

MINUTES OF A JOINT WORK SESSION OF THE CHAPEL HILL TOWN COUNCIL
AND THE ORANGE WATER AND SEWER AUTHORITY BOARD OF DIRECTORS
WEDNESDAY, JUNE 9, 1993 AT 7:30 P.M.

Mayor Broun called the meeting to order at 7:30 p.m. Council Members in attendance were Julie Andresen, Joyce Brown, Joe Capowski, Mark Chilton, Barbara Powell, Alan Rimer, and Arthur Werner. Council Member Joe Herzenberg was absent excused. OWASA Board Members in attendance were Henry Anderson III, Lois Herring, Thomas McCurdy, James Mergner, Eva Metzger, David Moreau, Melva Okun, Daniel Textoris and Riley Wilson. Also in attendance were Town Manager Cal Horton, Assistant Town Managers Sonna Loewenthal and Florentine Miller, Assistant to Manager Greg Feller, Town Attorney Ralph Karpinos, OWASA Executive Director Everett Billingsley, OWASA Counsel Bob Epting and OWASA staff members Ed Holland and Kathryn Kalb.

Mayor Broun stated the focus of this evening's work session was to address immediate problems being faced by some OWASA customers, in particular assessments for water and sewer lines, the health issues involved therein, and sprinkler systems.

Orange Water and Sewer Authority (OWASA) board member James Mergner stated that OWASA currently had \$4 million in construction and repairs underway. He noted that the Bolin Creek project should be completed in August, and the Booker Creek project during 1994. Mr. Mergner also stated that engineering design work was underway for several other projects including sewer service for the Glen Heights neighborhood. He stated that the assessment process was the primary means available to help non-sewered areas. Mr. Mergner noted that the OWASA Board had requested suggestions from their staff on how to maintain costs while remaining in compliance with legal mandates and preserving equity with other OWASA customers. He said that OWASA wished to accomplish this in a timely fashion. Mr. Mergner also stated that construction and repairs would continue while OWASA worked with other jurisdictions.

Mr. Mergner noted that a consultant would be asked to study how costs could be spread more equitably among all OWASA customers. He stated that the largest expected expenditures were expansions to the water system totalling about \$13 million. Mr. Mergner said that OWASA's five-year capital budget included \$1 million for improvements to the University Lake dam. He also stated that a water tower was needed in the Cameron/McCauley area, and that OWASA would need a special use permit for this project. Mr. Mergner said that seven million gallons of water per day were processed by OWASA. He emphasized the importance of maintaining a constant flow during extreme weather and fire incidents.

Mr. Mergner stated that about \$7 million of OWASA's capital budget was for maintenance, \$3 million for debt service, and \$2 million for capital projects. He noted that OWASA anticipated increasing customer rates by 4% for the 1993-94 budget year.

Mr. Mergner called the Council's attention to a memorandum distributed earlier in the evening by OWASA Executive Director Everett Billingsley. Mr. Mergner stated that the Board had not had an opportunity to discuss the memorandum, but it could be discussed jointly this evening. Mr. Mergner said that other representatives of OWASA were present in the audience, including Mr. Billingsley, Ed Holland, Kathryn Kalb and others, and could be called upon if needed.

Council Member Brown said she felt it was important to focus on existing Town sewer problems, particularly in lower-income neighborhoods. She stated that homeowners had expressed their concern about high service costs and what OWASA might do to help relieve this burden. Council Member Brown asked the Town's OWASA appointees to speak first on this issue.

Mr. Mergner said he had reviewed the package prepared by staff on this matter. He said this report, in addition to the memo distributed by Mr. Billingsley, could be used as a basis for discussion this evening. Mr. Mergner stated that construction of these systems should not be held up by ongoing discussions. Mr. Mergner said he could not ignore the fact that a number of citizens had come before the Council and the OWASA Board to express their concerns. Mr. Mergner said an immediate area of concern was where to divide between shared responsibility and homeowner responsibility, and how this relates to the rate setting process.

