

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL  
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING  
MONDAY, OCTOBER 10, 1988, 7:30 P.M.

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

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| Julie Andresen    | Nancy Preston            |
| David Godschalk   | James C. Wallace         |
| Joseph Herzenberg | Arthur Werner            |
| David Pasquini    | Roosevelt Wilkerson, Jr. |

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

Mayor Howes noted that voluntary water conservation measures for the Town had been lifted. The Mayor added that this was probably the earliest date that the measures had been ended during recent drought periods. He attributed this to the good response of the community in conserving water resources and the arrival of beneficial rains.

Council Member Joseph Herzenberg recognized a member of the audience, Paul Melbostad, a member of the Board of Permit Appeals in San Francisco, California. Mr. Melbostad spoke briefly, applauding the election of the first openly gay council member in Chapel Hill. He added that critical needs of the community such as AIDS awareness should be addressed.

Public Hearing on proposed improvements to Marilyn Lane

Mr. George Small, Town Engineer, made the staff presentation. Mr. Small told the Council that this petition was unusual since eight of the twelve property owners are agreeing to divide 100% of the cost for street repairs on Marilyn Lane. He added that paving and improvement (to Town standards) of the non-curb and guttered street would cost approximately \$7,500. if the work were performed by Town crews. Mr. Small added that the cost would be approximately doubled if the work were performed by a private contractor.

Council Member Godschalk asked whether the private street would become a publicly accepted street after Town improvements. Mr. Small responded yes.

COUNCIL MEMBER WILKERSON MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO REFER THIS ITEM TO THE TOWN MANAGER FOR FURTHER ACTION. MOTION WAS ADOPTED UNANIMOUSLY (9-0).

Petitions

Council Member Andresen stated that she had been contacted by Jim McNaull concerning the White Oak Subdivision. Council Member Andresen asked Town Manager Taylor to provide a status report on tree identification in the area of the subdivision.

Council Member Andresen reported to the Council that the Chatham County Commissioners were voting this evening on their provider of future water supplies (OWASA or Pittsboro). Council Member Andresen noted that great strides had been made recently in communication between Orange and Chatham counties.

Minutes of September 19

Council Member Herzenberg noted a misspelled name on page three of the minutes. The Town Clerk noted the correction.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO APPROVE THE MINUTES AS AMENDED. MOTION WAS ADOPTED UNANIMOUSLY (9-0).

Animal Control Regulations

Jane Cousins, Planner for the Police Department, made the staff presentation. Ms. Cousins outlined recent changes in the proposed ordinance, made in response to public comments received on August 29th, other comments and letters received by the Police Department.

Ms. Cousins first noted that the definition of "life-threatening injury" had been added to the ordinance. Secondly, Ms. Cousins stated that the scope of the pet custodian's responsibility had been broadened. Finally, Ms. Cousins said that the definition of provocation had been refocused to not include animals defending themselves or their young. In summation, only unprovoked attacks will be considered vicious under the terms of the ordinance.

Ms. Cousins told the Council that pet owners will be responsible for assuring that their animal is not a threat to the public. If the animal does pose such a threat, the owner will be required to post warning signs. In addition, Ms. Cousins stated that all pet owners must provide safe access to those visiting their property (postal employees, etc.).

Ms. Cousins concluded her remarks by saying that Orange County Animal Control will enforce standards applying to kennels and pet shops. She thanked the many groups and citizens who provided input into the development of the ordinance.

Council Member Godschalk asked whether passage of the ordinance would necessitate additional staffing or related costs. Ms. Cousins said that there would be no need to increase staff at this time.

Council Member Preston commended all involved parties for putting together a good draft ordinance. Council Member Preston expressed concern about the requirement of dog being restrained while the owner is not present.

Ms. Cousins stated that since dogs oftentimes go onto neighbor's property, some form of supervision is necessary in the event of owner's absence.

Council Member Preston asked whether the staff had explored any alternatives to dog restraints. Ms. Cousins stated that staff had explored several possible solutions, with restraints being the recommended alternative.

Council Member Andresen noted that animal control officers won't bother dogs which behave themselves. Ms. Cousins added that the intent of the ordinance is to protect dogs and property.

Council Member Preston asked whether animal control officers could impound non-nuisance dogs which were left unrestrained or unsupervised in their owner's yard. She expressed concern about the level of discretion possessed by animal control officers. Ms. Cousins stated that any law has the potential for abuse. She reiterated that the Animal Control Ordinance is an important tool for the protection of dogs and property.

Council Member Werner added that animal control officers will only pick up dogs which are bothering people and usually in response to complaints.

Barbara Long, Shelter Manager for the Animal Protection Society of Orange County, thanked the Council for their consideration of the ordinance. She also thanked Jane Cousins and Ralph Pendergraft for their work in drafting the ordinance. Ms. Long noted that dogs are inclined to wander off their owner's property. Ms. Long applauded the provision requiring restraint of non-supervised animals. Ms. Long pledged the support of the Animal Protection Society in promulgating the ordinance.

Town Manager Taylor noted that a contract will be negotiated with Orange County to enforce regulations in kennels and pet shops.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER WERNER TO ADOPT ORDINANCE O-1. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

AN ORDINANCE AMENDING CHAPTER 4 (ANIMAL CONTROL) OF THE TOWN CODE OF ORDINANCES (88-10-10/0-1)

BE IT ORDAINED by the Council of the Town of Chapel Hill that Chapter 4 of the Town Code of Ordinances is hereby rewritten as follows:

SECTION I

Chapter 4  
ANIMALS AND ANIMAL CONTROL

Sec. 4-1. Definitions

For the purposes of this chapter the following definitions shall apply:

(a) Animal: Any live vertebrate creature specifically including, but not limited to dogs, cats, farm animals, birds, fish and reptiles.

(b) Adequate food: The provision at suitable intervals, not to exceed twenty-four (24) hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition for the animal. Such foodstuff shall be served in a receptacle, dish or container that is physically clean and in which agents injurious to health have been removed or destroyed to a practical minimum.

(c) Adequate water: A constant access to a supply of clean, fresh water provided for in a sanitary manner.

(d) Adequate shelter: That shelter which will keep a non-aquatic animal dry, out of the direct path of winds and out of the direct sun and at a temperature level that is healthful for the animal. The containment area for the animal shall be free of accumulated waste and debris so that the animal shall be free to walk or lie down without coming in contact with any such waste or debris. A suitable method of draining shall be provided to rapidly eliminate excess water or moisture. Aquatic and semi-aquatic animals shall have an adequate amount of clean water in which to move.

(e) Cruel and cruel treatment: Every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted. Such acts or omissions shall include, but not be limited to: beating, choking, kicking, hanging, submerging under water, suffocating, poisoning, confining in a closed vehicle without functioning air conditioning or ventilation whenever the ambient temperature exceeds 70 degrees Fahrenheit, confining in the closed trunk of a vehicle, setting on fire and depriving of adequate food, water,

shelter and medical treatment, or otherwise subjecting the animal to conditions detrimental to its health or general welfare.

(f) Custodian: The custodian shall be the person owning, keeping, having charge of, sheltering, feeding, harboring or taking care of any animal.

(g) Restraint: A dog is under restraint within the meaning of the chapter if:

- (1) It is on or within a vehicle being driven or parked;
- (2) It is within a secure enclosure;
- (3) It is controlled by means of a chain, leash or other like devise. If an unattended animal is restrained by a chain, leash or other like devise, it shall be designed and placed to prevent choking or strangulation. Such restraint will not be less than ten (10) feet in length and either on a swivel designed to prevent the animal from choking or strangling itself, or on a chain run.
- (4) It is on the premises of the custodian and attended by and under the control of a competent person.

(h) Competent person: A person of suitable age and discretion to keep an animal under sufficient control in order to prevent harm to the animal, to persons, to other animals or to property.

(i) Stray dog: Any dog within the town limits, off the premises of the custodian and not under restraint.

