

THE CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and Council
June 27, 1983

AGENDA

CALL TO ORDER: Mayor Abbott
ROLL CALL: Councilmember Bradley
Councilmember D'Ovidio
Councilmember Eckert
Councilmember Faulkner
Councilmember Garcia
Councilmember Iddings
Councilmember Williams

PLEDGE

MAYOR ABBOTT'S COMMENTS AND PRESENTATIONS

ADDITIONAL AGENDA ITEMS

GENERAL CITIZENS' REMARKS (those not directed at items for Council action:)

ITEMS FOR COUNCIL CONSIDERATION: City Administrator Nichols

1. Communications
2. Administrative Reports and Recommendations for Council Action:
 - (1) Administrative reports
 - (2) Preliminary Subdivision No. 1-83084, NE quadrant at intersection of Tulip and Holly Avenues
Citizens' comments
Council action
 - (3) Pre-preliminary subdivision No. 7-83017, 8215 Sligo Creek Parkway
Citizens' comments
Council action
 - (4) Appeal No. A-1062, side-yard and street line setback, 8400 Flower Avenue (Public Hearing: 7-12-83, 9:00 AM, COB, Rockville)
Citizens' comments
Council action
 - (5) Amended Appeal No. 6786, 5+ feet side yard variance to validate existing stairwell at 1313 Elson Court (Public Hearing: 6:30 PM, 7-6-83, CAB, Upper Marlboro)
Citizens' comments
Council action
 - (6) Appeal of Commission on Landlord-Tenant Affairs' decision (TP-144)
 - (7) Unification update: Task Force; Advisory Ballot
Citizens' comments
Council action
 - (8) Second reading of an ordinance establishing a Tree Commission
Citizens' comments
Council action
 - (9) Second reading of a proposed tree ordinance (amendment to Chapter 12, City Code)
Citizens' comments
Council action
 - (10) Second reading of an ordinance amending Sec. 8-19 of the City Code as it pertains to period of operation for carnivals, etc.
Citizens' comments
Council action

- (11) Second reading of an ordinance authorizing the construction of speed humps on certain City streets
 - Citizens' comments
 - Council action
- (12) First reading of an ordinance authorizing construction of speed humps on Mississippi Avenue
 - Citizens' comments
 - Council discussion
- (13) First reading of an ordinance amending sections of Chapter 13 of the City Code to reflect increases in fines for parking violations
 - Citizens' comments
 - Council discussion
- (14) Discussion and first readings of ordinances emanating from recommendations of the Traffic Committee; authorization for installation of certain traffic-related signs
 - Citizens' comments
 - Council discussion/action
- (15) National Airport Flight Scatter Plan
 - Citizens' comments
 - Council discussion

CITY OF TAKOMA PARK, MARYLAND
REGULAR MEETING OF THE MAYOR AND COUNCIL
JUNE 27, 1983

CITY OFFICIALS PRESENT:

Mayor Abbott	City Administrator Nichols
Excused: Councilmember Bradley	City Clerk Pusti
Councilmember D'Ovidio	Director Public Works Robbins
Councilmember Eckert	Housing Director Tyree
Councilmember Faulkner	Corporation Counsel Gagliardo
Councilmember Garcia	Assistant Corporation Counsel
Councilmember Iddings	Sue Silber
Councilmember Williams	

The Mayor and City Council of Takoma Park, Maryland met on June 27, 1983, at 8:05 p.m., in the Council Chamber, 7500 Maple Avenue, Takoma Park, Maryland. Following the pledge, the meeting proceeded.

MAYOR ABBOTT'S COMMENTS AND PRESENTATION:

Mayor Abbott reported on the Convention of Maryland Municipal Officials held in Ocean City June 18-22. Stated it was productive and enlightening. Councilmember D'Ovidio stated the Montgomery County Press Association named Montgomery Blair High School's "Silver Chips" the best high school newspaper in the County. The editor-in-chief is a Takoma Park resident and accepted the award on May 25. Councilmember Iddings said the Montgomery County "12 and Under" AAU Basketball Team is going to Kansas City on July 4; it includes a Takoma Park resident, Tracy Wyche. The group is trying to raise \$7,000 to send girls to Kansas City. Asked citizens to contribute.

Additional Agenda Items:

1. Ordinance authorizing the City Administrator to execute Takoma Old Town public improvements contract (Mayor Abbott).
2. Resolution congratulating newly elected Maryland Municipal League Officials. (Councilmember Iddings)

GENERAL CITIZENS' REMARKS (those not directed at items for Council Action)

James Jeffes 7600 Hammond Ave: Expressed concern regarding a notice posted at the 1325 Holton Lane mailbox to the effect that the box had been removed because of the deteriorating sidewalks and referring citizens to the Aldephi Post Office. The Postmaster stated the box will not be put back until the sidewalks are repaired, saying it is hazardous for postmen to walk on street. Mr. Jeffes stated this is depriving citizens of access to the mail when the Post Office is closed; urged Council action. Councilmember Garcia reported on a discussion he had with the Postmaster who said that a resident tripped on the sidewalk and was injured. It was stated that the Post Office denied that they are located in Takoma Park. Mr. Robbins said that his office is aware that the sidewalk is in need of repair but because of the workload, they have not been able to take care of it; however, they plan to repair it in late summer along with others. City Administrator Nichols commented that the street is not dangerous, but it may not be sufficient to secure the mailbox.

Ellery Denison - 7207 13th Place: Urged City Council to properly and promptly repair the sidewalk so that the mailbox can be replaced for the convenience of City residents. Councilmember D'Ovidio supported the statement, but expressed concern that Post Office officials can coerce City into putting money in to repair the sidewalk, saying he would like to know who made the decision before the City repairs the street. Councilmember Garcia moved that the City Administrator be directed to write a letter to the appropriate Postmaster requesting that the mailbox be placed at one of the parking spaces on the west side of the building with an appropriate "no parking" sign in front of it, (a suggestion made earlier by Mr. Jeffas). Motion was seconded by Councilmember D'Ovidio whose amendment to include a statement regarding the jurisdictional location of the Post Office was accepted by the maker. Mayor Abbott suggested that a copy be sent to Representative Hoyer, a member of the House Post Office Committee. Mr. Robbins informed the Council that notification was received by his office that the box would not be replaced until the sidewalk is repaired. He had

also received complaints from the building owner regarding the sidewalk. Councilmember Williams stated that a mailbox was also removed from Maple and Sherman Avenue; had received many complaints from residents.

