

MINUTES OF A PUBLIC HEARING HELD BY THE MAYOR AND COUNCIL OF THE TOWN OF CHAPEL HILL, TUESDAY, SEPTEMBER 12, 1989

Mayor Howes called the meeting to order.

Council Members in attendance were:

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| Julie Andresen | Nancy Preston |
| David Godschalk | Arthur Werner |
| Joe Herzenberg | Roosevelt Wilkerson, Jr. |

Council Members Pasquini and Wallace were absent excused.

Also in attendance were Town Manager David Taylor, Assistant Town Managers Sonna Loewenthal and Florentine Miller, Public Safety Director Cal Horton, Planning Director Roger Waldon and Town Attorney Ralph Karpinos.

Mayor Howes expressed the Council's appreciation to all those in attendance this evening and those watching the proceedings on cable television. Mayor Howes also thanked the Chapel Hill-Carrboro School System for the use of the Guy B. Phillips Junior High School Auditorium for this evening's hearing. Mayor Howes expressed thanks to Carolina Cable for arranging to broadcast the hearing from a remote location.

Mayor Howes stated that the hearing would serve as a useful forum for dialogue concerning the Horace Williams Airport. Mayor Howes noted that the airport matter had generated a great deal of interest and emotion in the community.

Town Manager Taylor stated that the Council had called this evening's hearing on August 28th. He noted that over four hundred notices had been mailed to Town residents concerning this evening's hearing. Town Manager Taylor stated that the Town had received letters from UNC Chancellor Paul Hardin on August 4 and 31, concerning the Horace Williams Airport. Town Manager Taylor said that Town Attorney Karpinos had determined that the runway at the airport is exempt from Town zoning regulations. Town Manager Taylor stated that the University had applied for a zoning compliance permit in 1986, for construction of a building at Horace Williams Airport. He also noted that the University had not sought an extension to a special use permit for runway extensions. Town Manager Taylor stated that a special use permit was issued in 1979 and expired in 1986.

University of North Carolina Chancellor Paul Hardin introduced Vice Chancellors Tuchi, Baer and Anthul, and Dr. Bondurant, Medical School Dean, in attendance at this evening's hearing. Chancellor Hardin stated that his principal responsibility is to protect the interests of the University. Chancellor Hardin indicated that he had devoted more time since his arrival in handling Town and Gown matters than he had at the State Legislature in

Ms. Waldorf said CAP suggested several restrictions are needed at Horace Williams including:

- (1) Changing from a public to private facility.
- (2) Forbid night takeoffs and landings.
- (3) Phase out the operations of the Chapel Hill Flying Club and recreational flying.
- (4) Manage the facility more effectively, including making infraction and incident reports to the Town Manager.
- (5) Prohibit jets and planes weighing more than 12,000 pounds.

Joel Teparad reviewed the geography of Horace Williams relative to nearby homes, schools and roadways. Mr. Teparad outlined the airport hazard zone and the sites of recent air crashes in the area.

Dorothy Jenner, a Town resident for forty years, said that it was not valid or well-informed to say that the airport was established prior to homes and schools in the area. Ms. Jenner said that Phillips Junior High School was opened in 1963, five years prior to the inception of AHEC operations. Ms. Jenner stated that an application was made in 1969 to extend the runway to 5,000 feet. Ms. Jenner said a runway length of 3,500 feet was determined to be adequate. Ms. Jenner said that the University Faculty Council determined that a better site and less users was recommended. Ms. Jenner stated that Former Chancellor Fordham had pledged to phase out all non-University uses of the airport by July 1, 1989. Ms. Jenner concluded her remarks by saying that construction of the runway extension would open the door to more growth at the airport.

Michael Jolley, SCRAP spokesperson, said that 6,000 County residents concurred with the decision of the Orange County Commission that no suitable airport site is available in Orange County. Mr. Jolley said that SCRAP supports the runway extension request, hand in hand with enforced curtailment of non-University related operations. Mr. Jolley said that four modifications were needed:

- (1) Establish a cap on the number of aircraft based at Horace Williams Airport.
- (2) Designate the airport as a private facility.
- (3) Ban all turbo prop aircraft.
- (4) Prohibit operations between 9 p.m. and 6 a.m.

