

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

Worksession, Public Hearing on FY 1987 Budget Amendment No. 3 and
Special Session of the Mayor and City Council

December 15, 1986

7:30 PM

AGENDA

- 7:30 CALL TO ORDER: Mayor Del Giudice
ROLL CALL: Councilmember Bradley
Councilmember d'Eustachio
Councilmember Haney
Councilmember Iddings
Councilmember Levy
Councilmember Sharp
Councilmember Williams
- 7:32 PLEDGE
- WORKSESSION
- 7:35 (1) Discussion of Proposed Relocation of Takoma Park Post Office
- PUBLIC HEARING
- 8:00 (1) Second Reading of FY 1987 Budget Amendment No. 3--reallocation of funds
pertaining to Longevity Pay Dispute
Citizens comments
Council action
- SPECIAL SESSION
- 8:20 (1) Discussion/action regarding the purchase of the Sister City Lot
Citizens comments
Council action
- 8:35 (2) Discussion and action regarding Appeal No. 8396, variance request for
1121 Holton Lane (Hearing: 12-17-86, CAB, Upper Marlboro)
Citizens comments
Council action
- 8:45 (3) Resolution appointing replacement member to Cable Board
Citizens comments
Council action
- 8:50 (4) Resolution appointing additional members to the Revenue Advisory
Committee
Citizens comments
Council action
- 8:55 (5) Resolution establishing and appointing members to Martin Luther King, Jr.
Commemoration Committee
Citizens comments
Council action
- 9:00 (6) Second Reading of an ordinance establishing Personnel Procedures
Citizens comments
Council action
- 9:45 (7) Second Reading of an ordinance establishing an Employee Classification
Plan
Citizens comments
Council action
- 10:30 (8) Ordinance approving contract for repairs of Maple Avenue Storm Drains
Citizens comments
Council action

ADJOURN

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

THE CITY OF TAKOMA PARK, MARYLAND

Special Session of the Mayor and Council
and
Public Hearing on FY 1987 Budget Amendment No. 3
December 15, 1986

CITY OFFICIALS PRESENT:

Mayor Del Giudice	City Administrator Wilson
Councilmember Bradley	Asst. City Administrator Habada
Councilmember d'Eustachio	Deputy City Clerk Jewell
Councilmember Iddings	Economic & Comm. Dev. Coord. Neal
Councilmember Levy	Asst. Corporation Counsel Hessel
Councilmember Sharp	

ABSENT: Councilmembers Haney and Williams

Following a worksession and upon motion, duly seconded, the Mayor and City Council convened at 8:04 P.M. on December 15, 1986, in the Council Chamber, 7500 Maple Avenue, Takoma Park, Maryland, for the purpose of conducting a Special Session and Public Hearing. For the record, the Mayor noted that Councilmember Haney was out of town attending to a family matter.

1. Discussion/action regarding the purchase of the Sister City Lot.

The Mayor noted the need to address the question of the automatic reverter clause contained in State Highway's Deed to the property and referred to in a memorandum from Attorney Anne DeNovo. Daniel Neal summarized the history of the proposed purchase, noting that some months ago, an ordinance was adopted authorizing the purchase at the price asked by the state. He said during the interim, the process had been ongoing and in the course of it, a copy of the Deed was forwarded to Attorney DeNovo, at which time she noticed the reverter clause therein which provides that if the property were ever used for any commercial purpose whatsoever, its ownership would automatically revert to the State Highway Administration, with the City being refunded its original purchase price. He pointed out Ms. DeNovo's interpretation of the clause was that if the property were ever used for any private or commercial use whatsoever, then reversion could occur, and she felt the Mayor and Council should be aware of that prior to the purchase being finalized. Mr. Neal commented that he had questions as to what situations would be interpreted to constitute commercial use and precedents set in the State of Maryland under this type of reverter clause; he noted Ms. DeNovo had not been asked to research these questions and he felt another option open to the City would be to go back to SHA and try to renegotiate the Deed; in response to query from the Mayor, he stated his recommendation was that the City proceed with the purchase. He said he felt Ms. DeNovo's interpretation of the clause to be a very stringent one, and pointed out that if the state really wanted to take back the property, they could do so. Councilmember Iddings remarked on the fact that a non-profit organization was presumably conducting a money-making operation on the site at present -- he inquired what would happen to that organization if the City proceeds with the purchase and whether they had been made aware they might lose the use of the premises. Mr. Neal responded that they had been aware for some time that their continued use of the building was questionable -- that the building might be removed at some point in time -- however, they had not been advised of anything definite. He said he had spoken with administrative personnel at State Highway, specifically David Muser, with whom details of the purchase had been worked on for the past year, and Mr. Muser's viewpoint was that so long as the City was not making substantial profit from some commercial venture on the site, State Highway would not be concerned. Mr. Neal said he made Mr. Muser aware of the thrift shop operating there presently and Mr. Muser said that would not matter to SHA; however, Mr. Neal noted that under strict interpretation, that could be construed as a money-making venture on the site and give SHA reason to cause problems should they so choose -- it could be considered grounds for reversion, strictly speaking. Councilmember Iddings commented he would not wish to proceed with the purchase and then risk reversion because of the current use; he inquired if authorization were given to proceed with the purchase, how soon it would be finalized. Mr. Neal responded that if authorization were given and a check drawn, the purchase could be completed immediately. Mr. Iddings commented he felt discussion should occur with the Sister City Committee and also Recreation Director Belle Ziegler about the purchase; he elaborated on the history of ongoing discussions and proposals for various uses for the property by different groups within the City, with the final analysis being that a vest pocket park would be most appropriate on the site, which was also supported by the

Master Plan, and would prevent incursion of commercial space into the residential area on Carroll Avenue. Councilmember Iddings moved that Daniel Neal be authorized to proceed with acquisition of the property after suitable notification has been made to the Sister City Committee; the motion was duly seconded. Councilmember Bradley inquired whether perhaps written confirmation of SHA's definition of commercial use and/or position as stated by Mr. Muser to Daniel Neal could be obtained; Mr. Neal concurred with that suggestion and stated he would request Mr. Muser to send him a letter reiterating and documenting his conversational statements. Following brief comment by Councilmember Sharp to the effect that surely SHA is aware of the operation on the property while it's been under their ownership, Councilmember Bradley remarked that for the future, it would be prudent to have Mr. Muser's statements documented. Mayor Del Giudice concurred with the suggestions concerning appropriate notification prior to proceeding with acquisition of the property, as well as the exchange of written documentation/communication with SHA. For the record, Councilmember Iddings commented that there were no plans for any commercial use of the property -- all plans examined support a public use, thus, it was most likely the reverter clause would have no impact. Ms. Bradley remarked that, in the worst case scenario where SHA considered a thrift shop (or an art shop) a commercial use, they would most likely notify the City to cease and desist prior to taking the property back (in which case, the City would be reimbursed the original purchase price). The question was called; the motion carried by unanimous vote.

2. Discussion and action regarding Appeal No. 8396, variance request for 1121 Holton Lane (Hearing: 12-17-86, CAB, Upper Marlboro).
For the record, the Mayor noted the presence of the petitioners, Lloyd and Constance Johnson, and the packet of explanatory material disseminated, including letters of support from neighbors. In response to query, Mr. Wilson stated that no objections to the proposal had been registered with the City to date. Councilmember Sharp moved that a position of no objections be conveyed to the county, duly seconded by Councilmember Iddings. Mr. Johnson very briefly summarized what was being requested in the variance. The motion carried by unanimous vote, with the Mayor noting that staff would be instructed to convey Council's position of support to the county Board of Appeals.

3. Resolution appointing replacement member to Cable Board.
Passage of the resolution was moved by Councilmember d'Eustachio, duly seconded by Councilmember Bradley. Councilmember Iddings commented on having reservations about the cable board making recommendations concerning at-large representatives on that board in that he felt that would undercut the role of the Council in having a more substantial voice in the direction of the board, and would be in conflict with the intent of the original ordinance. He said unless or until there was clarification of the process to be utilized to fill an elected vacancy on the board, he would vote in opposition, despite not questioning Mr. Foepfel's credentials or qualifications. Councilmember Bradley commented she had questions similar to those voiced by Mr. Iddings, however, upon speaking with Bruce Moyer, former Chair of the board, was reminded that the original ordinance had been amended by Council to provide for the board to interview and make recommendations for appointment should vacancies occur. She said she had not had an opportunity to confirm that through research, however, believed Mr. Moyer's recall was probably accurate, so would vote in support of Mr. Foepfel's appointment. Councilmember Sharp commented he shared Councilmember Iddings' concerns; said while he was not opposed to receiving recommendations from the board and that what was being proposed was probably in accordance with the Code, he was concerned that the Council was not playing a more active role and separately making its own considerations. He said while he would support the current nomination, he would wish, in future, to see the Council more involved in the process. Following additional brief comment by Councilmember Bradley, the resolution was passed by majority vote (Councilmember Iddings voting Nay, balance of Council voting Aye).

RESOLUTION #1986-81
(attached)

4. Resolution appointing additional members to the Revenue Advisory Committee.
Councilmember Bradley nominated Bruce Moyer, 37 Philadelphia Avenue, for membership on the committee; the Mayor nominated Greg Hamilton, whom he

said had requested a seat on that committee. Councilmember Sharp noted that Arjun Makhijani, who was noted on the resolution, had expressed an interest in serving, was proposed for non-voting membership, and resides in Silver Spring. Passage of the resolution with the new members nominated was moved by Councilmember Bradley, duly seconded, and carried unanimously. For the record, in response to Councilmember Iddings, Councilmember Levy commented that Beth Ann Kyle lives in her ward, has experience in municipal and governmental policies, and works for an agency that examines alternative revenue sources.

RESOLUTION #1986-82
(attached)

5. Resolution establishing and appointing members to Martin Luther King, Jr. Commemoration Committee.

Councilmember Bradley remarked there were two additional persons whom she had not yet been able to contact, but would wish to nominate for membership on the committee after ascertaining that they would be willing to serve. Councilmember Levy nominated Charles Ambush, 7509 Alfred Drive, Stan Parris, 7620 Maple Avenue, #730, and Rose Brown, 7510 Piney Branch Road, for membership. Passage of the resolution was moved by Councilmember Bradley, duly seconded. Ms. Levy noted the need to proceed quickly with implementation of the committee and the planning process in light of the short time frame. The resolution was passed by unanimous vote.

RESOLUTION #1986-83
(attached)

6. Resolution supporting Christmas Eve Banquet for the Homeless.

Councilmember Sharp presented and read the resolution, noting he had only learned about the event Friday, thus had not been able to disseminate copies in the packet. He moved its passage, duly seconded by Councilmember d'Eustachio; the motion carried unanimously.

