

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING, MONDAY, FEBRUARY 23, 1981, 7:30 P.M.

Mayor Nassif called the meeting to order. Present were:

- Joe Herzenberg
- Jonathan Howes
- Beverly Kawalec
- R. D. Smith
- Joe Straley
- Bill Thorpe
- Jim Wallace

Also present were Assistant Town Manager A. Hooper and Town Attorney E. Denny. Councilmember Boulton was excused.

Petitions

Ms. Andresen asked to speak on item 7, Coker Hills West Subdivision. The Council agreed.

Mr. Hawley asked to speak on item 10, Clayton Road traffic. Mr. Lindall requested to speak on the same item. The Council agreed.

Mr. Delmar requested to speak on item 6, Laurel Hills Subdivision. The Council agreed.

Councilmember Howes pointed out that as Councilmember Boulton was absent, the vote on the Drive-in Business Standards would be tied again. He asked that this item be deferred. Councilmember Howes moved, seconded by Councilmember Wallace, that the matter not be considered until all councilmembers were present. The motion was carried unanimously.

Councilmember Thorpe informed the Council there was a vacant position in the Clerk's office. He wanted the Manager to discuss the position with the Council before filling it. The employee was to serve the Council. There had been problems setting an adequate salary to retain qualified personnel. He asked that an ordinance to reclassify the position be drafted. No councilmembers objected.

Minutes

The attorney had suggested a different form for the ordinance eliminating Council committees which had been adopted at the meeting of February 9. COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER STRALEY, THAT THE FOLLOWING ORDINANCE BE SUBSTITUTED FOR THAT ELIMINATING COUNCIL COMMITTEES AS SHOWN IN THE MINUTES OF FEBRUARY 9, 1981.

AN ORDINANCE TO AMEND CHAPTER 2 OF THE CODE OF ORDINANCES TO ELIMINATE COMMITTEES OF THE COUNCIL (SECTION 2-5) (81-0-15a)

BE IT ORDAINED by the Council of the Town of Chapel Hill that Chapter 2, Code of Ordinances, Town of Chapel Hill, be amended to read as follows:

Section I

The Mayor and Council may appoint such Committees of the Council as deemed appropriate or necessary from time to time, and may assign to such Committees such duties, functions, and responsibilities as it deems fit, or Council may act as a Committee of the whole.

Section II

All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 9th day of February, 1981.

THE MOTION WAS CARRIED BY A VOTE OF SIX TO TWO WITH COUNCILMEMBERS HOWES, KAWALEC, SMITH, STRALEY, WALLACE AND MAYOR NASSIF SUPPORTING AND COUNCILMEMBERS HERZENBERG AND THORPE OPPOSING.

On motion by Councilmember Straley, seconded by Councilmember Wallace, the minutes of February 9, 1981, were approved as corrected.

Resolution Regarding Execution of an Agreement Regarding Joint Planning

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER KAWALEC, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION REGARDING EXECUTION OF AN AGREEMENT REGARDING JOINT PLANNING (81-R-20)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby authorizes the Mayor to execute an agreement concerning joint planning.

This the 23rd day of February, 1981.

Councilmember Wallace thought adoption of the resolution wrong. The Committee had been commissioned to draw a line which it had not done. He asked that the report of the Committee be given at the second meeting in March.

THE MOTION WAS CARRIED BY A VOTE OF SEVEN TO ONE WITH COUNCILMEMBERS HERZENBERG, HOWES, KAWALEC, SMITH, STRALEY, THORPE, AND MAYOR NASSIF SUPPORTING AND COUNCILMEMBER WALLACE OPPOSING.

Councilmember Thorpe asked if the same Councilmembers, Howes and Kawalec, would continue to serve on the committee. He asked that they be given a fresh mandate to serve. COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER THORPE, THAT COUNCILMEMBERS HOWES AND KAWALEC CONTINUE SERVING. THE MOTION WAS CARRIED UNANIMOUSLY.

Resolution Approving the Preliminary Sketch for Laurel Hill Subdivision, Section IV, Phase I

Mr. Reeve stated the proposal being presented to the Council was the result of the best efforts of the staff, board, developer and citizens of the area to work out the traffic problems.

Mr. Delmar stated the issues had been addressed repeatedly. He thought the temporary access was undesirable. The connection to Bayberry would require tons of fill across the culvert. Once done, this would be irrevocable. The Council had been presented with two alternatives for the temporary access. Mr. Delmar asked that the Council deny this subdivision with the access across the arboretum, or in the alternative to approve the recommendation of the Planning Board to remove the temporary access when another access existed.

Mr. Jennings pointed out the location of the property and the proposed access across the arboretum. The staff had attempted to provide a road which could be looped in the future to provide two means of access to the area. The applicant at this time, had only one access across the arboretum. Recognizing that this was the only access, the staff had recommended that it be temporary to be eliminated when two other accesses existed. The Planning Board recommendation was that the temporary access be eliminated when one other means of access existed. The other issue with respect to the project was the open space. The applicant proposed two acres next to the arboretum. The staff, Planning Board and Recreation Commission recommended the open space be at the northeast corner of the property where it could be added to in the future for a possible neighborhood park. Although the applicant's proposal met the requirements, Mr. Jennings said the Council was not limited to considering only the strict requirements.

