

VILLAGE OF WESLEY CHAPEL
COUNCIL MEETING MINUTES
May 11, 2009 – 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.

Present: Mayor Clinton (arrived 7:20 pm), Mayor Pro-tem Croffut, Council Members Bradford, Horvath, Pierce

Others Present:

Village Clerk/Finance Officer: Cheryl Bennett

Planning/Zoning Administrator: Joshua Langen

Village Attorney: George Sistrunk

Concerned citizens: Carol Mullis, Sheriff Eddie Cathey, Doug & Linda Byrum, Gary Libberton, Carnetta Rohland, Becky Plyler, Carolyn Richards, S. Heid, Robert Esposito, Jason Galloway, Beau Brooks, SK Smith, Ray Davis, Jim Clark, Mark DiBiasio, R Nichols, Jerry Davis, Charles Rohland, Jeff Gayle, Mary Martin, Scott Garner, Charles Brooks II, John (last name illegible), Larry McKinney, Chief Terry Byrum, Mildred & Bill Gwinn.

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

1. PLEDGE OF ALLEGIANCE / INVOCATION

Mayor Pro Tem Croffut led the Pledge of Allegiance and Horvath gave the invocation.

2. INFORMAL PUBLIC COMMENTS - none

3. ADDITIONS, DELETIONS, AND / OR ADOPTION OF AGENDA
Item 8 became 8A; Item 8B. "DISCUSSION AND POSSIBLE VOTE ON CUP 09-02 ARBORBROOK CHRISTIAN ACADEMY REQUEST FOR TEMPORARY CLASSROOM BUILDING" and Item 8C. "DISCUSSION AND POSSIBLE VOTE ON CUP 09-01, CONSTRUCTION OF FIRE STATION AT 315 WAXHAW-INDIAN TRAIL ROAD, WAXHAW, NC 28173" were added. Bradford made a motion to approve the agenda with the above changes; Pierce seconded the motion.

The motion passed unanimously.

4. APPROVE MINUTES FOR:

Council Meeting April 21, 2009

Closed Minutes Council Meeting Item 18, February 9, 2009

Closed Minutes Council Meeting Item 17, March 9, 2009

Horvath made a motion to approve the minutes for the Council Meeting April 21, 2009; closed minutes Council Meeting Item 18, February 9, 2009; and closed minutes Council Meeting Item 17, March 9, 2009. Pierce seconded the motion.

The motion passed unanimously.

5. STAFF REPORTS

- a. Review and approve the Village Financial Reports dated April 30, 2009, submitted by Cheryl Bennett, Finance Officer

Bennett reported April revenues are \$10,002; April expenditures are \$37,178. The year to date surplus is \$160,346. A new Certificate of Deposit was opened at BB&T in the amount of \$500,000 for a six month term. Bradford made a motion to approve the April 30, 2009 financial statements; Pierce seconded the motion.

The motion passed unanimously.

<u>April 2009 Budget Report</u>	<u>Apr 09</u>	<u>Jul '08 - Apr 09</u>	<u>Budget</u>	<u>% of Budget</u>
Revenues				
Fees and Licenses				
Cable Franchise (from Time Warn	0.00	6,980.00	12,000.00	58.17%
Engineering Fees Reimbursement	760.75	5,870.13	8,000.00	73.38%
Zoning Permit	435.00	5,145.00	8,000.00	64.31%
Privilege Licenses	0.00	18,219.54	21,000.00	86.76%
Annexation Exp Reimbursed	0.00	30.00	300.00	10.0%
Misc. Fees	0.00	2,030.08	200.00	1,015.04%
Violations - Zoning	0.00	0.00	0.00	0.0%
Total Fees and Licenses	1,195.75	38,274.75	49,500.00	77.32%
Interest Earned	4,066.39	19,625.17	24,000.00	81.77%
Property Tax Income				
Current Year Property Tax	1,269.05	143,480.84	113,193.00	126.76%
Delinquent Taxes	53.35	854.15	600.00	142.36%
Interest/Ad Fee on Taxes	51.49	341.67	200.00	170.84%
Utility Ad Valorem	0.00	0.00	600.00	0.0%
Vehicle Registration	752.22	7,141.45	7,983.00	89.46%
Total Property Tax Income	2,126.11	151,818.11	122,576.00	123.86%
Revenue Sharing				
Alcoholic Beverage Tax	0.00	0.00	19,000.00	0.0%
Cable (from State)	0.00	43,340.90	40,000.00	108.35%
Excise Tax (Piped Natural Gas)	0.00	6,726.00	10,500.00	64.06%
Franchise Tax (Electric Power)	0.00	88,034.00	120,000.00	73.36%
Sales & Use Taxes	2,613.76	19,383.57	40,000.00	48.46%
Telecommunications Tax	0.00	8,342.61	12,000.00	69.52%

