

October 4, 1988

TO : Distribution Noted Below

VIA : James S. Wilson, Jr., City Administrator

FROM : Paula S. Jewell *Paula S. Jewell*  
Deputy City Clerk

SUBJECT: Summary Report from October 3, 1988 Worksession

- [ ] 1. Municipal Police Task Force Agreement - Council endorsement of principles of the agreement. SUE SILBER and CHIEF FISHER to work together on contract language. Funds to be appropriated by budget amendment to cover expenses as necessary.
- [ ] 2. Zoning Map Amendment G-6602 (6839 Eastern Ave.) - LISA SCHWARTZ to discuss with the applicant change in filing for a R-30 application. SUE SILBER to prepare legal memo on City's zoning role regarding this decision. Resolution on Council's position will be on 10/11/88 agenda.
- [ ] 3. Colby Park - LISA SCHWARTZ to contact the contractor regarding the ability to hold off until the second reading of this ordinance which will tentatively take place on 10/24/88 or Mayor and Council may have to hold second reading awarding contract on 10/17/88.
- [ ] 4. Oliff Property - Parking Arrangement - MAYOR or COUNCILMEMBER DOUGLAS to draft letter to Mr. Oliff assuring him that Council has not made any final decision regarding Grant Avenue. COUNCILMEMBER ELRICH to meet with Oliff at the next citizens association meeting.
- [ ] 5. Glaizewood Development - Tree Removal - DAN NEAL will be meeting with M-NCPPC landscape architect on 10/4/88 regarding the site plan and landscaping plan. Consensus to have DAN NEAL prepare landscape plan with M-NCPPC and pass the landscape plan by the Mayor for review.
- [ ] 6. Takoma Park Folk Festival Committee as Standing City Committee - PAULA JEWELL to call Cindy LeSane to inquire whether a resolution would be sufficient to bring the Folk Festival Committee under our sponsorship for insurance purposes. PAULA JEWELL to write a letter asking for a written response regarding this inquiry.

(Over)

- [ ] 7. Recycling Options - PAULA JEWELL to get copies of DARYL BRAITHWAITE'S handouts for the Mayor and Council 10/5 Wednesday package.
  - [ ] Mayor and Council consensus that PUBLIC WORKS DIRECTOR GIANCOLA is to place as his first priority the reorganization study of trash collection and study to include everything the City picks up, i.e., leaves and wood.
  - [ ] MAYOR DEL GIUDICE to talk to County Councilmember Subin re follow up on Montgomery County support of City recycling. Ordinance awarding bid to Ingram Designs Inc. scheduled for second reading on 10/11/88.
- [ ] 8. Ride-On Buses - COUNCILMEMBER LEARY to get information to CITY ADMINISTRATOR WILSON for letter to Bob McGarry of Mont. County DOT giving permission to turn buses around in City Hall parking lot and re bus route options. COUNCILMEMBERS HAMILTON AND LEARY to get together and make recommendation to the full Council on route options.
- [ ] 9. Commercial Trash Pick-up - Status report memo was acknowledged; Mayor and Council consensus that report is fine--City is going in the right direction.

Copies to: Mayor and Council  
City Administrator Wilson  
Assistant City Administrator Habada  
Special Assistant to CA Robbins  
Economic & Comm. Dev. (Neal, Schwartz, Ross)  
Corporation Counsel  
Recycling Coordinator Braithwaite  
Public Works (Torres)  
Police Department (Fisher, Wortman, Young, Clayton)  
Housing Department  
Recreation Department  
Library  
Accounting  
Cable (Robert Smith)  
Reid Baron (Newsletter)  
Admin. Office (Mitchell, Weston, Rivers, Crandon)

CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and Council  
October 11, 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	Accounting Supervisor McKenzie
Councilmember Hamilton	Cable Coordinator Smith
Councilmember Leary	Div. of Ec. & Comm. Dev. Dir. Neal
Councilmember Martin	Public Works Director Giancola
Councilmember Sharp	Recycling Coordinator Braithwaite

The Mayor Pro Tem and City Council convened at 8:01 P.M. on Tuesday, October 11, 1988 in the Council Chamber at 7500 Maple Avenue, Takoma Park, Maryland. Mayor Pro Tem d'Eustachio noted, for the record, that Mayor Del Giudice would be a few minutes late due a commitment related to his regular employment.

Following the pledge, the Minutes of the July 27, August 1, and September 12, 1988, Council Meetings were presented for approval. Councilmember Sharp moved approval, collectively, duly seconded by Councilmember Hamilton. The Minutes were approved by unanimous vote of those present.

Mayor Pro Tem d'Eustachio presented a Certificate of Achievement in Financial Reporting, awarded by the Government Finance Officer's Association, to Accounting Supervisor McKenzie, remarking that this was the third year in a row the City had received this recognition. He pointed out that qualifying for the award required a great deal of effort and diligence. Mr. Wilson expressed thanks to both Ms. McKenzie and her supervisor, Ms. Habada, for their dedication and diligence, and commented he felt the staff of that department deserved recognition for the achievement as well.

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

Sue Harrington, Columbia Union College: noted she was accompanied by Dave Englemeyer, also of the college. She related that the college was planning a clean-a-thon of the City on the weekend, were organizing a fundraiser to raise money to buy computer software and other needed equipment. She said they would be concentrating on Sligo Creek Parkway and Longbranch Creek, and thanked the City for their cooperation and for providing a truck to haul away the collected trash. Mr. Englemeyer explained they would be soliciting monetary sponsorship of students who would be doing the cleanup; they would begin early morning and work until dusk.

Wayne Upton, 7600 Maple Avenue: inquired whether the City Council would be formally adopting a position regarding the proposed parking garage in Silver Spring; it was noted that was done some time ago, and that Mr. Elrich had testified on behalf of the City a number of times, making its opposition to the project clear. Responding to Mr. Upton concerning whether a female outreach worker had yet been hired, Mr. Wilson stated it was hoped someone would be hired to fill the position by the end of October. Responding to inquiry from Mr. Upton concerning the Ride-On service, Councilmember Douglas related there were a number of proposals being examined which would adjust the service, including some late night service to the Municipal Building from the Metro Station. Councilmember Hamilton noted they intended on an experimental basis to have the last bus at night come down Carroll, down Philadelphia and turn around in the Municipal Building lot. Mr. Upton related having visited the fire house in connection with Fire Prevention Week; he inquired whether any assessment had ever been made of the wear and tear inflicted on fire department vehicles by their having to travel over speed humps on the streets and whether the monetary costs incurred because of that additional wear and tear had been calculated. He said he felt alternatives to speed humps should be considered, and noted that slowing down to go over them adds to the overall time it takes emergency vehicles to respond on calls. Mr. d'Eustachio pointed out that this subject had been examined and dis-

cussed many times over when public hearings were conducted prior to speed hump installations, and that when all factors had been weighed, the consensus of the Councils to date had been that the safety benefits of the speed humps outweighed the possible longterm effects on equipment and response time. Councilmember Hamilton noted he sat on the fire board, that that body had had many discussions on the subject and concurred that the health and safety of residents outweighed the amount of added wear and tear on vehicles. Mr. Wilson pointed out that, additionally, none of the fire department's major arterial routes in the community had speed humps on them, so response time would be affected only by the minimal amount required to traverse a block or so on a side street. Mr. Upton inquired concerning the status of the municipal gym; Councilmember Hamilton pointed out a budget amendment, agenda item #5, would allocate funds for use in putting the gym in shape; it was hoped it would be ready to open for use in the spring.

