

**SUMMARY MINUTES OF A BUSINESS MEETING
OF THE CHAPEL HILL TOWN COUNCIL
MONDAY, JANUARY 9, 2012, AT 7:00 PM**

Council Members Present: Mayor Mark Kleinschmidt, Mayor pro tem Ed Harrison, Council Member Donna Bell, Council Member Matt Czajkowski, Council Member Laurin Easthom, Council Member Gene Pease, Council Member Penny Rich, Council Member Lee Storrow, and Council Member Jim Ward.

Staff members present: Town Manager Roger Stancil, Deputy Town Manager Florentine Miller, Town Attorney Ralph Karpinos, Public Information Officer Catherine Lazorko, Mayoral Aide Mark McCurry, Police Chief Chris Blue, Deputy Chief/Fire Marshall Matt Lawrence, Assistant Chief - Police Operations Bob Overton, Captain - Police Investigations Leo Vereen, Planning Director J. B. Culpepper, Revenue Collector Scott Beavers, Principal Planner Kendal Brown, Network/Telecommunication Analyst Arek Kempinski, Senior Police Legal Advisor Tiffanie Sneed, and Communications and Public Affairs Director/Town Clerk Sabrina M. Oliver.

OPENING

Mayor Kleinschmidt opened the meeting and noted several requests for changes to the agenda. After discussion, the Council voted unanimously to move Agenda Item 11 to the end.

PETITIONS FROM THE PUBLIC

1. Petitions from the Public.
 - a. Community Home Trust Regarding Reduced Impact Fees and Request to Amend Affordable Housing Policy.

Robert Dowling, executive director of Community Home Trust, presented two petitions. One asked the Council to support a request to the county commissioners and the other requested the elimination a specific requirement. The Council voted unanimously to receive and refer both petitions.

COUNCIL MEMBER GENE PEASE MOVED, SECONDED BY COUNCIL MEMBER LEE STORROW, TO RECEIVE AND REFER . THE MOTION WAS ADOPTED UNANIMOUSLY (9-0) .

- b. Resolution to Amend the Federal Constitution to Clarify that Corporations are not People and Money is Not Speech.

Don Francisco, whose northern property line is on the southern border of Chapel Hill, asked for a resolution to amend the U. S. Constitution. He said that "Move to Amend" had been formed in response to a Citizens United v. Federal Election Commission court ruling by the U. S. Supreme Court of January 21, 2010. This ruling could be overturned by the proposed amendment, Mr. Francisco explained.

Steve Peterson, a Chapel Hill resident, discussed the effects of special interests driving politics at all levels of government. He explained that the Supreme Court had held that money

was essentially the same as free speech and that corporations had the same constitutional rights as people. This decision rolled years back of campaign reforms and paved the way for large corporations and wealthy individuals to buy elections and influence, Mr. Peterson said. He said that versions of the amendment were moving through Congress and that many cities had supported it.

COUNCIL MEMBER LAURIN EASTHOM MOVED, SECONDED BY COUNCIL MEMBER PENNY RICH, TO ADOPT THE RESOLUTION. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0) .

Resolution to Amend the Federal Constitution to Clarify that Corporations are not People and Money is not Speech (PDF)

ANNOUNCEMENTS BY COUNCIL MEMBERS

Mayor Kleinschmidt announced that an "un-conference," called Innovate 2020, would be held at Hamilton Hall on the University of North Carolina at Chapel Hill (UNC) campus on January 20, 2012. He encouraged citizens to sign up early and to become involved in other "Chapel Hill 2020" events as well.

Mayor Kleinschmidt noted that the Town was beginning to appoint people to Town boards and commissions. He encouraged citizens to apply, either on-line or by filling out a paper application.

CONSENT

Mayor Kleinschmidt said two items #6 and #7 were pulled for discussion.

6. Amend Chapter 12 of the Town Code, Hours of Operation for Town Parks. (O-3)

Council Member Easthom clarified with Town Manager Roger Stancil that this amendment would allow the Town to set hours based on daylight or use of the property. It should not be compared to a program change, Mr. Stancil said.

Council Member Czajkowski expressed concern about possible citizen reaction to hours suddenly being changed. Mr. Stancil agreed to bring any proposed changes before the Council as an Information Item.

7. Amend the Council's 2011-2012 Meeting Calendar. (R-6)

Mayor pro tem Harrison pointed out that this joint meeting of elected officials on January 26, 2012, at 7:00 p.m. had been scheduled for the same time as the UNC and NC State basketball game. It apparently was the only time that all four boards could get together, he said.

Mayor pro tem Harrison asked Mr. Stancil and Council Member Ward to update the Council on the "potentially large issue." Mr. Stancil referred the Council to an agenda item for January 23 which would update them on everything the staff had done and would give them an opportunity to discuss that meeting before January 26. Council Member Ward, the Town's representative on the Solid Waste Advisory Board, said that the meeting would include discussions about alternative technologies.

2. Approve all Consent Agenda Items. (R-1)

COUNCIL MEMBER MATT CZAJKOWSKI MOVED, SECONDED BY COUNCIL MEMBER JIM WARD, TO ADOPT R-1. THE MOTION WAS ADOPTED UNANIMOUSLY (8-0) .

A RESOLUTION ADOPTING VARIOUS RESOLUTIONS AND ENACTING VARIOUS ORDINANCES (2012-01-09/R-1).

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF THE EDWARD BYRNE MEMORIAL JUSTICE GRANT FUNDS (2012-01-09/R-2).

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF THE E-NC AUTHORITY (RURAL ECONOMIC DEVELOPMENT CENTER) GRANT FUNDS (2012-01-09/R-3).

A RESOLUTION AUTHORIZING THE CHAPEL HILL TOWN MANAGER TO RECEIVE AND APPROPRIATE FUNDS TO PURCHASE EQUIPMENT FOR THE CHAPEL HILL PUBLIC LIBRARY (2012-01-09/R-4).

AN ORDINANCE TO AMEND “THE ORDINANCE CONCERNING APPROPRIATIONS AND THE RAISING OF REVENUE FOR THE FISCAL YEAR BEGINNING JULY 1, 2011 (2012-01-09/O-1).

AN ORDINANCE TO AMEND THE CAPITAL PROJECTS ORDINANCE FOR VARIOUS CAPITAL PROJECTS (2012-01-09/O-2).

A RESOLUTION AUTHORIZING THE MANAGER TO APPLY FOR A PARKS AND RECREATION TRUST FUND GRANT FOR CEDAR FALLS PARK (2012-01-09/R-5).

AN ORDINANCE REVISING ARTICLE I OF CHAPTER 12 OF THE CHAPEL HILL TOWN CODE MAKING MODIFICATIONS AND ADDITIONS TO THE REGULATIONS THAT GOVERN TOWN PARKS (2012-01-09/O-3).

A RESOLUTION AMENDING THE COUNCIL’S 2011-2012 MEETING CALENDAR (2012-01-09/R-6).

A RESOLUTION NOMINATING APPLICANTS TO VARIOUS BOARDS AND COMMITTEES (2012-01-09-/R-7).

A RESOLUTION TO ADOPT SUMMARY MINUTES OF COUNCIL MEETINGS (2012-01-09/R-8).

INFORMATION

10. Receive Information Regarding the 2012 Human Services Needs Report.

The report was accepted as presented.

