

MINUTES OF A CONTINUATION OF THE NOVEMBER 9, 1987 REGULAR
MEETING OF THE MAYOR AND COUNCIL OF THE TOWN OF
CHAPEL HILL, MUNICIPAL BUILDING, TUESDAY,
NOVEMBER 10, 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

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

Water Issues for Chapel Hill and Orange County

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER SMITH TO ADOPT RESOLUTION 87-11-9/R-9.

Council Member Andresen suggested having County Commissioner John Hartwell come and talk with the Council about his report on the water issues. She said the report, especially with regard to the County taking over the water system, would be of the most interest to the Council. She suggested having him visit the Council in December.

Manager Taylor commented that at present the Council did not have a meeting, other than the organizational meeting, scheduled for December. He said he had talked with Commissioner Marshall and she had indicated to him that she would like the Council to consider including the Chatham County Commissioners in the list of those the Council would like to have included in the meeting. Manager Taylor said that the staff investigation had shown that there was a lot going on in the area of water issues. He stated that Orange County had at least two groups studying the issues, while OWASA was involved in another study, and Chatham County wanted to meet with Orange County to discuss water supply problems. He said the proposed resolution asked Orange County to ask all the interested parties to convene at one time and ask the parties involved in some aspect of the water issues to make a report to the assembled groups.

Council Member Howes spoke in support of the resolution.

Council Member Andresen asked if the Council wanted to hear Mr. Hartwell's report of his committee. She said she would like to have the opportunity to ask him questions outside of the larger group meeting.

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Council Member Preston said that she would prefer just having the one large meeting.

Council Member Andresen said that since it appeared the Council did not want to have a separate meeting with Mr. Hartwell that maybe it could receive a report.

Council Member Andresen asked if the Chatham County Commissioners were included in the resolution. Manager Taylor replied yes.

THE MOTION PASSED UNANIMOUSLY, (7-0).

The resolution, as adopted, reads as follows:

A RESOLUTION REQUESTING JOINT DISCUSSION OF WATER AND WASTEWATER MATTERS WITH ORANGE COUNTY, THE TOWN OF CARRBORO BOARD OF ALDERMEN, THE TOWN OF HILLSBOROUGH BOARD OF COMMISSIONERS, AND THE ORANGE WATER AND SEWER AUTHORITY BOARD OF DIRECTORS (87-11-9/R-9)

WHEREAS, the Town Council of Chapel Hill has a strong interest in the safe, efficient provision of public drinking water to citizens of Chapel Hill, Orange County and the Triangle region; and in the protection of water quality through proper wastewater treatment and protection of watersheds; and

WHEREAS, the Orange County Board of Commissioners, Town of Carrboro Board of Aldermen, Town of Hillsborough Board of Commissioners, and Orange Water and Sewer Authority Board of Directors have been and will be considering various water supply and water quality issues of mutual interest; and

WHEREAS, the Town Council desires to plan with these other jurisdictions in the best interests of the citizens we all serve;

NOW THEREFORE BE IT RESOLVED that the Town Council of Chapel Hill requests that Orange County convene a meeting in early 1988 of the governing boards of Orange County and Chatham County; the Towns of Hillsborough, Carrboro and Chapel Hill; the Orange Water and Sewer Authority; and representatives of other bodies as the County Board of Commissioners deems appropriate, for the purpose of:

1. Receiving reports and presentations by each jurisdiction on water supply and quality matters under consideration.
2. Establishing an agenda of issues for joint consideration and potential future action, including but not limited to:
 - sharing of water supplies and facilities;
 - future use of Jordan Lake water supplies in a safe, efficient manner;

- protecting water supply watersheds through zoning, design standards and other means; and
- considering institutional arrangements for achieving these goals.

3. Establishing a mechanism, such as an Orange County Intergovernmental Working Group, to discuss and develop proposals for joint actions and agreements by and among the governing bodies.

This the 10th day of November, 1987.

Policy on Selecting Architects and Engineers

Council Member Howes said that it might be better to defer discussion on this issue until the next regular meeting. He pointed out that some of the interested citizens were not present that evening.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER SMITH TO DEFER THIS ITEM UNTIL THE NEXT REGULAR MEETING. THE MOTION PASSED UNANIMOUSLY, (7-0).

Fire Protection Services to the Oaks II Subdivision

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER HOWES TO ADOPT RESOLUTION 87-11-9/R-11.

Council Member Pasquini asked the Manager for information on why the proposal did not include a levy of at least 2.5 cents per \$100 valuation like the Town charged for fire protection services in another location adjacent to Town and what did the average citizen in Chapel Hill pay for fire protection as part of their tax bill.