Mayor Del Giudice, having arrived, explained that when Council Meetings occur on Tuesday, there is a conflict for him inasmuch as he teaches a class that doesn't end until 7:40 p.m.

ITEMS FOR COUNCIL ACTION:

1. Second Reading of an Ordinance re Boy Scout Bus Parking Area. Councilmember Douglas moved adoption of the ordinance, duly seconded by Councilmember d'Eustachio. The ordinance was adopted by roll call vote as follows: AYE: Councilmembers d'Eustachio, Douglas, Elrich, Hamilton, Leary, Martin and Sharp; NAY: None; ABSTAINED: None.

ORDINANCE #1988-44  
(attached)

2. Second Reading of an Ordinance Awarding Bid for Recycling Containers.

Councilmember Douglas moved adoption of the ordinance, duly seconded by Councilmember Hamilton. Responding to inquiry from Councilmember d'Eustachio, Recycling Coordinator Braithwaite explained she had gotten an extension on the bid allowing until October 13 for a contract to be awarded; she related that minimum delivery time for the containers was 5-6 weeks, and that could be extended somewhat depending upon the complexity of the artwork to be placed on them. In response to Councilmember Elrich, she stated that \$9,281 in pledges toward the purchase of the containers had been raised to date, leaving at present approximately \$2,190 to make up the total for the purchase. She said she had received a pledge of \$900 earlier in the day from Chevy Chase Federal Savings Bank, in response to a solicitation letter she had sent out; she said she was still waiting to hear from a few other promising sources as well. She affirmed that the purchase of the containers would not in any way affect the decision regarding who would be picking up the recyclable materials. In response to inquiry from Councilmember Hamilton, Ms. Braithwaite said the 5,000 buckets being purchased would be distributed to homeowners; she affirmed that if the City went to a 2-bucket system rather than one, additional buckets would be required, however, vendors had advised there was no need for a 2-bucket system. A total of 4,313 would be needed to initiate the program, which would leave some spares for replacement purposes if containers were lost, damaged, etc. Decisions would need to be made as to whether citizens would have to purchase replacements in the event of loss, whether new residents moving into the area would purchase containers or whether they would be issued by the City. Mr. Wilson said his recommendation would be that replacements be purchased by those needing them, that new residents be issued a container the first time around. The ordinance was adopted by roll call vote as follows: AYE: Councilmembers d'Eustachio, Douglas, Elrich, Hamilton, Leary, Martin and Sharp; NAY: None; ABSTAINED: None.

ORDINANCE #1988-45  
(attached)

3. Council Position on Prince George's Variance Request for 7210 Garland Avenue.

Councilmember Sharp moved passage of the resolution supporting the granting of the requested variance, duly seconded by Councilmember

Elrich.

Robert W. Ryan, Petitioner: explained that the variance would permit construction of an addition which would extend about 2-1/2 feet beyond the existing garage structure; he said what was planned was a 2-story addition above the attached garage. As a part of that addition, he said they planned a set-out area that would provide some additional useable space in the new rooms.

Responding to inquiry from Councilmember d'Eustachio, Deputy City Clerk Jewell affirmed that notification letters had been sent to neighboring property owners on October 4; no responses had been received to the letter, however, a petition expressing no objections and bearing signatures of a few neighbors was attached to the staff report on the subject. Mr. Ryan commented he had contacted his neighbors to advise them of his plans and had a signed statement from them that they had no objections; the Mayor remarked that document was a part of the record. The Mayor noted the proposed construction would leave a little over 5 feet sideyard clearance between Mr. Ryan's home and the home at 7208 Garland; the owners of that property had signed that they had no objections to the requested variance. Councilmember Douglas remarked on the short time period between notification to the City of the variance request and the scheduled county hearing. Ms. Habada related having received a phone call from Mr. Ryan advising that the Prince George's County Board of Appeals would wish to hear from the City on the matter; he explained he was trying to expedite his application and that anything the City could do to assist would be appreciated. She said she called the P. G. Board of Appeals, they confirmed the situation, and that was why the matter was brought before the elected body at the present meeting. The resolution was passed by unanimous vote.

RESOLUTION #1988-82  
(attached)

4. First Reading of an Ordinance Awarding a Contract for Work on Colby Park.

Councilmember Sharp moved acceptance for First Reading, duly seconded by Councilmember Douglas. Economic & Community Development Director Neal explained that 3 bids were received, they were somewhat higher than anticipated, however, the lowest was a responsible, good bid and would deal successfully with correcting the existing drainage problems at that park. He said his recommendation would be approval of acceptance of that bid. Responding to inquiry from Councilmember Douglas, he explained that part of the money had been carried over from last year but additional funds were needed due to the bids being higher than anticipated; he noted \$13,700 was originally allocated for the park, the total now being looked at would be \$19,600. He pointed out that about \$4,400 of City funds would be involved, the balance would be Open Space and CDBG funds. It was noted the ordinance required two readings because it had to be done in conjunction with the budget amendment, which was the next item on the agenda, in order to allocate the additional funds needed. The ordinance was accepted for First Reading by unanimous vote.

ORDINANCE #1988-  
(attached)

Consensus was that Second Reading of the ordinance would be scheduled for October 17 in Special Session, with the related budget amendment to be scheduled for Second Reading at the next regular meeting.

5. First Reading of an Ordinance, FY 1988-89 Budget Amendment #1.

Asst. City Administrator Habada explained that the budget amendment addressed a number of carryovers of funds that were included in but not paid out of last fiscal year's budget, e.g., the agreed-to payment for utilities to the fire department, street light installations for Grant Avenue and Piney Branch Road; she said it was primarily an accounting cleanup. She noted there were some items related to parks and reflected under the Special Revenue budget that the Council might wish to address with Mr. Neal. Councilmember d'Eustachio referred to \$13,000 indicated as being for police salaries for personnel participating in the Montgomery County Drug Taskforce; he said it was

his recollection that when that matter was discussed, the elected body was advised the participation would not cost the City any additional money beyond what had already been appropriated for the fiscal year, except for a vehicle that was needed. Ms. Habada said she recalled a memorandum on the subject advising that the project could cost up to \$21,000 including the vehicle and salaries; she said the \$13,000 in salaries and \$3,000 in overtime was a portion of that \$21,000 according to the police department, with whom she had checked prior to preparing the budget amendment. Mr. d'Eustachio said while he would not move to delete the item or oppose its approval, he would view similar requests with a more jaundiced eye in the future and did feel that department should be made well aware that the request for additional monies would subject the project to close scrutiny at the end of the fiscal year and when next year's budget requests are being reviewed. He said he was not entirely sure the elected body was played straight on this issue.

