

MINUTES OF A MEETING OF THE MAYOR AND COUNCIL OF THE TOWN OF CHAPEL HILL,  
MUNICIPAL BUILDING, MONDAY, FEBRUARY 14, 1983, 7:30 P.M.

Mayor Joseph L. Nassif called the meeting to order. Councilmembers present were:

Marilyn Boulton  
Winston Broadfoot  
Jonathan Howes  
Beverly Kawalec  
David Pasquini  
R. D. Smith  
Joseph Straley

Councilmember Jim Wallace was absent, excused. Also present were David R. Taylor, Town Manager; Sonna Loewenthal, Assistant Town Manager; and Grainger Barrett, Town Attorney.

Certificates of Appointment

Mayor Nassif presented a Certificate of Appointment to each of the following Board/Commission members:

--Ms. Sarah Louise Oldenburg, Historic District Commission  
--Mr. John Gulick, Historic District Commission  
--Ms. Shann Tracy, Board of Adjustment  
--Mr. Robert Joesting, Board of Adjustment

Mr. Phil Rees, member of the Historic District Commission, was not present.

Mayor Nassif expressed appreciation to each of the Board/Commission members for their willingness to serve the Town in this capacity.

Petitions

There were no petitions from citizens.

Councilmember Smith petitioned the Council to ask the Town Manager to consider the possibility of acquiring alleys behind businesses located in the Central Business District so that the alleys could be used comfortably by both the Fire and Police Departments. His concern was that businesses might wish to expand into the alleys at some point in the future, prohibiting access for public emergency vehicles.

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER HOWES, TO REFER THE PETITION TO THE MANAGER. THE MOTION CARRIED UNANIMOUSLY.

Minutes

January 17, 1983. COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER STRALEY, TO APPROVE THE MINUTES OF JANUARY 17, 1983, AS CIRCULATED. THE MOTION CARRIED UNANIMOUSLY.

January 24, 1983. Councilmember Broadfoot stated that he would withdraw his January 24, 1983, request (that Councilmember's names be entered into the record when a request was made to remove an item from the Consent Agenda), as this had been consistently and correctly done.

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER STRALEY, TO APPROVE THE MINUTES OF JANUARY 24, 1983, AS CORRECTED. THE MOTION CARRIED UNANIMOUSLY.

January 31, 1983. COUNCILMEMBER STRALEY MOVED, SECONDED BY COUNCILMEMBER HOWES, TO APPROVE THE MINUTES OF JANUARY 31, 1983, AS CORRECTED. THE MOTION CARRIED UNANIMOUSLY.

Mayor Nassif stated that Councilmember Wallace was excused from the January 31, 1983 public hearing and from this meeting of the Council. Councilmember Wallace would not rejoin the Council until the first meeting in March 1983. Councilmember Wallace asked that his regrets be expressed for these necessary absences.

University Heights

Ordinance Amending the Chapel Hill Zoning Atlas. COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER BROADFOOT, TO ADOPT ORDINANCE 83-O-14a.

COUNCILMEMBER KAWALEC MOVED, SECONDED BY COUNCILMEMBER STRALEY, TO AMEND THE MOTION (to adopt Ordinance 83-O-14a) BY DELETING SECTION I (AREA A) FROM CONSIDERATION AND THAT SECTION I (AREA A) BE VOTED ON SEPARATELY.

Mayor Nassif stated that he would abstain from voting on the main motion due to conflict of interest. He felt that the motion to amend did not involve any conflict and stated that he would vote on the motion to amend.

Councilmember Broadfoot stated that he had received numerous calls supporting the proposed zoning amendments; he would, therefore, oppose any amendments to the original proposal.

Councilmember Howes did not concur with Councilmember Broadfoot. He felt that this parcel had been considered separately by staff and was geographically separated from the town. He did not feel that this parcel related to the other proposed zoning changes.

VOLE ON THE AMENDMENT CARRIED 7 TO 1 WITH COUNCILMEMBERS BOULTON, HOWES, KAWALEC, PASQUINI, SMITH, STRALEY, AND MAYOR NASSIF SUPPORTING, AND COUNCILMEMBER BROADFOOT OPPOSING.

Mayor Nassif turned the meeting over to Mayor Pro-Tempore Boulton because of his abstinence from discussion and vote on this motion.

VOLE ON THE MOTION TO ADOPT THE FOLLOWING ORDINANCE, AS AMENDED, CARRIED 7 TO 0 WITH COUNCILMEMBERS BOULTON, BROADFOOT, HOWES, KAWALEC, PASQUINI, SMITH, AND STRALEY OPPOSING, AND MAYOR NASSIF ABSTAINING:

AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ATLAS (83-O-14a)

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

## SECTION II (AREA B)

That property identified on Chapel Hill Tax Map 27A, Block C, as that portion of Lots 6, 7, 8, 9 and 10 located on the south side of the Old Durham Road and extending 200 feet from the right-of-way of said Old Durham Road and including one-half of the adjacent right-of-way of Old Durham Road and one-half of the adjacent right-of-way of Cooper Street be reclassified from Residential-2 to Neighborhood Commercial.

## SECTION III (AREA C)

That the property identified on Chapel Hill Tax Map 27A, Block B, Lot 4 and one-half the adjacent right-of-way of Scarlette Drive be reclassified from Residential-2 to Residential-3.

## SECTION IV (AREA D)

That the property identified on Chapel Hill Township Tax Map 27A, Block C, part of Lots 17A and 19 which is located within 200 feet of the right-of-way line of the Old Durham Road and including one-half of the adjacent right-of-way of Scarlette Drive be reclassified from Residential-2 to Residential-3.

## SECTION V (AREA E)

That the property identified as Chapel Hill Township Tax Map 27A, Block C, Lots 11, 12, 13, 14, 15, 16, and 17 and one-half of the adjacent right-of-way of Legion Road Ext. and Cooper Street be reclassified from Residential-2 to Residential-3.

