

VILLAGE OF WESLEY CHAPEL  
COUNCIL MEETING MINUTES  
WESLEY CHAPEL TOWN HALL  
6490 Weddington Road, Wesley Chapel, NC 28104  
July 14, 2014 – 7:00 P. M.

The Village Council of Wesley Chapel, North Carolina, met in the Town Hall at 6490 Weddington Road, Wesley Chapel, North Carolina.

**Present:** Mayor Horvath, Mayor Pro Tem Como, Council Members Kenary, Plyler and Rosoff

**Others Present:**

Clerk/Finance Officer Cheryl Bennett; Attorney George Sistrunk

**Citizens Present:** Carol Mullis, Chuck and Gayla Adams

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

1. PLEDGE OF ALLEGIANCE / INVOCATION

Mayor Horvath led the Pledge of Allegiance and Council Member Rosoff gave the invocation.

2. PUBLIC COMMENTS

Gayla Adams noted the park and grand opening event got rave reviews and she recognized and thanked the many park volunteers, particularly John Lepke, Marnie Holland and Mike Como. Chuck Adams spoke on Brookmeade subdivision, noting Council approved subdivision modifications in May 2013, allowing no curb and gutter and sidewalks on only one side. He felt the ditch will be difficult for homeowners to maintain. Planning Board made no recommendation on the subdivision, and he asked that Council not approve it or send it back to Planning Board; he also felt it set a bad precedence.

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

Two items were added: an update from the attorney on panhandling and no soliciting ordinances, and a review of the bulletin board text amendment. Council Member Plyler made a motion to approve the amended agenda; Council Member Kenary seconded the motion.

The motion passed unanimously.

4. APPROVE MINUTES

Council Member Kenary motioned to approve the June 17, 2014 Council meeting minutes, with two changes on page 110 of the minutes. Deleted was the detail information on what was in the clothing line item for Safety Committee, and added was “on land next to the town hall building” regarding the \$25,000 reserve item. Mayor Pro Tem Como seconded the motion.

The motion passed unanimously.

5. STAFF REPORTS – FINANCE REPORT

Finance Officer Bennett reported that the June report will be submitted at the next meeting since it is the end of the fiscal year, and many invoices are not yet in. She noted that no funds were budgeted for event services or for the ad in the Union County Weekly, so she made a budget

transfer of \$1,000 from Parks Event Supplies and moved \$223 to Parks Advertising, and \$777 to Parks Event Services. However the amount of expenditures approved by Council (but not budgeted) for the grand opening event still left \$448 over expended, and then an invoice for \$238 was received for printing brochures. Council Member Kenary motioned to move \$238 to printing, and \$448 to event services, with the \$686 coming from Pond Maintenance. Mayor Pro Tem Como seconded the motion.

The motion passed unanimously.

Finance Officer Bennett also noted she received an invoice from Lowe's for sand and gravel for ADA picnic table pads for \$227, two grills for \$666, and stain for \$84; the total was \$1043.56 including tax. These items were not budgeted in 2014-15. Council Member Kenary said Council did not approve the grills. The stain will be paid out of the Other Supplies and Materials line item. Mayor Pro Tem Como motioned to move \$893 from the Reserve for Future Park Improvements to a new capital outlay item Grilling Sites. Council Member Kenary seconded the motion.

The motion passed unanimously.

The Finance Officer noted that moving the funds is needed, but doesn't cure the underlying violation, and we may get an audit comment on these items. Mayor Horvath noted we cannot buy items unless we have items budgeted in the proper category, please check with the Budget Officer before purchasing. An item will be put on the agenda to amend the purchasing policy to say all purchases must be run by the Budget Officer. Cheryl Bennett noted we have funds budgeted for deputies for two more events, but do not have anything budgeted for other events and budget amendments will be needed before any events.

#### 6. STAFF REPORTS – PLANNING/ZONING AND CODE ENFORCEMENT REPORTS

Mayor Horvath reviewed the Planning/Zoning report. Sixteen permits were issued in June. Planning Board asked for more information on strengthened road base standards. Conditional zoning text goes to Planning Board in July. Bill Duston continues to follow up on the stormwater reports at the shopping centers and fire department. One CUP is in process for Arborbrook Christian Academy, and there is a potential for one at New Town Elementary School.

