

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,
MONDAY, MARCH 9, 1987, 7:30 P.M.

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

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

Council Member David Godschalk was absent, excused. Also present were Town Manager David R. Taylor, Assistant Town Managers Sonna Loewenthal and Ron Secrist, and Town Attorney Ralph Karpinos.

Certificate of Appointment

Mayor Wallace read a Certificate of Appointment for newly elected Parks and Recreation Commission member Leandra Bedini. Ms. Bedini was not in attendance.

Public Hearing on Community Development Funds

Manager Taylor asked Assistant Town Manager Sonna Loewenthal to give the staff report on this item.

Ms. Loewenthal stated that the purpose of this public hearing was to receive citizen comments on a proposed plan to spend an estimated \$305,000 of Community Development (CD) grant funds for 1987. She said the 1987 grant marked the beginning of a new three-year cycle of program planning for the grant funds. She stated that at an initial public hearing in January, the Council received one proposal, from Janus Treehouse for \$30,000 and a request from the Planning Board that priorities for the funds include land acquisition for affordable housing, repairs to existing public housing, repairs to Inter-Church Council housing and building and repairing sidewalks near existing public housing. Ms. Loewenthal said the staff proposed to use \$305,000 in CD funds to rehabilitate existing housing serving lower income families; provide funds to establish a shelter for the homeless in a permanent location in Chapel Hill; encourage lower income homeownership opportunities; and provide capital improvements such as replacing the roof at Hargraves Center. She said the staff recommended referring the plan to various boards and commissions for their recommendations.

There were no citizen comments.

Council Member Andresen said she was pleased to see the proposal include \$125,000 for a permanent shelter for the homeless.

Council Member Preston asked for clarification that the proposed \$125,000 for a shelter was in addition to the \$25,000 already appropriated for a facility. Manager Taylor replied yes.

Council Member Preston asked why improvements to the Lincoln School building were included. Manager Taylor responded that the Town had a long-term lease on portions of the facility and it was used by the Parks and Recreation Department.

Council Member Smith said he hoped the Town would have a permanent shelter for the homeless by the fall of this year.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER HOWES TO REFER TO THE MANAGER AND APPROPRIATE ADVISORY BOARDS. THE MOTION PASSED UNANIMOUSLY, (8-0).

Petitions

Mr. Howard Henry, speaking as a resident, petitioned the Council to consider including Marilyn Lane as part of the Town's street system.

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

Edith Salmony petitioned to speak to item #11, Countryside Subdivision.

Nonconformities - Proposal for Development Ordinance Text Amendment

Roger Waldon, Planning Director, said the proposed text amendment would permit the Council to make modifications of the regulations when considering Special Use Permit (SUP) requests. He said this proposal was the result of concern raised by the Board of Adjustment about having to deny variance requests by fraternities and sororities for building additions.

Mr. Waldon said in reviewing the problem the staff had been directed to look at having the text amendment deal only with existing SUP's and be limited to specific geographic locations. He said the staff concurred that the text amendment should only deal with existing SUP's, but with regard to geographic constraints the staff believed that circumstances existed outside of the Town Center and Historic District where existing development may need special consideration. He said the staff believed there were situations where the Town's goal of the eventual elimination of nonconformities was in conflict with the goal to preserve the Town character, therefore the staff proposed a text amendment to allow the Council to modify regulations when reviewing SUP modification requests on a case by case basis so that Town

character could be taken into consideration in the review. He said a change in the Development Ordinance of this nature would allow the Council to make reasonable modifications where appropriate without encouraging broad changes in the Development Ordinance.

Council Member Preston thanked Mr. Waldon for the discussion in the memorandum on nonconformities, however she said she still felt there should be some way that residences could be exempt from some of the requirements.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT ORDINANCE 87-3-9/O-11A.

Council Member Smith asked what the text amendment would do for nonconformities. Mr. Waldon replied that the text amendment would not affect the status of any nonconformities but would allow modifications and improvements to existing units. Council Member Smith said he was concerned that this text amendment did not deal with the entire realm of nonconformities. He said he was extremely concerned about creating nonconformities within residential districts and the Town not doing anything to correct this problem.

Council Member Werner agreed with Mr. Smith, but said that the proposed text amendment addressed the issue that had been brought before the Council. He said the Council and staff did need to also look into the area of residential nonconformities.

Council Member Andresen commended the staff for their work and said she would vote in favor of the motion.

Council Member Howes agreed and said that the Council and Town was not in the job of creating nonconformities. He said the Council was acutely aware of problems which currently exist.

THE MOTION PASSED UNANIMOUSLY, (8-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING THE CHAPEL HILL DEVELOPMENT ORDINANCE (87-3-9/O-11A)

WHEREAS, the Council of the Town of Chapel Hill has considered the proposal to amend Article 8 of the Development Ordinance to permit modifications of regulations by the Council when considering Special Use Permit Modification requests in particular situations, and finds that the amendment achieves the purposes of the Comprehensive Plan.

SECTION I

AMEND Subsection 8.7.1 to read as follows:

8.7.1 Permitted Modifications of Regulations

Where actions, designs, or solutions proposed by the applicant are not literally in accord with applicable special use regulations, general regulations, or other regulations in this Ordinance, but the Council makes a finding in the particular case that public purposes are satisfied to an equivalent or greater degree, the Council may make specific modification of the regulations in the particular case for Modification of Special Use Permit applications, or in approving a new Special Use Permit for existing development that requires a Special Use Permit. Any modification of regulations shall be explicitly indicated in the Modification of the Special Use Permit.

