40 to Village R-40. A citizen questioned the zoning at New

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Town Road and Waxhaw Indian Trail Road, and Krieg said the SE corner is currently zoned commercial, because there was a business in operation there, the business closed, but the zoning stays with the land. A citizen questioned what would happen in the future; Mayor Clinton said the Statutes say once the County gives the authority to the municipality, if any party wants to repeal it they must give two year notice, unless both agree, and they can then revoke it immediately. If nothing changes on Jan. 10, 2008 the authority will revoke; we are willing to take the chance that in two years we will work together with the County. A citizen read the January 10, 2007 letter from the County, that says the repeal is effective immediately. Mayor Clinton repeated the Village interpretation of the statutes, and noted calls have been put in to Kevin Pressley, and there is a disagreement between the County and Village on this issue. A citizen questioned zoning, and was referred to Justin Krieg to better understand R-40. A citizen asked what the fee is for voluntary annexation; it is \$30 per parcel. A citizen questioned on non-conforming uses; they couldn't expand or change their use, or sell it to a new owner with that use. A citizen asked for e-mail addresses of the Council; they are on our website. A citizen questioned what if they ignore Wesley Chapel and get a building permit from the County; Mayor Clinton said hopefully there will be an agreement before it affects property owners; we would have to decide whether to take legal action, the Village or County could file an injunction, and then it goes to the Courts. A citizen asked why some parcels were taken off the original list? Mayor Clinton said we used the criteria of including 1. the doughnut "holes", 2. parcels near critical intersections, 3. near existing commercial areas, and 4. parcels near existing village subdivisions. This brought us down to 1,044 parcels, the Cuthbertson school parcels and Union Power substation site were excluded, bringing the total to 1,041 parcels.

The question and answer session ended at 7:35 pm.

4. PUBLIC HEARING ON ESTABLISHMENT OF AN EXTRATERRITORIAL JURISDICTION (ETJ) BOUNDARY ORDINANCE FOR WESLEY CHAPEL
(Total time to receive public comments will be limited to 1 hour)

Justin Krieg, the Village Planning and Zoning Administrator went over the regulations outlining the process for creating and adopting a boundary ordinance are found in G.S. Article 19, Section 160A-360.

- -All the powers of this article may be exercised by any city within its corporate limits. In addition, any city may exercise these powers within a defined area extending not more than one mile beyond it limits.
- All the parcels involved in the proposed ETJ boundary do fall within one mile of the Village limits.
- Notice was sent by first class mail to all affected property owners using the most up to date Union County Tax Records.
- The letters contained the appropriate information pursuant to the state statutes for informing landowners of the effect of extraterritorial jurisdiction on their property.

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The notices were also mailed 4 weeks prior to the public hearing as required by state statute.

Minor Evan Plyler Sr., who owns 9 parcels of about 100 acres, spoke against ETJ. He said the village doesn't offer him any services, he can't vote, his land is basically farmland; and he said 60 acres were zoned for future commercial growth, but you have us as R-40. He said he would go to the County for a permit if he wanted to build a barn.

Mary Martin who is in the ETJ area spoke against ETJ. She thanked Mayor Clinton for clarifying that full rights don't apply to ETJ people, the ordinances are a living document, and we don't know what will happen, but we can't vote for the council. She said the BOCC won't appoint members to the Planning Board because they don't recognize ETJ; and she hoped the County and Village reach some resolution.

Harry Martin from the ETJ area disagreed on the purpose of government; he feels it is to ensure the safety and security of the citizens. He doesn't understand the reasons for ETJ, don't take from some and give to others, that is socialism. He feels there is a hidden agenda.

Stanley Schwartz in the ETJ area spoke in favor of ETJ, he has been working on behalf of Silverleaf to be voluntarily annexed. He feels the Village policy to require 95% of the homes in order to annex is too high a percent, but the majority of Silvercreek wants to be annexed.

David Pressley spoke against ETJ, he didn't get the letter the first time, and feels ETJ is wrong altogether, he wants voting rights, and to be left alone.

Meg Lochary, who has a 13 acre farm in the ETJ area, spoke in favor of ETJ. As a pediatric dentist, she said she benefits from development, but as a parent she is concerned, from having children at Wesley Chapel elementary school for ten years she has seen the crowding. The BOCC gave me 600,000 reasons to not trust them, she said.

Sondra Bradford who lives in Wesley Chapel spoke in support of ETJ. She said she knew first hand the consequences of the County zoning being more permissive without taking into consideration the effects on people around the area, since the County is allowing the electric sub-station on land near where Wesley Chapel had turned it down. Piedmont Gas has also tried to use this loophole, she said. She spoke of the three schools at Cuthbertson Road on a terribly winding road, and that the surrounding people will pay the price. She feels ETJ is necessary to prevent situations like this happening to others.

