

MINUTES OF A PUBLIC HEARING AND A REGULAR MEETING OF THE MAYOR AND THE BOARD
OF ALDERMEN, TOWN OF CHAPEL HILL, MUNICIPAL BUILDING, MONDAY APRIL 12, 1976
7:30 P.M.

Mayor Wallace called the meeting of the Board of Aldermen to order; present and seated were:

James C. Wallace, Mayor
Gerald Cohen
Robert Epting
Thomas Gardner
Jonathan Howes
Shirley Marshall, Mayor pro tem
Marvin Silver
Edward Vickery

Alderman R. D. Smith was not present.

Also present were Town Manager K. Jenne, Town Attorney E. Denny and Town Clerk D. Roberts. Planning Board members present were Bill Levine, Blaine Liner, Liz Martin, Peg Parker, Jane Stein and Charles Weiss.

ANNEXATION OF THE OAKS APARTMENTS AND SUBDIVISION - PUBLIC HEARING

Mayor Wallace called the public hearing to order to consider annexation of the Oaks Apartments and Subdivision, and the plans for services to this area. The Annexation Report, dated March 22, 1976, has been distributed to the Board members, and has been available to the public in the Town Clerk's office since March 23, 1976. The notice of the public hearing was published in the Chapel Hill Newspaper on March 21, March 28, April 4, and April 11, 1976.

Mr. Mike Jennings, Planning Director, presented the annexation report and the State and Town policy on annexation. He said that the proposal is to annex by a municipal ordinance the Oaks Subdivision, the Oaks apartments, and a part of the Chapel Hill Country Club Golf Course; and that the purpose of the annexation report is to show that the area meets the standards of urban development and that the Town can provide the necessary services. He showed on maps the proposal for annexation, the location of water mains and sewer lines for the areas, and the relationship of the area to the general use map of the Town. He explained the annexation report in detail.

Mayor Wallace called for comments supporting annexation. There was none.

Mayor Wallace called for comments opposing annexation. Dr. Harold Langenderfer, President of the Oaks Homeowners Association, which represents the single-family portion of the area, read the following statement:

My name is Harold Q. Langenderfer. I am President of the Oaks Homeowners Association and am here to try to express the viewpoint of the homeowners other than the Oaks Apartments.

The Oaks Homeowners Association met recently to discuss the proposed annexation of the Oaks Subdivision into the Town of Chapel Hill. The general reaction at the meeting to current annexation was mixed. There appeared to be general agreement that annexation was eventually inevitable, but there was much sentiment that the current timing may not be appropriate because of the strong concern voiced by the Association members regarding the maintenance of the roads, especially Burning Tree Drive. The roads are now being maintained by the State.

The members of the Association are understandably concerned about road maintenance after having had to spend over \$10,000 of their own money to bring the roads to State standards after the roads had been accepted by the Town to permit the developer to sell lots. Unfortunately for the owners, even though the Town accepted the subdivision, it took no subsequent responsibility for bringing the roads up to standard so the owners found themselves in no-man's land between the Town and the State until they spent their own money to bring the roads to the State's standards.

At the present time it appears that Burning Tree Drive will need substantial reconstruction because of difficult subsurface conditions. If the subdivision is to be annexed now, the members of

the Association feel that the Town should make a specific commitment as to when the proposed road improvements will be made, more specific than the vague statement that it probably will be done within the next five years. Such a commitment may be difficult, however, because other roads in the Town may need improvement sooner. If that is the likely case, then the Town should not consider taking on additional significant road work by annexing the Oaks Subdivision now. Rather it would seem more economically sound to postpone annexation until after the State has made the improvements thought to be necessary.

A compromise approach to annexation which appears to be feasible and economically sound for all, including the Town, would be to annex the Oaks Apartments now and annex the single family portion of the subdivision after the State has improved the roads. If the Board saw fit to postpone annexing the single family dwelling units at the present time, the members of the Homeowners Association would be willing to make a commitment to formally request annexation as of July, 1978 and make every effort in the meantime to get the State to improve the roads. Since the owners have a vital interest in well maintained roads in the subdivision, there is clearly motivation on the homeowners part to get the State to make the improvements as soon as possible. We would like to commend this alternative to the Board for its consideration.

Alderman Marshall said that annexation of the area has been considered for several years, and asked how the property owners feel about the fact that the fire district tax for the area will possibly need to be increased. Dr. Langenderfer said that he understands that the fire district tax could possibly be renewed at the same rate for two years, but that a rate increase would still be less than a Town property tax. Alderman Marshall said that when the compromise on annexation timing was made, the Board strongly indicated that the current fire district rate would be for this year only. In response to a question by Alderman Howes, Dr. Langenderfer said that the property owners have tried to find out what the State plans are for road improvements in the area, but that at this time the information is not available. He proposed that the property owners be given two years to try to work this matter out with State, and said that, if the suggestion of annexing the Oaks apartments only were accepted, the property owners of the Oaks Subdivision would be willing to request annexation after two years, since the area would not then be meeting the density requirements for annexation. Alderman Gardner said that the property owners and the Board made a gentlemen's agreement that annexation would be postponed for a year, that the fire district tax rate would be lowered for that year, and that the residents would get the State to improve the road. He said that he is disappointed that this agreement has not been followed. Dr. Langenderfer said that the residents tried to get the roads improved. Alderman Gardner said that the Town would certainly maintain the road to the same extent that it has been maintained for the past two years. Dr. Langenderfer said that the property owners feel that they got a raw deal from Town, and that, if they are to be annexed, they should receive specific benefits rather than unspecified improvements within the next five years. Alderman Marshall said that she supported the property owners' fight against annexation, since she thought that they could get the State to improve the roads in the two year period. She said that the Town is preparing a Capital Improvements Program, which will involve a bond issue, and that if the Oaks were annexed, the Burning Tree Drive could be placed in the CIP, which would mean a definite scheduling of street improvements; if the area were not annexed at this time, the street improvements could not be scheduled for the CIP and might be delayed for five or six years. She said that she feels the street would be reconstructed faster if it were within Town than by State. Dr. Langenderfer said that the property owners have mixed emotions on annexing, and that some are not sure that the State would release the road to Town, with a result that the area might be annexed but the residents would receive no benefits. Mr. Jennings said that the State does not have to release the road, but that normally the roads are released. Mr. Levine, Planning Board member, asked whether the proposal to annex only Oaks Apartments at this time would lower the density requirements to the point where the area outside Town would be legally capable of avoiding annexing. Mr. Langenderfer said that he understands that this is the case for the single-family area now, and that it can be annexed only because of the proximity and density of the apartments. He said that the area residents could require annexation by petition. Alderman Cohen said that such a petition would require the signatures of all the property owners.

Dr. Gus Conley, representing the Chapel Hill Country Club, requested that the 12th, 13th and 17th holes of the golf course be deleted from the proposed annexation. He showed these areas on the annexation map. He said that a reason for annexing property is to provide services, but that the golf course is open space and does not require Town services. He said that the 17th hole is in the flood plain, and that this area might be considered for removal from annexation, although it would create spot zoning. He suggested that the annexation line be redrawn from the proposed line in the vicinity of 12th and 13th hole, which uses a chain link fence as a boundary, to the rear boundary lines of the properties adjacent to the golf course. Alderman Cohen said that the Town fire department received a fire call from the golf course about a year and a half ago because of a brush fire and that the fire department could not answer the call because the golf course is not in the Town. Dr. Conley said that he is not familiar with that incident, but that the golf course has an extensive sprinkler system and a lake. He said that the golf course in the vicinity of Rogerson Drive can only be used for this purpose, since there is no possibility of access to Rogerson Drive, but that elimination of that area from annexation would create spot zoning. Mr. Jennings said that the 12th and 13th holes were included in the annexation proposal to make the Town boundaries easily identifiable from ground without the need of surveying the property, but that the annexation would not be hurt in any way if the area were eliminated. He said that the area close to Rogerson Drive needs to be included in the annexation to maintain continuity of Town boundaries. He said that if the rear boundary lines of properties were used as the Town boundary, there would be one area where the right-of-way would be the Town boundary.