RESOLUTION #1986-84
(attached)

7. Ordinance approving contract for repairs of Maple Avenue Storm Drains.

Asst. City Administrator Habada spoke briefly, relating the bids received and their amounts and noting that Granja Contractors submitted the lowest bid; she pointed out the ordinance was considered to be of an emergency nature based on weather conditions -- it was hoped the work could be done within the coming two weeks. In response to query, she stated Granja Contractors had done this type of work previously, and their references were checked. Concerning the contingency provision in Section 3 of the ordinance, she said due to the short time frame, WSSC had not yet had time to review the bids and give their approval, however, had been verbally notified of the bid results. She said it appeared the City would be responsible for approximately \$5,000 of the total amount for the work (\$1,300 in Block Grant Funds would be used, Washington Adventist Hospital had been asked to contribute \$3,000, which would leave the City with \$1,000 to pay). She confirmed that the City's Engineer, Henry Gilford, was familiar with the contractor, the street and the plan, and recommended moving ahead with the work. In addition, she confirmed that since WSSC staff had already recommended the project, reimbursement should not present a problem even though receipt of formal approval from them might take some time. She remarked on the need for exerting some pressure in order to speed up that process and subsequent reimbursement to the City. Councilmember Iddings commented on the ongoing problem of delineating WSSC's responsibility within the City for storm sewers and drains, and persuading them to address that responsibility. Councilmember Bradley remarked on feedback from WSSC staff indicating the strong likelihood of approval of the project and reimbursement to the City; she also commented that the hospital had supported the work from the beginning, had written a letter to WSSC about it; she said the neighborhood association would be most willing to lobby WSSC. She moved adoption of the ordinance, duly seconded. Councilmember Iddings commented on the compliance of the ordinance with the specifications for emergency legislation. The ordinance was adopted by roll call vote as follows: AYE: Councilmembers Bradley, d'Eustachio, Iddings, Levy and Sharp; NAY: None; ABSENT: Councilmembers Haney and Williams.

ORDINANCE #1986-50
(attached)

8. Public Hearing on and Second Reading of Budget Amendment No. 3 - Reallocation of Funds Pertaining to Longevity Pay Dispute.

In response to inquiries voiced concerning settlement of the pay dispute, the Mayor recapped the status of that issue for the benefit of those present; he referred to both collective meetings held with employees, as well as individual meetings with those having questions about the process, and the releases for signature waiving any further claims related to back pay which were imminently due for submission prior to final settlement being made. Attorney Mark Hessel related that, from information provided by Administrative Supervisor Anna Bennington, at 5 P.M. the current date, out of the 105 people eligible to receive payment, 80 had submitted signed releases; he noted some of those were former employees, and said he was optimistic about those and the majority of other remaining ones being returned soon. He suggested amending Section 1 of the proposed ordinance to clarify that adoption of the said ordinance did not necessarily indicate that the settlement had been finalized. In response to query, he stated that anyone failing to return his/her signed release, despite eligibility, would be denied payment from the settlement. Councilmember d'Eustachio inquired whether acceptance of payment could not be considered a release; Mr. Hessel responded in the negative -- he said the signed releases were needed to determine whether there would be an adequate number of persons releasing claim to finalize the settlement. Councilmember Sharp inquired whether there shouldn't be a sunset clause inserted preventing an individual submitting a signed release at some later date and requesting payment; Mark Hessel commented that not only had that question been raised, but the related one of disposition of monies owed but not paid due to lack of submission of a signed release -- i.e., whether it would revert to the City or would be divided among the employees receiving payment -- response was that it would revert to the City. The Mayor inquired of Mr. Hessel whether discussion had occurred between him and Tom DeCaro, the attorney representing the Legal Defense Committee, concerning signing of an agreement by the parties involved; Mr. Hessel responded that had been discussed; he said Mr. DeCaro had expressed willingness to sign such a release agreement on behalf of the 37 employees who retained him, however, specific language had not been talked about. The Mayor inquired whether language should be inserted authorizing the City Administrator to sign such an agreement; Mr. Hessel responded that in general it was the City Administrator who signs contracts, which is basically what the agreement would be. Councilmember Sharp suggested insertion of language requiring the signing of the settlement agreement within one year, with a stipulation that if that were not done the funds would revert back to the City; Mr. Wilson pointed out that, if unexpended, they would revert anyway at the end of the fiscal year. The Mayor pointed out that it was the specific request of employees that settlement be made during the present calendar year, and they were well aware that there were certain requirements to be met in order for that to occur. Following additional dialogue, Mr. Sharp withdrew his suggestion. For the record, the Mayor clarified and restated the recommendation made at an earlier point concerning Section 1; he moved insertion of language stating the City Administrator has the authority to spend \$96,500 to settle current pay disputes on behalf of the City. This ordinance does not require the City Administrator to settle any pay disputes. Councilmember Sharp duly seconded the motion. Councilmember Iddings raised questions concerning the need for clarification, inclusion of more specific requirements concerning the settlement process in the ordinance; Mr. Wilson commented he did not feel the budget amendment ordinance to be the appropriate document in which to set forth the intricate details of the process -- that should be a separate matter. Dialogue ensued concerning the percentage of release signees prior to settlement payout. Following additional discussion of the proposed amendment to Section 1, Mr. Wilson suggested inclusion of a provision that expenditure of the appropriated funds would be contingent upon a settlement agreement being reached and signed. Following additional discussion and a proposal from Councilmember Bradley to alter the language of the amendment to provide that up to \$96,500 could be spent by the City Administrator to settle the pay dispute, the Mayor withdrew his motion to amend, which was accepted by the seconder. Councilmember Sharp moved amendment of Section 1 by the addition of the following language at the end of the section: provided, however, that said settlement is duly executed by the parties. The motion was duly seconded by Councilmember Bradley. Due to questions raised and for purposes of clarification, the Mayor suggested the wording

read: provided, however, that no payment shall be made until said settlement has been executed by the parties. Following further dialogue concerning employees failing to sign releases and the need for legal evaluation of those in relation to any possible further claims on the City, the question was called on the motion to amend, which carried by majority vote (Councilmember Iddings Abstained, balance of Council voted Aye). The Mayor moved adoption of the ordinance, as amended, duly seconded. Councilmember Iddings commented he was torn regarding the ordinance, in that he recognized that it was the culmination of a lengthy process for some employees who had recognized a number of years ago that there were problems with how their pay was being computed; however, he said he felt the settlement amount was too high and was unfair to the City, was a disservice to the taxpayers. He said he felt some of the claims of the complainants were unfounded, and had the case gone to court, some of the claims would not have been substantiated. For those reasons, he said he would be voting against the ordinance, despite supporting other provisions of the budget amendment. Councilmember Bradley commented on the complexity of the pay dispute issue, however, noted the committee process utilized to reach a resolution and said while she, too, had cringed when she saw the dollar amounts involved in settlement, she would be supporting the ordinance because she felt the system probably worked as well as possible in terms of what was fair to all involved. The Mayor briefly noted the need for discretion in terms of comments concerning the potential settlement in the case until such time as an agreement was finalized. The question was called; the ordinance, as amended, was adopted by roll call vote as follows: AYE: Councilmembers Bradley, d'Eustachio, Levy, Sharp; NAY: Councilmember Iddings; ABSENT: Councilmembers Haney and Williams.

ORDINANCE #1986-51
(attached)

9. Second Reading of an ordinance establishing Personnel Procedures. The Mayor noted 3 remaining issues to be discussed and resolved in relation to the legislation, pointing out those were enumerated in the cover memorandum. In addition, he commented on the executive summary which outlined major points of the legislation, and commented he understood that the draft provided had incorporated changes effected at a prior meeting clarifying responsibilities of the City Administrator in that position and potential responsibilities of the City Administrator functioning as the Personnel Officer. For purposes of discussion, Councilmember Sharp moved adoption of the ordinance, duly seconded by Councilmember Bradley.

Discussion was directed to the first question requiring resolution, i.e., what types of personnel matters an employee should be allowed to grieve (Sec. 8B-179). Concerning that question and the second -- what personnel rules apply to temporary employees -- Councilmember Sharp commented he had no suggestions to add other than what was already in the ordinance. Concerning the third, he referred to a memorandum he circulated to the elected body earlier recommending that no statement be included in the City Code requiring that wages be paid comparable to those paid by other municipalities; he elaborated on his rationale for that suggestion. He remarked that the definition of "should" which had been incorporated in the ordinance subsequent to his memo might address the concerns he had about the issue; however, said that in light of the statement not being a mandate, he still felt it to be an unnecessary adjunct which could preferably be omitted. He moved deletion of that language, i.e., Sec. 8B-122(b), in its entirety; duly seconded by Councilmember d'Eustachio. Councilmember Bradley remarked she would not vote in favor of deletion of the section in its entirety and explained her rationale, suggesting that the two sentences of the section be addressed separately. Councilmember Sharp, maker of the motion, accepted that proposal. Ms. Bradley formally moved addressing the two sentences/subjects within the section separately, duly seconded. She proposed insertion of additional language concerning comparability of salaries at the end of the second sentence; the Mayor remarked she could move that following the vote on deletion of the first sentence of the section. Councilmember Levy commented she did not agree with the proposals being made and moved to retain the section as written; she said she believed it would be a disservice to City departments to delete the language, because if salaries were not competitive, it would be difficult to get well-trained employees capable of performing the work and that would be detrimental to the City. She noted recent passage of the Collective Bargaining Ordinance and reiterated she felt the language should remain as written. Councilmem-

ber d'Eustachio commented in opposition to the first sentence concerning payment of salaries competitive with those for similar work in similar public agencies, remarking that not only was it an unnecessary statement, but it could place the City in a position of liability at some future time; and was not appropriate for inclusion in an ordinance. He said he felt payment of competitive wages to be important, but would prefer to see a resolution stating support for the concept as an administrative matter. Councilmember Iddings spoke in favor of deleting the first sentence, concurring with Mr. d'Eustachio's remarks; he said he felt it important to retain the second sentence concerning base salaries for different grades maintaining the relative worth of work done by employees in classes assigned to different grades, which amounts to people being paid equally for jobs of equal value. The question was called on deletion of the first sentence of Sec. 8B-122(b) which stated that salaries paid should be competitive with those paid for similar work in similar public agencies; the motion to delete carried by majority vote (3-2). The question of deletion of the second sentence of the same section, concerning base salaries for different grades maintaining the relative worth of work done by employees in classes assigned to different grades, was defeated by majority vote. Councilmember Bradley moved the addition of language to the section, as amended, which would strike the period at the end and add and should be generally competitive with comparable salaries in the region. Councilmember Levy duly seconded the motion; the motion was defeated by majority vote (3-2).

