

MINUTES OF A MEETING OF THE MAYOR AND COUNCIL OF THE TOWN OF CHAPEL HILL,  
MUNICIPAL BUILDING, MONDAY, FEBRUARY 22, 1982, 7:30 P.M.

Mayor Nassif called the meeting to order. Present were:

Marilyn Boulton  
Winston Broadfoot  
Jonathan Howes  
(David Pasquini arrived later)  
Joe Straley  
Jim Wallace

Councilmembers Kawalec and Pasquini were excused absences for personal reasons and Councilmember Smith was excused due to illness. Also present were Mr. David Taylor, Town Manager; Ms. Sonna Loewenthal, Assistant Town Manager; and Mr. Emery Denny, Town Attorney.

Petitions

Mayor Nassif advised that since petitions were not on the agenda and since three members of the Council were absent, no action could be taken.

Councilmember Wallace requested that the Minutes of January 8, 1982 be corrected to reflect his presence at that meeting. Mayor Nassif instructed the Deputy Town Clerk to alter the Minutes of January 8, 1982, accordingly.

Michael Kennedy petitioned the Council to "... endorse the February 27th Fort Bragg Coalition." The Coalition was a group of individuals protesting "... the training of Salvadoran troops at Fort Bragg, and ... the American military support to the ruling junta in El Salvador." (The petition is on file in the Clerk's Office.)

Mr. Kennedy stated that he understood that Council could take no action on this petition at this time, but urged Council to consider endorsement of this group, as it would continue in its existence after the trip to Fort Bragg.

COUNCILMEMBER BROADFOOT MOVED THAT COUNCIL REJECT THE PETITION. He stated that he felt that this request was "totally outside the purview and authority of the municipal government in Chapel Hill." COUNCILMEMBER WALLACE SECONDED THE MOTION. Councilmember Wallace stated that he felt that this was an issue that the Council could not support, even though he, as an individual, concurred with the request.

Mr. Denny advised Council that a present member of the Council could object to taking action on any item not on the agenda when all members were not present.

Councilmember Straley stated that he was considering drawing up a resolution to support the concept that the United States should not be involved in training troops on our soil to fight in a foreign land. As he hoped to present this resolution to the Council in the near future, he expressed objection to taking any action on the motion. He felt it was not appropriate for Council to make such a decision on such short notice.

Councilmember Wallace concurred with statements made by Councilmember Straley and Mr. Denny.

On advice of Mr. Denny, Mayor Nassif stated that Council would take no action on the motion at this time, as there was objection to the motion.

Councilmember Wallace withdrew his second to the motion. Councilmember Broadfoot, however, did not wish to withdraw his motion, stating that he wished to go on record as totally objecting to the petition and would again express opposition should other such similar circumstances arise in the future. (With Councilmember Straley's objection to the motion, the motion was no longer viable.)

There were no further petitions.

Councilmember Howes informed the Council that he had distributed the agenda of the Triangle J Council of Governments for the meeting scheduled for February 24, 1982.

Minutes

COUNCILMEMBER BOULTON MOVED, SECONDED BY COUNCILMEMBER STRALEY, TO ADOPT THE MINUTES OF FEBRUARY 8, 1982, AS CIRCULATED. THE MOTION CARRIED UNANIMOUSLY (6 TO 0).

Report on Re-Evaluation of the New Zoning Ordinance

Mr. Jennings, Planning Director, presented the report. Through resolution Council had requested a re-evaluation of the Zoning Ordinance (adopted May 11, 1981, as amended). (Staff was also directed to consider (1) provisions for a Flood Hazard District, and (2) provisions for tree regulations.)

Procedural changes were discussed and all changes were felt to have effected a much improved process.

New concepts were discussed: the Land Use Intensity System, the Planned Development approach, and the Zoning Compliance Permit; all concepts were felt to be working satisfactorily.

Changes in residential intensity had caused concerns regarding the potential effect of the reclassification of R-20 property to R-1: (1) that property owners would be able to build or convert their houses to duplexes, and (2) denser multi-family projects could be built. Staff believed that the new Zoning Ordinance provided a reasonable and more effective control over density than the old Zoning Ordinance.