(j) Wild and dangerous animals: Wild animals which are dangerous to persons and property include, but are not limited to: all felines (other than the domestic house cat), nonhuman primates, bears, wolves, coyotes, reptiles (poisonous, crushing and giant), and any crossbreed of such animals which have similar characteristics of the the animals specified herein.

(k) Exotic animals: Exotic animals are animals other than domestic animals, farm animals, and wild animals which are not native to North Carolina.

(l) Vicious animal: Any animal, on or off the premises of its custodian, which is three months of age or older and without provocation has killed, bitten or caused physical harm through bite(s) to a person; or has without provocation attempted to bite or cause physical harm through bite(s) to a person; or without provocation has injured, maimed or killed a pet or domestic livestock.

(m) Provocation: Any act that would reasonably be expected to cause an animal to defend itself, its young, its custodian or the property of the custodian of said animal.

(n) Life threatening injury: Any injury which is serious enough to require immediate medical attention to preserve the life of the injured person.

#### **Sec. 4-2. Office of animal control**

(a) The office of animal control is established by the Town of Chapel Hill. It shall be the duty of the animal control officer to perform all of the duties incident to the administration and enforcement of this chapter, and to perform such other duties as by general law or ordinance may be imposed.

(b) The animal control office shall be composed of the animal control officer and such employees as shall be determined by the town council. The said employees shall be appointed and compensated in accordance with the Personnel Ordinance of the town.

(c) The animal control division shall be charged with the responsibility of:

(1) Enforcement of the town laws, ordinances and resolutions relating to animals or to the care, custody and control of animals;

(2) Cooperation with and assistance to the county health director in the enforcement of the laws of the State of North Carolina with regard to animals; vaccination of dogs and cats against rabies; and to the confinement and leashing of animals. Reference is particularly made to the state laws as set out and contained in Sections 67-1 to 69-29 and 106-387 of the General Statutes of North Carolina;

(3) Investigations of reported and observed cruelty or animal abuse with regard to all animals pursuant to the pertinent provisions of Section 14-360 of the Statutes of North Carolina; and reported or observed violations of any section of this ordinance.

#### **Sec. 4-3. Animals to be seized humanely; tranquilizing animals; putting animals to death in attempting to seize.**

(a) Any animal control officer or law enforcement officer, in carrying out his or her duties under this chapter, shall make every effort to deal humanely with all animals.

(b) If in the considered judgement of any animal control officer or law enforcement officer, an attempt to seize an animal would be dangerous to the person attempting that seizure, the animal control officer or law enforcement officer may inject the animal with a chemi-

cal tranquilizer which will result in limiting the activity of the animal. Such use of a tranquilizer will be used only when every other reasonable method of seizure has been attempted.

(c) If in the considered judgement of any animal control officer or law enforcement officer, an attempt to seize an animal would be dangerous to the person attempting that seizure, then and only then shall an animal control officer or a law enforcement officer be authorized to humanely put the animal to death. It is the intent of the subsection to note that killing an animal is to be done only after every reasonable effort has been made to seize an animal and only after all other procedures are judged impossible.

#### **Sec. 4-4. Responsibility of custodian of animals.**

(a) The custodian of every animal shall be responsible for the care, licensing, vaccination and behavior of such animal.

(b) The custodian of every animal shall take whatever action(s) is necessary to insure that the animal not pose a risk to health or safety of the public.

#### **Sec. 4-5. Cruelty to animals.**

It shall be unlawful to commit any of the acts of cruel treatment as described in Sec. 4-1(e). It shall be unlawful for any person willfully or through neglect to overdrive, overload, wound, injure, torment, torture, deprive of adequate food, adequate water or adequate shelter, cruelly beat, choke, needlessly mutilate or kill any animal or cause any of the aforesaid things to be done.

#### **Sec. 4-6. Penalty for cruelty to animals.**

If any person shall willfully instigate, promote, engage in or do any act toward the furtherance of any act of cruelty to any animal, he or she shall be guilty of a misdemeanor.

#### **Sec. 4-7. Abandonment of animals; reporting same.**

(a) It shall be unlawful for any person to abandon, drop off or leave any animal to fend for itself or to become a nuisance or danger to the public or to other animals.

(b) Citizens should report to the animal control officer or to a law enforcement officer all abandonments as previously described.

**Sec. 4-8. Prohibited acts.**

It shall be unlawful for any person within the town to do any of the following:

(a) Injure. To injure a cat, dog or other animal by running over or into the same with a motor vehicle and fail to notify immediately the custodian, animal control officer or the police department.

(b) Sale or gift of animals. To sell, give or cause to be sold or given any dog, cat or other animal within any area zoned by the town for business. This subsection shall not apply to any business licensed by the town or State of North Carolina for such purposes.

(c) Use of electric training devices: To use any electric training device which administers a shock to the animal.

(d) Interference with animal control officer. To interfere with, hinder or molest the animal control officer or other authorized officers in the performance of any duty authorized by this article, or seek to release any animal in the custody of such person.

(e) Rabies vaccination. To have custody of any dog or cat over the age of four (4) months which is not currently vaccinated against rabies.

**Sec 4-9. Penalty for violation of Sec. 4-8.**

(a) Any town official authorized by the town manager or his/her designated agent may issue to the known owner or custodian of any animal, or to any other violator, a citation giving notice of the violation of Sec. 4-8 herein. Citations so issued may be delivered in person or mailed by registered mail to the person charged if that person cannot be readily found. The citation issued shall impose upon the custodian or violator a civil penalty of twenty-five dollars (\$25.00) which may be paid to the town revenue collector within fourteen (14) days of receipt in full satisfaction of the assessed civil penalty. This penalty is in addition to any other fees authorized by this chapter.

(b) In the event that the custodian of the animal or any other violator does not appear in response to the above described citation or the applicable civil penalty is not paid within the time period prescribed, a criminal summons may be issued against the custodian of the animal or any other violator for violation of this ordinance and upon conviction the custodian or other violator shall be punished as provided by state law.



Sec. 4-10. Keeping certain animals in town.

(a) Wild and dangerous animals. It shall be unlawful to keep or cause to be kept wild and dangerous animals as described in Sec. 4-1(j) within the town limits. Wild animals within the town temporarily as part of a bona fide circus shall be exempt. Any such animal shall be confined within a secure building or enclosure or under restraint.

(b) Animals which may pose a risk to the health or safety of the public. The custodian of an animal which may pose a threat to the public must:

- (1) Provide signs, warnings and notifications; and restraints to restrict the access of said animal to the public.
- (2) Provide safe access to those persons who have legal authority to be on the custodian's property.

(c) Cows, swine, goats, horses, sheep, cattle. It shall be unlawful for any person to keep or maintain any cow, swine, goat, horse, sheep or cattle within the corporate limits of the town on any lot or parcel of land less than four (4) acres in size, and within one hundred (100) feet of a residence other than that of the custodian.

(d) Chickens.

- (1) No person shall allow his or her chickens to run at large within the corporate limits of the town.
- (2) It shall be unlawful for any person to keep more than twenty (20) chickens within the corporate limits of the town.
- (3) Chickens must be kept a minimum of thirty (30) feet from the nearest residence other than that of the owner.
- (4) All chicken houses and lots must be maintained in a clean and sanitary condition at all times.
- (5) It shall be unlawful to raise chickens for commercial purposes within the corporate limits of the town.

(e) Noisy fowl. It shall be unlawful for any person to keep or maintain on any premises or lot within the town any rooster, duck, goose or other such bird or fowl that by loud and habitual crowing, quacking or honking or in any other manner constitutes a public nuisance. Failure to abate such nuisance within two (2) days after written notice to do so from the town manager shall be unlawful.

(f) Exotic animals. It shall be unlawful for any person to keep or maintain on any premises or lot within the town any exotic animal, as described in Sec. 4-1(k), that by loud and habitual noise or offensive

odor causes a public nuisance. Failure to abate such nuisance within two (2) days after written notice to do so from the town manager shall be unlawful. Any exotic animal kept in the town limits must be provided with adequate shelter, food and water for its species.

