

MINUTES OF REGULAR MEETING OF MAYOR AND COUNCIL  
OF THE TOWN CHAPEL HILL, MUNICIPAL BUILDING,  
MONDAY, APRIL 11, 1988, 7:30 P.M.

Mayor Jonathan B. Howes called the meeting to order. Council Members present were:

Julie Andresen  
David Godschalk  
Joe Herzenberg  
David Pasquini  
Nancy Preston  
James C. Wallace  
Arthur Werner  
Roosevelt Wilkerson

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

Public Hearing on Petition for Annexation - Riggsbee Property

Roger Waldon, Planning Director, said this public hearing was to receive citizen comments on the petition for annexation of a six acre tract of land located in Durham County, north of Clark Lake Road, between Pope Road and White Oak Drive. He said a preliminary plat for a subdivision had been approved by Durham County for this property. He said that municipal services could be provided with existing personnel and equipment.

Jim McNaull, speaking as a resident, questioned why the three lots adjacent to the petition annexation area was not included in the plans for annexation. He said it made more sense to annex the entire area.

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

Petitions

Grainger Barrett, Dan Garner and Pete Du Bose asked to speak to item #5a, Annexation of Area 1.

Margaret Taylor, representing the Alliance of Neighborhoods, spoke in support of the legislative requests and congratulated the Council for their efforts in seeking this authority.

Roscoe Reeve asked to speak to item #5b, Annexation of Area 2.

Claire Cooperstein asked to speak to item #8, Legislative Requests.

Jim McNaull asked to speak to item #10, Use of 1/2 Cent Local Option Sales Tax.

Council Member Godschalk commented that the Council had received a letter from OWASA relating to a cooperative water supply with Orange and Chatham Counties. He petitioned the Council to have the Manager report on the implications of this issue and report to the Council on April 25.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER WALLACE TO REFER THIS MATTER TO THE MANAGER FOR A REPORT ON APRIL 25. THE MOTION PASSED UNANIMOUSLY, (9-0).

### Minutes

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO ADOPT THE MINUTES OF MARCH 23, 1988 AS CIRCULATED. THE MOTION PASSED UNANIMOUSLY, (9-0).

Council Member Preston asked that page 12 of the Minutes of March 28 be amended to state that she "..questioned the language.." and not that she "..said the language.."

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PASQUINI TO ADOPT THE MINUTES OF MARCH 28, 1988 AS CORRECTED. THE MOTION PASSED UNANIMOUSLY, (9-0).

### Annexation - Area 1

Manager Taylor said that the Council had held a public hearing on March 14 on the annexation of Area 1. He said that several issues had been brought up at the hearing and that the staff had addressed these issues in the memorandum before the Council that evening. He said that he and the Attorney had reviewed the issues and the staff reports and felt that Area 1 met the qualifications for annexation. He asked Town Planner, Kimberly Brewer, to present an update on the staff report.

Kimberly Brewer, Town Planner, gave a summary of the qualifications for annexation of Area 1. She pointed out that each subarea of Annexation Area 1 met the Statutory standards for annexation. Ms. Brewer stated that the staff had reviewed their report of March 14 and had since made revisions to the report to correct minor errors and to improve the accuracy of the data. (For a copy of the summary, see Clerk's files.)

Grainger Barrett, an attorney representing property owners in Annexation Area 1(b), said he felt the annexation of this area was not pursuant to the course of orderly growth and development of the Town of Chapel Hill. He said his clients agreed that the area would eventually be a part of Chapel Hill but felt that the timing was in error. He pointed out that the proposed force main sewer line along Barbee Chapel Road to Little John Road was an

extremely long distance for a force main and that it would not benefit the property owners as they would not be able to tap onto this line. Mr. Barrett said he felt the proposal for the force main was made only in order to meet the Statutory requirements for providing sewer service to annexed areas. He also stated that the proposal for a gravity sewer for the area with Durham was not a viable alternative as Chapel Hill's annexation service report indicated that OWASA expected to serve this area.

Pete Du Bose, speaking as a property owner in Annexation Area 1, said he did not see the logic in the proposed annexation. He said he felt such an annexation would be counter to good planning and neighborhood protection. He said he did not want the annexation to push him into developing the property. He also questioned why there were no population statistics in the Town report for Annexation Area 1(c).

Dan Garner, an attorney representing the Du Bose family, thanked the Council for the updated report and concern expressed about the annexation, but said that his clients did not think that annexation of their property was necessary at this time. He suggested that the Council wait until the area was more densely developed before annexing.

Council Member Wilkerson asked the Manager to comment on the question regarding sewer extension to Annexation Area 1(b). Manager Taylor replied that the proposed force main was proposed in order to meet the Statutory requirements for annexation. He said water and sewer service would be available to the residents who petitioned for connection. Mr. Taylor said the Town had never proposed collector lines when annexing an area, and that these lines were provided at the time the residents petitioned OWASA and that the individual property owners were assessed for the cost of extending these lines, according to OWASA policies.

Council Member Wilkerson asked why Annexation Area 1(c) did not include population statistics. Manager Taylor replied that State law set certain guidelines for annexation, some of which were general and others more specific. He stated that Annexation Area 1(c) was proposed for annexation based on its location and perimeter and not on its population.

Council Member Preston stated that she had listened at the public hearing and thought about the concerns expressed. She said she had met with some of the property owners along Barbee Chapel Road. She said she felt the Town was not proposing annexation of this area in order to increase its tax base but rather to protect the development of the property along NC 54. Ms. Preston said it was important for the Town to be fair in all its dealings. She stated that the Du Bose had kept the property along NC 54 as a pasture and that the senior Mr. Du Bose had stipulated that the pasture area would not be developed as long as he was living. Ms. Preston suggested that an agreement might be made between the Du Bose and the Town with regard to development along the

entranceway. She said that if the Town could be assured that the Town would be able to cooperate with the plans for development of the corridor then she was in favor of delaying annexation of Area 1(b) and 1(c) until a later date. She said she would prefer to defer action on the annexation for two weeks to see if an agreement could be accomplished.

Council Member Godschalk stated that it was clear to him from the summary in the staff memorandum that the Town had the authority to annex the area. He said he had concerns about the entranceway but also about controlling the general development of the entire area. He spoke in support of deferring action on this matter to see if the Mayor and Manager could reach an agreement with the property owners if there was some indication from the property owners that this would be feasible for them. He said he felt there should be some assurance from the property owners that the two week delay would be time well spent.

Council Member Pasquini spoke against delaying the vote on the annexation. He said that if the Town staff had worked on an annexation proposal that met all the requirements then the Council should vote to either annex the property or not annex the property. He said he did not like the idea of making arrangements with owners, especially with only one owner, and doing so essentially because the property owner preferred not to be annexed until he wanted to develop the land, and once developed the Town would annex the area. He said he felt this went against the spirit of the Town's annexation policy. Mr. Pasquini said that if it were the desire of the Council to take this course he would prefer to vote against the annexation. He also questioned the legality of such an agreement. He said he did not know if it would be binding to this or future Councils. He said he would like to hear the Attorney's opinion.

Town Attorney Karpinos responded that he had not had any prior knowledge of the proposal and did not feel he could give a definitive answer at this time. He said from the comments that evening it appeared it would involve some kind of transfer of development rights or restrictive covenants on the property in favor of the Town. He said the alternative was that the Town could somehow acquire zoning jurisdiction but that apparently was not a possibility at this time. He said the proposal indicated that the Town would need some mechanism to veto/approve or have a part in any proposed development of the property prior to it becoming a part of the Town of Chapel Hill. Mr. Karpinos stated that if it were a contract, and all parties agreed, no one who was a party to the agreement would be in a position to challenge it, but there were others, like a future Council or someone who may have an interest in the area, who could challenge the legality of the contract.

