

VILLAGE OF WESLEY CHAPEL  
COUNCIL MEETING MINUTES  
September 14, 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, Mayor Pro-tem Croffut, Council Members Bradford, Horvath, and Pierce

**Others Present:**

Village Clerk/Finance Officer: Cheryl Bennett  
Planning/Zoning Administrator: Joshua Langen  
Village Attorney: George Sistrunk

Concerned citizens: Carol Mullis, Kim Ormiston

Meeting was called to order at 7:03 PM and a quorum was present.

1. PLEDGE OF ALLEGIANCE / INVOCATION

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

2. PUBLIC HEARING – ON CONDITIONAL USE PERMIT CHANGES TO ZONING ORDINANCE

The public hearing was opened. There were no public comments. The public hearing was closed.

3. INFORMAL PUBLIC COMMENTS – none.

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

Bradford made a motion to approve the agenda; Croffut seconded the motion.

The motion passed unanimously.

5. APPROVE MINUTES FOR:

Council Meeting June 16, 2009  
Council Meeting July 13, 2009  
Council Meeting August 10, 2009  
Council Meeting August 18, 2009  
Closed Minutes, June 8, 2009, Item 13  
Closed Minutes, July 13, 2009, Item 16  
Closed Minutes, August 10, 2009, Item 15A

Croffut made a motion to approve the minutes for the Council Meeting June 16, 2009; Council Meeting July 13, 2009; Council Meeting August 10, 2009 and Council Meeting August 18, 2009. Pierce seconded the motion.

The motion passed unanimously.

Croffut made a motion to approve the Closed Minutes for the June 8, 2009, Item 13; Closed Minutes, July 13, 2009, Item 16; and Closed Minutes, August 10, 2009, Item 15A. Bradford seconded the motion.

The motion passed unanimously.

6. STAFF REPORTS

- a. Review and approve the Village Financial Reports dated August 31, 2009, submitted by Cheryl Bennett, Finance Officer

Bennett noted she had done adjustments to fixed assets, depreciation, and taxes receivable for the audit. August revenues are \$7,422.61, expenses are \$14,673.93 and the year to date deficit is \$14,395.47. Bradford will send an e-mail to the Finance Officer requesting payment of the contribution to the conservancy.

Horvath made a motion to approve the August financial reports; Pierce seconded the motion.

The motion passed unanimously.

**August 2009 Budget Report**

	<b>Aug 09</b>	<b>Jul - Aug 09</b>	<b>Budget</b>	<b>% of Budget</b>
<b>Revenues</b>				
<b>Fees and Licenses</b>				
Cable Franchise (from Time Warn	3,309.00	3,309.00	12,500.00	26.47%
Engineering Fees Reimbursement	441.25	1,750.69	10,000.00	17.51%
Zoning Permit	395.00	595.00	7,000.00	8.5%
Privilege Licenses	628.00	15,761.42	21,000.00	75.05%
Annexation Exp Reimbursed	0.00	0.00	150.00	0.0%
Misc. Fees	0.00	0.35	100.00	0.35%
<b>Total Fees and Licenses</b>	<b>4,773.25</b>	<b>21,416.46</b>	<b>50,750.00</b>	<b>42.2%</b>
<b>Interest Earned</b>	<b>184.78</b>	<b>374.01</b>	<b>14,000.00</b>	<b>2.67%</b>
<b>Property Tax Income</b>				
Current Year Property Tax	1,048.57	1,048.57	130,316.00	0.81%
Delinquent Taxes	648.45	648.45	600.00	108.08%
Interest/Ad Fee on Taxes	38.55	38.55	200.00	19.28%
Utility Ad Valorem	0.00	0.00	600.00	0.0%
Vehicle Registration	729.01	904.33	8,064.00	11.21%
<b>Total Property Tax Income</b>	<b>2,464.58</b>	<b>2,639.90</b>	<b>139,780.00</b>	<b>1.89%</b>

**Revenue Sharing**

Alcoholic Beverage Tax	0.00	0.00	19,000.00	0.0%
Cable (from State)	0.00	0.00	75,000.00	0.0%
Excise Tax (Piped Natural Gas)	0.00	0.00	10,000.00	0.0%
Franchise Tax (Electric Power)	0.00	0.00	140,000.00	0.0%
Sales & Use Taxes	0.00	0.00	24,000.00	0.0%
Telecommunications Tax	0.00	0.00	12,000.00	0.0%
<b>Total Revenue Sharing</b>	<u>0.00</u>	<u>0.00</u>	<u>280,000.00</u>	<u>0.0%</u>
<b>Total Revenues</b>	<u>7,422.61</u>	<u>24,430.37</u>	<u>484,530.00</u>	<u>5.04%</u>

