

T H E C I T Y O F T A K O M A P A R K , M A R Y L A N D

Regular Meeting of the Mayor and Council
September 12, 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

READING AND APPROVAL OF THE MINUTES OF JULY 11, 1983

MAYOR ABBOTT'S COMMENTS AND PRESENTATIONS

PUBLIC BRIEFING: TAKOMA JUNCTION COMMERCIAL REVITALIZATION PROJECT

PUBLIC BRIEFING: CITIZENS' ADVISORY COMMITTEE'S COMMUNITY DEVELOPMENT BLOCK GRANT PROPOSALS

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) Community Development Block Grant Proposals
Citizens' comments
Council action
 - (3) Appeal of Leonard Segal re COLTA decision on TP #157,
6815 Eastern Avenue
 - (4) First reading of CATV tenant access ordinance
Citizens' comments
First reading
 - (5) Juniper Street Bridge: construction of permanent pedestrian
bridge; role of County and City vis-a-vis assumption of
ownership and maintenance responsibilities
Citizens' comments
Council discussion and/or action
 - (6) Proposed resolution endorsing a beverage container deposit law
in Maryland
Citizens' comments
Council action
 - (7) Proposed ordinance accepting bid on refuse truck
Citizens' comments
Council action
 - (8) Proposed ordinance accepting bid on vacuum leaf collector
Citizens' comments
Council action
 - (9) First reading of an ordinance instituting condemnation proceedings
against property located at 7142 Carroll Avenue
Citizens' comments
First reading
 - (10) First reading of an ordinance instituting condemnation proceedings
against property located at 7309 Flower Avenue
Citizens' comments
First reading

ADJOURNMENT

THE CITY OF TAKOMA PARK, MARYLAND
REGULAR MEETING OF THE MAYOR AND COUNCIL
SEPTEMBER 12, 1983

OFFICIALS PRESENT:

Mayor Abbott	City Administrator Nichols
Councilmember Bradley	Public Works Director Robbins
Councilmember D'Ovidio	Recreation Director Zeigler
Councilmember Eckert	Economic Dev. Coord. Mok
Councilmember Faulkner	Comm. Dev. Coord. Anthony
Councilmember Garcia	Corporation Counsel Gagliardo
Councilmember Iddings	Asst. Corporation Counsel DeNovo
Councilmember Williams	

The Mayor and City Council of Takoma Park, Maryland, met on September 12, 1983, at 8:10 p.m., in the Council Chamber, 7500 Maple Avenue, Takoma Park, Maryland. Following the pledge, upon proper motion, duly seconded, the minutes of July 11, 1983, were unanimously approved.

MAYOR ABBOTT'S COMMENTS AND PRESENTATIONS

Mayor Abbott noted the upcoming elections and nominating caucus and expressed the hope that the Council would complete all projects that were started in their term. Congratulated the citizens and different Committees on the work done in Takoma Park. He noted there will be a review of the speed humps by the Traffic Committee in a few months with a report to the Mayor and Council.

Mayor Abbott briefed the Council on Takoma Old Town and Takoma Urban Park, noting that the latter is a Park and Planning project. Councilmember Bradley thanked the Takoma Park Folk Festival Committee, the staff, and all other citizens involved in making the September 11 Festival a success. Councilmember Williams commented on the large number of Takoma Park residents who participated in the Commerative March on Washington on August 27, 1983. Councilmember Iddings informed the Council that Alan Marsh, an active resident of Takoma Park, had suffered a heart attack and asked Council to go on record in wishing him a speedy recovery. Councilmember Garcia welcomed his daughter from Ohio to the Council Meeting.

Mayor Abbott informed citizens that the COLTA Appeal, #3 on the agenda, will not be heard because of a religious holiday.

PUBLIC BRIEFING: TAKOMA JUNCTION COMMERCIAL REVITALIZATION PROJECT

Ron Albaugh, 7202 Central Avenue: As Co-Chairman of Takoma Junction Steering Committee, gave a brief history of the commercial areas - TOT and Takoma Junction. Noted that the Mayor and Council had raised Takoma Junction to the high priority level that TOT had enjoyed in previous years.

John Fleming, 6909 Westmoreland Avenue: As Co-Chairman of the Takoma Junction Committee, read a statement to the Mayor and Council regarding the allocation of CDBG funds to the Takoma Junction area; thanked the Committee for advising Council as to the best use of CDBG funds, noted the benefits of commercial development will accrue to all members of the community. The Committee's request is \$40,000 (for 20 buildings) for facade improvements; \$5,000 for architectural fees (\$250. per building); \$250,000 for streetscape improvements that are currently unsightly and unsafe; replacement of current sidewalk with aggregate concrete; installation of 40 trees along Carroll and Ethan Allen Avenues; \$50,000 in professional fees for landscape architectural assistance and guidance, surveys, appraisals and professional fees; 50 parking spaces for employees, and 25 spaces for clients', \$200,000 for the

purchase of the Sister City lot, the Dawes lot, and the Kass lot for parking purposes. The County will shortly begin a feasibility study on the property acquisition and other improvements. The Committee is requesting \$20,000 for marketing and promotion for both Takoma Old Town and Takoma Junction. Total funding request will be \$545,000 over the course of two consecutive years: \$175,000 in the first year, and \$370,000 in the second year, plus an additional \$200,000 for the property acquisition. Mr. Fleming noted it would be logical to assume that if the street and facade improvements were to take place quickly, it is more likely that the County would see this as a viable project and fund the acquisitions.

Paul Mok, Economic Development Coordinator: Stated that the facade renovations are simple treatments and would not change the structure of the buildings. The facade ordinance was derived from the TOT ordinance, with some modification. The Committee also proposes to cut away sections of the sidewalk for bus stops on Carroll Avenue, and to promote a neighborhood-oriented business area for pedestrians and bicyclists. They will conduct a consumer survey as to what kind of retail businesses are desired and which are not. He reported that the cost for replacing sidewalks on one side of Carroll Avenue lying between the two commercial areas would be approximately \$35,000, and that the matter had not been discussed by the Committee.

Susan Tipton, 7115 Sycamore Avenue: As a Committee member, stated there is now an opportunity to make an impact on the long-term, well-being of the City; residents are excited and looking forward to the development. She noted that the Committee had trimmed back the budget to the bare essentials and urged Council to look at the options to fully fund the first year's proposals and give Takoma Junction top priority.

Wayne Upton, 7600 Maple Avenue: Supported the building improvements, but said that too much money is being requested for landscaping.

Councilmember Williams moved to hear general citizens' comments at that time. The motion was defeated by a vote of 3:4.

PUBLIC BRIEFING: CITIZENS' ADVISORY COMMITTEE'S COMMUNITY

DEVELOPMENT BLOCK GRANT PROPOSALS

Paul D'Eustachio, 6611 Allegheny Avenue: Speaking for Thomas Ainsworth, Chairman of the CDBG Citizens Advisory Committee, thanked the members of the Committee for their work, particularly in their efforts in compromise, brought about by the competing interests. The Committee considered the area of housing as the most appropriate and vital for CDBG funding. Operation Turnaround and housing rehabilitation are two very worthy programs. A third housing program, a pilot project, was proposed with a budget of \$100,000, targeted for Between the Creeks. He stated the focus is not multi-family rehabilitation, but cooperative purchase and rehabilitation of multi-family structures. The remainder of the Committee's request was recommended by the City staff, which includes \$50,000 for administrative salaries, \$50,000 for parks and recreation, \$55,000 for Mr. Mok's salary and overhead costs, \$150,000 for street and sidewalk improvements, subsequently decreased to \$100,000. The Committee came up with a balanced plan, after spending much time trying to reach a compromise on funding requests. He noted hesitation on the part of some Committee members in acceding to the Takoma Junction compromise, saying that the total request is a large increase over the former years' funding and he feared the City may lose more than it would gain; however, they accept the compromise and the \$175,000 figure. Councilmember Iddings spoke favorably of the Takoma Park Equity Demonstration Program. Supported the full \$100,000 funding for the proposal. He asked for recommendations on prioritization of the projects. Mr. D'Eustachio stated that high priorities would include loans, grants, turnaround, cooperative equity demonstration program, administration and salaries, Between the Creeks, City-wide

coordination of an economic development plan. Low priorities would include materials, printing; Takoma Junction; parks and recreation and street and sidewalk improvements-- which he viewed as important, but less critical than housing-related programs. In response to Councilmember Bradley's question, Mr. D'Eustachio said that there had been a great deal of discussion about the appropriateness of using CDBG funds for street and gutter work, and that is reflected in the priorities just enumerated. The Committee had not discussed alternate funding for public improvements.

