

PLEASE NOTE THAT THE AGENDA ITEM TIMES INDICATED BELOW ARE SUGGESTED TIMEFRAMES.
ITEMS MAYBE TAKEN UP SOONER OR LATER THAN THE TIMES INDICATED,
BASED ON COUNCIL DELIBERATIONS.

CITY OF TAKOMA PARK, MARYLAND

Public Hearing on Proposed Lake Street Variance/Development and
Regular Meeting of the Mayor and City Council

December 8, 1986
8:00 PM

AGENDA

- 8:00 CALL TO ORDER: Mayor Del Giudice
ROLL CALL: Councilmember Bradley
Councilmember d'Eustachio
Councilmember Haney
Councilmember Iddings
Councilmember Levy
Councilmember Sharp
Councilmember Williams
- 8:02 PLEDGE
- 8:05 ADOPTION OF MINUTES OF OCTOBER 27, 1986 REGULAR COUNCIL MEETING
- 8:10 MAYOR DEL GIUDICE'S COMMENTS AND PRESENTATIONS
- 8:20 ADDITIONAL AGENDA ITEMS
- 8:30 CITIZENS' COMMENTS (those not directed at items on Council Agenda)
- ADMINISTRATIVE REPORTS
- 9:00 (1) Presentation of Concept Drawings for Sheridan/Hancock Neighborhood Park
by Ken Haser, Landscape Architect, Mont. Co./M-NCP&PC
Citizens comments
Council action
- 9:10 (2) PUBLIC HEARING on Appeal No. 8275, request for front building line
variance to construct a single-family dwelling to be known as 212 Lake
Street (Hearing: 12-10-86, 6:30 PM, CAB, Upper Marlboro)
Citizens comments
Council action
- 9:30 (3) Discussion of an Application to Mont. Co. for a Class H Beer & Wine
License for the restaurant located at 7001 Carroll Avenue
Citizens comments
Council action
- 9:40 (4) Resolution appointing Susan Silber Law Offices as the City's Corporation
Counsel
Citizens comments
Council action
- 9:50 (5) Second Reading of Collective Bargaining Ordinance
Citizens comments
Council action
- 10:20 (6) Second Reading of two proposed Housing/COLTA ordinances:
A. "Obligations of Landlords - Unauthorized Entry"
B. "COLTA Commissioners - Terms of Office"
Citizens comments
Council action
- 10:30 (7) First Reading of FY 1987 Budget Amendment No. 3, reallocation of funds
pertaining to Longevity Pay Dispute (Public Hearing scheduled 12-15-86)
Citizens comments
First Reading
- 10:40 (8) First Reading of an ordinance establishing Stop Signs on Roanoke Avenue
at Kennebec Avenue
Citizens comments
First Reading
- 10:50 (9) Resolution supporting appointment of Bruce Moyer to serve on Montgomery
County Cable Advisory Committee
Citizens comments
Council action
- 10:55 (10) Resolution pertaining to City's Liability Insurance
Citizens comments
Council action
- ADJOURN
-
- REMINDERS: Monday, December 15, 7:30 PM -- Public Hearing & Special Council Session

The Mayor and Council will recess for the holidays until the Worksession of
Monday, January 5, 1987.

THE CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and Council
and
Public Hearing on Proposed Lake Street Variance/Development
December 8, 1986

CITY OFFICIALS PRESENT:

Mayor Del Giudice	City Administrator Wilson
Councilmember Bradley	Asst. City Administrator Habada
Councilmember d'Eustachio	Deputy City Clerk Jewell
Councilmember Haney	Corporation Counsel Silber
Councilmember Iddings	Asst. Corporation Counsel Hessel
Councilmember Levy	
Councilmember Sharp	

ABSENT: Councilmember Williams

The Mayor and Council convened at 8:05 P.M. on December 8, 1986, in the Council Chamber, 7500 Maple Avenue, Takoma Park, Maryland. The Mayor noted, for the record, that notification was received from Councilmember Williams that he would be unable to attend the meeting. Following the pledge, Councilmember Haney moved approval of the Minutes of the October 27, 1986 Regular Council Meeting, as written; the motion was duly seconded and carried unanimously.

Mayor Del Giudice presented and read a Resolution of Appreciation to Mary Dean, former Chair of the Historic Preservation Committee, commending her for her services and efforts put forth on behalf of the City. He moved its passage, duly seconded by Councilmember Iddings; motion carried unanimously. Councilmember Iddings commented briefly on the long hours Ms. Dean and other committee members had devoted, remarking that the committee had functioned well with very little Council oversight, in part because of the dedication of its members.

RESOLUTION #1986-77
(attached)

The Mayor noted that the annual effort on behalf of the Unification Bill had commenced; he commented that a group, including himself, Councilmembers Haney and d'Eustachio, former Mayor Abbott, Tom Gagliardo, and Greg Hamilton, had testified before the Montgomery County Delegation Hearing in Rockville the prior week in support of the legislation; he noted the Prince George's Delegation Hearing would be held in January, and efforts would be put forth both by the Mayor and Council and One City, One County on behalf of the legislation.

Directed to Councilmembers, the Mayor reminded of COG's upcoming Annual Board and Membership Luncheon Meeting on December 10; he noted Messrs. Iddings and Sharp had notified COG of their intention to attend and said should others wish to attend, if they would so advise the City Administrator, COG would be notified. Mr. Wilson additionally noted an MML-sponsored dinner (Montgomery County Chapter) on December 11, 7-10 P.M., at the Raindancer Seafood House and asked that those wishing to attend advise him accordingly; he noted he had submitted a tentative number of 3 attendees.

The Mayor noted a Special Session of the Mayor and Council would be convened on December 15 in order to address pending business prior to adjourning for the holiday recess. Mr. Wilson noted that there would be a meeting held on December 17 concerning a variance and that item would appear on the December 15 agenda in order for the Mayor and Council to comment on the issue. He said it related to the building area on a particular lot for which a variance would be required in order to construct a deck.

Mr. Wilson introduced the new Deputy City Clerk, Paula Jewell, explaining that she resides in the City, and was formerly employed as support staff for a Washington, D. C. law firm consisting of seven lawyers. He enumerated other background information on Ms. Jewell, including former employment with the Library of Congress' National Library Service for the Blind and Physically Handicapped, as well as other sections of that organization, and noted that she is in the process of completing courses for her degree in Paralegal Studies at the University of Maryland. He welcomed Ms. Jewell to her position with the City.

CITIZENS' COMMENTS: (not directed at items for Council action)

Mike Davidson, member of Edinburgh House Tenants' Assn. and UMAAC:

expressed concern with the lack of tenant involvement in the process to select a Housing Director; he said tenants would want input into the selection criteria and asked that an additional seat be made available for a tenant representative on the selection advisory committee. He commented on the lack of publicity afforded the creation of the committee, including lack of any newspaper notice and/or public posting. Additionally, he proposed that a widely publicized hearing be conducted to allow tenants to express their views on the subject and said if landlords wanted to make the same request, that should also be met.

For the record, Mayor Del Giudice noted that he and the Council had, on a number of occasions, discussed how to proceed with selection of an individual to fill the Housing Services Director position. He said he thought it was a shared belief that progress should be made as quickly as possible; consensus at a worksession was that the committee structure should include a general public representative, a tenants' representative, and a landlords' representative. He related that appointments were made to the committee at the previous regular council meeting -- only one nomination for tenant representative was submitted, other than an individual with whom the Mayor said he had personally spoken and chose to nominate for membership and who, ultimately, was appointed to serve. He commented that while it was unfortunate Mr. Davidson and other tenants were apparently not aware, the subject was considered over a three week period. Councilmember Sharp, a member of the committee, commented that while the process was one of review and selection with a recommendation to be made to the Mayor and Council for their action; he said it was essentially a personnel matter, applications for the position were handled by committee members as confidential, and he did not view the subject as being at all suitable for a public hearing.

Ginja Carter, Neighborhoods Together: commented that NTL had received 26 phone calls within the past week concerning the committee. She inquired whether, since a hearing would not be held, there was a way, such as submitting letters, that people could have input to the committee -- such as skills they would like to see in the individual chosen, criteria they would wish to see utilized in making a choice.

Councilmember Haney concurred with the idea of letters being submitted expressing such concerns, noting that all those on the committee were keenly aware of the housing problems and issues in the City and a public hearing would be repetition of history, however, said letters addressing such points as mentioned would be appropriate input. The Mayor commented that those communications should be addressed to the attention of Assistant City Administrator Habada, who was coordinating a lot of the work of the committee.

William Eckert, representing B. F. Gilbert Neighborhood Association: referred to a two page statement provided to the Mayor and Council concerning proposed development of the Kass Lot located on Carroll Avenue between Turner Electric and the fire station. He explained that it was currently proposed to locate a post office on the site and stated that the neighborhood association supported that proposal, in fact, felt it could be an improvement over the current use of the property. He referred to prior proposals which were opposed by the community, but did not come to pass. Mr. Eckert pointed out that while the community favored the currently proposed use, they felt there were potential problems to be addressed prior to development occurring, including traffic, parking (particularly to ensure against overflow into the residential neighborhood), and noise and lighting (if the facility were a 24-hour operation). He inquired about the strip containing several lots on Columbia Avenue between Sycamore and Poplar Avenues and which are a part of the property, but zoned differently from the major portion of the Kass Lot. He expressed concern about whether there was possibility of multi-use development and noted the community was opposed to anything like a fast food establishment going in there. He asked that as discussion occurred about the proposed development, the Mayor and Council keep the expressed concerns of the neighborhood in mind. The Mayor commented he had spoken the prior week to Daniel Neal about the subject and said initial discussion about the development/post office project would be occurring at the December 15 worksession; he said at present details of the proposal were unknown. Mr. Eckert requested that if

the City had any information on the proposal it be furnished to him or to Richard Prario, President of B. F. Gilbert Neighborhood Association, prior to the worksession at which it would be addressed.

Councilmember d'Eustachio concurred with the concerns expressed and said he would also wish to receive any information available inasmuch as the property borders on his ward.

Wayne Upton: remarked on attending the recent merchant-sponsored open house in Takoma Old Town and having been the first customer in a new black-owned business there; he showed a book he had bought from SANE, a peace organization, which was personally autographed for him by Congressman Parren Mitchell and spoke briefly in favor of the peace movement, pointing out that if City officials truly support that movement, more effort should be devoted to eliminating back-biting and name-calling among elected officials. He remarked on the recent rerouting of the Ride-On buses because of construction on Maple Avenue and inquired whether those buses would revert to their former route up Maple Avenue following completion of the work, or whether they would be permanently rerouted due to complaints from residents of that street about vibrations to their homes from the vehicles. The Mayor stated that the current plan was that the buses would revert to their former route following completion of the construction work, however, it was unknown at present how long it was going to take to finish the project. He said there was an expressed desire on the part of some of the Maple Avenue residents that the bus routing, as well as some other issues, be examined. Mr. Upton referred to special City meetings held in January 1985 concerning Ride-On bus service and inquired whether a similar meeting might be held in January 1987. The Mayor responded that would be something to consider, however, did not think it could occur in January as some advance planning would be required.

Rino Aldrighetti, 7213 Central Avenue: concerning the Newsletter, he remarked he felt it was deteriorating and that the City could and should do better with it. He said he understood there had been no review of the publication during the current administration's term and encouraged that be done, as well as an effort made to involve citizens as support staff in terms of writing material, doing photography, etc. He said it seemed the Newsletter had evolved more toward departmental reports rather than what was occurring throughout the City -- it appeared to be losing the spirit of the community. As an example, he used the Folk Festival, noting the amount of work that goes into the event and commenting that the slight amount of followup, which would encourage those who had not participated or attended to do so in the future, was unfortunate. He said Council was obligated to evaluate the publication every 6 months, asked that it be done, and hoped some direction would be provided by the Council so it would reflect the qualities of the City. He stated that if the publication continued in the direction it has been moving, as a citizen, he would object to spending the amount of money being spent to produce it.