**Expense**

**Operating Expenditures**

Tax Collection Fee	10.23	10.23	2,200.00	0.47%
Contingency	0.00	0.00	23,000.00	0.0%
Advertising - Clerk	0.00	0.00	500.00	0.0%
Annexation Expense	0.00	200.00	1,000.00	20.0%
Annual Retreat	0.00	0.00	2,000.00	0.0%
Books & Literature	50.00	50.00	600.00	8.33%
Dues and Subscriptions	1,198.00	6,228.00	12,000.00	51.9%
Election Expense	0.00	0.00	9,200.00	0.0%
Insurance - Liability	0.00	9,110.51	9,500.00	95.9%
Insurance - Workmen's Comp	0.00	470.00	600.00	78.33%
Land Maintenance	0.00	0.00	3,000.00	0.0%
Miscellaneous	0.00	0.00		
Town office Maint.	0.00	119.85	1,000.00	11.99%
Misc town office	0.00	0.00	2,000.00	0.0%
Newsletter	0.00	0.00	5,000.00	0.0%
<b>Office Expense</b>				
Office Equipment Repairs	0.00	0.00	1,000.00	0.0%
Office Equipment	0.00	0.00	2,000.00	0.0%
Awards	0.00	0.00	500.00	0.0%
Electronic Commun (Tele/RR)	221.30	438.10	4,000.00	10.95%
Office Supplies	115.81	287.53	3,000.00	9.58%
<b>Total Office Expense</b>	<u>337.11</u>	<u>725.63</u>	<u>10,500.00</u>	<u>6.91%</u>
Postage and Delivery	49.54	49.54	700.00	7.08%
Rent	1,300.00	2,600.00	20,000.00	13.0%
Seminars	99.00	99.00	3,000.00	3.3%
Travel & Entertainment	102.30	170.50	3,000.00	5.68%
Utilities- Temp. Town Hall	332.40	332.40	4,000.00	8.31%
Welcome Committee	0.00	0.00	1,000.00	0.0%
<b>Total Operating Expenditures</b>	<u>3,478.58</u>	<u>20,165.66</u>	<u>113,800.00</u>	<u>17.72%</u>

**Gen. Govt. Salaries**

<b>Admin. Assistant</b>	420.00	671.25	4,680.00	14.34%
<b>Allowance for Salary Adjustment</b>	0.00	0.00	31,354.00	0.0%
<b>Mayor</b>	0.00	0.00	4,800.00	0.0%
<b>Mayor Protem</b>	0.00	0.00	3,000.00	0.0%
<b>Council Salary</b>	0.00	0.00	7,200.00	0.0%
<b>Clerk Salary</b>	1,984.50	3,606.75	34,944.00	10.32%
<b>Finance Officer Salary</b>	533.07	1,243.83	9,240.00	13.46%
<b>Payroll Taxes</b>	518.96	937.33	11,500.00	8.15%
<b>Payroll exp - Unemployment</b>	0.00	0.00	1,000.00	0.0%
<b>Fringe Benefits - Insurance</b>	545.00	1,090.00	13,200.00	8.26%
<b>Fringe Benefits - Retirement</b>	309.27	562.85	6,000.00	9.38%
<b>Total Gen. Govt. Salaries</b>	<u>4,310.80</u>	<u>8,112.01</u>	<u>126,918.00</u>	<u>6.39%</u>

**Planning & Zoning**

<b>Transportation Study</b>	0.00	0.00	10,000.00	0.0%
<b>Downtown Committee</b>	0.00	0.00	2,000.00	0.0%
<b>P/Z Seminars</b>	0.00	0.00	900.00	0.0%
<b>P/Z Travel</b>	19.80	19.80	900.00	2.2%
<b>P/Z Dues,Subscriptions</b>	0.00	329.00	800.00	41.13%
<b>Administration (COG)</b>	0.00	0.00	8,000.00	0.0%
<b>P/Z Admin. Salary</b>	3,846.16	6,730.78	50,000.00	13.46%
<b>Planning &amp; Zoning Board Salary</b>	0.00	0.00	4,032.00	0.0%
<b>Advertising</b>	884.00	884.00	1,800.00	49.11%
<b>P/Z Office Expense</b>	0.00	0.00	1,200.00	0.0%
<b>Planning/Zoning Expense</b>	0.00	450.00	1,000.00	45.0%
<b>Total Planning &amp; Zoning</b>	<u>4,749.96</u>	<u>8,413.58</u>	<u>80,632.00</u>	<u>10.44%</u>

**Professional Fees**

<b>Accounting</b>	0.00	0.00	3,500.00	0.0%
<b>Engr. Consulting</b>	0.00	0.00	14,000.00	0.0%
<b>Legal Fees</b>	2,134.59	2,134.59	48,000.00	4.45%
<b>Security</b>	0.00	0.00	1,000.00	0.0%
<b>Total Professional Fees</b>	<u>2,134.59</u>	<u>2,134.59</u>	<u>66,500.00</u>	<u>3.21%</u>

**Parks & Recreation**

<b>Capital Outlay</b>	0.00	0.00	84,000.00	0.0%
<b>Operating Expenses</b>	0.00	0.00	2,180.00	0.0%
<b>Total Parks &amp; Recreation</b>	<u>0.00</u>	<u>0.00</u>	<u>86,180.00</u>	<u>0.0%</u>
<b>Public Safety</b>	0.00	0.00	2,000.00	0.0%

**Capital Outlay**

<b>Computer Equip.</b>	0.00	0.00	5,000.00	0.0%
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Minutes 2009.09.14

Approved 10.12.09

Furniture & Equipment	0.00	0.00	1,000.00	0.0%
Software	0.00	0.00	2,500.00	0.0%
<b>Total Capital Outlay</b>	<u>0.00</u>	<u>0.00</u>	<u>8,500.00</u>	<u>0.0%</u>
<b>Total Expense</b>	<u>14,673.93</u>	<u>38,825.84</u>	<u>484,530.00</u>	<u>8.01%</u>
<b>Excess of Rev. Over Exp.</b>	<u><b>-7,251.32</b></u>	<u><b>-14,395.47</b></u>	<u><b>0.00</b></u>	<u><b>100.0%</b></u>

