

191

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL  
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,  
MONDAY, JULY 1, 1985, 7:30 P.M.

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

Marilyn Myers Boulton  
David Godschalk  
Jonathan Howes  
Beverly Kawalec  
David Pasquini  
R. D. Smith  
Bill Thorpe

Council Member Nancy Preston was absent, excused. Also present were Town Manager David R. Taylor, Assistant Town Managers Sonna Loewenthal and Ron Secrist, and Acting Town Attorney Michael Patrick.

Petitions

Michael Levine, speaking as attorney for Mr. and Mrs. Thorir Bjornsson, spoke in regard to the flooding which occurs at 509 Colony Woods Drive due in part to inadequate drainage facilities. He said the flooding occurs in part due to some development uphill from the Bjornsson's property but also from the one culvert under Colony Woods Drive which he felt was not adequate to handle the runoff. He said that since the Town maintains the road, the culvert was the Town's responsibility and requested the matter be referred to the Manager with the hope that an additional culvert be built under the road.

COUNCIL MEMBER KAWALEC MOVED SECONDED BY COUNCIL MEMBER BOULTON TO REFER TO THE MANAGER. THE MOTION PASSED UNANIMOUSLY, (8-0).

William Gilbert Lindsay, speaking as a citizen, spoke to Council regarding his application for Limosine service.

Len Van Ness, representing the Chapel Hill-Carrboro Chamber of Commerce, asked to speak to item #3, Goals and Objectives.

Minutes

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER KAWALEC TO ADOPT THE MINUTES OF JUNE 17, 1985 AS CIRCULATED. THE MOTION PASSED UNANIMOUSLY, (8-0).

Goals and Objectives

Roger Waldon, Planning Director, made a brief presentation on the proposed revisions to the Goals and Objectives for Chapel Hill. He said the staff recommended using the revisions to the Goals and Objectives suggested by the Planning Board for drafting the Land Use Plan.

Manager Taylor recommended Council use the Goals and Objectives to develop a Land Use Plan, and that both the Goals and Objectives and Land Use Plan be presented for a public hearing.

Len Van Ness, representing the Chamber of Commerce, spoke in support of the Manager's recommendation, and also asked that a public information meeting be held in early September before too much of the Land Use Plan was completed. He said the Chamber felt the areas of economy and employment were not adequately addressed in the Goals and Objectives and that a further study should be done on these issues.

Council Member Smith expressed concern over the absence of affordable housing concerns in the Town's Goals and Objectives and how they might be modified to allow manufactured home development as a means of aiding low to moderate income people in acquiring affordable housing.

192  
Council Member Godschalk asked that if the Council approved the Manager's recommendation would the staff be able to move forward and work with the Planning Board on developing the Land Use Plan. Roger Waldon replied that the staff was ready to work on this issue. Council Member Godschalk expressed support for the Manager's recommendation.

Council Member Boulton expressed concern over some of the wording included in the Goals and Objectives. She felt there had been an over-encouragement of "compact growth versus urban sprawl" in the past and hoped these terms would be used in the broadest sense.

Council Member Pasquini also expressed concern over some of the wording in the proposed Goals and Objectives. He asked the Manager what constituted a "sub-community." Manager Taylor replied that a sub-community was an area of adjoining neighborhoods.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER KAWALEC TO ADOPT RESOLUTION 85-R-120b.

Council Member Kawalec said she was also concerned about the wording of the Objectives and suggested the Council have a work session on this.

RESOLUTION PASSED UNANIMOUSLY, (8-0).

The resolution, as adopted, reads as follows:

**A RESOLUTION DIRECTING THE MANAGER TO WORK WITH THE PLANNING BOARD IN PREPARING A DRAFT LAND USE PLAN (85-R-120b)**

**WHEREAS, the Planning Board has spent enormous time and effort in revising the Goals and Objectives of the Comprehensive Plan; and**

**WHEREAS, the Council wishes to understand the practical implications of the abstract goals; and**

**WHEREAS, the Council wishes to understand both the shifts in emphasis from the present Goals and Objectives and the potential contradictions among these Goals and Objectives when applied to a unique and real situation.**

**THEREFORE, BE IT RESOLVED that the Council of the Town of Chapel Hill directs the Manager to work with the Planning Board in developing a Land Use Plan based on the Planning Board's recommended Goals and Objectives;**