ADDITIONAL AGENDA ITEMS

Resolution on the shooting down of the commercial Korean airliner by the Soviet Union. (Councilmember Garcia).

GENERAL CITIZENS' REMARKS

Dave Cruze, 7912 Lockney Avenue: Thanked Council for speed humps on Anne Street; they have been most effective in the reduction in traffic, estimated at approximately fifty percent.

John Johnson, 7600 Maple Avenue: Stated to the Mayor and Council that Housing Services employees should be required to enforce the laws, not interpret them. Noting the 5% rental increase ceiling, he stated that landlords on Maple Avenue have issued 10% increases, and that Ms. Tyree, Department of Housing, had been advising tenants to pay the 10% increase then file complaints with COLTA. He also informed Council that tenants at 7777 Maple Avenue went approximately one month without air-conditioning and Housing gave management 10 days to repair the system. He requested that Council require Housing employees to enforce the laws or be removed; tenants have not obtained satisfaction from that Department. Mr. Johnson gave other similar examples and stated that the Housing Department needs to be completely overhauled.

Naomi Turner, 7667 Maple Avenue: President of Parkview Towers Tenant Association and Upper Maple Avenue Citizens' Association: agreed with Mr. Johnson, saying that the housing programs had been watered down - the same problems exist as with the prior Council - roofs leak, violations are not corrected, etc; the Housing Department is not doing its job.

Mayor Abbott noted that landlords must abide by the 5% rent increase; if they feel it should be increased, they must justify the increase to COLTA. Stated that Housing Services was wrong in telling tenants to pay rent increases and then file complaints with COLTA. An ordinance was passed which stated there can be no rent increase if there are any violations in units within the building that affect the health, safety and welfare of the residents. In response to Mrs. Turner's question regarding issuing warnings prior to citations, Corporation Council stated that it had been the administrative practice to warn landlords in order to have violations corrected, but there is nothing in the State law that requires a warning for a violation of the City Code. Councilmember Bradley stated that Housing Services must institute a policy as to the limits on warnings similar to that used by Public Works, distinguishing between serious and minor violations. The City Administrator noted that, at the direction of the Mayor and Council, he had contacted the State's Attorneys of both Counties requesting permission for the Corporation Counsel to prosecute municipal infractions. He also recommended reconsideration of provisions that landlords who permit serious violations of the Code be charged with criminal violations as opposed to municipal infractions.

Councilmember D'Ovidio moved to direct the City Administrator to make clear to Housing Services that the Council expects enforcement of the rental increase ordinance as written. Councilmember Iddings seconded the motion. There was further

discussion about the two alternatives in handling rent increases above 5%. Councilmember Iddings directed Corporation Counsel to develop language for injunctive relief in the ordinance; Corporation Counsel suggested using the Cable ordinance language; it was placed on the agenda for the next meeting on housing issues.

Don Gilmore, 7777 Maple Avenue: As the representative of the Tenants Council of Park Maple, concurred with Mr. Johnson's comments on the lagging procedures of the Housing Department. Read a letter dated August 12, from Hamilton and Associates, attorneys for the Tenant Council, to Ms. Tyree expressing the frustration of the tenants in seeking compliance from the landlords and requesting she contact them regarding the enforcement procedures of the Housing Department. Read a letter addressed to Mr. Tony Austin, Assistant Director of Housing Services, from the Park Maple tenants asking that he make a reinspection of the building for existing and pre-existing code violations, which were not included in the initial inspection report. Mr. Gilmore indicated that no response had been made in either case. Councilmember Iddings noted there were two alternatives when dealing with rent increases: (1) pay the 5% increase only and take a chance on the landlord going to Court; (2) pay the increase in excess of 5% and file a complaint with COLTA. Noted that the Council did not anticipate these problems when the ordinance was adopted. Mayor Abbott disagreed, saying that the first alternative is the only acceptable method; that the burden is on the landlords, not the tenants. Councilmember Bradley moved to amend the motion that the ordinance be enforced as written, to make clear that it is the official policy of the City Council that Housing recommend to tenants that they pay only 5%; if the landlords sues them, they may go to COLTA and the City will support tenants with the legal steps necessary. No second was offered. Councilmember D'Ovidio's motion that the ordinance is to be enforced as written and the Housing Department be so informed passed unanimously.

Juanita Nunn, 7667 Maple Avenue: Stated that she had paid a 10% increase because no one from Housing Services had given her a clear answer.

Nancy Perry, 7520 Maple Avenue: Found Council's lack of knowledge on the COLTA legislation demeaning. She spoke of the problems she had experienced in attempting to have her apartment inspected. Ms. Perry said the landlords with the worst buildings on Maple Avenue are the ones increasing rents up to 10% with no regard for the law in effect; she suggested recirculation of the information to residents and landlords on Maple Avenue. Mayor Abbott stated that the gray areas in the rent guidelines had been initiated by members of the Council.

Charlie Van Tassel, 116 Lee Avenue: Thanked Council for voting for a 5% limit to rent increases; received a roll-back from 8% to 5% after filing grievances with Housing Services. He suggested the tenants hand-carry code violations to landlords in order to expedite them.

ITEMS FOR COUNCIL CONSIDERATION: City Administrator Nichols

1. Communications: The City Administrator announced up-coming COLTA hearings; case #163, Cohen VS Hampshire Towers, on October 5, 1983 at 8:00 p.m., and (2) #164 Abbott VS Henry Fulton, on October 5, at 8:45 p.m.

2. Community Development Block Grant Proposals

Councilmember Eckert moved that the Council approve the CDBG compromise proposal for \$780,000 as outlined in Ron Albaugh's letter of September 9, 1983, with Councilmember Faulkner seconding the motion. Councilmember Iddings offered an amendment, seconded by Councilmember D'Ovidio, that Council give high priority to the two strategy areas: full funding for Between the Creeks Strategy Area (\$200,000) and Takoma Junction (\$175,000).

Councilmember Faulkner recommended that housing receive priority over public improvements with Councilmember Eckert stating that the City might want to prioritize up front and submit the document as it is and try for full funding at a later date. Councilmember D'Ovidio stated that the City will have to prioritize at some point soon. Councilmember Bradley stated support for the amendment and the original motion. Stated her irritation that more money is being asked for than can be expected; that CDBG funds should be used for special projects, e.g., strategy areas and the cooperative housing pilot. The City should find other funding for other items, stating that housing should be the highest priority.

Paul D'Eustachio, 6611 Allegheny Avenue: Supported compromise, but stated if a choice had to be made between Takoma Junction and housing, residents of the City will be enraged if Takoma Junction is chosen above housing.

Norman Green, 6712 Westmoreland Avenue: Hoped that CDBG funds could be used to repair streets, but agreed that housing should have first priority.

Ron Albaugh: Expressed the hope that the Mayor and Council would stay with their original priorities.