SECTION II

AMEND Subsection 8.8.4 to read as follows:

8.8.4 Permitted Modifications of Regulations

Where actions, designs, or solutions proposed by the applicant are not literally in accord with applicable planned development regulations, general regulations, or other regulations in this Ordinance, but the Council makes a finding in the particular case that public purposes are satisfied to an equivalent or greater degree, the Council may make specific modification of the regulations in the particular case for Modification of Special Use Permit applications, or in approving a new Special Use Permit for existing development that requires a Special Use Permit. Any modification of regulations shall be explicitly indicated in the Modification of the Special Use Permit.

SECTION III

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

This the 9th day of March, 1987.

Chapel Hill Bible Church Addition

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER SMITH TO ADOPT RESOLUTION 87-3-9/R-17A.

Council Member Pasquini asked about the stormwater management measures for the site and if these should be approved prior to the Council granting approval to the site plan. Mr. Waldon said the Planning Staff report indicated that if the parking lot site were to be paved, a detailed stormwater management plan had to be

filed with the Town. He said the applicant had filed such a report with the Engineering Department. He said the staff felt that paving the parking lot was desirable to cut down on dust and maintenance problems and that the stormwater could be adequately managed with the additional paved surface.

Council Member Werner asked what had been the results of the stormwater management report. Town Engineer George Small said the report had been a standard analysis, showing before and after run-off to be essentially the same. He said there were detention basins currently on-site.

Mr. T. J. Land, representing Chapel Hill Bible Church, said there were currently detention basins on-site and that they planned to modify and enlarge them to be made more efficient.

Council Member Werner asked for an estimate of the impact of the run-off off-site. Mr. Land replied that rate of flow would be less and therefore the potential for flooding would be reduced. He also stated that the applicant would prefer not to pave the parking lot.

Council Member Werner said he did not feel comfortable making a decision on this issue without further information on the stormwater issue. He said he would prefer to approve the site plan without paving the parking lot.

Council Member Preston asked about the problem with dust if the parking lot were left unpaved. Mr. Land commented that the dust problem only occurred on Sundays during church hours.

Council Member Preston said she had received a letter from a resident regarding the buffer screen not being adequate between the two properties. Mr. Land said that when the applicant had applied for abandonment of the SUP earlier this year they had had to meet all the requirements of the SUP. He said a couple of years ago much of the vegetation had been destroyed due to the cold weather and that they were in the process of replanting.

Council Member Preston asked if the buffers around the site met the current ordinance requirements. Mr. Waldon replied that the buffers on the site impacted by the improvements would have to meet the current requirements but that the other buffers did not.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER WERNER TO AMEND THE MOTION TO DELETE STIPULATION #2 REQUIRING THAT THE PARKING LOT BE PAVED AND ADD A STIPULATION #2 WHICH WOULD STATE THAT BUFFERS MEETING THE REQUIREMENTS OF ARTICLE 6 OF THE DEVELOPMENT ORDINANCE BE PROVIDED ALONG THE NORTHERN AND EASTERN EDGES OF THE PARKING LOT.

Council Member Howes asked if in the future the applicant wished to pave the parking lot would they have to come back before the Council for approval. Mr. Waldon said if the Council adopted a

resolution approving the site plan without requiring that the parking lot be paved, and at a subsequent date the church decided they wanted to pave the parking lot, that would be a change in the site plan. He said if this change were considered a minor change then the staff would review and the Manager would approve or disapprove the change but if it were considered a major change then the Council would have site plan approval. Mr. Howes commented that this was the point he wanted to make in that he did not want to see this matter again. He said if the applicant decided at some point in the future that they wanted to pave the parking lot they ought to be able to do so without having to come to the Council.

Council Member Andresen said the proposal did not address the parking overflow problem since there appeared to be no additional parking spaces provided in the proposed improvements. Mr. Land said the number of parking spaces provided met the requirement in the Town's ordinance for the number of seats available in the sanctuary. Ms. Andresen said that she understood there had been complaints from neighbors that cars were parked in yards and driveways. Mr. Land said that the church had addressed this problem and had placed signs on Sunday that there was no parking along the street. He said the church also had an agreement with the Hospital to park in one of their lots.

Council Member Pasquini asked if the development met the requirements of the Orange County Erosion Control ordinance. He said he had a letter from 1979 which indicated that the site did not meet those requirements. Mr. Waldon replied that the erosion control measures he was most familiar with were those which came into effect during construction. He said he had no knowledge that the site did not comply with those regulations.

Council Member Thorpe asked if the majority of the church members wanted the parking lot paved. Mr. Land replied they did not.

Council Member Smith asked if any of the parking lot was currently paved. He also asked how the church could be sure it met the requirements for parking spaces since there was no way to mark each space off. Mr. Land replied that a small section of the parking lot was paved and that they were able to estimate the number of parking spaces by the number of cars which parked in the lot each Sunday.

Council Member Smith said there ought to be some way to mark off the parking spaces.

Al Rimer, representing the Planning Board, said the Board had suggested using turf stones to mark off the spaces.