At the time Council adopted the new Zoning Ordinance, Council did not adopt a provision for a Flood Hazard District. Council directed staff and Planning Board to re-evaluate this provision. After consideration, staff and Planning Board believed that the current Flood Plain management programs were reasonable and that previously proposed restrictions on development in the Flood Plain could not be justified. Should flooding occur, the Town could take measures to prevent losses and to relocate buildings from the affected areas. Such actions were not believed to be necessary at this time.

Regarding tree provisions, staff felt that no additional use protection measures were necessary or appropriate, as the current Zoning Ordinance adequately encouraged retention of existing trees.

Overall, staff and Planning Board felt that no major revisions of the Zoning Ordinance were necessary at this time.

Mr. Roscoe Reeve, Chairman of the Planning Board, stated the desire of the Planning Board to review any last minute revisions to proposals before Council's final decision.

In addition to the ongoing "fine tuning" of the Zoning Ordinance, the Planning Board was in the process of evaluating the Comprehensive Plan. The impact of the Zoning Ordinance was not entirely discernable at this point of its existence, but the Planning Board felt citizens were beginning to realize that the new Zoning Ordinance provided more protection for the existing residential areas of Town and provided the more efficient use of in-Town land in multi-family development than did the old Zoning Ordinance.

The Planning Board concurred with staff recommendations regarding the Flood Hazard District and tree ordinance, feeling that such control of either could pose a potential situation that would be more damaging than supportive. Concerns for the low lands would, however, be monitored.

Councilmember Howes expressed concern that even though the public hearing was, technically, at the end of the process, it should not be implied that changes could not be made. Information heard at a public hearing could have impact on the outcome of a proposal. In addition, he felt that issues heard at a public hearing should not be placed on the agenda for final action until minutes of that hearing were available to Council. He concurred with staff and Planning Board recommendations regarding the Flood Hazard District and tree ordinance at this time. He expressed concern, however, that issues concerning the Flood Hazard District should be dealt with before any damage occurred.

Councilmember Wallace expressed dissatisfaction at the recommendation of the staff and Planning Board regarding the Flood Hazard District. He felt that this was another unnecessary delay, tying up several hundred thousands, if not millions, of

dollars of low-lying property whose owners were at a loss as to what they could do with it. He felt that the Town should be able to advise owners on the value of this property. Mayor Nassif asserted that staff recommendation did, in actuality, leave this property as currently zoned and could, therefore, be developed according to that zoning. Councilmember Wallace felt that this zoning would only cause a loss of money to property owners. He wished to see a recommendation from staff and Planning Board for Council consideration by the end of 1982, preferably before the end of the Fiscal Year.

COUNCILMEMBER BOULTON MOVED, SECONDED BY COUNCILMEMBER STRALEY, TO REFER THE MATTER TO THE MANAGER AND THE MAYOR FOR DISCUSSION AND TO REPORT BACK TO COUNCIL.

THE MOTION CARRIED UNANIMOUSLY (6 TO 0).

Ordinance Amending the Chapel Hill Zoning Ordinance

This issue was before Council on February 8, 1982. At the request of the Community Appearance Commission (CAC), action was delayed. Mr. Jennings presented an ordinance recommended by staff.

Ms. Grace Wagoner, a member of the CAC, presented an ordinance proposed by the Commission, enumerating the differences between their proposed ordinance and that of the staff.

In response to a question from Councilmember Broadfoot, Ms. Wagoner responded that the CAC's ordinance basically indicated that "bigger was not necessarily better," and that a product would sell itself. Mr. Jennings responded that the ordinance proposed by staff took on a more liberal viewpoint.

Councilmember Straley presented a revision of the ordinance, seeking to incorporate the most favorable aspects of both staff's recommended ordinance and the recommended ordinance of the CAC.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER STRALEY, TO ADOPT ORDINANCE 82-O-11c.

Mr. Jennings, responding to a question from Councilmember Boulton, stated that staff's recommendation would make fewer signs non-conforming. Councilmember Straley's recommendation would continue to allow non-conforming signs. Councilmember Straley stated that it was not his intent to effect an ordinance that would merely promote conformity, but rather to describe what quality of sign was desirable to the community.

Councilmember Howes felt that the ordinance should show additional wording to encourage sign creativity through the use of a special permit. Mr. Jennings stated that staff desired to respond to that issue in a more comprehensive manner at a later date.