Manager Taylor responded that the levy dealt with a fire district in the southern part of Chapel Hill. He said the Town only received \$600 from that district as the result of a 2.5 cent per \$100 valuation levy. He said the Oaks II was not in a fire district and the staff did not propose that the Oaks II become a fire district. Manager Taylor said that what was being proposed was something that indicated that the Town was going through the process of determining if the area qualified for annexation and of preparing the reports and information needed in order to consider the annexation of this area under the Statutes. He said that as the staff had begun working on the annexation process with community groups, the issue of fire protection arose. He stated that the residents of the Oaks II were very concerned about not having fire protection and the proposal, in essence, extended the hand of friendship to those citizens-to-be. He said what it meant was that the Town was in the process of annexing the area, would annex it as soon as it could, and that in the

meantime the Town would provide the subdivision with fire protection on a contractual basis. He said the rate was proposed to be minimum. He said that the Town did not want to go through the process of creating a fire district so that the residents could be levied the 2.5 cents tax rate or whatever tax rate the Council would want to levy for the fire protection services. Manager Taylor stated that the Town could annex the property in the same length of time as it would take to create the fire district. He also said that there was a mutual aid contract with New Hope Volunteer Fire Department and North Chatham Volunteer Fire Department for providing fire protection. He stated that North Chatham Volunteer Fire Department was called to answer fire calls to the Oaks II. He stated that with the mutual aid agreement with North Chatham, as a practical matter, the Town would answer all the calls in the Oaks II.

Manager Taylor said with regard to what town residents paid for fire protection, one way to estimate the cost would be to divide the fire department budget by the general fund budget. He said the result equated to a rate of about 5 cents per \$100 valuation for fire protection. He stated that there were other factors to consider with the public safety officers, etc., but roughly the amount was 5 cents.

Council Member Pasquini said he did not see why the Town was considering extending services to areas that had not been annexed. He said that if there was so much concern then the developer should have asked for annexation before developing the property. He said he could understand the residents not requesting annexation and fire services before now, but he could not understand the Country Club since it had been there for a long time. He said he did not think the staff should have gone out and proposed that the Town should provide fire protection services before annexation. Council Member Pasquini said that when the area he lived in was annexed, the hand of friendship appeared to have been missing. He said the Town had annexed the area in December so that the residents had to pay half a year of taxes without receiving any services. He said he did not see why the Town needed to make an exception for the Oaks II. He said if the Town did, then it should provide fire protection for any area the Town was considering annexing. Council Member Pasquini said he did not understand the rationale. He said if nothing else, the Town should get the 5 cents per \$100 valuation since this was what it was costing all the residents of the Town.

Manager Taylor said that in order to levy a tax, a fire district had to be created. He said that the Town could offer contracts for fire service to the residents but he wondered how many would take the contract at a rate of 5 cents per \$100 valuation for these few months before annexation.

Council Member Pasquini said why would not the residents want to pay for fire protection, especially since they would be getting a break on their insurance.

Council Member Smith said the Town was already furnishing fire protection to the area.

Council Member Pasquini said the Town was the second or third respondent to fire calls. Manager Taylor said this was correct, but that when a fire call went to 911 and they called North Chatham Volunteer Fire Department to dispatch, North Chatham would immediately say it would take them 15 minutes to get to the site and therefore they need mutual aid from Chapel Hill. He said that as such the Town's fire truck would be on the scene and have the fire out before the North Chatham fire service arrived.

Council Member Pasquini said that if the Town was going to do this with the Oaks II, it needed to do it with all areas under consideration for annexation. He said he did not agree with the philosophy of just giving the services away for nothing.

Council Member Preston asked how the issue had come about. She asked if the staff had gone out and suggested that the Town do this or had the residents asked the Town for this. She asked if they were concerned about fire protection. Manager Taylor said the residents were concerned about fire protection since they are not within a fire district. He stated that the area known as the Oaks II had grown from one or two houses to forty houses within the last year. He said the Town had started by identifying that area as one to be annexed. Manager Taylor said the problem with the Country Club had been around for a long time. He stated that right after the Country Club was built, the Council authorized a contract with the Country Club to provide fire protection but that the Country Club had never executed the contract. He said the staff had been trying to resolve this problem with the Country Club for some time. Manager Taylor stated that the solution was obviously annexation and that was what the Town was in the process of doing. He said the Town had a program whereby it was willing to meet with any group of people or citizen to explain the advantages of town services. He said he did not know exactly how the first call was made but that he was confident that the first call came to his assistant from residents in the Oaks II who were concerned about how they could have town services.

Council Member Howes asked in the normal course of things if the Town proceeded with the annexation how long would it be before the area was annexed? Manager Taylor said that in the normal course of things the Council would adopt an annexation ordinance in April with an effective date of June 30th. Council Member Howes asked if the process would move faster if the annexation was voluntary. Manager Taylor replied yes, but that voluntary annexation required 100% agreement of the property owners. Council Member Howes asked if the Oaks II had tried to get that. Manager Taylor responded yes and that the residents could not get 100% participation.

