

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL  
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,  
MONDAY, MARCH 3, 1986, 7:30 P.M.

Mayor James C. Wallace called the meeting to order. Council Members present were:

Julie Andresen  
David Godschalk  
Jonathan Howes  
David Pasquini  
Nancy Preston  
R. D. Smith  
Bill Thorpe  
Arthur Werner

Also present were Town Manager David R. Taylor, Assistant Town Managers Sonna Loewenthal and Ron Secrist, and Town Attorney Ralph Karpinos.

Public Hearing on Use of Community Development Funds

Sonna Loewenthal, Assistant Town Manager for Environment and Development, gave a presentation on the proposed plan to spend an estimated \$231,000 of federal Community Development (CD) funds for 1986. She said Chapel Hill was currently implementing the first and second years' part of a three-year CD grant and that this was the second hearing to receive citizen input as to the disposition of these third year funds. Mrs. Loewenthal stated the proposal included funds for homeownership opportunities, home purchase program, capital improvements projects like Merritt Mill Road, Hargraves Park landscaping, and Gomains Tot Lot renovation, and general administration costs. She said the staff had revised the initial plans for the CD funds to take into account the extensive federal cuts in the CD program and were therefore budgeting \$114,000 less than last year's grant.

John Brooks, speaking as a resident, said his home was to be relocated as a result of the Merritt Mill Road improvements. He stated that he disagreed with the appraisal of his property for just compensation. He listed several discrepancies between what the appraiser indicated existed on his property and what actually existed and asked the Council to look into this matter.

There were no further comments from citizens.

Council Member Smith asked if the use of CD funds for improvements prevented the assessing of property owners for the improvements. Manager Taylor replied that assessments could be made for the local costs but not the federal costs.

Council Member Smith asked the Manager to look into the concerns raised by Mr. Brooks. He also expressed concern that a fair price was given for the property needed to be taken for the Merritt Mill Road project so as to enable the home owners to be able to rebuild to the extent of their current homes.

Council Member Werner questioned whether the amount (\$54,000) designated for Merritt Mill Road relocation as being too small. Manager Taylor responded that the \$54,000 was this year's addition to the previously budgeted right-of-way/relocation funds for Merritt Mill Road improvements.

Council member Preston asked if the INCHUCO demonstration project had started yet and if INCHUCO had been notified of this hearing. Manager Taylor replied that the demonstration project had not as yet started. Assistant Town Manager Loewenthal stated that INCHUCO had been notified of this hearing and were aware of the expected cut back in federal funds and its implication to their proposal for CD funds.

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Council Member Preston suggested using the Rental Rehabilitation funds contracted to the Housing Authority for the INCHUCO project if the Housing Authority was unable to expend these funds and to avoid losing these funds.

Council Member Thorpe commented that the proposal should not include those items like renovation of Hargraves Park, Gomains Tot Lot, and Lincoln Center if the funds would probably be exhausted prior to the implementation of these improvement projects and instead used on other projects. He said he wanted to be sure if funds were budgeted for these projects and used to acquire the grant, then the improvements should be carried out, and not later used for something else.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO REFER TO THE MANAGER. THE MOTION PASSED UNANIMOUSLY, (9-0).

#### Petitions

John Bachman, speaking as a resident, asked to speak to item #4, Brenner rezoning request.

Gordon Steel, speaking as a resident, asked to speak to item #8, Stop signs on Elliott Road.

Manager Taylor petitioned the Council to remove item #11, Transfer of funds to OWASA, because of confusion between the staff and OWASA regarding the disposition of the funds, and item #14d, Davie Circle One-way Traffic, because he had discovered a previously adopted ordinance, which had failed to be codified, designating Davie Circle as a one-way street. Manager Taylor also asked that the minutes of the February 5, 1986 Council work session with the Planning Board be added to the agenda for consideration for adoption.

#### Minutes

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT THE MINUTES OF FEBRUARY 5, 1986 AS CIRCULATED. THE MOTION PASSED UNANIMOUSLY, (9-0).

COUNCIL MEMBER THORPE MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT THE MINUTES OF FEBRUARY 17, 1986, WHICH INCLUDE THE CONTINUATION OF THE FEBRUARY 10 MEETING, AS AMENDED. THE MOTION PASSED UNANIMOUSLY, (9-0).

#### Brenner Rezoning Request

John Bachman, speaking as a resident, spoke against the rezoning request because of the potential traffic impact to Franklin Street, and the potential general uses allowed in the Office/Institutional-1 zoning.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT RESOLUTION 86-3-3/R-1 TO DENY THE REZONING REQUEST.

Council Member Smith asked what would be the zoning designation of the property if the rezoning request were denied and the Special Use Permit (SUP) were abandoned. Manager Taylor replied that the property was zoned Residential-2. Council Member Smith then asked how many units could be built on the site with the R-2 zoning. He said the question became which was better the OI-1 or R-2 zone? Roger Waldon, Planning Director, replied that six units could be built on the 1.5 acre site.

Council Member Preston asked if the applicant could apply for a modification of the SUP rather than rezoning the site to allow it to be used as a medical office building. Town Attorney Karpinos replied that the applicant could apply for a modification of the SUP to use the site as an office facility.