DISCUSSION

12. Consideration of Northside and Pine Knolls Community Plan and Proposed Amendments to the Northside and Pine Knolls Neighborhood Conservation Districts. R-9,R-10,R-11,O-4,O-5,O-6

Mr. Stancil introduced the item and noted the key issues for Council consideration: enforcement, funding, effective zoning tools, additional

review, and effective dates. He stressed the importance of being able to enforce whatever the Council adopted. Mr. Stancil pointed out that adopting the Community Plan would not commit funding for any of the items in it, but would indicate support for those projects in future budgets.

With regard to effective zoning tools, Mr. Stancil said that a neighborhood conservation district (NCD) might not be the most effective approach and that he did not want to raise hopes without having the ability to enforce it. He recommended looking at other mechanisms, and ways of thinking about zoning, that might accomplish the same goal with a tool that can be better enforced.

Mr. Stancil proposed that the Council consider a new type of special use permit (SUP), which would have the Planning Board acting as a board of adjustment. He said that most of the new ordinances would be effective February 1, 2012, but the regulation limiting the number of parking vehicles on a zoning lot would not go into effect until September 1, 2012, in accordance with the academic year.

Housing and Neighborhood Services Manager Loryn Clark gave a PowerPoint presentation, providing background on the Northside and Pine Knolls development moratorium, the partnership with the Saving Ourselves (SOS) Coalition, and the process of developing a Community Plan. She said that the Plan included the following key themes: affordable housing, cultural preservation, enforcement, education and outreach, parking, and zoning.

Ms. Clark highlighted actions that had been taken during the moratorium period and said that staff would provide periodic updates over the next 12 months and return in January 2013 with a comprehensive evaluation of the plan. She reviewed the proposed zoning regulation amendments, outlined recommendations from the community that had not been included in the Plan, and recommended that the Council adopt the attached ordinances and resolutions.

Mayor Kleinschmidt clarified with Ms. Clark that there was an option in the resolution that would allow eight, rather than six, vehicles per lot for duplexes and triplexes, and language that could be inserted to make that change.

Council Member Rich asked about University involvement and Ms. Clark replied that UNC had been partners from the start. Council Member Rich confirmed with Ms. Clark that sharing enforcement had not been discussed with UNC.

Mr. Stancil stated that UNC was very interested in working with the Town regarding student housing. He said he believed that commitment would grow and that UNC would be real partners in addressing issues at Northside and thinking about student housing in a different way.

Mayor pro tem Harrison asked Mr. Stancil if he could see any fiscal benefits to the Town from increased cooperation with UNC. Mr. Stancil replied that the subject of funding had not been broached. Mayor pro tem Harrison noted that the Planning Board had recommended looking for funding through channels other than the Town.

Council Member Easthom expressed support for allowing up to eight vehicles for duplexes and triplexes. She pointed out that a section of one street in Pine Knolls was all duplexes with no real yards. Allowing eight vehicles to park there would be okay, Council Member Easthom said.

Estelle Mabry, a Northside resident, argued against allowing eight vehicles to park anywhere

in the two neighborhoods, noting that doing so leads to too much traffic on the narrow streets. Moreover, a house next to hers had six cars in its backyard. It is not in the front, but when she sits out behind her house she looks at a "used car lot," she said. Ms. Mabry took issue with the notion that every single student in Northside needed to have a car. She asked the Council to think carefully about all of that traffic, pollution and noise.

Ms. Mabry also expressed concern about tear-downs, stressing the importance of having the houses that replace them look like others in the neighborhood. She emphasized the importance of maintaining the neighborhood character.

Hudson Vaughan, associated director at the Jackson Center, gave a PowerPoint presentation, explaining that SOS had laid out seven priorities and a suggested time-line for implementation. He noted the need for further Council support along the way. Mr. Vaughan showed slides of recent developments and parking situations that illustrated the reason for the proposed regulations. He reviewed the main elements and recommendations in the proposed Community Plan and expressed enthusiasm for the SOS Coalition's proposals and accomplishments.

Regina Merritt, a Chapel Hill resident, said that Carrboro had originally been an African-American community. She was in favor of change, she said, but not when it hurts people who are in a position where they cannot do anything about it. Ms. Merritt thanked everyone, especially the Jackson Center, for their hard work and support and asked that it continue. She said that she had recently heard someone say that there were no black people in Chapel Hill. Ms. Merritt told Council members that she had felt hurt by that comment and she objected to people being pushed out of a city that they had made. She asked the Council to vote for the Community Plan.

Miriam Thompson, representing the Carrboro-Chapel Hill NAACP and the Triangle Women's International League for Peace and Freedom, expressed support for the work that had been done. She mentioned an increase in property values and taxes over the last 10 years and said that that had largely been due to the student rental market. Family occupancy in the neighborhoods had fallen to about 50 percent, Ms. Thompson said, and she urged the Council to honor the priorities set forth in the Community Plan.

Delores Bailey, executive director of EmPowerment Inc., expressed pride in being part of the SOS Coalition. She thanked the Council for approving the moratorium and for its commitment to the task, and she also thanked the Town staff for all their hard work. Ms. Bailey encouraged the Council to be part of the rehabilitation and preservation plan and she asked for more time to figure out where the funding for that would come from.

Janet Smith, representing Neighbors for Responsible Growth, asked the Council to not support additional parking spaces. Over the years, the Council had pushed hard against having spaces for every person at a development, she pointed out, stressing that there was no need to have parking for every person who lives within a one-mile radius of downtown Chapel Hill either. If students must have a car, then they could rent apartments at the larger complexes farther from the downtown, she said. Ms. Smith urged the Council to take a hard stand on limiting parking spaces in Northside and Pine Knolls, and to use that as a precedent for other neighborhoods.

Alexander Stevens, associate director at the Jackson Center, stressed the importance of looking at the parking issues and said that the comprehensive parking study would be very important. He argued that having eight cars on a lot would put the area over capacity. Mr. Stevens said that it was not necessary for every resident in every house to have his/her own car in a neighborhood that was adjacent to downtown. He pointed out that this issue was

relevant to the future of Chapel Hill as a whole.

Council Member Bell asked Ms. Clark how four cars per lot would be enforced. Ms. Clark replied that only four cars would be permitted, regardless of whose they were. The details of enforcement had not been worked out, but it would be as straightforward and simple as possible, she said. Ms. Clark noted that the Plan did not currently propose on-street parking regulations. She said that changes could be made after the parking study had been complete.

Council Member Bell expressed concern that people who were currently parking in lots would begin parking on the street. She asked the staff to bring back more information about how to address that issue.

Council Member Rich verified with Ms. Clark that up to five permits were currently allowed each house and that a resident needed to present documentation regarding the number of people living at the property. She characterized that as a problem, and Ms. Clark replied that this was one of the issues that staff knew needed to be addressed. Council Member Rich asked staff to bring back information on whether or not five permits were allowed throughout Town. She proposed that two permits would be reasonable.

Council Member Pease said he was ready to move forward with the resolution. How the Town would pay for enforcement probably would surface heavily in budget conversations, he said.

Council Member Czajkowski asked Planning Director J. B. Culpepper if she had provided a list of people who had submitted proposals prior to the first discussion of the moratorium, as he had requested. He noted that some had come before the Council and asked for approval under the current regulations. Do we change the rules on someone after they have bought a property and have submitted a proposal in good faith, he asked. Council Member Czajkowski said he wanted to make sure that the Council understood how many property owners that would affect.

Ms. Culpepper replied that staff had provided detailed information about applications that appeared to be in process when the Council called the public hearing in June.

Mayor Kleinschmidt pointed out that there had been discussions about possibly grandfathering some applications. Some had asked if student rentals could be treated differently from long-term ownership, and the answer was that they could not, he said. Mayor Kleinschmidt asked if that had informed the response to Council Member Czajkowski's question. Ms. Culpepper replied that it was helpful for the Council to understand that the Town could not distinguish between investor properties and homeowners.