Council Member Andresen inquired what percentage of total construction costs were consultant or engineering design fees. Mr. Mergner stated approximately 1%. He added that underlying rock could have an impact on these fees. Council Member Andresen asked whether something could be done about this. Mr. Mergner stated that the entire cost of construction, engineering and consultant fees must be completely recovered. He said that no fees for staff time or in-house expenses were included in the estimated construction costs. Mr. Mergner asked whether it was possible for the Town to share cost responsibilities with homeowners.

OWASA board member David Moreau outlined key issues impacting customer charges and the uncertainty of the assessment process. He said the process created an enormous amount of uncertainty for the customer. Mr. Moreau said he would not feel comfortable entering into the proposed process when it was not possible to set a total fee. Mr. Mergner stated that all trenches in the Cedar Hills sewer project had to be blasted due to rock outcroppings in the area, greatly increasing the cost of this project to individual property owners. Mr. Mergner said price setting would be simplified with shared responsibility.

Council Member Andresen inquired estimated project costs included an allowance for rock. Mr. Moreau replied that although hitting rock was not always included in estimates, it was always a

contingency item. He added that cost overruns could be covered in final assessments. Mr. Moreau stated that Durham and Raleigh based recovery costs on the average costs of an eight-inch water line running in front of a lot. He noted that OWASA had some leeway in defining services. Mr. Moreau said there was general agreement on the OWASA Board to exclude engineering costs assessments. He stated that the real issues were setting firm prices and how much would be recovered from rate payers and other parties. Mr. Moreau noted that OWASA had examples of various estimated assessments and their impacts on rate payers. He stated that reducing assessments to fifteen percent would necessitate a three percent increase in monthly rates. Mr. Moreau said the greatest impact would be reductions in availability charges.

Council Member Andresen asked when availability charges were implemented. Mr. Moreau said the fees had been instituted in 1979. Council Member Andresen asked whether the University paid availability charges. Mr. Moreau said he believed they did not. Mr. Mergner said exclusion of the University was based on the transfer of major water and sewer capital facilities from the University to OWASA. Council Member Andresen asked whether the OWASA Board felt this was fair treatment. Mr. Mergner said yes.

Mr. Billingsley stated that the University had constructed a substantial network of sewer and water lines in the campus area. He said that the transfer agreement stated that no availability charges would be paid on these lines. Mr. Billingsley noted that any new lines extended beyond the central campus were assessed availability fees.

Council Member Werner asked who paid the availability charges not incurred by the University. Mr. Billingsley said he could not answer this question. Mr. Mergner stated that the University was not charged for facilities that they had already paid for but did pay for new lines and costs incurred.

Council Member Werner inquired about availability charges pertaining to new construction on the central campus. Mr. Billingsley said although the sales agreement was not precisely clear, facilities on the main campus attached to lines which had been built by State appropriations were not assessed availability charges. He said that the University sold the total facility, the interest in University Lake, and the wastewater treatment plant at a depressed cost. Mr. Billingsley said that the sales agreement stated that no availability charges would be incurred by the University because of the depressed selling price. He said that all off-campus facilities did pay availability charges.

Council Member Werner asked whether the University was perpetually exempt from paying availability charges. Mr. Billingsley said yes. He added that these negotiations took place between Carrboro, Chapel Hill and the University, because OWASA only existed on paper

at the time. Council Member Werner stated he was not questioning motives from 1977 to 1979, but asked whether the charges not paid by the University were passed on to rate payers. OWASA board member Tom McCurdy stated that availability charges were paid on a one-time and acreage basis. He said that once a customer paid for a new line, the charge was never assessed again.

Council Member Brown inquired about the scope of the central campus. She also inquired whether new construction was exempted from availability charges. OWASA attorney Bob Epting stated that at the time of the negotiations, the University retained their own electric system. He said that the extent of the electrical system helped clarify verbiage in the sales contract: the parties involved agreed to define the main campus as where the electric utilities were retained. Mr. Epting said he believed the main campus was considered to encompass the west side of U.S. 15-501 and the area north of Franklin Street.