Total Revenue Sharing	<u>2,613.76</u>	<u>165,827.08</u>	<u>241,500.00</u>	<u>68.67%</u>
Total Income	<u>10,002.01</u>	<u>375,545.11</u>	<u>437,576.00</u>	<u>85.82%</u>
Expense				
Operating Expenditures				
Tax Collection Fee	17.59	2,151.02	2,150.00	100.05%
Contingency	0.00	0.00	20,800.00	0.0%
Advertising - Clerk	0.00	0.00	800.00	0.0%
Annexation Expense	0.00	49.00	4,000.00	1.23%
Annual Retreat	0.00	0.00	2,000.00	0.0%
Books & Literature	0.00	0.00	600.00	0.0%
Dues and Subscriptions	4,482.94	9,803.94	12,400.00	79.06%
Election Expense	0.00	1,168.25	10,500.00	11.13%
Insurance - Liability	0.00	7,775.63	9,600.00	81.0%
Insurance - Workmen's Comp	0.00	470.00	800.00	58.75%
Land Maintenance	0.00	0.00	3,000.00	0.0%
Master Plan (incl. survey)	0.00	0.00	5,000.00	0.0%
Town office Maint.	79.90	439.45	1,800.00	24.41%
Misc town office	13.39	202.15	1,975.00	10.24%
Newsletter	1,383.60	3,956.60	6,500.00	60.87%
Office Expense				
Office Equipment Repairs	180.00	180.00	1,000.00	18.0%
Office Equipment	0.00	380.41	2,000.00	19.02%
Awards	0.00	0.00	500.00	0.0%
Electronic Commun (Tele/RR)	463.48	2,629.84	4,800.00	54.79%
Office Supplies	<u>363.05</u>	<u>1,063.86</u>	<u>3,000.00</u>	<u>35.46%</u>
Total Office Expense	<u>1,006.53</u>	<u>4,254.11</u>	<u>11,300.00</u>	<u>37.65%</u>
Postage and Delivery	103.07	250.17	700.00	35.74%
Rent	1,300.00	13,030.00	20,000.00	65.15%
Seminars	275.00	425.00	2,000.00	21.25%
Travel & Entertainment	178.33	1,819.54	3,000.00	60.65%
Utilities- Temp. Town Hall	270.22	1,647.43	4,000.00	41.19%
Welcome Committee	<u>0.00</u>	<u>0.00</u>	<u>1,000.00</u>	<u>0.0%</u>
Total Operating Expenditures	<u>9,110.57</u>	<u>47,442.29</u>	<u>123,925.00</u>	<u>38.28%</u>
Gen. Govt. Salaries				
Admin. Assistant	461.25	2,906.25	3,520.00	82.56%
Allowance for Salary Adjustment	0.00	0.00	43,435.00	0.0%
Mayor	0.00	3,600.00	4,800.00	75.0%
Mayor Protem	0.00	2,250.00	3,000.00	75.0%
Council Salary	0.00	5,400.00	7,200.00	75.0%

Clerk Salary	2,840.25	19,933.75	31,200.00	63.89%
Finance Officer Salary	1,066.14	7,640.67	9,240.00	82.69%
Payroll Taxes	839.74	6,448.90	9,900.00	65.14%
Payroll exp - Unemployment	0.00	0.00	120.00	0.0%
Fringe Benefits - Insurance	545.00	4,809.77	12,000.00	40.08%
Fringe Benefits - Retirement	631.24	5,011.81	5,780.00	86.71%
Total Gen. Govt. Salaries	6,383.62	58,001.15	130,195.00	44.55%
Planning & Zoning				
ETJ costs	0.00	13.93	1,000.00	1.39%
Administration (COG)	0.00	0.00	8,000.00	0.0%
P/Z Admin. Salary	5,769.24	40,384.68	50,000.00	80.77%
Planning & Zoning Board Salary	840.00	2,184.00	4,540.00	48.11%
Advertising	79.91	515.22	1,800.00	28.62%
P/Z Office Expense	0.00	148.95	1,200.00	12.41%
Planning/Zoning Expense	29.74	405.30	800.00	50.66%
Total Planning & Zoning	6,718.89	43,652.08	67,340.00	64.82%
Professional Fees				
Accounting	0.00	3,000.00	3,400.00	88.24%
Engr. Consulting	689.50	6,173.30	9,000.00	68.59%
Legal Fees	5,654.18	27,485.96	48,000.00	57.26%
Security	0.00	200.00	1,116.00	17.92%
Total Professional Fees	6,343.68	36,859.26	61,516.00	59.92%
Parks & Recreation	440.00	4,426.15	5,000.00	88.52%
Public Safety	0.00	0.00	4,000.00	0.0%
Transportation Study	8,181.50	24,818.00	38,000.00	65.31%
Capital Outlay				
Computer Equip.	0.00	0.00	3,600.00	0.0%
Furniture & Equipment	0.00	0.00	2,000.00	0.0%
Software	0.00	0.00	2,000.00	0.0%
Total Capital Outlay	0.00	0.00	7,600.00	0.0%
Total Expense	37,178.26	215,198.93	437,576.00	49.18%
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Excess of Rev. over Exp.	27,176.25	160,346.18		