(g) Number of dogs. It shall be unlawful to maintain in one household more than four (4) dogs over the age of three (3) months.

(h) The restrictions in sections 4-10(a)(b)(c)(d) shall not apply to animals that are at the office of a licensed veterinarian for the purpose of obtaining medical treatment. Animals must be in secure enclosures or under restraint while being transported and while receiving treatment.

(i) Fighting animals. It shall be unlawful to own or harbor any animal for the purpose of fighting or training for fighting.

(j) Animals for which there is no anti-rabies vaccine. It shall be unlawful to keep animals which are susceptible to rabies and for which there is no anti-rabies vaccine available.

(k) Any animal used for bona fide medical, scientific or educational purposes at the University of North Carolina shall be exempt from Sec. 4-10 of this chapter.

**Sec. 4-11. Sale of baby chicks and rabbits; possession of dyed or painted chicks, ducklings and rabbits.**

(a) It shall be unlawful, within the town limits, for any person to sell, offer for sale, to permit to be sold or to permit to be offered for sale baby chicks or ducklings less than three (3) weeks and baby rabbits less than sixty (60) days of age in lots less than six (6) per single sale.

(b) It shall be unlawful, within the town limits, to possess chicks, ducklings or rabbits which have been dyed, painted or in any way changed from their natural color.

**Sec. 4-12. Horses on sidewalks.**

No person shall ride or drive a horse or horses upon the sidewalks of the town.

**Sec. 4-13. Breaking up birds nests, killing or catching young birds prohibited.**

The breaking up of bird nests, or the killing or catching of young birds within the corporate limits of the town is prohibited.

**Sec. 4-14. Certain acts declared public nuisances.**

The following acts are defined as public nuisances. Animals may be impounded by the animal control officer for any of the following, subject to redemption in the manner provided in this article;

(a) Any animal which habitually and repeatedly makes noises sufficient to interfere seriously with neighboring residents' reasonable use of their property.

(b) Any animal which is offensive to others due to an odor caused by the animal;

(c) Any animal which repeatedly turns over garbage cans, damages flower or vegetable gardens, or causes damage to property of others;

(d) A female dog in heat not in a building or secure enclosure in such a manner that she will not be in contact with another dog;

(e) Any stray dog which is away from the premises of the custodian, or in a public place or on any public property in the town, unless the dog is under restraint;

(f) Any dog on the premises of the custodian and not attended by and under the control of a competent person;

(g) Any dog or cat off the premises of the custodian not wearing current license tags and rabies control tags as required by this chapter;

(h) Any animal which unprovoked, chases or approaches a pedestrian, bicycle rider or vehicle in a menacing fashion or apparent attitude of attack;

**Sec. 4-15. Penalty for public nuisance.**

(a) An animal is declared a public nuisance by the animal control officer, who will issue a citation to the custodian for the violation. Citations may be delivered in person or sent by registered mail to the custodian, if that person can not readily be found. The citation issued shall impose upon the custodian a civil penalty of twenty-five dollars (\$25.00). The violator may pay the citation to the town revenue collector within fourteen (14) days of receipt in full satisfaction of the assessed civil penalty. This penalty is in addition to any other fees authorized by this article.

(b) In the event that the custodian does not appear in response to the described citation or the civil penalty is not paid within the period prescribed, a criminal summons may be issued against the custodian for violation of the ordinance and upon conviction, the custodian shall be punished as provided by state law.

**Sec. 4-16. Vicious animals.**

(a) It shall be unlawful for any person to harbor any animal, which is three (3) months of age or older, which on or off the property of its custodian and without provocation has:

- (1) killed or caused life threatening injuries through bite(s) to a person;
- (2) bitten or caused physical harm through bite(s) to a person;
- (3) attempted to bite or cause physical harm through bite(s) to a person;
- (4) injured, maimed or killed any pet or domestic livestock.

(b) The animal control officer shall issue a citation to the custodian for the attack or attempted attack as described in Sec 4-16(a). Citations may be delivered in person or by registered mail if the custodian is not readily found. The citation issued shall impose upon the custodian a civil penalty of fifty dollars (\$50.00). The violator may pay the citation to the town revenue collector within fourteen (14) days of receipt in full satisfaction of the assessed civil penalty. This penalty is in addition to any other fees authorized under this chapter.

(c) In the event that the custodian of the violator does not appear in response to the described citation or the civil penalty is not paid within the period prescribed, a criminal summons may be issued against the custodian for violation of the ordinance and upon conviction, the custodian shall be punished as provided by state law.

(d) Upon the payment of a citation or the conviction of the custodian for having an animal which without provocation has committed any of the acts described in Sec. 4-16 (a)(1-4), said animal is declared a vicious animal.

(e) Upon the issuance of a citation for an animal which has committed any of the acts described in Sec 4-16(a)(1-4); the animal must be confined either in the home of the custodian, at an animal shelter, a kennel or a veterinarian's office until such time that the required pen is constructed, the animal is found to be vicious and destroyed per Sec 4-16(a)(1), or a judge finds that the animal is not a vicious animal. The animal control officer has the authority at any time to require that the animal not be kept in the custodian's home. The animal must stay confined through any legal appeals. The custodian shall be responsible for the costs incurred in the animal's confinement. If the animal is found not to be a vicious animal, the town shall be responsible for the cost.

(f) Upon the payment of a citation or the conviction of the custodian for having an animal which on or off the property of the

custodian and without provocation has killed or caused life threatening injuries through bite(s) to a person, Sec. 4-16(a)(1), the animal will be impounded by the animal control officer and destroyed in a humane manner.

(g) The custodian of a declared vicious animal, as described in Sec. 4-16(a)(2-4), is required to keep the animal securely confined indoors or in a securely enclosed and locked pen or structure. This pen or structure must be suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure must have minimum dimensions of five feet by ten feet; the size of the pen will be based on the size of the animal and must have sides six foot in height with a device to prevent the animal from escaping over the top of the fence. If it has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot. The enclosure must also provide protection from the elements for the animal. The shelter must be inspected and receive written approval from the animal control officer.

(h) There must be posted on the premises of the custodian a sign or placard noting "Beware of Dog" or other information noting the presence of vicious animal(s).

(i) The animal control officer will inspect the pens of all animals deemed vicious at least twice annually to assure that the standards are maintained.

(j) A vicious animal shall be permitted at the following locations only:

- (1) On the premises of the custodian.
- (2) On private property, with the authorization of the owner of the property.
- (3) At a licensed veterinarian for treatment.
- (4) In a motor vehicle while being transported.
- (5) The vicious animal must be controlled by means of a chain, leash or other like devise whenever it is not indoors or in the secure enclosure as described in Sec 4-16(g).

(k) An animal which has been declared vicious may be impounded by the animal control officer for being out of doors, out of a secure structure and not controlled by means of a chain, leash or other like devise, or for being in a location other than described in Sec 4-16(j).

(l) The custodian of the aforementioned dog may be issued a citation for violation of Sec. 4-16(j) and Sec. 4-16(k). Citations may be delivered in person or mailed by registered mail if the custodian is not readily found. The citation issued shall impose upon the custodian a civil penalty of fifty dollars (\$50.00) which may be paid to the town revenue collector within fourteen (14) days of receipt in

287  
280

full satisfaction of the assessed civil penalty. This penalty is in addition to any other fees authorized by this chapter.

(m) Any animal previously declared vicious by conviction of the custodian for a violation of Sec 4-16(a), that commits a subsequent violation as described in Sec. 4-16(a), will cause the custodian to be charged with that violation. Upon the custodian's conviction of that violation, the animal will be destroyed in a humane manner.

**Sec. 4-17. License tags require; issuance; fees**

Every dog and cat over four (4) months old housed in the town shall be licensed by the county. An Orange County license tag will be issued upon payment of the license fee. The license fee shall be determined by the Orange County Commissioners. There is a charge for replacement of a lost tag.