Attention was directed to the questions of what types of personnel matters employees should be allowed to grieve, and what personnel rules apply to temporary employees. Concerning temporary employees, it was noted the matter had been discussed in worksession; Councilmember Sharp commented he had no problem with the pertinent section as written. Attorney Hessel pointed out that the areas where question might arise would be in relation to benefits and to advancement in the payscale (and whether those employees are a part of the payscale). Responding to a request for his opinion, Mr. Wilson stated that a major problem with the entire subject was the tendency toward continuing expansion on personnel regulations in a codified format, which he could neither recommend nor support. He said his recommendation would be to adopt such rules by resolution rather than by ordinance, which latter practice places the City in a legal position. In response to query from Councilmember Levy, he said that the majority of municipalities handle matters related to temporary employees based on their own past practice -- most pay a flat rate salary, those employees are not eligible to participate in a bargaining unit, and are not necessarily subject to fringe benefits negotiated by a bargaining unit. He noted that a number of persons who were defined as "temporary" had been with the City for a long time -- and those employees could be redefined, if so desired, as permanent based on their length of employment. Councilmember Bradley commented on the need to analyze and correctly define functions and positions in terms of "temporary" and "permanent part-time" and determine what would be equitable in terms of applicability of the personnel procedures; she suggested leaving those sections of the ordinance as is for the present. Councilmember d'Eustachio concurred, saying those issues might appropriately be addressed in an administrative procedure rather than in the ordinance.

Greg Hamilton, based on union-related experience, said that the union outlook on the issue was that "temporary" applied to an individual hired through an agency to temporarily fill a job to which an incumbent would be returning or for a specific limited task and time period, while "permanent part-time" was considered to be a person guaranteed a job indefinitely; he said some organizations had decided to strike the designation "permanent" from part-time positions in the event the position should be abolished, downgraded, etc., so they would not be locked into keeping the employee on and finding another position for them. He concurred that in a small city government there was need for part-time employees, however, elaborated on the concept of designation and definition of such positions and their relation to benefits for those employees vis-a-vis unions.

Councilmember Iddings voiced concurrence with Ms. Bradley's earlier comments about the need to address and give direction to staff about temporary and part-time positions for administrative purposes; he remarked that the original goal of the ordinance, which had gotten out of hand to some extent, was to set up grievance procedures and a legal structure that would permit development of administrative rules and regulations consistent

with contractual requirements on the City if a union were to come in. He noted that the language of the ordinance contained a lot of "shoulds" vs. a lot of "shalls," which, to him, indicated that it was administrative in intent. He said he hoped that over a period of time the ordinance could be pared down by the formulation of administrative rules and regulations, with matters included therein being deleted from the Code itself.

Councilmember Bradley referred to questions she had previously raised at the November 24, 1986 Regular Council Meeting concerning the dual role of the City Administrator in that function and functioning additionally as the Personnel Officer (refer to Council Meeting Minutes, 11/24/86); Councilmember d'Eustachio remarked he shared the concerns expressed, however, despite subsequent discussion, no viable alternative had been decided upon. Discourse ensued concerning the appeal process and its function. Councilmember Levy commented she would support the ordinance despite there being certain sections she did not support, particularly Sec. 8B-179(a) which provides that employees may not appeal changes in the pay plan or any other issue not impacting day-to-day working conditions or relations with a supervisor; she said, as she had previously stated in worksession, she felt those issues were relevant and should be a part of the grievance procedure. Lengthy discussion followed, with the Mayor pointing out that an individual dispute or situation related to pay would be grievable, but not the overall pay plan as adopted by the Mayor and Council. Attorney Hessel, responding to an earlier remark, stated that a poor merit evaluation would not be grievable under the ordinance as written because the individual would have had to receive some inequitable treatment through some personnel action (which is a defined term and does not include the performance evaluation process). Councilmember Bradley commented that the legislation under consideration began initially as a means of providing a grievance procedure to deal with complaints generated by the reclassification; however, it had become more and more complicated, had cost far more money than initially anticipated -- she noted this was an example of how things mount up both in terms of time and money. The Mayor concurred, however, pointed out that the problem was that there was such a vacuum due to the state and condition of the City Code -- such an absence of clear direction, absence of clear administrative policies and procedures. The ordinance, as amended, was adopted by roll call vote as follows: AYE: Councilmembers Bradley, d'Eustachio, Iddings, Levy and Sharp; NAY: None; ABSENT: Councilmembers Haney and Williams.

ORDINANCE #1986-52

(copies available upon request)

10. Second Reading of an ordinance establishing an Employee Classification Plan.

Councilmember Iddings moved adoption, duly seconded by Councilmember d'Eustachio. The Mayor noted receipt and distribution of copies of comments from Recreation Director Belle Ziegler which were prepared in response to questions that arose concerning preparation of job descriptions/specifications used in the factoring process. He noted need for insertion of an effective date for the legislation and commented that in real terms, it would take effect in the budget for the next fiscal year; however, any aspects that employees wish to contest would be handled by the appeal board within the upcoming 6 months. Mr. Wilson suggested an effective date of January 1, 1987 for insertion in the ordinance, which would afford a period of appeal concerning reclassification prior to budget adoption and would establish a base that could be used for development and debate concerning the pay plan itself. Councilmember Bradley inquired when the payscale that will overlay the reclassification plan would be available; Mr. Wilson responded that would be available in a couple of weeks following the Mayor and Council's holiday recess. The Mayor recommended that January 1, 1987 be inserted as the effective date of the ordinance; the recommendation was accepted by both the maker and seconder of the motion to adopt.

Councilmember Levy related having spoken, prior to the meeting, to an employee who apparently spoke for several others as well concerning the change under the reclassification from the designation of "Administrative Aide" to "Administrative Clerk." The employee stated she had expressed displeasure with the change to Mr. Wilson and was advised that it was made at the recommendation of the consultant, Mr. Selig. She said the individual went on to relate that her reasoning was that the altered terminology would have a deleterious effect on one in the job marketplace; Ms. Levy

stated that while she was not currently very knowledgeable about that, she would tend to agree in that the terminology appeared to connote the requirement of lesser qualifications. Ms. Levy moved to amend the ordinance by changing the title of "Administrative Clerk" therein to its former designation of "Administrative Aide." For purposes of discussion, Councilmember Bradley duly seconded the motion. Mr. Wilson commented that if the same change were made in the Accounting Department, i.e., if the title of Accounting Clerk were changed to Accounting Aide, the individuals in those positions would consider themselves to have been downgraded. Asst. City Administrator Habada commented that in terms of state personnel nomenclature, the use of the designation "aide" is not appropriate given the job descriptions for those positions with the City, according to Mr. Selig -- the title "Administrative Clerk," given the descriptions of the category of work performed, is more appropriate. Councilmember Levy commented it had been her understanding that feedback from employees would be considered as a part of the process, and she perceived this change as a morale factor, which was why she had raised it. Councilmember Bradley commented that the job market in the metropolitan area relates more to federal government and its job classifications than to the State of Maryland; she wondered what the federal terminology would be for comparable jobs, and remarked that jurisdictions such as Garrett County, Carroll County, etc., relate more to the state government than would Takoma Park, where employees are more likely to go to work for federal than state government. Ms. Habada remarked that her use of the word "state" did not limit it to the state government itself, but was meant to be inclusive of municipalities and local governments, including the counties that Mr. Selig worked with when he was working at the state level. Councilmember Bradley reiterated remarks concerning whether or not the amended terminology was comparable to that in federal government classifications versus outlying counties and jurisdictions in the state. Councilmember Levy inquired whether Ms. Habada had given employees the same explanation as that given to the Mayor and Council, to which Ms. Habada responded in the affirmative and said that change is always very difficult and perhaps employees perceive the term "aide" as denoting a higher ranking than "clerk." Ms. Levy remarked she perceived that more than just semantics was involved in the situation, that all the changes that have occurred and employees' feelings about those were involved; for that reason, she said unless the change in terminology were written in stone, perhaps this was a semantic alteration that could be reversed for the benefit of employees. Ms. Habada commented that while she could appreciate that, it would not then relate to the comparisons management does on an annual basis concerning salary scales between jurisdictions. She said what Mr. Selig had tried to do was make the nomenclature in conformance with that used by other jurisdictions so comparisons could more easily and accurately be made. Ms. Bradley asked whether other jurisdictions conformed to that terminology -- she said everywhere she had worked had different titles for the same function. Mr. Wilson commented that in the City, position titles and pay were modified over time in the past, without benefit of clearly stated job descriptions or classification plans, thus, what would have to be done to accurately check pay scales with other municipalities would be to compare job descriptions rather than particular titles. Councilmember Iddings remarked that the job descriptions were signed off on, thus, inquired what the connotation would be of making the title change. Ms. Habada responded that the job descriptions were signed off on under the title Administrative Aide, however, the descriptions bearing the title change to Administrative Clerk had not yet been retyped and so had not been signed off on by the employees affected.

Mike Davidson: stated he had worked for the City in Public Works, and had experience dealing with the City Administrator. He commented new census figures would be forthcoming which would reflect that 62% of the City's population live in rental units -- because of that fact, he said, if the City does not pay people in the Housing Department quality salaries, then that department would not be staffed by quality personnel. He said he felt the Code Enforcement Officer I position which was classed as a Grade 7 should be elevated to a Grade 9, and a qualified person should be hired; the Housing Coordinator should be a Grade 11, and a person qualified for the position should be hired; and the Code Enforcement Supervisor should be a Grade 12. He said if a new Housing Director were hired at \$24,000, then the City would be getting a "nothing" in that position.

Greg Hamilton: commented that in some instances, "aide" was considered a lesser position than "clerk;" however, said what most people would look at

would be the numerical designation I or II in the title, the I being a lower step than the II. He suggested using the term "aide" to denote part-time persons assisting in a position, with "clerk" used to denote full-time positions.

