

CITY OF TAKOMA PARK, MARYLAND

REGULAR COUNCIL MEETING AND PUBLIC HEARINGS

May 16, 1988

CITY OFFICIALS PRESENT:

Mayor Del Giudice	City Administrator Wilson
Councilmember d'Eustachio	Asst. City Administrator Habada
Councilmember Douglas	Deputy City Clerk Jewell
Councilmember Elrich	Cable Coordinator Smith
Councilmember Hamilton	Recreation Director Ziegler
Councilmember Leary	Housing Director Weiss
Councilmember Martin	Corporation Counsel Silber
Councilmember Sharp	

The Mayor and City Council convened at 8:10 PM on Monday, May 16, 1988 in the Council Chamber at 7500 Maple Avenue, Takoma Park, Maryland, for the purpose of conducting public hearings on 1) speedhump placement on Valleyview Avenue and 2) to hear comments pertaining to Montgomery County Zoning Map Amendment No. G-559, 6 Grant Avenue. Following the pledge, the Council Minutes from the April 20, 1988 Budget Hearing were presented for approval. Councilmember d'Eustachio moved adoption of the minutes, duly seconded by Councilmember Hamilton and the motion was carried unanimously.

MAYOR'S COMMENTS AND PRESENTATIONS:

Mayor Del Giudice commented that the new Ride-On bus service had been in place for a few weeks and was running smoothly. The Mayor also noted that at the Mayor and Council's May 9th worksession, the now disbanded Takoma Film Cooperative presented over \$400 in books, tapes and records to the Takoma Library; and that a listing of these items had been made available for the public.

Corporation Counsel Sue Silber introduced some of her legal staff to the Mayor and Council: Attorney H. Clifton Grandy who will serve as Acting Corporation Counsel during Sue's maternity absence. Also introduced were Attorneys Linda S. Perlman and Deborah J. Weimer and Paralegal Robert D. Teague. Ms. Silber commented that City Department Heads will have an opportunity to meet with her staff at the Department Heads meeting scheduled for May 18.

Mayor Del Giudice noted that there will be a final budget worksession on Thursday, May 19, 1988.

ITEMS FOR COUNCIL ACTION:

1. Police Department Resolutions.

Following reading of the full resolution, motion was made by Mayor Del Giudice, duly seconded by Councilmember d'Eustachio, and passed by unanimous vote, recognizing Sgt. Dennis Bonn, Takoma Park Police Department, 1987 Officer of the Year.

Resolution #1988-35  
(attached)

Following reading of the full resolution, motion was made by Mayor Del Giudice, duly seconded by Councilmember d'Eustachio, and passed by unanimous vote, recognizing Cpl. John Suero, Takoma Park Police Department, for Meritorious Service.

Resolution #1988-36  
(attached)

Following reading of the full resolution, motion was made by Mayor Del Giudice, duly seconded by Councilmember d'Eustachio, and passed by unanimous vote, recognizing Mrs. Carolyn Pinkard, Takoma Park Police Department, for Meritorious Service.

Resolution #1988-37  
(attached)

CITIZENS' COMMENTS: (not directed at items for Council Action)  
(Malfunction in recording equipment)

OTHER ITEMS FOR COUNCIL ACTION:

2. Resolution in Support of Emergency Hunger Relief Act. Mayor Del Giudice moved passage of the resolution, which was duly seconded by Councilmember d'Eustachio. The Mayor noted that this Resolution supports hunger relief bills H.R. 4060 and S.B. 2121--legislation that would ensure the continuation of the Temporary Emergency Food Assistance Program as well as other administrative funding and programs.

Resolution #1988-38  
(attached)

3. Resolution Declaring June 14, 1988 as Flag Day in Takoma Park. Mayor Del Giudice moved passage of the resolution and read portions therefrom; his motion was duly seconded by Councilmember Sharp. The resolution passed unanimously, proclaiming June 14, 1988 as Flag Day in Takoma Park. The Mayor urged all citizens to pause at 7:00 P.M. on that date for the Ninth Annual Pause For the Pledge and invited citizens, especially the youth of Takoma Park to a flag ceremony and concert to held on the Municipal Building grounds that day.

Resolution #1988-39  
(attached)

4. Resolution of Appreciation for Two Teachers Retiring From Takoma Park Intermediate School. Mayor Del Giudice noted that the first resolution honors Ms. Pallie Berry who is retiring after thirty years of service at the school. Mayor Del Giudice's motion for passage was seconded by Councilmember Sharp. The question was called and the resolution was passed by unanimous vote. The next resolution recognizes Mrs. Hortense Sutton for her retirement after 22 years at the school. The Mayor moved passage, duly seconded by Mr. Sharp. The question was called and the resolution was also passed unanimously.

Resolution #1988-40  
and  
Resolution #1988-41  
(attached)

PUBLIC HEARINGS

1. 2nd Reading of Ordinance For Speedhump on Valleyview Avenue

Mayor Del Giudice officially opened the public hearing. Councilmember Douglas moved the adoption of the ordinance, and it was duly seconded by Councilmember Leary.

Fred Berman, 8 Valleyview stated that he was aware of a petition being passed around for speedhumps and he inquired how it was decided to put one in instead of two. Mayor Del Giudice responded that a staff report from the Public Works Department had recommended the placement of one hump instead of two and that under guidelines previously set forth as to the location of speedhumps and proximity to stop signs, etc., one hump was the maximum permissible under the City's existing ordinance. Councilmember d'Eustachio added that the speed hump ordinance specifies minimum specifics as to placement from stop signs and driveways. Mr. d'Eustachio said that within these confines, one speed hump is the maximum that can be installed. Mr. Berman said that a couple of months ago, a stop sign was installed that is more disregarded than it is regarded and it does not slow traffic down. He said that two speed humps is more efficient. Councilmember Douglas commented that at the worksession where this issue was discussed, a suggestion for consideration was to reverse the flow of traffic to go one way up the hill instead of one way down. Mr. Berman said that he had never heard that suggestion before. He said that if anyone thought that this is a viable alternative, they should try to get up the hill in the snow.

Susan Gilbert, said that she did not have much more to add to Mr. Berman's comments. However, the primary concern is that so many children live on the street and use the street as a cut through. She mentioned the thought of changing the direction of traffic to her neighbors and their concerns were that there would be difficulty in parking in that direction in the snow.

Councilmember Sharp asked if this is the kind of matter where there is a fiscal impact note prepared. Assistant City Administrator Bev Habada responded that no fiscal impact note had been prepared because this is a standard cost item and in response to Councilmember Sharp's question, she responded that the cost to put a speed hump in was in the range of a couple of hundred dollars. The ordinance was adopted by roll call vote as follows: AYE: d'Eustachio, Douglas, Hamilton, Leary, Martin, and Sharp; NAY: None; ABSTAINED: None; ABSENT: Elrich.

Ordinance #1988-13  
(attached)

2. Montgomery County Zoning Map Amendment No. G-559, 6 Grant Avenue.

Mayor Del Giudice noted for the record, that there was appended to the materials a zoning application and a schematic development plan provided by the applicant. He noted for the record a number of letters received: Dan Robinson, 120 Grant Avenue, Michael R. Graul and Christine Hudack, 101 Grant Avenue, Kurt Stern and Faith Stern, 103 Grant Avenue, Cynthia Wells, and Ed Bontempo, 5 Grant Avenue; Thomas C. White, Christine D. White, 7 Grant Avenue. Councilmember Douglas also noted for the record, a letter from the S.S. Carroll Citizens Association to the applicant. Mayor Del Giudice suggested that the applicant make a brief presentation of the application and then citizens and group associations would be invited to comment, followed by any individuals.

Councilmember Leary clarified that the Mayor and Council will not take a vote on this matter tonight. Mayor Del Giudice added that the Mayor and Council could make a decision in June if the council wished to do so at that time. Mr. Leary said that a decision should not be made until a formal report has been received from the Economic and Community Development Director.

John Fleming, President, Constructive Alternatives, gave an overview of the subject matter. He said that Constructive Alternatives purchased #8 Grant Avenue which is bordered by the Texaco gas station on the south, the rear of Kinetic Artistry and Dawes Trash Company to the west and a twelve unit apartment building to the north. Mr. Fleming stated that the existing structure on the property had been abandoned for a number of years and has become an unsightly blight as well as a dangerous hazard in the neighborhood. He said they are designing a building that looks like a residential structure, and proposing a limited use for the building so that the residents of Grant Avenue won't suffer an increase in parking problems. He said that there is an opportunity to make this a contributing property in the City. Councilmember Elrich asked Mr. Fleming how early did he determine the economic feasibility of the project. Mr. Fleming said that they had looked at this property for a long time. He stated that he set about to do research before purchasing the property. He had spoken to a number of people, Tom Robinson, a Park and Planning representative, his attorney, the Takoma Junction Steering Committee, and many citizens. He determined that although the residential aspect did not look viable, the commercial would not be received by the community; the zoning ordinance provided for an overlay zone, not suited for residential or commercial either. Based on discovering information he decided to go forward with this deal. He had to complete the purchase before the addressing the matter of rezoning.

Councilmember Martin asked did Mr. Fleming anticipate having more traffic no matter what business went there. Mr. Fleming said that again, he can't guarantee anything; the OM zone is by its requirements going to be sensitive because its adjacent to a residential neighborhood. He does not anticipate that this plan would be adding another level of parking problems to the neighborhood. Councilmember Douglas said that the schematic site plan does not address this. Mayor Del Giudice stated that this can be raised as an issue but can be discussed as a technical matter later; that this hearing was to get the public's comments.

Councilmember Hamilton questioned that if this is approved for rezoning, is it likely that it would set the precedence for another property, for example, across the street, being rezoned.

Mr. Fleming's attorney (unidentified) responded that this site is unique and that there is good cause to rezone this property. She said that the County is against proliferation; there are advantages and disadvantages. Mr. Hamilton mentioned that Mr. Dawes had tried to get it rezoned a few years back; he asked if Mr. Fleming felt that the council is trying to pull him out of bad business deal. Mr. Fleming said that he read the record on Dawes who was going for a commercial rezoning of OM-2. He said that the testimony he read was dealing with use of property for an ongoing trash business. Mr. Fleming stated that they are not proposing the same use.

Rev. Albaugh, 7202 Central Avenue, spoke to the Council on behalf of the Takoma Junction Commercial Revitalization Steering Committee. He said that 8 Grant Avenue is a final piece of property in Takoma Junction and until Mr. Fleming stepped forward, the property stood unaddressed for years and unattended. It is an eyesore to the area and Grant Avenue. Rev. Albaugh said that the Committee was glad to learn of Fleming's plans and have given their support of his plans.

He also said that the Committee has unanimously and enthusiastically supported the OM rezoning because Flemming has been known for his leadership and commitment and vision for Takoma Junction and surrounding neighborhoods, and was without doubt, the most enlightened businessman in the area. Rev. Albaugh stated that as citizen co-chair of the committee, he said that they have applauded Mr. Fleming for his perseverance, patience, and wisdom. He said that it will be a long needed change and he hopes that 8 Grant Avenue will not be continued in the buffer role it has played for so long. The OM rezoning request will protect all neighborhood change in the future. The value of the new renovated property will create a major increase in the value of the properties on Grant Avenue. He said that the increase could be as much as thirty or forty thousand dollars. Councilmember Elrich questioned Rev. Albaugh about his comment regarding property values. Mr. Elrich said that alot of citizens buy homes to live in and not for their property value. Mr. Elrich questioned if the homeowners who live on that block might see this as an additional economic hardship and asked if we are only weighing things in terms of property values.