Council Member Werner spoke in support of the motion saying he was concerned with the traffic potential for 500 trips per day out of the OI-1 zone compared to 60 trips from the R-2 zone.

Council Member Pasquini re-emphasized the statement made by Council Member Preston that the applicant could apply for a modification of the SUP to allow for a medical office use on the site.

Council Member Andresen asked if a public hearing would be required if the applicant chose to apply for a modification of the SUP if the rezoning request were denied. Mr. Waldon replied that a public hearing would be required and that the earliest it could be on the agenda would probably be in May.

Council Member Andresen also spoke in support of the motion citing the potential traffic problems.

Council Member Thorpe commented that the arguments against the rezoning request based on concern over the traffic situation would remain if the applicant were to apply for a modification of the SUP and therefore he did not understand the reasoning behind mentioning the possibility of the applicant applying for the SUP modification if traffic was a prime concern.

Council Member Smith expressed concern that the options being put forth by the Council this evening should have been discussed with the applicant prior to having the applicant apply for a rezoning request. He commented that during the applicant's first request for rezoning of the site to Neighborhood-Commercial the Council had implied that the applicant should have applied for an Office/Institutional-1 zone. He said now some members of the Council were suggesting the applicant apply for a modification of the SUP. He said this was not a good way for the Council to do business and wasted valuable time of all parties involved.

Council Member Godschalk asked for further clarification of the possibility of the applicant applying for a modification of the Special Use Permit that now exists on the site. He said he did not see how allowing an OI-1 use in an R-2 zone would not increase the degree of nonconformity. Attorney Karpinos replied that a modification of the SUP could be granted if the modification did not increase the degree of nonconformity. He said the issue of use was not part of the matter of nonconformity rather the nonconformity issue was based on physical features, buffers, parking, etc. Mr. Karpinos said he was not sure the Council could make the required findings to grant the modification but that the applicant could apply for such modification.

Council Member Howes said that he was not impressed with the alternatives available to the applicant. He stated that the opposition to the rezoning request was essentially based on a desire to see no change in the use of the site, which he felt was unreasonable since the owners had stated that they could not continue to use the site. Council Member Howes stated he felt the rezoning request was not inconsistent with the Comprehensive Plan and spoke against the motion to deny.

Council Member Andresen said the area was a sensitive area for development since it was designated as an entranceway.

THE MOTION TO DENY PASSED, (5-4), WITH COUNCIL MEMBERS GODSCHALK, HOWES, SMITH, AND THORPE VOTING AGAINST.

The resolution, as adopted, reads as follows:

**A RESOLUTION DENYING AN APPLICATION FOR REZONING (86-3- 3/R-1)**

WHEREAS the Council of the Town of Chapel Hill has considered a request to rezone property identified as Chapel Hill Township Tax Map 77, Block B, part of lot 17, from Residential-2 to Office/Institutional-1; and

WHEREAS the Council fails to find that the proposed rezoning (1) would correct a manifest error, (2) is appropriate due to changed or changing conditions; or (3) achieve the purposes of the Comprehensive Plan;

NOW THEREFORE, BE IT RESOLVED that it hereby denies the application of William E. Brenner and William E. Brenner, Jr. to rezone the property identified as Chapel Hill Township Tax Map 77, Block B, part of lot 17, located on the northwest corner of East Franklin Street and Elizabeth Street, from Residential-2 to Office/Institutional-1. The description of the land proposed to be rezoned is as follows:

BEGINNING a stake in the northern right-of-way of U.S. 15-501 (East Franklin Street) and the northern margin of Elizabeth Street (said northwestern intersection of both) running thence with the northern margin of Elizabeth Street North 55 degrees 05 minutes West 195 feet; running thence 05 minutes West 62 feet to a point in the northeastern intersection of Elizabeth Street and Holloway Drive; running thence with the eastern margin of Holloway Drive North 39 degrees East 175 feet to a point in the southern margin of the property of Zoom-Zoom, Inc.; thence with the said margin of the property of Zoom-Zoom, Inc. South 30 degrees 33 minutes East 50 feet more or less to a point; thence South 10 degrees 10 minutes West 26.05 feet and South 30 degrees 33 minutes East 146 feet more or less to the northwestern right-of-way of U.S. 15-501 (East Franklin Street); running thence with the said margin of U.S. 15-501 (East Franklin Street) along the arc of a circle to the left in a southern direction 243.5 feet more or less to the point and place of BEGINNING.

This the 3rd day of March, 1986.

Mayor Wallace expressed concern that all the options including the modification of the SUP might not have been made available to the applicant prior to the rezoning request.

Council Member Thorpe commented that lengthy citizen comments should be made at the appropriate public hearings and not the meeting at which the Council was deliberating on the issue.

Council Member Howes commented that there was some consensus on the Council to allow Dr. Brenner to use the site as a medical office and suggested that Council Members and the Attorney further discuss the viability of the modification of the Special Use Permit.

#### Goals and Objectives

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT RESOLUTION 86-3-3/R-2A.