ITEMS FOR COUNCIL ACTION:

1. Presentation of Concept Drawings for Sheridan/Hancock Neighborhood Park.

While Ken Haser, Landscape Architect for Montgomery County M-NCP&PC set up his presentation materials, Councilmember Iddings briefly summarized background information on the planned park. He noted passage of a resolution by the previous Council urging that planning of the project be expedited, which was done through Mr. Haser, and said that neighbors of the park property commenced meeting with Mr. Haser in February 1986. He explained the property consisted of a bit more than 2 acres, bounded by Carroll, Sheridan, Sherman and Lincoln Avenues; it is heavily wooded, with one side almost completely overgrown by brambles and other undesirable vegetation. Mr. Iddings stated that the neighborhood had met a number of times with Mr. Haser at well-publicized meetings, discussing what they would wish to see happen with the park, and he felt that the plan which would be presented was reflective of the desires expressed.

Mr. Haser spoke, relating that a small group of Takoma Park citizens approached the County Planning Board about a year and a half ago requesting that the development process for the park be expedited; the board recommended that the planning process move ahead so construction could commence when funds were available in July 1987. He said a subcommittee, chaired by Councilmember Iddings, was formed and he (Ken Haser), was a

member and acted as liaison between M-NCP&PC and the committee. Several meetings were held and a public hearing conducted in November, at which time the plan was presented to the Eastern Area Advisory Board. Following the present meeting, the plan will be presented to M-NCP&PC in-house staff in early January for their input and, subsequently, to the Planning Board for its final approval. At that time, he said a decision would be made based on the plan as presented at the current meeting with any further recommendations and comments made by the Planning Board. He said that would be an open meeting and all interested parties are free to attend and to speak, if so desired. He noted that meeting would be held on the 15th of January at 3:00 P.M. Mr. Haser summarized the proposed plan, describing the park property and surrounding residential area and planning considerations and problems encountered, as well as the envisioned development and use. He noted the primary access to the park would be at Sheridan and Hancock Avenues, the secondary access would be from Carroll Avenue. He commented that a third access had been mentioned, however, that was uncertain and was a point that would have to be negotiated. Mr. Haser elaborated on the various areas of the park property and their projected treatment and use, as well as the work required for development and the considerations involved in the process. He said the Planning Board had expressed some concern about amenities such as bike racks, drinking fountains, etc., which are sometimes taken for granted but are not included in the planning process -- if the Planning Board's desire was to carry forward the position that they would want drinking fountains in all parks if possible, then that facility will be provided. He said environmental preservation concerns had been expressed and those would be addressed to the extent possible, the perimeter walkway would be an organic mulch material rather than a paved surface. In response to query from Councilmember Haney, he explained the shelter building would be grounded (in the event of a lightning strike); the serpentine pathway would go around trees, so as not to require removal of existing large trees. He said he had encountered no neighborhood opposition to the park, however, concerns had been expressed about screening certain areas and provision of lighting (consensus appeared to be a preference that the park not be lit). Councilmember Iddings commented he had spoken to only one person who had said he would prefer the property remain in its present state rather than having a park constructed thereon -- the majority opinion of the community was very much in favor of the park and any concerns voiced had been satisfactorily addressed during the course of the meetings held. In response to query from Councilmember Bradley, Mr. Haser spoke briefly reiterating the Planning Board's position on the provision of drinking fountains in parks whenever possible. Ms. Bradley urged that bike racks also be provided to make the park more accessible to the community -- Mr. Haser said he thought the board would concur with that request; he affirmed that there would be a very adequate amount of seating provided in the park. Responding to query from the audience, it was noted there were no court-type facilities (such as tennis courts, basketball court, etc.) planned for the park, however, it was possible that volleyball stanchions would be provided for use on the lawn area. Mr. Haser commented that court facilities would occupy a very significant portion of the limited area of the park, and that their use is limited to a small number of individuals at any one time, thus, that use would not be practical for the park.

Ed Hutmire, 7412 Holly Avenue, representing Takoma Park Recreation Council: spoke concerning the 20-year history of community interest in the possibility of developing the subject property, relating that in the 1960's the owners planned to build townhouses there, which was opposed by the neighborhood who favored its development as a community park. He commented concerning the meetings held with Ken Haser, and Mr. Haser's talent and expertise in bringing the community's wishes and desires to a consensus on the proposed park development.

Councilmember Iddings moved passage of the resolution, duly seconded by Councilmember Bradley; motion carried unanimously.

RESOLUTION #1986-76
(attached)

2. Public Hearing on Appeal No. 8275, request for front building line variance to construct a single-family dwelling to be known as 212 Lake Street (Hearing: 12-10-86, 6:30 P.M., CAB, Upper Marlboro).

Councilmember Sharp moved that a twenty minute time limit be imposed for

discussion of the item, duly seconded by Councilmember Levy; motion carried by majority vote. The Mayor noted this item had been before the Council a number of times previously.

Michelle LaRocca, of Morris, Billings & Shipley, 6801 Kenilworth Avenue, Suite 400, Riverdale, Maryland, representing Mr. Hoobler, owner of Lot 16, Block 11 (214 Lake Street): distributed pertinent information to the Mayor and Council. She summarized the history of the property, noting that when resubdivision of the properties on the block occurred during development, the lots were resubdivided into a 45' wide configuration x 150' deep -- the same configuration as Mr. Hoobler's lot. She noted that construction had primarily been single-family dwellings on the 45' x 150' lots, however, there were a couple of exceptions where dwellings accommodating more than one family had been built on the lots. She pointed out that the problem Mr. Hoobler faces if he is to build on his lot is the fact that his property does not meet the existing front building line requirement of 65 feet, thus, a 20 foot variance would be needed. She noted that over a long period of time, zoning changes occur and what already exists is not necessarily taken into consideration, which would account for the situation Mr. Hoobler has encountered. She said it should be remembered that Mr. Hoobler plans to construct a single-family dwelling on his lot, very much in accordance with other existing dwellings in the area, on a lot of the same dimensions as others, and with his house placed on the lot in a fashion similar to those already existing. She said her firm felt Mr. Hoobler was in strict compliance with the criteria that had to be met in order for the variance to be granted, and requested the Mayor and Council's support for granting of the variance in order for Mr. Hoobler to proceed with construction of the single-family dwelling he plans to build on the property. She noted Mr. Hoobler additionally owned 4 other lots on Lake Street, and that in City staff's report there were comments relating to drainage issues. She said her firm had been in touch with WSSC in relation to those concerns and were pursuing all necessary courses of action; however, pointed out that as those lots were not presently at issue they were not of concern in the current discussion. She did remark that if WSSC found there were drainage issues on those lots that could not be addressed, a building permit certainly would not be issued. Mr. Hoobler commented he had purchased an additional piece of property since last appearing before the Mayor and Council, thus, the increased number of lots under his ownership.

Councilmember d'Eustachio commented that originally Mr. Hoobler had proposed constructing 4 buildings on his lots and, thus, he felt that the current proposal was not really limited to the one lot and one variance but, if approved, would set the precedent for being allowed to build on the other 4 lots. Ms. LaRocca remarked she was aware of Mr. Hoobler's prior appearances before the elected officials and the fact that he had procured an additional lot in the interim -- all of the lots having the exact same dimensional variance problem, and each requiring a variance in order to be built upon. In response to questions raised, she emphasized that the need for a variance related to the footage requirement for the front building line (which is interior to the property), not the front street line (which is adequate under the ordinance requirements). Following additional explanation by Ms. LaRocca, she conceded that potentially 5 houses could be constructed on Mr. Hoobler's lots, provided that WSSC and County Public Works and Transportation Department resolve any and all drainage problems, including stormwater management issues. She commented that WSSC had a hand in resubdividing the lots to 45' x 150', and they have an easement that runs down the lot line to the sewer lines. Discussion ensued concerning the grade of the property, with the Mayor noting that if Lake Street were constructed, it would require regrading prior to that construction. Mr. Hoobler remarked he had been under the impression that he would be responsible for construction of the street and that the construction would have to meet code requirements for grading. Councilmember Sharp moved that the discussion be extended another 15 minutes, duly seconded by Councilmember Haney; motion carried.

Henry Guilford, City Engineer: said he had had some discussion with the engineering firm Mr. Hoobler had retained, and they were pursuing drainage and floodwater problems related to the property; however, he pointed out that prior to getting a permit for sewer and water connections for the property, Mr. Hoobler would have to go through a storm drain review process with WSSC, so the possibility of building on the property at all would

depend upon his successfully getting through that. Concerning the grade problem, he said he had not had an opportunity to really study that, but could see there would be some steep grades up to the Poplar Avenue area. Councilmember Bradley inquired whether the variance had to be gotten prior to WSSC making a decision, or vice versa. Mr. Guilford stated that WSSC's decision would not be dependent upon the variance at all -- the two would be separate issues. Ms. Bradley commented that awaiting WSSC's decision on the water issues would provide Council more information on which to base a rational decision; Mr. Guilford concurred.

Joan Feely, 211 Spring Avenue: commented that while the 45' street frontage requirement allowed for construction on pie-shaped lots, the intent of the 65' building line requirement was to provide adequate space between houses; said that while the existing neighborhood is nice, it is primarily due to the buffer zone provided by the large area(s) behind the homes so that they are not right on top of one another. As a resident of the neighborhood, she strongly recommended against granting of the variance, because she saw no good reason for it, while there was a good reason for the zoning ordinance under which such construction would not be permitted. The Mayor inquired whether Ms. Feely would judge the prior standards allowing for the narrow type of lots to be a mistake; Ms. Feely responded in the affirmative, stating that the houses are very close together and the urban atmosphere of the neighborhood is unfavorably affected.

Paul Gentile, 209 Spring Avenue: commented that he felt the subdivision of properties done at an earlier point in time (1930's approx.) were unreasonable; people apparently didn't have concerns about the ambiance of neighborhoods, safety issues, etc. He said if there were a fire in his own house, it could easily spread to his neighbor's, which is a safety issue. He said he felt granting of the variance, which could ultimately allow construction of 5 houses, would increase the density in the area too much; he said the area needs to develop slowly, rather than being overpopulated, and if the variance being requested were granted, then subsequent ones would have to be granted also, which would not be conducive to a healthy neighborhood.

Arthur Wagner, owner of Lots 4, 5, and 6 across Lake Street: said he felt Mr. Hoobler was trying to improve an area that had long been vacant and neglected, and was not asking for anything out of the ordinary. He said while he could have asked to build townhouses in the area, he had presented a plan that it appeared would beautify a vacant property and add to the City's tax base. He said he felt that 6' from the lot line on either side of the house was ample, and that what was being proposed would be an improvement to the area.

Ms. LaRocca pointed out that whether the front building line were 45' or 65', the setback on the sides would be the same, i.e., 8 feet from the lot line on each side -- in fact, what was actually being provided due to the 45' width was a 9.5' side setback, which was more than the 8' that would have been required if the lots were in conformance -- thus, the proximity issue was not relevant.

Assistant City Attorney Mark Hessel commented he had talked with Ms. LaRocca prior to the meeting, and there appeared to be an honest disagreement concerning the exact meaning of the applicable legal standard; he elaborated on that statement, explaining that it appeared to him that the owner of the lots could resubdivide the 5 lots into 3 and easily conform to the requirements with space left over. He said it was his interpretation that the Master Plan calls for treating the neighborhood in question carefully, and that, in his view, putting in more houses rather than fewer and granting variances in order to do so, would be contrary to the recommendations of the Master Plan. He said he felt the lot width requirements were changed from 45' to 65' for a good reason, and the 45' lots were allowed only because they were already there. He said that since the lots in question were never built on and the opportunity exists to resubdivide and create 65' wide lots, existing public policy in land use would support moving in that direction.