The amendment to the original motion that the Council prioritize, giving high priority to the two strategy areas passed, with Councilmember Eckert opposing. Councilmember Eckert's motion, as amended, to approve the \$780,000 as outlined in Ron Albaugh's letter of September 9, passed by unanimous vote. (Summary attached). Councilmember Iddings stated his appreciation for the work of the CDBG and Area B Committees.

Councilmember D'Ovidio reported on a meeting with Cindy Donner, Planner, Department of Housing and Community Development, Montgomery County, attended by himself, Tony Austin, and others, regarding obtaining money available from a multi-family rehabilitation fund for landlords; \$300,000 to \$600,000 is available with a 6% interest over 20 years. Councilmember Bradley stressed the importance of selling and implementing such a program in the City.

3. First reading of CATV tenant access ordinance

Councilmember Bradley gave a brief review of the ordinance, which was accepted as a first reading.

Bruce Moyer, 37 Philadelphia Avenue: Stated the ordinance was an attempt to reconcile all problems between landlords, tenants, and the cable company regarding tenant access. Tenants must be assured that they have the same opportunity to receive service as single-family residents, and assurance they will pay the same rates. Landlords have to be guaranteed that in return for their obligation to provide access, they are compensated for the property they give up for the permanent occupation of cable equipment. The cable company must be assured that the development of the system within the City can proceed within an orderly framework. The Supreme Court decision on the compensation provision had been carefully reviewed, a model bill proposed, and it is the first bill of this kind within the State of Maryland. If compensation cannot be agreed upon, then it would be negotiated by a compensation commission. The property owners and managers association have been given a copy of the draft, but no comments have been received. It was the consensus of the Council, in consultation with the Corporation Counsel, that the City would not be vulnerable because a public hearing had not been held. Councilmember Iddings requested that the ordinance be amended to include single-family rentals. Further discussion ensued regarding the need for the ordinance in order to prevent landlords from developing the idea that they are providing HBO or something similar, they can close the door on Cable TV. Cable TV provides 110 channels: entertainment, community programming, interactive information services, home shopping, banking, information retrieval, etc.

Alida DeGuara, Cable TV Committee: Thanked Mr. Moyer for his work on the Committee. She questioned some aspects of Section 2 Article 2 (page 3), after which Assistant Corporation Counsel pointed out that there is a provision in the ordinance for any interested party, including the City, to seek an injunction in the event that a property owner tried to impede access. Mr. Moyer stated that the Council should address the enforcement section and determine who will be responsible for it, and provide clear-cut guidelines to avoid problems experienced in enforcing the rental guidelines.

John Hemphill, 8112 Flower Avenue: As a member of CATV Committee, questioned what would happen if the landlords simply refused access. He recommended no change in the enforcement of the ordinance, saying it should lie with the Corporation Counsel.

Michael Messenger, 7411 Flower Avenue: Supported the ordinance as written, but suggested an amendment to Section 4, page 8, to prohibit landlords from obtaining a security deposit for hardware. The ordinance was accepted for first reading.

PROPOSED ORDINANCE
(Attached)

4. Juniper Street Bridge: Construction of permanent pedestrian bridge; role of County and City vis-a-vis assumption of ownership and maintenance responsibilities

Mayor Abbott referred to a legal memorandum prepared by Assistant Corporation Counsel DeNovo. He noted that the point raised by Metro is that if an agreement is not reached by September 1 between the City and the County, they will assume that the City has accepted responsibility for the bridge. The Assistant Corporation Counsel stated that if the City assumes ownership of the bridge, then it would also assume liability for injury. Currently there is joint maintenance with the County on the temporary bridge; Metro cannot decide when that agreement terminates. She advised obtaining an agreement from the County and WMATA to indemnify the City for any damages arising out of defects in the design/construction of the permanent bridge. Mayor Abbott moved that Council approve the institution of the process of City ownership with an appropriate document to be prepared by the Corporation Counsel, and the question of joint maintenance based upon the predominant use of the bridge by college pedestrians, be raised with the county. Councilmember Garcia seconded the motion, which passed unanimously. Mayor Abbott directed the City Administrator to set up a meeting and begin negotiations with the County, using the Committee previously set up.

5. Proposed resolution endorsing a beverage container deposit law in Maryland

Dean Hoge, 7314 Holly Avenue: Stated there will be a statewide walk across Maryland to push the bottle bill. Marchers will come through Takoma Park on East West Highway on September 29. Montgomery County Council voted in favor of the bill, along with agricultural groups and environmentalists. Takoma Park would save money on landfill costs. A telephone survey was taken in 1982, with a vote of 2:1 in favor of the bill. Mr. Hoge noted that sellers must buy back the containers for 5 cents each or have another collector do it for them.

Councilmember Faulkner moved the resolution with Councilmember Bradley seconding the motion.

Mike Haney, 7333 New Hampshire Avenue: Encouraged Council to pass the resolution; stated it would do a great deal for Takoma Park and the State.

The resolution endorsing passage of a Beverage container Deposit Law passed unanimously. Councilmember Bradley requested that a copy of the resolution be sent to the Maryland Municipal League.

RESOLUTION
(Attached)

6. Ordinance accepting bid on refuse truck

The City Administrator stated that the budget authorized \$80,000 for the purchase of a refuse truck. The Director of Public Works informed the Council that bids were solicited; the high bid was \$81,557.19; low bid was \$79,983.33 from Weber White, Inc. If the low bid is accepted, the truck will be a White Xpeditor with a 25 cubic yard Leach 2R Packer. The City Administrator stated this is to be a lease-purchase, at \$30,000 per year over the next three years. Councilmember Garcia moved the ordinance be adopted with Councilmember Faulkner seconding the motion. Ordinance No. 2687 was adopted by roll call vote recorded as follows: Aye: Councilmembers D'Ovidio, Eckert, Faulkner, Garcia, Iddings and Williams; Nay: None; Excused: Councilmember Bradley.

ORDINANCE NO. 2687
(Attached)

7. Ordinance accepting bid on vacuum leaf collector

Councilmember Faulkner moved the ordinance be accepted; Councilmember Iddings seconded the motion. Ordinance No. 2688 was adopted with the roll call vote recorded as follows: Aye: Councilmembers D'Ovidio, Eckert, Faulkner, Garcia, Iddings, Williams; Nay: None; Excused: Councilmember Bradley.

ORDINANCE NO. 2688
(Attached)

8. First reading of an ordinance instituting condemnation proceedings against property located at 7142 Carroll Avenue.

The City Administrator stated that the proposed ordinance sets a hearing for the owner to show cause why the property should not be condemned. It now poses a threat to the welfare of the community. The ordinance was accepted for a first reading.

PROPOSED ORDINANCE
(Attached)

9. First reading of an ordinance instituting condemnation proceedings against property located at 7309 Flower Avenue

The City Administrator informed Council this property had been in a continuous state of disrepair, noting that last week the Mayor and Council received a petition from neighbors attesting to the serious condition of the property: An inspection was made and the property was found to be a hazard and a threat to the well-being of the community. The ordinance was accepted for first reading.

PROPOSED ORDINANCE
(ATTACHED)

10. Resolution on the Soviet Downing of a commercial aircraft

Councilmember Garcia moved for adoption of a resolution condemning the Soviet Union for shooting down in a premeditated action of a South Korean commercial airliner. Councilmember D'Ovidio seconded the motion, and the resolution was unanimously approved.

RESOLUTION
(Attached)

Upon proper motion, the meeting adjourned at 12:45 a.m., to reconvene on Monday, September 26, 1983 at 8:00 p.m.