Council Member Smith commented that the goal of "mobility and traffic control through a road system which would accommodate safe and efficient movement" was a one that there needed to be concerted efforts to meet because, at present, he felt this goal was a long way from being met. He said if the Town could not meet this goal then it should not be part of the goals and objectives. Council Member Smith said traffic congestion was the crux of the problem in Chapel Hill and the Police Department could do something now to help alleviate congestion if the Department would assign officers to direct traffic at busy intersections during rush hours to move traffic out of Town. He said if it could be done for football games, it could be done for rush hours.

Council Member Werner asked that on page 5 of the draft Goals and Objectives item #3g be changed to read "protect existing residential neighborhoods."

Council Member Andresen commented that the wording and use of grammar in the preamble needed revision.

Council Member Preston asked that on page 6 of the draft Goals and Objectives item #3b be changed to omit the term "new."

Council Members Pasquini and Godschalk agreed to add these changes to their motion.

THE MOTION PASSED UNANIMOUSLY, (9-0).

Council Member Smith said it was incumbent upon the Council to be courteous and respectful of each other when speaking on a subject. He said he respected the views of other Council members and did not feel it was correct to interrupt other Council members when they were speaking.

The resolution, as adopted, reads as follows:

**A RESOLUTION ADOPTING GOALS AND OBJECTIVES (86-3-3/R-2a)**

BE IT RESOLVED by the Council of the Town of Chapel Hill that the attached set of Goals and Objectives, dated March 3, 1986 is hereby adopted as a component of the Town's Comprehensive Plan and general plan for physical development of the Town.

BE IT FURTHER RESOLVED that these Goals and Objectives replace the Goals and Objectives adopted by the Town Council in 1977, as amended.

BE IT FURTHER RESOLVED that these Goals and Objectives will be considered at the Public Hearing set to consider the draft interim Land Use Plan map; and that this hearing, originally called for June 17, is now postponed to July 7, 1986.

This the 3rd day of March, 1986.

Interim Budget Report for FY 1986-87

Manager Taylor said the interim budget report shows that at this point he projects the budget could to be balanced with no increase in the General Fund property tax rate of 63.5 cents while maintaining the same services and programs provided in 1985-86. He said he felt good about the budget and wanted feedback from the Council regarding the budget plans. He said he was not sure at this time to what extent, if any, the Transportation Fund would be affected by federal budget cuts. Manager Taylor said he expected his recommended budget to be within 1% of the totals given in the interim report with the possible exception of the Transportation Fund.

Council Member Godschalk commented that he felt it was important to continue the current levels of mass transit due to the Town's traffic problems even if there were cutbacks in the federal funding.

Council Member Preston commented on the reduction in funding for the Mayor and Council and Planning Department. Manager Taylor said his recommended budget would address each line item and provide all necessary detail.

Council Member Andresen asked if the increases in the Police Department budget would enable the implementation of all the recommendations in the Rusten report. Manager Taylor replied that the increases would not cover all the recommendations, particularly the hiring of all the increased personnel Mr. Rusten proposed. He said that total implementation of the Rusten report would increase the tax rate by approximately one cent.

Council Member Smith said he would like the budget to include enough funds to grant all eligible employees in the performance range the same amount of increase for above expected level performance. Manager Taylor said the preliminary budget included funds for the Performance Based Pay Plan and that the staff was discussing the possibility of changing the amount of merit increase to a fixed amount.

Council Member Howes asked about the budget schedule stating he would be out of town on the night of the May 27th Council meeting. Manager Taylor replied that there would be a public hearing on the interim budget on March 24, the Recommended Budget would be presented on April 28, and another public hearing is proposed for May 12. He said the Budget could be adopted on May 27, but he would delay placing it on the agenda until June 9 since all of the Council would not be present on May 27.

There was general consensus on the Council to move the consideration of budget adoption to June 9.

Capital Improvements Program

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER HOWES TO ADOPT ORDINANCE 86-3-3/O-2.

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Council Member Godschalk asked if the budget appropriations were just for planning work or would these funds also pay for actual work on the projects. Manager Taylor responded that this ordinance would authorize projects to be implemented.

Council Member Werner asked if the \$375,000 appropriation was expected to be spent prior to June 30. Manager Taylor replied no but that the funds needed to be appropriated in order to make contractual agreements.

Council Member Thorpe commented that the Merritt Mill Road improvements included the section of road in front of Mr. George Tate's property and Mr. Tate's payment in lieu of road improvements fee was included. Mr. Thorpe said he was opposed to requiring Mr. Tate to provide these funds since the Town, State and federal government were financing the project.

Council Member Smith asked when the Council could expect the report from the Army Corps of Engineers regarding stormwater management along Bolin Creek especially if there would be budget implications in the report which should be considered for the next fiscal year. Manager Taylor replied that he was not sure when the report would be ready but that the Engineering Department was working with a consultant, Dr. Devo, on stormwater management issues and he felt the work with Dr. Devo would be more beneficial to the Town with regard to stormwater management.

THE MOTION PASSED, (8-1), WITH COUNCIL MEMBER THORPE VOTING AGAINST.