Councilmember d'Eustachio commented he had talked and worked at length with Mr. Hoobler concerning his plan and was, quite frankly, impressed. He said he felt the community should be pleased to have a developer of Mr. Hoobler's caliber, with his skills, abilities and creativity; said he thought

what he was contemplating building was reasonable and tasteful. He said his only concerns were related to precedent setting vis-a-vis development of vacant parcels of land in the City and altered concepts, over the years since initial subdivision, of what standards were acceptable. Based on the latter, because he felt the 65' required building line width was something that should be adhered to, he moved opposing granting of the variance; the motion was duly seconded by Councilmember Bradley. Councilmember Haney commented he saw the proposal as another infill development issue in a neighborhood and said that as he had made clear in the past, he felt a lot of weight should be put on what the residents of the community express about that sort of development. He pointed out that those residents are the ones who have to live with whatever development occurs in their neighborhood. He noted that Corporation Counsel's memorandum on the subject stated that neighbors of Mr. Hoobler's property have said that they would find three houses on the lots acceptable, and suggested that Mr. Hoobler redesign his proposal for three homes, which would allow him to more than recoup his investment. He expressed support for Councilmember d'Eustachio's motion. Councilmember Bradley commented that perhaps Council erred in not firmly advising Mr. Hoobler several years ago that they would only want to see three houses proposed for construction on the lots, rather than allowing the discussion to recur and continue. She commented that the community opposition did not appear to be any sort of movement to acquire the property for open space purposes; there appeared to be a tacit acknowledgment that it would inevitably be developed; what seemed to be in question was what sort of development would be fair and acceptable to other area property owners. She concurred with earlier comments about the variance for Lot 16 being a "toe-in-the-door" tactic for setting a precedent for the other four lots. She remarked that if it were only a question of efforts expended and personalities involved, it would be easy to want to support granting of the variance to Mr. Hoobler. She, too, urged Mr. Hoobler to examine options other than building one house on each of the five lots. She remarked on the questions surrounding drainage and stormwater management remaining to be answered by WSSC and which would determine the feasibility of the proposal. The question was called on the motion to oppose granting of the variance; the motion carried by unanimous vote. The Mayor noted that the City's position on the requested variance would be transmitted to the appropriate county agency; he thanked those present for their attendance and participation in the hearing.

3. Discussion of an Application to Montgomery County for a Class H Beer & Wine License for a restaurant located at 7001 Carroll Avenue.

The Mayor referred to a statement on the subject from Arthur Karpas on behalf of the Westmoreland Area Community Organization which was received and disseminated. In response to Councilmember Bradley, it was noted that the county hearing had already been held, but at the City's request, the record was being held open due to lack of formal advance notification to afford an opportunity for the City to adopt a position.

Daryl Stevens, 6800 Westmoreland Avenue: urged that Council not support granting of the license because it was felt the developer had not been totally honest and forthright in his dealings with regard to wastewater runoff, vehicular access to the property, and other issues. He said granting of the license might compound problems, and the developer did not seem concerned about addressing issues raised. Councilmember Bradley inquired whether the developer had had any discussions with WACO or individual community residents; Mr. Stevens responded that the only conversations that had occurred were with Mr. Urciolo and Travis Price. Councilmember d'Eustachio commented that, in general, he concurred with WACO's and Mr. Stevens' positions as stated. He said the primary reason for soliciting input from the residents was that the sort of operation proposed generally has a significant impact on the surrounding community, and a number and variety of problems are often generated when there is sale of alcoholic beverages. He said while that sort of business did not necessarily degrade or deteriorate the neighborhood, proper management by a business owner who was sensitive to the concerns of the neighbors was imperative in order to ameliorate the effects, and the particular parties in question had not demonstrated any particular concern for the community -- efforts to contact them have been frustrating and they don't readily return calls, which causes concern. He opined that concerned business owners communicate their plans and wishes to the community, provide an opportunity for some exchange with neighbors, and ask for their support, which has not happened in this case. He noted that the majority of Takoma Old Town business owners had, at one time

or another, either attended WACO meetings or approached the organization to communicate with them. He said the sole focus of this developer seemed to be the walk-in traffic from Carroll Avenue, with a total disregard for those living to the rear of his premises. He said he frankly feared setting a precedent of disregarding/ignoring the community, and he would move supporting Mr. Stevens' position of opposing granting of the license. Councilmember Haney duly seconded the motion. In response to query, it was noted that the business was located in the building formerly occupied by Murphy's Auto Parts; there were two separate lots providing parking for the establishment; access to the restaurant would be both from Carroll Avenue and from one of the parking lots.

Unidentified female: inquired concerning location of the restaurant; said she understood it would be a pizzeria and did not feel liquor and a pizzeria was a good combination. She said a pizzeria draws a lot of young people and the sale of alcohol could create a lot of problems; said she, as a citizen, would strongly oppose the proposal.

Raymond Hill, 7104 Poplar Avenue: expressed agreement with Councilmember d'Eustachio's remarks; said what was proposed would definitely pose problems for people living on Westmoreland Avenue. He said he attended the county hearing on the subject -- was the only resident in attendance -- and the committee had several problems to deal with; one problem was lack of adequate restroom facilities on the premises. He said apparently it was a young man and his mother who would be operating the business. He said the proposal was that the business be open after normal hours of operation of other restaurants. He said the board questioned the young man at length. Mr. Hill stated he was opposed to the proposal; said he lives near Takoma Cafe and feels his life is jeopardized by people drinking irresponsibly -- said all that is needed is to read the paper and/or listen to the television to know what is occurring. He said the business owner also runs an Italiano's Pizza Place in Rockville, and he had no objection to that in Takoma Park, but did oppose granting of the liquor license. He said he empathized with the need to increase the tax base, the need for businesses in the City, but asked that stable, worthwhile businesses be encouraged. Councilmember Levy commented that while the Takoma Cafe holds a liquor license, they have had no problems in relation to accidents, drunks or unseemly incidents. She said while she felt the developer should have met with the neighborhood organization, she did not think, per se, that a pizzeria that sells beer would cause disruption in the neighborhood -- said Takoma Cafe was a good example of a place where people could have an occasional beer or glass of wine without adverse effects to the neighborhood.

Councilmember Bradley inquired whether, if both the City and the County Liquor Board voted to deny the license application, there was a period of time during which reapplication could not be made. Corporation Counsel was uncertain of the answer to that inquiry. Ms. Bradley asked the name of the individual who was the actual applicant for the liquor license and whether any member of City staff had contacted that individual. City Administrator Wilson reminded of the fact the City did not receive advance notification of the county hearing; however, said appropriate parties were notified of the current meeting -- the Mayor noted the current meeting was also advertised. Mr. Hill commented that notice of the county hearing was posted on the window of the premises. Councilmember Bradley commented she would support opposing the application, however, should the situation change -- particularly in regard to the dangerous situation related to one of the parking lots -- and a reapplication was made, she felt a reassessment would have to be made. She said she was not opposed to allowing the sale of beer in a pizzeria, per se; however, said that in the other 2 instances wherein the City supported granting of liquor licenses, meetings were held with the business owners and they gave assurances in the course of public discussion -- also, they were businesses known to the community for some period of time. She said while Mr. Urciolo and Mr. Price were known to many in connection with a number of other issues, Mr. Carlton and the "pizza man" were unknowns. For the record, Councilmember Haney commented he liked beer and pizza and would look forward to going to Old Town for same with friends, however, could not ignore the comments of the neighborhood which were not new -- comments had been made previously about the dangerous parking lot situation. Concerning the stormwater runoff problem, he said there would be a meeting held December 9 concerning proposed development of the Cohen Brothers Property on New Hampshire Avenue; he pointed

out that proposal had been delayed approximately 3 months because of negotiations over questions of how stormwater runoff would be handled, which he said is a legitimate neighborhood concern. He said if a suggestion made some time ago that the relationship between the citizens and the business community be renewed in Old Town had been followed up, and had the developer taken the time to sit down with members of the community, perhaps some of the apparent antagonism underlying the present situation could have been avoided; he said he would vote to oppose granting of the license. The Mayor, responding to Councilmember Iddings, noted that the City's role vis-a-vis liquor licenses was advisory only in Montgomery County, in contrast to Prince George's County where the City has a formalized role in the process; Mr. Iddings remarked he would vote to oppose granting of the license based on the fact there appeared to be unresolved problems between the developers and the community. The question was called on the motion to oppose; the motion carried with Councilmember Levy voting Nay, balance of Council voting Aye.

4. Resolution appointing Susan Silber as the City's Corporation Counsel.

The Mayor summarized the process utilized to select a Corporation Counsel, noting it had been ongoing since April 1986 and pointing out that Ms. Silber's firm had been serving in the capacity of Acting Corporation Counsel during the interim. He commented the search was exhaustive and included appointment of a committee, advertisement of the vacancy through numerous publications; approximately 67 applications were received and subcommittees were formed to evaluate and rate each application. Once the applicants being considered were reduced to 15-18, those were examined by the entire committee, with about a half dozen eventually being personally interviewed, and the field being narrowed down to four finalists. Consideration was given to both an in-house attorney and contract provision of legal services, and the final consensus was to try to reach agreement with Ms. Silber's firm to continue providing the required services. He elaborated on the agreement that would be signed with the law firm, explaining the cost breakdown and fees for various services, noting that the fee for the attorney's presence at Council Meetings after 11:00 P.M. increased significantly, which would, hopefully, be an incentive for commentary to be kept at a minimum. He commented the contract basic fee was \$70/hour for the first hundred hours of service provided in a monthly period. He thanked all the committee members who served during the selection process, and commented he felt the firm chosen could provide the City very strong legal representation. He remarked that members of the firm included Ms. Silber, Mark Hessel, Mary Bottum, and an additional individual, and while the arrangement was not for in-house staff, some of those persons would be spending time in the City offices on a weekly basis to lend legal assistance to staff. The Mayor moved passage of the resolution appointing Ms. Silber's law firm to represent the City, duly seconded by Councilmember Iddings. Councilmember Sharp suggested that the word "recommendation" in the first resolve clause of the resolution be editorially corrected to read report, which was accepted. The resolution was passed by unanimous vote.

RESOLUTION #1986-78
(attached)

The Mayor commended Ms. Silber's law firm on the work they had done for the City in an acting capacity and said, based on that performance, he felt the relationship to be very promising for all. Ms. Silber thanked Mayor Del Giudice and commented on how much she and her cohorts had enjoyed working with City staff during the past months in their acting capacity; she said the work had been both challenging and interesting, very rewarding, and she looked forward to serving the City further. In response to query from an unidentified member of the audience, it was noted that the contract with Ms. Silber's firm would become effective immediately, however, some of the terms may take additional time to phase in.

5. Second Reading of Collective Bargaining Ordinance.

The Mayor noted the executive summary attached to the ordinance which pointed out the major provisions of the legislation; he commented on the numerous occasions the ordinance had been before the elected body for discussion, public hearing, and numerous amendments. Councilmember Levy moved adoption of the ordinance, duly seconded by Councilmember Iddings. Councilmember Sharp moved imposition of a 25-minute time limit for debate on the issue, duly seconded; motion carried by majority vote.

Peter Moralis, Special Representative for International Union, AFSCME: remarked that the present event had been awaited for some time and he was glad it had arrived, despite taking a bit longer than was felt to be necessary. He congratulated Susan Silber on her firm's appointment and commented he recognized they had put in a lot of work on the legislation. He additionally thanked AFSCME's attorneys and others involved for their efforts. He said while he did not think the ordinance was the best in the world, it was very workable and met the needs of the employees, allowing them to have representation. He said he felt that it allowed the effort to get underway, and as time goes by if it is found that alterations are needed in the provisions, then those could be effected; he said the union supported the legislation for adoption, that it moves in the right direction; he thanked the Mayor and Council. The Mayor noted, on page 3 of the ordinance, inclusion of a definition of "employee," based on prior discussions.

Mary Salb, City employee, School Crossing Guard: said she was glad to see the ordinance up for adoption; thanked the Mayor and Council for their time and efforts expended so that employees would have the option of organizing and having a union to represent them.

An unidentified male member of the audience inquired how much more this was going to cost the City and the taxpayers. The Mayor responded that he was not sure that could be answered one way or the other. Councilmember Id-dings commented that if there were any increase in costs, it would be more than made up by the increased efficiency of a work force having improved morale because they have a strong union representing their interests.