Community Development Block Grant Funding Request for Year 10 (FY-1985)
 (submitted to Montgomery County)

SUMMARY

<u>City-wide Activities</u>		\$299,000
Administration	\$50,000	
Economic Development		
Coordination	55,000	
Parks and Recreation	44,000	
Housing		
Loans and Grants	100,000	
Operation Turnaround	50,000	
<u>Strategy Areas</u>		324,715
BTC		
Public Improvements	100,000	
Multi-Family Housing	100,000	
Takoma Junction	174,715	
<u>Neighborhood Recommendations</u>		106,285
High Priority	49,885	
Medium Priority	56,400	
 GRAND TOTAL		<u>\$780,000</u>

NOW, THEREFORE, BE IT OBTAINED BY THE MAYOR AND CITY COUNCIL OF TAKOMA PARK, MARYLAND that:

ARTICLE I

General Provisions

Section 1. Definition.

For the purpose of this Ordinance, the following words and phrases shall have the following meanings:

(a) "Cable Communications system" or "systems," sometimes referred to as "cable television system," "cable T.V.," or "broadband communications network" means all of the component physical, operational and programming elements of a system of antennae, coaxial cables, amplifiers, towers, microwave links, lines, wires, fibre optic cables, waveguides, laser beams, satellites or any other conductors, converters, equipment or facilities, designed, constructed,

ORDINANCE NO. _____

PROPOSED ORDINANCE ESTABLISHING TENANT RIGHTS OF
ACCESS TO CABLE COMMUNICATIONS SYSTEMS
AND A CABLE COMPENSATION COMMISSION

WHEREAS, cable television and other cable communications systems provide an important medium for the transmission of data and information, including local programming by and for residents of the City of Takoma Park, as well as entertainment programming; and that cable communications systems will be an increasingly important source of public education, consumer and economic information for the entire community; and

WHEREAS, cable communications systems can provide community access and local origination channels, educational and community programming and interactive capabilities not available through other communications systems, thus making a unique contribution to the public welfare in Takoma Park; and

WHEREAS, there is a need to promote the rapid development of a cable communications system which is responsive to the community and to the public interest; and

WHEREAS, it is in the best interests of the citizens of Takoma Park and essential to their well-being to ensure that tenants have the right of access to cable communications systems on the same terms as other City residents.

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

ARTICLE 1

General Provisions

Section 1. Definition.

For the purpose of this Ordinance, the following words and phrases shall have the following meanings:

(a) "Cable Communications system" or "systems," sometimes referred to as "cable television system," "cable T.V.," or "broadband communications network" means all of the component physical, operational and programming elements of a system of antennae, coaxial cables, amplifiers, towers, microwave links, lines, wires, fibre optic cables, waveguides, laser beams, satellites or any other conductors, convertors, equipment or facilities, designed, constructed,

and operated with the purpose of producing, transmitting, receiving, amplifying, storing, processing or distributing audio, video, digital, or other forms of electronic or electrical signals, programs and services in which the signals are distributed by wire or cable to subscribing members of the public, including the structures, buildings and facilities in which or on which said components are located or which otherwise support the system. The term "cable communications system" shall include studios and the administrative offices for the entity operating the cable communications system. Such definition shall not include any similar facility the cables of which do not touch public rights-of-way and that serves only the occupants of a single parcel of land under common ownership or management. The foregoing definition shall in any event be the same as the one contained in Chapter 8A, Sec. 8A-3(b) of the Cable Communications Law, Montgomery County Code, or any subsequent amendments thereof, as adopted by Ordinance No. 2650 or any subsequent amendments thereof.

(b) "Cable operator" or "franchisee" means the entity operating a cable communication system under a franchise. The foregoing definition shall in any event be the same as the one contained in Chapter 8A, Sec. 8A-3(j) of the Cable Communications Law, Montgomery County Code, or any subsequent amendments thereof, as adopted by Ordinance No. 2650 or any subsequent amendments thereof.

(c) "Landlord" shall mean the owner, the owner's agent, lessor or sublessor of the rental unit or the property of which it is a part and, in addition, means any person authorized to exercise any aspect of the management of the premises except those persons engaged solely in custodial and maintenance functions. The foregoing definition shall in any event be the same as the one contained in Ordinance No. 2587 or any subsequent amendments thereof.

(d) "Rental unit" shall mean any building, structure or facility or portion thereof which is designated, intended or arranged for rental use or occupancy as a residence by one or more persons. The foregoing definition shall in any event be the same as the one contained in Ordinance No. 2587 or any subsequent amendments thereof.

(e) "Tenant" shall mean any person who occupies a dwelling unit for living or dwelling purposes with the landlord's consent. The foregoing definition shall in any event be the same as the one contained in Ordinance No. 2587 or any subsequent amendments thereof.

(f) "Bulk billing system," sometimes referred to as a "bulk rate master billing system," shall mean a billing system, where offered by the cable operator, whereby the landlord agrees to be responsible for the payment to the

cable operator of the total charges for cable service for all rental units in the landlord's building.

Section 2. Applicability.

This Ordinance applies to all rental units located within the corporate limits of the City of Takoma Park, Maryland.

Section 3. Severability.

In the event that it is judicially determined that any word, phrase, clause, sentence, paragraph, section, or part of this Ordinance, or the application thereof to any person or circumstance, is invalid, the remaining provisions and the application of such provisions to other persons or circumstances shall not be affected thereby, it being hereby declared that the remaining provisions of the Ordinance would have been adopted and approved without the word, phrase, clause, sentence, paragraph, section, or part, or the application thereof, held invalid.

ARTICLE 2

Tenants' Right of Access to Cable Communications
Systems - Rights and Duties of Landlords

Section 1. Tenants shall have a right of access to any cable communications systems available to other residents of the City of Takoma Park. Such right of access by tenants shall not be denied, withheld or restricted by any landlord. No landlord shall impose any condition or restriction upon the installation, inspection or maintenance of a cable operator's system or equipment; provided that the cable operator complies with the requirements of this Ordinance and any other applicable requirements of state, federal or county law.

Section 2. A landlord may withhold or restrict tenant access to cable communications systems only where installation of the cable operator's equipment would impair or interfere with the safety or structural or physical integrity of the landlord's building.

Section 3. A property owner shall have the right, upon request, to review and approve the design for the installation of the cable operator's equipment prior to installation to ensure that the installation conforms to any conditions which are reasonable or necessary to protect the safety, structural or physical integrity or appearance of the premises. Such approval shall not be unreasonably withheld.

Section 4. No landlord shall evict, coerce, discriminate or retaliate, in rental or other charges, in the provision of services, or in any other manner, in any way against any tenant who chooses not to receive cable communications services.

ARTICLE 3

Rights and Duties of Cable Operators

Section 1. No equipment owned by the cable operator shall be installed by the cable operator for or with respect to any rental unit without first securing the written permission of the owner of the property in question. Such permission shall not be withheld, provided that the cable operator complies with the other requirements of this Article.

Section 2. Upon request by the property owner or landlord, the cable operator shall agree to indemnify and hold harmless the property owner or landlord for any damages arising out of the installation, operation, maintenance or removal of its equipment.

Section 3. The cable operator shall install its equipment upon the landlord's property at no cost or charge to the landlord.

Section 4. The cable operator shall compensate the property owner for the entry or occupation of its equipment upon the property in question. In the event that the cable operator and the property owner are unable to agree upon what constitutes reasonable compensation, this determination shall be made by the Cable Compensation Commission established under Article 4 of this Ordinance, upon application by the cable operator or the property owner.

ARTICLE 4

Compensation

Section 1. The Mayor and Council shall appoint a Cable Compensation Commission, whose function shall be to hold hearings and make determinations of reasonable compensation to a property owner for the entry of a cable operator's equipment upon the owner's property, as more fully set forth in this Ordinance. The Cable Compensation Commission shall be composed of three members, one of whom shall be a professional real estate appraiser or agent with expertise in valuation of multi-family rental property, one of whom shall be a person with architectural expertise, and one of whom shall be a citizen with knowledge of cable communications

systems; provided, however, that no member of the Commission shall have any financial interest in any franchisee or any multi-family rental property in the City of Takoma Park. Persons under consideration for appointment to the Commission shall disclose any financial or managerial interest they may have in any property in Takoma Park or any cable communications system or cable operator and shall provide such additional information as the Mayor and Council may request.