Ms. Wagoner stated that the CAC supported Councilmember Straley's ordinance, except for the following subsection, which they would prefer to have deleted:

- 6.13.8 c) Free-standing signs shall be limited to one sign per street frontage of one hundred (100) feet or more, and shall not be located closer than fifty (50) feet to any other free-standing sign;

COUNCILMEMBER WALLACE (maker of the motion) AND COUNCILMEMBER STRALEY (seconder of the motion) AGREED TO DELETE SUBSECTION 6.13.8 c) FROM THE PROPOSED ORDINANCE, THEREBY ADOPTING THE FOLLOWING ORDINANCE, AS AMENDED:

AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ORDINANCE (82-O-11c)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Zoning Ordinance be amended as follows:

SECTION I

Replace the following Subsections with the following wording:

#### 6.13.4 Signs Exempt from Regulation

The following signs are exempt from regulation and permit requirements under this section provided such signs comply with the provisions of Subsection 6.13.5.

- a) Signs bearing only property identification numbers and names, post office box numbers, names of occupants of the premises, or other identification of premises not of a commercial nature, provided such signs are not illuminated and do not exceed two (2) signs per zoning lot nor two (2) square feet in area per display surface.
- f) Real estate signs advertising the sale, rental, or lease of the premises on which said signs are located, provided such signs do not exceed one sign per street frontage and four (4) square feet in area per display surface for property zoned residential; sixteen (16) square feet per display surface for property zoned non-residential or located within an approved planned development other than a PD-H; and are removed immediately after sale, rental, or lease of the premises.
- g) Construction site identification signs whose message is limited to identification of architects, engineers, contractors, and other individuals or firms involved with the construction, the name of the building, the intended purpose of the building, and the expected completion date, provided such signs do not exceed one sign per construction site and four (4) square feet in area per display surface for single family or duplex construction; and thirty-two (32) square feet in area per display surface for multifamily or non-residential construction, are not erected prior to issuance of a Building Permit, and are removed within seven (7) days of issuance of a Certificate of Occupancy.
- h) Temporary political signs advertising candidates or issues, provided such signs do not exceed one sign per zoning lot nor four (4) square feet in area per display surface, are not erected prior to thirty (30) days before the appropriate election, and are removed within seven (7) days after the election.
- i) Yard or garage sale signs announcing yard or garage sales, provided such signs do not exceed one sign per site of such sale nor four (4) square feet in area per display surface, and are removed within seven (7) days of erection.
- j) Public event announcements by public or non-profit organizations of special events or activities of interest to the general public, provided such signs do not exceed one sign per site of such events or activities nor twelve (12) square feet in area per display surface, and are removed within fourteen (14) days of erection.
- k) Temporary signs announcing grand openings of new businesses only, provided such signs are attached to the building in which the business is located, do not exceed thirty-two (32) square feet of display area per business site, and are displayed for a period not to exceed twenty-one (21) days.
- l) Signs in the Town Center 1 and 2 districts which are no more than six (6) square feet in area per display surface. This provision applies only to changeable or moveable signs which are limited to one (1) per business.

#### 6.13.6 General Limitations

Except where specifically exempted by this chapter, all signs, including the supports, frames, and embellishments thereto, shall not be located within any public right-of-way, nor shall any sign be attached, affixed, or painted on any utility pole, light standard, telephone or telegraph pole, any tree, rock, or other natural object.

No display surface shall contain more than ten (10) items of information except where the name of the occupant of the premises contains more than ten (10) items of information and the display surface contains only the name of the occupant. An item of information means any of the following: a syllable of a word; an abbreviation; a number; a symbol; a geometric shape. In computing items of information, letters less than three (3) inches in height, if contained in a wall sign, shall not be counted. No source of illumination of a sign, such as floodlights or spotlights, shall be directly visible from any public right-of-way, from any Residential district, or from adjacent properties. Internally illuminated signs shall consist of a dark background and a light message where traffic safety would dictate as determined by the Town Manager. Neon tube and like illumination shall be prohibited except as internal illumination.

Animated, rotating, or other moving or apparently moving signs shall be prohibited.