Council Member Capowski said he assumed that the central campus included the hospital as a customer. Mr. Billingsley replied that the hospital is treated the same as any other customer in the billing process, but all the hospital's accounts are included in one bill. Council Member Capowski asked whether the hospitals were paying availability fees. He noted that over a million square feet of construction had been added and plans for 3 million more were under consideration. Council Member Capowski asked whether Mr. Billingsley was saying that the hospitals would not be charged any availability charges for this new construction. Mr. Billingsley said this was correct. He added that whether or not the sales agreement was a good one, the thinking at the time that was that it was a good idea. Mayor Broun inquired whether the agreement was contractually binding. Mr. Billingsley said no, noting that it was an existing verbal agreement.

Council Member Capowski said that since 1979, the University had expanded to include the Beatty property on which the Smith Center was built. He asked whether this property was considered part of the central campus and whether availability charges had been assessed when the Smith Center was constructed. Mr. Billingsley replied no, adding that it had been anticipated this property would become a part of the central campus eventually and consequentially, no charges had been assessed.

Council Member Capowski asked whether the University would be charged availability fees when it purchased additional property adjoining the central campus. Mr. Billingsley responded that OWASA worked with the University on a case-by-case basis. He noted that any structures in the central campus area would not be assessed availability charges, including property which was purchased and added to the campus.

Mayor Broun said the interpretation concerning the University's exemption from availability fees merited further investigation. Council Member Andresen emphasized the importance of the Council fully understanding OWASA availability charges. She requested that Mr. McCurdy explain the equity of availability charges. Mr. McCurdy stated that ratepayers paid for many facilities including the Cane Creek reservoir. He said availability fees were a means for new developments to pay their fair share of facility costs.

Mr. McCurdy stated that if only hook-up fees were charged, OWASA would not be able recoup the full cost of facilities such as Cane Creek. Mr. Moreau said availability charges were calculated as a buy-in equity for facilities which had been expanded to accommodate new customers. He also said it was Mr. Epting's legal opinion that these funds could not be used for future expansions. Mr. Moreau said the funds had to be used for the purposes it was collected. He added that the funds could be held for extended periods if a new facility was planned. Mr. Moreau said these funds could be placed in a trust fund. Council Member Andresen said this seemed like a good idea.

Council Member Werner inquired why it was not proper to charge availability fees for expansions to properties. Mr. McCurdy responded that if a property were subdivided, availability fees would be charged. Council Member Werner inquired what would happen if a single-family residence were converted to an apartment building with thirty residents. Council Member Werner noted that his point was the correlation between water usage and property types.

Mr. McCurdy said a fee for a multi-family complex would be charged, reflecting actual or potential usage. He also noted that there was some flexibility in allocating these charges. Mr. McCurdy said availability fees were not a clear-cut science. He also noted that although there was some judgement involved, there was also a logical structure.

Council Member Werner said the question of availability fees should be further pursued. Mayor Broun stated that availability charges as a whole should be examined, especially those for the University. Mayor Broun said the Council needed a report back from OWASA on these matters.

Council Member Rimer said it appeared equitable for the University to help pay for Morgan Creek related infrastructure. Council Member Rimer said the other side of the issue was that some sewer lines existed in residential streets when the University turned them over to OWASA.

Council Member Brown said the University should have an action plan to deal with this matter. She said it was her impression that there was some interest in further examining the matter. Mr.

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McCurdy said the possibility of achieving any progress with the University concerning availability fees was quite low. Mayor Broun said a further exploration and interpretation of availability charges was well worth the Council's time. Mayor Broun said the two main question were reinterpretation and renegotiation of the sales agreement between OWASA and the University.

OWASA Attorney Bob Epting said there was no question on interpretation about availability charges from the University's standpoint. He said the language in the purchase and sales contract was very non-specific. Mr. Epting said the contract was so unwieldy that an interpretation was agreed upon many years ago, whereby availability charges would not be assessed for the main campus. He said that availability charges were charged by OWASA for off-campus hook-ups, based on location of the University's electrical system. Mr. Epting added that the University often contested availability charge and refused to pay some of them. He said a more rational interpretation of availability charges might be considered. Mr. Epting said this would be quite difficult since many of the original participants in the agreement were no longer available.