Rino Aldrighetti - 7213 Central Ave: Stated that the staff is good at Post Office and mail is delivered faster than at the Maple Avenue Post Office; that over the years the Long Branch-Sligo Citizens' Association has received several complaints from residents that the Office claims it is not in Takoma Park. They will not cash checks for Takoma Park residents, though they will for residents of the Long Branch-Hyattsville area. Following further discussion, Councilmember Garcia's motion carried unanimously.

Ron Albaugh - 7202 Central Ave: Indicated the Council Minutes of May 23, 1983, included an incorrect statement regarding the Sligo Relief Sewer Project, i.e., that "construction is moving ahead without citizens input." He also reported the Flower Avenue bridge at Sligo Creek Parkway is in need of repairs as a result of a recent bad storm; asked who is responsible for repairs and how long before they are made. Mr. Robbins stated it is a City bridge; the State Highway Administration has been contacted regarding Federal grants for replacement of the bridge. They advised Public Works that monies have to be distributed through the Counties. Mr. Robbins is in the process of contacting the Counties and will then approach SHA with a more specific request if there is no possibility of "piggy-backing" a County grant. Following further discussion regarding funding, Rev. Albaugh requested that Public Works put down stones to relieve the problem temporarily.

ITEMS FOR COUNCIL CONSIDERATION: City Administrator Nichols
Administrative Reports and Recommendations for Council Action:

(1) Administrative Reports The City Administrator reported that the City received approval of a \$15,200 grant through the Natural Resources Department of the State of Maryland for the Tree Planting Program; a first draw is due in mid-July. Mr. Robbins has been interviewing candidates for the three positions to be filled for summer employment. The program will allow the planting of approximately 200 trees at approximately \$29.00 each during the summer. Stated it is a bad time to plant trees, but requirements of the grant dictate that money must be spent during the summer. Councilmember Faulkner questioned Public Works as to the expected survival rate of the trees. Mr. Robbins stated that small trees have better survival rate if put on streets with the least pedestrian traffic. By using a 500 gallon watering tank with a timed system, a 90% survival rate is anticipated; trees will be 1"-1½" in diameter.

(2) Old Town Public Improvements Contract

Mayor Abbott reported that City received copies of bid recommendations from Warring Associates for the Old Town Public improvements contract. The lowest qualified bidder was the D. & F. Construction Company, with a bid for \$352,070.70. Money will be provided through CDBG Funds. The ordinance accepting the bid (No. 2673) was moved for adoption and seconded by Councilmember Iddings.

Mike Warring - KMWM: Stated 10 bids were received and noted the excellent response for this time of year. The bid of D.&F. Construction Company, located in Arlington, was \$100,000 lower than the average bid; they are a very competent organization, highly recommended by other jurisdictions. In response to questions raised, Mr. Warring stated the following: the contract includes a performance bond in the amount of 100% of the amount of the bid to insure completion of the project. The State Highway Administration has approved the permit to work on Carroll Avenue subject to some modifications of traffic control; PEPCO is the only utility Company with unresolved issues; other utility companies have already issued their approval of the project or have indicated what adjustments must be made. The contractor has said that construction could begin by July 15. There is a time lag for ordering brick and other materials needed for the job; the demolition and movement along Carroll Avenue and other areas of construction could begin immediately upon successful mobilization by the contractor. He must secure a storage area; the City has worked out tentative arrangements for a vacant lot on Laurel Avenue owned by a subsidiary of Citizens Bank. Subject to a favorable PEPCO decision on what the City wishes to do with utilities, and good weather conditions, 65% to 75% of the construction of brick and concrete-type work could be accomplished by fall. Stated the landscape sub-contractor has very stringent

requirements that guarantee replacement of all trees, and sufficient watering. As was suggested by horticulturists large trees would not be put in until Spring when all cleaning up and final landscaping will take place. A meeting is scheduled for the week of June 27 with PEPCO to review their proposals and construction cost estimates which are to be finalized in a written document. Detailed cost estimates will be brought to the attention of the Mayor and Council. State Highway has volunteered to look at the street joints and if required, cut out and put in full-depth asphalt prior to resurfacing, with no charge to the City.

Travis Price - 7301 Birch Ave: Requested that the decorative street lights be reinstated in the plan, since the bids were roughly \$100,000 less than expected. Pointed out that this was a critical element in the early plan, and if they are included that they be done judiciously on Carroll-Laurel. Noted that the extra money could go to new development or into parking, but stated the City will never again get financing for street lights and now is the time to include them. Urged cutting back on PEPCO to keep the street lighting in the plan.

Frances Phipps - 7210 Holly Ave: Stated agreement with Mr. Price; street lights are critical; there are very few elements in TOT to create atmosphere and identity. At night, those elements will not be visible without lights. Described the safety factor that lights would provide. Inquired about leverage over PEPCO based on a precedent that was set in Winchester. The City Administrator stated that in a major project in Cumberland, PEPCO did share much of the cost. That was a derivative of Maryland State Law. Corporation Counsel is now discussing the applicability of that decision to cost negotiations that Takoma Park may have with PEPCO, and once the City receives cost estimates from PEPCO, negotiations regarding cost sharing will begin. If PEPCO cooperates it might pave way to do underground and decorative lighting. If they do not cooperate, the City will have several options: 1) go ahead and pay costs and fight later; 2) resolve the shared costs first and take care of lighting situation later, which would delay construction and 3) make a decision to forego undergrounding altogether. The City is not in position to make any recommendation until the final cost estimates are received from PEPCO and then proposals will be made to Mayor and Council. Mrs. Phipps stated she understood that HUD had requested that Cumberland get precedent on requiring the utility companies to share such costs on publicly funded projects. The City Administrator stated that the City has roughly \$250,000 remaining in funds committed to the project. With the significant reduction in public improvement costs, if the PEPCO bid comes in as anticipated, the City would have roughly \$100,000 to deal with. If the PEPCO bid comes in substantially higher, then the City would still achieve its goal, but a decision would have to be made on whether or not to spend \$250,000 on undergrounding or other priorities. Councilmember D'Ovidio stated that once this project is under way, the City must focus on the economic development of the area. The City Administrator pointed out the tremendous amount of work accomplished by Mr. Warring of KMWM and Mr. Schnuer to bring the project to this point. Ordinance No. 2673 was adopted by roll call vote recorded as follows: Aye: Councilmembers D'Ovidio, Eckert, Faulkner, Garcia, Iddings, Williams; Nay: None; Excused: Councilmember Bradley