Council Member Pasquini said he did not feel this kind of contract could be limited to only one group or one owner but that the Town would have to offer this opportunity to all potential

annexation areas. Mr. Karpinos said he was not saying that the proposed agreement would be legal. He commented that if it were possible to arrive at an agreement with this property owner, he did not think the Town would be obligated to offer the same or similar agreement to others just because the Town had offered an agreement in this case.

Council Member Werner said he felt this case and area was unique. He said he agreed with the concerns with entranceway and general land development. He said he could not think of any other situation where the same circumstance would occur.

Mayor Howes asked the Mr. Du Bose if he or his attorney would like to comment on the proposal.

Mr. Garner said it was a good suggestion to enter into some arrangement shy of an annexation. He stated that with regard to entering into an agreement the Town Attorney was more qualified to answer what the Town could or could not do but that if there were an agreement it would have to be binding on both sides. Mr. Garner said he shared the Town Attorney's question as to whether or not such an agreement would be binding to future Councils. He said he also shared Council Member Pasquini's concerns about fairness and even-handed approach to others who might find themselves in a similar situation. Mr. Garner said regardless of what the vote was that evening with regard to the annexation ordinance, his clients were concerned about the entranceway to Chapel Hill and would continue to be concerned about this. He stated that most of the area owned by the Du Bose and within Area 1(c) was within Chapel Hill's zoning jurisdiction. He stated that there was some area that Durham County had refused to surrender to Chapel Hill's sole zoning jurisdiction. Mr. Garner said Durham County as far as they could tell, and that they had not really tried to find out, had no plans in the development process. He said that whatever the property owner had tried had been shelved indefinitely; even some ideas they had just recently, had been put on hold because of the difficulties in the market right now and other reasons. He said that when the property owners had gone to Durham County and solicited their input or asked questions, Durham County had uniformly and consistently stated that this was an area under discussion with Chapel Hill and that whatever was submitted to Durham County, Durham County would submit to Chapel Hill. He said therefore, he felt the mechanisms were already in place to prevent the Du Bose's or anyone else from destroying the entranceway.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO DEFER ACTION ON THE ANNEXATION OF AREA 1 UNTIL THE MANAGER AND ATTORNEY HAVE HAD A CHANCE TO EXPLORE THE MATTER FURTHER WITH THE PARTIES CONCERNED.

Council Member Werner asked if Area 1(a) should be deferred since there did not seem to be a question as to annexing this portion of Annexation Area 1. Manager Taylor replied that if the Council

deferred action on any part of Area 1 then he felt the Council should defer action on all of Area 1.

Council Member Andresen asked if ultimately deferring action on Area 1(c) meant the Council would not be able to take action on Area 1(a). Manager Taylor replied no.

Council Member Pasquini said that he would like information on how such a proposal for an agreement would affect the annexation policy of the Town and its implications on current and future annexation plans. He said very few property owners like involuntary annexations, especially of raw land, and if he were such a property owner he would be very interested in the ramifications of the proposed agreement.

Mayor Howes said that he felt the Town was on sound legal ground with proceeding with the annexation. He commented that the discussion that evening had clearly indicated that the Council's interest in the annexation related to the Town's ability to participate in the planning of the land along the N.C. 54 corridor. He said that it was also clear that the major undeveloped portion of this area, which was owned by the Du Bose and Lloyds, had no plans for development. Mayor Howes stated that the citizens of Chapel Hill needed to be reminded that the Council had already approved a request for a major new continuing education facility for UNC close to the proposed annexation location and that there would soon be an application for a performing arts center for the University in the same area. He said this would make this area a major new activity center for Chapel Hill. He said the arguments about the annexation being premature were probably valid from the standpoint of those who have lived there for a long time but looked at from outside, changes were occurring and would continue to occur. Mayor Howes said he was willing to participate in the discussions about an agreement but that Council Member Pasquini had made some important points and that any report to the Council should be responsive to those concerns.

Council Member Andresen said she would support the motion to defer but that she would vote in favor of annexation unless there were something put forward which would achieve the objective of protecting the development and future planning of this area.

Council Member Wallace said he found it difficult to justify what the Town had already committed to the University with regard to this area and the hesitation the Council was showing in annexing the remainder of this area. He said he also felt that temporizing every time the Council dealt with an issue usually resulted in a negative impact. Mr. Wallace said that he did not think that a binding contract that would protect the interests was feasible, and was confident that this Council could not bind other Councils. He said the only ones who would be bound would be the property owners and he was not sure that there would be a valid contract with this dissimilarity between the two parties. He said

that if the area were annexable, then it should be annexed. Mr. Wallace said he fully sympathized with the Du Bose's position and agreed that the entranceway corridor along NC 54 was in the good condition it was, was because the Du Bose had maintained control of the area.

Council Member Preston commented that she did not think the delay of two weeks would have a negative outcome because she felt the Council was in agreement that if something could not be worked out then annexation was the only solution.

THE MOTION TO DEFER CARRIED, (7-2), WITH COUNCIL MEMBERS PASQUINI AND WALLACE VOTING AGAINST.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER GODS-CHALK TO ADOPT RESOLUTION 88-4-11/R-1. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION SUPPLEMENTING AND AMENDING THE ANNEXATION REPORT AND SERVICE PLAN FOR 1988 ANNEXATION AREA 1 (EAST OF THE PRESENT TOWN LIMITS) (88-4-11/R-1)

WHEREAS, in accord with North Carolina laws on annexation:

1. On December 8, 1986 the Town Council adopted a resolution identifying areas including the proposed 1988 Annexation Area 1 as being under consideration for possible future annexation;
2. On January 13, 1988 the Town Council adopted a resolution of intent to consider annexing the area;
3. On February 8, 1988 the Town Council adopted an annexation report with service plans for said annexation area;
4. The Town of Chapel Hill has mailed and published notices of a public hearing on the question of annexation; and
5. The Town Council held the public hearing on March 14, 1988;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that:

1. The Town Council does hereby find as a fact, after reviewing the minutes of the public hearing and the Town Manager's report of April 11, 1988, that the said Annexation Area 1 qualifies for annexation by the Town of Chapel Hill pursuant to State law.

1. The area is contiguous to the Town limits.

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2. Over one-eighth (12.5%) of the aggregate external boundary of the area under consideration coincides with the existing Town limits. Fifty-seven percent (57%) of the annexation area boundary is contiguous with the present Town limits.
  3. None of the area is within the boundary of an incorporated municipality.
  4. The proposed new municipal boundaries resulting from this annexation generally follow the Durham City/Chapel Hill future annexation boundary as established by judgment entered in Town of Chapel Hill v. City of Durham, 85CVSO3108 (Durham County); and, wherever practical, natural topographic features. The annexation boundary takes into account drainage considerations.
  5. Land developments in the area are primarily residential.
  6. The annexation area is composed of three areas, each of which meets either the statutory requirements for urbanization in G.S. 160A-48(c) or an alternative statutory requirement in G.S.160A-48(d)(2) of contiguity with the Town and urban area, all more fully described below.

a. Area 1a

Orange County and Durham County Tax Maps (52, 135, 136, 137, 479A, and 479B) indicate that there are 105 total lots in Area 1a. An actual field survey indicated that 64 of these lots are used for residential, commercial, institutional or governmental purposes (or 61%). Orange and Durham County Tax maps indicated that the residential and undeveloped acreage totals 117.3; of this, 81.76 acres (or 70%) consist of lots five acres or less in size. Therefore, Area 1a qualifies for annexation under G.S. 160A-48(c)(3). Display Map 1 presented to the Town Council April 11, 1988 and work map 1a (including Tax Maps) dated April 11, 1988 on file in the Town Planning Department are the sources of these calculations. These maps are incorporated by reference as part of the Annexation Ordinance.

b. Area 1b

According to the Durham County Tax Map 491, Area 1b consists of 66 acres in the Sherwood Forest Area. According to the Tax Map, there are 52 lots. Forty of these lots were identified in an actual field survey as being developed for residential, commercial, institutional or governmental purposes



(or 77%). The residential and undeveloped area totals 53.7 acres; of this, 39.24 acres (or 73%) consist of lots five acres or less in size. Therefore, Area 1b qualifies for annexation under G.S. 160A-48(c)(3).