Town Attorney Ralph Karpinos said that the Town could set an effective date for the ordinance and tie that to the status of a project on a particular date. The effective date might be backdated to the start of the process several months ago, he said.

Mayor Kleinschmidt recalled that the request had come from people who owned properties in the neighborhood and that there had not been Council support for pursuing it.

Council Member Czajkowski said that when the Town passes an ordinance that affects people who have property and a pending application, then the Council should be informed about how many people were being affected. The Town would be changing the rules in the middle of the game, he said.

Mayor Kleinschmidt replied that he had been conscious of that as a possible impact of the moratorium itself. The Council taking that action at that time was a statement that it was prepared to do so in that instance with Northside, he said.

Council Member Ward asked how fines would be applied and if anything had been done to address occupants "gaming the system" by having a different person come to the door each time an inspector brought a violation. Ms. Clark replied that staff had been looking at shortening the violation period and the number of notices and was trying to make those changes along the way. A graduated fine system and increased enforcement were two of the key components of the plan, she said.

Council Member Ward said he supported shortening the time-frame for response and making the number of warnings as few as was reasonable. He would like the fine to be directed to the property manager, he said, since that would facilitate compliance better than sending it to the renter or property owner. The property manager would use his/her leverage to get compliance, Council Member Ward said.

With regard to a partnership with UNC, Council Member Ward noted that getting information regarding what students were living in the apartments would help. It made sense to involve the Town Fire and Police Departments with enforcement, he said, adding that he looked forward to setting the Community Plan in motion.

Council Member Storrow verified with Mr. Stancil that voting for the Plan tonight would not give the Planning Board quasi-judicial authority to review future developments in Northside. He said he wanted to discuss that further, noting that some long-term Northside residents would be impacted by the restrictions. Council Member Storrow said that not working to educate landlords, students and UNC before school resumed in the fall would be a missed opportunity to enforce the laws.

Council Member Czajkowski pointed out that there was an answer to his earlier question in the Council's packet. He pointed out that three applications had been submitted after May 23, which was prior to the moratorium's adoption on June 21. Council Member Czajkowski suggested that the Council give some consideration to grandfathering those permits.

Showchien Hsieh, a Northside property owner, said that hers was one of three applications submitted to the Planning Department before the moratorium was adopted. She and Whitney Long had invested a great deal of time and resources into making their decision, which had been based on zoning and building guidelines at that time, she said. Ms. Hsieh argued that changing the rules midstream would be unfair and punitive to citizens who had already made substantial investments. She asked the Council to allow her and Ms. Long to proceed with their projects under the current NCD planning covenants.

Council Member Rich commented that the reason for the change was that builders had figured out ways to get around the Northside NCD and were not playing fairly. She expressed regret that Ms. Hsieh had been caught in the gap but said she did not think there should be a grandfather clause.

Council Member Bell asked Ms. Hsieh how the changes would impact her ability to move forward with her project. Ms. Hsieh replied that the new rules had some guidelines about building height and square footage as well as an additional review process. She and Ms. Long had already devoted much time and effort and the guidelines would restrict what they had originally planned to do, she said.

Council Member Bell asked Ms. Hsieh what her original plan had been, and Ms. Hsieh replied

that her project involved a lot of repairs and renovations and that the proposed guidelines would restrict the second floor because there would not be adequate ceiling heights to meet current building codes.

Council Member Bell said that the staff report had stated that some would be impacted by this and that the variance process would be through the Board of Adjustment. She said that people needed to be educated about that process as part of the Northside moratorium.

A variance would provide an option for residents who were really trying to make their homes livable within the new rules, Council Member Bell said. She told Ms. Hsieh that staff would be willing to work with her if the project was her home that she was planning to live in.

Ms. Hsieh said she would do as suggested. If it seemed punitive, then she would come before the Council again, she said.

Council Member Czajkowski remarked that a major part of the reason that the Council was about to pass the Plan tonight was that developers had figured out how to game the system. Website after website was advertising six-bedroom houses in Northside, he said, but added that he had no evidence that Ms. Hsieh or Ms. Long were trying to game the system. If the Council was willing to change the rules retrospectively then that would set a precedent that could cause concern, Council Member Czajkowski pointed out.

Mayor pro tem Harrison said that he and other Council members had voted nine years ago on the entire Land Use Management Ordinance, which had been effective the next morning. It happens all of the time, and all over the place, that land use regulations get changed and people get caught in "mid-flight," he said. He pointed out that the Council could, however, change the effective date slightly.

Mr. Karpinos agreed that the effective date for the status of an application was within the Council's discretion. These three applications had apparently been submitted before the moratorium's adoption in June 2011, he said, so it was not known whether they were acceptable or approvable under the existing NCD rules at the time. Mr. Karpinos said that the applicants had no legal entitlement to permits from the Planning Department and were subject, as anyone else would be, to the possibility that an ordinance would be changed prior to their receiving a building permit.

Mr. Karpinos pointed out that the Council could establish that the ordinance would not apply to applications submitted prior to the moratorium's adoption. There would be people who would argue that they had been ready but were not allowed to submit applications between May of 2011 and today because of the moratorium, he said. Mr. Karpinos noted that the Council would have such arguments every time it changed an ordinance, however. It was up to the Council to set an effective date and decide what it would apply to, he said.

Hudson Vaughan stated that one of the applications in question was for a 2,000 square-foot house on Sunset, just like the other three that had just been built. He said that Ms. Hsieh had gone ahead with her additions and had her house condemned with five students living in it. The students had been evicted and she had gone ahead with the changes even though it was during the moratorium and violated the process, he said. Mr. Vaughan said that he wanted the Council to be aware of the nature of these violations. This was why Saving Ourselves Coalition (SOS) had asked for a retrospective date for the moratorium, he said.

COUNCIL MEMBER JIM WARD MOVED, SECONDED BY COUNCIL MEMBER GENE PEASE, TO ADOPT R-9. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0) .

A RESOLUTION ADOPTING THE NORTHSIDE AND PINE KNOLLS COMMUNITY PLAN (2012-01-09/R-9)

MAYOR PRO TEM ED HARRISON MOVED, SECONDED BY COUNCIL MEMBER GENE PEASE, TO ADOPT R-10. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

A RESOLUTION AMENDING THE FEE SCHEDULE FOR DEVELOPMENT REVIEW FEES TO ADD ZONING COMPLIANCE PERMIT AND SITE PLAN FEES (2012-01-09/R-10)

COUNCIL MEMBER JIM WARD MOVED, SECONDED BY COUNCIL MEMBER GENE PEASE, TO ADOPT R-11. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

A RESOLUTION INITIATING THE TEXT AMENDMENT PROCESS TO AUTHORIZE THE PLANNING BOARD TO REVIEW SPECIAL USE PERMITS FOR SINGLE-FAMILY DEVELOPMENT IN THE NORTHSIDE AND PINE KNOLLS NEIGHBORHOOD CONSERVATION DISTRICTS (2012-01-09/R-11)

COUNCIL MEMBER JIM WARD MOVED, SECONDED BY COUNCIL MEMBER MATT CZAJKOWSKI, TO ENACT O-4. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

AN ORDINANCE AMENDING THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE NEIGHBORHOOD CONSERVATION DISTRICT -1 (CD-1) ZONING OVERLAY TO FURTHER MAINTAIN THE CHARACTER OF THE NORTHSIDE NEIGHBORHOOD (2012-01-09/O-4)

COUNCIL MEMBER JIM WARD MOVED, SECONDED BY COUNCIL MEMBER MATT CZAJKOWSKI, TO ENACT O-5. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

AN ORDINANCE AMENDING THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE NEIGHBORHOOD CONSERVATION DISTRICT -4 (CD-4) ZONING OVERLAY TO FURTHER MAINTAIN THE CHARACTER OF THE PINE KNOLLS NEIGHBORHOOD (2012-01-09/O-5)

COUNCIL MEMBER JIM WARD MOVED, SECONDED BY COUNCIL MEMBER PENNY RICH, TO ENACT O-6. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

AN ORDINANCE AMENDING THE LAND USE MANAGEMENT ORDINANCE VARIANCE PROVISIONS FOR HOUSE SIZE (2012-01-09/O-6)

Mayor Kleinschmidt thanked the Town staff and the community, stating that it had been an extraordinary effort by the entire Town.