Carl Iddings, 7416 Carroll Avenue representing S.S. Carroll's Citizens Association, read from a statement of concerns raised at a 2/17 meeting. He said that the concerns were about the additional traffic generated on a residential street. Mr. Iddings said that the Citizens Association is split, and that they are taking no position in support or opposition to the applicant's plans.

Mike Graul, 101 Grant Avenue, referencing a letter from he and his wife that detailed their concerns. He mentioned that a number of his neighbors were present in the audience and he asked them to be recognized. Mr. Graul distributed copies of a petition containing 55 signatures. He stated that the support for the peition was unanimous. The petition was formerly entered into the record. He said that in no cases were citizens directly impacted heard from. He turned the microphone over to his neighbors.

Arthur Karpas, 6916 Westmoreland Avenue, speaking as an individual, commented that the situation on Westmoreland is striking in similarity/ Mr. Karpas said that he has lived there for 15 years and for 14 years he had to look at a bulding that was undergoing revitatilition, owned by Moses Karkenney that had the appearance of an abandoned building with trash in the front and back, disrepair, embankment walls falling down, etc. He said that in fact the building had been on the market for some time and was sort of stuck as a blight on the block and a concern for everyone was the appearance it gave and the kinds of activities it encouraged (criminal attacks on people). He said that their revitalization program started some years earlier and is well underway. He also said they are concerned about the same things as S.S. Carroll, i.e., encroachment, parking, vehicular and pedestrian traffic. Mr. Karpas said that the property was finally sold about a year ago, and the owner has converted it into a small professional building that houses psychologists and counselors. He said that the exterior appearance is very attractive and the neighbors feel the impact is very positive. Mr. Karpas said that they have felt zero impact on traffic and parking. He further stated that his original concerns were similar to those on Grant Avenue; however, they would be glad for any improvement.

Faith Stern, 103 Grant Avenue, stated that she has been a resident for about 24 years. She stated to Mr. Karpas that while they appreciate sympathy for their neighborhood and his good intentions, she would like to underline the fact that the situations are far from similar. She said that she would like to see commercially zoned property given a lovely facade. However, the Grant Avenue property is not commercially zoned. She also said that the situation is considerably

different because they have proximity to a police department which has to frequently use the street, whereas Westmoreland does not. Ms. Stern asked for clarification on the revitalization area of Takoma Junction, where it extended. Ms. Stern commented that the blight existing there now does not reflect the character of the property, but of the previous owner who permitted it to deteriorate for his own purposes.

Steven, Owner, 12 Grant Avenue, said that he is supporting the OM zoning for #8 Grant Avenue for reasons that in the past he appeared before the City Council, 2 or 3 times opposing Mr. Dawes' application. The commercial use of the commercial zone was extended to Mr. Dawes who brought in 6-8 trash trucks. He counted once over 20 trash containers. He said that he has had trouble getting and keeping tenants in the apartment buildings. He has complained previously about raw sewage running down the property, rats, and noise from the trucks. After the house deteriorated, he said that not even Mr. Dawes' drivers could use it, the building was abandoned. He further stated that the property is just not suitable for residential purposes. He also commented on the problem of traffic congestion--he said that the trash trucks created more problems than the eight parking spaces could create for the proposed venture. He said that if the venture is approved, the neighborhood in his opinion would be glad to see some change coming. Anything that happens to the building has to be better than what is happening now. The building not just has a dirty appearance, but it is a safety hazard as well. He said in the past he has opposed the commercial rezoning. He said that from the gasoline station, dirty water and oil leaks into the gutters. Between two commercial zonings, you could not create a residential house with any investment results.

Paul Plant, 7411 Carroll Avenue said he sympathized with the Grant Avenue residents. He said he had a friend who used to live on Carroll Avenue and was bothered by the trash trucks starting up at 5 or 6 AM in the morning. Mr. Plant stated that he lived at Jackson and Boyd Avenue and what bothered him was the Barcelona trucks. He commented that what bothered his friend was seeing the trash trucks with trash oozing out. He found out the City had an ordinance that said that commercial trucks could only park on residential streets for unloading and loading purposes. Mr. Plant said that in 1982 he was on the Committee for revitalization. He said the house is similar to what Arthur Karpas was referring to. He said that John Fleming is the only one who has found a solution to the problem and he supports his efforts.

Ken Custer, 102 Grant Avenue said he is opposed to the rezoning and he signed the petition. Mr. Custer said the character is an unusual residential character. There are single family homes and apartment buildings and that it is essentially just like every other single family house on that block. Mr. Custer stated that he lived there since 1979 and he wasn't involved in earlier struggles to prevent that block from becoming commercial. He said 3 properties have sold for prices that staggered those who lived on that block. He thinks it possible to continue this as a residential property. He said that it is economically feasible for someone with a large construction company to make it a really nice house and sell it. He said that he is opposed because of the encroachment issue. He would find it incredible to seriously think about turning a single family home into a commercial office building in a city that is having problems finding single family homes for its citizens. He stated that if Mr. Fleming does not want to turn into a residential, he should put it on the market. Responding to a question asked by Mayor Del Giudice, Mr. Custer said that houses on his block are going for the asking prices starting in the high 130 thousands to the high 150s.

Councilmember Martin said she has been in the house and seen its condition. She asked whether Mr. Custer would rather see a house of a smaller size than an office building. Mr. Custer responded that yes he would.

Frances Phipps, 7210 Holly Avenue, said that several weeks ago, John Fleming asked her to take a look at the site. She said that what we're hearing tonight is a true recognition of what the history of the house is. She said we have to make a distinction of how the house and the site have been functioning. Mrs. Phipps said that the house was abandoned, the site has not. In spite of the R60 zoning, it has functioned and served as parking for major garbage trucks. She said that her husband was chairman of the Land Use and Zoning Taskforce master plan for 1976. She looked at some concerns raised then. She said that what was addressed was the personality of the owner. The overwhelming sense of the community was that they don't want any more encroachment. She also said that she applauds the people on Grant Avenue who have existed under enormous pressures. Ms. Phipps said that the street looks good and functions well. There are no two houses that are separated by a more dense zone, and how they have persevered is amazing. She said you have to acknowledge the different functions--the least desired use of any use is the function of a service station.

(Malfunction of Audio equipment here)

Please Note that some of the following items may not reflect actual discussion, however, all are representative of the actions taken by the Mayor and Council.

ADMINISTRATIVE REPORTS (Continued)

5. First Reading of Ordinance - Employee Vacation Leave Rollover.

Councilmember Douglas moved acceptance of the ordinance for first reading; duly seconded by Councilmember Hamilton, (Councilmember Sharp voted Nay.) The question was called and the ordinance was accepted for first reading. Further discussions will go to the May 23 worksession.

ORDINANCE #1988-  
(attached)

6. First Reading of Ordinance - Security Deposit Legislation.

Councilmember Sharp moved acceptance of the ordinance for first reading; the motion was duly seconded by Councilmember Hamilton. The question was called and the ordinance was accepted for first reading. The Mayor and Council requested that Housing Director Sue Weiss prepare a purpose clause for the ordinance for second reading.

ORDINANCE #1988-  
(attached)

7. First Reading of Ordinance - Tree Commission Amendment.

Mayor Del Giudice stated that this ordinance proposes to amend the Tree Commission Ordinance by changing the composition of the Tree Commission. The ordinance was moved and duly seconded for acceptance at first reading. A technical amendment was suggested, the question was called and the ordinance was accepted for first reading.

ORDINANCE #1988-  
(attached)

8. Resolution Appointing Representatives to the Commission on Landlord and Tenant Affairs. Mayor Del Giudice noted for the record that candidates for COLTA representative positions had been interviewed prior to tonight's meeting. He moved the appointments of Cheryl Chapman to a Tenant Representative position and Bill Batko as a General Public Representative. The motion was duly seconded, the question was called and the resolution was passed (Councilmember Elrich abstaining).

RESOLUTION #1988-42  
(attached)

Upon motion by Councilmember d'Eustachio, and duly seconded, the meeting adjourned at 11:32 P.M., to reconvene in regular session at 8:00 P.M. on Tuesday, May 31, 1988.



**R E S O L U T I O N**

WHEREAS, Police Chief A. Tony Fisher has selected **SERGEANT DENNIS BONN**, to be the Department's 1987 **POLICE OFFICER OF THE YEAR**; AND

WHEREAS, **SERGEANT BONN** was selected for maintaining a consistently high level of performance through his subordinates despite constant personnel shortages, last-minute assignments and employee transfers, and for cheerfully undertaking extracurricular activities ranging from special investigations to service as a firearms instructor.

NOW THEREFORE BE IT RESOLVED THAT the Mayor and Council hereby commend and offer their warm congratulations and a \$100 Bond to **OFFICER OF THE YEAR**,

**SERGEANT DENNIS BONN**

Dated this 16th day of May, 1988

ATTEST:

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Stephen J. Del Giudice  
Mayor

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James S. Wilson, Jr.  
City Administrator

**R E S O L U T I O N**

WHEREAS, Police Chief A. Tony Fisher has bestowed on **CORPORAL JOHN SUERO**, recognition for Meritorious Service; AND

WHEREAS, **CORPORAL SUERO** was selected for extensive and careful investigative work in a local case where the sex abuse of children was charged, and where the perpetrator was subsequently convicted.

NOW THEREFORE BE IT RESOLVED THAT the Mayor and Council hereby commend and offer their warm congratulations and a \$100 Bond for a job well done, to

**CORPORAL JOHN SUERO**

Dated this 16th day of May, 1988

ATTEST:

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Stephen J. Del Giudice  
Mayor

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James S. Wilson, Jr.  
City Administrator

**R E S O L U T I O N**

WHEREAS, Police Chief A. Tony Fisher has bestowed on **MRS. CAROLYN PINKARD**, recognition for Meritorious Service; AND

WHEREAS, **MRS. PINKARD** was selected for assisting in the orientation of the new Supervisor of Administrative Services and for working hard and long hours to deal with paper work generated by the Police Department.

NOW THEREFORE BE IT RESOLVED THAT the Mayor and Council hereby commend and offer their warm congratulations and a \$100 Bond for a job well done, to

**MRS. CAROLYN PINKARD**

Dated this 16th day of May, 1988

ATTEST:

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Stephen J. Del Giudice  
Mayor

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James S. Wilson, Jr.  
City Administrator

Introduced by: Mayor Del Giudice.

**RESOLUTION #1988-38**

WHEREAS, Prince George's County Department of Social Services is a major distributor of government surplus foods providing relief to approximately 12,000 low income households per quarter, AND

WHEREAS, this distribution of government surplus foods is in jeopardy under the Temporary Emergency Food Assistance Program (TEFAP). Honey and rice have been suspended from the program and cutbacks of dairy products are severe; AND

WHEREAS, those who receive this food are our working poor, our elderly and our homebound persons, who often do not receive other kinds of assistance; AND

WHEREAS, Emergency Hunger Relief Act bills have been proposed by the Agriculture Committee so that the TEFAP program can continue, even by providing protein substitutions such as peanut butter and can meats to needy households.