The question was called on the motion to amend the ordinance by altering "administrative clerk" to read "administrative aide;" the vote was a 2-2 tie; the Mayor, to break the tie, voted against the motion which resulted in the motion being defeated 3-2. Councilmember Bradley remarked that, as she had mentioned on several prior occasions and Ms. Levy mentioned earlier, lacking a payscale to which the reclassification could be related, Councilmembers had little basis to examine the implications of the system salary-wise in various positions. She asked how, if the ordinance were adopted, changes could later be made if that were desirable. Ms. Habada pointed out that this plan was based on a first attempt at factoring, it was not cast in stone, and it might be found that changes would have to be made at later points along the way. She said the factoring was done so that internal relative worth could be dealt with in terms of other positions on the scale -- the pay plan would be an external measure, using certain benchmarks of positions classified as being key in determining salary levels. She spoke concerning factors that could and might influence levels of pay for positions. Councilmember Bradley remarked that while pay was probably the most important factor in a job, status and perceived importance of the position also had a bearing. Councilmember d'Eustachio commented that while he did not think the structure to be perfect, he would support the ordinance because the plan was formulated through an attempt at impartial evaluation of City jobs by a group of employees and management people. He said he felt the process was valid -- much more so than some Councilmembers sitting in a vacuum and taking potshots at specific jobs (Mr. d'Eustachio clarified that what he meant was proposing random changes to specific job titles); he pointed out there was a specific process through the appeals board to examine instances where it was claimed that a mistake had been made. Councilmember Bradley inquired why, if the payscale would be presented in a few weeks, there would be any harm in waiting to see how the reclassification looked in conjunction with that payscale. The Mayor responded that that would again be mixing the apples and oranges which should be separated, in that the classification plan strives for relative comparable worth of the positions internally, while the pay plan may, in fact, deal with some external factors -- if the two are brought together, the purpose of doing an internal job classification study is defeated and it would be contrary to what had been recommended. Councilmember Levy remarked she concurred with comments made by Mr. Davidson earlier regarding Housing Services, and moved that the position of Director of Housing Services be amended to Grade 17; the motion was duly seconded by Councilmember Bradley. Following brief comment by various members of the Council, the Mayor commented he felt the motion to be ill-advised, that there was a process involved -- set forth in the Personnel Procedures Ordinance which was adopted earlier -- and that process should be respected and used to help resolve questions that arise. The motion was defeated 3-2 (a 2-2 tie vote was broken by the Mayor voting against the motion). Mr. Wilson commented that the reclassification plan was the result of a fairly long and imperfect process; he said the City now has a means by which the process can be adjusted several ways -- it can come from the filing of a grievance by any single employee in accordance with the Personnel Procedures Ordinance in relation to his/her job description (which is the basis for the factoring and classification). He said classification of a job is not just the matter of a title and the amount of money being paid, but what the position requires the individual to perform and the competitiveness of that position with respect to other positions. The ordinance was adopted by roll call vote as follows: AYE: Councilmembers d'Eustachio and Iddings; NAY: Councilmember Levy; ABSTAINED: Councilmember Bradley; ABSENT: Councilmembers Haney, Sharp and Williams.

ORDINANCE #1986-53
(attached)

Upon motion, duly seconded, the meeting adjourned at 10:54 P.M., to reconvene in regular session at 8:00 P.M. on January 12, 1987.

Introduced by: Councilmember d'Eustachio

Adopted: 12-15-86

RESOLUTION NO. 1986-81

WHEREAS, there currently exists a vacancy for one of the elected seats on the City's Cable Television Board that needs to be filled; AND

WHEREAS, the Cable Board received three applications of interest from Robert Foppel, Amity Hall, and Shirley Hendley, residents of the City; AND

WHEREAS, a panel of current Board members interviewed the candidates, and it is the unanimous recommendation of the Cable Board that Robert Foeppe be appointed to fill the vacant elected seat, the term of which expires in November 1987; AND

WHEREAS, after due consideration by the Mayor and Council, the following person was selected to fill the existing vacancy.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of Takoma Park, Maryland, does hereby appoint Robert Foeppe to fill the vacant elected seat on the Takoma Park Cable Television Board until the November 1987 Municipal Election.

Introduced by: Councilmember d'Eustachio

Adopted: 12-15-86

RESOLUTION #1986-82

WHEREAS, the City Council adopted Resolution #1986-43 on May 12, 1986, establishing the Revenue Advisory Committee; AND

WHEREAS, a number of appointments were effected on November 24, 1986, by Resolution #1986-74, and names of additional qualified citizens who might serve on the committee have been placed in nomination by Councilmembers for membership on the committee.

NOW, THEREFORE, BE IT RESOLVED THAT the Mayor and Council hereby appoint the following residents of the City to serve on the Revenue Advisory Committee:

Larry Dzieza*
Thomas Gagliardo*
Milford Sprecher*
Louis D'Ovidio*
Joseph Faulkner*
Beth Ann Kyle
Richard Bernardi
Bruce Moyer
Gregory Hamilton
Arjun Makhijani (advisory capacity only, non-resident)

*appointed by Resolution 1986-74

Enacted this 15th day of December, 1986.

Introduced by: Councilmember Bradley

Adopted: 12-15-86

RESOLUTION NO. 1986- 83

WHEREAS, in years past, the Mayor and City Council of Takoma Park, Maryland, have observed a day of memory for the late Dr. Martin Luther King, Jr., a leader of remarkable vision and courage; AND

WHEREAS, Congress has established a federal holiday in observance of his birthday, which falls on January 19, 1987; AND

WHEREAS, the Mayor and Council would like to continue its annual celebration to coincide with the observance of his day of birth, and with this in mind, do hereby create the Martin Luther King, Jr. Commemoration Committee to make recommendations on the format for the celebration.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THAT the following persons are hereby appointed to serve on the Martin Luther King, Jr. Commemoration Committee:

Harold Alston, 7710 Maple Avenue
Clarence Boatman, 133 Ritchie Avenue
Lou Guthrie, 1202 Myrtle Avenue
Juanita Nunn, 7777 Maple Avenue
Claudette Thompson, 7513 Maple Avenue
Charles Ambush, 7509 Alfred Drive
Stan Parris, 7620 Maple Avenue, #730
Rose Brown, 7510 Piney Branch Road

STAFF REPRESENTATIVES:

James Wilson, City Administrator
Paula Jewell, Deputy City Clerk
Belle Ziegler, Director of Recreation
Condie Clayton, Code Enforcement Supervisor

Adopted this 15th day of December, 1986.

RESOLUTION NO. 1986-84

A RESOLUTION IN SUPPORT OF THE CHRISTMAS EVE BANQUET FOR THE HOMELESS

WHEREAS, there are some 10,000 to 15,000 homeless persons in the Washington area; AND

WHEREAS, a coalition of Washington area restaurant owners and the Community for Creative Non-Violence are organizing a Christmas Eve banquet to help feed the homeless; AND

WHEREAS, in furtherance of the event, the organizers are requesting donations of food, warm clothing and money.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Takoma Park that the Mayor and Council support this attempt to make the holiday season more enjoyable for the homeless and encourage citizens, citizen's associations, and businesses in Takoma Park to contribute to this effort.

Checks should be made out to "Christmas for the Homeless" and sent to: Denise Hengst, 11216 Prelude Court, Silver Spring, MD, 20901.

EMERGENCY ORDINANCE: Awarding Contract for Repair of Maple Avenue
Storm Drains

Introduced by: Councilmember Bradley

Adopted: 12-15-86

ORDINANCE NO. 1986- 50

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

SECTION 1. THAT bids were solicited from qualified contractors by advertising in the Washington Post, the Blue Report and the Dodge Report, with bids having been publicly opened at 2:00 PM on December 15, 1986 for the following project:

Street Improvements - Maple Avenue between Maplewood Avenue and Sligo Creek Parkway, including installation of storm drains as per specifications prepared by Gilford & Chase, Incorporated, Engineers.

SECTION 2. THAT five bids were received, with Granja Contractors, Inc. of McLean, Virginia having submitted the low bid of SEVENTEEN THOUSAND TWO HUNDRED AND FIVE DOLLARS AND FIFTY CENTS (\$17,205.50).

SECTION 3. BID AWARD. THAT the bid of Granja Contractors, Inc. for the work described above is hereby accepted, contingent upon acceptance and approval by the Washington Suburban Sanitary Commission, and the City Administrator is authorized to execute the appropriate contract documents.

SECTION 4. EMERGENCY ORDINANCE. The City Council finds that a situation of an emergency nature exists that requires the adoption of this ordinance after being read at one meeting of the Mayor and Council. If this ordinance were read at two meetings of the Council it:

- (a) would not be possible to authorize construction work until a second reading in January 1987, which would place start-up of this two week construction project in January, during cold weather.
- (b) would delay closure of the open storm drains which represents a danger to the public health, safety and general welfare of the City.

SECTION 5. EFFECTIVE DATE. This ordinance shall become effective upon enactment.

Adopted this 15th day of December, 1986.

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

Introduced by: Mayor Del Giudice

1st Reading: 12-8-86
2nd Reading: 12-15-86

ORDINANCE NO. 1986-51
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; provided, however, that no payment shall be made until said settlement has been executed by the parties; AND

SECTION 2. THAT the City Administrator be hereby authorized to transfer \$40,000 to the FY 1986-87 Budget from Prior Years Unappropriated Surplus for legal expenses; AND

SECTION 3. 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.

D. Appropriate \$40,000 to Account 570 for legal expenses.

SECTION 4. THAT this ordinance shall become effective upon adoption.

Adopted this 15th day of December, 1986.

ORDINANCE NO. 1986-53
Position Classification Ordinance

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

SECTION 1. PURPOSE. The purpose of this ordinance is to:
(a) amend the grade structure adopted by Ordinance No. 1986-23; AND
(b) establish a personnel classification system.

SECTION 2. CHANGES IN THE GRADE STRUCTURE. The grade structure for all employees other than the City Administrator, recreation attendants, and crossing guards is established in Section 2(e) of Ordinance No. 1986-23. The grade structure in Section 2(e) is amended to read as follows:

- | <u>GRADE</u> | <u>JOB CLASSES</u> |
|--------------|--|
| GRADE 1 : | |
| GRADE 2 : | Custodian |
| GRADE 3 : | Laborer; Clerk Typist I |
| GRADE 4 : | Account Clerk I; Library Shelver; Communications Dispatcher; Assistant Driver |
| GRADE 5 : | Recreation Aide; Tool Library Attendant; Equipment Operator I |
| GRADE 6 : | Account Clerk II; Secretary; Personnel Clerk; Library Assistant; Recreation Specialist; Police Private; Driver Foreman; Equipment Operator II |
| GRADE 7 : | Administrative Clerk I; Playground Coordinator; Equipment Operator III; Code Enforcement Officer I |
| GRADE 8 : | Administrative Clerk II; Executive Secretary; Gym Supervisor; Police Private First Class; Tree Maintenance Foreman; Building Mechanic; Mechanic; Community Development Coordinator |
| GRADE 9 : | Account Supervisor; Administrative Supervisor; Deputy City Clerk; Police Affairs Specialist; Police Corporal; Parks Foreman; Street Foreman; Housing Coordinator |
| GRADE 10: | Librarian; Police Sergeant; Sanitation Supervisor; Street Supervisor |
| GRADE 11: | Youth Outreach Worker; Recreation Supervisor; Code Enforcement Supervisor |
| GRADE 12: | Assistant Library Director; Police Lieutenant; Cable TV Coordinator; Shop Supervisor |
| GRADE 13: | |
| GRADE 14: | Police Captain (Deputy Chief); Assistant Public Works Director; Director of Economic & Community Development |
| GRADE 15: | Library Director; Recreation Director; Director of Housing Services |
| GRADE 16: | Assistant City Administrator |
| GRADE 17: | Police Chief; Public Works Director |

SECTION 3. EFFECTIVE DATE. This Ordinance shall become effective January 1, 1987.