Council Member Preston asked what would occur if the Council did not pass the resolution. Manager Taylor said that if the Council rejected the proposal the situation would be that the Town would continue with the annexation process, the Town would still answer fire calls to the area under mutual aid, of which there would be no reimbursement, and in the meantime he felt all that would be done would be to alienate about half the people in the Oaks II who wanted to be annexed into the Town and lose the opportunity of having that many people being added to the Town in a positive spirit as opposed to a negative one.

Council Member Howes asked if it was also the Manager's feeling that charging \$75 per call was a detraction from the spirit of the friendship. Manager Taylor said that in order to charge \$75 per call the Town would have to have a contract with each individual in advance. Council Member Howes asked if the Town could bill the residents after the fact. Manager Taylor responded that the Town could bill the residents individually after the fact, but if there was no contract, it would only be the resident's good faith that would cause them to pay.

Council Member Godschalk said if the Council adopted the resolution would the agreement be with the subdivision and not with the individual property owners. Manager Taylor said the agreement would be with all the individual property owners who signed it saying they wanted the Town to do this. He said this amounted to about half of the residents. He said rather than a formal contract, it would probably be a letter that the residents signed indicating that they accepted and acknowledged the conditions. Council Member Godschalk said there was not a lot of difference between this and a formal contract. Manager Taylor agreed. He said the law stated that the Town had to have contracts, but that as a practical matter by the time the contracts were drawn up and executed the Town should have the area annexed. Manager Taylor said that all the proposal was, was just extending the hand of friendship.

Council Member Godschalk said he thought the Town should do this and that he did not think it represented a serious precedent, especially since the Town was already acting in essence, as the first respondent to fire calls in the area. He said he also did not think it would be a service that would be utilized on a regular basis.

Council Member Pasquini asked if the Town could execute the fire service contract with the Country Club. Manager Taylor said that the Country Club had never executed the contract, not the Town. Council Member Pasquini stated that this really annoyed him, because the Town offered them a contract, they did not sign it and the Town still provided the services. He said he understood the moral issue and the rationale for the residents and that this represented a hand of friendship. Manager Taylor said to please not confuse the Country Club issue with the requests of the

residents in the Oaks II. He stated the Country Club was another issue entirely.

Mayor Pro-tem Thorpe commented that the fire protection service was not the same type of service as garbage pick-up. He said it was to be hoped that the fire services would not be needed everyday.

Council Member Preston asked for clarification that this area was not in any particular fire district and other areas which the Town had annexed were in fire districts prior to annexation. Manager Taylor said this was correct. He said as far as the staff could tell, this area was the only one not within the corporate limits or in a fire district within the urban services area the Town had identified as being the future Town limits. He stated that those areas annexed before, like North Forest Hills, were in fire districts prior to annexation. Council Member Preston stated that this was a very unique situation and in effect would not be setting a precedent because there was probably no other situation like this. Manager Taylor responded that that would be the Town's contention.

Council Member Preston said that she had received a telephone call from a citizen interested in this issue and very concerned that this item had been deferred until this evening, and would therefore be unable to watch the discussion on cable and also would be unable to attend the meeting. Ms. Preston said the citizen had asked if the item could be deferred until the next meeting, but that the Council discussion had begun before she could bring this up. Council Member Preston stated that this was something that needed to be kept in mind when the Council extended its meetings. She said there were people who were concerned about all the items on the agenda and the Council needed to consider how its actions affected those concerned.

Council Member Howes asked what were the citizen's concerns.

Council Member Preston said the citizen had been concerned about a lot of the things Council Member Pasquini had discussed and that the person had wanted to hear the discussion.

Council Member Pasquini asked if the citizen was in favor of his arguments and if so he thought the Council should postpone the issue.

Council Member Preston said the citizen had been concerned that the Town was setting a precedent.

Council Member Andresen said that the issue of recessed meetings was something the Council needed to discuss. She said that Council Member Preston, Mayor Pro-tem Thorpe, and she had been on a subcommittee to try to figure out what the Council should do with the balance of items that were left when the Council recessed meetings. She said the subcommittee had never developed a

process but that it might be something the Council needed to look at in January at its work session.

Council Member Preston said it might be that since this item only took 30 minutes, the Council should try to push ahead at its regular meetings to get through the agenda even though the Council may feel tired.

Council Member Pasquini disagreed saying the quality of the decisions made by the Council was affected by the lateness of the meetings.

Mayor Pro-tem Thorpe stated that Resolution 87-11-9/R-11 was on the floor and that the discussion had slipped away from the topic.