NOW THEREFORE BE IT RESOLVED, THAT the Mayor and City Council of Takoma Park, Maryland hereby offer full support for the hunger relief bills (H.R. 4060 and S.B. 2123) and strongly urge the Federal legislators to consider both House and Senate bills to ensure that TEFAP and other administrative funding continue; AND

BE IT FURTHER RESOLVED, THAT a copy of this Resolution be forwarded to United States Senate and Congressional Representatives and to Mr. Richard Lyng, Secretary of the Department of Agriculture.

Dated this 16th day of May, 1988.

Introduced By: Mayor Del Giudice



RESOLUTION #1988- 39

RECOGNIZING NATIONAL FLAG DAY IN TAKOMA PARK, June 14, 1988  
7:00 PM, EDT

WHEREAS, by Act of the Congress of the United States dated June 14, 1777, the first official flag of the United States was adopted; AND

WHEREAS, by Act of Congress dated August 3, 1949, June 14 of each year was designated "National Flag Day"; AND

WHEREAS, the Congress has requested the President to issue annually a proclamation designating the week in which June 14 occurs as National Flag Week; AND

WHEREAS, on December 8, 1982 the National Flag Day Foundation was chartered to conduct educational programs and to encourage all Americans to PAUSE FOR THE PLEDGE of Allegiance as part of National Flag Day ceremonies; AND

WHEREAS, the Ninety-Ninth Congress passed, and President Ronald Reagan signed on June 20, 1985, Public Law 99-54 recognizing the PAUSE FOR THE PLEDGE of Allegiance as part of National Flag Day ceremonies; AND

WHEREAS, Flag Day celebrates our Nation's symbol of unity, a democracy in a republic and stands for our country's devotion to freedom, to the rule of all, and to equal rights for all.

NOW, THEREFORE, BE IT HEREBY RESOLVED I, Stephen J. Del Giudice, Mayor of Takoma Park, Maryland, do hereby proclaim June 14, 1988 as Flag Day in Takoma Park, Maryland and urge all citizens of Takoma Park to pause at 7:00 PM, EDT on this date for the Ninth Annual PAUSE FOR THE PLEDGE and recite, with all Americans, the Pledge of Allegiance to our Flag and Nation.

BE IT FURTHER RESOLVED THAT, All Takoma Park citizens especially the City's youth, are invited to attend the Flag Day Ceremony and band concert to be held on Tuesday, June 14, 1988, 7 PM on the Municipal Building Grounds.

Dated this 16th day of May, 1988

R E S O L U T I O N

WHEREAS, **Miss Pallie Berry** has been an educator at Takoma Park Intermediate School for thirty years; AND

WHEREAS, **Miss Berry** has contributed to the Takoma Park Community as a physical education teacher, athletic director, girls track and field coach, basketball timer, intramural director, girls soccer coach, cheerleader sponsor, and social committee member; AND

WHEREAS, **Miss Berry** has served Montgomery County by evaluating physical education materials, conducting Athletic Awards and Pep Assemblies; coordinating an ESOL/PE tournament and by administering first aid in emergencies; AND

WHEREAS, **Miss Berry's** outstanding service has been recognized by Montgomery County Public Schools; AND

WHEREAS, **Miss Berry** has served the children of Takoma Park as a caring and positive role model, helping nurture them from childhood to adulthood; AND

WHEREAS, **Miss Berry** is retiring from Montgomery County Public Schools.

NOW THEREFORE BE IT HEREBY RESOLVED THAT the Mayor and Council on behalf of the City of Takoma Park thank **Miss Pallie Berry** for her outstanding service and devotion to our community.

Dated this 16th day of May, 1988.

ATTEST:

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Stephen J. Del Giudice  
Mayor

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James S. Wilson, Jr.  
City Administrator

**R E S O L U T I O N**

WHEREAS, **Mrs. Hortense Sutton** has been an educator at Takoma Park Intermediate School for twenty-two years; AND

WHEREAS, **Mrs. Sutton** has contributed to the Takoma Park Community as media specialist, after school coordinator, Honor Society sponsor, Great Books sponsor, and It's Academic sponsor; AND

WHEREAS, **Mrs. Sutton** has served Montgomery County by evaluating materials and preparing materials shared throughout the nation; AND

WHEREAS, **Mrs. Sutton's** outstanding skills have been recognized by Montgomery County Public Schools; AND

WHEREAS, the Joint Board of Science Education for Greater Washington recognized **Mrs. Sutton** as Outstanding Librarian of the Year, 1969; AND

WHEREAS, **Mrs. Sutton** has served the children of Takoma Park as a sensitive and positive role model, helping nurture them from childhood to adulthood; AND

WHEREAS, **Mrs. Sutton** is retiring from Montgomery County Public Schools.

NOW THEREFORE BE IT HEREBY RESOLVED THAT the Mayor and Council of the City of Takoma Park thank **Mrs. Hortense Sutton** for her outstanding service and devotion to our community.

Dated this 16th day of May, 1988.

ATTEST:

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Stephen J. Del Giudice  
Mayor

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James S. Wilson, Jr.  
City Administrator

Introduced By: Councilmember Douglas

1st Reading: 4/25/88

2nd Reading: 5/16/88

ORDINANCE #1988-13

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

SECTION 1. THAT Ordinance No. 2676, adopted June 27, 1983, be amended by the addition of new subsection (o) to Section 1, as set forth below:

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

(o) Valleyview Avenue, between Maple and Willow Avenues there will be one speed hump installed between No. 5 and No. 9.

SECTION 2. THAT funds to cover this work be appropriated from the street repair materials, Account #889.

ADOPTED BY THE CITY COUNCIL THIS 16TH DAY OF MAY, 1988, BY ROLL CALL VOTE AS FOLLOWS:

AYE: d'Eustachio, Douglas, Hamilton, Leary, Martin, Sharp

NAY: None

ABSTAINED: None

ABSENT: Elrich



Introduced by: \_\_\_\_\_

1st Reading:

2nd Reading:

Enacted: \_\_\_\_\_

Effective: \_\_\_\_\_

ORDINANCE NO. 1988 -

Short Title: Security Deposit Legislation

WHEREAS, the Commission on Landlord-Tenant Affairs of the City of Takoma Park is authorized to adjudicate disputes between landlords and tenants regarding the return of security deposits;

and WHEREAS, Section 8-203 of the Annotated Code of Maryland, as amended, states the following:

§ 8-203. Security deposits.

(a) *Definition.* — In this section "security deposit" means any payment of money, including payment of the last month's rent in advance of the time it is due, given to a landlord by a tenant in order to protect the landlord against nonpayment of rent or damage to the leased premises.

(b) *Maximum amount.* — (1) A landlord may not impose a security deposit in excess of the equivalent of two months' rent, or \$50, whichever is greater, per dwelling unit, regardless of the number of tenants.

(2) If a landlord charges more than the equivalent of two months' rent, or \$50, whichever is greater, per dwelling unit as a security deposit, the tenant may recover up to threefold the extra amount charged, plus reasonable attorney's fees.

(3) An action under this section may be brought at any time during the tenancy or within two years after its termination.

(c) *Receipt.* — (1) The landlord shall give the tenant a receipt for the security deposit. The receipt may be included in a written lease.

(2) The landlord shall be liable to the tenant in the sum of \$25 if the landlord fails to provide a written receipt for the security deposit.

(3) The receipt or lease shall contain language informing the tenant of his rights under this section to receive from the landlord a written list of all

existing damages if the tenant makes a written request of the landlord within 15 days of the tenant's occupancy.

(d) *List of existing damages.* — (1) If the landlord imposes a security deposit, on written request, he promptly shall provide the tenant with a written list of all existing damages. The request must be made within 15 days of the tenant's occupancy.

(2) Failure to provide the tenant with this written statement renders the landlord liable to the tenant for threefold the amount of the security deposit. The total amount of damages shall be subject to a setoff for damages and unpaid rent which reasonably could be withheld under this section.

(e) *Bank account for maintenance of deposits; liability of successor in interest; exemption from attachment.* — (1) The landlord shall maintain all security deposits in a banking or savings institution in the State. The account shall be devoted exclusively to security deposits and bear interest.

(2) A security deposit shall be deposited in the account within 30 days after the landlord receives it.

(3) In the event of sale or transfer of any sort, including receivership or bankruptcy, the security deposit is binding on the successor in interest to the person to whom the deposit is given. Security deposits are free from any attachment by creditors.

(4) Any successor in interest is liable to the tenant for failure to return the security deposit, together with interest, as provided in this section.

(f) *Return of deposit to tenant; interest.* — (1) Within 45 days after the end of the tenancy, the landlord shall return the security deposit to the tenant together with simple interest which has accrued in the amount of 4 percent per annum, less any damages rightfully withheld.

(2) Interest shall accrue at six-month intervals from the day the tenant gives the landlord the security deposit. Interest is not compounded.

(3) Interest shall be payable only on security deposits of \$50 or more.

(4) If the landlord, without a reasonable basis, fails to return any part of the security deposit, plus accrued interest, within 45 days after the termination of the tenancy, the tenant has an action of up to threefold of the withheld amount, plus reasonable attorney's fees.

(g) *Withholding of deposit — Generally; tenant's right to be present at inspection of premises.* — (i) The security deposit, or any portion thereof, may be withheld for unpaid rent, damage due to breach of lease or for damage to the leased premises by the tenant, his family, agents, employees, or social guests in excess of ordinary wear and tear. The tenant has the right to be present when the landlord or his agent inspects the premises in order to determine if any damage was done to the premises, if the tenant notifies the landlord by certified mail of his intention to move, the date of moving, and his new address. The notice to be furnished by the tenant to the landlord shall be mailed at least 15 days prior to the date of moving. Upon receipt of the notice, the landlord shall notify the tenant by certified mail of the time and date when the premises are to be inspected. The date of inspection shall occur within five days before or five days after the date of moving as designated in the tenant's notice. The tenant shall be advised of his rights under this sub-

section in writing at the time of his payment of the security deposit. Failure by the landlord to comply with this requirement forfeits the right of the landlord to withhold any part of the security deposit for damages.

(ii) The security deposit is not liquidated damages and may not be forfeited to the landlord for breach of the rental agreement, except in the amount that the landlord is actually damaged by the breach.

(iii) In calculating damages for lost future rents any amount of rents received by the landlord for the premises during the remainder if any, of the tenant's term, shall reduce the damages by a like amount.

(h) *Same — Notice to tenant.* — (1) If any portion of the security deposit is withheld, the landlord shall present by first-class mail directed to the last known address of the tenant, within 30 days after the termination of the tenancy, a written list of the damages claimed under subsection (g) (1) together with a statement of the cost actually incurred.

(2) If the landlord fails to comply with this requirement, he forfeits the right to withhold any part of the security deposit for damages.

(i) *Tenant ejected or evicted or abandoning premises.* — (1) The provisions of subsections (f) (1), (f) (4), (h) (1), and (h) (2) are inapplicable to a tenant who has been evicted or ejected for breach of a condition or covenant of a lease prior to the termination of the tenancy or who has abandoned the premises prior to the termination of the tenancy.

(2) A tenant specified in paragraph (1) may demand return of the security deposit by giving written notice by first-class mail to the landlord within 45 days of being evicted or ejected or of abandoning the premises. The notice shall specify the tenant's new address. The landlord, within 30 days of receipt of such notice, shall present, by first-class mail to the tenant, a written list of the damages claimed under subsection (g) (i) together with a statement of the costs actually incurred. Within 45 days of receipt of the notice, the landlord shall return to the tenant the security deposit together with simple interest which has accrued in the amount of 4 percent per annum, less any damages rightfully withheld.