Statement by Belle Ziegler, Director
Takoma Park Recreation Dept.
December 15, 1986

Your Honor and Councilmembers:

In order to clear the record, I would like to take this opportunity to make a statement concerning allegations made at the October 14 Council meeting regarding the Recreation Department's factoring process.

We were directed on July 23, as well as other departments, to modify our job specifications to include years of experience, etc., review the modified specifications with employees and forward signed copies with comments to the Assistant City Administrator. Since a number of our part time personnel were not in the area, we were allowed more time to try and contact them. Some were never reached.

All modifications were made in accordance with our instructions from the City Administrator's office and Mr. Selig's associate.

THE LAW OFFICES OF
SUSAN SILBER

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ADMITTED DC, MD AND NY

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ADMITTED DC AND MD

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ADMITTED DC

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LANGLEY PARK, MD 20783

1300 NINETEENTH STREET, N.W.
SUITE 240
WASHINGTON, D.C. 20036

626 INDEPENDENCE AVENUE, S.E.
SUITE 303
WASHINGTON, D.C. 20003

(301) 445-5400

MEMORANDUM

December 15, 1986

TO: Mayor and Council

VIA: James Wilson, City Administrator

FROM: Mark Hessel, Assistant Corporation Counsel *MH*

SUBJECT: Proposed Personnel Procedures Ordinance

At the direction of the Mayor, I have prepared the attached draft and a brief executive summary. The draft contains the amendments approved by Mayor and Council at earlier meetings. It also contains minor technical amendments, staff's recommendations on dividing responsibilities between the City Administrator and the Personnel Officer, and staff's recommendations on the effect of failing to decide an appeal on time (see Section 8B-179(e); page 22. Employee may pursue the appeal to the next level, but not beyond the Personnel Appeal Board.)

The Mayor and Council have three issues that have been raised, but not discussed. They are:

1. What types of personnel matters should an employee be allowed to grieve? (Section 8B-179; page 21).
2. What personnel rules apply to temporary employees? (Section 8B-117; pages 14-15).
3. Should the City commit itself to paying wages comparable to other cities if it can hire people for less? (Section 8B-122; page 18).

PERSONNEL PROCEDURES ORDINANCE

Draft - 7-12/15/86

EXECUTIVE SUMMARY

How does the City adopt personnel regulations?

1. The City Administrator publishes a notice in the newsletter.
2. The public has 21 days to submit comments.
3. After reviewing any comments, the City Administrator may adopt the regulations.

What principles guide the management of the personnel system?

The bill establishes merit principles for managing the personnel system. The principles emphasize:

1. diversity among employees;
2. merit as the criterion for selecting, retaining, and advancing employees;
3. equal pay for work of equal value;
4. efficient use and training of employees; and
5. protection for whistle blowers.

What are positions, classes, and grades?

1. A position is a specific job filled by one person (or two people sharing the position). The City Administrator hires an employee for a position and prepares the job description. However, only the Mayor and Council can create or abolish a position.
2. A class contains one or more similar positions with the same title (for example, sergeant or typist). The department heads allocate positions to classes with the approval of the City Administrator. The City Administrator prepares specifications for each class.

3. A grade represents a range of pay for employees. A committee must report to the City Administrator on which grade a class should be assigned to. The report must be based on a written job evaluation system. The City Administrator must make a recommendation to the Mayor and Council who make the final decision.

How much does an employee earn?

Except for senior executives, an employee's pay is based on three factors:

1. grade and step;
2. adjustments to pay because of working conditions; and
3. bonuses for specific purposes.

The Mayor and Council may establish a senior executive service which has a pay range for the executive, but no fixed steps.

How does an employee file a grievance or appeal a decision?

An employee can challenge a personnel action taken by the City. The employee must file the appeal within 15 days after the action. In each case, the first appeal is to the supervisor or department head, then to the City Administrator, and finally to the Personnel Appeal Board.

An employee cannot appeal a decision by the Mayor and Council to assign a class to a grade. However, an employee may ask the Mayor and Council to reconsider.

When can an employee keep seniority rights after leaving the City and returning?

1. If the employee was gone for less than a year and was laid off or on leave with the City Administrator's approval.
2. If the City Administrator approves; the employee was with the City for at least three years; and the employee resigned or was laid off for one to three years.

Who does not earn extra pay for overtime?

1. City Administrator and Assistant City Administrators;
2. Department heads and assistant department heads;
3. City Clerk and Deputy City Clerk;
4. Economic and Community Development Coordinator; and
5. Police Captains and Lieutenants.

Who is on the Personnel Appeal Board?

Three citizens appointed by the Mayor. The City's ethics laws apply to members of the Board.

Adoption moved by:
Councilmember Sharp

Introduced: 11/24/86

Enacted: 12/15/86

Effective: _____

ORDINANCE NO. 1986- 52

Short Title: Personnel Procedures Ordinance

Draft No. 7 -- 12/15/86

AN ORDINANCE TO:

(a) Create a new chapter governing personnel matters in City government;

(b) Substantially revise the aspects of the personnel system relating to:

- (1) describing positions and classes of positions;
- (2) allocating positions to classes;
- (3) assigning classes to pay grades;
- (4) establishing criteria for objectively evaluating classes of positions;
- (5) determining the compensation of an employee;
- (6) appealing personnel decisions relating to employees through a grievance procedure;
- (7) establishing a Personnel Appeal Board;
- (8) authorizing the personnel officer to adopt personnel regulations under specific procedures;

(c) Establish merit principles;

(d) Define "class specification", "approved position", "personnel action", and "position";

(e) Designate the City Administrator as the personnel officer and assign most personnel duties to the personnel officer;

(f) Require that the personnel officer put in writing any credit given to employees for former service to the City;

(g) Clarify certain provisions of the personnel law; and

(h) Make general minor changes in the personnel laws.

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

Creating Chapter 8B and re-numbering the following sections without any changes.

<u>Old Section Number</u>	<u>Title</u>	<u>New Section Number</u>
2-55	General policy	8B-109
2-56	Business activities and solicitation	8B-110
2-57	Outside employment	8B-111
2-58	Privileged information	8B-112
2-66	Pay period	8B-123

2-67	Determination of an employee's pay increase	8B-124
2-68	Salary rates for reallocations, promotions and demotions	8B-125
2-71	Authorized leave	8B-129
2-72	Requests for leave	8B-130
2-73	Accounting responsibilities and procedures	8B-131
2-74	Holiday leave	8B-132
2-75	Annual leave	8B-133
2-76	Sick leave	8B-134
2-76.1	Compensatory leave	8B-135
2-77	Injury leave	8B-136
2-78	Military leave	8B-137
2-79	Maternity leave	8B-138
2-80	Bereavement leave	8B-139
2-81	Jury leave	8B-140
2-82	Civic Duties	8B-141
2-83	Policy	8B-142
2-84	Recruitment	8B-143
2-85	Qualification requirements	8B-144
2-86	Application	8B-145
2-87	Examinations	8B-146
2-88	Appointment	8B-147
2-89	Purpose	8B-148
2-90	Duration	8B-149
2-91	Expiration	8B-150
2-92	Seniority	8B-151
2-93	Break in employment	8B-152
2-94	Promotion policy	8B-153
2-95	Demotion	8B-154
2-96	Transfer of an employee	8B-155
2-97	Resignation	8B-156
2-98	Layoffs	8B-157
2-99	Purpose	8B-158
2-100	Maintenance of the system	8B-159
2-101	Procedure	8B-160
2-102	Evaluation results and consequences	8B-161
2-103	Responsibility; applicability to police	8B-162
2-104	Types of disciplinary actions; severity	8B-163
2-105	Reasons for disciplinary action	8B-164
2-106	Reprimand procedures	8B-165
2-107	Disciplinary probation	8B-166
2-108	Expiration of disciplinary probation	8B-167
2-109	Suspension	8B-168
2-110	Dismissal	8B-169
2-111	Purpose	8B-170
2-112	Responsibility	8B-171
2-113	Payment for non-city provided training programs	8B-172
2-114	Higher education program	8B-173
2-116	Hospitalization	8B-175
2-117	Life insurance	8B-176
2-118	Hours	8B-177
2-119	State retirement	8B-178
2-124	Authority	8B-183

Repealing, renumbering and re-enacting the following sections with changes.

<u>Old Section Number</u>	<u>Title</u>	<u>New Section Number</u>
Sec. 2-50.	Purpose of regulations	8B-101
Sec. 2-50.1	Employee's Personnel Committee	8B-102
Sec. 2-51.	City Administrator's responsibility	8B-103
Sec. 2-52.	Employee responsibility	8B-104
Sec. 2-53.	Applicability of regulations	8B-105
Sec. 2-54.	Definitions	8B-108
Sec. 2-59.	Political activity	8B-113
Sec. 2-60.	Preparation of position classification plan	8B-116
Sec. 2-61.	Allocation of positions	8B-117
Sec. 2-62.	Job descriptions	8B-118
Sec. 2-63.	Position classification plan amendments	8B-119
Sec. 2-64.	Reclassification	8B-120
Sec. 2-65.	Preparation of pay plan	8B-122
Sec. 2-69.	Salary rates for transfers	8B-126
Sec. 2-70.	Overtime	8B-128
Sec. 2-115.	Salary adjustments	8B-174
Sec. 2-120.	Grievance rights of employees	8B-179
Sec. 2-121.	Procedure	8B-180
Sec. 2-122.	Composition	8B-181
Sec. 2-123.	Meetings	8B-182

Adding the following new sections:

- Sec. 8B-106 Adoption of administrative regulations
- Sec. 8B-107 Merit principles
- Sec. 8B-114 Overview of compensation in the classified service
- Sec. 8B-115 Positions in the classified service
- Sec. 8B-121 Assigning a class to a grade
- Sec. 8B-127 Compensation for new employees

Note: In this ordinance:

[Brackets] indicate language deleted by amendment.
Underlining indicates language added by amendment.

SECTION 1. CREATING A CHAPTER ON PERSONNEL.

Chapter 8B of the Takoma Park Code shall be entitled "Personnel." It shall be divided into Article 1, "Civil Service" and Article 2, "Collective Bargaining". The divisions of Article 1 shall be the same as the divisions of Article 5 of Chapter 2. The following sections are renumbered as sections of Chapter 8B, "Personnel."