**BE IT FURTHER RESOLVED that the Manager is directed to solicit citizen input as outlined in the Suggested Process for Preparing a Land Use Plan adopted May 13, 1985, and to present both the draft plan and the proposed Goals and Objectives to the Council and the public.**

**This the 1st day of July, 1985.**

#### Cable Television Programming

Michael Patrick, Acting Town Attorney, made a brief presentation on his report on the petition from citizens regarding cable television programming. He said that only when particular information had what society deemed to be of no value whatsoever would that information not be protected by the First Amendment to the Constitution. In general, government cannot constitutionally ban "sexually explicit" materials, while on the other hand, "obscene" materials may be totally banned by governmental action. Mr. Patrick stated that he felt the State and local governments would violate the First Amendment if they attempted to prohibit or regulate indecent or sexually explicit material on cable systems. The Town would likely be held unconstitutional if they made an attempt to impose regulations or prohibitions on programming. He said the Cable Communications Policy Act of 1984 addressed several of the concerns expressed by citizens at the public hearing. These include requiring cable operators to

provide lockboxes or other lockout devices to subscribers upon request and allowing the franchising authority to specify in a franchise or upon renewal that obscene or otherwise unprotected programming be subject to certain conditions. Mr. Patrick listed three alternatives available to the Town: 1) enacting requirements for lockout devices; 2) amending the Village Cable franchise to control dissemination of certain programming; and 3) amending the CATV ordinance to permit sanctions to be imposed upon the cable operator if the operator was convicted in court of distributing obscene programs.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER SMITH TO ADOPT RESOLUTION 85-R-121c.

Council Member Howes commended the Attorney for his careful analysis and recommendation, and he commended the citizens who brought the matter to the attention of the Council.

Mayor Nassif said that the Council had the right and duty to let the Cable franchise know if some of the programming was found to be offensive and that the Council did not approve. He said the Cable franchise had been receptive to Council's and the public's suggestions in the past and hoped it would continue in the future.

THE MOTION CARRIED UNANIMOUSLY, (8-0).

The resolution, as adopted, reads as follows:

**A RESOLUTION RECEIVING A REPORT FROM THE ATTORNEY REGARDING CABLE TELEVISION PROGRAMMING (85-R-121c)**

**BE IT RESOLVED** by the Council of the Town of Chapel Hill that the Council hereby receives the report of the Attorney to Council on July 1, 1985, regarding cable television programming, and takes no further action at this time.

This the 1st day of July, 1985.

#### Cablecasting

Manager Taylor made a brief presentation on the proposed cablecasting of public meetings. He said he had not as yet had conversations with the other governments included in the proposal. He said it was his recommendation that Council accept the proposal in principle, subject to preparing satisfactory operating plans. Manager Taylor stressed that many details would need to be worked out before implementation.

Council Member Smith asked for a review of what the original cable franchise provided with regard to this issue. Manager Taylor responded that the franchise called for a Government Access Channel (used by local governments), but there was no requirement for telecasting Council meetings.

Council Members Boulton, Godschalk, and Kawalec spoke in support of a trial period rather than acceptance in principle. They felt a six month trial might be better so that Council could evaluate whether or not they did indeed want to cablecast their meetings. They felt this would prevent the Town from spending funds unnecessarily.

Council Member Howes spoke in support of the Manager's recommendation to accept the proposal in principle.

Mayor Nassif said the Council could accept the proposal in principle, review the Manager's plans and then decide if the Council wanted to grant a trial period of service.

COUNCIL MEMBER BOULTON, MOVED SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT RESOLUTION 85-R-122b.

194  
Council Member Pasquini asked for clarification on whether or not Resolution 85-R-122b implied that there would be no cost to Council for a trial period of service. Manager Taylor responded that he felt there would be a cost involved and that the cable company could object the request.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER THORPE A SUBSTITUTE MOTION TO ADOPT RESOLUTION 85-R-122a.

Mayor Nassif said he was in favor of the substitute motion, but that it did not mean that he would vote in favor of any plan the Manager brought back to Council. He said the option to deny was still available to the Council even if the Council accepted the proposal in principle.

THE SUBSTITUTE MOTION PASSED UNANIMOUSLY, (8-0).

THE MOTION PASSED UNANIMOUSLY, (8-0).