## SECTION VI (AREA F)

That portion of the property identified as Chapel Hill Township Tax Map 27A, Block D, part of Lot 1, and Tax Map 27, Block D, part of Lot 1, and the portion of Tax Map 27, Block D, Lot 2 located on the south side of the Old Durham Road, and within 200 feet of the right-of-way of the Old Durham Road and including one half of the adjacent right-of-way of Old Durham Road and Cooper Street be reclassified from Residential-2 to Residential-4.

## SECTION VII (AREA G)

That the portion of the property identified as Chapel Hill Tax Map 27A, Block D, Lots 3 and 4, and part of Lot 2 on Chapel Hill Tax Map 27, Block D, between 250 feet and 425 feet of the right-of-way of the Old Durham Road and including one-half of the right-of-way to Cooper Street be reclassified from Residential-2 to Residential-3.

## SECTION VIII (AREA H)

That the portion of the property identified on Chapel Hill Township Tax Map 27A, Block C, part of Lots 17A and 19, not within 200 feet of the right-of-way of Old Durham Road, but north of a line connecting an iron at the southeast corner of Map 27A, Block B, Lot 6 and an iron at the southwest corner of Map 27A, Block C, Lot 4 and including one-half of the adjacent right-of-way of Scarlette Drive be reclassified from Residential-2 to Residential-3.

## SECTION IX (AREA I)

That the portion of the property identified on Chapel Hill Township Tax Map 27, Block D, Lot 1 not within 200 feet of the right-of-way of Old Durham Road plus that portion of the property identified on Chapel Hill Township Tax Map 27, Block D, Lot 2 which is greater than 200 feet but less than 250 feet from the right-of-way of Old Durham Road, plus that property identified as Chapel Hill Township Tax Map 27A, Block D, Lot 2 and including one-half of the adjacent right-of-way of Cooper Street be reclassified from Residential-2 to Residential-4.

## SECTION X (AREA J)

That property identified on Chapel Hill Township Tax Map 27A, Block C, parts of Lots 6, 7, 8, 9 and 10, not within 200 feet of the right-of-way of Old Durham Road and including one-half the adjacent right-of-way of Cooper Street be reclassified from Residential-2 to Neighborhood Commercial.

## SECTION XI (AREA K)

That the portion of the property identified on Chapel Hill Township Tax Map 27A, Block B, Lots 5 and 6 located on the west side of Scarlette Drive and including one-half of the adjacent right-of-way of Scarlette Drive be reclassified from Residential-2 to Residential-3.

## SECTION XII (AREA L)

That the property on Chapel Hill Township Tax Map 27A, Block C, Lot 18; and that part of Map 27A, Block C, Lot 19 south of a line connecting an iron at the southeast corner of Map 27A, Block B, Lot 6 and an iron at the southwest corner of Map 27A, Block C, Lot 4 and including one-half of the adjacent right-of-way of Scarlette Drive and Legion Road Extension be reclassified from Residential-2 to Residential-3.

## SECTION XIII

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

This the 14th day of February, 1983.

Councilmember Howes commended the Manager and staff for the way in which this complex matter had been prepared with the resulting accommodating solution.

COUNCILMEMBER KAWALEC MOVED, SECONDED BY COUNCILMEMBER SMITH, TO DENY THE REZONING OF SECTION I (AREA A) (Section A is identified as Chapel Hill Township Tax Map 27A, Block B, Lot 2, located on the south side of U.S. 15-501 and containing approximately .52 acre of land and one-half of the right-of-way of U.S. 15-501 which is adjacent to such property.")

Councilmember Kawalec stated that this matter could be reconsidered by Council at any future time, if the motion to deny the request passed. She stated that there was no reason to change the zoning, that the owner had not requested rezoning, and that the Manager had mistakenly recommended the zone change. Absent a reason to change the zone, she felt that it should not be done.

She stated that the owner was using the small residence on this land as a storage area and that she had heard that he had no plans to use the structure for any other purpose and did not want it rezoned.

Mr. Taylor stated that the recommendation to rezone this parcel had been a part of the initial petition and was a part of the planning process. Rezoning appeared to be logical and an extension of the zoning in that area.

VOLE ON THE MOTION TO DENY THE REZONING OF SECTION I (AREA A) CARRIED 7 TO 1 WITH COUNCILMEMBERS BOULTON, HOWES, KAWALEC, PASQUINI, SMITH, STRALEY, AND MAYOR NASSIF SUPPORTING, AND COUNCILMEMBER BROADFOOT OPPOSING.

Resolution Directing the Manager to Prepare a Resolution of Intent to Consider Annexation of University Heights. COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER STRALEY, ADOPTION OF RESOLUTION 83-R-17.

Councilmember Smith expressed concern for the effect that new annexation laws might have on the New Hope Volunteer Fire Department, if annexation of outlying areas continued.

VOLE ON THE FOLLOWING RESOLUTION CARRIED UNANIMOUSLY:

A RESOLUTION DIRECTING THE MANAGER TO PREPARE A RESOLUTION OF INTENT TO CONSIDER ANNEXATION OF UNIVERSITY HEIGHTS (83-R-17)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby directs the Town Manager to prepare a Resolution of Intent to Consider Annexation of University Heights for consideration by Council at its March 28, 1983 meeting.

This the 14th day of February, 1983.

Councilmember Smith requested that the schedule for annexation be made available to the public through the Manager's Office.

Resolution Granting a Modification of the Special Use Permit for Adelaide Walters Apartments

COUNCILMEMBER BOULTON MOVED, SECONDED BY COUNCILMEMBER SMITH, ADOPTION OF THE FOLLOWING RESOLUTION:

A RESOLUTION GRANTING A MODIFICATION OF THE SPECIAL USE PERMIT FOR ADELAIDE WALTERS APARTMENTS (83-R-18)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Planned Development-Housing Special Use Permit granted to Community Housing Alternatives, Inc. on March 22, 1982, for Adelaide Walters Apartments on Chapel Hill Township Tax Map 83, Block F, Lots 10 and 22 is hereby modified to allow construction of a two-story building as shown on plans submitted December 17, 1982, subject to the following:

1. That a detailed drainage plan with hydrologic calculations be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
2. That a lighting plan be approved by the Appearance Commission prior to issuance of a Zoning Compliance Permit.