COUNCILMEMBER KAWALEC MOVED, SECONDED BY COUNCILMEMBER HOWES, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION APPROVING THE PRELIMINARY SKETCH FOR LAUREL HILL SUBDIVISION, SECTION IV, PHASE I (81-R-22B)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves the preliminary sketch dated November 18, 1980 for Laurel Hill, Section IV, Phase 1 located on property identified as Chapel Hill Township Tax Map 66, Lot 8, subject to the following:

1. That Bayberry Drive be paved to a minimum paved cross section of 33 feet back-to-back of curb with curb and gutter except for the temporary portion of the Bayberry Drive connection to Arboretum Drive which shall be paved to standards as set forth by the Town Manager. Plans for such improvements shall be approved by the Town Manager and the North Carolina Department of Transportation, if applicable, prior to start of construction.
2. That Bayberry Drive and Rhododendron Drive be exempted from the maximum grade standards due to the steep topography in the area.
3. That Rhododendron Drive be exempted from the cul-de-sac maximum length standard.
4. That prior to paving streets, utility service lines and laterals shall be installed and stubbed-out to each lot. A letter from the owner or owner's representative shall be presented to the Town Engineer prior to paving any street certifying that all utilities are in place.
5. That prior to the sale of any lots within the development, signs indicating that the "stubbed-out" streets are subject to future extension shall be erected.
6. That the number, location and installation of fire hydrants be approved by the Town Manager. A plan for such improvements shall be approved by the Town Manager prior to the approval of the final plat.
7. That sewer, drainage, and utility easements be dedicated as required by the Town Manager.
8. That a detailed drainage plan and grading plan be submitted to and be approved by the Town Engineer prior to issuance of a grading permit, building permit, start of construction of improvements, and prior to **submission of an application for final plat approval.**
9. That all lots connecting onto the sanitary sewer system be serviced by gravity flow. Individual pumps for each dwelling unit shall not be permitted.
10. That a utility easement be dedicated between lots 4 and 5 and between lots 11 and 12.
11. That the open space be relocated in the area identified as lots 17, 18, 19 and part of 20. That the open space be dedicated to the public use and be deeded to the Town subject to the acceptance by the developer and approval by the Council after receiving the recommendation of the Recreation Commission. The applicant may revise the lot layout and alignment of Rhododendron Drive prior to the final plat if necessary to adjust for this change in open space location.
12. That the connection of Bayberry Drive across the Hunt Arboretum to Arboretum Drive shall be a temporary connection which shall be closed to motorized vehicles when there are two means of access to the subject subdivision other than the temporary connection to Arboretum Drive via Bayberry Drive. The final plat shall reflect the temporary status of the connection of Bayberry Drive to Arboretum Drive and shall state basis upon which the temporary connection shall be closed to motorized vehicles as described above. At such time as the temporary connection is closed the portion of Bayberry Drive east of Arboretum Drive shall be renamed.
13. Should access by means of Rhododendron be available before this subdivision is started that access be by Rhododendron and not by an extension of Bayberry Drive across the Hunt Arboretum.

This the 23rd day of February, 1981.

Councilmember Straley asked for comment from the Recreation Commission on the neighborhood park concept. He thought the open space proposed by the applicant suitable for active open space. He suggested that having small parcels of open space in different areas of the neighborhood would offer more accessibility to residents. Ms. White responded the five acre recommendation was in the

Community Facilities Plan. Both proposed parcels of open space were suitable. The applicant's proposal would be next to the arboretum which could be disturbed by those engaging in active recreation. More people could congregate in a five acre tract.

Councilmember Wallace was concerned about the temporary access. He thought the sooner it was eliminated, the better for the residents. Mayor Nassif preferred two access for emergency services.

Mr. Secrist pointed out the arboretum was used for research. He suggested the active open space if located next to it might cause interference with the research.

Councilmember Straley did not think the connection to Bayberry would be temporary if paved. He did not want the subdivision approved with the traffic going through a residential community. Councilmember Smith asked what the standards for the street would be. Mr. Jennings said they would be constructed to state standards.