The ordinance, as adopted, reads as follows:

AN ORDINANCE TO AMEND "THE ORDINANCE CONCERNING APPROPRIATIONS AND THE RAISING OF REVENUE FOR THE FISCAL YEAR BEGINNING JULY 1, 1985 (86-3-3/O-2)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Budget Ordinance entitled "An Ordinance Concerning Appropriations and the Raising of Revenue for the Fiscal Year Beginning July 1, 1985" as duly adopted on June 10, 1985, be and the same is hereby amended as follows:

#### SECTION I

That \$375,000 in the Capital Reserve Fund for capital improvements is hereby removed from the Capital Reserve Fund and transferred to the Capital Improvements Fund in the amounts and for the purposes as follows:

Greenways	\$ 25,000
Stormwater Management	\$ 25,000
Stormwater Drainage	\$ 25,000
Sidewalk Construction	\$ 25,000
Neighborhood Park Facilities	\$ 50,000
By-Pass Improvement Studies	\$200,000
Cemetery	\$ 25,000

#### SECTION II

That \$100,000 in the Capital Reserve Fund for capital improvements is hereby removed from the Capital Reserve Fund and transferred to Capital Projects Ordinance for Street Improvements in the amount and in the purpose as follows:

Merritt Mill Road Improvements	\$100,000
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This the 3rd day of March, 1986.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT ORDINANCE 86-3-3/O-2.5. THE MOTION PASSED, (8-1), WITH COUNCIL MEMBER SMITH VOTING AGAINST.

The ordinance, as adopted, reads as follows:

AN ORDINANCE TO AMEND THE CAPITAL PROJECTS ORDINANCE FOR STREET IMPROVEMENTS (86-3-3/O-2.5)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Budget Ordinance 85-0-19 entitled "A Capital Projects Ordinance for Street Improvements for Merritt Mill Road and Street Petition Improvements is hereby amended as follows:

Section III - Revenues anticipated to be available for the project are amended as follows:

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
From Capital Reserve Fund	100,000	100,000		200,000
From N.C. Dept. of Transportation	300,000	100,000		400,000
Other Services (Developer)	-0-	14,000		14,000

Section IV - Appropriations for the project are amended as follows:

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
For Merritt Mill Road	470,000	214,000		684,000

This the 3rd day of March, 1986.

#### Four-way Stop Signs on Elliott Road

Gordon Steele, speaking as a resident of Coker Hills subdivision, spoke in support of having stop signs placed at the intersections of Elliott Road and Velma, Old Oxford Road, Michaux, and Audubon. He said the stop signs would have an immediate effect on the speed of the traffic on Elliott and would require fewer Police personnel to enforce.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER SMITH TO ADOPT ORDINANCE 86-3-3/O-3.

Council Members Preston and Pasquini asked if the intersection of Elliott and Velma/Old Oxford Road was adaptable to a four-way stop. Manager Taylor replied that he thought it was.

Council Member Andresen spoke in support of the motion saying she felt it would help the traffic problem.

Council Member Howes spoke in support of the motion but felt that it would not be met with favor by many of the Town's citizens. He said the Manager's recommendation of a sidewalk and bike lane was probably a viable option.

Council Member Preston asked where the Elliott Road proposed sidewalk was on the sidewalk plan priority list. Manager Taylor said it was in category #1 along with about 12 other high priority sidewalks. Council Member Preston said the ordinance was a good stop gap measure.

Council Member Smith said there was precedent for installing stop signs for speed control as it had been done and was effective in Colony Woods.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

**AN ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF ORDINANCES (86-3-3/O-3)**

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

**SECTION I**

That Section 21-13 of the Town Code of Ordinances, right-of-way and stop regulations is amended adding a new section 21-13(c) to read as follows:

- c. The Police Department of the Town, pursuant to the provisions of Section 20-158, General Statutes of North Carolina and under the supervision of the Town Manager, shall cause to be erected at the intersections of the public streets hereinafter listed signs notifying drivers of vehicles travelling in any direction on the public streets to come to a full stop before entering or crossing the public streets. Whenever any such sign has been erected, it shall be unlawful for the driver of any vehicle entering or crossing said intersection listed below to fail to stop in obedience to said stop and to yield the right-of-way to vehicles already within said intersection:

**Intersection(s)**

Elliott Road/Old Oxford Road  
Elliott Road/Velma Road  
Elliott Road/Michaux Road  
Elliott Road/Audubon Road

**SECTION II**

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

This the 3rd day of March, 1986.

**Areas Under Consideration for Annexation**

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER THORPE TO ADOPT RESOLUTION 86-3-3/R-3. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

**A RESOLUTION IDENTIFYING THE AREAS DESCRIBED HEREIN AS BEING UNDER CONSIDERATION FOR ANNEXATION (86-3-3/R-3)**

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

**Section I**

That pursuant to G.S. 160A-49(i), the following described areas are identified as being under consideration for annexation by the Town of Chapel Hill, under the provisions of Part 3, Article 4A of Chapter 160A of the General Statutes of North Carolina:

1. Northwood Subdivision on N.C. 86 North and Eubanks Road
2. Sedgefield Subdivision on Whitfield Road and the unincorporated property bounded by Whitfield Road on the north, Weaver Dairy Road on the south, N.C. 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 Development, N.C. 86, and Weaver Dairy Road
4. Unincorporated land bounded by Weaver Dairy Road, Cedar Hills Subdivision, and Timberlyne Subdivision