Council Member Andresen requested a list of Chapel Hill Flying Club members. Mr. Hunter said that the club was private, adding that he feared harassment of members.

Council Member Herzenberg inquired which neighborhood had signed the petition referred to by Mr. Hunter. Mr. Hunter said the neighborhood is located just south of the runway area.

Stanley Munsaf of the Chapel Hill Flying Club said that residents of Airport Road are subject to more noise from passing cars than from aircraft. Mr. Munsaf said the claim that Horace Williams is unsafe for night flights is unsupported. Mr. Munsaf said that it is easy and natural to imagine danger, but it is only imagination rather than reality.

John Shearer, an Eastern Airlines captain, said that the runway extension was necessitated by safety considerations. Mr. Sherrar said that the airport is operated and maintained at virtually no cost to Town residents. Mr. Sherrar said that more noise is generated by automobiles than airplanes in the area of the airport. Mr. Sherrar said that following FAA regulations help to insure safe operations at Horace Williams.

Chris Hudson, speaking on behalf of the Friends of Horace Williams Airport, said that jet operations are not an issue, since the University will not permit such craft at the airport. Mr. Hudson said that two principal issues deserved attention. Mr. Hudson stated that existing University restrictions, including the prohibition of nighttime recreational flying, have worked for the betterment of area residents. Mr. Hudson added that the establishment of a County airport is unlikely to occur in the near future. Mr. Hudson expressed concern that if additional restrictions are enacted, there will be no viable alternatives for Orange County pilots.

Mayor Howes invited individual citizens to come forward to make their comments.

Robert Kirkpatrick, speaking on behalf of the Alliance of Neighborhoods, said that the spirit of the Town and Gown Committee (CCC) is to assess the Town's future needs. Mr. Kirkpatrick said the major issue facing the Town is growth and the need for making intelligent plans to handle growth. Mr. Kirkpatrick urged the Council to move ahead by continuing good planning practices.

Arnold Greenwell said that he supports the existence of the airport. Mr. Greenwell said that he and his neighbors on Barclay Road consider the airport to be a good neighbor. Mr. Greenwell stated that noise from the airport is not disturbing. Mr. Greenwell said that the airport is a friendly place. Mr. Greenwell concluded his remarks by saying that he is tired of small groups dictating policy for the whole.

insurance companies had not assessed additional insurance risk to those living in the vicinity of the airport.

Morgan Jones, speaking on behalf of Citizens for Airport Planning, said that there is much too little data to project growth at Horace Williams Airport. Mr. Jones provided an overview of accident and fatality projections, noting that future airport activity should be followed closely to project the rate of growth and level of operations. Mr. Jones said that safety programs need to be instituted at the airport. Mr. Jones concluded his remarks by stating that restraint by the Town and University is needed.

James Yankaskas said he has been a flight instructor for the past twenty-four years and was particularly attuned to the need for safety precautions. Mr. Yankaskas said that the CAP demands negatively impact safety at the airport. Mr. Yankaskas expressed support for the University's operations of the airport. Mr. Yankaskas said that he hoped all parties would support safety as the principal goal of the current situation.

Sidney Harrell, a Carrboro resident and member of the Chapel Hill Flying Club, said that the airport is not a safety hazard. Mr. Harrell said that the airport lends positive character to the Town.

Jake Freiburger, a resident in the flight path of the airport, said he did not support the Citizens for Airport Planning. Mr. Freiburger said that pilots are a good community resource.

Bob Roberts, a member of the Chapel Hill Flying Club, said he has been a pilot since 1946 and had received his pilot's license in 1972. Mr. Roberts said that children in the area like to watch airplanes land and takeoff at the airport.

Cliff Sanford said he had lived the near airport for twenty-three years. Mr. Sanford said his children had attended the schools within the airport's flight path. Mr. Sanford said he supported the University's plan for continued operations at Horace Williams and urged the Council to put the issue aside.

Don Ingraham, a resident of Boulder Lane, said he supports the continued use of the airport at its present site. Mr. Ingraham said that pilots have the utmost concern to safety. Mr. Ingraham encouraged the Council to look at all the facts concerning the airport facility.