Councilmember Kawalec withdrew her motion. SHE MOVED ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION APPROVING THE PRELIMINARY SKETCH FOR LAUREL HILL SUBDIVISION, SECTION IV, PHASE I (81-R-22B)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves the preliminary sketch dated November 18, 1980 for Laurel Hill, Section IV, Phase 1 located on property identified as Chapel Hill Township Tax Map 66, Lot 8, subject to the following:

1. That Bayberry Drive be paved to a minimum paved cross section of 33 feet back-to-back of curb with curb and gutter except for the temporary portion of the Bayberry Drive connection to Arboretum Drive which shall be paved to standards as set forth by the Town Manager. Plans for such improvements shall be approved by the Town Manager and the North Carolina Department of Transportation, if applicable, prior to start of construction.
2. That Bayberry Drive and Rhodendron Drive be exempted from the maximum grade standards due to the steep topography in the area.
3. That Rhododendron Drive be exempted from the cul-de-sac maximum length standard.
4. That prior to paving streets, utility service lines and laterals shall be installed and stubbed-out to each lot. A letter from the owner or owner's representative shall be presented to the Town Engineer prior to paving any street certifying that all utilities are in place.
5. That prior to the sale of any lots within the development, signs indicating that the "stubbed-out" streets are subject to future extension shall be erected.
6. That the number, location and installation of fire hydrants be approved by the Town Manager. A plan for such improvements shall be approved by the Town Manager prior to the approval of the final plat.
7. That sewer, drainage, and utility easements be dedicated as required by the Town Manager.
8. That a detailed drainage plan and grading plan be submitted to and be approved by the Town Engineer prior to issuance of a grading permit, building permit, start of construction of improvements, and prior to submission of an application for final plat approval.
9. That all lots connecting onto the sanitary sewer system be serviced by gravity flow. Individual pumps for each dwelling unit shall not be permitted.
10. That a utility easement be dedicated between lots 4 and 5 and between lots 11 and 12.

- 11. That the connection of Bayberry Drive across the Hunt Arboretum to Arboretum Drive shall be a temporary connection which shall be closed to motorized vehicles when there is a means of access to the subject subdivision other than the temporary connection to Arboretum Drive via Bayberry Drive. The final plat shall reflect the temporary status of the connection of Bayberry Drive to Arboretum Drive and shall state basis upon which the temporary connection shall be closed to motorized vehicles as described above. At such time as the temporary connection is closed the portion of Bayberry Drive east of Arboretum Drive shall be renamed.
- 12. Should access by means of Rhododendron be available before this subdivision is started that access be by Rhododendron and not by an extension of Bayberry Drive across the Hunt Arboretum.

This the 23rd day of February, 1981.

The motion died for lack of a second.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER HOWES, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION APPROVING THE PRELIMINARY SKETCH FOR LAUREL HILL SUBDIVISION, SECTION IV, PHASE I (81-R-22B)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves the preliminary sketch dated November 18, 1980 for Laurel Hill, Section IV, Phase 1 located on property identified as Chapel Hill Township Tax Map 66, Lot 8, subject to the following:

- 1. That Bayberry Drive be paved to a minimum paved cross section of 33 feet back-to-back of curb with curb and gutter except for the temporary portion of the Bayberry Drive connection to Arboretum Drive which shall be paved to standards as set forth by the Town Manager. Plans for such improvements shall be approved by the Town Manager and the North Carolina Department of Transportation, if applicable, prior to start of construction.
- 2. That Bayberry Drive and Rhododendron Drive be exempted from the maximum grade standards due to the steep topography in the area.
- 3. That Rhododendron Drive be exempted from the cul-de-sac maximum length standard.
- 4. That prior to paving streets, utility service lines and laterals shall be installed and stubbed-out to each lot. A letter from the owner or owner's representative shall be presented to the Town Engineer prior to paving any street certifying that all utilities are in place.
- 5. That prior to the sale of any lots within the development, signs indicating that the "stubbed-out" streets are subject to future extension shall be erected.
- 6. That the number, location and installation of fire hydrants be approved by the Town Manager. A plan for such improvements shall be approved by the Town Manager prior to the approval of the final plat.
- 7. That sewer, drainage, and utility easements be dedicated as required by the Town Manager.
- 8. That a detailed drainage plan and grading plan be submitted to and be approved by the Town Engineer prior to issuance of a grading permit, building permit, start of construction of improvements, and prior to submission of an application for final plat approval.
- 9. That all lots connecting onto the sanitary sewer system be serviced by gravity flow. Individual pumps for each dwelling unit shall not be permitted.
- 10. That a utility easement be dedicated between lots 4 and 5 and between lots 11 and 12.

11. That the open space be relocated in the area identified as lots 17, 18, 19 and part of 20. That the open space be dedicated to the public use and be deeded to the Town subject to the acceptance by the developer and approval by the Council after receiving the recommendation of the Recreation Commission. The applicant may revise the lot layout and alignment of Rhododendron Drive prior to the final plat if necessary to adjust for this change in open space location.
12. That the connection of Bayberry Drive across the Hunt Arboretum to Arboretum Drive shall be a temporary connection which shall be closed to motorized vehicles when there is a means of access to the subject subdivision other than the temporary connection to Arboretum Drive via Bayberry Drive. The final plat shall reflect the temporary status of the connection of Bayberry Drive to Arboretum Drive and shall state basis upon which the temporary connection shall be closed to motorized vehicles as described above. At such time as the temporary connection is closed the portion of Bayberry Drive east of Arboretum Drive shall be renamed.
13. Should access by means of Rhododendron be available before this subdivision is started that access be by Rhododendron and not by an extension of Bayberry Drive across the Hunt Arboretum.

