

MINUTES OF A CONTINUATION OF THE JUNE 22, 1987 REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING, TUESDAY, JUNE 23, 1987, 7:30 P.M.

Mayor Pro-tem Bill Thorpe called the meeting to order. Council Members present were:

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

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

Hotel/Motel Tax

Manager Taylor said that the General Assembly had completed action on June 22 on the local bill enabling the Town to adopt a 3% tax on hotel and motel charges. He said the tax would apply to hotel/motel room charges which were subject to sales tax, and that the Town expected the tax to provide about \$200,000 annually. Mr. Taylor stated that the local act required that 10% of the hotel/motel tax revenues be used for visitor information purposes and support of cultural events. He said he recommended that the Council adopt an ordinance to put the tax into effect on July 1, in accord with the adopted budget.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER SMITH TO ADOPT ORDINANCE 87-6-23/0-1. THE MOTION PASSED UNANIMOUSLY, (8-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE TO IMPOSE A TRANSIENT OCCUPANCY TAX IN THE TOWN OF CHAPEL HILL (87-6-22/0-1)

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

SECTION I

Chapter 19 of the Code of the Town of Chapel Hill is hereby amended by adding the following:

"Article 1. Transient Occupancy Tax

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Sec. 19-1 Imposition and Levy of Tax

The Town of Chapel Hill hereby imposes and levies a room occupancy tax of three percent (3%) of the gross receipts of any person, firm, corporation, or association derived from the rental of any room lodging or similar accommodation subject to the sales tax levied by the State of North Carolina under G.S. 105-164.4(3).

This tax does not apply to accommodations furnished by nonprofit charitable, educational, benevolent, or religious organizations when furnished in furtherance of their nonprofit purpose. This tax is in addition to any State or local sales tax.

Sec. 19-2 Collection and Payment of Tax

(a) Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately on the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the Town of Chapel Hill. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business.

(b) Payment. Every person, firm, corporation, or association liable for the tax imposed by this ordinance shall, on or before the 15th day of each month after the effective date of this ordinance, prepare and render a return based upon the previous month's collections, on a form prescribed by and available from the Town Revenue Collector and shall remit to the Town Revenue Collection Office the amount of the tax then due.

An operator of a business who collects the occupancy tax may deduct from the amount remitted to the Town (1%) one percent of the total amount collected pursuant to this ordinance as reimbursement for the expenses incurred in collecting the tax.

Sec. 19-3 Penalty for Failure to File Return

Any person, firm, corporation, or association which fails or refuses to file the return and remit the taxes required by this ordinance shall pay a penalty of ten dollars (\$10.00) for each day's omission.

Sec. 19-4 Additional Penalty for Failure to Pay

In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for

filing such return or for paying such tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due, in addition to the penalty prescribed in section 19-5 hereof, with an additional tax of five percent (5%) for each additional month or fraction thereof until the transient occupancy tax is paid.

**Sec. 19-5 Misdemeanor for Willful Violation**

Any person, firm, corporation, or association which willfully attempts in any manner to evade the occupancy tax or the requirement to make a return, and who willfully fails to pay such tax or make and file such return, shall, in addition to the penalties prescribed in this ordinance, be guilty of a misdemeanor, and shall be punished by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment not to exceed six months or by both such fine and imprisonment.

**Sec. 19-6 Use and Distribution of Tax Revenue**

The Council shall decide on the allocation of the revenues collected from this tax annually during its budgeting process with particular consideration given to providing funding for visitor information services and support for cultural events, and not less than ten percent (10%) of the annual revenues shall be used for those purposes.

**Sec. 19-7 Deductions and Refunds**

During any month following a month in which a hotel, motel, or inn has supplied a room to the same person for the 90th consecutive day, the hotel, motel or inn may apply to the Town Revenue Collector, on a form available from that office for that purpose, for a deduction from transient occupancy taxes due that month in an amount equal to the tax previously paid on the receipts from the rental of the room supplied for the period of 90 continuous days or more if said rental is exempt from the sales tax under GS 105-164.4(3). A refund shall be issued by the Revenue Collector if no transient occupancy taxes are then due from which a deduction could be taken."

**SECTION II**

All ordinances and clauses in conflict herewith are hereby repealed to the extent of said conflict.

**SECTION III**

This ordinance shall become effective on July 1, 1987 or upon the effective date of the Act of the North Carolina General Assembly authorizing this room occupancy tax, whichever is later.

This the 23rd day of June, 1987.

Hotel/Motel Tax Funds - Requests

Manager Taylor stated that the Chamber of Commerce had requested \$15,000 for support to the Umbria Jazz Festival in late July and that the Arts Center had requested \$15,000 for their Teen Program. He also said that at the June 22 meeting the Olympic Festival had requested a waiver of the \$16,100 in fees for police and transit services during the Festival and that it had been suggested that the occupancy tax funds could be used for this purpose. Mr. Taylor said that if the Council funded these three requests it would virtually use all the funds allocated from the occupancy tax for visitor information and cultural services for this budget year. He stated that two of the requests were for funds that were needed immediately and that needed to be allocated before the events occurred. Mr. Taylor said that the staff proposed to develop a process for receiving requests for proposals for the funds in the upcoming years but that he did not think there was sufficient time in this budget year for that kind of process. He stated that what was budgeted for these services was a minimum of 10% of the revenues, but which would not exceed \$50,000. He said he recommended resolution R-6 to fund the Chamber of Commerce request.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT RESOLUTION 87-6-22/R-6.

Council Member Werner said he felt it was incumbent upon the Council to advertise for proposals for use of the tax funds. He said he was concerned that the public might feel it did not have the opportunity to apply for these funds. He said there needed to be a formal process for applying for the funds.