ALDERMAN HOWES MOVED, SECONDED BY ALDERMAN EPTING, THAT THE ANNEXATION PROPOSAL BE REFERRED TO THE PLANNING BOARD FOR THEIR CONSIDERATION AND RECOMMENDATION. THE MOTION WAS UNANIMOUSLY CARRIED. Alderman Gardner suggested that the Planning Board consider the request to modify the Town boundary line.

ANNEXATION OF THE RIGHT-OF-WAY IN THE VICINITY OF FRANK PORTER GRAHAM ELEMENTARY SCHOOL - PUBLIC HEARING

Mayor Wallace called the public hearing to order to consider annexation of the right-of-way in the vicinity of Frank Porter Graham Elementary School, and the plans for services to this area. The Annexation Report, dated March 22, 1976, has been distributed to the Board members, and has been available to the public in the Town Clerk's office since March 23, 1976. The notice of the public hearing was published in the Chapel Hill Newspaper on March 21, March 28, April 4, and April 11, 1976.

Mr. Mike Jennings, Planning Director, presented the annexation report and showed the area on a map. He said that the reason for proposing annexation of the area is that traffic problems exist in the area, and traffic control by Town would help to alleviate the problems. He explained the annexation report in detail. In response to a question from Alderman Gardner, he said that the report considers only appropriations necessary to bring an area considered for annexation up to Town standards, and that the scheduling of police at crossing guards in the area is not such a necessity.

Mayor Wallace called for comments supporting annexation. There were none.

Mayor Wallace called for comments opposing annexation. There were none.

Alderman Cohen said that the area was considered for annexation in 1967 and the Board at that time decided not to annex so that the Town would not need to be responsible for the traffic in the area. He said that annexation of the area at that time would have prevented a lot of problems.

ALDERMAN SILVED MOVED, SECONDED BY ALDERMAN GARDNER, THAT THE ANNEXATION PROPOSAL BE REFERRED TO THE PLANNING BOARD FOR THEIR CONSIDERATION AND RECOMMENDATION. THE MOTION WAS UNANIMOUSLY CARRIED.

Mr. Jennings said that these items will be brought back to the Board on April 26, 1976.

The Public Hearing adjourned at 8:05 p.m.

Regular Meeting

Approval of Minutes

The minutes of the March 22, 1976 meeting were duly considered and corrections were made. Alderman Msrshall expressed her concern that the ordinance on page 12B created Henderson Street a tow zone for the duration of the Apple Chill Fair, but that cars were parked there and on Franklin Street anyway.

ALDERMAN COHEN MOVED, SECONDED BY ALDERMAN EPTING, THAT THE SAID MINUTES BE ADOPTED FOR OFFICIAL RECORDING AS CORRECTED. THE MOTION WAS UNANIMOUSLY CARRIED.

Petitions and Requests

Mayor Wallace presented a request from the Chapel Hill-Carrboro School Art Guild to use parking lot #2 for a Flea Market on Sunday, May 2, 1976, and Sunday, June 6, 1976, from 1:00 p.m. until 5:00 p.m., with rain dates the following Sundays. He said that the Town Manager recommends approval.

ALDERMAN HOWES MOVED, SECONDED BY ALDERMAN EPTING, THAT THE REQUEST BE GRANTED AS PRESENTED. THE MOTION WAS UNANIMOUSLY CARRIED.

Ms. Carolista Baum of 515 East Rosemary Street presented the following petition:

TO THE TOWN OF CHAPEL HILL

As residents of the East Rosemary Street area we are concerned over the traffic problems that exist at the intersection of Rosemary and Hillsborough Streets. Because of the high density in this area we realize that some traffic is to be expected, but we are concerned for the safety of our children and other pedestrians. We feel that the flow of traffic from the existing 5 major parking areas can be better handled by a traffic study which would eliminate the dangers that now exist. In addition, the through traffic on Rosemary that only intensifies the problem.

We request an immediate study of the traffic problem and further request that no further development within the immediate area take place until such study is completed.

Alderman Cohen asked whether placing a stop sign on Rosemary Street at Boundary Street for traffic heading east would improve the situation, since this would discourage motorists from using Rosemary Street as a through street. Ms. Baum said that this is one possibility that a traffic study could consider, but that the intersection at Hillsborough and Rosemary is a worse problem, since it has a tremendous density of traffic. She said that there are five driveways close to that intersection with 20-25 cars, and that most of these back on onto the road. She said that it might be helpful if these multi-car driveways were required to have cars enter from one street and exit on the other, since most of them have access to two streets.

Mayor Wallace referred the matter to Town Manager for consideration.

Petition by Albert West

Town Manager Jenne presented a memorandum dated April 7, 1976, on the petition and claim by Mr. Albert West, which was presented to the Board at the March 22, 1976 meeting. He said that two consultants have been retained by Town to make independent recommendations regarding the resolution of the problem and that it is anticipated that these will be ready by the Board meeting on April 26, 1976.

Plant Road Facilities - Report

Mr. Mike Jennings, Director of Planning, presented a memorandum dated April 12, 1976, on the Step I Report of the development concepts for facilities presently located at Plant Road, and showed the proposals on the map. The memorandum gives the background of the study; the site requirements for Public Transit, Public Works, recycling, animal shelter, and

park; the available sites consisting of Plant Road Site and Airport Road Site; citizen input from Glen Heights on the uses and design criteria; and comments on these; alternative land use concepts, and comments on these; and recommendations from staff and from the Planning Board. He said that the proposed development of the Public Transit and Public Works will be presented to the Board in the Capital Improvements Program allowing more time to seek alternatives.

Alderman Silver asked about the discussions with County regarding joint development of an animal shelter. Town Manager Jenne said that he has discussed this with the County Manager, and that the county is anxious to proceed on the development of an animal shelter, which could be joint development with Town. He said that once the Board has made a decision regarding the location of the animal shelter, this information would be transmitted to the County Manager along with information on shelter design, estimated cost, etc., and that the Town would seek to move forward to joint funding arrangements in the next fiscal year. He said that the County has not suggested a site for a joint facility.

Alderman Marshall said that, at the time the temporary animal shelter was set up at the Plant Road site, the Board indicated to the area residents that the shelter would not be permanent, and that the shelter has already been longer at that location than promised. She said that no area will wish to have the animal shelter close by, no matter where the proposed location is. She requested that in the future the staff and the Planning Board also consider the traffic input on an area for a proposed project.

Alderman Howes agreed with Alderman Marshall about the need to relocate the animal shelter from the Plant Road Site, and said that he will oppose its remaining there and possibly jeopardizing a recreational facility. He said that the Board should not take action on the matter at this time, since the report does not present alternative locations for the animal shelter, which would be needed if the Town were to develop a joint facility with Orange County. Alderman Gardner suggested that the other municipalities in the county be involved in seeking an alternative site for the animal facility.

Mayor Wallace said that he feels it is inappropriate to continue the animal shelter at the Plant Road facility, since the county residents would not have an access to it.

Alderman Cohen said that the Town has a policy of sewer connection for animal control, but it also has a policy to remove all but recreation from the Plant Road site. He asked whether it would be possible to locate the animal shelter at the Town property on the Weaver Dairy Road. Town Attorney Denny said that this would not be possible, since the property has a limited deed, prohibiting this. Alderman Cohen said that the Town is planning a sewer outfall project for 1978-79 for North Forest Hills and Glen Heights, and asked how much it would cost to have a septic tank for the area for the interval. Mr. Jennings said that the installation of a septic tank would not be very expensive, but that this would need to be discussed with the University, to see if they approve of a septic tank for the property. He said that the major objection to the proposal of locating the animal shelter at the Glen Heights site is the fact that it would conflict with the security for the Transportation Department and Department of Public Works. He said that the reason that only the Glen Heights site was considered for relocation, is that the Task Force had narrowed the sites to this possibility. He said that the site receiving the best recommendation from the Task Force is the one located on the intersection of Airport Road and Estes Drive. Alderman Howes said that the location of the animal shelter was not a part of the study made by the Task Force, and that, if a joint facility with the County is to be considered, it is important that other sites also be considered.

