

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE TOWN OF CHAPEL HILL, NORTH CAROLINA, MONDAY, MAY 10, 1993 AT 7:30 P.M.

Mayor Broun called the meeting to order. Council Members in attendance were Julie Andresen, Joyce Brown, Joe Capowski, Mark Chilton, Joe Herzenberg, Barbara Powell, Alan Rimer and Arthur Werner. Also in attendance were Town Manager Cal Horton, Assistant Town Managers Sonna Loewenthal and Florentine Miller, Planning Director Roger Waldon, Parks and Recreation Director Mike Loveman and Town Attorney Ralph Karpinos.

Item 1 Ceremonies

Mayor Broun introduced University of North Carolina Men's Basketball Assistant Coach Bill Guthridge. Mayor Broun presented a proclamation to Coach Guthridge recognizing the Men's Basketball team on the occasion of the team's NCAA Championship on April 5th. Coach Guthridge expressed the team's appreciation to the Mayor and Council and Town residents for the Council's recognition.

Mayor Broun presented recognition plaques to Fire Chief Dan Jones, Police Chief Ralph Pendergraph and Public Works Director Bruce Heflin to recognize the efforts of the Town staff who assisted with the community celebration on the evening of April 5th in conjunction with the Tarheels basketball team national championship.

Mayor Broun presented a proclamation to Elle Tucker recognizing the efforts of Project Graduation, a program which presented a drug and alcohol-free celebration for graduating high school seniors.

Item 3 Petitions

Noting that a number of citizens had signed up to speak on agenda item number ten concerning the allocation of water and sewer taxes, Mayor Broun inquired whether the Council had any objections to moving the item up on the agenda to item number five. Hearing no objections, Mayor Broun suggested that the Council consider the water and sewer sales tax item following nominations and appointments to boards and commissions.

Chapel Hill-Carrboro Chamber of Commerce Executive Director Joel Harper said the local legislative delegation had inquired whether a compromise was possible on proposed prepared meals and beverage tax. Mr. Harper said a compromise was not acceptable. He suggested that the Council seek alternate means to fund the proposed streetscape program. Mr. Harper said that local restaurant owners were willing to assist the Council in resolving pressing issues. He requested that the Council withdraw the proposed one percent prepared meals and beverage tax.

Johnny Mariakakis, a lifelong Town resident, expressed concern that the proposed tax would have an adverse impact on the local economy. He requested that the Council reconsider the proposed tax. Mr.

Mariakakis also expressed concern that the proposed tax would only apply to local restaurants, rather than all local businesses. Mr. Mariakakis requested that the Council consider rescinding the proposed tax.

Paul Tripodi expressed his concurrence with Mr. Harper's and Mr. Mariakakis' remarks. He requested that the Council rescind the proposed tax.

Council Member Andresen said the Mayor's Committee on the proposed meals and beverage tax would meet with local restaurant representatives to see whether concerns could be addressed. She added that the Committee would make a report to the Council on May 24th. Mayor Broun thanked Mr. Harper, Mr. Mariakakis and Mr. Tripodi for their remarks.

Lightning Brown requested that the Council remove the proposed Charter amendment concerning affectional orientation from the Town's proposed legislative package or have a fuller discussion of the proposal. Mr. Brown added that he had previously been offended by the removal of economically disadvantaged and handicapped statuses from the proposed "fairness" amendment. Mr. Brown said he fit into all three groups which had been taken out of the proposed policy.

Matt Stiegler commended the Council for its charter amendment proposal concerning affectional orientation. He said that the guarantee of civil rights was a basic guarantee for all individuals. Mr. Stiegler expressed concurrence with Mr. Brown's request that the Council not support the proposed fairness amendment to the Town charter as currently amended. He also urged the Council to continue its progressive tradition.

Ruby Seinreich expressed her support of Mr. Brown's and Mr. Stiegler's remarks. She stated that pursuing the proposed charter amendment in its current form would hurt the cause of gay and lesbian rights.

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER BROWN, TO RECEIVE THE PETITION AND REMOVE THE PROPOSED AFFECTIONAL ORIENTATION CHARTER AMENDMENT FROM THE TOWN'S LEGISLATIVE PACKAGE BY UNANIMOUS CONSENT.

Council Member Capowski inquired whether the proposed withdrawal would adversely impact any of the Town's other proposed legislation. Mr. Horton said he did not believe there would be any impact on any other proposed bills. Council Member Capowski suggested that the motion be revised to indicate the Council's intent not to withdraw any other proposed bills. Council Member Herzenberg said it was his intent that only the affectional orientation charter amendment be removed. Mayor Broun said the motion was to receive the petition and withdraw the charter

amendment regarding sexual orientation from the Town's legislative request without changing any of the Town's other legislative proposals.

THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

Council Member Rimer noted that he had forwarded a memorandum to the Council concerning the Triangle J Council of Governments (TJCOG) and the proposed former of a regional leadership council. He stated that if Wake County elected to withdraw from the Council of Governments, the COG would lose approximately thirty-one percent of its total local revenues. Council Member Capowski asked whether the Town of Cary had withdrawn its COG membership. Council Member Rimer said the Town of Cary had submitted a letter expressing its intent to discontinue its TJCOG membership. Council Member Brown said it appeared that the Council would be party to the proposed leadership council if the Town maintained its TJCOG membership. Council Member Rimer said the proposed group was an advisory body rather than a political one. Council Member Brown noted that the Council had serious reservations about the proposal for a Triangle Leadership Council. Council Member Rimer encouraged the Council to read the memorandum providing an outline of the proposed organization.

Council Member Herzenberg said four different gun control bills were currently being considered by the North Carolina General Assembly. Noting that the Council might wish to support some or all of the proposals, Council Member Herzenberg said he would prepare an item for consideration at the Council's May 24th meeting. He also noted that a ceremony dedicating Oakwood Park to the memory of the late Herman Lloyd would be held on Friday, May 14th at 3:00 p.m.

Council Member Andresen said she was preparing an item for the Council's May 24th meeting concerning Orange County's regulation of wastewater systems. Council Member Andresen said after reviewing the program, she would encourage the Council to support the County's program.

Town Attorney Karpinos noted that the case of Howell versus the Town had been dismissed.

#### Item 4 Board and Commission Nominations and Appointments

COUNCIL MEMBER RIMER MOVED, SECONDED BY COUNCIL MEMBER CHILTON, TO NOMINATE ALL BOARD OF ADJUSTMENT APPLICANTS FOR APPOINTMENT CONSIDERATION AT THE MAY 24TH MEETING. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER CHILTON, TO NOMINATE ALL PARKS AND RECREATION COMMISSION APPLICANTS FOR

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APPOINTMENT CONSIDERATION AT THE MAY 24TH MEETING. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

COUNCIL MEMBER RIMER MOVED, SECONDED BY COUNCIL MEMBER WERNER, TO NOMINATE ALL TRANSPORTATION BOARD APPLICANTS FOR APPOINTMENT CONSIDERATION AT THE MAY 24TH MEETING. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

Mayor Broun noted that the term of David Moreau, one of the Town's OWASA Board of Directors representatives would expire on June 30th. He added that Dr. Moreau had elected not to seek reappointment to the Board. Council Member Andresen noted that the Mayor's Committee on OWASA Matters had interviewed candidates. She said the committee recommended the appointment of Dan VanderMeer to fill the forthcoming Board vacancy. Council Member Andresen said Mr. VanderMeer offered political fortitude and would be able to maintain good communications with the Council.

Noting that the Council was dealing with an OWASA-related matter later in the evening and was holding a joint session in a few weeks, Council Member Werner suggested that the Council might wish to rethink its relationship with OWASA by possibly appointing a Council Member to the OWASA Board of Directors. He suggested delaying consideration of the appointment until after the Council's joint meeting with the OWASA Board on June 9th. Council Member Capowski said he could not think of any reasons for delaying the appointment. Stating that she had attended more recent OWASA Board meetings than any other Council Member, Council Member Andresen said she thought not making an appointment would leave board members up in the air. She encouraged the Council to proceed with the appointment this evening. Noting that the Committee on OWASA Matters had carefully interviewed applicants, Mayor Broun said he favored proceeding with the appointment. He added that any necessary organizational revisions could be made at a later date.