b. Presentation of Planning and Zoning Report by Joshua Langen
Sixteen permits were issued in April/May including the Coffee Table and a Chinese restaurant at JDH and Radio Shack at Village Commons. Ordinance changes to put the rules of procedure in the ordinance, adding mobile business/vendors as well as adding outdoor recreational facilities to B1, B2 and L1 are forthcoming. Work continues on subdivision bonds. The brick wall at the

JDH shopping center is being demolished; it was put up in error. A three foot screen wall on the west side is the only wall required.

6. PUBLIC HEARING ON CUP 09-02, ARBORBROOK CHRISTIAN ACADEMY REQUEST FOR TEMPORARY CLASSROOM BUILDING

Bradford made a motion to open the public hearing on CUP 09-02, Arborbrook Christian Academy's request for a temporary classroom building. Croffut said the hearing on this matter is judicial in nature and will be conducted in accordance with special due process safeguards. He noted all persons who wish to testify in this case should have signed up on the "sign-in to speak sheet" for this hearing and if you have not signed up and wish to speak, please sign up now and participate in the swearing in. No one wanted to speak. The clerk swore in Joshua Langen.

Croffut gave Board members a chance to reveal possible conflicts and to withdraw from this proceeding if necessary; there were no conflicts. Croffut also asked if any Board members had any information or special knowledge about the case that may not come out at the hearing tonight, to please describe that information for the record so that interested parties will know and can respond. There was no such information or knowledge.

Langen said that Arborbrook Christian Academy has submitted a Conditional Use application, CUP-09-02 in order to allow for the placement of a temporary modular classroom on the subject property; there are a number of buildings on the property. (Mayor Tracey Clinton arrived at this time.)

Langen read from the Planning Board minutes of March 23, 2009:

Staff has considered the following criteria;

a) The use will not materially endanger the public health or safety if located were proposed and developed according to the submitted plan.

The proposed use is a temporary modular class room for private high school students. Access would be gained through existing curb cuts, driveways and parking lot associated with the Central Baptist Church of Mathews. The proposed modular classroom is proposed as a temporary structure, although no date of removal is given. The site has adequate parking and WOULD NOT be considered capable of materially endangering the public health or safety if constructed as submitted.

Jim Clark and Steve Heidorn, representing Arborbrook, explained the proposal is for one temporary building that will be at the school for at least three years; their intent is to build at another location eventually.

Adams made a motion to put in a time frame of five years that can be renewed upon application for five more years; Fairman seconded the motion.

The motion was approved unanimously.

The Board went through the finding of fact.

a) The use will not materially endanger the public healthy or safety if located were proposed and developed according to the submitted plan.

Board members unanimously voted yes.

b) *The use meets all required conditions and specifications.*

Zoning Administrator Langen read from his staff memo on CUP-09-02:

The proposed use would be allowed as a conditional use in the R-40 zoning district. Parking, and access conditions would be met. The temporary structure would not be required to adhere to stormwater regulations. Additional landscaping is proposed, although a formal plan has not been submitted. Architecture is proposed to be in keeping with the neighborhood, although façade details have not been submitted. Adequate landscaping already exists on site and the temporary nature of the structure would lessen an architectural impact. Landscaping and Elevations will be provided for the Planning Board meeting.

At this point Langen noted the elevations were not deemed necessary.

Langen continued to read from the Planning Board minutes:

The use DOES appear to meet all required conditions and specifications.

Langen said parking is adequate, it is not in the floodplain; since it is temporary it doesn't have to go to the engineer; landscaping is not required for a buffer, since they are not a business or commercial property.

Langen noted this is not a commercial project abutting a residential project so buffers do not apply. Langen continued to read from the Planning Board minutes:

If the Board wants a landscape plan, they can request one. Planning Board members asked if the Flood Damage Ordinance would apply. Mr. Heidorn said there would be underpinnings, and they will do some shrubs. It will be a four classroom building, modular space, with a shingled roofline.

Davis made a motion to approve this use, it meets all required conditions and specifications; Adams seconded the motion.