## Balance Sheet August 31, 2009

### ASSETS

<b>Checking/Savings</b>	
Fifth Third Bank Checking	5,828.39
Fifth Third Bank Money Market	433,182.95
CD Ded land 5th3rd 11.30.09.	79,816.47
CD Ded land 5th3rd 11.02.09 4%.	80,056.42
CD 4.45% 9.6.09/8.6.10	112,296.63
CD 5th3rd 4%,11.30.09 .530	92,930.15
CD 5th3rd,4%, 11.30.09 4%.514	92,930.15
Citizens South CD Bldg 11.09.09	233,843.28
BB&T CD 01.23.10-3.84%	300,000.00
BB&T CD 10.21.09. .568	500,000.00
Petty Cash Fund	<u>50.00</u>
<b>Total Checking/Savings</b>	1,930,934.44
<b>Accounts Receivable</b>	
Misc. Fees Receivable	<u>1,026.25</u>
<b>Other Current Assets</b>	
Prepaid Exp.	850.00
Property Tax Rec.	5,554.00
Allowance for Doubtful Accounts	-883.00
Excise, Franchise & Telec.Tax Rec	57,100.00
Total Sales Taxes to be Received	639.19
State Sales Tax A/R	<u>2,700.00</u>
<b>Total Other Current Assets</b>	<u>65,960.19</u>
<b>Total Current Assets</b>	1,997,920.88
<b>Fixed Assets</b>	
Land	55,757.91
Office Equipment	13,569.26
Accumulated Deprec.	<u>-12,918.36</u>
<b>Total Fixed Assets</b>	<u>56,408.81</u>
<b>TOTAL ASSETS</b>	<u><b>2,054,329.69</b></u>

**LIABILITIES & FUND BALANCE**

<b>Other Current Liabilities</b>	
Escrow from Developers	45,076.00
Deferred Revenue	4,671.20
Payroll Liabilities	<u>193.40</u>
<b>Total Other Current Liabilities</b>	<b>49,940.60</b>
<b>Fund Balance</b>	
Fund Bal. inv. in Fixed Assets	56,408.81
Fund Balance	1,568,659.58
Reserved for Parks & Recreation	159,872.89
Unres., Designated for Town Hall	233,843.28
Excess of Rev over Exp	<u>-14,395.47</u>
<b>Total Fund Balance</b>	<b><u>2,004,389.09</u></b>
<b>TOTAL LIABILITIES &amp; FUND BALANCE</b>	<b><u><u>2,054,329.69</u></u></b>

b. Presentation of Planning and Zoning Report by Joshua Langen. In August/September two residential zoning permits, five accessory structure permits and two sign permits (Lowe's Foods and Chick-fil-A) were issued. The Planning Board Rules of Procedure ordinance amendment draft, changes to the Table of Uses to allow for "Recreation Facilities, Outdoor, (Parks, Playground) as conditional use in B-1, B-2 and L-I districts; amendments to the Zoning Ordinance Section 8 Signs; amendment to essential facilities definitions and related regulations; and amendments to zoning definitions to include Residential Union County (RUC) district for annexed properties are all to be reviewed by the Ordinance Review Committee. Residential Stormwater and related amendments to Article 14 and the Flood Damage Protection Ordinance were reviewed and recommended for approval by Planning Board in June, and will be considered by Village Council; as are the amendments to the zoning Ordinance Section 4.7 Temporary Structures and Uses to include Mobile Business/Vendor Use; and amendments to subdivision ordinance Section 411 Homeowners' Association Required (also need to set public hearing date for the last two). Amendments to Zoning Ordinance Article 6 Conditional Uses are up for Council decision.

**7. REVIEW LARTP SUMMARY**

Horvath reported the next step is for each town to adopt the LARTP report; it will then be presented to MUMPO so they will have it when funds become available. Some tweaking will be done; Marvin adopted it with a few changes. We will call for a public hearing at our next meeting. Horvath will check and see if a LARTP consultant is available in October. We will advertise it twice per Sistrunk's recommendation. It will become part of our Land Use Plan/thoroughfare map.

**8. CONSIDER APPROVAL OF RESOLUTION 2009-10 REQUESTING REDUCTION OF SPEED LIMIT AT INTERSECTION OF WEDDINGTON ROAD AND WAXHAW-INDIAN TRAIL ROAD**

Horvath reported he had been approached by a number of residents with concerns getting in and out of subdivisions and the shopping center. Pierce noted there is more traffic with the additional businesses; Weddington has 35 mph in their downtown and Waxhaw has 25 mph. LARTP data shows the intersection operates at a “D” level during rush hour; we will include this in the cover letter. We will add to the Resolution in the second WHEREAS, “as evidenced in the traffic studies contained in the LARTP draft report”. Bradford made a motion to approve Resolution 2009-10, with the above change. Pierce seconded the motion.

The motion passed unanimously.

**VILLAGE OF WESLEY CHAPEL RESOLUTION 2009-10  
REQUESTING REDUCTION OF SPEED LIMIT AT  
INTERSECTION OF WEDDINGTON ROAD AND WAXHAW-  
INDIAN TRAIL ROAD**

**WHEREAS**, the Village Council of the Village of Wesley Chapel is concerned for the safety, health and welfare of the citizens of the Village of Wesley Chapel as well as for those who visit our Village; and

**WHEREAS**, the Village Council recognizes that along with the new shopping centers and adjacent subdivisions at or near the intersection of Weddington Road and Waxhaw-Indian Trail Road, additional traffic has been generated as evidenced in the traffic studies contained in the Local Area Regional Transportation Plan draft report, and several points of ingress and egress have been added, and

**WHEREAS**, the Wesley Chapel Volunteer Fire Department station which responds to emergency calls is also located in the area of the intersection, and

**WHEREAS**, blind curves in the area result in poor sight distance,

**WHEREAS**, the current speed limit of 45 miles per hour creates safety concerns;

**NOW THEREFORE BE IT RESOLVED**, that the Village Council of the Village of Wesley Chapel requests that the North Carolina Department of Transportation assist the Village Council and residents and businesses and others traveling these streets by lowering the speed limit to 35 miles per hour on Weddington Road from the Village limits on the west to the entrance to the Blackstone subdivision on the east; and lower the speed limit to 35 miles per hour on Waxhaw-Indian Trail road from the north side of the Wesley Chase subdivision to the south side of the Wesley Chapel Volunteer Fire Department..