Also, multiplying the State Data Center's estimate (from the 1980 Census), Durham County's Triangle Township average population per housing unit (2.84) times the identified dwelling units (39) for a total of 111 people yields an estimated population density of 1.67 persons/acre. Forty-six acres (or 76% of the total acreage) are divided into lots five acres or less in size; 38 lots (or 73 % of the total lots) are 1 acre or less in size. Therefore, Area 1b also qualifies for annexation under 160A-48(c)(2).

Display Map 1, presented to the Town Council on April 11, 1988 and work map 1b (including Tax Maps) dated April 11, 1988 in the Town Planning Department are the sources of calculation for Area 1b. These annexation maps are incorporated by reference as part of the Annexation Ordinance.

c. Area 1c

According to Orange County and Durham County Tax Maps and Plat Maps of the area (Durham County Tax Maps 479A; 479B; 490; Oaks II, Phase II Final Plat September 10, 1985; "Survey of David St. Pierre Du Bose, Jr." February 12, 1986; U. S. Army Corps of Engineers Project Map, B. Everett Jordan Dam and Lake, Segment "19", December 12, 1972, as amended), the total perimeter of Area 1c is 37,873 linear feet; of this, 26,666 linear feet (or 70%) are contiguous with Area 1a, Area 1b, and Chapel Hill's current Corporate Limits. Therefore Area 1c qualifies for annexation under 160A-48(d)(2). Display Map 1, presented to the Town Council on April 11, 1988 and work map 1c (including Tax and Plat Maps) dated April 11, 1988 in the Town Planning Department are the sources of calculation for Area 1c. These maps are incorporated by reference as a part of the Annexation Ordinance.

2. The Town Council hereby amends the Annexation Report of February 8 for Annexation Area 1 by incorporating therein by reference the Town Manager's report of April 11, 1988 on this matter.

This the 11th day of April, 1988.

#### Annexation - Area 2

Manager Taylor said that since the public hearing he and the Town Attorney had reviewed the data used and had found that Area 2 met the qualifications for annexation. He asked Town Planner Kimberly Brewer to explain the additional, supplementary information provided in the staff memorandum to the Council.

Council Member Pasquini suggested that this item also be deferred for two weeks since he felt whatever report provided by the staff with regard to the annexation policy and any agreement with individual property owners in Area 1 would have an effect on the proposed annexation of Area 2.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER WALLACE TO DEFER ACTION ON THIS ITEM UNTIL THE NEXT REGULAR COUNCIL MEETING.

Council Member Godschalk said he felt this was a different situation and every annexation was an unique situation with a specific set of facts, land use, population and service requirements. He urged that the Council hear the staff report and consider the annexation ordinance.

Council Member Pasquini said he felt the Council's flexibility was gone and that the entire matter had the potential to end up in court. He said he agreed every annexation was different but that he felt the property owners in Area 2 would be equally justified in expecting the same sort of consideration as proposed for Area 1.

Attorney Karpinos said the Council could choose to either proceed that evening or postpone. He stated that the results of any research could have an implication but only if the Council were to want to consider postponing this annexation. He said if there were no interest or desire to postpone then the Council could proceed with the annexation consideration that evening.

Council Member Wallace said he felt it was only fair that if the Council postponed action on one of the annexation ordinances then it should postpone the other. He said he agreed each ordinance was separate and unique but that there were similarities. He said he also felt the Manager and Mayor should discuss this issue with the property owners in Area 2 as well as those in Area 1.

Mayor Howes said he felt it would be appropriate to proceed with the staff presentation and hear from Mr. Reeve prior to deciding whether or not to act on the ordinance that evening.

COUNCIL MEMBERS PASQUINI AND WALLACE AGREED TO WITHDRAW THEIR MOTION.

Kimberly Brewer, Town Planner, gave a summary of the qualifications for annexation of Area 2. She pointed out that annexation Area 2 met certain general and specific qualifications for annexation. Ms. Brewer stated that the staff had reviewed their report of March 14 and had since made revisions to the report to correct minor errors and to improve the accuracy of the data. (For a copy of the summary, see Clerk's files.)

Council Member Werner said the average density for Annexation Area 2 as indicated in the summary information was 2.1 persons per acre based on the township average population data. He questioned what if someone did an exact head count and the actual number of people living in Area 2 was less than the statutory limit of 2 persons/acre for this kind of annexation would this invalidate the annexation proposal. Ms. Brewer replied that the General Statutes prescribed various ways to estimate population and that the method used by the staff was one of those ways. She said of course there could be human error and the Statutes allowed for this in their requirements for annexation. She said the human error allowed was a difference of 10 percent.

Manager Taylor said that when the Legislature adopted the laws regarding annexation it was not expected that an actual count of individuals living in an area would be done and therefore established a process to estimate population. He said one of these was to use the census population for the County or township. He stated that the staff had used the township average population per household.

Attorney Karpinos stated that it would have to be demonstrated that there was at least a 10% error in the calculations before there could be a challenge of the data provided by the staff.

Roscoe Reeve, speaking as a property owner in Area 2, spoke against the annexation of Area 2. He said the area ought to meet the criteria of fairness in that it was a way for the Town takes its development into a concise urban form. Mr. Reeve stated that Area 2 did not meet this criteria, especially as most of the land within this area was undeveloped. He said he did not believe the Town needed to annex in order to protect future land for development. He said he did not think any of the property owners in Area 2 could develop their land without Chapel Hill's review and recommendation. Mr. Reeve stated that he felt that equity and fairness called upon an annexed area to reasonably represent that urban form and until such time should not be annexed, especially if it was determined that the Town did have adequate control.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER WALLACE TO DEFER ACTION UNTIL THE NEXT REGULAR MEETING.

Mayor Howes said that with the deferral of action on Annexation Area 1 he said there appeared to have been a clear direction to try to meet with at least some of the property owners to see if any kind of accord could be reached. He asked if this also being suggested for Area 2.

Council Member Pasquini said he would prefer to wait until after receiving the Attorney's report but that if the Council did decide to offer an agreement with one property owner he felt all the property owners should be offered an agreement, or establish certain criteria upon which an agreement would be negotiated. He stated that the property in Area 2 was on an entranceway and contained undeveloped parcels.

Council Member Herzenberg asked if the Manager was to negotiate with all the property owners in Area 1. Mayor Howes said he thought it was just with the Du Bose family.

Council Member Godschalk stated that the proposed Annexation Area 2 was in Chapel Hill's Urban Transition Area with the County and that the Town had a joint public hearing with regard to the County's adoption of Chapel Hill's Development Ordinance for the Transition Area scheduled. He asked if the Town had adequate development management controls for this area?

Manager Taylor replied that Area 2 was within the Transition Area and was a part of the Joint Planning Area. He said the Town had the controls in relation to this and currently Area 2 was under County development approval with review by the Town, but that this was in the process of being changed so that Chapel Hill's development rules and regulations would apply to this area.

Council Member Godschalk said that Area 2 was distinct from Area 1 in that much of Area 1 was outside of Orange County and therefore outside of the Town's development regulation. Manager Taylor said that Area 2 was different from Area 1 in that all of Area 2 was within Orange County and a sizable portion of Area 1 was in Durham County.

THE MOTION TO DEFER PASSED UNANIMOUSLY, (9-0).