The motion passed unanimously.

c) *The Use will not substantially injure the value of adjoining or abutting property, or the use is a public necessity.*

Zoning Administrator Langen read from his staff memo on CUP-09-02:

The adjoining lots consist of residential properties. The structure is to be a temporary structure, lessening the impact on neighboring properties, parking is adequate, school and church functions will not be held simultaneously, modular architecture will be design-oriented, and additional landscaping is anticipated. The proposed use IS NOT anticipated to injure the value of the adjoining or abutting properties and IS NOT considered to be a public necessity. The church and school will be careful not to hold functions simultaneously. The building will only be used for a school. Fairman made a motion to agree this use will not substantially injure the value of adjoining or abutting property, or the use is a public necessity. Adams seconded the motion.

The motion passed unanimously.

d) *The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with this Ordinance and the Village of Wesley Chapel Land Development Plan.*

Zoning Administrator Langen read from his staff memo on CUP-09-02:

The proposed use is a temporary modular class room for private high school student. As the property is located in a Low-Density Residential Land Use District, it DOES comply

with the Land Use Plan, if granted a Conditional Use Permit. As the use is temporary and minimal traffic is anticipated, the proposed use IS considered to be in harmony with the area AND to be in general conformity with the Zoning Ordinance

Adams made a motion that the project meets this finding. Davis seconded the motion.

The motion passed unanimously.

- e) ***Additional review criteria, as stated in the Ordinance, shall also be considered and addressed where required.***

Zoning Administrator Langen read from his staff memo on CUP-09-02:

The additional review categories, as listed in 6.10.5 Golf Courses, Churches require the proposed use minimize any impacts on nearby properties and to be compatible with the general characteristics of the area. These review criteria are met.

Adams made a motion that the project meets this finding. Fairman seconded the motion.

The motion passed unanimously

- f) ***Any deviation from the terms of this Ordinance will result in a project that is at least equal to or better than what would be accomplished under the strict application of this ordinance.***

Zoning Administrator Langen read from his staff memo on CUP-09-02:

No deviation from the terms of the Zoning Ordinance are anticipated.

Davis made a motion that the project meets this finding. Adams seconded the motion

The motion passed unanimously

- g) ***Any deviation from the terms of this Ordinance will not adversely affect the right of other abutting or nearby property owners in any material manner.***

Zoning Administrator Langen read from his staff memo on CUP-09-02:

No deviation from the terms of the Zoning Ordinance are anticipated.

As the proposed use and submitted plan can be considered to meet the above criteria, staff recommends APPROVAL of the conditional use request. In addition, a set time for the removal of the structure should be specified.

Adams made a motion that the project meets this finding. Fairman seconded the motion.

The motion passed unanimously.

Adams made a motion to recommend approval of CUP 09-02 for Arborbrook Christian Academy. Davis seconded the motion.

The motion passed unanimously.

Bradford asked Langen if this is considered a church or a school for the additional review criteria; Langen said you could go either or; it is on church property but functions as a school. Horvath asked if the condition was agreed to by the applicant.

The Clerk swore in Steve Heidorn from Arborbrook Christian Academy. Mr. Heidorn said they agreed to the five year condition, with potential renewals upon reapplication. Pierce asked about the overall size of the unit. Steve Heidorn said it is 2,000 square feet, and single story. Mr. Heidorn said the plans shows it to be twenty (20) feet high, the land slopes back to the trees, so the height must be with the piers. Pierce asked about the

roofline; Mr. Heidorn said it is a mansard roofline; the exterior will be Hardiplank pre-colored. Pierce asked about an emergency evacuation plan; Heidorn said yes and they have fire and security in all the buildings.

The public comments portion of the Public Hearing was closed. Mayor Pro Tem Croffut turned the meeting over to Mayor Clinton.

7. PUBLIC HEARING ON CUP 09-01, CONSTRUCTION OF FIRE STATION AT 315 WAXHAW-INDIAN TRAIL ROAD, WAXHAW, NC 28173

Mayor Clinton said the hearing on this matter is judicial in nature and will be conducted in accordance with special due process safeguards. She noted all persons who wish to testify in this case should have signed up on the "sign-in to speak sheet" for this hearing and if you have not signed up and wish to speak, please sign up now so we can get you sworn in. The list of people who wanted to speak was read by the Mayor, and she asked if anyone else wanted to speak. She asked each one if they were for or against the CUP. The clerk swore in the following group: Bill Reule, Ralph Price, Gary Libberton, Charles Rohland, Charles B. Brooks II, Mary Martin and Scott Garner. Mayor Clinton asked Butch Plyler who would speak on behalf of the applicant; he said Scott Garner, their architect, and Jason Galloway, their engineer. The clerk then swore in Jason Galloway and Joshua Langen.