THE MOTION TO AMEND CARRIED, (7-1), WITH COUNCIL MEMBER SMITH VOTING AGAINST.

THE MOTION, AS AMENDED, CARRIED, (7-1), WITH COUNCIL MEMBER SMITH VOTING AGAINST.

The resolution, as adopted, reads as follows:

RESOLUTION APPROVING AN APPLICATION FOR SITE PLAN APPROVAL FOR CHAPEL HILL BIBLE CHURCH ADDITION (87-3-9/R-17a)

BE IT RESOLVED by the Council of the Town of Chapel Hill that it finds that the education/office building addition proposed by the Chapel Hill Bible Church on property identified as Chapel Hill Township Tax Map 71, Block C, Lot 11, if developed according to the site plan dated November 17, 1986, building elevations dated June 20, 1986, Town-approved stormwater management plan, and the conditions listed below, would comply with the provisions of the Development Ordinance.

1. That Purefoy and Mason Farm Roads be improved to 1/2 of a Class A cross-section, without curb and gutter.
2. That buffers meeting the requirements of Article 6 of the Development Ordinance be provided along the northern and eastern edges of the parking lot.
3. That all overhead electrical lines on the site be relocated underground.
4. That the proposed dumpster pad be 12' by 20' by 6" 3000 PSI concrete.
5. That construction begin by September 9, 1987 and be completed by March 9, 1988.
6. That a final site plan, utility/lighting plan, and easement plat be approved by the Town Manager before issuance of the Zoning Compliance Permit, and that such plans conform to plans approved as part of this application and demonstrate compliance with all applicable conditions and the design standards of the Development Ordinance and Design Manual.
7. That the final utility/lighting plan be approved by OWASA, Duke Power, Public Service Gas Company of N. C., Southern Bell, and Carolina Cable before issuance of the Zoning Compliance Permit.
8. That a detailed landscape plan with a maintenance plan be approved by the Town Manager prior to issuance of a Zoning Compliance Permit, and the landscaping be in place prior to issuance of a Certificate of Occupancy.
9. That the planter islands be a minimum of 12-foot square and that a parking lot shading plan be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.

- 10. That the existing dumpster pad on the eastern property edge be relocated either to the northern edge of the parking lot, adjacent to the parking lot entrance, or to the southwest corner of the parking lot; and that screening of the dumpster area be installed.
- 11. That the continued validity and effectiveness of the approval is expressly conditioned on the continued compliance with the plans and conditions listed above.
- 12. That if any of the above conditions is held invalid, this approval shall be void.

BE IT FURTHER RESOLVED that the Council hereby approves the application for a Zoning Compliance Permit for Chapel Hill Bible Church Addition in accord with the plans and conditions listed above.

This the 9th day of March, 1987.

Zoning of Property in Durham County - Wallace Tract

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER PASQUINI TO ADOPT ORDINANCE 87-3-9/0-12. THE MOTION PASSED UNANIMOUSLY, (8-0).

The ordinance, as adopted, reads as follows:

ORDINANCE ZONING WALLACE TRACT (PORTION OF ANNEXATION AREA C, ANNEXATION ORDINANCE 86-7-14/0-3.3 ADOPTED JULY 14, 1986) (87-3-9/0-12)

WHEREAS the Council of the Town of Chapel Hill has annexed property described as follows:

Tract of land, identified as Durham County Tax Map 477, Block 4, Lot 1A, located at the southwest intersection of I-40 and US 15-501, being partly in Durham County and partly in Orange County

and

WHEREAS the Council has considered appropriate zoning designations for this property in the context of surrounding land uses and zoning and in the context of Chapel Hill's Comprehensive Plan, and finds that the proposed zoning is needed to achieve the purposes of the Comprehensive Plan;

NOW THEREFORE BE IT ORDAINED by the Council of the Town of Chapel Hill that the Residential-1/Mixed Use zoning category be assigned to the above mentioned property;

BE IT FURTHER ORDAINED that the Chapel Hill Zoning Atlas be amended accordingly.

This Ordinance shall be effective upon the effective date of Annexation Ordinance 86-7-14/0-3.3 with respect to the parcel described above.

This the 9th day of March, 1987.

Chapel Hill Housing Authority - Status Report & Calling Public Hearing

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 87-3-9/R-19.

Council Member Pasquini asked that the staff allocate a sufficient amount of time on the agenda for the public hearing on this issue.

Council Member Thorpe asked if the Town anticipated a response from the U.S. Department of Housing and Urban Development (HUD) by the time of the public hearing. Manager Taylor replied that they hoped to hear from HUD by that time.

THE MOTION PASSED UNANIMOUSLY, (8-0).

The resolution, as adopted, reads as follows:

A RESOLUTION CALLING A PUBLIC HEARING TO SOLICIT CITIZEN COMMENT ON THE FUTURE RELATIONSHIP BETWEEN THE CHAPEL HILL HOUSING AUTHORITY AND THE TOWN OF CHAPEL HILL AND FORWARDING OF THE REPORT TO THE REGIONAL OFFICIALS OF THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (87-3-9/R-19)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby calls a public hearing for Monday, March 23, 1987 in the Meeting Room of the Municipal Building, 306 North Columbia Street, Chapel Hill, N. C. 27514, to receive citizen comment on the future relationship between the Chapel Hill Housing Authority and the Town of Chapel Hill.