(3) If a landlord fails to send the list of damages required by paragraph (2), the right to withhold any part of the security deposit for damages is forfeited. If a landlord fails to return the security deposit as required by paragraph (2), the tenant has an action of up to threefold of the withheld amount, plus reasonable attorney's fees.

(4) Except to the extent specified, this subsection may not be interpreted to alter the landlord's duties under subsections (f) and (h).

(j) *Waiver of section's provisions.* — No provision of this section may be waived in any lease. (An. Code 1957, art. 21, § 8-213; 1974, ch. 12, § 2; 1974, ch. 476; 1979, ch. 550; 1980, ch. 536.)

and WHEREAS, the Commission on Landlord-Tenant Affairs must have criteria to follow in adjudicating disputes between landlords and tenants regarding security deposits;

and WHEREAS, the Mayor and Council of the City of Takoma Park find that the provisions of Section 8-203 of the Annotated Code of Maryland, as amended, should be included in those criteria,

NOW THEREFORE BE IT RESOLVED, that the Mayor and Council here by amend Section 6-80.21 of the City Code to read as follows:

PART I

Sec. 6-80.21 Security Deposits

(a) The provisions of section 8-203 of the Real Property Article of the Annotated Code of Maryland, as amended, are hereby incorporated by reference and adopted as an ordinance of the City of Takoma Park.

(b) In addition to any other means of enforcement provided by law, the Commission on Landlord-Tenant Affairs is authorized, to the extent such authorization is not prohibited by state law, to enforce the provisions of Subsection (a) above.

(c) If a landlord materially violates any provision of section 8-203 of the Real Property Article of the Annotated Code of Maryland, as amended, the Commission on Landlord-Tenant Affairs may award the tenant up to threefold the amount of damages caused by such violation plus reasonable attorney's fees. In the following circumstances, the Commission on Landlord-Tenant Affairs may award the tenant an amount in excess of actual damages caused by the violation:

(1) where the landlord has had actual knowledge of his/her obligations pursuant to this section or to section 8-203 of the Real Property Article of the Annotated Code of Maryland, as amended; or

(2) where the landlord unlawfully has failed to refund all or part of a security deposit after not having deposited it in an interest bearing account devoted exclusively to security deposits in a bank or savings institution in Maryland, but has instead has kept, deposited, or invested it in a manner not guaranteed by the State or federal government, and thereby subjecting the deposit to undue risk; or

(3) where the landlord has failed to return all or part of the security deposit, plus accrued interest, within 45 days after the termination of the tenancy and the Commission on Landlord-Tenant Affairs finds that the list of damages or statement of costs actually incurred that the landlord has offered to justify such withholding is so unreasonable as to have not been made in good faith; or

(4) where the landlord has failed to return all or part of the security deposit, plus accrued interest, within 45 days after the termination of the tenancy and the landlord has refused to accept notification of the tenant's latest address.

(5) where the landlord has failed to return all or part of the security deposit, plus accrued interest, within 45 days after termination of the tenancy and the Commission on Landlord-Tenant Affairs finds that some other legal or discriminatory motive exists for such withholding.

~~(d)~~ (d) Any increase in the amount charged as a security deposit, as provided in section 8-203(b) of the Real Property Article of the Annotated Code of Maryland [said section being a part of section 8-203, as provided in Subsection (a) above], shall be deemed to be a rent increase subject to the notice, limit, frequency of increase of any other provisions of Section 6-80.17(c) of this Code, unless said sum:

(1) Is expressly designated as a security deposit;

(2) Is deposited as provided in section 8-203(e) of the Real Property Article; and

(3) Is charged at the beginning of a tenancy.

~~(d)~~ (e) Any assessment of a security deposit shall not be retaliatory, discriminatory, arbitrary or capricious.

~~(e)~~ (f) The provisions of this section are severable.

## PART II

### Severability

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

## PART III

### Effective Date

This ordinance shall take effect on: \_\_\_\_\_, 1988.

**NOTE:**

In this Ordinance ~~strikeout~~ indicate language deleted from the Code and underlines indicate new language being added to the Code.

a:6.80.wp

Introduced by:

(Drafted by: Paula Jewell)  
(Amended 5/16/88)

1st Reading: 5/16/88  
2nd Reading:

ORDINANCE #1988-\_\_\_\_\_

AN ORDINANCE TO AMEND CHAPTER 2, ARTICLE 6, SECTION 2-142  
(ADMINISTRATION, BOARDS AND COMMISSIONS, TREE COMMISSION)

BE IT ORDAINED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT  
THE FOLLOWING SECTIONS OF THE 1972 TAKOMA PARK CITY CODE ARE  
HEREBY AMENDED AS FOLLOWS:

Section 2-142. Composition.

The Tree Commission shall be composed of the Director of Public Works, or his designee, who will serve as a non voting ex officio member, [an elected official of the city designated by the Mayor and Council and] three (3) citizens designated by the Mayor and Council, and two citizen members designated by the Mayor and Council to serve as alternates. The three (3) citizen members and two alternates shall serve staggered three-year terms, with initial appointments of one (1) two (2) and three (3) years. The members shall elect among themselves a Chair.

Section 2-143. Function.

The Tree Commission shall prepare rules, regulations and procedures and propose actions to be taken by the city to preserve and protect the urban forest, subject to the approval of the Mayor and Council.

Sec. 2-144. Duties - Remains as is.

Underlining indicates new language.

[brackets] indicate language to be deleted from existing Code.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 1988, by Roll Call Vote as follows:

AYE:  
NAY:  
ABSTAINED:  
ABSENT:

Introduced by: Mayor Del Giudice

RESOLUTION #1988-42

WHEREAS, there currently exists two unexpired terms on the City's Commission on Landlord-Tenant Affairs (COLTA) that need to be filled; one is for a tenant representative; one for a general public representative; AND

WHEREAS, Cheryl Chapman and Yvonne Crooks have applied to serve on the Commission as tenant representatives; AND

WHEREAS, Susan McMillan and Bill Batko have applied to serve as general public representatives.

NOW THEREFORE, BE IT RESOLVED THAT the City Council of Takoma Park, Maryland, does hereby appoint the following persons as representatives for the vacant seats on the Commission on Landlord-Tenant Affairs. These terms are effective this date of appointment and expire on June 30, 1989:

- (1) Cheryl Chapman, Tenant Representative
- (2) Bill Batko, General Public Representative

Dated this 16th day of May, 1988.



CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and Council  
May 31, 1988

CITY OFFICIALS PRESENT:

Mayor Del Giudice	City Administrator Wilson
Councilmember d'Eustachio	Asst. City Administrator Habada
Councilmember Douglas	Deputy City Clerk Jewell
Councilmember Hamilton	Cable Coordinator Smith
Councilmember Leary	
Councilmember Martin	
Councilmember Sharp	

ABSENT: Councilmember Elrich

The Mayor and City Council convened at 8:05 P.M. on Tuesday, May 31, 1988 in the Council Chamber at 7500 Maple Avenue, Takoma Park, Maryland. The Mayor noted, for the record, that Councilmember Elrich was representing the City at a meeting on the Silver Spring Sector Plan and would perhaps be arriving later in the evening; Councilmember Martin was not present for the roll call, however, was expected. Following the pledge, the Minutes of the 5/26/88 budget hearing were presented for approval. It was noted substitute pages 3 and 4 had been provided for insertion; Councilmember d'Eustachio noted on page 3 a need to correct the spelling of Barry Wides' surname; he moved approval of the minutes, duly seconded by Councilmember Hamilton; the motion carried by unanimous vote.

The Mayor moved the appointment of Councilmember Leary to represent the City on COG's Metropolitan Development Policy Committee, with Councilmember Douglas serving as alternate; the motion was duly seconded by Councilmember d'Eustachio, and carried by unanimous vote. The Mayor thanked Messrs. Leary and Douglas for agreeing to serve on the committee.

ADDITIONAL AGENDA ITEMS:

Resolution regarding all-day kindergarten at Takoma Park Elementary (Hamilton)

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

Mike Davidson, 7513 Maple Avenue: referred to ongoing problems in his building; said in the past month, he and other tenants had reviewed Housing files and they seemed to be continually changing. He said within the past week, he had searched the file and could find none of the past license certificates for his building -- at the end of April, he said he was certain there had been two of the certificates in the file. He said to the best of his knowledge, his landlord's certificate expired 2/15/87 and none had been issued since. He said he would suggest that the Director of DHS retain and become custodian of the 2nd copy of the licensing certificate, and that a photocopy of same be placed in the file. In addition, he said he would suggest a log in the front of each file indicating information added, as well as any document that was removed. He inquired, for the record, who was the custodian of the license certificates. Councilmember Sharp commented he would think that would be the Department Head's responsibility. Mr. Davidson said Ms. Weiss had told him the certificates should be in the inspection files; however, they were not. He said Ms. Weiss had additionally told him that there was evidence a license was issued to his landlord for a very short period, i.e., 1/6/87-2/15/87, and he should have had a license in 1986 as well, however, there was not one in existence at the present time. Mr. Davidson said the reason he had raised this issue was because he would think one of the first things the Housing Coordinator should do when a petition for a rent increase was received would be to check and ascertain that there was a current and valid license for the building. The Mayor said he would have to concur with Mr. Sharp that the Department Head would be the ultimate custodian of such records, however, that individual may have delegated the actual custodial care of the records to someone else in their department, perhaps the Housing Coordinator. Councilmember Leary remarked that it would be necessary to get a prompt answer to Mr. Davidson's questions; he said there should certainly be an official file of the licenses which remained unaltered -- one should not expect

to find documents missing from such a file. Mr. Wilson stated he had made note of the situation and would apprise Ms. Weiss first thing the following morning and request a response to the questions raised. In addition, it was noted by the Mayor and Mr. Wilson that steps were being taken by Housing to correct some file deficiencies pointed out earlier by Mr. Davidson, case files would now contain a docket sheet, and he should soon be receiving a communication in the mail from Housing Coordinator Oliver.

Councilmember Hamilton remarked that it had come to his attention that the City was collecting fees for licenses, but had not issued licenses. He said there was need to put the subject on a worksession agenda soon so that the problem could be addressed.

Karen Mitchell, 7600 Maple Avenue, Secretary-Treasurer of Park Ritchie Tenants' Association: related that one of the helpful and forward-thinking things the elected officials did during the tenants' long and arduous fight to save their home at 7600 Maple was to pass Resolution 1986-17 on 6/9/86, which set aside \$5,000 in escrow for the tenants' use in obtaining a feasibility study which was necessary in their attempt to cooperatively purchase the Park Ritchie. She said that, unfortunately, the Park Ritchie tenants did not get to use that money; however, there was now another tenants' association in the city seeking to cooperatively purchase their building and the outlook appears very promising for them. On behalf of the Park Ritchie Tenants' Association, she asked that the \$5,000 set aside for their use in 1986 and never expended now be transferred to the tenants association of 7611 Maple Avenue, under the same conditions as previously granted and for the same purpose. Councilmember Hamilton said he would like to move that Council support Ms. Mitchell's request, and that staff be directed to transfer the funds inasmuch as the tenants of 7611 Maple Avenue had already entered into a contract and a feasibility study had been undertaken. In the course of brief discussion, consensus was that the request be added to the agenda at a later point in the meeting.

