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Council mulls Herzenberg's future after tax conviction

By Dana Pope
City Coordinator

Members of the Chapel Hill Town Council tonight will consider a resolution concerning a possible response to the tax evasion convictions of three-term council member Joe Herzenberg.

While at least four members of the council called for Herzenberg's resignation following a meeting Thursday night, Herzenberg said he did not know what, if any, action he would take.

Tonight's council meeting is at 7:30

p.m. in the Town Hall council chambers.

Herzenberg, mayor pro tempore, said he made a statement in his defense during the closed meeting, but would not respond to calls from fellow council members that he make the next move.



Joe Herzenberg

"I'd rather wait until they ask me to resign," Herzenberg said.

Although members of the council could not say what specific points the resolution might contain, several said they hoped the resolution would call for Herzenberg's resignation.

"With (Herzenberg) on our council, it says we are above our own law," said council member Joe Capowski. "The public trust of this town council has been violated."

Council member Julie Andresen, the first council member to call for

Herzenberg's resignation, said she was concerned the resolution would not go far enough. "(The resolution) is certainly not going to be a statement of support," Andresen said.

In addition to Capowski and Andresen, Mayor Ken Broun and council member Art Werner both said they had asked Herzenberg to step down. Prior to the Thursday meeting, Broun, who drafted the resolution with Werner, had expressed support for Herzenberg.

But after the meeting, Broun distributed a written statement calling for

Herzenberg's resignation.

"Joe, for all his superb qualities, has violated his oath of office and the public trust in a way which even his past service cannot put right," Broun said.

Herzenberg pleaded guilty Aug. 10 to two counts of willful failure to file state taxes. He did not pay \$800 of income taxes in 1989 and did not pay \$600 in intangibles taxes on investment income in 1990. State revenue officials also have indicated that Herzenberg had not filed a state income tax return since 1978 or intangibles taxes since 1986.

Herzenberg received a six-month suspended sentence, was fined \$500 and court costs, and received five years unsupervised probation. In addition, he was ordered to pay the back taxes plus penalties and interest.

Council member Mark Chilton was the only member present at the meeting who afterwards expressed support for Herzenberg. "This is very serious," he said. "Joe really screwed up, and he certainly shouldn't be allowed to get off

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Amidst confusion, BOT rejects law school addition

Board member says he didn't know funding was from private donation

By Anna Griffin
Associate Editor

Confusion about funding may have been the primary reason a proposed \$8.8 million addition to the UNC Law School was rejected at the last Board of Trustees meeting.

Cressie Thigpen, one of six board members to vote against the proposal, said that he did not know before his vote was cast that the money for the project would have come from a donation from an anonymous contributor.

"My concern was that the university system was going to be funding something that, in these tough times, seemed excessively opulent," Thigpen said in a recent interview. "If I had known that the money was coming from an outside source, I would have reevaluated my vote."

Thigpen said the appearance of the project would not have mattered to him if he had known the project was to be funded by an outside source. The building would include a Jeffersonian design, including columns and a dome.

"If the funds are not coming from the University, and they have contributors who are willing to put up the money, I don't think it makes any difference whether it's opulent or not," he said. "I am not on the committee that made the initial plans, so I wasn't really sure about the project specifics."

The University's buildings and grounds committee unanimously approved the plan.

Although Thigpen's vote would have made the final tally 5-4 against the plan, BOT member John Harris, one of several to miss the vote because of family reasons, said he probably would have voted in favor of the proposal had he attended the July 24 meeting.

"I think I probably would have voted for it," Harris said last week. "I thought they had done a better job getting the

design into line with what we wanted." Harris and Thigpen's votes would have tied the vote, forcing BOT Chairman Robert Strickland or one of the members who abstained from voting to cast the deciding ballot.

UNC Student Body President John Moody voted against the plan. He was unavailable for comment.

At press time, Strickland, who usually does not vote except as a tiebreaker, was not available for comment.

UNC officials are not sure whether they will re-submit the same plan to the BOT.

Gene Swecker, associate vice chancellor for facilities management, said he did not know how Thigpen could have been confused about the funding.

"I just don't know," Swecker said. "It's always been known among those directly involved. Sometimes we forget to tell those who aren't in the planning from the outset."

Gordon Rutherford, the UNC director of facilities planning and design, said Thigpen's confusion was partly the fault of UNC administrators.

"He's relatively new on the board since we first started discussing the addition," Rutherford said. "If he's confused, that's probably our fault. There was probably a communications breakdown."