Councilmember Leary commented that his clearest recollection was that any additional funds or resources needed for this specific project would not be built into the police department's budget base in any future requests; he said he would rely upon Ms. Habada to ensure that did not happen in next year's budget process. Councilmember Douglas commented he shared Mr. d'Eustachio's concerns, would want to go back and reread the pertinent material to ascertain whether there was any implication of additional funding being needed. He said prior to Second Reading he would like to be advised of the purpose of the additional \$13,000 in regular salaries, but that he could understand the overtime figure; he noted the overall total was somewhat more than the \$21,000 figure. Ms. Habada explained that the \$13,000 was expected to be used to fill in an overlap as a couple of vacant positions were filled; she said she had put in an additional \$1,500 for overtime because the police department had historically underestimated their projected overtime and she felt realistically some additional money would be needed to pay the amounts that would be incurred by the taskforce's activities. Councilmember Martin said she recalled that a need for some additional salary funds was anticipated and was glad that extra personnel were being hired, with the expectation that the department would be close to full strength soon. Councilmember Sharp noted that the funds were being transferred from the fire service account; he said apparently money for fire service had been overbudgeted and he would want to keep that in mind at the next budget cycle. Councilmember Hamilton said he recalled that at the time the matter was discussed, Chief Fisher said as long as there was an outstanding vacant position in his department, the salary money for that position would fund the officer for the taskforce, however, if all vacancies should be filled, he would need to use a part of the \$21,000 down the road for salaries. Councilmember Elrich said his recollection jibed with Mr. Hamilton's and, inasmuch as he was fairly reluctant about the subject at the time, he was really disturbed at present. He said his suggestion would be to remove the police department item from the budget amendment prior to Second Reading because it was, in effect, creating the additional staff position which it had been agreed would not be done. He said if the department was fully up to strength at some point later in the year, then funds could be transferred if needed. He said Chief Fisher had assured the elected body that the department would probably never be up to full strength, given the turnover that occurs, and that it was most likely additional funds would not be needed. Mr. Elrich said he would not support the ordinance with the inclusion of the police department appropriation. Ms. Habada, responding to the Mayor, stated that there were still 2 vacant positions in the police department -- one of which was close to being filled. The Mayor said he would like to have an accounting of the police department's salaries account because, given the vacancies that had existed since July, there should be an accumulation of appropriated but unexpended funds there.

Ms. Habada enumerated the various transfers being effected by the budget amendment, briefly explaining each. Regarding money for the gym, she pointed out that \$27,000 was originally appropriated, \$10,000 was being reappropriated for a painting job as a part of the gym renovation. Responding to inquiry from Councilmember Douglas, she stated that none of the original \$27,000 had been expended. Initially, volunteers had intended to scrape and paint the gym, however,

there was some potential hazard in the work, so it was decided it would be best to contract the job out to a professional. Mr. Wilson noted that it was anticipated that 75% of the original appropriation would be spent on renovating the floor. Ms. Habada affirmed that there would be further budget amendments as additional amounts were needed for expenditure on the gym work. Mr. Douglas asked that if it appeared there would be any need to exceed the original appropriation amount, the elected body be advised in advance so they could consider and discuss it. Mr. Hamilton pointed out that the reason for transferring only the \$10,000 at present rather than the entire \$27,000 was because it was hoped all the necessary work could be accomplished for something less than that figure.

Brief discussion ensued concerning money being transferred for Accounting computerization and training, and maintenance arrangements for the City's computer equipment. The Mayor suggested that further questions on budget amendment items be addressed and discussed at the next worksession, with staff advised in advance so they could provide any desired information. Councilmember Douglas commented he would wish to further discuss the \$33,000 for parks at that meeting. Mr. Wilson remarked he would get input from Chief Fisher regarding the police department's transfer of funds prior to that meeting as well. The ordinance was accepted for First Reading by unanimous vote.

ORDINANCE #1988-  
(attached)

6. Resolution Setting Terms of Office for Members of Takoma Park Tree Commission.

Councilmember Douglas moved passage of the resolution, duly seconded by Councilmember Elrich. The Mayor commented he would be endeavoring to convene a meeting of the commission so they could proceed with their charge, and hoped Councilmember Martin, as a former member, and former Councilmember Mike Haney would participate and assist in getting the group started. The resolution was passed by unanimous vote.

RESOLUTION #1988-83  
(attached)

7. Resolution Declaring November 18, 1988 Ruth Fine Day in The City of Takoma Park.

The Mayor moved passage of the resolution, duly seconded by Councilmember Leary. Mayor Del Giudice related that Ms. Fine was a resident of the city who had worked at the National Gallery of Art as a Curator of various collections and who would be receiving an award at the Phillips Collection in recognition of her contribution to the arts in the U.S. and in the community. The resolution was passed by unanimous vote.

RESOLUTION #1988-84  
(attached)

8. Resolution of Appreciation to Roy Corbin, Director, Takoma Park Municipal Band.

Councilmember Hamilton moved passage of the resolution, duly seconded by Councilmember Elrich. The Mayor noted that Mr. Corbin had been with the band, which had played at a number of the city's festivities, for 14 years, but would soon be leaving. He said he felt it appropriate that his contributions to the band and the community-at-large be recognized and that he be thanked. The resolution was passed by unanimous vote.

RESOLUTION #1988-85  
(attached)

Upon motion, duly seconded, the meeting adjourned at 9:07 p.m., to reconvene in regular session at 8:00 p.m. on October 24, 1988. The Mayor noted the elected body would be reconvening in Executive Session, as noted on the agenda, to discuss litigation matters.

1st Reading: 10/11/88  
2nd Reading:

Upon motion by \_\_\_\_\_, duly seconded by \_\_\_\_\_,  
the following Ordinance was introduced.

ORDINANCE #1988-  
FY 89 BUDGET AMENDMENT NO. 1

AN ORDINANCE TO AMEND THE FISCAL YEAR 1989 BUDGET

SECTION 1. BE IT ORDAINED and enacted by the City Council of Takoma Park, Maryland that Section 3 of Ordinance 1988-21 be amended as follows:

TECHNICAL AMENDMENT

THAT a Special Revenue Fund is authorized for receipt of and expenditure of Federal or State funded projects with Revenues of [SIX HUNDRED NINETY SIX TWO HUNDRED SEVENTY SEVEN DOLLARS (\$696,277)] SEVEN HUNDRED FOUR THOUSAND FOUR HUNDRED SIXTY NINE DOLLARS (\$704,469) inclusive of a General Fund Transfer of [ONE HUNDRED THIRTY THREE THOUSAND FIVE HUNDRED SEVENTY SEVEN DOLLARS (133,576)] ONE HUNDRED FORTY ONE THOUSAND SEVEN HUNDRED SIXTY EIGHT DOLLARS (\$141,768) and an Expenditure appropriation of [SIX HUNDRED NINETY SIX THOUSAND TWO HUNDRED SEVENTY SEVEN DOLLARS (\$696,277)] SEVEN HUNDRED FOUR THOUSAND FOUR HUNDRED SIXTY NINE DOLLARS (\$704,469); AND

SECTION 2. BE IT FURTHER ORDAINED and enacted by the City Council of Takoma Park, Maryland that the Fiscal Year 1989 Budget be further amended as follows:

REVENUE AMENDMENTS

- a. Appropriate \$14,000 from Capital Reserve for street light installation.
- b. Appropriate \$10,600 from surplus funds for Finance computer purchase.
- c. Appropriate \$12,500 from surplus funds for utility payments to the Takoma Park Volunteer Fire Department.
- d. Appropriate \$33,119 from Capital Reserve for various park improvement projects.



- e. Appropriate \$11,400 to Loan Receipts, Account 476 to account for additional lease finance funds for purchase of Finance computer system.
- f. Appropriate \$10,000 from Capital Reserve for Municipal Gym improvements.