This the 23rd day of February, 1981.

Councilmember Howes agreed with Councilmember Straley that the development was untimely, but did not think this sufficient reason for voting against it. He requested Mr. Denny's opinion.

Mr. Denny stated the subdivision ordinance provided for standards and procedures to be followed. In the absence of amendments to the ordinance, the Council was required to judge the subdivision in terms of the overall ordinance. If a subdivision met the requirements, then the Council must approve the subdivision.

Mayor Nassif objected to requiring the applicant to change the location of the open space. Mayor Wallace responded the arboretum had been recognized in the zoning ordinance as having special significance. The open space should be away from the arboretum.

Councilmember Straley asked if Rhododendron would violate the cul-de-sac standard when completed. Mr. Denny said it would not as Rhododendron was not legally a cul-de-sac.

THE MOTION WAS CARRIED BY A VOTE OF FIVE TO THREE WITH COUNCILMEMBERS HERZENBERG, HOWES, KAWALEC, THORPE, AND WALLACE SUPPORTING AND COUNCILMEMBERS SMITH, STRALEY, AND MAYOR NASSIF OPPOSING.

Resolution Approving the Preliminary Sketch for Coker Hills West, Phase 10

Mr. Jennings explained that this subdivision had been considered by the Council before, but had been referred to the Manager for further study. The Council had requested information on the flight path of planes and helicopters. There were approximately 408 houses in the flight path. There were two to three helicopter landings per month.

Mr. Phil Post said the development would have no impact on the airport. It would not exceed the obstruction standards for the air space of the airport. The developer had authorized a noise study by Bolt, Berenek and Newman. Mr. Post gave the result of the study. The construction standards would be included in the deed of covenants for the houses in the subdivision. The houses would have extra insulation to reduce noise.

Mr. Andresen represented the Citizens for Airport Planning. They did not object to the development but were concerned about the impact of the airport on the development. He said that residents a mile away from the airport noticed the noise of planes landing and taking off. Classes at Philips School were interrupted by planes. Mr. Andresen asked that the Council consider the impact of the airport.

Councilmember Straley pointed out that although the average level of noise in the study was not excessive, individual noise could be much louder. He said the Council must accept the responsibility for future complaints if the subdivision was approved.

Councilmember Kawalec asked if the Council was not faced with the problem of subdivision by right. Mr. Denny responded that he had no evidence that the subdivision was not in compliance with regulations. Although the Council had considered adopting an airport hazard zone, it had not yet done so. Mayor Nassif pointed out that land had been left for an airport hazard zone. The developer had been allowed greater density in the developed area for leaving the space.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER THORPE, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION APPROVING THE PRELIMINARY SKETCH FOR COKER HILLS WEST, PHASE 10, LOCATED OFF ESTES DRIVE (81-R-27)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves the preliminary sketch dated September 5, 1979 for Coker Hills West, Phase 10, located on property identified as Chapel Hill Township Tax Map 29, part of Lot 3, subject to the following:

1. That drainage and utility easements and the design and specifications for water and sewer line improvements be approved by the Town Engineer.
2. That all lots connecting onto the sanitary sewer system be serviced by gravity flow. Individual pumps for each dwelling unit shall not be permitted.
3. That a 10-foot wide pedestrian and non-motorized vehicle easement be dedicated along the side yard line of Lot #52, such side yard being the joint side yard line of Lots #52 and #16, connecting the Huntington Drive right-of-way to the property of the Chapel Hill Board of Education.
4. That the number, location, and installation of fire hydrants be approved by the Town Manager. A plan for such improvements shall be approved by the Town Manager prior to issuance of any building permits within this section of Coker Hills West.
5. That prior to paving streets, utility service lines and laterals shall be stubbed-out to the front property line of each lot. Sanitary sewer laterals shall be capped-off above ground. A letter from the owner or owner's representative shall be presented to the Town Engineer prior to paving any street certifying that all utilities are in place.
6. That the 8-inch water line be extended along Somerset Drive to connect the 8-inch line within the Huntington Drive right-of-way to the 8-inch water line within the Estes Drive right-of-way.

This the 23rd day of February, 1981.

Councilmember Smith said it was the duty of the Council to protect the citizens of the Town. The noise of the planes would be loud at the houses in the subdivision. This property should be left as an airport hazard district. If the Council approved the subdivision, the airport should be relocated.

THE MOTION WAS CARRIED BY A VOTE OF SIX TO TWO WITH COUNCILMEMBERS HERZENBERG, HOWES, KAWALEC, THORPE, WALLACE AND MAYOR NASSIF SUPPORTING AND COUNCILMEMBERS SMITH AND STRALEY OPPOSING.

Resolution Authorizing the Filing of an Application with the Department of Transportation, for a Grant Under the Urban Mass Transportation Act of 1964 and Resolution Stating the Rights of Employees

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, ADOPTION OF THE FOLLOWING RESOLUTION.

