

THE CITY OF TAKOMA PARK, MARYLAND

MEETING OF THE MAYOR AND CITY COUNCIL

January 8, 1979

City Officials Present:

Mayor Roth	City Administrator Gilsdorf
Councilman Faulkner	Asst. City Administrator Nichols
Councilman Forshee	City Clerk Pusti
Councilman Garcia	Administrative Asst. Swinton
Councilman Ricks	Public Works Coordinator Robbins
Councilwoman Saloma	Recreation Director Ziegler
Councilman Webb	Asst. Corporation Counsel Culpepper
Councilman Weisman	Asst. Corporation Counsel Hoffman

The Mayor and Council of Takoma Park met on January 8, 1979, at 8:00 PM, in the Council Chamber, 7500 Maple Avenue, Takoma Park, Md. Following the pledge of allegiance to the flag, a motion to approve the minutes of December 11 was made, duly seconded, and approved by the Council.

MAYOR ROTH'S COMMENTS AND PRESENTATIONS

Presented Certificates of Appreciation to Dr. Faith E. Stern and Mrs. Dorothy J. Malusky for their triumphant effort on the Takoma Park Junior High School Local Evaluation Committee; noted that their hard work, along with many others, including Councilman Weisman, has been a help in keeping the school open.

Stated that a County newspaper editorial, summing up past year's events, noted as one of the most deserving the recognition by the Maryland Recreation and Parks Association of the achievements of Belle Ziegler of Takoma Park; congratulated Mrs. Ziegler.

Announced that Congresswoman Spellman will have her mobile office in the Municipal Building parking lot on Saturday, January 20th, from 1:30 to 3:30 PM.

Noted the receipt of further information and plans on the Seven-Eleven Food Store being constructed at Carroll and Cedar Streets, N.W.; architectural drawings show that there will be a 6' x 18' illuminated sign in bold colors in center of building; that this particular aspect differs from original plans; stated that the drawings would be available for inspection in the City Office.

Mr. Charles Butler of the American Automobile Association presented a Pedestrian Safety Citation for six years' without pedestrian fatality in the City; stated that this award shows the high regard the City places on traffic safety.

ADDITIONAL AGENDA ITEMS

Discussion of proposed use of the Darwin Avenue parking lot by Montgomery College as temporary parking for students. (Councilman Weisman)

Discussion of proposal to place Sanitarium building on the Montgomery County Locational Atlas and Index of Historic Sites. (Councilman Faulkner)

CITIZENS' REMARKS

1. Deborah Robbins, 7504 Carroll Avenue and Jeffery Axelson, Attorney: spoke on the Special Exception petition for a child day care center at 7607 Takoma Avenue: that the first floor apartment would be used for the center, which would

accomodate from 20-25 children ranging from 2-5 years of age; ample parking in rear of house; Ms. Robbins would be renting two units from her parents--first floor unit for the center and second floor unit for her own residence; that there will be 2-3 staff personnel; said the center would be harmonious with the neighborhood, would not increase traffic a significant amount, and would be used by residents of Takoma Park. Ms. Robbins stated that the center would only be licensed for 25 children at the most because of the square footage requirement (35 square feet per child); that there is a required ratio of 10 children per adult; that the County building and fire inspectors have given her a list of alterations to be made with which she will comply; hours of operation will be 7:00 AM to 6:30 PM, children will bring lunch with snacks provided; outdoor play facilities would be provided. Answering Councilman Weisman's question, Mrs. Stanley Robbins stated that she is temporarily renting five parking spaces at 7607 Takoma Avenue to Montgomery College teachers at same fee they would pay the College.

2. Ed Longen, 7516 Holly Avenue, President, Hodges Heights Citizens' Asso.: came with delegation of citizens from Hodges Heights to protest the proposed temporary use of the Darwin Avenue parking area by students of Montgomery College; listed reasons for this protest: already congestion with traffic from new TPES; narrow streets not large enough for College busses; heavy pedestrian traffic with schools in neighborhood; at most there are 75 spaces in the parking lot and concerned that overflow will be parking on residential streets; asked that Council send letter of protest to Park & Planning; also presented petition signed by residents of the area.

3. John Tucci, 608 Philadelphia Avenue: noted that the North Takoma Citizens' Association would be opposing the proposed child care center at 7607 Takoma Avenue; that neighborhood already has one such center operated by the College; noted his concern about increased traffic and the poor maintenance of the property which will house center.

4. James Gallagher, Representative, General Conference of SDA: regarding Mr. Marsh's reference to the ESDA building at the Council meeting of 12-11-78, stated that the building is now Central Delivery Service (bulk mailing and deliveries); that ESDA has moved into another building and was never a commercial operation; concurred with statements made for improvement at the intersection of Flower and Carroll Avenue.

5. Richard Bernardi, 7111 Cedar Avenue: stated his support of the Hodges Heights Citizens' Association's request; concerning the renting of parking spaces at 7607 Takoma Avenue, felt this is a commercial operation and City attorneys should render opinion on the legality; regarding the traffic situation in Old Takoma area, stated that a child had been injured by a car during the weekend, although it was not serious; thanked the Council for taking such quick action on the streets Committee's proposal.

6. Mary Nunes, 7408 Flower Avenue: stated that her son was seriously injured by a car on Flower Avenue; that she has seen many other near misses at the Flower-Carroll Avenue intersection; said it is getting more dangerous due to increased traffic from Metro; that mistake was made in minutes when stated that area residents of Longbranch-Sligo Citizens' Association did not want a traffic signal at that intersection; residents would prefer a signal that has push-button walk signs, and a crossing guard until signal is installed. Councilman Ricks requested that this item be placed on the agenda.

7. Phil Vogel, 7117 Garland Avenue: stated that the Montgomery County Advisory Committee on Historic Sites has recommended by a 7-2 vote that the original building of Washington Adventist Hospital (WAH), 1907 Sanitarium structure, be added to the County's Locational Atlas and Index of Historic Sites; gave history of the Hospital's plans for demolition of this building in conjunction with new addition; WHA has stated the building had no historical value; citizens did not have significant input into these plans for demolition; Planning Board will consider Committee's recommendations on January 11; asked Council to support recommendation; noted that if the building is placed on the Atlas, could still be demolished, but it would be subjected to a public hearing; stated that people who are interested in having building so designated do not wish to interfere with WAH's operation, but feel building could be adapted for other uses than housing patients; suggested that the 1940 addition could be demolished instead of the Sanitarium.

8. Larry Robinson, 7504 Holly Avenue: stated that he felt the mailing service and child care center should be considered commercial operations and not be allowed in residential areas; that Council should have a policy for no more commercialization within the City.

9. Ellen Marsh, 7405 Maple Avenue: notified Council of a D. C. Zoning Commission public hearing on the Metro area zoning, January 22, 6:30 PM, continued on January 25, at 6:30 PM, if necessary, Trinity Episcopal Church, 7005 Piney Branch Road, N.W.; should notify Commission of intent to testify before January 15. Noted the poor condition of the Carroll House, especially the porch, saying the College is guilty of demolition by neglect, which the Department of Environmental Protection is charged with enforcing; suggested a letter be sent to DEP and the County Executive with a statement of repairs necessary. Regarding the child care center on Takoma Avenue, noted that noise level should be a consideration. Gave a history of the WAH 1907 Sanitarium building, saying it should be preserved.

10. Allan Marsh, President, Old Takoma Citizens' Association: reiterated comments from previous Council meetings regarding the propriety of Councilmembers voting on matters directly affecting the administrative operations of their church; appreciated clarification of use of building on Willow Avenue; stated that the Association continues to oppose the removal of parking meters in that area; listed his computations of revenue from the meters; felt the City was awarded a pedestrian safety plaque from AAA only by luck; encouraged Council to do everything possible to make City streets safer.