Alderman Marshall said that the Task Force and the Board asked the Planning Board to look for possible sites for the relocation. She said that the Town is placed in a difficult position when the information on areas under consideration for purchase is made public, and suggested that in the future such deliberations be made in executive sessions.

Alderman Vickery said that, in view of the fact that the Task Force recommended the Airport site as the most favorable site, and that the Glen Heights residents have indicated that the Transportation Department and Department of Public Works are not nearly as objectionable as the recycling

facility and the animal shelter, the Board should consider how to guarantee that the indicated buffer zone would really provide a visual buffer, and place only the two facilities there; this may also make it unnecessary to provide a culvert across the creek. He said that it is a mistake to consider all four facilities jointly. He suggested that, as part of the transition period, the animal shelter and recycling facility remain at the Plant Road site temporarily, with the other two facilities relocated at the Airport Road site.

Alderman Silver asked whether the staff and the Planning Board considered placing three of the facilities on the Airport Road site. Mr. Jennings said that the two alternatives presented are the least and the most that the Town can place on the site, and that anything in between could be accommodated. He said that the recycling facility can be located on about half an acre tract and requires easy public access, and that for this reason the recommendation is for it to stay on the Plant Road site. Alderman Silver said that he prefers that a decision on the animal shelter not be made without further consultation with the County.

Alderman Gardner said that he has not heard of any complaints from residents in the area of the Plant Road site about the animal shelter, and that the Airport Road site is much larger and further removed from residential area. Town Manager Jenne said that he has not heard of any complaints regarding the noise of animal shelter, but that there have been complaints about people taking shortcuts across private property, and about loose dogs in the area.

Mayor Wallace vacated the chair to Mayor pro tem Marshall.

Mayor pro tem Marshall said that she feels it is a good policy to carry out promises made to citizens a long time ago, and not just respond to groups that are currently protesting.

Alderman Cohen said that he feels the Board is receiving conflicting information, about whether the animal shelter may or may not be compatible with recreation at the Plant Road Site.

ALDERMAN HOWES MOVED, SECONDED BY ALDERMAN GARDNER, THAT THE BOARD DENY THE RECOMMENDATION OF THE TOWN MANAGER AND THE PLANNING BOARD REGARDING THE LOCATION OF THE ANIMAL SHELTER, AND THAT THE TOWN MANAGER BE DIRECTED TO CONTINUE THE EXPLORATION WITH THE COUNTY FOR ALTERNATIVE SITES FOR THE ANIMAL SHELTER.

ALDERMAN VICKERY OFFERED A SUBSTITUTE MOTION, WHICH WAS ACCEPTED BY ALDERMAN HOWES AND ALDERMAN GARDNER, THAT THE BOARD ACCEPT THE TOWN MANAGER'S RECOMMENDATION THAT THE TOWN PROCEED WITH ITS FACILITIES PLANNING RELATED TO THE OPERATIONS CURRENTLY LOCATED AT PLANT ROAD, AND THAT THE ANIMAL SHELTER AND RECYCLING OPERATIONS BE RETAINED AT THE PLANT ROAD ONLY SO LONG AS REQUIRED TO EXPLORE ALTERNATE SITES FOR THESE OPERATIONS.

Mayor Pro tem Marshall suggested that the Board try to pull all the things in a motion that are not in the recommendation.

Alderman Vickery, Alderman Howes and Alderman Gardner withdrew the motions on the floor.

ALDERMAN HOWES MOVED, SECONDED BY ALDERMAN GARDNER, THAT THIS BOARD AFFIRM THE EARLIER BOARD'S COMMITMENT TO THE PLANT ROAD AS A SITE FOR RECREATION AND PARK LAND, AND THAT THE TOWN MANAGER BE DIRECTED TO EXPLORE ALTERNATIVE SITES WITH ORANGE COUNTY AND WITH CARRBORO FOR AN ANIMAL SHELTER, AND THAT THOSE SITES ARE TO INCLUDE, BUT NOT BE LIMITED TO, AIRPORT ROAD AND PLANT ROAD SITES CURRENTLY UNDER CONSIDERATION. THE MOTION WAS UNANIMOUSLY CARRIED.

Ms. Barbara Higgins requested permission for the residents of Glen Heights to present a position statement on the proposal. Alderman Cohen said that it is the Board policy that requests to speak that are made at the beginning of the meeting are granted. Mayor pro tem Marshall said that the request raises an issue that the Board will need to resolve, since the Town has grown to such a size that it is difficult to accommodate questions and comments from the residents during the meetings. She said that the Board can either decide on a public hearing or grant the request to speak.

Mayor Wallace resumed the chair.

There were no objections from the Board on giving the Glen Heights residents a chance to speak.

Mr. James Higgins of Glen Heights said that the Task Force considered eighteen sites for the relocation of the Department of Public Works and the Transportation Department, and that the Glen Heights site was not considered in this study, since the topography makes development difficult. He said that, once the University offered the site at \$1.00 a year rent and the Town accepted the lease neither the topography nor the fact that the buffer zone has been almost entirely clearcut have been considered by the Town.

Alderman Marshall said that the eighteen sites that were considered by the Task Force were not necessarily available for sale and that the Planning Department was asked to determine which sites in the area of Town might be available and to convey this information to the Task Force. She said that the Town has worked very closely with the University in this regard, and that the Glen Heights site was not chosen only because of the low rent. She said that it is unfortunate that the reasonings of the Task Force for recommending this site are not closely presented. She said that it is very difficult for the Town to obtain land for public facilities, and that none of the neighborhoods wish these facilities to be located near them.

Mr. Higgins said that the Planning Board recommended that a cost analysis on the Glen Heights site be done, since the topography is such that the cost of development would be considerable. He said that the buffer zone is nonexistent, since about a third of the area has been clear-cut. He said that it appears that the Board is preparing to adopt this site without considering the cost of development.

Ms. Jane Stein, resident of Glen Heights and a Planning Board member, said that the Planning Board was given no information on cost analysis for the site or cost estimates for culverting, if it were necessary to cross the creek. Alderman Vickery asked whether the major objections of the residents would be removed if a subsequent cost analysis indicated that the cost of development is not objectionable and if a workable buffer zone could be developed. Ms. Stein said that these, plus possible diversion of the course of the creek and other ecological considerations, are the main concerns of the residents.

Alderman Gardner said that the site at Airport Road and Estes Drive which received the best cost analysis is not for sale, and that condemnation of a property creates legal problems. He said that the Glen Heights site was chosen after discussions with the University about sites large enough for Town needs. Ms. Stein said that the site has grading and sewer problems. Ms. Higgins said that the residents of Glen Heights feel that they do not want a Plant Road next to them, and that the area is now well suited for recreation. Alderman Cohen said that a recreation site is needed in the Plant Road area, which is a high density area without recreation facilities.

Mayor Wallace said that the Board will consider the matter further, and that if a public hearing is felt to be necessary, this will be called. He said that the Board does not wish to rush into the area without carefully considering all possibilities, since the decision, once made, is almost irretrievable. He requested that the Town Manager recommend at the next Board meeting on the necessity for a public hearing in the matter. Alderman Cohen said that, if a public hearing were held, all possible alternate sites should be considered at that time, or the Board will be holding a series of public hearings on the matter.

Alderman Marshall said that the Board needs to decide when and how it is to hear from the public. Alderman Silver said that the public can request to be heard at the time that petitions were requested.

Alston Subdivision Preliminary Sketch - Resolution.