Ben Elliott, 7111 Poplar Avenue: reminded that he had spoken on behalf of a sizeable group of City resident unionists/activists before the Council the first time the legislation was presented some time ago. He noted that at that time, the situation was a bit more tense, and his group lent their support to the concept of collective bargaining for City employees and had monitored the development and progress of the bill -- he said they were very pleased with the ordinance and were pleased to be part of a City which had produced a bill that would benefit the employees, the City government, and the public as a whole. He extended congratulations on a good job.

David Prosten, 6625 Eastern Avenue: stated he was a member of the group referred to by Ben Elliott, and commented he too felt the legislation was basically good, however, felt improvement could be made in a couple of areas, e.g., the union democracy section was uncalled for in that it was covered elsewhere -- either by federal law, or in the case of AFSCME, by their own constitution; and, the essential requirement of decertification of a union which strikes in violation of the third party mediator or arbitrator's ruling -- said he felt such things should be dealt with by realizing that there was an institution, and dealing with that institution rather than kicking it out, which would not make the problem disappear. He supported adoption of the ordinance; said it was basically sound and was overdue, would go far to improve the services in the City and the morale of the people who will now have a voice that they did not have before.

Jay Harvey, 7017 Sycamore Avenue: commented he worked for the Senate Labor Committee and, previously, for the State Labor Relations Commission in the State of Massachusetts where the state collective bargaining law was administered. He said he was a bit shocked and surprised to find that Maryland has no state collective bargaining law; said he was a new resident of Takoma Park, and thought the City was setting an example for the state with adoption of a fine collective bargaining law -- thought all would be pleased with how it works -- that it would be in the best interest of both the employees and the City.

Cecilia Fabula, District Director of Organizing for AFSCME: remarked that it had indeed been a pleasure to work with many of the Councilmembers involved in assisting with the legislation, as well as Ms. Silber and her staff who were extremely generous with their cooperation. Additionally, she extended thanks on behalf of the majority of City employees, who she said will be indebted to the Mayor and Council for adopting the legislation.

Councilmember Bradley commented that, as a member of the Council, one looks back at times and thinks of particular pieces of legislation that they were glad to be able to participate in formulating, and said that, for her, this

ordinance was one of those. She related that she had been employed in the State of Maryland and, for various reasons, not been eligible to be a union member, thus, was pleased when she saw the happy smile on the face of the crossing guard who spoke earlier about the opportunity being afforded -- an opportunity, she said, for both management and employees to develop a good working relationship. She said she was pleased to support the legislation, and would echo Mr. Prosten's earlier comments concerning the democracy clause and the reference to decertification, however, felt that on the whole, the bill was much more good than bad despite minor imperfections. She said there were only a couple of members of the Council who had worked in local government, and she hoped if she did at any future time, that it would be in area allowing this sort of collective bargaining agreement.

Councilmember Levy expressed her continuing support of the collective bargaining legislation, commenting that she had been accused of "wearing two hats." She said that, from personal experience, she felt the improved employee morale resulting from adoption of the law would affect the City in a very positive way. She said it was not just the idea of employees having a bargaining unit, but the getting together and having input and a feeling of worth, which the collective bargaining law would enable employees to do. She said it would give them a sense of participation, feedback in the City for which they work, which many love and make their homes. The Mayor commented that the thing that excited him most was that the law provides a framework and an organization for involving employees in the decision-making process -- something he had learned through a rather acute lesson since taking office that the City has lacked. He commented that the history of the City, particularly in its personnel policies, demonstrates that there needs to be ongoing discussion in the development of policy -- particularly those policies affecting employees. He said from time to time, there had been complaints by employees which had been ignored and then suddenly grown into a crisis situation, e.g., the recent back pay dispute. He said during such episodes, inevitably there was discussion about setting up an ongoing committee to deal with issues, however, once the crisis was resolved, the impetus was lost and fell by the wayside -- the collective bargaining ordinance will set up an ongoing process to deal with issues. He stated that, while he did not vote on legislation, he did endorse the ordinance. For the record, he noted that the decertification referred to in the ordinance was not a mandatory measure, and a one-year maximum limit was set in the event the state decided that decertification should occur. The ordinance, as amended in draft #4 dated 12/3/86, was adopted by roll call vote as follows: AYE: Councilmembers Bradley, d'Eustachio, Haney, Iddings, Levy and Sharp; NAY: None; ABSENT: Councilmember Williams. Mayor Del Giudice commented on the significant amount of time and effort put into the ordinance by Susan Silber's Law Firm, as well as AFSCME's attorneys; he thanked both for their cooperation and assistance.

ORDINANCE #1986-47

(summary attached, copies of ordinance available upon request)

6. Second Reading of two proposed Housing/COLTA ordinances:
 - A. Obligations of Landlords - Unauthorized Entry
 - B. COLTA Commissioners - Terms of Office

Councilmember Sharp moved adoption of the two ordinances, collectively, duly seconded by Councilmember Iddings. The Mayor noted that for purposes of discussion, it was acceptable to move the ordinances jointly; however, they would have to be adopted separately by roll call vote. Councilmember Sharp noted that on pages 2 and 3 of the ordinance concerning terms of office of COLTA Commissioners, Sections erroneously numbered "8., 9., 10." should read "10., 11., 12.;" additionally, he pointed out the need for a date for insertion in Section 10. Concerning the aforementioned date for insertion, following brief discussion, the Mayor stated he would wish to speak with current COLTA commissioners about an appropriate date and would provide same for insertion in the ordinance by February 9, 1987. Councilmember Bradley commented she was pleased to see that Section 7. stipulated that Commissioners might be appointed for more than one term, as she would have wanted to see that provision made; she remarked on the need for continuity on the Commission, which that provision allowed. The ordinance concerning obligations of landlords in relation to unauthorized entry was adopted by roll call vote as follows: AYE: Councilmembers

Bradley, d'Eustachio, Haney, Iddings, Levy and Sharp; NAY: None; ABSENT: Councilmember Williams.

ORDINANCE #1986-48
(attached)

The ordinance concerning terms of office of COLTA Commissioners was adopted by roll call vote as follows: AYE: Councilmembers Bradley, d'Eustachio, Haney, Iddings, Levy and Sharp; NAY: None; ABSENT: Councilmember Williams.

ORDINANCE #1986-49
(attached)

7. Resolution supporting appointment of Bruce Moyer to serve on Montgomery County Cable Advisory Committee.

Passage of the resolution was moved by Councilmember d'Eustachio, duly seconded by Councilmember Iddings. The Mayor solicited nominations for an alternate; Adele Bunoski confirmed she would wish to make a nomination, and also commented it was hoped confirmation could be made of the two individuals the City's Cable Board was recommending to fill two vacant seats on that board. She nominated Amity Hall to fill the alternate position on the County Cable Advisory Committee. Ms. Bunoski, responding to the Mayor concerning appointment of Bill Squire to a seat on the City's Cable Board, was interrupted by Councilmember Iddings making a point of order that the item was not on the agenda. Councilmember Bradley moved addition of the item to the agenda so it might be dealt with, duly seconded by Councilmember Levy. In response to query from the Mayor, Ms. Bunoski stated that the seat for which Mr. Squire was being nominated was a board-appointed seat, and the unanimous recommendation of the board was to appoint Mr. Squire; she noted the term for that seat would expire the end of January, and explained the additional vacancy referred to was an elected seat. During dialogue about the proposed appointments and prior communications from Ms. Bunoski regarding their scheduling, a number of interruptions and brief exchanges occurred. Council voted in the majority to add cable board appointments to the present agenda. The Mayor, for purposes of clarification, stated that what was being considered was a resolution appointing Bruce Moyer to the county CCAC, Amity Hall to that same body as an alternate, and Bill Squire to fill a vacancy on the City's Cable Board in a board-appointed seat; it was noted that Bob Foepfel had been nominated to fill the elected seat vacancy on the City board (that seat will expire at election time - November 1987). The question was called on appointing Bruce Moyer as primary representative and Amity Hall as alternate to the county CCAC; the resolution was passed by unanimous vote.

RESOLUTION #1986-79
(attached)

Following brief discussion, Council by majority vote (2 abstentions) approved the appointment of Bill Squire to fill a vacant board-elected seat on the City Cable Board. For the record, Councilmember Iddings explained that his abstention was not meant to oppose Mr. Squire's appointment; said he felt he would be a valuable asset to the board, however, he did object to it being brought up at the tenth hour as an additional agenda item. Following brief additional comment by Council, the Mayor remarked that there appeared to have been a mixup along the way concerning the City Cable Board appointments to be made, despite Ms. Bunoski's contacts with staff and other communications, and for that, he extended apologies and remarked that staff coordination on such matters would have to be improved upon. Ms. Bunoski, at the request of Councilmember Bradley, withdrew her request to appoint Mr. Foepfel at the current meeting and stated she would resubmit the matter for agenda scheduling in writing and through appropriate channels as suggested by the Mayor.

8. First Reading of FY 1987 Budget Amendment No. 3, reallocation of funds pertaining to Longevity Pay Dispute (Public Hearing scheduled 12-15-86).

The Mayor noted that the adjustments effected in the ordinance were primarily for the purpose of settling the subject pay dispute and paying related legal fees. Concerning item D., an additional major item, wherein two options were provided, he suggested Option 2 as being administratively preferable and said that the designated amount suggested was \$80,000.

Councilmember d'Eustachio commented he would have to suggest an amount less than the \$80,000 suggested; he said he felt Council had a responsibility to more closely monitor expenditure of the legal services budget, which had not been done adequately to date; he suggested transferring about half the amount proposed at present, with the recognition that an additional transfer may have to be made at a later point in time. He remarked on the need, at some point, to discuss administrative procedures whereby Council could more closely monitor legal services expenditures; he reiterated he would support transferring \$40,000 rather than \$80,000, and questioned taking it out of surplus rather than general contingency. He pointed out that was a bit more painful approach, but felt it would force Council to pay more attention to what money was being spent on. Mr. Wilson noted that the 2% surplus in the budget was put there specifically for use in emergency type situations, and said he would not define the current need as being in that category. Councilmember Bradley asked whether the legal fees could be frozen until such time as they could be discussed more fully. She inquired whether Mark Hessel was on retainer at the current meeting; he responded he was there because he was uncertain whether the personnel procedures ordinance would be addressed, however, pointed out that when he and Ms. Silber were both in attendance, they did not charge a double fee. Ms. Bradley remarked that she felt the amount incurred in legal fees to be a very serious matter, and that the City would be in a real bind if expenditures for those services continued at the recent rate; she concurred with Mr. d'Eustachio's comments about the need for Council to discipline themselves regarding requests for legal services. Additionally, she said, controls had to be placed on extra drafts or rewrites that had not been requested. Councilmember Haney interjected that when something was requested, too much was being furnished, and that too could be cut back on. Councilmember Sharp commented he did not consider that to be the fault of Corporation Counsel, that the Council could and should have put a stop to it. Mark Hessel remarked on several recent very sizeable ordinances, and October having been an extraordinary month in terms of issues requiring legal services, e.g., settlement of the pay dispute as well as a variety of other things. In response to query from Councilmember Bradley who had inquired whether the issues contained in the budget amendment could be separated, the Mayor responded that they could. Asst. City Administrator Habada, however, pointed out that if that were done, it would delay processing of payment for the legal services. Ms. Bradley suggested, given the late hour, that the ordinance be accepted for first reading, with additional discussion at the December 15 worksession. Councilmember Iddings, for the record, clarified that consensus of the Council was to accept Option 2 of item D of the ordinance, insert a figure amount of \$40,000, and discuss the matter further on December 15. Concerning item B of the ordinance, he commented he could not really support the indicated level of settlement (\$96,500), thus, would vote against the ordinance if that were a part of it -- or against that particular provision, if the issues were separated. He said he felt that amount to be in excess of what would represent a just settlement of the dispute, and felt it to be unfair to the City. Councilmember d'Eustachio suggested accepting the ordinance as written for first reading, and dividing the issues for second reading; he so moved, duly seconded by Councilmember Iddings. The ordinance was accepted for first reading by unanimous vote. In response to comment by Councilmember Sharp, the Mayor remarked that Ms. Silber's firm had provided very detailed and in-depth breakdowns in their invoices, and those were available for inspection but had not been reproduced because of their volume. Mr. Sharp clarified that what he had wanted to know was the total amount expended for legal services for the Collective Bargaining Ordinance, the Personnel Procedures Ordinance, and the Tenants' Right of First Refusal legislation -- for information purposes. Following additional dialogue, Councilmember d'Eustachio commented that he, too, would like to see an analysis of legal costs in connection with one of the recent major pieces of legislation -- e.g., the Tenants' Right of First Refusal -- so that Council would have an idea of the cost of producing and passing such laws. Mr. Wilson commented that could easily be done.