13. Consider Agreement with Orange County Regarding Library Funding (R-12)(O-7)

Mr. Stancil introduced the item and explained that the agreement would increase Orange County's level of funding for the Chapel Hill Public Library to \$342,986 in the current fiscal year and would provide for a 3 percent increase each year for the duration of the agreement. In 2015, the county's contribution would be more than \$500,000, Mr. Stancil said.

Council Member Pease explained that this was the best arrangement that he, Mayor Kleinschmidt, and former Council Member Greene could form with the county commissioners under the current economy. He had hoped for more, but quite a bit of trust had been developed between the negotiating parties and it was in the best interest of both to work together on this and to have free library services continue for the county, he said.

Mayor Kleinschmidt pointed out that 21 cents of every Orange County dollar that went to libraries currently went to Chapel Hill. This agreement would increase that to 30 cents of every dollar, which was a significant step forward, he said. Mayor Kleinschmidt pointed out that the agreement also contemplated continued re-evaluation as the economy improved. He expressed said he believed that both parties had negotiated in good faith.

Council Member Rich expressed concern about who would cover the cost of "interoperability." She asked if that would fall under "operational cost" and how it would be worked out. Mayor Kleinschmidt replied that the agreement did not compel interoperability but did contemplate the two staffs working on what such a program might look like and what it would cost.

Council Member Pease added that the county commissioners were requiring interoperability and had stated several times that the county would pay the full cost. That had not been negotiated and was not in writing because there were still so many unknowns, he said. Council Member Pease noted that the Council would have an opportunity to approve that, or not, in the end.

Council Member Ward noted that the amount coming to the Town would be tied to what the county decided to spend on overall library services. If commissioners did not increase that funding, then the Town would not receive more, and that bothered him, he said. He suggested that the amount be pledged in hard numbers rather than percentages.

Mayor Kleinschmidt replied that the Town team had expressed similar concerns during negotiations and the commissioners had replied that they were not in a position to make commitments to a future Chapel Hill Town Council. He felt confident that it was the county's intention to increase the amount as detailed, he said, and he pointed out that Part 7 of the agreement would allow the Council to unilaterally withdraw from the agreement if it did not feel it was still in good faith.

Council Member Pease told Council Member Ward that the Town's negotiating team had pushed hard on that issue, but did not get what they wanted. He too was a bit skeptical, but was taking the agreement at face value, he said. Council Member Pease added that he believed that library services was a higher priority for the county than it had been and that commissioners expected to have some increases in their budget.

Council Member Ward suggested adding a stipulation regarding verification of the funding level, just as the county had done by asking for verification of how the Town used county funds. He described the document language as "one-sided" and a "consistent snub of the service that Chapel Hill provides Orange County."

Council Member Ward mentioned that the Town was poised to hire a consultant and told Mr. Stancil that he thought interoperability should be part of that and that Orange County should participate in funding the consultant. He verified with Mr. Karpinos that all county funding would be documented.

Council Member Easthom asked Mr. Stancil to define "interoperability" and explain how it would benefit the citizens of Chapel Hill. Mr. Stancil replied that interoperability

would facilitate use of the library collection by everyone. Council Member Easthom said that she had two issues with that: the Council would be approving a financial agreement without having any idea how it would actually affect the Town and that is not spelled-out in the document; and, there would be an indirect effect on the citizens of Chapel Hill when they want to check out a book and find that it has been shipped to Hillsborough.

Mr. Stancil replied that by adopting the agreement the Council would be directing him to talk with the county manager and develop that information to bring back to the Council. He clarified that the proposal tonight did not include entering into an interoperability situation with the county library.

Council Member Easthom replied that she had thought that was one of the things the county was requiring. Mayor Kleinschmidt replied that it had been, and the Town had worked hard to take it off the table and had not committed itself to any interoperability plan. All that remained in the agreement was that the two managers would talk with each other to clarify what interoperability might look like. It would not take effect until such a program came before the Council and the Council approved it, Mayor Kleinschmidt said.

Council Member Easthom asked if the Town would still receive county funding if it did not agree to an interoperability arrangement. Council Member Pease replied that it may or may not. The Council would ultimately make a decision on whether or not it wanted interoperability, and then the County would decide if they wanted to proceed, he said.

Council Member Easthom asked how the interoperability idea had been introduced. Council Member Pease replied that it had been on the county's list of demands. Council Member Easthom clarified that the total operating budget for the expanded library would be \$2.6 -3 million. In the best case scenario, the county would be increasing its share of that from 11 percent to 18 percent, she said, adding that this agreement would mean the Town would be subsidizing library use for the 40 percent who do not live in Chapel Hill.

Council Member Czajkowski characterized the agreement as a "lousy deal" for the Town. Based on Mr. Stancil's number of \$3 million for running the expanded library at prior service levels, the \$342,000 that the county was proposing to give would be 11 percent, which was precisely where it was before, he said. Moreover, the county increasing its contribution by 3 percent as its costs increase would put the Town further in the hole because Town costs would be increasing as well and the county's contribution could become only 8 or 9 percent.

Council Member Czajkowski advised the Council to vote against the agreement and he argued in favor of having non-Chapel Hill residents pay for library use. Now was the time to make that transition, before the new public library opened, he said.

COUNCIL MEMBER JIM WARD MOVED, SECONDED BY COUNCIL MEMBER GENE PEASE, TO ADOPT R-12 . THE MOTION WAS ADOPTED BY A VOTE OF 6-3, WITH MAYOR MARK KLEINSCHMIDT, MAYOR PRO TEM ED HARRISON, COUNCIL MEMBER GENE PEASE, COUNCIL MEMBER PENNY RICH, COUNCIL MEMBER LEE STORROW, AND COUNCIL MEMBER JIM WARD VOTING AYE AND WITH COUNCIL MEMBER DONNA BELL, COUNCIL MEMBER MATT CZAJKOWSKI, AND COUNCIL MEMBER LAURIN EASTHOM VOTING NAY .

A RESOLUTION APPROVING AN AGREEMENT WITH ORANGE COUNTY REGARDING COUNTY FUNDING FOR OPERATION OF THE TOWN OF CHAPEL HILL PUBLIC LIBRARY (2012-01-09/R-12).

COUNCIL MEMBER JIM WARD MOVED, SECONDED BY COUNCIL MEMBER PENNY RICH, TO ENACT O-7. THE MOTION WAS ADOPTED BY A VOTE OF 7-2, WITH MAYOR MARK KLEINSCHMIDT, MAYOR PRO TEM ED HARRISON, COUNCIL MEMBER DONNA BELL, COUNCIL MEMBER GENE PEASE, COUNCIL MEMBER PENNY RICH, COUNCIL MEMBER LEE STORROW, AND COUNCIL MEMBER JIM WARD VOTING AYE AND WITH COUNCIL MEMBER MATT CZAJKOWSKI, AND COUNCIL MEMBER LAURIN EASTHOM VOTING NAY .