BE IT FURTHER RESOLVED that the Manager's report of March 9, 1987 on the Chapel Hill Housing Authority be forwarded to the appropriate regional officials of the U.S. Department of Housing and Urban Development for their review and comment.

This the 9th day of March, 1987.

Orange Water and Sewer Report on Water Resources and Drought Management

Robert Peck, representing the Orange Water and Sewer Authority (OWASA) Board of Directors, presented the report to the Council. He said the report contained a section on key findings and recommendations as well as a discussion of other topics related to the provision of water supply. He said further evaluation of the local water conservation ordinance would be undertaken and subsequent modifications would take into consideration a water supply management model being developed for OWASA by the N.C. Water Resources Research Institute. He said he was available to answer questions of the Council.

Council Member Howes commended OWASA for its work and said he was satisfied with the progress to date.

Council Member Preston asked how many times OWASA had had to impose water conservation restrictions. Mr. Peck replied that he believed that there had been 4 or 5 times since the ordinance took effect.

Council Member Werner asked if it would make more sense to use untreated water for construction uses. Mr. Peck said using treated water was more economical unless there were a severe drought. He said it would cost more to pump the water from a creek and truck to the site than to use treated water.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO RECEIVE THE REPORT AND THANK AND COMMEND OWASA FOR THEIR WORK. THE MOTION PASSED UNANIMOUSLY, (8-0).

Countryside Subdivision - Street Maintenance

Sonna Loewenthal, Assistant Town Manager, said that the Town had received a petition on November 24, 1986 from the residents of Countryside Subdivision for the Town to maintain certain private streets in the development. She said at the time the subdivision was annexed into the Town it included several streets which were specifically excluded from Town maintenance because they were considered private drives. She said maintenance for these private drives was to be provided by the individual property owners or by a homeowners association. Ms. Loewenthal said for the Town to accept the streets as public streets there were certain steps which needed to be taken. She stated that first the Manager had to recommend and the Council determine what improvements were necessary; second, the owners of abutting property must present a petition requesting assessment of the full costs of improving the roads; and third, the Council must approve the petition.

Council Member Werner asked what would be needed to bring the streets up to Town standards. Ms. Loewenthal replied that patching and reconstruction of the streets was indicated but that the Council would determine what was needed to make them acceptable.

Council Member Andresen asked when roads had been dedicated to public use and when the subdivision had been annexed into the Town. Ms. Loewenthal replied that the roads had been dedicated for public use in 1974, but that neither the State nor the Town had ever accepted the roads and that the subdivision was annexed in 1978.

Council Member Preston asked what was the current width of the streets in the subdivision and how wide did they need to be. Ms. Loewenthal replied that the private drives were 18' wide and that Town standards were 27' wide.

Edith Salmony, representing the petitioners, offered an alternative resolution to the Council whereby the Council would accept the streets without having the residents bear 100% of the assessed costs of upgrading the roads to Town standards. She said her research showed that the Town had off and on throughout the years been maintaining the streets. She said these roads had been dedicated for public use in 1974 and should not have been excluded in the 1978 annexation. She urged the Council to consider her resolution.

Council Member Howes asked if this situation could occur today. Manager Taylor replied that the failure of a homeowner's association being established when it had been indicated as part of the subdivision approval would not occur since the Town now required proof of its existence before issuing a Zoning Compliance Permit. He said the staff discouraged the development and use of private streets in new developments, but that the Council made the final decisions on this issue.

Andrew Gregani, speaking as a resident of Village Lane, said one of the reasons they had petitioned the Council on this matter was that many of the property owners were faced with the situation of not being able to sell their homes without this matter being resolved. He also said there was the question of ownership of certain open space throughout the subdivision. He said there was an island in front of his home whose ownership was in doubt and that if it were determined to be his, this would increase the amount of his property fronting the road and therefore his assessment for road improvements would be increased. He said he was pleased with the cooperation and flexibility he had received with the staff and Council on this matter. He urged the Council to come to a quick and fair decision on this issue.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER PASQUINI TO ADOPT RESOLUTION 87-3-9/R-21.

Council Member Smith said this situation was a good example of what could occur if the Council kept approving developments with private roads.

Council Member Thorpe complemented the Manager for his recommendation saying it was a good compromise and allowed the Council to be flexible in this issue.

Council Member Andresen said she hoped that when the Manager made his recommendation to the Council it would include several alternatives with a range of costs. She also indicated that she would be in favor of the Council reducing the amount of costs to be born by the residents.

Council Member Howes said the Council needed to be concerned and careful about setting a precedent. He said before the Council considered reducing the costs to the residents it needed to be shown that the Town was at fault in such a way that it would require the Town to impose this burden on the rest of the community. He said at the moment he could see no reason for this to occur.

Mayor Wallace said he was hopeful that as a result of what he had heard from the petitioners and with the wording of the resolution that it would not preclude sitting down and talking on this issue. He said he did not believe the Town was setting, at this stage, any kind of precedent which could not be distinguished.

THE MOTION PASSED UNANIMOUSLY, (8-0).