Council Member Andresen asked whether there was any flexibility in determining costs for individual water and sewer projects. Mr. Epting said yes. Council Member Andresen inquired if there were a means to accomplish this objective. Mr. Epting said this was not possible under the current system since one hundred percent of costs were assessed. Mayor Broun inquired whether Mr. Moreau agreed. Mr. Moreau said no, noting that the sales agreement did not specifically state how these charges were to be levied. He said there had to be a rational basis for charges. Mr. Moreau also said consultants had considerable discretion in which methods were used, how service was defined and how the process was set. He said although there was some flexibility this was a point of disagreement among board members. Mr. Moreau stated that the best way to allocate project costs had been discussed repeatedly, including a per foot charge for extending service into neighborhoods. Mr. Billingsley said he felt the staff and board could analyze this process and suggest a rational method for cost allocations. He said the front footage method could possibly be utilized.

Council Member Werner inquired why a fee for extension could not be determined if the number of linear feet involved was known. He noted that uncertainty could be removed if the customer could be told all costs upfront.

Mayor Broun inquired why simple math could not be applied for a case such as a 140 foot wide property with an estimate of \$45 per linear foot. Mr. Epting said that rational experience could be used to determine a reasonable fee. Mayor Broun asked why simpler cost allocation formulas could not be used. Mr. Mergner said he

felt that this was a more equitable approach. He added that Mr. Epting had indicated that full project costs would be assessed using this method.

Council Member Werner inquired whether it would be possible to set fees if the presence of rock was uncertain. Mr. Moreau said that if an average price was set, OWASA would have to pay rock costs out of other funds. Council Member Werner said this would not violate what would have to be recovered. Mr. Moreau said his interpretation was that OWASA did not have to recover all costs on all projects.

Council Member Capowski said if this method of charging was established for newly developed lots, it should be possible to establish a flat charge for services. He stated although OWASA officials had long cited the need to cover all project costs, this did not appear to necessarily be the case. Mr. Moreau said that the ideal situation was to recover all costs this did not always happen.

Mayor Broun said contingency costs for rock could be excluded from historical analyses. He added that soft and contingency costs could be eliminated from estimated linear foot costs. Mr. Billingsley said he was uncomfortable excluding rock costs and other types of contingency costs. He said it was a rational argument to support this distinction. Mr. Billingsley said the community needed a rational method to understand how OWASA recouped its costs. He also stated that to the extent that rock excavation costs were excluded in one project, it would be offset by another assessment project. Mr. Billingsley said rock excavation costs would be included in the average cost of future projects. Mayor Broun said there appeared to be two ways to deal with this problem, through assessments and by allocating costs to projects. Mr. Billingsley said he was not prepared to agree with this statement.

Council Member Rimer said that OWASA's project costs appeared to include contingencies for rock, but did not include soft costs. He stated that if a \$30 per linear foot value were adopted, some projects might cost \$20 per foot while others cost \$80 per foot. He added that it would be fair to assume that costs would average out over time. Council Member Rimer stated that OWASA should be able to average costs over the past ten years, make an adjustment for inflation and provide this information to homeowners. He noted that this was not the interpretation which had been used in the past. Council Member Rimer said if real project costs were adopted on a per front foot cost, these would be reasonable costs. Council Member Werner inquired why historical costs would be different from actual costs. Council Member Rimer said costs would decline if the cost of rock removal were excluded. He added that an equalization process could be used to determine fair rates. Mayor Broun inquired whether there was consensus to place this approach on a future Council agenda.

OWASA board member Riley Wilson said he wanted the Council to know that they were hearing something new this evening, but his interpretation of the information was that rate setting would be the best way to recapture all construction costs. He said construction costs were rising and new developments might pay less than established neighborhoods.

Mr. Wilson said the community should be open minded in addressing its sewer-related problems. Mr. Wilson said every home in Chapel Hill and Carrboro should have water and sewer service availability. He emphasized the importance of dealing with the seesaw effect of taking from one hand to give to the other.

Council Member Capowski asked Mr. Epting whether the board had instructed OWASA staff to determine a standard rate charge or a method of assessment such as a front footage basis. He also inquired whether Mr. Epting would support this approach. Mr. Epting replied that these approaches were legally permissible. Council Member Capowski asked whether the Town's OWASA representatives would support these approaches. Mr. Wilson replied that he would support this for the entire Town, not just the four neighborhoods under active consideration. Mr. Mergner said he was uncomfortable answering this question. He said this decision would be made by the Board, not by the staff. Mr. Mergner said that more information was needed in order to properly consider this matter. He emphasized the importance of a fair and equitable manner to assess costs. Mr. McCurdy said although he supported the concept there were equity issues which needed to be addressed, such as provision of service to low-income neighborhoods. He stated that OWASA staff had already been instructed to move in this direction.