Devices consisting of banners, streamers, pennants, windblown propellers, strung light bulbs, and similar installations shall be prohibited unless approved by the Town Manager for non-commercial enterprises.

- 6.13.8
- d) No free-standing sign shall be permitted on the same street frontage of the same zoning lot along which there is a projecting sign;
  - f) The message of free-standing signs shall be limited to the name(s), trademark(s) and servicemark(s) of the establishment(s) located on the zoning lot and/or of a multi-use development located thereon, except that free-standing signs identifying theaters or service stations may also identify the current presentation(s) or fuel prices, as appropriate.
  - g) The maximum area per display surface for free-standing signs as contained in Subsection 6.13.9 may be doubled by reducing the allowable wall sign area for the zoning lot by an equivalent amount.
  - h) Free-standing signs shall be of a shape such that the ratio between the maximum and minimum dimensions shall not exceed 2 to 1.

## 2. Projecting Signs

Projecting signs may be erected and displayed on a zoning lot or over a public right-of-way in TC-1 and TC-2 Districts in compliance with the maximum area per display surface limitations contained in Subsection 6.13.9, provided:

- a) The building to which a projecting sign is attached shall be twenty (20) feet or more in width, except in TC-1 and TC-2 Districts where no minimum width shall apply.
- b) Projecting signs shall be limited to one sign per business establishment.
- c) No projecting sign shall be permitted on the same zoning lot street frontage along which there is a free-standing sign.
- g) The message of projecting signs shall be limited to the name(s), trademark(s) and servicemark(s) of the establishment(s) located on the zoning lot and/or the name, trademark and servicemark of a multi-use development located thereon.

## 3. Wall Signs

Wall signs may be erected and displayed on a zoning lot in compliance with the maximum percentage of facade coverage limitations contained in Subsection 6.13.9, provided:

- a) Wall signs placed in the space between windows located one above the other shall not exceed in height two-thirds (2/3) of the distance between the bottom and the top of the taller of the adjacent windows.

- b) Wall signs placed in the space between windows located beside each other shall not exceed in height two-thirds (2/3) of the distance between the bottom and the top of the taller of the adjacent windows.
- c) No wall sign shall protrude more than twelve (12) inches from the wall to which it is attached.
- d) No wall sign shall extend above the parapet or eave line, as appropriate, of the building to which it is attached. If the building consists of more than two (2) stories, wall signs shall not extend above the second story.
- e) The display area of wall signs painted on, affixed to, or otherwise displayed on or through a facade window shall not exceed fifteen percent (15%) of the area of the window.
- f) Wall signs shall not cover or interrupt major architectural features.
- g) The message of wall signs shall be limited to the name(s), trademark(s) and servicemark(s) of the establishment(s) located on the zoning lot and/or of a multi-use development located thereon. Additionally, the message of wall signs may include information necessary to direct patrons to the business where the business may not have a direct entrance from the street or pedestrian way.

#### 4. Marquees

Marquees may be erected and displayed on a zoning lot in compliance with the maximum percentage of facade coverage limitations for wall signs contained in subsection 6.13.9, provided:

- a) A marquee shall not extend more than ten (10) feet from the building nor be less than nine (9) feet above the ground or sidewalk at the lowest point.

#### 5. Drop Awnings

Drop awnings may be erected and displayed on a zoning lot in compliance with the maximum percentage of facade coverage limitations for wall signs contained in Subsection 6.13.9, provided:

- a) that when such drop awning is let down to its fullest extent, no metal bar or other solid or hollow framing shall be less than eight (8) feet above the ground or sidewalk; and
- b) that a flexible cloth, canvas or similar skirt may hang twelve (12) inches below the horizontal bar supporting the awning, but in no case shall the skirt be less than seven (7) feet above the ground or sidewalk at the lowest point.

- 6.13.10 a) Development identification signs containing the name, trademark and servicemark of a planned development, provided such signs are limited to one free-standing sign at each principal point of access to the development, forty (40) square feet in area per display surface, and a maximum height of thirty-four (34) feet;
- c) Identification signs for individual establishments containing the name(s), trademark(s) and servicemark(s) of the establishments, provided such signs are limited to wall signs with a maximum display area of thirty (30) square feet.