<u>Old Section Number</u>	<u>New Section Number</u>	<u>Title</u>
2-55	8B-109	General policy
2-56	8B-110	Business activities and solicitation
2-57	8B-111	Outside employment
2-58	8B-112	Privileged information
2-66	8B-123	Pay period
2-67	8B-124	Determination of an employee's pay increase
2-68	8B-125	Salary rate for reallocations, promotions and demotions

2-71	8B-129	Authorized leave
2-72	8B-130	Requests for leave
2-73	8B-131	Accounting responsibilities and procedures
2-74	8B-132	Holiday leave
2-75	8B-133	Annual leave
2-76	8B-134	Sick leave
2-76.1	8B-135	Compensatory leave
2-77	8B-136	Injury leave
2-78	8B-137	Military leave
2-79	8B-138	Maternity leave
2-80	8B-139	Bereavement leave
2-81	8B-140	Jury leave
2-82	8B-141	Civic duties
2-83	8B-142	Policy
2-84	8B-143	Recruitment
2-85	8B-144	Qualification requirements
2-86	8B-145	Application
2-87	8B-146	Examinations
2-88	8B-147	Appointment
2-89	8B-148	Purpose
2-90	8B-149	Duration
2-91	8B-150	Expiration
2-92	8B-151	Seniority
2-93	8B-152	Break in employment
2-94	8B-153	Promotion policy
2-95	8B-154	Demotion
2-96	8B-155	Transfer of an employee
2-97	8B-156	Resignation
2-98	8B-157	Layoffs
2-99	8B-158	Purpose
2-100	8B-159	Maintenance of the system
2-101	8B-160	Procedure
2-102	8B-161	Evaluation results and consequences
2-103	8B-162	Responsibility; applicability to police
2-104	8B-163	Types of disciplinary actions; severity
2-105	8B-164	Reasons for disciplinary action
2-106	8B-165	Reprimand procedures
2-107	8B-166	Disciplinary probation
2-108	8B-167	Expiration of disciplinary probation
2-109	8B-168	Suspension
2-110	8B-169	Dismissal
2-111	8B-170	Purpose
2-112	8B-171	Responsibility
2-113	8B-172	Payment for non-city pro- vided training programs
2-114	8B-173	Higher education program
2-116	8B-175	Hospitalization
2-117	8B-176	Life insurance
2-118	8B-177	Hours
2-119	8B-178	State retirement
2-124	8B-183	Authority

SECTION 2. AMENDMENTS TO THE CODE.

Sections 2-50, 2-50.1, 2-51, 2-52, 2-53, 2-54, 2-59, 2-60,
2-61, 2-62, 2-63, 2-64, 2-65, 2-69, 2-70, 2-93, 2-115, 2-120,

2-121, 2-122, and 2-123 are repealed, renumbered and re-enacted as follows and Sections 8B-105, 8B-107, 8B-114, 8B-115, 8B-121, and 8B-127 are added as follows:

ARTICLE 5. CIVIL SERVICE.

Division 1. Administration.

Sec. 8B-101. Purpose of the personnel system.

The purpose of the personnel system contained in this Article is to encourage a work environment which maximizes employee morale and the efficient delivery of services to the citizens of Takoma Park. The system is intended to insure that employees receive comparable salaries if their positions involve comparable duties, required experience, responsibilities, and authority.

Sec. 8B-102. Employees' personnel committee.

In furtherance of Sec. 8B-101 above, there shall be established an employees' personnel committee. The committee shall be comprised of one employee representative from each department and division, to be elected by their representative departments and divisions. The Committee shall meet monthly with representatives of City administration to review any proposals that would impact employees. The monthly meetings may be deferred upon mutual agreement of committee members and administration representatives. The full committee may be broken down into smaller subcommittees to accommodate meetings on specific issues.

Specific guidelines for the functioning of the full committee and its subcommittees shall be set forth for consideration and approval by the Mayor and Council.

The Mayor and Council shall consider the recommendations of the committee when making decisions that would impact employees.

Sec. 8B-103. Personnel officer's responsibility.

(a) The City Administrator is the personnel officer. In this capacity, the City Administrator bears the responsibility of administering all personnel matters. The [personnel officer] City Administrator may delegate his authority in personnel matters to an assistant.

(b) The [personnel officer] City Administrator may adopt regulations to implement the personnel system. The regulations must be consistent with the laws of the City and must further the purpose of the personnel system.

Sec. 8B-104. Employee responsibility.

It shall be the responsibility of every employee to acquaint himself or herself with the personnel laws and regulations and any personnel manual in effect.

Sec. 8B-105. Applicability of this article.

The provisions of this Article apply to all employees of the City of Takoma Park, unless the provisions conflict with or are inconsistent with state or federal legislation or a written contract of employment.

Sec. 8B-106. Adoption of administrative regulations.

The City Administrator must use the following procedures when adopting regulations relating to personnel matters.

(a) Except for emergency regulations, the [personnel officer] City Administrator must publish notice of proposed regulations in the Takoma Park Newsletter. If the newsletter is not published, the notice of proposed regulations must be published in another publication that is widely distributed in the City. The City must [give every employee a copy] make copies of the newsletter or other publication available to every employee.

(b) The newsletter, or other publication, must contain a deadline and a procedure for submitting written comments on the proposed regulations. The deadline must be at least [10] 21 days after the proposed regulations are published.

(c) The [personnel officer] City Administrator must review all of the written comments that are submitted before adopting the proposed regulations. The [personnel officer] City Administrator may adopt the regulations as proposed or with amendments.

Sec. 8B-107. Merit principles.

(a) The following are the merit principles of the City's personnel system. The City should manage its personnel system under these principles.

(1) The work force should represent all segments of society. The City should recruit qualified individuals from appropriate sources to achieve this goal.

(2) The City should select and advance employees solely on the basis of relative ability, knowledge, and skills.

(3) Employees and applicants for employment should have an equal opportunity to compete openly and fairly to show their relative ability, knowledge, and skills.

(4) The City should treat all employees and applicants for employment fairly and equitably in all aspects of personnel management. Political affiliation, race, color, religion, national origin, sex, ancestry, marital status, age, sexual orientation, and handicapping condition are not relevant to their treatment. The City must give proper regard for their privacy and constitutional rights.

(5) The City should pay employees equally for work of equal value.

(6) All employees should maintain high standards of integrity, conduct and concern for the public interest. However, the City should not dismiss an employee, unless the cause for the dismissal bears a rational relationship to the employee's job performance.

(7) The City should use its work force efficiently and effectively.

(8) The City should retain employees on the basis of the adequacy of their job performance. If an employee's job performance is inadequate, the employee should correct the job performance. If an employee cannot or will not improve his job performance to meet required standards, the City should dismiss the employee.

(9) If education and training would result in better organizational and individual performance, the City should provide employees with effective education and training.

(10) The City should protect employees against arbitrary action, personal favoritism and coercion for partisan political purposes.

(11) The City should prohibit employees from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination [of] for an election.

(12) The City should protect employees against reprisal for lawfully disclosing information if the employee reasonably believes that the information indicates:

- (A) a violation of any law, rule or regulation;
- (B) a mismanagement of resources;
- (C) a gross waste of funds;
- (D) an abuse of authority; or
- (E) a substantial and specific danger to the public welfare.

(b) The merit principles of the City do not create a private cause of action for any person. However, in a grievance, an employee may demand that the City comply with the merit principles.

Division 2. Definitions.

Sec. 8B-108. Definitions.

(a) The following terms and words, wherever used in this Article, shall be defined as:

(1) Allocation - The assignment of an individual position to an appropriate class.

(2) Appointment - The placement of a person in a position in the City's classified service.

(2.1) Authorized position - A position approved by the Mayor and Council in the annual budget or an amendment to the annual budget.

(3) Class - A group of positions which are sufficiently similar in general duties and responsibilities to warrant the use of the same position title, rate of compensation, and minimum qualifications.

(3.1) Class Specification - A written description of the essential characteristics of a class of positions, including the title, nature and level of work, typical examples of duties, education and experience, requirements and knowledges, skills, and abilities needed to perform the work of the class.

(4) Continuous Service - Employment without interruption, except for absences on approved leave, or approved absences to serve in the Armed Forces of the United States.

(5) Demotion - A reassignment of an employee from a position in one class to a position in another class which has a lower maximum pay step.

(6) Immediate Family - An employee's immediate family shall include: domestic partner, spouse, mother, father, siblings, children, and [other] any dependents.

(7) Incumbent - An individual who occupies a given position and performs the assigned duties and responsibilities of that position.

(8) Job Descriptions - The written description of the duties and responsibilities of a position within the City's classified service.

(9) Layoff - The involuntary, nondisciplinary separation of an employee from a position.

(10) May - The word "may" is to be construed as vesting discretionary authority in certain positions.

(11) Overtime - Overtime pay is that compensation which is paid to an employee for work performed in excess of the normal work period of the employee.

(12) Pay Grade - A range of pay which is assigned to a given class.

(13) Pay Plan - The official pay schedule of pay grades and pay steps adopted by the Council to set prescribed rates for each grade and step and any adjustments to pay and bonuses adopted by the Council.

(14) Pay Step - A particular rate of compensation found within the range of a pay grade (for example, Steps A through J).

(15) Permanent Full-Time Position - A group of duties and responsibilities which requires the employment of one (1) person for one hundred percent (100%) of a work day, and for at least a one (1) year period.

(16) Permanent Part-Time Position - A group of duties and responsibilities which requires the employment of one person for not less than twenty-five percent (25%) of a work day, but less than one hundred percent (100%) of a work day on an average basis, and for at least a one (1) year period.

(16.1) Personnel action - A promotion; a demotion; a detail; a transfer; a separation or any significant change in duties or responsibilities which is inconsistent with the employee's job description.

(16.2) Position - A group of duties and responsibilities which is the basic unit of organization for personnel in the City, and which is filled by one (1) employee or by two (2) employees who share the position.

(17) Position Classification Plan - The official compilation of class specifications outlining the duties, respon-

sibilities and qualifications of each class within the City's classified service.

(18) Probationary Period - A six (6) month period of time considered an an integral part of an incumbent's induction process, either for original appointment or promotion, during which the employee is required to demonstrate fitness for the position prior to receiving permanent status. For Police Officers, the probationary period is one (1) year.

(19) Promotion - A change in the position of an employee to a vacant position in a different class that is assigned to a higher pay grade.

(20) Reclassification - An official change in the allocation of an individual position by raising it to a class that is assigned to a higher pay grade, reducing it to a class that is assigned to a lower grade, or moving it to another class assigned to the same pay grade.

(20.1) Senior Executives - Employees who serve at the pleasure of the Mayor and Council and the immediate deputies of these employees.

(21) Series - Each class will be numerically grouped with those classes which possess similarity in the kind of work performed.

(22) Shall - The word "shall" is to be construed as mandatory.