Council Member Andresen stated that she favored a fifteen percent adjustment to availability fees and charging by the historical average front foot. She expressed hope that the OWASA board would support the adjustment following study of the proposal. Council Member Andresen stated that the proposed adjustment would affect all neighborhoods. She said that if the Council's objective was to see that all Chapel Hill and Carrboro residents received water and sewer service, then reducing the assessment charges would make this objective more financially feasible. Council Member Andresen inquired whether the proposed fifteen percent adjustment would be permanent or temporary. Mr. McCurdy said the adjustment would be permanent, but costs would still be borne by ratepayers. He added that rates would need to be raised about one percent just to pay for this change. Council Member Andresen said she believed that OWASA was obligated to address equity concerns.

Council Member Chilton said that charging on a per foot basis would not change the total cost of sewer service. He stated that the proposal's costs would be averaged out if the total volume of people receiving service were taken into consideration. Council

Member Chilton added that none of the approaches suggested appeared to fundamentally reduce costs charged by OWASA.

Council Member Rimer said that total costs could be spread out over fifteen or twenty projects, rather than three or four, so that costs could be reduced for some customers. Noting that the cost of rock removal was an extraordinary cost, Council Member Rimer said they would be easier to bear if these costs were spread out. He stated that the Board appeared to be in disagreement regarding whether a per front foot cost should be employed. Council Member Rimer said it seemed that OWASA staff felt this was a good idea. He requested that the board endorse the concept.

Mr. Mergner said there were problems with this approach. He stated that the proposal was discussed in detail at the last OWASA board meeting. Mr. Mergner said the board intended to continue these discussions at its next board meeting. Mr. Mergner stated this forum was interesting and provided for many opportunities for discussion but he was concerned that the board was being placed in an uncomfortable position by being asked yes and no questions. Mr. Mergner said he was not willing to answer questions of this type.

Council Member Brown said that at the last meeting of the OWASA board, the board asked the staff to examine various options. Noting the painfulness of the issue for all involved, Council Member Brown asked whether the OWASA board was willing to move swiftly to resolve issues. Mr. Moreau said that the OWASA staff had been instructed to address these issues as soon as possible and to come back with specific proposals and numbers that the board could consider expeditiously, possibly by early fall. Mr. Moreau said his understanding of this year's OWASA budget was that these issues were excluded but could rates could be adjusted accordingly, if necessary. Council Member Werner asked what precluded or enabled rate shifting. He also inquired about the limitations and constraints of assessing charges prior to making a policy decision. Mr. McCurdy stated that all services must be paid for, with no free services.

Mr. Moreau said that OWASA's policies addressed the authority's obligation to providing service at reasonable costs. He added that there was some flexibility in how service was defined such as engineering costs. Mr. Moreau said there was some discretion in redefining the nature of the service. He said this ultimately rested on someone challenging the interpretation. Mr. Moreau noted that there were no state guidelines on rate setting for municipalities. He added there was a general sale agreement, but it did not state a particular method for recovering costs such as including or excluding particular items.

Council Member Werner asked whether a lateral running under Airport Road would be assessed totally to Glen Heights residents or spread out to property owners who would hook up in the future. He also

inquired whether there was any flexibility in how charges were assessed in different neighborhoods. Mr. Moreau said the entire assessment process was designed to retrofit existing areas that might have septic tanks. He said new customers or developers were charged an availability charge.