THE MOTION TO ADOPT RESOLUTION 87-11-9/R-11, CARRIED, (6-1), WITH COUNCIL MEMBER PASQUINI VOTING AGAINST.

The resolution, as adopted, reads as follows:

A RESOLUTION REGARDING INTERIM FIRE PROTECTION TO THE OAKS II SUBDIVISION AND CHAPEL HILL COUNTRY CLUB PROPERTIES OUTSIDE THE TOWN LIMITS (87-11-9/R-11)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council authorizes the Town Manager to enter into agreement(s) to provide fire protection services to the Oaks II subdivision and Chapel Hill Country Club properties, which are outside the Town limits, on an interim basis pending consideration by the Town Council of annexing this area. The Town Manager is authorized to enter into, on behalf of the Town, agreement(s) with property owners to provide such fire services for \$1 per year or fraction thereof until the effective date of annexation.

This the 10th day of November, 1987.

Tandler Interest Rate Program

Assistant Town Manager Sonna Loewenthal said the purpose of the resolution was to add flexibility to the program to deal with rising and falling interest rates. She said for the short run, the staff proposed to use the Housing Loan Trust Fund (HLTF) to pay points to the lender to achieve the desire 9.5% interest rate. Ms. Loewenthal said that the Town proposed that it and the developer purchase a "forward commitment" for permanent financing for the next few houses. She said the commitment would cost the Town's HLTF approximately \$3,750 and the developer \$11,250 for \$250,000 of 9.5% guaranteed rate funds. Assistant Manager Loewenthal pointed out that timing was critical as to when the homes were expected to be completed and whether or not interest rates would fall. She said the Manager's recommendation was for the Council to authorize the Manager to negotiate an amendment to

the Development Agreement of July 17, 1987 to use the HLTF to pay points to lenders to achieve a guaranteed interest rate of 9.5% or less for the Tandler Homeownership Project, as needed over the life of the project.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT RESOLUTION 87-11-9/R-12.

Council Member Pasquini asked if the Town would be able to recoup these funds. Ms. Loewenthal replied no.

Council Member Pasquini asked if this would help those individuals who were having trouble with getting financing to buy the homes. Ms. Loewenthal replied that it would help those individuals who were able to make the down payment for the homes but were looking at problems in making the monthly payments. She said it would not help those who could not make the down payment.

THE MOTION PASSED UNANIMOUSLY, (7-0)

The resolution, as adopted, reads as follows:

A RESOLUTION AUTHORIZING USE OF THE HOUSING LOAN TRUST FUND FOR INTEREST SUBSIDIES FOR THE TANDLER HOMEOWNERSHIP PROJECT (87-11-9/R-12)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby authorizes the Town Manager to make interest subsidy payments from the Housing Loan Trust Fund in the form of points to First Union Mortgage Corporation for the purpose of purchasing a guaranteed fixed interest rate not to exceed 9-1/2%, the average rate at which lower-income families (less than 80% of the area median for a family of four) will qualify for first mortgages to purchase homes constructed for the Tandler Homeownership Project up to a maximum of \$40,000 from the HLTF for this purpose; such payments to be made when necessary to achieve stability in interest rates.

BE IT FURTHER RESOLVED that this resolution is conditioned on Capricorn/Isler Associates, Inc. paying the first three points and the Town of Chapel Hill and Capricorn/Isler Associates, Inc. sharing equally in the purchase of up to three additional points.

BE IT FURTHER RESOLVED that the Town Manager is authorized to negotiate an amendment to the Development Agreement of July 17, 1987 between the Town of Chapel Hill and Capricorn/Isler Associates, Inc. reflecting the terms of this resolution, and to execute this amendment upon approval by the Town Attorney.

This the 10th day of November, 1987.

Nation League of Cities Delegate and Alternate

Council Member Howes said he and Manager Taylor would be attending the meeting. He asked if any of the other Council Members

would also be attending. Council Member Andresen said that she was probably going to attend.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO APPOINT COUNCIL MEMBER HOWES AS THE DELEGATE AND COUNCIL MEMBER ANDRESEN AS THE ALTERNATE TO THE NATIONAL LEAGUE OF CITIES MEETING. THE MOTION PASSED UNANIMOUSLY, (7-0).

Executive Session

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER HOWES TO ADJOURN TO EXECUTIVE SESSION TO DISCUSS PERSONNEL MATTERS, LITIGATION AND INTEREST IN REAL PROPERTY. THE MOTION PASSED UNANIMOUSLY, (7-0).

The meeting adjourned to executive session at 8:10 p.m.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER HOWES TO RETURN TO REGULAR SESSION. THE MOTION PASSED UNANIMOUSLY, (7-0).

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADJOURN THE MEETING. THE MOTION PASSED UNANIMOUSLY, (7-0).

The meeting adjourned at 9:00 p.m.