The code enforcement report was revised, but Council wants more historical data and we will purchase a wide format printer to produce a report on the large paper. There are no open violations, and one location is being monitored due to complaints.

Council Member Plyler asked for the senior housing text; Mayor Horvath said the planner will be doing that next month.

#### 7. UPDATE FROM ATTORNEY ON PANHANDLING AND NO SOLICITING ORDINANCES

Attorney Sistrunk reported that any time you regulate speech, the first amendment applies. There has been complex analysis by the Supreme Court. There is commercial, private and public speech; the one more easily regulated is commercial speech, i.e. bill boards. Strict scrutiny applies to content based regulations; and intermediate scrutiny to content neutral regulation of speech. He asked that Council identify the specific problems, and he will see if he can narrowly tailor restrictions. The language proposed in the draft ordinance sent to him was too broad. Council members will bring specific examples to the next meeting.

8. BROOKMEADE SUBDIVISION PRELIMINARY PLAT MODIFICATIONS

Council Member Plyler asked Council Member Kenary if the meeting she had attended and been paid mileage for related to this subdivision. Council Member Kenary said no, she had attended a meeting with our engineer and the Wesley Manor engineer; discussion was on the tree save ordinance and stormwater. Council Member Plyler said she wanted to go to a meeting last year and the clerk asked it be run by Council. COG does pay mileage to Council Member Plyler to attend their meetings. The subject of Council travel will be put on the next agenda.

Mayor Horvath reported this item is for two additional modifications related to DOT's stance in taking over roads. He cautioned about going backward when the project has relied on the original modifications which came directly to Council. Subsequently policy will be to send modifications first to Planning Board.

Council Member Kenary noted on page 1 of Mr. Duston's memo it says the roads are twenty feet wide, on page three it says twenty-two feet. She called Mr. Underwood and he said subdivision roads are twenty-two feet. Keith Cooper, the Project Manager, said the roads are twenty feet, which is the standard without curb and gutter; twenty-two feet is the standard with curb and gutter. Council Member Kenary said the modifications were given with the understanding that the road was twenty-six feet; and a hundred foot cul-de-sac diameter; now we are reducing the pavement to twenty feet and the cul-de-sac to seventy feet; she felt one was dependent on the other and can't be mutually exclusive. Keith Cooper explained what drove the modifications to remove curb and gutter was they were pursuing low impact (less than 24% impervious surface) and curb and gutter kicks you into high density, what they call lump and dump. They are doing a disconnected system, with various places for water to go, and also trying to reduce the road cost burden on the HOA, so they felt publicly maintained streets was a better option. They left the shoulders wide so people can park to the side, and the ditches will be nicely maintained. Sidewalks on only one side of the street are part of the low impervious surface. Council Members Plyler and Rosoff wanted to move forward. Mayor Pro Tem Como wanted to do this right, not fast. Mayor Horvath disagreed that the items were tied. Council Member Kenary asked if we can ask the applicant to come in and reapply for all modifications together. Attorney Sistrunk said you would want to get his advice in closed session, anytime you think of revoking an approval previously given you should be very careful; also it could be a reason for you to determine you want to deny the modification.

Modification one is to reduce the cul-de-sac diameter from one hundred feet to seventy feet. Modification two is to reduce the street pavement width from twenty-six feet to twenty feet. Both are DOT standards.

Council Member Plyler motioned to approve the first modification. Council Member Rosoff seconded the motion. Attorney Sistrunk reminded them you also need to incorporate the findings. The motion and second were both rescinded.

Council Member Plyler motioned to approve the modification to reduce the cul-de-sac pavement diameter width from one hundred feet to seventy feet and adopt the findings at Section 206.3 in our Subdivision Ordinance, using the Planner's suggested wording: If a cul-de-sac pavement diameter of greater than 100 feet is required, NCDOT has indicated to staff (in general, as opposed to specifically for this subdivision) that they would not accept that subdivision road for maintenance. The road would have to be publicly dedicated but be privately maintained. Although NCDOT has indicated that maintenance of subdivision roads is a low-priority, having a

road publicly maintained as opposed to being maintained by a small homeowners' association is probably in the public's best interest and welfare. Council Member Rosoff seconded the motion.