Section 2. In a case where the property owner and the cable operator are unable to agree upon the amount of reasonable compensation payable by the cable operator for the entry or occupation of its equipment upon the property owner's premises, the Cable Compensation Commission shall assess the compensation as follows:

(a) The Commission shall assess a one-time charge of one dollar for each rental unit on the owner's premises for the permanent physical occupation of the premises by the cable operator's equipment.

(b) The Commission may assess compensation for professional review of a cable operator's plan or design for the installation of cable communications equipment on the owner's premises if there are more than ten rental units on those premises, in an amount not to exceed \$200.00.

(c) The Commission may assess additional compensation if the property owner can demonstrate that the fair market value of the property has decreased as a direct result of the entry or occupation of the cable operator's equipment. In determining what constitutes reasonable compensation in a particular case, the Cable Compensation Commission shall take into account at least the following factors:

(i) the location, nature, size and amount of space which the cable operator's equipment would occupy under the cable operator's design or plan of installation;

(ii) the nature and extent of any change in the appearance of the building which would result from the installation of the cable operator's equipment in accordance with its design or plan of installation;

(iii) any projected increase in the value of the property or its attractiveness to current or prospective tenants as a result of installation of the cable operator's equipment and the consequent availability of a cable communications system; and

(iv) any alternative use which the property owner would have for the space which would be occupied by the cable operator's equipment, and any projected change in the value of the property or the owner's rate of return thereon which would result from such alternative use;

(v) the cost of any changes or modifications made by the cable operator at the property owner's request pursuant to Article 2, section 3 of this Ordinance.

(d) If at any time after installation of a cable communications system a property owner constructs or places additional dwelling units on the owner's premises, and the cable operator and the owner cannot agree on the amount of reasonable compensation payable for the physical occupation of those additional premises by the cable operator's equipment, the Commission shall assess a one-time charge of one dollar for each additional rental unit.

(e) The Commission shall have the authority to establish such additional rules, regulations and guidelines for the assessment of compensation as it may deem appropriate, after notice and a hearing.

Section 3. At the request of any affected cable operator or property owner, the Cable Compensation Commission shall conduct a fact-finding hearing to determine what constitutes reasonable compensation in a particular case, after giving reasonable notice of such hearing to all interested parties in accordance with such rules and regulations as it may establish. At the hearing, any interested parties, including tenants, may present testimony and evidence which shall be given under oath or by affirmation. The parties may also cross-examine any witness presenting testimony at a public hearing. A verbatim record of the hearing shall be made. The record shall be open to inspection by any person and, upon request by any party to the proceeding, the Cable Compensation Commission shall furnish such party a copy of the hearing record at such charges as are necessary to meet costs. The decision of the Commission shall become final unless an appeal is taken under this section within thirty days.

Section 4. Within thirty days of the decision of the Cable Compensation Commission, any party to the proceedings before the Commission may petition the Circuit Court of the County where the property is located for review of the Commission's decision. Such proceedings shall be in accordance with the provisions of the Constitution and laws of the state of Maryland governing eminent domain; and a property owner shall be entitled to a trial by jury on the question of compensation where and as required by Maryland law.

ARTICLE 5

Rights and Duties of Tenants

Section 1. Every tenant shall have the right to purchase any

combination of cable communications service options available to single family dwellings in the City of Takoma Park. Any tenant may decide not to purchase any cable communications service at all. A tenant who declines to receive any cable communications service shall not be required to pay or give anyone anything of value for such services.

Section 2. No tenant shall be required to pay or give anything of value to a landlord or cable operator in order to receive cable communications services, except for the standard rates, including installation charges and fees, charged for provision of the same service to single family dwellings in the City of Takoma Park.

Section 3. No tenant shall deny reasonable access to a rental unit for the purpose of installation of cable communications equipment or making the premises cable-ready.

ARTICLE 6

Charges and Billing

Section 1. A landlord may, at the landlord's option, choose to institute a system of bulk-billing for cable communications services if offered by the cable operator; provided, however, that the landlord shall:

(a) itemize the cost of cable communications service separately in any bill, statement, receipt or other similar writing provided to the tenant, in such a manner that the cost of cable communications service is clearly identifiable.

(b) allocate the cost of any cable communications service only among those tenants receiving the service. In the event that a landlord seeks a rent increase in excess of that automatically permitted by law, the landlord shall not assert any overhead or other costs associated with bulk billing for cable communications services as the basis for such increase.

(c) deliver the following notice to each tenant receiving cable communications service on or before the commencement of the service for that tenant and thereafter no less often than annually.

"Under Takoma Park law, you cannot be charged any more for cable service than someone receiving the same service in a single-family home in Takoma Park.

"You have the choice of taking any cable service option or combination of cable service

options, or no cable service at all.

"You cannot be required to pay for any cable service you do not choose to take.

"Your landlord must itemize the cost of cable service for you, separately from rent or any other charges.

"You are obligated to pay for cable services which you agree to receive or do receive (unless you have notified the cable operator you do not want such service and it is delivered to you anyway). If you fail to pay for cable services which you are legally required to pay, the cable operator may terminate cable service to you and/or sue you for any money you owe. Your landlord, however, may not sue you or evict you for nonpayment of cable fees."

Section 2. In no event shall any tenant be required to pay any charge for cable communications services which exceeds the standard rate charged for the same tier or level of service to single family dwellings in the City of Takoma Park.

Section 3. No tenant who has a contract with a cable operator for cable communications services -- whether or not payment for such services is made directly to the cable operator, through the landlord to the cable operator, or otherwise -- may be evicted for nonpayment for such services.

Any unpaid balance for cable communications services shall be a debt of the tenant to the cable operator only.

In the event a landlord is authorized to collect payment for cable communications services on behalf of a cable operator, the landlord shall be required to provide each tenant receiving such service with a separate itemized bill for such service and to collect as separate payments any amounts due for cable services and any amounts due for rent. In the event a tenant makes a single payment without distinguishing the amount attributable to cable services and the amount attributable to rent, the amount paid by the tenant shall first be credited as rent paid and then as payment for cable services. Nothing contained herein shall be construed as preventing a cable operator from terminating service or from seeking any other legal or equitable relief for nonpayment for cable communications services or any other breach of contract.

It shall be unlawful for a landlord to terminate cable communication services.

Section 4. Where a landlord has instituted a system of bulk-

billing for cable communications services and fails to remit the full amount of payments by tenants promptly to the cable operator in accordance with any agreement between the landlord and the cable operator, any franchise agreement, or any other provision of law, such failure shall not constitute grounds for termination of cable communications service to the tenant or tenants in question. In such a situation, the cable operator may choose to change prospectively to direct billing of such tenants or take any other action permitted by its agreements, including any action to recover from the landlord those amounts not remitted by the landlord.

ARTICLE 7

Enforcement and Effective Date

Section 1. This ordinance may be enforced by the City or any aggrieved party, including a tenant, in any court of competent jurisdiction, at law or in equity.

Section 2. Without limitation or election against any other available remedy, the City or any other aggrieved party may apply to the Circuit Court of the County where the property is located for an injunction enjoining any violation of this ordinance. The court shall award attorney's fees and costs to any party who succeeds in obtaining an injunction hereunder.

