

The purpose of this item is to provide the Board of Aldermen with a comparison between a construction manager format versus a general contract format to build the Town Commons project and to request permission from the Board of Aldermen to proceed with construction of the project using a construction manager.

- 9:25 - 9:35
P/5
- (3) **Recommendation for Architect/Police Department Space Needs Study**
- The administration recommends that the Board contract with the firm of Cherry Huffman Architects, P.A. for a cost of \$20,016 to provide a space needs study for the Police Department which would provide program evaluations for all town departments at the Town Hall, an architectural analysis and building code review of the existing building, measured drawings, phasing relocation plans, structural analysis, mechanical and electrical systems analysis, cost estimate for renovation and new construction, and a schematic design.
- 9:35 - 10:00
P/5
- (4) **Discussion of Fire Department Issues**
- The Board of Aldermen placed a discussion of the Fire Department issues on its 1994 Planning Retreat Action Agenda. The Fire Chief will present a report on this matter.
- 10:00 - 10:10
P/5
- (5) **Discussion of Registration of Domestic Partners, Addition of Domestic Partners to Financial Disclosure Requirements for Elected Officials; and Extending Benefits to Domestic Partners**
- The purpose of this item is to present for the Board's consideration two ordinances drafted by the Town Attorney which provide for the registration of domestic partners and for the extension of financial disclosure requirements to the domestic partners of elected officials. This item should also serve as a vehicle for discussing the Board's interest in extending benefits to domestic partners of town employees.
- 10:10 - 10:15
NP
- (6) **Budget Amendment**
- The purpose of this item is to amend the FY'93-94 General Fund budget for items recently approved by the Board and to ensure that the Transportation and Revolving Loan Funds are adjusted to reflect increased revenues and expenditures.
- 10:15 - 10:20
NP
- (7) **Resolution Expressing Desire to Attempt to Reach Consensus About an Appropriate Plan of Development for the Hogan Property Through a Facilitated Process**
- On April 19, 1994, the Board of Aldermen voted 4-3 to deny a conditional use permit request for a proposed development on the Hogan property. A legal challenge to that permit denial is forthcoming. Litigation could be avoided if an alternative development proposal were submitted for which a conditional use permit could be issued under the Land Use Ordinance. Direct discussion between representatives of the Board and the Hogans might help to develop such an alternative development proposal. The Town Attorney has drafted the attached resolution for consideration by the Board.

10:15 - 10:25 G. MATTERS BY MANAGER

10:25 - 10:35 H. MATTERS BY TOWN ATTORNEY

10:25 - 10:35 I. MATTERS BY BOARD MEMBERS

J. REPORTS TO BOARDS - Response from NCDOT on Requests for
Signalization Improvements

*The times listed on the agenda are intended only as general indications. Citizens are encouraged to arrive at 7:30 p.m. as the Board of Aldermen at times considers items out of the order listed on the agenda.

BOARD OF ALDERMEN

ITEM NO. D(1)

AGENDA ITEM ABSTRACT

MEETING DATE: May 10, 1994

SUBJECT: Request to Set a Public Hearing: An Ordinance to Add a Definition of the Term "Loop Street" to Section 1, Subsection 15-210(b), as Subdivision (b)(8). General Layout of Streets

DEPARTMENT: PLANNING DEPARTMENT	PUBLIC HEARING: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
ATTACHMENTS: Ordinance	FOR INFORMATION CONTACT: Kenneth Withrow, Transportation Planner or Lisa Bloom-Pruitt, Senior Planner at 968-7714
THE FOLLOWING INFORMATION IS PROVIDED:	
(X) Purpose	(X) Action Requested
(X) Summary	(X) Recommendation
	(X) Analysis

PURPOSE:

To set a public hearing on June 21, 1994 to consider an amendment to the Carrboro Land Use Ordinance to define the term "Loop Street".

SUMMARY:

The Transportation Advisory Board (TAB) has requested this text amendment. The TAB reviewed and accepted the definition of "Loop Streets" as drafted by Attorney Mike Brough at its meeting on April 07, 1994. For additional information see the attached ordinance.

ANALYSIS:

The Transportation Advisory Board is concerned that the current language in Section 15-217, subsection (b) General Layout of Streets, specifically encourages development of subdivisions with cul-de-sacs. The TAB is also concerned that 15-217(b) contradicts Section 15-214(a). The two subsections in question are stated below.

Subsection (a) of Section 15-214, Coordination with Surrounding Streets, reads as follows:

- (a) The street system of a subdivision shall be coordinated with existing, proposed and anticipated streets outside the subdivision or outside the portion of a single tract that is being divided into lots (hereinafter, "surrounding streets") as provided in this section.

Subsection (b) of Section 15-217, General Layout of Streets, reads as follows:

(b) Cul-de-sacs and loop streets are encouraged so that through traffic on residential streets is minimized. Similarly, to the extent practicable, driveway access to collector streets shall be minimized to facilitate the free flow of traffic and avoid traffic hazards.

The TAB is concerned that the two subsections could be confusing, especially when the Town has recently been encouraging connections within and between residential neighborhoods on development applications. The TAB suggests the language for a new subdivision (b)(8) of Section 15-210 as a way to clarify the meaning of loop streets when referred to in Subsection (b) of Section 15-217, General Layout of Streets. The TAB intends to suggest (at some future point in time) an amendment to the language of Section 15-217, Subsection (b) removing the term "cul-de-sacs" and the clause "so that through traffic on residential streets is minimized", the result is as follows:

(b) To the extent practical, driveway access to collector streets shall be minimized. To facilitate the free flow of traffic and to avoid traffic hazards, loop streets are encouraged so that driveways on collector streets are minimized.

RECOMMENDATION:

Section 15-322 of the Town of Carrboro Land Use Ordinance requires that proposed amendments to the Land Use Ordinance be formally referred to the Planning Board for its recommendation. The Administration requests the Aldermen to refer this matter to the Planning Board for its recommendation.

ACTION REQUESTED:

Section 15-323 of the Carrboro Land Use Ordinance requires that a public hearing be held on all amendments to the Land Use Ordinance. The Administration requests the Board of Aldermen to set the date for the public hearing on this proposed ordinance amendment for June 21, 1994.

The following ordinance was introduced by Alderman _____ and duly seconded by Alderman _____.

**AN ORDINANCE AMENDING THE CARRBORO LAND USE
ORDINANCE TO DEFINE THE TERM "LOOP STREET".**

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Subsection 15-210(b) of the Carrboro Land Use Ordinance is amended by adding a new subdivision (b)(8) to read as follows:

(8) Loop Street. A street having two points of intersection with the same street.

Section 2. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 3. This ordinance shall become effective upon adoption.

The forgoing ordinance, have been submitted to a vote, received the following vote and was duly adopted this ____ day of _____, 1994.

AYES:

NOES:

ABSENT/EXCUSED:

BOARD OF ALDERMEN
AGENDA ITEM ABSTRACT

ITEM NO. D(2)

MEETING DATE: May 10, 1994

SUBJECT: Request to Set a Public Hearing: An Ordinance to Provide for Special Exceptions

DEPARTMENT: PLANNING DEPARTMENT	PUBLIC HEARING: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
ATTACHMENTS: Ordinance	FOR INFORMATION CONTACT: Lisa Bloom-Pruitt, 968-7714	
THE FOLLOWING INFORMATION IS PROVIDED:		
<input checked="" type="checkbox"/> Purpose	<input checked="" type="checkbox"/> Action Requested	<input type="checkbox"/> Analysis
<input checked="" type="checkbox"/> Summary	<input checked="" type="checkbox"/> Recommendation	

PURPOSE:

To set a public hearing on June 21, 1994 to consider an amendment to the Carrboro Land Use Ordinance that would provide for special exceptions.

SUMMARY:

This land use ordinance text amendment was requested by the Board of Adjustment adding Section 15-92.1, Special Exception Permits. The Board of Adjustment reviewed and accepted the attached draft Ordinance Amending the Carrboro Land Use Ordinance to Provide for Special Exceptions as drafted by Attorney Mike Brough and modified at its meeting on January 12, 1994.

RECOMMENDATION:

Section 15-322 of the Town of Carrboro Land Use Ordinance requires that proposed amendments to the Land Use Ordinance be formally referred to the Planning Board for its recommendation. The Administration requests the Board of Aldermen to refer this matter to the Planning Board for a recommendation.

ACTION REQUESTED:

Section 15-323 of the Carrboro Land Use Ordinance requires that a public hearing be held on all amendments to the Land Use Ordinance. The Administration requests that the Board of Aldermen set the date for the public hearing on this proposed ordinance amendment for June 21, 1994.

DRAFT

AN ORDINANCE AMENDING THE CARRBORO
LAND USE ORDINANCE TO PROVIDE FOR
SPECIAL EXCEPTIONS

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. All article and section references contained in this ordinance refer to the Carrboro Land Use Ordinance, Chapter 15 of the Town Code.

Section 2. Subsection 15-34(a) is amended by redesignating subdivisions (4), (5) and (6) as (5), (6) and (7), and adding a new subdivision (4) to read as follows:

- (4) Applications for special exception permits, as provided in Section 15-92.1.

Section 3. The title to Article V is amended to read "Appeals, Variances, Special Exceptions, and Interpretations."

Section 4. Article V is amended by adding a new Section 15-92.1 to read as follows:

Section 15-92.1 Special Exception Permits

(a) An application for a special exception permit shall be submitted to the board of adjustment by filing a copy of the application with the administrator in the planning department.

(b) All of the provisions of this article applicable to the processing of variance applications shall also apply to special exception permit requests, except the provisions of Subsections 15-92(b) and 15-96(b) and (c).

(c) The board of adjustment may issue a special exception permit for the purposes and under the circumstances set forth in the remaining subsections of this section if it concludes, in addition to any other findings required below, that:

- (1) Issuance of the permit will not create a threat to the public health or safety; and
- (2) Issuance of the permit will not adversely affect the value of adjoining or neighboring properties. If the applicant presents a petition, signed by the owners of all properties entitled to receive notice of the hearing on the application pursuant to Section 15-102(2), and stating that such property owners believe their property values will not be adversely affected by the proposed use, this shall be sufficient evidence from which the board may (but shall not be required to) make the required finding. The board may also make the required finding based on other competent evidence.

DRAFT

(d) The board of adjustment may issue a special exception permit under this section to allow a reduction of up to 50% in the required distances that buildings must be set back from lot boundary lines under Subsection 15-184(a)(4), provided that:

- (1) The reduction may be permitted only for buildings on lots used for conforming residential purposes in residential districts, where the building in question has existed for at least three years prior to the application for the special exception permit;
- (2) In no case may the reduction allow a building to be located closer to a lot boundary line than a distance equal to one-half of the minimum building separation requirement established by the North Carolina State Building Code or allow the location of a building in such proximity to a pre-existing building as to violate the minimum building separation requirement of the North Carolina State Building Code;
- (3) Reductions may be allowed under this section only for setbacks from lot boundary lines, not setbacks from street right-of-way lines.

(e) The board of adjustment may issue a special exception permit to authorize a structure to encroach upon a setback required under Section 15-184 if it finds that:

- (1) The proposed encroachment results from an addition to or an extension of an existing structure that already is nonconforming with respect to the requirements of section 15-184; and
- (2) The proposed addition or extension will not encroach upon any required front, rear, or side yard to a greater extent than the existing structure on that lot.

Section 5. The second sentence of subsection 15-32(a) is amended to read as follows:

"All other actions of the board, including decisions relating to special use permits and special exception permits shall be taken by majority vote, a quorum being present."

Section 6. Section 15-95 is amended by changing the title to read "Burden of Proof in Appeals, Variances, and Special Exceptions," and by adding a new subsection (c) to read as follows:

(c) The burden of presenting evidence sufficient to allow the board of adjustment to reach the conclusions set forth in subsection 15-92.1(b), as well as the burden of persuasion on those issues, remains with the applicant seeking the special exception permit.

DRAFT

Section 7. Section 15-96 is amended by changing the title to read "Board Action on Appeals, Variances, and Special Exceptions," and by adding a new subsection (d) to read as follows:

(d) Before granting a special exception permit, the board shall vote affirmatively on each of the findings required under section 15-92.1. A motion to deny a special exception may be made on the basis that any one or more of the findings required by section 15-92.1 are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it.

Section 8. Section 15-15 is amended by adding a new subsection (81.1) to read as follows:

(81.1) Special Exception Permit. A permit issued by the board of adjustment that authorizes the recipient to deviate from the otherwise applicable requirements of this chapter under the specific circumstances and in accordance with the conditions set forth in section 15-92.1.

Section 9. All provisions of any town ordinance in conflict with this ordinance are hereby repealed.

Section 10. This ordinance shall become effective upon adoption.

Sign Up Sheet Public Hearing Civil Rights Ordinance

1. Josephine L. Harris - Member HRC - Carbon citizen
2. Doug Ferguson - Carbon citizen
3. Claire Rich - Carbon citizen -
4. Joe Phaly -
5. Gloria Foley - Foley Hs resident
6. Susan Johnston - C.H. / Carbon resident
Catherine Dickman - Women's Center
7. Quinton Baker - Commissioner Chair
8. Derek Livingston - Director of Peace Pac
9. Mark Donahue - VP Oregon County Democratic Party
10. The Rev. Gene Hatley - N.A.A.C.P.
SPC?

11. Bill Tucker - chair B'hai
12. Gary Kugler - Carbro resident - B'hai
13. Joyce Roland - chair, Orange County Commission for Women
14. Dave Lohse - Carbro citizen & CH University employee
15. Karen Bikel - Carbro citizen
- 16.
- 17.
- 18.
- 19.
- 20.

BOARD OF ALDERMEN

ITEM NO. E(1)

AGENDA ITEM ABSTRACT

MEETING DATE: May 10, 1994

SUBJECT: Public Hearing on Orange County's Proposed Civil Rights Ordinance

DEPARTMENT: Administration	PUBLIC HEARING: YES <u>x</u> NO <u> </u>
ATTACHMENTS: Summary of Revisions to Revised Civil Rights Ordinance, Proposed Civil Rights Ordinance, Memo from Town Attorney	FOR INFORMATION CONTACT: Robert Morgan, 968-7706

PURPOSE

Orange County proposed a Civil Rights Ordinance in the later part of 1993. The Mayor and Board of Alderman reviewed this ordinance in October and asked the Town Attorney to address several questions relating to the ordinance. The Board received a report from Lucy Lewis, with the Orange County Commission for Women at its meeting on March 8, 1994, and set a public hearing to receive citizen's comments on the proposed ordinance. The purpose of this agenda item is to receive citizen's comments on the proposed ordinance and to determine what further action the Board may wish to consider.

SUMMARY

The primary changes in the revised ordinance is the deletion of sections (a) and (b) dealing with speech in that section of the ordinance titled "Other Prohibited Discriminatory Acts" and the deletion of the word "threats" from the remaining sections (Article VII, Other Prohibited Discriminatory Acts, pp. 37-38).

A significant clarification is that the staff of the Human Resource Commission would be responsible for the initial reasonable cause determination.

The Town Attorney has pointed out that this ordinance is different than the existing law relative to enforcement procedures and remedies.

ANALYSIS

Attached is summary of changes in the revised Civil Rights Ordinance provided by Orange County. Also enclosed is the Town Attorneys response to the Boards questions resulting from its review in October. The County Attorney, Geoffery Gledhill, has responded to some of the concerns addressed in Mike Brough's memo and that response has been included for the Board's information.

ACTION REQUESTED

To determine what further action the Board may wish to consider

SUMMARY OF CHANGES IN REVISED CIVIL RIGHTS ORDINANCE

After receiving citizen comment at the Sept. 21, 1993 public hearing, the Orange County Board of Commissioners made the following changes (incorporated in the Nov. 19, 1993 draft):

1. "Marital status" has been deleted as a protected class.
2. A definition has been provided for Commission staff (Article III, Definitions, p. 3).
3. The definition of "Covered multi-family dwelling" has been revised to make it clear that common areas are included (Article III, Definitions, p. 3).
4. Familial status" has been included as a protected class, and defined in accordance with the Title VIII Fair Housing Act (Article III, Definitions, p. 5).
5. Former sections (a) and (b) dealing with speech have been deleted from the "Other Prohibited Discriminatory Acts" section. The word "threats" has been deleted from the remaining sections (Article VII, Other Prohibited Discriminatory Acts, pp. 37-38).
6. The initial reasonable cause determination has been made a staff responsibility (Article VIII, Enforcement, Section 8.2, (a), 42).
7. An internal appeal to a panel of three Commission members has been added in the event the Complainant wishes to seek reconsideration of a no cause finding (Article VIII, Enforcement, Section 8.2 (d), p. 42).
8. A three member panel of Commissioners will review the recommended decision of the administrative law judge, and both the Complainant and the Respondent will be given the opportunity to submit written exceptions and to present oral argument to the panel before it issues the final agency decision (Article VIII, Enforcement, Section 8.3 (h) (1) p. 46).
9. As a prerequisite to serving on a panel, Commission members must first receive appropriate training from the North Carolina Human Relations Commission (Article VIII, Enforcement, Section 8.2 (d), pp 42-43).
10. The Commission shall have the authority to enforce negotiated settlements, conciliation agreements, and final agency decisions (Article VIII, Enforcement, Section 8.3 (k), p. 47).
11. Limitations on punitive damages apply to all sections of the Ordinance (Article VIII, Enforcement, Section 8.3, Remedies, pp. 47-50).

ORANGE COUNTY CIVIL RIGHTS ORDINANCE

TABLE OF CONTENTS

	Page No.
ARTICLE I Title.....	1
ARTICLE II Findings of Fact, Purpose, Construction & Severability.....	1
ARTICLE III Definitions.....	3
ARTICLE IV Unfair Employment	
Sec. 4.1 Unfair Employment Practices.....	9
Sec. 4.2 Exemptions and Defenses.....	16
ARTICLE V Unfair Housing	
Sec. 5.1 Unfair Housing Practices.....	26
Sec. 5.2 Proof of Violation.....	31
Sec. 5.3 Exemptions.....	31
ARTICLE VI Public Accommodations	
Sec. 6.1 Definitions.....	34
Sec. 6.2 Prohibited Practices.....	36
Sec. 6.3 Exemptions.....	37
ARTICLE VII Other Prohibited Discriminatory Acts.....	37
ARTICLE VIII Enforcement.....	38
Sec. 8.1 Filing of Complaint and Investigation.....	38
Sec. 8.2 Reasonable Cause, Conciliation Efforts, and Right-to-Sue Letters.....	42
Sec. 8.3 Referral to Office of Administrative Hearings.....	44

	Subdiv. 8.3.1 Hearings.....	44
	Subdiv. 8.3.2 Remedies.....	47
ARTICLE IX	Judicial Review.....	50
ARTICLE X	Civil Actions.....	51

ORANGE COUNTY
CIVIL RIGHTS ORDINANCE

ARTICLE I Title

Sec. 1.1 This Ordinance shall be known and may be cited as the Orange County Civil Rights Ordinance.

ARTICLE II Findings of Fact, Purpose, Construction, and Severability

Sec. 2.1 Findings of Fact

(a) The Orange County Board of Commissioners created the Orange County Human Relations Commission to: (1) study and make recommendations concerning problems in the field of human relationships; (2) anticipate and discover practices and customs most likely to create animosity and unrest and to seek solutions to problems as they arise; (3) make recommendations designed to promote goodwill and harmony among racial, ethnic, religious, and other groups in the County; (4) monitor complaints involving discrimination; (5) address and attempt to remedy the violence, tensions, polarization, and other harm created through the practices of discrimination, bias, hatred, and civil inequality; and (6) promote harmonious relations within the county through hearings and due process of law; and

(b) The Orange County Human Relations Commission duly organized, advertised, and conducted public hearings on discrimination in the areas of, among others, employment, housing, and public accommodations; and

(c) The Orange County Human Relations Commission has determined that discrimination exists in Orange County in the areas of, among others, employment, housing, and public accommodations on the basis of, or because of, race, color, religion, sex, national origin, age, disability, familial status, and veteran status.

Sec. 2.2 Purpose

(a) It is the purpose of this Ordinance and the policy of Orange County to promote the equal treatment of all individuals; to prohibit discrimination in Orange County based on race, color, religion, sex, national origin, age, disability, familial status, and veteran status; to protect residents' lawful interests and their personal dignity so as to make available to the County their full productive and creative capacities, and to prevent public and domestic strife, crime, and unrest within Orange County.

(b) It is the further purpose of this Ordinance to carry out in Orange County the policies provided for in various federal rules, regulations, and laws prohibiting discrimination in, among other areas, housing, employment, and public accommodations.

Sec. 2.3 Construction

(a) This Ordinance shall be liberally construed according to the fair import of its terms, with full and careful consideration given to its humanitarian nature and remedial purpose.

(b) Words importing the masculine gender shall include the feminine and words importing the feminine gender shall include the masculine.

Sec. 2.4 Severability

Should any provision of this Ordinance be found to be unconstitutional by a court of law, such provision shall be severed from the remainder of the Ordinance, and such action shall not effect the enforceability of the remaining provisions of the Ordinance.

ARTICLE III Definitions

Unless otherwise defined, as used in this Ordinance:

"Because of age" or "on the basis of age" applies to persons 40 years of age or older.

"Because of sex" or "on the basis of sex" includes, but is not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions.

"Board" means the Orange County Board of Commissioners.

"Commission" means the Orange County Human Relations Commission.

"Commission staff: means the person or persons employed by Orange County to administer this Ordinance.

"Complainant" means a person who has filed a written, signed, and verified Complaint with the Commission pursuant to this Ordinance.

"Covered entity" means an employer, employment agency, labor organization, or joint labor-management committee.