Mayor Clinton gave Board members a chance to reveal possible conflicts and to withdraw from this proceeding if necessary; there were no conflicts. Mayor Clinton then asked if any Board members had any information or special knowledge about the case that may not come out at the hearing tonight, to please describe that information for the record so that interested parties will know and can respond. There was no such information or knowledge.

Mayor Clinton said we would first hear from our planner Joshua Lange, then from the applicant and then from citizens who wish to speak; parties may cross-examine witnesses after the witness testifies when questions are called for; if you want the Board to see written evidence, such as reports, maps, or exhibits, it will be submitted to the Clerk and marked as an exhibit. She noted we cannot accept reports from persons who are not here to testify; attorneys who speak should not give factual testimony but may summarize their client's case; and before you begin your testimony, please clearly identify yourself for the record.

Mayor Clinton then opened the Public Hearing on CUP 09-01.

Joshua Langen said CUP 09-01 is a request to build a new fire station on Waxhaw-Indian Trail Road, the property is zoned R-40. At the time of the Planning Board review the landscape plan was conceptual, but we now have a more detailed plan. Also since the Planning Board meeting more work has been done on the stormwater plan, preliminary calculations have been done. The applicant told us it is prohibitively expensive to do a complete plan before approval, but at this point Langen said he believes it is 99% of a full plan submitted. The calculations and the plan did go to our engineer, and she prepared a preliminary draft review; it was not sent to the applicant as the engineer's office plan is to not copy non clients with draft review. Langen did not send it to the applicant. The

engineer said all comments except one were minor. The one item was whether existing storm drainage pipes from the neighboring subdivision can be utilized instead of the detention plan and runoff proposed. Langen called the applicant's engineer today and the engineer thought it would be prohibitively difficult because right of way would have to be bought and access granted, and negotiations gone through.

Langen said the Planning Board had questions about future barbecues, the applicant thought it would be difficult due to lack of parking; they might be able to handle a call in, drive through if they wanted to hold a fundraiser. Langen read from the Planning Board minutes of January 26, 2009 regarding number of vehicles and noted there might be some ambiguity there. From the same minutes, Langen read:

There is paid staff during the day now, and the second floor provides twelve beds. Their revenues come from taxes. Keeney asked if the tax rate will stay the same with paid staff, and Plyler said probably not. The tree line will remain on the side. The eave height is twenty two feet, and it is forty one feet to the ridge of the roof. Plyler noted fund raisers have kept the tax rate at the lowest fire rate in the county. This building will be a certified "green" building, the first in the county, and the estimated cost is \$4.5 million. They hope to break ground in June and estimate twelve months for construction. They think it will meet the community's needs for forty years. Adams made a motion to go through the finding of facts criteria. Keeney seconded the motion.

The motion passed unanimously.

Finding of Facts:

a) The use will not materially endanger the public healthy or safety if located were proposed and developed according to the submitted plan.

All Planning Board members agreed.

Langen added his staff recommendations: *The proposed use is a volunteer fire station. Access will be gained through a major thoroughfare, Waxhaw-Indian Trail, with adequate site distances and does not represent a public health of safety issue. The proposed use would NOT be considered capable of materially endangering the public health or safety if constructed as submitted.*

Langen said Planning Board agreed to accept his comments as their own. *Regarding finding of fact (b) The use meets all required conditions and specifications; Langen's recommendation was the use is allowable with a conditional use permit in an R-40 residential district. The building shall be placed outside all setback areas. Parking meets requirements for sixty-one (61). The use DOES appear to meet all required conditions and specifications. Planning Board added a criteria to require that landscaping and flood/stormwater criteria are met with detailed landscape drawings and that the project meet stormwater management requirements.*

For finding of fact (c) The use will not substantially injure the value of adjoining or abutting property, or the use is a public necessity. Staff recommendation was: The adjoining lots consist of residential properties within the Glen at Wesley Oaks subdivision, a private residence fronting Billy Howey Road and a cemetery. Buffers are proposed along all side and rear yard setbacks. The proposed use is NOT anticipated to injure the value of the adjoining or abutting properties and IS considered to be a public necessity. Langen reported all Planning Board members agreed with his statement.

Finding of fact (d) The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with this Ordinance and the Village of Wesley Chapel Land Development Plan. Langen's response was that the proposed use is a fire station commonly located near residential subdivisions. The proposed use exhibits a high level of design and is located in a large residential land use district. Therefore, the proposed use IS considered to be in harmony with the area and to be in general conformity with the Zoning Ordinance. Again all Planning Board members agreed with Langen.