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT RESOLUTION 88-4-11/R-2. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION SUPPLEMENTING AND AMENDING THE ANNEXATION REPORT AND SERVICE PLAN FOR 1988 ANNEXATION AREA 2 (NORTH AND WEST OF THE PRESENT TOWN LIMITS) (88-4-11/R-2)

WHEREAS, in accord with North Carolina laws on annexation:

1. On December 8, 1986 the Town Council adopted a resolution identifying areas including the proposed 1988 Annexation Area 2 as being under consideration for possible future annexation;
2. On January 13, 1988 the Town Council adopted a resolution of intent to consider annexing the area;
3. On February 8, 1988 the Town Council adopted an annexation report with service plans for said annexation area;
4. The Town of Chapel Hill has mailed and published notices of a public hearing on the question of annexation; and
5. The Town Council held the public hearing on March 14, 1988;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that:

1. The Town Council does hereby find as a fact, after reviewing the minutes of the public hearing and the Town Manager's report of April 11, 1988, that the said Annexation Area 2 qualifies for annexation by the Town of Chapel Hill pursuant to State law.
  1. The area is contiguous to the Town limits.
  2. Over one-eighth (12.5%) of the aggregate external boundary of the area under consideration coincides with the existing Town limits. Sixty percent (60%) of the annexation area boundary is contiguous with the present Town limits.
  3. None of the area is within the boundary of an incorporated municipality.
  4. According to the Orange County Tax Maps 7.18 and 7.24, the area covers about 292 acres. An actual survey indicated that there are 269 dwelling units. Multiplying the 1980 Census estimate for Chapel Hill Township's average population per housing unit (2.33) times the identified dwelling units yields an estimated population of 627. This divided by the total acreage yields a population density of 2.1 persons per acre. This area

therefore qualifies for annexation under the terms of G.S. 160A-48(c)(1). Display Map 2 (including Tax Maps) dated April 11, 1988 in the Town Planning Department and presented to the Town Council on April 11, 1988 is the source of calculation for Area 2.

5. The proposed new municipal boundaries take into account natural topographic features, specifically, the drainage basin of upper Booker Creek.
6. Land developments in the area are primarily residential.

Display Map 2 is incorporated by reference as a part of the Annexation Ordinance.

2. The Town Council hereby amends the Annexation Report of February 8 for Annexation Area 2 by incorporating therein by reference the Town Manager's report of April 11, 1988 on this matter.

This the 11th day of April, 1988.

#### N.C. Memorial Hospital Modification to Special Use Permit

Council Member Godschalk asked that the annual report with regard to use of the parking deck be made available to the Council. Manager Taylor said the staff would provide that information to the Council as soon as the Hospital submitted their report.

Council Member Preston asked for clarification of the stipulations in the resolution. Manager Taylor said that the resolution was for approval of a modification to the original Special Use Permit and therefore was a restatement of all of the original stipulations plus the new stipulations.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 88-4-11/R-4A. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION APPROVING AN APPLICATION FOR A SPECIAL USE PERMIT MODIFICATION FOR THE UNC HEALTH AFFAIRS PARKING DECK (SUP-73-1) (88-4-11/R-4a)

BE IT RESOLVED by the Council of the Town of Chapel Hill that it finds that the modification to the Special Use Permit stipulating parking use allocation for the University of North Carolina at Chapel Hill's Health Affairs Parking Deck, on property identified as Chapel Hill Township Tax Map 73, Lot 1 if developed to plans dated October 5, 1977, and approved by the Council on June 12, 1978, would:

1. Be located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
2. Comply with all required regulations and standards of the Development Ordinance, including all applicable provision of Article 4, 5 and 6, and the applicable specific standards contained in Section 8.7 and 8.7.2, and with all other applicable regulations;
3. Be located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or be a public necessity; and
4. Conform with the general plans for the physical development of the Town as embodied in the Development Ordinance and in the Comprehensive Plan.

These findings are conditioned on the following:

1. a. That the existing deck and and the deck addition be completely assigned to serve the parking needs of patients and visitors by June 30, 1993, with the exception that after June 30, 1993, employees may use the existing parking deck and proposed parking deck for off-peak hour shifts which generally run between 2:30 p.m. and 8:45 a.m.
- b. That the deck be managed in a manner to optimize parking available for patients and visitors.
- c. That annual reports be transmitted to the Town Manager, indicating patient and visitor demand for parking, and parking space allocations.

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2. That detailed plans and designs for the following street and traffic improvements be submitted to and approved by the Town Manager prior to the start of construction of such improvements. These improvements shall be completed prior to opening the deck addition and shall be approved by the North Carolina Department of Transportation if such improvements fall under the jurisdiction of the North Carolina Department of Transportation.
    - a. That the one-way access to the hospital entrance be reversed to match with the one-way pattern encircling the parking deck.
    - b. That the on-street parking on East and West Drives be removed.
    - c. That marked crosswalks be placed from the hospital entrance to all walkways.
    - d. That a paved sidewalk be constructed along the south side of Manning Drive from West Drive to South Columbia Street.
    - e. That a marked crosswalk be placed across Manning Drive from Brauer Hall to the front of the New Faculty Laboratory Office Building.
    - f. That the on-street parking spaces on Manning Drive in front of Brauer Hall be removed.
    - g. That Manning Drive be widened to accommodate an additional lane on the north side of the existing street. Such additional lane to extend from near Brauer Hall to the intersection of Columbia Street and Manning Drive. The additional lane to provide a separate right turn lane for traffic headed northbound on Columbia Street.
    - h. That King Street be made one-way south bound from Manning Drive and that the connection of King Street with Mason Farm Road extension be either closed or relocated to the west of Medical Lab A. The service drive located off Manning Drive serving the west side of the Faculty Lab/Office Building shall not be used for through traffic to serve parking areas located south of the Faculty Lab/Office Building.
    - i. That the additional pedestrian overpass across Manning Drive as shown on the submitted site plan be constructed.
    - j. That Mason Farm Road be extended to Pittsboro Street with a paved cross-section of 48 feet with curb and gutter.



- k. That Pittsboro Road be widened to accommodate three lanes at the proposed intersection of Mason Farm Road extension and Pittsboro Street. The center lane formed by the addition of the third lane shall be designated for left turns by southbound traffic into Mason Farm Road extension and left turns for northbound traffic into Westwood Drive.
  - l. That the intersection of Pittsboro Road and Mason Farm road extension be signalized.
  - m. That the parking areas located west of Swing Building have direct access to the Mason Farm Road extension.
  - n. That improvements be implemented for discouraging the use of Mason Farm Road as an access-egress road to the Health Affairs area including but not limited to proposed signage, narrowing of the cross-section design near East Road, and improvements to the Pittsboro Road-Bypass interchange and Manning Drive-Bypass intersection (refer to Mason Farm Road-Purefoy Road traffic recommendations dated 4/4/78).
3. That no parking within the parking deck addition be permitted unless and until:
- a. Mason Farm road is closed to automobile traffic as discussed in alternative 2 of the Mason Farm Road-Purefoy Road traffic recommendations dated 4/4/78, or
  - b. Otey's Road is closed to automobile traffic, or
  - c. A satisfactory traffic alternative involving this area is adopted by the Board.

The selection of which the alternatives above listed shall apply, shall be within the sole discretion and determination of the Board of Aldermen.

- 4. That construction begin by April 30, 1979 and be completed by April 30, 1980.
- 5. That continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.
- 6. If any of the above conditions is held invalid, this approval shall be void.

BE IT FURTHER RESOLVED that the approval of the Special Use Permit Modification is a modification to the Special Use Permit Modification approved by the Chapel Hill Town Council on June 12, 1978.

BE IT FURTHER RESOLVED that the approval of the Special Use Permit Modification is conditioned upon the owner of this property agreeing, in writing, to all of the above conditions.

BE IT FURTHER RESOLVED that the Council hereby approves the application for the University of North Carolina's Health Affairs Parking Deck Special Use Permit Modification in accordance with the plans and conditions listed above.

This the 11th day of April, 1988.

Council Member Wallace left the meeting at this point, 9:00 p.m.