(22.1) Should - The word "should" is to be construed as a direction that is not mandatory.

(23) Suspension - An enforced involuntary leave of absence for disciplinary purposes.

(24) Temporary Employee - An individual who is appointed either to perform the duties and responsibilities of a permanent full-time or part-time position in an emergency situation or to perform the duties and responsibilities of a temporary position.

(25) Temporary Position - A group of duties and responsibilities which requires the employment of one person, either on a full-time or part-time basis for seasonal or other purposes.

(26) Transfer - Assignment of an employee from one position to another. Transfers can take place within a department, between departments, between positions of the same class or between positions allocated to different classes.

(27) Vacancy - A duly authorized and budgeted position which is not occupied by an incumbent.

(28) Work Day - Work day refers to the number of hours regularly scheduled in one (1) twenty-four (24) hour period.

(29) Work Period - For Police personnel, a work period shall be fourteen (14) days in succession.

(30) Work Week - Work week refers to the number of hours regularly scheduled in a seven (7) consecutive day period. Sec. 8B-113. Political activity.

All employees of the City shall be able to exercise their franchise in any election in which they may be eligible, and to express their opinion. All City employees have the explicit right either to participate or to refrain from participating in partisan political activity with the provision that no employee has the right to engage in partisan political activity during regular working hours. No City employee shall be permitted to hold any elective office within the City government. Except for positions on the Personnel Appeal Board, City employees may be permitted to accept appointive positions, within the scope of Section 8B-111.

Divison 4. Compensation in the classified system.

Sec. 8B-114. Overview of compensation in the classified service.

(a) The compensation of an employee is determined by the following steps, unless the employee is a senior executive and the Mayor and Council have established a senior executive service as part of the pay plan.

- (1) Identify the position that the employee is in.
- (2) Identify the class that the employee's position is allocated to.
- (3) Identify the grade that the employee's class is assigned to.
- (4) Identify the step that the employee is in.
- (5) Find the base salary in the pay schedule for the employee's grade and step.
- (6) Add to the base salary any adjustments to salary provided by the pay plan.
- (7) Add to the adjusted salary any bonuses provided by the pay plan.

(b) An employee is placed in a position by the personnel officer when the employee is hired.

(c) A position is allocated to a class by the department head with the approval of the personnel officer.

(d) A class is assigned to a grade by ordinance by the Council. The assignment must be based on an objective evaluation of each class and a determination that the work done by every class in the same grade is comparable in its primary elements.

(e) The step that an employee is in is determined by the personnel officer under this Article.

(f) The pay schedule is part of the pay plan. It is usually in the form of a chart.

(g) The pay plan may adjust an employee's salary to compensate for shift work, working conditions and other conditions affecting employment. This section does not create a right to any adjustment.

(h) The pay plan may add bonuses to an employee's salary. If any bonuses are given, they must be part of a program with a specific narrow purpose [(for instance, attracting employees to certain positions or rewarding employees for the length of ser-

vice to the City)). This section does not create a right to any bonus.

(i) The Mayor and Council may establish a senior executive service as part of the pay plan. This service may have procedures for determining compensation that are different from the procedures in this section.

Sec. 8B-115. Positions in the classified service.

(a) The Mayor and Council create and abolish positions by including or not including them in the City's annual budget. The Mayor and Council can create new positions and abolish existing positions by amending the budget after it has passed.

(b) The [personnel officer] City Administrator prepares the job description for a new position. The [personnel officer] City Administrator makes any changes to the job description after consulting with any incumbent of the position, the immediate supervisor of the position, and the department head.

(c) The [personnel officer] City Administrator shall recommend to the Mayor and Council the abolition of a position whenever the [personnel officer] City Administrator deems it necessary and in the best interest of the City.

Sec. 8B-116. Preparation of position classification plan.

The [personnel officer] City Administrator shall prepare a Position Classification Plan encompassing all permanent part-time and permanent full-time positions in the City service. The Position Classification Plan shall consist of a list of all classes in the City's classified service and class specifications outlining the nature, duties, responsibilities, and qualifications of each class.

Sec. 8B-117. Allocation of positions to classes.

(a) Subject to the approval of the [personnel officer], City Administrator the head of each department shall allocate every permanent position in the department to a class. The positions in a class must be so similar in the nature of the work and

the required experience and training that the same pay grade is appropriate for all of the positions in the class.

(b) For purposes of maintaining equity between employees, the personnel officer may allocate a position to a different class.

Sec. 8B-118. Class specifications.

(a) Each class within the City service shall have a written statement outlining its principal characteristics. The personnel officer writes the class specifications with the assistance of the department heads. Specifically, each class specification shall include:

- (1) A class title;
- (2) A description of the duties and level of responsibility and authority of the work;
- (3) A set of illustrative work examples;
- (4) A statement of the required knowledge, skills, and abilities; and
- (5) A statement of minimum qualification requirements.

(b) The class specification is not to be construed as a prescriptive framework for any position within a class. The illustrated duties and responsibilities for a class shall not be construed as an exclusion of duties and responsibilities which are of a similar kind and level. The class specifications shall not infringe upon a Department Head's or the City Administrator's power and authority to direct, assign and control the work of their respective subordinates. Qualifications expected of all incumbents of positions (for example, required licenses and certificates; good physical condition if the work of the position requires good physical condition); freedom from disabling defects which the personnel officer specifically finds would adversely affect work performance; integrity; sobriety; efficiency; concern for the public interest; courtesy; and productivity) shall be deemed to be implied in the qualification requirements

of each class, even though not specifically mentioned in the class specification.

(c) All City employees shall be given a copy of their appropriate class specification and shall be furnished new ones should their positions be reallocated. Copies of class specifications for all classes shall be available in the City Administrator's office and may be reviewed by the public and any City employee.

Sec. 8B-119. Amendments to the position classification plan.

(a) Authority. The Mayor and Council may establish or abolish a class by ordinance. The [personnel officer] City Administrator may only change a class specification to:

(1) accommodate the addition or removal of a position to or from the class;

(2) reflect changes in the job description of a position in the class; or

(3) insure equity in the classified system.

(b) Establishment of new class. No newly created position(s) designed to be allocated to a new class shall be filled until the Position Classification Plan is amended to incorporate the new class. The Mayor and Council establish the new class and the department head allocates positions to the new class with the approval of the [personnel officer] City Administrator.

(c) Abolishment of a class. If the abolishment of a position under Section 8B-115 results in the abolishment of a class, the [personnel officer] City Administrator shall also recommend to the City Council an amendment to the Position Classification Plan abolishing the class.

Sec. 8B-120. Allocating a position to a different class.

(a) Annual review of job descriptions. At the time of the employee evaluation and development discussion between the supervisor and employee, the employee's job description will be thoroughly reviewed to note any significant changes which may

have taken place in the employee's job. The supervisor, with the employee's assistance, will prepare a description of proposed alterations, additions or deletions required in the job description and will forward these proposed changes to the [personnel officer] City Administrator. The [personnel officer] City Administrator will determine if the job description should be changed. With the department head, the [personnel officer] City Administrator shall also determine whether the position shall be allocated to a different class. The [personnel officer] City Administrator must approve any changes in the allocation of a position to a class.

(b) Reconsidering allocation to a class. If there have been material changes in the level of duties, responsibilities, or nature of work of a position, the department head may ask the [personnel officer] City Administrator to change a job description. If the [personnel officer] City Administrator changes the job description, the department head may consider allocating the position to a different class with the approval of the [personnel officer] City Administrator. Apart from the semi-annual employee evaluation and development discussion, an employee may request that the job description of the employee's position be changed or that the employee's position be allocated to a different class by submitting a written justification for such change to the department head. It is also within the department head's and the [personnel officer's] City Administrator's authority to initiate a review of an employee's allocation to a class when just cause exists. A position can be allocated to a new class assigned to a higher pay grade, lower pay grade or the same pay grade. When a position is allocated to a different class, it shall be assigned to a pay grade in accordance with this Article.

Sec. 8B-121. Assigning a class to a pay grade.

(a) The Mayor and Council must assign each class to a pay grade, by ordinance. The [personnel officer] City Administrator

must recommend to the Mayor and Council, a grade for each class. This recommendation shall be based on the written report of a committee established by the [personnel officer] City Administrator.

(b) The committee shall objectively evaluate classes. In evaluating classes, the committee shall use a written job evaluation system that considers the following factors. The committee's written job evaluation system may use additional factors if the Mayor and Council approve the factors.

- (1) Required education.
- (2) Required experience.
- (3) Complexity of duties.
- (4) Risk of financial loss.
- (5) Contact with others.
- (6) Working conditions.
- (7) Supervision of others.

Sec. 8B-122. Contents, preparation and adoption of the pay plan.

(a) [The] Except for senior executives, the pay plan must specify base salaries for the pay steps [A through J, L-1, and L-2,] referred to in Sections 8B-124 and 125 for each pay grade. The pay plan may specify adjustments to the base salaries to compensate employees for unusual working conditions. Evening and night work may be one of these adjustments. The pay plan may also specify bonuses to be paid to employees as part of programs with specific narrow purposes. [These purposes may include attracting employees to certain classes of positions and rewarding employees for the length of their service to the City.] This section does not create a right to any bonus or adjustments.

(b) [The base salaries should be competitive with salaries paid for similar work in similar public agencies.] The base salaries for different grades should maintain the relative worth of work done by employees in classes assigned to different grades.

(c) The [personnel officer] City Administrator shall prepare a pay plan covering all pay grades in the City's service. The plan must be based on the written report of the evaluation committee established by the [personnel officer] City Administrator under Section 8B-121.

(d) The pay plan and any amendments to the pay plan are not effective until adopted by the Mayor and Council by ordinance.

Sec. 8B-126. Salary rates for transfers.

An employee shall continue to be paid at the same rate if an employee is permanently transferred:

(a) from a position in one class to a position in another class assigned to the same pay grade; or

(b) to another position in the same class.

Sec. 8B-127. Compensation for new employees.

When the [personnel officer] City Administrator hires a new employee, the [personnel officer] City Administrator may assign the employee to any step in the grade that the employee's class is assigned to. The assignment must be based on objective criteria established by regulation.

Sec. 8B-128. Overtime.

(a) It shall be City policy to make every effort to eliminate overtime work. However, recognizing that emergencies do occur which require overtime payment to be made, the City shall compensate employees in accordance with the Federal Fair Labor Standards Act of 1974 as amended and the Maryland Wage and Hours law as amended.

(b) All full-time employees shall be paid time and one-half for any hours worked over their normal work or regular duty hours, except that this section shall not apply to the incumbents of the positions enumerated below:

(1) City Administrator;

- 20-
- (2) Department Heads and Assistant Directors of Departments;
 - (3) Assistant City Administrator(s);
 - (4) City Clerk and Deputy City Clerk;
 - (5) Economic and Community Development Coordinator; and
 - (6) Police Captain, Police Lieutenant(s).