ORDINANCE NO. 2673

(Attached)

(3) Preliminary Subdivision No. 1-83084, NE Quadrant at intersection of Tulip and Holly Avenues:

Ross Wells - 213 Ethan Allen Ave: Stated that a contract was made between him and Mr. Barton Day to purchase the property at 104 Tulip Avenue. It is a 39,000 foot parcel; 130 feet fronting on Tulip Avenue, and 299 feet deep; he proposes to divide the property into two building lots and plans to build two houses—one to live in and one to sell. He stated that great efforts were made to preserve all the trees on the lots. His plan probably would pre-empt building more houses on the lots because of the WSSC drainage and deep slopes on the property. Further discussion was held regarding driveways and the preservation of trees. It was stated that Park and Planning had asked for another 10 feet of dedication for the widening of Tulip Avenue; however, that was opposed by the City and Park and Planning was so notified by the City Administrator.

Lucy Kiekebusch - 107 Tulip Ave: Reported on discussions with Mr. Ross since early December; said it was a very carefully planned project and stated her support.

Keith Woodside - 7215 Holly Ave: New resident of Takoma Park; questioned the possibility of extending Barclay Avenue to gain access to Lot 22. Mayor Abbott pointed out that there is little possibility because of the WSSC storm drains located on the site.

Arthur Karpas - 6916 Westmoreland Ave: Stated Mr. Wells is a very competent, sensitive contractor and would be sensitive to citizens' concerns in putting up dwellings in neighborhoods; supported the project.

Frances Phipps - 7210 Holly Ave: Lived on street for 13 years and stated this is the only open space remaining. Over the years residents have tried to preserve open spaces except for two vacant lots (at other locations) that they would like to see developed. Although the community does not want the lots on Tulip Avenue developed, it would not strongly object to one house being built. Opposed subdivision because of the possibility of linking with other property in area. Mrs. Phipps stated that pressure will be felt for development because of the close proximity to Metro.

Lynne Dillon - 7206 Holly Ave: New resident of Takoma Park; stated her enjoyment in walking on Tulip Avenue and viewing the beautiful lots. Stated she could support one house, but not two; but would prefer that the land remain as it is.

Jennifer Saloma - 7124 Maple Ave: Stated her opposition to the precedent of dividing large lots that are characteristic of the old Takoma neighborhood. She noted the increasing pressure for development in the Metro area, saying the "super lots" are significant to the quality of life in the intensively built neighborhood; and expressed opposition to single-family houses being built without direct street frontage. Mrs. Saloma stated her testimony paraphrased a letter that was sent by the Old Takoma Citizens' Association to Park and Planning opposing the project. There followed a discussion as to whether or not the letter reflected the consensus of the Association, with Mrs. Saloma noting that no objection had been raised.

Barton Day - Vienna, Virginia: As one of the contract owners of the proposed subdivision, Mr. Day recognized the difficulty in envisioning changes to the neighborhoods and stated the need for well-done housing on a beautiful lot. He pointed out that nothing was heard from the Citizens' Association during the course of the preliminary hearings. The development reflects concern for the quality of the neighborhood; urged citizen support.

Travis Price - 7301 Birch Ave: Stated his preference for no development, but said the site plan is sensitive and has recognized the importance of keeping the trees; stated support for the project. Mr. Price said he had supported the 2-house plan at the Association meeting referred to above.

Jim Douglas - 212 Tulip Ave: Agreed that the plan was done with sensitivity, but likes the small town atmosphere and the big trees; Takoma Park is dense with no spaces between the houses. This is the only area with open space. Opposed site plan for those reasons.

Delores Milmoie - 7212 Cedar Ave: Moved to Takoma Park because of open land and large lots. Stated opposition to two houses, but could accept one. Saw this as a precedent for other large property division.

Lance Compa - 7717 Garland Ave: Stated support for the plan, saying that one house is unreasonable because it is prime property.

Ben Kiekebusch - 107 Tulip Ave: Stated support of proposal and expressed the opinion that building two houses will stop further development of site.

Maureen Wells - 7315 Cedar Ave: Stated opposition to two houses saying that the beauty, open space, and the potential for a wildlife refuge should be preserved.

Frank Bednarczyk - 7211 Cedar Ave: Stated opposition to the proposal.

The City Administrator stated that a date has not been set by the Planning Board to consider the application. He explained the process which is followed by the Planning Board. Councilmember Faulkner expressed concern regarding building houses that have no street fronts; stated opposition for that reason. He said that the City needs a general policy regarding the subdivision process; that the Master Plan also recommends against subdivision of "super lots." Councilmember D'Ovidio expressed disagreement with Councilmember Faulkner saying that the Master Plan addresses only those lots on which houses already exist. Residents that live across from lot have talked to the developer and have no opposition to the proposal. He noted that a large part of the City's revenue comes from property taxes. Stated he would find it difficult to oppose the plan based on the work done by the contractor. The City Administrator noted that the Historic Preservation Committee will also review the plans. Councilmember Garcia stated support for the plan, saying it is a compromise which enhances the lot. Councilmembers Eckert, Iddings, and Williams stated support for the proposal also saying that, while they disliked going against a Citizens' Association, the plan does display a sensitivity to the concerns of the neighborhood and the most immediate neighbors have voiced no objection. The City Administrator stated that Citizens Association, along with adjacent property owners was notified in April and in May or June of the various considerations by Mayor and Council. Mayor Abbott stated that he attended the meeting of the Citizens Association and there was no specific presentation of pros and cons and that the contradictions were very apparent. Councilmember D'Ovidio moved to recommend approval of the preliminary plan; Councilmember Williams seconded. The City Administrator was directed to send copy of the minutes to Park and Planning.