This the 14<sup>th</sup> day of September , 2009.

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Tracey Clinton, Mayor

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Cheryl Bennett, Clerk

9. **CONSIDER APPROVAL OF PROCLAMATION FOR CONSTITUTION WEEK**

We were approached by the Monroe Chapter of the D.A.R. and asked to issue a Proclamation in support of Constitution Week to recognize the 222 anniversary of the framing of the Constitution of the United States of America. Croffut made a motion to approve the Proclamation for Constitution Week 2009; Bradford seconded the motion.

The motion passed unanimously.

**VILLAGE OF WESLEY CHAPEL  
PROCLAMATION  
CONSTITUTION WEEK 2009**

**WHEREAS:** The Constitution of the United States of America, the guardian of our liberties, embodies the principles of limited government in a Republic dedicated to rule by law; and

**WHEREAS:** September 17, 2009 marks the two hundred twenty-second anniversary of the framing of the Constitution of the United States of America by the Constitutional Convention; and

**WHEREAS:** It is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary, and to the patriotic celebrations which will commemorate it; and

**WHEREAS:** Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week;

**NOW, THEREFORE I,** Tracey L. Clinton, by virtue of the authority vested in me as Mayor of the Village of Wesley Chapel in the State of North Carolina do hereby proclaim the week of September 17 through 23 as

**CONSTITUTION WEEK**

**AND** ask our citizens to reaffirm the ideals the Framers of the Constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through the guardian of our liberties.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the village to be affixed this 14<sup>th</sup> day of September of the year of our Lord two thousand and nine.

\_\_\_\_\_  
Mayor Tracey L. Clinton

Attest: \_\_\_\_\_  
Cheryl Bennett, Clerk

**10. UPDATE ON POST OFFICE**

Mayor Clinton reported we received a letter dated September 1, 2009 supporting the denial of our request. The response said they had accommodated us by allowing use of Wesley Chapel in mail to zip code 28104 only, and any other changes would be cost prohibitive.

**11. CONSIDER APPROVAL OF CHANGES TO ZONING ORDINANCE REGARDING CONDITIONAL USE PERMITS**

Mayor Clinton requested that the application be put into the ordinance to prevent inconsistencies in the ordinance requiring one thing and the application something else. Horvath noted on page 6-7, at 6.4.3(e) we should change sewer to wastewater treatment. Bradford asked if “will be made available” was too open ended at that item; Langen noted the committee looked at it, and we do have on page 6-17 that the Council needs an approval letter from Union County Public Works. On page 6-6, Sec. 6.4.3 (a) we will correct “healthy” to be “health”. Changes to essential services will be forthcoming in another amendment. Section 6.12.I.E., Bradford requested we strike “For residential uses”. On the last page, we will add “to” at 6.12-VII. Clerk Bennett will get the summarized changes to Council before the next meeting. Langen will add the application to the amendment.

Discussion was held on getting applicants to pay their engineering fees, which can be a problem when the application is denied. Sistrunk said if we deny it, and wait to give out the denial until they pay, it won’t delay the timeline to reapply. An option might be to set the application fee higher to cover engineering fees. Langen will look into this. This item will be on the agenda next week.

**12. CONSIDER APPROVAL OF CHANGES TO FLOOD ORDINANCE AND ZONING ORDINANCE REGARDING STORM WATER**

The definition of freeboard was added on page 1. Pierce made a motion to approve the changes to the Flood Ordinance and Zoning Ordinance (add Article 14) regarding Stormwater. Bradford seconded the motion.

The motion passed unanimously.

The amendment is as follows.

Change the name of the FLOOD DAMAGE PREVENTION, DRAINAGE, STORMWATER MANAGEMENT, AND WETLAND PROTECTION ORDINANCE to the FLOOD DAMAGE PREVENTION ORDINANCE.

Move Section A. "ARTIFICIAL OBSTRUCTIONS WITHIN FLOODWAYS AND NON-ENROACHMENT AREAS PROHIBITED" of Article 6 to Section L of Article 5.

Delete the rest of Article 6 – "Drainage, Stormwater Management, And Wetland Protection" from the Flood Damage Prevention Ordinance.

Article 7 – "Legal Status Provisions" becomes Article 6.

Article 14 is added to the Zoning Ordinance and the old text deleted:

**ARTICLE 14**  
**DRAINAGE, STORM WATER MANAGEMENT, & WETLAND PROTECTION**

**Section 14.1**    **Definitions**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**"Detention"** means the temporary storage of storm water runoff in a stormwater management practice with the goals of controlling peak discharge rates and discharge volume

**"Detention Facility"** means a detention basin or alternative structure designed for the purpose of temporary storage of surface runoff and gradual release of stored water at controlled rates.

**"Development"** means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**"Drainage Easement"** means an area of land dedicated for the purpose of conveying stormwater runoff by means of an open channel or drainage pipe.

**"Flood"** or **"Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation or runoff of surface waters from any source.

**"Floodplain"** means any land area susceptible to being inundated by water from any source.

**"Freeboard"** means the height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation (BFE) plus the freeboard establishes the "Regulatory Flood Protection Elevation". Freeboard also

means the vertical distance between the water level and the top of a structure, such as a dam, that impounds or restrains water.

**"Impervious Cover"** means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, gravel surfaces, sidewalks, driveways, etc).

"Permanent Pond" means a man-made or natural stormwater impoundment which retains a permanent pool of water

"Runoff" means the excess precipitation from rain or snowfall, which flows over the ground.