DAN VANDERMEER RECEIVED SIX VOTES [ANDRESEN, BROUN, BROWN, CAPOWSKI, HERZENBERG, RIMER] AND WAS APPOINTED TO THE OWASA BOARD OF DIRECTORS. C.W. DAVIS [CAPOWSKI, WERNER] RECEIVED TWO VOTES AND HENRY WHITFIELD [POWELL] RECEIVED ONE VOTE. ORIGINAL VOTING BALLOTS ARE ON FILE IN THE CLERK'S OFFICE.

Noting that the Committee on OWASA Matters had interviewed Andrew Canada, Council Member Andresen said she believed that Mr. Canada would be a strong member of the Planning Board. Noting that he had worked with Planning Board member Pat Evans for a number of years, Council Member Rimer said he recommended her reappointment to the Board. Council Member Herzenberg encouraged council members to consider the appointment of former Dane County, Wisconsin Commissioner Eugene Ozasky to the Planning Board. Council Member Rimer expressed his concurrence.

ANDREW CANADA AND EUGENE OZASKY WERE APPOINTED. ORIGINAL BALLOTS ARE ON FILE IN THE CLERK'S OFFICE.

Council Member Rimer suggested the reappointment of the five Design Review Board members having June 30th term expirations. He noted that the Board had done a very good job of putting together the Town's design review guidelines. Council Member Werner suggested that the Manager present a report to the Council outlining options for staggering terms of office for Design Review Board members.

BRUCE BALLENTINE, G. THOMAS BULTHUIS, MICHAEL HINING, ALICE INGRAM AND DAVID SWANSON WERE REAPPOINTED. ORIGINAL BALLOTS ARE ON FILE IN THE CLERK'S OFFICE.

BILLIE NAGELSCHMIDT WAS APPOINTED TO THE APPEARANCE COMMISSION WITH FIVE VOTES [ANDRESEN, BROUN, BROWN, HERZENBERG, POWELL]. DENNIS SANCHEZ RECEIVED FOUR VOTES [CAPOWSKI, CHILTON, RIMER, WERNER]. ORIGINAL VOTING BALLOTS ARE ON FILE IN THE CLERK'S OFFICE.

#### Item 10 Water and Sewer Sales Tax

Assistant to the Manager Greg Feller reviewed background points from the staff's memorandum, noting that requests for sales tax exemptions had been received from the State of North Carolina in the past. Mr. Feller stated that four neighborhoods (Mount Bolus, North Forest Hills, Sherwood Forest and Glen Heights) had requested sewer service from OWASA. He noted that OWASA's capital program included funding for the North Forest Hills, Mount Bolus and Sherwood Forest projects. Mr. Feller said approximately five hundred homes in the Town did not currently have the availability of water and sewer service. He briefly reviewed Resolution 4.2a, b and c, noting that adoption of Resolutions 4.2a and b was recommended.

Council Member Capowski inquired whether the Town could wait two weeks and still receive an exemption. Mr. Horton said there could be no assurance of this availability since the request had to be considered by two State agencies prior to final consideration by the Local Government Commission.

Council Member Andresen requested a clarification of OWASA's subsidy policy for extending sewer service. Mr. Horton said OWASA's legal counsel had confirmed that some subsidies for provision of service was legally permissible. Noting that OWASA had consistently said it could not extend sewer service within the Town, Council Member Rimer inquired whether this situation could be abrogated by the Town. Mr. Karpinos said this was primarily a situation between the OWASA Board of Directors and the Board's attorneys. Council Member Rimer said it might be possible to seek a different policy interpretation from OWASA.

Council Member Werner inquired whether \$166,000 in available water and sewer funds had been set aside by Council policy or State law. Noting that State law did not require using the funds for water and sewer policy, Mr. Feller said the funds had been set aside by Council policy.

Rick Edens said many area homeowners were experiencing long-term septic tank problems. He stated that OWASA's current policies to provide water and sewer service were not working. Mr. Edens said the Town's overall water and sewer needs were not being adequately served. He also stated that the process of petitioning and repetitioning OWASA for water and sewer service and proposed cost distribution formulas were not working. Mr. Edens requested that the Town protect citizen's health by designating funds for water and sewer improvements. He requested that the Council adopt Resolution 4.2c or revise Resolution 4.2b, wherein the Town would negotiate for equivalent improvements and financial incentives to create a new working arrangement with OWASA.

Henry Lister, a resident of the Sherwood Forest neighborhood, expressed concern that public health of area residents had not been a top priority for OWASA or the Town. Mr. Lister said Sherwood Forest was a neighborhood of twenty single-family homes valued between \$53,000 and \$88,000. He stated that a relationship had been developed with the adjoining Downing Creek subdivision to follow topography of land in the area and connect to Durham County sewer lines. Mr. Lister said these discussions had ceased when the area was annexed into the Town and a \$75,000 pump station was installed. He added that septic tanks had failed badly in Sherwood Forest subdivision. Mr. Lister said some area tenants had been evicted by landlords as a result of ongoing septic tank problems. He also said it was time to invest in public health and the welfare of citizens by providing assistance for water and sewer service.

Kent Mullikin, a resident of the Glen Heights neighborhood, said he had concerns about failing septic systems in the area and adverse impacts on property values. Mr. Mullikin said a neighbor had estimated the cost of OWASA water and sewer service to be an average of \$16,000 per household. He stated that on the basis of estimated cost, the majority of area residents had petitioned OWASA to cease work on the project. Mr. Mullikin said he hoped that the Council would find ways to help Glen Heights residents find ways to receive reasonably-priced water and sewer service.

Mark Sobsey, a resident of North Forest Hills and a professor of microbiology, said there was direct evidence of raw sewage in the area. He added that seven of eight samples from area creeks had exceeded EPA regulations. Dr. Sobsey said leaking septic tank problems posed a clear public health threat. He expressed concern that children might play in or otherwise come in contact with the contaminated water. Dr. Sobsey urged the Council to use water and sewer tax funds to preserve public health by constructing sewer

lines. Council Member Andresen inquired whether E-coli bacteria would be found in neighborhoods with sewer. Dr. Sobsey said perhaps, noting that the bacteria would likely be attributable to sewage effluent from septic systems.

Lisa Stuckey, a resident of North Forest Hills, said six septic fields had failed in her neighborhood in the past year. She added that two homes had been condemned due to profound septic tank problems. Ms. Stuckey implored the Council to provide assistance in securing water and sewer service for the approximately 540 homes in the Town without these services. Noting that North Forest Hills had been annexed into the Town in 1979, Ms. Stuckey stated that the Town was responsible for protecting the health, safety and welfare of its residents. She requested that water and sewer taxes be used for water and sewer capital projects.

Ms. Stuckey said the Town was ultimately responsible for the provision of water and sewer service in the Town since it appointed the majority of OWASA Board members. She said that failing septic systems was a fundamental health problem which needed to be addressed immediately.

Richard Edens said most property owners with septic systems were willing to do their fair share if the Town assisted with the cost of infrastructure for the community.

Virginia Mann said the average cost for the provision of water and sewer service in eleven municipalities around the state was \$2,398 compared to an estimated cost of \$12,300 for Mount Bolus area residents. Ms. Mann indicated that all the utilities she had spoken with emphasized the importance of providing water and sewer service in a fair and equitable manner. She stated that concerned residents were asking that needs be met in a reasonable financial manner. Ms. Mann said that OWASA Board members David Moreau and Tom McCurdy had been working hard to assist citizens having water and sewer service concerns. She emphasized the need for a public utility service which served its constituents in a fair and equitable manner. Ms. Mann requested that the Council intervene in the matter.