5. Kirkwood (previously Hickory Hill) Planned Development on Erwin Road
6. Eastowne Office Park and Eastowne Hills Office Subdivision
7. East and West Lakeview Drive
8. Unincorporated area between the intersection of East Lakeview Drive with Old Durham Road and Colony Woods North, including the Lassiter-Currie Subdivision
9. Meadow Lane/Winter Drive area
10. Dogwood Place Planned Development on U.S. 15-501 South
11. Sycamore Run Subdivision on Mt. Carmel Church Road
12. The unincorporated property bounded by Sycamore Run Subdivision on the east, Mount Carmel Church Road on the south, U. S. 15-501 South on the west, and the Meadow Lane/Winter Drive area on the north
13. Southbridge Subdivision on Culbreth Drive
14. Highpark (previously Bennett's Ridge) Planned Development on Culbreth Drive and the unincorporated properties between High Park Planned Development and U.S. 15-501 South and between High Park and Morgan Creek
15. Woodlake Subdivision on U.S. 15-501 South and the unincorporated property bounded by U.S. 15-501 South on the east and Woodlake Subdivision on the north, west, and south
16. Tate Apartments Planned Development on Smith Level Road
17. The Highlands Planned Development on Erwin Road
18. Unincorporated land bounded by U.S. 15-501 East on the south, Erwin Road on the east, Kirkwood Planned Development on the north, and Summerfield Crossing on the west
19. Greenfields Planned Development on Erwin Road
20. Unincorporated land bounded by U.S. 15-501 East on the south, Duke Power Substation property, Erwin Road, and The Highlands Planned Development to the west, Greenfields Planned Development to the north, and Central Carolina Bank property and Sage Road to the east
21. Windy Hill property and adjoining tract to the northeast
22. Unincorporated area between present city limits and I-40, bounded by U.S. 15-501 on the north and N.C. 54 on the south
23. Unincorporated area bounded by N.C. 54 on the north, Barbee Chapel Road on the south and west, and land of the U.S. Army Corps of Engineers on the east
24. Unincorporated area bounded on the south by a line 600' south of the southern right-of-way of U.S. 15-501, on the east and north by New Hope Creek and on the west by Eastowne
25. Unincorporated area north of Eubanks and Whitfield Roads, extending east from the Norfolk-Southern right-of-way across the I-40 and N.C. Highway 86 rights-of-way.
26. Unincorporated area including the future land fill site, and bounded by Eubanks Road to the north, N.C. Highway 86 and the existing Town limits to the east, and Horace Williams Airport to the south.
27. Unincorporated area extending north from the existing Town limits, and generally bounded by the Eastowne Office Subdivision to the east, the Carol Woods development to the west, and the I-40 right-of-way to the north.

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28. Unincorporated area extending from the existing Town limits and Morgan Creek south across Culbreth Road, and bounded to the west by Smith Level Road (S.R. 1919), and to the southeast by N.C. Highway 15-501.
  29. Unincorporated area located southeast of the existing Town limits and Morgan Creek, and bounded to the southeast by N.C. Highway 15-501, to the southwest by Culbreth Road, and to the west by Glenmere Subdivision.
  30. Unincorporated area extending south from the intersection of N.C. Highway 15-501 and Mt. Carmel Church Road, and bounded by Old Lystra Church Road to the east, N.C. Highway 15-501 to the west, and the Orange-Chatham County line to the south.
  31. Unincorporated area including the Laurel Hill and Hunter's Ridge Subdivisions, and generally bounded to the west by Mt. Carmel Church (S.R. 1008) and Old Lystra (S.R. 1915) Roads, to the east by the Corps of Engineers property, to the north by the existing Town limits, and to the south by the Madison Womble Road (S.R. 1917), Mt. Carmel Church Road, and Mangum Court (S.R. 2001).

The above areas are shown on the attached map, which shall be incorporated in this resolution by reference.

#### Section II

That a copy of this resolution shall be filed with the Town Clerk.

This is the 3rd day of March, 1986.

#### Villages Companies Foundation

Mayor Wallace gave a brief historical background of the Village Companies Foundation and its current status. In 1979 the Town Council issued a franchise for cable television in the Town and vicinity to the Village Cable company which was one of several companies under the umbrella known as the Village Companies. One of the conditions of this franchise was the transfer of 10% of the stock to a Foundation known as the Village Companies Foundation. This Foundation was established for the purpose of doing charitable work for the benefit of the Town. Members were appointed to the Board. Time passed before the stock was transferred and the question arose as to what value should be placed upon the stock. There ensued fairly lengthy discussions between the Town, Foundation Trustees, and some members of the community relating to the value of the stock. The discussions lasted for at least two years.

Mayor Wallace said that when he returned to the Council this year, he had been surprised to see that the issue had been where it was when he had left. Mayor Wallace said the upshot of the matter was that a bid had been entered by a third party for \$100,000, which successfully established in his opinion, a floor for the value of the stock. The stock was transferred to the Foundation and was in the process of being transferred back to Village Cable when the Town of Chapel Hill, not wishing the transferral to take place at that time entered into a law suit enjoining the transfer of stock back to Village Cable.