Merritt Mill Road Duplex Subdivision

Roger Waldon, Planning Director, said the application was for preliminary plat approval for subdivision a 1.68-acre parcel into 5 residential lots. He said the site was located on Merritt Mill Road across from Lincoln Center and bounded by Durham Street and Park Road. Mr. Waldon stated that one dwelling currently existed on the site and that the proposal was to divide the remainder of the property into 4 duplex lots. He said that access to the site had been one of the primary concerns of the staff. He stated that the staff and the applicant agreed that it was not desirable to have access from Durham Street because it was currently only a 30-foot wide unimproved right-of-way that would require relocation of existing residential structures for the additional right-of-way. Mr. Waldon also said that Park Road was currently a 25-foot unimproved right-of-way but did not offer such development constraints or disruption to the neighborhood. He said the staff recommended that Park Road be improved to one-half of a class "B" street, with a temporary "T"-turnaround at the end of the improvements. Mr. Waldon said the applicant proposed and the staff felt it was appropriate that the recreation area requirement be met by a payment-in-lieu. He said the recreation area requirement for the proposed subdivision was only 12,477 square feet and that Lincoln Center, with numerous recreational facilities, was across the street. Mr. Waldon said the proposal also contained one flag lot which the staff felt was acceptable and a reasonable design for this site in order to eliminate access to the site from Durham Street.

Council Member Godschalk asked if the slope of the proposed road exceeded Town standards for a subdivision. Mr. Waldon replied no.

Council Member Godschalk expressed concern about providing access to the undeveloped properties behind the proposed subdivision. He said the proposed subdivision's preliminary plat indicated that Durham Street's right-of-way would remain at its current 30', and that this would essentially eliminate using Durham Street as a potential access road to the undeveloped properties

behind the site, because widening Durham Street would not only require moving existing structures but also in all probability, moving any structures built in the proposed subdivision on lots that adjoin Durham Street. He asked the staff and Planning Board to look into the problem of how to provide access to the undeveloped properties if they were to be developed.

Council Member Andresen said the topography of the site appeared to be relatively steep and she asked if the staff had determined that dwellings could be built on the lots. Mr. Waldon replied yes.

Council Member Preston also expressed concern for access to the undeveloped properties behind the proposed subdivision.

Council Member Pasquini asked for clarification of a flag lot and the Town policy regarding such lots. Mr. Waldon described a flag lot and said the Town policy was to discourage and restrict flag lots but that they may be permitted if necessary to allow a property owner reasonable use of his land or to alleviate situations that would cause extreme hardship. He said the staff recommendation was for inclusion of this flag lot in order to eliminate the necessity for access to the site from Durham Street.

COUNCIL MEMBER WILKERSON MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 88-4-11/R-5A. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION APPROVING AN APPLICATION FOR PRELIMINARY PLAT APPROVAL FOR MERRITT MILL ROAD DUPLEXES SUBDIVISION (88-4-11/R-5a)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Merritt Mill Road Duplexes Subdivision proposed by Brooks and Son Construction Company, identified as Chapel Hill Township Tax Map 90, Block A, Lot 1, if developed according to the preliminary plat dated January, 1988 (February 5, 1988 revised), and the conditions listed below, would comply with the provisions of the Development Ordinance.

1. That a five (5) foot wide sidewalk, meeting Town standards, be provided along the property's Merritt Mill Road frontage.
2. That Park Street be improved to one-half of a class "B" street with a Town standard temporary T-turnaround provided at the termination of Park Road and including an additional 12.5 feet of right-of-way to be dedicated on the final plat.
3. That if a construction easement from the adjoining property owner is necessary for Park Road improvements, it shall be obtained prior to issuance of a Zoning Compliance Permit.

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4. That the final plat include easements restricting vehicular access from Merritt Mill Road and from lots 4 and 5 onto Durham Street.
  5. That the final plat include a type "C" buffer easement along the Merritt Mill Road right-of-way.
  6. That the amount of the proposed payment-in-lieu of providing recreation area shall be approved by the Town Manager and the payment accepted prior to application for final plat approval.
  7. That the four (4) accessory buildings identified on the approved plan as "to be removed", shall be removed prior to application for final plat approval.
  8. That an erosion control permit be obtained from the County Erosion Control Officer prior to issuance of a Zoning Compliance Permit.
  9. That final street plans, grading plan, utility/lighting plan, stormwater management plan (with hydrologic calculation), and buffer planting and maintenance plan be approved by the Town Manager before issuance of a Zoning Compliance Permit or application for final plat approval, and that such plans conform to the plans approved as part of this application and demonstrate compliance with all applicable conditions and the design standards of the Development Ordinance and the Design Manual.
  10. That sight triangle easements be provided on the final plat.
  11. That the developers shall be responsible for placement and maintenance of temporary regulatory traffic signs before issuance of any Certificate of Occupancy until such time that the street system is accepted for maintenance by the Town.
  12. That the applicant take appropriate measures to prevent the deposit of wet or dry silt on adjacent paved roadways.
  13. That the final utility plans, including a street lighting plan, be approved by the Town Manager, OWASA, Duke Power, Southern Bell, Public Service Company, and Carolina Cable before issuance of a Zoning Compliance Permit.
  14. That easement documents as required by OWASA and the Town Manager be recorded before final plat approval.
  15. That tree protection fences be installed to protect significant existing trees and their root systems, before issuance of a Zoning Compliance Permit.

- 16. That before paving streets, utility service laterals be stubbed out to the front property line of each lot. Sanitary sewer laterals shall be capped off above ground.
- 17. That no Certificates of Occupancy be issued until all required public improvements are completed; and that a note to this effect shall be placed on the final plat.
- 18. That the continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.
- 19. 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 preliminary plat approval for Merritt Mill Road Duplexes Subdivision in accord with the plans and conditions listed above.

This the 11th day of April, 1988.

Legislative Requests

Manager Taylor said the Council had held a public forum on proposed legislative requests on March 28. He said it appeared that some of the potential requests could be termed as controversial. He said therefore it might be more appropriate at this time, before the Council took a definitive action on any of the proposals, for the the Mayor to visit the local delegation and discuss the proposals and receive from them their interpretation of the controversial nature of the proposals. He stated that the rules of the General Assembly for the short session were to allow only those non-controversial Bills to be introduced and that the controversiality of a proposal would be determined by the local delegation. He said if the Council preferred not to do this he was prepared to discuss the substance of each issue and have a resolution relating to each.

Council Member Preston said she liked the idea because she felt it would help the Town's representatives but also helped the Council to understand the local delegation's position. Manager Taylor said that he felt if the Mayor were to talk with the delegation and the delegation indicated that certain proposals were controversial then the Council could adopt resolutions for those items which were non-controversial for the short session and that the Council would be indicating that the delegation could expect the controversial issues to be brought to the Legislature in the regular session in 1989.

Council Member Pasquini said he appreciated the time the Mayor would spend discussing the issues with the local delegation but he also felt the Council should show the delegation how strongly

it felt about certain policies and acts which the Council felt were important to Chapel Hill. He said he agreed there could be controversy associated with some of the proposals but felt that the Council should take a stronger position. He said, for example, with regard to the entertainment tax, the Council could say to the local delegation that as a group it felt very strongly about an entertainment tax and that if the delegation chose not to bring it up or wanted to wait until 1989 then that was the delegation's decision.

Manager Taylor said he did not disagree with Council Member Pasquini's position but that he just wanted the Council to know which items the local delegation felt were controversial.

Mayor Howes said that he had spoken with Representative Hackney and had been reminded of the rule of controversiality. He said Mr. Hackney had suggested that it might be worthwhile to have this kind of review but that he would understand if the Council sent items which were considered controversial. Mayor Howes said he felt it would be helpful to have a preliminary conversation with the local delegation and then the Council could take whatever action it wished to take.

