

MINUTES OF A SPECIAL MEETING OF THE
MAYOR AND BOARD OF ALDERMEN
TOWN OF CHAPEL HILL, MUNICIPAL BUILDING
MONDAY, FEBRUARY 19, 1979
7:30 P.M.

In the absence of the Mayor, Alderman Cohen called the meeting to order at 7:30 p.m. Present were:

Gerald Cohen
Bill Thorpe

Alderman Thorpe moved, seconded by Alderman Cohen, that Alderman Cohen chair the meeting in the absence of the Mayor and Mayor pro tem. The motion carried with Aldermen Cohen and Thorpe voting in the affirmative and none opposed.

At 7:45 p.m. Alderman Epting arrived. As there was not a quorum present to do business, Alderman Thorpe moved, seconded by Alderman Epting, that the meeting stand in recess until 7:30 p.m., Wednesday, February 21, 1979. The motion was carried with Aldermen Thorpe, Cohen and Epting voting in the affirmative, none in the negative. At 8:00 p.m. the meeting stood in recess.

At 7:30 p.m., Wednesday, February 21, 1979, the special meeting was reconvened. Mayor Wallace called the meeting to order. Present were: Marilyn Boulton, Gerald Cohen, Robert Epting, Jonathan Howes, Beverly Kawalec, R.D. Smith, Bill Thorpe.

Also present were Town Manager E. Shipman and Town Attorney E. Denny. Alderman Vickery was excused.

Report From Task Force Appointed to Study the Feasibility of Joint Planning and the Proposed Southern By-Pass

Alderman Howes and Kawalec had been appointed to the task force with Alderman Boulton to serve as alternate. Alderman Howes reported that they had met with a group of the county commissioners on two occasions. They had discussed the I-40 question and withdrawal from the suit. They had disagreed with the commissioners who had indicated they would prefer Chapel Hill to stay in the suit. The point of contention on the by-pass was the lack of involvement by the commissioners before this. The task force had indicated the county commissioners would be involved in the process now. With respect to the planning area extension, they agreed that the town and county had a mutual interest in planning of areas which could be expected to urbanize as a result of the growth in Chapel Hill. This should be a joint planning process. Alderman Howes defined the area in contention. He recommended the Chapel Hill delegation to the committee meet with the commissioners on the committee and discuss the extended planning area. The committee also recommended that a joint meeting of the Board of Aldermen and the County Commissioners be held.

Resolution Requesting the Department of Transportation to Include the Southern By-pass in the Current Version of the Thoroughfare and the Department of Transportation Seven-Year Highway Improvements Program

ALDERMAN KAWALEC MOVED, SECONDED BY ALDERMAN EPTING, ADOPTION OF THE FOLLOWING RESOLUTION. Alderman Epting stated that a part of the resolution requested public hearings to get citizen comment on a southern by-pass.

A RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO INCLUDE A SOUTHERN BYPASS IN THE CURRENT VERSION OF THE THOROUGHFARE AND THE DEPARTMENT OF TRANSPORTATION SEVEN (7) YEAR HIGHWAY IMPROVEMENTS PROGRAM

THAT WHEREAS, U.S. 15-501/NC 54 Bypass through Chapel Hill has been a local road almost since its construction; and

WHEREAS, the Secretary of the North Carolina Department of Transportation has suggested a number of alternate alignments for a true southern bypass in his letter of November 21, 1978, to the Mayor of Chapel Hill and in a photo-mosaic of the Town; and

WHEREAS, a part of said suggestion is the construction of a true southern bypass south of the Town of Chapel Hill; and

WHEREAS, the Department of Transportation has indicated its willingness to consider inclusion of said southern bypass in its seven (7) year highway improvements program; and

WHEREAS, the Board strongly supports the concept of a true southern bypass around Chapel Hill and requests that the Department of Transportation add said southern bypass to the Chapel Hill Thoroughfare Plan and to the seven year Highway Improvements Program; and

WHEREAS, the Board urges the Department of Transportation in designing the precise lay-out of said bypass to consider and avoid to the extent possible all disruption to existing roads, historical sites, and dwellings; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Aldermen of the Town of Chapel Hill, that the Department of Transportation be requested to hold hearings thereon, inviting all interested parties to participate therein, and to receive from Members of the public comments on the planning processes with respect to said southern bypass; and