EXPENDITURE AMENDMENTS

- a. Appropriate \$12,500 to Account 837, Electricity, for payment to Takoma Park Volunteer Fire Department.
- b. Appropriate \$14,000 to Account 995, Capital Expenditures, for street light installation.
- c. Transfer \$31,137 from Account 980, Fire Service, to the following accounts:
  - (1) \$6,500 to Account 995, Capital Expenditures, for the purchase of a police vehicle for personnel participating in the Montgomery County Drug Taskforce.
  - (2) \$13,000 to Account 600, Police salaries, for police personnel participating in the Montgomery County Drug Taskforce.
  - (3) \$3,000 to Account 601, Police overtime, for overtime pay of police personnel participating in the Montgomery County Drug Taskforce.
  - (4) \$8,637 to Account 800, Public Works Office Salaries, to provide increased funding for Director's salary and for Merit pay for the Assistant Director as previously approved by Ordinance No. 1988-32.
- d. Transfer \$14,412 from Account 999, Merit Pay/Senior Staff to the following accounts:
  - (1) \$3,450 to Account 510, Government Administration Salaries
  - (2) \$4,398 to Account 700, Housing Services Salaries

- (3) \$3,151 to Account 900, Recreation Department salaries
- (4) \$3,413 to Account 930, Library salaries
- e. Transfer \$7,901 from Account 996, COLA/Merit Pay budget line item to Account 600, Police Department salaries to provide for increases for Senior staff as previously approved by Ordinance 1988-32.
- f. Appropriate \$22,000 to the following accounts:
  - (1) \$8,400 to Account 992, Training, for training costs associated with installation of the Accounting computer system
  - (2) \$2,200 to Account 549, Accounting Office Maint./Office Machines, for hardware and software maintenance costs associated with the Accounting computer system
  - (3) \$11,400 to Account 995, Capital Expenditures, for the purchase of the Accounting computer system
- g. Appropriate \$33,119 to General Fund Transfer, Account 1000 for park improvement projects.
- h. Appropriate \$10,000 to Capital Expenditures, Account 995 for Municipal Gym improvements.

CAPITAL BUDGET

- a. Add street light installation on Grant Avenue and Piney Branch Road as authorized Capital Budget items at a cost not to exceed \$14,000.
- b. Authorize an additional \$22,000 for the purchase of the Accounting computer system.
- c. Authorize an additional \$10,000 for Municipal Gym improvements (painting).

SPECIAL REVENUE BUDGET

REVENUE AMENDMENTS

- a. Increase General Fund Transfer, Account 3003.000 by \$33,119 for various park improvements.

- b. Increase Federal Funds CDBG Year 13, Contract #85290AA, Account 3000.170 by \$598.
- c. Increase Program Open Space, Park Development, Account 3001.250 by \$211,289 in recognition of approved Program Open Space grants as follows:
  - (1) \$79,125 for Sister City Park development
  - (2) \$ 9,925 for Colby Totlot development
  - (3) \$23,307 for Jequie Park development
  - (4) \$98,932 for Spring Park development

EXPENDITURE AMENDMENTS

- a. A budget line item 3500.710, Sister City Park, is created with an appropriation of \$79,125.
- b. Increase appropriation for Colby Totlot, Account 3500.706, by \$14,357.
- c. Appropriate \$126,201 for Spring Park, Account 3500.701.
- d. Increase appropriation for Jequie Park, Account 3500.705 by \$25,323.

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

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

AYE:  
NAY:  
ABSTAIN:  
ABSENT:

/bkh  
O-89BUDA

Introduced by: Councilmember Douglas

1st Reading: 9/26/88

2nd Reading: 10/11/88

ORDINANCE #1988-44

(TO REPEAL ORDINANCES #2249 AND #2566 AND TO RE-DEFINE  
PROHIBITED PARKING AREA ON GRANT AVENUE TO ACCOMODATE  
THE BOY SCOUTS BUS)

WHEREAS, Ordinance 2249, adopted 2/12/73 prohibited all parking in the cul-de-sac in the 200 block of Grant Avenue and at the barricade on Grant Avenue designated as a dead-end; AND

WHEREAS, Ordinance 2566, adopted on 4/27/81 provided an official on-street parking space for the Boy Scout bus on the East side of the 200 block of Grant Avenue, beginning at the barricade and extending southeast for 12 feet beyond Pepco utility pole 737979; AND

WHEREAS, Section 3 of Ordinance 2566, which directed the Public Works Director to install signage for the official parking space for the bus is not in place and as a result of the two conflicting Ordinances, the Boy Scouts Bus has been cited for illegal parking by the Takoma Park Police Department; AND

WHEREAS, the Mayor and Council deem it desirable to provide, in the interest of promoting the work of the Boy Scouts of Takoma Park, an official on-street parking space for the Boy Scouts Bus.

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

SECTION 1. Ordinance 2249, adopted by the Mayor and Council on February 12, 1973 and Ordinance 2566 adopted by the Mayor and Council on April 27, 1981 are hereby repealed in their entirety.

BE IT FURTHER ORDAINED THAT:

SECTION 1. THAT all parking shall be prohibited in the cul-de-sac in the 200 block of Grant Avenue; AND

SECTION 2. THAT an official on-street parking space is hereby created for the Boy Scouts Bus on the East side of the 200 block of Grant Avenue at a point beginning with the Grant Avenue barricade and extending in a southeasterly direction for a distance of twelve (12) feet beyond Pepco utility pole #737979; AND

- SECTION 3. THAT the Director of Public Works is authorized to erect appropriate signs to effect the directive in Section 2 above and that the Director of Public Works is also hereby directed to install a sign or signs reading **OFFICIAL PARKING--BOY SCOUTS BUS ONLY** at the appropriate place or places; AND
- SECTION 4. THAT this ordinance shall take effect upon adoption; AND
- SECTION 5. THAT the penalty for violation of this ordinance shall be as prescribed in Sec. 13-64(a)(10)(A) of the 1972 Code of Takoma Park, Maryland, as amended.

Adopted this 11th day of October, 1988 by Roll Call Vote as follows:

AYE: d'Eustachio, Douglas, Elrich, Hamilton, Leary, Martin, Sharp  
NAY: None  
ABSTAINED: None  
ABSENT: None

Introduced by: Councilmember Douglas  
(drafted by Braithwaite)

1st reading: 9/26/88  
2nd reading: 10/11/88

ORDINANCE NO. 1988 - 45

AN ORDINANCE TO AWARD A BID FOR THE PURCHASE OF RECYCLING CONTAINERS

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

WHEREAS, proposals were solicited as advertised in the Washington Post, BIDNET and mailed to 7 vendors for a household collection container for recyclables; AND

WHEREAS, bids were received and opened at the 3:00 p.m., August 10, 1988 deadline from two qualified vendors; AND

WHEREAS, Ingram Designs In. had the lowest bid at \$2.26 per five gallon container;

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

SECTION 1. That Ingram Designs Inc. be awarded the contract for the purchase of 5,000 household recycling collection containers.

Adopted this 11th day of October, 1988.