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A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE DEPARTMENT OF TRANSPORTATION, UNITED STATES OF AMERICA, FOR A GRANT UNDER THE URBAN MASS TRANSPORTATION ACT OF 1964, AS AMENDED, AND WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (81-R-28)

WHEREAS, the United States and North Carolina Secretaries of Transportation are authorized to make grants for mass transportation projects;

WHEREAS, the contract for financial assistance will impose certain obligations upon the applicant, including the provision by it of the local share of the project costs; and

WHEREAS, it is required by the U.S. Department of Transportation in accord with the provisions of Title VI of the Civil Rights Act of 1964, that in connection with the filing of an application for assistance under the Urban Mass Transportation Act of 1964, as amended, the applicant give an assurance that it will comply with Title VI of the Civil Rights Act of 1964, and the U.S. Department of Transportation requirements thereunder;

WHEREAS, it is the goal of the Applicant that minority business enterprise be utilized in connection with this project, and that definitive procedures shall be established and administered to ensure that minority businesses shall have the maximum feasible opportunity to compete for contracts when procuring construction contracts, supplies, equipment contracts, or consultant and other services:

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill:

1. That the Town Manager is authorized to execute and file an application on behalf of the Town of Chapel Hill, North Carolina with the U.S. Department of Transportation and with the North Carolina Department of Transportation, to aid in the financing of the purchase of seven transit vehicles and related equipment;
2. That the Town Manager is authorized to execute and file with such application an assurance or any other document required by the North Carolina Department of Transportation or the U.S. Department of Transportation effectuating the purposes of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, or any other applicable legislation;
3. That the Town Manager is authorized to furnish such additional information as the North Carolina Department of Transportation or the U.S. Department of Transportation may require in connection with the application of the project;
4. That the Town Manager is authorized to set forth and execute affirmative minority business policies in connection with the project's procurement needs;
5. That the Town Manager is authorized to accept and execute grant contract agreements on behalf of the Town of Chapel Hill with the U.S. Department of Transportation and the North Carolina Department of Transportation for aid in the financing of a capital project in response to this application.

This the 23rd day of February, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION STATING THE RIGHTS OF EMPLOYEES AS PROTECTED BY SECTION 13(C) OF THE URBAN MASS TRANSPORTATION ACT OF 1964 (81-R-29)

WHEREAS the Town of Chapel Hill wishes to submit a Capital Grant Application to the Urban Mass Transportation Administration, under the Urban Mass Transportation Act of 1964, and

WHEREAS the Town of Chapel Hill recognizes that Section 13(c) of said Act requires, as a condition of any assistance thereunder, that fair and equitable arrangements be made as determined by the Secretary of Labor and specified in the Contract of assistance to protect the interests of employees;



NOW, THEREFORE, to implement this requirement, the Town Council of the Town of Chapel Hill, as a condition of its participation in the Project, hereby agrees to meet the requirements of Section 13(c) of the Act, and in so doing agrees to accept obligations for performance of the following terms and conditions which shall be binding and enforceable against the Town of Chapel Hill by the employees covered by these terms and conditions and any representatives of such employees:

The Town of Chapel Hill agrees to assure the protection of all such employees affected by Federal assistance to the Project by agreeing upon the following arrangements:

- (1) The Project will be carried out in such a manner and upon such terms and conditions as will be fair and equitable to employees covered by this arrangement.
- (2) The rights, privileges and benefits contained in the AMTRACK conditions, as certified by the Secretary of Labor under Section 405(b) of the Rail Passenger Service Act of 1970, on April 16, 1971, will apply to any employee covered by this resolution whose position with respect to his employment is worsened as a result of the Project. The Town of Chapel Hill will be financially responsible for the application of these conditions, and will make the necessary arrangements so that any employee affected as a result of the Project may file a claim with it under this paragraph. The Town of Chapel Hill will either honor the claim by making payment in accordance with these conditions or give notice to the claimant and his representative of its basis for failing to honor such claim, giving reasons therefore. In the event the Town of Chapel Hill fails to honor such claim, the employee involved may invoke the following procedures for further joint investigation of the claim, by giving notice in writing of his desire to pursue such procedures. Within ten (10) days from the receipt by the Town of Chapel Hill of such notice, the parties shall exchange such factual information as may be available to them relevant to the disposition of the claim and shall jointly take such steps as may be necessary or desirable to obtain from any third parties such additional factual information as may be relevant. As soon as practicable thereafter, the parties shall meet and attempt to agree upon the proper disposition of the claim. If no such agreement is reached and the Town of Chapel Hill decides to reject the claim, it shall give written notice of its final rejection of the claim detailing its reasons therefore. In the event the claim is so rejected by the Town of Chapel Hill, the claim may be processed to determine as hereinafter provided. Throughout the claims handling and determination procedures, the Town of Chapel Hill shall have the burden of affirmatively establishing that any deprivation of employment, or other worsening of employment position, has not been a result of the Project, by proving that only factors other than the Project affected the employee.