AN ORDINANCE TO AMEND “THE ORDINANCE CONCERNING APPROPRIATIONS AND THE RAISING OF REVENUE FOR THE FISCAL YEAR BEGINNING JULY 1, 2011 (2012-01-09/O-7).

14. Consider Application for Rezoning - Chapel of the Cross, 304 East Franklin Street. (O-8).(R-13) and 15. Consider Application for Special Use Permit - Chapel of the Cross, 304 East Franklin Street. (R-14)(R-15).

Kendal Brown, Principal Planner, introduced the continuation of a public hearing for a SUP and rezoning. She noted a change to the one-space, indoor parking requirement (stipulation 9 in R-A). The staff recommendation was for approval of the rezoning request and the SUP, said Ms. Brown.

Tony Whitaker, representing the applicant, pointed out that there was no explicit requirement for class one bicycle spaces at places of worship. Chapel of the Cross had not been able to find an appropriate location for that space within its building, he said. Mr. Whitaker noted that the applicant had proposed four additional Class 2 spaces outside, in lieu of the one inside space.

Council Member Ward asked for clarification of how a path along the Coker Arboretum would run. Alan Rimer, representing the applicant, showed drawings of the proposed plaza, including a sidewalk, stairs and patio. Council Member Ward wondered if the public would feel welcome to use that as an entrance to Franklin Street and Mr. Rimer replied that he could not imagine that they would not. Council Member Ward expressed concern that it would feel too private. Mr. Rimer replied that a welcoming sign could be placed there and Council Member Ward asked that such a stipulation be added.

Council Member Ward expressed disappointment over the applicant not seeing the value in providing an indoor bicycle space. Mr. Rimer noted that the church's current bike ridership was only five or six people and he showed on the plans that there was no place to put a bike rack inside the church. Council Member Ward suggested perhaps extending a roof on an outside shed to provide a bike shelter. Mr. Rimer agreed to discuss that with the architect.

MAYOR MARK KLEINSCHMIDT MOVED, SECONDED BY MAYOR PRO TEM ED HARRISON, TO ENACT O-8. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0) .

AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ATLAS FOR THE CHAPEL OF THE CROSS (Orange County Parcel Identifier Number 9788-57-0788).(2012-01-09/O-8)

COUNCIL MEMBER PENNY RICH MOVED, SECONDED BY COUNCIL MEMBER LEE STORROW, TO ADOPT R-14. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0) .

A RESOLUTION APPROVING AN APPLICATION FOR A SPECIAL USE PERMIT FOR THE CHAPEL OF THE CROSS (FILE NO. 9788-57-0788) (2012-01-09/R-14)

RESERVED FOR DISCUSSION OF CONSENT AGENDA ITEMS IF NECESSARY

11. Response to Petition Regarding the Appointment of an Independent Review Commission.

Mr. Stancil noted that the Town had received a petition asking for an independent review of the Chapel Hill Police Department's (CHPD) actions at the Yates Motor Company building on November 12-13, 2011 in downtown Chapel Hill. He said that the Council had referred that to him, Mr. Karpinos and Police Chief Chris Blue said that their full report was on the Town website. Mr. Stancil said that the Town was committed to learning from this experience as it continued to develop and implement its community policing model.

Chief Blue gave his review of the incident and said that he had learned a great deal about what had been done well and what could be improved in the future. He said that police officers had performed the tasks that had been assigned to them very well. He said he had learned how important it was, particularly in an incident such as this, to be sure that all stakeholders were operating from the same set of facts. Knowing that would not have changed the circumstances, but it would have provided information about the bigger picture surrounding the incident, Chief Blue said.

Chief Blue acknowledged that some areas could be improved, adding that the Police Department had developed a policy that would help avoid encounters such as detaining members of the press in the future. The next steps would be to work with the Town's Community Policing Advisory Committee (CPAC) and continue the conversation about the community's expectations for the CHPD, he said. Chief Blue stated that he would continue building relationships with area media organizations and continue working with the Town Manager to examine and enhance decision-making protocols. He was committed to applying the lessons learned, said Chief Blue.

Mr. Stancil recommended that the Council receive and refer the report and all of its attachments to the CPAC for a report back at the March 26, 2012 Council meeting.

Jon Paul McClellan, a Chapel Hill resident, stated that the Town Police Department was one of the best in the nation. However, the things that occurred at the Yates building were not a fine example of that stellar record, he said. Mr. McClellan stated that protesters had been participating in an act of civil disobedience with the intention of changing what appeared to some to be a continuing erosion of economic and human justice in the United States.

Mr. McClellan said he did not think people understood how dangerous it was for the Police Department to confront protesters with loaded combat weapons. He recommended that the Town carefully examine what happened and suggested that the U.S. was sliding toward authoritarian rule. The response from the CHPD was disproportionate to the actual threat, Mr. McClellan said. He asked the Council to appoint an independent commission to look into every aspect of the incident.

Harold Horne, a Chapel Hill resident and former member of the CHPD, expressed appreciation for the tough job that police officers do and said that Chief Blue had drawn a bad hand that day. He said that civil disobedience does not allow people to occupy someone else's property. Mr. Horne commended Chief Blue for the good job he had done and said that the Police Department would learn from this experience and do a better job next time.

Charles Carver, a long-time Chapel Hill resident with a son-in-law on the Town Police Department, said he had been quite disturbed when he heard that people on Franklin Street had been screaming, "kill the police!" He thanked the CHPD and the Town Manager for their work, which helps to make Chapel Hill a wonderful place for all.

Amanda Ashley, a Chapel Hill resident, said that the Town should explain why there was such a rush to judgment to put people's lives in danger "over a rotten building...that had been thrown away since the moment [the owner] bought it." She said she had read the Manager's report and all of its amendments and thought that it left many questions. Ms. Ashley said that errors had been made somewhere along the way and that the internal report had done a disservice by pretending that nothing went wrong. She hoped that the CPAC would take the right steps to discover the details and would call for an independent review, Ms. Ashley said.

Alex Kotch, a Chapel Hill resident, expressed concern about an increased militarization of police and police brutality and excessive uses of force against protesters since the terrorist attacks on the U. S. He criticized the Manager's review, stating that it applauded the police for not killing anyone. What if someone had reached for a cell phone and/or fought back, asked Mr. Kotch. "Would one of those many assault rifles have been fired?" He expressed full support for the CPAC review, but said it would not regain political credibility or the trust that many citizens had lost. There should be an independent investigation, said Mr. Kotch.

Gary Kahn, a Chapel Hill resident, expressed disagreement with the Manager's report and said he thought the police actions had not been called for. He agreed with others who had called for an independent investigation.

Barry Freeman, citizen, said that after reading the Manager's report the following questions remained: Why do local police need military assault weapons to do their job? Is it expected that police will use these deadly weapons on local citizens? If not, then why do they have them? If there are armed terrorists in our midst, is that not a job for the National Guard?

Mr. Freeman stated that having assault weapons lead to a natural temptation to use them. He pointed out that the Town was fortunate that those weapons were not fired in the Yates case and said that the Town might not be so lucky next time. Mr. Freeman stated that the distribution of such weapons nationally had the effect of suppressing dissent and had moved the U.S. a step closer to being a police state. If Chapel Hill did not want to be part of that suppression, then it was time for the Council to order the police to pack up the weapons and send them back to where they came from, Mr. Freeman said. He stated that doing so would be in keeping with the true spirit, historic reputation and values of Chapel Hill.