**Sec. 4-18. Rabies Control**

(a) Vaccination. Every dog or cat four (4) months of age or older housed in the town shall at all times be currently vaccinated against rabies. The custodian of all such animals shall provide proof of such vaccination upon demand of the animal control officer. Failure to provide such proof may result in such animal being impounded subject to redemption in the manner provided in this chapter.

(b) Confinement. Whenever any animal or person is bitten by a dog, cat or other animal within the town, the animal control officer shall have the right and authority to examine such animal to determine whether it has rabies. In such case, upon demand of the animal control officer, the custodian of such animal shall deliver it to the animal control officer who may impound such animal for a period as may be necessary to determine whether it has rabies. Such period will not be less than ten (10) days. The custodian is required to pay the cost of the confinement. If said custodian fails to pay for the confinement of said animal, the animal control officer is empowered to proceed as otherwise provided in this chapter. If the the animal control officer finds that such animal has rabies or any symptoms thereof, then said animal control officer shall cause such animal to be destroyed.

If the custodian can provide proof of vaccination and such animal is found at the time of examination not to have rabies or any symptoms thereof, said animal may be returned to the custodian following the examination.

Sec. 4-19. Impounding animals.

Any animal that in the considered judgement of the animal control officer has strayed, or which is found not to be wearing a currently valid license tag and rabies tag, or which has been determined to be a public nuisance, or has been determined to be a vicious dog out of doors, not in a secure pen or on a restraint may be impounded and confined in the Orange County animal shelter in a humane manner for a period hereinafter prescribed for redemption, adoption or destruction:

(a) Owner notification. Immediately upon impounding any animal, the supervisor of the Orange County animal shelter shall attempt to notify the custodian by telephone and inform that person of such impoundment, and the conditions whereby the animal may be redeemed. If unable to give notice by telephone, an official, dated, written notice shall be mailed to the registered owner by certified mail, return receipt requested, giving notice of the impoundment and the conditions whereby the animal may be redeemed.

(b) Redemption. Except as provided in Sec. 4-16(m) concerning vicious animals, animals shall be held up to five (5) days for redemption after the date shown on the return receipt or refusal of said notice.

(c) Adoption. If an impounded animal is not redeemed by the custodian within five (5) days in which the shelter is open to the public, said animal may be offered for adoption to any person who meets the Orange County animal shelter adoption criteria and who is willing to comply with the animal control laws. An animal which has been declared vicious shall not be eligible for adoption.

(d) Sale or destruction. If an animal is not redeemed within the redemption period such animal may be destroyed in a humane manner or held for adoption for a period determined by the supervisor of the Orange County animal shelter and the supervisor of the animal control services for the town.

(e) Diseased or injured animals. Severely diseased or badly injured animals may be destroyed in a humane manner, if authorized by a licensed veterinarian, without waiting the required redemption or adoption period.

(f) Time limits. The time limits set forth in this section shall be exclusive of all Sundays and holidays.

285  
282

**Sec. 4-20. Redemption Procedures**

The custodian shall be entitled to resume possession of his or her animal except as already provided for certain animals, upon compliance with the provisions of this article and payment of redemption, adoption and spay/neuter deposit fees, as determined by the Board of Directors of the Animal Protection Society.

In addition to other fees set out herein, a boarding fee, as determined by the Board of Directors of the Animal Protection Society, shall be paid. The custodian of any animal confined at the Orange County animal shelter pursuant to Sec. 4-18(b) of this chapter will be exempt from the redemption fee, but liable for the boarding fee. Before any animal is released from the Orange County animal shelter, evidence must be presented that the animal has a current rabies vaccination. The supervisor of the Orange County animal shelter may release an animal without such proof if the custodian has agreed in writing to have such vaccination performed within seventy-two (72) hours of redemption. Failure to present proof of rabies vaccination to an animal control officer within seventy-two (72) hours of redemption may result in the issuance of a criminal summons for violation of state law and Chapel Hill Code Sec. 4-15.

**Sec. 4-21. Records.**

It shall be the duty of the animal control officer to keep or cause to be kept accurate and detailed records of:

- (a) Impoundment and disposition of all animals picked up by the animal control officer;
- (b) Bite cases, violations, complaints and investigations of same.

**Sec. 4-22. State and federal laws.**

This chapter will apply except where superseded by state or federal law.

**SECTION II**

All provisions of the Town Code of Ordinances inconsistent with this ordinance are hereby repealed.

This the 10th day of October, 1988.



286  
283

COUNCIL MEMBER WILKERSON MOVED, SECONDED BY COUNCIL MEMBER PASQUINI TO ADOPT RESOLUTION 1. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

A RESOLUTION ADOPTING SECTIONS OF THE ORANGE COUNTY ANIMAL CONTROL ORDINANCE PERTAINING TO STANDARD FOR KENNELS AND PET SHOPS (88-10-10/R-1)

WHEREAS, Orange County has adopted an ordinance titled Animal Control; and

WHEREAS, the Town wishes to have Section VII.8, definition of "Class II Kennel"; Section VII.20, definition of "Pet Shop"; Section XIX.A, "Standard for Class Ii Kennels"; Section XIX.C, "Standards for Pet Shops" of that ordinance apply within the Town of Chapel Hill corporate limits;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that pursuant to North Carolina General Statute 153A-122, that Sections VII.8, VII.20, XIX.A and XIX.C of the Orange County Animal Control Ordinance are hereby applicable within the corporate limits of the Town of Chapel Hill.

BE IT FURTHER RESOLVED that the Town Council hereby authorizes the Town Manager to execute an agreement with Orange County on behalf of the Town of Chapel Hill to allow the administration and enforcement of Sections VII.8, VII.20, XIX.A and XIX.C of the ordinance by Orange County within the Town limits.

This the 10th day of October, 1988.

Sister Cities Program

Town Manager Taylor stated that a group of local citizens is working with Sister Cities International to establish relationships between the Town and foreign communities. Mr. Taylor noted that the Town had contacted Sister Cities International to discuss rules and regulations of the organization. Mr. Taylor added that he was requesting authorization for the expenditure of \$300 annual dues to join Sister Cities International. Mr. Taylor suggested the formation of a committee by the Mayor to explore Sister City relationships. Mr. Taylor recommended adoption of Resolution 2 to the Council.

Mayor Howes said that he had recently spoken to the Executive Director of Soviet Sister Cities International. The Mayor added that several potential Sister Cities have been identified for the Town in the Soviet Union.

Dr. Arthur Coulter told the Council that he spoken to Mr. Tom Givens of Sister Cities International. Mr. Givens indicated that the Town was at the top of Sister Cities International priority list.

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER WILKERSON TO ADOPT RESOLUTION 2, ADDING THE LANGUAGE ", NICARAUGA AND OTHER CENTRAL AMERICAN COUNTRIES" TO THE FIFTH WHEREAS STATEMENT OF THE RESOLUTION. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

A RESOLUTION IN SUPPORT OF THE SISTER CITIES PROGRAM (88-10-10/R-2)

WHEREAS, President Eisenhower, in 1956, initiated the idea to have citizens become personal emissaries of peace by people-to-people exchanges; and

WHEREAS, there are currently over 800 U. S. cities with municipal links to 1,200 foreign cities in 88 countries; and

WHEREAS, cities are increasingly influenced by international affairs; and

WHEREAS, international contacts promote educational, cultural, commercial, athletic, and scientific exchanges; and

WHEREAS, Chapel Hill citizens have already participated in exchanges with citizens of the Soviet Union, Nicaragua and other Central American Countries; and

WHEREAS, Chapel Hill residents have formed an organization called the SISTER CITIES PROJECT with these goals;

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

1. The Council endorses the Sister Cities Program and encourages interested citizens to participate in local efforts.
2. The Council authorizes the Mayor to submit a letter of interest, on behalf of the Town, in joining Sister Cities International and in having one or more sister city affiliations for the Town of Chapel Hill.
3. The Council authorizes the Manager to make payment of \$300 for the initial annual membership fee of Sister Cities International.