#### 6.13.11 Sign Area and Number

The area of a display surface of a sign shall be computed as including the entire area visible from any one point, within a regular geometric form or combination of forms, comprising all of the display area of the surface and including all of the elements of the matter displayed and the sign frame. Structural members not bearing advertising matter shall not be included in the computation of sign area.

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## 6.12 Bufferyards and Screening

### 6.12.1 Purpose of Bufferyards

Bufferyards shall be required to separate significantly different land uses on adjacent zoning lots in order to minimize potential nuisances such as the transmission of noise, dust, odor, litter, and glare of lights; to reduce the visual impact of unsightly aspects of adjacent development; to provide for the separation of spaces; and to establish a sense of privacy.

### 6.12.2 Bufferyards Required

A bufferyard is a strip of yard together with the screening required thereon. The required width of the bufferyard between land uses on adjacent zoning lots is set forth in the matrix shown in Figure 6-2. Where the adjacent zoning lots are both located within either Town Center District, no bufferyard shall be required.

### 6.12.3 Location of Bufferyards

Bufferyards shall be located along the common boundary of the adjacent zoning lots except where such boundary is intersected by a joint access way or parking area. Bufferyards shall not be located on any portion of an existing or dedicated public or private street or right-of-way.

### 6.12.4 Screening Within Bufferyards

Screening composed of intermittent visual obstructions from the ground up to a height of at least twenty (20) feet shall be provided within a required bufferyard. Such screening is intended to provide separation of spaces without necessarily eliminating visual contact between the spaces, and may consist of existing vegetation, planted vegetation, a landscaped earth berm, a decorative wall, a wood fence, or a combination of the above.

Where screening is to be provided by existing or planted vegetation, such vegetation shall be composed of a mix and distribution of canopy trees, understory trees, shrubs, and evergreens appropriate to the required degree of visual screening and separation of spaces. Compliance of existing or planted vegetation with these requirements shall be determined based on field observation of existing vegetation and the average mature height and density of foliage of existing and/or proposed vegetative types or species.

Where screening is to be partly provided by a decorative wall or a wood fence, vegetation shall be planted along such structures so as to visually break up lengthy expanses of the structure and to provide a transition of heights to the ground level.

### 6.12.5 Use of Bufferyard

Provided the required bufferyard width and screening is maintained, a bufferyard may contain utilities, pedestrian and bicycle paths, and other minor or passive uses compatible with the general separation of land uses.

### 6.12.6 Responsibility for Bufferyard

Where vacant zoning lots are adjacent, the first zoning lot to be developed shall provide the bufferyard required next to vacant land. At the time it is developed, the second zoning lot shall provide all additional screening and/or land necessary to provide the total bufferyard required between the developed land uses.

Where a bufferyard meeting the requirements of this section is provided on an adjacent zoning lot, the screening and/or land within that bufferyard may be counted as contributing to the total bufferyard required between the adjacent existing land use and the proposed land use.

### 6.12.7 Other Required Screening

In addition to the bufferyard screening required above, and the screening required for off-street parking (Section 6.6.6) and for refuse

storage facilities (Section 6.11), all business, service, repair, processing, storage, or merchandise display conducted outside of an enclosed building shall be screened from adjacent streets and properties by means of an effective screening device of a height appropriate to its screening function. Appropriate screening devices may include solid decorative brick walls, wood fences, berms, tight evergreen hedges which shall reach the necessary height within two (2) years of planting, or combination of the above.

6.12.8 Alternative Buffers and Screening

In lieu of compliance with the above bufferyard and screening requirements, a developer may submit to the Appearance Commission for its approval a detailed plan and specifications for landscaping and screening which will afford a degree of buffering and screening equivalent to or exceeding that provided by the above requirements.

6.12.9 Existing Vegetation

The retention of existing vegetation shall be maximized to the extent practicable wherever such vegetation contributes to required buffering and screening or to the preservation of significant trees.

6.12.10 Maintenance of Landscaping

All landscaping and screening providing required buffering and screening shall be maintained so as to continue their effectiveness.