"Covered multifamily dwelling" means

- a. a building, including all units and common use areas, in which there are four or more units if the building has one or

more elevators; or

- b. ground floor units and ground floor common use areas in a building with four or more units.

"Direct threat" means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

"Disability" means, with respect to an individual:

- a. A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- b. A record of having such an impairment; or
- c. Being regarded as having such an impairment as described in a. or b. of this definition.

"Drug" means a controlled substance as defined by section 202 of the Controlled Substances Act (21 U.S.C. § 812).

"Employer" means a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person. Employer does not include:

- a. The State of North Carolina, any of its agencies or departments, or any of its political subdivisions;
- b. The United States or a corporation wholly owned by the government of the United States;
- c. An Indian Tribe; or
- d. A bona fide private membership club (other than a labor organization) which is exempt under section 501(c) of

the Internal Revenue Code.

"Employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person.

"Familial status" means one or more persons who have not attained the age of 18 years being domiciled with:

- a. A parent or another person having legal custody of the person or persons; or
- b. The designee of the parent or other person having such custody, provided the designee has the written permission of the parent or other person.

The protections against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

"Family" includes a single individual.

"Financial institution" means any banking corporation or trust company, savings and loan association, credit union, insurance company, or related corporation, partnership, foundation, or other institution engaged primarily in lending or investing funds;

"Housing accommodation" means any improved or unimproved real property, or part thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home or residence of one or more individuals;

"Illegal use of drugs" means the use of drugs, the possession

or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. § 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of federal law.

"Labor organization" means a labor organization and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

"Person" means any individual, association, corporation, partnership, labor union, legal representative, mutual company, joint stock company, trust, trustee in bankruptcy, unincorporated organization, or other legal or commercial entity.

"Public accommodation" means any place or facility, of whatever nature, located in Orange County which is open to the public.

"Qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds, desires, or held. For purposes of this

Ordinance, consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

"Real estate transaction" means the sale, exchange, rental or lease of real property, or any policy, practice, decision, act, or failure to act that affects the availability of real property or the conditions under which real property is available or is occupied for residential purposes.

"Real property" means a building, structure, real estate, land, tenement, leasehold, interest in real estate cooperatives, condominium, and hereditament, corporeal and incorporeal, or any interest therein.

"Reasonable accommodation" means:

- a. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and b. Job restructuring; part-time or modified work

schedules; reassignment to a vacant position; acquisition or modification of equipment or devices; appropriate adjustment or modification of examinations, training materials or policies; the provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities.

"Religion" means all aspects of religious observance and

practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

"Respondent" means a person, employer, employment agency, labor organization, or joint labor-management committee against whom a Complaint has been filed pursuant to this Ordinance.

"Right-to-sue letter" means a letter issued by the Commission to a Complainant which authorizes the Complainant to bring a civil action against the Respondent in the Superior Court.

"Superior Court" means the Orange County Superior Court.

"Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors:

- a. The nature and cost of the accommodation needed under this Ordinance;
- b. The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;
- c. The overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

- d. The type of operation or operations of the covered entity, including the composition, structure, and functions of the work force of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

"Veteran status" means past service as an employee or member of the United States military, or any agency, or subdivision thereof.

ARTICLE IV Unfair Employment

Sec. 4.1 Unlawful Employment Practices

(a) It is unlawful for an employer:

(1) To fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, national origin, age, disability, familial status, or veteran status.

(2) To limit, segregate, or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect an individual's status as an employee, because of such individual's race, color, religion, sex, national origin, age, disability, familial status, or veteran status;

(3) To reduce the wage rate of any employee in order to comply with this Article; or

(4) To discriminate against any woman affected by pregnancy,

childbirth, or related medical conditions. Women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work.

(b) It is unlawful for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of the individual's race, color, religion, sex, national origin, age, disability, familial status, or veteran status, or to classify or refer for employment any individual on the basis of race, color, religion, sex, national origin, age, disability, familial status, or veteran status.

(c) It is unlawful for a labor organization to:

(1) Exclude or to expel from its membership, or otherwise to discriminate against, any individual because of the individual's race, color, religion, sex, national origin, age, disability, familial status, or veteran status;

(2) Limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect such individual's status as an employee or as an applicant for employment, because of the individual's race, color, religion, sex, national origin, age, disability, familial status, or veteran

status; or

(3) Cause or attempt to cause an employer to discriminate against an individual in violation of this Ordinance.

(d) It is unlawful for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of the individual's race, color, religion, sex, national origin, age, disability, familial status, or veteran status in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) It is unlawful for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by such an employer, or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, sex, national origin, age, disability, familial status, or veteran status. Notwithstanding the foregoing, an employer may indicate a preference based on disability or veteran status.

(f) It is unlawful for an employer to discriminate against any employee or applicant for employment, for an employment agency or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he or she has opposed any practice made an unlawful employment practice by this Ordinance, or because he or she has filed a Complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Ordinance.

Furthermore, it is unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of such individual having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Ordinance.

(g) It is unlawful for a covered entity to discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. As used in this subsection, the term "discriminate" includes:

(1) limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of

the applicant or employee;

(2) participating in a contractual or other relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this Ordinance. Such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs;

(3) using standards, criteria, or methods of administration that:

- a. have the effect of discrimination on the basis of a disability; or
- b. perpetuate the discrimination of others who are subject to common administrative control;

(4) excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(5) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity;

(6) denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with

a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(7) using qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job related for the position in question, is consistent with business necessity, and cannot be accomplished by reasonable accommodation as required under this Ordinance;

(8) failing to select and administer tests concerning employment in the most effective manner to ensure that when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, the test results accurately reflect the skills, aptitude, or whatever other factor of the applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of the employee or applicant, except where such skills are the factors that the test purports to measure;

(9) conducting a medical examination or making inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.

(10) a covered entity may make pre-employment inquiries into the ability of an applicant to perform job-related functions, may require a medical examination after an offer of employment has been

made to a job applicant and prior to the commencement of the employment duties of the applicant, and may condition an offer of employment on the results of the examination, provided that:

a. All entering employees are subjected to such an examination regardless of disability;

b. Information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that:

1. Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;
2. First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and
3. Government officials investigating compliance with this section shall be provided relevant information on request;

c. The results of the examination are used only in accordance with this section; and

(11) a covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless the examination or inquiry is shown to be job-related and consistent with business necessity.

(12) a covered entity may, however, make inquiries into the

ability of an employee to perform job-related functions, and may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at the work site. Information obtained in such medical examinations or medical histories is subject to the same restrictions and requirement as information obtained pursuant to pre-employment medical examinations, as described in subsections 9(b) and 9(c) of this section.

Sec. 4.2 Exemptions and Defenses

(a) Notwithstanding any other provision of this Article, it is not unlawful for:

(1) a covered entity to employ, admit, classify, or refer any individual on the basis of religion, sex, national origin, age, familial status, or veteran status, in those certain instances where religion, sex, national origin, age, familial status, or veteran status is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

(2) a covered entity to print or publish, or caused to be printed or published, any notice or advertisement indicating any preference, limitation, specification, or discrimination, based on religion, sex, national origin, age, familial status, or veteran status, in such instances when religion, sex, national origin, age, disability, familial status, or veteran status is a bona fide occupation qualification for employment.

(3) a school, college, university, or other educational

institution, or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

(4) an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, so long as the differences are not the result of an intention to discriminate because of race, color, religion, sex, national origin, age, disability, familial status, or veteran status.

(5) an employer to give and to act upon the results of any professionally developed ability test provided that the test, its administration, or action upon the results is not designed, intended, or used to discriminate because of race, color, religion, sex, national origin, age, familial status, or veteran status.

(6) an employer to differentiate upon the basis of sex in determining the amount of the wages or compensation paid or to be paid to employees of the employer if the differentiation is authorized by the provisions of section 6(d) of the Fair Labor

Standards Act of 1938, as amended (29 U.S.C. § 206(d)).

(7) a covered entity to refuse to assign or continue to assign an individual to a job involving food handling in any case in which such individual has an infectious or communicable disease that is: (i) transmitted to others through the handling of food; (ii) is included on the list developed by the Secretary of the United States Department of Health and Human Services pursuant to section 103(d) of the Americans with Disabilities Act of 1990, (42 U.S.C. §§ 12101, et.seq.); and (iii) cannot be eliminated by reasonable accommodation. Nothing in this subsection shall be construed to preempt, modify, or amend any state, county, or local law, ordinance, or regulation applicable to food handling.

(b)(1) For purposes of this Article the term "qualified individual with a disability" shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use. However, an individual shall not be excluded as a qualified individual with a disability who:

(a) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use; or

(b) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(c) is erroneously regarded as engaging in such use.

(b)(2) It is not a violation of this Ordinance for a covered

entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subdivision (a) or (b) of this subsection is no longer engaging in the illegal use of drugs.

(c) A covered entity may:

(1) prohibit the illegal use of drugs and the use of alcohol at the workplace by employees;

(2) require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(3) require that employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 701 et. seq.);

(4) hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that the entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of the employee; and

(5) with respect to federal regulations regarding alcohol and the illegal use of drugs, require that employees comply with the standards established in federal regulations of the Department of Defense, the Nuclear Regulatory Commission, and/or the Department of Transportation, if the employees of the covered entity are employed in an industry subject to the regulations of any such federal agency.

(d) For the purposes of this Ordinance, a test to determine the illegal use of drugs shall not be considered a medical exam. Furthermore, nothing in this Ordinance shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

(e) The prohibitions in this Ordinance against discrimination based upon disability shall not be construed to prohibit or restrict:

(1) An insurer, hospital, medical service company, health maintenance organization, or any agent, or entity that administers benefit plans, or similar organizations from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

2) A person or organization covered by this Ordinance from establishing, sponsoring, observing, or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering those risks that are based on or not inconsistent with State law; or

(3) A person or organization covered by this Ordinance from establishing, sponsoring, observing, or administering the terms of a bona fide benefit plan that is not subject to State laws that regulate insurance.

Subsections (1), (2), and (3) of this section shall not be used as a subterfuge to evade the purposes of this

Ordinance.

(f) Nothing in this Ordinance shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept;

(g) Nothing contained in this Ordinance shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which preferential treatment is given to any individual because he or she is an Indian living on or near a reservation.

(h) Nothing contained in this Ordinance shall apply to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

(i) Nothing contained in this Ordinance shall be interpreted to require any covered entity to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, national origin, age, or marital status of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, national origin, age, or marital status referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any

labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, national origin, age, or marital status in the community, State, section, or other area.

(j) With respect to discrimination based on age, it is not unlawful for a covered entity to take any action otherwise prohibited under subsections (a),(b),(c),(d) or (e) of Section 4.1 of this Article:

(1) Where the differentiation is based on reasonable factors other than age;

(2) Where such practices involve an employee in a workplace in a foreign country, and compliance with those subsections would cause such employer, or a corporation controlled by such employer, to violate the laws of the country in which such workplace is located; or

(3) To observe the terms of a bona fide seniority system that is not intended to evade the purposes of this Article, except that no such seniority system shall require the involuntary retirement of any individual who is at least 40 years of age because of the age of such individual; or

(4) To observe the terms of a bona fide employee benefit plan:

a. Where, for each benefit or benefit package, the actual amount of payment made or cost incurred on behalf of an older worker is no less than that made or incurred on behalf of a younger worker, as permissible under section 1625.10, Title

29, Code of Federal Regulations, as in effect on June 22, 1989; or

b. That is a voluntary early retirement incentive plan consistent with the relevant purposes of this Ordinance.

c. Notwithstanding the provisions of subsection a. or b. of this subdivision, no employee benefit plan or voluntary early retirement incentive plan shall excuse the failure to hire any individual, and no such employee benefit plan shall require or permit the involuntary retirement of any individual age 40 or older, because of the age of such individual. A covered entity acting under subdivision (3) or subdivision (4) of this section, shall have the burden of proving that such actions are lawful in any proceeding brought pursuant to this Ordinance; or

(5) To discharge or otherwise discipline an individual for good cause.

(k) Notwithstanding the provisions of subdivision (4) of subsection (j) above:

(1)(1) Nothing in this Ordinance shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age and who, for the two-year period immediately before retirement, is employed in a bona fide executive or high policy-making position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in

the aggregate, at least forty-four thousand dollars (\$44,000).

(1)(2) In applying the retirement benefit test of subdivision (1) of this subsection, if any such retirement benefit is in a form other than a straight life annuity, with no ancillary benefits, or if employees contribute to any such plan or make rollover contributions, the benefit shall be adjusted in accordance with regulations prescribed by the Equal Employment Opportunity Commission, pursuant to 29 U.S.C. § 631(c)(2), so that the benefit is the equivalent of a straight life annuity with no ancillary benefits under a plan to which employees do not contribute and under which no rollover contributions are made.

(m) An unlawful employment practice based on disparate impact is established under this Ordinance only if:

1. a complaining party demonstrates that a respondent uses a particular employment practice that causes a disparate impact on the basis of race, color, religion, sex, national origin, age, disability, familial status, or veteran status and the respondent fails to demonstrate that the challenged practice is job related for the position in question and consistent with business necessity; or

2. the complaining party makes a demonstration with respect to an alternative employment practice and the respondent refuses to adopt such alternative employment practice. A "demonstration with respect to an alternative employment practice" shall be in accordance with the law as it existed on June 4, 1989.

3. (a) With respect to demonstrating that a particular

employment practice causes a disparate impact as described herein, the complaining party shall demonstrate that each particular challenged employment practice causes a disparate impact, except that if the complaining party can demonstrate to the court that the elements of a respondent's decision making process are not capable of separation for analysis, the decision making process may be analyzed as one employment practice.

(b) If the respondent demonstrates that a specific employment practice does not cause the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity.

(n) A demonstration that an employment practice is required by business necessity may not be used as a defense against a claim of intentional discrimination under this Ordinance.

(o) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses a controlled substance, as defined in schedules I and II of Section 812 of the Controlled Substances Act (21 U.S.C. §812) other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this Ordinance only if such rule is adopted or applied with an intent to discriminate because of race, color, religion, sex, national origin, age, disability, familial status, or veteran status.

(p) Except as otherwise provided in this Article, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, national origin, age, disability, familial status, or veteran status was a motivating factor for any employment practice, even though other factors also motivated the practice.

(q) On a claim in which an individual proves a violation under subsection (p) and a respondent demonstrates that the respondent would have taken the same action in the absence of the impermissible motivating factor, the court:

(a) may grant declaratory relief, injunctive relief and attorney's fees and costs demonstrated to be directly attributable only to the pursuit of a claim under section (p); and

(b) shall not award damages or issue an order requiring any admission, reinstatement, hiring, promotion, or payment, as described in Article VIII of this Ordinance.

ARTICLE V Unfair Housing

Sec. 5.1 Unlawful Housing Practices

(a) It is an unlawful discriminatory housing practice for any person, because of race, color, religion, sex, national origin, age, disability, familial status, or veteran status to:

(1) Refuse to engage in a real estate transaction;

(2) Discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;

(3) Refuse to permit, at the expense of a qualified

individual with a disability, reasonable modifications of existing premises occupied or to be occupied by the individual if the modifications are necessary to such individual's full enjoyment of the premises; except that, in the case of a rental unit, the landlord may, where it is reasonable to do so, condition permission for modifications on agreement by the renter to restore the interior of the premises to the condition that existed before the modifications, reasonable wear and tear excepted, if after six months the landlord is unable to relet the unit in the modified condition. The landlord shall have the burden of showing that the unit could not be relet within the six month period because of the modifications rather than for some other reason or reasons;

(4) Refuse to make reasonable accommodations in rules, policies, practices, or services, when these accommodations may be necessary to a disabled person's equal use and enjoyment of a dwelling;

(5) Fail to design and construct covered multifamily dwellings available for first occupancy after March 13, 1991, so that:

- a. The dwellings have at least one building entrance on an accessible route, unless it is impractical to do so because of terrain or unusual site characteristics; or
- b. With respect to dwellings with a building entrance on an accessible route:

1. The public and common use portions are readily accessible to and usable by individuals with a disability;

2. There is an accessible route into and through all dwellings and units;

3. All doors designed to allow passage into, within, and through these dwellings and individual units are wide enough for wheelchairs;

4. Light switches, electrical switches, electrical outlets, thermostats, and other environmental controls are in accessible locations;

5. Bathroom walls are reinforced to allow later insulation of grab bars; and

6. Kitchens and bathrooms have space for an individual in a wheelchair to maneuver;

(6) Refuse to receive or fail to transmit a bona fide offer to engage in a real estate transaction;

(7) Refuse to negotiate for a real estate transaction;

(8) Represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or fail to bring a property listing to such person's attention, or refuse to permit such person to inspect real property;

(9) Make, print, circulate, post, or mail, or cause to be so published, a statement, advertisement, or sign, or use a form or application for a real estate transaction, or make a record or inquiry in connection with a prospective real estate transaction, which indicates directly or indirectly, an intent to make a limitation, specification, preference, or discrimination with

respect thereto;

(10) Offer, solicit, accept, use, or retain a listing of real property with the understanding that any person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith; or

(11) Otherwise make unavailable or deny housing.

(b) It is an unlawful discriminatory housing practice for any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction, because of race, color, religion, sex, national origin, age, disability, familial status, or veteran status.

As used in this subsection, "residential real estate related transaction" means:

(1) The making or purchasing of loans or providing financial assistance (i) for purchasing, constructing, improving, repairing, or maintaining a dwelling, or (ii) where the security is residential real estate; or

(2) The selling, brokering, or appraising of residential real estate.

The provision of this subsection shall not prohibit any financial institution from using a loan application which inquires into a person's financial and dependent obligations or from basing its actions on the income or financial abilities of any person.

(c) It is an unlawful discriminatory housing practice for a person to induce or attempt to induce another to enter into a real

staff and shall be enforceable as a binding contract by the Commission pursuant to the applicable provisions of North Carolina law, statutory and common.

**Sec. 8.2 Reasonable Cause, Conciliation Efforts,
and Right to Sue Letters**

(a) If the Complaint is not sooner resolved, the Commission staff shall, upon completion of the investigation, determine whether or not there is reasonable cause to believe that an unlawful discriminatory practice has occurred, is occurring, or is going to occur.

(b) The Commission staff shall make its determination on reasonable cause as promptly as possible and, so far as practicable, no later than 100 days after the Complaint was filed.

(c) If the Commission staff determines that there is not reasonable cause to believe that an unlawful discriminatory practice has occurred, is occurring, or is going to occur, it shall dismiss the Complaint and notify the Complainant and the Respondent of its decision. At the same time, the Commission staff shall issue a right-to-sue letter to the Complainant.

(d) In the event the Commission staff determines that reasonable cause does not exist, the Complainant may make a written request to the Commission that such decision be reconsidered. Such request shall be filed with the Commission staff within thirty (30) days of the date the Commission staff issued its finding of no reasonable cause. The request for reconsideration shall be heard by a panel of three Commission members. As a prerequisite to

serving on this panel, the Commission member shall receive appropriate training by the North Carolina Human Relations Commission. Such training shall include ordinance coverage and scope, how to prove if discrimination has occurred, and how to determine appropriate remedies if discrimination is proved.

(e) If the Commission staff determines that reasonable cause exists, it shall notify the Complainant and the Respondent and shall attempt to resolve the Complaint by conference, conciliation, and/or persuasion.

(f) All conciliation agreements shall be signed by Complainant and the Respondent and shall be recognized as a legally enforceable contract. The Commission shall also be a party to all conciliation agreements which resolve Complaints. The Commission shall have the authority to enforce conciliation agreements pursuant to the applicable provisions of North Carolina law, statutory and common law.

(g) If the Commission staff, after making a finding of reasonable cause, is unable to resolve the Complaint by conference, conciliation, or persuasion, it shall issue a written declaration that conciliation efforts have failed.

(h) If the Commission staff issues a written declaration that conciliation efforts have failed, the Commission staff shall, upon written request of the Complainant, issue a right-to-sue letter to the Complainant. Such written request shall be filed with the Commission staff by the Complainant within fifteen (15) days of the date the declaration of conciliation failure is served on the

estate transaction from which such person may profit:

- (1) By representing that a change has occurred, or may occur in the composition of the residents of the block, neighborhood, or area in which the real property is located with respect to the race, color, religion, sex, national origin, age, disability, familial status, or veteran status of the owners or occupants; or
- (2) By representing that a change has resulted, or may or will result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

(d) It is an unlawful housing practice to deny any person, who is otherwise qualified by State law, access to or membership or participation in any real estate brokers' organization, multiple listing service, or other service, organization, or facility relating to the business of engaging in real estate transactions, or to discriminate in the terms or conditions of such access, membership, or participation because of race, color, religion, sex, national origin, age, disability, familial status, or veteran status.

(e) It is an unlawful housing practice to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, on account of having exercised or enjoyed, or on account of having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by this Ordinance.

Sec. 5.2 Proof of Violation

(a) It is a violation of this Ordinance if:

(1) A person by his act or failure to act intends to discriminate against a person. A person intends to discriminate if, in committing an unlawful housing practice in Section 5.1 of this Article if he or she was motivated in full, or in any part at all, by race, color, religion, sex, national origin, age, disability, familial status, or veteran status. An intent to discriminate may be established by direct or circumstantial evidence; or

(2) A person's act or failure to act has the effect, regardless of intent, of discriminating, as set forth in Section 5.1 of this Article, against a person of a particular race, color, religion, sex, national origin, age, disability, familial status, or veteran status.

(3) However, it is not a violation of this Article if a person whose action or inaction has an unintended discriminatory effect, proves that his or her action or inaction was motivated and justified by business necessity.