BE IT FURTHER RESOLVED that the Department of Transportation be urged to include said southern bypass in its seven (7) year capital improvements program in the event it is determined that it should be a part of the thoroughfare plan, and

BE IT FURTHER RESOLVED by the Board of Aldermen of the Town of Chapel Hill, that the Town participate in all further hearings and processes with respect to the planning of said area, and the specific location of said bypass route therein, and the Town hereby pledges its willingness to invite all interested parties to participate fully in all decisions with respect thereto.

This the 19th day of February, 1979.

Alderman Cohen stated that the Board had requested a southern by-pass five years ago. If this area had been under the planning jurisdiction of Chapel Hill, the right-of-way for this road would have been dedicated with the building of subdivisions. He did not favor putting a road through rural areas which would be carrying Chapel Hill traffic.

Mr. Logan Irwin made the following statement on behalf of the Southwest Community Preservation Alliance.

STATEMENT OF J. LOGAN IRVIN, CHAIRMAN, SOUTHWEST COMMUNITY PRESERVATION ALLIANCE

Mayor Wallace and Members of the Board of Aldermen of Chapel Hill, I am grateful for this opportunity to speak to you as Chairman of the Southwest Community Preservation Alliance in opposition to the presently proposed routes of the Southern Bypass Thoroughfare around Chapel Hill and Carrboro to the West. The Southwest Community Preservation Alliance consists of residents of communities which are located along Jones Ferry Road west of University Lake, Damascus Church Road, and portions of Mann's Chapel Road, and State Roads 1946 and 1948. This Alliance includes residents of developments known as Wolf's Pond, Carolina Forest, Spring Hill Forest, Grampian Hills, Turkey Run, Loop Road and Heath's Development. After only a two-week period of organization this Alliance has 168 members, and the list is growing daily. We have liaison with other community groups organized with similar objectives at the Mt. Carmel Church-Farrington Road area, Old Lystra Road, Heritage Hills, Antioch Church, and White Cross areas. These communities are located in southern and southwestern Orange County and a small portion of northern Chatham County. Within the area of our Southwest Community are three very productive dairy farms, three beef cattle farms, and the homes of approximately 100 persons who work in Chapel Hill and Carrboro in the fields of business, the law, medicine, the arts, letters, and the sciences. Many are professors at the University, and they contribute enormously to Chapel Hill through their productivity and through their research grants which are largely expended in Chapel Hill for the support of personnel who are employed by the research projects. A hasty and incomplete survey of research grants awarded to University professors living in our area shows that these persons are bringing to Chapel Hill grants amounting to more than \$1,500,000 per year. One professor alone brought to the University and Town

of Chapel Hill approximately \$3,000,000 over a ten-year period. Thus, our contributions to Chapel Hill through these direct methods as well as indirectly through our real estate, personal property, and intangible taxes to the county and through income taxes to the State are large and have an important impact upon the town.

Our community is developing rapidly in terms of numbers of houses and citizens, but the growth has been orderly and well planned such that the overall effect is a pleasing admixture of the old agricultural way of life with the new communities of professional and business people. The result is that we have preserved and developed an area of natural beauty and harmony that is, we believe, unequalled and unparalleled by any other area in the vicinity of Chapel Hill. The existence of this beautiful area is of enormous benefit to Chapel Hill from an aesthetic standpoint. There lies within the boundaries of our area several of the important feeder streams to University Lake, and we have made careful and wise efforts to preserve the purity of that important and vital watershed.

We come before you tonight because this beautiful area and important part of the University Lake watershed is threatened by each and all of the presently proposed routes of the southern bypass thoroughfare around Chapel Hill to the west. This road, if constructed, would have a devastating effect upon our community and upon the University Lake water supply. Such a road would destroy scores of houses and lots. The road would greatly increase the rate of siltation of University Lake both during the construction of the road and subsequently through the accelerated run-off from shoulders and drainage ditches. This road would inevitably accelerate development in our area, particularly around the interchanges with other roads, and this development would sooner or later, despite zoning ordinances of either county or town, be of a commercial type which would have a disastrous and deleterious effect upon the nature and character of our area. For example, such commercial development at the interchanges would lead to high-density housing in the vicinity and thus to serious pollution of University Lake. Dr. Biggers, who is here tonight, can tell you about serious pollution of University Lake which already is occurring if you will grant him one or two minutes to make a report. However, the rate of pollution of the lake will be greatly accelerated by the new commercial and residential development which a major thoroughfare of this type will bring.