Claire Cooperstein, representing the Sierra Club, said she had no problems with the Mayor talking with the local delegation but that the Sierra Club did have concerns with the language of the proposed legislation in relation to protection of topsoil. She said the Club had requested that the language in the landscape regulations as it refers to "...trees and shrubs and their surrounding soils.." be changed to read "...trees, shrubs and soils.." Ms. Cooperstein stated that the staff memorandum addressed this concern by saying that it could be addressed through livability space ratios and special use procedures. She said the Sierra Club disagreed and urged the Council to delete the phrase "their surrounding" from the language of the proposed legislation. (For copy of text, see Clerk's files.)

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO ADOPT RESOLUTION 88-4-11/R-6.

Council Member Andresen said she agreed with Council Member Pasquini's comments with regard to the Council's feelings on the proposed legislation and felt that it was important that the Mayor should emphasize this when having his discussion with the local delegation.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION AUTHORIZING THE MAYOR TO MEET WITH THE LEGISLATIVE DELEGATION TO DISCUSS LOCAL BILL REQUESTS (88-4-11/R-6)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council authorizes the Mayor to meet with the legislative delegation to discuss potential local bill requests, and to report back to the Council by May 25.

This the 11th day of April, 1988.

Election '88 Program - National League of Cities

Mayor Howes said that the National League of Cities and the North Carolina League of Municipalities were promoting discussion by the candidates for the President on issues of importance to cities through the Election '88 Program. He said the resolution would endorse the effort and encourage candidates, news media and general public to address the needs of communities.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 88-4-11/R-7. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION SUPPORTING THE NATIONAL LEAGUE OF CITIES' ELECTION '88 PROGRAM, INVESTING IN HOME TOWN AMERICA, AND CALLING UPON ALL INTERESTED PARTIES TO DISCUSS AND DEBATE ISSUES OF LOCAL INTEREST DURING THE 1988 PRESIDENTIAL CAMPAIGN (88-4-11/R-7)

WHEREAS, more than six of ten Americans, over 149 million people, live in the nation's cities and towns; and

WHEREAS, for most United States citizens the quality of their lives, and their economic future as well, depends on what happens in the communities in which they work and dwell; and

WHEREAS, the nation's municipal governments perform a broad range of basic services in support of the economic, social, cultural and political life of the nation and its people; and

WHEREAS, the national political debate during recent presidential elections has demonstrated little understanding of or concern for national issues which are critical to local communities; and

WHEREAS, sound national policy requires that our nation's leaders, in both the White House and Congress, have a clear understanding and appreciation of the extent to which the quality of life and opportunity for America's people are dependent upon conditions, issues, problems, opportunities, and resources at the community level; and

WHEREAS, to enable the voting public to make informed judgments about individual candidates for national office, candidates for President and Congress must address issues of major concern in the nation's cities and towns; and

WHEREAS, Election '88, a nonpartisan program of the National League of Cities Institute, has sought to foster a better understanding of the importance of conditions in America's communities by identifying ten community issues as priorities for the 1988 national election campaigns; and

WHEREAS, these priority issues are:

- 1. Education
- 2. Drug Abuse
- 3. Poverty
- 4. At Risk Kids
- 5. Job Training
- 6. Crime
- 7. Housing and Neighborhoods
- 8. Economic Development
- 9. Partnerships with Local Government
- 10. Ensuring Survival for All People;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council urges all presidential and congressional candidates in every fair and practical manner to address the priority issues outlined in the National League of Cities' Election '88 Program. Further, such candidates are urged to make these issues an essential element of their campaigns, to speak out on them at every opportunity, and to inform both the nation's elected municipal officials and the American voters of their understanding and views on these matters.

BE IT FURTHER RESOLVED that the Council further urges all of the citizens of Chapel Hill and of the State of North Carolina to make use of every available opportunity to discuss these issues with candidates and their campaign organizations, state and national party officials, and representatives of the media.

This the 11th day of April, 1988.

Request to Use All of 1/2 Cent Local Option Sales Tax Funds for Purposes Other Than Water and Sewer

Manager Taylor said the State Legislature authorized the 1/2 cent local option sales tax in 1983 and in 1985 required that 40% of the revenues received in the first five years and 30% of the revenues in the next five years from this tax be used only for water and sewer purposes. He pointed out that the legislation allowed for an exemption from these requirements upon approval by the Local Government Commission, especially if the community's water and sewer capital needs were being met from other funding sources. Manager Taylor said that Chapel Hill and Carrboro participate in OWASA which was a water and sewer authority. He said in order to receive the exemption the Council needed to adopt a resolution stating that Chapel Hill's water and sewer needs were being and could be adequately met by the financing mechanism available to OWASA through their bonding authority and



rate structure. Manager Taylor stated that as of June 30, 1987 the Town had received approximately \$900,000 in the sales tax monies and had allocated approximately \$300,000 for various water and sewer projects (University Heights, Barclay-Justice and Tandler Homeownership projects), and about \$100,000 for the proposed annexation for 1988. He said this meant there was about half of the funds remaining and that these funds be continued to be held in the Capital Reserve Fund for water and sewer facilities. He said that if the exemption were granted, the Town would be able to expend the funds for whatever the purpose deemed appropriate.

Manager Taylor said he recommended that the Council seek the exemption and then apply the proceeds from the exempted portion of the 1/2 cent sales tax revenues to repayment of debt. He stated that the citizens of Chapel Hill had granted the Town authority to sell \$11.8 million in bonds to pay for various programs over the next three years. He said the Town would need to service this debt as it became due and that the first of the sale of bonds was scheduled for May 10, 1988 in the sum of \$5 million. The first payment on this issue would be in the next budget year. Manager Taylor said he proposed, if an exemption were granted, to set aside these funds over the next two or three years and thereby accumulate funds in order to meet the maximum debt payment in four or five years. He stated that by using this plan, along with other funds the Town would be putting into the debt service, the Town could meet the debt of the \$11.8 bond issue without having to have a tax increase.

Manager Taylor said that if the Council did not seek the exemption, then the funds had to be spent for water and sewer. He said the Council could turn the funds over to OWASA for OWASA to spend as they saw fit on their system or the Council could expend it on any of the areas which did not have water and sewer using or not using the assessment basis. He stated that there were some areas within the Town which did not currently have sewer. He said there were about ten areas without sewer: Glen Heights, North Forest Hills, an area on Mason Farm, Piney Mountain, Shady Lawn, Morgan Creek, etc.

Jim McNaull, speaking as a citizen, said that water and sewer were important utilities that needed to be provided. He asked for clarification of what the General Statutes required in relation to annexation and the provision of water and sewer by municipalities. He asked if this meant the Town had to provide it or that it could be provided by a separate entity like OWASA. Mr. McNaull stated that he felt OWASA's policies were not meeting the needs of the Town with regard to water and sewer service. He pointed out that there were many areas within Chapel Hill which did not have water and sewer and that he felt this was due to OWASA's policy of requiring cash in advance for connection to their lines. He said OWASA did not have any provisions for financing for individuals who wanted to connect to OWASA's sewer lines. He suggested that the 1/2 cent local option sales tax funds could be

used to set up a revolving fund for citizens to use to pay for connection to OWASA's lines. He stated that there were many areas where water and sewer needs were not being met and where septic tanks were failing and could not be fixed and the property owners could not connect to OWASA's lines because they could not afford the up-front costs.

Council Member Werner asked how many units in Chapel Hill were without Town water and sewer. Manager Taylor said that he did not know the exact number but that he knew the areas where the lines were not in the streets.

Council Member Werner asked when the Town provided water and sewer in the University Heights and Barclay-Justice area how many units were involved. He said he did not know off-hand and would have to get those numbers. He stated that University Heights and Barclay-Justice projects had used Community Development Funds for the majority of the work with supplements from the 1/2 cent local option tax funds.