(4) It shall be no defense to a violation of this Ordinance that the violation was requested, sought, or otherwise procured by another person.

Sec. 5.3 Exemptions

(a) Nothing in this Article (other than subsection (9) of Section 5.1) shall apply to the following:

(1) The rental of rooms or units in dwellings containing

living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence;

(2) A religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by, or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin.

(3) Private clubs, not in fact open to the public, which as an incident to their primary purpose or purposes provide lodging which they own or operate for other than a commercial purpose, for limiting the rental or occupancy of such lodgings to its members or from giving preference to its members;

(b) Nothing in Subsection (a)(3), (4), or (5) of Section 5.1 of this Article shall require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(c) No provision of this Ordinance limits the applicability of any reasonable local or state restriction regarding the maximum number of occupants permitted to occupy a dwelling unit.

(d) Nothing in this Ordinance shall be deemed to nullify any provisions of the North Carolina Building Code applicable to the construction of residential housing for the handicapped.

(e) No provision of this Ordinance regarding familial status applies with respect to housing for older persons. "Housing for older persons" mean housing:

(1) Provided under any state or federal program specifically designed and operated to assist elderly persons as defined in the program;

(2) Intended for and solely occupied by person 62 years or older. Housing satisfies the requirements of this subdivision even though there are persons residing in such housing on September 13, 1988, who are under 62 years of age, provided that all new occupants after September 13, 1988, are 62 years or older; or

(3) Intended for and operated for occupancy by at least one person 55 years of age or older per unit as shown by such mandatory factors as (i) the existence of significant facilities and services specifically designed to meet the physical and social needs of older persons or, if this is not practicable, that the housing provides important housing opportunities for older persons; (ii) at least eighty percent (80%) of the units are occupied by at least one person 55 years of age or older per unit; and (iii) the publication of and adherence to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older. Housing satisfies the requirements of this subdivision even though on September 13, 1988,

under eighty percent (80%) of the units in the housing facility are occupied by at least one person 55 years or older per unit, provided that eighty percent (80%) of the units that are occupied by new tenants after September 13, 1988, are occupied by at least one person 55 years or older per unit such time as eighty percent (80%) of all the units in the housing facility are occupied by at least one person 55 years or older. Housing facilities newly constructed for first occupancy after March 12, 1989, shall satisfy the requirements of this subdivision if (i) when twenty-five percent (25%) of the units are occupied, eighty percent (80%) of the occupied units are occupied by at least one person 55 years or older, and thereafter (ii) eighty percent (80%) of all newly occupied units are occupied by at least one person 55 years or older until such time as eighty percent (80%) of all the units in the housing facility are occupied by at least one person 55 years of age or older.

Housing satisfies the requirements of subdivisions (2) and (3) of this subsection even though there are units occupied by employees of the housing facility who are under the minimum age or family members of the employees residing in the same unit who are under the minimum age, provided the employees perform substantial duties directly related to the management of the housing.

ARTICLE VI Public Accommodations

Sec. 6.1 Definitions

(a) A place of public accommodation includes, but is not limited to, each of the following establishments located in Orange

County which caters or offers its services or facilities or goods to the general public:

(1) any inn, hotel, motel, or other establishment which provides lodging to transient guests;

(2) any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, bar, or other establishment engaged in the selling or serving of food or drink;

(3) any motion picture house, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment;

(4) any auditorium, convention center, lecture hall, or other place of public gathering;

(5) any bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(6) any laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(7) any terminal, depot, or other station used for specified public transportation;

(8) any museum, library, gallery, or other place of public display or collection;

(9) any park, zoo, amusement park, or other place of recreation;

(10) any nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(11) any day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment;

(12) any gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

(13) any establishment offering the viewing, sale, use, lease, or hire of printed matter, audiotapes, videotapes, phonograph records, compact discs, videotape or film loops, or other such establishment;

(14) any area or structure provided for the purpose of storing personal property; and

(15) any other establishment which is (a)(i) physically located within the premises of any establishment otherwise covered by this section, or (ii) within the premises of which is physically located any such covered establishment, and (b) which holds itself out as serving patrons of such establishment.

Sec. 6.2 Prohibited Practices

(a) All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the basis of race, color, religion, sex, national origin, age, disability, familial status, or veteran status.

(b) It shall be an unlawful discriminatory practice under this Ordinance for any person to (1) withhold, deny, or attempt to withhold or deny, or deprive or attempt to deprive, any person of

any right or privilege secured by subsection (a) of this section, or (2) intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person with the purpose of interfering with any right or privilege secured by subsection (a) of this Section, or (3) punish or attempt to punish any person for exercising or attempting to exercise any right or privilege secured by subsection (a) of this Section.

Sec. 6.3 Exemptions

(a) The provisions of this Ordinance shall not apply to a private club or other establishment not in fact open to the public.

Article VII Other Prohibited Discriminatory Acts

1. It shall be unlawful for any person to intentionally or knowingly:

a. Perform or attempt to perform any act which directly or indirectly results in an individual's bodily injury or property damage where such act is directed at an individual or a group of individuals because of that person's or that group's perceived or actual race, color, religion, sex, national origin, age, disability, familial status, or veteran status in the United States armed services.

b. Solicit, encourage, compensate, assist, or conspire with another to perform or attempt to perform any act which directly or indirectly results in an individual's bodily injury or property damage where such act is directed at an individual or a group of individuals because of that person's or that group's perceived or

actual race, color, religion, sex, national origin, age, disability, familial status, or veteran status in the United States armed services.

2. No person shall be found to have violated this Ordinance on the basis of the content of any speech or communication used by such person.

Article VIII Enforcement

Sec. 8.1 Filing of Complaint and Investigation

(a) Any person who claims to have been injured, or claims to be currently being injured, or who reasonably believes that he or she will be injured, by any practice made unlawful under this Ordinance may file a Complaint with the Commission.

(b) Complaints shall be in writing, signed and verified by the Complainant. Complaints shall state the facts upon which the allegation of an unlawful discriminatory practice is based and shall contain such other information and be in such form as the Commission requires.

Commission staff shall assist Complainants, if necessary, in reducing Complaints to writing and shall assist in setting forth the information in the Complaint as may be required by the Commission.

(c)(1) A Complaint that alleges an unlawful employment practice under this Ordinance must be filed with the Commission no later than 180 days after the occurrence, or cessation of the alleged unlawful employment practice.

(c)(2) A Complaint that alleges any practice made unlawful

under this Ordinance, other than an unlawful employment practice, must be filed with the Commission no later than one (1) year from the date of the occurrence, or cessation of the alleged unlawful practice.

(d) The Commission staff shall serve upon the Respondent, in accordance with the North Carolina Rules of Civil Procedure, a copy of the Complaint and a notice advising the Respondent of his or her procedural rights and obligations under this Ordinance within ten (10) days after the Complaint is filed with the Commission.

(e) A Respondent may file an answer to the Complaint within ten (10) days after receiving a copy of the Complaint. Answers shall be signed and verified by the Respondent and shall be filed with the Commission.

(f) With leave of the Commission staff, which leave shall be granted whenever it would be reasonable and fair to do so, Complaints and Answers may be amended at any time. Amendments shall be reduced to writing, signed, verified, and filed with the Commission. Amendments shall relate back to the date the original Complaint or Answer was filed.

(g) The Commission staff shall, within 30 days after the filing of a Complaint, commence an investigation into the allegations contained in the Complaint.

(h) In conducting an investigation, the Commission staff shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence to ascertain the factual basis of the allegations

contained in the Complaint.

Further, the Commission staff may examine, record, and copy such materials and take and record the testimony or statements of such persons as reasonably necessary for the furtherance of the investigation.

(i) In conducting an investigation, the Commission staff may, in accordance with the North Carolina Rules of Civil Procedure:

- (1) issue subpoenas compelling access to or production of documents, materials, or other evidence;
- (2) issue subpoenas compelling witnesses, including any party, to appear and give testimony before the Commission staff;
- (3) issue subpoenas compelling witnesses, including any party, to appear and give testimony at a deposition;
- (4) take depositions of witnesses, including any party; and
- (5) issue interrogatories to a Respondent.

(j) Upon written application to the Commission staff, a Respondent shall be entitled to the issuance of interrogatories directed to the Complainant, to the issuance of a reasonable number of subpoenas for the taking of depositions, and to the issuance of a reasonable number of subpoenas for the production of evidence.

(k) In the case of refusal to obey a subpoena, answer an interrogatory, answer a question propounded in a deposition, or answer a question propounded during an interview conducted by the

Commission staff pursuant to this section, the Commission staff or the Respondent may make a motion in the Superior Court to compel a person to obey the subpoena, answer the interrogatory, or answer the question. The North Carolina Rules of Civil Procedure shall apply to the making of such motions. If a person fails to obey an order issued pursuant to this subsection, the court may apply any or all of the sanctions available in Rule 37 of the North Carolina Rules of Civil Procedure.

(l) Whenever the Commission staff concludes on the basis of a preliminary investigation of a Complaint that prompt judicial action is necessary to carry out the purposes of this Ordinance, the Commission may commence a civil action in the Superior Court for injunctive relief pending final disposition of the Complaint. Any injunctive relief shall be ordered in accordance with Rule 65 of the North Carolina Rules of Civil Procedure.

The commencement of a civil action to obtain injunctive relief shall not affect the continuation of the Commission staff's investigation or the initiation of a separate civil action provided for in this Ordinance.

(m) Complaints may be resolved at any time by informal conference, conciliation, or persuasion. Nothing said or done in the course of such informal procedure may be made public by the Commission or used as evidence in any subsequent proceeding without the written consent of the person concerned. However, all resolutions of complaints shall be reduced to writing, shall be signed by the Complainant, the Respondent, and by the Commission

Complainant.

(i)(a) Upon making a declaration of conciliation failure, the Commission staff may, in cases arising under Article IV (Fair Employment), Article VI (Public Accommodations), and Article VII (Other Prohibited Discriminatory Acts) apply to the Director of the Office of Administrative Hearings, pursuant to N.C.G.S. §7A-758, for the designation of an administrative law judge to preside at a hearing of the case.

(b) In cases arising under Article V (Fair Housing) in which the Commission has issued a declaration of conciliation failure, the Commission must apply to the Director of the Office of Administrative Hearings, pursuant to N.C.G.S. §7A-758, for the designation of an administrative law judge to preside at a hearing of the case.

(c) In the event the Commission chooses to make application to the Office of Administrative Hearings, it shall do so within thirty (30) days of the date the Commission staff issued its written declaration of conciliation failure.

(j) If within 130 days from the date the Complaint was filed, the Commission staff has failed to make a determination on the issue of reasonable cause, the Commission staff shall, upon written request of the Complainant, issue a right-to-sue letter to the Complainant.

Sec. 8.3 Referral to Office of Administrative Hearings

Subdiv. 8.3.1 Hearings

(a) Upon receipt of an application for a hearing from the

Commission, the Director of the Office of Administrative Hearings shall, without undue delay, assign an administrative law judge to hear the case. Under this subsection, references to "parties" means "the Commission" and "the Respondent" and any other party the administrative law judge permits to intervene. It shall be within the sound discretion of the administrative law judge to allow or disallow such motion.

(b) All hearings under this Ordinance shall be de novo, open to the public, and shall be conducted in an impartial manner.

(c) Venue of cases heard by an administrative law judge under this Ordinance shall be in Orange County.

(d) If at any time after the commencement of a hearing of a case under this section, but before the administrative law judge issues a final decision, the parties successfully conciliate the Complaint, the Commission shall file a stipulation of settlement or notice of voluntary dismissal with the presiding administrative law judge. Upon receipt of such stipulation or notice, the administrative law judge and the Office of Administrative Hearings shall take no further action regarding the Complaint.

(e) All hearings held before an administrative law judge shall, except as provided elsewhere in this Ordinance, be held in accordance with the provisions of Article 3, Chapter 150B (Administrative Procedures Act) and in accordance with Chapter 3 of Title 26 of the North Carolina Administrative Code.

(f) The case in support of the Commission shall be presented at the hearing by the Commission's attorney.

(g) The administrative law judge shall make a recommended decision, which shall contain findings of fact, conclusions of law, and recommended relief if appropriate.

(h)(1) A panel consisting of three members of the Commission shall review the findings of fact, conclusions of law, and relief granted, if any, set forth in the administrative law judge's recommended decision. Prior to making its final decision, the Commission panel shall permit the Complainant and Respondent the opportunity to submit written exceptions to the recommended decision and shall permit them to present oral argument as to why the recommended decision should be affirmed, modified, or reversed.

(h)(2) As a prerequisite to serving on this panel, the Commission member shall receive appropriate training by the North Carolina Human Relations Commission. Such training shall include ordinance coverage and scope, how to prove if discrimination has occurred, and how to determine appropriate remedies if discrimination is proved.

(h)(3) Such review shall be completed by the Commission panel not later than sixty (60) days after the recommended decision is issued.

(h)(4) The Commission panel may affirm, modify, or reverse the recommended decision. Such decision by the Commission panel shall constitute the final agency decision of the Commission.

(h)(5) In the event the Commission panel modifies or reverses the recommended decision of the administrative law judge, it shall set forth in writing the specific reasons it has reached a decision

different from that of the administrative law judge.

(i) The Office of Administrative Hearings shall prepare an official record of the case that includes:

1. Notices, pleadings, motions, and intermediate rulings;
2. Questions and offers of proof, objections, and rulings thereon;
3. Evidence presented;
4. Matters officially noticed, except matters so obvious that a statement of them would serve no useful purpose; and
5. The administrative law judge's recommended decision.

(j) The Office of Administrative Hearings shall forward the official record to the Commission and shall forward a copy of its recommended decision to each party.

(k) The Commission shall have the authority to enforce any award made to a Complainant pursuant to the applicable provisions of North Carolina law, statutory and common.

Subdiv. 8.3.2 Remedies

(a) If the administrative law judge, in its recommended decision, finds that a Respondent has violated, is violating, or is about to violate any provision of this Ordinance, he may recommend such affirmative action as may be appropriate, including:

1. injunctive relief as provided for in Rule 65 of the North Carolina Rules of Civil Procedure;
2. compensatory damages;
3. punitive damages; and
4. any other relief as the administrative law judge deems appropriate.

(b) Punitive damages against a respondent may be recommended by the administrative law judge only if the complaining party (or parties) demonstrate(s) that the Respondent engaged in a practice made unlawful under this Ordinance with malice or with reckless

indifference to the protected rights of the Complainant.

(c) In the case of a finding by the administrative law judge that the Respondent has committed an unfair employment practice, then the following provisions shall also apply:

1. the administrative law judge may recommend, in addition to any of the remedies set forth above, any one or more of the following:

a. reinstatement or hiring of an employee;

b. back pay; provided that it shall not accrue from a date more than two years prior to the filing of the complaint with the Commission; and provided further that interim earnings or amounts earnable with reasonable diligence by the person discriminated against shall operate to reduce the back pay otherwise allowable.

2. Compensatory damages shall not include backpay or interest on backpay.

3. The sum of the amount of compensatory damages allowed for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other pecuniary losses, and the amount of punitive damages awarded under this section shall not exceed, for each complaining party:

a. In the case of a Respondent who has more than 14 and fewer than 101 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$50,000; and

b. In the case of a Respondent who has more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$100,000; and

c. In the case of a Respondent who has more than 200 and fewer than 501 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$200,000; and

d. In the case of a Respondent who has more than 500 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$300,000.

4. In cases where an unlawful employment practice involves the provision of a reasonable accommodation, neither compensatory nor punitive damages may be awarded where the Respondent demonstrates good faith efforts, in consultation with the person with the disability who has informed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide such individual with an equally effective opportunity and would not cause an undue hardship on the operation of the Respondent's business.

(d) In the case of a finding that the Respondent has committed, with malice or with reckless indifference to the protected rights of the Complainant, a violation of this Ordinance, then the following provisions shall also apply:

1. the amount of punitive damages awarded under this section shall not exceed, for each complaining party:

a. In an amount not exceeding ten thousand dollars (\$10,000)

if the Respondent has not been adjudged to have committed any prior unlawful discriminatory act;

b. In an amount not exceeding twenty-five thousand dollars (\$25,000) if the Respondent has been adjudged to have committed one other unlawful discriminatory acts during the five-year period ending on the date of the filing of the Complaint; or

c. In an amount not exceeding fifty thousand dollars (\$50,000) if the Respondent has been adjudged to have committed two or more unlawful discriminatory acts during the seven-year period ending on the date of the filing of the complaint.

If the act constituting an unlawful violation is committed by the same natural person who has been previously adjudged to have committed an act or acts constituting an unlawful discriminatory practice in violation of this Ordinance, then the punitive damages set forth above may be imposed without regard to the period of time within which any subsequent discriminatory practice or act occurred.

ARTICLE IX Judicial Review

(a) Judicial review of the final decision of the Commission shall be in accordance with the provisions provided for judicial review of agency decisions as set forth in Article 4, §150B of the North Carolina General Statutes.

(b) In reviewing the final decision of the Commission, the court may affirm the decision or remand the case for further proceedings. It may also reverse or modify the final decision of the Commission if the substantial rights of the petitioner may have

been prejudiced because the Commission's findings, inferences, conclusions, or decisions are:

1. In violation of constitutional provisions;
2. In excess of the statutory authority or jurisdiction of the agency;
3. Made upon unlawful procedure;
4. Affected by other error of law;
5. Unsupported by substantial evidence; or
6. Arbitrary or capricious.

(g) The court in a review proceeding may:

1. Affirm, modify, or reverse the Commission's decision;
2. Remand the case to the Commission for further proceedings;
3. Grant to any party such temporary relief, restraining order, or other order as it deems appropriate; or
4. Issue an order to enforce the Commission's decision to the extent that the decision is affirmed or modified.

(c) A party to a review proceeding in Superior Court may appeal to the appellate division from the final judgment of the Superior Court as provided in G.S. 7A-27. Pending the outcome of an appeal, an appealing party may apply to the court that issued the judgment under appeal for a stay of that judgment or a stay of the decision that is the subject of the appeal, as appropriate.

ARTICLE X Civil Actions

(a) Civil actions brought by a Complainant after the issuance of a right-to-sue letter by the Commission shall be filed in the Superior Court no later than 90 days after issuance of the right-to-sue letter.

(b) Parties to a civil action brought pursuant to this section shall have the right to a jury trial as provided for by the North Carolina Rules of Civil Procedure.

(c) Upon application by the Complainant and in such

circumstances as the court may deem just, the court may authorize the commencement of the action without the payment of fees, costs, or security.

(d) The court may award court costs and reasonable attorney's fees to the prevailing party with the following limitations:

(1) Attorney's fees may not be awarded to the Commission;
and

(2) A prevailing Respondent may be awarded court costs and reasonable attorney's fees only upon a showing that the case is frivolous, unreasonable, or without foundation.

(e) If the court finds that the Respondent has violated, is violating, or is about to violate this Ordinance, it may order such affirmative action as may be appropriate, including each of the remedies that may be recommended by an administrative law judge under this Ordinance.

(f) No order of the court shall require the admission or reinstatement, or promotion of an individual as a member of a union, or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled, or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, national origin, age, disability, familial status, or veteran status in the United States armed services.

MICHAEL B. BROUGH & ASSOCIATES

MEMORANDUM

TO: Mayor and Board of Aldermen
FROM: Michael B. Brough *mbb*
DATE: January 24, 1994
RE: Orange County Civil Rights Ordinance

The Board asked that I address several questions relating to Orange County's proposed civil rights ordinance. The questions and my responses follow:

(1) Is there a way to have some panel other than the Orange County Human Rights Commission responsible for enforcing the ordinance? The latest draft provides that the staff, rather than the commission, will make the initial reasonable cause determination. The commission will still be involved later in the process to review the recommendations of the administrative law judge. There is no reason why the OCHRC must perform this function, but somebody must be assigned this function unless the ordinance is significantly revised to follow more closely the federal model (where in most cases claims not resolved at the staff level can be heard only in a federal or state court, rather than in an administrative proceeding).

(2) What are the criteria for making a finding of "reasonable cause?" There is no specific definition. A determination of reasonable cause is simply a determination that there are reasonable grounds to believe that discrimination has occurred. What constitutes "discrimination" will presumably be determined in accordance with existing federal law on the subject.

(3) What training will be provided? The revised ordinance now provides in subsection 8.3(h)(2) that commission members "shall receive appropriate training by the North Carolina Human Relations Commission. Such training shall include ordinance coverage and scope, how to prove if discrimination has occurred, and how to determine appropriate remedies if discrimination is proved."

I have also reviewed the proposed ordinance from the perspective of determining the extent to which it creates remedies for discrimination in various fields that differ from remedies presently available under federal or state law.

As suggested above, from a substantive point of view, the ordinance appears essentially to provide the same coverage as is available under federal law. I have not examined this 50 page document with a microscope, but it appears intended to prohibit the same types of discrimination covered under existing federal law, such as the Equal Employment Opportunity Act, the Americans With Disabilities Act, and the Fair Housing Act. The only minor difference that I can detect is that the ordinance prohibits employment discrimination on the basis of "familial status," which is a term that appears in the federal fair housing law and has relevance for housing discrimination but little or no relevance, so far as I can determine, to employment discrimination.

Mayor and Board of Aldermen
January 24, 1994
Page Two

The major differences between the proposed ordinance and existing law have to do with enforcement procedures and remedies. The most significant difference occurs in the employment context. Under federal law, if the E.E.O.C. investigates a discrimination complaint, concludes that reasonable cause exists, and fails to resolve the matter by conciliation, then it grants the employee a "right to sue letter," which authorizes the employee to obtain his or her own attorney and bring suit in federal or state court (successful plaintiffs are awarded attorneys' fees). In contrast, under the ordinance, if the commission finds reasonable cause and conciliation efforts prove unsuccessful, then the county attorney's office will initiate a proceeding before an administrative law judge, essentially acting as the complainant's attorney against the employer. Whether this is good or bad policy is a matter for the Board to decide, but it does represent a substantial change from the existing law.

