



**MEETING MINUTES**  
Regular Meeting of the  
**WENTWORTH TOWN COUNCIL**  
May 3, 2016  
7:00 pm  
Wentworth Town Hall

The regular monthly meeting of the Wentworth Town Council was held on Tuesday, May 3, 2016, at the Wentworth Town Hall at 7:00 p.m.

**Council Members Present:** Mayor Dennis Paschal Jr., Mayor Pro Tem Evelyn Conner, Cheryl Moore, Dennis Paschal III, Iris Powell

A quorum was present.

**Staff Present:** George Murphy, Town Administrator  
Yvonne Russell, Clerk/Finance Officer

**Others Present:** Patrick Kane, Attorney – Smith Moore Leatherwood  
Taylor D. Smith

**Article I. CALL TO ORDER**

Mayor Dennis Paschal Jr. called the meeting to order.

**Article II. INVOCATION**

Councilmember Dennis Paschal III gave the invocation.

**Article III. APPROVAL OF TOWN COUNCIL AGENDA**

- A. Requests and Petitions of Citizens
- B. Approve/ Amend Agenda

**Mayor Paschal** made a MOTION, *“We approve the agenda as written”*.

**Mayor Pro Tem Evelyn Conner** seconded the motion. All voted in favor and the motion carried.

**Article IV. APPROVAL OF MINUTES**

- A. Town Council Meeting – April 5, 2016

**Councilmember Iris Powell** made a MOTION, *“We accept the minutes as written”*.

**Mayor Paschal** seconded the motion. All voted in favor and the motion carried.

**Article V. PUBLIC HEARING**

- A. Consideration of Town of Wentworth Ordinance Establishing a Moratorium on Oil and Gas Development within Wentworth, North Carolina

**Mayor Paschal** called the Public Hearing to order.

**Mayor Paschal** read the description of the proposed ordinance. He asked Council if there were any questions for the attorney. There were none.

**Mayor Paschal** made a MOTION, *"We pass the ordinance with which the findings of fact are therein"*.

**Councilmember Paschal III** seconded the motion. All voted in favor and the motion carried.

*(Note: A draft of the Town of Wentworth Ordinance Establishing a Moratorium on Oil and Gas Development within Wentworth, NC is herein incorporated and made a part of these minutes.)*

## **DRAFT**

### **TOWN OF WENTWORTH ORDINANCE ESTABLISHING A MORATORIUM ON OIL AND GAS DEVELOPMENT WITHIN WENTWORTH, NORTH CAROLINA**

#### **Section 1. Name**

This Ordinance shall be known and may be cited as "The Town of Wentworth Oil and Gas Development Moratorium".

#### **Section 2. Definitions**

The words and phrases defined in this Section shall have the following meaning in this Ordinance:

1. "Drilling" shall mean the sinking, penetrating, boring, or digging of a shaft or hole in the earth for any purpose.
2. "Gas" shall mean all natural gas, casing-head gas, coal-bed methane, and all other hydrocarbons not defined as oil in Subsection 4.
3. "Hydraulic Fracturing" or "Fracturing" or "Fracking" means all stages of the treatment of a well by the application of hydraulic fracturing fluid under pressure that is expressly designed to initiate or propagate fractures in a target geologic formation to enhance production of oil and/or gas.
4. "Oil" means crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas after it leaves the reservoir.
5. "Oil or Gas Development" means all or any part of the process of exploration, development, or production of oil or gas, including without limitation, drilling, casing, operation, fracturing, completion, plugging, and abandonment of wells, pads, impoundments and other associated activities.
6. "Oil or Gas Operator" means the person who acquires a lease or other property interest in surface and/or subsurface lands for the purpose of conducting exploration for or extracting oil or gas.
7. "Oil or Gas Owner" means the person who has the right to drill into and to produce from any pool, and to appropriate the production either for himself or for himself and others.
8. "Person" means any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind.
9. "Water Supply or "Water Resources" means any groundwater or surface water intended or used for human consumption, household purposes, farm, livestock, or garden purposes, or for conservation and preservation purposes.