**ITEMS FOR COUNCIL ACTION:**

**1. Resolution Appointing Cable Board Members.**

Councilmember Douglas moved passage of the resolution, duly seconded by Councilmember d'Eustachio. For the record, Mr. d'Eustachio noted the two candidates for appointment, Michael B. Sassani and Darryl F. White, had been interviewed the prior Monday evening by a group of 4 Councilmembers, and there was a consensus that both candidates were well-qualified to perform the duties on the board. The resolution was passed by unanimous vote.

RESOLUTION #1988-43  
(attached)

**2. Single Reading Ordinance re Purchase of Facade Easement from Eric Seples, Owner of 7216 Carroll Avenue, Under Takoma Junction Facade Improvement Program.**

Councilmember Douglas moved adoption, duly seconded by Councilmember d'Eustachio. Mr. Wilson noted that Daniel Neal, Director of Economic & Community Development, was not present inasmuch as he was occupied working on a report concerning the Prince George's County Master Plan. The ordinance was adopted by roll call vote as follows: AYE: Councilmembers d'Eustachio, Douglas, Hamilton, Leary, Martin and Sharp; NAY: None; ABSENT: Councilmember Elrich.

ORDINANCE #1988-14  
(attached)

**3. Single Reading Ordinance Authorizing Purchase of Video Camera.**

Councilmember Hamilton moved adoption of the ordinance, duly seconded by Councilmember d'Eustachio. For the record, the Mayor noted that the purchase did not involve any direct City funds, the monies were received from Montgomery County and the cable franchise for the purpose of purchasing equipment. The ordinance was adopted by roll call vote as follows: AYE: Councilmembers d'Eustachio, Douglas, Hamilton,

Leary, Martin and Sharp; NAY: None; ABSENT: Councilmember Elrich.

ORDINANCE #1988-15  
(attached)

4. Council Action on Variance Request for 1302 Elson Place.

For the record, the Mayor noted that the property owner was present, and that staff's report recommended approval of the variance. Councilmember Sharp moved adoption of staff's report and passage of the draft resolution, duly seconded by Councilmember Hamilton. For the record, Deputy City Clerk Jewell noted she had received one communication concerning the variance, a phone call from the Carmichaels, who expressed no opposition. She affirmed that letters were sent out to all nearby neighbors. Councilmember Douglas commented that while he would not vote against the proposal, he did have some discomfort about approving something that would allow less than the required minimum amount of open space on a lot.

Mike Moore, 7201 13th Avenue, adjacent property owner: said his lot adjoins the petitioner's backyard, and he and his wife had no problem whatsoever with the requested variance.

The resolution was passed with Councilmember Martin Abstaining, balance of Council voting in the affirmative.

RESOLUTION #1988-44  
(attached)

5. Second Reading of Tree Commission Amendment Ordinance.

Councilmember Douglas moved adoption of the ordinance, duly seconded by Councilmember Leary. Councilmember Sharp moved to delete the Director of Public Works, or his designee, from ex officio membership on the commission. He explained he felt it only served to muddy the process inasmuch as the Director of Public Works, under the ordinance, makes the initial finding on whether or not someone can cut down a tree; the matter then goes before the commission, if appealed, and it would seem inappropriate to have the person who makes the initial decision also on the appeal body. The motion to amend was duly seconded by Councilmember d'Eustachio. Responding to inquiry, he said he would question whether the Director of P.W. should be referred to as an expert witness in such cases because it would be his judgment that was being appealed. Mr. Wilson opined that there was no need to appoint someone to support a committee by ordinance; that could be done by other means -- administrative and otherwise. Councilmember Martin pointed out that neighbors could take issue with whether or not a permit was issued or denied, so the Director of P.W. would not always be the opposing party in an appeal. She said now that Mr. Robbins would no longer be Director of Public Works, someone with expertise about trees would have to be sought -- perhaps even a consultant to handle tree permits. In addition, she said the committee needed someone who was an expert to advise the commissioners. Responding to Councilmember Leary, she affirmed that every case that went before the commission had first been reviewed by the Director of Public Works. Mr. Leary stated that, in that case, he would support Mr. Sharp's proposed amendment. In the course of ensuing discussion, Ms. Martin commented there were a number of instances other than hearings in which the commission relied upon the advice and expertise of the Director of Public Works. Mr. Leary commented he felt certain Public Works would cooperate in lending support to the commission, as required or requested, whether or not anyone from the department was a designated member. The Mayor commented that in connection with the function of the commission, he would be proposing that the appropriate section of the ordinance be amended to state that the commission would propose (with the assistance of the Director of Public Works, or his designee) rules, regulations, or procedures -- rather than that they would prepare same. He said that change would include the Director of Public Works in the function of lending assistance, but would clarify that the individual would not be a decision-maker of the commission, particularly when the body was hearing contested cases. The amendment to strike from Sec. 2-142 of the ordinance the language referring to the Director of Public Works, or his designee, was passed by unanimous vote. The Mayor moved to amend the ordinance by changing the word prepare to propose in Sec. 2-143 in the first line, and deleting the



word in the second and third lines inasmuch as it would be redundant, also inserting the other provision he had suggested earlier, so that the section would read: "The Tree Commission, with the assistance of the Director of Public Works, or the designee, shall propose rules, regulations, procedures, and actions to be taken by the City, etc..." Councilmember Sharp duly seconded the motion to amend, and said it would be his assumption the commission would make their own rules and procedures, subject to the review and approval of the Mayor and Council, as was the case with other commissions. Consensus was that that was the case. The amendment passed by unanimous vote. At the request of Councilmember Martin, consensus was that the word designated be editorially amended to read appointed (referring to citizen members of the commission appointed by the Mayor and Council) in the two places in which it appeared in the ordinance. Councilmember Sharp commented that, while he would not be offering any amendment, alternate members had not worked out well on COLTA; he said while they could not generally vote, they worked just as hard as everyone else on the body. Responding to inquiry, Councilmember Douglas pointed out that it probably would not be totally appropriate for a member of the Council to sit on the commission inasmuch as there might be instances in which matters involving the body would come before the Council, and it would be difficult for the person to be totally objective. Councilmember Sharp concurred with the basic concept of Mr. Douglas' opinion, as did the Mayor, who, however, pointed out there was nothing in the ordinance that would prohibit a member of the Council sitting on the commission in his role as a citizen, other than the comments that had been voiced concerning the propriety of doing so. The ordinance, as amended, was adopted by roll call vote as follows: AYE: Councilmembers d'Eustachio, Douglas, Hamilton, Leary, Martin and Sharp; NAY: None; ABSENT: Councilmember Elrich.

ORDINANCE #1988-16  
(attached)

**6. Second Reading of Employee Vacation Rollover Ordinance.**

Councilmember d'Eustachio moved adoption of the ordinance, duly seconded by Councilmember Hamilton. Councilmember Sharp inquired, under the ordinance, what the situation would be if an employee requested to take leave, the leave was denied and was carried over into the next year and its use was again denied. Councilmember d'Eustachio responded that, in accordance with the ordinance, the leave that was carried over would have to be used within the second year or it would be deleted from the records; should such a situation occur, it would indicate there was probably a management problem. In the course of discussion, Mr. Wilson pointed out there would have to be a document on record from the supervisor justifying the denial of the leave in order for it to be rolled over at all. The Mayor remarked that if a situation were encountered wherein the same employee was having to roll over large amounts of accumulated leave each year, then it would be a strong indication that there was either a management problem or a systemic problem; he said an attempt had been made in the proposed budget to address some of the systemic problems that had led to leave problems in the police department, and the situation would have to be monitored for any further problems. Councilmember Douglas pointed out a need for a separate accounting of any denied leave; Councilmember Hamilton concurred with that need, commenting he would like to see that category as a separate column on the leave printouts. Councilmember Sharp remarked that he could not envision that the use of leave rolled over would be denied a second year, or that anything so outrageous as deleting an employee's leave without any form of compensation would occur in the City; however, if the proposed ordinance would permit such a thing to occur, he would be voting against its adoption. Mr. Wilson suggested that in any instance where leave was denied, it could be required that a memorandum outlining the situation be written and a copy entered into the Admin. files so that it could be brought to the attention of the manager that there was a pressing need for him to address the situation. Councilmember Leary commented his understanding of the ordinance was that it would, indeed, permit the outrageous situation Mr. Sharp had outlined to occur, unless the Council took some extraordinary action to prevent its occurrence. Mr. Douglas said he found it difficult to envision that happening, that almost everyone took some leave and if the first used were the rolled over leave, then while the employee might again have to roll over some

accumulation at the end of the year, it would not likely be the same leave. The ordinance was adopted by roll call vote as follows: AYE: Councilmembers d'Eustachio, Douglas, Hamilton, Leary, and Martin; NAY: Councilmember Sharp; ABSENT: Councilmember Elrich.

ORDINANCE #1988-17  
(attached)

**7. First Reading of Tax Rate Ordinance.**

Councilmember Douglas moved acceptance for First Reading, duly seconded by Councilmember Sharp. The Mayor noted the ordinance would set the tax rate for the City at \$.02 higher than last year, that amount being a direct result of the increased tax assessment for fire service reimbursement paid to Montgomery County; the tax rate amount for City services and WSSC storm water management remained essentially the same. Councilmember d'Eustachio remarked that in going through the various budget documents, he was reminded of a comment made by Mr. Mandel during the budget process to the effect that much of the budget reminded him of a calculator manual written for those who already know how to use a calculator. The ordinance was accepted for First Reading by unanimous vote, with the Mayor noting it would set the City tax rate at \$1.84/\$100. assessed valuation.

ORDINANCE #1988-  
(attached)

**8. First Reading of Pay Scale Ordinance.**

Councilmember Leary moved acceptance for First Reading, duly seconded by Councilmember Douglas. Responding to inquiry about employee union negotiations, Mr. Wilson noted he had spoken with Mr. Ridgely of AFSCME who said he would be willing to attend the meeting on June 6 to respond to any questions and to explain the situation with the union. He said he had advised Mr. Ridgely of the language contained in the proposed ordinance. The Mayor noted the ordinance would provide a 3.75% COLA for employees, once agreement was reached with the union. The ordinance was accepted for First Reading by unanimous vote.

ORDINANCE #1988-  
(attached)

**9. First Reading of Executive Pay Plan Ordinance.**

Councilmember Douglas moved acceptance for First Reading, duly seconded by Councilmember Hamilton. The Mayor noted the ordinance would provide a 3.75% COLA for those on the Executive Pay Plan. The ordinance was accepted for First Reading by unanimous vote.

ORDINANCE #1988-  
(attached)

**10. First Reading of Budget Ordinance.**

Mr. Wilson noted that in accordance with the elected body's last two decisions, Ms. Habada had prepared an alternate ordinance, which he disseminated. Councilmember Douglas moved acceptance of the alternate ordinance for First Reading, duly seconded by Councilmember Leary. The Mayor noted that the document bore the date 5/31/88 and reflected expenditures, including Public Works, of \$1,710,705.

Councilmember d'Eustachio noted that in Sec. 2, there was an unappropriated funds line balance of \$11,645., which contained \$10,000. which would be spent during the current fiscal year. He said he would prefer, since the current year's expenditure had been taken out of Unappropriated Reserve as opposed to Capital Funds, that the \$10,000 be returned to the Unappropriated Reserve; he moved that the ordinance be amended accordingly. The motion was duly seconded by Councilmember Douglas. The Mayor noted that the \$10,000 referred to would be used in the current fiscal year to buy up some of the accumulated leave of some members of the police department; Ms. Habada stated the funds to do so would be taken from the General Contingency Fund. She said given present estimates, there would be enough money in that account to cover the expenditure; the only overages that could present a problem would be overtime, and it was planned to cover that out of the Police Salaries line item, which appeared adequate to do so. Based on those plans, Mr. d'Eustachio withdrew his motion, as did the seconder.