Alex Porter said he supported Horace Williams Airport and the University.

Brian Gallagher stated that he lives near the airport and has no problem with noise in the area. Mr. Gallagher said he had attended school at Estes Hills and Phillips Junior High School.

concluded his remarks by saying that airport uses should be restricted to legitimate University activities.

Diane Bloom, representing CAP, said that Horace Williams should be designated as a private facility, have night flights prohibited and exhibit tighter airport management. Ms. Bloom said that teachers who had signed the petition supporting airport operations had misunderstood the purpose of the document. Ms. Bloom said that the Chapel Hill Flying Club has had some problems over the years and could move its operations elsewhere.

Trey Greer said he supports the Horace Williams Airport. Mr. Greer said that pilots make use of the threshold to provide an additional margin of safety and minimize noise impacts. Mr. Greer said that the University administration monitors use of the airport. Mr. Greer stated that all parties should work together to find a new airport location. Mr. Greer noted that commercial operations are expressly forbidden at Horace Williams Airport. Mr. Greer concluded his remarks by noting that the recreational flying license recently approved by FAA is not recognized as part of the Chapel Hill Flying Club curriculum.

Joann Harrell, a resident of Carrboro, said she is concerned about the welfare of Chapel Hill residents. Ms. Harrell said that real threats and facts, not fears, should have the strongest bearing in the airport decision-making process.

Amey Miller said that Federal Aviation Administration (FAA) officials had indicated that lengthening the Horace Williams Airport runway to 4000 feet is not long enough for noise abatement purposes.

Richard McCann of the Chapel Hill Flying Club said that the appreciation for safety begins with student pilots. Mr. McCann said that Flying Club standards are very rigorous, exceeding those of the Federal Aviation Administration (FAA). Mr. McCann stated that a student pilot solo flight requires the approval of two instructors.

Neal Wolgin said that Chapel Hill Flying Club regulations prohibit commercial operations by club members. Mr. Wolgin stated that flight instructors won't take their liability lightly. Mr. Wolgin concluded his remarks by saying that Orange County Commissioners had made a tragic mistake in not moving ahead with an alternate airport site.

Helen Urquhart, a supporter of CAP, said that additional safety precautions are needed at Horace Williams Airport. Ms. Urquhart noted that AHEC operations are funded by Federal grants.

David Janowsky said he did not want aircraft flying over area schools. Mr. Janowsky noted that sixty percent of all aircraft

MINUTES OF A PUBLIC HEARING HELD BY THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MONDAY, SEPTEMBER 18, 1989

Mayor Howes called the meeting to order.

Council Members in attendance were:

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|--------------------------|----------------|
| Julie Andresen | David Pasquini |
| David Godschalk | Nancy Preston |
| Joe Herzenberg | Arthur Werner |
| Roosevelt Wilkerson, Jr. | |

Also in attendance were: Assistant to the Mayor Beverly Kawalec, Student Liaison to the Council Bill Hildebolt, Town Manager David Taylor, Assistant Town Managers Sonna Loewenthal and Florentine Miller, Public Safety Director Cal Horton, Town Attorney Ralph Karpinos, Assistant to the Attorney Richard Sharpless and Planning Director Roger Waldon.

Mayor Howes noted that technical problems postponed the beginning of the meeting until 7:38 P.M. Mayor Howes also announced that Council Member Wallace was absent excused from the hearing due to illness.

Tree Protection Ordinance Public Hearing

Planning Director Roger Waldon stated that he would be assisted by Urban Forestry Officer Adam Kuby during this evening's presentation to the Council. Mr. Waldon stated that the proposed ordinance is complex, having many features requiring the Council's attention. Mr. Waldon said that the variety of community opinions concerning tree protection necessitated language compromises in some sections of the ordinance.

Council Member Herzenberg introduced members of the Tree Protection Task Force in attendance at this evening's meeting: Gordon Mitchell, Jim Haar, Kathy Harris, Larry Touchstone, Claire Cooperstein, Ruth Thomas, Gertrude London, Walter Trott, Jill Ridkey and David Swanson. Council Member Herzenberg thanked all the members of the Tree Protection Task Force for their assistance. Council Member Herzenberg also commended the efforts of Adam Kuby and Stephanie Snipes (Collins).