Flicka Bateman, a North Forest Hills resident, said many area residents had to shower at work and take other steps to reduce stresses on their septic systems. She expressed concern about OWASA's exorbitant rate structure. Ms. Bateman stated that during her service in the Peace Corps she had assisted in the provision of water and sewer service to a rural Turkish village. Noting that service had been provided to that area, Ms. Bateman expressed hope that the Council would work with OWASA to clean up area creeks and lakes and provide water and sewer service in a timely and affordable fashion.

Margaret Holton, speaking on behalf of the League of Women Voters, said she was quite concerned about inadequate water and sewer service in some parts of the Town. Ms. Holton said the local League of Women Voters did not think it was fair to request an exemption from the mandated purpose of the law, providing water and sewer service. She stated that the Town had a public health problem which the Council needed to resolve. Ms. Holton requested that the Council not request a water and sewer tax exemption and work out a compromise with OWASA to solve existing sewer problems.

Lewis Orde, a North Forest Hills resident, said it would cost him about \$13,000 to receive sewer service from an adjoining area. Mr. Orde said he was more fortunate than other speakers this evening to have this option. Expressing concern that the Council appeared to be serving their own needs rather than those of taxpayers, Mr. Orde announced his resignation from the Town's Parks and Recreation Commission.

Judy Messenheimer, representing the Lake Ellen Homeowners Association, said she shared the concerns of other homeowners with septic tank problems. She expressed hope that the Council would make a commitment to the community's sewer needs by adopting Resolution 4.2c.

Margaret Taylor, a resident of Southbridge subdivision, said she sympathized with those experiencing sewage problems. Ms. Taylor expressed hope that the Town would work with OWASA to see that the matter was satisfactorily resolved. She stated that during the early 1970's residents of the King's Mill neighborhood had organized to install sewers at an approximate cost of \$6,000 per lot. Ms. Taylor urged the Council to adopt a policy which would use public monies equitably to benefit all members of the community.

Jane Weintraub, an Associate Professor in the University's School of Public Health and concerned citizen said that disease and illness could result if public health concerns were not addressed in the near future. She urged the Council to take corrective and preventative action by coordinating efforts with OWASA.

Lightning Brown said the Town had a moral obligation to provide funding for the provision of sewer service. He urged the Council to get back to the original structure of OWASA, governed by local governments. Mr. Brown said OWASA's 1991 budget disclosed unallocated retained earnings of approximately \$31 million and a significant budget surplus. He suggested that it was preferable to spend funds on public health rather than public relations. Mr. Brown urged the Council to get the septic tank and sewer service problem under control by working with OWASA.

Jim McNaul requested that the Town not seek an exemption for use of water and sewer sales taxes. He noted that the cost of sewer



service to many homes in the area would be \$16,000 to \$17,000 per home. Mr. McNaull noted that in other communities the local government played an active role in advocating for sewer service. He urged the Council to coordinate efforts with OWASA for the timely provision of sewer service.

Dan Coleman, a resident of Glen Heights and future resident of North Forest Hills, expressed concern that OWASA was not accessible or accountable to community citizens. Mr. Coleman suggested that the OWASA Board of Directors might be democratically elected by the community's voters. He added that a change in OWASA's structure should be seriously considered as soon as possible. Mr. Coleman noted that some utilities provided low-cost loans to customers for long-term improvements.

Henry Whitfield, 302 Plum Lane, emphasized the need for OWASA to adopt and maintain a basic policy for extending water and sewer mains with costs being borne by those benefitting from the extension. Mr. Whitfield also expressed concern about OWASA's upfront collection of water and sewer service availability fees. He suggested that OWASA eliminate these fees as soon as possible.

Council Member Werner said it was not possible for the Council to resolve all water and sewer concerns this evening. He said the problems could be broken down into sequential steps, with an emphasis being placed on public health problems. Noting that the Council appointed the majority of OWASA's Board of Directors, Council Member Werner said the Council had to take the lead in problem-solving. He stated that the matters of payment and subsidies for service extensions were quite complicated. Council Member Werner also emphasized the need for better financial information from OWASA. He also said that commitments were needed on how to take care of public health problems as soon as possible.

Mayor Broun emphasized the need for an expeditious and thorough examination of septic tank and sewer service concerns. He proposed that OWASA charge fees which were reasonably consistent with other communities in the state. Council Member Andresen said charging fees which were reasonably commensurate with other jurisdictions might put OWASA in a difficult situation since the authority was not allowed to borrow funds in the same manner as local governments. Noting that typical OWASA water and sewer availability costs were four times those of other towns, Mayor Broun said citizen's public health concerns needed to be addressed as soon as possible.

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER POWELL, TO ADOPT RESOLUTION 4.2A, USING THE SUBSTITUTE LANGUAGE PROPOSED BY MAYOR BROUN.

Noting that OWASA was charging every penny of installation costs to users rather than the rate base, Council Member Rimer said the

issue was a complicated one. Council Member Rimer said he did not favor the Council opening itself up to fiscal liability if OWASA did not agree to provide financial assistance to persons seeking sewer service. He urged the Council to act prudently but quickly in the matter.

Council Member Capowski said although he was very much in sympathy with persons having unsewered lots, there was also the possibility of a \$5 million liability if the Town were called on to provide funding for sewer service installation.

Council Member Brown said the principal problem was the Town's relationship with OWASA. She emphasized the need to be more firm in working with OWASA. Council Member Andresen said regardless of how much funding was devoted to sewer problems, some practical problems would lie ahead. She emphasized the need for the Town and OWASA to work with the County Health Department and area residents on a regular basis to solve problems. Council Member Andresen suggested an amendment to the proposed resolution. Council Member Werner said he did not know what "reasonable" meant in the proposed resolution. Mayor Broun said he understood the amount of theoretical liability for the Town. He stated the importance of adopting a resolution that would place the Town in a firm negotiating position with OWASA. Mayor Broun also said he did not want to expose the Town to a major financial liability for the provision of sewer service. Mayor Broun said he did not believe this would happen. He inquired about the Attorney's opinion. Mr. Karpinos said he did not feel comfortable with the use of the word "ensure". Council Member Werner said he favored removing language committing an undisclosed amount of Town funds for sewer improvements. Mayor Broun emphasized the need to make a commitment to spend funds, if necessary. Council Member Werner expressed concern that this amounted to a blank check. Council Member Capowski said a fifty percent property tax increase would be needed to fund the potential liability for new sewer service.

Council Member Brown inquired about Mr. Eden's proposed amendment. Mr. Edens said the idea was that there be incentive for the Council to take the matter seriously by designating monies for water and sewer improvements unless the Town could negotiate for equivalent improvements. Mayor Broun said he was willing to compromise on the matter. Council Member Brown inquired whether Mr. Karpinos had another word instead of "ensure". Mr. Karpinos suggested the following language "...and that the Town work with OWASA including providing for use of funds from the Town's General Fund, if necessary, to attempt to achieve assessments to homeowners for sewer lines and connections reasonably with other communities in the State". Council Member Herzenberg accepted this as replacement language from the original motion. Council Member Powell said she favored action.

Council Member Andresen suggested the following additional language: "...and that the Town work with OWASA to protect the public health". Mayor Broun inquired about the Council's reaction to Mr. Karpinos' proposed language. Council Member Werner expressed concern that the equity of the situation had not been discussed. Council Member Werner said the Council should only pass resolutions which it intended to carry out. Mayor Broun suggested the following language "...including providing for use of funds to the extent of all future half-cent sales tax revenues".

Council Member Capowski said he thought Resolution B was more critical than Resolution A. He said the intent of the Council appeared to be to subsidize the installation of sewer systems to a certain extent. Council Member Capowski said Mr. Edens' proposal was a reasonable one. He stated that ninety-nine percent of Town residents had paid for their own sewer service. Mr. Edens said the system was not working. Council Member Capowski said the Council would attempt to put as much load onto OWASA as possible.