Council Member Andresen said she wanted the OWASA board to think about lowering the assessment charge by fifteen percent but she was also concerned about how it would affect the rate structure. She inquired whether the adjustment could be made on a one-time basis, using a public health emergency as the basis. Council Member Andresen asked if it would be possible to extend the time to pay availability charges from three years to five years. Mr. Horton stated that it was his understanding that three years were allowed to pay availability charges. He added that OWASA was attempting to identify ways to make payments easier to bear, including possibly extending the time period for payment. Mr. Horton noted that general assessments were spread out over ten years but availability charges were not. Council Member Andresen said it was the Council's goal to lower sewer service costs to homeowners. She inquired whether any consideration had been given to interest rates. Mr. Merger said that six percent was the prevailing rate for OWASA assessments. Council Member Andresen said this seemed high. Mr. Mergner replied that this was OWASA's cost of using funds.

Council Member Andresen stated that sewer service costs were likely imputed in the mortgages of many new homes. She noted that the cost for existing homeowners to tap into sewer service from septic tanks was quite high. Mr. Moreau said that if the provision of sewer service were included in a mortgage, then the homeowner was paying a higher interest rate than an assessment. Council Member Andresen stated that this cost was spread out over thirty years, so it did not carry the same fiscal burden. She said lowering the interest rate was a reasonable option to consider. Council Member Andresen said she was interested in seeing what changes could be made immediately. Mr. McCurdy stated that OWASA staff had already been instructed to pursue many of these ideas. He reminded the Council that if interest rates were lowered, the costs would have to be recovered elsewhere.

Council Member Capowski said OWASA had approximately \$12.3 million in reserves. He asked the OWASA board why some of these funds could not be used to help address current sewer service problems. Mr. McCurdy said the principal reason was that OWASA had approximately \$37 million in pending projects. Council Member Capowski noted that the Town had guidelines for good financial management. He inquired whether OWASA followed similar guidelines. Mr. McCurdy replied yes, adding that OWASA had a number of large expenditures to meet.

Mr. Moreau said if you look at annual expenses of water and sewer providers throughout the nation, fifty percent of their assets are spent on capital projects. He said if OWASA elected a higher level of borrowing to finance the \$37 million in capital expansion, then cash reserves would be reduced. Mr. Moreau said OWASA's five-year plan showed that seventy percent of these costs would be financed with service charges and thirty percent by bonds. He said this meant a certain amount of money would need to be generated annually to pay debt service. Mr. Moreau said constant vigilance was needed to balance OWASA's debt burden and cash reserves.

Council Member Capowski asked whether OWASA could assure the Council that the proper amount of borrowing was occurring. Mr. Mergner stated that the actual cash dollars available for three of the at-risk neighborhoods were available due to OWASA's fiscal responsibility. He said the question of whether OWASA should borrow now or later had been discussed in great detail during the budget deliberations. Mr. Mergner said he personally supported the capital program as presented including borrowing \$11 million over the next two years. Mr. Mergner said he was comfortable with the package being examined this evening.

OWASA board member Eva Metzger said whether cash on hand was used or funds were borrowed made no difference. She said if the projects were undertaken, they would be financed with money in reserve. Council Member Chilton stated that OWASA could not just put money into one project and not do the same for others in the future.

Mr. Moreau said OWASA's cash reserve would drop dramatically when the four neighborhood sewer projects were initiated. He stated that the cash reserve would have to be built back up gradually by creating an income stream to offset costs. Mr. Mergner said that if \$12 million were expended it would ultimately have to be recovered.

Council Member Brown said it was her understanding that costs would be offset by increasing rates. She asked whether OWASA had considered cutting its budget. Mr. Mergner said that creating a workable budget became more difficult each year. He said it was not feasible to reduce rates at this time.

Council Member Andresen stated that an increase was proposed in OWASA's customer relations budget. She said the Council had previously discussed the need for better customer relations by OWASA. Council Member Andresen said she did not think it was appropriate to have a customer relations director at OWASA. Mr. Billingsley stated that customer relations was an all-encompassing category. He said it included billing and collection services. Mr. Billingsley said that the staff size had been constant since 1977. He stated that several years ago the OWASA board decided that some funds should be spent on providing factual information on

water and sewer services and conservation. Mr. Billingsley said that there were only nominal increases in this area in the proposed budget.