**"Storm Water Management"** means the use of structural or non-structural practices that are designed to reduce storm water runoff discharge volumes, and/or peak flow discharge rates.

**"Stormwater Management Facility"** means any measure or practice that controls or reduces stormwater runoff volumes and/or peak flow discharge rates.

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#### **Section 14.2 Lands to Which This Ordinance Applies**

This ordinance shall apply to all lands within the jurisdiction, including Extra-Territorial Jurisdictions (ETJ's) of the Village of Wesley Chapel. In addition, regulations governing floodplain management are included in "Flood Damage Protection Ordinance".

#### **Section 14.3 Natural Drainage System Utilized to Extent Feasible**

To the extent practicable, all development shall conform to the natural contours of the land and natural and pre-existing manmade drainage ways shall remain undisturbed. Determination of practicability will be made by the Village Engineer during Stormwater Management Concept Plan review, as required by Section 14.6.

To the extent practicable, lot boundaries shall be made to coincide with natural and pre-existing manmade drainage ways within subdivisions to eliminate the creation of lots that could only be built upon by altering such drainage ways. Determination of practicability will be made by the Village Engineer during Stormwater Management Concept Plan review, as required by Section 14.6.

#### **Section 14.4 Developments Must Drain Properly**

All developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site. Surface water shall not be regarded as unduly retained if:

- (1) The retention results from a technique, practice or device deliberately installed as part of an approved sedimentation or stormwater runoff control plan; or

- (2) The retention is not substantially different in location or degree than that experienced by the development site in its pre-development stage, unless such retention presents a danger to health or safety.

No development may be constructed or maintained so that such development unreasonably impedes the natural flow of water from high adjacent properties across such development, thereby unreasonably causing substantial damage to such higher adjacent properties.

No surface water may be channeled or directed into a sanitary sewer.

Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or adjacent streets. Determination of practicability will be made by the Village Engineer during Stormwater Management Concept Plan review, as required by Section 14.6.

Private roads and access ways within non-subdivided developments shall utilize curb and gutter and storm drains to provide adequate drainage if the grade of such roads or access ways is too steep to provide drainage in another manner, or if other sufficient reasons exist to require such construction.

Construction specifications for drainage swales, curbs and gutters, and storm drains shall be reviewed and approved by the Zoning Administrator with the assistance of the Village's Engineering Consultant, as necessary. All systems shall be designed in accordance with the Village of Wesley Chapel Stormwater Design Manual. Design of such systems shall be certified by a registered North Carolina professional engineer as an integral part of any permit application.

#### **Section 14.5 General Standards for Stormwater Management**

All developments shall be constructed and maintained so that properties are not unreasonably burdened with storm water runoff as a result of such developments. More specifically:

- (1) All nonresidential development and all major residential subdivisions shall provide storm water management facilities to control the peak stormwater runoff. Said facilities shall be designed to control the peak runoff from the 1, 2, 10, and 25 year, 24 hour storm events to pre-development levels, and shall safely pass the 50 and 100 year, 24 hour storm with minimum 0.5 feet of freeboard. Stormwater management facilities shall not be located within 10 feet of any property lines. Design of facilities shall be consistent with the Village of Wesley Chapel Stormwater Manual except as stated herein.
- (2) Minor residential subdivisions and individual single-family residences are exempt from requirements of this section.
- (3) Additions to existing non-residential structures that are over 50% of the existing floor area square footage will be subject to the requirements of this section.
- (4) All developments with existing impervious area that add impervious area (structural or non-structural), including demolition of existing structures for purposes of redevelopment, shall provide detention only for the newly added impervious area, in compliance with this section.

- (5) Where stormwater management facilities are proposed to be constructed, the owners, heirs, assigns or successors of the land, including any homeowners associations, will agree to perpetual maintenance of the facility and will release and hold harmless the Village of Wesley Chapel from any liability, claims, demands, attorney's fees, and costs or judgments arising from said facility. At a minimum, the facility will be inspected by a registered North Carolina professional engineer on a yearly basis. The annual inspection report will be submitted by the owner to the Zoning Administrator for purposes of compliance. See Section 14.7 for further requirements.
- (6) An evaluation of any dam that is part of a stormwater management facility shall be made by the designer, in accordance with the Dam Safety Law of 1967, and submitted to the dam safety engineer for review, if required.
- (7) No certificate of occupancy or release of sureties will be issued for any development until:
  - (a) A professional land surveyor has surveyed the as-built storm drainage and stormwater management facilities.
  - (b) Any required revised calculations based upon as-built conditions have been submitted and approved by the Village. Said revised calculations must be sealed by a registered North Carolina professional engineer.
  - (c) The facility has been stabilized consistent with the North Carolina Department of Environment and Natural Resources standards and specifications.
  - (d) The as-built survey, final calculations, and facility have been reviewed and inspected, and final approval has been given by the Village.
- (8) When a stormwater management facility serves more than one property, a permanent drainage easement that encompasses the facility shall be shown on a recorded plat, along with an access easement from the facility to a public right of way. This easement will be described by metes and bounds.
- (9) There will be a note placed on the recorded plat that clearly describes who is responsible for maintenance of the stormwater management facilities, pipes and/or channels located within the permanent facility.

**Section 14.6 Requirements for Stormwater Management Plan Approval**

**14.6.1 Stormwater Management Plan Required for All Developments**

No Conditional Use, Vested Rights, Rezoning, or Zoning application for Non-Residential Uses or Preliminary Subdivision Plat for Residential or Non-Residential Uses will be considered as complete unless it includes a stormwater management plan detailing in

concept how runoff –resulting from the development will be controlled or managed. However, preliminary informational meetings with the Village Zoning Administrator or the Planning Board may be allowed without a complete Stormwater Management Concept Plan.