ORDINANCE #1986-
(attached)

Concerning ongoing legal expenses in relation to the Park Ritchie bankruptcy, Mr. Sharp commented he was unaware of participating in authorizing expenditure of \$2,277 in November 1986, \$1,900 in October 1986, and \$1,275 in September 1986, etc. He said he could not personally endorse there

being further expenses incurred to the City in relation to the bankruptcy unless there were advance notification and approval of both the amount and the purpose by the elected body. The Mayor, for the record, stated that that case was at a very critical stage, and while he, too, might have some objections concerning the amount of the bill for legal fees, he had been instructed a couple of weeks prior to try to bring the parties together for the purpose of negotiating an agreement -- a proposed draft agreement was close to being drawn up which could settle the entire issue, and it hardly seemed an appropriate point at which to upset the proceedings. Mr. Sharp commented that Council had not been kept informed of what was occurring, and he would appreciate being made aware and kept up to date on those things. The Mayor briefly summarized recent events in the case, pointing out that the current discussion was not on the formal agenda. Councilmember Bradley suggested that this issue be included in a discussion concerning legal expenses at the December 15 worksession; the Mayor said he would try to schedule such a discussion at the earliest possible date.

9. First Reading of an ordinance establishing Stop Signs on Roanoke Avenue at Kennebec Avenue.

Councilmember Iddings relayed a request of the Traffic Committee that the item be deferred until the January 12 Council Meeting, based on the fact that comments were solicited in the Newsletter on the proposed stop signs, and the committee would wish to allow time for receipt and review of those prior to the ordinance being addressed. Mr. Iddings suggested postponing first reading until January 12, so advising the committee, and letting them know that any comments they wish to submit should be made prior to that date.

Councilmember Bradley moved acceptance of the ordinance for first reading, duly seconded by Councilmember Levy. She summarized the lengthy history of the request, noting that it originally began along with the request for stop signs at Erie and Maple, with a completed petition presented to the Traffic Committee in the fall of 1985. She asked that Council endorse the legislation for first reading and, in the absence of negative comments, move forward with it on December 15, which would be after the deadline for submission of comments solicited by the Newsletter article. Councilmember Haney commented he would not wish to see the request delayed until January because of procedural problems. Councilmember Levy commented on the intersection being very hazardous, said she had almost been hit there. Councilmember Bradley remarked she was involved in an accident at the location. Councilmember Iddings asked that the Council respect the Traffic Committee's process and their request that the item be deferred. Councilmember Bradley remarked on the difficulty in making the neighborhood understand the reasons given for delays on the item, i.e., the committee not meeting or lack of a quorum to deal with decision-making, changes in the process, etc. She commented that these signs were not just proposed at the request of a couple of area citizens, but were recommended for installation by Henry Guilford, the City's Consulting Engineer, and were a part of a rational process. Councilmember Iddings stated, in response to Councilmember Sharp, that he thought the signs would be approved and installed eventually; however, he reiterated that if the City were going to have a citizen-based committee to handle traffic procedures, then that group should be given an opportunity to establish its procedures and make them functional; given the time already elapsed on this request, he said he did not see that the additional time to allow the process to work would be of any great significance. He again asked that the Council respect the committee's process. Ms. Bradley pointed out that the process in question had not even been set up at the time the request was originally submitted. The Mayor noted that it would do no harm to the committee's process for the ordinance to be accepted for first reading and scheduled for the first meeting in January for adoption. Councilmember d'Eustachio remarked he would support the Mayor's suggestion, said he would oppose scheduling second reading for December 15, but would support adoption at the January 12 regular meeting. Councilmember Bradley commented that problems within the Traffic Committee, such as lack of a quorum, etc., could recur, and measures would have to be set up so that requests do not get delayed for long periods due to internal problems, which is unfair to the neighborhoods involved. She said some control measures would have to be imposed on other City committees, as was done with COLTA, in order to ensure their proper function. Following an exchange of remarks between Councilmembers Bradley

and d'Eustachio, the question was called; the ordinance was accepted for first reading by unanimous vote.

ORDINANCE #1986-
(attached)

10. Resolution pertaining to City's Liability Insurance.

Following brief comment by the Mayor, passage of the resolution was moved by Councilmember Sharp and duly seconded. The motion carried by unanimous vote.

RESOLUTION #1986-80
(attached)

The Mayor spoke concerning personal conduct of elected officials during the meetings and exercise of control, both in terms of commentary and time; he extended apologies for his own loss of control at an earlier point. Upon motion, duly seconded, the meeting adjourned at 11:54 P.M., to reconvene at 8:00 P.M. on December 15, 1986, for a Public Hearing and Special Session.

RESOLUTION: Appreciation of Service of Mary Dean,
former Chair of Historic Preservation Committee

Introduced by: Mayor Del Giudice

Adopted: 12-8-86

RESOLUTION NO. 1986-77

WHEREAS, the Mayor and City Council of Takoma Park recognizes the importance of citizen contributions toward the betterment of our community and constructive efforts to build a sense of community; AND

WHEREAS, the City Council of Takoma Park supports citizen-efforts to preserve the historic resources of our community; AND

WHEREAS, Mary Dean has a deep commitment to the preservation of the City's historic resources, and because of that commitment and willingness to be involved, she was selected by the City Council to serve as the Chair of the City's Historic Preservation Committee; AND

WHEREAS, Ms. Dean, as chair of the Committee, established an effective citizen-working committee that reviewed numerous requests for alterations to historic houses, helped secure historic designation for the City's Historic Districts and significantly contributed to the preservation efforts for the Thomas-Siegler Property; AND

WHEREAS, Ms. Dean has resigned from the Committee to relocate to Connecticut.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the City of Takoma Park, Maryland do hereby wish to express their appreciation and commend Mary Dean for the great effort she has put forward in preserving and protecting the City's rich historic resources.

Adopted this 8th day of December, 1986.

RESOLUTION: Concept Design for Sheridan-Hancock Park

Introduced by: Councilmember Iddings

Adopted: 12-8-86

RESOLUTION 1986- 76

WHEREAS, The Maryland-National Capital Park and Planning Commission ("the Commission") plans to develop the Sheridan-Hancock Neighborhood Park in FY 1988 on land owned by the Commission and land that will be deeded to the Commission by the City of Takoma Park, Md.; AND

WHEREAS, the Commission has worked closely with the residents and staff of the City of Takoma Park to develop a final concept plan for this park which addresses the various needs and desires of the surrounding neighborhood and prospective park users; AND

WHEREAS, this final concept plan has been formally presented to the Mayor and Council of Takoma Park for their review and approval.

NOW, THEREFORE, BE IT RESOLVED THAT we, the Mayor and Council of Takoma Park, Maryland, find the final concept plan acceptable and will meet the needs of the surrounding community and prospective users of the Sheridan-Hancock Neighborhood Park and, moreover, that it embodies five excellent standards of community park design; AND

BE IT FURTHER RESOLVED THAT the Mayor and Council urge that the Commission proceed as expeditiously as possible to contract the Sheridan-Hancock Neighborhood Park as depicted in the final concept plan; AND

BE IT FURTHER RESOLVED THAT the Mayor and Council wish to express special recognition and appreciation to Mr. Ken Haser, the park designer on the staff of the Commission who was principally responsible for working with City staff and the community in developing the final concept plan and who in so doing, did far more than duty called for to ensure the development of a plan that satisfied the community and stands for excellence in community park design.

Adopted this 8th day of December, 1986.

Resolution: Appointment of Corporation Counsel

Introduced by: Mayor Del Giudice

Adopted: 12-8-86

RESOLUTION NO. 1986-78

WHEREAS, the Mayor and Council appointed a Corporation Counsel Selection Advisory Committee to assist in the search for a City Corporation Counsel; AND

WHEREAS, the Committee solicited applicants for the position, for which sixty-seven resumes were received; AND

WHEREAS, the Committee reviewed all resumes, with six applicants being chosen for personal interviews; AND

WHEREAS, the Committee, along with members of the Council, participated in the interviews, and made a recommendation to the Mayor and Council for appointment of a Corporation Counsel.

NOW, THEREFORE, BE IT RESOLVED THAT the Mayor and Council accept the report of the Corporation Counsel Selection Advisory Committee and do hereby appoint the Law Offices of Susan Silber to fill the position of Corporation Counsel for the City; AND

BE IT FURTHER RESOLVED THAT the Mayor and Council have reviewed the proposed contract for services, submitted by the Law Office, and do hereby accept the terms and conditions of same; AND

BE IT FURTHER RESOLVED THAT the City Council does hereby authorize the Mayor to execute said contract for the City.

Adopted this 8th day of December, 1986.

SUMMARY OF THE COLLECTIVE BARGAINING LAW

WHAT IT DOES

- 1) Gives management, supervisory, and confidential employees the right to form an employee organization and to meet and confer with the City.
- 2) Gives all sworn police officers the right to form an employee organization and to bargain collectively with the City.
- 3) Gives all other employees the right to form a separate employee organization and to bargain collectively with the City.

WHO IS COVERED

- 1) Only employees who work a minimum of 20 hours per week on a permanent basis or who are crossing guards are allowed to participate in an employee organization.
- 2) Management and supervisory personnel are:
 - a) directors and assistant directors of all departments;
 - b) police officers at the rank of sergeant or above;
 - c) a sanitation, shop, or street supervisor in Public Works;
 - d) the City Administrator, Assistant City Administrator, City Clerk, Deputy City Clerk, Economic and Community Development Coordinator, Accounting Supervisor, and Personnel Officer; and
 - e) any one who represents the City in collective bargaining.

HOW AN EMPLOYEE ORGANIZATION IS RECOGNIZED

- 1) An employee organization must show that at least 30% of the employees in a bargaining unit want that employee organization to represent them.

- 2) The City asks the State Department of Labor and Industry to hold an election within 30 days or certify that over 50% of the employees have selected the same employee organization. (Other employee organizations can petition to compete in the election.)
- 3) The employee organization can be decertified if over 50% of the employees request a change and vote accordingly in an election conducted by the State.

RIGHTS OF MEMBERS OF AN EMPLOYEE ORGANIZATION

- 1) Employee organizations must be democratic.
- 2) Members must be free to express themselves.
- 3) Dues of a local employee organization cannot be increased without the approval of the members.
- 4) Employees retain their rights to sue.
- 5) Employees must have a hearing before any disciplinary action, except for failing to pay dues.

HOW NEGOTIATIONS ARE CONDUCTED

- 1) The City and any employee organization must negotiate in good faith over terms and conditions of employment.
- 2) The City must tell an employee organization about any proposed changes that would have a significant impact on the terms and conditions of employment or the employee organization.
- 3) The City must negotiate with the employee organization before implementing these changes.
- 4) If a negotiated agreement requires new funding or conflicts with a law or regulation of the City, the agreement must be submitted to the Council for approval.
- 5) If the negotiations reach an impasse, either side may request a mediator. If the mediator is not successful within 30 days, both sides may agree to arbitration. The arbitration is not binding on the Council if it requires funding or conflicts with a law or regulation.

If the employee organization does not have the right to strike, the organization can demand arbitration without the agreement of the City.

WHEN AN EMPLOYEE ORGANIZATION MAY STRIKE

- 1) The employee organization may strike if:
 - a) attempts to mediate have failed;
 - b) attempts to resolve the dispute by arbitration have failed;
 - c) 60 days have passed since attempts to resolve the dispute by arbitration failed;
 - d) the employee organization has given 10-day notice of intent to strike and the 10-day period has ended.
- 2) The mediator may limit a strike to protect the public health or safety and require both sides to attempt to settle the dispute.