3. That the project be revised to meet the requirements of Development Ordinance subsections 6.5.4 concerning sight triangle easements, 6.6.6c concerning parking lot screening, and 6.6.6d concerning parking lot shading; and that revised plans be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
4. That a sprinkler system be installed in accordance with the requirements of Section 7-6 of the Town of Chapel Hill Code of Ordinances. Plans for the sprinkler system shall be approved by the Town Manager prior to issuance of a Building Permit.
5. That the Council finds that there are reasonable assurances that the parking spaces shown on the approved plans will be maintained for occupancy by the elderly or handicapped and, therefore, the number of parking spaces shown on such plans meets the requirements of Development Ordinance Section 6.6.7. If at any time the owner finds it desirable to add additional spaces, the parking lot may be redesigned to provide up to 37 additional spaces without a modification of the Special Use Permit. Plans for any revised parking shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
6. That any required planting which dies during the life of the Special Use Permit be replaced with plantings of a similar species and approximately the same size by the end of the next planting season.
7. That construction begin by February 28, 1985, and be completed by February 28, 1988.

BE IT FURTHER RESOLVED that the Council finds that with all special terms and conditions as modified, this project continues to meet the four requisite findings as set forth below:

- a. That the development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
- b. That the development complies with all required regulations and standards of the Development Ordinance, including all applicable provisions of Articles 4, 5, and 6, and the applicable specific standards contained in Sections 8.7 and 8.8, and with all other applicable regulations;
- c. That the development is located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, and that the development is a public necessity; and
- d. That the development conforms with the general plans for the physical development of the Town as embodied in the Development Ordinance and in the Comprehensive Plan.

This the 14th day of February, 1983.

THE MOTION CARRIED UNANIMOUSLY.

Proposed Ordinance Amending the Chapel Hill Development Ordinance

The following amendments were proposed:

4.3 Schedule of Use Regulations (Use Group C). Mr. Jennings, Planning Director, explained that this amendment would delete "extraction of earth products as a Special Use Permit in an OI-3 District." There had been no expressed concerns at the January 17, 1983, public hearing regarding this proposed amendment.

5.9.8 Minimum Solar Setback and 7.8.3 Regulations in Lot and Setback Requirements. Mr. Jennings stated that the proposed amendments would alleviate problems created by current solar setback and primary height limits. Mr. Jennings presented the following calculations based on the shadow cast at noon on December 21 (longest shadow of the year):

Heights of shadow cast onto a structure built at the current interior setback on December 21

- 
- |    |  |          |
|----|--|----------|
| 1. | Structure built at current height limit and  |          |
|    | a. at current solar setback                  | 9.5 ft.  |
|    | b. at proposed solar setback                 | 13.5 ft. |
| 2. | Structure built at proposed height limit and |          |
|    | a. at current solar setback                  | 19.5 ft. |
|    | b. at proposed solar setback                 | 23.5 ft. |

These calculations represented the extreme situation where a house would be constructed to the maximum allowable height at the solar setback, and the house to the north would be constructed at the interior setback line.

Staff believed that the reduction in solar access produced by either or both amendments was warranted by the increased flexibility and simplicity created by the amendment.

Councilmember Straley felt that the following words should be inserted in Section 7.8.3 of ordinance 83-O-15 (after the words "zoning districts"): "and is part of a subdivision approved as a cluster development."

Councilmember Straley did not feel that anyone would build a cluster development in an R-3 zoning district and proposed that reference to R-3 zoning be deleted from this ordinance.

Councilmember Straley also felt that adoption of the ordinance to effect maximum building height and reduced solar setback would create an undesirable "canyon" between the structures, limiting one's visibility of the sky. He proposed that a maximum height of 29 feet and a maximum solar setback of 12 feet would be more acceptable compromises.

Councilmember Broadfoot questioned why an increase in height requirements was being considered at this time. Mr. Jennings felt that problems with height requirements (when considered in conjunction with solar setback requirements) had been an oversight in the original ordinance. Staff felt that promotion of the cluster development idea was more important than protecting south wall solar access. Cluster development promoted good design by allowing parcels of land with topography problems to be developed with less landscaping.

COUNCILMEMBER STRALEY MOVED, SECONDED BY COUNCILMEMBER HOWES, THAT THE PROPOSED AMENDMENT TO THE CHAPEL HILL DEVELOPMENT ORDINANCE BE SENT BACK TO THE MANAGER AND THE PLANNING BOARD TO CONSIDER THE EFFECT OF THE MODIFICATION OF THE SOLAR SETBACK TO 12 FEET IN CLUSTER DEVELOPMENTS AND THE HEIGHT LIMIT IN ALL DEVELOPMENTS TO 29 FEET.

THE MOTION CARRIED UNANIMOUSLY.

#### Ordinance to Extend the Corporate Limits of the Town of Chapel Hill, North Carolina

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER BOULTON, ADOPTION OF THE FOLLOWING ORDINANCE:

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF CHAPEL HILL, NORTH CAROLINA (83-O-16)

WHEREAS, the Chapel Hill Town Council has been petitioned under G.S. 160A-31, as amended, to annex the area described herein; and

WHEREAS, the Town Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at the Municipal Building, 306 N. Columbia Street, at 7:30 p.m. on the 17th day of January, 1983, and after due notice of publication on the 6th day of January, 1983; and

WHEREAS, the Chapel Hill Town Council does hereby find as a fact that said petition meets the requirements of G.S. 160A-31, as amended;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill, North Carolina:

#### SECTION I

By virtue of the authority granted by G.S. 160A-31, as amended, the following described territory is hereby annexed and made part of the Town of Chapel Hill as of the 15th day of February, 1983.