Responding to inquiry from Mr. Douglas, Ms. Habada explained that the \$12,000 in Federal Revenue Sharing Funds indicated in Sec. 5 needed to be designated for a use; the items listed were suggested possible uses. Mr. Wilson noted there was a need to spend the funds by the first of October. Mr. Douglas commented he felt mention should be made of one of the decisions the elected body had made, and which would not be reflected in budget documentation, i.e., a willingness to fund another Gypsy Moth Program next year, if necessary. He said he would be preparing a resolution to that effect, which he would like placed on the agenda at the budget adoption meeting. The Mayor concurred that the decision was to fund that program up to a maximum of \$40,000, and go into reserves, if necessary. Councilmember Leary commented that the assumption was that the program would be necessary, and that City staff should begin planning in advance how the money could be most effectively spent. Mr. Leary raised questions concerning the figures reflected for legal expenses; brief discussion ensued, with the consensus being that worksession notes would have to be examined to ascertain what the exact decision was. The Mayor suggested that page 4 of the budget document could be amended to reflect \$65,000 for legal fees, \$20,000 for litigation expenses, and \$5,000 for codification; Councilmember Leary so moved, duly seconded by Councilmember d'Eustachio. The amendment was passed by unanimous vote.

Robert Mandel, 7003 Woodland Avenue: pointed out that in both the original version and the alternate version of the budget ordinance, there were two Section 3's; he suggested appropriate renumbering. The Mayor affirmed that would be done, and thanked Mr. Mandel. Mr. Mandel commented he would wish to thank Councilmember Douglas for his efforts concerning the Gypsy Moth Program plans for next year. He remarked that what occurred concerning the second spraying this year was not completely equitable, inasmuch as the expense was not shared equally by all property owners, and what was planned for next year would be much fairer.

Councilmember Sharp inquired concerning what was planned regarding addressing infrastructure, inasmuch as he had missed the worksession discussion on the matter. The Mayor responded that it had been intended to take approximately \$100,000 out of Capital Reserves to address infrastructure, however, it now looked like \$88,355 would be the amount appropriated from that account for the purpose, and some other measures would be examined to set up a regular program for addressing infrastructure. He said there were a number of proposals to examine, and there would be policy decisions to be made prior to next year's budget deliberations.

Responding to query from Councilmember Douglas, Ms. Habada explained that regarding computer purchases, \$3,000 was reflected in the budget document under Admin. for general purchases, there was a separate \$20,000 line item for Accounting for computerization; other departmental computer purchases were reflected in the Capital Budget. Mr. Douglas said that what he would hope to ensure was that if one department's purchase was somewhat lower than anticipated, and another somewhat higher than expected, the money appropriated for computers would be spent so that everyone got what they needed. In addition, he requested that staff be directed when copying document pages for distribution, to ensure that those containing wide charts or tables have the top at the left-hand side of the page, which would make for easier reading and handling.

Concerning infrastructure, Councilmember Hamilton noted that recommendations were made by the Block Grant Committee the last two years that a capital budget be set up to address that item; he inquired whether, in addition to City monies, Block Grant Funds would also be used for infrastructure as had previously been done. The Mayor responded that a process had not yet been established; he said last year, Economic & Community Development Director Neal approached the elected body very quickly and asked that the City money set aside be combined with the Block Grant Funds because he felt more could be purchased by combining contracts. The Mayor said that issue would need to be addressed without delay; he suggested that the Council could examine what the Block Grant Committee had approved, what county funds would take care

of, what the shortfall would be, and then a decision could be made as to whether the elected body should spend the money they had set aside on completing the projects not funded by Block Grant Funds. If not, then alternatives on which the City funds would be spent would need to be examined. He noted money was not appropriated for a street study; he said he felt there was still some interest in spending money on that, but it was a minority interest. Councilmember Douglas said he viewed the appropriated funds as a good faith commitment that the City was going to do something about infrastructure, however, would not want to see its use designated without in-depth examination and discussion. The Mayor reiterated the need to make some decisions prior to September when plans would be in the process of being finalized for Block Grant contracts.

Mayor Del Giudice commented that, based on his prior experience, he felt the budget process this year to have been very successful and productive. He noted new initiatives undertaken, e.g., recycling, and the Outreach Worker to be hired to work with the female youth in the City, as well as some decisions concerning the police department that would allow them to remain competitive in the job market. He said he felt the members of the Council should be commended for the time and effort they had devoted in order to come to some agreement on the budget. The ordinance was accepted for First Reading by unanimous vote.

ORDINANCE #1988-  
(attached)

**11. First Reading of an Ordinance to Purchase Police Automatic Weapons.**

Councilmember Hamilton moved acceptance for First Reading, duly seconded by Councilmember Sharp. Ms. Habada pointed out that in the second section, "...sid purchase..." should read "...said purchase..." The Mayor noted the ordinance would authorize the appropriation of \$4,000 for the purchase of Beretta 9 mm. automatic handguns for the police department. Councilmember Martin referred to questions about safety of the weapons that had been raised at a prior meeting; the Mayor stated that the elected body was advised that automatic weapons must be cared for and maintained with more rigor and more regularly than a revolver, that if left uncleaned, they are more likely to fail to discharge than a revolver. Councilmember Hamilton commented that Chief Fisher had advised the Council that the police department has a monthly inspection process for weapons which would ensure proper care and maintenance. Councilmember Douglas pointed out, for the record, that police department personnel had agreed to donate time for training in use of the weapons so that the City would not be liable for paying for the training. Councilmember d'Eustachio said while he had serious qualms about the weapons, which he clarified are semi-automatic rather than automatic, he would not vote against the ordinance. He said it should be clearly noted that any officer who chose to do so could retain his original service revolver, would not be forced to use the semi-automatics, and officers using the weapons would have to qualify to do so; those who either could not qualify or chose not to, would not be permitted to use the new weapons. He said that, like it or not, the semi-automatics are being put into use by more and more jurisdictions across the country, are becoming increasingly accepted by jurisdictions, particularly in the D.C. area, and eventual approval was probably inevitable. He said that perhaps by voting approval now the outlay of funds could be somewhat reduced, and, hopefully, officers would take into consideration the elected body's concerns regarding safety factors. Councilmember Sharp referred to a newspaper article concerning the guns, which had raised a possible design problem with Berettas and which he said Chief Fisher was going to look into and respond on; he asked that the results of the inquiry be provided prior to Second Reading of the ordinance. Councilmember Leary commented it had appeared Chief Fisher had been persuaded, primarily by members of his staff, from an initial skepticism about the weapons to a position of endorsement; he said he thought he recalled the Chief saying that some officers already used the weapons, which they had purchased with their personal funds, so apparently voting against the ordinance would not stop the use of them by some members of the department. Councilmember Douglas commented that while he agreed with Mr. Leary, and to some extent with both Mr. d'Eustachio

and Mr. Sharp, he felt he would somewhat reluctantly support Chief Fisher's opinion, which he trusted. The ordinance was accepted for First Reading by unanimous vote of those present (Councilmember Martin temporarily absent, Councilmember Elrich absent).

ORDINANCE #1988-  
(attached)

**12. First Reading of FY 88 Budget Amendment No. 4.**

Councilmember d'Eustachio moved acceptance for First Reading, duly seconded by Councilmember Hamilton. At the request of the Mayor, Ms. Habada summarized the expenditures the transfer of funds from General Contingency would cover. Following brief dialogue, she commented that an additional amendment would be presented soon to cover the Maple Avenue Storm Drain Project, noting that all the revenues had been received from WSSC, Park & Planning, WAH, and while the expenditure actually occurred in the last fiscal year, the monies did not come in at that time, so accounting details would now have to be cleaned up. The ordinance was accepted for First Reading by unanimous vote of those present (Councilmembers Martin and Elrich absent).

ORDINANCE #1988-  
(attached)

**13. Resolution Designating James S. Wilson, Jr., as Acting Director of Public Works Department.**

Councilmember Douglas moved passage of the resolution, duly seconded by Councilmember Hamilton. The resolution was passed by unanimous vote of those present (Councilmembers Martin and Elrich absent).

RESOLUTION #1988-45  
(attached)

Councilmember Sharp referred to the repaving project the state had undertaken on New Hampshire some time ago which he had thought would extend all the way to the D.C. line, however, had stopped short of that, and inquired whether it was known what was intended. The Mayor said he had been told by the Delegate from the 21st District that the state had run out of funds for the project, however, he suggested that Mr. Wilson see that the state was contacted and ascertain when completion of the project was anticipated. Responding to Councilmember Martin, he explained that they had completed the work on the west side of New Hampshire, including curbs and gutters, up to about East-West Highway, had started back down the east side and ran out of funds for the project when they got down to around the area of the churches on that side.

**14. Resolution in Support of Establishment of all-Day Kindergarten at Takoma Elementary School.**

Councilmember Hamilton moved passage of the resolution, duly seconded by Councilmember Leary. Mr. Hamilton spoke briefly in favor of the all-day session which he said would enhance the educational process by providing a continuum of the all-day pre-school program, as well as relieving the financial burden of day care for many parents in his ward. Mr. Leary suggested that the resolution be editorially amended by the deletion of the first "Whereas" clause, which he said was unnecessary and potentially misleading; Mr. Hamilton accepted the editorial amendment. Councilmember Sharp remarked on the need for P.T.A. and/or other organizational efforts in order for the request to succeed. The resolution was passed by unanimous vote.

RESOLUTION #1988-46  
(attached)

**15. Request re Transferring Availability of Previously Appropriated Funds for Feasibility Study to Tenants of 7611 Maple Avenue.**

The Mayor noted these funds were previously appropriated for use by the Park Ritchie tenants in their effort to acquire ownership of their building, as referenced earlier by Ms. Mitchell. In the course of ensuing discussion, it was noted that according to Daniel Neal, there was still \$5,000 of housing rehab money set aside for the Park Ritchie feasibility study which had never been rededicated for any other use. Mr. Hamilton explained that the tenants of 7611 Maple had made appli-



cation to the Tenant Awareness Program for money as well; Mr. Neal had talked with the consultant working with them and he envisioned that the feasibility study, putting the contract together and actually acquiring the building may require \$10,000 from the TAP as well as the \$5,000 being requested. Responding to Councilmember Martin, Councilmember Sharp pointed out that the request was that the \$5,000 be donated for the purpose, not loaned as was the \$10,000 from TAP. The Mayor suggested that the request be placed on the June 6 meeting agenda, with staff to provide a report including details of the proposal, from what source the funds would be coming, the status of the proposed purchase, to what use the funds would be put, and why the funds from TAP would not be adequate.