Council Member Brown said a major difference the Town and other towns discussed earlier in the meeting was that the other towns had a tax base and rate base while the Town only had a tax base. She noted that the Council had the power to appoint and remove OWASA board members. Council Member Brown said she was not willing to assume that taxpayers should assume the burden for provision of sewer service. She stated that the burden should fall on rate payers. Council Member Brown said she proposed passing both resolutions and have some sort of incentive.

Council Member Herzenberg requested that the Council vote on Resolution 4.2a first. Mayor Broun said he had no problem with making two amendments to his proposal as follows: "...to the extent of proceeds from the reserved future one half cent sales tax, if necessary" and "...to attempt to achieve assessments.."

COUNCIL MEMBER HERZENBERG ACCEPTED THIS AS A FRIENDLY AMENDMENT. THERE WAS NO SECOND TO THE MOTION.

COUNCIL MEMBER HERZENBERG MOVED ADOPTION OF RESOLUTION 4.2A.

COUNCIL MEMBER ANDRESEN SUGGESTED ADDING THE FOLLOWING LANGUAGE: "TO WORK WITH OWASA TO REDUCE THE COST OF SEWER INSTALLATION AND TO PROTECT THE PUBLIC HEALTH".

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER POWELL, TO ADOPT RESOLUTION 4.2A AS AMENDED. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

A RESOLUTION OF INTENT TO ALLOCATE APPROXIMATELY \$166,000 OF RESERVED ONE HALF PER CENT SALES TAX FUNDS TO ASSIST CHAPEL HILL CITIZENS WITH WATER AND SEWER COSTS (93-5-10/R-4.2a)

BE IT RESOLVED by the Town Council of Chapel Hill that the Council hereby states its intent to allocate \$166,000 of one-half per cent sales taxes, which were collected in the 1980s, for public water and sewer purposes, and to work with OWASA to reduce the cost of sewer installation and to protect the public health.

This the 10th day of May, 1993.

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER CAPOWSKI, TO ADOPT RESOLUTION 4.2B, AS AMENDED, INCORPORATING LANGUAGE AS SUGGESTED BY RICHARD EDENS.

Mr. Edens said he proposed that monies be designated from Town funds unless the Town could negotiate with OWASA for equivalent improvements. Council Member Andresen said the amount of money in question was equivalent to about two cents on the property tax rate. Mr. Edens said he was looking for an incentive for action by the Town and OWASA. Noting that the Council could direct the OWASA Board to remedy the problem, Council Member Chilton said he did not see any reason to complicate the Town's request to the Local Government Commission. Council Member Werner expressed his concurrence with Council Member Chilton. Council Member Capowski inquired about the Town's maximum financial liability. Mr. Horton said \$324,000 per year. Council Member Capowski inquired about the number of years in the current process. Mr. Horton said three. He suggested that if Council wished to consider the amendment offered by Mr. Edens, it could be a separate resolution.

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER CAPOWSKI, TO ADOPT RESOLUTION 4.2B. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

A RESOLUTION AUTHORIZING APPLICATION BY THE MANAGER TO AND REQUESTING APPROVAL FROM THE LOCAL GOVERNMENT COMMISSION FOR THE TOWN TO USE ALL OF THE REVENUES FROM BOTH ONE-HALF PERCENT SALES TAXES FOR PURPOSE OTHER THAN WATER AND SEWER FACILITIES  
(93-5-10/R-4.2b)

WHEREAS, the Town of Chapel Hill has not operated a water or sewer system since February, 1977 because of the creation of the Orange Water and Sewer Authority (OWASA) following approval of recommendations from a Utilities Study Commission established by the General Assembly to advise on retention or disposition of the University of North Carolina at Chapel Hill's utilities; and

WHEREAS, OWASA has in the past undertaken on an assessment basis the construction of water or sewer lines to six developed neighborhoods in the Chapel Hill-Carrboro area which were previously served with septic systems; and

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WHEREAS, OWASA's adopted five-year capital program includes provisions for sewer extension to the Mount Bolus and Sherwood Forest neighborhoods, and the OWASA Board of Directors has received a draft capital program proposing accelerated funding for sewer extension to the Sherwood Forest neighborhood and including of funding for the North Forest Hills neighborhood, from which neighborhoods OWASA has received sewer extension petitions; and

WHEREAS, the majority of property owners in the Glen Heights neighborhood in August, 1992, withdrew a sewer extension petition to OWASA; and

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

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

"The Parties of the Agreement of Sale and Purchase specifically agree as a condition of sale that [the] Authority will provide and maintain such sewage collection and treatment facilities as may be required under applicable laws and regulations to meet the reasonable needs of the Town as presently and hereafter constituted [Emphasis Added]. The Authority agrees that it will not impede or bar the residential or industrial growth and development of the Town of Chapel Hill by arbitrary or capricious discrimination against the Town in its sewer utility expansion policies, and in the event the extension of sewer services to an area proposed to be annexed by the Town is required by the laws of North Carolina as a condition to such annexation, the Authority gives its pledge and unequivocal assurance that it will use its best efforts in good faith to extend such sewer services to such annexed areas" [Emphasis added]; and

WHEREAS, the contemporaneous agreements of purchase and sale between OWASA and the University of North Carolina and the Town of Carrboro contain parallel provisions; and

WHEREAS, the Council has received exemptions from the Commission to enable the use of half-cent sales tax revenues for any municipal purpose, but the Council has allocated several hundred thousand dollars of sales taxes for public water and sewer purposes involving assistance to low-income families, installation of needed fire hydrants, etc.;

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

1. That the Council believes, and requests the Commission to take into consideration that:

The Orange Water and Sewer Authority was formed as the result of decisions by the State of North Carolina to dispose of the University of North Carolina at Chapel Hill's water and wastewater utilities.

The Authority was created expressly for the purpose of providing water and sewer services to an area including the entire Town of Chapel Hill.

The Authority is contractually obligated to meet the reasonable needs of the Town as the Town was constituted in 1977, as it is today and as it may be constituted in the future.

The Town Council has used substantial amounts of sales tax funds for public water and sewer purposes determined by the Council, including assistance to low income families.

The Authority has a record of undertaking water and sewer extensions in response to petitions, and its present adopted plans and draft plans as recently submitted to the OWASA Board of Directors would provide for additional extensions in response to petitions.

- 2. That the Council hereby requests that the Local Government Commission grant the Town an exemption authorizing use of all of the one-half per cent sales tax revenues for municipal purposes to be determined by the Council.

BE IT FURTHER RESOLVED that the Council authorizes the Town Manager to apply to the North Carolina Local Government Commission for an exemption through 1994-95 as authorized in the one-half percent sales tax statutes.

This the 10th day of May, 1993.

Council Member Capowski suggested that the Town might consider making a limited amount of funds available for water and sewer service assistance for public health problems in association with septic systems. Council Member Werner said he thought this was basically the same thing as the previously adopted Resolution 4.2a wherein the Town would make up the difference. Mayor Broun said he was willing to say that rates should be commensurate with other jurisdictions around the state with a \$324,000 cap. Council Member Capowski said he objected to this approach since it would be unfair to people who had already paid sewer assessments. Council Member Andresen said the most immediate need was to work with the OWASA Board of Directors to resolve the sewer service problem.

Council Member Werner requested that staff provide the Council with information on needed funds for water and sewer improvements prior

to the Council's June 9th work session with the OWASA Board of Directors. Mr. Horton said he did not believe that the General Assembly's revenue growth deliberations would be completed by early June. Council Member Herzenberg noted that OWASA Board members Tom McCurdy and Riley Wilson and senior OWASA staff members had been in attendance to hear this evening's discussion. Council Member Capowski requested that staff provide a summary of OWASA's fiscal situation prior to the June 9th work session. Council Member Andresen requested that staff review OWASA's budget and proposed expenditures.