11. Donald Ramsey, 8116 Roanoke Avenue: concerning the General Conference mailing service on Willow Avenue, suggested the possibility of relocating the Post Office to Laurel Avenue Shopping Area, after which the mailing service could be moved to that location; stated that it is his belief that basic problem with the 1907 Sanitarium building is that the Maryland Hospital Cost Review Commission will not reimburse the high costs of the building; noted that the Lisner Wing is separate from the brick hospital building and if the Sanitarium is torn down, there would be two separate buildings.

12. Sammie Abbott, 7308 Birch Avenue: noted that D. C. has started to vigorously enforce their parking restrictions which were motivated by the energy crisis; that the Federal government is restricting parking for employees; evident

that Montgomery College is ignoring such efforts to better air quality; said that City should put obstacles in the way of students' use of private automobiles; concerning the new parking garage, stated that other colleges are not granted such privileges; that students should be seeking mass transportation; suggested that parking areas should be found in the Silver Spring area which is much closer to the College. Regarding the D. C. Zoning Commission's hearing on January 22, noted that it conflicted with Council meeting and asked that Council request the second meeting date of January 25 be observed because of this conflict.

ADMINISTRATIVE REPORTS AND RECOMMENDATIONS FOR COUNCIL ACTION

1. Announcement of Public Forums on Takoma Park Master Plan Staff Draft: 1-11-79 (focus on zoning aspects); 1-17-79 and 1-24-79; all will be held in the Second Floor meeting room, Municipal Building, at 7:30 PM.
2. First Reading of enabling legislation to permit certain offenses to be labelled Municipal Infractions. The City Administrator stated that this ordinance is to establish the framework for violations of City Code; law enforcement officials would be issuing tickets to violators; offenses would not be criminal, but civil; not all ordinances would be handled as Municipal Infractions; Council would decide where it would be most applicable. Mayor Roth noted that this is the First Reading of the ordinance, so that interested citizens may comment on it at the next Council meeting; that it may be desirable to apply this to animal control ordinances and possibly Ordinance 1946; Council will take this matter step by step to make it as simple as possible. The City Administrator stated that the basic format for enabling ordinance is set out by State law, although fines may be established by the Council. Asst. Corporation Counsel Culpepper stated that he assumed the City Attorneys would be prosecuting these civil cases in court. Mayor Roth directed the City Administrator to prepare ordinances to establish animal control laws under Municipal Infractions.

(See Attachment A.)

3. Discussion of Traffic Committee for Old Takoma Area. Regarding Council's approval of a motion at 12-11 Council meeting to appoint a committee to study problems in this area, Mayor Roth made a motion to appoint the following persons who were recommended by the streets committee: Dee Raff, Joseph Ossi, and Richard Bernardi as citizen representatives and as Council representatives, Councilmembers Saloma, Forshee, and Ricks. Councilman Faulkner seconded this motion and it was approved unanimously. Mayor Roth made a motion that Councilwoman Saloma be appointed co-chairman, with other co-chairman being selected by the streets committee. Councilman Faulkner seconded this motion, and it was unanimously approved by the Council. Councilwoman Saloma thanked the Mayor and Council for the prompt and positive action that was taken on this issue.

4. Concerning the proposed use of Takoma Park Recreation Center parking lot (Darwin Avenue) by Montgomery College students, Councilman Weisman made a motion that a letter of opposition be sent to Park & Planning, with copies to the College and other interested parties, for the following reasons: the tremendous amount of construction traffic from new TPES; heavy amount of pedestrian traffic during the hours of intended use, including school children from the schools in the area; the streets are extremely narrow and without sidewalks which pose a hazard for

pedestrians; only 75 possible spaces, with danger of overflow parking on residential streets where there is no permit parking to disallow this; that parking lot is quite a distance from the College, and would necessitate the use of College busses. Councilwoman Saloma seconded this motion. Councilman Ricks noted that the use of mass-transit should be suggested to the College; that Council should be consistent in parking regulations and if this proposal takes place, should institute permit parking in this area. When the motion was put to a vote, it was approved unanimously.

5. Regarding the proposal to place the 1907 WAH Sanitarium building on the County's Locational Atlas and Index of Historic Sites, the Council discussed this item at length with the following points being brought out: that both sides of this should be heard by the Council before a decision is made; that if the Hospital is not interested in saving the building, it should be left up to their discretion; several Councilmembers in favor of the proposal to place on Atlas; it was noted that the Planning Board would be taking action on this proposal on January 11; that if the building is placed on the Atlas, it would not necessarily prevent the planned demolition; suggestion that Hospital officials be invited to speak to the Council. Councilman Faulkner made a motion that the Council notify the Hospital of citizen interest in placing the building on the Atlas with copy of letter to the Planning Board; this motion was seconded by Councilman Garcia. Councilman Weisman asked that the record show he is in favor of keeping the building. After further lengthy discussion, Councilman Forshee moved that the motion be tabled; this was seconded by Councilman Webb. Following clarification of the motion, Councilmembers Forshee and Webb agreed to withdraw their motion to table. Councilman Ricks made a motion to amend, stating the Council's support of the Advisory Committee's decision to place building on Atlas; this was seconded by Councilman Weisman. When the amendment was put to a vote, it failed by a margin of 3-4, with Councilmembers Ricks, Saloma, and Weisman voting in the affirmative and Councilmembers Faulkner, Forshee, Garcia, and Webb, voting in the negative. When Councilman Faulkner's original motion, amended to request a dialogue with the hospital, it was approved by the Council.

6. Regarding the increased traffic and pedestrian problems at the Flower-Carroll intersection, several Councilmembers noted that a traffic control device is needed there, specifically a walk light for pedestrian use; the Council discussed several different options for traffic devices. Councilwoman Saloma made a motion that the City write a letter to the State Highway Administration citing the danger to pedestrians at this intersection and the recent accident, asking that steps be taken to make the intersection safe for pedestrians. This motion was seconded by Councilman Faulkner. When put to a vote, the motion was approved unanimously. Councilman Ricks asked that this item be put on the agenda as a report on any correspondence received from SHA within 30 days.

7. Mayor Roth directed the City Administrator to write a letter reiterating the Council's previous stand on proposed zoning plan in the D. C. Metro area, and also to send previous correspondence.

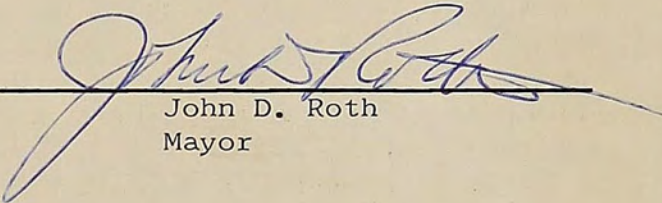
-6-

Council meeting minutes
January 8, 1979

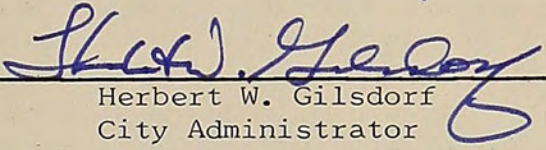
8. Concerning the deteriorating condition of the Carroll House, Mayor Roth requested that Councilman Weisman, who has architectural expertise, examine the property and give his opinions to the Council, after which a letter would be written; Councilman Weisman agreed to this, stating he would supply an itemized statement with photographs.

Upon motion, duly seconded, the meeting adjourned at 11:22 PM, to reconvene on Monday, January 22, 1979, at 8:00 PM.

