

VILLAGE OF WESLEY CHAPEL
COUNCIL MEETING
MINUTES
February 11, 2008 – 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, with Mayor Tracey Clinton presiding.

Present: Mayor Clinton, Mayor Pro-tem Croffut, Council Members Bradford and Horvath

Absent: Council Member Pierce

Others Present:

Village Clerk/Finance Officer: Cheryl Bennett

Planning/Zoning Administrator: Justin Krieg

Tax Collector: Nancy Schneeberger

Village Attorney: George Sistrunk

Concerned citizens: Carol Mullis, Joseph Weaver, Donna Pasciuta, Richard Marquard, Frank Pasciuta, Dean Harrell, Carol Earnhardt, Norma Cason, Shirley Wilson, Dave Casper, Tharp, Gayle Moore, James Peterson, Kevin Weekley, Nicole Charette, Mark DiBiasio, Elton Smith, Bill Twele, Debra Thompson, T. Power, Ray Davis, Jim M(illegible), Mike Laurenti, Tom & Kris Reitz, Ritchie Starnes, Tony Earnhardt, Dave Sanborn, Cynthia Eaton, and an illegible name.

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

1. PLEDGE OF ALLEGIANCE / INVOCATION

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

2. INFORMAL PUBLIC COMMENTS – RECEIVE INDIVIDUAL COMMENTS FROM THE PUBLIC WHO HAVE SIGNED IN WITH THE VILLAGE CLERK TO SPEAK TO THE COUNCIL

Donna Pasciuta spoke on behalf of the homeowners of Hampton Meadows. She brought a stack of letters asking Wesley Chapel to give them \$2500 to consult an attorney regarding their roads. She noted the roads affect the school bus, children's safety, Fire Department vehicles, mailman, and the taxpayers.

Dean Harrell asked to have his speaking time deferred to Item 6.

Carol Earnhardt from Hampton Meadows noted that each spot where sewer goes across the road, there is a dip in the road. She said some potholes have been fixed, and she thought the state had taken control of the roads. Donna Pasciuta said four years ago DOT had been filling the potholes for about two years, then

they realized the roads hadn't been turned over to them, and stopped fixing potholes.

Cynthia Eaton said the holes are one and a half feet deep; construction trucks make it worse. Several people have had water breaks in front of their homes; and it is costing her for car repairs.

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

Item 18A, "Public Comment Period" was added; Item 18. "Council Comments" became Item 18B; and Item 18C "Approve Closed Minutes, Emergency Meeting December 4, 2007" was moved from Item 4. Item 10, "Update on Hampton Meadows" was moved to before Item 6. Bradford made a motion to approve the agenda with the above changes; Horvath seconded the motion.

The motion was approved unanimously.

4. APPROVE MINUTES FOR:

Council Meeting January 14, 2008

Council Work Session January 22, 2008

Horvath made a motion to approve the minutes from the Council Meeting January 14, 2008, and the Council Work Session January 22, 2008; Croffut seconded the motion.

The motion was approved unanimously.

5. STAFF REPORTS

- a. Review and approve the Village Financial Reports dated January 31, 2008, submitted by Cheryl Bennett, Finance Officer.

The financial statements show year to date revenues of \$298,518, or 74% of budget, and year to date expenditures of \$135,646, or 34% of budget. (See Attachment A.) Horvath made a motion to approve the financial reports; Croffut seconded the motion.

The motion was approved unanimously.

- b. Approve Ordinance 2008-04, Budget Amendment #2 to 2007/08 Budget.

This budget amendment is to provide budgeted funds to cover our legal fees. Croffut made a motion to approve Ordinance 2008-04, Budget Amendment #2 to 2007/08 Budget; Bradford seconded the motion.

The motion was approved unanimously.

Budget Amendment 2007/08 #2 – Ord. 2008-04

BE IT ORDAINED by the Governing Board of the Village of Wesley Chapel, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2008:

Section 1. To amend the General Fund, the appropriations are to be changed as follows:

	Decrease	Increase
<u>Expenditures:</u>		
<u>Operating Expenditures:</u>		
Legal Defense	\$20,000	
<u>Professional Fees:</u>		
Legal Fees		\$20,000

Section 2. Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and the Finance Officer for their direction.