Sydell Coniglio who lives in Wesley Chapel spoke in support of ETJ, and said the County hasn't taken account of the impact of its decisions on Wesley Chapel.

Diana Bowler who lives in Wesley Chapel spoke in favor of ETJ; she noted it is hard to explain when there is one section with one acre lots, and across the street there are less than a half acre lots, she is very much in favor of ETJ and in trying to keep the ambiance

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being a small, rural community town so that people like the area and want to come back; when you have the higher density, you lose the ambiance.

Dick Raby who lives in Wesley Chapel spoke in favor of ETJ; he said he believes the function of government is to protect adjacent property owners against uses that adversely affect property values, at the same time protecting the rights of property owners. He said he feels there is no loss of rights by and large in the ETJ area. He also noted if the County Commission fails to appoint two members to the boards, then the Council can appoint them. Raby said Union County Commissioners have approved 20,000 homes being developed which will equal 80,000 residents; the traffic is a nightmare, the schools are full of mobile classrooms, taxes don't keep up with services; the sewer has a moratorium imposed by the State, and ETJ is needed to protect the citizens.

Cheryl Sica who lives in the ETJ area said she was not originally in favor of ETJ, however she loves seeing acreage and horses, and wants to be annexed into Wesley Chapel and to have voting rights, she has been going door to door in her neighborhood Silver Creek for two years, and would appreciate the Council making it easier to be annexed in; the majority of her subdivision wants to be in Wesley Chapel.

Steve Pitt who lives in the northernmost section of the ETJ area spoke against ETJ; he said he didn't get his letter the first time. One reason he is against ETJ is his farm has been severed and half of his wife's inheritance. He has moved his church to Indian Trail Presbyterian from Wesley Chapel UMC, he has been involved in Indian Trail athletics and Stallings Fire Department for years. He noted the ETJ statutes say any municipality planning to exercise ETJ shall notify owners by first class mail, and it didn't happen, so he feels if step one hasn't occurred, you shouldn't go to step two.

Peter Couchell who lives in the ETJ area spoke against ETJ; he spoke on behalf of his son himself, and two tracts of land that are sharecropped. He said he has lived in the area 35 years, he bought his farm with the intentions of having his family there the rest of his life, his farm is against the Weddington town limits. Some years back when the farmers were in power, and he was at a similar meeting, they wanted to keep the area rural, and they were not happy with Weddington's zoning. He asked that you put yourselves in someone else's shoes, and he came from Greece, and there you can not touch rural land. Eventually he will want 5 or 6 homes on his property, and this will be rural like you want.

George Couchell who lives in Charlotte, but owns 16 acres with his brother in the ETJ area spoke against ETJ ; he always envisioned retiring on that farm land with family, they love horses, and have a barn, eventually 3 or 4 cottages around, but he believes in property rights, and for other people. He is building a charter school in Weddington, and said he worked with the transportation department worked with him to no disturb the gentleman's farm land across the street for a turning lane. He has a piece of property in Waxhaw, with a sign Showmars, and he had all his approvals but people got all upset about trees getting cut down, and so he withdrew his request, and is waiting now to be sure they want him. He requested Wesley Chapel respect his rights, he believes in smart growth, and feels the law is flawed, and depends on three County Commissioners who

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can be influenced at any given time. He suggested having a referendum and see what everyone wants.

Craig Winslow, who lives in Wesley Chapel, spoke in favor of ETJ. He explained why, that he moved here for the rural areas, his son will go to five schools in 7 years, and ETJ is a tool to manage the growth, not stop it, but manage it. He is definitely in favor of people using their property for what they want to, he likes the big red barns, but after the property is sold, the developers are coming in and are out of control. He feels you don't have the right to devalue his property; use ETJ as a tool to manage the growth that will happen.

Betty Ross said she had five parcels within a mile of ETJ, and she expressed confusion as to whether she was in the ETJ area or not. She expressed distrust as to what she had been told. She discussed town boards, and what boards she would like to see, which were not related to ETJ. She said taxes are going high, and we will eventually lose our land.

Michael Dowd said he had been here 18 years, and heard a rumor that a Wal-mart was coming to Wesley Chapel, and wondered what the Wesley Chapel planning and zoning position would be on that.

Mayor Clinton closed this public hearing at 8:28 pm, and a five minute recess was held.

5. PUBLIC HEARING ON PROPOSED ZONING MAP CHANGES TO APPLY WESLEY CHAPEL ZONING TO PROPERTIES LOCATED INSIDE THE EXTRATERRITORIAL JURISDICTION AREA AS REFERENCED ON PROPOSED MAP ENTITLED "WESLEY CHAPEL PROPOSED ZONING FOR ETJ AREA" (Total time to receive public comments will be limited to 1 hour)

Mayor Clinton noted if Council approves ETJ, there are 60 days to apply Wesley Chapel zoning to the parcels, and the maps on the wall show the zoning. Justin Krieg discussed that as required by state statute it was necessary to make changes to the current Wesley Chapel zoning map so that it included the proposed ETJ area as well as its proposed zoning.