WHAT ARE UNFAIR LABOR PRACTICES

- 1) The City may not:
 - a) interfere with organization efforts by the employees;
 - b) discriminate between employees on the basis of their membership in an employee organization;
 - c) contribute financially or otherwise to an employee organization;
 - d) refuse to negotiate in good faith.
- 2) Employee organizations may not:
 - a) interfere with the right of employees to organize or not;
 - b) refuse to negotiate in good faith;

- c) refuse to represent all of its members fairly and without illegal discrimination;
 - d) deny members their rights.
- 3) The State resolves any disputes over unfair labor practices.

TP#5

Introduced: November 24, 1986

Enacted: December 8, 1986

Effective: December 8, 1986

ORDINANCE NO. 1986- 47

Short Title: Collective Bargaining Law

Draft No. 4 - 12/3/86

AN ORDINANCE to:

- (a) authorize employees to form employee organizations;
 - (b) provide procedures for certifying and decertifying employee organizations;
 - (c) require employee organizations to operate democratically;
 - (d) require the City to meet and confer with an employee organization of management employees, supervisors, and confidential employees;
 - (e) require the City and employee organizations to negotiate collectively in good faith on terms and conditions of employment;
 - (f) provide for the resolution of impasses in negotiations;
 - (g) authorize employees to strike under certain conditions;
- and
- (h) identify unfair labor practices.

THE ORDINANCE amends the Code of the City of Takoma Park by:

Adding to Chapter 8B, Article 2, "Collective Bargaining", containing the following sections:

- Sec. 8B-201. Legislative findings and purpose.
- Sec. 8B-202. Definitions.
- Sec. 8B-203. The employer's obligation to meet and confer with management personnel, supervisors and confidential employees.
- Sec. 8B-204. Internal employee organization democracy: The members' bill of rights.
- Sec. 8B-205. Recognition of an employee organization.
- Sec. 8B-206. Collective bargaining negotiations.
- Sec. 8B-207. Collective bargaining impasse.
- Sec. 8B-208. Strikes.
- Sec. 8B-209. Unfair labor practices.

NOTE: In this ordinance:

[Brackets] indicate language deleted by amendment.

Underlining indicates language added by amendment.

SECTION 1. AMENDMENTS TO THE CODE.

Article 2, "Collective Bargaining", consisting of Sections 8B-201 through 8B-209, is added to Chapter 8B, "Personnel" of the Takoma Park Code to read as follows:

ARTICLE 7. COLLECTIVE BARGAINING

Sec. 8B-201 Legislative findings and purpose.

(a) Legislative findings. In enacting this ordinance, the Mayor and Council recognize that joint decision-making by government and public employees in matters affecting wages and working conditions increases responsiveness, communication, and efficiency. The City recognizes its responsibility to provide orderly procedures for the participation by its employees and their representatives in the formulation of personnel policies, the fair and considerate treatment of employees, and the resolution of questions and controversies with respect to the terms and conditions of employment, while simultaneously insuring that the public, welfare, health, and safety are maintained.

(b) Purpose.

The Mayor and Council enact this ordinance for the following purposes:

(1) To provide procedures for City employees to participate in the formulation and implementation of policies establishing or affecting their conditions of employment.

(2) To recognize the right of City employees to organize for the purpose of collective bargaining.

(3) To provide a means by which employees may select units appropriate for effective dealings between their representatives and the City.

(4) To insure that such units operate democratically and without discrimination.

(5) To require the City to meet and confer with certain employees and to negotiate and enter into written agreements with exclusive representatives of certain other employees on matters of wages, hours, and other terms and conditions of employment.

(6) To recognize merit principles and protections in employment.

(7) To establish a rational method of dispute resolution.

Sec. 8B-202 Definitions.

In this article, the following terms have the meanings indicated.

(a) Appropriate Units: There shall be two appropriate units among the employees of the City of Takoma Park, as follows:

(1) All sworn police officers except for Police Department management and supervisory personnel and confidential employees.

(2) All other employees (including other employees in the Police Department) except for management and supervisory personnel and confidential employees.

(b) Confidential employees. An employee who has regular access to privileged information regarding personnel management or labor policies through the employee's duty to assist:

(1) The Mayor or a Councilmember;

(2) The City Administrator or assistant City Administrator; or

(3) A department head or assistant department head.

(c) Employee: Any person who legally occupies a position in the City's classified service which:

(1) requires work on a continuous basis for a minimum of 20 hours per week; or

(2) is allocated to the class of "crossing guard".

[(c)] (d) employee organization: Any lawful organization which admits municipal employees to membership, the primary purpose of which is to represent employees concerning terms and conditions of employment. An organization that practices a policy of illegal discrimination or that fails to accord its members the basic principles and procedures of internal democracy under Section 8B-204 is not an employee organization.

[(d)] (e) Employee rights: Employees who are within the appropriate unit shall have, and shall be protected in the exercise of, the right of self-organization, to form, join or par-

ticipate in any employee organization, or to refrain from forming, joining, assisting or participating in any employee organization, freely and without fear of penalty or reprisal, to negotiate [or meet and confer (depending on their unit)] through representatives of their own choosing on terms and conditions of employment as herein defined, and the processing and arbitration of grievances.

[(e)] (f) Employer: The City of Takoma Park.

[(f)] (g) Employer rights: Subject to the provisions of this Article, it is the exclusive right of the employer to establish or determine the mission of the departments of City government, set standards of service to be offered to the public, classify jobs under Article 1 of this chapter, exercise control and direction over its organization, operations and budget, and establish merit system principles which will guide its personnel actions.

[(g)] (h) Grievance: A dispute that:

(1) concerns the application or interpretation of the terms of a collective bargaining agreement, the City Code, or the rules or regulations of the employer or any of its departments; and

(2) affects the terms and conditions of employment.

[(h)] (i) Management and supervisory personnel: Any employee who:

(1) serves at the pleasure of the Mayor and Council;

(2) acts as a representative of the City of Takoma Park in collective bargaining;

(3) is the personnel officer for the City;

(4) is the director or assistant director of a department;

(5) is a sanitation, shop, or street supervisor in the Department of Public Works;

(6) is a uniformed police officer at the rank of sergeant or above; or

(7) is the City Administrator, Assistant City Administrator, City Clerk, Deputy City Clerk, Economic and Community Development Coordinator, or accounting supervisor.

[(i)] (j) **Strike:** By concerted action, the failure to report for duty, the willful absence from positions, the stoppage or slowdown of work or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment for the purpose of inducing, influencing, coercing or preventing a change in compensation or rights, privileges, obligations or other terms and conditions of employment.

[(j)] (k) **Terms and conditions of employment:** All terms and conditions [~~such as those~~] which establish, affect or control: pay, fringe benefits, retirement and pension benefits, attendance and leave, promotions, transfers, layoffs, demotions, termination, discipline, evaluation, professional development, workload, work and those items which both parties agree to negotiate, schedule, or health and safety. Terms and conditions must be consistent with federal, state, and local law, and must not be excluded under the prerogative of "Employer Rights", under this section.

Sec. 8B-203 The employer's obligation to meet and confer with management personnel, supervisors, and confidential employees

Management and supervisory personnel, confidential employees have the right to form an employee organization which represents their interests and is recognized as their exclusive representative. The employer shall provide such organization an opportunity to participate in the formulation and implementation of policies and practices affecting the conditions of the employment of these employees. None of the other provisions of this Article apply to these employees or an employee organization established under this section.

Sec. 8B-204 Internal employee organization democracy: the members' bill of rights

(a) **Equal rights.** Every member of an employee organization shall have equal rights and privileges within the organization:

- (1) to nominate candidates;
- (2) to vote in elections or referendums;
- (3) to attend membership meetings; and
- (4) to vote and participate in the deliberations upon the business of the organization at the meetings, subject to reasonable rules and regulations in the organization's constitution or bylaws.

(b) Freedom of speech and assembly. Every member of any employee organization shall have the right:

- (1) to meet and assemble freely with other members;
- (2) to express any views, arguments, or opinions; and
- (3) to express at meetings of the employee organization the employee's views upon candidates in an election of the employee organization or upon any business properly before the meeting, subject to the organization's established and reasonable rules pertaining to the conduct of meetings.

(c) Responsibilities of members. Nothing in this Section shall be construed to impair the right of an employee organization to adopt and enforce reasonable rules concerning the responsibility of every member toward the organization as an institution and the responsibility of every member to refrain from conduct that would interfere with the organization's performance of its legal or contractual obligations.

(d) Dues, initiation fees, and assessments payable to local chapter of employee organization. For purposes of this Subsection, the term, "local employee organization" means an employee organization which represents only public employees of the City of Takoma Park, Maryland. The rates of dues and initiation fees payable by members of any local employee organization directly to such local employee organization shall not be increased, and no general or special assessment shall be levied upon such members, by said local employee organization, except:

- (1) by majority vote by secret ballot of the members in good standing voting at a general or special membership

meeting of the local organization, after reasonable notice of the intention to vote upon such question; or

(2) by majority vote of the members in good standing of the local organization voting in a membership referendum conducted by secret ballot.

(e) Protection of the right to sue.

(1) No employee organization shall limit the right of any member thereof:

(A) to institute an action in any court, or a proceeding before any administrative agency;

(B) to appear as a witness in any judicial, administrative or legislative proceeding; or

(C) to petition or communicate with any elected official.

(2) An employee organization may require a member to exhaust reasonable hearing procedures (but not to exceed a 6-month lapse of time), within such organization, before instituting legal or administrative proceedings against such organization or any of its officers.

(3) The employer shall not directly or indirectly finance, encourage or participate in, except as a party, any such action, proceeding, appearance or petition.

(f) Safeguards against improper disciplinary action.

An employee organization may not fine, suspend, expel, or otherwise discipline any member, except for nonpayment of dues unless the member has been:

(1) served with specific written charges;

(2) given a reasonable time to prepare a defense;

and

(3) afforded a full and fair hearing.

(g) Invalidity of constitution and bylaws. Any provision of the constitution and bylaws of any employee organization which is inconsistent with the provisions of this section shall be of no force or effect.

(h) Right to copies of collective bargaining agreements.

It shall be the duty of the secretary or corresponding principal officer of each employee organization to forward a copy of each collective bargaining agreement to any employee who requests a copy if the employee's rights are directly affected by such agreement. The officer shall maintain at the principal office of the employee organization of which he/she is an officer copies of any such agreement made or received by such employee organization. The copies shall be available for inspection by any member or by any employee whose rights are affected by such agreement.

Sec. 8B-205. Recognition of an employee organization.

(a) Selection of exclusive representatives.

If an employee organization files a petition with the City and the petition is supported by evidence that at least 30% of the employees in an appropriate unit wish to be represented by that employee organization for purposes of collective bargaining, then the City shall cause a secret ballot election to be held under the supervision of the Maryland State Department of Labor and Industry or its successor agency within ~~[60]~~ 30 days after receipt of the petition. The City must notify all employees immediately after receiving a petition under this Section. Any other employee organization may intervene in the election if the organization files a petition supported by evidence of at least 10% representation in the unit. Any petition to intervene must be filed at least ~~[20]~~ 10 days prior to the date of the scheduled election.

(b) Elections.

(1) Representation elections shall be conducted by the Department of Labor and Industry, a successor agency, or any other impartial agency selected by the mutual agreement of the parties. The entity conducting the election shall be subject to

the provisions of this law and the terms and conditions of such election agreement as may be reached by the parties. Except as otherwise provided, such entity shall resolve all legal issues or controversies relating to the conduct of the election.

(2) Representation elections conducted pursuant to this Section shall be by secret ballot and shall be subject to the following rules.

(A) All interested persons shall be given not less than 15 days notice of the time and place of the election.

(B) The ballots in all representation elections shall include a choice of "no [~~representative.~~] employee organization".

(C) In an election where none of the choices on the ballot receive a majority, a runoff election shall be conducted, in which the ballot shall provide for a selection between the two choices or parties receiving the highest and second highest number of ballots cast in said election.