AYES: d'Eustachio, Douglas, Elrich, Hamilton, Leary, Martin,  
Sharp  
NAYES: None  
ABSTENTIONS: None  
ABSENT: None

Introduced By: Councilmember Sharp

ADOPTED: October 11, 1988

Resolution No. 1988-82

WHEREAS, Robert W. and Constance E. Ryan have applied to Prince George's County for variances for Lot 27 of Block 38C of the Fletchers Addition subdivision, being 7210 Garland Avenue, Takoma Park; AND

WHEREAS, this property is located in the City of Takoma Park and the application has therefore been referred to the City for review and comment; AND

WHEREAS, the application has been reviewed by City staff, which has recommended APPROVAL of the application on the basis of analysis contained in the pertinent staff report dated October 7, 1988; AND

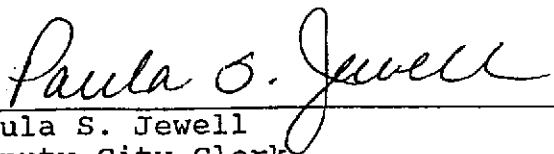
WHEREAS, the Mayor and Council have taken into consideration public comments received on the subject application;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT, the Mayor and Council hereby express their support of the subject variance application, and encourage the Prince George's County Board of Appeals to APPROVE the subject application.

BE IT FURTHER RESOLVED THAT the City Administrator is hereby directed to send a copy of this Resolution to the appropriate Prince George's County authorities.

ADOPTED THIS 11th DAY OF OCTOBER, 1988.

ATTEST:

  
\_\_\_\_\_  
Paula S. Jewell  
Deputy City Clerk



Introduced By:

Drafted By: L. Schwartz

First Reading: October 11, 1988

Second Reading: October 17, 1988

ORDINANCE NO. 1988-

AN ORDINANCE AUTHORIZING THE AWARD OF A CONTRACT FOR THE IMPROVEMENT OF COLBY NEIGHBORHOOD PARK.

WHEREAS, the City's FY 1988-89 Adopted Budget will be amended as of October 24, 1988 to authorize the expenditure of up to \$14,357.00 for the improvement of Colby Park, as specified in the applicable plans and contract documents: AND

WHEREAS, bids for said improvements were solicited from qualified contractors by advertising in the Blue Report and the Dodge Report: AND

WHEREAS, all bids received in connection with these improvements were opened publicly at 4:00 p.m. on September 8, 1988 in the Takoma Park Municipal Building: AND

WHEREAS, three (3) bids were received for the landscaping and drainage improvements to the park, with Hill Country Nurseries of Waterford, Virginia having submitted the lowest responsive and responsible bid of TWELVE THOUSAND SEVEN HUNDRED AND SEVENTY-FIVE DOLLARS (12,775.00): AND

WHEREAS, it is in the best interests of the City of Takoma Park to accept this bid.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THAT the bid of Hill Country Nurseries for the said improvements specified in the applicable plans and contract documents is hereby accepted and a contract award made to said firm in the amount of TWELVE THOUSAND SEVEN HUNDRED AND SEVENTY-FIVE DOLLARS (\$12,775.00).

BE IT FURTHER RESOLVED THAT the City Administrator is hereby authorized to execute any and all appropriate contract documents necessary to effect this award and to pay expenses related thereto from appropriate accounts.

ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1988.

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FRI.PKG.  
10-7-88

Item #4

MEMORANDUM

TO: Mayor and Council

VIA: James S. Wilson, Jr. City Administrator  
Daniel J. Neal, Director, DECD

FROM: Lisa S. Schwartz, Community Planner *LS*

RE: CONTRACT AWARD ORDINANCE FOR COLBY NEIGHBORHOOD PARK

DATE: October 7, 1988

Attached is a draft of an ordinance to award a contract for landscaping and drainage improvements for Colby Park. The award of this contract will require approval of a budget amendment which is expected to be passed on October 24th.

As requested at the last worksession, I have contacted the contractor, who has indicated that it would be difficult for him to wait until the end of the month to begin work at the park. I am also concerned about waiting until that time because I have arranged to have two other contractors install fences and playground equipment at the park, and this work cannot be done until most of the landscaping work is completed. I am therefore requesting that you hold a first reading of this ordinance at your regular meeting on the 11th, and a second reading at a special session on the 17th.

Thank you for your consideration of this request.

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Introduced by: Councilmember Douglas

Adopted: October 11, 1988

RESOLUTION #1988-83  
SETTING FORTH TERMS OF OFFICE  
FOR TAKOMA PARK TREE COMMISSION MEMBERS

WHEREAS, on September 26, 1988, the Mayor and Council of Takoma Park unanimously adopted Resolution #1988-79 which appointed four citizens to serve on the City of Takoma Park Tree Commission; AND

WHEREAS, it is the desire of the Mayor and Council to set forth the terms of Office for each of the newly appointed primary and alternate members of the Takoma Park Tree Commission.

NOW THEREFORE, BE IT RESOLVED THAT the following individuals are hereby appointed to serve the terms stated opposite their names as follows:

<u>Name/Address</u>	<u>Term</u>
Daniel M. Treadwell, 7126 Sycamore Avenue (P)	1 Year
Carollyn James, 7012 Woodland Avenue (P)	2 Years
Kristine M. L. Steinkoenig, 906 Davis Avenue (P)	3 Years
Carol M. Ank, 501 Margaret Drive (A)	1 Year

Dated this 11th day of October, 1988

\* \* \* \* \*

(P) = Primary Member  
(A) = Alternate Member

Introduced by: Councilmember Hamilton      Adopted: October 11, 1988

RESOLUTION #1988-85

OF APPRECIATION  
TO ROY CORBIN  
DIRECTOR, TAKOMA PARK MUNICIPAL BAND

WHEREAS, in March 1974, Mr. Roy Corbin, co-founded the Takoma Park Community Band to provide musical entertainment for the citizens of Takoma Park and other communities as well; AND

WHEREAS, Mr. Roy Corbin has been the Director and Manager of the Takoma Park Municipal Band for over 14 years, providing many dedicated services such as volunteer work, managing the band, fundraising, and training young musicians; AND

WHEREAS, under Mr. Roy Corbin's leadership, the band whose members average between 35 and 45 members over the years, have performed at the British Embassy, Virginia Scottish Games, English Speaking Union of USA, Takoma Towers, Soldiers Home, Holly Hall and the Organization of American States, in addition to performing for the musical entertainment and enjoyment of Takoma Park citizens and their guests.

NOW THEREFORE BE IT RESOLVED, THAT the Mayor and Council of Takoma Park, Maryland, do hereby express, on behalf of the Citizens of this City, their sincere appreciation to Mr. Roy Corbin for his many years of outstanding service to the Takoma Park community.

Adopted unanimously this 11th day of October, 1988

---

Stephen J. Del Giudice  
Mayor

ATTEST:

---

James S. Wilson, Jr.  
City Administrator

BE IT FURTHER RESOLVED THAT the Mayor and City Council oppose transforming Route 29 into an expressway that encourages automobile traffic at the expense of transportation system management alternatives that rely on mass transit and carpooling.

BE IT FURTHER RESOLVED THAT the Mayor and City Council urge Montgomery County to study transportation system management alternatives, particularly the use of light rail, for the purpose of providing traffic relief as opposed to increasing capacity for new development.

BE IT FURTHER RESOLVED THAT the Mayor and City Council urge the County to reduce plans for future development along the Route 29 Corridor, thus reducing the need for plans to expand the existing road system in ways that are harmful to local communities.

BE IT FURTHER RESOLVED THAT the City Administrator is hereby directed to send a copy of this Resolution to the appropriate State Highway Administration and Montgomery County authorities.

Adopted this 30th day of January, 1989.