Frances Phipps: Expressed concern; reiterated her previous statements opposing the subdivision, and called for the preservation of open space in Takoma Park; Council should not make decision to subdivide and build because of a sensitive developer; there is a policy on lots near Metro where there is a great deal of pressure and this is the first time it has been derogated. Council must weigh all considerations. If Council wants development in the area, there should also be efforts to eliminate the slum-like condition of the 7100 block of Holly Avenue.

Laurie Palmer - 214 Tulip Ave: Expressed opposition on behalf of Cristine Teel and Bob Friedman, who live at the corner of Cedar and Tulip; also wanted comments from other residents.

The motion for the Council to support the preliminary subdivision was passed, with Councilmember Faulkner voting nay.

(4) Pre-preliminary subdivision No. 7-83017, 8215 Sligo Creek Parkway

The City Administrator stated that this is a pre-preliminary request for resubdivision which is an opportunity for petitioner to get a sense of the community prior to filing a preliminary plan. It is also an opportunity for the Park and Planning staff to receive feedback and give guidance to the petitioner, should he file a preliminary plan for action. The Mayor and Council considered it in a worksession and the immediate community was notified.

Dennis Casper (Petitioner) - 7921 Sligo Creek Parkway: Informed Council of his purchase of the land and requested permission to divide the large lot into two smaller lots; he would build a house on the lot closest to Sligo Creek Parkway. The City Administrator stated that Brighton Avenue (the only access road to the lot) is an unimproved road. Mr. Casper had stated at a Council worksession that the Subdivision Review Committee of the Planning Board indicated that Brighton Avenue must be improved and the right-of-way increased to reflect the dimension of the improved street immediately preceding it off Houston Court, but later indicated some flexibility. In response to Mayor Abbott's question, Mr. Casper stated he had not submitted the actual plan.

John Hemphill - 8112 Flower Ave: Stated opposition to the petition; noted that a number of trees had been destroyed when Sligo Station was built. The lot is steep and it is not feasible to put up two houses in a tasteful manner. It was his opinion that the

Executive Board of the Between the Creeks Association had reached no consensus on the petition. Councilmember Garcia stated that the Steering Committee of that Association had submitted a letter stating qualified approval.

Ann Weimer - 8213 Sligo Creek Parkway: Speaking for herself, her husband and the Lindners next door, expressed opposition to the subdivision. Noted problem with traffic coming down the hill. Stated that the topography of the lot does not show up on the plans; the hill is very steep. Two additional houses will deprive anyone of privacy. Pointed out that the Sligo Station development added 36 units in the area, making it very heavily populated. Urged Council opposition to the subdivision.

Steve Silver - 7906 Flower Ave: Stated support for development of the two lots; stated City needs influx of capital development. Noted lot size is adequate, development of property in a reasonable manner would add to the tax base and urged Council support.

Councilmember Iddings queried Mr. Casper as to how many houses will be put up at this point. Mr. Casper stated that only one house would be put up immediately on the lower section of the large lot, and he will sell the other portion off. Mr. Nichols noted if houses are to be located on this site, public works vehicles, fire trucks, and police cars will have to have proper access. Mayor Abbott stated subdivision of these lots creates a problem for the City because of the uncertainties regarding the right of way. Councilmember Faulkner stated opposition for subdivision and reiterated the need for a City-wide plan. The City Administrator pointed out the alternatives for road improvements are three - 1. require the owner or developer to pay for roads; 2. City can pay for them; 3. assess front foot benefit owners over a period of time. Councilmember Iddings moved to oppose subdivision, Councilmember Faulkner seconded, and the motion to oppose the pre-preliminary subdivision passed, with Councilmember D'Ovidio abstaining.

Councilmember Iddings noted the necessity to state reasons for opposition to Park and Planning, which are two - 1) current substantial uniformity of lot size which would be disturbed by subdivision; and 2) street improvements which are required and that City is unwilling to fund. Mayor Abbott stated that the letter to Park and Planning should cover these points.

(5) Appeal No. A-1062, side yard and street line setback, 8400 Flower Avenue (Public Hearing: 7-12-83, 9:00 a.m., COB, Rockville)

Mayor Abbott stated no opposition to this had been received at the worksession. Councilmember Eckert moved to support approval of the appeal; Councilmember Faulkner seconded, and the motion carried unanimously.

(6) Amended Appeal No. 6786, 5+ feet side yard variance to validate existing stairwell at 1313 Elson Court (Public Hearing: 7-6-83, 6:30 p.m., CAB Upper Marlboro)

Mayor Abbott stated that this appeal has been dealt with earlier and no further opposition had been offered. Councilmember Iddings moved to affirm previous letter to Board of Appeals stating no opposition to the variance, providing the landlord maintains the stairway. The Motion was seconded and passed unanimously.

(7) Appeal of Commission on Landlord-Tenant Affairs' decision (TP144)

Mayor Abbott stated the following: This is an appeal from the decision of the Takoma Park Commission on Landlord Tenant Affairs in Case No. TP144, titled, In the Matter of: Segal Brothers Realty (landlord) and Susan Anderson (tenant). COLTA rendered its decision on March 11, 1983, and it was hand delivered to the landlord on April 8, 1983. In hearing this appeal the authority of Mayor and Council is limited. The only purpose is to make sure that the decision rendered by COLTA was made within the law. The Mayor stated that Council would use the following criteria in making their decision: 1. Whether COLTA acted without jurisdiction over subject in dispute; 2. Whether COLTA acted without jurisdiction over the parties involved; 3. Whether COLTA acted in excess of authority granted by constitution, statute, ordinance, rule or regulation; 4. Whether COLTA's findings and/or conclusions are arbitrary, capricious, an abuse of discretion or otherwise contrary to law; 5. Whether COLTA in any way violated due process; 6. Whether any findings of COLTA is unsupported by substantial evidence as presented to it prior to the close of the record, i.e., before COLTA made its decision.