Mr. Waldon said the need for tree protection had come to the Council's attention when vegetation was removed at North Columbia and North Streets. Mr. Waldon said that this situation touched a sensitive nerve in the community. Mr. Waldon stated that some recent developments had led to the rapid and unnecessary removal of trees on some sites. Mr. Waldon stated that a tree protection ordinance drafted in the spring of 1988 was felt to be too strong by developers, while not strong enough for preservationist groups. Mr. Waldon said that the Tree Protection Task Force was formed to examine the issue of tree protection more broadly.

Roy Lindahl, Community Appearance Commission Chairperson, reviewed the Commission's discussions of August 16 and 30, highlighting their recommendations that Section 11.4.5 should elaborate on the training of on-site supervisors, while Section 11.4.6 should provide more information about tree standards. Mr. Lindahl added that the Commission found that language concerning tree protection areas and root zones is too vague. Mr. Lindahl said that the Appearance Commission is especially concerned about enforcement standards, particularly how the declaration of trees as a public nuisance is determined. Mr. Lindahl stated that the Appearance Commission approved the ordinance in principle by a vote of 8-1.

Jeanette Gay Eddy, Board of Adjustment Chairperson, said that the Board's sole concern was the feasibility of administration of the ordinance. Ms. Eddy said that Board of Adjustment members were pleased to see definitions within the ordinance and suggested the addition of specific standards and objective criteria for the landscape management plan. Ms. Eddy said that all thirteen members had voted in favor of recommending the Tree Protection Ordinance to the Council.

Gertrude London said that on August 16th, the Commission voted 8-1 to support the recommendation of the Tree Protection Task Force in principle. Ms. London stated that the Parks and Recreation Commission had provided several pages of comments concerning the ordinance to the Council.

Town Manager Taylor said that the proposed ordinance as written will conserve and preserve trees. He added that the Tree Protection ordinance is a good one. Town Manager Taylor said he recommended that the draft ordinance and comments be referred to him, with a view of returning to the Council by October 23rd.

Council Member Herzenberg said that Tree Protection Task Force members Gary Saleeby and Pete Thorn were also in attendance this evening.

Mayor Howes said that approximately one hour was set aside for citizen comments on the proposed Tree Protection Ordinance.

Bill Kalkhof, President of the Chapel Hill-Durham Homebuilders' Association, said that the issue before the Council is a complex one. Mr. Kalkhof said that developers and builders currently do a good job of protecting trees in the community. Mr. Kalkhof suggested that the Homebuilders' Association supports a voluntary tree protection program. He said that this was the preferable course given program start-up costs for the Town and the need for affordable housing. Mr. Kalkhof stated that the proposed fine for tree damage could easily be as high as \$15,000 to \$20,000. He added concern that one Town staff person would be inadequate to manage the program. Mr. Kalkhof noted that the agenda

David Maner, District Manager for Duke Power stated that Council Member Herzenberg and the Tree Protection Task Force faced the difficult tasks of catering to many different interests and opinions concerning the proposed tree protection ordinance. Mr. Maner requested that approval of the ordinance be held. Mr. Maner outlined specific concerns about sections of the ordinance, particularly those relating to landscaping standards. Mr. Maner asked whether annual permits would allow new construction work, such as line extensions and connection of circuits, not associated with new development. Mr. Maner said it would be unreasonable to require a permit for each project. Mr. Maner said he hoped that the Council took into account Duke Power's obligation to provide safe, reliable service at a reasonable cost. Mr. Maner expressed his appreciation for the opportunity to provide input concerning the ordinance.

Larry Touchstone, representing Duke Power, said that landscaping provisions play a critical role in the impact of the tree ordinance. Mr. Touchstone expressed his concern about the effect of landscaping standards on above and below ground electrical service. Mr. Touchstone stated that proposed underground utility regulations in the tree ordinance would prevent trenching in critical root zones, meaning that boring or hand digging would be necessary.

Mr. Touchstone stated that the use of boring is not cost-effective. Mr. Touchstone added that boring is an imprecise means for construction, since there is a lot of rock in the area which diverts boring equipment.