Subsequently the law suit was dropped, and some two years have lapsed since that event. Mayor Wallace said at this particular time the last remaining price was \$105,000 for the stock. He said it now turned out that the Foundation Trustees had finally been able to perfect their charitable organization status with the Internal Revenue Service and had been granted one of the 501(c)(3) grants which established them as an organization which could receive monies from donors, said monies would be tax exempt to the donor, and the utilization of this money for charitable purposes provided the corporation tax exempt status.

He said the Council had received a letter from Mr. Mel Rashkis, a Foundation Trustee, setting forth the fact that at this time the Foundation had been granted the tax exempt status. He said he had conferred with several individuals who had been interested in this issue over the period of time and at the present moment he was able to report that the proposed monies to be paid to the Foundation for the stock would consist of \$105,000 and in addition thereto, there would be a \$20,000 donation, making the total \$125,000. The matter had come back to the Council after this lengthy period because the Council had granted the franchise and there was some feeling that the Council had participated in some way in making sure all the fiduciary obligations in the Council's judgement had been fulfilled and that this price represented something to which the Council would not object. Mayor Wallace said that in his judgement he felt the sum of \$125,000 was fair, and in effect the \$20,000 would be essentially a 10% interest over a two year period on the \$105,000, so there was no money lost because of the delay. He did not find any objection to the transfers, on his part, and he hoped the Council would concur on the Town's part in having the stock transfer go forth at this particular time and set the Foundation to work on the kinds of things for which it was established.

Council Member Howes asked if any action was proposed for the Council to take or any formality they needed to perform?

Mayor Wallace said he had spoken with the Manager concerning this and concluded that all the Council needed to do was indicate its consent, that is that the Council did not find that the proposed transfer to be contrary to the tenor of the agreement that the Council originally entered into. He said he had deliberately eschewed from having a formal resolution, and would like it to simply be a finding along those lines. He said a simple motion would suffice.

Mayor Wallace said he would entertain a motion.

Council Member Howes asked to make a motion and he asked the attorney and Mayor to be sure the motion expressed the right sentiment.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER SMITH THAT THE COUNCIL CONCURRED IN THE ARRANGEMENTS FOR THE SALE OF THE VILLAGE COMPANIES STOCK FOR THE PRICE OF \$125,000, AND FIND THAT IT COMPLETES ALL OF THE ARRANGEMENTS ANTICIPATED IN AWARDED THE FRANCHISE IN SO FAR AS CREATION OF THE FOUNDATION WAS CONCERNED.

Mayor Wallace asked that the motion identify to whom the stock was to be sold. Council Member Howes agreed to add that the stock was being sold to Village Cable. Mayor Wallace said that upon such sale Village Cable would own 100% of the stock.

Mayor Wallace asked if there were any discussion. He recognized Mr. Rashkis, a Foundation Trustee.

Mr. Rashkis stated that the motion should distinguish between the selling price of \$105,000 and the separate contribution of \$20,000.

Mayor Wallace agreed.

Council Member Howes agreed to add this to his motion.

The motion then read:

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER SMITH THAT THE COUNCIL CONCURRED IN THE ARRANGEMENTS FOR THE SALE OF THE VILLAGE COMPANIES STOCK TO VILLAGE CABLE FOR THE PRICE OF \$105,000, AND AN ADDITIONAL \$20,000 DONATION, WHEREUPON VILLAGE CABLE WOULD OWN 100% OF ITS STOCK, AND FIND THAT IT COMPLETES ALL OF THE ARRANGEMENTS ANTICIPATED IN AWARDED THE FRANCHISE IN SO FAR AS CREATION OF THE FOUNDATION WAS CONCERNED.

Council Member Godschalk asked if it were then the position of the Foundation that it would have \$125,000 to do good works with?

Council Member Howes said he hoped there would be more than that.

Mayor Wallace said this money represented the first monies. He said presumably the Foundation, of course, had affected a Charter for the purpose of expending these funds. He said he understood there were some donors who wished to add to the funds and that the sale of the stock would be the beginning.

Council Member Godschalk asked what kind of good work would be done? He asked if there were specific programs or if it were more good works in general.

Council Member Howes said he thought it was more good works in general but that he thought the language of the Charter dealt with improving the quality of life within the community. He said the Council at the time the franchise was awarded was not entirely sure exactly what the Foundation would be doing. He said with the benefit of hindsight the Council could say that what they thought they were doing was aiding in the creation of what is called a community foundation and using the funds that were to be generated by the cable system to provide the nest egg for that to get started. He said like any foundation it was independent of the Council and it will do what its Board of Directors saw fit to do. He said the Charter was written with all the good things one wants to hear about improving the life in this community. He said it had a prestigious board, some of which were present. Council Member Howes said he felt it was a good charter, but that the Foundation had just not been able to get started because of the legalities of the disposition of the stock and this will at least allow them that first nest-egg and hopefully with that they could make themselves available for other contributions from other people in the community. To him that was how community foundations work, through bequests from people in the community and then the board distributes the funds.

Council Member Godschalk said that the Foundation could follow some of the similar objectives that the Council might have expressed.

Council Member Howes agreed but reiterated that the Foundation was an independent board, not bound to do anything the Council wanted.