The second major change from existing practice is that, under the proposed ordinance, the defendant would have no opportunity for a jury trial if the county chooses to seek enforcement through the administrative process (i.e. a trial before an administrative law judge). Under the process set forth in the ordinance, the administrative law judge would conduct a hearing in the nature of a trial and then make a recommendation to the commission. Judicial review would be available, but this would be in the nature of appellate review only. Under existing federal law, employment discrimination charges would be tried before a judge or (if either party so requests) a jury.

Third, the proposed ordinance does not exclude the possibility of punitive damages being awarded against the town, as does existing federal law.

Finally, I recommend that, if the ordinance is adopted, section 8.2(d) be amended to eliminate the possibility of a complainant asking the commission to "reconsider" a determination by the commission staff that no reasonable cause exists in the employment context. From the legal perspective, this creates a potential due process problem since any determination by the administrative law judge would go back to the commission for a final determination, and if the commission or a panel thereof has already found reasonable cause, this at the very least creates the appearance that the commission cannot review the decision of the ALJ in an unbiased fashion. From the practical perspective, this provision also means that the commission would probably be overloaded with requests for reconsideration because a reconsideration can be requested by a mere letter, and any disappointed complainant would have every incentive to request reconsideration.

I would be happy to discuss this further with the board.

cc: Bob Morgan
Geoff Gledhill

CHRONOLOGY OF RESISTANCE TO SEGREGATION IN CHAPEL HILL
(CAPS identify events of national scope)

- Spring, 1947 Rev. Charles Jones, Bayard Rustin and others tested bus segregation laws in Chapel Hill
- March 22, 1951 UNC became the first previously-all-white state school in the South to admit a Negro student voluntarily
- January 1953 EISENHOWER INAUGURATED TO 1ST OF TWO TERMS
- May 17 1954, U.S. SUPREME COURT RULES THAT STATE-ENFORCED SEGREGATION OF THE PUBLIC SCHOOLS IS ILLEGAL
- Spring 1954 formation of "Chapel Hill Fellowship for School Integration"
- Dec. 1, 1955 ROSA PARK REFUSES TO YIELD HER SEAT ON BUS
- Sept. 24, 1957 EISENHOWER SENDS TROOPS TO LITTLE ROCK, ARKANSAS
- Fall 1958 CH Board of Alderman sets up Human Relations Commission
- January, 1960 Chapel Hill School Board voted unanimously to begin integration at the 1st grade.
- February 1, 1960 FOUR BLACK COLLEGE STUDENTS SIT-IN AT LUNCH COUNTER IN GREENSBORO
- February 1960 black youths initiated sit-ins in Chapel Hill
- March 24, 1960 twenty seven Chapel Hill ministers announced their support of peaceful picketing
- March 31, 1960 850 townspersons placed a full-page ad in Chapel Hill Weekly in support of merchants who integrate
- January 9, 1961 picketing of Carolina and Varsity theaters starts - both were integrated by December 1961
- January 20, 1961 JFK INAUGURATED AS 35TH PRESIDENT
- April 1963 start of picketing of College Cafe
- April 16, 1963 MLK, JR LETTER FROM BIRMINGHAM JAIL
- May 3 1963 Committee on Open Business formed
- May 19, 1963 twenty ministers asked the Mayor to form a committee to work for the elimination of segregation
- May 27, 1963 CH Board of Aldermen asked the Mayor to set up such a committee, thus the Town adopted the elimination of segregation as official policy
- May 26, 1963 CH/C'bo Merchants Association, now the Chamber of Commerce, (not-unanimously) states it opposes segregation in public businesses
- June, 1963 John Dunne arrested in Birmingham civil-rights action
- June 11, 1963 Mayor's Committee on Integration recognize that only an ordinance or law can produce integration in all Chapel Hill facilities - a flurry followed in which legal opinions varied on the right of a municipality to pass such an ordinance
- July 8 1963 COB starts action to train for civil disobedience
- July 29, 1963 twenty-seven people arrested at the Merchants Association
- Fall 1963 acceleration of action against segregation - Chapel Hill Weekly denounces strategy of activists- Chapel Hill Freedom Committee replaces COB
- November 22, 1963 PRESIDENT KENNEDY ASSASSINATED
- Dec 20-29, 1963 approximately 200 arrests
- January 1964 Sit-in at Watt's Grill
- January 12, 1964 1800 townspersons petition for a public accommodations ordinance
- February 3, 1964 arrests totalled 436
- February 8, 1964 Massive demonstrations block traffic on all arteries on day of UNC-Wake Forest game
- February, 1964 Committee of Concerned Citizens formed
- February, 1964 Trials of Duke Professors (David Smith, Peter Klopfer, Frederick Herzog, Harmon Smith, Robert Osborn) and UNC Professors (William Wynn and Al Amon) begin. Tar Heel Co-Editor Gary Blanchard cited for contempt
- Holy Week, 1964 Fast at downtown Post Office: John Dunne, Quinton Baker, James Foushee, LaVert Taylor, Melody Dickinson
- April, 1964 217 defendants brought to trial for 1500 offenses: resisting arrest, blocking streets, and implicit charges of trespass & conspiracy

James Foushee, Quinton Baker, Pat Cusick, Buddy Tieger, J.V. Henry, Lou Calhoun, Rosemary Ezra, Arthur Crisp, Roosevelt Atwater and dozens more found guilty in Orange County Court in Hillsborough

- May, 1964 Pat Cusick, Quinton Baker, Lou Calhoun, John Dunne, Buddy Tieger, Rosemary Ezra begin active prison terms

June 22, 1964 THREE CIVIL RIGHTS WORKERS KILLED IN MISSISSIPPI

July 2, 1964 PRESIDENT JOHNSON SIGNS CIVIL RIGHTS ACT

August, 1964 All prisoners paroled to out-of-state custody (except Rosemary Ezra - in-state)

- April 4, 1968 MARTIN LUTHER KING, JR. ASSASSINATED

- June 5, 1968 ROBERT F. KENNEDY ASSASSINATED



**HUMAN RELATIONS COMMISSION
ORANGE COUNTY
NORTH CAROLINA**

**RESOLUTION OF THE ORANGE COUNTY
HUMAN RELATIONS COMMISSION
MAY 9, 1994**

WHEREAS, the Orange County Human Relations Commission is committed to the elimination of all types of bias and discrimination and to the creation of an environment that fosters respect, and equal opportunity for all citizens and residents of Orange County, and

WHEREAS, it was the original intent of the Orange County Human Relations Commission that sexual orientation be included as a protected class in the proposed Civil Rights Ordinance for Orange County, and

WHEREAS, the Human Relations Commission did so include sexual orientation as a protected class in its original recommendation to the County Board of Commissioners and in the original draft of enabling legislation submitted to the state legislature for passage, and

WHEREAS, the Human Relations Commission remains committed to the inclusion of sexual orientation as a protected class in an Orange County Civil Rights Ordinance

BE IT THEREFORE RESOLVED, that the Human Relations Commission, while continuing its efforts to ensure passage of the current proposed Civil Rights Ordinance for Orange County, reaffirms its commitment to the inclusion of sexual orientation as a protected class, and hereby pledges to work with the Board of Commissioners, other community and civic groups, and Human Relations Commissions across the state to seek and advocate for the inclusion of sexual orientation as a protected class in the Orange County Civil Rights Ordinance once passed as well as for its inclusion in other local and regional ordinances.

A handwritten signature in cursive script, reading "Quinton E. Baker", is written over a horizontal line.

Quinton E. Baker, Chair

Orange County Human Relations Commission

Good Evening,

I wish to speak to the Carrboro ^{Board of Aldermen} ~~Town Council~~ tonight in support of the civil rights ordinance as proposed by the Human Relations Commission of Orange County and passed by the County Commissioners.

Representing the Commission on Women, an Orange county agency appointed to identify and advocate for the needs of women, I want to urge passage of this ordinance on behalf of all the women in Orange county who are unable to speak for themselves. The Commission on Women spends much of its time informing itself and others of the problems of women in Orange county, and trying to devise solutions to these problems. We have learned that, on the average, women in Orange county are more likely to be poor than other groups. Much of this is due to the kinds of jobs available to the unskilled and undereducated. Most women who work earn less than most of their male counterparts. These women may often feel they have no choices if they are discriminated against and harassed in job situations simply because they need the job. How likely are these women to take their complaints to agencies outside of Orange county for redress. Many aren't aware of these resources or think that exhorbitant resources are required to access them. Many may not even be aware that the human relation commission exists to act in their behalf.

Elderly women, in particular, often living alone, frequently have no one to whom they can complain when they feel they have been discriminated against because of their age or sex. Many see taking their complaints to Raleigh and Atlanta where State and federal offices are, as far too complicated and taking up too much time. Frequently cases referred to regional centers are delayed in being reviewed and much time is lost passing information back and forth. For women, racial minorities, and others who believe they have been discriminated against in matters of housing, jobs, etc., having a local body to receive complaints increases the chance that they will voice their grievances and that actions and resolutions might result. Certainly, barriers to filing complaints will be reduced. Often solutions can be reached simply by having parties come together to hear each others viewpoint. Any policy that would permit problem solving at the local level is preferable to one that involves a lot of cross-agency back and forth. I would think the forward thinking citizens of Orange county and Carrboro would be in favor of everyone being able to have their voices heard. Voicing those concerns at the local level within familiar environs should be a privilege that everyone enjoys. Surely, civil rights should not be up for debate in Orange county in 1993. We, on the women's commission urge the Carrboro Board of Aldermen to adopt this ordinance. Orange county citizens deserve the same rights and privileges others enjoy in surrounding counties. As we also see, education of the community about these rights and the availability of resources is long overdue. Thank you!

Joyce Roland

STATEMENT PRESENTED TO
THE CARRBORO BOARD OF ALDERMEN
Tuesday, May 10, 1994
7:30 PM

by
The Reverend L. Gene Hatley, President
Chapel Hill-Carrboro Branch NAACP

Having moved from this area in 1967 and returned in 1988, one would think that after the Civil Right Struggles of the late 60's and 70's, that the problems of discrimination would be less now than then. Not so. The major difference, in the 60's and 70's discrimination was overt, now it is covert and more institutionalized.

The Orange County Board of Commissioners voted to adopt a proposed Civil Rights Ordinance contingent on its passage by a significant number of municipalities, including Chapel Hill, Carrboro, and Hillsborough.

Upon examination of the proposed Ordinance, there are some areas in it that could be strengthened. However, the intent and purpose of the Ordinance is to promote equal treatment of all individuals; to prohibit discrimination in Orange County based on race, color, religion, sex, national origin, age, disability, familial status, and veteran status; to protect residents' lawful interests and their personal dignity..and to prevent public and domestic strife, crime and unrest within Orange County; and to further carry out in Orange County the policies provided for in various Federal Rules, Regulations and Laws prohibiting discrimination in, among other areas: housing, employment, and public accommodations.

A Local Ordinance is needed for several reasons:

- To provide for a local process of negotiating, conciliating and enforcing laws prohibiting discrimination in the areas of Housing, employment, public accommodations and bias-related incidents.
- To improve access for complainants and respondents to a speedy process for possible resolution of complaints.
- To increase opportunities for mediation and conciliation.
- To provide for quicker, less expensive, and more effective resolution of complaints.
- To provide for educational workshops, seminars and technical assistance to those needing such.
- To simplify the process for complainants to deal with violations of Civil Rights.

Some are saying right now, "Well, why not simply use the EEOC (Equal Employment Opportunity Commission) to deal with cases of discrimination. These are just a few of the problems facing the EEOC right now:

- Only three of five commissioners are in place.
- The EEOC is understaffed, overworked, and according to some sources, in shambles.
- In 1993, the EEOC received over 87,000 complaints, of which approximately 73,000 charges are unresolved.
- It is not uncommon for field investigators to juggle about 150 cases at a time. Many initial contacts are dismissed, or their cases are never properly investigated. For many, they never hear from an investigator for months and months.
- The GAO (General Accounting Office) reports that the average time to process a charge is ten months, which increase to 21 months by 1996.
- According to some estimates, the case load will exceed 90,000 in 1994.

Our local NAACP Branch is receiving an unprecedented number of complaints of discrimination in employment and housing. We do not hear about nor read about the many complaints because those who need help do not have the financial resources to pursue their complaints.

Those who are the perpetrators of discrimination continue to do the same thing over and over believing that time is on their side.

We need a local Civil Rights Ordinance NOW! We want to be know around the state as a progressive community. Now is the time to live up to that ideal that so many are striving to reach.

I realize the desire of some members of the Board of Aldermen to develop your own Ordinance, and to add other inclusive language. But I urge you not to delay this Ordinance and continue to work for additions, amendments and other inclusions after the Ordinance is passed.

BOARD OF ALDERMEN
AGENDA ITEM ABSTRACT

ITEM NO. F(2)

MEETING DATE: MAY 10, 1994

SUBJECT: SELECTION PROCESS FOR CONSTRUCTION MANAGER FOR THE TOWN COMMONS PROJECT

DEPARTMENT: MANAGER'S OFFICE	PUBLIC HEARING: YES ____ NO <u>X</u>	
ATTACHMENTS: RFP , LTR FROM MIKE BROUGH, DTD 1-20-94 SCHEDULE OF WORK	FOR INFORMATION CONTACT: James Harris 968-7700	
THE FOLLOWING INFORMATION IS PROVIDED:		
(x) Purpose	(x) Action Requested	(x) Analysis
(x) Summary	(x) Recommendation	

PURPOSE:

The Board unanimously supported and authorized the construction of the Carrboro Town Commons project. The fund raising committee and Town have raised enough money to design and build a significant portion of the project modifying the phasing of the project approved in resolution (#40/88-89).

The staff has explored construction methods that would allow the town to maximize the funds on hand to build the Town Commons project and is now prepared to recommend the use of a construction manager to perform the service.

SUMMARY:

- The use of a construction manager instead of general contractor would allow the Town to build most of elements included in the Town Commons project using the money on hand.
- The phasing of the project should be adjusted to include all essential elements of the project in the first phase of the project. (two market structures, two parking lots, landscaping, foundation for bandstand and sidewalks connecting the structures).
- To solicit a construction manager staff has prepared a request for proposals for construction manager services to build the town commons project, acting as the town's agent.
- If the board approves of using a construction manager staff would solicit proposals from construction managers for the service.
- After receipt and evaluation of proposals the construction committee would recommend a construction manager of the to the Board for approval.

ANALYSIS:

The Board of Aldermen unanimously supported and authorized the construction of the Carrboro Town Commons project. The fund raising committee and the Town has raised \$247,000 to design and build a significant portion of the project. In an effort to build the complete project, 2 market structures, a band stand, two parking lots, and a handicap accessible tot lot different approaches were explored. The two approaches for construction considered were the utilization of a general contractor and a construction manager.

Hiring a general contractor is the traditional method a municipality would use to construct a facility. The Town would go out for bids requesting a fixed price from the general contractor for the construction of a facility. The general contractor under contract with the Town provides all the goods and services, assembling the labor and the materials and providing the management skills necessary to build the project. The general contractor works under a performance bond which guarantees the construction of the facility. The general contractor assumes all the risk, therefore a profit margin is included in the price.

The construction manager would be hired by the Town to supervise and manage the construction of Town Commons as the Town's agent, therefore would not accept any direct financial responsibility for the completion of the project. The Town assumes more of the risk for construction of the facility. The construction manager would select subcontractors, purchase materials and coordinate volunteers. This person would agree to do these services for a fixed price. This approach is the most desirable for this project because of the limited funds available and the need to use volunteer labor and donated materials.

The amount of funds on hand, using the construction manager format to construct the project, is sufficient to construct the two market buildings, two parking lots, and sidewalks connecting the two market buildings. The Bandstand and tot lot would be in phase two of the project. This phasing is not consistent with the phasing approved by the Board of Aldermen. A comparison of the two phasing plans are enclosed. Plans for landscaping have not been finalized and will need to be addressed prior to awarding a contract for construction management. An additional \$2,000 for plants was added to the budget for this presentation.

The use of a construction manager would assist in the coordination of the bid packages, change orders associated with design changes, and would be responsible for construction coordination and other general conditions such as storage of materials on site, staging, cleanup and ect. The construction manager would be a single source of responsibility for on-site coordination.

Alternate Approaches by Cost

	<u>General Contractor</u>	<u>Construction Manager</u>
<u>Phase I</u>		
Farmers Market	185,754	181,197
Landscaping	5,250	5,000
Contingency (3%)	6,223	6,086
Insurance	3,228	3,157
Mark up	26,028	14,849
Supervision	21,700	21,700
Architectural Fees	<u>7,000</u>	<u>7,000</u>
Sub-Total	255,183	238,989

Bond	<u>4,998</u>	<u>0</u>
	260,181	238,989
Contribution (labor and materials)	(14,784)	(41,817)
	<hr/>	<hr/>
Sub-total Phase I	245,397	197,172
Phase II		
Bandstand	44,004	44,004
Insurance	1,132	566
Mark up	4,380	2,515
Bond	818	0
Playground	17,525	16,250
Trellis	3,100	2,750
Gravel paths	<u>3,000</u>	<u>3,000</u>
Sub-total Phase II	73,959	69,085
Project Total with No. Contributions	334,142	307,676
Project Total with Contribution	314,950	259,982

RECOMMENDATIONS:

It is the recommendation of the staff that the Town use the construction manager format to accomplish the task of building the Town Commons project. It is further recommended that the Board authorize the staff to solicit proposals from construction managers to perform this work. The Board should also establish a construction committee to select the construction manager and to work with the construction manager. It is recommended that two Board members, the Public Works Director, the Parks and Recreation Director, and Community and Economic Development Officer make up this committee.

ACTION REQUESTED:

To authorize Staff to solicit proposals for a construction manager to provide construction management services for the Town to accomplish the construction of this project by fixed cost and to appoint a construction committee.

CARRBORO, NORTH CAROLINA

REQUEST FOR PROPOSALS
FOR
CONSTRUCTION MANAGER SERVICES
FOR
THE TOWN COMMONS PROJECT

OPENING

_____, 1994

2:00 P.M.
local time

301 W. Main Street
Carrboro, North Carolina 27510
(919) 942-8541

Roger W. Thorne, Purchasing Officer

CARRBORO, NORTH CAROLINA

REQUESTS FOR PROPOSALS
FOR CONSTRUCTION MANAGER SERVICES
FOR THE TOWN COMMONS PROJECT

BIDDER INFORMATION

DATE: _____

NAME OF COMPANY: _____

LOCATION: _____

CONTACT PERSON: _____

TELEPHONE NUMBER: _____

FAX NUMBER: _____

MAILING ADDRESS: _____

PHYSICAL ADDRESS: _____

CARRBORO, NORTH CAROLINA
REQUESTS FOR PROPOSALS
FOR CONSTRUCTION MANAGER SERVICES
FOR THE TOWN COMMONS PROJECT

Table of Contents

Bidder Information Sheet	1
Table of Contents	2
Advertisement	3
General Information	4
Proposal Requirements	4
General Conditions	6
Supplementary Conditions	6
Evaluation & Award	8
Exhibit 1	10
Exhibit 2	11
Attachment:	Resolution No. 10/90-91

CARRBORO, NORTH CAROLINA
REQUESTS FOR PROPOSALS
FOR CONSTRUCTION MANAGER SERVICES
FOR THE TOWN COMMONS PROJECT

=====

OPENING:

_____, 1994

2:00 P.M.

The Town of Carrboro will receive sealed proposals for providing Construction Manager Services to oversee and administer the construction of the Town of Carrboro Town Commons Project until _____ 1994 at 2:00 P.M. at Carrboro Town Hall, 301 W. Main Street, Carrboro, North Carolina, 27510.

The Construction Manager shall be responsible for all resources, methods, techniques, sequences and procedures of construction. The Construction Manager will coordinate all segments of the work for this project in compliance with all laws, ordinances, rules, regulations, and lawful orders of any public authority regarding the contracting and performance of all aspects of this project.

Instructions for submitting proposals may be obtained from the Purchasing Officer between the hours of 10:00 A.M. and 4:00 P.M. at Carrboro Town Hall, 301 W. Main Street, Carrboro, North Carolina, (919) 942-8541.

The successful bidder must comply with the terms and conditions set forth. The Town reserves the right to accept or reject all or any bids.

Roger W. Thorne
Purchasing Officer

Publish for eight (8) days:
Sunday, _____, to Sunday, _____, 1994
Classified Legal.
Affidavit required
Town of Carrboro Purchasing Officer
PO Box 829, Carrboro, NC 27510

CARRBORO, NORTH CAROLINA

REQUESTS FOR PROPOSALS

FOR CONSTRUCTION MANAGER SERVICES

FOR THE TOWN COMMONS PROJECT

Section 1.0 General Information

1.1 The Town of Carrboro is seeking Construction Manager Services to oversee and administer the construction of the Town of Carrboro Town Commons Project. The Construction Manager shall be responsible for all resources, methods, techniques, sequences and procedures of construction, and shall coordinate all segments of the work in accordance with the "Standard Form of Agreement Between Owner and Construction Manager", June 1980 Edition, American Institute of Architects Document B801.

1.2 An important component of the responsibilities of the Construction Manager will be the coordination and inclusion into the project of donated materials, to be considered Owner-supplied Materials, and volunteer labor forces.