Councilmember Iddings moved to adopt the above criteria as a standard of review for all such appeals; Councilmember Williams seconded the motion; motion passed unanimously. Tom Gagliardo stated landlord has the right of due process and City must take the list of exhibits and ask Mr. Segal what was not provided and then determine what prejudice COLTA might have. Stated it would be helpful in the future for COLTA to certify the record to the Mayor and Council, with copies to participants, so that issues can be resolved prior to the hearing.

A motion was made by Councilmember Eckert to include in the minutes the entire statement regarding this case. Councilmember Faulkner seconded the motion; motion passed unanimously. (Material attached.) Corporation Counsel also stated the record should indicate that a copy was given to Mr. Segal at Council Meeting.

The appeal was heard by the Mayor and Council after which Councilmember Williams moved that the COLTA decision be upheld; Councilmember D'Ovidio seconded the motion; motion passed unanimously.

(8) Unification update; Task Force; Advisory Ballot
This item was removed from the agenda.

(9) Ordinance amending Sec. 8-19 of the City Code as it pertains to period of operation for carnivals, etc.

This amendment extends the period from 10 days to 14 days in one year. Councilmember Eckert moved the ordinance; Councilmember Faulkner seconded, and Ordinance No. 2675 was adopted by roll call vote, recorded as follows: Aye: Councilmembers D'Ovidio, Eckert, Faulkner, Garcia, Iddings, Williams; Nay: None; Excused: Councilmember Bradley. At the request of the City Administrator the Mayor and Council confirmed their decision to approve a permit for the Langley Park Boys and Girls Club to hold a carnival. Councilmember Garcia also noted that the Club will seek police help from Prince George's County for traffic control.

ORDINANCE NO. 2675

(Attached)

(10) Discussion and first readings of ordinances emanating from recommendations of the Traffic Committee; authorization for installation of certain traffic-related signs.

Councilmember Iddings read the following ordinances and they were accepted for a first reading:

- (a) Proposed ordinance authorizing stop signs on Albany Avenue at its intersection with Baltimore Avenue.
- (b) Proposed ordinance restricting parking for a distance of approximately 275 feet on the southernmost portion of Mississippi Avenue
- (c) Proposed ordinance authorizing removal of stop signs and substituting yield signs on Roanoke Avenue at Hudson Avenue.
- d) Proposed ordinance authorizing stop signs on Mississippi Avenue at Elwyn Court.

(Copies Attached)

Councilmember Iddings reported to Mayor and Council that State Highway Administrator rejected a request for stop light at Holton Lane; and that Prince George's County rejected a request for four-way stop sign at Kansas Lane and Cockerille Avenue. Councilmember Eckert stated that, based on the criteria submitted by the County on why they turned down stop sign, the City might have grounds to ask them to reconsider. Councilmember Iddings asked that it be taken up at the next worksession.

(11) Ordinance establishing a Tree Commission

Councilmember D'Ovidio moved the ordinance to establish a Tree Commission; Councilmember Williams seconded the motion. Councilmember Iddings moved to table the ordinance on the Tree Commission because of some unacceptable features regarding Commission's legal role. The motion failed for lack of a second.

John Hemphill: Urged Council to proceed with adoption of the ordinance.

Mike Haney - 7806 Lockney Ave: Stated support for Tree Commission. Mr. Haney stated that Tree Commission was brought up at earlier worksessions, and requested Council to keep the procedures as established.

James Jeffas: Stated ordinance does not state the scope of the Commission's activities, Noted that residents are opposed to a Commission. Also noted that the most time a resident can serve on Commission is three years. Mr. Jeffas objected to anyone telling a resident that he cannot take down a tree in his own yard. Stated there is no need for Tree Commission - should have a Tree Committee that would go out to plant trees, do surveys, etc. Asked what the administrative costs would be. Also stated the proposal was badly presented in the Newsletter, since it dealt only with the positive aspects.

Tom Gagliardo: Stated various options available to accommodate Councilmember Iddings objections to the ordinance. Councilmember Garcia questioned Corporation Counsel as to City's responsibility as far as civil suit liability. Mr. Gagliardo stated that the liability question would be no different than it is now. Councilmember Faulkner pointed out that paper comes from trees and hoped the Commission will be circumspect in its use of paper. Councilmember D'Ovidio moved to adopt the ordinance establishing a Tree Commission; motion was seconded and Ordinance No. 2674 was adopted by roll call vote as follows: Aye: Councilmembers D'Ovidio, Eckert, Faulkner, Garcia, Williams; Nay: None; Abstention Councilmember Iddings; Excused, Councilmember Bradley.

ORDINANCE NO. 2674
(Attached)

(12) Second reading of a proposed tree ordinance

Councilmember D'Ovidio moved for the adoption of the proposed ordinance on protecting the Urban Forest of Takoma Park; Councilmember Eckert seconded the motion. Councilmember Garcia reported on discussion with a representative of the Forest Park Service regarding the terminology used in Sec: 12-23 and 12-28 regarding circumference, diameter and height. Further discussion was held regarding tree committees and ordinances in different sections of the Country. Councilmember Garcia recommended that trees be measured at 4½ feet above ground.

Councilmember Faulkner moved that the ordinance be amended to read 4½ feet instead of five feet; Councilmember D'Ovidio seconded the motion; motion passed unanimously. Councilmember Eckert moved to amend the ordinance to include an appeal to the Mayor and Council prior to a Court appeal. Stated the appeal goes from decision of Director of Public Works to Tree Commission and the only course after this is the Court. Noted this is costly and would only be available to those who could afford legal fees. The amendment would change Section 12-26 by inserting a new (b) to read: "The applicant or any resident or property owner in Takoma Park may appeal the granting or denial of a permit by the Tree Commission to the Mayor and Council". Councilmember Faulkner seconded the motion; motion passed with Councilmember Garcia abstaining. Corporation Counsel stated that the same standards adopted for COLTA appeals could apply to the Tree Commission. Councilmember Garcia moved to table the ordinance until the suggested language could be put in writing. Councilmember Iddings seconded the motion; motion passed unanimously.