The motion passed 3-1 with Mayor Pro Tem Como voting nay.

Council Member Rosoff motioned to approve modification two, to reduce the street pavement width from twenty six to twenty feet, based on meeting the findings of fact at Section 206.3 of the ordinance, with the suggested wording from the planner for adoption. Council Member Plyler seconded the motion. The motion and second were both rescinded when Council Member Kenary pointed out that the suggested wording from the planner referenced a cul-de-sac width.

Council Member Rosoff motioned to approve modification two, to reduce the street pavement width from twenty six to twenty feet, based on meeting the findings of fact at Section 206.3 of the ordinance, with the wording being that if the street pavement width in internal neighborhood streets is more than twenty feet NCDOT has indicated to staff (in general, as opposed to specifically for this subdivision) that they would not accept that subdivision road for maintenance. The road would have to be publicly dedicated but be privately maintained. Although NCDOT has indicated that maintenance of subdivision roads is a low-priority, having a road publicly maintained as opposed to being maintained by a small homeowners' association is probably in the public's best interest and welfare. Council Member Plyler seconded the motion. The motion and second were both rescinded when Council Member Kenary asked to add that we should be specific and add that because there is no curb and gutter the road is twenty feet wide; if there were curb and gutter they would take a road twenty-two feet wide for maintenance.

Council Member Rosoff motioned to approve modification two, to reduce the street pavement width from twenty six to twenty feet, based on the configuration of a low density subdivision and there being no curb and gutter, and based on meeting the findings of fact at Section 206.3 of the ordinance, with the wording being that if the street pavement width in internal neighborhood streets with no curb and gutter is more than twenty feet NCDOT has indicated to staff (in general, as opposed to specifically for this subdivision) that they would not accept that subdivision road for maintenance. The road would have to be publicly dedicated but be privately maintained. Although NCDOT has indicated that maintenance of subdivision roads is a low-priority, having a road publicly maintained as opposed to being maintained by a small homeowners' association is probably in the public's best interest and welfare. Council Member Plyler seconded the motion.

The motion passed 3-1, with Mayor Pro Tem Como voting nay.

#### 9. WESLEY MANOR PRELIMINARY PLAT WITH FOUR MODIFICATIONS

The four requested modifications are: 1. Remove six trees with a diameter at breast height (dbh) of 20 inches plus; 2. Waive the ten foot utility easements in all rear yards; 3. Reduce street paving width from 26 feet to 22 feet; and 4. Reduce cul-de-sac radius paving width from 60 feet to 35 feet. Council Member Kenary noted they modified their drainage to eliminate one drainage pond; engineer Marc Van Dine said they couldn't pipe underground per Mike Randall at the state, so there is more sheet flow, more tree save areas, and they have a spillway and detain higher storm levels than required by the Village. Staff had no objections to modifications 1 or 2, and modifications 3 and 4 have been granted by Village Council in similar situations in the past; if they are not granted NCDOT will not maintain these roads.

Council Member Rosoff motioned to approve the first modification to remove six trees with a dbh of 20 inches + and adopt the findings at Section 206.3 in our Subdivision Ordinance, using the Planner's suggested wording: Due to the relatively small size of the tract and the need for each lot to be a minimum of 40,000 square feet, trees will undoubtedly need to be cut. The subdivider has demonstrated that the number of trees 20"+ dbh needed to be cut has been modified. The tree save area shown on the plat greatly exceeds that which the Subdivision Ordinance requires. Council Member Kenary seconded the motion.

The motion passed unanimously.

Council Member Plyler motioned to approve the second modification to waive the ten foot utility easements be located in all rear yards and adopt the findings at Section 206.3 in our Subdivision Ordinance, using the Planner's suggested wording: The proposed tree save area lies within the rear yards of all five proposed lots. Allowing for utility easements in these areas could result in the removal of trees. The applicant has indicated that utilities can be provided without having the need of these easements. Council Member Kenary seconded the motion.

The motion passed unanimously.