THE MOTION PASSED UNANIMOUSLY, (9-0).

#### Noise Permit - Pi Kappa Phi Burn-out Party

Council Member Howes asked the Manager what discussions and agreements had been held between the Town and the Fraternity regarding the traffic hazards the party might produce. Manager Taylor replied that Police Chief Herman Stone and representatives of the Fraternity had met and agreed to certain extra conditions. Chief Stone said there had been agreement between the Town and the Fraternity that if the noise permit were granted it would include the conditions that no parking be allowed along NC 54, traffic cones would be lined on both sides and in the median of NC 54 and watched by monitors; two shuttle buses would transfer students from the F parking lot to the Fraternity; volunteer monitors would be placed in the Glen Lennox area to prevent improper parking; and four off-duty police officers would be hired for crowd and traffic control. He said he felt the party would not create as large a hazard with these conditions. Chief Stone said he would call UNC police to assist with patrolling the area during the party. He also said he hoped the event would be held on campus next year.

Council Member Howes asked if these conditions would be spelled out as part of the noise permit. Manager Taylor and Chief Stone said the conditions would be incorporated in the permit.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER THORPE TO ADOPT RESOLUTION 86-3-3/R-7 WITH THE UNDERSTANDING THAT THE CONDITIONS OUTLINED BY CHIEF STONE WOULD BE PART OF THE NOISE PERMIT.

Council Member Smith said he felt on-duty police officers should also be at the scene of the party to help prevent any driving while under the influence. He also said he felt the Campus police should be involved.

THE MOTION PASSED UNANIMOUSLY, (9-0).

Council Member Howes expressed appreciation to the representative of the Fraternity for their cooperation in trying to make the event as safe as possible.

The resolution, as adopted, reads as follows:

**A RESOLUTION APPROVING AN EXEMPTION FROM THE TOWN'S NOISE ORDINANCE (86-3-3/R-7)**

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby grants an exemption from certain time limits of the Town's noise ordinance, and approves the issuance of a special permit for outdoor amplified sound between 2 and 5 p.m. on Friday, April 11, 1986 in connection with an event sponsored by the Pi Kappa Phi Fraternity to raise funds for the North Carolina Burn Center; provided, that the fraternity and other participants and any other sponsors of the event shall comply with other terms of the ordinance, including decibel limits; and shall cooperate and comply with reasonable directives of the Police Department in planning for and conducting the event.

This the 3rd day of March, 1986.

Consent Agenda

Council Member Smith asked that items #a and #b be removed from the consent agenda.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT 86-3-3/R-8 MINUS ITEMS A,B,AND D. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution and ordinance, as adopted, read as follows:

**A RESOLUTION APPROVING VARIOUS RESOLUTIONS AND AN ORDINANCE (86-3-3/R-8)**

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

- c. An ordinance temporarily removing parking from portions of Franklin Street and Henderson Street on Sunday, April 20, for Apple Chill Street Fair. Manager recommends adoption. (0-4)

This the 3rd day of March, 1986.

**AN ORDINANCE TEMPORARILY REMOVING PARKING FROM PORTIONS OF FRANKLIN AND HENDERSON STREETS (APPLE CHILL, 1986) (86-3-3/O-4)**

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

That on the 20th day of April 1986, between the hours of 12:30 and 8:00 p.m. there shall be no parking on either side of Franklin Street between Columbia Street and the western entrance of Morehead Planetarium parking lot, or on either side of Henderson Street between Franklin and Rosemary Streets between the above hours.

The Police Department of the Town of Chapel Hill is hereby authorized to cover the parking meters on said streets during such hours on said date. The Police Department is further authorized to remove, tow, and impound automobiles and vehicles of any kind which are parked on said streets during such hours in contravention of this Ordinance. In light of the large number of pedestrians expected in the street fair area, the Council hereby determines that vehicles in the restricted area would constitute a special hazard requiring prompt removal. The owner shall be responsible for and pay storage and moving costs of any vehicle removed pursuant to the provisions of this Ordinance, and the Police Department shall use reasonable diligence to notify the owner of the removal and storage of such vehicle.

This the 3rd day of March, 1986.

### North Forest Hills Park

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 86-3-3/R-9.

Council Member Smith suggested that the property might be better used for an affordable housing project than a neighborhood park. Manager Taylor replied that the three parcels of land had been identified to expand the existing open space in the neighborhood and that the Town was applying for a federal grant to help pay for the purchase of this property. He also commented that the property was landlocked. Mr. Smith said this property was close to other houses and the park may be a nuisance. Manager Taylor responded that neighborhood meetings had been held and area residents were familiar with the park plans.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

#### A RESOLUTION ESTABLISHING JUST COMPENSATION FOR NORTH FOREST HILLS NEIGHBORHOOD PARK (86-3-3/R-9)

BE IT RESOLVED by the Council of the Town of Chapel Hill that it has determined on the basis of an appraisal by Thomas H. Heffner, Real Estate Appraiser, that the fair market value of land to be acquired as part of the Town's development of the North Forest Hills Neighborhood Park is as follows:

<u>Parcel No.</u>	<u>Owner</u>	<u>Interest to be Acquired</u>	<u>Area (Acres)</u>	<u>Just Compensation</u>
Tax Map 24, Lot 33D	Joseph H. Burchette	Fee Simple	1.96	\$8,200
Tax Map 24, Lot 33B	Roberta Pendergraft	Fee Simple	1.96	\$8,200
Tax Map 24, Lot 33A	Ruthe Farmer	Fee Simple	1.96	\$8,200

BE IT FURTHER RESOLVED that the Council hereby certifies that to the best of its knowledge, the work of the appraiser, Thomas H. Heffner, with respect to the above property, has been performed in a competent manner in accord with applicable state and federal law and the policies and requirements of the U.S. Department of the Interior.