Finding of fact (e) Additional review criteria, as stated in the Ordinance, shall also be considered and addressed where required – Langen reported no additional review criteria are considered necessary, and Planning Board members agreed.

Finding of fact (f) Any deviation from the terms of the Zoning Ordinance will result in a project that is at least equal to or better than what would be accomplished under the strict application of this ordinance – Langen said no deviation from the terms of the Zoning Ordinance are anticipated; Planning Board agreed.

Finding of fact (g) Any deviation from the terms of the Ordinance will not adversely affect the right of other abutting or nearby property owners in any material manner.

Langen's recommendation was no deviation from the terms of the Zoning Ordinance are anticipated; Planning Board agreed.

From the Planning Board minutes of January 26, 2009; Langen read: *Adams made a motion to recommend approval with the conditions of the detailed landscaping plans and stormwater approvals being obtained. Davis seconded the motion.*

The motion passed unanimously.

Plyler asked if there was a deadline for the stormwater and landscape information; it will be up to Council as to when they want it. Keeney asked about what was entailed in getting the stormwater plan. Their engineer and our engineer will work on the stormwater plan and evaluation. Timing of obtaining the landscape and stormwater plans was discussed. Detailed plans were not yet obtained pending preliminary approval. Keeney made a motion to recommend approval of the CUP to Council, based on final Council approval, with precedent stormwater and landscape plans approved by the Zoning Administrator. Fairman seconded the motion.

The motion passed unanimously.

Bennett asked about the application fee and the request in the application that the fee be waived. Adams recommended Council waive the \$250 fee and not charge for our engineer's fees that are usually charged to applicants. Keeney seconded the motion.

The motion passed unanimously.

Plyler asked if the Village could refund the fee the fire department paid for the text amendment on height of the building. Adams made a motion to recommend to Council that they consider refunding the fee for the text amendment. Davis seconded the motion.

The motion passed unanimously.

Plyler noted that the presence of the Sheriff's department in the fire department building would be worth more than \$350 to the Village.

Bradford asked if our engineer had heard back from the applicant that her proposal was not acceptable to the applicant. Langen said their engineer Jason Galloway is present and he would rather have Galloway answer. Galloway said the storm drainage is on private property, they would have to buy easement, and Bonnie did say what they had proposed would also be acceptable.

Scott Garner, architect, spoke for the applicant. The applicant feels the building will look very nice, increase property values and be a positive improvement to Wesley Chapel. It will have space for the sheriff and be ready to go. Mayor Clinton asked if they have confirmation from the Sheriff that they are committed to using it. The Clerk swore in Sheriff Cathey. Sheriff Cathey said they are committed to the facility but not financially, that is a job of the Board of County Commissioners (BOCC). He said they want to be there, and it would be an asset to this end of the county. Sheriff Cathey said the plans have changed considerably since the first time he looked at them, the office space is around fifteen to sixteen hundred square feet, and certainly would be a big office space to them. He said while he can't speak for the BOCC, the citizens would want it, and he feels the BOCC would want it. Pierce asked whether funds were being put in the 2009-2010 budget for it. Sheriff Cathey said not in this budget, the County is struggling, and they have not asked for funds for it. They are opening a small place in Indian Trail, actually the citizens of Indian Trail are funding that. When ground is broken, and plans are definite, he will take it to the BOCC. Pierce asked if he would have officers to reassign. Sheriff Cathey said they have officers in Wesley Chapel and the area, and if it opened today they would have officers in it. He said this is a central location and officers pass through Wesley Chapel daily. If they wanted to bring phones or computers there, they would have to get funding, however they have computers in their cars. Scott Garner said it is a good location instead of dispatching from another location. Bradford asked if Cathey planned to contribute to construction costs. The Sheriff said they are not anticipating to contribute to the building, down the road they would have vested interests. Bradford asked if they don't use it, what would be done with it. The Clerk swore in Butch Plyler. Butch Plyler said if they don't use it, we could use it in numerous other ways. He feels the Sheriff and BOCC will make it happen but if not, they will utilize it. Horvath asked about the lighting plan. The engineer said it is one foot-candle or less at the property line adjacent to the side and rear. The Mayor asked Langen if he reviewed the lighting plan; he had not. Butch Plyler said the exterior lighting plan will meet the Wesley Chapel ordinance. Mayor Clinton said in Article 4.10.2, it says lighting will not exceed thirty feet; and the structure is forty feet; the engineer said the eave is twenty two feet and they won't exceed that height. Mayor Clinton said the path forward is for Langen to review the plan.