Section 3. In addition to the foregoing, any violation of Sections 2.2, 2.3, 2.4, 3.1, 5.1, 5.2, 5.3, 6.1, 6.2, 6.3 and 6.4 of this ordinance shall constitute a municipal infraction for which a citation may be issued. The minimum fine for each violation shall be \$25.00, and the maximum shall be \$500.00. The minimum fine may be suspended only upon a finding that such violation is a first offense and that no wilfulness was involved. The provisions of §1.17(b) of the City Code are repealed, to the extent they are inconsistent with this section. Each unit with respect to which the violation exists and each month or other billing cycle for which a violation exists shall constitute a separate and distinct violation.

Section 4. This ordinance shall be effective upon the date of enactment.

City of Takoma Park, Maryland

OFFICE OF CITY ADMINISTRATOR
TELEPHONE 270-1700



7500 MAPLE AVENUE
TAKOMA PARK, MD. 20912

THIS LETTER MAILED TO THE PERSONS ON THE ATTACHED LIST, WITH COPY OF RESOLUTION.

September 20, 1983

Hon. Jerome Connell
Chairman of the Senate
Economic Affairs Committee
5 Central Avenue
Glen Burnie, Maryland 21061

Dear Mr. Connell:

I am enclosing a Resolution adopted by the Mayor and City Council of Takoma Park, Maryland on September 12, 1983. The Mayor and Council would appreciate your support on this matter.

Sincerely,

Alvin J. Nichols
City Administrator
for Mayor and Council

AJN:imr
Enclosure

RESOLUTION ON BEVERAGE CONTAINER DEPOSIT LAW IN MARYLAND

- WHEREAS, the beverage container deposit law or "bottle bill" would require a minimum 5¢ deposit on all beer and soft drink containers sold in Maryland; AND
- WHEREAS, a study done by Maryland Department of Economic and Community Development shows that a beverage container deposit law in Maryland could reduce the beverage system's natural gas usage by 50% and petroleum consumption by 40% even when extra fuel for beverage trucks is included; AND
- WHEREAS, former Governor Milliken of Michigan said that solid waste delivery to landfills and incinerators was reduced more than 60% by weight and over 8% by volume during the first six months of the beverage container deposit law in that state, corroborating EPA estimates; AND
- WHEREAS, in Michigan, beverage container litter decreased 85% after deposit law took effect, and total litter along Michigan highways decreased 41%, according to the Michigan Department of Transportation; AND
- WHEREAS, estimates by the Maryland Department of Economic and Community Development indicate that deposit legislation would increase state employment by 1,500 to 3,700 new jobs; AND
- WHEREAS, the experience of states with uniform deposit laws indicates that the existing Maryland jobs in manufacture of beverage cans and plastic bottles are unlikely to be affected significantly by a Maryland deposit law; AND
- WHEREAS, beverage container deposit legislation would result in the conservation of appreciable quantities of such increasingly scarce natural resources as bauxite, iron ore and the petroleum feedstock for plastic beverage containers; AND
- WHEREAS, six states; Connecticut, Iowa, Maine, Michigan, Oregon, and Vermont have had years of experience with beverage container deposit laws and this experience supports the benefits projected for Maryland; AND
- WHEREAS, three additional states; Massachusetts, New York and Delaware have recently adopted deposit laws; AND
- WHEREAS, various polls show marked support for beverage container deposit legislation, for example, a 1983 Baltimore Sun Poll shows 61% public support in Maryland, but even more important, increased public support occurs after the law is implemented as reflected by 95% public support in Oregon, 93% in Vermont, and 86% in Michigan; AND

WHEREAS, in Maryland statewide beverage container deposit legislation has been endorsed by Governor Harry R. Hughes, the Maryland Department of Natural Resources, the Maryland Department of Health and Mental Hygiene, the Maryland Department of Transportation, the Maryland Environmental Trust, Anne Arundel County Council, Montgomery County Council and County Executive, Howard County Council, Frederick County Commissioners, Cecil County Commissioners, Garrett County Commissioners, the Maryland Conservation Council, the Maryland League of Women Voters, the Maryland Farm Bureau, the Maryland Municipal League, Common Cause of Maryland, the Chesapeake Bay Foundation, Federated Garden Clubs of Maryland, the Sierra Club and Citizens Against Waste, the statewide coalition representing 150 organizations and over 800 individual members;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Takoma Park, Maryland, this 12th day of September 1983, strongly urges the General Assembly of Maryland to pass beverage container deposit legislation in the 1984 session and recommends that it be signed by the Governor, because such legislation will save significant amounts of precious energy and diminishing natural resources, reduce dangerous and unsightly litter, reduce solid waste, and create new jobs and local industry for residents of this State; AND

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the Governor of Maryland, Harry R. Hughes; the President of the Maryland Senate, Melvin Steinberg; the Speaker of the Maryland House of Delegates, Benjamin L. Cardin; the Chairman of the Senate Economic Affairs Committee, Jerome Connell; the Chairman of the House Environmental Matters Committee, Larry Young; Maryland State Senators Stewart Bainum, Jr. and Arthur Dorman; and Maryland Delegates Sheila Hixon, Diane Kirchenbauer, Ida G. Ruben, Timothy F. Maloney, Thomas J. Mooney and Pauline H. Menes.

ADOPTED BY THE MAYOR AND COUNCIL OF TAKOMA PARK, MARYLAND, SEPTEMBER 12, 1983.

ORDINANCE NO. 2688

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

SECTION 1. THAT the FY-1984 City Budget provided funds for the purchase of a vacuum leaf collector; AND

SECTION 2. THAT bids were solicited from qualified dealers and advertised twice in two newspapers of local circulation, and any bids received publicly opened at 3:00 PM, September 8, 1983; AND

SECTION 3. THAT one bid was received from S. M. Christhilf & Son, Inc., Timonium, Maryland, for a Tarco "Big-T-Vac" Model TTL-1, Type 87W, at \$12,695.00, said bid meeting all specification requirements; AND

SECTION 4. THAT the bid from S.M. Christhilf & Son, Inc., as described in Section 3, be hereby accepted for the net amount of TWELVE THOUSAND, SIX HUNDRED NINETY-FIVE DOLLARS (\$12,695.00); AND

SECTION 5. THAT funds for the above-described purchase be appropriated from the Public Works Capital Budget.

ADOPTED BY THE MAYOR AND COUNCIL SEPTEMBER 12, 1983.

ORDINANCE NO. 2687

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

SECTION 1. THAT the FY-1984 City Budget provided funds for the purchase of a refuse truck; AND

SECTION 2. THAT bids were solicited and advertised for two weeks in two weekly newspapers of local circulation, and bids received were publicly opened at 3:00 PM on August 16, 1983; AND

SECTION 3. THAT three bids were received, with the low bid of \$79,983.33 having been received from Weber White Trucks, Inc., Washington, D. C.; AND

SECTION 4. THEREFORE THAT the bid from Weber White Trucks, Inc. be hereby accepted for one (1) 1984 White WX-64 Diesel powered refuse truck for the net amount of SEVENTY-NINE THOUSAND, NINE HUNDRED EIGHTY-THREE DOLLARS AND THIRTY-THREE CENTS (\$79,983.33); AND

SECTION 4. THAT funds to cover the above-described purchase be appropriated from the Public Works Capital Budget.

ADOPTED BY THE MAYOR AND COUNCIL SEPTEMBER 12, 1983.