(13) Second reading of an ordinance authorizing the construction of speed humps on certain City streets

Councilmember Iddings stated this was recommended as five different ordinances on May 9 and had been redrafted by the City Clerk into a single ordinance authorizing humps to be placed on Walnut, Cedar, Maple, Westmoreland Avenues and Anne Street. The Traffic Committee will make recommendations as to the location and number of humps to be installed. By unanimous consent, Sec. 1(e) was changed to read "University Boulevard", instead of "City line." Councilmember Iddings moved for adoption, Councilmember Eckert seconded, and Ordinance No. 2676 was adopted by roll call vote recorded as follows: Aye: Councilmembers D'Ovidio, Eckert, Faulkner, Garcia, Iddings, Williams; Excused: Councilmember Bradley; Nay: None.

ORDINANCE NO. 2676
(Attached)

(14) First Reading of an ordinance authorizing construction of speed humps on Mississippi Avenue

Councilmember Iddings stated that at the last Traffic Committee meeting it was agreed to add this street. It was accepted for first reading.

PROPOSED ORDINANCE

(Attached)

(15) First Reading of an ordinance amending sections of Chapter 13 of the City Code to reflect increases in fines for parking violations

The City Administrator stated this is an ordinance which is reflective of the discussions which the Mayor and Council held during the Budget session and the adoption of the Budget which reflected revenue estimates from parking violations. The ordinance recommends an increase in the fines from \$5.00 to \$10.00 for parking meter violations, from \$10.00 to \$20.00 for other parking violations, and from \$25.00 to \$50.00 for handicap parking violations. The fines will double if they are not paid in specified time allotted. The ordinance was accepted for first reading. Mayor Abbott suggested a memorandum be written regarding this ordinance for the next Council Meeting.

PROPOSED ORDINANCE

(Attached)

(16) Resolution Congratulating New Maryland Municipal League Officers

Councilmember Iddings read a resolution congratulating the new officers and extending best wishes to them in the upcoming year. Councilmember Iddings moved the resolution. Councilmember Garcia seconded, and the resolution passed unanimously.

RESOLUTION

(Attached)

Upon proper motion, meeting was adjourned at 12:50 a.m., to reconvene on Monday, July 11, 1983, at 8:00 p.m.

ORDINANCE NO. 2673

WHEREAS, a design for streetscape improvements in Takoma Old Town has been reviewed and approved by the City Council following public review and comment; AND

WHEREAS, construction documents specifying the improvements were drawn up and advertised for bid for approximately four weeks in newspapers of local and regional circulation, minority-community newspapers, and three contractor information services; AND

WHEREAS, sealed bids were received and opened in public on June 22, 1983; AND

WHEREAS, the lowest qualified bidder is the firm of D. & F. Construction Company with a bid of THREE HUNDRED FIFTY-TWO THOUSAND, SEVENTY DOLLARS AND SEVENTY CENTS (\$352,070.70).

NOW, THEREFORE, BE IT RESOLVED that the City Administrator shall execute a contract with D. & F. Construction Company for construction of Takoma Old Town streetscape improvements, which shall be funded with Community Development Block Grant funds.

ADOPTED BY THE MAYOR AND COUNCIL JUNE 27, 1983.



This is an appeal from the decision of the Takoma Park Commission on Landlord Tenant Affairs in Case No. TP-144, titled, In the Matter of: Segal Brothers Realty (landlord) and Susan Anderson (tenant).

COLTA rendered its decision on March 11, 1983, and it was hand delivered to the landlord on April 8, 1983. On April 11, 1983 the landlord filed a written appeal with the director of housing services. In pertinent part the appeal reads:

"We hereby give notice that we wish to appeal this order per our 'Right of Appeal' in Section 21 of Ordinance 2587, and we hereby do so."

No specific grounds for appeal or assignment of error are contained in the notice.

The decision of COLTA was adopted 6-1 (one abstention) after a full public hearing on January 5, 1983. In pertinent part the decision reads:

"Since the landlord L. Segal failed to notify tenant Anderson of the disposition of the security deposit within 30 days of the tenant vacating of the apartment and return any security deposit due with 15 days of the notice, the landlord must return all of the deposit with interest without applying the deposit against any damages done by the tenant to the apartment."

In reaching this conclusion, according to its written opinion, COLTA found:

1. the tenant vacated her apartment on October 2, 1982;
2. the parties agreed that a notice of disposition of the security deposit was sent--the landlord contending that it was sent on October 15, 1982 as required by law; the tenant contending it wasn't sent until November

(1)

17, 1982, approximately two weeks beyond the time limit required by applicable law;

3. the notice was sent on November 17, 1982.

COLTA found that in lieu of its finding that the notice provisions of applicable law had been violated it was not required to determine the issue of what damages, if any, could be lawfully deducted from the tenant's deposit.

COLTA asserted jurisdiction pursuant to Section 9(f) of Takoma Park Ordinance 2587, which incorporates Section 8-203 of the Real Property Article of the Annotated Code of Maryland, 1974, as amended.

The Mayor and Council shall consider the following to be the record of COLTA for the purposes of this appeal:

1. Opinion and Order of the Takoma Park Commission on Landlord Tenant Affairs, dated March 11, 1983;
2. Notice of Appeal by Leonard Segal (on behalf of himself and Sanford Segal), dated April 11, 1983;
3. Complaint of Susan M. Anderson, dated November 19, 1983;
4. Cancelled check #134 of Susan M. Anderson, dated October 2, 1982;
5. US Postal Service change of address order signed by Susan M. Anderson and dated September 24, 1982;
6. Letter from L. Segal to D. Tyree, dated November 26, 1982;
7. Letter from L. Segal to S. Anderson, dated October 15, 1982;
8. Envelope from Segal Bros. to S. Anderson;
9. Receipt for certified mail dated November 17, 1982;
10. Signed return receipt by Susan M. Anderson with

(2)

postal stamp of November 19, 1982;

11. letter from L. Segal to S. Anderson dated October 16, 1982;
12. handwritten notes showing rent to be "9.04 per day";
13. memos from Segal Bros. to S. Anderson dated September 1 and 8, 1982 giving notice to quit;
14. letter from S. Anderson to D. Tyree, dated November 30, 1982;
15. notice of public hearing(undated);
16. COLTA coordinator's findings(undated);
17. notice to S. Anderson dated December 16, 1982;
18. notice to L. and S. Segal, dated December 16, 1982;
19. letter from D. Tyree to L. Segal dated December 22, 1982;
20. estimate from B. Maizal to L. Segal dated October 14, 1982;
21. note by S. Anderson, dated October 1, 1982;
22. letter from D. Tyree to S. and L. Segal dated January 6, 1983;
23. return of private server, dated April 8, 1983; and
24. the recordings of the hearing of January 5, 1983.