Mayor Clinton went through setbacks. Article 5.3.3b shows minimum front yard setback at seventy five feet for "all other uses"; the plan meets that. Butch Plyler said all setbacks were confirmed with Wesley Chapel, and asked Langen if he reviewed them, he replied yes. The lot width requirement per 5.3.3(c) is one hundred twenty feet, and that is met. The side yard setback per 5.3.3(d) is fifty feet. Langen said that was my first question, and they had a letter from the previous planner saying that this was not a government. Mayor Clinton said it is much more in the line of a church, school, library, government than a house. Scott Garner said the letter was from Justin Krieg, and Garner sent a copy to Langen. Mayor Clinton asked Attorney Sistrunk his opinion: he said Justin is not here to testify, and Council can decide on the matter. The minimum rear setback per 5.3.3(e) is forty feet, and that is met. The maximum building height per Article 4.8.3 is forty five feet; Scott Garner said the average height is thirty two feet, not forty five feet. The maximum height is forty-five feet and eight inches; they can lower it if needed, but it meets the specs. Langen asked what is the highest point of occupied space in the tower; Garner said twenty two feet.

Mayor Clinton asked the total square footage of the lot; Galloway said four acres; when built, Mayor Clinton asked how much of that would be impervious; Galloway said 51%. Mayor Clinton asked Langen how that compared to R-40 with one house per acre, what percentage of the lot is typically impervious. Langen said less than fifty per cent, but they grow with attachments. Mayor Clinton noted that a CUP is a more intensive use than a use by right, and because it is more intensive we may go over and beyond our ordinance requirements to fit in a residential district. She expressed concerned with the slope of the land, and seeing that our stormwater ordinances are not adequate, having seen flooding on Underwood Road and wondered if it was enough even if they meet the minimum requirements. Langen said you usually have about four thousand impervious square feet per one acre home, so they are five times greater in impervious surface.

Mayor Clinton asked about water and sewer; Plyler and the engineer said yes, they have two taps to houses on the back, and already are on county water. The Mayor asked about a verification letter from Public Works? Plyler said they are already on water, and probably won't use much more than they are using now.

Mayor Clinton asked about the fencing used to reduce setbacks. Galloway said the fence will be a six foot high privacy fence on the property line. Mayor Clinton read the buffer requirements from Article 4.2.2; from the table it shows two acres requires twenty six feet. Galloway said the width was reduced 20% by the fence. Langen said he may have used the 3.5 acre requirement of twenty four feet and then subtracted the 20%. Mayor Clinton asked if the fence would run the whole way, or only where the buffer is reduced to 19.2 feet; Galloway said only where it is 19.2 feet.

Mayor Clinton asked about the location of the drives and whether they had DOT approval? Galloway said yes, DOT had approved them.

Mayor Clinton noted that the County has an RFP out right now for a fire study which may ultimately result in changing fire lines, and asked why they would do this project now rather than wait for the results, which may recommend a fire station in a different location. Plyler said they are there now; a change of fire lines probably won't affect them much. Mayor Clinton asked the expected change on the fire tax rate? Plyler said once we get approval, it will go out to bid, now is an excellent time to get a price, they hope to save as much as thirty dollars per square feet. Garner said construction prices have been

rolled back three years, and it won't last forever. Mayor Clinton asked what the savings would be, and how does it relate to the total cost, and the proposed tax; it is important to know in relation to a 26,000 square foot station. Plyler said he guesses it would cost 4.5 million to build the station, but until it is out to bid we won't know. They put in a budget to the BOCC, and can't say the rate won't go up a half cent. Garner said another project came in \$800,000 less than estimated. Mayor Clinton asked if they had been to the BOCC and they had approved building this, and a possible tax increase. Plyler said there is no need to go to the BOCC until we get approval, and then ask their blessing on a government loan. Mayor Clinton noted they are funded through taxes, and every dollar should be scrutinized and fully accountable to the citizens. Plyler said we are audited yearly and the BOCC goes through it carefully. Mayor Clinton said she would like to see an open discussion with us, the County, or all three, to see what improvements citizens will see, what impact on construction budget, and ongoing budget; there are 12 beds, will there be twelve on staff at one time. Garner said this is a building to meet forty year needs, and manpower will change. Bradford said the station in Marvin is about 17,000 square feet, and this one is significantly bigger; have you considered building two smaller ones to improve service and response times. Plyler said if we had built it over again, we would have done that one bigger, you want a fire station about every five miles. Horvath stepped out of the room at this time. A five minute recess was taken.

Mayor Clinton said Council member Horvath has a work emergency, and we will have to recess the hearing to next Tuesday. Mr. Horvath apologized. They asked if anyone could not attend next Tuesday, the engineer and architect said they could attend.

A resident behind the fire station said he couldn't come next Tuesday, he said he is neither for nor against the CUP; he said it gets noisy at night and he has concerns regarding the buffer, the fence, stormwater, and flooding; and he is not sure a thirty foot building in his backyard is an asset.