Council Member Plyler motioned to approve the third modification to reduce the street paving width from 26 feet to 22 feet, and adopt the findings at Section 206.3 in our Subdivision Ordinance, using the Planner's suggested wording: If a road width of greater than 22 feet is approved, NCDOT has indicated to staff (in general, as opposed to specifically for this subdivision) that they would not accept the subdivision road for maintenance. The road would have to be publicly dedicated but be privately maintained. Although NCDOT has indicated that maintenance of subdivision roads is a low-priority, having a road publicly maintained as opposed to being maintained by a small homeowners' association is probably in the public's best interest and welfare. Council Member Rosoff seconded the motion.

The motion passed unanimously.

Council Member Kenary motioned to approve the fourth modification to reduce the cul-de-sac radius paving width from 60 feet to 35 feet, and adopt the findings at Section 206.3 in our Subdivision Ordinance, using the Planner's suggested wording: If a cul-de-sac radius pavement width of greater than 35 feet is approved, NCDOT has indicated to staff (in general, as opposed to specifically for this subdivision) that they would not accept the subdivision road for maintenance. The road would have to be publicly dedicated but be privately maintained. Although NCDOT has indicated that maintenance of subdivision roads is a low-priority, having a road publicly maintained as opposed to being maintained by a small homeowners' association is probably in the public's best interest and welfare. Council Member Plyler seconded the motion.

The motion passed unanimously.

After moving to the next item it was pointed out that Council needed to approve the preliminary plat for Wesley Manor. Council Member Plyler motioned to approve the preliminary plat with the four modifications for Wesley Manor. Council Member Rosoff seconded the motion.

The motion passed unanimously.

10. REVIEW OF PLANNING BOARD RECOMMENDED CHANGES TO LAND USE PLAN

No one was present from Planning Board to explain the changes. Council Member Kenary motioned to move the Land Use Plan item to the next meeting. Council Member Rosoff seconded the motion.

The motion passed unanimously.

11. REVIEW OF PLANNING BOARD TEXT AMENDMENT FOR BULLETIN BOARDS  
Council Member Plyler asked about the 25 square feet size. Council Member Kenary felt the language was vague, and leaves room for a sign to impose on neighbors. She will send suggested wording regarding the height off ground, and dimensions.

12. CALL FOR PUBLIC HEARING ON BULLETIN BOARD TEXT AMENDMENT  
This item was tabled to the next meeting.

A brief recess was held.

13. CALL FOR PUBLIC HEARING ON ARBORBROOK CUP

Mayor Horvath noted Planning Board recommended approval of the CUP with no time limit. Council Member Plyler motioned to call for a public hearing on the Arborbrook Christian Academy conditional use permit request on August 11, 2014, here at Town Hall at 7 pm. Council Member Kenary seconded the motion.

The motion passed unanimously.

14. UPDATE ON TOWN HALL

Mayor Horvath discussed an email from the architect regarding items to be done regarding the DEHNR issues; slopes need to be provided with adequate groundcover, emergency spillway needs to extend to natural ground, swale at right corner of parking lot is eroding due to steep slopes and needs to be corrected, and the downstream slope of the basin is not maintained, and needs adequate ground cover on slopes and all bare areas. Mayor Horvath noted DEHNR is requesting a berm; Council Member Kenary had not received the email, and asked if the berm would be at no cost to the Village; the Mayor will verify that. Council Member Kenary asked if we held back the payment as she had asked by email, since work was not done according to the spec book. Mayor Horvath said the architect approved payment, and we had to release the check. Council Member Kenary asked if the architect did a walk thru before signing off to see if everything was done per the spec book. Mayor Horvath said he did on most pay apps, and was here last week, but not before the payment. Council Member Kenary said there was a motion that she be included in all walkthrough's and we have held back only about \$8,000, which was not enough in her opinion to do all that is needed, including the final seeding and grading. Mayor Horvath will forward the email from the architect. Council Member Kenary asked about recourse if they do not perform; Mayor Horvath said to go to court. Council Member Kenary said the purpose of the project manager was to bring recommendations to Council and they would then be discussed and voted upon.

Council Member Kenary asked if there was a six month walk-thru; Mayor Horvath said if the architect was here, it should have been communicated. Council Member Kenary asked if we still have a performance bond; the clerk will check with the architect. Council Member Kenary asked

about Butch Plyler helping fix the sweep on the outside of the door, and noted you can't do things that would affect the warranty.