We seriously question whether this road is really necessary. A limited-access thoroughfare of the type proposed obviously is designed to carry through-traffic destined for points beyond Chapel Hill around the town rather than into or through the town.

The traffic to consider in this case is that from west to east and vice versa. In 1971 the State Department of Transportation conducted an External Origin and Destination Traffic Survey for Chapel Hill. This is the latest survey of this type available. If we examine the data for State Route 54 west (the "old Greensboro highway") and State Road number 1005 (the Antioch Church Road or "new Greensboro highway") both of which would connect with the proposed southern bypass thoroughfare, we find that only 10% of the traffic on those highways was destined to pass through Chapel Hill. Conversely, 90% of the traffic on those highways was destined to stop in Chapel Hill or Carrboro, namely the major part of the traffic on those highways consisted of vehicles bringing people to and from Chapel Hill and Carrboro to work or to shop. If this through-traffic from or to N.C. 54 West and State Road 1005 West was distributed in proportion to the total traffic on the principal exit-entry roads to the north (N.C. 86), east (U.S. 15-501 and N.C. 54E), and south (N.C. 15-501), then the through traffic from those two sources (viz. N.C. 54 W and 1005 W) would account for only 1.4% of the total traffic on the 15-501 bypass (probably the most heavily congested road in Chapel Hill). Thus, this enormously expensive throughway around Chapel Hill and Carrboro can be expected to have an insignificant impact in relieving the traffic congestion which exists at certain hours of the early morning or late afternoon within Chapel Hill and on the 15-501 bypass. On the contrary, the proposed southern bypass thoroughfare would bring the Chapel Hill-bound traffic from the west into town more rapidly and thus would add to the morning traffic congestion in the center of town and on the 15-501 bypass. Although the total volume of traffic on State Route 54 and State Road 1005 has increased since 1971, it is doubtful whether the proportion of through traffic on those roads has changed very much. If there is any doubt about this point, a new O. and D. survey should be made before seriously considering the construction of this road. The 1971 Survey data also showed that even the traffic on the 15-501 bypass consists largely of local traffic although the percentage of through traffic is somewhat higher than the percentage for State routes 54 and 1005 west. If I-40 is built through Orange County as proposed, then traffic from the south and east destined for Greensboro would be much more likely to follow I-40 to I-85 to reach

Greensboro rather than to take the proposed southern loop road around Chapel Hill since the latter would feed into State Routes 54 and 1005 which are only two lanes and thus are "slow" relative to I-85. Thus, the need for the southern thoroughfare is not apparent, and this road would not solve the traffic problems of Chapel Hill. In fact, this road probably would increase the traffic problems of Chapel Hill since this road would stimulate additional development west of Chapel Hill and Carrboro. This development also would increase the pollution of University Lake as stated previously.

There is another probable effect of this loop road which should be considered, namely the ultimate effect which it may have on the central business district of Chapel Hill. The construction of the southern bypass thoroughfare around Chapel Hill to the west probably would encourage the construction of shopping centers at one or more of the interchanges with other roads. Chapel Hill then may have a Westgate comparable in beauty and good planning with the Eastgate which now graces the city, and the effects will be similar, namely to draw still more business away from the central business district of the town. At the present time we do not have shopping centers west of Carrboro, and the residents of our community do not wish to have one in our area. We now do our shopping in Chapel Hill and Carrboro. However, if a shopping center is forced upon us as a result of the construction of the loop road to the west, then we probably will use it, and the trade which we now have with shopping centers in Chapel Hill and Carrboro will be lost to the central business districts of the towns.