In hearing this appeal the authority of the Mayor and Council is limited. We are not here to take evidence. We are not here to have a second hearing on the merits of the case. Our only purpose is to make sure that the decision rendered by COLTA was made within the law. In doing so, we will consider the following;

1. Whether COLTA's acted without jurisdiction over

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the subject in dispute;

2. Whether COLTA acted without jurisdiction over the parties involved;
3. Whether COLTA in excess of any authority granted by constitution, statute, ordinance, rule or regulation;
4. Whether COLTA's findings and/or conclusions are arbitrary, capricious, an abuse of discretion or otherwise contrary to law;
5. Whether COLTA in any way violated due process;
6. Whether any finding of COLTA is unsupported by substantial evidence as presented to it prior to the close of the record, i.e., before COLTA made its decision.

May I have a motion and a second adopting this standard of review, which will be the official policy of the Mayor and Council in reviewing, not only this, but all COLTA decisions.

* * * * *

The landlord may go first, since the landlord has taken this appeal. You may have fifteen minutes to address the six points which I have just mentioned. If you need more time, you may ask for it at the end of the 15-minute period. I don't want to cut you short, but you must stick to the point.

After the landlord is done, the tenant may respond. The tenant will also have 15 minutes, and may also ask for more time if needed. The tenant must limit her presentation to issues raised by the landlord.

The landlord will then have three minutes to sum up, since it is the landlord's burden to prove that COLTA violated at least one of the standards which I mentioned.

(4)

Again, I want to point out this is an appeal from COLTA's decision. The Mayor and Council must take the record as presented by the parties to COLTA. We do not want to hear new evidence or a repeat of evidence already submitted to COLTA. We want the landlord to tell us why, in his belief, COLTA was wrong; and we want the tenant to tell us why, in her belief, COLTA was right. We will listen to both sides and carefully consider all that each one has to say. We will then review matters, and when we are ready to issue a decision we will take a public vote. Thank you.

Mr. Segal, you may begin.

(5)

ORDINANCE NO. 2675

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

SECTION 1. THAT Subsection (b) of Sec. 8-19, "Permit required for use of land for amusement purposes," Code of Takoma Park, 1972, as amended, be amended to read as follows:

Sec. 8-19.

(b) No circus, carnival, rodeo, by whatever name called, shall be permitted except when located upon vacant property not less than one (1) acre in extent. No circus, carnival or rodeo shall operate in the City for a period longer than fourteen (14) days in any one (1) year.

SECTION 2. THAT this ordinance shall become effective upon adoption.

ADOPTED BY THE MAYOR AND COUNCIL JUNE 27, 1983.

PROPOSED ORDINANCE

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

SECTION 1. THAT all vehicular traffic on Albany Avenue shall come to a complete stop at that street's intersection with Baltimore Avenue; AND

SECTION 2. THAT the Director is hereby instructed to install STOP signs at the appropriate locations: AND

SECTION 3. THAT this ordinance shall become effective upon completion of the signing: AND

SECTION 4. THAT the penalty for violation of this ordinance shall be as prescribed in Sec. 1-17(a) of the Code of Takoma Park, Md., 1972, as amended.

PROPOSED ORDINANCE

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

SECTION 1. THAT parking shall be prohibited on the south side of Mississippi Avenue from its intersection with Hilltop Road to a point adjacent to the line dividing Lots 24 and 31, Block 61, E. F. Gilbert's Subdivision; AND

SECTION 2. THAT the Director of Public Works is hereby directed to erect the appropriate signing; AND

SECTION 3. THAT this ordinance shall become effective upon completion of the signing; AND

SECTION 4. THAT the penalty for violation of this ordinance shall be as stated in Sec. 1-17(a) of the Code of Takoma Park, Md., 1972, as amended.

PROPOSED ORDINANCE

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

SECTION 1. THAT Section 2 of Ordinance No. 2624, adopted September 13, 1982, be hereby repealed and reenacted to read as follows:

Section 2. THAT all north- and southbound vehicular traffic on Roanoke shall yield to vehicles travelling on Hudson Avenue;

SECTION 2. THAT the Director of Public Works is hereby directed to perform all tasks necessary to implement the provisions of Section 1 of this ordinance; AND

SECTION 3. THAT this ordinance shall become effective upon the completion of the signing.

PROPOSED ORDINANCE

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

- SECTION 1. THAT all vehicles travelling in either a southeasterly or north-westerly direction on Mississippi Avenue shall come to a complete stop at that street's intersection with Elwyn Court: AND
- SECTION 2. THAT the Director of Public Works is hereby directed to install STOP signs at the appropriate locations; AND
- SECTION 3. THAT this ordinance shall become effective upon the completion of the signing; AND
- SECTION 4. THAT the penalty for violation of this ordinance shall be as prescribed in Sec. 1-17(a) of the Code of Takoma Park, Md., 1972, as amended.

WHEREAS, the Mayor and Council find that it is in the best interests of the City to preserve and protect the urban forest and promote the principles of sound urban forestry management;

AND, WHEREAS, the Mayor and Council of Takoma Park, Maryland, find that a Tree Commission be established to preserve, protect and promote the urban forest of Takoma Park.

COMPOSITION

The Tree Commission shall be composed of the Director of Public Works, an elected official of the City designated by the Mayor and Council, and three citizens designated by the Mayor and Council. The three citizen members shall serve staggered three year terms, with initial appointments of one, two, and three years.

PROCEDURES

The Tree Commission shall prepare and submit to the City to preserve and protect the urban forest, subject to the approval of the Mayor and Council.