Council Member Werner said he was not convinced that there was not a downside to using the funds for purposes other than water and sewer. Manager Taylor said that the downside was that it would be that many dollars that would not be spent on water and sewer within Chapel Hill. He said that whatever funds the Council could use to spend on water and sewer extensions in Chapel Hill, OWASA could raise the same dollars to make the same extensions. He said the difference then became whether or not the Council would require that the costs be assessed and returned to the system or whether it would be grants. Manager Taylor stated that OWASA's policy was that the costs be assessed and that this was one reason why there were not a lot of petitions to have water and sewer extended. He said he felt Mr. McNaull was correct in that the costs were substantial, especially if it had to be financed up front. He said he had not considered Mr. McNaull's suggestion for a Town-sponsored revolving fund but that he felt it was a good idea that merited further consideration. He said it could be possible that the remaining \$400,000 of 1/2 cent sales tax funds could be used for this purpose and would not in any way detract from his proposal for future 1/2 cent sales tax revenues. He said that one possible trade-off was that if the Council wanted to use the money for water and sewer in areas where there currently was not water and sewer and if it were done by grant, then the Council would be giving those residents a distinct advantage over those individuals who had to pay for water and sewer versus the overall benefit to all residents by not having their taxes raised 2.5 cents per year for the next four years to pay the debt on the bond issues.

Council Member Werner said the resolution only asked that the exemption be granted and did not specify how the funds would be used. He said the Council could at each budget adoption, decide how the funds would be used. Manager Taylor said this was true.

Council Member Pasquini said he thought the Manager's proposal was a good and innovative idea. He said he lived in an area within the Town which did not currently have OWASA service and that he did not think it was unfair for him to have to pay for the sewer connection. He said when he purchased the lot and home he assumed there was some differential in the price of the home because there was not sewer connection. He said he thought that where the funds had been used had been to build interceptors and not the collector systems. Manager Taylor said this was true and that with the University Heights and Barclay-Justice projects had included the collector lines in the streets but that Community Development funds had been used for the majority of these projects. Council Member Pasquini said he felt it would be very difficult to select which neighborhood should receive the funds for water and sewer.

Council Member Godschalk said Mr. McNaull's comments and points were extremely valid in that OWASA was not dealing with all the problems with water and sewer in the Town and that the 1/2 cent local option sales tax funds were monies that the Legislature had designated for this primary purpose. He said he was hesitant to blithely take them away from their purpose even though the Manager said he would retain some reserve funds. He said he thought it was also important for the Council to look at the problems of water and sewer, especially in those areas of involuntary annexation.

Council Member Preston said she liked the idea of using the funds for the retirement of the debt but she also shared the frustration many have when dealing with OWASA. She said the points made that evening were good and that it was an issue the Council needed to discuss, and further explore its relationship with OWASA.

Council Member Wilkerson said he would like to echo the sentiments expressed and said that one way to deal with OWASA was that the Council appointed five of the OWASA Board of Directors and the Council could express their sentiments to them and see that its point of view was strongly taken into consideration.

Mayor Howes said that the Manager's proposal was a sound one but that he agreed that there was a problem with OWASA operational policies that the Council needed to find a way to address. He said the community continued to pay a high price by having a separate water and sewer utility shared by two municipalities. He said the exemption would allow for flexibility for the Council to work out if necessary a new relationship with OWASA. Mayor Howes also said that one of the most compelling reasons for seeking the exemption was that Carrboro had already sought and received the exemption. He said this meant that Chapel Hill was put at a disadvantage, both in terms of expectations of the community relative to the use of the funds and the Town's ability to influence their use when dealing with OWASA.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER PASQUINI TO ADOPT RESOLUTION 88-4-11/R-8. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION REQUESTING APPROVING FROM THE LOCAL GOVERNMENT COMMISSION FOR THE TOWN TO USE ALL OF THE REVENUES FROM BOTH ONE-HALF PERCENT SALES TAXES FOR PURPOSES OTHER THAN WATER AND SEWER FACILITIES (88-4-11/R-8)

WHEREAS, the Town of Chapel Hill has not operated a water or sewer system since 1977; and

WHEREAS, water and sewer facilities are provided to the Town of Chapel Hill and other areas within Southern Orange County by the Orange Water and Sewer Authority (OWASA), a separate, incorporated unit of local government duly constituted under G.S. Chapter 162A; and

WHEREAS, OWASA is responsible for meeting the projected capital needs for water and wastewater within OWASA's service area; and

WHEREAS, the 1976 Agreement of Sale and Purchase between OWASA and the Town provides, in part:

"6. ADOPTION OF MAINS EXTENSION POLICY

Orange Water and Sewer Authority hereby agrees that it will adopt and maintain, as long as the Authority supplies sewer services to citizens of the Town of Chapel Hill and the surrounding territory, a basic policy with respect to the extension of sewer mains which provides, to the extent possible, that the ultimate cost of any such extension will be borne by those primarily benefitting from such extension [Emphasis Added]. The Authority shall have the right to revise the policy from time to time as in its judgment may be advisable in the property and efficient operation and maintenance of the sewer system, it being agreed and understood that the sewer mains extension policy as adopted and any that might subsequently be adopted shall at all times be subject to the provisions of the bond order to be adopted by the Authority authorizing and securing the revenue bonds of the Authority issued to finance, in part, the acquisition and improvement of the Town's Sewer System...

"The Parties of the Agreement of Sale and Purchase specifically agree as a condition of sale that Authority will provide and maintain such sewage collection and treatment facilities as may be required under applicable laws and regulations to meet the reasonable needs of the Town as presently and hereafter constituted [Emphasis Added]. The Authority agrees that it will not impede or bar the residential or industrial growth and development of the Town of

Chapel Hill by arbitrary or capricious discrimination against the Town in its sewer utility expansion policies, and in the event the extension of sewer services to an area proposed to be annexed by the Town is required by the laws of North Carolina as a condition to such annexation, the Authority gives its pledge and unequivocal assurance that it will use its best efforts in good faith to extend such sewer services to such annexed areas."

WHEREAS, OWASA has adopted policies on extension of water and sewer services;

WHEREAS, OWASA has the financial mechanisms through its rate structure and bonding authority to meet the water and wastewater capital needs of its service area; and

WHEREAS, it clearly appears that OWASA can meet all of its capital needs during the petition period;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Chapel Hill that the Town Council hereby requests that the Local Government Commission authorize the Town to use all of the revenues generated by the one-half percent sales taxes for purposes other than water and sewer facilities;

BE IT FURTHER RESOLVED that this request shall be for and extend to the full period for which restrictions on the one-half percent sales taxes are applicable.

This the 11th day of April, 1988.

#### Rosemary Square Monthly Status Report

Manager Taylor stated that the developer had filed the additional information with the Securities and Exchange Commission on March 18 and that copies were on file in the Manager's Office.

#### Tandler Homeownership Program Monthly Status Report

Manager Taylor said the marketing program had increased significantly in the last month. He said four houses were now complete and six others were under construction.

Council Member Werner said he thought the public service announcements on WCHL were good and wondered why these types of notices had not been used before. Manager Taylor said that the staff had been trying to work through all the original applications before making another concentrated marketing effort and that the developers were now handling the advertising.

Council Member Pasquini asked how long it would take to get the other 16 approvals. Assistant Town Manager Sonna Loewenthal replied that she could not say for certain, but that there were

fourteen applications at the end of the preliminary review. She said she expected it to be several more weeks before there was a large enough pool of eligible applicants to select all the available lots.