Ruth Zalph, a Chapel Hill resident, said that the 33 members of Elders for Peace felt that what had happened at the Yates building was an overreaction to a peaceful, non-violent demonstration. Elders for Peace had endorsed the resolution by Barry Freeman regarding the militarization of the Chapel Hill police force, she said. Ms. Zalph added that citizens did not want to feel that they were being protected by military weapons and did not want to be made to feel afraid.

Wes Hare, a Chapel Hill resident since 1969, said that the Manager's report had fallen far short of being an adequate analysis and that Town government had become dangerously out of touch with the people. The Manager's report minimized the widespread outrage, defended the Police Department, and attempted to whitewash an outrageously inappropriate police action that had set a dangerous precedent, he said. Mr. Hare called for an independent commission to investigate the incident.

Gabriel Pelli, a Chapel Hill resident, expressed outrage at the Town's handling of the incident during and since its occurrence. He said that the Manager's report had relied almost entirely on Chief Blue's account. Mr. Pelli argued that the only way to get an objective view of what had happened was to have an independent or autonomous investigation. He said there was too much at stake to allow Town parties to investigate themselves. Mr. Pelli appealed directly to Mayor Kleinschmidt, asking him to continue his long history of fighting for social justice now that he was the Mayor.

David Maliken, a Chapel Hill resident, said he had been disturbed to learn that there were intimate relationships between the CPAC and the CHPD. He questioned some of the findings in the Manager's report, raised questions about the veracity of some statements, and stated that much of the report seemed to be based on Chief Blue's comments at a press conference. Mr. Maliken argued that very close Town relationships needed to be teased apart and examined through an independent review.

Ginnie Hench, a UNC employee who lives in Durham, said that the Occupy movement needed to be bigger than mere protesters versus police and that the Council had an opportunity to try and have an impact on that by calling for an independent review of what had happened in Chapel Hill. She clarified that she was not calling for that because she thought the Town could not trust Chief Blue or the Manager, but because the only way that government can work is through systems of checks and balances. Ms. Hench argued that it was extremely important to look at what police do because there are problems with racial profiling in North Carolina and because what happened in Chapel Hill was part of a bigger movement. She said that threatening someone with violence was shameful and that everyone needed to admit that something was not right in the way the police operation had been carried out.

Jim Neal read his petition, which called for the Council to appoint him to form an autonomous task force to review the Yates Motor building incident. He said that he was not questioning the veracity of anything Mr. Stancil or Chief Blue had reported but that the Manager's report had not assuaged his belief that the level of force used, given the known and presumed risks, was not proportionate with the risk that the Police Department faced.

Mr. Neal noted that the CPAC had been proposed as an alternative to the autonomous review. However, the Town needed two tracks, including one that would be a genuine autonomous review of the events preceding deployment of the Police Department's Special Emergency Response Team, he said. Mr. Neal pointed out that Council members were not bureaucrats, but people who had been elected to make decisions on behalf of everyone in Town. He strongly urged Council members to approve his resolution calling for an autonomous review.

Manju Rajendran, a Chapel Hill resident whose family owns a restaurant located about a block from the Yates building, described the incident as embarrassing, atrocious, and not good for the kind of Chapel Hill that all were trying to create. She said that her brother had been one of those detained by the police. He had been sitting in front of the building and had then been put on the ground with a rifle pointed at his head, she said.

Ms. Rajendran told Council members that if that had happened to any of their family members she believed there would be no question about whether or not to have an independent review. She said that, as someone who believed in social change and who had worked to transform the community, she found it frightening that some of the justification for the police action had been based on the political beliefs of the people in the Yates building.

Council Member Storrow asked for more information about members of the Downtown Partnership going to the Yates building with Police Department staff to gain information.

Chief Blue said he thought those conversations had taken place immediately outside the building. Council Member Storrow mentioned Carrboro Alderman Dan Coleman's statement that police had talked with some of the people in the driveway entrance to the building. Chief Blue replied that he had seen that memo and was aware of a discussion. However, he had not known about any encounter at the time, he said. Council Member Storrow, noting that this information was not in the Police or staff report, asked that staff bring back more information about that encounter.

Council Member Easthom said that she wholeheartedly supported the resolution before the Council to take action on Jim Neal's petition for an autonomous task force to review the Yates incident. She expressed appreciation for all the work the Manager and Chief Blue had done, but said that having a separate entity look at everything was very important and would help regain trust.

Council Member Easthom asked if the police officer who had gone into the building and then retreated had actually had a conversation with the people inside. Chief Blue replied that the officer had approached the building to get a sense of what was going on and what the intentions of the people inside were. He had reported being met by people with masked faces who blocked the entrance to the garage bay door and approached him in a threatening manner. In addition, officers on the perimeter who observed that encounter had felt that they needed to get him out, said Chief Blue.

Council Member Easthom confirmed that there had been no attempt to communicate verbally the next day. She said that when the Mayor called her and other Council members on the phone, she had been under the impression that there would be one more attempt to communicate. Council Member Easthom asked the Mayor what had happened with that plan. Mayor Kleinschmidt replied that he'd had no information about tactics and/or about what had informed the Police Department's decisions. He had thought they would attempt to go in one more time, he said.

Council Member Easthom verified that the editor of the Raleigh News and Observer had shared Raleigh's policy for working with the news media with Mr. Stancil and Chief Blue. That policy was now in place and was part of the Town's emergency response policy, Mr. Stancil said. Council Member Easthom also established that the press would be allowed to take pictures as long as they were not interfering with the police.

Council Member Easthom asked if the Council would be willing to entertain her petition to pass a resolution to send an apology from the Town to the two News and Observer reporters whom police had detained. Mayor pro tem Harrison noted that he had supported that when it was first introduced and said he would do so again tonight. Council Member Storrow also agreed, and Council Member Easthom read the resolution.

Council Member Rich said that one of the reporters did not have a press credential. Mr. Karpinos questioned whether any of the "whereas" clauses contained in the resolution were facts. He asked if it had been determined that they were factual. Council Member Rich said she wondered if an apology needed to be in the form of a resolution. She had no problem apologizing, she said, but added that so much time had passed since the incident that much of the resolution did not reflect the current situation. Council Member Easthom replied that only the last clause would no longer apply.

Council Member Ward suggested simplifying the resolution by identifying the two reporters by name and saying that the Town was sorry. Council Member Bell asked if Ms. Farrell and Mr. Davis had been in the Yates building, and Chief Blue replied that police had encountered both of them outside, although both were reported to have been inside. When officers arrived,

they detained a number of people who were immediately adjacent to the building, including the two reporters, he said. Chief Blue explained that police officers then stabilized the scene and released everyone who could be released, which included the two reporters.

Council Member Bell said that she was sorry that Mr. Davis and Ms. Farrell had been detained while doing their job as reporters. However, reporters put themselves in dangerous spaces and sometimes have to put their heads down until the smoke clears, she said. Council Member Bell stated that she did not want to apologize for the Police Department following security measures. If there was any sign that the press had been singled out for this treatment, or that reporters had been detained from doing their jobs then she would apologize, but that was not what happened in this instance, Council Member Bell said.

Council Member Easthom said she felt very strongly about the apology, but wanted to concentrate tonight on Mr. Neal's autonomous task force. She suggested that Council members move on to discussing that if they were not ready to support her petition.

Council Member Storrow asked if there was a way to support Council Member Easthom's resolution without the whereas clauses. Council Member Easthom said she would agree with that if they added that it was okay to take photos to the resolution.