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10. "Well" means any new or existing shaft or hole drilled, sunk, bored, or dug into the earth or into underground strata for the extraction, injection, or placement of any oil, liquid, or gas; or any new or existing shaft or hole drilled, sunk, bored, dug or used in conjunction with such extraction, injection, or placement of any oil, liquid, or gas using hydraulic fracturing, fracturing or fracking methods. The term "well" does not include any shaft or hole drilled, sunk, bored, or dug into the earth for the sole purpose of testing for, pumping, or extracting therefrom potable, fresh or usable water for household, domestic, industrial, agricultural, public use, or other activity not related to oil or gas development activities.

### Section 3. Jurisdiction

This Ordinance shall apply to the entirety of the incorporated boundaries of the Town of Wentworth.

### Section 4. Purpose

The purpose of this Ordinance is to establish a moratorium to allow the Town Council of the Town of Wentworth time to:

- (1) receive information and research regarding the potential impact of Hydraulic Fracturing and other Oil and Gas Development activities on the Town of Wentworth's roads and other infrastructure, natural resources, and on the health and safety of the residents of the Town of Wentworth;
- (2) analyze the adequacy of existing state and federal laws and regulations applicable to Hydraulic Fracturing and other Oil and Gas Development activities; and
- (3) develop and evaluate acceptable standards and conditions to be implemented in the Town of Wentworth Zoning Ordinance to address any impacts that are not adequately addressed by applicable state and federal regulations.

### Section 5. Factual Findings

**WHEREAS**, the Town Council of the Town of Wentworth makes the following findings of fact with respect to conditions necessitating a moratorium on Hydraulic Fracturing and Oil and Gas Development activities in the Town of Wentworth:

1. Hydraulic Fracturing is a relatively new industry, and significant environmental, community, and human health impacts have resulted from Hydraulic Fracturing in other states, the full extent of which has not yet been determined; and
2. Hydraulic Fracturing could involve the use of hazardous materials and generate large quantities of toxic waste which the Town of Wentworth would be ill-equipped to deal with due to its size and rural character; and
3. The Town of Wentworth's current roadway infrastructure is not equipped to handle the increased traffic from large commercial vehicles which could result from Hydraulic Fracturing activities; and
4. Oil and Gas Exploration, and specifically Hydraulic Fracturing poses a significant threat to the health, safety and welfare of the residents, environment and natural resources of the Town of Wentworth; and
5. Existing North Carolina statutes and regulations do not adequately protect the health and welfare of the residents of the Town of Wentworth; and also do not adequately protect the environment and natural resources within the Town of Wentworth; and
6. The Town Council of the Town of Wentworth needs additional time to review the impact of Hydraulic Fracturing and other Oil and Gas Development activities in other states, and to determine the adequacy of existing state and federal laws and regulations; and
7. The Town Council of the Town of Wentworth needs additional time to study the potential impact of Hydraulic Fracturing and other Oil and Gas Development activities on the Town of Wentworth's roads and other infrastructure, and natural resources and health and safety of the residents of the Town of Wentworth; and

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9. The website of the NC Mining and Energy Commission currently provides the following information regarding the Commission:

On March 16, 2015, the three-judge panel of the Wake County Superior Court issued a decision in the matter of McCrory v. Berger holding the legislative appointments to the state Mining and Energy Commission to be in violation of the separation of powers clause as set forth in the North Carolina Constitution (See McCrory v. Berger, Wake County Sup. Ct. Case No. 14-CVS-015201 (March 16, 2015)). The General Assembly has appealed to the North Carolina Supreme Court, which has neither stayed the Panel's Order nor issued an opinion reversing the panel's decision. Therefore, the panel's order holding "the provisions of NCGS 143B-290(a1) providing for the appointment of members of the North Carolina Mining and Energy Commission by the Legislature are in violation of Article I, Section 6 of the North Carolina Constitution" (McCrory v. Berger, 11) remains in effect. This site will be updated upon the North Carolina Supreme Court's issuing of its opinion in this case.

10. Due to the complexity of the issues involved in Hydraulic Fracturing, the Town of Wentworth needs a period of time within which to develop standards and safeguards to protect the health and safety of the residents of the Town of Wentworth, protect the environment and natural resources of the Town of Wentworth.

11. On November 16, 2015, the County Commissioners for Rockingham County adopted a similar two year moratorium on oil and gas development within the unincorporated areas of Rockingham County. To the extent relevant and appropriate, the Town of Wentworth adopts herein the factual findings made by the County Commissioners for Rockingham County with respect to that moratorium.