Howard Gilman, 7611 Maple Tenants' Association: said he had spoken with Mr. Neal the prior week, and had been advised that Council action would be needed on the request, however, there appeared to be no problem with availability of sufficient funds. Mr. Gilman related the process the tenants had gone through to date, and efforts they were making to raise matching funds. He said he and others were really enthusiastic, plans were beginning to jell, but a lot of work and a lot of money would be required for the tenants to achieve their goal. The Mayor commented he understood a feasibility survey was in progress, probably the first step in the feasibility study; tenants had received a survey form in the mail from the company with which they had contracted to do the study, and the TAP funds would pay for the work, or if Council agreed, the \$5,000 previously appropriated could be used for that purpose. The Mayor said that he understood that HOC had essentially taken a back seat on the issue at present; that inasmuch as that agency was a contract purchaser, they believed it would be a conflict of interest for them to be actively involved in assisting the tenants in formulating a purchase plan. If, however, the tenants are successful in putting together a purchase plan and, under the City's ordinance, purchase the property, then HOC would subsequently be willing to sit down and talk with them about helping to finance (or refinance) the purchase. At the current point in the process, HOC could be considered to be competitors of the tenants. As a point of clarification, Mr. Hamilton noted that under the contract, HOC had until May 11 to pull out their \$50,000 deposit, however, had not done so; he said they still want to purchase the building and, at present, they are still locked into the contract. Responding to inquiry, he said the 45-day organizing period for the tenants had expired, they are now in the second week of the 90-day period they are afforded to come up with a contract. He said the money that was being requested for use had originally been earmarked for a feasibility study, and that purpose only, and it was being asked only that its availability be redirected. Councilmember Sharp remarked that HOC's stated status concerning the purchase and lending assistance to the tenants was confusing to him and did not appear appropriate in the circumstances. The Mayor reiterated that the matter would be on the June 6 agenda for an update report on the situation, as well as the aforementioned report from Daniel Neal concerning the funds. Mr. Hamilton noted that a letter had been received from HOC stating that they would not pay for the feasibility study.

Upon motion, duly seconded, the meeting adjourned at 10:05 P.M., to reconvene in Special Session at 8:00 P.M. on June 6, 1988.

Introduced by: Mayor Del Giudice

**RESOLUTION #1988-38**

WHEREAS, Prince George's County Department of Social Services is a major distributor of government surplus foods providing relief to approximately 12,000 low income households per quarter, AND

WHEREAS, this distribution of government surplus foods is in jeopardy under the Temporary Emergency Food Assistance Program (TEFAP). Honey and rice have been suspended from the program and cutbacks of dairy products are severe; AND

WHEREAS, those who receive this food are our working poor, our elderly and our homebound persons, who often do not receive other kinds of assistance; AND

WHEREAS, Emergency Hunger Relief Act bills have been proposed by the Agriculture Committee so that the TEFAP program can continue, even by providing protein substitutions such as peanut butter and can meats to needy households.

NOW THEREFORE BE IT RESOLVED, THAT the Mayor and City Council of Takoma Park, Maryland hereby offer full support for the hunger relief bills (H.R. 4060 and S.B. 2123) and strongly urge the Federal legislators to consider both House and Senate bills to ensure that TEFAP and other administrative funding continue; AND

BE IT FURTHER RESOLVED, THAT a copy of this Resolution be forwarded to United States Senate and Congressional Representatives and to Mr. Richard Lyng, Secretary of the Department of Agriculture.

Dated this 16th day of May, 1988.

**R E S O L U T I O N**

WHEREAS, Police Chief A. Tony Fisher has selected **SERGEANT DENNIS BONN**, to be the Department's 1987 **POLICE OFFICER OF THE YEAR**; AND

WHEREAS, **SERGEANT BONN** was selected for maintaining a consistently high level of performance through his subordinates despite constant personnel shortages, last-minute assignments and employee transfers, and for cheerfully undertaking extracurricular activities ranging from special investigations to service as a firearms instructor.

NOW THEREFORE BE IT RESOLVED THAT the Mayor and Council hereby commend and offer their warm congratulations and a \$100 Bond to **OFFICER OF THE YEAR**,

**SERGEANT DENNIS BONN**

Dated this 16th day of May, 1988

ATTEST:

\_\_\_\_\_  
Stephen J. Del Giudice  
Mayor

\_\_\_\_\_  
James S. Wilson, Jr.  
City Administrator

**R E S O L U T I O N**

WHEREAS, Police Chief A. Tony Fisher has bestowed on **CORPORAL JOHN SUERO**, recognition for Meritorious Service; AND

WHEREAS, **CORPORAL SUERO** was selected for extensive and careful investigative work in a local case where the sex abuse of children was charged, and where the perpetrator was subsequently convicted.

NOW THEREFORE BE IT RESOLVED THAT the Mayor and Council hereby commend and offer their warm congratulations and a \$100 Bond for a job well done, to

**CORPORAL JOHN SUERO**

Dated this 16th day of May, 1988

ATTEST:

\_\_\_\_\_  
Stephen J. Del Giudice  
Mayor

\_\_\_\_\_  
James S. Wilson, Jr.  
City Administrator

**R E S O L U T I O N**

WHEREAS, Police Chief A. Tony Fisher has bestowed on **MRS. CAROLYN PINKARD**, recognition for Meritorious Service; AND

WHEREAS, **MRS. PINKARD** was selected for assisting in the orientation of the new Supervisor of Administrative Services and for working hard and long hours to deal with paper work generated by the Police Department.

NOW THEREFORE BE IT RESOLVED THAT the Mayor and Council hereby commend and offer their warm congratulations and a \$100 Bond for a job well done, to

**MRS. CAROLYN PINKARD**

Dated this 16th day of May, 1988

ATTEST:

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Stephen J. Del Giudice  
Mayor

---

James S. Wilson, Jr.  
City Administrator

Introduced By: Mayor Del Giudice



RESOLUTION #1988- 39

RECOGNIZING NATIONAL FLAG DAY IN TAKOMA PARK, June 14, 1988  
7:00 PM, EDT

WHEREAS, by Act of the Congress of the United States dated June 14, 1777, the first official flag of the United States was adopted; AND

WHEREAS, by Act of Congress dated August 3, 1949, June 14 of each year was designated "National Flag Day"; AND

WHEREAS, the Congress has requested the President to issue annually a proclamation designating the week in which June 14 occurs as National Flag Week; AND

WHEREAS, on December 8, 1982 the National Flag Day Foundation was chartered to conduct educational programs and to encourage all Americans to PAUSE FOR THE PLEDGE of Allegiance as part of National Flag Day ceremonies; AND

WHEREAS, the Ninety-Ninth Congress passed, and President Ronald Reagan signed on June 20, 1985, Public Law 99-54 recognizing the PAUSE FOR THE PLEDGE of Allegiance as part of National Flag Day ceremonies; AND

WHEREAS, Flag Day celebrates our Nation's symbol of unity, a democracy in a republic and stands for our country's devotion to freedom, to the rule of all, and to equal rights for all.

NOW, THEREFORE, BE IT HEREBY RESOLVED I, Stephen J. Del Giudice, Mayor of Takoma Park, Maryland, do hereby proclaim June 14, 1988 as Flag Day in Takoma Park, Maryland and urge all citizens of Takoma Park to pause at 7:00 PM, EDT on this date for the Ninth Annual PAUSE FOR THE PLEDGE and recite, with all Americans, the Pledge of Allegiance to our Flag and Nation.

BE IT FURTHER RESOLVED THAT, All Takoma Park citizens especially the City's youth, are invited to attend the Flag Day Ceremony and band concert to be held on Tuesday, June 14, 1988, 7 PM on the Municipal Building Grounds.

Dated this 16th day of May, 1988

**R E S O L U T I O N**

WHEREAS, **Miss Pallie Berry** has been an educator at Takoma Park Intermediate School for thirty years; AND

WHEREAS, **Miss Berry** has contributed to the Takoma Park Community as a physical education teacher, athletic director, girls track and field coach, basketball timer, intramural director, girls soccer coach, cheerleader sponsor, and social committee member; AND

WHEREAS, **Miss Berry** has served Montgomery County by evaluating physical education materials, conducting Athletic Awards and Pep Assemblies; coordinating an ESOL/PE tournament and by administering first aid in emergencies; AND

WHEREAS, **Miss Berry's** outstanding service has been recognized by Montgomery County Public Schools; AND

WHEREAS, **Miss Berry** has served the children of Takoma Park as a caring and positive role model, helping nurture them from childhood to adulthood; AND

WHEREAS, **Miss Berry** is retiring from Montgomery County Public Schools.

NOW THEREFORE BE IT HEREBY RESOLVED THAT the Mayor and Council on behalf of the City of Takoma Park thank **Miss Pallie Berry** for her outstanding service and devotion to our community.

Dated this 16th day of May, 1988.

ATTEST:

\_\_\_\_\_  
Stephen J. Del Giudice  
Mayor

\_\_\_\_\_  
James S. Wilson, Jr.  
City Administrator

**R E S O L U T I O N**

WHEREAS, **Mrs. Hortense Sutton** has been an educator at Takoma Park Intermediate School for twenty-two years; AND

WHEREAS, **Mrs. Sutton** has contributed to the Takoma Park Community as media specialist, after school coordinator, Honor Society sponsor, Great Books sponsor, and It's Academic sponsor; AND

WHEREAS, **Mrs. Sutton** has served Montgomery County by evaluating materials and preparing materials shared throughout the nation; AND

WHEREAS, **Mrs. Sutton's** outstanding skills have been recognized by Montgomery County Public Schools; AND

WHEREAS, the Joint Board of Science Education for Greater Washington recognized Mrs. Sutton as Outstanding Librarian of the Year, 1969; AND

WHEREAS, **Mrs. Sutton** has served the children of Takoma Park as a sensitive and positive role model, helping nurture them from childhood to adulthood; AND

WHEREAS, **Mrs. Sutton** is retiring from Montgomery County Public Schools.

NOW THEREFORE BE IT HEREBY RESOLVED THAT the Mayor and Council of the City of Takoma Park thank **Mrs. Hortense Sutton** for her outstanding service and devotion to our community.

Dated this 16th day of May, 1988.

ATTEST:

\_\_\_\_\_  
Stephen J. Del Giudice  
Mayor

\_\_\_\_\_  
James S. Wilson, Jr.  
City Administrator



Introduced By: Councilmember Douglas

1st Reading: 4/25/88

2nd Reading: 5/16/88

**ORDINANCE #1988-13**

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

SECTION 1. THAT Ordinance No. 2676, adopted June 27, 1983, be amended by the addition of new subsection (o) to Section 1, as set forth below:

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

- (o) Valleyview Avenue, between Maple and Willow Avenues there will be one speed hump installed between No. 5 and No. 9.

SECTION 2. THAT funds to cover this work be appropriated from the street repair materials, Account #889.

ADOPTED BY THE CITY COUNCIL THIS 16TH DAY OF MAY, 1988, BY ROLL CALL VOTE AS FOLLOWS:

AYE: d'Eustachio, Douglas, Hamilton, Leary, Martin, Sharp

NAY: None

ABSTAINED: None

ABSENT: Elrich

Introduced by: \_\_\_\_\_

1st Reading:

2nd Reading:

Enacted: \_\_\_\_\_

Effective: \_\_\_\_\_

ORDINANCE NO. 1988 -

Short Title: Security Deposit Legislation

WHEREAS, the Commission on Landlord-Tenant Affairs of the City of Takoma Park is authorized to adjudicate disputes between landlords and tenants regarding the return of security deposits;

and WHEREAS, Section 8-203 of the Annotated Code of Maryland, as amended, states the following:

§ 8-203. Security deposits.

(a) *Definition.* — In this section "security deposit" means any payment of money, including payment of the last month's rent in advance of the time it is due, given to a landlord by a tenant in order to protect the landlord against nonpayment of rent or damage to the leased premises.