In view of all of these probable consequences of the presently proposed routes of the Southern Bypass Thoroughfare around Chapel Hill to the west, we urge the Mayor and the Board of Aldermen to delay a decision concerning the recommendation of this portion of the Thoroughfare Plan for Chapel Hill pending a thorough study of the impacts of this road upon our rural communities, the University Lake watershed, and the central business districts of Chapel Hill and Carrboro vis-a-vis the apparently rather negligible benefits of this road in relieving the traffic congestion in Chapel Hill.

Dr. Paul Biggers stated that it was becoming difficult to protect the public waters from toxic chemicals and filterable viruses. An increasing population density on University Lake utilizing septic tank waste disposal techniques would pose a serious threat to the public water supply for the community in his opinion. The proposed highway would increase the population density on the watershed.

Ms. Phyllis Sockwell urged the Board to consider the report recommending joint planning for the southern triangle.

Mr. Thomas Wallsten spoke on behalf of the citizens in the southern triangle in the northern part of Chatham County. He asked the Board to vote against the resolution because of the time lapsed since the decision had been made for a southern by-pass. Some of the factors in its favor had changed. With I-40 and a southern by-pass the area would be surrounded by four-lane highways. Other alternatives should be considered. Updated traffic projections should be obtained. There were still three to four months to study the necessity of a southern by-pass before the project had to be included on the seven-year program.

Mr. Morris Brookhart objected to the procedures followed to request the southern by-pass. The public hearings would be held by DOT not Chapel Hill and issues of concern to Chapel Hill might not be considered by DOT. The southern by-pass would encourage development along the highway. He requested the Board to defeat the motion in order to have the benefit of local discussion and the results of studies being done by the transportation planner.

Mr. Joseph Suggs presented a statement from the White Cross Preservation Alliance opposing the southern by-pass. The four-lane highway would pass through and terminate in the White Cross community. The proposed right-of-way would destroy farms and croplands, and increase the cost of land in southern Orange County. The construction of the by-pass would induce the extension of commercial development into rural Orange County. The route through White Cross would destroy the way of life for its residents. Mr. Suggs concluded that evidence did not support the need for a southwest by-pass.

Mr. John Farmer Herring mentioned an article in the News and Observer which argued that with expanded growth the rural areas would become unattractive.

Mr. Curtis Booker stated that often the DOT made its decision without listening to the public, as it did at the public hearings on I-40. He opposed Chapel Hill's withdrawal from the I-40 suit.

Ms. Karen Sparrow said the southern Orange residents would rather plan their own recreation, water and sewer.

Mayor Wallace was asked for his reasons for wanting the southwest by-pass. Mayor Wallace responded that the Board had requested he try to get the stalled thoroughfare plan moving. At a meeting of the DOT Commission a member had moved that Chapel Hill's mass transit funds be refused because Chapel Hill was against everything DOT was for. The motion had passed. Later Secretary Bradshaw had prevailed upon the Commission to reverse the decision. Mr. Bradshaw had then met with the Mayor and assured him that DOT would like to work with Chapel Hill. Mayor Wallace had expressed his opinion that a southern by-pass was needed to route traffic around Chapel Hill. He also believed I-40 to be too close to Chapel Hill. If I-40 is constructed, 15-501 will become a feeder highway. Mayor Wallace had asked if plans could be made to take some of the traffic off 15-501 and around the Town. Mr. Bradshaw had sent the plans for the southern by-pass in November. However at that time the Board was tied up with other matters such as selecting a Town Manager. The Mayor had delayed the presentation of the by-pass until after the Manager had been selected. The resolution requested DOT to hold hearings on the need for the southern by-pass.

Mr. H.L. Roberts presented a petition signed by several residents opposing the proposed southern by-pass. Mr. Lathrop believed the state would cooperate with Chapel Hill on the thoroughfare plan.

Alderman Smith suggested the Board delay action and study the need for a southern by-pass. Alderman Cohen stated that only about 10% of the traffic on 15-501 is through traffic. An alternative to the southern by-pass would be to 4-lane 15-501 and increase public transportation.