Section 2.0 Proposal Requirements

2.1 Responses to this RFP are due at 2:00 P.M. local time, on _____ 1994, at Carrboro Town Hall, 301 W. Main Street, Carrboro, North Carolina, 27510.

2.2 A Pre-Proposal Conference will be held on _____ at _____, local time, to discuss the scope of the project and the proposal requirements. The conference will also address the Town of Carrboro's Minority Participation Program for construction projects in excess of one hundred thousand dollars (\$100,000.00). A copy of Town of Carrboro Resolution No. 10/90-91 establishing a verifiable goal of fifteen percent (15%) for such projects is attached; the Construction Manager will be responsible for working with the Purchasing Officer to ensure that all aspects of the project, including the selection of contractors and sub-contractors, is in accordance with the provisions of this resolution.

2.3 Questions concerning submittal of the RFP may be addressed to Roger Thorne, Purchasing Officer, at the same address, or by calling (919)942-8541 between the hours of 10:00 A.M. and 4:00 P.M., Monday through Friday.

2.4 Questions about the content, intent or execution of the project may be addressed to James Harris, Community and Economic Development Officer, during the same hours and days by calling (919)942-8541.

Either Mr. Thorne or Mr. Harris can be reached at P.O. Box 829, Carrboro, North Carolina, 27510.

2.5 All responses shall be sent to the attention of:

James Harris, Community and
Economic Development Officer
Office of Town Manager
Post Office Box 829
Carrboro, NC 27510

All vendors shall include two copies of their proposal in addition to one original.

2.6 All vendors who intend to submit a proposal pursuant to this RFP must send a letter of intent indicating same to:

Roger W. Thorne
Purchasing Officer
Post Office Box 829
Carrboro, NC 27510

A "Letter of Intent" format is attached under "Exhibit 1". The deadline for submitting Letters of Intent is 2:00 P.M., local time, _____(ONE WEEK PRIOR TO THE DATE FOR OPENING OF PROPOSALS).

2.7 Proposals should include, at a minimum, the following:

- a. Information on firm and resume of project manager to be assigned to this project, including the Project Manager's N.C. General Contractors' License Number, classification and limitations.
- b. Explanation of your firm's qualifications for this project, including:
 - * Experience of the proposed Project Manager in commercial construction projects
 - * Experience of the proposed Project Manager in municipal construction projects
 - * Experience of the proposed Project Manager in projects involving the use of volunteers
 - * Firm staff that will be assigned to the project
 - * Size and nature of other concurrent project management commitments

- c. Approximate timetable, in weeks, to accomplish various tasks. This should be in the form of a "Critical Path" schedule.
- d. The fixed fee proposed for services, broken down by phases. The Town wishes to receive this information under separate cover in a sealed envelope so that this information can be considered apart from the other items requested.
- e. References, especially for other municipal projects of a similar size and nature.
- f. Other pertinent information you wish to submit.

Any exceptions to this RFP must be on file with the Purchasing Officer prior to the opening date of the RFP.

2.8 Any costs incurred by the vendor in preparing their response to this RFP are the responsibility of the vendor. Response includes attendance at the pre-bid conference, site visits and oral presentations.

2.9 Vendors shall sign and return a statement of "Compliance and Acknowledgement" with their proposals, as indicated in EXHIBIT 2, enclosed.

Section 3.0 General Conditions

3.1 The Scope of Work shall be as described in AIA Document B801, "Standard Form of Agreement Between Owner and Construction Manager," 1980 edition.

3.2 Individual Articles in the Standard Form will be modified as described in Section 4.0, Supplementary Conditions.

Section 4.0 Supplementary Conditions

4.1 The following supplements the "Standard Form of Agreement Between Owner and Construction Manager," AIA Document B801, 1980 Edition. Where a portion of the Standard Form is modified or deleted by these Supplementary Conditions, the unaltered portions of the Standard Form shall remain in effect.

4.2 Section 1.1 of the Standard Form, "Preconstruction Phase:" delete item 1.1.1 through and including item 1.1.5.1.

4.3 Section 3.3 of the Standard Form dealing with Construction Costs: insert at the end of the item the phrase, "However, budget categories proposed, established or approved by the Owner shall not be exceeded without the Owner's authorization."

4.4 Article 9 of the Standard Form, "Arbitration:" delete in its entirety and substitute the following:

9.1 All claims, disputes and other matters in question between the parties to the Agreement arising out of or relating to this Agreement or the breach thereof, which cannot be resolved agreeably and amicably by the parties involved, shall be initially referred to the Mediation Network of North Carolina (Dispute Resolution Center) center located in Carrboro, NC for dispute resolution.

9.2 A request for mediation shall be filed in writing with the other party to this Agreement within a reasonable time after the claim, dispute or other matter in question has arisen but failed to be resolved to the satisfaction of the filing party. In no event shall the request for mediation be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

4.5 Insert in Article 16 of the Standard Form, "Other Conditions or Services," the following:

16.1 The Construction Manager shall be responsible for giving all notices and for complying with all laws, ordinances, rules, regulations, and lawful orders of any public authority regarding the contracting for and performance of this project, including Town of Carrboro Resolution No. 10/90-91 concerning minority business participation in construction projects.

16.2 The Construction Manager shall expedite the work and complete the project within the proposed Contract Time, except when the schedule is affected by factors beyond the Construction Manager's control.

16.3 The Contract Time may be allowed to be extended by Change Order for any of the following reasons: The construction process is delayed by changes in the work, labor disputes, fire, unusual delays due to transportation, weather delays, changes in the scope of the work, the addition of a schedule required to supply volunteer labor or material furnished by the Owner, and any causes beyond the control of the Construction Manager.

16.4 Scheduling and Supervision of Volunteer Labor and Materials:

16.4.1 The Construction Manager shall provide the Owner with a schedule of the work showing volunteer labor tasks which can be incorporated into the work, so that the Owner can provide volunteers with the necessary qualifications at the appropriate time.

16.4.2 The Construction Manager shall schedule and supervise volunteer labor which is provided by the Owner, including instructing such volunteers in the use of materials and methods required to perform the work and the implementation of proper safety procedures to be followed. The Construction Manager shall assess the skills and qualifications of each volunteer, shall assign appropriate work to each volunteer and shall inspect all volunteer work to determine that such work is being performed safely and to an acceptable professional standard.

16.4.3 The Construction Manager shall manage the use of donated materials in performing the work, by advising the Owner of the description and quantities of materials needed and of when the materials will be needed on site, so that the Owner will have the opportunity to solicit the donation of such materials by suppliers.

Section 5.0 Proposal Evaluation and Contract Award

5.1 All proposals will be reviewed to determine their compliance with mandatory requirements of this RFP. Responses deemed not compliant will be returned and not accepted for further evaluation.

5.2 The Town will evaluate all proposals for professional experience and expertise. Each proposal will be ranked according to this and other information, not price alone.

5.3 The Town of Carrboro reserves the right to accept and or reject any or all proposals.

5.4 The criteria for evaluating the proposals shall include the following:

- Technical Experience
- Professional Staff
- Citizen and Volunteer Participation
- Town Staff Time Required
- Cost
- Schedule for Completion

5.5 The Purchasing Officer will notify all vendors of the disposition of the selection process and the name of the successful responder after the Board of Aldermen awards the contract.

EXHIBIT 1

Letter of Intent

Date

Roger Thorne, Purchasing Officer
Town of Carrboro
Post Office Box 829
Carrboro, North Carolina 27510

Dear Mr. Thorne:

_____ hereby indicates its intention
to respond to your RFP for Construction Manager services on the
Town Commons project as issued.

_____ has read the RFP and
understands the requirements of the RFP as issued.

Sincerely,

Name
Title

EXHIBIT 2

COMPLIANCE & ACKNOWLEDGEMENT

_____, has read and understands the mandatory requirements of the RFP for comprehensive Construction Management service as issued by the Town of Carrboro. We will comply with all appropriate sections of the RFP and understand if we do not comply, we will be judged as noncompliant and ineligible for award of the contract.

NAME

Company

Date

elements of the project for which subcontracts will be ~~1899~~ and the number of these subcontractors that are minority businesses as defined in G.S. 143-128 appearing on the list of minority businesses maintained by the purchasing agent;

- (2) Those subcontractors that bid or otherwise respond to notice of the project and the number of these that are on the maintained list of minority businesses; and
- (3) Those subcontractors awarded contracts as part of the project and the number and identity of those that are on the maintained list of minority business; and
- (4) The percentage of work on the project that is to be performed by minority businesses appearing on the list maintained pursuant to this resolution.

Section 9. These policies shall be a part of the request for proposals for any such contract, and noncompliance by any single prime bidder shall be grounds for declaring the bid non-responsive.

Section 10. This resolution shall become effective upon adoption.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 18th day of September, 1990:

Ayes: Randy Marshall, Tom Gurganus, Hilliard Caldwell, Eleanor Kinnaird, Frances Shetley, Jacquelyn Gist, Jay Bryan

Noes: None

Absent or Excused: None

RETAINING WALLS ALONG N.C. 54

Sarah Burdick, the town's Transportation Planner, stated that as a part of the NC 54 highway widening project, retaining walls will be constructed along NC 54 at the Wildwood Springs development and at Old Well and continuing down the exit ramp to Jones Ferry Road. Ms. Burdick stated that the town staff recommended that a pile wall with creosote treated timber, exposed iron beams, and dark colored concrete cap be built at Wildwood Springs, and that a concrete wall with an irregular slump block finish in a light tan color be installed at the Old Well location.

Gary Taylor, with the N.C. Department of Transportation, stated that N.C.DOT recommended that a timber wall be built at Wildwood Springs and that a concrete wall be built at Jones Ferry Road. Mr. Taylor answered the Board's questions concerning the walls.

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY TOM GURGANUS THAT N.C. DOT BE REQUESTED TO INSTALL A CONCRETE WALL WITH AN IRREGULAR SLUMP BLOCK FINISH IN A LIGHT TAN COLOR WITH A TINTED CONCRETE TOP CAP TO MATCH AT THE OLD WELL LOCATION. VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY TOM GURGANUS THAT N.C. DOT BE REQUESTED TO INSTALL A SOLDIER PILE WALL WITH CONCRETE PANELS AT THE WILDWOOD SPRINGS LOCATION. VOTE: AFFIRMATIVE THREE, NEGATIVE FOUR (KINNAIRD, SHETLEY, GIST, BRYAN)

MOTION WAS MADE BY JAY BRYAN AND SECONDED BY TOM GURGANUS THAT N.C. DOT BE REQUESTED TO INSTALL A CONCRETE WALL WITH AN IRREGULAR SLUMP BLOCK FINISH IN A LIGHT TAN COLOR WITH A TINTED CONCRETE TOP CAP TO MATCH AT THE WILDWOOD SPRINGS LOCATION. VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY FRANCES SHETLEY AND SECONDED BY RANDY MARSHALL THAT N.C. DOT BE REQUESTED TO CONSIDER THE FEASIBILITY OF INCLUDING STEPS IN THE WALL AT THE OLD WELL LOCATION. VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY TOM GURGANUS THAT N.C. DOT BE REQUESTED TO INSTALL A SOLDIER PILE WALL WITH CONCRETE PANELS WITH A SLUMP BLOCK FINISH IN A LIGHT TAN COLOR AND THAT THE CONCRETE TOP CAP BE TINTED WITH A LIGHT COLOR AT THE WILDWOOD SPRING LOCATION. VOTE: AFFIRMATIVE ALL

Sarah Burdick stated that N.C. DOT would like to use a tire retaining wall at three locations along the Carrboro section of the Highway 54 widening project, but that the town staff had requested that DOT not use the tires.

MICHAEL B. BROUGH & ASSOCIATES

MEMORANDUM

TO: Bob Morgan

FROM: Michael B. Brough

DATE: January 20, 1994

RE: Construction Management Arrangement for the Town Commons

You have asked me to address the question of whether the town may use a construction manager, rather than a general contractor, to construct the town commons project. By a "construction manager," I understand you to mean that the town would select an individual who would act as a consultant to the town in selecting, supervising, and coordinating the work of the various subcontractors who would actually do the work. My conclusion is that there is nothing in the general statutes to prohibit this approach.

Section 143-128 requires the town to seek separate bids on at least the various major elements of a project (heating, plumbing, electrical work, etc.) when the total cost of the construction exceeds \$100,000.00. However, the statute does not appear to place any limits on the ability of the town to seek bids on a contract separately with respect to more than just the major elements of the work. In other words, I would anticipate that, under the approach discussed here, there would be a separate subcontract relating to each of the elements of the work contained in the budget breakdown that you provided me (perhaps 20 or more separate elements).

The possibility of entering into separate contracts with so many subcontractors raises other issues. In particular, I checked with Frayda Bluestein at the Institute of Government and confirmed with her that, under G.S. 143-129, the formal bid procedures only apply to contracts in excess of \$50,000.00, rather than to all contracts associated with a project that exceeds \$50,000.00. Since none of the elements that would be bid separately approaches \$50,000.00, the town would not be bound by the formal bid requirements with respect to any of the subcontracts. However, the informal bidding procedures would still apply. Furthermore, under G.S. 44A-26, performance and payment bonds are required for any contractor with a contract that exceeds \$15,000.00 in any project exceeding \$50,000.00. Based on the budget estimates, it would appear that only 2 or 3 subcontractors would be subject to this requirement.

Another statute that has come to my attention is G.S. 133-1.1, which deals with the required involvement of architects in construction projects of \$45,000.00 or more paid with public funds. That statute requires that an architect design the building to be constructed, which has already taken place. Subsection "b" of that section requires the architects to "conduct frequent and regular inspections or such inspections as required by contract," and further

Bob Morgan
January 20, 1994
Page Two

requires the architect to certify to the town that the contractor has fulfilled the obligations of the plans and specifications. This means to me that Lucy Davis' participation in the construction of the project cannot be totally eliminated and that the town would have to have her involved at least to the extent of inspecting the project several times during the course of construction and certifying that the project has been completed according to the plans.

Finally, recall that, pursuant to G.S. 143-128, the town adopted a resolution establishing a goal for participation by minority businesses in construction projects such as the one contemplated here. I do not have in my current files a copy of this resolution since it was adopted some time ago, but I suggest that you have Sarah find and send to me a copy and that you review it as well so that we can ensure that whatever we do is consistent with the commitment made in that resolution.

I have not yet reviewed the various contractual documents given to me by James Harris relating to the employment of the construction manager or the actual construction of the project. There apparently exists an AIA document B801, Standard Form of Agreement Between Owner and Construction Manager, but I do not have a copy of this document. Perhaps James Harris can obtain a copy from Tom O'Dwyer.

Please let me know if you have any questions and keep me advised of the schedule on this.

cc: James Harris

TOWN COMMONS SCHEDULE OF WORK

REQUEST FOR PROPOSALS PROCESS **4 WEEKS**

BID PROCESS	4 WEEKS
--------------------	----------------

CONTRACT DEVELOPMENT AND NEGOTIATION 2 WEEKS

PROJECT CONSTRUCTION **16 WEEKS ***

*** THIS SCHEDULE IS CONTINGENT UPON THE AVAILABILITY OF VOLUNTEERS AND THE ARMY'S SCHEDULE FOR COMPLETION OF THE GRADING WORK.**

BOARD OF ALDERMEN
AGENDA ITEM ABSTRACT

Item F(1)

SUBJECT: Report from Carrboro Day Structure Committee
MEETING DATE: May 10, 1994

Department: Recreation and Parks	Public Hearing <u>YES</u> <u>X</u> NO
Attachment (s): Carrboro Day -Program Budget -Questionnaire Summary	For information contact: Carol Rosemond, 968-7703 David Griffiths, Committee Chair, 942-3003

PURPOSE

To inform to Board of the Carrboro Day Structure Committee's discussions and recommendations

SUMMARY

- On April 6 1993 the Board of Aldermen requested that a joint steering committee be formed with representation from the Board and Recreation and Parks Commission to discuss goals, program specifics and facilitation of a Carrboro Day special event.
- The Committee members are David Griffiths, (Chair) , Jay Bryan, Jacquelyn Gist, John Boone, Michael Foushee. Jim Leloudis, an historian on Southern mill town life and also a resident of Carrboro has served as a resource person to the Committee.
- The committee has met eight times over the past year.
- A questionnaire to obtain community input on the possibility of an event was developed and distributed to approximately 108 Carrboro citizens from Carrboro's different neighborhoods and businesses. A 40% response rate was achieved. A summary of response is attached.
- On March 15, 1994 the Board received preliminary cost figures for a Carrboro Day event and voted to set funding of the program as a policy goal for the 94-95 budget.
- A proposed budget of \$9483 (\$7781 direct costs, and \$1702 in-kind services) for the event has been submitted for consideration during budget process. This listing is attached.

ANALYSIS

After developing the programming budget, the committee requested that David Griffiths, Chair, present a report to the Board prior to deliberation on the FY 1994-95 budget. A programmatic budget for specific event activities is attached.

ADMINISTRATION'S RECOMMENDATION

To receive the report from the committee.

ACTION REQUESTED

To consider funding the program during the budget process.

RESULTS FROM CARRBORO DAY QUESTIONNAIRE

The Carrboro Day questionnaire has had 43 respondents to date, out of 108 mailed. The following summary of results contains statistics on responses, comments about Carrboro Day, and lists of people and organizations who might be willing to assist with Carrboro Day. The statistics given are simply percentages of respondents. Many respondents did not answer all questions, so not all questions have responses which total 100%. Most support was given to having Carrboro Day in the Spring, as a one day event at one site. Activities most preferred were: band music and singing; an arts and crafts display; an event tied to the new Town Commons/Farmer's Market; and a restaurant sampler. Many respondents also had useful suggestions for activities.

1. Do you think Carrboro citizens could benefit from a special Carrboro Day Event?

	YES	NO	MAYBE
PERCENT	77%	2%	2%

2. If the event is held would you prefer (choose any or all)

	YES	NO	MAYBE
A ONE DAY EVENT AT ONE SITE	63%	37%	0%
A ONE DAY EVENT AT SEVERAL SITES	14%	86%	0%
WEEK LONG SCHEDULE OF ACTIVITIES	12%	88%	0%

3. Which of the following formats do you find appealing?

	YES	NO	MAYBE
ACTIVITIES IN YOUR OWN NEIGHBORHOOD	12%	88%	0%
ACTIVITIES PLANNED BY CLUB/CHURCH	5%	95%	0%
ONE LOCATION WITH MANY EVENTS	70%	30%	0%

4. Which activities do you find appealing and interesting?

	YES	NO	MAYBE
COMMUNITY DANCE	44%	56%	0%
STORYTELLING BY AREA RESIDENTS	58%	42%	0%

	YES	NO	MAYBE
PHOTO/LETTER SHARING AND DISPLAY	42%	56%	2%
BUSINESS OPEN HOUSE	40%	60%	0%
OPEN HOUSE OF AREA HOMES	44%	56%	0%
RESTAURANT SAMPLER	58%	42%	0%
AMATEUR TALENT SHOW	53%	47%	0%
COMMUNITY POTLUCK	56%	42%	2%
HOLIDAY CAROLING	30%	70%	0%
NEIGHBORHOOD ATHLETIC COMPS	23%	77%	0%
WALKING/BIKING TOURS	42%	58%	0%
EVENT TIED TO FARMERS MKT	67%	33%	0%
BAND MUSIC AND SINGING	77%	23%	0%
POETRY READING	35%	65%	0%
DISPLAY OF LOCAL ARTS/CRAFTS	74%	26%	0%
SPELLING BEES	35%	65%	0%

5. What time of year would you see such an event being held?

	PERCENTAGE
WINTER	2%
SPRING	51%
SUMMER	5%
FALL	21%

JULY 4TH	9%
LABOR DAY	2%
SEPT/OCT	9%
MAY	28%
JUNE	9%
APRIL	7%
X-MAS PARADE	2%

Comments Regarding Event Overall:

1. This would foster ideology of unity for the Town.
2. This could really strengthen our community.
3. I would be opposed to the event if it means raising taxes.
4. I would hope our citizens could benefit, but our town has grown so rapidly I am not sure.
5. Would bring Carrboro together and provide sense of being as Apple Chill and Festifall do for Chapel Hill.
6. Would this compete with July 4th?
7. Every good thing starts with an idea- let's make it happen.
8. Sounds like fun.
9. Could July 4th be expanded rather than try to launch a new event?
10. In building stronger community ties this certainly can't hurt.
11. This could be the start of something great.
12. Great idea. Carrboro is such a wonderful place to live, it's right to celebrate that.
13. This is a big project- good luck!

Comments Regarding Format:

1. Spreading over several venues makes event lose impact.
2. Week long schedule is apt to be too ambitious and not develop the sense of community desired.
3. One day or possibly two.
4. A Saturday or Sunday afternoon.
5. Week long at various sites ending with a whole day at Town Commons.