(b) *Maximum amount.* — (1) A landlord may not impose a security deposit in excess of the equivalent of two months' rent, or \$50, whichever is greater, per dwelling unit, regardless of the number of tenants.

(2) If a landlord charges more than the equivalent of two months' rent, or \$50, whichever is greater, per dwelling unit as a security deposit, the tenant may recover up to threefold the extra amount charged, plus reasonable attorney's fees.

(3) An action under this section may be brought at any time during the tenancy or within two years after its termination.

(c) *Receipt.* — (1) The landlord shall give the tenant a receipt for the security deposit. The receipt may be included in a written lease.

(2) The landlord shall be liable to the tenant in the sum of \$25 if the landlord fails to provide a written receipt for the security deposit.

(3) The receipt or lease shall contain language informing the tenant of his rights under this section to receive from the landlord a written list of all

existing damages if the tenant makes a written request of the landlord within 15 days of the tenant's occupancy.

(d) *List of existing damages.* — (1) If the landlord imposes a security deposit, on written request, he promptly shall provide the tenant with a written list of all existing damages. The request must be made within 15 days of the tenant's occupancy.

(2) Failure to provide the tenant with this written statement renders the landlord liable to the tenant for threefold the amount of the security deposit. The total amount of damages shall be subject to a setoff for damages and unpaid rent which reasonably could be withheld under this section.

(e) *Bank account for maintenance of deposits; liability of successor in interest; exemption from attachment.* — (1) The landlord shall maintain all security deposits in a banking or savings institution in the State. The account shall be devoted exclusively to security deposits and bear interest.

(2) A security deposit shall be deposited in the account within 30 days after the landlord receives it.

(3) In the event of sale or transfer of any sort, including receivership or bankruptcy, the security deposit is binding on the successor in interest to the person to whom the deposit is given. Security deposits are free from any attachment by creditors.

(4) Any successor in interest is liable to the tenant for failure to return the security deposit, together with interest, as provided in this section.

(f) *Return of deposit to tenant; interest.* — (1) Within 45 days after the end of the tenancy, the landlord shall return the security deposit to the tenant together with simple interest which has accrued in the amount of 4 percent per annum, less any damages rightfully withheld.

(2) Interest shall accrue at six-month intervals from the day the tenant gives the landlord the security deposit. Interest is not compounded.

(3) Interest shall be payable only on security deposits of \$50 or more.

(4) If the landlord, without a reasonable basis, fails to return any part of the security deposit, plus accrued interest, within 45 days after the termination of the tenancy, the tenant has an action of up to threefold of the withheld amount, plus reasonable attorney's fees.

(g) *Withholding of deposit — Generally; tenant's right to be present at inspection of premises.* — (i) The security deposit, or any portion thereof, may be withheld for unpaid rent, damage due to breach of lease or for damage to the leased premises by the tenant, his family, agents, employees, or social guests in excess of ordinary wear and tear. The tenant has the right to be present when the landlord or his agent inspects the premises in order to determine if any damage was done to the premises, if the tenant notifies the landlord by certified mail of his intention to move, the date of moving, and his new address. The notice to be furnished by the tenant to the landlord shall be mailed at least 15 days prior to the date of moving. Upon receipt of the notice, the landlord shall notify the tenant by certified mail of the time and date when the premises are to be inspected. The date of inspection shall occur within five days before or five days after the date of moving as designated in the tenant's notice. The tenant shall be advised of his rights under this sub-

section in writing at the time of his payment of the security deposit. Failure by the landlord to comply with this requirement forfeits the right of the landlord to withhold any part of the security deposit for damages.

(ii) The security deposit is not liquidated damages and may not be forfeited to the landlord for breach of the rental agreement, except in the amount that the landlord is actually damaged by the breach.

(iii) In calculating damages for lost future rents any amount of rents received by the landlord for the premises during the remainder if any, of the tenant's term, shall reduce the damages by a like amount.

(h) *Same — Notice to tenant.* — (1) If any portion of the security deposit is withheld, the landlord shall present by first-class mail directed to the last known address of the tenant, within 30 days after the termination of the tenancy, a written list of the damages claimed under subsection (g) (1) together with a statement of the cost actually incurred.

(2) If the landlord fails to comply with this requirement, he forfeits the right to withhold any part of the security deposit for damages.

(i) *Tenant ejected or evicted or abandoning premises.* — (1) The provisions of subsections (f) (1), (f) (4), (h) (1), and (h) (2) are inapplicable to a tenant who has been evicted or ejected for breach of a condition or covenant of a lease prior to the termination of the tenancy or who has abandoned the premises prior to the termination of the tenancy.

(2) A tenant specified in paragraph (1) may demand return of the security deposit by giving written notice by first-class mail to the landlord within 45 days of being evicted or ejected or of abandoning the premises. The notice shall specify the tenant's new address. The landlord, within 30 days of receipt of such notice, shall present, by first-class mail to the tenant, a written list of the damages claimed under subsection (g) (i) together with a statement of the costs actually incurred. Within 45 days of receipt of the notice, the landlord shall return to the tenant the security deposit together with simple interest which has accrued in the amount of 4 percent per annum, less any damages rightfully withheld.

(3) If a landlord fails to send the list of damages required by paragraph (2), the right to withhold any part of the security deposit for damages is forfeited. If a landlord fails to return the security deposit as required by paragraph (2), the tenant has an action of up to threefold of the withheld amount, plus reasonable attorney's fees.

(4) Except to the extent specified, this subsection may not be interpreted to alter the landlord's duties under subsections (f) and (h).

(j) *Waiver of section's provisions.* — No provision of this section may be waived in any lease. (An. Code 1957, art. 21, § 8-213; 1974, ch. 12, § 2; 1974, ch. 476; 1979, ch. 550; 1980, ch. 536.)

and WHEREAS, the Commission on Landlord-Tenant Affairs must have criteria to follow in adjudicating disputes between landlords and tenants regarding security deposits;

and WHEREAS, the Mayor and Council of the City of Takoma Park find that the provisions of Section 8-203 of the Annotated Code of Maryland, as amended, should be included in those criteria,

NOW THEREFORE BE IT RESOLVED, that the Mayor and Council here by amend Section 6-80.21 of the City Code to read as follows:

PART 1

Sec. 6-80.21 Security Deposits

(a) The provisions of section 8-203 of the Real Property Article of the Annotated Code of Maryland, as amended, are hereby incorporated by reference and adopted as an ordinance of the City of Takoma Park.

(b) In addition to any other means of enforcement provided by law, the Commission on Landlord-Tenant Affairs is authorized, to the extent such authorization is not prohibited by state law, to enforce the provisions of Subsection (a) above.

(c) If a landlord materially violates any provision of section 8-203 of the Real Property Article of the Annotated Code of Maryland, as amended, the Commission on Landlord-Tenant Affairs may award the tenant up to threefold the amount of damages caused by such violation plus reasonable attorney's fees. In the following circumstances, the Commission on Landlord-Tenant Affairs may award the tenant an amount in excess of actual damages caused by the violation:

(1) where the landlord has had actual knowledge of his/her obligations pursuant to this section or to section 8-203 of the Real Property Article of the Annotated Code of Maryland, as amended; or

(2) where the landlord unlawfully has failed to refund all or part of a security deposit after not having deposited it in an interest bearing account devoted exclusively to security deposits in a bank or savings institution in Maryland, but has instead has kept, deposited, or invested it in a manner not guaranteed by the State or federal government, and thereby subjecting the deposit to undue risk; or

(3) where the landlord has failed to return all or part of the security deposit, plus accrued interest, within 45 days after the termination of the tenancy and the Commission on Landlord-Tenant Affairs finds that the list of damages or statement of costs actually incurred that the landlord has offered to justify such withholding is so unreasonable as to have not been made in good faith; or

(4) where the landlord has failed to return all or part of the security deposit, plus accrued interest, within 45 days after the termination of the tenancy and the landlord has refused to accept notification of the tenant's latest address.

(5) where the landlord has failed to return all or part of the security deposit, plus accrued interest, within 45 days after termination of the tenancy and the Commission on Landlord-Tenant Affairs finds that some other legal or discriminatory motive exists for such withholding.

(d) Any increase in the amount charged as a security deposit, as provided in section 8-203(b) of the Real Property Article of the Annotated Code of Maryland [said section being a part of section 8-203, as provided in Subsection (a) above], shall be deemed to be a rent increase subject to the notice, limit, frequency of increase of any other provisions of Section 6-80.17(c) of this Code, unless said sum:

(1) Is expressly designated as a security deposit;

(2) Is deposited as provided in section 8-203(e) of the Real Property Article; and

(3) Is charged at the beginning of a tenancy.

(e) Any assessment of a security deposit shall not be retaliatory, discriminatory, arbitrary or capricious.

(f) The provisions of this section are severable.

## PART II

### Severability

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

## PART III

### Effective Date

This ordinance shall take effect on: \_\_\_\_\_, 1988.

NOTE:

In this Ordinance ~~strikeout~~ indicate language deleted from the Code and underlines indicate new language being added to the Code.

a:6.80.wp

Introduced by:

(Drafted by: Paula Jewell)  
(Amended 5/16/88)

1st Reading: 5/16/88  
2nd Reading:

ORDINANCE #1988-\_\_\_\_\_

AN ORDINANCE TO AMEND CHAPTER 2, ARTICLE 6, SECTION 2-142  
(ADMINISTRATION, BOARDS AND COMMISSIONS, TREE COMMISSION)

BE IT ORDAINED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT  
THE FOLLOWING SECTIONS OF THE 1972 TAKOMA PARK CITY CODE ARE  
HEREBY AMENDED AS FOLLOWS:

Section 2-142. Composition.

The Tree Commission shall be composed of the Director of Public Works, or his designee, who will serve as a non voting ex officio member, [an elected official of the city designated by the Mayor and Council and] three (3) citizens designated by the Mayor and Council, and two citizen members designated by the Mayor and Council to serve as alternates. The three (3) citizen members and two alternates shall serve staggered three-year terms, with initial appointments of one (1) two (2) and three (3) years. The members shall elect among themselves a Chair.

Section 2-143. Function.

The Tree Commission shall prepare rules, regulations and procedures and propose actions to be taken by the city to preserve and protect the urban forest, subject to the approval of the Mayor and Council.

Sec. 2-144. Duties - Remains as is.

Underlining indicates new language.

[brackets] indicate language to be deleted from existing Code.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 1988, by Roll Call Vote as follows:

AYE:  
NAY:  
ABSTAINED:  
ABSENT:



Introduced by: Mayor Del Giudice

RESOLUTION #1988-42

WHEREAS, there currently exists two unexpired terms on the City's Commission on Landlord-Tenant Affairs (COLTA) that need to be filled; one is for a tenant representative; one for a general public representative; AND

WHEREAS, Cheryl Chapman and Yvonne Crooks have applied to serve on the Commission as tenant representatives; AND

WHEREAS, Susan McMillan and Bill Batko have applied to serve as general public representatives.

NOW THEREFORE, BE IT RESOLVED THAT the City Council of Takoma Park, Maryland, does hereby appoint the following persons as representatives for the vacant seats on the Commission on Landlord-Tenant Affairs. These terms are effective this date of appointment and expire on June 30, 1989:

- (1) Cheryl Chapman, Tenant Representative
- (2) Bill Batko, General Public Representative

Dated this 16th day of May, 1988.