Mr. Horton said the Council might consider recessing the remainder of the meeting until Wednesday evening, May 12th. Mayor Broun said he was concerned that some people had waited about 3 1/2 hours to speak. Mayor Broun suggested that the Council consider the remainder of the agenda this evening, with the exception of the Stormwater Management Committee item.

Items 5 and 6 Timber Hollow & Church of Latter Day Saints

Planning Director Roger Waldon said the request for Timber Hollow was to revise the amount of land encumbered by a special use permit and approve a request for a place of worship for the Church of Latter Day Saints. Mr. Waldon briefly the proposal. He said adoption of Resolutions 1a and 1d were recommended.

Mayor Pro Tem Werner inquired whether there was any public or Council comment.

COUNCIL MEMBER CAPOWSKI MOVED, SECONDED BY COUNCIL MEMBER BROWN, TO ADJOURN THE PUBLIC HEARING. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

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

A RESOLUTION APPROVING AN APPLICATION FOR SPECIAL USE PERMIT MODIFICATION FOR TIMBER HOLLOW (SUP MOD-29..3) (93-5-10/R-1a)

BE IT RESOLVED by the Council of the Town of Chapel Hill that it finds that the Timber Hollow Development, proposed by Pacific Guaranty Housing Corporation on property identified as Chapel Hill Township Tax Map 29, part of Lot 3, if developed according to Phase I portion of the site plan for Timber Hollow, dated April 22, 1985, would:

1. Be located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
2. Comply with all required regulations and standards of the Development Ordinance, including all applicable provisions of

Articles 12, 13, 14 and 18, and with all other applicable regulations (with the exception listed below);

3. Be located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or be a public necessity; and
4. Conform with the general plans for the physical development of the Town as embodied in the Development Ordinance and in the Comprehensive Plan.

BE IT FURTHER RESOLVED that the Council finds, in this particular case, that the following modification satisfies public purposes to an equivalent or greater degree:

1. Reducing the area encumbered by the Special Use Permit, recorded in deed book 534, page 406 of the Orange County Register of Deeds Office, to 17.8 acres, resulting in Modification of Subsection 13.8 of the Development Ordinance to exceed the maximum density of 10 units per acre for the zoning district, allowing the existing 198 dwelling units on 17.8 acres of land.

BE IT FURTHER RESOLVED that the Council hereby approves the application for Special Use Permit Modification for Timber Hollow Apartments in accordance with the plans and conditions listed above.

This the 10th day of May, 1993.

Mayor Pro Tem Werner inquired whether there was any public or Council comment.

COUNCIL MEMBER ANDRESEN MOVED, SECONDED BY COUNCIL MEMBER CAPOWSKI, TO ADJOURN THE CHURCH OF LATTER DAY SAINTS PUBLIC HEARING.

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

A RESOLUTION APPROVING AN APPLICATION FOR SPECIAL USE PERMIT FOR CHURCH OF LATTER DAY SAINTS (SUP 29..3) (93-5-10/R-1d)

BE IT RESOLVED by the Council of the Town of Chapel Hill that it finds that the Special Use Permit application proposed by the Church of Latter Day Saints, on property identified as Chapel Hill Township Tax Map 29, part of Lot 3, if developed according to the preliminary site layout dated October 6, 1992, and the conditions listed below, would:



1. Be located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
2. Comply with all required regulations and standards of the Development Ordinance, including all applicable provisions of Articles 12, 13, 14 and 18, and with all other applicable regulations;
3. Be located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or be a public necessity; and
4. Conform with the general plans for the physical development of the Town as embodied in the Development Ordinance and in the Comprehensive Plan.

These findings are conditioned on the following:

Stipulations Specific to the Development

1. That construction begin by May 10, 1995 (two years from the date of Council approval), and be completed by May 10, 1996 (three years from the date of Council approval).
2. Required Improvements: That a fire hydrant be provided in the northernmost parking lot.

Stipulations Related to the Resource Conservation District

3. Boundaries: That the boundaries of the Resource Conservation District be shown on the final plat and final plans with a note indicating that "Development shall be restricted within the Resource Conservation District in accordance with the Development Ordinance."
4. Variances: That all variances necessary for development within the Resource Conservation District be obtained before application for final plat or final plan approval.

Stipulations Related to State and Federal Government Approvals

5. State or Federal approvals: That any required County, State or federal permits or encroachment agreements be approved, and copies of the approved permits and agreements be submitted to the Town of Chapel Hill prior to the issuance of a Zoning Compliance Permit.
6. NCDOT approval: That plans for improvements to state-maintained roads be approved by NCDOT prior to issuance of a Zoning Compliance Permit.

Stipulations Related to Landscape Elements

7. Landscape Protection Plan: That a Landscape Protection Plan shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
8. Landscape Plan Approval: That a detailed landscape plan and landscape maintenance schedule be approved by the Appearance Commission prior to the issuance of a Zoning Compliance Permit. The following buffers shall be provided:

-Type C (minimum width 20 feet) on the northern and eastern boundaries,

-Type A (minimum width 15 feet) along the southern boundary, and

-Type D (minimum width 30 feet) along the western boundary.

If an alternative buffer is required in any location, the proposal must be reviewed for approval by the Appearance Commission and Town Manager prior to issuance of a Zoning Compliance Permit.

The landscape plan shall incorporate the recommendations of the Town's Entranceways Plan.

Stipulation Related to Building Elevations

9. Building Elevation approval: That detailed building elevations and lighting plan be approved by the Appearance Commission prior to issuance of the Zoning Compliance Permit.

Stipulations Related to Water, Sewer, and Other Utilities

10. Fire Flow: A fire flow report, prepared by a registered professional engineer, and showing that flows meet the minimum requirements of the Design Manual, must be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
11. OWASA Easements: That easement documents as required by OWASA and the Town Manager be recorded before issuance of a Zoning Compliance Permit.
12. Utility/Lighting Plan Approval: That the final utility/lighting plan be approved by Orange Water and Sewer Authority, Duke Power, Public Service Company, Southern Bell, and the Town Manager, before issuance of Zoning Compliance Permit. The property owner shall be responsible for assuring that these utilities are extended to serve the development.

Miscellaneous Stipulations

13. Solid Waste Management Plan: That a detailed solid waste management plan, including a recycling plan and plan for management of construction debris, be approved by the Town Manager prior to the issuance of a Zoning Compliance Permit.
14. Detailed Plans: That final detailed site plan, grading plan, utility/lighting plans, stormwater management plan (with hydrologic calculations), landscape plan and landscape maintenance plan be approved by the Town Manager before issuance of a Zoning Compliance Permit, and that such plans conform to the plans approved by this application and demonstrate compliance all applicable conditions and the design standards of the Development Ordinance and the Design Manual.
15. Erosion Control: That a soil erosion and sedimentation control plan be approved by the Orange County Erosion Control Officer and the Town Manager before issuance of a Zoning Compliance Permit.
16. Work Zone Traffic Control Plan: That a work zone traffic control plan be approved by the Town Manager before issuance of a Zoning Compliance Permit.
17. Silt Control: That the applicant take appropriate measures to prevent and remove the deposit of wet or dry silt on adjacent paved roadways.
18. Continued Validity: That continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.
19. Non-severability: If any of the above conditions is held to be invalid, approval in its entirety shall be void.

BE IT FURTHER RESOLVED that the Council hereby approves the application for Special Use Permit for the Church of Latter Day Saints in accordance with the plans and conditions listed above.

This the 10th day of May, 1993.

Item 7 Greybluff Subdivision

Planning Director Roger Waldon reviewed the proposal, noting that adoption of Resolution 2a was recommended. Council Member Werner requested additional information on the proposed greenway trail. Mr. Waldon said staff was talking to Department of Transportation staff about winding a greenways trail along the I-40 corridor.