Adopted this 11th day of February, 2008.

Cheryl Bennett, Clerk

Mayor Tracey Clinton

- c. Tax Report Update dated January 31, 2008 prepared by Nancy Schneeberger

Schneeberger presented the tax report (Attachment B) showing February current year taxes collected of \$2505.67; 2005 taxes collected of \$48.27, penalties of \$39.91 collected; and one new privilege license for Walgreens. Taxes receivable for 2007 are \$7044.01, and for 1998-2006 \$716.68. Horvath made a motion to approve the tax report; Bradford seconded the motion.

The motion was approved unanimously.

- d. Request motion that tax liens be posted and advertised between now and June 30, 2007, per NC G.S. 105-369(a)-(c); and that tax collector give notice of tax liens and of advertisement of such liens to the record owners of the affected property at least 30 days prior to the date of publication per NC G.S. 105-369(b1).

Croffut made a motion that tax liens be posted and advertised between now and June 30, 2007, per NC G.S. 105-369(a)-(c); and that tax collector give notice of tax liens and of advertisement of such liens to the record owners of the affected property at least 30 days prior to the date of publication per NC G.S. 105-369(b1). Horvath seconded the motion.

The motion was approved unanimously.

- e. Request tax refund for \$1.44 on parcel 06051039, Jerry and Kimberly Jernigan.

Bradford made a motion to approve the tax refund for \$1.44 on parcel 06051039, Jerry and Kimberly Jernigan. Horvath seconded the motion.

The motion was approved unanimously.

- f. Monthly planning report, submitted by Justin Krieg, Planning and Zoning Administrator.

Krieg noted four zoning permits were issued in January, and six in February. Master Plan work is continuing, however the schedule is being altered due to the lead professor being injured. At Village Commons monument signs are currently under construction. The next Weddington Transportation Plan meeting is February 20 in Waxhaw. Krieg and Horvath are working with MUMPO to get the widening of Highway 84 moved up on the long range transportation plan.

10. UPDATE ON HAMPTON MEADOWS

Horvath said he met with DOT and Krieg; they have NC DOT estimates, and Mary Oakes wanted to talk to contractors, but he hasn't seen those estimates yet. At one point the roads were up to then DOT standards; at this point they are not up to current standards and DOT won't take them over. The estimates from DOT are \$215,000-\$300,000 of work is needed to bring them up to par. At the time the roads were built, Wesley Chapel was not yet a Village. Horvath is checking with Mary Oakes; he expects to hear within a week or two. One proposal is to break up the road so there is a four inch ABC base. Krieg said Public Works may have some involvement; they offer normally a one year warranty on repairs. Horvath asked if residents were aware of any leaks, and they indicated there are none currently. A citizen noted that poor repairs of water leaks causes some of the road issues. A Public Works employee commented on the poor design of the water system. Mayor Clinton said regarding the request for funds for legal fees, we would have to talk to our attorney; it could be put on the work session agenda for next Tuesday. Wesley Chapel does not maintain the roads; for Powell Bill funds we would have to have a five cent tax rate and provide services which would be costly; and our residents have said they don't want large taxes or services.

6. DISCUSSION AND POSSIBLE APPROVAL OF PRELIMINARY PLAT OF QUINTESSA PHASE 2

Krieg reported the preliminary plat has been to the Planning Board; and Quintessa is asking for a sidewalk variance for two areas where there are significant streams, they want to build bridges and have sidewalks on only one side of the bridge. Dean Harrell said the bridges will be 60-70 feet; pre-fabricated, and a smaller version of the ones near Costco. He explained a box cover culvert disturbs more stream frontage, and the bridge is less invasive. It will have some side rails. Horvath asked if both bridges will have sidewalks on the same size, and they will. Council went through the findings for a sidewalk variance:

206.3 In granting any modification, the Village Council shall make findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No modification shall be granted unless the Village Council finds:

a) That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his land, and

Vote was 3 yes, 0 no.

b) That the modification is necessary for the preservation and enjoyment of a substantial property right of the petitioner, and

Vote was 3 yes, 0 no.

c) That the circumstances giving rise to the need for the modification are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this Ordinance, and

Vote was 3 yes, 0 no.

d) That the granting of the modification will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which said property is situated, and

Vote was 3 yes, 0 no.

e) That the modification will not vary the provisions of the Village of Wesley Chapel Zoning Ordinance applicable to the property.