Organizations Which Were Suggested for Involvement:

1. Orange County Lesbian and Gay Association (OLGA);
KK6 Woodbridge Apts.; Carrboro, NC 27510
2. Orange County Greens; Joel Sipress; 3 Elm St.; Carrboro NC
3. Sierra Club-Orange Chatham Group/Jonathan Parkinson
4. Carrboro School PTA- Carol Hydrick, Pres.
5. Carrboro Baptist Church/Jack Mercer

Comments Regarding Activities:

1. At dance have Rock/Country/R&B/Rap alternating.
2. Include handicapped awareness programs.
3. Business open house only if related to Town history.
4. Essay contest for young people.
5. Christmas home tour.
6. Include all neighborhoods.
7. Have a key note speech.
8. Musical talent show would be good.
9. Must include everyone, black and white, old and new Carrboro.
10. Address Multiculturalism- maybe a play on this theme.
11. Have information on Town services.
12. Historical pageant.
13. Historical displays.
14. Something good for all ages.
15. I would make the event centered around downtown- a street fair atmosphere, with neighborhood potluck dinners in the evening.
16. Neighborhood block parties and some town wide events.
17. Hold it between ArtsCenter and Town Hall.
18. Have a dance in the street.
19. Have tournaments for chess, checkers, euchre, and pinochle.
20. International food festival drawing on diverse heritage of Carrboro residents.
21. Baby crawl, pumpkin carving contest, parent-tot activities.
22. Have everyone wear a ribbon.
23. Music and drama presentations.
24. Consider a cook off like the Durham Chili Wars.
25. Present community awards for service, contributions to the community, activity on issues, etc.
26. Watermelon cutting if it is in the summer.
27. Neighborhood 1-2 hour gatherings to meet neighbors.
28. Have a large music event.
29. Have Carrboro's older black and white citizens telling stories of life and times in Carrboro in earlier days.
30. Meet at Community Park and enjoy games, hiking, biking, etc. and a catered dinner. Maybe Bullocks from Durham, or Bills from Wilson- for BBQ and fried chicken. Could be called "Carrboro at the Park" and be for residents of Carrboro only. Advertise through churches etc and sell dinner tickets in advance. Should be of little cost to taxpayers-local residents would not want their tax money spent on this project. If any money should be made on dinner, let it go to the Recreation Department budget or the Town Commons project.
31. Blacks and whites must share the planning.
32. Houses toured should be of special interest- ie solar, historical, architectural, landscaping...
33. Community potluck would be hard to coordinate.
34. Athletic competitions should include non-traditional sports and games.
35. Have essay, photography and film contests with readings, display, and screenings. "Carrboro through my Eyes"
36. Displays/lectures/town meeting.

37. Fliers and advertisements about the history, current projects and changes, and long range potential of the town (government, citizens, and environment).
38. Booth to sign up for Carrboro dinner clubs.
39. Auction.
40. Toddler's Dance.
41. Kids' Fishing Tournament at University Lake.
42. One respondent submitted an article containing many activity ideas. A few of these were: Children's bike decorating contest; pony rides; games; magic show; bonfire; tree planting; community meetings; and activities tied to the time of year, such as Halloween parties and Easter egg hunts.
43. Invite the Grateful Dead to play at Community Park, proceeds to build new library. Just kidding?

Other Comments:

1. Find way to reduce taxes for seniors living on a fixed income.
2. I think Carrboro should merge with Chapel Hill.
3. Buy the ArtsCenter to eliminate conflict of interest, and provide space for community center, library, and town offices.

People who Expressed Interest in Working on Carrboro Day:

Ellen Perry
Jack Mercer
Nancy Oglesby
Ernest Riggsbee
Mike Brough
Nancy Whittington
Melva Okum
Mary and A.C. Bushnell
Mary E. Wakeford
Leon Fink
Errol McCauley
Shawn Hoffman
Carley Pardington
James Spivey
Marianne Nicholson
Ruth Stroud
Amy Rabb
Jonathan Parkinson
Rudy and Joye Gregory
Carol Buxton Hamon

Carrboro Day Costs

.02	Salaries	1,581	(Inkind)
.03	Aux. Salaries	2,170	
.05	FICA	167	
		121	(Inkind)
.11	Postage	103	
.21	Rent	405	
.25	Printing	511	
.26	Advertising	600	
.32	Office Supplies	30	
.33	Dept. Supplies	1,331	
.45	Contr. Services	2,364	
.53	Dues (Licenses)	<u>100</u>	
	Direct Costs	\$7,781	
	Inkind	<u>1,702</u>	
	Total	\$9,483	

Specific Program Component Costs

Storytelling	609
Photo/Letter Docum.	320
Art/Craft Display	120
Band Music/Dance	1,054
Poetry Readings	41
Comm. Potluck	447
Children's Activ.	683
Misc.	490
General Admin.	4,017
Inkind Personnel Costs	1,702

Carrboro Day Program Components and Their Cost

Storytelling		\$609
.03 Aux. Service	\$26	4hrs F/A Superv. @ 6.50
.05 FICA	2	
.11 Postage	6	
.21 Rent		Chairs, rentals, facilities sound covered under general administration
.25 Printing	25	Program, contact letters
.45 Contr. Services	550	contract 1) story coordinator , story development/research 20 hrs @15-\$300 2) 2 storytellers @ 125 = 250

Photo/Letter Sharing and Documentation		\$320
.03 Aux. Services	\$20	3 hrs. F/A Superv. @6.50
.05 FICA	2	
.11 Postage	8	contact letters confirmation letters
.21 Rent	35	photo stand rental
.25 Printing	20	invit..flyers, letters
.33 Dept. Supplies	190	9 rolls film, (2 rolls-324 shots, (43) developing, (108) photo album (24), (15) tapes
.45 Contr. Services	45	photographer 3 @\$15

Art and Crafts Display/Demonstration		\$120
.03 Aux. Services	\$13	2 hrs. F/A Superv. @6.50
.05 FICA	1	
.11 Postage	10	entry commun. about setup
.21 Rent	75	15 8ft. tables @ \$5
.25 Printing	6	forms, letters
.33 Dept. Supplies	15	stakes, posterboard, (plastic - under general)

Band Music/Community Dance		\$1,054
.03 Aux. Service	\$65	10 hours F/A/ Superv. 2 staff - one - 7 hours one 3 hours includes pre, event, post hours
.05 FICA	5	
.11 Postage	12	postage for PSAs, letters
.25 Printing	15	PSAs letter
.33 Dept. Supplies	57	stage skirt (30), dict. tape (3), cords (24)
.45 Contr. Services	800	bands (800) (plus sound - under general costs)
.53 Dues	100	music license fees - BMI ASCAP

Poetry Reading		\$41
.03 Aux. Service	\$13	2 hrs. F/A Super @6.50
.05 FICA	1	
.11 Postage	2	
.25 Printing	10	programs
.33 Dept. Supplies	15	

Community Potluck**\$447**

.03 Aux. Service	\$26	2 f/a Superv., 2 hrs. = 4hrs @6.50
.05 FICA	2	
.11 Postage	5	
.21 Rent	200	Serv. Utensil (10), 25 tables (125) 100 chairs (65)
.25 Printing	5	confirmation letters, cont. letters to groups
.45 Supplies	209	table cover (50), plastic silverware (36), napkins (10), trashbags (5), cups (8), beverages (25), plates (30), decoration (15), ice (5), pitchers & trays (25)

Children's Activities (art display, hands on art, games, performers)**\$683**

.03 Aux. Service	\$ 91	F/A Supev., 4 staff 3 hours = 12 hours plus 2 hours pre-event total 14 hours
.05 FICA	7	
.11 Postage	5	letters
.25 Printing	30	flyers, letters
.33 Dept. Supplies	175	Art supplies, games materials balloons
.45 Contr. Services	375	Performers 2 @ \$150 - \$300 2 instructional specialist - 5 hours total @ \$15-75

Miscellaneous (music picking, plant exchange time dollar)**\$490**

.03 Aux. Service	\$ 46	F/A Superv. 7 hrs. @ 6.50
.05 FICA	4	
.11 Postage	5	
.25 Printing	25	infomation general letters
.33 Dept. Supplies	360	signage (20), plants (40), lemonade (20), plaques (200), other (80)
.45 Contr. Services	50	

General Administrative Cost**Total - \$5,719****(4017 Direct)****(1702 Inkind)**

.02 Salaries	\$1,581	Rec./Pks. Superv. 47hrs. @\$16	\$752
		Cler. 40 hrs. @ \$10	\$400
		PW 45 hours @ \$9	\$405
		Police shift patrol for parade	
		2 @ 1 hours = 2 @ \$12	\$24
.03 Aux Serv.	1,870	Coordinator 220 hours @ \$8.50	
		4 wks @ 7 hours	1 wk @ 32 hours
		4 wks @ 10 hours	post - 15 hours
.05 FICA	264	143 FICA cost for coordina.	
	(part inkind)	121 inkind for FT staff	
.11 Postage	50	general communication	
.21 Rent	95	6 tables (30) 100 (65)	
.25 Print	375	200 school flyers (100) program	
.26 Advertising	600	display ads, radio - 1st yr.	
.32 Office Supplies	30	pens, pads, markers, paper, envelopes	
.33 Dept. Supplies	310	poster board (50) plastic (30) safety (50)	
		hospitality (30) banner (150)	
.45 Contr. Serv.	544	sound (400)	

BOARD OF ALDERMEN
AGENDA ITEM ABSTRACT

ITEM NO. F(3)

MEETING DATE: MAY 10 1994

**SUBJECT: RECOMMENDATION ON THE HIRING OF AN ARCHITECT FOR POLICE
DEPARTMENT SPACE NEEDS STUDY**

DEPARTMENT: MANAGER'S OFFICE	PUBLIC HEARING: YES ____ NO <u>X</u>	
ATTACHMENTS: LTR from Dan Huffman DTD 5-4-94	FOR INFORMATION CONTACT: James Harris 968-7700	
THE FOLLOWING INFORMATION IS PROVIDED:		
(x) Purpose	(x) Action Requested	(x) Analysis
(x) Summary	(x) Recommendation	

PURPOSE:

The purpose of this item is to recommend an architect to the Board of Aldermen to perform a holistic space needs study to determine the space needs of the police department and show how and where the needs can be met in renovated or new space on or off the Town Hall complex.

SUMMARY:

The Board of Aldermen authorized the Architectural committee to negotiate a fee with Cherry Huffman Architects to complete the scope of work described in the RFP for Architectural services to perform a space needs study.

The committee met with the architectural firm of Cherry Huffman and negotiated a fee of \$20,016 to perform the scope of work approved by the Board of Aldermen to determine the space needs of the Police Department to the year 2010 in addition to performing a program expansion study for all departments located at Town Hall.

The board, after consideration could authorize the Manager to contract with Cherry Huffman and Associates to perform the space needs study for the town. The schematic design would not be done until the completed study is presented to the board and there is a clear understanding of what the space needs are at town hall.

ANALYSIS:

On April 12, 1994 Staff recommended to the Board of Aldermen that the architectural committee be authorized to meet with Cherry Huffman Architects, P.A. to negotiate a fee for services to perform a space needs study for the Police Department. The Board agreed to allow the committee to enter into negotiation without any specific limitations.

The Committee met with Dan Huffman of Cherry Huffman Associates on April 21, 1994 to negotiate a fee to perform the services required to determine the space needs of the Police Department as well as determine a responsible means of achieving the goal of determining the space needs of the Police Department and how to meet those needs to the year 2010. In order to determine if the Police program needs can be met within the existing town hall facility the architect must have a thorough understanding of the existing buildings at town hall. The exploration of the building should include a structural analysis of the building, electrical wiring, plumbing systems, existing heating and air-conditioning system, and a building code review of the current structure.

- Program study for all town departments (the architect will meet with each department head of each department at town hall to determine what their space needs are through the year 2010).
- Measured drawing (the 1982 Dail Dixon drawing of the building does not provide all crucial information on the existing building needed to produce a schematic design.)
- Written essay (architectural analysis including a complete building code review.
- Structural analysis of existing building. (This study of the building will look for structural damage to the existing building which would be consistent with a building of this age.
- Mechanical and electrical systems analysis of the existing building. (There is no written documentation on plumbing or electrical systems for this building).
- Phasing relocation plans (This item will, after a thorough analysis of the building, shows how and where the police department can be located and how it's relocation might impact on other departments and how they might be relocated within the existing building.)
- Cost estimate (renovation and new construction.)
- Schematic design. (The schematic design may be put off until the board has received and understands what the space needs are at town hall. The board can then decide to pursue renovation of the existing building or add on new space to accommodate the documented space needs of the police department.)

These services can be accomplished at a cost of \$20,016. These services would constitute Phase I of the project. Phase II includes design development, construction documents, bidding and construction administration. The fee for Phase II can not be determined until we know the size, cost and nature of the improvements to be made. The fee will be determined based on the size, construction cost and 7.8% of the construction cost as determined in Phase I, providing the project is renovation and addition to the Town Hall facility. The schematic design fee is \$3,276. If the Board of Aldermen approves of the schematic

design the schematic fees will be deducted from the fees for basic services under Phase II. If the board decides to wait until the space needs are documented before having a schematic design drawn the project cost would be \$ 16,740.

At the end of this process the board would have documentation of the size and structural condition of the town hall building based upon the current building code, an analysis of the existing heating and air conditioning systems and recommendations for bringing the building to code. There will also be recommendations for addressing the space need deficiencies at town hall for the police department. As a by-product of the process the town will know what the space deficiencies of all other town hall departments are and how those needs might be met..

ADMINISTRATION'S RECOMMENDATION:

Administration recommends that the Board contract with the firm of Cherry Huffman Architects, P.A., to provide a space needs study for the Police Department which would provide program evaluations for all Town departments at the Town Hall, an architectural analysis and building code review of the existing building, providing measured drawings, phasing relocation plans, structural analysis of the existing building, mechanical and electrical systems analysis of the existing building, cost estimate for renovation and new construction and a schematic design. The funds for this project would need to be appropriated from the general fund, fund balance.

ACTION REQUIRED:

It is requested that the Board authorize that manager to contract with Cherry Huffman Architects to provide the services referenced under the Administration's Recommendation and to bring back a budget amendment appropriating funds from the fund balance.



May 4, 1994

James Harris
Town of Carrboro
Post Office Box 829
Carrboro, North Carolina 27510

Dear Mr. Harris:

I enjoyed meeting with you on Monday, May 2. The following are the fees that we discussed in the meeting for the first phase of your project with brief descriptions of each element of the study.

Proposal 2 (Program, building systems analysis, measured drawings, phasing and essay for entire Town Hall)


\$ 2,900.00	Written essay (architectural analysis including code review, building material review, parking, building and site circulation, energy efficiency problems, etc.)	Cherry
\$ 2,500.00	Structural analysis of existing building (visual inspection of exposed beams, columns, lintels and stress cracks in masonry, etc)	Huffman
\$ 3,640.00	Mechanical and electrical systems analysis of existing building (visual inspection of mechanical equipment, ductwork, controls, and electrical service, electrical equipment, existing lighting levels, etc.)	Architects, PA
\$ 2,400.00	Measured drawings (locating windows, doors, walls, etc. and creating scaled plans on CADD)	100 S. Harrington
\$ 2,800.00	Program for all town departments (program statement will list area requirements for all spaces with adjacencies, equipment needs, furniture and other space characteristics)	Raleigh
\$ 1,900.00	Phasing relocation plans (drawings of existing building and possible additions indicating blocks of space to be used for municipal departments at stages of growth)	North Carolina
\$ 600.00	Cost estimate- renovation and new construction needed to meet town's space needs (area method)	
\$16,740.00	Total Fees Proposal 2, Phase 1 (not including schematic design)	27603

The first four items above are needed to achieve a good understanding of the existing facilities. The measured drawings will be in CADD DXF format so that the town can use them in the future for other renovations and for facilities management. The program statement will identify future space needs for the town. Relocation plans will show methods of achieving the required space with positive and negative attributes of each method. As we discussed in our meeting, construction must be phased with smaller projects instead of renovating the entire town hall at once. A preliminary construction cost estimate will be developed for these projects. We will work with the Building Committee and/or the Board of Aldermen to determine the schedule and budget for these projects.

Once the study is finished, a recommendation will be made to the Board of Aldermen outlining the means of achieving the town's space requirements. The approved budget and construction plan will become Phase II of this project. Phase II will include Schematic Design, Design Development, Construction Documents, Bidding and Construction Administration. The fees will be based on the size, construction cost and 7.8% of the construction cost as determined in Phase I, providing the project is renovation and addition of the existing Town Hall Facility.

I hope that this answers your questions. Please contact me if you have questions.

Sincerely,



Dan G. Huffman, AIA
President

BOARD OF ALDERMEN

ITEM NO. F(4)

AGENDA ITEM ABSTRACT

MEETING DATE: May 10, 1994

SUBJECT: Fire Department Issues for Budgetary and Planning Consideration

DEPARTMENT: Fire	PUBLIC HEARING: YES ____ NO <u>x</u>__
ATTACHMENTS: Memo from Fire Chief to Town Manager; Article from News week, December 1993	FOR INFORMATION CONTACT: Chief Murray

PURPOSE

The Board of Aldermen placed a discussion of Fire Department issues on its 1994 Planning Retreat Action Agenda. The Fire Chief will present a report on this matter.

SUMMARY

This item is to advise the Board of Aldermen as to the potential fire risk that faces the community. The recommendations are based on the Fire Chief's past experiences with and knowledge of the Carrboro Fire Department operations, his most recent observations, feedback from the Fire Department personnel, and current national trends.

This item is intended as a guide, or a starting point to identify the issue that the Fire Department faces in providing fire protection for the community.

ACTION REQUESTED

For the Board of Aldermen to receive the report.

MEMORANDUM

To: Robert Morgan, Town Manager

From: Rodney Murray, Fire Chief

Subject: Fire Department Issues For Budgetary and Planning
Consideration

Date: April 20, 1994

I believe it is my responsibility as Fire Chief to advise the Town Manager, Board of Aldermen, and the Citizens of Carrboro about the potential fire risk that faces the community. During my short tenure, time has not allowed me to provide an in-depth study of fire department issues. However, the following recommendations are based on past experiences with, and knowledge of, Carrboro Fire Department operations, feedback from staff personnel, current national trends, 26 years of fire experience, and my most recent observations.

The organization has considerable fire suppression experience that becomes obvious during actual firefighting operations and training sessions. The current deficiency in the staffing of the Department presently adds a significant burden to the suppression forces. If it were not for the technical ability, knowledge, and extra effort exhibited by employees this would be an organization that was way below standard. Areas of administration and prevention seem not to be operating at full potential. I believe this is due to a lack of exposure to outside training, long range planning, organization of the Fire Prevention Division, involvement of personnel in the budget process, and management training. Employees appear to have the potential and ability to accomplish significantly more if they are given appropriate support and resources. I will address these issues in more detail later in this report.

This report is divided into the following sections:

- * Overview
- * Staffing
- * Facilities
- * Equipment and Apparatus
- * Administration/Suppression/Prevention
- * General Recommendations

This report is presented in general terms and broad scope. It will not include extensive detail of any particular area. It is intended as a guide, or a starting point, to identify the issues that the department faces in providing fire protection for the community. I, together with Fire Department personnel, stand ready to act upon any or all of these recommendations.

**A Report
To The Manager**

**Recommendations For Improvements
To The
Carrboro Fire Department**

April 1994

**Prepared By
Rodney Murray
Fire Chief**

1.

I.

Overview

The Carrboro Fire Department is an organization that truly has dedicated paid and volunteer personnel. It is experiencing a transition of new leadership after 18 years. During the history of the department, operation of the organization experienced growth but became complacent during the last several years. The Department presently is efficient, but lacks training in administrative duties, management technique, writing skills, time management, and day to day operations.

Personnel have the potential to excel in all areas of the fire service but need to have the exposure and opportunity to express themselves to become leaders. The employees have accepted me openly and made my transition an easy one. They seem to be hungry for new ideas and leadership and are willing to accept the challenges that I give them. The Volunteer Firefighters are few in number but are enthusiastic and willing to give extra effort.

The Fire Department has outgrown its present facilities. There is adequate room to house the apparatus but the office and living areas are in need of expansion. The sleeping area is overcrowded and the shower and bathroom facilities do not allow for separate accommodations for females. Growth in the northern area has added to the demand for fire protection by increasing the travel time for fire apparatus. A facility located in this area is an issue that must be addressed immediately. At present, the Chapel Hill Fire Department allows the use of their training facilities. Future sharing of this facility and a mechanical repair facility for our department are issues that also need to be addressed.

Equipment and apparatus are adequate for a town the size of Carrboro, however replacement of staff vehicles and fire apparatus need to be addressed in our five year plan not on an as needed basis. A plan to replace and purchase equipment as new technology changes needs to be more formalized.

Existing staffing levels are the most significant concern facing the Carrboro Fire Department. I believe present staffing levels are not even marginal and present a great liability to the Town. Staffing deficiencies and a plan to address them will be addressed later in this report.

I have attached an article from Newsweek that addresses the national trend of volunteer firefighters.

This report is intended to be a preliminary report from the Fire Chief's Office with recommendations for improvement and upgrade of the Town's fire protection. As stated earlier this report should be considered as a guide and an awareness tool.

2.

II.

Staffing Deficiencies

The most important recommendation I will make deals with staffing levels in Suppression. Present staffing levels consist of 13 full time personnel, (three of which are assigned to Administration), three (3) first-responders, four (4) part-time drivers, and five (5) "active" volunteers. The part-time employees are scheduled to fill-in during the hours of 7:00 p.m. until 7:00 a.m., but work at their convenience. They are generally conscientious and reliable employees but restrict management with the inability to control their schedules.

I believe the existing practice of maintaining a two person, and sometime one, minimum on a pumper is an unacceptable risk for a community the size of Carrboro. The practice of staffing a pumper with two personnel is based on the premise that Volunteers and Part-time employees will round out the crew to more than three. There are several problems with this approach. The first is that effective fire attack operations require team functions. This is particularly true when life is at risk and rescue is required. Success on the fireground is determined in the first few minutes after arrival of fire companies. Fire companies must arrive in team groups and go into operation as teams in order to be most effective.

An efficient fire operation requires four (4) elements (search and rescue, extinguishment, water supply, and ventilation). **Each element** requires a team of **three (3) people per engine** company to perform efficiently. The Carrboro Fire Department presently deploys two (2) fire engines to all structure fires. With present staffing levels the best the department can do is respond with a three (3) person team on the first apparatus and only one (1) person on the second unit. This allows only for the search and rescue element to be performed. Until the arrival of off-duty or volunteer personnel fire extinguishment, water supply, and ventilation can not be accomplished, and then only if "A" shift is on duty and has full staffing. If "B" or "C" shift is on duty the best they can respond with is two (2) personnel on the first apparatus and one person on the second unit.