COUNCIL MEMBER RIMER MOVED, SECONDED BY COUNCIL MEMBER WERNER, TO ADJOURN THE PUBLIC HEARING. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

COUNCIL MEMBER RIMER MOVED, SECONDED BY COUNCIL MEMBER POWELL, TO ADOPT RESOLUTION 2A. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

A RESOLUTION APPROVING AN APPLICATION FOR PRELIMINARY PLAT APPROVAL FOR THE GREYBLUFF SUBDIVISION (93-5-10/R-2a)

BE IT RESOLVED by the Council of the Town of Chapel Hill that it finds that the subdivision proposed by Marin Development Company on property identified as Chapel Hill Township Tax Map 25, Lots 11 and 12, if developed according to the Preliminary Plat dated November 30, 1992 (revised January 7, 1993) and the conditions below would comply with the provisions of the Development Ordinance.

This finding is conditioned on the following:

Stipulations Specific to the Development

1. A. That the proposed eastern roadway stub-out be relocated to better accommodate pending future development plans for the Carroll property. Sweeten Creek Road shall extend from the existing Chandlers Green Subdivision to the eastern property line and stub-out in the approximate area of lots 46 and 47 to connect to the adjacent Carroll property (approximately 840 feet north of the stub-out location identified on the plans). A new road shall extend south from Sweeten Creek Road, in the general area of the previous Sweeten Creek Road alignment and cul-de-sac in the approximate area of lots 53, 54, 55, and 56. In-lieu of a traditional cul-de-sac at this location, a T-turnaround may be provided that is at least 55 feet long with a 10 foot wide right-of-way beyond the pavement. All lots shall comply with the frontage requirements of the Development Ordinance. The total number of lots may be increased from 77 to 78 with this revised site plan.
- B. That a Zoning Compliance Permit for the Resource Conservation District Encroachment by Road A through the Dry Branch Creek greenway area be approved by the Town Manager before a Zoning Compliance Permit is issued for Final Plans Approval.
- C. That direct vehicular access to Weaver Dairy Road (except for temporary construction access prior to completion of the entrance and roads B left and B right) be prohibited for those lots with Weaver Dairy Road frontage, and that a note to that effect be included on the final plans and recorded final plat. The installation of a temporary

construction access shall not remove significant vegetation from the required landscape buffer.

- D. That prior to issuance of a Zoning Compliance Permit, the developer shall submit necessary documentation showing compliance with the recently adopted Steep Slopes Ordinance for land disturbance on slopes greater than 15 percent, for Town Manager approval.
  - E. That a note be included on the final plans and final plat indicating that curbside refuse collection may be required for lots with steep slopes.
  - F. That the proposed landscaped median in Road A shall be maintained by a Homeowners Association. Homeowners Association documentation shall be approved by the Town Manager and shall be recorded concurrently with the final plat.
2. Required Improvements:
- A. That the applicant improve Weaver Dairy Road to one-half of a 68 foot cross-section. The 68-foot cross-section is to accommodate 5 eleven-foot wide lanes, curb and gutter on both sides, and four-foot bike lanes on both sides.
  - B. That the applicant dedicate one-half of a 90 foot right-of-way along the subject property's Weaver Dairy Road frontage and provide a sidewalk along the subject property's Weaver Dairy Road frontage within the 90-foot right-of-way.

Stipulations related to the Resource Conservation District

- 3. Boundaries: That the boundaries of the Resource Conservation District be shown on the final plat and final plans with a note indicating that "Development shall be restricted within the Resource Conservation District in accordance with the Development Ordinance."
- 4. Variances: That all variances necessary for development within the Resource Conservation District be obtained before application for final plat or final plan approval.
- 5. Setbacks for Preliminary Plat applications: That any restrictive covenant applicable to lots adjacent to the Resource Conservation District not require greater setbacks than those required by the Development Ordinance.
- 6. Buildable Lots for Preliminary Plat applications: That no lot be created that, in order to be built upon, would require a Resource Conservation District Variance.

7. Buildable Area for Preliminary Plat applications: That the final plat indicate the buildable area on all lots which contain a portion of the Resource Conservation District.

Stipulations related to Recreation Area

8. Access Easements for Preliminary Plat applications: That the final plat indicate pedestrian and non-motorized vehicle access easement within the Recreation Area.
9. Dedication of Recreation Area for Preliminary Plat applications: That the final plat dedicate and deed the on-site Recreation Area to the Town of Chapel Hill. The developer remains responsible for the recreation area until the Town accepts the property.

Stipulations related to State and Federal Government Approvals

10. State or Federal approval(s): That any required State or Federal permits or encroachment agreements be approved and copies of the approved permits and agreements be submitted to the Town of Chapel Hill prior to the issuance of a Zoning Compliance Permit.
11. NCDOT approval: That plans for improvements to state-maintained roads be approved by NCDOT prior to issuance of a Zoning Compliance Permit.

Stipulations related to Landscape Elements

12. Landscape Protection Plan: That a Landscape Protection Plan be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
13. Landscape Plan for Preliminary Plat applications: That a detailed landscape plan and landscape maintenance schedule be approved by the Town Manager prior to issuance of a Zoning Compliance Permit. The landscape plan is to include a minimum of a 30 foot Type D buffer along the property's Weaver Dairy Road frontage and a minimum of a 100 foot Type E buffer along the property's Interstate 40 frontage.

Stipulations related to Water, Sewer, and other Utilities

14. Fire Flow: That a fire flow report prepared by a registered professional engineer, showing that flows meet the minimum requirements of the Design Manual, be approved prior to issuance of a Zoning Compliance Permit.
15. Utility Service Laterals for Preliminary Plat applications: That prior to paving streets, utility service laterals (including cable and telephone) shall be stubbed out to the

front property lines of each lot. Sanitary sewer laterals shall be capped off above ground.

16. OWASA Easements for Preliminary Plat applications: That easement documents as required by OWASA and the Town Manager be recorded before final plat approval.
17. Utility/Lighting Plan Approval: That the final utility/lighting plan be approved by Orange Water and Sewer Authority, Duke Power, Cablevision, Public Service Company, Southern Bell, and the Town Manager, before issuance of a Zoning Compliance Permit. The property owner shall be responsible for assuring these utilities, including cable television, are extended to serve the development.

#### Miscellaneous Stipulations

18. Solid Waste Management Plan: That a detailed solid waste management plan, including a recycling plan and plan for management of construction debris, be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
19. Detailed Plans: That final detailed site plans, grading plans, utility/lighting plans, stormwater management plans (with hydrologic calculations), and landscape plans and landscape maintenance plans be approved by the Town Manager before issuance of a Zoning Compliance Permit or application for final plat approval, and that such plans conform to plans approved by this application and demonstrate compliance with all applicable conditions and the design standards of the Development Ordinance and the Design Manual.
20. Certificates of Occupancy: That no Certificates of Occupancy be issued until all required public improvements are completed, and that a note to this effect shall be placed on the final plat.

If the Town Manager approves a phasing plan, no Certificates of Occupancy shall be issued for a phase until all required public improvements for that phase are complete; no Building Permits for any phase shall be issued until all public improvements required in previous phases are completed to a point adjacent to the new phase; and that a note to this effect shall be placed on the final plat.

21. Sight Triangle Easements: That sight triangle easements be provided on the final plat.
22. For Developments with New Streets-Traffic Signs: That the property owners shall be responsible for placement and maintenance of temporary regulatory traffic signs including street name signs before issuance of any Certificate of

Occupancy until such time that the street system is accepted for maintenance by the town.

23. For Developments with New Streets-Names, Numbers: That the name of the development and its streets and house/building numbers be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
24. Erosion Control: That a soil erosion and sedimentation control plan be approved by the Orange County Erosion Control Officer before issuance of a Zoning Compliance Permit.
25. Silt Control: That the applicant take appropriate measures to prevent and remove the deposit of wet or dry silt on adjacent paved roadways.
26. Continued Validity: That continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.
27. Non-Severability: That if any of the above conditions is held to be invalid, approval in its entirety shall be void.