(3) The Department of Labor and Industry (or other impartial agency) shall certify the results of said election within 3 working days after the final tally of votes. If an employee organization has received more than 50% of the votes cast, it shall be certified as the exclusive bargaining representative for the unit.

(c) **Authorization check.** When evidence is presented to the City that more than 50% of the employees within the appropriate unit have signed authorizations for a particular employee organization to represent them, the City may, in lieu of a secret ballot election, request the Department of Labor and Industry or its successor agency to conduct a validation of the authorizations. Should the Department of Labor and Industry determine that more than 50% of the employees in the appropriate unit have so authorized a particular employee organization, the City shall request the Department to certify that organization as the exclusive collective bargaining representative for the unit.

(d) **Dues and agency fees.** Where an employee organization has been certified as the exclusive representative of the employees in a unit, it shall be the only employee organization eligible to obtain an agreement from the employer to deduct from the pay of those employees in the unit, who provide written authorization, any dues or fees designated or certified by the appropriate officer of the employee organization and to remit said fees to said employee organization. If an employee's religious practices do not permit the employee to pay dues or service fees to an employee organization, the employee may donate a sum equivalent to dues or fees to a charitable organization.

(e) **Decertification.**

(1) No incumbent certified employee organization shall be decertified unless evidence is presented to the City that more than 50% of the employees in the appropriate unit have signed authorizations for another employee organization, or more than 50% of said employees have signed statements requesting that no employee organization represent them. If such evidence shall be presented, the City shall request the Division of Labor and Industry or its successor agency to conduct a secret ballot election, which shall include the incumbent employee organization as a ballot choice. If the non-incumbent employee organization, [~~or "no employee organization"~~] gets more than 50% of the votes cast, then the non-incumbent organization [~~or "no employee organization"~~] shall be certified as exclusive representative for the appropriate unit. If more than 50% of the votes were cast for "no employee organization", then there will be no exclusive representative. Otherwise, the incumbent employee organization shall remain certified.

(2) **Contract bar.** A showing of authorization for a decertification election shall not be entertained unless submitted during the period between 120 and 90 days before the end of the term of a collective bargaining agreement.

Sec. 8B-206. Collective Bargaining Negotiations.

(a) **Duty to Bargain in Good Faith.** If an employee organization is certified as the exclusive representative of the employees in an appropriate unit, the employer and the employee organization shall have the duty to negotiate collectively and in good faith with respect to the terms and conditions of employment of employees in the unit. The organization must negotiate through its officials or representatives. To negotiate with each other in good faith shall mean that each party shall have a continuing obligation to keep the other informed on all matters within the scope of the representation and give reasonable written notice of any action proposed to be taken which would amend any ordinance governing terms and conditions of employment, or generally applicable personnel policies. The duty to bargain in good faith requires the employer to inform the employee organization about proposed changes and to negotiate them before they are implemented. These changes include any changes that have a significant impact on the terms and conditions of employment or on the employee organization. It does not matter whether the proposed changes involve:

- (1) practice or policy;
- (2) prerogatives of the employer; or
- (3) changes that take effect during or after the term of the contract.

(b) **Negotiations during working hours.** Negotiations with an employee organization which has been accorded exclusive recognition may be conducted during the duty hours of the employee organization representatives involved in such negotiations, if they are employees within the appropriate unit, provided their attendance does not seriously interfere with the normal operations of the City and upon advance notice to their supervisor.

(c) **City's representative.** A duly appointed designee shall act as the City's primary representative for the purpose of con-

ducting any negotiations or other relationships between any recognized employee organization and the City government.

(d) **Schedule for negotiations.** Because effective and orderly operations of government are essential to the public, it is declared to be in the public interest that in the course of collective bargaining, the employer and the exclusive representative shall make every reasonable effort to conclude negotiations no later than February 1 of each year, and shall include provisions for an effective date, a reopening date, and an expiration date. With respect to matters requiring the appropriation of funds, the effective date of an agreement shall coincide with the employer's fiscal year.

(e) **Grievance procedure in agreement.** An agreement may contain a grievance procedure culminating in final and binding arbitration of grievances and disputed interpretations of such agreement. The grievance procedure shall set forth requirements for an election of remedies where other avenues of appeal may be equally available.

(f) **Agreements in writing.** Any agreement reached by the negotiators shall be reduced to writing and shall be executed by both parties. Such agreement shall be valid and enforced under its terms when entered into, in accordance with the provisions of this law and the City Charter.

(g) **Submission of agreement to Council.** A request for funds necessary to implement such written agreement and for approval of any provision of the agreement which is in conflict with any City law, ordinance, rule or regulations, shall be submitted to the City Council by the employer within the time schedule provided in the agreement. The City Council may approve or reject such request as a whole. If the submission is rejected, the entire agreement shall be returned to the parties for further bargaining and either party may reopen all or part of the agreement. If the Council rejects a request, it must give the parties a detailed statement of the reasons for rejecting the request, so that the parties may be properly guided when they resume bargaining. Such request shall be considered

accepted if the Council fails within thirty (30) days after submission to said body to take final action thereon. Failure by the employer or his representative to submit such request within the designated time period shall be considered an unfair labor practice committed by the employer.

(h) **Conflicts between agreement and rules or regulations.**

If upon approval of the City Council, pursuant to Section 8B-206(g), there is a conflict between the collective bargaining agreement and any rule or regulation adopted by the employer, including merit system or other personnel regulations, the terms of such agreement shall prevail, except where specifically precluded by Charter or State law. Similarly, the City Council, upon approval of such agreement, should enact such legislation and appropriate whatever funds are required to comply with the collective bargaining agreement. Failure to enact the legislation and appropriate necessary funds is an unfair labor practice under Section 8B-209(a).

(i) **Ratification of the agreement by employees.** If the provisions of the constitution or bylaws of the exclusive representative require ratification of a collective bargaining agreement by its membership, only those members who belong to the bargaining unit involved shall be entitled to vote on such ratification notwithstanding such provisions.

Sec. 8B-207. Collective bargaining impasse.

(a) **Mediation.** Should the City and the certified employee organization be unable to reach agreement after a reasonable period of negotiations, then either party may declare an impasse and request that a mediator agreed upon between the parties be appointed or, that the Department of Labor and Industry or its successor agency provide a qualified mediator to attempt to facilitate the parties' bargaining process.

(b) **Arbitration.** Should mediation prove unsuccessful after 30 days have passed since the appointment of the mediator, the parties by agreement may require that a qualified arbitrator be obtained by agreement of the parties, or through application of

the Voluntary Arbitration Rules of the American Arbitration Association, or under the auspices of another organization agreed upon by the parties in writing. If the parties agree, the mediator may serve as the arbitrator. The arbitrator shall have the power to set hearings, take testimony under oath and reach determinations as to all terms and conditions of employment in controversy between the parties. The determinations of the arbitrator shall be submitted to the Council for approval in the same manner as any agreement reached by the negotiators, as provided in Section 8B-206(f), (g), and (h). If approved by the Council, the arbitrator's determinations shall be incorporated by the parties into a collective bargaining agreement.

(c) Invoking authority of the arbitrator. The authority of the arbitrator under Subsection (b) of this section may be invoked by the [labor] employee organization, without the agreement of the employer, where the [labor] employee organization representing the unit in question has been denied the right to strike under Section 8B-208(b).

Section 8B-208(b).

Sec. 8B-208. Strikes.

(a) Conditions to the right to strike. It shall be lawful for an employee who is in the appropriate bargaining unit involved in an impasse to strike, if:

(1) The employee is not included in an appropriate bargaining unit for which the process for a resolution of a dispute is by referral to arbitration;

(2) The Impasse Mediator has certified that he is terminating the efforts to resolve the impasse and that all appropriate impasse procedures have been exhausted;

(3) Thirty (30) days have elapsed since the City Council has tried to resolve the dispute and to reach an agreement; or if 60 days have elapsed since the mediator's certification required in Subsection 8B-208(a)(2); and

(4) The exclusive representative has given to the mediator and to the employer, after the time specified in Subsection 8B-208(a)(3), a 10-day notice of intent to strike, and the 10-day period has ended.

(b) **Alleged threats to public safety.** Where the strike threatened or when the strike occurring reaches the point where the public health or safety is alleged to be endangered, the employer may petition the mediator to make an investigation to verify the danger alleged. The mediator shall set requirements that must be complied with to avoid or remove any such imminent or present danger or may require that all employees cease striking. In establishing such requirements, the mediator shall give strong weight to any agreement reached by the parties designating which employees shall be considered essential in the event of a strike.

(c) **Unlawful strikes.** No labor organization shall declare or authorize a strike of employees which is or would be in violation of this section. The employer may apply to the mediator for a declaration that the strike is or would be unlawful and the mediator, after affording the labor organization a reasonable opportunity to be heard on the applications, may make such a declaration.

(d) **Authority of mediator in impasses.** The mediator may order the parties involved to engage in such impasse procedures as the mediator may deem appropriate during the course of a strike, regardless of the legality of the strike.

(e) **Authority of Department of Labor and Industry.** If the Department of Labor and Industry finds that the organization has violated this section, it shall order an appropriate remedy. If the remedy includes the revocation of the organization's recognition as exclusive representative, the employee organization shall be ineligible to participate in elections or be recognized as exclusive representative for a period of time not to exceed one year thereafter.

Sec. 8B-209. Unfair labor practices.

(a) Unfair labor practices. The following shall be deemed unfair labor practices which are prohibited.

(1) The employer is prohibited from the following activities:

(A) Interfering with, restraining, or coercing employees in the exercise of their rights of self-organization or non-organization.

(B) Inducing any employee(s) or employee organization(s) to commit any unfair labor practice.

(C) Discriminating in regard to ~~hire~~ hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization. Nothing in this law or in any other law of this City shall preclude the employer from making an agreement with an exclusive representative to require the payment of a monthly service charge as a condition of employment. However, the monthly service charge may not be greater than the regular monthly dues to the employee organization. The monthly service charge is a contribution toward the administration of the agreement. Under the agreement the City may not discharge an employee who fails to comply with the contractual requirement unless:

(i) the employee has been given proper notice of the delinquency and adequate time to correct the deficiency ; and

(ii) the employer has afforded the employee sufficient opportunity, protected by the requirements of due process and Section 8B-203 to defend against the petition for discharge.

(D) Controlling or dominating an employee organization or contributing financial or other support to it, except that the employer shall not be prohibited from permitting

employees to negotiate or confer with it during working hours without loss of pay.

(E) Refusing to negotiate in good faith with a recognized employee organization.

(F) Violating Section 8B-204, "Internal employee organization democracy: The members' bill of rights", of this ordinance. Nothing in this subsection shall be interpreted to give the employer the right to enforce these provisions.

(2) Employee organizations are prohibited from the following activities.

(A) Interfering with, restraining, or coercing employees in the exercise of their rights of self-organization or non-organization.

(B) Inducing the employer or its representatives to commit any unfair labor practice.

(C) Refusing to negotiate in good faith with the employer.

(D) Refusing to represent all employees in its bargaining unit fairly, regardless of membership or non-membership in the union, and regardless of race, color, sex, national origin religious creed, ancestry age, marital status, handicap, or sexual orientation, provided, however, that nothing in this subsection shall be interpreted as conferring a right of enforcement of these provisions on the employer.

(E) Violating Section 8B-204, "Internal employee organization democracy: The members' bill of rights", of this ordinance, provided, however, that nothing in this subsection shall be interpreted as conferring a right of enforcement of these provisions on the employer.

(b) Procedure:

(1) In the event that a claim is made that an unfair labor practice has been committed by either the employer or employee organization, the complaining party shall file with the

Mediation Service of the Division of Labor and Industry a verified complaint, setting forth a detailed statement of the alleged unfair labor practice. The party complained of shall have the right to file an answer to the complaint within 5 days after service thereof. After investigation, such agency may issue an order dismissing the complaint or may order a further investigation or a hearing thereon at a designated time and place. Any such hearing shall be conducted without regard for the strict rules of evidence, and a transcript of testimony shall be taken.