- 4. The Council authorizes the Mayor to appoint a committee to work on sister city relationships and to make recommendations to the Council for consideration when one or more potential sister city relationships are developed.
- 5. The Council expresses its thanks and appreciation to the citizens who have begun working toward participation in the Sister Cities Program, and encourages citizens to proceed through the committee structure prescribed by Sister Cities International.

This the 10th day of October, 1988.

Mayor and Council Stipends

Council Member Godschalk stated that an older Town citizen had contacted him expressing concern about the proposed percentage of increases in Council compensation. The citizen asked Council Member Godschalk where the "service" in public service had gone.

ORDINANCE O-2.1 WAS ON THE FLOOR FOR SECOND READING. MOTION WAS ADOPTED 5-4, WITH MAYOR HOWES AND COUNCIL MEMBERS GODSCHALK, PASQUINI AND WERNER DISSSENTING.

AN ORDINANCE AMENDING THE POSITION CLASSIFICATION AND PAY PLAN (88-9-29/O-2.1)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Council hereby amends the "Ordinance Establishing a Position Classification and Pay Plan and Longevity Plan for Employees of the Town of Chapel Hill and Bonds of Officials Beginning October 1, 1988" (88-5-25/O-3) as follows:

Section IV, part B, DELETE the lines

	<u>No.</u>	<u>Salary</u>
Mayor	1	8,400
Council Members	8	4,000

and ADD the lines

Mayor	1	12,500
Council Members	8	7,500

This the 29th day of September, 1988. (First Reading)

This the 10th day of October, 1988. (Second Reading)

289  
286

Council Member Werner proposed an amendment to the Ordinance, to include \$3,000 annual honorarium for members of the Planning Board. Town Attorney Karpinos suggested that the Council treat this as a separate motion since the present motion was on the floor on second reading.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER PASQUINI TO DIRECT THE TOWN MANAGER TO EXPLORE COMPENSATION OF MEMBERS OF THE TOWN PLANNING BOARD. THE MOTION, AS AMENDED, WAS ADOPTED 8-1, WITH COUNCIL MEMBER WALLACE DISSENTING.

Council Member Godschalk suggested that annual honorariums be extended to all Town Boards and Commissions. Council Member Godschalk suggested a study of comparable stipends in other area municipalities. Council Member Werner proposed that Council Member Godschalk's suggestion be handled as a separate motion. Council Member Godschalk agreed to this.

Council Member Herzenberg asked Council Member Godschalk to expound upon the scope of his proposal. Council Member Godschalk responded that he was asking the Town staff to examine what services (regular meetings, etc.) should be the basis for compensation. Mayor Howes said that he concurred with Council Member Godschalk's remarks and encouraged a broad policy on this matter.

Council Member Andresen said that the Council recently had a similar discussion. She added that discussions bogged down with many considerations, such as whether to provide stated stipends or alternatively, travel allowances. Mayor Howes noted that keeping track of mileage for individual board and commission members may prove to be extremely difficult. Council Member Preston added that Town Board and Commission members are currently compensated for authorized out-of-town travel.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PASQUINI TO AMEND COUNCIL MEMBER WERNER'S EARLIER MOTION AND DIRECT THE TOWN MANAGER TO INVESTIGATE COMPENSATION OF TOWN ADVISORY BOARD AND COMMISSION MEMBERS. THE MOTION WAS ADOPTED 7-2, WITH COUNCIL MEMBERS WALLACE AND WILKERSON DISSENTING.

#### Proposed UNC Homecoming Activities

Ronald Secrist, Assistant Town Manager, stated that a petition had been received by the Town requesting the closure of the 100 block of East Franklin Street between 6:00 p.m. and 12:00 midnight on Tuesday, October 18th. Mr. Secrist said that Town staff had met with representatives of the Downtown Chapel Hill Association (DCHA) and Carolina Athletic Association (CAA) to discuss necessary procedures to make the event safe and enjoyable to all. Mr. Secrist stated that no alcoholic beverages will be permitted

in the street area. He noted that members of the UNC and Chapel Hill High School football teams will attend the activities.

Mr. Secrist added that parking will be prohibited within the 100 block of East Franklin between 6:00 p.m. and 12:00 midnight. Mr. Secrist said that bands will play in the closed street area on East Franklin Street. He added that a one evening exception to the Noise Control Ordinance was being requested by the DCHA and CAA. Mr. Secrist concluded by stating that representatives of both groups were present at this evening's meeting.

Mr. Robert Humphries of the Downtown Chapel Hill Association told the Council that he had the feeling that all involved parties are seeking a safe and enjoyable homecoming event, with minimal problems. Mr. Humphries added that this will be a non-alcohol event, with four hundred plus student monitors policing their own contemporaries. Mr. Humphries stated that he had spoken to representatives of the University Methodist Church and the Carolina Theater. The parties made accommodations to make the Homecoming activities possible. Mr. Humphries also reported that he had no encountered no objections from area merchants.

Ms. Carol Geer of the Carolina Athletic Association told the Council that students are committed to monitoring behavior at the homecoming festivities. She stressed that positive events are being offered, which will be fun for everyone.

Dr. Tom Nuzum told the Council that he resides at the corner of North and Boundary Streets. He requested that the Council not honor the request for a variance from the Noise Ordinance. Dr. Nuzum stated that he had questions about the provisions of the Noise Ordinance (11-39(d)). He asked why the proposed resolution cited evenings other than Tuesday, October 18th. Mr. Secrist noted that since there is no formal procedure for exceptions to the Noise Ordinance, the Council is being requested to adopt a new section to the Town Code for one day only, after which, the ordinance will revert to the original ordinance.

Dr. Nuzum stated that the Noise Ordinance is valuable to residents living near the downtown area. He proposed that the sound standards of one hundred years ago (no sound amplification) be employed at the homecoming activities.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 3. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

A RESOLUTION TEMPORARILY CLOSING PORTIONS OF FRANKLIN STREET (HOMECOMING '88 PEP RALLY) (88-10-10/R-3)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby authorizes the closing of Franklin Street between

Columbia Street and Henderson Street on Tuesday, October 18, 1988, from 6:00 p.m. to 12 midnight, to allow the holding of the Homecoming '88 Pep Rally and clean-up of the streets following the event.

This the 10th day of October, 1988.

COUNCIL MEMBER WILKERSON MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT ORDINANCE 2.1. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

AN ORDINANCE TEMPORARILY REMOVING PARKING FROM PORTIONS OF FRANKLIN STREET (HOMECOMING '88 PEP RALLY) (88-10-10/O-2.1)

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

That on the 18th day of October, 1988, between the hours of 6 p.m. and 12 midnight there shall be no parking on either side of Franklin Street between Columbia Street and Henderson Street between the above hours.

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

This the 18th day of October, 1988.

Council Member Preston stated that she was voting "no" on Ordinance 2.2 since she shared the concerns of Dr. Nuzum concerning sound amplification. Council Member Preston inquired about the evening's musical entertainment. Ms. Geer told Council Member Preston that at least two bands using amplified sound will be playing during the evening's activities.

Council Member Andresen said that the joint planning for homecoming activities marked a worthy experiment for the Town and University. She noted that she was pleased at the cooperation of all parties involved in the planning process. Council Member Andresen stated that she was sorry about lifting the provisions of the Noise Ordinance for one evening, but felt it was merited for the event proposed.

Council Member Herzenberg stated that the event was largely wholesome. He commended the student body president for appointing a liaison to the Council. Council Member Herzenberg expressed grave concern about the number of noise complaints he had received for the school year to date.

Council Member Preston said she would vote "no" on the exception to the noise ordinance because she is concerned about setting a precedent.

Trey Lochran, Student Liaison to the Council, noted that the Council had made a previous exception to the Noise Ordinance for a church group.

Mayor Howes noted that the term "precedent" applied only in the sense of past Council actions taken, not in the legal sense of the word.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER WERNER TO ADOPT ORDINANCE 2.2. THE MOTION WAS ADOPTED 7-2, WITH COUNCIL MEMBERS HERZENBERG AND PRESTON DISSENTING.