An employee shall be regarded as having been placed in a worse position with respect to his employment within the meaning of this paragraph:

- (a) When the position he holds is abolished or materially changed adversely to the employee and he is unable to obtain, by the normal exercise of his seniority rights, another reasonably comparable position, earning a rate of pay and producing compensation equal to or exceeding the rate of pay and compensation of his former position; or
- (b) When the position he holds is not abolished or materially changed, but he is bumped from that position directly or indirectly as a result of the exercise of seniority rights by another employee whose position is so abolished or materially changed, if he is unable, by the exercise of his seniority rights to secure another reasonably comparable position producing compensation equal to or exceeding the rate of pay and compensation of his former position.

An employee shall not be regarded as having been placed in a worsened position with respect to his employment within the meaning of this paragraph in the case of his resignation, death, retirement, dismissal for cause, or failure to work due to disability or discipline, or failure to obtain such a reasonably comparable position available to him in the exercise of his seniority rights in accordance with existing agreements.

The phrase "As a result of the Project," within the meaning of this paragraph, shall include the acquisition and use of the new transit buses and any other changes or events occurring in anticipation of, during, and subsequent to the Project.

- (3) Any dispute or controversy arising between any employee and the Town of Chapel Hill Transit System or between his representative and the Town of Chapel Hill Transit System, regarding the application, interpretation, or enforcement of the provisions of this arrangement, which cannot be settled within thirty (30) days after the dispute or controversy first arises, may be submitted at the written request of the Town of Chapel Hill Transit System, the employee or designed representative to any final and binding disputes procedure acceptable to the parties, or in the event they cannot agree upon such procedure, to the Department of Labor or its designee for purposes of final and binding determination of all matters in dispute. The Town of Chapel Hill Transit System will post in a prominent and accessible place where employees of the Town of Chapel Hill Transit System are employed, a notice informing such employees that the System is a recipient of federal assistance under the Act and that the System has agreed to comply with the provisions of Section 13(c). The notice shall also include a copy of this resolution and specifically inform employees of their right to refer claims and disputes arising thereunder to the Department of Labor for determination. The Town of Chapel Hill Transit System shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the determination of claims arising under these conditions.
- (4) Nothing in this resolution shall be construed as depriving any employee of any rights or benefits which such employee may have under existing employment or collective bargaining agreements, nor shall this agreement be deemed a waiver of any rights of any labor organization or represented employee derived from any other arrangement or agreement or provision of federal, state, or local law. However, no employee entitled to monetary benefits under this arrangement and any other agreement or agreements will be paid more than the compensation afforded by the most favorable agreement or arrangement.
- (5) This resolution shall be binding upon the successors and assigns of the parties hereto and they shall agree to be bound by the terms of this arrangement and accept the responsibility for full performance of these conditions.
- (6) In the event any provision of the resolution is held to be invalid or otherwise unenforceable under federal, state, or local law, such provision shall be re-negotiated for purpose of adequate replacement under Section 13(c) of the Act. If such negotiations shall not result in mutually satisfactory arrangement, the Town of Chapel Hill agrees that any person affected by this project may invoke the procedure set forth herein to determine substitute fair and equitable employee protection arrangements which shall be incorporated in this resolution, and/or any other appropriate action, remedy, or relief.
- (7) In the event this Project is approved for assistance under the Act, the foregoing terms and conditions shall be made part of the Contract of Assistance, provided, however, that this resolution shall, nevertheless, be independently binding and enforceable by and upon the parties hereto, in accordance with its terms.
- (8) Any employee covered by this resolution who has been terminated or laid off for lack of work, shall be granted priority of employment to fill any vacant position in the Town of Chapel Hill's transit system for which he is, or by training or retraining can become, qualified. In the event training or retraining is required by such employment or reemployment, the Town of Chapel Hill, or other operator of the transit system, shall provide or provide for such training or re-training at no cost to the employee, and such employee shall be paid, while training or re-training, the salary or hourly rate of his former job classification or the training rate of the classification for which he is training, whichever is higher.

- (9) The Town of Chapel Hill recognizes and agrees that Federal financial assistance to this Project will be extended in reliance on these conditions and agrees to assume responsibility for performance of these conditions.
- (10) No employee covered by these terms and conditions shall be denied employment, nor any right, privilege, or benefit pertaining thereto, by reason of membership or non-membership in a labor organization, or by reason of representation or non-representation by such labor organization, except as may be provided by applicable laws.
- (11) The foregoing terms and conditions shall apply only in the event the Project is approved for assistance under the Act.

This the 23rd day of February, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Resolution Authorizing the Filing of A Grant Application to the Governor's Highway Safety Program

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER KAWALEC, ADOPTION OF THE FOLLOWING RESOLUTION.