Mr. Mike Jennings, Planning Director, presented a memorandum, dated April 12, 1976, on the Alston Subdivision Preliminary Sketch. The memorandum includes discussion of the background of the proposed project, staff recommendations, and the Planning Board recommendation.

Mr. Jennings showed the proposed project on a map. In response to questions

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from Alderman Gardner, Mr. Jennings said that the creek mentioned in stipulation 1 feeds into Wilson Creek, and is probably dry most of the time. He said that the pedestrian easement could not be enforced by the Town at this time, since the area is not in Town limits. He said that, regarding stipulation 2, the dedication of a right-of-way would provide access to other property that the applicant owns, in case the applicant wished to subdivide this property at some future time, and that the applicant has expressed no objection to this dedication.

ALDERMAN GARDNER MOVED, SECONDED BY ALDERMAN VICKERY, THAT THE FOLLOWING RESOLUTION APPROVING THE PRELIMINARY SKETCH OF ALSTON SUBDIVISION, WITH STIPULATIONS BE APPROVED. THE MOTION WAS UNANIMOUSLY CARRIED.

A RESOLUTION APPROVING THE PRELIMINARY SKETCH OF ALSTON SUBDIVISION, WITH STIPULATIONS

BE IT RESOLVED by the Board of Aldermen of the Town of Chapel Hill that the Board of Aldermen approves the Preliminary Sketch for the Alston Subdivision subject to the following stipulations:

- 1) That a fifty-foot wide drainage and pedestrian easement be dedicated along the creek. Such easement shall be measured twenty-five feet on either side of the creek's center line.
- 2) That a sixty-foot wide right-of-way be dedicated along the joint property line of lots 1 and 2. Such easement shall extend along the entire side yard line.
- 3) That a 30 foot utility easement be dedicated along the entire length of the northern property line.

This the 12th day of April, 1976.

Farrington Hills Subdivision Preliminary Plat Renewal - Resolution.

Mr. Mike Jennings, Planning Director, presented a memorandum dated April 12, 1976, on the Farrington Hills Subdivision request for renewal of preliminary plat and modification on site plan. The memorandum includes discussion of the background of the proposed project, the modification request, staff recommendation, and Planning Board recommendation. Mr. Jennings showed the proposed project on a map.

In answer to questions from the Board, Mr. Jennings said that the stipulation recommended by the Planning Board assumes paving of the unpaved portion of Bayberry Drive, although the State can accept unpaved roads, and that the road does not now meet the State standards for unpaved roads. He said that, as regards the use of septic tanks in the area, several of the lots have doubtful percolation, and that the Planning Board discussed the concept of whether this proposed project should be approved, but the County Health Department is in charge of granting septic tanks permits, and the assumption is that these permits can be granted. Town Attorney Denny said that under the current ordinance the Board has no choice but to permit septic tanks in subdivisions that are not served by sewer, if the lots are of one acre or larger. Alderman Marshall said that in this particular case the request is to modify the preliminary plat to increase the lot size to one acre.

Mayor Wallace said that these lots are not intended to be sold individually by the developer. Mr. Jennings said that apparently somebody has a contract to purchase these lots. Mayor Wallace said that the stipulation recommended by the Planning Board requires that a road not in the subdivision be brought up to standard, and that this road also serves other subdivisions. He said that he feels the approval should not be contingent on any action outside the subdivision. Mr. Jennings said that the Planning Board is not recommending that the developer pave the road, but is saying that it should be paved. Town Attorney Denny said that this stipulation would create a legal problem, and that it is not included in the Town Manager's recommendation or in the proposed resolution.

Alderman Howes said that he is sympathetic to the area residents who have to travel the substandard road, and feels that the Town accepting more subdivisions for the area makes the problem worse. Mayor Wallace said that, when the residents of the area bought their property, they had to travel the same unpaved road and could see the condition of the road. Alderman Howes said that if the Town accepts subdivisions inside the substandard road, then it increases the size of the problem and becomes responsible for it.

Town Manager Jenne said that in the staff's opinion there is no connection between the request and the Planning Board's stipulation.

Alderman Epting said that he is sympathetic to the new residents in the area who may be led to believe either by misrepresentation or omission, that the roads are up to standard or that they will be improved. He said that once the houses are built and the roads deteriorate, the residents approach the Town about the poor condition of the roads, since the Town approved them, and since the developer says he is not responsible for the roads. Town Attorney Denny said that under the present ordinances, the developer is made responsible for the maintenance of roads until the roads are taken over by some governmental authority, but that when this road was built, the ordinance was not in effect. He said that the Town cannot get a previous developer to improve the road through a modification of this particular plat.

Alderman Cohen said that one land owner in the area has indicated that it is impossible to develop his land, since the Town requires such high development standards, but said that, unless the ordinance so required, he would not be willing to maintain the roads. He said that the General Assembly has passed some provision that the property owners outside a municipality can petition for road maintenance from the municipality if they pay the cost themselves, but that he is not familiar with this provision. He said that in this instance the solution to the road condition has to be between the owners of all the affected lots, and that it would not be fair to have just nine residents pay the cost of upgrading the road.

ALDERMAN VICKERY MOVED, SECONDED BY ALDERMAN GARDNER, THAT THE FOLLOWING RESOLUTION RENEWING APPROVAL OF THE PRELIMINARY SKETCH OF FARRINGTON HILLS SUBDIVISION, WITH MODIFICATIONS, BE APPROVED. THE MOTION WAS UNANIMOUSLY CARRIED.

A RESOLUTION RENEWING APPROVAL OF THE PRELIMINARY SKETCH OF FARRINGTON HILLS SUBDIVISION, WITH MODIFICATIONS

BE IT RESOLVED by the Board of Aldermen of the Town of Chapel Hill that the Board of Aldermen approves the modifications to the Preliminary Sketch of Farrington Hills Subdivision and renews said Preliminary Sketch to May 1, 1977.

This the 12th day of April, 1976.

ALDERMAN HOWES MOVED, SECONDED BY ALDERMAN EPTING, THAT THE STIPULATION PROPOSED BY THE PLANNING BOARD, THAT THE 1000 FOOT UNPAVED PORTION OF BAY-BERRY DRIVE BE BROUGHT UP TO STATE STANDARDS FOR ACCEPTANCE AS A STATE MAINTAINED PAVED ROAD, BE SENT TO THE MORGAN CREEK DEVELOPER. THE MOTION WAS UNANIMOUSLY CARRIED.

Laurel Hill Subdivision, Section 3, Phase 2 Preliminary Plat Renewal - Resolution

Mr. Mike Jennings, Planning Director, presented a memorandum, dated April 12, 1976, on the Laurel Hill Subdivision Section 3, Phase 2 preliminary sketch renewal and modification. The memorandum includes discussion of the project description, location, zoning ordinance lot requirements, public utilities, open space, flood plain, access, staff recommendation, and Planning Board recommendation. Mr. Jennings showed the proposed project on a map.

In answer to a question from Alderman Cohen regarding the availability of fire protection for the area, Town Manager Jenne said that the residents of the area have not initiated the process for creation of a fire district.

ALDERMAN HOWES MOVED, SECONDED BY ALDERMAN VICKERY, THAT THE FOLLOWING RESOLUTION RENEWING APPROVAL OF THE PRELIMINARY SKETCH OF SECTION 3, PHASE 2, OF LAUREL HILL SUBDIVISION, WITH MODIFICATIONS AND STIPULATIONS, BE ADOPTED. THE MOTION WAS UNANIMOUSLY CARRIED.