BEGINNING at a stake in the Northwest corner of Lot No. 134, TIMBERLYNE SUBDIVISION, according to Plat Book 29, at Page 93, Orange County Registry and the Southern margin of Weaver Dairy Road (said stake being the center line of the Duke Power Company Easement), thence South  $18^{\circ} 26' 36''$  West 1099.57 feet to a stake in the Northwest corner of Lot No. 123, TIMBERLYNE SUBDIVISION, according to Plat Book 29, Page 93, Orange County Registry, which stake is in the Southern margin of Kingston Drive; running thence with the said margin of Kingston Drive North  $50^{\circ} 40' 20''$  West 515.74 feet to a stake in the Northwest corner of Lot No. 141, TIMBERLYNE SUBDIVISION, Section II, according to Plat Book 32, Page 197, Orange County Registry; running thence with the Western lines of Lot Nos. 141, 140, 139 & 138, Section II, TIMBERLYNE SUBDIVISION, South  $12^{\circ} 25' 53''$  West 539.04 feet to a stake, the Northeast corner of Avery Maddry; thence with the Northern margin of Maddry North  $89^{\circ} 19' 49''$  West 905.78 feet; North  $86^{\circ} 03' 21''$  West 123.75 feet and North  $85^{\circ} 09' 11''$  West 560.22 feet to a stake; thence North  $35^{\circ} 08' 40''$  East 199.83 feet to a stake; thence North  $17^{\circ} 02' 39''$  East 125.36 feet to a stake; thence South  $79^{\circ} 43' 00''$  West 405.62 feet to a stake in the Eastern margin of N.C. 86; thence with said margin of N.C. 86 North  $01^{\circ} 17'$  West 60 feet to a stake; thence leaving N.C. 86 North  $79^{\circ} 43' 00''$  East 419.81 feet to a point; thence North  $10^{\circ} 23' 35''$  West 387.15 feet and North  $08^{\circ} 39' 12''$  West 517.05 feet more or less to the Southern margin of Weaver Dairy Road; thence with the said margin of Weaver Dairy Road South  $88^{\circ} 57' 35''$  East 2450.96 feet to the center line of the Duke Power Co. Easement, the point and place of BEGINNING.

#### SECTION II

Upon and after the 15th day of February, 1983, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the Town of Chapel Hill and shall be entitled to the same privileges and benefits as other parts of the Town of Chapel Hill. Said territory shall be subject to municipal taxes according to G.S. 160A-31(e), as amended.

#### SECTION III

The Mayor of the Town of Chapel Hill shall cause to be recorded in the office of the Register of Deeds of Orange County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section I hereof, together with a duly certified copy of this ordinance.

#### SECTION IV

Notice of adoption of this ordinance shall be published once, following the effective date of annexation, in a newspaper having general circulation in the Town of Chapel Hill.

This the 14th day of February, 1983.

THE MOTION CARRIED UNANIMOUSLY.

#### Resolution Identifying Areas to be Considered for Annexation

COUNCILMEMBER BOULTON MOVED, SECONDED BY COUNCILMEMBER HOWES, ADOPTION OF THE FOLLOWING RESOLUTION:

## A RESOLUTION IDENTIFYING AREAS TO BE CONSIDERED FOR ANNEXATION (83-R-19)

WHEREAS, the Town of Chapel Hill wishes to continue an orderly process of annexation for those unincorporated areas around the Town which have reached the State's standards of urban development, so as to be able to provide urban services for those areas; and

WHEREAS, the N.C. General Assembly will consider a bill requiring, in part, that municipalities must identify by resolution those areas under consideration for annexation at least one year prior to passing a resolution of intent to annex;

NOW, THEREFORE, BE IT RESOLVED that the following areas will be considered for annexation to take place in accord with state annexation statutes:

1. Northwood Subdivision
2. Sedgefield Subdivision and the unincorporated property bounded by Whitfield Road on the north, Weaver Dairy Road on the south, NC 86 on the west and the western property line of Carol Woods extended north to Whitfield Road on the east
3. Unincorporated land bounded by Stateside Drive, Timberlyne, N.C. 86, and Weaver Dairy Road
4. Unincorporated land bounded by Weaver Dairy Road, Cedar Hills, and Timberlyne
5. Hickory Hill
6. Eastowne Office Park and Eastowne Hills Office Subdivision
7. East and West Lakeview Drive
8. Unincorporated area between the intersection of E. Lakeview Drive with Old Durham Road and Colony Woods North, including the Lassiter-Currie Subdivision
9. Meadow Lane/Winter Drive area

This the 14th day of February, 1983.

THE MOTION CARRIED UNANIMOUSLY.

Ordinance Amending Chapter 14 of the Chapel Hill Town Code

COUNCILMEMBER BROADFOOT MOVED, SECONDED BY COUNCILMEMBER KAWALEC, ADOPTION OF ORDINANCE 83-O-5.

Mr. Taylor informed Council that on March 1, 1983, the Town would convert to a bi-weekly payroll system in order to centralize leave records (as had been recommended by the Financial Auditor, and by the Management Auditor). Amendments to the Personnel Ordinance would be necessary to implement these changes.

In addition, a change in the length of the probationary period was proposed, and establishment of a maximum leave accumulation at 30 work-week equivalent days was proposed.

THE MOTION TO ADOPT THE FOLLOWING ORDINANCE CARRIED UNANIMOUSLY:

AN ORDINANCE AMENDING CHAPTER 14 OF THE CHAPEL HILL TOWN CODE (83-O-5)

BE IT ORDAINED by the Council of the Town of Chapel Hill:

Chapter 14 is amended as follows:

ARTICLE I

1. DELETE Sec. 14-41 and insert in lieu thereof:

"Sec. 14-41 Probationary Period of Employment

New employees, promoted employees, or an employee transferred to another position, shall serve a probationary period of six (6) months, except for department heads and law enforcement officers, who shall serve a probationary period of one (1) year.