- As required by the Zoning Ordinance of Wesley Chapel and state law, 2 notices of the public hearing were published in the newspaper due to the large number of parcels involved. One on January 4, 2007 and the second on January 7, 2007.
- A mailing was also sent to adjacent landowners who reside outside the normal distribution area of the newspaper to notify them of the public hearings.
- A notice was placed in a conspicuous public place within the corporate limits of the Village.
- When multiple parcels are included within a proposed zoning map amendment a posting on each individual parcel is not required, but the Village shall post sufficient notices to provide reasonable notice to interested parties.
- As many of you have probably noticed, 16 signs were placed in and around Wesley Chapel at key locations to advertise for the public hearing.

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- The proposed changes to the map were delivered to the Planning Board on Tuesday, January 9, 2007.

Minor Evan Plyler Sr. said he had nothing to say on this issue.

Harry Martin said he didn't get the mailing in December.

Dick Raby said he supports ETJ, and supports the zoning changes.

Betty Ross passed on speaking.

Michael Dowd signed up, but wasn't present to speak.

Mayor Clinton closed this public hearing at 8:40 pm.

5. PUBLIC HEARING ON TEXT AMENDMENTS TO THE ZONING AND SUBDIVISION ORDINANCES REGARDING THE ADDITION OF THE EXTRATERRITORIAL JURISDICTION TO WESLEY CHAPEL'S PLANNING JURISDICTION (Total time to receive public comments will be limited to 30 minutes)

Justin Krieg went over the text amendments:

- It is necessary to amend the Wesley Chapel Zoning and Subdivision Ordinances in order to accommodate the ETJ area into Wesley Chapels planning jurisdiction.
- Changes include:
 - Defining ETJ
 - Including the ETJ area into the Jurisdiction sections of the Zoning and Subdivision Ordinances
 - And amending the language defining the member makeup of the Zoning Board of Adjustment and Planning Board to accommodate ETJ representatives.
 - The same protocol was used to make the public aware of the text amendments to the Ordinances as was utilized for the Zoning Map changes.
 - The text amendments were delivered to the Planning Board on Dec. 18, 2006.

Evan Plyler Sr. said he had no comments.

Michael Dowd said he had no comments.

Dick Raby said he supported the text amendments.

Betty Ross had no comments.

Mayor Clinton closed this public hearing at 8:50 pm.

6. DISCUSS MUMPO DRAFT TIP ITEM REGARDING REA ROAD EXTENSION

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Mullis had a handout from MUMPO, they eventually plan to four lane Hwy. 84 from Hwy. 16 to Airport Road, but they plan to go from 4 lanes to 2 lanes at Waxhaw-Indian Trail Road for now, which is our major commercial intersection. He would like to see it go 4 lanes to Rocky River Road. Mayor Clinton noted there was a meeting this same night at Weddington with NCDOT about this; she asked Mullis if MUMPO would vote tomorrow night? Mullis said it should be just discussion. He noted we only have one vote, whereas Charlotte has 17 votes. Mullis noted they are going to re-do Weddington Road near the Siskey Y, getting ready for the I-485 interchange; but things can change quickly at DOT. Mayor Clinton said she is in favor of two lanes, but four lanes dumping at Waxhaw-Indian Trail Road will cause more bottleneck. Horvath inquired if there is a map, Mullis said there are three different proposals, but he thinks between Aero Plantation and Cox Road. Larry Helms at DOT thinks this would be good for Wesley Chapel, but Pierce said she would like to have Larry Helms from DOT come explain this to us; Horvath and Croffut agreed. Consensus was for Mullis to vote against the road proposal if it comes up.

7. DISCUSS (AND POSSIBLE VOTE) ON ESTABLISHMENT OF AN EXTRATERRITORIAL JURISDICTION (ETJ) BOUNDARY ORDINANCE FOR WESLEY CHAPEL

Croffut made a motion to recess the meeting until January 18, 2007 at 7 pm at Wesley Chapel United Methodist Church. Pierce seconded the motion.

The motion was approved unanimously.

8. OTHER BUSINESS

9. COUNCIL COMMENTS

10. Closed Session: MOTION TO CALL FOR CLOSED SESSION PER NC GS 143-318.11(a) (3) Attorney Client Privilege

11. Closed Session: MOTION TO CALL FOR CLOSED SESSION PER NC GS 143-318.11(a) (6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment... of an employee or prospective employee

12. CLOSED SESSION DECISIONS

13. ADJOURNMENT

Mayor Tracey Clinton

Attest:

Cheryl Bennett, Interm Clerk

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