LOCAL GOVERNMENTAL RESOLUTION (81-R-30)

WHEREAS, the Chapel Hill Town Council herein called the "Applicant" has thoroughly considered the problem addressed in the application entitled Selective Traffic Enforcement Planning and Development grant and has reviewed the project described in the application; and

WHEREAS, under the terms of Public Law 89-564 as amended, the United States of America has authorized the Department of Transportation, through the North Carolina Governor's Highway Safety Program to make federal grants to assist local governments in the improvement of highway safety,

NOW THEREFORE BE IT RESOLVED by the Chapel Hill Town Council in open meeting assembled in the city of Chapel Hill, North Carolina. This the 23rd day of February, 1981, as follows:

- 1. That the project referenced above is in the best interest of the applicant and the general public.
- 2. That Chief Herman Stone/B. J. Campbell be authorized to file, in behalf of the applicant, an application in the form prescribed by the Governor's Highway Safety Program for federal funding in the amount of \$5,000 to be made to the Applicant to assist in defraying the cost of the project described in the application.
- 3. That the Applicant has formally appropriated the cash contribution of -0- (local cash appropriation) as required by the project.
- 4. That the project director designated in the application form shall furnish or make arrangements for other appropriate persons to furnish such information, data, documents and reports pertaining to the project, if approved, as may be required by the Governor's Highway Safety Program.
- 5. That certified copies of this resolution be included as part of the application referenced above.
- 6. That this resolution shall take effect immediately upon its adoption.

This the 23rd day of February, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

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Ordinances Revising Traffic control Measures in the Clayton Road and Curtis Road Area

Mr. Hawley spoke to the recommendations of the residents of the 400 block of Clayton Road as presented in a petition to the Council in April 1980. In August 1980, the residents submitted a second petition. They had then met with the Transportation Board and the Streets and Public Safety Committee to study the issue of traffic. The petition requested a stop sign at either end of the 400 block of Clayton Road. Mr. Hawley discussed the traffic problems and in his opinion their causes. The residents wanted the Council to try to eliminate some of the traffic through their neighborhood.

Mr. Lindall represented many of the residents on the 300 block of Clayton Road who opposed the stop sign at the intersection of Clayton and Audobon. They did not think the stop sign would change the driving habits of people going through the community. The stop sign at the bottom of the hill would create a problem for residents in snow and ice. They would not be able to drive up the hill to reach their homes.

Mr. Hooper reviewed the recommendation of the staff to alleviate the traffic problems in this area. The Town Engineer believed a stop sign and Curtis and Clayton would cause additional problems.

Councilmember Smith asked if the staff was planning a crosswalk across Elliott at the intersection with Curtis. Mr. Hooper said they staff would prefer to wait to see what difference improving the sight distances made. Councilmember Smith thought that by not installing the stop signs the Town would be encouraging traffic. Mr. Hooper did not think the Town would be encouraging more traffic.

Councilmember Howes did not think the proposed solutions were going to make much difference in the amount of traffic using Clayton Road. He did not think a 4-way stop at the end of 2 cul-de-sacs was a good idea. COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER STRALEY, ADOPTION OF THE FOLLOWING ORDINANCE.

AN ORDINANCE AMENDING CHAPTER 21 (81-O-4)

BE IT ORDAINED by the Town Council of the Town of Chapel Hill that Chapter 21 of the Code of Ordinances, Town of Chapel Hill, be amended as follows:

ADD: Section 21-6

- (f) It shall be unlawful to operate a truck on Clayton Road between Curtis Road and Audubon Road, and on Audubon Road between Clayton Road and Elliott Road, except local delivery trucks making deliveries to houses in the area; it being the intent of the subsection to close portions of said streets to through trucks.

This the 23rd day of February, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Mr. Lathrop said the Transportation Board had discussed the matter at length. He noted that stop sign and traffic signals installed where they were not needed nor expected caused accidents. Mr. Lathrop did not think stop signs on Clayton Road would make much difference. He thought the recommendations of the Transportation Board would restore normalcy to the intersection of Curtis and Elliott and that of Clayton and Curtis.

Councilmember Straley suggested the 15 MPH "suggested speed" sign be installed at the intersection of Curtis and Clayton. Mr. Denny objected as this would have no effect. He advised the Council to either lower the speed limit to 15 MPH or not to install a sign. Councilmember Smith objected as the 15 MPH would only apply to turning traffic.

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER STRALEY, THAT THE MANAGER BE INSTRUCTED TO DRAFT AN ORDINANCE FOR INSTALLING STOP SIGNS AT THE WESTERN END OF CLAYTON ROAD AT CURTIS, AND AT THE END OF CLAYTON ROAD AT AUDOBON. THE MOTION WAS DEFEATED BY A VOTE OF SIX TO TWO WITH COUNCILMEMBERS SMITH AND STRALEY SUPPORTING AND COUNCILMEMBERS HERZENBERG, HOWES, KAWALEC, WALLACE, THORPE AND MAYOR NASSIF OPPOSING.