No Zoning Permit or Final Plat approval shall be issued until a satisfactory final stormwater management plan, shall have undergone a review and been approved by the Village after determining that the plan is consistent with the requirements of this ordinance.

All costs for the Village’s engineering review of the storm water management concept plans and final plans shall be borne by the owner/developer.

#### **14.6.2 Stormwater Management Concept Plan Requirements**

A stormwater management concept plan shall be required with all permit applications and will include sufficient information (e.g., maps, hydrologic calculations, etc) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The intent of this conceptual planning process is to determine the type of stormwater management measures necessary for the proposed project, and ensure adequate planning for management of stormwater runoff from future development. To accomplish this goal, the information provided shall meet the submittal requirements outlined in the Concept Plan Submittal Checklist, Section 14.6.5, and the design requirements found in the Stormwater Design Manual and shall be included in the concept plan. The stormwater concept plan shall be signed by a licensed professional engineer. The stormwater management plan(s) shall be referred for comment to all other interested agencies, and any comments made must be addressed in a final stormwater management plan.

#### **14.6.3 Final Stormwater Management Plan Requirements**

After review of the stormwater management concept plan and modifications to that plan as deemed necessary by the Village, a final stormwater management plan must be submitted for approval. The final stormwater management plan, in addition to the information from the concept plan, shall include all of the information required in the Final Stormwater Management Plan checklist, Section 14.6.6, and the design requirements found in the Stormwater Design Manual, and shall be signed by a licensed professional engineer.

#### **14.6.4 Performance Bond/Security**

The Village of Wesley Chapel may, at its discretion, require the submittal of a performance security or bond prior to issuance of a permit in order to insure that the stormwater management facilities are installed by the permit holder as required by the

approved stormwater management plan. The amount of the installation performance security shall be the total estimated construction cost of the stormwater management practices approved under the permit, plus 50%. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan.

The installation performance security shall be released in full only upon submission of "as built plans" and written certification by a registered North Carolina professional engineer that the detention facility has been installed in accordance with the approved plan and other applicable provisions of this ordinance.

#### **14.6.5 Stormwater Management Concept Plan Checklist**

The following items are required to be submitted for review of the Stormwater Management Concept Plan:

1. Applicant and Project information:

- Name, legal address, telephone number, and email address
- Common address and name of development
- Type of development
- Original tax parcel data
- Total area of project (acres)
- Total disturbed area (acres)

A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.

2. Vicinity map

Topographic base map of the site at 1" = 200' which extends beyond the limits of the proposed development to include all offsite areas draining to the site, and which indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features.

3. Existing and proposed mapping and plans (recommended scale of 1" = 50') which illustrate at a minimum:

- Boundary/property lines of the property being developed as well as the location of property lines which intersect the boundaries of the property being subdivided or developed
  - Zoning information for the proposed project site and adjacent properties
  - Existing and proposed topography (minimum of 2-foot contours recommended)
  - Perennial and intermittent streams
  - Mapping of predominant soils from USDA soil surveys
  - Boundaries of existing predominant vegetation and proposed limits of clearing and grading
  - Location and boundaries of resource protection areas such as wetlands, lakes, ponds, and other setbacks (e.g., stream buffers, drinking water well setbacks, septic setbacks)
  - Location of existing and proposed roads, buildings, and other structures
  - Existing and proposed utilities (e.g., water, sewer, gas, electric) and easements
  - Proposed land use with tabulation of the percentage of surface area to be adapted to various uses
  - Location of existing and proposed conveyance systems such as grass channels, swales, and storm drains
  - Flow paths
  - Location of floodplain/floodway limits and relationship of site to upstream and downstream properties and drainages
  - Preliminary location and dimensions of proposed channel modifications, such as bridge or culvert crossings
  - Preliminary location, size, discharge points, and limits of disturbance of proposed structural stormwater management practices
5. Sufficient engineering analysis to show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with the Village of Wesley Chapel Storm Water Management ordinance and the specifications of the Stormwater Design Manual. More specifically, a preliminary hydrologic and hydraulic analysis including:
- Existing condition analysis for runoff rates, volumes, and velocities presented showing methodologies used and supporting calculations

- Proposed condition analysis for runoff rates, volumes, and velocities showing the methodologies used and supporting calculations
  - Preliminary analysis of potential downstream impact/effects of project
  - Preliminary selection and rationale for structural stormwater management practices
  - Preliminary sizing calculations for structural stormwater management practices including, contributing drainage area, storage, and outlet configuration
6. Preliminary landscaping plans for structural stormwater management practices and any site reforestation or revegetation
  7. Preliminary water quality treatment plan that at a minimum meets the requirements outlined by NCDENR Division of Water Quality
  8. A note acknowledging responsibility for the operation and maintenance of any stormwater management facility, and that such obligation shall be disclosed to future owners
  9. If required, a concept plan to consider the maximum development potential of the site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential

#### **14.6.6 Stormwater Management Final Plan Checklist**

The following items are required to be submitted for review of the Stormwater Management Concept Plan:

1. Applicant information:
  - Name, legal address, telephone number, and email address
  - Common address and legal description of site
  - Signature and stamp of registered engineer/surveyor and design/owner certification and firm license number
2. Vicinity map
3. Existing and proposed mapping and plans (recommended scale of 1" = 50' or greater detail) which illustrate at a minimum:
  - Existing and proposed topography (minimum of 2-foot contours recommended)
  - Perennial and intermittent streams