AN ORDINANCE AMENDING CHAPTER 11 OF THE TOWN CODE OF ORDINANCES REGARDING NOISE CONTROL FOR A SPECIAL EVENT TO BE HELD ON OCTOBER 18, 1988, BETWEEN 7:30 P.M. AND 10:30 P.M. (Homecoming '88 Pep Rally) (88-10-10/O-2.2)

WHEREAS, the Downtown Chapel Hill Association and Carolina Athletic Association are proposing to hold a Homecoming Pep Rally on East Franklin Street on Tuesday, October 13; and

WHEREAS, this event includes plans for outdoor amplified sound between 7:30 p.m. and 10:30 p.m.; and

WHEREAS, a change in Chapter 11 of the Town Code of Ordinances regarding the time during which a permit to use sound amplifying equipment outdoors and to exceed the normal sound levels, would be required to approve the request for this community-wide event.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that Chapter 11 of the Town Code of Ordinance is hereby amended as follows:

#### SECTION I

Amend Section 11-39(d)(3) as follows:

- (3) Daytime/Evening sound levels in excess of (60) dB(A) will be permitted upon the issuance of a permit and allow sound levels exceeding those set above as follows:

Tuesday Evening 75dB(A)  
 (7:30 p.m. - 10:30 p.m. Tuesday)

Thursday Evening 75dB(A)  
 (5:00 p.m. - 11:00 p.m. Thursday)

Friday Evening 75dB(A)  
 (5:00 p.m. - midnight Friday)

Saturday 75dB(A)  
 (10:00 a.m. - midnight Saturday)

## SECTION II

Section I of this Ordinance shall be effective only on Tuesday, October 18 between 7:30 p.m. and 10:30 p.m., after which days and times in the previously adopted Ordinance (87-2-9/O-1) shall again become effective.

This the 10th day of October, 1988.

### Umstead Drive Realignment

Jim Connelly, Risk Manager, made the staff presentation to Council. Mr. Connelly told the Council that four pieces of property are needed by the Town for the realignment of Umstead Drive across Bolin Creek. He stated that staff had reviewed the property appraisals and met with individual property owners to tell them what levels of just compensation would be. Only one of the four owners, Bolin Creek Associates, accepted the staff's monetary offer. Mr. Connelly noted that if the Council approved the proposed resolution, the condemnation process could begin.

Council Member Preston asked why Bolin Creek Associates was offered greater compensation per square foot (\$4.98 vs. \$1.20 per sq. ft.) than other area property owners. Town Manager Taylor responded that the land uses (zoning categories) were significantly different.

Herman M. Greene told the Council that he is a lifelong resident of Chapel Hill. He said that he had occupied his current home since 1947. Mr. Greene stated that the proposed roadway realignment will severely impact his yard and the sixty year old Oak trees contained therein. He added that the proposed street would be just a few feet from his back door. He stated that the \$15,426 offered by the Town was far too low for his portion of property needed for the roadway realignment project. Mr. Greene said that both his home and peace of mind will be damaged by the roadway realignment. He added that he was receiving no money for these damages.



Mr. Greene said that he was also speaking on behalf of his brother, T.M. Greene, Jr., who owns a rental house. A real estate appraiser had told Herman M. Greene that the street realignment will wipe out T.M. Greene's rental house, as it would be only 21 feet from the right-of-way limit to the house. Herman M. Greene stated that \$5,800 was being offered by the Town for Mr. T.M. Greene's property.

Mr. Herman M. Greene proposed that the Town purchase Mr. T.M. Greene's house and land for \$65,000, with the agreement that the Town will sell the house back to T.M. Greene, so he can move it to land he owns on Airport Road. Town Manager Taylor asked Mr. Herman M. Greene whether he was offering to sell the house and land for \$65,000. Additionally, he inquired whether this was the currently appraised taxed value. Mr. Greene said yes.

Town Manager Taylor noted that a reconfiguration of the roadway through Mr. T.M. Greene's property may result in greater right-of-way needs and other consideration such as trees. He noted that the fair market value of Mr. T.M. Greene's house should be determined at its proposed new site (on Airport Road). He noted that the Town would expect to receive more than \$1 or \$1,000 for the resale of Mr. T.M. Greene's house.

T.M. Greene III stated that the Town staff should meet with property owners to explain property appraisal values since this had not been done earlier.

Council Member Andresen stated that she regrets the loss of large trees in the area. She inquired how much clearing in the right-of-way might be necessary.

Council Member Wallace proposed delaying action on the item for an indefinite period, allowing Town Manager Taylor to explore various options.

#### Tandler Monthly Status Report

Sonna Loewenthal, Assistant Town Manager, stated that ten of the homes in the Tandler housing project are currently occupied, while the eleventh unit is being used as a sales office. She added that construction was in progress on Legion Road and that major grading had been completed on the east side of Merritt Mill Road.

#### Additional Mortgage Assistance--Tandler

Sonna Loewenthal, Assistant Town Manager, spoke about Tandler financing subsidies. She told the Council that the first mortgages are being used to cover actual home construction costs while second mortgages cover the cost of lots. Ms. Loewenthal

noted that it is virtually impossible for moderate income families to meet their current mortgage obligations. Ms. Loewenthal outlined the efforts of private developers and the Town to reduce market interest rates over the life of the loan in order to keep interest rates at approximately 9 1/2%, the maximum amount necessary for affordability of low and moderate income residents. Ms. Loewenthal stated that the Housing Loan Trust Fund pays a subsidy of up to \$5,000 per home. Ms. Loewenthal concluded her remarks by noting that the proposed subsidy increases would use up to \$175,000 of \$356,000 of Trust Funds available.

Council Member Andresen asked how Housing Loan Trust Funds are normally utilized. Ms. Loewenthal responded that the customary uses are first loans, writing down principals, and rehabilitation loans. Council Member Andresen asked whether any funds had been extended for renovation purposes. Ms. Loewenthal responded that approximately thirty such loans have been made over the life of the program.

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER WERNER TO APPROVE RESOLUTION 5. MOTION WAS ADOPTED UNANIMOUSLY (9-0).

A RESOLUTION AUTHORIZING THE MANAGER TO INCREASE THE SUBSIDY PAYMENTS FROM THE HOUSING LOAN TRUST FUND FOR THE TANDLER HOMEOWNERSHIP PROGRAM (88-10-10/R-5)

WHEREAS, the Town of Chapel Hill has initiated a Tandler Homeownership Program to make homeownership opportunities available for lower-income families; and

WHEREAS, the Town of Chapel Hill has the necessary funds in the Housing Loan Trust Fund to help provide homeownership opportunities to lower income families; and

WHEREAS, changing market conditions require adjustments to the Town's subsidy mechanisms to maintain the affordability of Tandler homes;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby authorizes the Town Manager to make subsidy payments from the Town's Housing Loan Trust Fund in the form of paying up to 6 points to First Union Mortgage Corporation, on behalf of Tandler homebuyers, for the purpose of purchasing guaranteed fixed interest rates necessary for lower-income families (less than 80% of the area median) to qualify for first mortgages to purchase homes constructed for the Tandler Homeownership Program.

BE IT FURTHER RESOLVED that this resolution is conditioned on the Town's private partner, Capricorn/Isler, Inc., first, providing

4% of sales price for buyer's closing costs (including the origination fee and points); second, Town providing a principal buydown up to \$5,000 to reduce the first mortgage as needed by buyer; third, Town and Capricorn/Isler sharing equally up to 4 points to the buydown interest rate as needed by buyer; and last, if needed, the Town providing up to 4 additional points in an attempt to make the buyer qualified.

BE IT FURTHER RESOLVED that the Town Manager is authorized to negotiate an amendment to the Development Agreement as amended 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 October, 1988.