Ordinance to Amend Section 21-27 Revising Parking Restrictions on Colony Court

COUNCILMEMBER HERZENBERG MOVED, SECONDED BY COUNCILMEMBER SMITH, ADOPTION OF THE FOLLOWING ORDINANCE.

AN ORDINANCE TO AMEND SECTION 21-27 (REPEAL PRESENT NO PARKING RESTRICTION AT ALL TIMES ON SOUTH SIDE OF COLONY COURT) (81-O-18)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Council hereby amends Section 21-27 of the Code of Ordinances of the Town of Chapel Hill as follows:

DELETE:

<u>Street</u>	<u>Side</u>	<u>From</u>	<u>To</u>
Colony Court	Both	Mallette	East End

ADD:

Colony Court	North	Mallette	East End
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This the 23rd day of February, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

COUNCILMEMBER HERZENBERG MOVED, SECONDED BY COUNCILMEMBER SMITH, ADOPTION OF THE FOLLOWING ORDINANCE.

AN ORDINANCE TO AMEND SECTION 21-27.1 (a) (PARKING RESTRICTION ON THE SOUTH SIDE OF COLONY COURT 8 A.M. - 5 P.M. DAILY) (81-O-19)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Council hereby amends Section 21-27.1 (a) of the Code of Ordinances of the Town of Chapel Hill as follows:

ADD:

<u>Street</u>	<u>Side</u>	<u>From</u>	<u>To</u>
Colony Court	South	Mallette	East End

This the 23rd day of February, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Monthly Reports

Mr. Shipman had submitted the monthly financial report and CIP report to the Council. There were no questions.

Ordinance Amending the Budget

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER KAWALEC, ADOPTION OF THE FOLLOWING ORDINANCE.

AN ORDINANCE AMENDING THE "ORDINANCE CONCERNING APPROPRIATIONS AND THE RAISING OF REVENUES FOR THE FISCAL YEAR BEGINNING JULY 1, 1980" (81-O-20)

ARTICLE I

<u>Appropriation</u>	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
GENERAL FUND				
Town Manager --Administration	139,204	1,405	---	140,609
Finance --Administration	100,341	6,250	---	106,591
GENERAL REVENUE				
SHARING FUND	547,289	6,250	---	553,539

ARTICLE II

<u>Revenue</u>	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
GENERAL FUND				
Other Revenues	26,300	1,405	---	27,705
Interfund Transfer	677,789	6,250	---	684,039
GENERAL REVENUE				
SHARING FUND	547,289	6,250	---	553,539

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

This the 23rd day of February, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Report Concerning Community Watch Program

The Manager had submitted a report on allowing Community Watch signs on the right-of-way as requested by the Council. Mayor Nassif disagreed with the recommendation not to allow the signs on the right-of-way. The State and other cities permitted this.

Councilmember Howes agreed and moved, seconded by Councilmember Thorpe, that the Manager be instructed to prepare an ordinance to this effect. The motion was carried by a vote of seven to one with Councilmembers Howes, Kawalec, Smith, Straley, Thorpe, Wallace and Mayor Nassif supporting and Councilmember Herzenberg opposing.

Report Concerning Operation of W. Franklin Street Parking Lot

The report had been submitted to the Council. there were no questions.

Resolution Authorizing the Housing Authority to Record Moderate Rehabilitation Agreements

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION AUTHORIZING AND DIRECTING THE CHAPEL HILL HOUSING AUTHORITY TO ACT IN BEHALF OF THE TOWN OF CHAPEL HILL WITH RESPECT TO CERTAIN PROPERTY COVENANTS (81-R-31)

THAT WHEREAS, the Town of Chapel Hill in connection with certain loans and grants to property owners to improve housing accommodations within the Town of Chapel Hill, is requiring that said owners covenant and agree to devote said properties available for certain purposes consistent with the program for a number of years; and

WHEREAS, said program is being administered by the Chapel Hill Housing Authority in behalf of the Town of Chapel Hill; and

WHEREAS, the Town of Chapel Hill desires to designate the Chapel Hill Housing Authority as the proper party in interest to execute said agreements with said property owners for and in behalf of itself, and the Town of Chapel Hill;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CHAPEL HILL, that the Chapel Hill Housing Authority be and it is hereby designated as the proper party to execute all covenants and agreements with property owners, who are receiving assistance from the Town in the repair, improvement, and rehabilitation of their properties, and that as a condition to said grant or loan for said purposes, it is required that the property owner make available said property for the purposes consistent with the program and to execute and record a covenant dedicating and restricting said use as aforesaid, and for the time set forth therein.

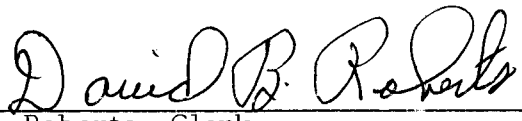
This the 23rd day of February, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

There being no further business to come before the Council, the meeting was adjourned at 10:15 p.m.



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Joseph L. Nassif, Mayor



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David B. Roberts, Clerk