This the 3rd day of March, 1986.

### Employee Use of Town Vehicles

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER WERNER TO ADOPT RESOLUTION 86-3-3/R-10.

Council Member Smith suggested that it might more economical ways rather than to pay employees to use their own vehicles for Town work after "normal" working hours. Manager Taylor said there were a few employees who used Town vehicles at all times in the performance of their jobs.

Council Member Thorpe commented that he felt the Mayor should have the use of a Town owned vehicle.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

#### A RESOLUTION REGARDING USE OF VEHICLES OWNED BY THE TOWN OF CHAPEL HILL (86-3-3/R-10)

WHEREAS, the 1986 Tax Act enacted by the United States Congress repealed various sections of the Tax Record Act of 1984, concerning use of municipally-owned vehicles; and

WHEREAS, the federal legislation requires the Town to maintain usage records on all vehicles unless the Town has a written policy restricting its vehicles to official use.

WHEREAS, pursuant to state law (N.C. G.S. 14-227), the Town of Chapel Hill prohibits its employees from using municipal vehicles for any personal purposes, except for commuting; and

WHEREAS, the federal legislation defines commuting in an employer-furnished vehicle as a taxable fringe benefit; and

WHEREAS, the Town of Chapel Hill, of North Carolina, provides certain municipal vehicles to its employees for use in official municipal business, including commuting to and from work;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Chapel Hill, North Carolina, hereby adopts the following policy on use of municipal vehicles:

Section 1. Vehicles owned by the Town may be provided to one or more employees in connection with municipal business and shall be used only on municipal business.

Section 2. When the vehicle is not used in the Town's business, it is kept on the municipality's business premises, unless it is temporarily located elsewhere.

Section 3. The municipality's business premises and the residence of any employee using the vehicle are at different locations.

Section 4. For bona fide noncompensatory business reasons, the Town authorizes certain employees to commute to and from work in municipal vehicles.

Section 5. Pursuant to state law, neither an employee, nor any individual whose use would be taxable to the employee, may use municipal vehicles for personal purposes other than for commuting.

Section 6. The Town Council reasonably believes, based upon expressed Town policy and on provisions of state law, that none of its employees, nor any individual whose use would be taxable to the employee, use these vehicles for any personal purpose other than commuting.

Section 7. The employees authorized to use municipal vehicles for commuting are not "control" employees, as defined by the Internal Revenue Service.

Section 8. The Town will account for the commuting use by its employees by including an appropriate amount as specified in IRS regulations in the employees' gross income.

This the 3rd day of March, 1986.

#### Community Planning Task Force

Pat Evans, representing the Planning Board, commented that the Board did not feel it would be able to go to every neighborhood meeting with the Task Force to help explain the interim land use plan. She said two of their members, Julian Raney and Mae McLendon, had volunteered to help explain the plan to the citizens.

Council Member Smith and Werner stated that they felt it was important that someone from the Planning Board or Planning Staff be involved in explaining the interim land use plan to the neighborhoods in conjunction with the efforts of the Community Planning Task Force.

COUNCIL MEMBER ANDRESEN MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO APPOINT FARRIS WOMACK, GAY EDDY, MAJOR GEER, TONY HATCHER, STEVE BULLOCK, INGRID SCHENCK, CAROL ANN ZINN, JIM HAAR, GARY SALEEBY, MIMI CROSS, BARRY CREDLE, AND RAY BURBY TO THE COMMUNITY PLANNING TASK FORCE.

Council Member Smith suggested that Roosevelt Wilkerson might be an additional candidate for the Task Force.

Additional appointments will be considered at the next regular Council meeting.

THE MOTION PASSED UNANIMOUSLY, (9-0).

Executive Session

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADJOURN TO EXECUTIVE SESSION TO DISCUSS LITIGATION. THE MOTION PASSED UNANIMOUSLY, (9-0).

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

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO RETURN TO REGULAR SESSION. THE MOTION PASSED UNANIMOUSLY, (9-0).

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO APPROVE THE EXPENDITURE OF UP TO \$5,000 UNDER THE ATTORNEY AND MANAGER'S JURISDICTION FOR THE HIRING OF ADDITIONAL LEGAL ASSISTANCE IN A MATTER THAT IS NOW BEFORE THE TOWN'S LEGAL STAFF. THE MOTION PASSED UNANIMOUSLY, (9-0).

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER SMITH TO ADJOURN THE MEETING. THE MOTION PASSED UNANIMOUSLY, (9-0).

The meeting adjourned at 10:15 p.m.

Mayor James C. Wallace

Harry J. Wells  
Town Clerk