Council Member Andresen asked if any new employees were being added in customer relations. Mr. Billingsley said a complaint and special request position was proposed. He noted that there was currently no central area for handling special requests and complaints at present. Council Member Andresen said if the service was not appreciated by the public because they disagreed with expenditures, then the position might not be necessary. Council Member Brown asked the OWASA board to discuss the salary increases proposed for OWASA staff. Mr. Moreau said that there had been efforts made to reduce the operation and maintenance budget to provide a smaller margin of error in budgeting. He said this represented a five percent reduction in the proposed budget and a reduction in the proposed rate increase. Mr. McCurdy said he thought the board might be able to cut the budget another one percent but the budget was very tight.

Council Member Powell said this evening's discussion had been very useful and productive. She also said it was obvious that the OWASA board was attempting to answer the concerns of citizens. Council Member Powell said she was concerned with health hazards and emergencies. Council Member Powell asked how the board saw the health hazard and when something might be done to mitigate the situation. She also inquired whether other areas of the community were experiencing sewer service problems. Council Member Powell asked whether the Board was planning to have a reactive or proactive approach to sewer service problems.

Mr. Wilson said he did not have a concrete answer but staff had indicated to the board that engineering and design work were in process for the neighborhoods experiencing sewer problems. He said the complexity of each project meant that only two or three major projects could be undertaken at any one time. Mr. Wilson said that the Rogerson Drive and Mount Bolus areas were currently being addressed now. He added that OWASA staff was also addressing the maintenance of infrastructure to eliminate infiltration problems. Mr. Wilson said it was not possible to estimate a time line for projects.

Kathryn Kalb stated that design work had begun in the North Forest Hills neighborhood and other areas. She added that the Sherwood Forest and Mount Bolus projects would get underway in the fall.

Council Member Andresen asked whether other systems would have to fail or whether OWASA was attempting to identify possible future problem areas. She inquired which policies OWASA had in place to ensure that the monitoring occurred. Mr. Moreau stated that this was a policy issue which needed to be addressed. He said if a policy was adopted that all areas would be sewered by a particular

date then the capital budget for OWASA would have to reflect this timeframe.

Council Member Rimer stated there might be two sides to consider. He asked whether there was something the Town could do to enhance the desire of people to hook onto OWASA's system. Council Member Rimer said a process could be put in place so that definite costs could be assessed. Mr. Moreau responded that the present policy was cumbersome. He said that only the Orange County Health Department could declare a health hazard. Mr. Moreau said OWASA did not have this authority. He said the options were to provide water and sewer service or to evict citizens from their homes. He said this was a very serious problem which needed to be addressed.

Council Member Werner said the meeting had been very helpful in answering many of the Council's questions. Council Member Werner also said he thought it was fair to say that OWASA had a reputation of being a non-responsive agency. He inquired what the board proposed to do to make OWASA into a more responsive public agency. Mr. Wilson said in his opinion they were fighting a losing battle. He stated that politics, tradition and the concept the community had of OWASA was a negative one. Mr. Wilson said all the board could do was to realize that they should be sensitive to the issues and concerns of the various jurisdictions that they represented and vote accordingly. Mr. Wilson said the viewpoint that OWASA was non-responsive might be predicated on hearsay.

Mr. Wilson said he tried to be sensitive to this and not operate in a vacuum. He said the board as a whole had attempted to address the public relations aspect by expending funds to present OWASA in a better light.

Mr. Mergner said that OWASA staff tried hard to do its job well but they were not succeeding in the public's opinion. He emphasized the need for OWASA to try harder. Mr. Mergner also noted that communication between the OWASA board and Council was sometimes strained. He noted that there had been a very good exchange this evening.

Mr. Mergner asked how the Town would participate in reducing sewer assessments. He inquired whether the Town was willing to assist financially. Council Member Andresen stated that the Town did not handle the provision of water and sewer service. She added that the Town's responsibilities lay elsewhere. Mayor Broun said it was his feeling that having heard OWASA's responses, looking at the issues and the potential ways of reducing costs to homeowners, the Town must also examine ways to participate in the process.

Ms. Metzger asked the Town to consider setting aside funds to help alleviate septic problems which created a health hazard. Mr. Mergner stated that no one wanted to handle a bill of the magnitude being discussed for assessments or sprinklers. He said that OWASA

was a well-run utility, producing a high quality of water and was highly regarded around the state.

Council Member Brown noted that some citizens thought that OWASA would better serve the community as an elected body.