Special Session of the Mayor and Council  
October 17, 1988

CITY OFFICIALS PRESENT:

Mayor Del Giudice	Asst. City Administrator Habada
Councilmember d'Eustachio	Deputy City Clerk Jewell
Councilmember Douglas	Econ. & Comm. Dev. Dir. Neal
Councilmember Elrich	Cable Coordinator Smith
Councilmember Hamilton	
Councilmember Leary	
Councilmember Martin	
Councilmember Sharp	

Upon motion made by Councilmember d'Eustachio and duly seconded by Councilmember Hamilton, the Mayor and Council convened in Special Session at 8:06 P.M. on Monday, October 17, 1988 in the 2nd Floor Meeting Room at 7500 Maple Avenue, Takoma Park, Maryland. Mayor Del Giudice noted for the record that the purpose of this Special Session was to take up at second reading the ordinance authorizing a contract award for the improvement of Colby Neighborhood Park.

Councilmember Douglas asked for a clarification on the actual amount of the contract award. Economic and Community Development Director Dan Neal responded that the bid award was slightly higher than the original estimates because the estimates were based on very rough figures.

The question was called and the ordinance was adopted by roll call vote as follows: AYE: Councilmembers d'Eustachio, Douglas, Elrich, Hamilton, Leary, Martin and Sharp. NAY: None.

ORDINANCE #1988-46  
(attached)

Upon motion duly made and seconded, the Special Session adjourned at 8:08 P.M. to reconvene in Regular Session on Monday, October 24, 1988 at 8:00 P.M.

CITY OF TAKOMA PARK, MARYLAND

Special Session of the Mayor and Council  
October 17, 1988

CITY OFFICIALS PRESENT:

Mayor Del Giudice	Asst. City Administrator Habada
Councilmember d'Eustachio	Deputy City Clerk Jewell
Councilmember Douglas	Econ. & Comm. Dev. Dir. Neal
Councilmember Elrich	Cable Coordinator Smith
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(attached)

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Introduced By: Councilmember Sharp  
Drafted By: L. Schwartz

First Reading: October 11, 1988  
Second Reading: October 17, 1988

ORDINANCE NO. 1988-46

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WHEREAS, the City's FY 1988-89 Adopted Budget will be amended as of October 24, 1988 to authorize the expenditure of up to \$14,357.00 for the improvement of Colby Park, as specified in the applicable plans and contract documents; AND

WHEREAS, bids for said improvements were solicited from qualified contractors by advertising in the Blue Report and the Dodge Report; AND

WHEREAS, all bids received in connection with these improvements were opened publicly at 4:00 p.m. on September 8, 1988 in the Takoma Park Municipal Building; AND

WHEREAS, three (3) bids were received for the landscaping and drainage improvements to the park, with Hill Country Nurseries of Waterford, Virginia having submitted the lowest responsive and responsible bid of TWELVE THOUSAND SEVEN HUNDRED AND SEVENTY-FIVE DOLLARS (12,775.00); AND

WHEREAS, it is in the best interests of the City of Takoma Park to accept this bid.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THAT the bid of Hill Country Nurseries for the said improvements specified in the applicable plans and contract documents is hereby accepted and a contract award made to said firm in the amount of TWELVE THOUSAND SEVEN HUNDRED AND SEVENTY-FIVE DOLLARS (\$12,775.00).

BE IT FURTHER RESOLVED THAT the City Administrator is hereby authorized to execute any and all appropriate contract documents necessary to effect this award and to pay expenses related thereto from appropriate accounts.

ADOPTED THIS 17th DAY OF OCTOBER 1988 in Special Session.

lss:park disk  
colbypk.ord

CITY OF TAKOMA PARK, MARYLAND

Special Session of the Mayor and Council  
October 17, 1988

CITY OFFICIALS PRESENT:

Mayor Del Giudice	Asst. City Administrator Habada
Councilmember d'Eustachio	Deputy City Clerk Jewell
Councilmember Douglas	Econ. & Comm. Dev. Dir. Neal
Councilmember Elrich	Cable Coordinator Smith
Councilmember Hamilton	
Councilmember Leary	
Councilmember Martin	
Councilmember Sharp	

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Introduced By: Councilmember Sharp  
Drafted By: L. Schwartz

First Reading: October 11, 1988  
Second Reading: October 17, 1988

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BE IT FURTHER RESOLVED THAT the City Administrator is hereby authorized to execute any and all appropriate contract documents necessary to effect this award and to pay expenses related thereto from appropriate accounts.

ADOPTED THIS 17th DAY OF OCTOBER 1988 in Special Session.

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CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and Council  
and  
Public Hearings re 6811 Eastern Avenue  
and  
FY 1988-89 Budget Amendment #1  
October 24, 1988

CITY OFFICIALS PRESENT:

Mayor Del Giudice	City Administrator Wilson
Councilmember d'Eustachio	Asst. City Administrator Habada
Councilmember Douglas	Cable Coordinator Smith
Councilmember Elrich	Code Enf. Supervisor McMinn
Councilmember Hamilton	Ec. & Comm. Dev. Coordinator Schwartz
Councilmember Leary	Housing Services Director Weiss
Councilmember Martin	Corporation Counsel Silber
Councilmember Sharp	Asst. Corp. Counsel Perlman

The Mayor and City Council convened at 8:13 P.M. on Monday, October 24, 1988 in the Council Chamber at 7500 Maple Avenue, Takoma Park, Maryland. Following the pledge, the Minutes of the September 19 and 26 and October 11 and 17, 1988 meetings were presented for approval. Councilmember d'Eustachio moved approval of the Minutes, collectively, duly seconded by Councilmember Douglas. Councilmember d'Eustachio noted that changes to the September 26 Minutes had been provided by the Deputy Clerk, and those were incorporated in his motion for approval. The Mayor noted that the referenced changes were provision of a couple of pages that had been omitted. The Minutes were approved, as written, with Councilmember d'Eustachio Abstaining from voting on the September 26 Minutes due to being absent from that meeting. Mayor Del Giudice noted, for the record, that Mr. d'Eustachio was not present at that meeting because his wife was giving birth to their second child; he congratulated the parents on the new addition to their family.

Economic & Community Development Director Neal introduced a new member of his department, Community Development Coordinator Valerie VinCola, noting she had commenced working for the City on September 12 and had formerly resided in his hometown of Rochester, New York. Mr. Neal commented Ms. VinCola brought a great deal of talent with her, and valuable experience gained during her tenure in Rochester. He related she had a B.A. in Political Science from New York State University at Albany, and a M.A. in Planning from the University of North Carolina at Chapel Hill. Ms. VinCola was welcomed by those present.

The Mayor moved approval of a Certificate of Appreciation for Police Administrative Services Supervisor Condie Clayton, who he explained would soon be leaving City employment to take a job with Mt. Rainier as that municipality's City Manager. Councilmember Hamilton duly seconded the motion for passage, and it carried by unanimous vote. Mayor Del Giudice presented Mr. Clayton with the Certificate, thanking him for the job he had done for the City and wishing him well in his new endeavors.