FIGURE 6-2. Buffer Matrix

Abutting Use	Vacant Land	Dwelling, single or two-family	Dwelling, multi-family	Any use in Use Group B	Automotive repair, maintenance and/or storage facility light manufacturing, supply yard	Any use in Use Group C other than the above	Limited-access highway
Dwelling, single- or two-family	0	0	5	10	20	15	20
Dwelling, multi-family	5	5	0	10	20	15	20
Any principal use in Use Group B	10	10	10	0	15	10	20
Automotive repair, maintenance and/or storage facility, light manufacturing, supply yard	20	20	20	15	0	5	20
Any principal use in Use Group C other than the above	15	15	15	10	5	0	20

SECTION II

That all ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 22nd day of February, 1982.

Mayor Nassif questioned the necessity of increasing the sizes of temporary signs. Councilmember Boulton felt that the increase in the size was to promote readability for moving traffic.

THE MOTION CARRIED UNANIMOUSLY (6 TO 0).



Resolution Concurring with the Manager's Determination that Proposed Changes to Kroger Plaza Constitute a Modification of Its Special Use Permit

The request, to allow connection between Kroger Plaza and Lowe's parking areas, had been presented at the February 8, 1982 meeting. Mr. Bob Anderson, representing Kroger Plaza, petitioned Council for this review. Council had referred the petition to Manager and staff for review and recommendation.

Mr. Jennings reported that, after consideration, staff felt that the request constituted major changes, according to the Zoning Ordinance criteria. Changes in pedestrian or vehicular accesses or circulation were viewed by staff as substantial, as it required a commitment from Lowes to cooperate and to provide traffic safety improvements on the Lowes property. Staff recommended that the owner request a modification of the Special Use Permit to create this access, and that Council adopt Resolution 82-R-29a. Planning Board concurred with staff recommendation.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER HOWES, TO ADOPT THE FOLLOWING RESOLUTION:

A RESOLUTION CONCURRING WITH THE MANAGER'S DETERMINATION THAT PROPOSED CHANGES TO KROGER PLAZA CONSTITUTE A MODIFICATION OF ITS SPECIAL USE PERMIT (82-R-29a)

WHEREAS, the request of Charles Ginn to allow a permanent vehicular opening between the Kroger Plaza property (Tax Map 46, Block B, Lot 8) and the adjacent Lowe's property (Tax Map 45, Block C, Lot 1) would create a substantial change in vehicular access;

THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby concurs with the Manager's determination that the request constitutes a modification of the Kroger Plaza Special Use Permit.

This the 22nd day of February, 1982.

Councilmember Wallace asserted that this request could have been considered at the time of the initial project consideration, concurring with staff recommendation to consider this request as a modification of a Special Use Permit.

THE MOTION CARRIED UNANIMOUSLY (6 TO 0).

Report on Citizen Survey and Policy on Fees and Charges of the Recreation Department

Mr. Raymond Burby, Chairman of the Parks and Recreation Commission, presented an overview of the recent citizen survey regarding Town parks and recreation facilities. The report included the multiple aspects of park facilities and uses and the diverse ages of participants as well as fees charged by the Recreation Department. (Please refer to files in the Clerk's Office for a copy of the report.)

Councilmember Howes commended the survey and its inherent value to demonstrate changes in townspersons' preferences. He supported the appropriation of funds for this type of survey. Councilmember Wallace concurred.

Mr. Burby requested that Council continue to delegate the authority of establishing fees and charges to the Parks and Recreation Commission, adding that the current fees and charges policy was being used as a model across the state to other recreation departments who wished to establish user fees as a means of raising revenue.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER STRALEY, TO RECEIVE THE REPORT WITH APPRECIATION AND TO INFORM THE COMMISSION THAT THEY DID HAVE THE POLICY OF ESTABLISHING FEES AND THAT THAT POLICY WOULD BE DISCUSSED IN THE UPCOMING BUDGET FOR COUNCIL CONSIDERATION.

Councilmember Pasquini arrived at this time.

Councilmember Broadfoot expressed his dissatisfaction with the level of current fees, desiring to see a greater percentage of return of user fees. He wished to address this issue in more detail at a future date.

He inquired of Mr. Burby if persons who could not afford to pay established fees were allowed to negotiate a fee waiver with the Recreation Department. Mr. Secrist, Director of Parks and Recreation, responded to the question that such determinations were made on an individual basis. Councilmember Broadfoot requested that such a waiver not be allowed in any instance, but did not choose to pursue this matter further at this time.