PROPOSED ORDINANCE

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

- SECTION 1. THAT whereas it has been reported to the Mayor and Council by the City Administrator that conditions are prevalent so as to make the building identified as 7142 Carroll Avenue, situated on Lots 14 and part of 15, Block 2, Hill Crest Subdivision within the City of Takoma Park, Maryland, recorded in the Land Records of Montgomery County in Liber 648 at Folio 389, and Tax Record A/C #1070645 and #1070656, Herbert A. and F. T. Masterton, unfit for human habitation; AND
- SECTION 2. THAT the building referred to in Section 1 of this Ordinance is presently in violation of PM 300.3; PM 301.1; PM 301.6; PM 302.3.2; PM 302.3.7; PM 302.4; and PM 302.4.6 of the Code of Takoma Park, Md., 1972, as amended; AND
- SECTION 3. THAT certain members of the city staff have inspected the building referred to in Section 1 of this Ordinance and have verified the conditions to be as reported.
- SECTION 4. THEREFORE THAT Herbert A. Masterton and F. T. Masterton show cause on or before October 24, 1983, why the maintenance of the building at 7142 Carroll Avenue, Takoma Park, Maryland, should not be declared a nuisance, provided that notice of the passage of this ordinance and a copy of the same be served on Herbert A. Masterton and F. T. Masterton pursuant to Article 6 of the Code of Takoma Park, Md., 1982, as amended; AND
- SECTION 5. THAT the date of October 24, 1983, at 8:00 P.M., at 7500 Maple Avenue, Takoma Park, Maryland, is hereby set for the time and the place for a Hearing as to the condition of the aforementioned building, and the City Clerk is instructed to give notice within ten days of the adoption of this Ordinance to all persons known to be involved in these proceedings in accordance with Article 6 of the City Code.

PROPOSED ORDINANCE

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

- SECTION 1. THAT whereas it has been reported to the Mayor and Council by the City Administrator, in his capacity as the chief administrative officer of the city and in his capacity as Fire Marshal of the City, that the building named in section 2, below, is unfit for human habitation and is in such condition as to constitute an immediate and present danger to life, property and public safety; AND
- SECTION 2. THAT the building described in Section 1, above, is located at 7309 Flower Avenue, on Lot 5, Block 46, Fletcher's Addition to Takoma Park, within the City of Takoma Park, recorded in the Land Records of Prince George's County in Liber 5345 at Folio 031, and Tax Record A/C #27298-00-006, M. Thomas Kuriakose and Kunjukunjamma M. Kuriakose, owners of record;AND
- SECTION 3. THAT the building referred to in Sections 1 and 2, above, is presently in violation of the Fire Safety Code of the City of Takoma Park and is in violation of the following sections of the Housing Code: Sec. 6-63; PM 300.3; PM 301.1; PM 302.2; PM 302.3; PM 302.3.1; PM 302.3.2; PM 302.3.3; PM 302.3.7 and PM 302.4; AND
- SECTION 4. THAT certain members of the city staff have inspected the building referred to in Sections 1 and 2 of this ordinance and have verified the conditions to be as reported.
- SECTION 5. THEREFORE THAT the Mayor and Council hereby designate the building located at 7309 Flower Avenue as unfit for human habitation and hereby authorize the legal procedure for condemnation under authority of Article 6, Chapter 6, of the Code of Takoma Park, 1972, as amended, and the Fire Prevention Code, known as Chapter 5, of the Code of Takoma Park, Md., 1972, as amended; AND
- SECTION 6. THAT the date of October 24, 1983, at 8:00 PM, at 7500 Maple Avenue, Takoma Park, Maryland, is hereby set for the time and the place for Hearing as to the condition of the aforementioned building, and the City Clerk is instructed to give notice within ten days of the adoption of this ordinance to all persons known to be involved in these proceedings, in accordance with the aforementioned articles and sections of the City Code.

RESOLUTION

- WHEREAS, a Soviet Union fighter plane on Thursday, September 1, 1983, shot down in a premeditated action a South Korean commercial airliner while on a scheduled run of its final leg between Anchorage, Alaska and Seoul, South Korea; AND
- WHEREAS, aboard were 269 innocent passengers and crew, men, women, and children of many nationalities, including over 60 Americans; AND
- WHEREAS, this atrocity has shocked the world for its callous disregard for human life and the accepted norms of civilized society; AND
- WHEREAS, the future safety of international flights of both private and commercial aviation is in jeopardy unless safeguards are clearly established for the protection of flights on instruments which may be subject to human error or atmospheric disturbances; AND
- WHEREAS, the Soviet Union has refused to accept culpability for this act of barbarism;
- NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Takoma Park, Maryland, condemn the use of brute force in the shooting down and destroying a clearly identifiable commercial air carrier on a peaceful scheduled flight; AND
- THAT, the Mayor and Council wholeheartedly support the efforts of the President of the United States in condemning this atrocity as well as bringing to the attention of the world community through the United Nations; AND
- THAT, a copy of this resolution be sent to the President of the United States; the Maryland congressional delegation; and, the Ambassador of the Soviet Union to the United States.

ADOPTED BY THE MAYOR AND COUNCIL OF TAKOMA PARK, MARYLAND, SEPTEMBER 12, 1983.

T H E C I T Y O F T A K O M A P A R K, M A R Y L A N D

Regular Meeting of the Mayor and Council
September 26, 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

READING AND APPROVAL OF THE MINUTES OF JULY 25, 1983

MAYOR ABBOTT'S COMMENTS AND PRESENTATIONS

ADDITIONAL AGENDA ITEMS

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

ITEMS FOR COUNCIL CONSIDERATION: City Administrator Nichols

1. Communications
2. Administrative Reports and Recommendations for Council Action:
 - (1) Administrative reports
 - (2) Appointment of new member to Historic Preservation Committee
 - (3) Appeal of Alex Kontos re COLTA decision on TP #154, 8322 Roanoke Ave.
 - (4) First reading of a proposed ordinance amending Article 2, "Basic Property Maintenance Code," Chapter 6, of the City Code
Citizens' comments
First reading
 - (5) First reading of an ordinance amending rental guidelines section of Ordinance 2587.
Citizens' comments
First reading
 - (6) Affirmation of Council support of the position of Friendship Heights on the construction of "Ring Road"
 - (7) Affirmation of decision to demolish the structure at 7312 Jackson Avenue on City-owned property
Citizens' comments
Council action
 - (8) Second reading on CATV tenant access ordinance
Citizens' comments
Council action

ADJOURNMENT

-
- NOTES: 1. The Caucus for nomination of candidates for the November 8, 1983 City Election will be held at 8:00 PM, Tuesday, October 4 in the Council Chamber. The traditional order of nominations will be used--i.e., Mayoral candidates first, followed by nomination of Council candidates for Wards 1 through 7, in that order.
2. The second reading of ordinances instituting condemnation proceedings at 7142 Carroll Avenue and 7309 Flower Avenue has been deferred to the next meeting of the Mayor and Council.

CITY OF TAKOMA PARK, MARYLAND
REGULAR MEETING OF THE MAYOR AND COUNCIL
SEPTEMBER 26, 1983

CITY OFFICIALS PRESENT:

Mayor Abbott	City Administrator Nichols
Councilmember Bradley	City Clerk Pusti
Councilmember D'Ovidio	Housing Director Tyree
Councilmember Faulkner	Corporation Counsel Gagliardo
Councilmember Iddings	Asst. Corporation Counsel Denovo
Councilmember Williams	
EXCUSED: Councilmember Eckert	
Councilmember Garcia	

The Mayor and City Council of Takoma Park, Maryland, met on September 26, 1983 at 8:13 p.m., in the Council Chamber, 7500 Maple Avenue, Takoma Park, Maryland. Following the pledge, the Minutes of July 25, 1983 were moved, seconded, and approved unanimously.

MAYOR ABBOTT'S COMMENTS AND PRESENTATIONS

Mayor Abbott informed the Council of the cheese distribution during the week to eligible residents in Prince George's and Montgomery Counties, saying there had not been ample notice. He stated he would protest the lack of prior knowledge and insensitivity on the part of both Counties.

Mayor Abbott commented on articles in the newspapers on the City's speed humps, stating that they are of national interest and the City had received very few complaints. The purpose of the speed humps is to slow down speeding traffic, and not decrease the volume. The Traffic Committee will develop criteria for the installation of other speed humps and make recommendations to the Mayor and Council.