Ellen Smith, director of public information for the law school, said all communications concerning specific details of the proposals was run through the office of facilities planning.

Smith, who spoke on behalf of law school Dean Judith Wegner, said she thought the source of funding for the project had been made clear all along. Wegner has refused to speculate on why the addition was rejected.

The five other BOT members voting against the proposal echoed Thigpen's

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Drum roll, please ...

Myndi Konopack watches and waits for her cue as the UNC Marching Band drum line practices last week near Memorial Hall in preparation for football season, which opens Sept. 5. Konopack is a sophomore from Cary.

DTH/Erin Randall

Yack fate still unclear despite Keene verdict

By Anna Griffin
Associate Editor

While the legal drama concerning former UNC student Tracy Lamont Keene may have ended, the outlook for UNC's student yearbook, the Yackety Yack, remains uncertain.

Earlier this month, State Superior Court Judge Lynn Johnson ordered Keene, the former Yack business manager who pleaded guilty to embezzling more than \$77,000 from UNC's 102-year-old annual, to repay the money over the course of at least 10 years. Keene, who could have been sentenced to 210 in prison, must pay \$500 a month for the next 10 years and must eventually pay off the entire amount he admits taking.

Under Johnson's ruling, Keene also

is required to pay \$1,600 up front, give the University his 1986 Acura—which he purchased with money taken from the Yack—continue psychological treatment and perform 200 hours of community service.

Although the monthly payments will help alleviate the Yack's financial woes, it will not allow them to pay off the \$110,000 still owed to Delmar, the Charlotte-based publishing company that prints the yearbook.

"Now people think we're out of the woods," said Yack Editor Shea Tisdale said. "We're certainly not."

Delmar, which has been working with the yearbook to arrange re-payment, could sue the Yack, student government and the University, Tisdale said.

Tisdale has said he hoped the University would work with Yack officials in obtaining a bank loan for the yearbook. Earlier this summer, UNC Chancellor Paul Hardin said administrators were considering such a measure.

But Frederic Schroeder, dean of stu-

dents, last week said the administration would wait until Student Congress acted before considering direct intervention on behalf of the yearbook.

"At this point, my understanding is that this is a matter Student Congress will be considering this fall," Schroeder said. "The University is not directly involved at this point. There are no plans at this point to take direct action."

Schroeder said he felt Judge Johnson's decision was fair and, in the end, was the best thing for both the Yack and Keene.

"The bottom line is he is required to pay (his debt) off," Schroeder said. "I don't see that as a bad resolution. Of all the options available, that is probably the fairest."

In one of its first fall meetings, Student Congress will consider a bill, which was approved by the Summer Congress, that would allow Congress to take money out of the Student Activities Fund Office's emergency fund.

But because the Keene verdict does

not require immediate payback, Congress may have to take more direct action, Student Congress Speaker Jennifer Lloyd said.

"I will, or I will have someone else, introduce a bill to help the Yack," Lloyd said. The full Student Congress holds its first meeting Sept. 2.

Tisdale said that although he initially was pleased with the verdict, his opinion has changed since the Aug. 11 ruling.

"I would've liked to have seen Tracy go to jail," Tisdale said. "Personally, I think about five years would have done him some good."

Tisdale said that although he wanted to pay Delmar off, he was doubtful the publishing company would ever recover the full amount owed by the Yack.

"We know and presumably they know that in most embezzlement circumstances, the creditor who is owed the money are lucky to get it all back," he said. "But that doesn't mean we don't want to pay them back."

University to accept ACT for admission

By Alan Ayers
Staff Writer

Admissions officials have decided to accept scores from the American College Test (ACT) in addition to Scholastic Aptitude Test (SAT) scores on applications for Fall 1993 to keep up with a trend set by other North Carolina universities.

"Chapel Hill was lagging behind by only accepting the SAT," said Anthony Strickland, associate director of Undergraduate Admissions. "Most major universities nationwide and all the other schools in the UNC system have accepted both tests for some time."

The change was approved by the Board of Trustees at its July 24 meeting after recommendation from the Faculty Advisory Committee on Undergraduate Admissions.

Provost Richard McCormick said that the possibility of accepting both tests had been examined during the past two years.

"We were finding that a lot of students applying to Chapel Hill were inconvenienced," he said. "So we began to canvas other universities and look at the patterns of our own applicants to see how many presented both tests and whether there was a large number who took the SAT only to satisfy Chapel Hill's requirements."