APPROVED


John D. Roth
Mayor

ATTEST


Herbert W. Gilsdorf
City Administrator

FIRST READING OF A PROPOSED ORDINANCE

WHEREAS, the Maryland General Assembly, during its 1978 session, enacted new measures (Chapter 735, Laws of Maryland, 1978) which empowers municipalities to (1) increase the maximum permissible fine for a misdemeanor from \$100 to \$500; and (2) create a new type of offense known as a Municipal Infraction, which provides for enforcement of municipal ordinances by a civil process, through the issuance of citations and the collection of specific fines for specific infractions as may be determined by the legislative body, with said fines being payable to the municipality; AND

WHEREAS, the Mayor and City Council find it desirable to incorporate these new measures into the City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT Sec. 1-17, "General penalty; continuing violations," of the Code of Takoma Park, Md., 1972, as amended, shall be repealed in its entirety and reenacted to read as follows:

Sec. 1-17 General [~~penalty~~] PENALTIES; continuing violations

(a) Whenever, in this Code or in any other ordinance of the City, or rule, regulation or order promulgated by any law officer or agency of the City under authority duly vested in him, or it, any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any act is declared to be unlawful, where no specific penalty is provided therefor, AND EXCEPT WHERE THE VIOLATION OF A SPECIFIC ACT IS EXPRESSLY DESIGNATED AS A MUNICIPAL INFRACTION (SEC. 1-17(b)), the violation of any such provision of this Code or of any other ordinance of the City or any rule, regulations or order as aforesaid shall be punished by a fine not exceeding [~~One Hundred Dollars - (\$100.00)~~] FIVE HUNDRED DOLLARS (\$500.00) or by imprisonment not exceeding ninety (90 days) or be punished by both such fine and imprisonment; provided, however, that where the penalty for any particular offense is limited by State statute then such limitation shall be applicable to the provisions of this Code and other ordinances of the City or rule, regulations or order as aforesaid notwithstanding the provisions of this Section. Each day of any violation of this Code or of any other ordinance of the City or any rule, regulation or order continues shall constitute a separate offense.

NOTE: [----] denotes deletions.
ALL CAPS denotes additions.

(b) MUNICIPAL INFRACTIONS

(1) THE CITY COUNCIL MAY PROVIDE THAT VIOLATIONS OF CERTAIN MUNICIPAL ORDINANCES SHALL BE A MUNICIPAL INFRACTION BY SPECIFICALLY DECLARING SUCH VIOLATION TO BE A MUNICIPAL INFRACTION, UNLESS SUCH VIOLATION IS OTHERWISE DECLARED TO BE A MISDEMEANOR OR FELONY BY ORDINANCE OR LAW.

(2) DECLARATION AS INFRACTION; FINE

THE COUNCIL SHALL BY OFFICIAL ACT DECLARE THE VIOLATION OF WHICH ORDINANCE OR ORDINANCES SHALL BE AN INFRACTION, OR INFRACTIONS, AND FOR EACH SUCH VIOLATION, A SPECIFIC FINE SHALL BE SET. THIS FINE SHALL NEVER EXCEED \$100.00 FOR ANY SINGLE, INITIAL VIOLATION, OR \$200 FOR EACH REPEAT OR CONTINUING VIOLATION. THE FINE SHALL BE EXPRESSED AS A DISCRETE AMOUNT RATHER THAN BEING EXPRESSED IN TERMS OF A MAXIMUM OR MINIMUM AMOUNT. THE AUTHORITY TO DECLARE INFRACTIONS AND SET FINES SHALL NOT BE DELEGATED BY COUNCIL TO ANY OTHER ADMINISTRATIVE OR LEGISLATIVE BODY.

(3) ISSUANCE OF CITATION.

THOSE CODE ENFORCEMENT OFFICIALS AUTHORIZED BY THE COUNCIL TO ENFORCE THIS CODE MAY DELIVER A CITATION TO ANY PERSON ALLEGED TO BE COMMITTING AN INFRACTION. A COPY OF THE CITATION SHALL BE RETAINED BY THE CITY AND SHALL BEAR THE CERTIFICATION OF THE ENFORCING OFFICIAL ATTESTING TO THE TRUTH OF THE MATTER SET FORTH IN THE CITATION. THE CITATION SHALL CONTAIN/AT A MINIMUM THE FOLLOWING INFORMATION:

(A) NAME AND ADDRESS OF THE PERSON CHARGED;

(B) THE NATURE OF THE INFRACTION;

(C) THE LOCATION AND TIME THAT INFRACTION OCCURRED OR WAS OBSERVED;

(D) THE AMOUNT OF THE INFRACTION FINE ASSESSED;

(E) THE MANNER, LOCATION, AND TIME IN WHICH THE FINE MAY BE PAID TO CITY; AND

(F) THE RIGHT OF THE ACCUSED TO STAND TRIAL FOR THE INFRACTION.

(4) PAYMENT OF FINE

THE FINE FOR AN INFRACTION SHALL BE AS SPECIFIED IN THE LAW VIOLATED. THE FINE IS PAYABLE BY THE RECIPIENT OF THE CITATION TO THE CITY TREASURER WITHIN TWENTY (20) CALENDAR DAYS OF RECEIPT OF CITATION.

(5) NO FORMAL HEARING BY CITY

THE CITY OF TAKOMA PARK SHALL NOT CONDUCT ANY FORMAL HEARING FOR THOSE PERSONS IN RECEIPT OF A CITATION OF INFRACTION. ANY OFFENDER SO CITED MAY PAY THE FINE AS INDICATED IN THE CITATION OR ELECT TO STAND TRIAL FOR THE OFFENSE. THIS PROVISION SHALL NOT PREVENT AN OFFENDER FROM REQUESTING, EITHER PERSONALLY OR THROUGH AN ATTORNEY, ADDITIONAL INFORMATION CONCERNING THE INFRACTION.

(6) ELECTION TO STAND TRIAL

A PERSON RECEIVING THE CITATION FOR AN INFRACTION MAY ELECT TO STAND TRIAL FOR THE OFFENSE BY NOTIFYING THE CITY IN WRITING OF HIS INTENTION OF STANDING TRIAL. THE NOTICE SHALL BE GIVEN AT LEAST FIVE (5) DAYS PRIOR TO THE DATE OF PAYMENT AS SET FORTH IN THE CITATION. UPON RECEIPT OF THE NOTICE OF THE INTENTION TO STAND TRIAL, THE CITY SHALL FORWARD TO THE DISTRICT COURT OF MARYLAND FOR MONTGOMERY COUNTY OR THE DISTRICT COURT OF MARYLAND FOR PRINCE GEORGE'S COUNTY, AS DETERMINED BY VENUE, A COPY OF THE NOTICE FROM THE PERSON WHO RECEIVED THE CITATION INDICATING HIS INTENTION TO STAND TRIAL. UPON RECEIPT OF THE CITATION, THE APPROPRIATE DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL AND NOTIFY THE DEFENDANT OF THE TRIAL DATE. ALL FINES, PENALTIES, OR FORFEITURES COLLECTED BY THE DISTRICT COURT FOR VIOLATIONS OF INFRACTIONS SHALL BE REMITTED TO THE GENERAL FUND OF THE CITY OF TAKOMA PARK.

(7) FAILURE TO PAY FINE

IF A PERSON RECEIVING A CITATION FOR AN INFRACTION FAILS TO PAY THE FINE BY THE DATE OF PAYMENT SET FORTH ON THE CITATION, AND FAILS TO FILE A NOTICE OF HIS INTENTION TO STAND TRIAL FOR THE OFFENSE, A FORMAL NOTICE OF THE INFRACTION SHALL BE SENT TO THE OFFENDER'S LAST KNOWN ADDRESS. IF THE CITATION HAS NOT BEEN SATISFIED WITHIN FIFTEEN (15) DAYS FROM THE DATE OF THE NOTICE, HE SHALL BE LIABLE FOR AN ADDITIONAL FINE NOT TO EXCEED TWICE THE ORIGINAL FINE. IF AFTER THIRTY-FIVE (35) DAYS THE CITATION HAS NOT BEEN SATISFIED, THE CITY OF TAKOMA PARK MAY REQUEST ADJUDICATION OF THE CASE THROUGH THE APPROPRIATE DISTRICT COURT.

(8) CONVICTION NOT CRIMINAL OFFENSE

CONVICTION OF A MUNICIPAL INFRACTION, WHETHER BY THE DISTRICT COURT OR BY PAYMENT OF THE FINE TO THE CITY, IS NOT A CRIMINAL CONVICTION FOR ANY PURPOSE, NOR DOES IT IMPOSE ANY OF THE CIVIL DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.