## **Section 6. Alternative Courses of Action Considered**

The Town Council for the Town of Wentworth considered the following alternatives to a moratorium and determined that the following enumerated alternatives were inadequate:

1. The Town Council considered taking no action and letting the existing town zoning regulations together with federal and state regulations regulate potential Oil and Gas Development in the Town of Wentworth. This was not considered to be a viable alternative because the current town zoning regulations do not sufficiently address the potential problems presented by the relatively new industry of Hydraulic Fracturing. Also, the Town Council did not feel that existing state and federal regulations address the problems that Hydraulic Fracturing could present to a rural town such as the Town of Wentworth.

2. The Town Council also considered immediately amending the existing zoning ordinance to establish standards and safeguards for Oil and Gas Development in the Town of Wentworth; however, the Town Council determined that without further study and research, this would be premature and could result in standards that are inadequate to regulate or mitigate the local impacts, or that are unnecessarily stringent and might be subject to legal challenge as pre-empted by the state statute. The Town Council determined that it needed more time to determine what conditions are necessary and reasonable to protect the Town of Wentworth in light of the uncertainty of pending litigation at the state level regarding the regulation of fracking.

## **Section 7. Legal Authority**

This Ordinance is enacted pursuant to (1) NORTH CAROLINA GENERAL STATUTE SECTION 160A-174, which grants the Town of Wentworth general ordinance making power; (2) NORTH CAROLINA GENERAL STATUTE SECTION 160A-175, which grants the Town of Wentworth authority to enforce its ordinances; (3) NORTH CAROLINA GENERAL STATUTE SECTION 160A-381, which grants the Town of Wentworth the authority to adopt zoning and development regulation ordinances to promote health, safety, morals, or the general welfare, including authority to adopt temporary moratoria.

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## **Section 8. Establishment of Moratorium**

There is hereby established a moratorium on any approval required by the Town of Wentworth Zoning Ordinance for Hydraulic Fracturing and/or Oil and Gas Development activities. This moratorium shall remain in effect until November 16, 2017. It shall be unlawful and a violation of this Ordinance for any person within the jurisdiction to which this Ordinance applies to engage in Hydraulic Fracturing and/or Oil or Gas Development activities that require a special use permit from the Town of Wentworth. The Town Council for the Town of Wentworth, in conjunction with the Rockingham County Department of Planning and Inspections, will use this moratorium period to review the impacts of oil and gas development activities in other states and develop a plan to regulate and mitigate impacts from these activities that are not adequately addressed by state and federal laws and regulations, the existing Town of Wentworth Zoning Ordinance, and other ordinances, giving consideration to the health and safety of the citizens of the Town of Wentworth, and the protection of the environment and natural resources, and in particular the rivers and groundwater resources of the Town of Wentworth.

## **Section 9. Enforcement and Penalties**

1. This Ordinance may be enforced by any legal or equitable remedies available, including, but not limited to, injunctive relief.
2. Any person engaging in oil and gas development activities in violation of this Ordinance shall be guilty of a misdemeanor pursuant to NORTH CAROLINA GENERAL STATUTE SECTION 14-4, and shall be subject to a fine of \$500 per offense. Each day that a person continues to violate this Ordinance after receiving notice of violation shall be considered a separate offense.

## **Section 10. Moratorium Expiration**

This Moratorium shall expire on November 16, 2017.

## **Section 11. Severability**

If any portion of this Ordinance is determined to be invalid or unenforceable by a court of competent jurisdiction, the remainder shall remain in full force and effect.

## **Section 12. Effective Date**

This Ordinance shall be in full force and effect from and after adoption.

Adopted this the day of \_\_\_\_\_, 2016.

## **Article VI. OLD BUSINESS**

There was no old business.

**Article VII. NEW BUSINESS**

**A. Consideration of Appointments to Boards/Committees**

1. Gary Moore, 166 Rock Spring Road – Reappointment to the Planning Board: 4-year term
2. Taylor D. Smith, 899 Harrison Crossroad Loop, Reidsville, NC – Appointment as a non-resident member to the Appearance Committee: 3-year term

**Mayor Paschal** informed Council they are considering Gary Moore for reappointment to the Wentworth Planning Board for a 4-year term, and Taylor Smith for appointment as a non-resident to the Wentworth Appearance Committee for a 3-year term.