During a new employee's probationary period or any extension thereof, an employee may not use annual leave. A new employee whose position requires a one-year probationary period may use annual leave after the initial six months of employment, provided performance is at or above standard; and where performance is below standard, the employee may use annual leave only with permission of the supervisor.

2. DELETE Sec. 14-44 and insert in lieu thereof:

"Sec. 14-44 Probationary Period - Termination

An employee terminated during his or her initial probationary period or any extension thereof, shall not be eligible for payment for accumulated leave, but shall be entitled to the rights of appeal through the grievance procedure. For purposes of this section, law enforcement officers terminated during their second six months of employment shall be paid for annual leave accumulated, in accordance with the provisions of Sec. 14-75."

3. DELETE Sec. 14-61 and insert in lieu thereof:

"Sec. 14-61 North Carolina Local Governmental Employees' Retirement System

Each employee who is expected to work for the Town more than 1000 hours annually, shall join the North Carolina Local Governmental Employees' Retirement System effective at the end of their initial six month probationary period or any extension thereof as a condition of employment; Department Heads and law enforcement officers who serve probationary periods of 1 year shall join the North Carolina Local Governmental Employees' Retirement System or, if eligible and requested, the North Carolina Law Enforcement Officers' Benefit and Retirement Fund, with the approval of their supervisor, after 6 months unless performance is below standard. Employees who are already members of the North Carolina Local Governmental Employees' Retirement System, the North Carolina Teachers and State Employees' Retirement System, or the North Carolina Law Enforcement Officers' Benefit and Retirement Fund at the time they are hired may choose to enroll in the retirement system on the date of hire, or may choose to enroll at the completion of their probationary period."

4. DELETE Sec. 14-66 and insert in lieu thereof:

"Sec. 14-66 Annual Leave Rate

Each full-time and part-time employee of the Town (except for the Manager, Assistant Manager, and all Department Heads) shall accumulate annual leave at the rate of 15 work-week equivalent days per year; the Manager, Assistant Manager, and Department Heads shall accumulate at the rate of 20 work-week equivalent days per year. Calculations of prorated hours of annual leave associated with different average work weeks shall be published in policies developed by the Manager.

The average work week for each classification or position is established annually in the Ordinance Establishing a Position Classification and Pay Plan."

5. DELETE Sec. 14-67 and insert in lieu thereof:

"Sec. 14-67 Accumulation of Annual Leave

Leave shall accrue prorata effective at the end of the pay period; employees who begin work or leave service during the pay period shall accrue leave prorated to the days worked."

## 6. DELETE Sec. 14-72 and insert in lieu thereof:

## "Sec. 14-72 Schedule for Taking Annual Leave

Employees shall be granted the use of earned annual leave upon request at least one (1) week in advance in writing at those times designated by the Manager or Department Head which will least obstruct normal operations of the Town, except that no employee may use earned annual leave until their initial probationary period or any extension thereof has been completed."

## 7. DELETE Sec. 14-73 and insert in lieu thereof:

## "Sec. 14-73 Annual Leave - Maximum Accumulation

Annual leave may accumulate up to a maximum of 30 work-week equivalent days. Calculations of prorated hours of maximum accumulation of annual leave for different work weeks shall be published in policies developed by the Manager."

## 8. DELETE Sec. 14-75 and insert in lieu thereof:

## "Sec. 14-75 Payment of Accumulated Leave Upon Termination

A permanent employee shall be paid for annual leave accumulated to the date of separation not to exceed thirty (30) work-week equivalent days, provided notice is given to the immediate supervisor at least two (2) weeks in advance of the effective date of resignation. The Manager and Department Heads shall be required to give thirty (30) days' notice prior to the effective date of resignation. Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. New employees shall not receive annual leave if terminated during or at the end of the probationary period."

## 9. DELETE Sec. 14-76 and insert in lieu thereof:

## "Sec. 14-76 Payment of Accumulated Leave Upon Death

The beneficiaries or the estate of employees who die while in service of the Town shall be entitled to payment for all accumulated vacation leave credit. All employees, through the Personnel Department, shall be entitled to designate a beneficiary to whom payments may be made pursuant to this section, and when a beneficiary is so designated payments shall be made to such beneficiary, otherwise to the estate of the deceased. All such leave computations shall be at the employee's regular rate of pay at the time of death. The final paycheck shall reflect all salary earned and accumulated leave up to 30 work-week equivalent days."

## 10. DELETE Sec. 14-78 and insert in lieu thereof:

## "Sec. 14-78 Sick Leave Rate and Accumulation

Each full- and part-time employee shall accumulate sick leave at the rate of 12 work-week equivalent days per year. Calculations of prorated hours of sick leave associated with different work weeks shall be published in policies developed by the Manager.

Sick leave shall be cumulative with no maximum accumulation.

Leave shall accrue prorata effective on the pay issue date; employees who begin work or leave service during the pay period shall accrue leave prorated to the days worked."

11. DELETE Sec. 14-91 and insert in lieu thereof:

"Sec. 14-91 Funeral Leave

The Manager may grant temporary special leave, with pay, for the purposes of enabling the employee to attend a funeral. Such leave shall be limited to three (3) work-week equivalent days. The formula for determining hours associated with these days for classifications with different work weeks shall be established in policies developed by the Manager."

## ARTICLE II

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

This the 14th day of February, 1983.

### Resolution Authorizing the Sale of Property at 313 Caldwell Street Extension

Ms. Loewenthal stated that the resolution would enable the Housing Authority to sell the residence at 313 Caldwell Street Extension to a family that had qualified under the Homeownership Opportunity Program which Council had approved on March 22, 1982. The Housing Authority had reviewed the application of this family and recommended Council's approval of the sale.

The mortgage payments would carry a 3.5% interest rate on a 20-year loan. The appraised value of the house was \$52,000. There would be two ways of recouping the subsidies, should the house be sold within a short period of time.