#### Rosemary Square Status Report

Town Manager Taylor reported to the Council that the Town's legal counsel will execute an amended Development Agreement during the next ten days concerning the new partners in the Rosemary Square project. Mr. Taylor added that changes will be occurring in the project's SEC documents and prospectus. He indicated that these changes should be completed by late October and the developers have agreed to provide copies of these changes to the Town. Mr. Taylor concluded his remarks by noting that the Town had ceased work on revenue bonds for this project. He added that a quarterly status report will be presented to the Council by the project partners on December 12th.

Council Member Herzenberg noted that one of letters in the Council agenda packet had been copied numerous times. Town Manager Taylor responded that the Town had provided a chronology of all documents which had come through the Town's offices concerning Rosemary Square.

Council Member Wallace asked whether the language of the Council adopted resolution had been completed on an Amendment to the Development Agreement based on the resolution. Town Attorney Karpinos responded that the work had been completed. He added that the project developers should furnish copies of the revised project prospectus to the Securities and Exchange Commission (SEC). Council Member Wallace asked whether the Mayor would be asked to sign the Amendment to the Development Agreement. Town Attorney Karpinos said yes. Council Member Wallace asked whether the Amendment to the Developer's Agreement would be shown to officials of the SEC. Town Attorney Karpinos responded that the developers, not the Town would be responsible for presenting this information.

207  
294

Council Member Wallace noted that the item may never be seen by SEC officials. This action would be left to the developer's "due diligence".

Consent Agenda

Council Member Werner requested that Item 12d be pulled from the consent agenda for further discussion.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PASQUINI TO ADOPT THE REMAINING ITEMS ON THE CONSENT AGENDA (12A-C AND E-G). THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

A RESOLUTION ADOPTING VARIOUS ORDINANCES AND RESOLUTIONS (88-10-10/R-6)

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

- a. Closing part of right-of-way area at Dogwood/Woodland intersection. (R-7).
- b. Addition of 1988 local act provisions to Town Charter. (R-8).
- c. Closing part of Tinkerbelle Road October 16 (for block party). (R-9).
- d. An ordinance regarding speed limits on part of Weaver Dairy and Sunrise Roads. (O-3).
- e. Bids for street flusher. (R-10).
- f. Authorizing disposition of surplus property. (R-11, 12).
- g. Towing from off-street parking facilities. (O-4).

A RESOLUTION CLOSING AN UNUSED RIGHT-OF-WAY BETWEEN DOGWOOD DRIVE AND WOODLAND AVENUE (88-10-10/R-7)

WHEREAS, the present right-of-way is presently unnecessary for access to the properties abutting it; and

WHEREAS, on August 22, 1988 the Council adopted a resolution of intent to consider closing this right-of-way between Dogwood Drive and Woodland Avenue, and a public hearing thereon was held on September 19, 1988; and

WHEREAS, the closing of the right-of-way between Dogwood Drive and Woodland Avenue would not be contrary to the public interest; and no individual owning property in the vicinity of the right-of-way would be deprived of reasonable means of ingress and egress to his or her property by the closing of said right-of-way;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby adopts this order pursuant to North Carolina G.S. 160A-299, permanently closing the right-of-way between Dogwood Drive and Woodland Avenue, subject to the reservation of blanket easement for public utilities, cable television, and public storm drainage facilities, which shall be shown on a plat to be provided by the party requesting the right-of-way closure and approved by the Chapel Hill Engineering Department.

This the 10th day of October, 1988.

A RESOLUTION APPROVING ADDITIONS TO THE TOWN CHARTER (88-10-10/R-8)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby authorizes the incorporation of following provision of the 1988 local act (House Bill 2243; Chapter 1023, 1987 session laws) into the Town Charter:

Title I, General Law Board of Adjustment for Chapel Hill (delete Section 5.11 due to repeal)

Title II, Campaign Reporting by Candidates for Municipal Election in the Town of Chapel Hill (add as a new Section 2.4 in Chapter II, Election Procedures)

Title III, Towing of Illegally Parked Vehicles from Parking Lots Owned by the Town of Chapel Hill (add as a new Section 6.35 in Article 5, off-street parking facilities; and renumber following sections accordingly.)

This the 10th day of October, 1988.

A RESOLUTION AUTHORIZING THE TEMPORARY CLOSING OF PART OF TINKERBELL ROAD (88-10-10/R-9)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby authorizes the temporary closing of Tinkerbell Road on Sunday, October 16, 1988 from 4 p.m. to 7 p.m. (or on Sunday, October 23 in the event of rain) for a block party subject to the following conditions:

200  
296

1. There shall be vehicles parked to serve as barricades at the end of the closed area with persons available to allow entry by emergency vehicles if necessary.
2. The closed street area shall be cleaned of litter by 7 p.m.
3. No alcohol shall be consumed in the public street right-of-way.
4. A permit for outdoor amplified sound shall be obtained from the Police Department if necessary under the Town's noise ordinance.
5. Participants in the event shall comply with reasonable directives of the Police and Fire Departments.

This the 10th day of October, 1988.

A RESOLUTION ACCEPTING BIDS FOR THE PURCHASE OF ONE (1) CAB AND CHASSIS EQUIPPED WITH A STREET FLUSHER BODY (88-10-10/R-10)

WHEREAS, the Town of Chapel Hill has solicited formal bids by legal notice in The Chapel Hill Newspaper on September 18, 1988, in accordance with G.S. 143-129 for the purchase of one (1) Cab and Chassis equipped with a Street Flusher Body; and

WHEREAS, the following bids have been received and opened on September 27, 1988:

<u>Vendor</u>	<u>Cabs and Chassis Unit Price</u>	<u>Flusher Body Unit Price</u>	<u>Total</u>
A.E. Finley & Assoc., Raleigh	\$41,054	\$22,055	\$63,109
Arrow Equip. Co.	\$40,409	\$24,128	\$64,537

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Town accepts the low bids of A.E. Finley & Associates for a cab and chassis with a street flusher body in the amount of \$63,109.

This the 10th day of October, 1988.

A RESOLUTION DECLARING 204 ITEMS OF PERSONAL PROPERTY TO BE SURPLUS AND AUTHORIZING AND DIRECTING THE DISPOSAL OF SAID PROPERTY BY PUBLIC AUCTION OR PRIVATE NEGOTIATED SALE (10-10-88/R-11)

WHEREAS, Article 12 of General Statutes 160A and Section 4.16 of the Charter of the Town of Chapel Hill authorizes the Town to dispose of surplus personal; and

WHEREAS, the Town desires to dispose of certain items of personal property;

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

1. That the following items of personal property are hereby declared surplus, and where indicated, the minimum bids listed shall apply.

<u>Quantity</u> <u>Bid</u>	<u>Item</u>	<u>Minimum</u>
one	1974 Dodge 4-D Sedan	
one	1977 GMC RL	\$1500
one	1978 Chev. Chevette	200
one	1979 Plymouth	200
two	1978 Plymouth	200 each
two	1981 GMC SL	500 each
one	1979 Dodge PU	200
one	1978 GMC PU	50
one	1981 Chevy Dump	1000
one	1979 Ford Granada	200
one	1982 Chevy S-10	200
one	1983 Plymouth	200
one	1974 Dodge	50
one	1979 Chev. Chevette	100
one	1977 GMC 3/4 T PU	
one	Metal Desk	
24 sets	Theater seats (4-5 per set)	
one	4-drawer file cabinet	
two	Wooden frame window screens	
one	Mobile file	
two	Couches	
seven	Office chairs	
two	Lawn Mowers	
six	Index Card files	
one	"Green Stripe" paint machine	
twenty	Reams Mead paper (Large Size)	
one	Wooden Coat Rack	
one	5000 BTU Window A/C	
six	2.5 lb. ABC fire extinguishers	
forty	12" hanging baskets	
one	Air Circulator	
one	Dayton Roto-tiller	
six	Boxes "Cat-A-Quik" pavement paint	

201  
298

one	Double basin s/s sink
one	Simplex office clock
twenty	Carpet casters (chair)
one	Road oiler
one	Upright tamp
one	Weed eater
one	Homelite chain saw
one	Stove counter top
one	Battery charger
one	Steam cleaner
one	Engine removal dolly
one	Transmission removal dolly
one	Storage Tank
one	Calculator - Royal
one	Motorola - 2-way radio
one	Sharp photocopier
one	Lot assorted restroom partitions
two	Royal Manual Typewriters
three	Royal Electric Typewriters
one	Olivetti Lexicon 90C
one	Code-a-phone answering machine
one	Air-wrench
one	Data General Dasher LP2 Printer
one	Data General Nova 3
one	Data General Monitor with keyboard
one	Olivetti EVT 300 display with console
sixteen	Boxes miscellaneous bus/car parts

2. That the Purchasing Agent of the Town of Chapel Hill shall be and is hereby authorized to dispose of this surplus personal property at public auction in accordance with statutory requirements.
  