- Mapping of predominant soils from USDA soil surveys as well as location of any site-specific borehole investigations that may have been performed
  - Boundaries of existing predominant vegetation and proposed limits of clearing
  - Location and boundaries of resource protection areas such as wetlands, lakes, ponds, and other setbacks (e.g., stream buffers, drinking water well setbacks, septic setbacks)
  - Location of existing and proposed roads, buildings, and other structures
  - Location of existing and proposed utilities (e.g., water, sewer, gas, electric) and easements
  - Proposed land use with tabulation of the percentage of surface area to be adapted to various uses
  - Location of existing and proposed conveyance systems such as grass channels, swales, and storm drains
  - Drainage delineation map to each stormwater management practice
  - Flow paths
  - Location of floodplain/floodway limits and relationship of site to upstream and downstream properties and drainages
  - Location and dimensions of proposed channel modifications, such as bridge or culvert crossings
  - Location, size, maintenance access, and limits of disturbance of proposed structural stormwater management practices
4. Representative cross-section and profile drawings and details of structural stormwater management practices and conveyances (i.e., storm drains, open channels, swales, etc.) which include:
- Existing and proposed structural elevations (e.g., invert of pipes, manholes, etc.)
  - Design water surface elevations
  - Structural details of outlet structures, embankments, spillways, stilling basins, grade control structures, conveyance channels, etc.
  - Logs of borehole investigations that may have been performed along with supporting geotechnical report.

5. Hydrologic and hydraulic analysis for all structural components of stormwater system (e.g., storm drains, open channels, swales, Management practices, etc.) for applicable design storms including:

- Existing condition analysis for time of concentrations, runoff rates, volumes, velocities, and water surface elevations showing methodologies used and supporting calculations
- Proposed condition analysis for time of concentrations, runoff rates, volumes, velocities, water surface elevations, and routing showing the methodologies used and supporting calculations
- Final sizing calculations for structural stormwater management practices including, contributing drainage area, storage, and outlet configuration. Provide calculation summary on the Village of Wesley Detention Worksheet found in the Storm Water Design Manual.
- Stage-discharge or outlet rating curves and inflow and outflow hydrographs for storage facilities (e.g., stormwater ponds and wetlands)
- Final analysis of potential downstream impact/effects of project, where necessary
- Dam breach analysis, where necessary

6. Soils information, if a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins). The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

7. Final landscaping plans for structural stormwater management practices and any site reforestation or revegetation

8. Structural calculations, where necessary

9. Applicable construction specifications

10. Erosion and sediment control plan that at a minimum meets the requirements of the local Erosion and Sediment Control Guidelines

11. Water quality treatment plan that at a minimum meets the requirements outlined by NCDENR Division of Water Quality

12. Sequence of construction

13. Maintenance plan which will include:

- Name, address, and phone number of responsible parties for maintenance.

- Description of annual maintenance tasks
  - Description of applicable easements
  - Description of funding source
  - Minimum vegetative cover requirements
  - Access and safety issues
  - Testing and disposal of sediments that will likely be necessary
14. Evidence of acquisition of all applicable local and non-local permits
15. Evidence of acquisition of all necessary legal agreements (e.g., easements, inspection and maintenance agreements, covenants, land trusts)

## **Section 14.7 Maintenance of Stormwater Facilities**

### **14.7.1 General Standards for Maintenance**

The owner, its successors and assigns, including any homeowners association, of a stormwater management facility installed pursuant to this ordinance shall maintain and operate the practice so as to preserve and continue its function in controlling storm water runoff at the degree or amount of function for which the facility was designed.

### **14.7.2 Operation and Maintenance Agreement**

All stormwater management facilities shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include any and all maintenance easements required to access and inspect the facilities, and to perform routine maintenance as necessary to ensure proper functioning of the facility. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all facilities shall be secured prior to issuance of any permits for land disturbance activities.

At the time that as-built plans are provided to the Zoning Administrator as described in Section 14.6.4 and prior to final approval of a project for compliance with this ordinance, but in all cases prior to placing the stormwater management facility in service, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all current and subsequent owners of the site, including any homeowners associations, portions of the site, and lots or parcels served by the facility.

Failure to execute an operation and maintenance agreement within the time frame specified by the Zoning Administrator may result in assessment of penalties as specified in Section [14.8](#), Violations and Enforcement. Until the transference of all property, sites, or lots served by the stormwater management facility, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement. At the discretion of the Zoning Administrator, certificates of occupancy may be withheld pending receipt of an operation and maintenance agreement. The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the facility, and shall state the terms, conditions, and schedule of maintenance for the facility. In addition, it shall grant to the Village of Wesley Chapel a right of entry in the event that the Zoning Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the facility; however, in no case shall the right of entry, of itself, confer an obligation on the Village of Wesley Chapel to assume responsibility for the facility. The operation and maintenance agreement shall be referenced on the final plat and shall be recorded by the applicant or owner with the Union County Register of Deeds upon final plat approval. A copy of the recorded maintenance agreement shall be given to the Zoning Administrator within fourteen (14) days following its recordation.

#### **14.7.3 Maintenance Easement**

Prior to approval of the Final Stormwater Management Plan, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land, including any homeowners associations, served by the stormwater management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the Village of Wesley Chapel, or their contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this ordinance. The easement agreement shall be recorded in the Union County Register of Deeds land records.

#### **14.7.4 Inspections**

The person responsible for maintenance of any stormwater management facility installed pursuant to this ordinance shall submit to the Zoning Administrator an annual inspection report from a qualified registered North Carolina professional engineer performing services only in their area of competence. The inspection report shall contain all of the following:

1. The name and address of the land owner;
2. The recorded book and page number of the lot of each stormwater management facility;
3. A statement that an inspection was made of all stormwater management facilities
4. The date the inspection was made;

5. A statement that all inspected stormwater facilities are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance; and
- ~~a)6.~~ The original signature and seal of the engineer. An original inspection report shall be provided to the Zoning Administrator beginning one year from the date of as-built certification and each year thereafter on or before the anniversary date of the as-built certification.