The resolution, as adopted, reads as follows:

A RESOLUTION ACCEPTING AN OFFER OF A MATCHING GRANT FOR CABLE-CASTING OF PUBLIC MEETINGS (85-R-122a)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby accepts in principle the offer of the Village Companies for a matching grant up to \$25,000, subject to the preparation of a satisfactory detailed operating plan; and authorizes the Town Manager to negotiate, on behalf of the Town, agreement(s) with the Village Companies, Orange County, the Chapel Hill-Carrboro City Schools and the Town of Carrboro to cablecast meetings of the Chapel Hill Town Council and of other governmental bodies. The Manager shall make recommendations to Council following such negotiations.

This the 1st day of July, 1985.

#### Rosemary Square Development Agreement Amendment

Manager Taylor made a brief presentation on the first amendment to the Development Agreement. He said of the changes made, two were an extension of the closing date from December 31, 1985 to June 30, 1986 and the designation that the Town would own 65% of the parking deck with identifiable spaces. He concluded by recommending that Council adopt resolution 85-R-123.

Mayor Nassif expressed concern over extending the closing date, primarily because if closing occurred in January or February he did not want construction to start at that time due to the normal rainfall which occurs during that time and the resulting messy conditions that would exist. He also said he would prefer construction not to be in the excavation phase during late April and early May when the University would be holding Commencement exercises. He said he would prefer construction not start prior to summer.

Mr. Whitfield Morrow, speaking for Fraser Development Company, said that the earliest closing could take place would be late November, which would put excavation during February and March, or if closing occurred in March, excavation would probably occur in early May. Mr. Morrow said that if it appeared that construction would commence around Christmas or graduation then they would delay the start to prevent excess confusion. He did say that the start of construction immediately after closing was important because interest begins to build as soon as closing occurs. Mr. Morrow said Fraser Development Company would be flexible within a thirty day period to work with the merchants, etc.

Mr. Walter Daniels, representing Fraser Development Company, also stated that delays, occurring after closing, would increase the interest charges, and the Town as a partner would share in the cost of additional interest.

Mr. Morrow concluding by saying that the project was not a process that would make the Fraser Development Company insensitive to several weeks delay or changes to accomodate what the Town needed.

COUNCIL MEMBER BOULTON MOVED, SECONDED BY COUNCIL MEMBER KAWALEC TO ADOPT RESOLUTION 85-R-123. THE MOTION PASSED UNANIMOUSLY, (8-0).

The resolution, as adopted, reads as follows:

**A RESOLUTION APPROVING AMENDMENT OF THE DEVELOPMENT AGREEMENT FOR ROSEMARY SQUARE (85-R123)**

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council approves, and authorizes the Mayor to sign on behalf of the Town, an amendment to the Rosemary Square Development Agreement between the Fraser Development Company of North Carolina and the Town of Chapel Hill, which amendment was submitted to the Council by the Town Manager for consideration on July 1, 1985, and a copy of which Amendment shall be kept on file with the Town's Rosemary Square contractual documents upon execution.

BE IT FURTHER RESOLVED that the Manager shall cause amended and restated copies of the Development Agreement to be prepared for execution pursuant to this resolution.

This the 1st day of July, 1985.

Garage Utilization Agreement

Manager Taylor made a brief presentation on the Garage Utilization Agreement which sets out how the parking deck will be utilized, responsibility for operating costs, control of parking operation policies and fees, lease payments for public use of private spaces only from net revenues, and the countercyclical public use of 175 private spaces. He recommended that Council adopt resolution 85-R-124.

Council Member Boulton asked if a rentor or owner of part of the Rosemary Square complex would be considered a private customer with regard to the parking deck. Mr. Don Donadio, legal counsel for the Town, replied that the rentors/owners would be able to come and go in the deck without paying a parking fee to the Town, but that the agreement stated that the Rosemary Square condominium owners would be responsible for payment of any private parking in any of the 175 designated spaces during the 10:00 a.m. - 2:00 p.m. time period indicated by the agreement as being available for Town use.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER KAWALEC TO ADOPT RESOLUTION 85-R-124. THE MOTION PASSED UNANIMOUSLY, (8-0).

The resolution, as adopted, reads as follows:

**A RESOLUTION APPROVING A GARAGE UTILIZATION AND LEASE AGREEMENT (85-R-124)**

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves, and authorizes the Mayor to sign on behalf of the Town, the Garage Utilization Agreement in substantially the form which the Manager submitted to Council on July 1, 1985, a copy of which Agreement shall be retained with the records of this meeting. The Manager may make minor amendments, subject to approval by counsel to the Town, in preparing said agreement for execution.