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A RESOLUTION RENEWING APPROVAL OF THE PRELIMINARY SKETCH OF SECTION 3, PHASE 2, OF LAUREL HILL SUBDIVISION, WITH MODIFICATIONS AND STIPULATIONS

BE IT RESOLVED by the Board of Aldermen of the Town of Chaple Hill that the Board of Aldermen approves the modifications to the Preliminary Sketch of Section 3, Phase 2, of Laurel Hill Subdivision and renews said Preliminary Sketch to May 1, 1977, with the following stipulations:

1. That all streets be named, as approved by the Town Manager.
2. That a 12" water line be extended along the unnamed street to the limits of the subdivision and that an 8" water line be extended along Lanier Street.
3. That Parker Road be paved from the existing limit of the paved section to the eastern most point of the subdivision's frontage with Parker Road.
4. That an additional 15 feet of right-of-way be dedicated along the subdivision's frontage with Parker Road to meet the 90 foot minimum width requirements for thoroughfare streets.

This the 12th day of April, 1976.

Legion Road Office Park Special Use Permit - Resolution

Mr. Mike Jennings, Planning Director, presented a memorandum, dated April 12, 1976, on the Legion Road Office Park Unified Business Development Special Use Permit. The memorandum includes discussion of the subject, background, findings with regard to safety and health, to conditions and specifications, to property values, in harmony and conformance with the plan; staff recommendation, Appearance Commission recommendation, and the Planning Board recommendation. Mr. Jennings showed the proposed project on a map.

Mr. Jennings said that the current level of sewer plant usage is estimated at 4.1 million gallons per day, rather than the 4.0 million gallons as stated in the memorandum. He said that the variance request by the developer has been denied by the Board of Adjustment.

In answer to questions from Alderman Gardner, Mr. Jennings said that the presently uncommitted sewer capacity will be used by subdivisions, special use permits, Town of Carrboro, and the University. He said that the area is in the New Hope Fire District which has a mutual aid agreement with the Town. Town Attorney Denny said that the evidence from applicants given at the public hearing was insufficient to determine that fire protection would be adequate for the proposed project. He said that the presented recommendations are based on the failure by the applicant to bring out the evidence. Alderman Gardner asked whether there was any evidence given at the Public hearing that the property values would be injured. Town Attorney Denny said that there was no evidence from the adjoining property, and that the only evidence presented on the issues was from the past owner on the tax increase. Alderman Gardner said that the value for the property has increased ten-fold on the tax books, and that there was no evidence shown at the public hearing that the project would damage property values. Town Attorney Denny said that no evidence was presented at the public hearing either pro or con, and that there must be some evidence given to support a finding. Alderman Cohen said that the applicant has to present evidence at a public hearing, and that his only statements on property values were that the adjoining use is commercial, and the other statements were from the owner himself. Alderman Epting said that if the Board makes a finding in absence of evidence as shown on the tape, then the Town can be sued. He said that a rejection of a special use permit can be made with a statement that the vote does not oppose the use, but that the applicant has presented insufficient evidence. Alderman Vickery asked whether applicants are given clearcut guidelines about what information needs to be presented at a public hearing. Town Manager Jenne said that there are no specific guidelines, but that the staff discusses the matter with each applicant and requests that a project justification form be submitted in writing prior to the public hearing.

ALDERMAN VICKERY MOVED, SECONDED BY ALDERMAN MARSHALL THAT THE FOLLOWING RESOLUTION DENYING THE SPECIAL USE PERMIT FOR THE LEGION ROAD OFFICE PARK BE APPROVED. THE MOTION PASSED BY A VOTE OF SIX TO ONE, WITH ALDERMAN GARDNER OPPOSING.

A RESOLUTION DENYING THE SPECIAL USE PERMIT FOR THE LEGION ROAD OFFICE PARK

BE IT RESOLVED by the Board of Aldermen of the Town of Chapel Hill that the Board of Aldermen denies the Special Use Permit for the Legion Road Office Park for the following reasons:

1. The Board of Aldermen fails to find that the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted, due to the sewer loading requirements of the project, the lack of adequate fire protection to the property, and the potential problems created by the traffic added by the project.
2. The Board of Aldermen finds that the use does not meet all required conditions and specifications, in that it does not have direct access to a major thoroughfare or limited access highway as required by the Zoning Ordinance.
3. The Board of Aldermen fails to find that the use will not substantially injure the value of adjoining or abutting property, due to the fact that sufficient information has not been submitted to make this finding.
4. The Board of Aldermen fails to find that the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Chapel Hill and its Environs.

This the 12th day of April, 1976.

LEGION ROAD OFFICE PARK PRELIMINARY SKETCH - RESOLUTION

Mr. Mike Jennings, Planning Director, presented a memorandum, dated April 12, 1976, on the Legion Road Office Park Subdivision Preliminary Plat. The memorandum includes discussion of project description, location, zoning ordinance, public utilities, open space, flood plain, access, staff recommendation, and Planning Board recommendation. Mr. Jennings showed the proposed project on a map.

ALDERMAN EPTING MOVED, SECONDED BY ALDERMAN HOWES, THAT THE FOLLOWING RESOLUTION APPROVING THE PRELIMINARY SKETCH OF THE LEGION ROAD OFFICE PARK SUBDIVISION, WITH STIPULATIONS, BE APPROVED. THE MOTION WAS UNANIMOUSLY CARRIED.

A RESOLUTION APPROVING THE PRELIMINARY SKETCH OF THE LEGION ROAD OFFICE PARK SUBDIVISION, WITH STIPULATION

BE IT RESOLVED by the Board of Aldermen of the Town of Chapel Hill that the Board of Aldermen approves the Preliminary Sketch of the Legion Road Office Park Subdivision subject to the following stipulation:

1. That a 30 foot wide drainage easement be dedicated along the drainage swale passing through the center of the property.

This the 12th day of April, 1976.

WCHL RADIO STATION AND TOWERS - ZONING MAP AMENDMENTS AND SPECIAL USE MODIFICATION - ORDINANCE AND RESOLUTION

Mr. Mike Jennings, Planning Director, presented a memorandum, dated April 12, 1976 on the WCHL Radio Station and Towers Zoning Map Amendments and modification to Special Use Permit. The memorandum includes discussion of the background, findings, and recommendation for the zoning map amendment request; and background, findings, staff recommendation, Appearance Commission recommendation, and Planning Board recommendation for the modification of Special Use Permit. Mr. Jennings showed the proposed project on a map.

ALDERMAN HOWES MOVED, SECONDED BY ALDERMAN SILVER, THAT THE FOLLOWING ORDINANCE, REZONING FROM R-10 AND AGRICULTURAL TO R-20, A TRACT OF LAND ON US 15-501, BE ADOPTED. THE MOTION WAS UNANIMOUSLY CARRIED.

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AN ORDINANCE REZONING FROM R-10 AND AGRICULTURAL TO R-20, A TRACT OF LAND ON US 15-501

WHEREAS after due advertisement as provided by law, a public hearing was duly called and held on February 23, 1976 by the Board of Aldermen and the Planning Board of the Town of Chapel Hill to consider proposed changes in the Zoning Ordinance; and

WHEREAS following said public hearing the Planning Board recommended to the Board of Aldermen adoption of the following changes in the Zoning Ordinance; NOW THEREFORE,

BE IT ORDAINED by the Board of Aldermen of the Town of Chapel Hill:

Section I

That the "Ordinance Providing for the Zoning of Chapel Hill and Surrounding Areas" be and the same hereby is amended so that the following area be rezoned from R-10 and Agricultural to R-20, and that the uses permitted in areas designated R-20 in the Zoning Ordinance shall hereafter apply in the following area:

Beginning at a point in the N ROW line of US 15-501, the SW corner of Chapel Hill Township Tax Map 45, Block A, Lot 7, and proceeding S with the extended W line of lot 45-A-7 across the ROW line of US 15-501 to the S ROW line of US 15-501; proceeding thence with said ROW line E approximately 30 ft., S 50 ft., and E approximately 570 ft. to its intersection with the extended E line of lot 45-B-7; proceeding thence N with said extended lot line and the E lines of lots 45-B-7 and 27-A-3B approximately 620 ft. to the intersection of the E line of lot 27-A-3B with a line parallel to and 250 ft. north of the N ROW line of US 15-501; proceeding thence E with said line parallel to said ROW approximately 290 ft; proceeding thence W approximately 195 to a point in the E line of lot 27-A-3B and approximately 265 ft. from the S corner of said lot; proceeding thence N approximately 190 ft. with the E line of lot 27-A-3B; proceeding thence W with the N line of said lot approximately 800 to the NW corner of said lot; proceeding thence with the N line of lot 45-B-7A, 46 ft. to the NW corner of lot 45-B-7; proceeding thence S with the W line of said lot approximately 250, 60, 203, and 50 ft. to the NW corner of lot 45-B-1A; proceeding thence with the W line of lot 45-B-1A approximately 30, 36, and 153 ft. to a point in the N ROW line of US 15-501; proceeding thence with said N ROW line W 395, 50, and 30 ft. to the SW corner of lot 45-A-7; and proceeding thence S across the ROW of US 15-501 to the point of beginning.