1. A \$7,500 grant (this included a contract to repay the grant in a prorata share if the house were sold within 5 years)
2. An interest rate subsidy to the mortgage (a contract would be signed that if the house were sold within 10 years, a prorata amount of that subsidy would be returned to the Town)

COUNCILMEMBER BOULTON MOVED, SECONDED BY COUNCILMEMBER HOWES, TO APPROVE RESOLUTION 83-R-20.

Ms. Loewenthal informed Councilmember Broadfoot that the house would either be sold for the appraised value or for the cost to the Housing Authority of acquiring, moving, and rehabilitating the house. (The Town would have more than \$52,000 in the house.)

Councilmember Pasquini asked the Manager to consider a variable rate mortgage in relation to income. Ms. Loewenthal responded that the objective of the program was to allow a family to enter into the private housing market and move out of public housing. There were two methods of recouping the subsidies, which Management felt were sufficient to balance the interest of the Town in recouping the subsidy and still allow the family to enjoy the benefits of homeownership. Councilmember Pasquini requested a formal response for justification for going this route. Mr. Taylor responded that the proposal complied with Council policy. Interest rates were based on the family's ability to pay, ranging from 3% to the local market rate. The sale price would be the fair market value of the rehabilitated house/lot or the out-of-pocket cost to the program (in this case, the fair market value was less than the total cost to the Town). Future earnings of the family were not considered with variable interest rates to meet the future earning power of the family.

Councilmember Kawalec asked if the family's income should reach 100% of the median, would this be perceived as an inequitable situation. Mr. Taylor responded that it would not. If the family's income increased at about the same rate, they would remain in the same relative position as now. The overall objectives of homeownership and helping low-income people in the community to find decent, safe, and sanitary housing was the overriding concern here.

Councilmember Smith felt that a possible rise in income for low-income families was not likely. He felt that the open market value of the house (\$52,000) was high, based on other houses in this area. Mr. Taylor responded that Council's policy was to use the fair market value of the house, as opposed to the tax value. The value had been determined by a competent appraiser.

Councilmember Pasquini asked that, when such issues came before Council in the future, the Manager present a discussion on how interest rates were set.

VOICE ON THE FOLLOWING RESOLUTION CARRIED UNANIMOUSLY:

A RESOLUTION AUTHORIZING THE SALE OF PROPERTY AT 313 CALDWELL STREET (83-R-20)

BE IT RESOLVED by the Council of the Town of Chapel Hill that it authorizes the Chapel Hill Housing Authority to sell Community Development property at 313 Caldwell Street Extension to a buyer identified and chosen by the Chapel Hill Housing Authority in accord with CD Homeownership Opportunity Program guidelines as authorized by Council on March 22, 1982.

This the 14th day of February, 1983.

Resolution Authorizing Use of CD Funds Granted to the Inter-Faith Council for Site Development Costs

Councilmember Kawalec questioned if the Inter-Faith Council's (IFC) initial request for a \$105,000 grant (June 14, 1982) was for land acquisition. Mr. Taylor explained that recently, the IFC had had to redesign the project because HUD was not able to provide funds equal to the original expectations. Rents had also been reduced. Because of these changes, the IFC needed to have flexibility in the use of these funds for land acquisition and/or site preparation.

Councilmember Kawalec questioned why there was a change in how the money would be used.

Ms. Adelle Thomas, Chair of the Housing Committee of the IFC and Vice-President of Community Housing Alternatives (which would be the operating co-operative for these apartments), explained that HUD's allocation of funds might not be sufficient for both land acquisition and land development. If HUD were to determine that only \$85,000 could be used for land acquisition, the IFC felt that the wording of the Council's resolution might prohibit use of the remaining \$20,000 of the \$105,000 allocated.

Ms. Thomas explained that HUD would appraise the land after the project had been accepted. (The IFC would submit the project to HUD in the near future.) Since it was not known what amount HUD would allow to be spent for land, the IFC desired more flexibility with what the \$105,000 grant monies could be used for.

Councilmember Broadfoot asked if the IFC had considered having the Chapel Hill Housing Authority manage the project. Ms. Thomas responded that they had not.

Ms. Thomas explained to Councilmember Pasquini that HUD would not allow the previous proposed rents. Even with major design changes in the project, the proposed rents would not support approximately \$135,000 of the building. The IFC had been able to raise approximately \$30,000. The remaining \$105,000 was Town money to be used, hopefully, for land development.

Councilmember Pasquini requested that the IFC advise the Town on what the \$105,000 would be used for.

Councilmember Howes felt that the IFC might come before the Town and request more funds later. Ms. Thomas stated that the request was for more flexibility in what had been appropriated, and not a request for more funding.

Mr. Keith Aldridge, also representing the IFC, supported Ms. Thomas' remarks.

Mayor Nassif felt that it would be appropriate to ask the IFC to present a list showing how the money would be used.

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER BOULTON, ADOPTION OF THE FOLLOWING RESOLUTION:

A RESOLUTION AUTHORIZING USE OF CD FUNDS GRANTED TO THE INTER-FAITH COUNCIL FOR SITE DEVELOPMENT COSTS (83-R-21)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council amends a "RESOLUTION AUTHORIZING A GRANT OF CD FUNDS TO THE INTER-FAITH COUNCIL (82-R-119c)," adopted June 14, 1982, to add the following at the end thereof:

- A portion of said grant may be used for site development costs eligible under HUD Community Development regulations (clearance, site assemblage, provision of site improvements, and provision of public improvements), if necessary to assure successful completion of the project, subject to HUD approval.

This the 14th day of February, 1983.

THE MOTION CARRIED UNANIMOUSLY.

Resolution Authorizing a CD Deferred Payment Loan to Rehabilitate a Structure at 713 Church Street

Ms. Sonna Loewenthal informed Councilmembers that the owner-occupied house in the CD area at 713 Church Street needed substantial rehabilitation. The owner had a fixed income and was not able to afford a full loan from the Housing Loan Trust Fund.