CERTIFICATE  
(attached)

The Mayor read and presented to Roy Corbin, Director of the Takoma Park Municipal Band, Resolution #1988-85, expressing appreciation to Mr. Corbin and recognizing the band's achievements under his direction. Mayor Del Giudice noted the resolution was passed by unanimous vote at the October 11, 1988 meeting. In addition, he presented Mr. Corbin with a plaque in recognition of his 14 years of dedicated service to the community. Mr. Corbin spoke briefly, thanking the elected body and the City; he said his thoughts would be with Takoma Park and the band, he would miss it, though looking forward to being in Barbados and becoming involved with the symphony there. He said he had a tentative offer of a job with the Army Band in Barbados, however, would return from time to time to visit in Takoma Park.

The Mayor noted MML would be holding its annual legislative conference commencing on October 27 and concluding on October 29; he said he

would be representing the City at the function, as well as serving in his capacity as Vice-Chair of the Legislative Committee of MML. He explained this conference was the event at which municipalities joined together through the Maryland Municipal League to adopt the priority legislative items that would be pushed before the state legislature on behalf of municipalities in the state. He remarked that one of the items would be the proposed state ban on the sale and use of polystyrene products in the Maryland economy, which Takoma Park had sponsored.

The Mayor read a Proclamation, presented and moved for passage by Councilmember Douglas, which would declare November 5 to be Opal Daniels Day in the City of Takoma Park. Councilmember Hamilton duly seconded the motion for passage. Mr. Douglas explained that the county park located at Sheridan and Hancock and nearing completion would be named in honor of Ms. Daniels at the City's request, with dedication ceremonies to take place at 11 A.M. on November 5. He invited all to attend. The Proclamation was passed by unanimous vote.

PROCLAMATION  
(attached)

ADDITIONAL AGENDA ITEMS:

Single Reading Ordinance authorizing police vehicle purchase for drug taskforce (Wilson)  
Discussion of use of temporary driveway on Colby Avenue (Sharp)

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

Barbara Beelar, 7112 Maple Avenue: expressed concern about media statements that 50% or less of eligible voters would turn out at the polls to vote in the upcoming election; she encouraged that efforts be made in the City at least to activate voters. She said she had personally made efforts and had signed up 25-30 people willing to work on a non-partisan concentrated effort to get out the vote in Takoma Park. She asked that the elected body pass a resolution declaring November 8 as "Get Out the Vote Day" in the City. Ms. Beelar presented copies of a resolution she had composed and it was agreed the item would be added to the current meeting's agenda for consideration.

Melvin Raff, 7319 Willow Avenue: referred to a letter from the co-presidents of the elementary school P.T.A., which he said related to safety concerns regarding children going to and from school. Mr. Raff said there were 4 areas of concern, i.e.,

1) an existing fence in front of the elementary school building along Philadelphia Avenue and behind the Library, which does not extend all the way to Holly Avenue (a student had ventured beyond the fence into Philadelphia Avenue the prior week and been hit by a car). In addition, Mr. Raff pointed out He had observed earlier in the present day that the flashing lights on the warning signs on Philadelphia Avenue were not working at all. He said he was not at all sure that even when the signs were working properly, drivers observed the 15 mph speed limit. He said it would be nice if the police would patrol there periodically and issue tickets to those exceeding the posted limit.

2) the driveway between the Library and Municipal Building. He explained that while there was not much volume of traffic entering that driveway, those that did were often coming down the hill and entered at a fairly high rate of speed, and children crossing the driveway were totally unprotected. He said the crossing guard at the intersection was very concerned, but was kept busy crossing children at the intersection. He suggested closing off of the driveway, or at the least, temporary closing with some sort of gate arrangement during times children were going to and from school.

3) the driveway areas in the parking lots behind the Library and Municipal Buildings. He said the driveway behind the buildings was a very convenient and tempting cut-through for traffic from Philadelphia onto Maple Avenue, in order to avoid the traffic light and the backup there. He pointed out that students had to cross that driveway entry/exit at the Library end on their way to and from school, and traffic often turned in rapidly, narrowly missing hitting children. He suggested temporarily closing off that entry/exit during times when children were going to and from school so it could not be used as a

cut-through at those times.

4) the path down from the athletic field behind the elementary school onto the lots behind the Library and Municipal Buildings. He said the path was winding and somewhat scenic, but that children coming down it were obscured, were almost in the woods coming down it, and it presented a safety hazard if someone were intent on doing a child harm. He suggested the path be cleared so children using it would be completely visible from the parking lots and the school.

The Mayor commented he would add the entryway shared by the school and the Municipal Building on the Grant Avenue side to the list of hazards. He said he had observed the congestion there during early morning hours with children walking in the roadway, parents dropping off children, some cars using it as a cut-through, etc.

Councilmember d'Eustachio suggested that input on the matter be sought from both Public Works and the Police Department. The Mayor directed that be done, with the information funneled through the Transportation Committee in light of the traffic issues involved, and then brought before the elected body for consideration.

Wayne Upton, 7600 Maple Avenue: referred to an editorial in the current day's Montgomery Journal, as well as 3 articles the previous week about drug trafficking on the streets in Wheaton, Maryland. He said he had attended a workshop recently sponsored by Prima Vera and furnished some written information about that organization and how they suggested helping a drug addict or alcoholic who did not want help. Mr. Upton said he felt sometimes the focus was too much on the supplier and not enough on the demand; he related having viewed a video on the subject and spoke concerning the confrontation approach suggested. Mr. Upton distributed some information from Narcotics Anonymous, related having a friend in that program, and spoke briefly concerning 12 step programs. Mr. Upton inquired what the latest information was about the county drug taskforce; Councilmember Hamilton responded that the next scheduled meeting for that group was the first Thursday in November, and every first Thursday of the month until June, in the lobby of the Executive Office Building in Rockville.

Ben Hecht, Attorney, Georgetown University Law Centers, Harrison Institute for Public Law: said he was working with the Hampshire Towers Tenants' Association, and introduced Vivian Hill, Vice President of the association, and Ben Carter, a member of the Board of Directors of the association, both of whom were with him. He remarked that the President of the association, former Councilmember Mike Haney, could not attend due to illness. He said they were in attendance to update the elected body on the status of the tenants' opportunity to purchase their building and to request some financial assistance, if that were possible, from the City. Mr. Hecht explained that a few months ago, the tenants of the two highrise buildings containing 448 units were provided an opportunity to purchase them for around \$17,000,000. He said since that time they had organized rather effectively and had about 167 members who said they were interested in buying as a cooperative, and they had sought financial assistance to have a feasibility study done on the project. He said they had hired attorneys, a financial consultant, an architect and engineer; they had sought and received \$7,500 in matching funds from the National Cooperative Bank, the residents are committed to raising \$3,400 at the request of that bank, but it appeared they would be about \$5,000 short of the approximate \$15,000 that would be incurred in doing the feasibility study. He asked that the elected body take into consideration providing the tenants with the needed \$5,000.

The Mayor commented it was promising that the tenants had gotten some funding through the bank and said the matter would be put on the Council's agenda for consideration and discussion of how the City could possibly provide assistance; he said he was uncertain whether TAP funds would be available for the purpose. Councilmember Elrich commented that there had been discussion earlier about giving the committee some leeway regarding dollar amounts; he said it appeared the obstacle for the Hampshire Towers tenants would be the unit limitation -- TAP funds did not address buildings of the size of Hampshire Towers. He asked whether the committee would have the

discretion to make a decision regarding the building -- the original intention regarding TAP money did not seem to be to assist only people in certain size buildings and not others who were deserving. He said inasmuch as the tenants had made the effort to raise some of the funds themselves, it would be a good use of TAP funds to give them some support in their effort. The Mayor said while he tended to agree, it might be necessary to sit down with City staff and ascertain whether there were any policy issues that would have to be dealt with in order to make TAP money available. Councilmember d'Eustachio suggested that Mr. Hecht and members of the tenants' association meet with Mr. Neal and that the elected body be provided with pertinent information before the next worksession so that the matter could be discussed at that time. The Mayor commented that the next worksession would probably occur on November 7, which would allow some time for staff to put together the necessary information and deal with some of the questions regarding availability of TAP funds for this situation.