Alderman Howes stated this was the beginning of the process. Chapel Hill was trying to assure future growth would occur in a structured manner. Alderman Smith said he had not argued against the proposal for the southern by-pass. He did not want it added to the thoroughfare plan. After some study the Board might consider the question again later in the year. Alderman Thorpe stated that DOT worked for citizens. If the Board did not take action it would be years before plans would be made to handle the traffic. THE MOTION WAS CARRIED BY A VOTE OF SIX TO TWO WITH ALDERMEN BOULTON, EPTING, HOWES, KAWALEC, THORPE AND MAYOR WALLACE SUPPORTING AND ALDERMEN COHEN AND SMITH OPPOSING.

Resolution Requesting the General Assembly to Amend the Charter of the Town of Chapel Hill with Respect to Enlarging the Extraterritorial Zoning and Subdivision Jurisdiction of the Town

ALDERMAN HOWES MOVED, SECONDED BY ALDERMAN EPTING, THAT THE ATTORNEY BE DIRECTED TO PREPARE LEGISLATION TO AMEND THE CHARTER OF THE TOWN OF CHAPEL HILL SO AS TO PROVIDE FOR EXERCISE BY THE TOWN OF EXTRATERRITORIAL ZONING, SUBDIVISION, AND BUILDING REGULATIONS IN CERTAIN AREAS, AND TO CIRCULATE THE DRAFT OF SUCH LEGISLATION BEFORE THE NEXT MEETING. Alderman Smith asked if the task force would continue to meet to work on the extension of the planning area. This was Alderman Howes' recommendation. THE MOTION WAS CARRIED UNANIMOUSLY.

Alderman Epting moved, seconded by Alderman Smith, that the committee be authorized to continue discussion with the committee of the County Commissions relating to efforts at compromise and joint planning and to attempt to arrange a joint meeting of the Board and the County Commissioners to deliver their recommendations. The motion was carried unanimously. Alderman Howes stated one point of contention was the question of mobile homes and the requirement by the County Commissioners for Chapel Hill to amend its zoning ordinance prior to the extension of the planning area. He asked that the attorney and manager give guidance on the legality, desirability and impact on the area of this requirement. Alderman Cohen pointed out that any grant of power for planning could be withdrawn by the Commissioners after two years.

Resolution Directing the Town Attorney to Draft Charter Amendments to Reduce the Term of Members of the Planning Board

ALDERMAN SMITH MOVED, SECONDED BY ALDERMAN BOULTON, ADOPTION OF THE FOLLOWING RESOLUTION. THE MOTION WAS CARRIED UNANIMOUSLY.

A RESOLUTION DIRECTING THE TOWN ATTORNEY TO DRAFT CHARTER AMENDMENTS TO REDUCE THE TERM OF MEMBERS OF THE PLANNING BOARD

BE IT RESOLVED by the Board of Aldermen of the Town of Chapel Hill that the North Carolina General Assembly be requested to adopt an amendment to Section 5.10 of the Charter of the Town of Chapel Hill to provide that the terms of members shall be for three (3) year terms, and that all members appointed at the expiration of the terms of those currently serving be for said three (3) year terms, and

BE IT FURTHER RESOLVED that the Town Attorney is hereby authorized and directed to prepare such Charter Amendments for submission to the General Assembly.

This the 19th day of February, 1979.

Resolution with Respect to Membership on the Planning Board and Board of Adjustment of the Town of Chapel Hill

ALDERMAN SMITH MOVED, SECONDED BY ALDERMAN BOULTON, ADOPTION OF THE FOLLOWING RESOLUTION. THE MOTION WAS CARRIED UNANIMOUSLY.

A RESOLUTION WITH RESPECT TO MEMBERSHIP ON THE PLANNING BOARD AND BOARD OF ADJUSTMENT OF THE TOWN OF CHAPEL HILL

BE IT RESOLVED by the Board of Aldermen of the Town of Chapel Hill that the General Assembly of North Carolina be requested to modify the provisions of the Charter with respect to extraterritorial representation in that the Town of Chapel Hill, may by ordinance, in that the number of representatives of any area outside the corporate limits of the Town shall be provided pursuant to the provisions of Section 160A-362 of the General Statutes of North Carolina without specifying the number thereof, and

BE IT FURTHER RESOLVED that the Town Attorney be and he is hereby authorized and directed to prepare Charter Amendments for submission to the General Assembly for the accomplishment of the purposes aforesaid.