Council Member Pease agreed with Council Member Bell's position, adding that he did not know what the Council would be apologizing for. Maybe the Town could do a better job when there is a reporter in the middle of a police action, he said, noting that the Manager was trying to create rules for that. However, the Town should not be apologizing to anybody, Council Member Pease said, pointing out that the building takeover had been an illegal action. He said there was a clear difference in his mind between civil disobedience in public spaces and one that takes over private property.

Council Member Easthom replied that the apology would only be for detaining the reporters. Council Member Ward asked how the Police Department would have acted differently if the newly created policy had been in place. Chief Blue replied that there had been no specific intent to keep reporters from being able to do their jobs. It was a rapidly evolving situation and officers had detained the people who appeared to be related to the event until the Town could determine what their purpose was, he said.

Chief Blue said that it was still not clear which press credentials the police saw, since that was not what they were looking for at that moment. The Raleigh policy spelled out steps to try, during a critical incident, to afford access for media personnel, he said.

Council Member Ward asked Chief Blue if he was saying that nothing different would have happened if the Raleigh policy had been in place. Chief Blue replied that when planning an operation they might now include identifying press credentials. However, that would put a burden on officers that he could not guarantee they would always get right, particularly during a rapidly evolving situation, he said. Chief Blue said that he preferred that police default to detaining everyone if there is doubt.

Mr. Stancil pointed out that this was a two-way relationship between the press and police, with mutual responsibility. He said he did not know what opportunities the press had taken to talk with the police who were there.

Council Member Ward said that he was personally sorry that those two journalists had been detained. One good result, though, was that the Town had begun working with local news agencies to prevent it from happening again. Council Member Ward said that it did not seem that those who had lost faith in the Police Department had been comforted by the Manager's

report. Moreover, the CPAC was not separate enough from the Town to address a situation involving lack of trust, he said.

Council Member Ward expressed support for an independent investigation, but noted that this did not indicate that he did not think very highly of Chief Blue and Mr. Stancil. However, they had not gotten it right this time and had overreacted, he said. "Sending only one person in was not enough; you've got to try harder than that," Council Member Ward said.

Council Member Ward said he had been delighted by the great relationship between the CHPD and the Occupy Chapel Hill folks at the Peace and Justice Plaza. There had to be something in between that and the Yates incident which escalated to assault rifles, he said. Council Member Ward said the Town needed to work harder on getting information so that it did not "go in with shock and awe, looking for weapons of mass destruction that are not there."

Council Member Ward said that he did not support Mr. Neal's resolution because an investigation cannot be headed up by somebody who already believes that the police did something wrong. He said that the Town needed someone who was uninformed but skilled in this type of investigation to make an unbiased analysis of what had taken place.

Council Member Rich said she gave an apology to Kaitlyn Farrell, one of the two reporters who had been detained. She asked Mr. Karpinos for more information about an independent review board. Mr. Karpinos explained that the Council could delegate the board, but there would be a matter of whether or not witnesses would be willing to testify. If they were not, then that might affect the board's ability to completely execute its responsibilities, he said.

Council Member Rich said that she could not vote to approve Mr. Neal's resolution until she understood who would be on the independent review board and what its charge from the Council would be.

Mayor Kleinschmidt said that he had had some of the same questions that Council Member Rich had expressed. He had concluded that the Council should hear from citizens tonight and then refer this to the CPAC, he said. Then, those meetings could be treated like the Carolina North meetings were, with an extraordinarily high level of citizen input. Comments would be put on the Town web-page for feedback and it would all be integrated into a report after several meetings. The CPAC would then report on next steps and whether or not there needed to be another level of review. Mayor Kleinschmidt said that this was the direction he had been hoping the Town would take.

Council Member Storrow expressed support for the plan that Mayor Kleinschmidt had just outlined, describing it as open and transparent. He noted that there had been communication among the occupiers, the Police, and the Downtown Partnership, but said he was confused about what had happened after that. Council Member Storrow noted that much of the information was contradictory and that Mr. Neal's resolution might be the best choice that the Council had before it for gathering information.

He moved to adopt the resolution and Council Member Easthom seconded.

COUNCIL MEMBER LEE STORROW MOVED, SECONDED BY COUNCIL MEMBER LAURIN EASTHOM, TO ADOPT THE RESOLUTION BY JIM NEAL. THE MOTION FAILED BY A VOTE OF 2-7, WITH COUNCIL MEMBER LAURIN EASTHOM, AND COUNCIL MEMBER LEE STORROW VOTING AYE AND WITH MAYOR MARK KLEINSCHMIDT, MAYOR PRO TEM ED HARRISON, COUNCIL MEMBER DONNA BELL, COUNCIL MEMBER MATT CZAJKOWSKI, COUNCIL MEMBER GENE PEASE,

COUNCIL MEMBER PENNY RICH, AND COUNCIL MEMBER JIM WARD VOTING NAY .

Council Member Pease stated that he did not see a need for an investigating group other than the current standing CPAC, which had already been organized and vetted. He expressed support for the process that Mayor Kleinschmidt had outlined, but said he did not support Mr. Neal's petition because Mr. Neal was clearly biased.

Council Member Bell commented on an earlier comment about CPAC members having close ties with the CHPD. The CPAC was a brand new, independent committee that had met only two or three times and had been created to look at Police policies and educate the community about police procedures, she said. Answering questions such as why a SERT team was chosen in this situation was exactly what the CPAC was created to do, Council Member Bell explained. She said that the Manager's report included the exact information that CPAC had asked for. If people feel that information was missing from that, then the Council needs to know what it was, she said.

Mayor pro tem Harrison agreed that the report was a beginning, and he read the following statement by Chief Blue: "With the benefit of hindsight, it is now clear that the threat was not as great as we originally thought it might be and reports of the incident that were focused on heavily armed police officers on the streets have suggested an inconsistency between our actions and the values our town represents." Mayor pro tem Harrison noted that there was an admission of fault in those words and pointed out that not many police chiefs in the US would have written such a sentence. He said he would support an independent commission that did not have a self-appointed chair.

Council Member Easthom said she supported the resolution and also supported sending the issue to the CPAC. She said she thought that Mr. Neal might find a chair who was not affiliated with the Town and she verified with Mr. Neal that he would not mind not being the chair.

Council Member Czajkowski pointed out that the Town had originally created the CPAC after an allegation of police racial profiling in the CHPD. The purpose of establishing it was to have an independent board that would review allegations of police misconduct, including the use of excess force, he said.

Council Member Czajkowski stated that if the Council voted for an independent review board it may as well eliminate the CPAC. This would be the first opportunity for that board to do its work and the Town was saying it could not trust it, he said. Council Member Czajkowski recommended that the Council should question the premise that CPAC would not be independent and could not be relied on before blithely passing it by, he said.

With regard to the resolution from Town staff to refer the issue to the CPAC, Mayor Kleinschmidt explained that approving it would also endorse the plan that he had outlined. Council Member Storrow moved the resolution and Mayor pro tem Harrison seconded. Council Member Rich noted that this would go to the CPAC but that the Justice in Action Committee would receive and discuss the report as well. Those meetings would be open to the public, she pointed out.

COUNCIL MEMBER LEE STORROW MOVED, SECONDED BY MAYOR PRO TEM ED HARRISON, TO ADOPT THE RESOLUTION . THE MOTION WAS ADOPTED BY A VOTE OF 8-1, WITH MAYOR MARK KLEINSCHMIDT, MAYOR PRO TEM ED HARRISON, COUNCIL MEMBER DONNA BELL, COUNCIL MEMBER MATT CZAJKOWSKI, COUNCIL MEMBER GENE PEASE, COUNCIL MEMBER PENNY

RICH, COUNCIL MEMBER LEE STORROW, AND COUNCIL MEMBER JIM WARD VOTING AYE AND WITH COUNCIL MEMBER LAURIN EASTHOM VOTING NAY .