This the 1st day of July, 1985.

196

Closing of Eastern Leg of Alley

COUNCIL MEMBER BOULTON MOVED, SECONDED BY COUNCIL MEMBER HOWES TO ADOPT RESOLUTION 85-R-126. THE MOTION PASSED UNANIMOUSLY, (8-0)

The resolution, as adopted, reads as follows:

A RESOLUTION APPROVING CLOSURE OF THE EASTERN LEG OF THE ALLEY IN ROSEMARY SQUARE (85-R-126)

WHEREAS, the present alley is currently unnecessary for access to the properties abutting it; and

WHEREAS, the Council on May 13, 1985 adopted a resolution of intent to consider closing the eastern leg of the alley in Rosemary Square, and a public hearing thereon was held on June 10, 1985; and

WHEREAS, the closing of the eastern leg of the alley in Rosemary Square would not be contrary to the public interest, and no individual owning property in the vicinity of the alley right-of-way would be deprived of reasonable means of ingress and egress to his or her property by the closing of said right-of-way;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves the permanent closure of the eastern alley in Rosemary Square, extending for a distance of approximately 134 feet south from a point on Rosemary Street approximately 108 feet west of the right-of-way of Henderson Street, as shown on a plat dated March 25, 1985, drawn by Dale Faulkner, and subsequently annotated by the Engineering Department of the Town of Chapel Hill.

This the 1st day of July, 1985.

Deleting One-Way Traffic Restriction for the Alley

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER PASQUINI TO ADOPT ORDINANCE 85-O-38. THE MOTION PASSED UNANIMOUSLY, (8-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF ORDINANCES (85-O-38)

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

SECTION I

That Section 21-10 of the Town Code of Ordinances, "One-Way Streets," is amended by deleting paragraph (c) which reads

"Traffic on alleyway situated in the block bounded by East Franklin Street, North Columbia Street, East Rosemary Street and Henderson Street, must enter at its western intersection with Rosemary Street, and proceed southwardly and then eastwardly and northwardly emerging on East Rosemary Street at its eastern intersection near the U. S. Post Office after making a complete stop."

and inserting the following therein:

(c) Reserved

SECTION II

This ordinance shall be effective beginning the first day of July, 1985.

SECTION III

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

This the 1st day of July, 1985.

Manager Taylor made a brief presentation on the proposed renewal of the lease on the Old Police building. He said the staff planned to present to Council a need/use report with options for Council to review on the building in early fall. He said the proposed lease was with the County for two years with a 120 day notice of termination clause. Mr. Taylor said the lease included a payment of \$6 per square foot for all portions of the building except the basement which would be leased for \$4 per square foot. He said he felt the Council and County should look at needs for each in southern Orange with the possibility of a joint local government facility. Manager Taylor recommended adoption of resolution 85-R-127.

Council Member Thorpe said he felt the lease should be only for one year.

Council Member Pasquini said he wanted the options to be presented by the Manager regarding future use of the Old Police building to include the possibility of selling the building.

Council Member Smith stated he wanted the Manager to explore fully the possibility of a joint, County-City project.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER BOULTON TO ADOPT RESOLUTION 85-R-127. THE MOTION PASSED UNANIMOUSLY, (8-0).

The resolution, as adopted, reads as follows:

**A RESOLUTION AUTHORIZING THE TOWN MANAGER TO EXECUTE A RENEWAL LEASE WITH ORANGE COUNTY FOR THE OLD POLICE BUILDING AT 100 WEST ROSEMARY STREET (85-R-127)**

**WHEREAS, the Town of Chapel Hill wishes the Old Police Building to be of use until a decision is made regarding its long-term future; and**

**WHEREAS, the Town of Chapel Hill wishes to continue to cooperate with Orange County in its provision of service to the public;**

**NOW, THEREFORE, BE IT RESOLVED that the Town Manager is authorized to execute a lease with Orange County which includes the following stipulations:**