This the 19th day of February, 1979.

Resolution Authorizing and Directing the Town Attorney to Prepare a Stipulation of Dismissal as to the Town of Chapel Hill in an Action Pending in Superior Court of Wake County

ALDERMAN BOULTON MOVED, SECONDED BY ALDERMAN EPTING, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION AUTHORIZING AND DIRECTING THE TOWN ATTORNEY TO PREPARE A STIPULATION OF DISMISSAL AS TO THE TOWN OF CHAPEL HILL IN AN ACTION PENDING IN SUPERIOR COURT OF WAKE COUNTY

THAT WHEREAS, the Town of Chapel Hill did join with other parties plaintiff in an action entitled "Orange County, et al. v. N.C. Board of Transportation, et al." being civil action #78-CvS-3794, pending in the Superior Court of Wake County, and

WHEREAS, it appears that the Town desires to withdraw as a party plaintiff as to the matters and things in controversy in said action.

NOW, THEREFORE, BE IT RESOLVED by the Board of Aldermen of the Town of Chapel Hill, that the Town Attorney be and he is hereby authorized and directed to file a stipulation of dismissal as to the Town of Chapel Hill in the above referred to matter, and

BE IT FURTHER RESOLVED, that upon filing of said Stipulation the Town participate no further in the matters and things in controversy in said action.

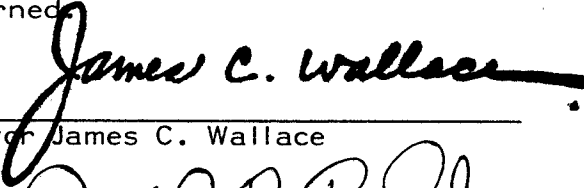
This the 19th day of February, 1979.

Mr. B.B. Olive, coordinator for the I-40 opposition, tried to persuade the Board to stay a party to the suit. He recounted the facts leading up to the suit and the regulations and statutes which he believed had been violated. The suit was aimed at having due process built into the highway decision procedure. The state had filed a motion to dismiss the action which would be heard on February 26. Mr. Olive believed that if Chapel Hill withdrew now it would prejudice the case. After this motion was ruled on Chapel Hill would have to decide whether to oppose the construction of I-40 as proposed. Alderman Howes said his reasons for entering the case were substantive not procedural. Mr. Olive responded that the route could not be attacked until the final environmental assessment had been prepared. Alderman Cohen said many lawsuits in the country had resulted in Congress changing the federal highway system. He thought taking a voluntary dismissal would be saying that Chapel Hill was not serious about opposing the highway.

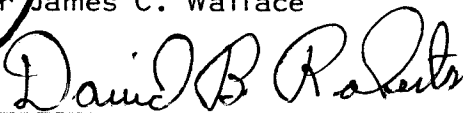
Mr. Denny explained that the Board had entered the suit for substantive reasons. However, the attorneys had thought if certain items were left uncontested it might prejudice the right to later proceed on the substantive merits of the selection of 1B. The procedure objected to now was on a meeting where 1B was selected. Alderman Smith stated if the Town were to get out of the suit, they would be saying the Department of Transportation did not have to hold public hearings. Alderman Epting disagreed that the Board would be telling DOT they did not have to follow procedures. He thought the law suit brought by the County Commissioners would bring as great redress as a lawsuit brought by the Town of Chapel Hill. The decision made tonight would not shorten the time before I-40 was built. Alderman Howes suggested the Board delay action until after the court's decision on February 26. Then the Board could make its decision whether to pursue its opposition to route 1B. Alderman Thorpe wanted to withdraw from the lawsuit. He was not opposed to the construction of I-40. Alderman Kawalec also favored tabling the matter.

Alderman Smith moved, seconded by Alderman Howes, that the resolution be tabled. The motion was carried by a vote of five to three with Aldermen Boulton, Cohen, Howes, Kawalec and Smith supporting and Aldermen Epting, Thorpe and Mayor Wallace opposing.

There being no further business to come before the Board, the meeting was adjourned.



Mayor James C. Wallace



Town Clerk David B. Roberts