BE IT FURTHER RESOLVED that the Council hereby approves the application for Preliminary Plat approval of the Greybluff Subdivision in accordance with the plans and conditions listed above.

This the 10th day of May, 1993.

#### Item 8 Hardee's Special Use Permit Request

Mr. Horton adoption of Resolution 3a, including a sidewalk along the service road, was recommended. Council Member Andresen inquired whether any of the materials from the demolished building would be recycled. Mr. Post said a major portion of the building would be reused with the balance of materials disposed of at a construction debris landfill. Council Member Andresen inquired about the landfill's location. Mr. Post said the closest one was in Chatham County. Council Member Brown asked whether it was possible to move the existing building. Mr. Post said this was not cost-effective or feasible.

Council Member Rimer inquired about the possibility of terminating the service road between the NCNB and Hardee's sites. Noting that the application was late in the process, Council Member Rimer said it was likely that the Department of Transportation would consider the idea. He said the proposed restructuring would correct a very messy traffic situation. Mayor Broun said although the proposal was an interesting one, it was also very late in the development review process. Mr. Post said it was too late to consider the



proposal. He added that it was unlikely that the Department of Transportation would authorize termination of the service road. Council Member Andresen inquired about possible redirection of traffic. Mr. Horton said staff could evaluate this situation.

COUNCIL MEMBER CHILTON MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG, TO ADJOURN THE PUBLIC HEARING. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

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

A RESOLUTION APPROVING A SPECIAL USE PERMIT APPLICATION FOR THE REDEVELOPMENT OF THE HARDEE'S PROPERTY ON OLD DURHAM ROAD (File No. 27.C.1) (93-5-10/R-3a)

BE IT RESOLVED by the Council of the Town of Chapel Hill that it finds that the redevelopment of the Hardee's property on Old Durham Road, proposed by Boddie Noell Enterprises, to include a replacement restaurant building with a drive-through window, on 46,530 square feet of gross land area in the Community Commercial zoning district, identified as Chapel Hill Township Tax Map 27, Block C, Lot 1, if developed according to the site plan dated October 23, 1992 (revised January 29, 1993 and April, 1993), would:

1. Be located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
2. Comply with all required regulations and standards of the Development Ordinance, including all applicable provisions of Articles 12, 13 and 14, and with all other applicable regulations;
3. Be located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or be a public necessity; and
4. Conform with the general plans for the physical development of the Town as embodied in the Development Ordinance and in the Comprehensive Plan.

These findings are conditioned on the following:

Stipulations Specific to the Development

1. That construction begin by May 10, 1995 (two years from the date of approval) and be completed by May 10, 1996 (three years from the date of approval).
2. Required Improvements (specific to the proposed development):

- a. That half of a 60 foot right-of-way be dedicated along the subject property's Old Durham Road frontage.
- b. That Old Durham Road be improved to half of a 41 foot cross-section with curb and gutter and sidewalk and as much additional shoulder as possible within the new right-of-way (not to exceed 4 foot wide) for a bicycle lane.
- c. That the Durham-Chapel Hill Boulevard service road be improved to half of a 27 foot cross-section with curb and gutter.
- d. That a sidewalk be provided along the service road frontage from the entrance drive eastward to the existing bus stop, approximately 50 feet.
- e. That, prior to issuance of a Zoning Compliance Permit, the developer demonstrate compliance with Section 14.6.6(d) of the Development Ordinance regarding shading of parking area surfaces.

Stipulations related to State and Federal Government Approvals

3. State or Federal approval(s): That any required State or Federal permits or encroachment agreements be approved and copies of the approved permits and agreements be submitted to the Town of Chapel Hill prior to the issuance of a Zoning Compliance Permit.
4. NCDOT approval: That plans for improvements to state-maintained roads be approved by NCDOT prior to issuance of a Zoning Compliance Permit. If NCDOT approval cannot be obtained for three-lane entrances, two-lane entrances may be substituted.

Stipulations related to Landscape Elements

5. Landscape Protection Plan: That a Landscape Protection Plan be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
6. Landscape Plan Approval for Special Use Permit applications: That a detailed landscape plan, landscape maintenance schedule, and site lighting plan be approved by the Appearance Commission prior to the issuance of a Zoning Compliance Permit. The Landscape Plan shall conform to the Entranceways Master Landscape Plan and shall include the following buffers:
  - minimum 30 foot wide Type D buffer along the Durham-Chapel Hill Boulevard frontage;

- minimum 15 foot wide Type A buffer along the Old Durham road frontage; and
- minimum 10 foot wide Type B buffer along the eastern property line adjacent to the NationsBank property.

If the applicant proposes alternate buffers for the site, the proposed alternate buffers must be reviewed and approved by the Appearance Commission before issuance of a Zoning Compliance Permit.

#### Stipulation related to Building Elevations

7. Building Elevation Approval for Special Use Permit applications: That detailed building elevations be approved by the Appearance Commission prior to issuance of the Zoning Compliance Permit.

#### Stipulations related to Water, Sewer and other Utilities

8. Fire Flow: That a fire flow report prepared by a registered professional engineer, showing that flows meet the minimum requirements of the Design Manual, be approved prior to issuance of a Zoning Compliance Permit.
9. Utility/Lighting Plan Approval: That the final utility/lighting plan be approved by Orange Water and Sewer Authority, Duke Power, Public Service Company, Southern Bell, and the Town Manager, before issuance of a Zoning Compliance Permit. The property owner shall be responsible for assuring these utilities are extended to serve the development.

#### Miscellaneous Stipulations

10. Solid Waste Management Plan: That a detailed solid waste management plan, including a recycling plan and plan for management of construction debris, be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
11. Detailed Plans: That final detailed site plans, grading plans, utility/lighting plans, stormwater management plans (with hydrologic calculations), and landscape plans and landscape maintenance plans be approved by the Town Manager before issuance of Zoning Compliance Permit and that such plans conform to plans approved by this application and demonstrate compliance with all applicable conditions and the design standards of the Development Ordinance and with the Design Manual.
12. Certificates of Occupancy: That no Certificates of Occupancy be issued until all required public improvements are

completed; and that a note to this effect shall be placed on the final plat.

If the Town Manager approves a phasing plan, no Certificates of Occupancy shall be issued for a phase until all required public improvements for that phase are complete; no Building Permits for any phase shall be issued until all public improvements required in previous phases are completed to a point adjacent to the new phase; and that a note to this effect shall be placed on the final plat.

13. Sight Triangle Easements: That sight triangle easements be provided on the final plat.
14. Erosion Control: That a soil erosion and sedimentation control plan be approved by the Orange County Erosion Control Officer before issuance of a Zoning Compliance Permit.
15. Silt Control: That the applicant take appropriate measures to prevent and remove the deposit of wet or dry silt on adjacent paved roadways.
16. Continued Validity: That continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.
17. Non-Severability: That if any of the above conditions is held to be invalid, approval in its entirety shall be void.

BE IT FURTHER RESOLVED that the Council hereby approves the application for a Special Use Permit to redevelop the Hardee's property on Old Durham Road in accordance with the plans and conditions listed above.

This the 10th day of May, 1993.

#### Item 10 Community Development Grant Application

Town Manager Cal Horton briefly reviewed the proposed plan. Mayor Broun inquired whether the Council could make adjustments to the proposal. Planning Coordinator Chris Berndt said this was correct. Council Member Werner inquired about the likelihood of funding. Ms. Berndt said the Town received an annual entitlement for community development programs. Council Member Andresen inquired about the specific nature of the Rural Opportunities and Midway Development Corporations proposals. Ms. Berndt said staff was in the process of evaluating both proposals. Mr. Horton added that the Housing and Community Development Board would also evaluate the proposals.

Council Member Brown asked whether community development funds could be used for Hargraves Center repairs. Mr. Horton said he recommended using small capital improvement program funds for repairs at Hargraves Center.

Housing and Community Development Board Chair Charles Paddock said all the proposals in the staff's report were excellent ones. He stated that funding was needed to refurbish the Town's public housing units.