(9) COURT PROCEEDINGS AND RIGHTS OF ACCUSED

IN ANY PROCEEDING FOR A MUNICIPAL INFRACTION, THE ACCUSED SHALL HAVE THE RIGHT TO CROSS-EXAMINE WITNESSES AGAINST HIM, TO TESTIFY OR INTRODUCE EVIDENCE IN HIS OWN BEHALF AND TO BE REPRESENTED BY AN ATTORNEY OF HIS OWN SELECTION AND EXPENSE.

(10) ENFORCEMENT

UNLESS EXPRESSLY STATED TO THE CONTRARY IN AN ORDINANCE CARRYING AN INFRACTION PENALTY, THE TAKOMA PARK POLICE DEPARTMENT SHALL BE RESPONSIBLE FOR THE ENFORCEMENT OF THIS SUB-SECTION.

SECTION 2. THAT this ordinance shall become effective upon adoption after second reading.

CITY OF TAKOMA PARK, MARYLAND
MAYOR AND COUNCIL WORKSESSION
January 15, 1979

Councilmembers Present:

Mayor Roth
Councilman Faulkner
Councilman Forshee
Councilman Garcia
Councilman Ricks
Councilwoman Saloma
Councilman Webb
Councilman Weisman
City Administrator Gilsdorf

The meeting was called to order at 7:45 PM, by Mayor Roth.

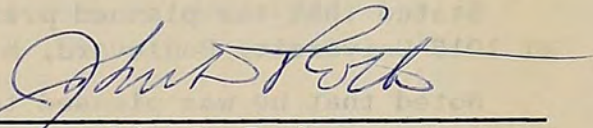
1. Request for City support of LEAA Grant to Rev. Garner for Police Officer to work with local youth. After hearing a presentation from Rev. Garner and discussing the matter, the Mayor and Council, by consensus, directed the City Administrator to take the necessary steps to assist in obtaining the Grant.
2. Request for BOCA Second Notice Extentions. Three addresses were discussed by the Mayor and Council: 7209 Cedar Avenue, 7422 Buffalo Avenue, and 7203 Flower Avenue. The first two addresses were deemed to have had more than ample opportunity (and favorable weather) to correct violations, but some questions remained about 7203 Flower Avenue, so an extension was granted until May 1st with the clear understanding that no further extensions would be granted.
3. Grant Avenue Subdivision. This matter will be placed on the agenda for the January 22nd Council meeting.
4. Planner Position. Suggestion by County CDBG staff that a full-time planner be hired to work on a study of the Laurel Avenue Shopping Area was discussed at some length by the Mayor and Council, with the conclusion being reached that due to limitations of office space, secretarial service, and very real concerns that a person could not be found with all the requisite skills to do the job--it was decided that the services of a consulting firm would be a more effective approach to dealing with the problem.
5. Municipal Infractions. This ordinance is to be placed on the January 22 agenda for Second Reading.
6. Animal Control. It was decided that two ordinances would be placed on the agenda for January 22--one ordinance making animal control a Municipal Infraction offense (and setting a monetary fine) and the other ordinance being an amendment to existing animal control legislation.

WORKSESSION
January 15, 1979

- 7. Spanish Catholic Center--University Boulevard. The Mayor and Council directed the City Administrator to request the attorney for the Spanish Catholic Center to be present at the January 22 meeting (along with persons knowledgeable about the day-to-day operation of the center itself). This will enable the Mayor and Council and interested area residents to determine exactly what the Center's activities would be.
- 8. Proposed Legislation to place Prince George's M-NCP&PC under County Executive. Mayor Roth advised Councilmembers that such a bill was being proposed with a hearing date scheduled for January 16. After discussion, a consensus was reached that the Mayor should express opposition to this bill.
- 9. Carroll House. Councilman Weisman requested that this matter be placed on the agenda for January 22.

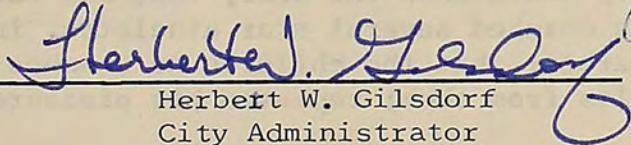
There being no further business to discuss, the meeting adjourned at 11:00 PM.

APPROVED



John D. Roth
Mayor

ATTEST



Herbert W. Gilsdorf
City Administrator

THE CITY OF TAKOMA PARK, MARYLAND

MEETING OF THE MAYOR AND CITY COUNCIL

January 22, 1979

City Officials Present:

Mayor Roth
 Councilman Faulkner
 Councilman Forshee
 Councilman Garcia
 Councilman Ricks
 Councilwoman Saloma
 Councilman Webb
 Councilman Weisman

City Administrator Gilsdorf
 Asst. City Administrator Nichols
 City Clerk Pusti
 Administrative Asst. Swinton
 Police Chief Porter
 Public Works Coordinator Robbins
 Recreation Director Ziegler
 Corporation Counsel Gingerich
 Asst. Corporation Counsel Hoffman

The Mayor and Council of Takoma Park met on January 22, 1979, at 8:00 PM, in the Council Chamber, 7500 Maple Avenue, Takoma Park, Md. Following the pledge of allegiance, a motion to approve the minutes of January 8 was made, duly seconded, and approved by the Council.

MAYOR ROTH'S COMMENTS AND PRESENTATIONS

Stated that the planned presentation on the Spanish Catholic Center, Inc., at 1015 University Boulevard, had been cancelled because of illness of speaker.

Noted that he was pleased to see an article in the 1-16-79 issue of the Washington Star concerning the achievements of Mr. Lee Jordan, of the Takoma Park Boys Club; hoped that everyone in City would know the name; that his coaching career dates back to 1937, and he has coached several star athletes, including baseball's Sonny Jackson and Steve Barber; that the children he coaches respect and admire him and he gets fine results from them; repeated his pleasure in the article.

CITIZENS' REMARKS

1. John Tucci, 608 Philadelphia Avenue: read a prepared statement from Ruth Abbott, 7308 Birch Avenue, concerning the following: recounted a recent purse snatching incident near Birch and Dogwood, in which victim had apparently been followed from the Metro; asked for a Public Works survey of this area for adequacy of lighting; asked the police department to check with D. C. Police on similar incidents near other Metro stops regarding precautionary action that could be taken. Had recently contacted City Police regarding items being moved from a house on Dogwood, temporarily vacant; that the police response was prompt, however, a shotgun had been discharged--the officer stated that it jammed; felt that, though no one was injured, Chief Porter should investigate the incident to avoid a repetition. Mayor Roth directed the City Administrator to investigate these items.

2. Bob Melvin, 7138 Carroll Avenue: suggested that the Council might arrange a meeting with State Highway Administration staff regarding traffic signal problems; recommended Montgomery County's special projects budget item as a funding source for a traffic signal at Flower and Carroll Avenues. Montgomery County's Office of Housing has stated there are 600-800 applications for Section 8 housing, which is more than they have allocated; expressed his concern about the 100% Section 8 program at Franklin Apartments; reiterated previous suggestion for a program budget;

stated that refuse trucks are again parking at 8 Grant Avenue and asked to have that and several apparent code violations in and around his neighborhood corrected. Mayor Roth stated that these items would be looked into.

3. Bernice Myers, 7212 Cedar Avenue: stated that there was nothing in Ordinance #2488 (gym renovation) concerning making the building structurally sound; the City Administrator stated that Montgomery County had recently spent \$28,000 for steel girdering and floor supports to insure the soundness. Mrs. Myers stated that recent minutes had attributed her statements to Mayor Roth. Recommended that Sections 3-4 (c), and 3-7 of dog control ordinance be retained; it was noted by Councilman Faulkner and the City Administrator that some items in the City law are covered by State and County law, and that Sec. 3-4 (a), as proposed, effectively covers dogs at large in any situation; that the City has no facilities for holding dogs.