Section II

All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 12th day of April, 1976.

ALDERMAN EPTING MOVED, SECONDED BY ALDERMAN HOWES, THAT THE FOLLOWING RESOLUTION APPROVING THE MODIFICATION TO THE WCHL SPECIAL USE PERMIT BE APPROVED. THE MOTION WAS UNANIMOUSLY CARRIED.

A RESOLUTION APPROVING THE MODIFICATION TO THE WCHL SPECIAL USE PERMIT

BE IT RESOLVED by the Board of Aldermen of the Town of Chapel Hill that the Board of Aldermen approves the modification to the Special Use Permit granted to WCHL Radio Station on June 13, 1966, subject to the following additional stipulation:

1. That the sign be located behind the required building line and out of the public right-of-way.

AND BE IT FURTHER RESOLVED by the Board of Aldermen that subject to the above stipulation and to the previous stipulations, the use continues to meet the four findings set forth in the original permit.

This the 12th day of April, 1976.

CHI PHI FRATERNITY SPECIAL USE PERMIT - RESOLUTION

Mr. Mike Jennings, Planning Director, presented a memorandum, dated April 12, 1976, on the Chi Phi Fraternity Special Use Permit. The memorandum includes discussion of the subject, background, findings with regard to safety and health, to conditions and specifications, to property values, to harmony and conformance with the plan; staff recommendation, Appearance Commission Recommendation, and Planning Board recommendation. Mr. Jennings showed the proposed project on a map.

ALDERMAN HOWES MOVED, SECONDED BY ALDERMAN EPTING, THAT THE RESOLUTION APPROVING THE SPECIAL USE PERMIT FOR CHI PHI FRATERNITY, WITH STIPULATIONS, BE APPROVED.

Alderman Marshall asked whether the fraternity has agreed to all stipulations, since last year several fraternities indicated that they could not afford to install sidewalks, and, as a result, were not required to do so. Mr. Jennings said that the fraternity did oppose the stipulation requiring construction of sidewalks.

Mr. John Foushee, representing the Chi Phi Fraternity said that the addition of a recreation room is the only thing that the fraternity can afford, and that it is not in a position to do the first three stipulations.

In answer to a question, Mr. Jennings said that the sidewalks were stipulated because of the amount of pedestrian traffic on McCauley Street, and because there is no place for the pedestrians to walk for part of the property line. He said that the staff recommended that the sidewalk curve around a tree that is in the area where the sidewalk is proposed to be constructed. Alderman Epting said that there is a sidewalk on the other side of McCauley Street. Alderman Silver said that he walks the area frequently, that it is a dangerous area and that since the traffic to the light is very heavy, a sidewalk makes sense. Alderman Gardner said that there would still be no sidewalk from the property line to the top of the hill.

Alderman Cohen said that, in terms of safety, a reduction in curb cut for the parking lot may be safer than a construction of a sidewalk. Mr. Foushee said that the fraternity obtained a permit for a driveway and regraded the entire parking lot in the past six months and that he feels it does not make sense to add a requirement for a sidewalk to a structure addition. He said that the fraternity would prefer that, if a sidewalk were a necessity, the property owners be assessed for a sidewalk, so that the payments could be made over a period of time. Alderman Vickery said that he agrees that the Board is not justified in adding the first three stipulations, and that the Board should approve the application. Alderman Silver agreed. He said that a sidewalk is a necessity in the area, and that he hopes Town will ultimately consider installing it there.

ALDERMAN HOWES AMENDED THE MOTION TO WITHDRAW STIPULATIONS 1, 2, AND 3, AND RENUMBER THE REMAINING TWO STIPULATIONS. ALDERMAN EPTING AGREED TO THE AMENDMENT. THE MOTION AS AMENDED WAS UNANIMOUSLY CARRIED.

A RESOLUTION APPROVING THE SPECIAL USE PERMIT FOR CHI PHI FRATERNITY, WITH STIPULATIONS

BE IT RESOLVED by the Board of Aldermen of the Town of Chapel Hill that the Board of Aldermen grants the Special Use Permit for the Chi Phi Fraternity subject to the following stipulations:

1. That the screening around the dumpster pad be replaced by a solid fence having a minimum height of six feet.
2. That construction begin by April 1, 1978 and be completed by April 1, 1979.

AND BE IT FURTHER RESOLVED that, subject to the above stipulations, the Board of Aldermen makes the following findings:

1. With Regard to Safety and Health. The proposed addition will not significantly increase traffic on area streets. The sidewalk, included as part of the stipulations, will be an asset in improving the hazardous pedestrian conditions along the south side of McCauley Street. Off-street parking meeting the requirements of the Zoning Ordinance has been provided for on the property. Water, sewer, electric, and fire protection are available to the property.

2. With Regard to Conditions and Specifications: The plans meet all requirements of the Zoning Ordinance.
3. With Regard to Property Values: The addition to the existing structure will have minimal impact on the value of abutting properties.
4. With Regard to Harmony and Conformance with the Plan. The use is permitted at the location under Special Use Permit. No conflicts are anticipated with other uses in the area.

This the 12th day of April, 1976.

Kappa Delta Sorority Special Use Modification - Resolution

Mr. Mike Jennings, Planning Director, presented a memorandum, dated April 12 1976 on the Kappa Delta Sorority house Modification to Special Use Permit. The memorandum includes discussion of background; Appearance Commission request and comments; the Town Manager's recommendation, comments and request; and the Planning Board recommendation. Mr. Jennings showed the proposed project on a map.

Alderman Gardner said that he feels, if the modification were granted, the parking lot in the rear should have designated parking spaces, otherwise there will be a problem caused by cars parking in any way possible. Mr. Jennings said that this could be so designated.

Ms. Carolista Baum said that this is the type of parking lot that contributes to the traffic problems on Rosemary Street, and that the sorority has access to the lot from both the Franklin Street and Rosemary Street. She said that there is a need for the Town to study the traffic flow in the area.

ALDERMAN SILVER MOVED, SECONDED BY ALDERMAN HOWES, THAT THE FOLLOWING RESOLUTION APPROVING MODIFICATIONS TO THE KAPPA DELTA SPECIAL USE PERMIT BE APPROVED. THE MOTION WAS UNANIMOUSLY CARRIED.

A RESOLUTION APPROVING MODIFICATIONS TO THE KAPPA DELTA SPECIAL USE PERMIT

BE IT RESOLVED by the Board of Aldermen of the Town of Chapel Hill that the Board of Aldermen approves that the Special Use Permit granted the Kappa Delta Sorority on May 13, 1974 modified by deleting original stipulation 4 and adding the following stipulations:

4. That the applicant request that the Department of Public Works relocate the dumpster to its former site, with the understanding that no parking shall be allowed in the driveway from Franklin Street to the area around the dumpster and that said parking lot be marked to restrict parking.

The existing planting along the north, east, and west sides of the property shall be retained and shall replace the six foot high fence shown on the approved site plan. Such plantings shall be a maximum of three feet on center, shall be either burford holly or ligustrum, and shall have a minimum height of four feet. Planting along the east and west sides of the property shall extend from the Rosemary Street right-of-way line to the rear of the original structure. Any such planting which dies during the life of the Special Use Permit shall be replaced with planting of the same size by the end of the next planting season.