1. The County shall lease the entire building at 100 W. Rosemary Street, identified as Lots 10 and 11 of Block H of Chapel Hill Township Tax Map 85, commonly known as the Old Police Building.
2. The County shall have use of the approximately 25 parking spaces on the upper lot and the Town shall retain use of the spaces in the lower lot.
3. Rent shall be \$50,750 per annum, to include costs of electricity and heat. It shall increase in the second year, to cover any utility rate increases.
4. The County shall be responsible for janitorial services and the Town shall be responsible for maintenance of the exterior and extraordinary maintenance of the heating, plumbing, and electrical systems.
5. Internal alterations only shall be allowed with the prior approval of the Town Manager, and at the expense of the County.
6. The County and any sublessors shall be liable for and shall hold the Town harmless against any claim, cost, expense, liability, action or judgment arising out of or related to any personal injury, death, or property damage at 100 W. Rosemary Street which arises out of or is caused by the negligence of the County; and the County and any sublessors would have the Town named as co-insured on the insurance policies obtained on the property.
7. The lease shall run for 2 years.
8. The lease may be cancelled upon 120 days prior written notice by either the Town or the County.

This the 1st day of July, 1985.

198  
Parking Lot #2

Manager Taylor made a brief presentation on the proposed acquisition by eminent domain of the Sloan heirs' property.

COUNCIL MEMBER KAWALEC MOVED, SECONDED BY COUNCIL MEMBER SMITH THE ADOPT RESOLUTION 85-R-128. THE MOTION PASSED UNANIMOUSLY, (8-0).

The resolution, as adopted, reads as follows:

**A RESOLUTION REGARDING PURCHASE OF THE SLOAN PROPERTY (85-R-128)**

WHEREAS, the Town of Chapel Hill desires to purchase the "Sloan Property," at the southeast corner of Rosemary and North Columbia Streets, for public parking purposes, and

WHEREAS, the Town of Chapel Hill is pursuing the purchase of this property through the condemnation procedures prescribed by the General Statutes of the State of North Carolina,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Town Manager is authorized, in the acquisition of the Sloan property as presently scheduled through condemnation procedures, to use an interfund loan from the General Fund to the Parking Facilities Bond Fund in an amount equal to the final purchase price as established by condemnation procedures, which is to be repaid along with appropriate interest charges, from the parking revenues heretofore paid as rent on this property, or from the net revenues from the operation of this parking facility.

FURTHER RESOLVED, that the Town Manager is authorized and directed to execute on behalf of the Town all papers or documents necessary or desirable to carry out the intent of this resolution.

This the 1st day of July, 1985.

Police/Fire Study

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER PASQUINI TO ADOPT RESOLUTION 85-R-129.

Council Member Thorpe asked that the agreement, if approved be amended so that the draft report was reviewed with members of Council as well as the Mayor and Town Manager. It was agreed to change the wording to read "Governing Board" and Town Manager.

THE MOTION PASSED UNANIMOUSLY, (8-0).

The resolution, as adopted, reads as follows:

**A RESOLUTION APPROVING AN AGREEMENT WITH RUSTEN ASSOCIATES FOR A STUDY OF THE POLICE AND FIRE DEPARTMENTS (85-R-129).**

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves, and authorizes the Mayor to sign on behalf of the Town an agreement with Rusten Associates for a study of the Police and Fire Departments as described in a proposal from Allan C. Rusten to the Town and dated May 24, 1985; and which agreement shall be substantially in the form submitted to Council on July 1, 1985. Copies of said proposal and agreement shall be retained with the records of this meeting.

This the 1st day of July, 1985.



Executive Session

COUNCIL MEMBER KAWALEC MOVED, SECONDED BY COUNCIL MEMBER SMITH TO ADJOURN TO EXECUTIVE SESSION TO DISCUSS LITIGATION. THE MOTION PASSED UNANIMOUSLY, (8-0).

The meeting adjourned to executive session at 9:50 p. m.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER BOULTON TO MOVE BACK INTO OPEN SESSION. THE MOTION PASSED UNANIMOUSLY, (8-0).

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER SMITH TO APPEAL THE WINDY HILL DECISION. THE MOTION PASSED, (7-1) WITH COUNCIL MEMBER THORPE VOTING AGAINST.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER KAWALEC TO ADJOURN THE MEETING. THE MOTION PASSED UNANIMOUSLY, (8-0).

The meeting adjourned at 10:35 p.m.

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

\_\_\_\_\_  
Nancy J. Wells  
Town Clerk

200

ORIGINAL AS PART OF THE RECORDS OF THE BOARD OF COUNTY COMMISSIONERS, COUNTY OF SANTA CRUZ, CALIFORNIA