4. Lou D'Ovidio, 7324 Piney Branch Road: noted the striping on Piney Branch Road where new construction has been completed, asked the Council to request that the left turn lane at Eastern Avenue be striped. In response to Mr. D'Ovidio's query, the City Administrator said that the group home at 7307 Piney Branch Road was not new (see minutes of 12-11-78, p. 7); but that the facility in question is located at 7303 Piney Branch Road; that there are guidelines for complaint procedure. Mr. D'Ovidio noted there have been no problems. He concurred with Mr. Melvin's suggestion for a program budget. Gave Council copies of letter from TPJHS-PTA concerning the Darwin Avenue parking and a letter from Superintendent Bernardo about the Junior High.

FINANCIAL STATEMENT

City Administrator Gilsdorf gave a brief summary of the City's financial status for the month of December.

ITEMS FOR COUNCIL CONSIDERATION

Communications

1. W. L. Shook, District Engineer, SHA. Letter stating that notice to proceed with contract for installation of traffic signals on Carroll Avenue at Philadelphia and Ethan Allen Avenues was given to Kasmer Electrical Contracting, Inc., on December 28, 1978,

2. Mr. and Mrs. Ray Clark, 7328 Willow Avenue. Notified Council of an application for a building permit to construct a residence on the undeveloped land known as Austin Place; they have no objection to the building of a residence, but are concerned about the present rain water run-off and flooding of adjacent properties and how the new residence will affect it; also concerned about the responsibility of the City in the development of the access road, Austin Place, so that it conforms to standards for public streets and the problem of flooding is solved without damage to adjacent properties. Councilmembers asked that they be made aware of future developments on this matter.

ADMINISTRATIVE REPORTS AND RECOMMENDATIONS FOR COUNCIL ACTION

1. Announcement of third Public Forum on Takoma Park Master Plan Staff Draft: 1-24-79, 7:30 PM, second floor meeting room, Municipal Building. Mayor Roth stated that the first Forum was devoted to the discussion of zoning issues; the second Forum had overlapping issues concerning zoning and traffic matters, while this third Forum will cover parks and bike paths, and any other questions that may be raised.

2. Report on 7700 Takoma Avenue deterioration. Councilman Weisman made the following points in a report on the deterioration of the Carroll House, which he suggested be prepared in letter form and sent to the County Executive, with copies to County Councilmembers, DEP, and Construction Code Enforcement Division: That the property is one of the best examples of demolition by neglect in the County; nothing has been done to maintain the property in the ten years that the College has owned it; list of repairs and/or replacements that should be performed on the exterior to bring the house and garage up to architectural standards; information on the historical value of the house, specifically noting that it is Queen Anne style; photographs showing the neglect, a sketch of the way the residence could look if properly maintained, and letters from the National Trust for Historic Preservation and the Maryland Historic Turst supporting the sale and preservation of the house were included; an appeal to enforce provisions of Montgomery County Code, which allows the Director of the County Planning Board to require remedial repair of historic sites; also noted was the fact that interested families have submitted contracts to the College and the County Council for purchase of the property. Councilman Ricks made a motion that the Council accept this report and forward it as the official City position; this was seconded by Councilwoman Saloma. After further discussion, Mayor Roth asked that the item concerning prospective purchasers be emphasized, also noting that this has been a recommendation of the City Council for some time. This was accepted as an amendment, and the Council approved the motion unanimously.

3. Resubdivision of property in 100 block of Grant Avenue, Lots 3, 4, Block 2, Carroll's Subdivision. The City Administrator reported that the proposal involves resubdividing two large lots into three smaller single-family building lots; that of the 15 survey letters mailed to residents in the immediate area, there were two responses, both stating no objection, if the houses are to be single-family, and also a request to retain as many trees as possible. In answer to Councilman Ricks' question concerning off-street parking, Councilman Weisman stated that new homes are required to have at least one off-street parking space, unless unusual topography prevents this, in which case, a special exception must be sought. Councilman Faulkner moved that the City express no objection to this resubdivision, with provisions for off-street parking and retaining trees. This motion was seconded by Councilman Ricks and approved unanimously by the Council.

4. Special Exception No. S-674, petition to operate a child day care center, 7607 Takoma Avenue; Public Hearing: 9:00 AM, 3-1-79, COB, Rockville. Upon request of the Mayor, the Council agreed to allow Mr. Joseph Lerner, 7708 Takoma Avenue, who had arrived late, and the petitioner, Ms. Deborah Robbins, 7405 Carroll Avenue, to speak on this item. Ms. Robbins gave the following response to questions asked by Councilmembers: that each tenant of the building has his own separate entrance; the County Health Department has limited the number of children attending the center to 25; that the children would not be utilizing Jequie Park, but would have play area facilities in the rear of the house; ages of the children would range from 2-5 years. Mr. Lerner, representing the North Takoma Citizens' Association, made the following points: that the property is now in multi-family use, and would eventually be phased out; tenant's feelings should be considered; that special exceptions should be limited to what the residents of an area desire; that Montgomery College operates a day care center a block away from this property; that the limit to 25 children could be considered as 25 at any one time; that this property is not in a typical neighborhood--Montgomery College, new College parking

facility, traffic congestion; that his Association urges the opposition of the Special Exception by the Mayor and Council. After further discussion by the Council, Councilman Weisman made a motion that the Special Exception be opposed by the City; this was seconded by Councilman Ricks. When this motion was put to a vote, it was approved by a majority vote of the Council, with Councilman Webb dissenting.

5. Second Reading of enabling legislation to permit certain offenses to be labelled Municipal Infractions. Upon request of Councilman Faulkner, and with the agreement of the Council, Mr. Clarence Boatman, 133 Ritchie Avenue, asked for an interpretation of the ordinance. Mayor Roth stated that this ordinance will be applied to specifically chosen City laws, changing violations from criminal to civil offenses, in which tickets (such as for parking violations) are issued and specific fines are imposed; the Municipal Infraction Ordinance will be used to enforce the animal control ordinance, Ordinance 1946, and possibly others. Upon motion by Councilman Faulkner, duly seconded by Councilman Garcia, this ordinance was approved by roll call vote as follows: AYE: Councilmembers Faulkner, Forshee, Garcia, Ricks, Saloma, Webb, and Weisman. NAY: None. EXCUSED: None

ORDINANCE #2486
(See Attachment A.)

6. First Reading of a proposed ordinance repealing and reenacting City's dog control ordinance. The City Administrator stated that the main reasons for changing the ordinance: City does not maintain animal cages, but turns the animals over immediately to the County; dog bites and rabies are better controlled by the Counties and State; archaic language in present ordinance; several distinct changes, one of which states that animals must be restrained by a leash, and another includes humane treatment of animals. Councilman Faulkner moved that this ordinance be approved for Second Reading; this was seconded by Councilman Garcia. There ensued a lengthy discussion concerning the language used in proposed Sec. 3-7, to which Councilman Ricks objected; suggested that the word "playground" be included in this section; Corporation Counsel Gingerich stated that meaning of the words "City parks" would include playgrounds. After further discussion, Councilman Webb asked that an amendment be included to re-word Sec. 3-7., to read as follows: Sec. 3-7. DOGS IN CITY PARKS. DOGS ARE PROHIBITED IN CITY PARKS.; this was accepted by Councilmembers Faulkner and Garcia; Dr. Faith Stern was recognized by the Council, and asked if the Council would consider an exception for Seeing-Eye Dogs; Mayor Roth stated that he would have the City Administrator look into that point. When the motion and amendment were put to a vote, they were approved unanimously by the Council. Councilman Garcia made a motion that the Second Reading of the ordinance be postponed until it has been published in the City Newsletter, so that as many citizens as possible would be informed; this was seconded by Councilman Weisman. Councilman Ricks expressed his opposition to this, questioning why this ordinance should be treated differently from others. When put to a vote, the motion was approved by the majority of the Council, with Councilman Ricks dissenting.