McCormick said the committee decided to adopt the ACT to remain competitive. "Schools are competi-

tive with each other for the best students, faculty and financial resources," he said. "When we noticed other schools in the Southeast were accepting the ACT, we decided to examine our own policies."

Patricia Farrant, a representative of American College Testing, said the ACT had gained acceptance at schools that traditionally considered only the SAT.

"There are a few schools, especially on the east and west coasts, that still don't accept the ACT," she said. "The trend to accept both tests was just started in the mid 1980s by the Ivy League schools."

All ACC schools, except for Wake Forest and Clemson, have changed their policy during the past decade and now accept both tests.

Duke University Admissions Officer Ben Pratt said that Duke began accepting the ACT eight years ago. "The ACT tests students in more subject areas than the SAT," he said.

Strickland said that he was skeptical of schools that had adopted the ACT. "Our experience with the SAT leads us to believe it is a reliable test," he said. "Because we haven't worked with the ACT, I'm not sure how reliable it is."

Acceptance of the ACT is expected to increase the number of out-of-state applications to UNC. "This year we had 10,161 applications for 600 out-of-state spots," Strickland said. "Accepting the ACT will make it easier for students from other parts of the country to apply, and we just don't have the resources to

deal with all those additional applicants."

North Carolina State University uses the ACT to recruit applicants from other states. Admissions Director Kay Leeger said: "We are finding that most of our out-of-state students who submit ACT scores would not have come here if we only accepted the SAT."

Most N.C. high school students still take the SAT, but Farrant said she expected the ACT gain popularity. "When UNC decided to accept both tests, it was almost like a stamp of approval for the ACT," she said.

Although the adoption of the ACT has been controversial, admissions officials believe that test scores still are overemphasized.

"It's not really fair to judge a student based on his test scores alone because they are not always accurate," Farrant said. "Other factors such as high school grades and extra-curricular activities should also be considered."

McCormick said accusations that standardized tests such as the ACT and SAT were biased against women and minorities reduced their credibility. "Although there is no research that can prove that, we try to weigh other factors just to be safe."

Strickland said UNC uses a mathematical system to determine eligibility. "Although scores on these tests are important, they won't make or break an applicant."

Former UNC officials appealing ruling in discrimination lawsuit

By Anna Griffin
Associate Editor

The three former UNC administrators who this summer were found guilty of discriminating against UNC Police Officer Keith Edwards have decided to appeal the \$116,000 decision against them.

By filing a notice of appeal earlier this month, former police chief Charles Mauer and former directors of public safety John DeVitto and Robert Sherman have set into motion an appeals process that could take several months to resolve.

In July, the three former administrators were ordered to pay Edwards, an 18-year veteran of the UNC police force, \$90,000 in punitive damages and \$26,000 in compensatory damages, on the grounds that they committed racial and gender discrimination against her.

David Parker, the assistant attorney general handling the case for the three former state employees, filed the notice of appeal at the same time he requested a stay on the attorney's fees of Edwards' lawyer, civil rights activist Alan McSurely. Should they lose their appeal, the three men also must pay the

more \$100,000 in attorney's fees requested by McSurely.

"We filed the stay of attorney's fees because we don't have to pay their attorney's fees while we're still in the appeals process," Parker said, declining to say whether he thought McSurely had asked for an excessive amount of money.

Parker, the state lawyer who handles cases involving University employees, is defending the three former administrators because the suit names them in their capacity as state employees.

The notice of appeal is the first step in the appeals process, Parker said. Once the notice is filed, a Superior Court reporter has 30 days to file the transcript of the original case with the state Court of Appeals. After the transcript is received and a record of appeal is filed, both lawyers present the Court of Appeals with briefs explaining the grounds of appeal.

The entire process could take several months, Parker said.

Edwards, who has filed numerous grievances against the University since the late 1970s, said she was not surprised by the appeal.

"I'm certainly not surprised, this is

what we expected," Edwards said. "This just suits their pattern of disregarding justice and not doing what is best for the University."

The lawsuit first was filed in September 1990 and named DeVitto, Mauer, Sherman, Chancellor Paul Hardin and former administrators Ben Tuchi, Charles Antle and Dan Burleson.

Orange County Superior Court Judge Gordon Battle, who earlier this month rejected a motion by Parker asking for a new trial, dismissed the charges against all the defendants except DeVitto, Mauer and Sherman during the second week of the trial.

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