5. That the property description on Special Use Permit be corrected to apply to Map 80, Block E, Lots 5 and 10.

AND BE IT FURTHER RESOLVED that, subject to the remaining original stipulations, the use continues to meet the four findings as set forth in the original permit.

This the 12th day of April, 1976.

Salaries for Part-Time Library Employees - Ordinance

Town Manager Jenne presented an ordinance, dated April 12, 1976, on the salary ranges and position classification to include part-time, temporary, and contract employees of the public library. The memorandum states that the purpose is to bring the salary ranges and position classifications of these employees into line with full time library employees; that there are no new positions established, and that the amendment will have no financial impact on the Town General Fund, since the increased expenditures will be met by the library from other sources of income.

ALDERMAN MARSHALL MOVED, SECONDED BY ALDERMAN SILVER, THAT THE FOLLOWING ORDINANCE ESTABLISHING SALARY RANGES, POSITION CLASSIFICATIONS, SALARIES, BONDS OF OFFICIALS AND CERTAIN BENEFITS FOR THE VARIOUS PART-TIME AND NON-PERMANENT EMPLOYEES WITHIN THE SERVICE OF THE TOWN OF CHAPEL HILL, NORTH CAROLINA, FOR THE PERIOD JULY 1, 1975 TO JUNE 30, 1976 BE ADOPTED. THE MOTION WAS UNANIMOUSLY CARRIED.

AN ORDINANCE AMENDING AN ORDINANCE ESTABLISHING SALARY RANGES, POSITION CLASSIFICATIONS, SALARIES, BONDS OF OFFICIALS AND CERTAIN BENEFITS FOR THE VARIOUS PART-TIME AND NON-PERMANENT EMPLOYEES WITHIN THE SERVICE OF THE TOWN OF CHAPEL HILL, NORTH CAROLINA, FOR THE PERIOD JULY 1, 1975 TO JUNE 30, 1976.

BE IT ORDAINED by the Board of Aldermen of the Town of Chapel Hill that the ordinance salary ranges, position classifications, and salaries, etc. for Town employees for the period July 1, 1975 - June 30, 1976, be amended as follows:

ADD to Section II, "Assignment of Classes and Ranges":

Range

14 Bookkeeper

ADD to Section III E, "Part-time, Temporary, or Contract Employees":

Library -

<u>Position</u>	<u>Number</u>	<u>Hours</u>	<u>Salary</u>
Librarian	1	20	\$5,058 - \$6,612
Library Asst. II	1	20	\$3.46 - \$4.62/hr.
Bookkeeper	1	varies	\$3.14 - \$4.19/hr.
Secretary	1	20	\$2.99 - \$3.19/hr.
Circulation Asst.	varies	varies	\$2.25 - \$3.06/hr.

SECTION II

All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 12th day of April, 1976.

Recreation Commission - Nominations

Mayor Wallace presented the recommendation from the Recreation Commission that Mr. Walter Mallet and Mr. Joe Hodgson be nominated to fill the vacancy created by the resignation of Mr. Lewis Rubin. ALDERMAN COHEN MOVED, SECONDED BY ALDERMAN MARSHALL, THAT MR. WALTER MALLET AND MR. JOE HODGSON BE NOMINATED FOR THE VACANCY ON RECREATION COMMISSION.

Mayor Wallace said that the nominations will remain open until the next meeting, at which time appointment will be made.

Alderman Gardner nominated Mr. Moyer Smith for the vacancy on the Recreation Commission.

Planning District Extension - Report

Town Attorney Denny reported that he has met with the Orange County Attorney, Mr. Steve Bernholz, for discussion on the extension of Town Planning District, and that written comments on the Town's position in the matter have been forwarded to Mr. Bernholz. He said that Mr. Bernholz indicated that he does not know whether the County Commissioners wish any further action in the matter.

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ALDERMAN COHEN MOVED, SECONDED BY ALDERMAN MARSHALL, THAT THE BOARD RESUBMIT THE REQUEST TO THE COUNTY COMMISSIONERS THROUGH THE TOWN MANAGER FOR AN EXTENSION OF THE PLANNING DISTRICT.

Alderman Epting said that, if the request were renewed, the County Commissioners might find it appropriate to seek a ruling from the Attorney General, and that it would speed things up for the Board to make this request themselves. Alderman Silver said that he agrees, and that the County Commissioners should be asked to join in the request. He said that it would be a mistake to presume that the County Commissioners are advocating a particular position on the planning district extension, but only the advice of their attorney is at conflict with the advice of the Town Attorney. Alderman Marshall said that she feels the opinion of the Town Attorney is more persuasive than that of the County Attorney, and that it might be appropriate to forward the comments of the Town Attorney to the County Commissioners for their consideration. Alderman Howes said that that he feels Alderman Marshall's suggestion should be followed, unless there is a time expediency in the matter. Alderman Epting said that this proposal would work if the County Commissioners were persuaded by the Town Attorney's opinion, but if they were not, then a further delay would result.

Mayor Wallace suggested that the Board both forward the Town Attorney's opinion to the County Commissioners and also request an opinion from the Attorney General.

ALDERMAN SILVER AMENDED THE MOTION, SECONDED BY ALDERMAN MARSHALL, THAT THE BOARD ALSO TRANSMIT TO THE COUNTY COMMISSIONERS THE BOARD'S ATTITUDE THAT, IF THEY CONTINUE TO SEE A LEGAL INHIBITION TO HONORING THIS REQUEST, THE TWO GOVERNMENTAL BODIES JOINTLY SEEK THE OPINION OF THE ATTORNEY GENERAL. THE MOTION WAS UNANIMOUSLY CARRIED.

Purchase of the Utilities from the University.

Mayor Wallace reported that the Church Commission has a set meeting time to consider the request of the Town of Chapel Hill for Tuesday, April 20, 1976, 9:30 a.m. at the faculty lounge of the Morehead Planetarium. He said that it has been proposed that the Board consider the re-issue of an authority as an alternative to the outright ownership by Town, with possibly a 3-1-1 membership on the authority. He said that this proposal would give a representation to everyone served, would ensure equality of treatment, and would provide parity. He said that this proposal would protect the University and the Town, since it would provide a majority vote, and that it would protect Carrboro and Orange County since the authority would be bound by its own rules to treat everyone alike. He said that he feels this is viable and possible alternative and that the Church Commission may view it favorably. He said that the composition of the authority is mentioned only in the Articles of Incorporation and the Bylaws, and that changes in these can be accomplished quickly.

Alderman Howes said that he agrees with the statement and favors an exploration of a modification of the authority if it will cause the matter of purchase to move forward, and if it can be considered an alternative to an outright purchase by Town. He asked whether this matter is a simple amending of the Articles of Incorporation. Town Attorney Denny said that he cannot so say, since Chapter 162A of the General Statutes, under which the authority is organized, contains no provision for a modification of an authority. He said that it would be up to the approval of the bond counsel whether it would accept a modification. He said that there is no prohibition to creating a different authority under the same process and that the bid can be re-submitted identical to that already submitted.

Mayor Wallace said that the members on the authority should be elected officials so that the authority members would be knowledgeable about Town matters. He said that a nine member authority is too large. Alderman Epting said that he agrees the Authority members should be elected officials. He said that he would prefer that the Town purchase the utilities and then set up a Board with three members from the Town of Chapel Hill and one each from Carrboro and Orange County. He said that he will support the proposal, since it will be an alternative for the Church Commission to consider.

Alderman Silver asked whether a bid would have to be resubmitted, if the authority were reconstituted. Town Attorney Denny said that this would be necessary if the bond counsel did not agree to modifying the authority; if the composition of the authority can be changed by an amendment of the Articles of Incorporation and Bylaws, then the Church Commission has already

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acted on the bid. He said that the proposal to reconstitute the authority has to be approved by all the attorneys of the governing bodies, by the Attorney General, by bond counsel, and then the amendment has to be filed with the Secretary of State. Alderman Silver said that the Town should immediately invite the Orange County and Carrboro to discuss the proposed reconstitution, since the Town cannot act unilaterally in the matter.

Alderman Marshall said that she supports the concept of a 3-1-1 Authority if it will move the process of acquisition along. She said that this can be presented as an alternative to the Church Commission, but that she does not feel the details can be settled in one week's time. She said that, if the Church Commission were to accept a 3-1-1 Authority, she would be willing to sign the agreement of sale.

Alderman Cohen asked whether the proposed reconstitution has been discussed with the other governmental units and whether this new proposal will delay a decision from the Church Commission. Mayor Wallace said that he has not talked to the other governmental units. He said that he feels the proposed reconstitution would not delay the decision from the Church Commission, and, if this proposal were accepted, the details could be worked out afterwards.

Alderman Vickery said that he supports the proposal, but that, from the point of view of Carrboro, there needs to be some guarantee that it would have come active say in the operation of the authority. He suggested that the reconstituted authority might state that requests for line extension would not be withheld unless four out of the five members so ruled. Alderman Cohen said that this proposal would also have the reverse effect to that intended: for instance, if Carrboro did not wish to have a line extension, but four out of the five members ruled that the line extension be made. Alderman Howes said that he has discussed a reconstituted authority with a member of the Carrboro Board and of the County Commissioners, and that these persons have indicated that the Town of Chapel Hill should not be concerned with the location of line extension, except as it affects the total capacity, and that these persons felt that there is also a need for a joint discussion on the development in the southern Orange County.

Alderman Silver said that the Church Commission should be informed that if the Town were to acquire the facilities, it would set up a 3-1-1 commission; and that it is essential that the governments of Carrboro and Orange County be contacted before the Church Commission meeting to get their reactions to the proposed reconstitution.

Mayor Wallace said that he feels both Carrboro and Orange County have a legitimate claim to being treated equally and being a full participant in the matter of water and sewer, and that therefore, the authority route should be explored, but that he strongly feels that the Town and University interests have to be protected, and that for this reason it is essential that the Town has a working majority on the authority.

Alderman Marshall said that she feels it would be preferable to present several clear alternatives to the Church Commission, and that she would be interested in any alternatives that the governments of Carrboro and Orange County might present. Alderman Silver said that a decision on the 3-1-1 option is not one that either the Town or the Church Commission can make, but that it needs to be made jointly by the three governing bodies. He said that a rapid settlement of water ownership is needed since the immediate problems of developing other sources of water need to be discussed. Mayor Wallace said that he feels once the Church Commission accepts one of the alternatives, the transfer of ownership will be rapid. He said that both Carrboro and Orange County can attend the meeting with Church Commission and present their own alternatives, but that he feels the Church Commission will favor the 3-1-1 proposal. He said that, if Carrboro and Orange County do not concur with this proposal, the reconstituted authority may not be set up, but that he feels the Town need to present this alternative. Alderman Silver agreed that the alternative should be presented, but said that the two governmental units should be contacted. Alderman Cohen agreed with Alderman Silver that if the other two governments are not contacted prior to the meeting with the Church Commission, then the 3-1-1 proposal is not a real alternative. Alderman Vickery said that, if this alternative is to be presented to the Church Commission, the Mayor should contact the heads of the other two governments and discuss this matter; if the other two governments indicate that they do not like the alternative, then the Mayor should be given the discretion to submit the proposal to the Church Commission anyway.

Alderman Marshall said that the University is the seller of the utilities, and that it can choose to whom to sell; if it prefers a 3-1-1 Authority, then it can try to set this up.

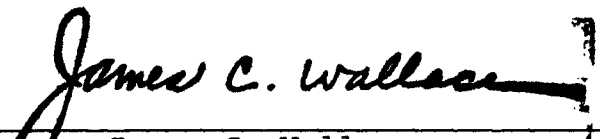
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Alderman Vickery said that the reason the Town is prepared to purchase the utilities by itself is that it needs to be in a position to control the planning for the Town, but that he feels the proposed alternative is a good way to try to mend the relationships with Carrboro and Orange County that have deteriorated in the past months. Mayor Wallace said that he will communicate with the head of each of the other two governments, but that he needs to have authority from the Board to submit the proposal to the Church Commission even if the other two governments dislike the proposed alternative. Alderman Epting said that he feels it is important to let Carrboro and Orange County know that there are three alternatives at this point: status quo, Town purchase, or a 3-1-1 Authority. Alderman Silver said that the other two governments should be brought in the discussion and planning of the proposed reconstituted authority, and not just be told that the Town is proposing this. He suggested that the Mayor and two or three Aldermen make a formal contact with the other two governments to discuss this proposal and to bring the two governments into the planning act prior to the meeting with the Church Commission. Alderman Epting said that the problem is that the other two governments have been in the planning all alone; he feels they should be informed of this proposal, but, if they were to disagree with it, it should be presented to the Church Commission anyway; if the Church Commission decided to sell either to the Town or to the 3-1-1 authority, the other two governments could take their choice as to which they prefer. Alderman Howes said that he feels it is appropriate for the Mayor to inform the other two governments, but that their response is irrelevant.

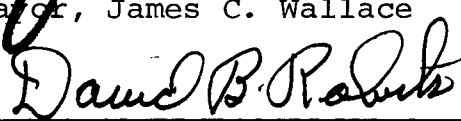
Mayor Wallace said that he needs Board authority to carry the proposal to the Church Commission whether or not the other two governments approve of it. He said that if the other governments indicate that they do not like the 3-1-1 proposal, but might be willing to consider some other ratio, then they should feel free to present their own proposals to the Church Commission.

ALDERMAN HOWES MOVED, SECONDED BY ALDERMAN MARSHALL, THAT IT IS THE SENSE OF THIS BOARD THAT IT REAFFIRM ITS EARLIER POSITION IN FAVOR OF THE ACQUISITION OF THE UNIVERSITY WATER UTILITY AND THE UNIVERSITY'S INTEREST IN THE SEWER UTILITY, TO BE OPERATED AS A MUNICIPAL UTILITY BY THE TOWN OF CHAPEL HILL; BUT THAT IN THE INTEREST OF MOVING EXPEDITIOUSLY ON THE MATTER, THE BOARD WISHES TO EXPLORE WITH THE CHURCH COMMISSION, WITH THE UNIVERSITY, AND WITH THE GOVERNMENTS OF CARRBORO AND ORANGE COUNTY SUCH ALTERNATIVES AS MIGHT BE APPROPRIATE WITHIN THE CONTEXT OF AN AUTHORITY, INCLUDING, SPECIFICALLY, PROPOSED ALTERNATIVE MEMBERSHIP RATIOS, SUCH AS 3-1-1 OR 4-2-1, WHICH ARE PROPOSED TO BE FILLED BY ELECTED OFFICIALS, AND WHICH THE BOARD FINDS ACCEPTABLE; AND THAT THE MAYOR BE REQUESTED TO COMMUNICATE THIS TO THE HEADS OF THE GOVERNMENTS OF CARRBORO AND ORANGE COUNTY, AND THAT HE BE AVAILABLE TO MEET WITH THEM AND THEIR REPRESENTATIVES, AND WITH ANYONE FROM THIS BOARD THAT HE FEELS IS APPROPRIATE; AND THAT IT IS FURTHER THE BOARD'S INTENTION, IF THE TOWN WERE TO ACQUIRE THE WATER AND SEWER UTILITIES, TO SET UP A COMPARABLE COMMISSION TO THAT INDICATED. THE MOTION WAS UNANIMOUSLY CARRIED.

There being no further business to come before the Board of Aldermen, said meeting adjourned at 11:50 p.m.



Mayor, James C. Wallace



Town Clerk, David B. Roberts