ORDINANCE NO. 2674

WHEREAS, the Mayor and City Council of Takoma Park, Maryland find that trees:

- enhance the physical and aesthetic environment of the City as a whole
- provide noise abatement, air purification, and visual screening
- reduce stormwater runoff and erosion and costs associated therewith
- preserve the watershed system and provide for reforestation
- provide shade in summer, thus reducing air conditioning costs and
- serve as windbreaks in winter as protection against severe weather
- aid in the removal of carbon dioxide from the atmosphere and the generation of oxygen
- protect and enhance property values
- affect the quality of life so necessary to a community; AND

WHEREAS, the Mayor and Council find that it is in the best interests of the City to preserve and protect the urban forest and promote the principle of sound urban forestry management.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of Takoma Park, Maryland, that a Tree Commission be established to preserve, protect and promote the urban forest of Takoma Park.

COMPOSITION

The Tree Commission shall be composed of the Director of Public Works, an elected official of the City designated by the Mayor and Council, and three citizens designated by the Mayor and Council. The three citizen members shall serve staggered three year terms, with initial appointments of one, two, and three years.

PROCEDURES

The Tree Commission shall propose actions to be taken by the City to preserve and protect the urban forest, subject to the approval of the Mayor and Council.

DUTIES

The Tree Commission shall prepare an annual report on the condition of the urban forest; prepare and update at least annually, a Master Tree Plan consisting of an inventory of trees on public space and a multi-year planting schedule; notify the Mayor and Council of significant events related to the urban forest; recommend, as needed, changes in law or other action the Mayor and Council may wish to take to protect and promote the urban forest in Takoma Park; and, perform any other related duties assigned by the Mayor and Council by ordinance or resolution.

ADOPTED BY THE MAYOR AND COUNCIL JUNE 27, 1983.

ORDINANCE NO. 2676

WHEREAS, the Mayor and Council have embarked on a program of utilizing speed humps as a method of controlling traffic speed and volume on selected City streets; AND

WHEREAS, speed humps were installed in the 7200 and 7300 blocks of Willow Avenue on an experimental basis as authorized by Ordinance No. 2620, adopted July 13, 1982, and the design was modified to render them more effective by Ordinance No. 2663, adopted May 9, 1983; AND

WHEREAS, the Mayor and Council wish to expand the use of speed humps to include other City streets with similar problems.

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

SECTION 1. THAT speed hump installations, as defined in Sec. 13-2 (a) (14.2) of the Code of Takoma Park, Md., 1972, as amended, be installed at the following locations:

- (a) On Maple Avenue, between the City line and Philadelphia Avenue;
- (b) On Cedar Avenue, between the City line and Philadelphia Avenue;
- (c) On Walnut Avenue, between the City line and Westmoreland Avenue;
- (d) On Westmoreland Avenue, between Carroll Avenue and Walnut Avenue;
- (e) On Anne Street, between University Boulevard and Carroll Ave.; AND

SECTION 2. THAT funds to cover installations (a) through (e) in Section 1 of this ordinance shall be appropriated from the General Contingency Fund.

ADOPTED BY THE MAYOR AND COUNCIL JUNE 27, 1983.

Note: This ordinance combines 5 separate ordinances introduced at the May 9, 1983 Council meeting.

PROPOSED ORDINANCE

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

SECTION 1. THAT Section 1 of Ordinance No. 2676, adopted on June 27, 1983, be amended by the addition of the following:

- (f) On Mississippi Avenue, between the City line and Hilltop Road;

ORDINANCE NO.

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

SECTION 1. THAT Chapter 13, entitled "Vehicles and Traffic," of the Code of Takoma Park, Md., 1972, as amended, be further amended by the amendment of Subsections (b) of Section 13-42, (a)(10)(A) of Section 13-64, and by the addition of a new Section 13.64.2, as set forth below:

Article 4. Parking Meters

Sec. 13-42. Parking violations; ticket issuance; penalty; reports

(b) Each owner or operator so notified shall within seven (7) working days of the time when the notice was so attached to the vehicle, pay to the Treasurer, as a penalty and in full satisfaction of the violation, the sum of ten dollars (\$10.00). In the event such payment is not made within a seven working day period, the penalty shall be twenty dollars (\$20.00).

Article 7. Stopping and Parking

Sec. 13-64. Parking or standing; prohibited areas.

(a)
(10)

(A) Any person issued a citation for violation of Subsection (a)(10) of this section shall be subject to a fine of fifty dollars (\$50.00) for each violation. In the event that such payment is not made within a seven working day period, the penalty shall be one hundred dollars (\$100.00).

Sec. 13-64.2. Penalty; exception

(a) Except as provided in Sec. 13-64(a)(10)(A), any person issued a citation for violation of the provisions of this Article shall be subject to a fine of twenty dollars (\$20.00). In the event such payment is not made within a seven working day period, the penalty shall be forty dollars (\$40.00). AND

SECTION 2. THAT this ordinance shall become effective upon adoption.

Resolution

WHEREAS, the Maryland Municipal League held its 34th Annual Convention from June 20th to June 23rd, 1983, during which time elections were held to fill the governing offices of the League; and

WHEREAS, as a result of these elections,
John S. Tyner, II, Councilmember from Rockville, was elected 1st Vice President;
J. Edward McClaine, Commissioner from Delmar, was elected District 1 Vice-President;
George P. Murphy, Mayor of Easton, was elected District 2 Vice-President;
William Donald Schaefer, Mayor of Baltimore, was elected District 3 Vice-President;
William F. Eckman, Mayor of La Plata, was elected District 4 Vice-President;
Elizabeth H. Tolbert, Mayor of Barnesville, was elected District 5 Vice-President;
Lewis C. Dixon, Mayor of Hagerstown, was elected District 6 Vice-President;
Donald R. Frush, Mayor of Hagerstown, was elected District 7 Vice-President;
Michael F. DiMario, Councilmember of Bowie, was elected District 8 Vice-President;
William C. Ball, President of North East Commission, was elected District 9 Vice-President;

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, a Bi-County Municipality, that:

- Section 1. The Mayor and Council hereby congratulate each newly elected officer of the Maryland Municipal League and offer each of them our best wishes for a successful year in office.
- Section 2. This resolution shall be spread among the records of the City of Takoma Park.
- Section 3. The City Administrator shall communicate this resolution to each newly elected Maryland League Official.

ADOPTED BY THE MAYOR AND COUNCIL OF TAKOMA PARK, MARYLAND JUNE 27, 1983.