Charles Brooks spoke; he is not a resident but his son volunteers; he said he spent a fair amount of time at both stations, and if it is like the other one it will be an enhancement to the area; the response time would be much quicker and also for the Sheriff as well as EMS to be there is an asset. He noted we have been through the battles, and seen the result of the Sheriff moving to Wingate and the negative result on Monroe. If the lines are changed, the station will still be here, if you wait they may build it further away.

Bradford made a motion to recess this public hearing to Tuesday May 19, 2009 at 7 pm. She said she would like to get Neil Spier who is involved in the fire RFP to attend, and would also like our engineer to attend for the stormwater issue. Croffut seconded the motion.

The motion passed 4-0; with Horvath not voting because he was outside.

Plyler asked if anyone had questions if they could feed them to Joshua, or himself or Chief Terry Byrum it would save a lot of time. Mayor Clinton answered that we cannot, because this is a quasi-judicial hearing and must all be done here.

8A. DISCUSSION OF LAND DONATION; CONSIDER APPROVAL AND PATH FORWARD

Croffut made a motion to table this item until the next meeting; Bradford seconded the motion.

The motion passed unanimously.

8B. DISCUSSION AND POSSIBLE VOTE ON CUP 09-02 ARBORBROOK CHRISTIAN ACADEMY REQUEST FOR TEMPORARY CLASSROOM BUILDING

Council went through the findings of fact.

- a) The use will not materially endanger the public health or safety if located where proposed and developed according to the submitted plan.

Council approved this finding of fact unanimously, 4-0.

- b) The use meets all required conditions and specifications.

Council approved this finding of fact unanimously, 4-0.

- c) The Use will not substantially injure the value of adjoining or abutting property, or the use is a public necessity.

Council approved this finding of fact unanimously, 4-0.

- d) The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with this Ordinance and the Village of Wesley Chapel Land Development Plan.

Council approved this finding of fact unanimously, 4-0.

- e) Additional review criteria, as stated in the Ordinance, shall also be considered and addressed where required.

Council approved this finding of fact unanimously, 4-0.

- f) Any deviation from the terms of this Ordinance will result in a project that is at least equal to or better than what would be accomplished under the strict application of this ordinance.

Council approved this finding of fact (since there was no deviation) unanimously, 4-0.

- g) Any deviation from the terms of this Ordinance will not adversely affect the right of other abutting or nearby property owners in any material manner.

Council approved this finding of fact (since there was no deviation) unanimously, 4-0.

Pierce made a motion to add two conditions: that the time period approved is five years, with renewal being considered upon re-application; and that the landscape plan around the building be approved by our Planning and Zoning Administrator. The applicant agreed to the conditions. Bradford seconded the motion.

The motion passed unanimously.

Croffut made a motion to approve CUP 09-02 with these conditions; Pierce seconded the motion.

The motion passed unanimously.

Mayor Clinton then closed the public hearing.

Croffut made a motion to excuse Horvath from the meeting; Pierce seconded the motion.

The motion passed unanimously.

8C. DISCUSSION AND POSSIBLE VOTE ON CUP 09-01,
CONSTRUCTION OF FIRE STATION AT 315 WAXHAW-INDIAN TRAIL
ROAD, WAXHAW, NC 28173

Bradford made a motion to table this item until Tuesday, May 19, 2009 at 7 pm.
Pierce seconded this motion.

The motion passed unanimously.

Croffut made a motion to move Item 9 to after Item 11; Pierce seconded the motion.

The motion passed unanimously.

10. OTHER BUSINESS

Bradford said there was an opportunity to pass out surveys to high school students at a minimal cost. Mayor Clinton asked if they would make sure they are Wesley Chapel people; Bradford said yes, they would make some minor changes to capture that information.

11. COUNCIL COMMENTS

Pierce said she wanted to publicly thank Chief Byrum for the use of the fire department grounds for the parade last September.

9. CLOSED SESSION: MOTION TO CALL FOR CLOSED SESSION
PER NC GS 143-318.11(a) (3) Attorney Client Privilege re: The Village
of Wesley Chapel v. Michael Land

Pierce made a motion to go into closed session per NC GS 143-318.11(a) (3)
Attorney Client Privilege re: The Village of Wesley Chapel v. Michael Land.
Bradford seconded the motion.

The motion passed unanimously.

The lawsuit was discussed.

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

19. ADJOURNMENT

Croffut made a motion to adjourn; Bradford seconded the motion.

The motion was approved unanimously.

The meeting was adjourned.

Respectfully submitted,

Cheryl Bennett, Clerk

Mayor Tracey Clinton