Division 5. Reserved

Section 8B-152. Break in Employment.

(a) Except as provided in Subsection (b) of this section, a break in continuous service that occurs in any of the following fashions terminates all accrued seniority rights, including continuous service.

- (1) Voluntary termination on the part of an employee.
- (2) Formal discharge of an employee.
- (3) Absence of the employee for more than three (3) working days without approved leave.

(b) (1) An employee receives full credit for former service towards the employee's seniority if:

(A) the employee was on a leave of absence for one year or less and the [personnel officer] City Administrator approved the leave of absence in advance in writing; or

(B) the City laid off an employee for one year or less.

(2) The [personnel officer] City Administrator may issue a written decision giving an employee credit for former service towards the employee's seniority if:

- (1) (A) the employee resigned; or
- (B) the City laid off the employee for one to three years; and

(2) the former service to the City lasted at least three (3) continuous years with satisfactory performance evaluations.

Sec. 8B-174. Salary adjustments.

(a) Notwithstanding the acquisition of additional education or training, and in harmony with the concept of "equal pay for equal work", the City shall make no adjustment in an employee's salary unless:

(1) The employee is promoted to a vacant position in the City service, in which case the rate of pay shall be determined in accordance with the regulations in Division [5] 4 on the pay plan.

(2) An employee's position is subsequently re-allocated to one with a different pay grade assignment, in which case the rate of pay shall be determined in accordance with the laws in Divison 4.

Divison 14. Grievance procedure.

Sec. 8B-179. Grievance rights of employees.

(a) Any employee occupying a permanent position, who feels that he or she has received inequitable treatment through some personnel action, shall have the right to appeal, either personally or through a representative, for relief from the personnel action. Except as provided in Subsections (b) and (c) of this section, no issue involving a change in the pay plan, a policy prerogative of the Council, or any other issue which does not have a direct impact upon the day-to-day working conditions of the employee or relations with a supervisor shall be considered relevant. Consequently, these issues shall not be addressed through this grievance procedure.

(b) An employee may appeal a decision involving:

- (1) the description of the employee's position;
- (2) the assignment of an employee to a specific position; and
- (3) the allocation of the employee's position to a specific class.

(c) An employee has no right of appeal if the employee is not satisfied with the grade to which the Mayor and Council have assigned the employee's class. However, the employee does have the right to ask the Council to reconsider its decision. The employee should notify the [personnel officer] City Administrator that the employee is asking the Mayor and Council to reconsider, so that the personnel officer can make the recommendation required by Section 8B-121(a).

(d) An employee must file a grievance under Subsections (a) or (b) of this section within fifteen (15) days after a decision has been made and the employee has been informed. After fifteen days, the employee loses the right to appeal.

(e) If an official fails to reach a decision on a grievance or appeal within the time provided, the employee may appeal as if the grievance or appeal had been denied. However, if the final authority fails to reach a decision within the time provided, it is not a denial. The employee must wait for a decision.

Sec. 8B-180. Procedure.

(a) Except for grievances listed in Section 8B-179(b) or (c), and grievances involving dismissal from employment all grievances shall be handled in accordance with the grievance procedure in this subsection. The procedure to settle grievances shall be as follows:

(1) Step 1. The employee shall first present his or her grievance to the department head, who shall make every effort to dispose of the matter forthwith. If the issue cannot be resolved immediately, the employee shall return to work and await the department head's written decision. The department head shall render such decision within seven (7) days upon receipt of the grievance and make copies of the decision available to the personnel officer. Should the decision be unacceptable to the employee, the employee may proceed with the grievance procedure.

(2) Step 2. Should the employee elect to exercise his right to proceed with the grievance procedure, he shall petition the [personnel officer] City Administrator in writing requesting a review of the case. Such request shall contain a list of the particular grievance(s). The [personnel officer] City Administrator shall have fourteen (14) days to reach a decision concerning the grievance. The [personnel officer] City Administrator shall consider all aspects surrounding the grievance, solicit informal testimony from the involved parties, and reduce to writing the outcome of the [personnel officer's] City Administrator's deliberations. Copies of the [personnel officer's] City Administrator's decision shall be given to the department head and the employee.

(3) Step 3. Should the employee receive an unacceptable decision, he may petition the [personnel officer] City Administrator in writing requesting assemblage of the Personnel Appeal Board. The [personnel officer] City Administrator shall promptly notify the chairperson of the Personnel Appeal Board to convene for the purpose of adjudication. The Board shall hear all facts pertaining to the case, but shall be informal in its conduct. The Board shall convene, hear testimony, and reach a decision within twenty-one (21) days upon receipt of the employee's request to convene the Board. The Board shall vote on the grievance and reduce to writing its decision. The decision rendered by the Board shall be final and binding.

(b) The following are the procedures for an employee to appeal a decision listed in Section 8B-179(b).

(1) Description of an employee's position.

(A) If an employee is not satisfied that the job description for the employee's position is accurate or opposes a proposed change, the employee should discuss the matter with the employee's supervisor and department head. Then, the employee should submit a written memorandum to the [personnel officer] City Administrator justifying or critiquing any proposed changes.

The [personnel officer] City Administrator must respond in writing to the employee within fourteen (14) days.

(B) If the employee is not satisfied with the response of the [personnel officer] City Administrator, the employee may make a written demand that the Personnel Appeal Board convene to hear the employee's appeal.

(C) The Personnel Appeal Board must convene within twenty-one (21) days and issue a decision within twenty-one (21) days after it convenes. The decision of the Personnel Appeal Board is final.

(2) Assignment of an Employee to a Specific Position.

(A) If an employee believes that the employee is doing the work of a position that the employee is not in, the employee may submit a written request to the department head that the employee be placed in the different position. The department head must respond in writing within seven (7) days.

(B) If the employee is not satisfied with the decision of the department head, the employee may submit a written appeal to the [personnel officer] City Administrator within fourteen (14) days after the response of the department head was received or a response was due. The written appeal must justify the change on the basis of the job descriptions of the two positions. The [personnel officer] City Administrator must respond within fourteen (14) days.

(C) If the employee is not satisfied with the decision of the [personnel officer] City Administrator, the employee may make a written demand that the Personnel Appeal Board convene to hear the employee's appeal.

(D) The Personnel Appeal Board must convene within twenty-one (21) days and issue a written decision within twenty-one (21) days after it convenes. The decision of the Personnel Appeal Board is final.

(3) Allocation of an employee's position to a specific class.

(A) If an employee is not satisfied with the class that the employee's position is allocated to, the employee should submit a written justification for a change to the department head. The written justification must be based on the job description of the employee's position and the class specifications for both the employee's current class and for the class which the employee maintains is more appropriate. The department head must respond to the employee in writing within fourteen (14) days.

(B) If the employee is not satisfied with the response of the department head, the employee may submit a written appeal to the [personnel officer] City Administrator within fourteen (14) days after the response of the department head was received or a response was due. The [personnel officer] City Administrator must respond within fourteen (14) days.

(C) The employee may make a written demand that the Personnel Appeal Board convene to hear the employee's appeal if the employee is not satisfied with the decision of the [personnel officer] City Administrator, or if the [personnel officer] City Administrator disapproves an allocation to a different class [then] than the department head has approved.

(D) The Personnel Appeal Board must convene within twenty-one (21) days and issue a decision within twenty-one (21) days after it convenes. The decision of the Personnel Appeal Board is final.

[(c) The following are the procedures for a probationary employee to appeal a decision to dismiss the employee.

(1) The employee may appeal a decision to dismiss the employee by submitting a written appeal to the City Administrator. The appeal must:

(A) state the reasons why the decision was improper; and

(B) offer any evidence supporting the employee's position.

(2) The personnel officer may:

- (A) uphold the decision to dismiss the employee;
- (B) reverse the decision to dismiss the employee;

or

(C) refer the appeal to the Personnel Appeal Board for final determination.]

[(d)] (c) The following are the procedures for a non-probationary employee to appeal a decision to dismiss the employee.

(1) The employee must ask the department head in writing to change the recommendation to dismiss the employee under Section 8B-169. The employee must state reasons for changing the recommendation and offer any relevant evidence. The department head must send a written decision on this request to the employee and the City Administrator within seven (7) days.

(2) Within seven (7) days after receiving the written decision of the department head, the employee must ask the City Administrator in writing to reverse the decision to dismiss the employee under Section 8B-169. The employee must state reasons for reversing the decision and offer any relevant evidence. The City Administrator must issue a written decision within 21 days.

(3) If the City Administrator does not reverse the decision to dismiss, the employee may make a written demand to convene the Personnel Appeal Board to hear the employee's appeal of the decision to dismiss.

Sec. 8B-181. Personnel Appeal Board - establishment and composition.

(a) There shall be a Personnel Appeal Board composed of [five (5)] three (3) members [and one (1) alternate. Three (3) members shall be] who are residents of the City[, at least one of whom has experience as a personnel officer, and one of whom has experience as an employee representative.] [One member and the alternate shall be current City employees, and one member shall

be a current management employee of the City. The alternate and the other City employee may not be in the same class or department.]

(b) Except for the initial appointments, the Mayor shall appoint the members for terms of three (3) years. Initially, the Mayor shall appoint one (1) member for a term of one (1) year, [two (2) members] one (1) member for a term of two (2) years, and [two (2) members] one (1) member for a term of three (3) years. [The alternate serves for the same term as the other City employee.] Any member appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed only for the remainder of that term.

[(c) A City employee must not participate in the deliberations of the Board if the City employee is in the same class or department as the employee whose appeal is being considered.]

[(d) The alternate only meets with the Board if the other City employee is unable to attend or is disqualified under Subsection (c) of this section.]

[(e)] (c) Members of the Board shall be compensated for expenses incurred in the conduct of their role as a Board member.

Sec. 8B-182. Meetings.

The Board shall meet for the purpose of organization subsequent to appointment or re-appointment of a member. At this organization meeting, the Board shall elect a chairperson and vice-chairperson for the ensuing year. All other meetings shall be held for the purpose of hearing employee appeals and shall be called by the chairman upon receipt of proper notification to convene. A quorum of the Board is three (3) members.

Section 8B-183. Authority.

(a) The Board shall be the final arbiter in all cases brought before it.

(b) The Board only has the authority to hear employee grievance appeals if this Article specifically authorizes the Board to rule on the appeal.

SECTION 3. SEVERABILITY.

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

SECTION 4. EFFECTIVE DATE.

This ordinance shall take effect [upon enactment] on January 1, 1987.

Adopted this 15th day of December, 1986.

TP#5
(TP.54 AF1-27)