(NOTE: See Attachment B.)

7. First Reading of a proposed ordinance declaring violation of the dog control ordinance to be a Municipal Infraction. It was the consensus of the majority of the Council that an announcement regarding this ordinance be published in the Newsletter, although Mayor Roth stated that this should not be considered as a policy. Councilman Faulkner made a motion to proceed with the Second Reading of this ordinance at the same time the dog control ordinance is brought up for Second Reading; this was seconded by Councilwoman Saloma and approved unanimously by the Council. (See Attachment C.) Mayor Roth directed the City Administrator to proceed with drafting an ordinance which would apply Municipal Infraction to Ordinance 1946.

8. Ordinance authorizing supplementary Revenue Sharing Fund appropriation for Cherry Avenue resurfacing project. It was noted that this supplementary appropriation was due to a cost over-run. Upon motion by Councilman Garcia, duly seconded, the following ordinance was adopted by roll call vote as follows:
AYE: Councilmembers Faulkner, Forshee, Garcia, Ricks, Saloma, Webb, and Weisman.
NAY: None. EXCUSED: None.

ORDINANCE #2487

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT Ordinance No. 2480, adopted September 11, 1978, appropriated \$3,000 from the Federal Revenue Sharing Account to cover the estimated cost of resurfacing Cherry Avenue; AND

SECTION 2. THAT, due to the irregularity of terrain at the curb level, the actual costs exceeded the estimated amount by \$2,590.

SECTION 3. THEREFORE THAT a supplemental appropriation be made from the Federal Revenue Sharing Fund Account in the amount of TWO THOUSAND, FIVE HUNDRED NINETY DOLLARS (\$2,590) and transferred to Public Works Account #12.5231.

9. Authorization to solicit bids on two replacement police cruisers (Revenue Sharing Funds). The City Administrator noted that the two trade-in cruisers have very high mileage, approximately 100,000 miles. Councilman Faulkner made a motion that this authorization be approved; this was seconded by Councilman Ricks. Mayor Roth inquired about several items on the specification sheet and was answered by the Police Chief. When the motion was put to a vote, it was approved unanimously.

10. Ordinance awarding contract and appropriating Revenue Sharing Funds for Municipal Gymnasium renovation project. Councilman Ricks made a motion that this ordinance be approved; it was seconded by Councilman Faulkner. There ensued a lengthy discussion in which the following remarks were made: questions as to where sump pump would be placed and where water would drain; inquiry as to reputation of company. Councilman Ricks questioned whether this ordinance would complete renovation of the gym and was told that the items included would constitute the major repair work; that painting and touch-up repairs would be included in next year's FRS Funds; that only \$12,000 was allocated for this year; Councilman Ricks stated that the gym is below City code standards and that funds should be found

to improve this status this year, not next year; Mayor Roth directed the City Administrator to investigate whether funds could be found. Upon motion, duly seconded, the following ordinance was adopted by roll call vote as follows: AYE: Councilmembers Faulkner, Forshee, Garcia, Ricks, Saloma, Webb, and Weisman. NAY: None. EXCUSED: None.

ORDINANCE #2488

- BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND
- SECTION 1. THAT the 1978/79 schedule for proposed use of Federal Revenue Sharing Funds set aside \$12,000 for the Municipal Gym renovation; AND
- SECTION 2. THAT proposals were solicited from qualified companies with the proposal from Grant Construction Corp., Bladensburg, Md. meeting the needs for repairing and waterproofing the back masonry wall (Phase I) for the sum of FIVE THOUSAND THREE HUNDRED THIRTY FOUR DOLLARS (\$5,334); AND
- SECTION 3. THAT the proposal from B-Mor Co., Inc., Baltimore, Md. meets the needs for furnishing the required labor, material and equipment necessary to replace loose and non-existing tile, remove existing sealer, sanding floor surface and applying 2 coats of Gym Seal (Phase II) for a sum not to exceed THREE THOUSAND DOLLARS (\$3,000); AND
- SECTION 4. THAT the proposal from Grant Construction Corp., Bladensburg, Md., meets the needs for replacing the south side fire exit door approx. 6 x 6/8 x 1-3/4 with new steel doors, jamb, hardware, panic bars, locks, closers and related repairs for the sum of ONE THOUSAND FOUR HUNDRED FIFTY DOLLARS (\$1,450); replacing steel casement window in boys bathroom with custom made aluminum window with insulated glass and screen for the sum of THREE HUNDRED DOLLARS (\$300); replacing south side single exit door with new steel door, jamb, hardware, locks, closer and related repair for the sum of FIVE HUNDRED FIFTY DOLLARS (\$550) (Phase III); AND
- SECTION 5. THAT the American Floor Products Co., Rockville, Md. can furnish 31 - 42" rubber medium quality color stair treads 3/16" thick for the concrete and wooden steps leading to the gymnasium floor for the approximate sum of FOUR HUNDRED TWENTY DOLLARS (\$420) (Phase IV); AND
- SECTION 6. THAT funds in the amount of ELEVEN THOUSAND FIFTY FOUR DOLLARS (\$11,054) be appropriated from the Federal Revenue Sharing Account and transferred to the appropriate Recreation Department account.

Upon motion, duly seconded, the meeting adjourned at 10:58 PM, to reconvene on Monday, February 12, 1979, at 8:00 PM.

ATTEST

Herbert W. Gilsdorf
Herbert W. Gilsdorf, City Administrator

APPROVED

John D. Roth
John D. Roth, Mayor

ORDINANCE #2486

WHEREAS, the Maryland General Assembly, during its 1978 session, enacted new measures (Chapter 735, Laws of Maryland, 1978) which empowers municipalities to (1) increase the maximum permissible fine for a misdemeanor from \$100 to \$500; and (2) create a new type of offense known as a Municipal Infraction, which provides for enforcement of municipal ordinances by a civil process, through the issuance of citations and the collection of specific fines for specific infractions as may be determined by the legislative body, with said fines being payable to the municipality; AND

WHEREAS, the Mayor and City Council find it desirable to incorporate these new measures into the City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT Sec. 1-17, "General penalty; continuing violations," of the Code of Takoma Park, Md., 1972, as amended, shall be repealed in its entirety and reenacted to read as follows:

Sec. 1-17 General [~~penalty~~] PENALTIES; continuing violations

(a) Whenever, in this Code or in any other ordinance of the City, or rule, regulation or order promulgated by any law officer or agency of the City under authority duly vested in him, or it, any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any act is declared to be unlawful, where no specific penalty is provided therefor, AND EXCEPT WHERE THE VIOLATION OF A SPECIFIC ACT IS EXPRESSLY DESIGNATED AS A MUNICIPAL INFRACTION (SEC. 1-17(b)), the violation of any such provision of this Code or of any other ordinance of the City or any rule, regulations or order as aforesaid shall be punished by a fine not exceeding [~~One Hundred Dollars (\$100.00)~~] FIVE HUNDRED DOLLARS (\$500.00) or by imprisonment not exceeding ninety (90 days) or be punished by both such fine and imprisonment; provided, however, that where the penalty for any particular offense is limited by State statute then such limitation shall be applicable to the provisions of this Code and other ordinances of the City or rule, regulations or order as aforesaid notwithstanding the provisions of this Section. Each day of any violation of this Code or of any other ordinance of the City or any rule, regulation or order continues shall constitute a separate offense.

NOTE: [----] denotes deletions.
ALL CAPS denotes additions.

Council meeting minutes
January 22, 1979

2

(b) MUNICIPAL INFRACTIONS

(1) THE CITY COUNCIL MAY PROVIDE THAT VIOLATIONS OF CERTAIN MUNICIPAL ORDINANCES SHALL BE A MUNICIPAL INFRACTION BY SPECIFICALLY DECLARING SUCH VIOLATION TO BE A MUNICIPAL INFRACTION, UNLESS SUCH VIOLATION IS OTHERWISE DECLARED TO BE A MISDEMEANOR OR FELONY BY ORDINANCE OR LAW.