Vote was 3 yes, 0 no.

Some Quintessa homeowners were present, and they said they didn't think the bridges would take away from the value; one questioned the safety. Dean Harrell said there would be DOT approved hash marks at the safety crossing. A homeowner asked if there would be speed bumps; Harrell said DOT doesn't accept roads with speed bumps if they should ever want to turn them over to DOT; it was suggested that discussion go to the HOA meeting.

Horvath made a motion to approve the variance to Section 405.8 A-3 allowing sidewalks on one side of the roadway across the proposed bridges. Bradford seconded the motion.

The motion was approved unanimously.

The Planning Board conditionally recommended the preliminary plat of Quintessa Phase II, with the conditions that they address our engineer's comments and get sewer approval. Krieg recommended conditional approval with the condition that they satisfy our engineer's comments, and that he see their NC DOT and DENR

approvals. These approvals should come before it comes to Council for final plat approval. The final plat should go to Planning Board March 28.

Krieg said regarding open space, developers must either donate 1/35th of an acre for each dwelling, or pay a fee in lieu. With 75 dwellings, this comes to 2.14 acres. The Village needs to decide whether they want land or a fee; up to this time they have always gotten a fee. The open space is primarily flood plain on the east. The UNCC plan does show a potential greenway. The developer is willing to work with the town on that; it could connect from Potter to Underwood Road.

Harrell noted the ordinance requests developers to connect to water/sewer lines but presently the availability from the County is not there. He could potentially use septic on about 30 lots.

Mayor Clinton inquired about the future commercial marked at the top of the map; Harrell said it is planned for when the Faith Church Road connector goes to Hwy. 74, along with a retirement community. Krieg said the parcel to the left, by Beulah Church is separate from this subdivision.

Horvath made a motion to approve the preliminary plat of Quintessa Phase II, with the conditions that the engineer's comments are satisfied, and DENR, DOT and County sewer letters are received. Bradford seconded the motion.

The motion was approved unanimously.

7. UPDATE ON GUN RANGE

Bradford said the meeting would be on February 22, 2008 and last about two hours; an NRA gun technician, Horvath and Bradford will be present along with Dr. Land. Bradford sent a list of questions to the technician. It will then take a week or two for the written report. March 11 or March 17, either here or at the school, was set for the public information session; the school safety officer and school representative, as well as an ATF representative and Sheriff Cathey will be invited.

8. APFO UPDATE

George Sistrunk looked into whether you need to adopt the APFO MOU by text amendment to the zoning ordinance. Sistrunk said there is no clear answer, there is a statute that allows towns to adopt County ordinances by Resolution, but whether the APFO falls under that is unclear. He suggested we go through the normal text change process to the Zoning Ordinance, but he also feels it is in effect now. Mayor Clinton asked Dean Harrell if they will challenge us on it; Harrell said he doesn't have counsel present, there is a suit going on now, he doesn't think it is right or fair, but he can't answer her question now.

9. RECEIVE ANNEXATION PETITIONS and CONSIDER RESOLUTION 2008-02 DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31 (CONTIGUOUS ANNEXATION) AND RESOLUTION 2008-03 DIRECTING THE CLERK TO

**INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-58.1
(SATELLITE ANNEXATION)**

Bennett has received about six annexation petitions from Wesley Oaks, and one for Twelve Oaks. Regarding annexations on New Town Road, she checked and doesn't see any problems with the annexation rules; Mineral Springs will be looking at the issue at their meeting Thursday night.

Bradford made a motion to approve Resolution 2008-02 Directing the Clerk to Investigate a Petition Received under G.S. 160a-31 (Contiguous Annexation); Horvath seconded the motion.

The motion was approved unanimously.