Council Member Herzenberg said the Housing and Community Development Board's input on the community development programs would be very useful. Noting Mr. Paddock's concerns about out years, Mayor Broun said the Council could possibly examine public housing needs again next year. Mr. Horton noted that the staff had benefitted from the Housing and Community Development Board's input.

Council Member Powell said she favored the provision of air conditioning in public housing units. Housing and Community Development Director Tina Vaughn noted that the United States Department of Housing and Urban Development (HUD) only funded air conditioning in very hot areas. She noted that some tenants had purchased window units. Council Member Rimer inquired about the extent of utility subsidies for public housing tenants. Ms. Vaughn said all tenants received some subsidy for utilities.

Housing and Community Development Board member Charlie Zimmerli said he favored the program recommendations outlined in the March 16th memorandum. He emphasized the need to maintain the Town's public housing units.

Council Member Capowski inquired how priorities for sewer service needs were determined. Mr. Horton said sewer service was typically handled on a neighborhood-wide basis. He added that there were not sufficient funds available to cause a backlog problem.

Council Member Andresen asked whether the Council needed to act on the recommendations this evening. Mr. Horton said no, adding that the item could be brought back on May 24th. Council Member Andresen said that the item should be scheduled for consideration at two meetings.

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER CHILTON, TO TABLE CONSIDERATION OF COMMUNITY DEVELOPMENT GRANT APPLICATION PROPOSALS UNTIL MAY 24TH. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

Item 12 Governor's Crime Commission Grant

Police Crisis Unit Supervisor Jim Huegerich said staff was seeking authorization to apply for a grant to deal with first-time drug

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offenders. He said the program's objective was to break the pattern of drug use and criminal activity. Mr. Huegerich noted that the Town's commitment would be about \$31,000 over two years.

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG, TO ADOPT RESOLUTION 6. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

A RESOLUTION AUTHORIZING THE TOWN MANAGER TO SUBMIT A GRANT APPLICATION TO THE GOVERNOR'S CRIME COMMISSION (93-5-10/R-6)

WHEREAS, the Violent Crime and Illegal Drug Task Force recommended programs which integrate law enforcement and DRUG treatment in dealing with the drug-related crime problem in Chapel Hill; and

WHEREAS, Town staff submitted a pre-application for federal funds through the Governor's Crime Commission for a two-year, community-based program for first-time drug offenders; and

WHEREAS, on April 21, 1993 the Town Manager was notified by the Governor's Crime Commission of tentative approval of the grant pre-application, and was requested to submit a full first year grant application by May 12, 1993; and

WHEREAS, the program, entitled Project Turn Around, will be an alternative to prosecution for the first time drug offender through counseling, treatment, and supervision. Participants will have to agree to specific guidelines established by the District Attorney which will include employment or school, regular urinalysis testing, participate in counseling and/or required meetings, and pay program fees. At the end of one year, if all conditions have been met, the original charge would be dismissed; and

WHEREAS, Project Turn Around will be part of the Crisis Intervention Unit of the Police Department; and

WHEREAS, the total two year budget is \$124,450 and the Town will be responsible for funding twenty-five percent (25%) of the total costs for the two years; and

WHEREAS, the 1993-94 costs to the Town would be \$16,225, and the 1994-95 costs to the Town would be \$14,887; and

WHEREAS, the Town must have plans for assumption of project costs after the two years of federal funding; and

WHEREAS, Town staff projects that third year costs would be paid from drug forfeiture funds, State Revenue seizures, participant fees, and General Funds; and

WHEREAS, the program will be evaluated to determine its effectiveness;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council authorizes the Town Manager to submit an application for federal funds through the Governor's Crime Commission for a first-time drug offender program, which requires twenty-five percent (25%) funding from the Town, and a plan under which project costs could be assumed at the end of the funding period.

This the 10th day of May 1993.

Item 13 Consent Agenda

Council Member Capowski requested removal of item c. Council Member Herzenberg requested removal of item e.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG, TO ADOPT RESOLUTION 7. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

A RESOLUTION ADOPTING VARIOUS RESOLUTIONS (93-5-10/R-7)

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

- a. Minutes of April 12, 13, 19 and 20.
- b. Security and safety measures in rental complexes (R-8).
- c. Licensing of Bicentennial logo and flag design (R-9).
- d. Regional bikeway plan funding (R-10).
- e. Scheduling work session to discuss water and sewer matters (suggested date: Wednesday, June 9.) (R-11).

This the 10th day of May, 1993.

A RESOLUTION COMMENDING PROPERTY OWNERS FOR PROVIDING SECURITY AND SAFETY MEASURES, AND SUPPORTING VOLUNTARY MEASURES ON THE PART OF ALL LANDLORDS (93-5-10/R-8)

WHEREAS, recommendation #47 of the Violent Crime and Illegal Drug Task Force Report states: "Include in the Town's Housing Codes requirements for security devices on free-standing and multi-family residential units."; and

WHEREAS, the Law Enforcement Support Committee of the Violent Crime and Illegal Drug Task Force surveyed 35 property owners or property managers encompassing 6,500 rental units; and

WHEREAS, survey participants willingly shared their thoughts, concerns, and ideas about security measures on residential property; and

WHEREAS, the survey indicated that property owners are for the most part providing ample security measures including deadbolt locks, peepholes, and outdoor lighting; and

WHEREAS, property owners and tenants are working together to increase security measures on individual rental units; and

WHEREAS, the Law Enforcement Support Committee would like to see all rental property have adequate security measures through voluntary methods; and

WHEREAS, the Crime Prevention Division of the Police Department can assist property owners and tenants in this endeavor;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council commends owners of residential rental property for their concern about tenant safety their provision of security and safety measures; and supports these voluntary measures on the part of all landlords.

This the 10th day of May, 1993.

A RESOLUTION AUTHORIZING FUNDS FOR THE REGIONAL BICYCLE PLAN (93-5-10/R-10)

WHEREAS, Chapel Hill has participated with the City of Durham, Orange County and Durham County in the development of a Regional Bicycle Plan;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council authorizes the expenditure of up to \$1,000 from the General Fund Contingency Account to revise the Regional Bicycle Plan.

This the 10th day of May, 1993.

Council Member Capowski requested that staff make special efforts to market products with the Town's and Bicentennial logos.

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

A RESOLUTION AUTHORIZING THE TOWN MANAGER TO ENTER INTO LICENSING AGREEMENTS FOR THE USE OF THE REGISTERED BICENTENNIAL LOGO AND THE TOWN FLAG (93-5-10/R-9)

WHEREAS, the Council has established a Bicentennial Committee to plan ways to commemorate and celebrate the 200th anniversary of the beginning of the community of Chapel Hill; and



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WHEREAS, the Committee wishes to insure the availability of commemorative items; and

WHEREAS, the Committee needs to raise funds to support commemorative activities;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby authorizes the Town Manager to enter into licensing agreements of up to one year duration with vendors wishing to reproduce images of the Bicentennial logo and the Town flag.

BE IT FURTHER RESOLVED that all revenues received from the use of the Bicentennial logo and all revenues received through June 30, 1994, for the use of the Town flag design, be allocated to support the activities of the Bicentennial Committee.

BE IT FURTHER RESOLVED that all net revenues received from the sale of Town flags through June 30, 1994 be allocated to support the activities of the Bicentennial Committee.

This is the 10th day of May, 1993.

Council Member Herzenberg noted that the proposed work session with OWASA was scheduled for 7:30 p.m. on Wednesday, June 9th.

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER RIMER, TO ADOPT RESOLUTION 11. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

A RESOLUTION SCHEDULING A WORK SESSION ON WATER AND SEWER MATTERS (93-5-10/R-11)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby schedules a work session for 7:30 p.m. on Wednesday, May 10, 1993 in the Council Chamber to discuss water, sewer and OWASA-related matters.

This the 10th day of May, 1993.

The meeting concluded at 11:47 p.m.