(2) DECLARATION AS INFRACTION; FINE

THE COUNCIL SHALL BY OFFICIAL ACT DECLARE THE VIOLATION OF WHICH ORDINANCE OR ORDINANCES SHALL BE AN INFRACTION, OR INFRACTIONS, AND FOR EACH SUCH VIOLATION, A SPECIFIC FINE SHALL BE SET. THIS FINE SHALL NEVER EXCEED \$100.00 FOR ANY SINGLE, INITIAL VIOLATION, OR \$200 FOR EACH REPEAT OR CONTINUING VIOLATION. THE FINE SHALL BE EXPRESSED AS A DISCRETE AMOUNT RATHER THAN BEING EXPRESSED IN TERMS OF A MAXIMUM OR MINIMUM AMOUNT. THE AUTHORITY TO DECLARE INFRACTIONS AND SET FINES SHALL NOT BE DELEGATED BY COUNCIL TO ANY OTHER ADMINISTRATIVE OR LEGISLATIVE BODY.

(3) ISSUANCE OF CITATION.

THOSE CODE ENFORCEMENT OFFICIALS AUTHORIZED BY THE COUNCIL TO ENFORCE THIS CODE MAY DELIVER A CITATION TO ANY PERSON ALLEGED TO BE COMMITTING AN INFRACTION. A COPY OF THE CITATION SHALL BE RETAINED BY THE CITY AND SHALL BEAR THE CERTIFICATION OF THE ENFORCING OFFICIAL ATTESTING TO THE TRUTH OF THE MATTER SET FORTH IN THE CITATION. THE CITATION SHALL CONTAIN/A MINIMUM THE FOLLOWING INFORMATION:

- (A) NAME AND ADDRESS OF THE PERSON CHARGED;
- (B) THE NATURE OF THE INFRACTION;
- (C) THE LOCATION AND TIME THAT INFRACTION OCCURRED OR WAS OBSERVED;
- (D) THE AMOUNT OF THE INFRACTION FINE ASSESSED;
- (E) THE MANNER, LOCATION, AND TIME IN WHICH THE FINE MAY BE PAID TO CITY; AND
- (F) THE RIGHT OF THE ACCUSED TO STAND TRIAL FOR THE INFRACTION.

(4) PAYMENT OF FINE

THE FINE FOR AN INFRACTION SHALL BE AS SPECIFIED IN THE LAW VIOLATED. THE FINE IS PAYABLE BY THE RECIPIENT OF THE CITATION TO THE CITY TREASURER WITHIN TWENTY (20) CALENDAR DAYS OF RECEIPT OF CITATION.

(5) NO FORMAL HEARING BY CITY

THE CITY OF TAKOMA PARK SHALL NOT CONDUCT ANY FORMAL HEARING FOR THOSE PERSONS IN RECEIPT OF A CITATION OF INFRACTION. ANY OFFENDER SO CITED MAY PAY THE FINE AS INDICATED IN THE CITATION OR ELECT TO STAND TRIAL FOR THE OFFENSE. THIS PROVISION SHALL NOT PREVENT AN OFFENDER FROM REQUESTING, EITHER PERSONALLY OR THROUGH AN ATTORNEY, ADDITIONAL INFORMATION CONCERNING THE INFRACTION.

(6) ELECTION TO STAND TRIAL

A PERSON RECEIVING THE CITATION FOR AN INFRACTION MAY ELECT TO STAND TRIAL FOR THE OFFENSE BY NOTIFYING THE CITY IN WRITING OF HIS INTENTION OF STANDING TRIAL. THE NOTICE SHALL BE GIVEN AT LEAST FIVE (5) DAYS PRIOR TO THE DATE OF PAYMENT AS SET FORTH IN THE CITATION. UPON RECEIPT OF THE NOTICE OF THE INTENTION TO STAND TRIAL, THE CITY SHALL FORWARD TO THE DISTRICT COURT OF MARYLAND FOR MONTGOMERY COUNTY OR THE DISTRICT COURT OF MARYLAND FOR PRINCE GEORGE'S COUNTY, AS DETERMINED BY VENUE, A COPY OF THE NOTICE FROM THE PERSON WHO RECEIVED THE CITATION INDICATING HIS INTENTION TO STAND TRIAL. UPON RECEIPT OF THE CITATION, THE APPROPRIATE DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL AND NOTIFY THE DEFENDANT OF THE TRIAL DATE. ALL FINES, PENALTIES, OR FORFEITURES COLLECTED BY THE DISTRICT COURT FOR VIOLATIONS OF INFRACTIONS SHALL BE REMITTED TO THE GENERAL FUND OF THE CITY OF TAKOMA PARK.

(7) FAILURE TO PAY FINE

IF A PERSON RECEIVING A CITATION FOR AN INFRACTION FAILS TO PAY THE FINE BY THE DATE OF PAYMENT SET FORTH ON THE CITATION, AND FAILS TO FILE A NOTICE OF HIS INTENTION TO STAND TRIAL FOR THE OFFENSE, A FORMAL NOTICE OF THE INFRACTION SHALL BE SENT TO THE OFFENDER'S LAST KNOWN ADDRESS. IF THE CITATION HAS NOT BEEN SATISFIED WITHIN FIFTEEN (15) DAYS FROM THE DATE OF THE NOTICE, HE SHALL BE LIABLE FOR AN ADDITIONAL FINE NOT TO EXCEED TWICE THE ORIGINAL FINE. IF AFTER THIRTY-FIVE (35) DAYS THE CITATION HAS NOT BEEN SATISFIED, THE CITY OF TAKOMA PARK MAY REQUEST ADJUDICATION OF THE CASE THROUGH THE APPROPRIATE DISTRICT COURT.

(8) CONVICTION NOT CRIMINAL OFFENSE

CONVICTION OF A MUNICIPAL INFRACTION, WHETHER BY THE DISTRICT COURT OR BY PAYMENT OF THE FINE TO THE CITY, IS NOT A CRIMINAL CONVICTION FOR ANY PURPOSE, NOR DOES IT IMPOSE ANY OF THE CIVIL DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.

(9) COURT PROCEEDINGS AND RIGHTS OF ACCUSED

IN ANY PROCEEDING FOR A MUNICIPAL INFRACTION, THE ACCUSED SHALL HAVE THE RIGHT TO CROSS-EXAMINE WITNESSES AGAINST HIM, TO TESTIFY OR INTRODUCE EVIDENCE IN HIS OWN BEHALF AND TO BE REPRESENTED BY AN ATTORNEY OF HIS OWN SELECTION AND EXPENSE.

(10) ENFORCEMENT

UNLESS EXPRESSLY STATED TO THE CONTRARY IN AN ORDINANCE CARRYING AN INFRACTION PENALTY, THE TAKOMA PARK POLICE DEPARTMENT SHALL BE RESPONSIBLE FOR THE ENFORCEMENT OF THIS SUB-SECTION.

SECTION 2. THAT this ordinance shall become effective upon adoption after second reading.

FIRST READING OF A PROPOSED ORDINANCE

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT it has been determined that the City's dog control ordinances are in need of updating.

SECTION 2. THEREFORE THAT Secs. 3-4 through 3-9 of Article 2, entitled "Dogs," contained in Chapter 3 of the Code of Takoma Park, Md., 1972, as amended, be hereby repealed, and new Secs. 3-4 through 3-7 be enacted as follows:

Sec. 3-4. Control requirements; running at large.

(a) Any owner of a dog shall either:

(1) Confine his dog securely on his own premises so as to prevent escape; or,

(2) Have a responsible person accompany the dog, effectively restraining it by leash. [~~or otherwise~~].^{1/}

(b) Dogs running at large without being accompanied and restrained as required in Subsection (a) shall be impounded and released to the Humane Society at the earliest possible time.