**RESOLUTION 2008-02 DIRECTING THE CLERK TO INVESTIGATE A
PETITION RECEIVED UNDER G.S. 160A-31**

WHEREAS, a petition requesting annexation of an area described in said petition was received on February 11, 2008 by the Village of Wesley Chapel Council; and

WHEREAS, G.S. 160A-31 provides that the sufficiency of the petition shall be investigated by the Village Clerk before further annexation proceedings may take place; and

WHEREAS, the Council of the Village of Wesley Chapel deems it advisable to proceed in response to this request for annexation:

NOW THEREFORE, BE IT RESOLVED by the Council of the Village of Wesley Chapel that:

The Village Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the Council of the Village of Wesley Chapel the result of her investigation.

Dated: February 11, 2008

Mayor Tracey Clinton

ATTEST:

Cheryl Bennett, Clerk

Croffut made a motion to approve Resolution 2008-03 Directing The Clerk To Investigate A Petition Received Under G.S. 160a-58.1 (Satellite Annexation); Bradford seconded the motion.

The motion was approved unanimously.

**RESOLUTION 2008-03 DIRECTING THE CLERK TO INVESTIGATE A
PETITION RECEIVED UNDER G.S. 160A-58.1**

WHEREAS, a petition requesting annexation of an area described in said petition was received on February 11, 2008 by the Village of Wesley Chapel Council; and

WHEREAS, G.S. 160A-58.2 provides that the sufficiency of the petition shall be investigated by the Village clerk before further annexation proceedings may take place; and

WHEREAS, the Council of the Village of Wesley Chapel deems it advisable to proceed in response to this request for annexation:

NOW THEREFORE, BE IT RESOLVED by the Council of the Village of Wesley Chapel that:

The Village Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the Council of the Village of Wesley Chapel the result of her investigation.

Dated: February 11, 2008

Mayor Tracey Clinton

ATTEST:

Cheryl Bennett, Clerk

11. DISCUSS APPRAISAL OF VILLAGE LAND

Mayor Clinton reported the appraisal of the 6.3 acres the Village owns at Village Commons shows the standalone value is \$315,000; if it is rezoned and accessed through the shopping center the value is \$1.2 million. Aston Properties also sent us their appraisal from 2004; then it was valued at \$1.073 million under the assumption that it would be re-zoned and made part of the shopping center.

12. UPDATE ON MASTER PLAN DELAY

Due to an injury to the Professor at UNCC, they requested an extension to the Master Plan contract to May 31. Horvath made a motion that the contract extension be made to May 31, 2008. Bradford seconded the motion.

The motion was approved unanimously.

13. DISCUSSION OF LOGISTICS AND AGENDA FOR ANNUAL ADVANCE

The Advance will follow former years' formats; a meal with a facilitator on Friday April 11 at SPCC. Residents are invited to attend, and the fee for the meal will be announced. On Saturday April 12 we will meet all day at the Union West library; Planning Board will be present for part of the day.

Mayor Clinton and Horvath will work on the agenda, and invite Planning Board input.

14. DISCUSS BUDGET PROCESS TIMING

Bennett said in accordance with the prior year schedule, the Budget Workshop will be April 22; the budget will be finalized and go to the Finance Committee on May 20, and the Public Hearing, and final approval will be June 9.

15. DISCUSSION ON MINUTES / TAPES

Bradford said she had found the tapes hard to hear, and wanted us to consider a digital recording system and to retain the recordings for a longer time. She noted the present minutes as prepared by Bennett are fine. She talked to various other local towns, Marvin praised their digital recorder. Regarding keeping the recordings, Mineral Springs keeps theirs one year, Waxhaw 90 days after approval of the minutes; Weddington's policy is to erase the tapes after approval, as does Marvin and Matthews. Bennett noted the official record of the meeting is the approved minutes, and she has had very few requests for tapes in the last two years. It was decided to pursue a digital recorder.