Council Member Pasquini agreed with Mr. Werner and said that the Council should not make the decision that evening but to allow more time for other, possibly more worthy projects, to request funding.

Council Member Andresen asked if the Council's meeting schedule would provide for a process of reviewing other proposals before the deadline for the Chamber and Olympic Festival's requests.

Manager Taylor responded that there would be no problem with delaying action on the funding requests until the July 6 agenda but that he did not think there was enough time for the staff to advertise and receive requests and review those requests before the July 6 meeting.

Manager Taylor also stated that if the Council were to fund the Olympic Festival's request for \$16,100 for the police and transit services, he would consider this funding to be considered Chapel Hill's portion of the agreement regarding contingency funds for the Festival if it were to lose money.

Council Member Godschalk asked when the Town had entered into the agreement regarding the contingency funds. Manager Taylor replied that the Town had entered into the agreement with Raleigh and Durham in 1984 when the Triangle Area was attempting to entice the Olympic Festival to this area.

Council Member Godschalk spoke in support of funding the Chamber of Commerce's request for the Umbria Jazz Festival since this proposal had come before the Council at time of discussion on the occupancy tax and since it seemed to him the perfect place where these funds should be utilized.

Council Member Smith agreed and said that he felt the Council had indicated that it would in all probability fund the request.

Council Member Werner disagreed that there had been any decision by the Council on how to use the funds received from the occupancy tax.

Council Member Preston stated that she was inclined to agree that the Council should grant the funds to the current proposals for this year because of the timing of the events. She said she agreed that there should be established a formal request for proposal process for upcoming years. She spoke in support of the Arts Center request and pointed out that they had made their request to the Human Services Advisory Board during their RFP's and had been told that they should make their request to the Council for funds from the expected occupancy tax.

Council Member Godschalk said the merits of the proposals should be considered and agreed that a formal procedure should be developed but that he felt the proposals for the Arts Center and Chamber of Commerce were valid and met the criteria for use of the funds.

Mayor Pro-tem Thorpe said he would prefer to wait until the July 6 meeting to make the decision.

Council Member Pasquini suggested delaying the decision until July 13 in order to give the Manager more time to advertise and receive further proposals.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN FOR A SUBSTITUTE MOTION TO DELAY ACTION ON THE HOTEL/MOTEL TAX REQUESTS UNTIL JULY 13 AND TO HAVE THE MANAGER ADVERTISE FOR PROPOSALS WITH A DEADLINE FOR RECEIPT OF PROPOSALS OF JULY 6.

Manager Taylor reminded the Council that there was no formal procedure established to receive the proposals and that he did not think the Council wished to spend an inordinate amount of time receiving and reviewing requests.

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Council Member Werner said that he felt it was important that there be a manner in which anyone with a proposal could be allowed to submit it and be reviewed and considered by the Council.

Council Member Andresen agreed and said that there needed to be time for public comment to be received on how to use the funds.

Council Member Smith commented that he did not think the Council really wanted to spend the time reviewing the various proposals and have numerous groups presenting the proposals to the Council during the Council meetings.

THE SUBSTITUTE MOTION CARRIED, (6-2), WITH COUNCIL MEMBERS GODSCHALK AND SMITH VOTING AGAINST.

THE MOTION AS SUBSTITUTED, CARRIED, (6-2), WITH COUNCIL MEMBERS GODSCHALK AND SMITH VOTING AGAINST.

Manager Taylor asked that the Olympic Festival request update be deferred to July 13 instead of July 6 so that all the requests could be discussed at one time. The Council agreed.

#### Smoke Detector Ordinance in Older Rental Residential Units

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT ORDINANCE 87-6-22/O-3.

Council Member Godschalk asked how property owners would be notified. Manager Taylor replied that there would be advertisements in the local newspapers as well as letters and visits by the Fire Department to those residences.

Council Member Werner asked if this just applied to older residences. Manager Taylor replied yes, and that since 1975 the N.C. Building Code had required smoke detectors in new construction.

Council Member Preston asked how the law would be enforced. Manager Taylor replied that the Fire Department would inspect the residences and issue any warnings as needed.

THE MOTION PASSED UNANIMOUSLY, (8-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE TO REQUIRE SMOKE DETECTORS IN RENTAL RESIDENTIAL DWELLING UNITS IN THE TOWN OF CHAPEL HILL (87-6-22/O-3)

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

#### SECTION I

Chapter 9 of the Town Code (the Housing Code) is amended by adding a new Section 9-69 to read as follows:

Section 9-69. Smoke Detectors Required

- (a) Every owner of a rental residential dwelling unit lawfully constructed without smoke detectors shall install or ensure that a smoke detector is installed in the corridor or other space leading to every bedroom in each such dwelling unit. Installation must be complete and smoke detectors fully operable within ninety (90) days after the effective date of this ordinance.
- (b) The smoke detector required by this section shall:
  - (1) Be battery operated or attached to the building's electrical current;
  - (2) Be installed in accordance with the manufacturer's instructions;
  - (3) Be activated, provide an audible alarm;
  - (4) Have either a visible light to indicate operability or an audible trouble signal designed to operate at least every minute for seven consecutive days.
- (c) The owner of every rental residential dwelling unit where a smoke detector is installed pursuant to this section shall maintain or ensure that the smoke detector is maintained and kept in good working order. If a battery operated smoke detector is used, batteries shall be replaced not less than once per year.

SECTION II

This ordinance shall be effective on July 1, 1987.

This the 23rd day of June, 1987.

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

The meeting adjourned at 8:10 p.m.