A RESOLUTION REFERRING THE REPORTS FROM THE CHIEF OF POLICE AND THE TOWN MANAGER IN REGARD TO THE EVENTS OF NOVEMBER 12-13, 2011 AT 419 WEST FRANKLIN STREET, CHAPEL HILL, TO THE TOWN'S COMMUNITY POLICING ADVISORY COMMITTEE (2012-01-09/R-8.1)

Council Member Ward established that the resolution called for a report back from the CPAC on March 26, 2012. He guessed that the Town would be exactly where it currently was after receiving that report. Council Member Ward stated that he had faith in the CPAC but did not think that the wider community shared that faith. He expressed support for moving ahead with an independent review. That could be done in parallel with the CPAC review, he said, adding that the issue was too challenging and the gap in trust too wide for the CPAC alone to close.

Mayor pro tem Harrison said he was willing to support an independent commission but not the one that was in the motion. He asked if Council Member Ward had an alternate proposal.

Council Member Ward proposed modifying the resolution by removing the last whereas clause and striking "to appoint Jim Neal." This was a motion to substitute the alternate proposal for Council Member Storrow's original motion. Mayor pro tem Harrison seconded the motion to substitute in order to discuss the new motion.

Council Member Ward said that an autonomous board would be seen by everyone in the community as separate from Town employees. The appearance of that was critical to restoring trust in this instance, he said. Council Member Ward added that the last whereas clause could remain and he suggested removing only the part about appointing Jim Neal as chair.

COUNCIL MEMBER JIM WARD MOVED, SECONDED BY MAYOR PRO TEM ED HARRISON, TO SUBSTITUTE MODIFY THE RESOLUTION. REMOVE THE FINAL WHERE AS CLAUSE. ELIMINATE THE LANGUAGE "TO APPOINT JIM NEAL". THE MOTION FAILED BY A VOTE OF 4-5, WITH MAYOR PRO TEM ED HARRISON, COUNCIL MEMBER LAURIN EASTHOM, COUNCIL MEMBER LEE STORROW, AND COUNCIL MEMBER JIM WARD VOTING AYE AND WITH MAYOR MARK KLEINSCHMIDT, COUNCIL MEMBER DONNA BELL, COUNCIL MEMBER MATT CZAJKOWSKI, COUNCIL MEMBER GENE PEASE, AND COUNCIL MEMBER PENNY RICH VOTING NAY .

Mayor pro tem Harrison agreed, and Mr. Karpinos clarified that the words "Jim Neal to form" should be deleted.

Council Member Easthom moved to amend the secondary motion to substitute by adding the word "independent" before "autonomous taskforce" in the resolve clause. That motion to substitute failed (4-5) and the substitute motion failed (4-5) as well.

COUNCIL MEMBER LAURIN EASTHOM MOVED, SECONDED BY COUNCIL MEMBER JIM WARD, TO AMEND ADD LANGUAGE "INDEPENDENT" IN FRONT OF THE WORD "AUTONOMOUS" IN THE RESOLVE CLAUSE OF RESOLUTION. THE MOTION FAILED BY A VOTE OF 4-5, WITH MAYOR PRO TEM ED HARRISON, COUNCIL MEMBER LAURIN EASTHOM, COUNCIL MEMBER LEE STORROW, AND COUNCIL MEMBER JIM WARD VOTING AYE AND WITH MAYOR MARK KLEINSCHMIDT, COUNCIL MEMBER DONNA BELL, COUNCIL MEMBER MATT

CZAJKOWSKI, COUNCIL MEMBER GENE PEASE, AND COUNCIL MEMBER PENNY RICH VOTING NAY .

With regard to the original motion, which was now on the floor, Council Member Easthom said that she could not support sending the issue to the CPAC without a parallel vote for an independent review.

Council Member Bell asked how they could make sure that the details of the process that Mayor Kleinschmidt had outlined would be part of the plan. Mayor Kleinschmidt replied that the Council could request language for inserting that or simply ask the Manager if he understands the intent. Council Member Czajkowski pointed out that the Council could rely on its liaison to the CPAC, Council Member Bell, to ensure that the process would be followed exactly as the Mayor had set forth.

Council Member Rich requested that staff bring back more information on what an independent committee would look like. She suggested leaving that option open, but stressed that she wanted to know what it would look like before voting on forming another committee when the Town already had the CPAC.

Mayor Kleinschmidt said that the Town had not been able to get approval for granting authority to a standing citizen review board. Therefore, he did not think the Town could bestow that authority on any other board, whether it is called independent or autonomous, he said.

Mr. Karpinos replied that the principal problem in the past had been related to personnel matters and to protecting the privacy of Town employees. Without that legislative authority, a committee would not be in a position to see individual employee records, personnel files and disciplinary matters related to individuals, he said. Beyond that, it was not clear whether or not the Council had the authority to create an independent group that would have subpoena power.

Mayor pro tem Harrison emphasized that forming an independent taskforce was still a viable idea. However, the Council had not figured out how to do that and did not have enough votes to do so the first time, he said.

Council Member Ward said that he did not think the state legislature was going to give Chapel Hill the authority to create a civilian review board. The states where such boards existed were home-rule states that did not have to seek such authority, he said. With that reality, he would like to know how the Town could help the CPAC create a more visual separation from the Police Department so that its findings could be seen as being as independent as possible, Council Member Ward said.

Mayor Kleinschmidt stated that he and Mr. Stancil had been brainstorming some ideas that might be helpful, such as making sure that CPAC meetings are recorded so that everyone has access and perhaps having a professional facilitator. He expected that the Manager would offer a menu of options and resources to make that possible, he said. Mayor Kleinschmidt encouraged anyone with suggestions to contact Town Hall, MayorandCouncil@TownofChapel.org, Mayor@TownofChapelHill.org or Manager@TownofChapelHill.org.

Council Member Storrow noted that a number of Council members had apologized to the two reporters this evening. However, he and Council Member Easthom were still interested in sending something formal, he said, and he read a statement that he had composed.

COUNCIL MEMBER LEE STORROW MOVED, SECONDED BY COUNCIL MEMBER LAURIN EASTHOM, TO ISSUED APOLOGY TO THE PRESS. THE MOTION WAS ADOPTED BY A VOTE OF 6-3, WITH MAYOR MARK KLEINSCHMIDT, MAYOR PRO TEM ED HARRISON, COUNCIL MEMBER LAURIN EASTHOM, COUNCIL MEMBER PENNY RICH, COUNCIL MEMBER LEE STORROW, AND COUNCIL MEMBER JIM WARD VOTING AYE AND WITH COUNCIL MEMBER DONNA BELL, COUNCIL MEMBER MATT CZAJKOWSKI, AND COUNCIL MEMBER GENE PEASE VOTING NAY .

MAYOR AND COUNCIL PETITIONS

Council Petition Regarding Feeding Deer.

Council Member Rich petitioned the Council on behalf of Margaret Heath regarding a possible ordinance prohibiting deer-feeding in Chapel Hill. She noted that such an ordinance had been passed in Carrboro.

COUNCIL MEMBER DONNA BELL MOVED, SECONDED BY COUNCIL MEMBER LEE STORROW, TO RECEIVE AND REFER . THE MOTION WAS ADOPTED UNANIMOUSLY (9-0) .

The meeting was adjourned at 12:22 p.m.