(2) If, upon all the testimony, the agency determines that an unfair labor practice has been committed, it shall state its findings of fact and shall issue and cause to be served upon the party committing the unfair labor practice a binding order requiring the party to cease and desist from such practice within a specified period, and shall take such further affirmative action as it deems necessary to remedy the unfair labor practice. If, upon all the testimony, the agency determines that a prohibited practice has not been or is not being committed, it shall state its findings of fact and shall issue an order dismissing the complaint.

(c) Choice of remedies. Issues which may involve an unfair labor practice, as well as a grievance under the negotiated agreement, may, at the discretion of the aggrieved party, be filed as an unfair labor practice or a grievance, but not both.

SECTION 2. SEVERABILITY.

If a court holds that part of this ordinance is invalid, that invalidity does not affect the other parts of the ordinance.

SECTION 3. EFFECTIVE DATE.

This ordinance shall take effect upon enactment.

TP#5
TP35.ORD1-18

6A

Proposed Ordinance: "Obligations of Landlords - Unauthorized Entry"

Introduced by: Councilmember Sharp

1st Reading: 11-24-86
2nd Reading: 12-8-86

ORDINANCE NO. 1986-48

WHEREAS, the right of all persons, both tenants and homeowners, to be secure in their homes from unauthorized entry by any person is one of our most cherished rights; AND

WHEREAS, a conflict exists between the rights of tenants to be secure in their homes and the rights of landlords to protect their property; AND

WHEREAS, the law now permits a landlord, under certain circumstances, to enter a tenant's home without prior authorization; AND

WHEREAS, the Mayor and Council of the City of Takoma Park desire to strengthen the rights of tenants against unauthorized entry without unduly restricting the ability of landlords to protect their property.

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

SECTION 1. THAT Section 6-80.7, "Obligations of landlords", be amended by adding at the end thereof the following new subsection:

(c) (1) A landlord or agent of the landlord, following entry into any rental unit for any purpose, including inspection or emergencies, for which the consent of the tenant has not been obtained, shall provide the tenant with a written notice of the unauthorized entry.

(2) Such notice shall contain the following information:

- (a) the date and time of such entry;
- (b) the time of departure;
- (c) the reason for the entry;
- (d) the work performed, if any;
- (e) the names of all individuals who entered the premises; and
- (f) the current telephone number and address of the Takoma Park Department of Housing Services.

(3) Such notice shall also advise the tenant that unauthorized entry into any rental unit is regulated by law, and shall advise the tenant of his or her right to file a formal complaint with the Commission on Landlord-Tenant Affairs if the tenant believes that the unauthorized entry was not in conformity with the law regulating such unauthorized entry.

(4) Except as provided in subparagraph (5), such notice shall be provided at the time of entry.

(5) In instances where time is of the essence and notification at the time of entry is therefore not feasible, the landlord shall provide the required information to the tenant within twenty-four (24) hours of the time of entry.

SECTION 2. THAT this ordinance shall become effective ninety (90) days after adoption.

SECTION 3. THAT the Director of the Department of Housing Services is directed to convey the requirements of this ordinance to landlords in whatever manner he or she deems best, including requiring the use of a standard notice form.

ADOPTED THIS 8TH DAY OF DECEMBER, 1986.

Introduced by:
Edward F. Sharp

65
(12-8-86)
1st reading: 11-24-86
2nd reading: 12-8-86

ORDINANCE NO. 1986- 49

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

- SECTION 1. THAT there is a need to insure that the Commission on Landlord-Tenant Affairs reflects the will of the citizens of Takoma Park; AND
- SECTION 2. THAT there is also a need to insure institutional continuity and collective memory on the Commission.
- SECTION 3. THAT, because there is no differentiation between the contributions to the work of the Commission made by full members and alternate members, alternate members should not be precluded from voting on all issues that come before the Commission; AND
- SECTION 4. THEREFORE the Mayor and Council hereby establish terms of appointment to the Commission on Landlord-Tenant Affairs of three years duration; AND
- SECTION 5. THAT all twelve members of the Commission shall be full voting members.
- SECTION 6. THAT appointments to replace Commissioners of the Commission on Landlord-Tenant Affairs who resign prior to the expiration of their terms shall be for the remainder of the term.
- SECTION 7. THAT Commissioners may be appointed to more than one term.
- SECTION 8. FURTHER THAT the current vacancies and members of the Commission will be assigned expiration dates of June 30, 1987; June 30, 1988; and June 30, 1989. Thereafter appointments shall begin on July 1 for three years; AND
- SECTION 9. THAT the expiration dates for the terms of the vacancies and current members shall be established by the Mayor according to the following:
- (1) In designating termination dates, there shall be at least one member but no more than two members of each interest group designated to terminate each year and no more than one interest group shall have two members terminating each year;
 - (2) The current vacancies shall be assigned the latest termination dates and the termination dates of the current members, to the extent possible, shall be established according to the length of time a

member has been on the Commission, with those who have been on the Commission the longest having the earliest termination date;

SECTION 10. THAT the Mayor shall inform the Council and the Commission of the designations by _____, 1986.

SECTION 11. THAT Section 6-80.2 of the Article 7 of the Takoma Park Code be changed as indicated below:

(a) There is hereby established the Takoma Park Commission of Landlord-Tenant Affairs, hereinafter referred to as the Commission. The Commission shall consist of twelve (12) residents of Takoma Park to be appointed by the Mayor, subject to the approval of the City Council. ~~Three (3)~~ Four (4) of said members shall be landlords or shall represent landlords; ~~three (3)~~ four (4) members shall be tenants or represent tenants; and ~~three (3)~~ four (4) shall be members of the public at large who are neither tenants nor landlords. ~~In addition, there shall be appointed one (1) alternate member from each group. Each member of the Commission shall continue to serve until a successor has been appointed. The term of the member or alternate member shall expire in the event that the member changes status as a landlord, a tenant or a member at large, or in the event that member ceases to reside within the boundaries of the City of Takoma Park. Each member of the Commission shall be appointed for a term of three years, which shall begin on July 1. Each interest group shall have at least one member and no more than two members whose term shall expire each year. There shall be no more than one interest group each year with two members whose terms shall expire. In the event that a member changes status as a landlord, a tenant, or a member at large, that member is ineligible to serve on the Commission in that capacity. In the event that a member ceases to reside within the boundaries of Takoma Park, that member is ineligible to serve on the Commission. Replacements to the Commission for members who are ineligible or have resigned shall be for the duration of the term of the member being replaced. Members may be reappointed without limitation. ***The Mayor and Council may, by resolution, remove a Commissioner before the Commissioner's term has expired if the Mayor and Council determines that a Commissioner has become incapacitated or engaged in misconduct.***~~

(c) The Commission shall elect one (1) of its members as Chairperson and another of its members as Vice-Chairperson, each to serve at the pleasure of the

Commission, and such other officers as it shall determine. The Commission shall meet on call by the Chairperson as frequently as required to perform its duties. Six (6) members of the Commission, two (2) from each interest group, shall constitute a quorum for the transaction of business, and a majority vote of those present, with no less than six (6) present at any meeting, shall be sufficient for any official action taken by the Commission. At the request of a majority of the members, a regular or emergency meeting of the Commission shall be convened. Written notice shall be given to each and every Commission member and alternate at least three (3) days prior to any regular meeting. Notice of an emergency meeting may be in writing or by telephone, but must be communicated to all of the members and alternates no later than twenty-four (24) hours in advance of such emergency meeting.

(d) When a member is absent, the alternate member who represents the same interest group shall participate in the Commission proceeding in place of the absent member. Such alternate members may exercise the voting privilege only when acting for an absent member of the interest group which said alternate member represents.

SECTION 12. THAT subsections (e) through (j) be redesignated to reflect the deletion of subsection (d).

(Strikeover) denotes deletions
(Underlining) denotes additions

ADOPTED THIS 8TH DAY OF DECEMBER, 1986.

Introduced by: Councilmember d'Eustachio

Enacted: 12-8-86

RESOLUTION #1986-79

WHEREAS, the City of Takoma Park has been allotted a seat on the Montgomery County Cable Communications Advisory Committee since its inception; AND

WHEREAS, THE City's primary representative to the Committee, Margaret Anderson, has submitted her resignation; AND

WHEREAS, the City's Cable Board has suggested that the current alternate to the Committee, Bruce Moyer, be recommended for appointment as the City's primary representative, and Amity Hall as alternate City representative.

NOW, THEREFORE, BE IT RESOLVED THAT the Mayor and Council do hereby accept the Cable Board's recommendation of Bruce Moyer and Amity Hall to serve on the County's Committee; AND

BE IT FURTHER RESOLVED THAT City staff shall prepare a letter to the County Executive recommending Bruce Moyer's and Amity Hall's nominations to the Committee.

Enacted this 8th day of December, 1986.

Ordinance: Amending FY 1987 City Budget - Budget Amendment No. 3

Introduced by:

1st Reading: 12-8-86
2nd Reading:

ORDINANCE NO. 1986-
FY 1987 BUDGET AMENDMENT NO. 3

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

SECTION 1. THAT the City Administrator be hereby authorized to transfer \$96,500 to the FY 1986-87 budget from prior years unappropriated surplus, for the purpose of settlement of employee pay disputes.

SECTION 2. THAT the FY 1987 Budget be amended as follows:

REVENUE AMENDMENTS

A. Special Revenue Budget: A revenue line item 3004.000, State CDMA Grant, is created with an appropriation of \$3,000.

EXPENDITURE AMENDMENTS

A. Special Revenue Budget: An expenditure line item 3500.900, Commercial Development Management Authority (CDMA) is created with an appropriation of \$3,000.

B. An expenditure line item, Pay Dispute Settlement, is created with a budget account number of 997 and an appropriation of \$96,500.

C. Transfer \$1,000 from Public Works - Repair Materials, Budget Account Number 889, to Recreation - Youth Worker Expenses to provide funds for work performed by outreach workers.

"Option 1." D. Transfer \$ _____ from General Contingency, Budget Account Number 991 to Legal Expenses, Budget Account Number 570. (NOTE: Only \$84,000 is available in General Contingency.)

"Option 2." Appropriate \$ 40,000. from surplus to pay for legal expenses.

SECTION 3. THAT this ordinance shall become effective upon adoption.

Upon motion by _____, duly seconded by _____, the ordinance was adopted by roll call vote as follows:

- AYE:
- NAY:
- ABSTAIN:
- ABSENT:

Introduced by:

1st Reading: 12-8-86
2nd Reading:

ORDINANCE NO. 1986-

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

- SECTION 1. THAT all vehicular traffic, both east and west-bound, shall come to a complete stop on Kennebec Avenue at its intersection with Roanoke Avenue; AND
- SECTION 2. THAT the Public Works Director is hereby instructed to install the stop signs, stop lines, and necessary warning signs at the appropriate locations; AND
- SECTION 3. THAT this ordinance shall become effective upon adoption; AND
- SECTION 5. THAT the penalty for violation of this ordinance shall be as prescribed in Section 1-17(a) of the Code of Takoma Park, Md., 1972, as amended.

Adopted this _____ day of _____, 1986.

BY: _____
CITY CLERK

RESOLUTION: Supporting City's Participation in the Maryland Municipal League's Municipal Liability Insurance Pool

Introduced by: Councilmember Sharp

Adopted: 12-8-86

RESOLUTION NO. 1986-80

WHEREAS, the City Administrator, on behalf of the City, has been participating in the Maryland Municipal League's Committee on Liability Insurance; AND

WHEREAS, the Maryland Municipal League (MML) contracted for a feasibility study to be conducted pertaining to the establishment of a municipal liability pool; AND

WHEREAS, the MML's consultant report recommended that such a pool be formed by and for Maryland local governments; AND

WHEREAS, the Mayor and Council have discussed and agreed with the City participating in such a liability pool.

NOW, THEREFORE, BE IT RESOVLED THAT the Mayor and Council do hereby approve of the City's participation in the Maryland Municipal League's Municipal Liability Pool; AND

BE IT FURTHER RESOLVED THAT the Mayor and Council do hereby authorize the City Administrator to sign the attached Letter of Intent, for such participation.

Adopted this 8th day of December, 1986.