16. ANNOUNCEMENTS – none.

17. OTHER BUSINESS – none.

18A. PUBLIC COMMENT PERIOD

Donna Pasciuta said she had sent an e-mail to Justin regarding the \$2500 request, and he noted Council would have to decide on such a request. Mayor Clinton said tonight is the first she had heard of it; Horvath said he did get the e-mail. Pasciuta said she would like to be present at the meetings with Mary Oakes; and wants to know what Oakes has to say. Horvath said Oakes doesn't feel they have a legal obligation, they are looking for a proposal on what we think Oakes should pay, and we think she should pay it all; at present Oakes is getting her own quotes. Mayor Clinton said we can continue to try to work with her or you can try to sue her; she is not sure we can contribute to a private lawsuit. Pasciuta said she feels its time to go to a lawsuit, even if she has to collect money to temporarily fill the potholes. Mayor Clinton said she didn't know DOT had taken responsibility for the roads for awhile. Pasciuta said someone said police also don't have to patrol if the roads are not public. Pasciuta said Mary Oakes paid Boggs Paving to have the roads done in 1994 but no one followed through to make sure the roads were taken over. A man at Boggs Paving said Oakes wanted the minimum, and that wasn't enough to take the roads over. Attorney Sistrunk said he didn't think the

Village could fund a private lawsuit. Donna Pasciuta said a reporter suggested the Wesley Chapel attorney could help them. Sistrunk said a municipality can't pick and choose; also the Village doesn't have standing; Wesley Chapel can't sue Boggs; the roads are privately owned, and it doesn't give Wesley Chapel a right to sue on behalf of homeowners. Additionally, it is not an allowed use of taxpayer funds, since it is not for the general public use. Donna Pasciuta asked regarding the fire district; but they are not under the Wesley Chapel budget. A homeowner reported when the sewer lines were run through the subdivision, problems emerged; places were sinking, and some of them made humps. When Union County put in sewer, one big pothole was in a swamp area, and they ran lines and didn't appear to fill it in adequately, then it sank. For the last two years the County repaired the water lines, and patched, and there have been problems. Some are still not fixed.

Mayor Clinton said we are trying to be advocates; since we adopted our Zoning Ordinance in 2000, we do not release bonds until roads are taken over. Donna asked if we can request all Public Works work orders in Hampton Meadows. Sistrunk suggested the reporter can request them. Mr. Pasciuta said Boggs won't give them copies of the records. A resident said Mary Oakes should take the \$200-300K; it is a bargain in the long run. A resident expressed concern about protecting nature and green spaces, and houses being so close together. Mayor Clinton said the survey shows greenways and open space are high on the priority list, and the Union County arborist will work with the Village; our Village also requires one acre lots. The resident said there is a State Forester, and also Appalachia has a forestry department and will help at no cost. Horvath will talk to Mary Oakes by the end of next week. The residents also noted they were promised sidewalks and street lights.

Carol Mullis asked Croffut for the number of the contact at the Post Office.

18B. COUNCIL COMMENTS- none.

18C. APPROVE MINUTES FOR:

Closed Minutes, Emergency Meeting December 4, 2007

Croffut made a motion to approve and seal the minutes of the Emergency Meeting on December 4, 2007. Bradford seconded the motion.

The motion was approved unanimously.

19. CLOSED SESSION: MOTION TO CALL FOR CLOSED SESSION PER NC GS 143-318.11(a) (3) Attorney Client Privilege re: Village of Wesley Chapel v. Union County (ETJ) and Plyer, etc. v. Village of Wesley Chapel
Bradford made a motion to go into closed session per NC GS 143-318.11(a) (3) Attorney Client Privilege re: Village of Wesley Chapel v. Union County (ETJ) and Plyer, etc. v. Village of Wesley Chapel; Horvath seconded the motion.

The motion was approved unanimously.

The Council discussed with their attorney the current status of these lawsuits.

Minutes February 11, 2008
Approved 03.10.08

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Minutes February 11, 2008
Approved 03.10.08

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Minutes February 11, 2008
Approved 03.10.08

Croffut made a motion to leave closed session; Bradford seconded the motion.
The motion was approved unanimously.

20. ADJOURNMENT

Croffut made a motion to adjourn; Bradford seconded the motion.
The motion was approved unanimously.

The meeting was adjourned at 10:05 pm.

Respectfully submitted,

Cheryl Bennett, Clerk

Mayor Tracey Clinton