Council Member Andresen asked whether any thought had been given to broadcasting OWASA meetings. Ms. Metzger responded that the cost was prohibitive. Council Member Andresen asked Mr. Horton how much it would cost if OWASA used the Town's facilities. Mr. Horton responded \$175 per meeting.

Council Member Rimer stated it was OWASA's responsibility to look at different ways to approach all of the issues discussed this evening. He said this evening's process had moved matters very significantly in another direction. Council Member Rimer said it might be useful for the board and Council to meet again towards the end of the summer to provide updates on issues.

Mayor Broun noted that sprinklers had not yet been discussed. Council Member Capowski stated that the Council thought OWASA's monthly sprinkler fees were prohibitive. He said sprinkler systems saved lives and property and provided safety to fireman, customers, and neighbors. Council Member Capowski said he wanted to see these fees lowered. He asked the board to respond to these concerns. Mr. Mergner stated that the consensus of the board was that the existing fees were reasonable. He stated that if the fees were reduced they would have to be recovered elsewhere. Mr. Mergner said that a significant portion of these fees would have to be spread out over the entire rate base. Mr. Wilson said although he favored a reduction of sprinkler fees, the reduced fees would have to be recovered elsewhere.

Council Member Capowski asked whether the proposed 1993-94 budget would include a line item to reduce sprinkler fees and increase fees elsewhere. Mr. Moreau said yes. Mr. Moreau said that whatever adjustments were made would be revenue neutral. He said if sprinkler rates were reduced, revenues would be recovered elsewhere.

Council Member Andresen asked for a brief status report on the patent suit, and what funds were being devoted to protecting the patent. Mr. Epting stated that OWASA had put into operation a process which had saved OWASA customers \$1 million per year in operating costs as a direct result of the patent suit which was filed by a complainant and won by OWASA.

Council Member Andresen asked how much the defense of the patent suit had cost. Mr. Epting responded approximately \$2 million, which was not paid by customers of OWASA but from grant funds. He said that \$500,000 was contributed by the State of North Carolina. Mr. Epting said that the grant was predicated on OWASA using the

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funds to defend the patent suit. He said OWASA had been very open with this information. Mr. Billingsley stated that the legal fees were quite high. He also said that special legal counsel had to be retained at a cost of about \$50,000 over a two-year period. He stated that Mr. Epting ultimately won the suit for OWASA. Mr. Billingsley said Mr. Epting had saved OWASA's customers a great deal of money.

Council Member Capowski inquired about Mr. Epting's total legal fees. Mr. Billingsley stated that legal fees to Epting and Hackney had averaged approximately \$60,000 per year for the past five years. He added that OWASA staff had examined reasonable alternatives for legal services. Mr. Billingsley said OWASA had exceptional legal service with Epting and Hackney.

Council Member Capowski inquired what services the \$60,000 fee covered. Mr. Billingsley responded that the fee was a retainer of \$2,000 per month plus expenses. Council Member Werner asked whether there was a document which outlined these figures, wherein customers could determine how much was being spent on various items. Mr. Billingsley stated that OWASA's budget contained a line item to pay general counsel (Mr. Epting) and for special counsel if necessary.

Mr. McCurdy said the line item was for professional services including legal fees. He stated that if no one asked for it to be broken down, they would not know that legal services were included. Council Member Werner said that the budget document should show greater detail.

Council Member Andresen said she would like to see the OWASA board pursue availability fees with the University and have a policy stating that the Council wanted sewer service provided to problem neighborhoods by a certain date.

Mayor Broun said the University's availability charges should be examined carefully. He also emphasized the importance of examining alternative types of assessments such as by linear feet. Mayor Broun requested a response from the OWASA board by the fall. He also said the Council like specific dates for provision of sewer service to problem neighborhoods. Mayor Broun suggested that the Council needed to look at what role the Town would play to assist in solving problems discussed this evening. Mayor Broun said he felt this evening's meeting was a very useful process and hoped there would be similar work sessions in the future.

Council Member Andresen stated that there might be issues which would require that the board and Council work together. Council Member Andresen said she felt that a spirit of cooperation existed for this to take place.

The session concluded at 10:29 p.m.