The resolution, as adopted, reads as follows:

A RESOLUTION REGARDING ACCEPTING FOR MAINTENANCE ROUNDTREE ROAD, COUNTRY ROAD, VILLAGE LANE AND CREEKSIDE LANE (87-3-9/R-21)

WHEREAS, the Council has received a petition to accept for Town maintenance four private drives in the Countryside Subdivision; and

WHEREAS, these four roadways were designed and built as private drives and the recorded plat labels them as such; and

WHEREAS, it appears that no homeowners association was established by the developer of Countryside before conveying the lots, thus leaving maintenance responsibilities of these roadways unclear; and

WHEREAS, the Council adopted on January 28, 1980 a policy statement regarding the assumption of maintenance by the Town of private drives not built to Town street standards;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council directs the Manager to work with the petitioners so that:

1. Recommendation by the Manager and determination by the Council of which improvements are needed, including the Manager's estimate of their costs.

2. Presentation by the owners of abutting property of a petition requesting assessment of the full costs of improving the roads.
3. Action by the Council on the petition for improvements according to the General Statutes.

BE IT FURTHER RESOLVED that this process may be completed for any or all of these four private drives.

This the 9th day of March, 1987.

Public Streets - Use For Purposes Other Than Vehicular

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER PASQUINI TO ADOPT RESOLUTION 87-3-9/R-22.

Council Member Thorpe commented that he was glad to see that political marches had not been excluded from use of the public streets.

Council Member Howes spoke in support of the resolution. He said it was a statement of principle and a practical blueprint upon which to work toward maintaining proper use of Town streets. He said this would state to the University that celebrations, especially spontaneous celebrations, associated with student activities should be held on campus and not out in the Town's streets.

THE MOTION PASSED UNANIMOUSLY, (8-0).

The resolution, as adopted, reads as follows:

A RESOLUTION REGARDING THE USE OF PUBLIC STREETS WITHIN THE TOWN FOR PURPOSES OTHER THAN THE ORDERLY FLOW OF VEHICULAR TRAFFIC (87-3-9/R-22)

WHEREAS, the streets and thoroughfares within the corporate limits of the Town of Chapel Hill are designed to accommodate the safe movement of vehicular traffic; and

WHEREAS, the use of streets, and thoroughfares for purposes other than vehicular traffic can cause conflicts and hazards and potential injury to motorists, other citizens and property along streets; and

WHEREAS, the Town has enjoyed a long - cherished tradition of the right of citizens to exercise their rights of free speech and assembly; and

WHEREAS, for many years, two areas along the Franklin Street right-of-way have been permanently designated as locations where citizens can peacefully protest, demonstrate, hold vigils,

solicit donations and support for various cause, policies, laws, and actions; and

WHEREAS, Chapter 21, Section 7.1 of the Town Code of Ordinances regulates the closing of public streets; and

WHEREAS, the Council of the Town of Chapel Hill has authorized by ordinance, street closings for major community events, ie. street fairs, parades, etc. during times of low traffic volume and said street closings are authorized with conditions specifically addressing the orderly flow of vehicular traffic using alternative routes, proper barricading and separation of vehicles from pedestrians, and prior notification and plans for the orderly provision of police, fire, rescue and public transportation services; and

WHEREAS, Chapter 11, Article IX, Section 91 - 95 provides for Temporary Outdoor Activities in or Near Parking Lots or Public Streets and the intent of this article is to protect the health, safety and welfare of drivers, pedestrians and other persons participating in or in the vicinity of outdoor activities in or near parking lots or public streets; and

WHEREAS, permits may be issued for outdoor activities such as carnivals, fairs, demonstrations, exhibitions, etc., only upon compliance with standards and conditions to protect the safety of citizens and to property separate vehicles from pedestrians; and

WHEREAS, current practice allows the Chief of Police to temporarily restrict the flow of traffic for a period not to exceed 30 minutes for parades, processions, bicycle or foot races, provided pedestrians, and/or bicyclists are adequately protected from conflict with motorized vehicles and such activities are during periods of low traffic flow and under most circumstances can be limited to sidewalks or one travel lane of multi-lane streets, therefore impeding the flow of traffic only at street crossings, which are protected by officers and street monitors; and

WHEREAS unapproved and spontaneous or unplanned events or demonstrations in the public streets of the Town jeopardize the health, safety and welfare of motorists, other persons and property along streets;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council, believing that the primary purpose of Town streets and thoroughfares is to provide for the safe and orderly flow of vehicular traffic, does not condone the use of public streets for unauthorized spontaneous uses such as parties, demonstrations and other unplanned events; and

BE IT FURTHER RESOLVED, that the Council of the Town of Chapel Hill believes spontaneous mass pedestrian use of streets has the

potential of seriously jeopardizing the health, safety and welfare of citizens and property; and

BE IT FURTHER RESOLVED, that the Council strongly encourages and pledges its support to the leadership of groups and organizations, including the University of North Carolina in planning events so as not to conflict with the safe and orderly movement of traffic and to hold events in locations that are appropriate for outdoor events and do not jeopardize, but take all reasonable and prudent precautions to protect the citizens' health, safety and welfare; and

BE IT FURTHER RESOLVED by the Council of the Town of Chapel Hill, that the Council supports the Mayor, Manager and Chief of Police in carrying out the powers vested in them by law to protect the health, safety and welfare of the citizens of Chapel Hill, protect property and in preserving order in the community.

This the 9th day of March, 1987.