Street Resurfacing Bids

Council Member Werner asked if there were any plans to resurface Dobbins Drive between Sage Road and Eastowne. Manager Taylor said that Dobbins Drive at that section was maintained by the State but that he would enquire.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PASQUINI TO ADOPT RESOLUTION 88-4-11/R-9. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION AWARDDING A CONTRACT FOR RESURFACING OF STREETS (88-4-11/R-9)

WHEREAS, the Town of Chapel Hill has solicited formal bids by legal notice in The Chapel Hill Newspaper on March 6, 1988 in accordance with G.S. 143-129 for the resurfacing of streets; and

WHEREAS, the following bids were received, opened and publicly read on March 17, 1988:

<u>Item</u>	<u>Lee Paving Co.</u>		<u>C. C. Mangum</u>		<u>B &amp; B Paving Co.</u>		<u>REA Const. Co.</u>	
	<u>Unit Price</u>	<u>Extended Price</u>	<u>Unit Price</u>	<u>Extended Price</u>	<u>Unit Price</u>	<u>Extended Price</u>	<u>Unit Price</u>	<u>Extended Price</u>
<b>BASE BID</b>								
<b>Street Resurfacing</b>								
a. 5,142 Tons - Asphalt	\$32.24	\$165,778.08	\$36.05	\$185,369.10	\$37.75	\$194,110.50	\$42.50	\$218,535.00
b. 50 Tons - Patching	\$50.00	\$ 2,500.00	\$100.00	\$ 5,000.00	\$50.00	\$ 2,500.00	\$100.00	\$ 5,000.00
<b>TOTAL</b>		<b>\$168,278.08</b>		<b>\$190,369.10</b>		<b>\$196,610.50</b>		<b>\$223,535.00</b>
<b>ALTERNATE I</b>								
<b>Utility Adjustments</b>								
a. 75 Manholes	\$110.00	\$ 8,250.00	\$200.00	\$ 15,000.00	\$125.00	\$ 9,375.00	\$210.00	\$ 15,750.00
b. 88 Valve Boxes	\$100.00	\$ 8,800.00	\$180.00	\$ 15,840.00	\$100.00	\$ 8,800.00	\$200.00	\$ 17,600.00
<b>TOTAL</b>		<b>\$ 17,050.00</b>		<b>\$ 30,840.00</b>		<b>\$ 18,175.00</b>		<b>\$ 33,350.00</b>

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council accepts the March 17, 1988 base bid of Lee Paving Company for street resurfacing in the amount of

\$168,278.08, received in response to the Town's request for bids published March 6, 1988 and opened March 17, 1988 in accord with G.S. 143-129.

BE IT FURTHER RESOLVED that the Manager is authorized to execute a contract with Lee Paving Company in the amount of \$168,278.08 and to initiate and sign change orders that will increase the amount of street resurfacing work within the budgeted amount.

This the 11th day of April, 1988.

Seawell School Road Speed Limit

Manager Taylor stated that NCDOT had not concurred with previous Council action to place a 25 miles per hour school zone and 35 miles per hour speed limit on this road. He said NCDOT stated it would only concur with the 35 miles per hour speed limit and therefore the Council needed to adopt an ordinance deleting the 25 mile per hour school zone.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER GODS-CHALK TO ADOPT ORDINANCE 88-4-11/O-3.

Council Member Andresen said that often there was a long line of cars backed up on Seawell School Road waiting to turn into the high school and suggested that warning signs about a congested area might be posted. Town Engineer George Small said he would look into this.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF ORDINANCES (88-4-11/O-3)

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

SECTION I

That the following be deleted from Section 21-11; (C) SCHOOL ZONES:

"(2) (a) Seawell School Road from the Town limits south of Seawell Elementary School to a point five hundred (500) feet north of High School Road."

SECTION II

This change in the CODE OF ORDINANCES shall be effective April 25, 1988.

This the 11th day of April, 1988.

Briarbridge Lane - Closing to Through Traffic

George Small, Town Engineer, said that the proposal was in response to neighborhood concern about cut through traffic in the area. He said the staff had reviewed the situation and considered several alternatives. He stated that the best alternative was for an eighteen-month trial of a gate on Briarbridge Lane near its intersection with Columbia Street which would effectively block through traffic. He said the proposal called for the installation of a self-closing gate which would allow for access by emergency and service vehicles. He said the gate would be held in place by "drop pins" with maintenance provided by the Town.

Council Member Wilkerson asked if there were any deterrent for individuals from driving into the Church of Christ parking lot from Columbia Street and then onto Briarbridge Lane. Mr. Small said the location of the stone pillars at the entrance to the church and the construction, by the church, of a concrete island centered in the driveway should deter this from happening.

James Webb, speaking as a resident of Briarbridge Lane, spoke in support of the proposal. He said he had had some questions about the proposal and the difficulty he might encounter getting into his driveway but that the safety of the residents in the neighbor was more important.

Council Member Preston complimented the Town Engineer on his creativity in this matter.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO ADOPT ORDINANCE 88-4-11/O-4. THE MOTION PASSED UNANIMOUSLY, (9-0).

Council Member Herzenberg stated that he was one of the individuals who was using Briarbridge Lane and that he had done so as a result of the one-way pairing of Pittsboro and Columbia Streets.

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF ORDINANCES (88-4-11/O-4)

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

SECTION I

That Section 21-10 of the Town Code of Ordinances, one-way streets is amended by deleting the following:

- (d) Traffic on Briarbridge Lane between Pittsboro Road and Briarbridge Valley shall move only in a northerly direction after entering the intersection at Pittsboro Road and Briarbridge Lane.



SECTION II

This ordinance shall be effective Monday, June 6, 1988.

SECTION III

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

This the 11th day of April, 1988.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO ADOPT RESOLUTION 88-4-11/R-10. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION CLOSING BRIARBRIDGE LANE TO THROUGH TRAFFIC (88-4-11/R-10)

WHEREAS, the Council is concerned with the impact of through traffic in residential areas; and

WHEREAS, the street known as Briarbridge Lane is not designed to safely carry through traffic other than local neighborhood vehicles;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby declares its intent to restrict the use of Briarbridge Lane as a through street.

BE IT FURTHER RESOLVED that the Town Manager is hereby authorized to arrange for the installation of a gate on Briarbridge Lane adjacent to the driveway for the lot shown on Orange County Tax Map 87, Block J, Lot #11.

BE IT FURTHER RESOLVED that the installation of this gate shall be evaluated in 18 months or less and its efficiency in preventing through traffic considered.

This the 11th day of April, 1988.

McCauley Street Parking Restrictions

George Small, Town Engineer, said the proposal was in response to a petition from the residents of McCauley Street to restrict parking on the south side of McCauley between Pittsboro Street and Ransom Street from 8:00 a.m. to 12:00 noon, Monday through Friday. He said the residents would be allowed to park with permits.

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COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT ORDINANCE 88-4-11/O-5. THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF ORDINANCES (88-4-11/O-5)

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

SECTION I

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

"(b) 8:00 a.m. to 12:00 noon, Monday - Friday"

<u>Street</u>	<u>Side</u>	<u>From</u>	<u>To</u>
McCauley St.	South	A point 300 ft. west of the center line of Pittsboro Street	A point 294 ft. east of the center line of Ransom Street
McCauley St.	South	The center line of of Ransom Street	A point 224 ft. east of the center line of Ransom Street

SECTION II

This ordinance shall be effective beginning Monday, May 30, 1988.

SECTION III

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

This the 11th day of April, 1988.

Board/Commission - Planning Board Nominations and Appointment

For one seat on the Planning Board the following vote was taken.

- George Doyle: (0)
- Marcella Groon: (5) Andresen, Pasquini, Preston, Werner, Wilkerson
- Jerome Levitt: (1) Herzenberg

Louise Oldenburg: (0)

Donald Shaw: (2) Godschalk, Howes

Marcella Groon was appointed.

Board/Commission - Community Appearance Commission Nominations and Appointment

For one seat on the Appearance Commission the following vote was taken.

George Kirschmann: (0)

Louise Oldenburg: (8) Andresen, Godschalk, Herzenberg, Howes, Pasquini, Preston, Werner, Wilkerson

Louise Oldenburg was appointed.

Executive Session

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADJOURN TO EXECUTIVE SESSION TO DISCUSSION LITIGATION AND INTEREST IN REAL PROPERTY. THE MOTION PASSED UNANIMOUSLY, (9-0).

The meeting adjourned to executive session at 10:21 p.m.

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

The meeting adjourned at 10:30 p.m.