Management felt that the house was structurally sound and worthy of rehabilitation. An alternate proposal would (1) preserve this architecturally significant structure, (2) provide housing for low-income people by converting the second floor to a rental unit, using the Section 8 Program, and (3) allow the owner-occupant to remain in the house.

Three sources of funds (a total of \$41,000) would be used:

1. \$10,000--CD grant for a duplex.
2. \$16,400--Housing Loan Trust Fund loan for 20 years, at 3% interest. (The projected rental income from the additional unit would be necessary to allow the owner to repay this loan.)
3. \$14,806-\$16,000--Deferred payment no-interest loan that would cover the difference between the total of the first two sources and the total project cost. No payments would be made on this loan until the ownership of the property changed, whether by sale or through any action of law, such as inheritance. At that point, the full amount of the loan would be due to the Town and would be considered CD program income.

Ms. Loewenthal informed Councilmember Pasquini that the second floor rental unit would be reserved for low to moderate income families under the Section 8 Program through a standard contract. This contract accompanied rehabilitation grants for rental units and bound the owner to participate in the Section 8 Programs (or its successor programs) for 15 years.

If the house were sold, the HLTF and the deferred loan would be due, in total.

Ms. Loewenthal gave Councilmember Pasquini a breakdown of the costs and fees. She stated that delinquent taxes (\$1,236 as of January 24, 1983, in this case) are not paid out of grants. Mr. Barrett, Town Attorney, stated that he had not considered if this were legal or not. Ms. Loewenthal clarified that this fee would not come out of the grant, but out of the loan.

Mr. Taylor stated that the closing costs, which were a part of the loan, had been increased enough to pay any back taxes. He felt this would be true of any loan.

COUNCILMEMBER BROADFOOT MOVED, SECONDED BY COUNCILMEMBER STRALEY, ADOPTION OF THE FOLLOWING RESOLUTION:

A RESOLUTION AUTHORIZING A CD DEFERRED PAYMENT LOAN TO REHABILITATE A STRUCTURE AT 713 CHURCH STREET (83-R-22)

WHEREAS, the Town's Community Development program seeks to encourage the rehabilitation of certain properties within the Town in order to provide safe, sanitary and decent housing; to preserve their value for the use of the Owner, for the well-being of the Town; and for compliance with municipal codes; and

WHEREAS, some owners of property housing low or moderate income persons and needing rehabilitation can find it difficult to invest in their properties the amounts sufficient to pay all costs of necessary rehabilitation; and

WHEREAS, the Town wishes to provide some low cost loans to eligible property owners to aid in the rehabilitation of such properties in order to assure an adequate supply of housing for persons of low and moderate income, and to protect the health and welfare of the community;

BE IT RESOLVED by the Council of the Town of Chapel Hill that it hereby authorizes the Chapel Hill Housing Authority, as agent for the Town's Community Development Program, to make a deferred payment loan of Community Development funds to Ms. Susan Cobb, the owner-occupant of a structure located at 713 Church Street, the amount of said loan to be the difference between the final certified job cost and the total of the CD rehabilitation grant and Housing Loan Trust Fund loan, but not greater than \$16,000, at an interest rate of zero percent, and to be repaid to the Town of Chapel Hill upon sale or transfer of the property, by operation of law or otherwise, including any transfer or disposition of the property upon death.

This the 14th day of February, 1983.

THE MOTION CARRIED 7 TO 1 WITH COUNCILMEMBERS BOULTON, BROADFOOT, HOWES, KAWALEC, SMITH, STRALEY, AND MAYOR NASSIF SUPPORTING, AND COUNCILMEMBER PASQUINI OPPOSING.

Resolution of Intent to Consider Closing North School Lane and Calling a Public Hearing

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER BOULTON, ADOPTION OF THE FOLLOWING RESOLUTION:

A RESOLUTION OF INTENT TO CONSIDER CLOSING NORTH SCHOOL LANE AND CALLING A PUBLIC HEARING (83-R-23)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby declares its intent to consider permanently closing all of North School Lane except for a portion of the right-of-way to be included in the right-of-way of realigned Caldwell Street. North School Lane extends 413.29 feet west of Church Street. Tax map parcels 84-J-28, 84-J-3, 84-J-22, 84-J-24, and 84-J-26 adjoin it.

BE IT FURTHER RESOLVED that the Council hereby calls a Public Hearing on the question of closing said right-of-way at 7:30 p.m. on March 21, 1983, in the Meeting Room of the Municipal Building, 306 N. Columbia Street.

This the 14th day of February, 1983.

THE MOTION CARRIED UNANIMOUSLY.

Resolution Calling a Public Hearing on Private Sale of a Parcel of Land

Ms. Loewenthal informed the Council that the private sale would occur after a decision by Council to close North School Lane.

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER SMITH, ADOPTION OF THE FOLLOWING RESOLUTION:

A RESOLUTION CALLING A PUBLIC HEARING ON PRIVATE SALE OF A PARCEL OF LAND (83-R-24)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby calls a Public Hearing at 7:30 p.m. on March 21, 1983, in the Meeting Room of the Municipal Building, 306 N. Columbia Street to consider private sale by the Chapel Hill Housing Authority to Mr. Buffington Falls of a parcel of land now in and adjoining the current right-of-way of North School Lane southwest of its intersection with Church Street, in the event that the Town Council of Chapel Hill permanently closes North School Lane.

This the 14th day of February, 1983.

THE MOTION CARRIED UNANIMOUSLY.

Resolution Requesting and Approving the Participation of the North Carolina Housing Finance Agency in the Financing of a Housing Project to be Located in the Town of Chapel Hill, NC

COUNCILMEMBER KAWALEC MOVED, SECONDED BY COUNCILMEMBER BOULTON, ADOPTION OF RESOLUTION 83-R-25

Mr. Taylor informed Council that the Housing Finance Agency of North Carolina sold bonds. Proceeds from that financing made available to developers for construction of apartment projects. The developer had to agree that a certain percentage of the units would be used for low to moderate income people (income limits were determined by the State).