3. That the public auction is to take place on Saturday, November 5, 1988, at 10:00 a.m. at the Municipal Operations Facility, 1099 Airport Road, Chapel Hill, N.C.
  
4. That prior to the Public Auction the Purchasing Agent is authorized to dispose of any of this personal property by sale, lease, exchange, or transfer to other governmental units in conformity with General Statute 160A-274.
  
5. That the terms of sale shall be to the highest bidder for cash or other form of cash equivalent acceptable to the Purchasing Agent (items specifying a minimum bid price shall be sold to the highest bidder equalling or exceeding the established minimum). All sales shall be designated final on the day of the auction.



- 6. That all items shall be sold on an "as is" and "where is" basis and the Town makes no guarantee of and assumes no responsibility for any of the items.
- 7. That it shall be a condition of sale that all items purchased shall be picked up and removed from the premises of the Municipal Operations Facility by 3:30 p.m. on the day of the auction. Purchasers shall bear sole risk for loss of any items remaining on said premises past such time.

BE IT FURTHER RESOLVED that if any of the surplus property is not sold at the public auction, or sold, leased, exchanged or transferred to a governmental unit, the Purchasing Agent is hereby authorized to sell said surplus property by private negotiated sale in conformity with General Statute 160A-267.

This the 10th day of October, 1988.

A RESOLUTION DECLARING TWENTY (20) ITEMS OF PERSONAL PROPERTY TO BE SURPLUS AND AUTHORIZING AND DIRECTING THE SALE OF SAID PROPERTY BY ADVERTISED SEALED BID OR PRIVATE NEGOTIATED SALE (88-10-10/R-12)

WHEREAS, Article 12 of General Statute 160A and Section 4.16 of the Charter of the Town of Chapel Hill authorizes the Town to dispose of surplus personal property; and

WHEREAS, the Town desires to dispose of surplus personal property;

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

- 1. That the following items of personal property are hereby declared surplus.

<u>Quantity</u>	<u>Item</u>
Three	1981 Plymouth Reliant K
Two	1959 GMC Bus

Apple Computer Products

Two	Apple II Plus Keyboards
Six	Disk Drives
Two	Keyboards
Four	Monitors
One	Centronics Printer

2. That the Purchasing Agent of the Town of Chapel Hill shall be and is hereby authorized to dispose of this surplus personal property by advertisement of sealed bids in accordance with the provisions of General Statute 160A-268, or by transfer to a governmental unit for fair market value as established and approved by the North Carolina Department of Transportation in accordance with current UMTA Grant Regulations and General Statute 160A-274.
3. That the items shall be sold in an "as is" and "where is" basis and the Town makes no guarantee of and assumes no responsibility for any of the items.

BE IT FURTHER RESOLVED that if any of the surplus property is not disposed of by sealed bid or transferred to a governmental unit, the Purchasing Agent is hereby authorized to sell said surplus property by private negotiated sale in conformity with General Statute 160A-267.

This the 10th day of October, 1988.

AN ORDINANCE AMENDING CHAPTER 27 OF THE CODE OF ORDINANCES  
(88-10-10/O-4)

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

#### SECTION I

That the Council hereby amends Section 27-28.2 of the Code of Ordinances to read as follows:

Sec. 21-28.2. Parking in off-street parking facilities owned or operated by the Town.

- (a) Any motor vehicle parked in a parking facility owned or operated by the Town, when such facility is clearly designated as such by a sign no smaller than 24 inches by 24 inches, which sign states the ordinance regulations with respect to that lot and which is proximately displayed at the entrance thereto, when parked in violation of an ordinance, may be removed from such facility to a place of storage operated by the Town of Chapel Hill and violations shall be subject to civil penalty as provided in Sec. 21-38 of the Town Code. The registered owner of that vehicle shall become liable for removal and storage charges. No person acting as an agent for the Town of Chapel Hill shall be held to answer in any civil or criminal action to any owner, lienholder or other person legally entitled to possession of a motor vehicle removed pursuant to Town ordinance except where such motor vehicle is willfully, maliciously or negligently damaged in

the removal from aforesaid parking facility to place of storage.

- (b) No vehicle shall be parked in an off-street parking facility owned or operated by the Town except in a marked parking space or area; no vehicle shall be parked without authorization in a space designated as reserved (by a sign at the space or at the entrance to the off-street parking facility) except for the purpose for which the space is reserved. A vehicle parked in violation of this subsection may be removed pursuant to procedures in the Chapel Hill Code of Ordinances and may be recovered only upon payment of towing and storage charges; and violations shall be subject to civil penalty as provided in Sec. 21-38 of the Town Code.
- (c) No vehicle shall remain for more than 24 consecutive hours in an off-street parking facility owned or operated by the Town unless such parking is authorized by rental agreement or other arrangement with the Town. A vehicle parked in violation of this subsection may be removed pursuant to procedures in the Chapel Hill Code of Ordinances and may be recovered only upon payment of towing and storage charges; and violations shall be subject to civil penalty as provided in Section 21-38 of the Town Code.
- (d) The Town Manager is authorized but not required to implement permit procedures and other administrative procedures to carry out the purposes of this ordinance.

## SECTION II

The ordinance shall be effective for a given Town parking facility upon posting of sign(s) at the entrance thereto.

This the 10th day of October, 1988.

### Weaver Dairy Speed Limit--Discussion

Council Member Werner stated that he had spoken to several citizens who regularly commute on Weaver Dairy Road. Council Member Werner said that Weaver Dairy Road is one of the Town's main thoroughfares. He added that before acting on this item, information and comment should be received from the general public. He noted that the purpose of the consent agenda is to handle routine, non-controversial items. Council Member Werner said that he wants to get public comment on the proposed speed limit changes.

205  
302

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO HOLD A PUBLIC HEARING ON SPEED LIMITS ALONG WEAVER DAIRY ROAD.

Town Manager Taylor said that the staff has been responsive to the wishes of the Coventry Homeowners Association. He added that his real concern is the setting of a precedent of holding public hearings to discuss speed limits.

Council Member Werner reiterated that Weaver Dairy is a main commuter road in Chapel Hill. He said that a lower speed limit will impact many people. Town Manager Taylor concurred that Weaver Dairy Road is a major thoroughfare. Mayor Howes added that Weaver Dairy Road is more similar to Estes Drive than I-40.

Council Member Werner said that there are fewer single family driveways along Weaver Dairy than along Estes.

Council Member Andresen suggested that the topic of speed limits along Weaver Dairy Road be brought back to the Council as a regular agenda. She added that the print media could aid in this effort by publishing stories in their publications. Council Member Godschalk proposed that the wording of the Council agenda item be reworded to reflect the proposal to reduce the speed limit from 45MPH to 35MPH.

Town Manager Taylor stated that notification would be sent to area residents.

The Council agreed to consider this item at a future regular meeting.

#### Executive Session

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

The meeting adjourned to Executive Session at 9:05 p.m.

A MOTION WAS DULY MADE AND SECONDED TO ADJOURN THE MEETING. THE MOTION WAS PASSED UNANIMOUSLY (9-0).

The meeting adjourned at 9:19 p.m.