Mr. Touchstone stated that it would be possible to site several utilities in a very narrow strip, although this would not be a desirable situation. Mr. Touchstone stated the importance of having an area in which to operate safely. Mr. Touchstone said that costs of boring and hand-digging would ultimately be passed along to utility customers. Mr. Touchstone concluded his remarks by stating that citizens want reliable utility service. He stated that efforts should be made to balance tree and landscape protection with affordable utility service.

Mark Collins, Manager of Corporate and Community Affairs for Southern Bell, said his corporation supported the tree ordinance to protect aesthetic beauty, but had several concerns. Mr. Collins stated that these comments had been presented to the Council in a letter from Mr. Collins to Town Manager Taylor. Mr. Collins said that Southern Bell looks forward to working with the Tree Protection Task Force and Town residents in drafting a Tree Protection Ordinance.

Danny Stancil of Southern Bell noted that placement of telephone service to individual houses often requires making a bore, and thus a small pit is required. Mr. Stancil said that this type of

Robert Joesting stated that the cost of tree protection in some developments might be quite high. Mr. Joesting suggested that the Council could ask the staff to calculate the cost of tree protection for the Tandler development. Mr. Joesting said that the public nuisance standards in section 11.4.9 might prove confusing to developers. Mr. Joesting added that the proposed fine of 150% of estimated tree costs is very reasonable. Mr. Joesting suggested that a fine of 150% of the value of trees plus trees to replace the ones damaged could also be the prescribed punishment. Mr. Joesting concluded his remarks by stating that the latest draft of the tree protection ordinance is fairer to the needs of developers than previous drafts.

Jack Gibson, a homeowner in the Colony Lake neighborhood, said there had been recent construction-related tree damage in his neighborhood. Mr. Gibson stated that some of this damage was depicted during the earlier videotape presentation. Mr. Gibson said that some current ordinance standards are not being met. Mr. Gibson expressed concern that the Town's Urban Forestry Officer, Adam Kuby, is currently overworked, and therefore unable to follow-up on development-related tree problems.

Barney Coop said that the critical root zone of a tree could comprise one to one and a half times the size of the tree itself. Mr. Coop said he understood the situation of utility providers, noting that boring is very dangerous and not very accurate. Mr. Coop said some compromises are needed in the tree protection ordinance. Mr. Coop stated that construction damage plays a major role in damage to trees. He added that weed killers also kill broad leaf plants or trees. Mr. Coop said that tree damage can take two to seven years to evidence itself.

Bob McGregor of ArborTech, said he likes the Town's standard of living and quality of life. Mr. McGregor said it is ridiculous to worry about additional costs of 1 to 1 1/2% for tree protection measures. Mr. McGregor said that the cost of protection now is little compared to costs later on. Mr. McGregor stated that it is very expensive to remove trees after they die. Mr. McGregor stated that boring is acceptable but impractical. Mr. McGregor said that some contractors do cause significant damage to trees.

Council Member Herzenberg inquired about the status of proposed landscaping standards. Adam Kuby responded that the Tree Protection Task Force had begun looking at standards last October. Mr. Kuby said that standards will require contractors and developers to have basic knowledge about pruning, tree placement and related matters. Mr. Kuby stated that the tree protection ordinance and standards will be developed independently. Mr. Kuby said that standards are currently being adapted to taken into account the special needs of utility installation.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO REFER THIS MATTER TO THE MANAGER. THE MOTION WAS ADOPTED UNANIMOUSLY (8-0).

Mixed-Use Development Ordinance Text Amendment

Planning Director Roger Waldon said that this Development Ordinance Text Amendment provision would change mixed-use development criteria. Mr. Waldon noted that two areas of the Town, the two interchanges with Interstate 40 (U.S. 15-501 and N.C. 86) are currently zoned for mixed-use development.

Mr. Waldon noted that Town staff is currently examining a series of master plan applications effecting small property owners. Mr. Waldon stated that the proposed amendment would address smaller parcels in the context of the master planning process. Mr. Waldon said that the Manager's recommendation is to deny the application presented, allowing time for a more comprehensive review of the process.

Mr. Rudolph, the applicant, said he was not before the Council to debate whether the mixed-use ordinance needs to be amended.