Interim Budget Report

Manager Taylor said he presented this interim budget report to the Council to show the status of next year's budget. He said because the County revaluation of real property was not complete, the staff had estimated property tax revenues for 1987-88 using an equalization rate to produce the same tax revenue that would be generated without any revaluation. He stated that based on the current estimates of revenues and expenditures there was a \$180,000 shortfall between revenues and expenditures. Mr. Taylor commented that he believed this gap could be reduced by an improved revenue picture in the next two months and by reducing estimated expenditures. He said the additional 1/2 cent sales tax and Powell Bill revenues would be used for enhancement of the public safety services and additional street construction and resurfacing respectively. Mr. Taylor stated that with continued federal funding for operating assistance the Transportation budget could be balanced without any fare increases and with revenue from an equalized tax rate for Transportation. He said with the Town's move toward greater landfill management, increased Landfill staffing and operations and vehicle replacement should be able to be met with revenues from the Landfill Fund's current user fees and from accumulated capital reserves.

Council Member Werner said when additional revenue sources were considered, he would like to see the revenues from the new taxes directed toward new programs and not incorporated into normal operating budget expenses. Manager Taylor agreed saying he would prefer to see the new revenues used to pay for capital improvements.

Council Member Werner also suggested the Manager look into the possibility of reimbursing the Council's advisory board and commission members for their expenses incurred in carrying out their duties.

Council Member Andresen suggested that the Manager look at the possibility of changing the user fees at the Landfill to help fund the costs of improvements. Manager Taylor said the staff recommended that the Council look at this next year.

Council Member Thorpe asked the Manager to give a brief explanation of revaluation and how it would affect the average taxpayer. Manager Taylor replied that as a result of the revaluation residential property would probably increase at a larger percentage than the commercial property. He said this meant that there would be a shifting of who pays the taxes over what it is currently.

Council Member Smith said the landfill was a regional landfill and not just for the Town. He asked why the Manager felt the landfill needed more operators. Mr. Taylor said the proposal was to have the landfill operating on a 14-hour per day schedule.

Council Smith said he was adamantly against having the Landfill operating on a 14-hour per day schedule. He said it currently created enough noise problems and having it open and operational for 14 hours would only exacerbate the problem. He also asked why there was nothing in the budget for a shelter for the equipment. Manager Taylor said that he did not feel it was economical to build an equipment shelter until the operations moved to the adjacent site.

Capital Improvements Program - Budget Amendment

Manager Taylor commented that he had received the bids for the Merritt Mill Road improvements and that they were \$250,000 more than what had been allocated for the improvements. He said as such the staff and Council needed to re-evaluate the funding for the project and he would like to defer this budget amendment until some decision was made on the Merritt Mill Road project.

The Council agreed to defer the item.

Noise Permit Request - Pi Kappa Phi "Burn-Out" Party

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER WERNER TO ADOPT RESOLUTION 87-3-9/R-23A.

Council Member Werner asked the fraternity if it had been able to relocate the event.

Cam Huffman, representing Pi Kappa Phi, said they had been unable to relocate the event and urged the Council to grant the petition. He commented that he was unaware of any problems previous "Burn-Out" parties had created.

Council Member Howes said that there had been problems with this party. He said he felt the party was an appropriate activity but that the site was inappropriate. He said he was willing to allow it to take place this year but that the resolution should state that this would be the last time the Council would agree to granting a noise permit for the party at that site.

Eric Tuttleason and Jim Townsend urged the Council to grant the petition. They asked what was the difference between holding the event on Eringhaus Field and at the fraternity house when both were on University property.

Council Member Howes said that Eringhaus Field was in the middle of the campus, away from much of the residential neighborhoods. He pointed out that the few neighbors close to the Field were used to University events and the noise they generated.

Council Member Andresen asked Interim Police Chief Arnold Gold what had been some of the complaints and problems associated with this party in the past. Major Gold replied that parking in The Oaks, littering, vandalism, indecent exposure, etc. had been reported problems in the past. He also said there had been problems with access of emergency vehicles to Finley Road, health and sanitary concerns with inadequate facilities, and pedestrian crossings of N.C. 54.

Council Member Preston said that she was impressed that the group had worked hard to meet so many of the citizens and Town's concerns. She said she would also be willing to grant the noise permit this time with the understanding that it would be the last time at that particular location.

Council Member Smith asked the fraternity members to respond to the Police's concerns, especially the sanitary issue. Mr. Huffman said that the fraternity provided portable toilets on the site but that the number could be increased. He said they hired off-duty nurses to be available for medical needs and that litter clean-up would be performed by the fraternity pledges.

Council Member Pasquini pointed out that all the Council was approving or disapproving was the noise permit. He said the Council could not and were not denying the fraternity the right to hold their party. Manager Taylor agreed saying that the permit would be to allow the use of amplified sound between the hours of 2 and 5 p.m., and that the fraternity could hold their party without the noise permit.

Mr. Tuttleason responded that without the noise permit the fraternity would not be able to get sponsors for the event and bands to play which would mean no one would attend.