Fire professionals say that a three-person response per apparatus is the absolute minimum for safe and effective operations at a structure fire. Three-persons per engine minimum should be our standard, supplemented by volunteers and part-time employees as the fourth. This standard would allow the Department to achieve the team approach that is so desperately needed in the first few minutes of a fire. A more successful and safe fire operation should be realized with the implementation of a three (3) person per engine company minimum. In order to achieve this standard, I recommend adding eleven (11) more personnel.

This staffing plan would allow for six (6) personnel per shift, and three (3) people per engine company, with a back-up of one (1) person per shift as a relief factor for employees on vacation and sick leave. Due to the financial restrictions of the Town, I would recommend the hiring of two (2) personnel during FY 94-95 and continue hiring two (2) personnel per year for the next five (5) years. This would be exclusive of any new programs or station facilities. I cannot emphasize enough the importance of this recommendation.

III

Facilities

In 1960-61 the Carrboro School auditorium was renovated to allow space for the Carrboro Fire Department. At present this area is used for office, living, and classroom space for police and fire personnel. An addition of one (1) office and three (3) drive through bays were added in 1981 to house the apparatus and equipment.

At present the older portion has insufficient office space and sleeping facilities. Shift personnel are using a storage area to maintain records, perform pre-fire plans, and utilize the fire department's computer.

The sleeping area is not in compliance with NFPA standards that require 60 square feet per bed. The present bedroom is 156 square feet with six bunk beds. To meet standards the area would require 360 square feet. During severe weather conditions personnel are required to return for a stand-by mode. With the present conditions the department is limited in its facilities to house callback employees.

Separate shower facilities are not provided for females. In order to shower, females must lock the men's restroom, thus restricting its use.

The building itself is not energy efficient. The windows will not close completely, however this is being addressed in the FY 94-95 budget. No insulation is placed above the ceiling tiles in some portions of the building and the heating and cooling system doesn't provide adequate coverage.

The apparatus bay area and Fire Chief's office are sufficient in size, but a more economical heating system would be more beneficial. This needs to be investigated further.

At present the classroom is being used by several town and civic organizations. This is not a major problem, but does require the Fire Department to reschedule or alter training.

Growth in the northern area indicates a need for a fire sub-station. According to David Church with ISO (Insurance Services Office), fire departments must have a travel distance of one and a half **road** miles for the first arriving engine company and meet the basic fire flow for that area to receive a full credit rating. With the addition of Wexford and other new developments in the Homestead Road area further studies need to be made to see if the Town is presently meeting this requirement.

A small portion of the Southern Village is located within the South Orange Fire District. The master plan of this development has been approved by the Chapel Hill Town Council, and grading of the initial phases has begun. At present no time frame has been established when this area will be annexed. Development of the South Orange Fire District portion of the area would have little, if any, impact on providing fire protection.

ISO is responsible for establishing a rating schedule that insurance companies use to charge the homeowner for insurance premiums. Ratings range from the best of 1 to the worst of 10. Generally, the better the fire rating, the lower the homeowner's insurance premium. The Fire Department presently has a fire rating of 4. The department was last rated in 1982 and is due to be rated in the near future. With present staffing levels and travel distances to corporate limits I am not sure we would be able to maintain our present rating. During FY 94-95 the department will be conducting an in-depth study to determine how we can better maintain our present rating.

IV

Equipment and Apparatus

Another aspect that has major impact on the fire department budget is the purchasing and maintaining of equipment and fire apparatus. At present the apparatus are of good condition and should serve the present needs of the community.

Presently the department has a 1993 pumper/tanker, 1990 pumper/aerial, 1977 pumper, a 1974 reserve pumper, 1988 Jeep (Chief's vehicle) and a 1989 Prevention Van.

In the past, fire apparatus were considered to have a life expectancy of 20 years, but due to an increase in service demands, increase in number of responses, apparatus not constructed as well, more in-service public education programs, and suppression companies participating in the commercial inspection program, the life expectancy has been shortened to 15 years.

The 1974 reserve pumper was scheduled by the CIP to be refurbished in the current year. After consulting with the Fire Department Mechanic and Staff Personnel as to the feasibility of this project,

5.

I requested that this item be deleted in the present year's budget and that the refurbishing of the 1977 pumper be moved up to FY 95-96. The expense of converting the 1974 pumper to a five person cab is not economically sound. The funds would be better utilized updating the 1977 apparatus because it could more easily be converted to a five person cab. Once again refurbishment, future apparatus purchases, and vehicle replacements are items that need further study and evaluation.

I requested, this year, that the Fire Department receive a "hand-me-down" police vehicle that the Deputy Fire Chief could use as a response and command vehicle. Presently, the Deputy Chief responds to emergencies by riding on one of the responding engines which is very inefficient. This places the Deputy Chief in a firefighter role instead of a management role. It also requires constantly changing shift personnel from one vehicle to another, depending upon where the Deputy Chief responds. Providing a vehicle for the Deputy Chief will allow for a quicker response and a more efficient fireground operation. The Manager and the Public Works Director agree this is a necessity and made arrangements for a vehicle when the new police vehicles arrive.

Radio communication capability requires some attention. The topography of Carrboro creates some problem areas where communications are weak and undependable. This is a command, control, safety and response problem. One way to alleviate part of the problem is to install a repeater system or to participate in the upgrade system with the other eight fire departments in the County. To participate, Carrboro would have to purchase 12 portable and one mobile radio at a cost of approximately \$8,000.00. My approach would be to wait until FY 95-96, and see how the new option is working and what is most financially beneficial for the Town at that time.

Other technology that should be considered includes acquisition of infra-red heat detectors, toxic and flammable atmosphere monitors, custom fit tested face-pieces, annual replacement of SCBA units, and replacement of fire hose. Most all of these items will be addressed in the routine budgetary process.

V.

Administration/Suppression/Prevention

Presently the Fire Department has considerable talent, experience, and enthusiasm. My plan is to allow the employees to participate in the decision making process of day-to-day operations, budget matters, long range planning, and goals that the Department are trying to achieve. This will provide for direction and organization within the Department. A more defined line of responsibilities and accountability for all divisions of the Fire Department needs to be made. This will be a high priority for the Fire Chief in the near

future. Currently, the Fire Prevention Division is in need of organization and accountability. The Fire Marshal position has been a "catch all" for a variety of functions of the Fire Department. Duties have included prevention, education, assisting Administration with day-to-day operations, inspections, and performing the time consuming function of the Town's Chapter 11 Act. It is imperative that fire inspections be carried out on a routine basis, so as not to jeopardize the citizens of the community. At present, this division is meeting only the minimum required by State law. I will require the Fire Marshal to inspect the business district, commercial buildings, schools, and large or hazardous properties on an annual basis. The small or low-hazardous areas will be inspected on alternating years by fire companies with follow up on violations by the Fire Marshal. The Fire Marshal will be responsible for the enforcement of Chapter 11 and public education and prevention activities. The Administrative duties will be assumed by the command staff of the department.

Other recommendations consist of: a fee for inspections/permits, a higher level of certification for fire companies, a more in-depth public education program, media training for employees, and computerization of fire prevention records.

The Fire Department has grown from an all volunteer organization to a municipal department in a short period of time. This growth has required an increase in maintaining records, data processing, organization of files, report documentation, providing recommendations to the Manager, and providing more written materials to the Citizens and the Board. Clerical assistance is of up-most importance for continued growth and a more efficient operation. This issue has taken a "back-seat" due to the more important issue of staffing deficiencies in the Suppression Division. I recommend hiring one person for clerical support in the near future.

Carrboro has one of the best suppression training programs in the State. This is a tribute to the dedication and outstanding job performed by the Deputy Fire Chief. My assessment is that personnel are very well trained in the basic skills but demonstrate weakness in specialty areas. Emerging technology, areas of supervision, diversity, planning, leadership, organizational skills, and time management need to be included in future training programs. To accomplish this the first step is to take advantage of outside training seminars and workshops. The second is to bring notable fire instructors from outside Carrboro and North Carolina to expose more personnel to new concepts and practices. This could be a shared or joint venture with Chapel Hill. These two methods help to insure that Carrboro personnel are kept on the cutting edge of technology which results in better protection for our citizens.

In order to keep knowledgeable and professional employees, the issue of comparable pay for comparable duties must be addressed.

During my tenure with Chapel Hill I was responsible for the hiring process of firefighters. There were always employees from Carrboro applying for positions that were open. When asked, the answer was always the same, I like my job in Carrboro but Chapel Hill wages and benefits are better. As a comparison, I have included the following hiring and top end rates:

<u>Position</u>	<u>Chapel Hill</u>	<u>Carrboro</u>
Deputy Fire Chief	\$33,554 - \$48,973	\$27,407 - \$41,505
Fire Marshal	\$33,554 - \$48,973	\$24,860 - \$37,646
Fire Captain	\$27,605 - \$40,290	\$23,675 - \$35,854
Fire Mechanic	\$22,710 - \$33,142	\$22,548 - \$34,147
Fire Driver	\$23,846 - \$34,804	\$21,474 - \$32,521
Firefighter	\$20,599 - \$30,064	\$19,478 - \$29,497

Dr. Charles Coe addressed the parity in pay and fringe benefits in the 1993 Feasibility Study. The Board has mandated through their actions that a sharing of resources be made. This will include training sessions utilizing both departments. Morale and a better working relationship will be achieved if both departments have parity in pay.

The position of the Deputy Fire Chief and the Fire Marshal should both be considered for upgrade. These two positions have grown in management responsibilities that are comparable to or greater than some Town positions that are classified higher. The Fire Marshal position does not have direct supervision over a large number of employees, but it is a management position of technical requirement and legal responsibility. Both the Deputy Fire Chief and Fire Marshal positions require State firefighting and inspection certification.

VI.

General Recommendations

The following is a list of recommendations that are in place in some fire departments but deserve consideration for the Carrboro Fire Department. They are worth discussing for future use and long-range planning.

- * Require Volunteers to work mandated shifts in order to become a member of the organization.
- * Charge user fees for inspection services rendered.
- * Provide an EMS First Responder Program for the citizens of the Community and the County.
- * Train employees in, and provide, vehicle accident extrication.

8.

- * Plan for future fire station with facilities for mechanical repair and public education programs.
- * Require every Town employee to learn CPR and fire extinguisher use.

Fighting Fire With . . . What?

Alarms: The ranks of volunteer companies have shrunk, leaving communities poorly protected

A RECENT WEEKLY "CLEAN-up night" at the South Plainfield, N.J., volunteer rehouse was bustling and noisy: firefighters swabbed own concrete floors, yelled to each other over the roar of diesel engines, clambered over trucks to reach equipment. When the work was done, there was a sudden quiet as the motors were shut down. Then came the part that gets shorter all the time: roll call. The outfit's normal 65-member roster recently plummeted to 42, many of whom are too busy for the weekly drill.

South Plainfield is typical of a national problem: there may not be enough volunteer firemen around anymore. Volunteers' ranks nationally have dropped at least 13 percent in the last decade, to about 800,000, while their responsibilities have grown. Paid professionals are not replacing enough of them, and volunteers—still three out of four U.S. firefighters—must protect 60 percent of the population. "Society has really changed, and pressure is growing on those who are left," says Robert (Red) McKeon, chairman of the National Volunteer Fire Council.

Many South Plainfield older residents blame high housing costs and the demise of the one-earner family. The average young guy is working two jobs, and his wife is working, too, says Joseph Abbruzzese, South Plainfield's deputy chief. "If they give time, it's for Little League—otherwise they'll never see their kids." Also, fewer residents work for local mom-and-pop businesses, where folks are once expected to drop everything for an alarm. Instead, they commute to faraway towns or work for big companies, which often discourage employees from disrupting the day by going to fires.

In many places, the problem may run deeper than time and money. Once small towns have sprawled into shapeless suburbs whose boundaries are just a line on a map, and where residents feel that home threatens with the front lawn. "People have forgotten they belong to a community," says fire marshal Robert Bettenhausen of Tinley Park, Ill., just west of Chicago, which has grown twentyfold since he first joined the local fire company 41 years ago. Beth Nevel, until recently administrative fire chief of fast-growing Hillsborough County, Fla., says most people moving into new subdivisions from big cities "don't even know we have a volunteer fire department—they think fire protection is covered by taxes."

The volunteers face more demands all the time. Hoses that used to be handled by four or five firefighters now are wrestled into burning houses by two. Training requirements have gone from zero to as much as 200 initial hours in some areas. This is because environmental, traffic and worker-safety agencies have added regulations on everything from truck drivers' li-

censes to how to clean up gasoline spills. Many volunteers must now be prepared for accidents involving hazardous materials—South Plainfield has become home to chemical suppliers, a pesticide factory and a maker of nuclear isotopes. And the number of calls rises each year, with the increasing number of factories and growing traffic on highways that run through town. "Sometimes you're exhausted—you just do the best you can," says Floyd Bosse, a longtime South Plainfield volunteer who runs a service station seven days a week to support his six kids.

Macho pursuit: Some towns have had to come up with new ways to recruit and keep volunteers. More are accepting those who don't want to fight fires but who can maintain machinery or answer phones. Some have hired a few paid firefighters to help cover weekday working hours. Others have started giving small pensions to volunteers who stay in for the long haul, or token payments of \$2 or \$3 per call. The affluent New York City suburb of Dobbs Ferry even opened a low-cost housing development last year for its volunteers, so they could afford to live in town.

Fire companies may be partly to blame for their own thin ranks. While volunteer firemen often do not fit the blue-collar stereotype, a startling 96 percent are white males. "Women are excluded because it's a macho pursuit. And a lot of minorities undoubtedly feel uncomfortable applying," says John Buckman, chief of the German Township (Ind.) Fire Department. South Plainfield, for instance, has one female member and one black man, an under-18 "junior" member. Argues Buckman: "It's our job to go to them and tell them they're welcome and valued."

So far, no one in South Plainfield has died or lost a home because too few volunteers showed up at a fire. When the ranks are thin, says chief John Cotone, he has "no shame" about dialing up mutual aid from the neighboring Newmarket volunteer department, or even begging help from the paid firefighters in nearby Plainfield—if they are available. The problem, says Newmarket chief Nick Lombardi, is that he has lost 20 percent of his own members in the last year; now he must ask for help as often as he gives it. What will happen if, someday, they give a fire and nobody comes?

KEVIN KRAJICK in South Plainfield



More demands: Cotone (center) and South Plainfield firefighters

BOARD OF ALDERMEN

ITEM NO. F(5)

AGENDA ITEM ABSTRACT

MEETING DATE: May 10, 1994

SUBJECT: Consideration of Domestic Partner Issues: Registration of Domestic Partners; Adding Domestic Partners to the Financial Disclosure Requirements for Elected Officials; and Extending Health Insurance Benefits to Domestic Partners

DEPARTMENT: Administrative Services	PUBLIC HEARING: YES ____ NO <u>x</u>
ATTACHMENTS: Ordinances, Letter from Kaiser Permanente	FOR INFORMATION CONTACT: Mike Brough, 929-3905; Larry Gibson, 968-7701

PURPOSE

The purpose of this item is to present for the Board's consideration ordinances drafted by the Town Attorney which provide for the registration of domestic partners and for the extension of financial disclosure requirements to the domestic partners of elected officials. This item should also serve as a vehicle for discussing the Board's interest in extending health insurance benefits to domestic partners of town employees.

SUMMARY

The Board of Aldermen placed on its 1994 Action Agenda the following domestic partner issues: (1) registration of domestic partners; (2) adding domestic partners to the financial disclosure requirements for elected officials; and (3) extending health benefits to the domestic partners of employees.

The administration and Town Attorney have responded to the first two of these items by preparing the attached ordinances for the Board's consideration. The first provides for the Town Clerk to accept statements of domestic partnerships as a means of registering domestic partners in Carrboro. The second ordinance amends Section 2-33 of the Town Code to stipulate that the financial disclosures required of elected officials include disclosures involving the financial interests of their domestic partners as well as their spouses.

As for the third issue, the administration is waiting to hear from our insurance providers. The Town issued letters to Kaiser Permanente and Blue Cross/Blue Shield, the town's two health insurance providers, formally requesting the option of extending family coverage benefits to domestic partners and requesting information on the additional costs, if any, associated with doing so. Kaiser Permanente has already responded to our request. The administration is attaching a copy of Kaiser's letter and the amendment filed by Kaiser with the N.C. Dept. of Insurance which would provide for coverage of domestic partners. The N.C. Dept. of Insurance would have to approve this change before Kaiser could extend this benefit to Carrboro.

ACTION REQUESTED:

To consider the ordinances prepared by the Town Attorney, and to determine the Board's interest in extending health insurance benefits to the domestic partners of town employees.



RECEIVED MAY 05 1994

May 3, 1994

Mr. Robert Morgan
Town of Carrboro
P.O. Box 829
Carrboro, NC 27510

Dear Bob:

Enclosed is a copy of the amendment Kaiser Foundation Health Plan of North Carolina has filed with the North Carolina Department of Insurance to cover domestic partners.

This amendment would include gay/lesbian relationships as well as heterosexual unmarried couples. An affidavit will need to be signed by both the Subscriber and domestic partner.

COBRA may not be extended to domestic partners since the State and Federal regulations do not consider domestic partners as dependents. However, upon loss of eligibility, conversion to non-group membership would be available.

At this time we do not anticipate additional costs associated with providing this benefit.

I will contact you upon approval of this amendment. In the meantime, if you have questions, please call me at 919-981-5724.

Sincerely,

Carolyn Hanks
Account Manager

CH/llh
Attachment

KAISER FOUNDATION HEALTH PLAN OF NORTH CAROLINA

Amendment to
GROUP MEDICAL AND HOSPITAL SERVICE AGREEMENT
DOMESTIC PARTNERS

1. Eligibility, Enrollment, Coverage and Continuation Coverage

Section 2-A(2) (Family Dependents) is amended to read:

(2) Family Dependents. To be a Family Dependent, a person must be:

- (a) The Subscriber's spouse; or
- (b) An unmarried dependent child of the Subscriber or the Subscriber's spouse:
 - (i) under age 19; or
 - (ii) age 19 or over and under age 23 and a full-time student in an accredited school or college.
- (c) Any other unmarried dependent person under age 19 who is ; (i) chiefly supported by the Subscriber or by the Subscriber's spouse; and (ii) permanently residing in the Subscriber's household.
- (d) The Subscriber's domestic partner, as defined by Group in a definition approved by Health Plan; or
- (e) A dependent child of the Subscriber's domestic partner, as defined by Group in a definition approved by Health Plan.

Section 2-B (Enrollment) is amended to read:

B. Enrollment

With respect to all persons entitled to coverage under Group's health benefit plan(s), Group will (i) offer enrollment in Health Plan to all such persons on conditions no less favorable than those for any alternate health care plan available through Group; (ii) have an open or annual enrollment period of no less than 10 business days at least once a year during which all such persons are offered a choice of enrollment in Health Plan or any alternate health care plan available through Group; and (iii) make its contributions to all health care plans available through Group on a basis that does not financially discriminate against Health Plan or such persons who choose to enroll in Health Plan. If Group does not fulfill these material obligations, Health Plan may terminate this Agreement pursuant to Section 8-B(4).

- (1) Newly Eligible Persons. A person who attains eligibility to become a Subscriber may enroll by submitting an enrollment application to Group within 31 days. If Group has a probationary period during which a new employee may not enroll, the enrollment application must be submitted to Group within 31 days after the probationary period ends. Employees shall be added to the master group coverage no later than 90 days after their first day of employment. Persons eligible to become the Subscriber's Family Dependents must be enrolled at the same time or during an open enrollment period.

Any person who thereafter attains eligibility to become a Family Dependent, such as a new spouse or newborn or newly adopted child, but excluding a new domestic partner and his or her dependents, may be enrolled by Subscriber's submitting a change of enrollment form to Group within 31 days after the person becomes eligible. A newborn child of a Family Dependent other than the Subscriber's spouse may be enrolled under the Subscriber's coverage only if the newborn child is eligible under Section 2-A(2)(c).

- (2) **Open Enrollment Period.** Eligible persons not enrolled when newly eligible may be enrolled as Subscribers and Family Dependents only during the open enrollment period shown on the Face Sheet.

Limitation on Enrollment. If Health Plan determines that it is necessary to limit enrollment of additional Members in order to maintain a suitable level of Medical or Hospital Services to Members, Health Plan may do so despite the eligibility and enrollment provisions in this Agreement.

Section 2-D (Continuation Under Federal Law) is amended to read:

D. Continuation Coverage Under Federal Law.

Subject to continuing eligibility as specified in Section 2-A, coverage continues from month to month subject to payment of applicable monthly charges. Upon loss of eligibility under Section 2-A, continuation of coverage is subject to terms as stated below or, at the option of the Member, conversion to non-group membership is available, subject to the terms of Section 7-A of this Agreement. For purposes of this Section 2-D, a "Member" does not include a person who has Health Plan coverage through Group solely because he or she is the domestic partner of a Subscriber or a child of a domestic partner of a Subscriber. Upon loss of eligibility under this Section 2-D, conversion to non-group membership is available, subject to the terms of Section 7-A.