Council had said to replace the curbing, the subcontractor used Patchcrete in three places, and if Council approves, they can complete the job. One idea was to get an extended two year warranty. Mayor Pro Tem Como motioned to table the curbing issues to the next meeting, to give Council Member Kenary a chance to look at them, and the Mayor a chance to ask regarding an extended warranty. Council Member Kenary seconded the motion.

The motion passed unanimously.

Council Member Kenary asked the mayor about the notarized document for the extended warranty on the Duke Energy pad, where there were cross-outs, and he was to check with the attorney. He will follow up on that.

Watering the grass was discussed; we can only water on Wednesdays and Sundays.

#### 15. OPTIONS FOR RUNNING ELECTRIC TO GATE AT PARK

Mayor Pro Tem Como reported the gate was installed from last year's budget. The solar option was not installed, because they thought there was not enough sunlight. Council Member Kenary asked why it wasn't installed when the quotes were approved on it including the solar panel.

Mayor Pro Tem Como got two quotes on the electric line, and will get two more quotes. We can either have a short line from a new meter down near the street adding about \$20 to monthly costs, or run it from the main breaker. He motioned to take off the option of a long line from the main breaker box; Council Member Plyler seconded the motion.

The motion passed unanimously.

#### 16. UPDATE ON PARKS AND REC

Mayor Pro Tem Como reported on the final walk through with the architect, there are two items pending, in the fall they will do over seeding. The grand opening of the park had a great turnout; they went through many cases of water and soda, and 250 hotdogs in 35 minutes. One hundred fifty kids participated in the fishing event, and the reading nook and little library had ongoing story time. There was non-stop music and dancers. There are brand new porta jons. We still have staining to do, complete the trails, and put in footbridges; we also need bids on the monument sign. A map is needed in the information sign. Mayor Como reported in phase two they would like a roof on the stage, bathrooms, and a playground; these need to be prioritized.

#### 17. TIMING FOR AGENDA ITEMS

Council Member Rosoff commented the purpose of the agenda forms is to let members know what the items are about and so they can be prepared ahead of time. Council Member Rosoff motioned to limit discussion to three minutes per item per Council Member. Mayor Pro Tem Como seconded the motion. Council Member Kenary said it might not be prudent on some items. Mayor Horvath said 90% of the items we can probably discuss in three minutes.

The motion passed unanimously.

#### 18. SAFETY COMMITTEE

Council Member Plyler said the Safety Committee wanted to know if there are any reports we get on the services the deputy should provide and is doing. Administrator Bennett said we get two reports and she sends them to Council and the Safety Chair. His schedule is not distributed.

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Council Member Plyler will talk to Sheriff Cathey. Mayor Horvath suggested the committee find out when we most need a deputy on duty, and then we can ask him to work those hours.

19. CLOSED SESSION: TO CONSIDER PERFORMANCE OF PRESENT EMPLOYEE  
PER NC GS 143-318.11(A)(6)

Tabled to the next meeting.

20. CONSIDER ANY MOTIONS ARISING OUT OF CLOSED SESSION INCLUDING  
APPROVAL OF SALARY ADJUSTMENT, IF ANY

Tabled to the next meeting.

21. OTHER BUSINESS

Council Member Rosoff motioned to accept Bill Bennett's resignation from Planning Board, because he wished to resign. Mayor Pro Tem Como seconded the motion, noting it was a symbolic gesture and we are just accepting the resignation. Council Member Kenary said he served well.

The motion passed unanimously.

Mayor Pro Tem Como motioned to approve the June 9, 2014 minutes; Council Member Kenary seconded the motion.

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

Mayor Horvath noted we received nineteen responses to the D.I.A.L.O.G. survey.

Council Member Kenary said Mr. Giaimo approached her with the idea of the civil air patrol working with the Youth Council Committee on a 5K run, she asked for more information.

22. COUNCIL COMMENTS

Council Member Kenary said the deputies at the grand opening helped the pedestrians cross the street, but did not do a good job directing automobile traffic, and we should give them feedback.

23. ADJOURNMENT

Council Member Kenary made a motion to adjourn; Mayor Pro Tem Como seconded the motion.

The motion passed unanimously.

The meeting ended at approximately 11:15 pm.

Respectfully submitted,

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Cheryl Bennett, Clerk

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Mayor Brad Horvath