THE MOTION CARRIED UNANIMOUSLY (7 TO 0).

Audit Report for the Fiscal Year Ended June 30, 1981

Mr. Jim Ross of Peat, Marwick, and Company, presented the report (please refer to files in the Clerk's Office).

Mr. Ross stated that there had been changes in the format of the financial statements from the previous year. The changes, however, were consistent with the accounting procedures prescribed by the National Council on Governmental Accounting (NCOG) in its Statement 1, "Governmental Accounting, Auditing and Financial Reporting Principles." This required that these changes be incorporated into financial statements submitted for review.

Mr. Ross stated that this change would preclude one from making an informed decision by comparing the documents of the previous year with those submitted for FY 1980-1981.

Councilmember Wallace stated that according to information available to him these changes represented the largest single set of revisions by auditors in a considerable length of time.

Mr. Ross offered his time in meeting with Councilmembers to aid in the individual comprehension of this material.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER BOULTON, TO ACCEPT THE REPORT WITH APPRECIATION AND TO ASK THE MANAGER TO REQUEST THAT MR. ROSS OR A REPRESENTATIVE OF HIS FIRM BE AVAILABLE TO COUNCIL TO ANSWER ANY QUESTIONS AT A FUTURE TIME.

Councilmember Wallace felt that any issues discussed during such meetings should be brought back to Council for discussion.

THE MOTION CARRIED UNANIMOUSLY (7 TO 0).

Consent Agenda

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER HOWES, TO ADOPT THE FOLLOWING RESOLUTION:

A RESOLUTION ADOPTING VARIOUS RESOLUTIONS AND ORDINANCES (82-R-31)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves the attached ordinances and resolutions in regard to the following:

- a. To permit parking on east side of part of Sykes Street.
- b. To restrict parking on Edwards Drive.
- c. Authorization to apply for federal transit assistance under "Section 5" program for urban areas.
- d. Assurance that the Town will comply with Section 13(c) of Urban Mass Transportation Act concerning certain protections for employees.
- e. Authorization to participate in State purchasing contracts.
- f. Authorization to reject bids and extend present contract for rental of uniforms for Public Works Transit Maintenance and Parks and Recreation Maintenance Divisions.
- g. Authorization to sell liens for unpaid taxes.

This the 22nd day of February, 1982.

THE MOTION CARRIED UNANIMOUSLY (7 TO 0).

Resolutions/Ordinances Adopted by the Consent Agenda

The following resolutions and ordinances were adopted by the Consent Agenda:

AN ORDINANCE AMENDING CHAPTER 21 OF THE TOWN CODE (82-0-14)

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

SECTION I

DELETE: 21-27 NO PARKING ANY TIME

<u>Street</u>	<u>Side</u>	<u>From</u>	<u>To</u>
Sykes Street	Either	Full Length	Full Length

ADD: 21-27 NO PARKING ANY TIME

<u>Street</u>	<u>Side</u>	<u>From</u>	<u>To</u>
Sykes Street	West	Full Length	Full Length
Sykes Street	East	Rosemary Street	50' North of the centerline of Gomains Avenue
Sykes	East	432' North of the centerline of Gomains Ave.	Dead End

SECTION II

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

This the 8th day of February, 1982.

AN ORDINANCE AMENDING CHAPTER 21 (82-0-15)

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

ADD: Section 21-27: No Parking Any Time

<u>STREET</u>	<u>SIDE</u>	<u>FROM</u>	<u>TO</u>
Edwards Drive (including "T" Turnaround)	West	Gomains Avenue	Dead End
Edwards Drive	East	Gomains Avenue	To a point 50 ft. North of Gomains
Edwards Drive	East	A point 380 ft. North of Gomains	Dead End

ADD: Section 21-27.1c: No Parking 9 a.m. - 4 p.m. Monday - Friday

<u>STREET</u>	<u>SIDE</u>	<u>FROM</u>	<u>TO</u>
Edwards Drive	East	A point 50 ft. North of Gomains Avenue	A point 380 ft. North of Gomains Avenue

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

This the 22nd day of February, 1982.