Mr. Rudolph said there is a consensus that the amendment is a good idea, but staff feels such action is premature. Mr. Rudolph said he had begun the application process about one year ago, speaking to Ron Strom about the Chapel Hill North Master Plan application. Mr. Rudolph stated that Mr. Strom found there was an economic disincentive to include Mr. Rudolph's and his partners ten acres in the same application as the forty acres in the proposed Chapel Hill North project. Mr. Rudolph said that it is not currently possible to have a ten acre master plan approved. Mr. Rudolph said he has been holding together a group of property owners, interested in developing a master plan, for a period of about one year. Mr. Rudolph said that joint planning is preferable to individual tract development.

Council Member Preston inquired whether a twenty acre minimum is currently required for master plans. Mr. Rudolph said yes. Council Member Preston asked whether it would be possible that the smaller part of a large project could begin before the main project. Mr. Rudolph said this is possible but unlikely, if planning occurs in a compatible manner

Council Member Andresen inquired whether Mr. Rudolph saw the proposed amendment as a way to have guarantees. Mr. Rudolph said yes, noting that a master plan costs \$10,000 to \$15,000 to produce. He added that it is difficult to get three or four small property owners to spend that amount of money on a process with uncertain outcomes.

Council Member Werner requested that staff prepare a map showing other parcels which might be in the same situation as Mr. Rudolph

ordinances A and B were outlined on page three of the summary memorandum presented to the Council.

Gretchen Vickery, ballet school operator and applicant, said she has operated her business for nine years in a shopping center. Ms. Vickery stated that a shopping center is not a good location for a dance school. Ms. Vickery said that her school serves as a nucleus for community arts programs and provides cultural enrichment. Ms. Vickery requested that the Council ease the burden of locating dance schools. Ms. Vickery said she was grateful to the Planning Board and Planning Department for improvements to her initial proposal. Ms. Vickery stated that it would be preferable to avoid the special use process in residential areas.

Planning Board Chairperson Bruce Guild said that the proposal was a good idea which was made better by staff modifications. Mr. Guild indicated that Planning Board voted 9-1 in favor of recommending resolution B to the Council.

Town Manager Taylor said he concurred with the Planning Board recommendation of resolution B.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER WERNER, TO REFER TO THE TOWN MANAGER. THE MOTION WAS ADOPTED UNANIMOUSLY (8-0).

Countryside Subdivision Streets

Town Engineer George Small said that residents of the Countryside subdivision had petitioned the Town in 1986 for street maintenance. Mr. Small noted that it is Town policy for private drives to be brought up to acceptable maintenance standards prior to Town acceptance. Mr. Small noted that residents are assessed for 100% of costs. Mr. Small stated that all but one property owner in the Countryside subdivision had signed the petition requesting street paving. Mr. Small said that if the Council authorized proceeding with the paving project, staff will work up actual assessment costs to individual property owners.

Mike Hining, 108 Country Road, said that one owner who had not signed the petition was being stubborn, but supported the paving project. Mr. Hining said he was appreciative that the Town is willing to take over roadway maintenance.

Walton Helsabeck, 104 Country Road, said that any consideration by the Council in this matter would be greatly appreciated.

Council Member Preston inquired whether the fact that one property owner had not signed the petition would cause any difficulties. Town Attorney Karpinos stated that a unanimous petition is not required in situations of this type. Mr. Karpinos stated that the draft resolution will address this situation. Council

Glandon Drive

Mr. Davis' comments, referring to Evergreen Lane and Glandon Drive, are noted above.

Mason Farm Place

No citizens expressed a desire to speak.

Hillcrest Circle

Richard Crider, 110 Hillcrest Circle, said he is in favor of mat and seal since it will help keep dust levels in check.

Council Member Preston inquired whether curb and gutter was planned for installation on any of the five streets. Mr. Small said no, noting that mat and seal treatments extend from ditch to ditch.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK, TO REFER COMMENTS FROM THE FIVE SEPARATE HEARINGS TO THE TOWN MANAGER. THE MOTION WAS ADOPTED UNANIMOUSLY (8-0).

The meeting was adjourned at 10:40 p.m.