~~[(c) An owner may obtain a properly licensed dog prior to release to the Society by payment to the City of a pound fee of Ten Dollars (\$10.00).]~~

~~[Sec. 3-5. Dog bite and rabies. ^{2/}~~

~~[(a) Any dog which without provocation, maliciously attacks and bites any person shall, upon complaint to a City police officer, be ordered immediately delivered over to the County Health officer who will cause the dog to be examined for rabies.~~

~~[(b) Upon proof that the dog does not have rabies and is not vicious it shall be returned to its owners.~~

~~[(c) Upon proof that the dog does have rabies, the dog shall be killed by a member of the Police Department.~~

~~[(d) Upon proof that the dog is vicious it shall be killed by a member of the Police Department. Proof that the dog has bitten any person without cause shall be prime facia evidence that the dog is vicious.]~~

Sec. 3-5. Dogs; a nuisance.

No person may keep a dog within the City which by barking, howling or yelping, or in any manner whatsoever disturbs the peace, quiet, comfort or rest of any person in the vicinity.

^{1/} [----] denotes deletion; ALL CAPS denotes addition.

^{2/} Reporting procedures for local police contained in Sec. 615 C, Article 43, Md. An. Code, 1957 as amended.

Sec. 3-6. HUMANE CARE AND TREATMENT; SANITARY PREMISES

(a) NO OWNER SHALL INFLICT UNNECESSARY SUFFERING UPON HIS DOG BY FAILURE TO PROVIDE:

- (1) HUMANE CARE AND TREATMENT;
- (2) PROPER SHELTER AND PROTECTION FROM THE WEATHER;
- (3) SUFFICIENT WHOLESOME FOOD AND WATER; AND
- (4) VETERINARY CARE WHEN NEEDED TO PREVENT SUFFERING.

(b) NO OWNER SHALL CRUELLY BEAT OR OTHERWISE ABUSE A DOG.

(c) NO OWNER SHALL ABANDON A DOG.

(d) EVERY OWNER SHALL MAINTAIN THE AREA OCCUPIED BY A DOG IN A SANITARY MANNER, FREE FROM EXCRETA.

Sec. 3-7. DOGS IN CITY PARKS.

DOGS ARE PROHIBITED IN CITY PARKS.

~~[Sec. 3-7.--Inciting disturbances by dogs prohibited.~~

~~[(a) No person shall entice, induce, urge, or cause any dogs to engage in a fight in any street, alley, road, or highway, open space or public square in this City, or to urge, entice or cause the dogs to continue or prolong the fight.~~

~~[(b) No person shall induce or cause any animal to run after, bark at, frighten, or bite any person, horse or horses, (cows, cattle of any kind,) or other animals lawfully passing along or standing in or on any street, avenue, road, highway, or alley.]~~

~~[Sec. 3-8.--Muzzling.~~

~~[(a) Whenever it becomes necessary to safeguard the public from the dangers of hydrophobia, the Mayor, if he deems it necessary, shall issue a proclamation ordering every person owning or keeping a dog to confine it securely on his premises unless the dog shall have a muzzle of sufficient strength to prevent its biting any person.~~

~~[(b) Any unmuzzled dog running at large during the time of the proclamation shall be seized and impounded, unless noticeably infected with rabies.--All dogs so noticeably infected with rabies and displaying vicious propensities shall be killed by a member of the Police Department without notice to the owner.~~

~~[(c) Unless infected with rabies, dogs impounded during the proclamation shall, if claimed within five (5) days, be released to the owner upon payment of the impounding charges provided for in Section 3-3.--If unclaimed after five (5) days the dog may be summarily destroyed.]~~

~~[Sec. 3-9.--Dogs prohibited in City parks.~~

~~[(a) The Director of Public Works is authorized to erect appropriate signs prohibiting dogs in the City Parks which are or may be in future planted with shrubs, azaleas or flowers.~~

~~[(b) This section shall apply to dogs running at large as well as those restrained by a leash.]~~

FIRST READING OF A PROPOSED ORDINANCE

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT the Mayor and Council, in Ordinance 2486, adopted on January 22, 1979, set forth the procedure by which an ordinance can be enforced as a Municipal Infraction; AND

SECTION 2. THAT the Mayor and City Council do hereby ordain that Secs. 3-4 through 3-7 of Article 2, Chapter 3, Code of Takoma Park, Md., 1972, as amended, shall be enforceable as a municipal infraction, subject to the penalties set forth in Section 3, below; AND

SECTION 3. THEREFORE THAT new subsections 3-8, 3-9 and 3-10 be added to Article 2, Chapter 3, of the Code of Takoma Park, Md., 1972, as amended, to read as follows:

Sec. 3-8. Penalty.

Violation of Secs. 3-4, 3-5, 3-6 and 3-7 is declared to be a Municipal Infraction, the penalty for which shall be \$15.00 for each initial offense and \$30.00 for each repeat offense.

Sec. 3-9. Enforcement.

The Takoma Park Police Department shall be responsible for enforcement of Secs. 3-4, 3-5, 3-6 and 3-7.

Sec. 3-10. Severability of provisions of this article.

If any provision of this article, or the application thereof to any person or circumstances, is held invalid, the remainder of the article and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SECTION 4. THAT this ordinance shall become effective upon adoption after second reading.

CITY OF TAKOMA PARK, MARYLAND
MAYOR AND COUNCIL WORKSESSION
January 29, 1979

Councilmembers present:

Mayor Roth
Councilman Faulkner
Councilman Forshee
Councilman Garcia
Councilman Ricks
Councilwoman Saloma
Councilman Webb
Councilman Weisman
City Administrator Gilsdorf

Also present were Mr. Allan Marsh and Mrs. Catherine Wakelyn, members of the Operation Turnaround Board.

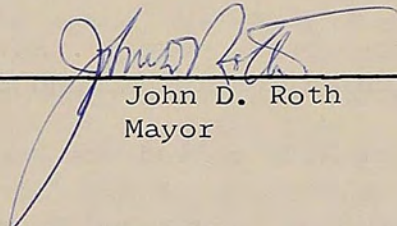
Mayor Roth called the meeting to order at 7:30 PM.

1. Operation Turnaround Board Annual Report. Councilman Faulkner, Chairman of the Board, presented the Annual Report for Fiscal Year 77-78.
2. Montgomery College Parking at end of Darwin Avenue. After discussing this matter, Mayor Roth advised the Council that he would request Park and Planning to reconsider their decision and request representatives to meet with the Council for further discussion and a visit to the site to view the large number of school children competing with traffic on the streets now.
3. Westmoreland Avenue Subdivision. It was decided by the Mayor and Council that neighbors in the immediate area would be invited to respond to the proposal before a decision is made.
4. Montgomery County Bills relative to Appointment of Montgomery College Board of Trustees by County Executive, with concurrence of County Council. After discussion, the Mayor was directed by consensus of the Council to advise the Montgomery County Delegation of the City's and Council's support (in principle) of this approach.
5. Cable Television. The Mayor and Council agreed to listen to a proposal by individuals who would like permission to operate a Cable Television system in the City. These individuals were invited to attend the February 5 worksession.

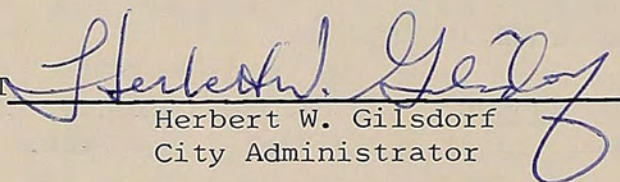
WORKSESSION
January 29, 1979

- 6. Corporation Counsel. The Corporation Counsel will be invited to the next worksession to brief Councilmembers on some aspects of court cases involving BOCA.
- 7. 7106 Sycamore Avenue. In response to a letter from the Corporation Counsel, the Mayor and Council authorized the necessary legal measures to secure compliance at this address.

There being no further business to discuss, the meeting adjourned at 11:00 PM.

APPROVED 

 John D. Roth
 Mayor

ATTEST 

 Herbert W. Gilsdorf
 City Administrator