Council Member Pasquini suggested the fraternity hold the party on another day of that weekend. Council Member Werner agreed saying the Council was willing to compromise if the fraternity could choose another day or location. Mr. Huffman replied that Springfest was already scheduled for that Saturday and that changing the day or location at this late date would be practically impossible.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER HOWES FOR A SUBSTITUTE MOTION TO ADOPT RESOLUTION 87-3-9/R-23B WITH THE ADDITION THAT IT INCLUDE A STATEMENT THAT THIS WOULD BE THE LAST TIME THE COUNCIL WOULD GRANT A NOISE PERMIT FOR THIS PARTY AT THE FINLEY FOREST LOCATION. THE MOTION FAILED TO PASS, (3-5) WITH COUNCIL MEMBERS HOWES, PRESTON AND THORPE VOTING IN FAVOR.

THE MOTION TO ADOPT RESOLUTION 87-3-9/R-23A, TO DENY THE PERMIT, CARRIED, (5-3), WITH COUNCIL MEMBERS HOWES, PRESTON, AND THORPE VOTING AGAINST.

The resolution, as adopted, reads as follows:

A RESOLUTION DENYING A PERMIT TO USE SOUND AMPLIFYING EQUIPMENT AND EXCEED THE GENERAL SOUND LEVEL AS PROVIDED BY THE TOWN'S NOISE CONTROL ORDINANCE (CHAPTER 11, ARTICLE III OF THE TOWN CODE OF ORDINANCES) (87-3-9/R-23A)

WHEREAS, the sponsor of the event, Pi Kappa Phi, of 216 Finley Golf Course Road is planning an event on April 10, 1987 to raise funds for the North Carolina Burn Center, and this event includes plans for outside amplified sound between 2 p.m. and 7 p.m. which would require a permit as well as an exemption from Chapter 11 of the Town Code of Ordinances; and

WHEREAS, the event is proposed to be held in a residential neighborhood; and the size of the event has become such in recent years that it is a significant hazard to the health and welfare of the surrounding community; and

WHEREAS, the size of the event is such that these hazards are not controllable by either the promoter or the Town;

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby denies a request for a permit and an exemption from the Town's Noise Control Ordinance for an event sponsored by the Pi Kappa Phi Fraternity of 216 Finley Golf Course Road for April 10, 1987 between 2 p.m. and 7 p.m.

This the 9th day of March, 1987.

Consent Agenda

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER HOWES TO ADOPT RESOLUTION 87-3-9/R-24. THE MOTION PASSED UNANIMOUSLY, (8-0).

The resolutions and ordinances, as adopted, read as follows:

A RESOLUTION ADOPTING VARIOUS ORDINANCES AND RESOLUTIONS (87-3-9/R-24)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby adopts the following ordinances and resolutions as submitted by the Manager.

- a. Amendments to Fire Code (0-15).
- b. Authorization of Flexible Benefits Plan (Tax Shelter) (R-25).
- c. Renewal of Teen Center Lease (R-26).
- d. Transfer of Cable Franchise to Prime Cable Income Partners Limited Partnership (R-27).
- e. Arrowhead Road parking restriction (0-16).
- f. Calling June 15 Hearing on Reorganizing the Development Ordinance (R-28).

This the 9th day of March, 1987.

AN ORDINANCE AMENDING CHAPTER 7, ARTICLE II, FIRE PREVENTION CODE OF THE TOWN CODE OF ORDINANCES ON ADOPTION OF NOVEMBER, 1982 AIA AMENDMENTS TO THE AIA 1976 FIRE PREVENTION CODE WITH EXCEPTIONS NOTED HEREIN, AND ADOPTION OF THE NATIONAL FIRE PROTECTION ASSOCIATION'S NATIONAL FIRE CODES, VOLUMES 1-7, AS LEGAL TECHNICAL REFERENCE CODES TO THE TOWN FIRE PREVENTION CODE (87-3-9/O-15)

BE IT ORDAINED by the Council of the Town of Chapel Hill that Chapter 7, Article II of the Town Code of Ordinances is hereby amended as follows:

SECTION I

Section 7-15 amended to read as follows: by reference the November, 1982 amendments to the 1976 AIA Fire Prevention Code are hereby adopted except for these changes:

- (1) Article 18, pp. 18-189 of the 1976 Fire Prevention Code not be deleted but remain as is.

- (2) Article 27, Section 27.6A, p. 244 of the 1976 Fire Prevention Code not be changed but remain as is.
- (3) Article 27, Section 27.6B, pp. 244-245 of the 1976 Fire Prevention Code not be deleted but remain as amended in Section 7-31, Chapel Hill Code of Ordinances.

SECTION II

Section 7-29 and Section 7-30, Chapel Hill Code of Ordinances be deleted as obsolete.

SECTION III

Section 7-15, Chapel Hill Code of Ordinances amended to read as follows: National Fire Protection Association's 1986 National Fire Codes, Vols. 1-7, are hereby adopted by reference as technical ordinances.

SECTION IV

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

This the 9th day of March, 1987.

A RESOLUTION ESTABLISHING A "FLEXIBLE BENEFITS PLAN" FOR EMPLOYEES OF THE TOWN OF CHAPEL HILL (87-3-9/R-25)

BE IT RESOLVED by the Council of the Town of Chapel Hill that a cafeteria plan and ancillary plans as set forth therein be maintained to provide benefits to employees, following the stated provisions of the Internal Revenue Code of 1954 as amended.

BE IT FURTHER RESOLVED that Flexible Comp Services, Inc. is designated and hereby named as the Administrator of such plans.