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 (82-R-32)

WHEREAS, the Council of the Town of Chapel Hill has previously authorized the Town Manager, in Resolution 81-R-124, to execute and file an application with the U. S. Department of Transportation and with the North Carolina Department of Transportation to aid in financing bus shelters and other capital expenditures, and to aid in the financing of a public transportation system; and

WHEREAS, the Town submitted a grant application to the North Carolina Department of Transportation for such financing for fiscal year 1981-82; and

WHEREAS, the Town must re-file its application for such grant as a result of changes in applicable federal legislation; and

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

WHEREAS, the U. S. Department of Transportation requires, under 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 Town 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; and

WHEREAS, it is the goal of the Town that minority business enterprises 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 application on behalf of the Town of Chapel Hill, North Carolina with the U. S. 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;
2. That the Town Manager is authorized to execute and file with such applications 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 applications or 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 any grant made in response to these applications, and to enter into and execute any amendment to the applications for such grants.

This the 22nd day of February, 1982.

A RESOLUTION ASSURING COMPLIANCE WITH SECTION 13(C) OF THE URBAN MASS TRANSPORTATION ACT OF 1964 (82-R-33)

WHEREAS, the Town of Chapel Hill wishes to submit capital and operating assistance grant applications 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 participating 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 by 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 representatives 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 therefor. In the event the claim is so rejected by the Town of Chapel Hill, the claim may be processed to determination 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 designated 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 employees 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 re-training is required by such employment or re-employment, 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.

(12) This resolution shall be a continuing resolution.

This the 22nd day of February, 1982.

A RESOLUTION AUTHORIZING PARTICIPATION IN THE STATE PURCHASING CONTRACTS (82-R-34)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby authorizes the Town Manager to participate in contracts of the N.C. Department of Administration's Division of Purchase and Contract to buy vehicles, office supplies and other items which the Manager determines can be best acquired through State contract and for which there are sufficient appropriations and available funds.

BE IT FURTHER RESOLVED that the Manager is authorized to execute documents for purchases through the above-mentioned State contracts and to authorize payments therefor consistent with appropriations by the Council.

This the 22nd day of February, 1982.

A RESOLUTION REJECTING BIDS ON UNIFORM RENTAL SERVICES (82-R-35)

WHEREAS, the Town of Chapel Hill has solicited formal bids on January 28, 1982 and the following formal bids have been received:

Base Bid - for 18 Month Contract

<u>Bidder</u>	<u>Unit Price Per Week Industrial Uniforms</u>	<u>Unit Price Per Week Executive Uniforms</u>	<u>18 Month Cost</u>
Farthing Fabricare Durham, N.C.	\$6.50	\$9.00	\$55,731.00
Rental Towel and Uniform Service Graham, N.C.	8.25	13.00	71,350.00
Servitex, Inc. Durham, N.C.	6.30	7.30	53,461.20

Alternate Bid for 2 Year Contract

<u>Bidder</u>	<u>Unit Price Per Week Industrial Uniform</u>	<u>Unit Price Per Week Executive Uniforms</u>	<u>24 Month Cost</u>
Farthing Fabricare Durham, N.C.	5.35	7.15	61,027.00
Rental Towel & Uniform Service Graham	6.25	10.00	72,150.00
Servitex, Inc. Durham, N.C.	5.10	6.25	57,881.20

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Town hereby rejects all the above bids and directs the Purchasing Agent to negotiate an extension of the existing Uniform Rental Service Agreement for six months, and authorizes the Town Manager to sign said extension.

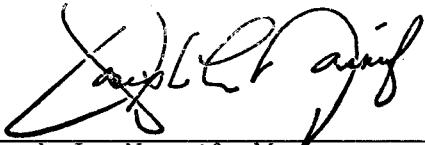
This the 22nd day of February, 1982.

## A RESOLUTION SETTING AN ASSESSMENT LIEN SALE (82-R-36)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby directs the Revenue Collector to sell Town of Chapel Hill assessment liens on June 7, 1982.

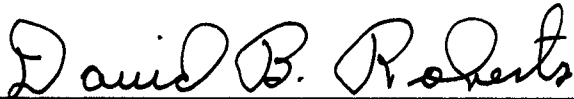
This the 22nd day of February, 1982.

There being no further business to come before Council, the meeting was adjourned at approximately 9:35 P.M.



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Joseph L. Nassif, Mayor



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David B. Roberts, Clerk