ADDITIONAL AGENDA ITEMS:

Testing sites for the National Airport scatter plan. (Councilmember Iddings.)

GENERAL CITIZENS' REMARKS

Jim Douglas, 212 Tulip Avenue: Thanked Council for the speed humps on Cedar and Maple Avenues; asked for similar consideration on Tulip Avenue, and stated they had made a remarkable difference in controlling speeding traffic. Councilmember D'Ovidio informed the Council that he had received a petition from residents of Baltimore requesting speed humps.

Moses Karkenny, 9 Pine Avenue: Requested that the laws be changed to permit a property owner to park his car in front of his driveway, explaining that he had been advised by a police officer that he could not park in front of the driveway at 7010 Westmoreland Avenue driveway, a property that he owns. Mayor Abbott informed Mr. Karkenny that this issue will be raised with the Chief of Police and Corporation Counsel for their recommendations.

Unidentified Citizen: Thanked Council for the installation of speed humps.

David Prosten, 7428 Carroll Avenue: Pleased with the way the traffic problems had been dealt with, but cautioned the Council regarding the movement of traffic from streets with speed humps to other streets, possibly creating future problems.

Steven Benson, Montgomery County Ride-On Driver: Stated he is a driver on the #17 bus route and the speed humps do not affect time schedules; drivers are more cautious.

ITEMS FOR COUNCIL CONSIDERATION: City Administrator Nichols

1. Communications:

The City Administrator informed Council of two upcoming COLTA hearings: October 5, Case # 176, 7600 Maple Avenue; October 12, Cases #160 and #191, 315 Lincoln Avenue and 7012 Carroll Avenue.

2. Appointment of new member of Historic Preservation Committee

Councilmember D'Ovidio moved the appointment of Ms. Jo Ann Bowman to fill the vacancy on the Committee: the motion was seconded and passed unanimously.

3. Appeal of Alex Kontos re COLTA decision on TP #154, 8322 Roanoke Avenue:

Mayor Abbott restated the criteria to be used by the Mayor and Council in making decisions on COLTA appeals, which had been formally adopted as the standard on June 27, 1983.

The appeal was heard by the Mayor and Council. Councilmember Iddings moved to uphold the decision but remand back to COLTA the reconsideration of the amount of damages. The motion failed for a lack of a second. Councilmember Williams moved that the COLTA decision be upheld, with Councilmember D'Ovidio seconding the motion. Councilmember Bradley moved to amend the motion to double the damages; there was no second and the motion was withdrawn. Councilmember Bradley then moved to table the decision until the Council reviews the official transcript; Councilmember Williams seconded the motion; motion failed by a vote of 2:3. Councilmember Williams' original motion to uphold the decision of COLTA was then considered and passed unanimously.

(8) CATV Tenant Access Ordinance

Councilmember Iddings questioned Mr. Moyer regarding Article 3, Section 4, of the ordinance. Mr. Moyer responded that the section was consistent with Supreme Court decisions and that the ordinance is based on ordinances adopted in other States. He further noted that Takoma Park would be the first municipality or county to adopt an ordinance of this type. It provides for negotiations to ensue between the cable operator and each landlord as to their own compensation formula. The Compensation Commission would only act if the matter were brought to it by a party who was denied access, or if a landlord felt that he was entitled to more compensation than the cable operator was willing to provide. The pertinent provision on compensation is set forth in section 2 of Article 4. A Municipal Infraction could be issued to a landlord who had denied access unless he could show that the cable installation proposed by the cable operator would interfere with the safety or physical integrity of a building; injunctive remedies would also be available. Assistant Corporation Counsel DeNovo stated that the tenant, the City, or an interested party could seek an injunction against landlords who refused access to cable. There was further discussion regarding cable installation, types of equipment used, space for utilities in buildings, security measures, amounts charged tenants and landlords, fair market value of property after the system had been installed (increased or decreased), and other aspects of the ordinance. The CATV tenant access ordinance was moved for adoption by Councilmember Bradley, seconded by Councilmember Faulkner, and adopted unanimously, with the roll call vote recorded as follows: Aye: Councilmembers Bradley, D'Ovidio, Faulkner, Iddings, Williams;

Nay: None; Excused: Councilmembers Garcia, Eckert.

ORDINANCE NO. 2689
(Attached)

Mayor Abbott requested that Mr. Moyer prepare an article on this subject for the Newsletter and commended the Cable Committee for the continuing excellence of their work.

(4) First reading of a proposed ordinance amending Article 2, "Basic Property Maintenance Code," Chapter 6, of the City Code

Councilmember Bradley commented that the classification of code violations is very important and should help with enforcement. Corporation Counsel enumerated the classifications of BOCA violations that were deemed to be threatening to the life, health, and safety of tenants. It was requested that descriptive titles be added. Councilmember Faulkner proposed that lighting in public spaces and parking lots be added, as well as provisions for locked exterior doors. The Mayor requested that these be drafted prior to the second reading and that the locking of external doors provision be coordinated with the Fire Code.

It was also requested that the criminal penalty under Sec. 6-16 be revised to indicate its applicability with more specificity.

Councilmember Bradley suggested that the fines be written to parallel the County fines, saying that it might be easier to enforce violations if the City and County fine structure were the same. Councilmember Iddings opposed this on the basis that the County has a tripartite fine structure. It was agreed that a comparison of City/County fines would be provided.

PROPOSED ORDINANCE
(Attached)

(5) First reading of an ordinance amending rental guidelines section of ordinance #2587

Corporation Counsel reviewed the proposed amendments to the rental guidelines. Upon motion, duly seconded, the Council voted to make the following amendments: add a new Section 6, to read: "To the extent that this ordinance is inconsistent with Sec. 1-17 of the City Code, this ordinance shall supercede Section 1-17"; and a new Section 7 to read: "This ordinance shall become effective on the date of passage." Councilmember Williams moved that fines in Sec. 4(k) be set at \$500.00 per dwelling unit. Corporation Counsel suggested that the fine be linked to the amount of increase that is illegally imposed. Following further discussion, it was agreed that the fine section would be revised and the other amendments incorporated prior to the second reading.

PROPOSED ORDINANCE
(Attached)

(6) Affirmation of Council support of the position of Friendship Heights on the construction of "Ring Road"

Upon motion by Councilmember Iddings, duly seconded by Councilmember D'Ovidio, the Council voted to reaffirm the City's position as enunciated in a letter of September 20, 1983, to the County Council, which supported Friendship Heights in its opposition to the construction of "Ring Road."

(7) Affirmation of decision to demolish the structure at 7312 Jackson Avenue on City-owned property.

Councilmember Iddings explained that the matter had been discussed with citizens in the neighborhood and it was their consensus to demolish the house and use the entire area for a

park. He moved to affirm the decision made in worksession to demolish the structure at 7312 Jackson Avenue; the motion was seconded and passed unanimously.

(9) Testing sites for National Airport Scatter plan

Councilmember Iddings stated that the Council's position on the scatter plan was defeated; it had opposed the test. A monitoring site south of New Hampshire Avenue just outside the City was initially planned. The District of Columbia wishes to move that site further away on Eastern Avenue, south of Riggs Road, resulting in the flights going over Takoma Park not being monitored. Prince George's County will go along with this proposal unless Takoma Park disapproves. Councilmember Iddings moved to reject the change and request affirmation of the initial site; the motion was seconded. Mayor Abbott said that Maryland's interest should be stated by the Maryland delegation; he agreed with the motion providing that Prince George's County ask the District to request a separate monitoring station. The motion passed unanimously.

Upon proper motion, the meeting adjourned at 12:10 a.m., to reconvene on Tuesday, October 11, 1983 at 8:00 p.m.