This the 9th day of March, 1987.

A RESOLUTION RENEWING A LEASE FOR A PORTION OF THE POST OFFICE/COURT BUILDING FOR A TEEN CENTER (87-3-9/R-26)

WHEREAS, the Council of the Town of Chapel Hill on March 24, 1986, pursuant to G.S. 160A-272 authorized the Manager to enter into a lease for a portion of the Post Office/Court Building for a Teen Center; and

WHEREAS, the term of said lease was for one year, renewable for one subsequent one-year term upon the approval of the Council; and

WHEREAS, Franklin Street Teen Center, Inc. entered into a lease with the Town for approximately 2400 sq. ft. of space in the basement of the Post Office/Court Building on April 16, 1986; and

WHEREAS, Franklin Street Teen Center, Inc., in accord with said lease, has notified the Town Manager in writing of its desire to renew the lease for a one-year period effective April 16, 1987;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council approves, and authorizes the Town Manager pursuant to Council's resolution of March 24, 1986 and the lease dated April 16, 1984, to enter into, on behalf of the Town, a renewal agreement for the lease to the Franklin Street Teen Center, Inc. of approximately 2400 sq. ft. in the basement of the Post Office/Court Building at 179 E. Franklin Street, for the operation of a Teen Center, for a term of one year commencing on April 16, 1987.

This the 9th day of March, 1987.

A RESOLUTION APPROVING A REQUEST TO APPROVE TRANSFER OF CONTROL OF THE CABLE FRANCHISE (87-3-9/R-27)

WHEREAS, on November 19, 1979, the Chapel Hill Town Council awarded a cable television franchise to Village Cable Inc. for a term of 15 years; and Village Cable Inc. accepted the terms and conditions of the franchise; and

WHEREAS, on July 7, 1986, the Town Council approved transfer of control of said franchise to Prime Venture I, Inc. after receiving ownership and financial information including plans submitted by Prime Venture I to sell limited partnership interests to raise funds for acquisition of Village Cable and other cable companies; and

WHEREAS, legal counsel for Prime Venture I, Inc., has assured the Town by letter dated February 4, 1987, that by law, limited partners of Prime Cable Income Partners L.P. are prohibited from exercising control over the Partnership or its businesses; and

WHEREAS, counsel for Prime Venture I has requested approval of a pro forma transfer of the Chapel Hill cable television franchise to Prime Cable Income Partners L.P., and stated by letter that such transfer of the franchise will not result in any transfer or change of control over the cable system or the franchise;

NOW THEREFORE BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves the transfer of the cable franchise from Prime Venture I, Inc. to Prime Cable Income Partners L.P., on the basis of information provided in a letter dated February 4, 1987 from counsel for Prime Venture I to the Town Manager; which letter shall be retained with the records of this meeting; and provided that this approval of the franchise

transfer is conditioned upon the continued prohibition, by law, of holders of limited partnership interests in Prime Cable Income Partners L.P. from exercising any control of the partnership or its businesses, and is conditioned upon continuation of control of the franchise by Prime Venture I, Inc. as Managing General Partner of the Partnership.

This the 9th day of March, 1987.

AN ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF ORDINANCES (87-3-9/O-16)

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

Section I

That Section 21-27 of the Town Code of Ordinances, "No parking as to particular streets." is amended by inserting the following therein in appropriate alphabetical order:

<u>Street</u>	<u>Side</u>	<u>From</u>	<u>To</u>
Arrowhead Road	South	Greenwood Road	Old Mill Road

Section II

That Section 21-27.1(C) of the Town Code of Ordinances, "No parking during certain hours." is amended by inserting the following therein in appropriate alphabetical order:

(C) 9:00 a.m. to 4:00 p.m. Monday - Friday

<u>Street</u>	<u>Side</u>	<u>From</u>	<u>To</u>
Arrowhead Road	North	Greenwood Road	Old Mill Road

Section III

These ordinances shall be effective on March 23, 1987.

Section IV

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

This the 9th day of March, 1987.

A RESOLUTION CALLING A PUBLIC HEARING ON AMENDING THE DEVELOPMENT ORDINANCE TEXT (87-3-9/R-28)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council calls a public hearing for 7:30 p.m. Monday, June 15,

1987 on reorganizing the sequence of articles in the Development Ordinance; and requests the Planning Board to consider proposed revisions and make a recommendation to the Council.

This the 9th day of March, 1987.

Library Committee

Council Member Werner nominated Ruth Thomas for the at-large member of the committee.

Council Member Andresen suggested that the Council Members who had served on the Bond Task Force could suggest names for the committee vacancies. The Mayor responded that the Council would provide names at a later date.

Municipal Building Expansion Committee

Council Member Thorpe nominated Council Member Preston.

Council Member Preston nominated Council Member Thorpe.

Executive Session

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADJOURN TO EXECUTIVE SESSION TO DISCUSS LITIGATION AND INTEREST IN ACQUIRING REAL PROPERTY. THE MOTION PASSED UNANIMOUSLY, (8-0).

The meeting adjourned to executive session at 10:05 p.m.

A MOTION WAS DULY MADE AND SECONDED TO ADJOURN THE MEETING. THE MOTION PASSED UNANIMOUSLY, (8-0).

The meeting adjourned at 10:20 p.m.