Two developers in the Chapel Hill area had applied to the Agency. The Agency was now presenting these proposals to the Council for endorsement for financing. Bonds were tax exempt.

Councilmember Smith questioned if a study had been made to determine if that many units (145) were in demand by low and moderate income people, at \$540 rent per month. He doubted there were that many people in that income level who were able to pay \$540 rent per month.

Ms. Loewenthal stated that if the market did not exist, the application would not be approved.

Councilmember Howes stated that there were other programs available for low to moderate income people. This program offered residents an opportunity which did not now exist. He would support the resolution.

THE MOTION TO ADOPT THE FOLLOWING RESOLUTION CARRIED UNANIMOUSLY:

A RESOLUTION REQUESTING AND APPROVING THE PARTICIPATION OF THE NORTH CAROLINA HOUSING FINANCE AGENCY IN THE FINANCING OF A HOUSING PROJECT TO BE LOCATED IN THE TOWN OF CHAPEL HILL, NORTH CAROLINA (83-R-25)

BE IT RESOLVED by the Town Council of the Town of Chapel Hill:

#### SECTION 1

The participation of the North Carolina Housing Finance Agency ("THE AGENCY") in the financing of the proposed housing project for occupancy by persons and families of low or moderate income (as defined by the Agency) described below and located at Timberlyne Development off Kingston Drive in the Town of Chapel Hill is hereby requested and approved pursuant to G.S. 122A-5(1):

Description of Proposed Project:

A multi-family rental housing development consisting of approximately 145 apartments, located on a portion of 18.917 acre site off Kingston Drive in Timberlyne.

#### SECTION 2

Said request and approval shall not be deemed to restrict or bind the Council in any manner in its consideration of any special use permit or subdivision application, or other required action or approval by the Town, relating to the proposed project.

#### SECTION 3

This resolution shall be effective upon its passage.

This the 14th day of February, 1983.

Resolution Requesting and Approving the Participation of the North Carolina Housing Finance Agency in the Financing of a Housing Project to be Located in the Town of Chapel Hill, NC

COUNCILMEMBER KAWALEC MOVED, SECONDED BY COUNCILMEMBER BOULTON, ADOPTION OF RESOLUTION 83-R-26.

Mr. Jennings informed Council that the original ordinance stated that the Council could void the Special Use Permit if construction were not begun within two years. Construction had not begun, and Council had not voided the Special Use Permit.

Councilmember Smith stated that he could not approve an application for 180 apartment units.

Councilmember Broadfoot asked to see a written request from the prospective developers. Mr. Taylor stated that management had deemed the verbal request sufficient.

VOTE ON THE MOTION TO ADOPT THE FOLLOWING RESOLUTION CARRIED 7 TO 1 WITH COUNCILMEMBERS BOULTON, BROADFOOT, HOWES, KAWALEC, PASQUINI, STRALEY, AND MAYOR NASSIF SUPPORTING, AND COUNCILMEMBER SMITH OPPOSING:

A RESOLUTION REQUESTING AND APPROVING THE PARTICIPATION OF THE NORTH CAROLINA HOUSING FINANCE AGENCY IN THE FINANCING OF A HOUSING PROJECT TO BE LOCATED IN THE TOWN OF CHAPEL HILL, NORTH CAROLINA (83-R-26)

BE IT RESOLVED by the Town Council of the Town of Chapel Hill:

#### SECTION 1

The participation of the North Carolina Housing Finance Agency ("THE AGENCY") in the financing of the proposed housing project for occupancy by persons and families of low or moderate income (as defined by the Agency) described below and located at Old Oxford Road across from Ridgecrest Drive in the Town of Chapel Hill is hereby requested and approved pursuant to G.S. 122A-5(1):

#### Description of Proposed Project:

A multi-family rental housing development consisting of approximately 180 apartments, located on 19.6 acres of a 27 acre site on the southeast side of Old Oxford Road in Chapel Hill.

#### SECTION 2

Said request and approval shall not be deemed to restrict or bind the Council in any manner in its consideration of any special use permit or subdivision application, or other required action or approval by the Town, relating to the Proposed Project.

#### SECTION 3

This resolution shall be effective upon its passage.

This the 14th day of February, 1983.

#### Recommendation for Appointment to a Seat on the Orange County Economic Development Commission

On January 10, 1983, Council adopted a "Resolution Concerning Representation of the Town of Chapel Hill on the Orange County Economic Development Commission" (resolution 83-R-4).

Councilmembers received two applications at least three days prior to this meeting: Ms. Peggy McCarthy and Mr. Ralph Bass. A third application (Mr. Ed Tenney) was submitted by Councilmember Broadfoot at this meeting.

Councilmember Howes suggested that Council consider this meeting a "nominations meeting" and make a recommendation for appointment at the next regularly scheduled Council meeting.

Councilmember Broadfoot did not feel that "procedures for appointment to Town Boards/Commission" should apply when this agenda item was for a recommendation for appointment. He also felt that the Council should have their "recommendation" to this Commission changed to "appointment."

Councilmember Howes felt that to get this Commission started it would be appropriate for the Council to use a modification of its procedures for this recommendation. Councilmember Boulton concurred.

Councilmember Howes requested that the Deputy Town Clerk contact persons recommended by the Chamber of Commerce to ascertain their interest and to receive additional applications where appropriate.

Councilmember Howes suggested that the Council consider the possibility of recommending one of its own members for this appointment.

Councilmember Broadfoot nominated Mr. Ed Tenney for recommendation for appointment.

Councilmember Straley nominated Ms. Peggy McCarthy for recommendation for appointment.

Notification of Vacancy on Board of Adjustment

The Deputy Town Clerk notified the Council of the resignation of Mr. Harvey Mann from the Chapel Hill Board of Adjustment.

As there was no further business to come before the Council, the meeting was adjourned at 10:06 P.M.

\_\_\_\_\_  
Joseph L. Nassif, Mayor

\_\_\_\_\_  
David B. Roberts, Clerk