- (1) **COBRA Continuation Coverage.** If Group has 20 or more employees, a Member who no longer meets the eligibility requirements of Section 2 of this Agreement may continue uninterrupted coverage hereunder upon arrangement with Group in compliance with Consolidated Omnibus Budget Reconciliation Act of 1985, and amendments thereto, (collectively "COBRA"), and upon payment of applicable monthly charges to Group, if:
 - (a) The Member's coverage is through a Subscriber who dies, divorces or legally separates, or becomes entitled to Medicare benefits; or
 - (b) The Member is a dependent child who ceases to qualify under Section 2-A(2)(b); or
 - (c) The Member is a Subscriber, or the Member's coverage is through a Subscriber, whose employment terminates (other than for gross misconduct) or whose hours of employment are reduced.
- (2) **Termination of COBRA Continuation Coverage.** COBRA coverage continues only upon payment of applicable monthly charges to Group at the time Specified by Group, and terminates on the earliest of:
 - (a) Termination of this Agreement,
 - (b) Coverage of the Member under any other group health plan which does not contain any exclusion or limitation with respect to any pre-existing condition or entitlement to Medicare,

- (c) Expiration of 36 calendar months after an event described in Section 2-D(1)(a) or (b),
- (d) Expiration of 18 calendar months after an event described in Section 2-D(1)(c) unless Section 2-D(2)(e) is applicable,
- (e) Expiration of 29 months after an event described in Section 2-D(1)(c) for a Member determined by the Social Security Administration to have been disabled at the time of the event described in Section 2-D(1)(c).

Health Plan may terminate coverage of any Member receiving coverage under this Section 2-D for whom Health Plan does not receive payment when due. A person who (1) meets the eligibility criteria under Section 2-A, (2) has elected COBRA coverage through an alternate health care plan available through Group, and (3) elects to receive COBRA coverage through Health Plan during an open enrollment, will be entitled to COBRA coverage only for the remainder, if any, of the maximum coverage period prescribed by COBRA.

- (3) **COBRA Continuation Coverage Upon Group Bankruptcy.** A Member who is a retiree or the spouse or dependent of a retiree, and who would otherwise lose coverage may continue coverage hereunder if (a) Group has more than 20 employees and (b) the loss of coverage would occur within one year of the date upon which a proceeding under Title 11 of the United States Code is commenced with respect to Group. Coverage under this Section 2-D continues only upon payment of applicable monthly charges to Group at the time specified by Group. The terms and conditions of this coverage shall be governed by COBRA.

Unless otherwise agreed to by Group, subject to the provisions of Section 8, a person who is a Member hereunder on the first day of a month is covered for the entire month.

**AN ORDINANCE AMENDING THE CARRBORO TOWN CODE
TO PROVIDE FOR THE FILING WITH THE TOWN CLERK OF
STATEMENTS OF DOMESTIC PARTNERSHIP**

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Article I of Chapter 3 of the Carrboro Town Code is amended by adding a new section 3-2.1 to read as follows:

Section 3-2.1 Town Clerk to Accept Statements of Domestic Partnership

(a) A domestic partnership shall exist between two persons if the persons file a statement of domestic partnership as prescribed in subsection (b), and each of the declarations made in this statement as required under subsection (b) are true.

(b) The town clerk shall accept and keep on record statements of domestic partnership. Such statements shall be in the form of an affidavit prescribed by the town and shall contain the signatures of two persons who state under oath that such persons:

- (1) Are not related by blood closer than would bar marriage in the state of North Carolina;
- (2) Are not married or related by marriage;
- (3) Share the common necessities of life;
- (4) Are 18 years old or older;
- (5) Are competent to enter into a contract;
- (6) Declare that they are each other's sole domestic partner;
- (7) Agree to be responsible for each other's welfare;
- (8) Agree to notify the town of any change in the status of their domestic partnership;
and
- (9) Have not declared that either has a different domestic partner.

(c) The domestic partnership statement shall be dated and contain the address or addresses of both partners.

(d) The domestic partners statement may be amended at any time in order to change an address by filing a new statement.

(e) Any member of a domestic partnership may terminate the domestic partnership by filing an affidavit of termination with the town clerk. The person filing the termination statement must declare that:

- (1) The domestic partnership is terminated, effective on the date specified; and
- (2) A copy of the termination statement has been mailed to the other domestic partner.

(f) No person who has filed an affidavit of domestic partnership may file another statement of domestic partnership until six months after a statement of termination of a previous partnership has been filed with the town clerk.

(g) The town clerk may charge a fee for the filing of a domestic partnership statement, a termination of domestic partnership statement, and an amendment to a domestic partnership statement. The amount of such fee shall be as set forth in the town's miscellaneous fees and charges schedule.

Section 2. All provisions of any town ordinance in conflict with this ordinance are hereby repealed.

Section 3. This ordinance shall become effective upon adoption.

**AN ORDINANCE AMENDING SECTION 2-33 OF THE CARRBORO TOWN CODE
TO PROVIDE THAT THE FINANCIAL DISCLOSURES REQUIRED OF ELECTED OFFICIALS
BY THAT SECTION INCLUDE DISCLOSURES INVOLVING THE FINANCIAL
INTERESTS OF THE DOMESTIC PARTNERS OF SUCH ELECTED OFFICIALS**

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Section 2-33 of the Carrboro Town Code is amended by adding the phrase "or domestic partner" after the term "spouse" in each location within this section where the term "spouse" appears.

Section 2. Section 2-33 of the Carrboro Town Code is amended by adding a new subsection (f) to read as follows:

(f) For purposes of this section, the term "domestic partner" refers to a person with whom an elected official has entered into a domestic partnership and filed a "statement of domestic partnership" in accordance with Section 3-2.1 of the Carrboro Town Code.

Section 3. All provisions of any town ordinance in conflict with this ordinance are hereby repealed.

Section 4. This ordinance shall become effective upon adoption.

BOARD OF ALDERMEN

ITEM NO. F(6)

AGENDA ITEM ABSTRACT

MEETING DATE: May 10, 1994

SUBJECT: Budget Amendment

DEPARTMENT: Admin. Services	PUBLIC HEARING: YES ____ NO <u>x</u>
ATTACHMENTS: Budget Ordinance Amendment	FOR INFORMATION CONTACT: Larry Gibson, 968-7701

PURPOSE:

The purpose of this item is to amend the FY'93-94 General Fund budget for items recently approved by the Board and to ensure that the Transportation (Bus Service) and Revolving Loan Funds are adjusted to reflect increased revenues and expenditures.

SUMMARY:

The administration has prepared an ordinance amending the town's budget as follows:

- (1) transferring \$313 from contingency for the N.C Coalition for Public Transportation;
- (2) transferring \$750 from contingency for the services of a Cable T.V. consultant;
- (3) recognizing increased revenue in the Transportation Fund from the Town's federal transit grant as well as increased expenditures for E.Z. rider services; and
- (4) adjusting the Revolving Loan Fund to reflect new loans, interest earnings, and repayments scheduled for loans approved by the Board (OCCHS, Cat's Cradle, StarChild, and Inkspot).

ACTION REQUESTED:

The administration requests that the Board adopt the attached ordinance amending the FY 1994-95 General Fund, Transportation Fund and Revolving Loan Fund budgets.

The following ordinance was introduced by Alderman _____ and duly seconded by Alderman _____.

AN ORDINANCE AMENDING FY'93-94 BUDGET ORDINANCE

WHEREAS, the Town Board of the Town of Carrboro on June 22, 1993 adopted the annual budget for the fiscal year beginning July 1, 1993 and ending June 30, 1994; and

WHEREAS, it is appropriate to amend the expense accounts in the funds listed to provide for increased expenses for the reasons stated.

NOW, THEREFORE, BE IT ORDAINED, that in accordance with authority contained in G.S. 159-15, the following expense and revenue accounts are amended as shown and that the total amount for the funds are herewith appropriated for the purposes shown:

FUND	ACCOUNT TITLE	ACCOUNT NO.	INCREASE DECREASE	AMOUNT	FROM	TO
General Govern. Support		10418.4515	Increase	\$ 313	\$ 0	\$ 313
General Contingency		10999.7000	Decrease	\$ 313	\$ 8,680	\$ 8,367
Reason: To provide support to N.C. Coalition for Public Transportation						
General Govern. Support		10418.4516	Increase	\$ 750	\$ 0	\$ 750
General Contingency		10999.7000	Decrease	\$ 750	\$ 8,367	\$ 7,617
Reason: To provide for services of cable television consultant.						
Transp. UMTA Grant		45349.0000	Increase	\$ 22,000	\$ 98,496	\$120,496
Transp. EZ Rider		45660.4503	Increase	\$ 22,000	\$ 39,000	\$ 61,000
Reason: To recognize increased funds received from the UMTA grant and increased costs of EZ Rider service.						
Revolv. Loan Expenditures		48690.0000	Increase	\$117,000	\$ 0	\$117,000
Revolv. Unexpended Res.		48690.7000	Decrease	\$117,000	\$213,802	\$ 96,802
Revolv. Revenues		48348.0000	Increase	\$ 10,473	\$650,930	\$661,403
Revolv. Unexpended Res.		48690.7000	Increase	\$ 10,473	\$ 96,802	\$107,275
Reason: To budget for loans, interest earnings, and repayments for loans approved by the Board (OCCHS, Cat's Cradle, StarChild Boutique, and Ink Spot).						

The foregoing ordinance having been submitted to a vote, received the following vote and was duly adopted this ____ day of _____, 1994:

Ayes:

Noes:

Absent or Excused:

The following ordinance was introduced by Alderman Randy Marshall and duly seconded by Alderman Jacquelyn Gist.

AN ORDINANCE AMENDING FY'93-94 BUDGET ORDINANCE
Ordinance No. 32/93-94

WHEREAS, the Town Board of the Town of Carrboro on June 22, 1993 adopted the annual budget for the fiscal year beginning July 1, 1993 and ending June 30, 1994; and

WHEREAS, it is appropriate to amend the expense accounts in the funds listed to provide for increased expenses for the reasons stated.

NOW, THEREFORE, BE IT ORDAINED, that in accordance with authority contained in G.S. 159-15, the following expense and revenue accounts are amended as shown and that the total amount for the funds are herewith appropriated for the purposes shown:

FUND	ACCOUNT TITLE	ACCOUNT NO.	INCREASE DECREASE	AMOUNT	FROM	TO
General Govern. Support		10418.4515	Increase	\$ 313	\$ 0	\$ 313
General Contingency		10999.7000	Decrease	\$ 313	\$ 8,680	\$ 8,367

Reason: To provide support to N.C. Coalition for Public Transportation

General Govern. Support		10418.4516	Increase	\$ 750	\$ 0	\$ 750
General Contingency		10999.7000	Decrease	\$ 750	\$ 8,367	\$ 7,617

Reason: To provide for services of cable television consultant.

Transp. UMTA Grant		45349.0000	Increase	\$ 22,000	\$ 98,496	\$120,496
Transp. EZ Rider		45660.4503	Increase	\$ 22,000	\$ 39,000	\$ 61,000

Reason: To recognize increased funds received from the UMTA grant and increased costs of EZ Rider service.

Revolv. Loan Expenditures		48690.0000	Increase	\$117,000	\$ 0	\$117,000
Revolv. Unexpended Res.		48690.7000	Decrease	\$117,000	\$213,802	\$ 96,802
Revolv. Revenues		48348.0000	Increase	\$ 10,473	\$650,930	\$661,403
Revolv. Unexpended Res.		48690.7000	Increase	\$ 10,473	\$ 96,802	\$107,275

Reason: To budget for loans, interest earnings, and repayments for loans approved by the Board (OCCHS, Cat's Cradle, StarChild Boutique, and Ink Spot).

The foregoing ordinance having been submitted to a vote, received the following vote and was duly adopted this 10th day of May, 1994:

Ayes: Michael Nelson, Randy Marshall, Hank Anderson, Eleanor Kinnaird, Frances Shetley, Jacquelyn Gist, Jay Bryan

Noes: None

Absent or Excused: None

BOARD OF ALDERMEN

ITEM NO. F(7)

AGENDA ITEM ABSTRACT

MEETING DATE: May 10, 1994

SUBJECT: Resolution Expressing Desire to Attempt to Reach Consensus About an Appropriate Plan of Development for the Hogan Property Through a Facilitated Process

DEPARTMENT: Administration	PUBLIC HEARING: YES ___ NO <u>x</u>
ATTACHMENTS: Resolution	FOR INFORMATION CONTACT: Mike Brough, 929-3905

Purpose

On April 19, 1994, the Board of Alderman voted 4-3 to deny a conditional use permit request for a proposed development on the Hogan property. A legal challenge to that permit denial is forthcoming. Litigation could be avoided if an alternative development proposal were submitted for which a conditional use permit could be issued under the land use ordinance. Direct discussion between representatives of the Board and the Hogans might help to develop such an alternative development proposal.

Summary

A focused discussion session involving three Board members, four representatives chosen by the Hogan family, one facilitator, and one professional planner, might produce a consensus upon a development plan for the Hogan property that could be approved under the land use ordinance. The discussion session would be limited to a one to two day period. The results would be reported to the Board and the Board could then vote on whether to encourage the Hogans or their representatives to submit a revised conditional use permit application. The Board could also decide whether to establish an expedited review schedule if a new CUP were submitted.

Recommendation

The administration recommends adoption of the attached resolution.

Action Requested

Adoption of the attached resolution.

A RESOLUTION EXPRESSING THE
BOARD OF ALDERMAN'S DESIRE TO ATTEMPT
TO REACH CONSENSUS ABOUT AN APPROPRIATE
PLAN OF DEVELOPMENT FOR THE HOGAN PROPERTY
THROUGH A FACILITATED PROCESS

WHEREAS, at its meeting on April 19, 1994, the Board of Aldermen voted 4-3 to deny a conditional use permit for a proposed development on the Hogan property; and

WHEREAS, the Board believes that it may be useful to establish a process wherein discussions could take place between representatives of the Hogan family and members of the Board on an appropriate plan of development for the property in question, in the hope that a consensus might emerge about a development plan for which a conditional use permit could be issued under the Town of Carrboro's land use ordinance;

NOW THEREFORE, THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO RESOLVES:

Section 1. The Board endorses the following process and encourages the Hogan family to participate in this process:

- (a) The discussion session will extend over a one or two day period and will be ~~conducted as soon as possible.~~ *included no later by June 30, 1994.*
- (b) The participants in the discussion will be:
 - (1) Three members of the Board, namely Jay Bryan, Jacquie Gist, and Frances Shetley;
 - (2) Four persons selected by the Hogan family;
 - (3) One facilitator, whose function will be to keep the discussions focused on the issues and otherwise assist the group in attempting to reach a consensus; and
 - (4) A professional planner, whose function will be to assist the group in understanding the planning issues and to prepare sketches of proposals under discussion as well as any decisions reached.
- (c) The objective of this discussion group will be to attempt to reach consensus about a proposed development plan for the Hogan property, ~~for which a conditional use permit could be issued under the Town of Carrboro's land use ordinance.~~
- (d) At the conclusion of the discussion process, the discussion group will report back to the Board of Aldermen as to the extent to which consensus was reached by the group, ~~on any or all aspects of a development plan for the Hogan property.~~
- (e) ~~After receiving the report of the discussion group, the Board of Aldermen will vote on whether to encourage the Hogans or their representatives to submit to the Town a new conditional~~ *considers what action if any*

use permit application and whether to establish an expedited review process if a new conditional use permit application is submitted.

Section 2. This resolution shall become effective upon adoption.

The following resolution was introduced by Alderman Jay Bryan and duly seconded by Alderman Randy Marshall

A RESOLUTION EXPRESSING THE BOARD OF ALDERMAN'S DESIRE TO
ATTEMPT TO REACH CONSENSUS ABOUT AN APPROPRIATE
PLAN OF DEVELOPMENT FOR THE HOGAN PROPERTY
THROUGH A FACILITATED PROCESS
Resolution No. 52/93-94

WHEREAS, at its meeting on April 19, 1994, the Board of Aldermen voted 4-3 to deny a conditional use permit for a proposed development on the Hogan property; and

WHEREAS, the Board believes that it may be useful to establish a process wherein discussions could take place between representatives of the Hogan family and members of the Board on an appropriate plan of development for the property in question, in the hope that a consensus might emerge about a development plan for which a conditional use permit could be issued under the Town of Carrboro's land use ordinance;

NOW THEREFORE, THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO RESOLVES:

Section 1. The Board endorses the following process and encourages the Hogan family to participate in this process:

- (a) The discussion session will extend over a one or two day period and will conclude no later than June 30, 1994.
- (b) The participants in the discussion will be:
 - (1) Three members of the Board, namely Jay Bryan, Jacquie Gist, and Frances Shetley;
 - (2) Four persons selected by the Hogan family;
 - (3) One facilitator, whose function will be to keep the discussions focused on the issues and otherwise assist the group in attempting to reach a consensus; and
 - (4) A professional planner, whose function will be to assist the group in understanding the planning issues and to prepare sketches of proposals under discussion as well as any decisions reached.
- (c) The objective of this discussion group will be to attempt to reach consensus about a proposed development plan for the Hogan property.

- (d) At the conclusion of the discussion process, the discussion group will report back to the Board of Aldermen as to the extent to which consensus was reached by the group.

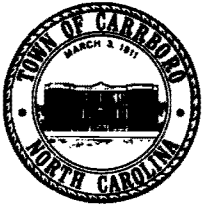
Section 2. This resolution shall become effective upon adoption.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 10th day of May, 1994:

Ayes: Michael Nelson, Randy Marshall, Hank Anderson, Eleanor Kinnaird, Frances Shetley, Jacquelyn Gist, Jay Bryan

Noes: None

Absent or Excused: None



TOWN OF CARRBORO

NORTH CAROLINA

MEMORANDUM

TO: Mayor and Board of Aldermen

FROM: Robert W. Morgan, Town Manager *Robert W. Morgan*

SUBJECT: Correspondence from NCDOT

DATE: May 5, 1994

The attachment to this memo is correspondence received from the North Carolina Department of Transportation responding to the Town's request for pedestrian improvements along arterial roads in areas of existing or expected pedestrian activity. Staff from the Town's police department, planning department, and public works department will meet with administrators from the Chapel Hill-Carrboro City School System next week to discuss the response received from DOT regarding pedestrian improvements along Old Fayetteville Road in the vicinity of the middle school. The Town staff will continue to work with DOT regarding the proposed pedestrian solutions along the NC 54 Bypass between Westbrook Drive and Abbey Lane, as well as at the intersection of Main Street and Rosemary Street.



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

JAMES B. HUNT, JR.
GOVERNOR

DIVISION OF HIGHWAYS
P. O. Box 14996
Greensboro, NC 27415-4996
21 April, 1994

SAM HUNT
SECRETARY

MEMORANDUM

TO: Kenneth Withrow
Carrboro City Planner

FROM: Patty Eason *PE*
Division Seven Incident Management Engineer

SUBJECT: Requests

Per our meeting, I have conducted a field review, an engineering analysis and further discussed with Vance, the items of concern. The following are my recommendations or planned actions.

1. US 54 Bypass and Abbey Lane pedestrian crossing

I am not recommending a pedestrian crosswalk be installed at this time. Due to the characteristics of US 54, it is felt that a marked crosswalk could give pedestrians a false sense of security and may encourage them to be careless. The field review revealed that pedestrians may not be crossing primarily at one location but several. Therefore, I am recommending that pedestrian signs be installed in advance of the area of all of the apartments. These signs would serve to advise motorists of the presence of pedestrians. These signs should be installed within the next 30 to 60 days.

2. Main Street/Rosemary Street and Franklin Street

I am not recommending a pedestrian signal at Main Street/Rosemary Street and Franklin Street. I am however, recommending the installation of mini skip pavement markings at this intersection to help direct traffic from Franklin Street onto Main Street. As I explained to Mr. Smith, these are not raised reflective pavement markers but are painted markings on the roadway.



21 April, 1994

Page 2

3. School on Fayetteville Road and Hillsborough

I am not recommending at school flasher be installed at this time. MUTCD guidelines and criteria concerning the pedestrian volumes, vehicular volumes, vehicular speed and roadway geometrics are not met or determined at this time. It is acceptable for the Town to furnish, install and maintain these flashers if they desire. After discussion with Vance concerning the ground mounted flasher, it was determined that this would be acceptable even without curb and guttering but the offset distance from the edge of pavement should be 12 feet.

I am recommending that the required signage including advance signage be installed in this area. This will be complete before the school opens in the Fall of 95. This will include an ordinances speed zone.

Please let me know if you are going to pursue the installation of the flashers.

I appreciate your patience in my response to your requests. If you have any further questions, please do not hesitate to contact me.

\ppe

cc: Vance Barham

The following resolution was introduced by Alderman _____ and duly seconded by Alderman _____.

A RESOLUTION HONORING JAMES SPIVEY
Resolution No. 51/93-94

WHEREAS, the Town recently received its commissioned publication entitled, "Carrboro Downtown Business District Guidelines for Design; and

WHEREAS, the Guidelines appear in all respects to be beautifully typed and formatted; and

WHEREAS, James Spivey, as Administrative Assistant to the Director of the Planning Department, has been primarily responsible for typing and formatting of the Guidelines; and

WHEREAS, because of the software problem, Mr. Spivey had to retype the entire 65-page documents, and then, after submitting the retyped text to advisory commissions and the Board of Aldermen for review and changes, format the text with a desktop publishing program that he had to learn as well; the formatted text was also reviewed and final changes were made after that review; and

WHEREAS, Mr. Spivey also made the text photo-ready for final copying.

NOW, THEREFORE, THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO RESOLVES:

Section 1. That the Mayor and Board of Aldermen express their thanks to Mr. Spivey for a job well done and his many hours of work on the Guidelines for Design.

Section 2. This resolution shall become effective upon adoption.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 10th day of May, 1994:

Ayes:

Noes:

Absent or Excused: