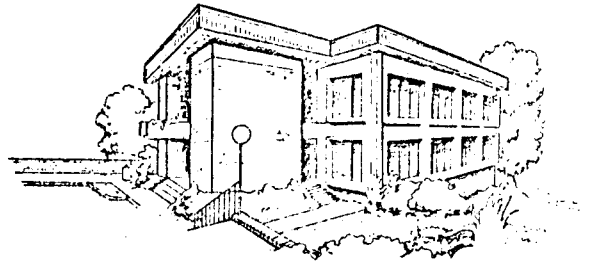


# TOWN OF CHAPEL HILL

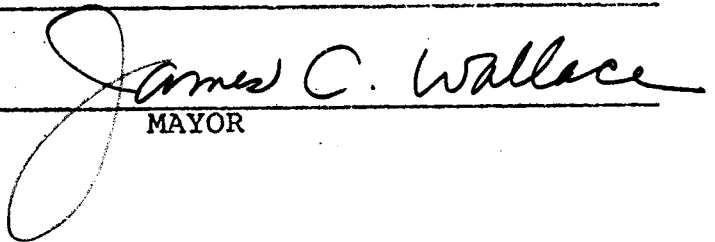
306 NORTH COLUMBIA ST.  
CHAPEL HILL, N.C., 27514  
(919) 929-1111



## NOTICE OF SPECIAL MEETING OF THE BOARD OF ALDERMEN OF THE TOWN OF CHAPEL HILL

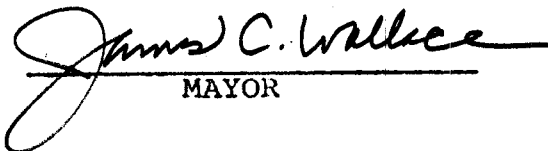
TO: Gerald Cohen  
Robert Epting  
Thomas Gardner  
Jonathan Howes  
Shirley Marshall  
Marvin Silver  
R. D. Smith  
Edward Vickery


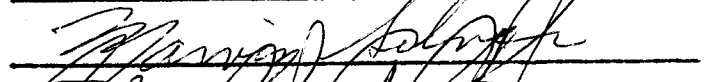


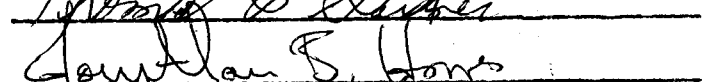

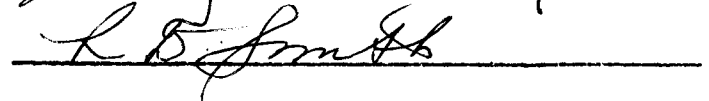
You, and each of you, are hereby notified that the Board of Aldermen have called a Special Meeting, to be held in the Meeting Room, at 7:30 P.M. on June 3,, 19 76, to discuss four inch sewer line on Wesley Court.

  
MAYOR

### ACCEPTANCE OF NOTICE

We, the undersigned, members of the Board of Aldermen of the Town of Chapel Hill, hereby accept notice of a Special Meeting of the Board of Aldermen, called by Honorable James C. Wallace, Mayor, to be held in the Meeting Room on June 3, 1976, at 7:30 P.M.

  
MAYOR

The motion was unanimously carried.

Vacancies on Library Board

Mayor Wallace presented a memorandum from the Board of Trustees of the Chapel Hill Public Library notifying the Board that two vacancies would exist when the terms of Mrs. Richmond Bond and Mr. Alton Sheldon expired on June 30, 1976. The Trustees of the Library submitted four names for consideration by the Board: Mr. George W. Harris, Mr. Lewis Leary, Mrs. William S. Joyner and Mr. John H. Sheetz.

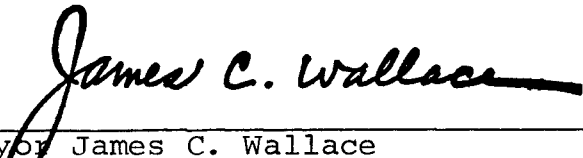
Alderman Marshall suggested that since the Board was only meeting every two weeks, that a discussion on whether to change the policy for nominations should be put on the agenda.

Nominees for the Vacancy of the Recreation Commission

Mayor Wallace presented a memorandum from the Chapel Hill Recreation Commission giving nominations for the vacancy created by the resignation of Susan Lieberman. Mr. Moyer Smith and Mr. Scott Herman-Giddens had asked to be considered. Alderman Marshall placed in nomination the name of Andy Landis, an employee of the Credit Bureau of Chapel Hill. Mayor Wallace asked for further nominations.

Alderman Cohen asked how long the term would last. The term expired this December.

As there was no further business to come before the Board, the meeting was adjourned at 8:20 p.m.



Mayor James C. Wallace



David B. Roberts, Town Clerk

MINUTES OF A SPECIAL MEETING OF THE MAYOR AND BOARD OF ALDERMEN  
TOWN OF CHAPEL HILL, MUNICIPAL BUILDING, THURSDAY, JUNE 3, 1976  
7:45 P.M.

Mayor Wallace called the meeting 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  
R. D. Smith  
Edward Vickery

Also present were Assistant Town Manager G. Shipman, Assistant Town Attorney D. Drake, and Town Clerk D. Roberts.

Mayor Wallace stated that the Special Meeting had been called to hear a request for variance of Section 23-10 of the Code of Ordinances Standards for Service Line, designed to serve more than one lot, on Wesley Drive. The request had been deferred from the regular meeting on May 24, 1976.

Mr. Shipman said that the administration had met with Mr. Sparrow, of Sparrow Plumbing, and officials of the Health Department, as had been requested by the Board at their last meeting. The recommendation of the staff at the May 24 meeting had been to deny the variance, and the meeting with Mr. Sparrow and the Health officials had not changed their recommendation. They recommended denial of the variance for the following reasons:

1. The 4" line does not meet town standards;
2. One tap-on has already been refused and the owner had to extend a 4" line to the nearest 8" line that the Town owns;

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3. The likelihood of problems of the 4" line are a possibility. Mr. Sparrow in the past has had to replace most of the lines leading to homes from the 4" line. He believed this line to be a fiber line which has a life expectancy of ten years which is up; and
  4. The precedent setting nature of allowing this tie in in the face of several similar situations in the Town.

Mr. Levine stated he did not know whether the service line was a fiber line or a cast iron line, but he believed it to be a cast iron line. In answer to the discussion at the last meeting over insurance for the protection of the Town, the Levitts would be able to obtain insurance, naming the Town as insured. Mr. Levine had submitted to Mr. Drake a draft providing for \$2,000 per house, holding the Town harmless for damage. Alderman Howes asked if the time was still November 1. Mr. Levine answered yes unless the Board wanted to propose another date. Mayor Wallace asked Mr. Shipman if the Health Department had determined that there might be health problems. Mr. Shipman stated that he had a letter from Mr. Dobson of the Health Department, who had inspected the line on May 18, and found it to be in working order, with no malfunctions.

Mr. Levine's assistant said that Mr. Sheffield of the Health Department had gone with her to the house to inspect the line, and had stated that the house should be condemned as a health hazard. Mr. Grey had agreed that the house should be condemned. Mr. Shipman stated that at the meeting with the administration Mr. Dobson had upheld the letter as his opinion. Alderman Howes asked for a summary of Mr. Levine's proposal. Mr. Levine said that Mr. Drake had the proposal. Mr. Drake stated it was essentially the same as had been proposed at the regular meeting on the 24th, with the addition of paragraph 6 which adds the insurance. Alderman Gardner asked if the resolution was acceptable legally. Mr. Drake said that from a legal standpoint, it protected the Town from legal liability of the 4" line backing up, but it did not answer the question of precedent. Alderman Howes asked if this was a legal precedent which would be upheld in court. Mr. Drake answered the question would be one of the Board's moral position. The Board's hands would not be tied, but there would be the question of equal justice, equal standards. Mayor Wallace asked Mr. Shipman how many similar situations there were in the Town. Mr. Harris answered that he did not have an exact number, but the Town had replaced all but 1 or 2 4" lines which the Town had accepted. In the last three years, the Town had spent approximately \$10,000. Alderman Smith asked what the maximum insurance would be as the resolution read "no less than Two Thousand (\$2,000) Dollars." Mr. Drake stated the Town would not be protected in excess of \$2,000 per house. This would be in effect as long as the house was connected to the 4" line.

Mayor Wallace stated he was not sure this was an appropriate province of the Board as it was a private transaction. He believed it to be a matter of risk as to how long the 8" line would take. Alderman Cohen stated that although it was a private transaction, it involved the public health. ALDERMAN COHEN MOVED, SECONDED BY ALDERMAN VICKERY, THAT THE RESOLUTION BE ADOPTED.

#### RESOLUTION

RESOLVED, that STEPHEN R. LEVITT and wife, ISABEL C. LEVITT, shall have, upon the purchase of a house and lot located at 346 Wesley Drive, Chapel Hill, North Carolina, permission from the Board of Aldermen of the Town of Chapel Hill, North Carolina, to tap onto or attach the sewage service line leading from said house and lot to an existing four-inch sewer main, now maintained privately, on or after November 1, 1976, provided that the following conditions and terms shall first have been met:

1. That as of November 1, 1976, the Town of Chapel Hill shall not have made available to said house and lot an eight-inch sewer line;
2. That at such time as the Town of Chapel Hill shall make available an eight-inch sewer line to service the above described house and lot, then the sewer service line shall at that time be disconnected (if attached) from the existing four-inch sewer line and attached to the eight-inch sewer line made available for the purposes of serving said house and lot;
3. That any costs incurred by reason of attaching or tapping onto the existing four-inch sewer line shall not be incurred by the Town of Chapel Hill;

4. That an agreement effecting this resolution shall be made and entered into, in recordable form, and recorded in the Office of the Register of Deeds, Orange County, which agreement shall provide, in addition to the foregoing, that STEPHEN R. LEVITT and wife, ISABEL C. LEVITT, or any subsequent owner or owners of the above described property, agree to cause the above described house and lot to be serviced by the proposed eight-inch main, to be installed by the Town of Chapel Hill, when such service becomes available, and to be assessed, on a pro rata basis, along with the other lot or lots to be serviced by said proposed eight-inch sewer line, a copy of which agreement is attached to this resolution and to the minutes of this meeting.
5. That as a condition of the agreement attached to this resolution, STEPHEN R. LEVITT and wife, ISABEL C. LEVITT shall agree that they, their successors, grantees, assigns and future owners of the property described above shall release the Town of Chapel Hill from any and all liability associated with the attachment or "tap on" to the existing four-inch sewer line described above.
6. As a further condition of the agreement attached hereto, STEPHEN R. LEVITT and wife, ISABEL C. LEVITT, shall procure, at their own expense, insurance naming the party of the first part as insured against any loss or damages to any of the houses or property now being serviced by the existing four-inch main, with policy limits being no less than Two Thousand Dollars (\$2,000.00) per house or property which might be damaged as a result of the attachment or "tap on" to said four-inch main by the parties of the second part, which insurance policy shall remain in effect as long as the above referenced "tap on" or attachment exists.
7. OTHER CONDITIONS:

This the 3rd day of June, 1976.

Alderman Marshall then asked for the administration's reasons for denying it again. Mr. Shipman repeated the reasons.

Alderman Epting offered an amendment to the resolution taking off the reference to limits of liability and the limits of residents, in paragraph 6.

6. As a further condition of the agreement attached hereto, STEPHEN R. LEVITT and wife, ISABEL C. LEVITT, shall procure, at their own expense, insurance naming the party of the first part as insured, or agree to indemnify the town, against any loss or damages by the Town incurred as a result of the attachment or "tap on" to said four-inch main by the parties of the second part, which insurance policy shall remain in effect as long as the above referenced "tap on" or attachment exists.

Alderman Gardner seconded the amendment. Alderman Marshall asked what this would mean if the line were a fiber line. She questioned whether the Levitts would be responsible for the collapse of the line due to age; or whether the Town would be accepting responsibility for damage done by the line's age by approving the variance. Alderman Epting said that the Town would be protected, but the other home owners would not necessarily be protected. Alderman Silver asked for a clarification of the definition of damage. Alderman Epting answered this would be dollar figure proved in court. THE AMENDMENT WAS CARRIED BY A VOTE OF SIX TO TWO WITH ALDERMEN COHEN, EPTING, GARDNER, MARSHALL, HOWES AND VICKERY SUPPORTING, AND ALDERMEN SMITH AND SILVER OPPOSING. THE MOTION AS AMENDED WAS CALLED TO THE FLOOR. THE MOTION AS AMENDED WAS DEFEATED BY A VOTE OF FIVE TO FOUR WITH ALDERMEN HOWES, MARSHALL, SILVER AND SMITH, and MAYOR WALLACE OPPOSING AND ALDERMAN EPTING, COHEN, GARDNER AND VICKERY SUPPORTING.

The meeting was adjourned at 8:25 p.m.

*James C. Wallace*

Mayor James C. Wallace

*David B. Roberts*

Town Clerk, David B. Roberts