**Mayor Paschal** made a MOTION, *“We appoint Mr. Moore to the Planning Board and Mr. Smith to Appearance Committee”*.

**Mayor Pro Tem Conner** seconded the motion. All voted in favor and the motion carried.

**Article VII. NEW BUSINESS**

**B. Submission of Budget Message/ Budget Summary/ Estimated Revenues and Expenditures for Fiscal Year 2016–2017**

**Mayor Paschal** announced that the FY 2016–2017 Proposed Budget has been submitted to Council and is available for review in the Town Clerk’s office.

**Mayor Paschal** made a MOTION, *“To set the public hearing for June 7, 2016 at 7:00pm”*.

**Councilmember Paschal III** seconded the motion. All voted in favor and the motion carried.

**Article VII. NEW BUSINESS**

**C. Consideration of Proclamation Recognizing the National Day of Prayer – May 5, 2016**

**Mayor Paschal** made a MOTION, *“We approve the proclamation”*.

**Councilmember Powell** seconded the motion. All voted in favor and the motion carried.

(Note: The Proclamation Recognizing the National Day of Prayer – May 5, 2016 is herein incorporated and made a part of these minutes.)



## PROCLAMATION

*By the Mayor and Town Council of Wentworth*

### NATIONAL DAY OF PRAYER

**May 5, 2016**

**WHEREAS**, the **National Day of Prayer** tradition predates the founding of the United States of America, evidenced by the Continental Congress' proclamation in 1775 setting aside a day of prayer. In 1952, Congress established an annual day of prayer and, in 1988, that law was amended, designating the National Day of Prayer as the first Thursday in May; and

**WHEREAS**, the National Day of Prayer has great significance for us as a nation and enables us to recall the way in which our founding fathers sought the wisdom of God when faced with critical decisions; and

**WHEREAS**, The National Day of Prayer is an opportunity for Americans of all faiths to join in united prayer to acknowledge our dependence on God, to give thanks for blessings received, to request healing for wounds endured, and to ask God to guide our leaders and bring wholeness to the United States and her citizens; and

**WHEREAS**, May 5, 2016, has been officially designated as America's 65<sup>th</sup> Annual Observance of the National Day of Prayer, to pray for our nation, its people, and its leaders; and

**WHEREAS**, the theme for the 2016 National Day of Prayer is "**Wake Up America**", it is fitting and proper to give thanks to God by observing a day of prayer in **The Town of Wentworth**, when all may acknowledge our blessings and express gratitude for them;

**Now, therefore, I, Robert Dennis Paschal, Jr., Mayor** of the **Town of Wentworth**, along with the **Wentworth Town Council**, do hereby proclaim the first Thursday in May, 2016, to be designated as

**"A DAY OF PRAYER IN WENTWORTH"**

Proclaimed this the 3<sup>rd</sup> day of May, 2016.

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**R. Dennis Paschal, Jr. - Mayor**

**ATTEST:** \_\_\_\_\_  
**Yvonne Russell, Town Clerk**

**Article VIII. PUBLIC COMMENTS**

No one signed the speaker register.

**Article IX. ANNOUNCEMENTS**

**Mayor Paschal** made the following announcements:

- The next regular meeting of the **Wentworth Planning Board** is **May 17, 2016, at 7:00 pm** in the Town Hall Council Chambers.
- The next regular meeting of the Wentworth Town Council will be held on **Tuesday, June 7, 2016, at 7:00 pm** in the Town Hall Council Chambers.
- A **Public Hearing** to consider adoption of the **Fiscal Year 2016-2017 Budget** will be held on **June 7, 2016, at 7pm** in the Town Hall Council Chambers.

**Article X. ADJOURN**

**Mayor Paschal** made a MOTION, "*We adjourn*".

**Mayor Pro Tem Conner** seconded the motion. All voted in favor and the meeting adjourned.

Respectfully Submitted by: \_\_\_\_\_  
Yvonne Russell, NCCCM  
Town Clerk

Approved by: \_\_\_\_\_  
Robert Dennis Paschal, Jr.  
Mayor