#### **14.7.5 Records of Installation and Maintenance Activities**

The owner, its successors and assigns, including any homeowners association, of each storm water management facility shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Zoning Administrator.

#### **14.7.6 Nuisance**

The owner, its successors and assigns, including any homeowners association, of each stormwater management facility, shall maintain it so as not to create a nuisance condition.

### **Section 14.8 Violations and Enforcement**

#### **14.8.1 General**

The provisions of this ordinance shall be enforced by the Zoning Administrator, his or her designee, or any authorized agent of the Village of Wesley Chapel. Whenever this Section refers to the Zoning Administrator, it includes his or her designee as well as any authorized agent of the Village of Wesley Chapel.

Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this ordinance, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this ordinance, is unlawful and shall constitute a violation of this ordinance.

Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, detention facility, stormwater management facility, practice, or condition in violation of this ordinance, as well as any person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs shall be subject to the remedies, penalties, and/or enforcement actions in accordance with

this Section. For the purposes of this article, responsible person(s) shall include but not be limited to:

1. **Person Maintaining Condition Resulting In or Constituting Violation**  
Any person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists.
2. **Responsibility For Land or Use of Land**  
The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for storm water management practices pursuant to a private agreement or public document, and any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

#### **14.8.2 Inspections and Investigations**

Inspections by the Village of Wesley Chapel may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in detention facility; and evaluating the condition of detention facility.

The Zoning Administrator shall have the authority to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting. No Person shall refuse entry or access to the Zoning Administrator who requests entry for purpose of inspection or investigation, and who presents appropriate credentials, nor shall any Person obstruct, hamper, or interfere with the Zoning Administrator while in the process of carrying out official duties. The Zoning Administrator shall also have the power to require written statements, or the filing of reports under oath as part of an investigation.

When the Zoning Administrator finds that any building, structure, or land is in violation of this ordinance, he or she shall notify in writing the responsible person/entity. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation occurred or is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. The notice shall, if required, specify a date by which the responsible person/entity must comply with this ordinance, and advise that the responsible person/entity is subject to remedies and/or penalties or that failure to correct the violation within the time specified will subject the responsible person/entity to remedies and/or penalties as described in Section 1.5 of this ordinance.

**Section 14.9 Wetlands**

All developments shall fully comply with the State and Federal requirements of Sections 401 and 404 of the Clean Water Act, related to the protection of wetlands and surface waters. All developments shall obtain any required permits from the United States Army Corps of Engineers, pursuant to section 404 before submitting a permit application.

When required, water quality certifications must also be obtained from the North Carolina Department of Environment and Natural Resources, Division of Water Quality, pursuant to section 401 of the Clean Water Act before submitting a permit application.

Persons desiring to develop property shall be solely responsible for providing the Village with information and/or documentation demonstrating conclusively the proposed development will not unreasonably infringe, alter, or harm wetlands. If, in the sole opinion of the Zoning Administrator, any impact to wetlands may occur as a result of a proposed development, the applicant may be required to provide additional documentation that all applicable Federal and State requirements have been met for any specified areas in question before the permit application is further processed.

**Section 14.10 Pond Evaluation**

All preliminary plats that include proposed permanent ponds, and all preliminary plats that include stormwater runoff to any existing permanent ponds, shall be subject to the review of the state dam safety engineer. An evaluation of the pond dam shall be made by the designer, in accordance with the Dam Safety Law of 1967, and submitted to the dam safety engineer for review.

~~All~~ proposed ponds shall be designed and constructed to safely withstand the 100-year storm with a minimum of one foot (1') of freeboard at the dam. Design calculations shall include the assumption of future buildout of the drainage basin.

All existing ponds shall be evaluated and rehabilitated as necessary to ensure that the ponds will safely withstand the 50-year storm with a minimum of 0.50 feet of freeboard at the dam. Design calculations shall include the assumption of future buildout of the drainage basin.

**13. UPDATE ON WESLEY CHAPEL CANDIDATE FORUM**

The candidates' forum will be 7 pm, Thursday, October 15, 2009 at Wesley Chapel Elementary School.

**14. OTHER BUSINESS**

Bradford reported on Parks and Rec items: Marnie Holland talked to the schools and they will put a blurb on the public info session in their newsletters; work is progressing on the presentation, master plan, and park sites scenarios, she talked to Kevin Keels and they are drawing up a document regarding naming rights, the property is currently under the farm tax deferral program and they want us to pay back taxes, and discussion is underway regarding the fence.

Horvath said the Downtown Committee is coming up with a draft document of their progress.

Bennett reported that three residents have requested a written newsletter, and the large majority of responses have been to request an e-mailed newsletter. A flyer was available regarding a fundraiser for Operation Reachout, A Taste of Union, on September 26.

15. COUNCIL COMMENTS

none

16. CLOSED SESSION PER NC GS 143-318.11(a) (6) TO DISCUSS  
CONDITIONS OF EMPLOYMENT

Bradford made a motion to take a five minute recess and then go into closed session; Croffut seconded the motion.

Staff performance and raises were discussed. Council decided not to give raises at this time citing the economy, and that with the size and low complexity of our town, they felt staff was fairly compensated.

Bradford made a motion to leave closed session; Croffut seconded the motion.

The motion passed unanimously.

17. ANY DECISIONS RESULTING FROM CLOSED SESSION

None.

18. ADJOURNMENT

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

The motion was approved unanimously.

The meeting was adjourned at approximately 9:30 pm.

Respectfully submitted,

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Cheryl Bennett, Clerk

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Mayor Tracey Clinton