**ITEMS FOR COUNCIL ACTION:**

**1. Public Hearing: Show Cause Hearing re 6811 Eastern Avenue.**

Code Enforcement Supervisor McMinn summarized the process which had been undergone to date, noting it had begun in September 1988 with a complaint that was filed regarding the property and its condition. He noted a subsequent inspection of the property revealed a number of Code violations and a Correction Order was issued setting a compliance date of October 17, 1988. The situation was brought before the elected body and an ordinance declaring the property to be unsafe and a nuisance was adopted with First Reading on 9/12/88, Second Reading on September 26, 1988. Additionally, Municipal Infractions were issued for the existing Code violations. Mr. McMinn noted the property owner had appeared at the 9/26/88 Council Meeting and made some comments; City staff had attempted to schedule an interior inspection of the property with him, however, that was denied; he explained a time for the inspection was coordinated with the fire department and the property owner was notified in advance by Certified Mail, however, he failed to appear, so access could not be gained. He said a reinspection of the premises was done following expiration of the Correction Order on 10/17/88; a very minimal amount of work had been done on the property, with one violation out of approximately fifteen being completely abated; a second set of Municipal Infractions was issued following the reinspection. He noted that the present Show Cause Hearing had been set in the ordinance adopted earlier, and inquired whether the property owner had appeared to show what his intentions were regarding the property.

Councilmember Hamilton inquired whether Mr. McMinn had any indication that the property owner had received the second set of Municipal Infractions and whether he had given any indication that he would be attending the Show Cause Hearing. Mr. McMinn responded that the property owner did receive the M.I.'s, the return receipt was dated 10/22/88; however, there had been no communication whatsoever received from the property owner concerning those or at any other time throughout the process to date. Responding to Councilmember Leary, Mr. McMinn affirmed that the elected body had encouraged the property owner at the 9/26/88 meeting to discuss the situation and his plans with the Department of Housing Services, and the owner had, at that same meeting, stated that he would grant an interior inspection to the DHS and the fire department; the correspondence on that subject was sent Certified Mail and was received (approximately 2 weeks prior to the date for which the inspection was scheduled), however, neither the owner nor anyone representing him showed up to provide access to the structure at the designated time. Councilmember Douglas pointed out there had been earlier statements to the effect that the fire department would not enter the structure on the subject property in the event of a fire there; he inquired whether it was Mr. McMinn's understanding that that was still the case. Mr. McMinn said he understood the fire department's stance on that had not changed; he said the fire department's representative was unable to attend the present meeting, however, was present at the property at the time scheduled for the reinspection. He said that, due to the continuing conditions at the subject property, in the event of a fire, the fire department's primary concern would be to protect the adjacent properties on both sides.

James Rast, Property Owner: said he had no recollection of having

received notice of the scheduled reinspection, however, may have been out of town; he said he had been in Utah around that time. He said he did receive the notice of the second set of Municipal Infractions issued and verified it was his wife's signature on the receipts for both pieces of Certified Mail that had been sent. Regarding the interior inspection, Mr. Rast said he had no problem with the fire department or anyone else entering the structure if there were some specific item they were checking on, however, did not have time for people to just come through and poke into every nook and cranny. He said he understood the fire department had a concern that there was barbed wire strung throughout the house, which was not the case. He said there were a couple of places on the premises where there was barbed wire -- one under the porch in a small area that could only be accessed by crawling through a small crawl space, and between the basement and sub-basement in a closed-off closet area where a hole had been knocked in the flooring to provide access between the two basements. He said those two areas were not anyplace a fireman would be going into to fight a fire anyway -- they would only likely be entered by someone trying to break into the house. Mr. Rast said that he had been primarily concentrating on getting rid of the abandoned vehicles on the property, that where there had earlier been four cars, there were now only two, as well as some parts -- engines, etc., of the two that he had cut up. He said the majority of the overgrown vegetation had now been cut down, the yard was as clean as the one next door which was a rental property. What was cut had been stacked up in a large compost pile. Concerning the alleged rodent infestation of the property, Mr. Rast said it was no big deal if a snake were observed because they were all over Takoma Park given the number of gardens, etc.; if there were rats they were probably attracted by neighbors who had garbage bins, since there was no food stored on his property. Concerning fences, he said he had some 10' sections of 6' fence leaning against the cars in the back simply to block the view -- they were not intended to actually be fences, and they had been removed except for one section which he would also remove if that was desired. Mr. Rast agreed there was an excessive accumulation of trash on the property and said he was trying to clean that up. Regarding the stairway that had been cited, he said he still was uncertain of what stairway was being referred to, but if it were the one that originally went to the downstairs apartment, that had been completely removed, so he did not see what the problem was -- access to it had been blocked by a 6' fence running between his house and the apartment next door.

The Mayor interjected, remarking what apparently was not being made clear was that the condition of the property was a concern, was what could be termed an attractive nuisance; if youngsters, especially, got onto the property, they could be at serious risk of harm to life and limb. Mr. Rast stated he would disagree with that statement -- that they would be at no more risk than on other properties he had seen. Councilmember Elrich remarked on the presence of the barbed wire on the property, the Mayor pointed out that other properties were not what was presently under discussion. Following additional brief dialogue addressing various violations that had been cited on the property, the Mayor commented it appeared that what Mr. Rast was saying was that his intent was to fix the things necessary on the property himself and at his own pace; Mr. Rast affirmed that was so, and that he did not intend to hire anyone to come in and renovate the property. He said he intended to do the work himself with the help of his son. Mayor Del Giudice advised Mr. Rast he would be permitted an additional 7 minutes to address any of the items he wished, to talk about any plans he had for the property and any timetable he might have for addressing the violations.

Mr. Rast continued briefly, stating that there were no more windows broken than previously and those that were damaged were primarily storm windows; the door that was cited as pulling away from the frame had never been attached, was leaned against the opening to discourage entry. He said he was concentrating at present on getting rid of the old cars, intended to respond to the violations by requesting a hearing in court. He said he would like to get the situation cleared up, thought there was a lot of misunderstanding; he felt the house was basically sound and safe from children getting into it, he had blocked off all entrances after several attempts were made by people trying to break in. Councilmember Elrich inquired whether Mr. Rast had any

specific date by which he intended to have the violations entirely abated. Mr. Rast stated he hoped to have the remaining two cars cut up within a month or two -- before really cold weather set in. He said concurrently with that, he intended to address the other items a little at a time and felt he would have the property in compliance in 3-4 months. Responding to questions raised by Councilmember Douglas, Mr. Rast said the county's inspector had emphasized that the county's major concern was the old cars, however, appeared satisfied with the 2-month timeframe for completing removal of them; he said he personally felt the other violations were fairly minor and he could probably get his son to address some of them, such as cutting up the compost pile with a shredder. Councilmember Leary said it was his understanding that the vehicles and any parts thereof should be removed from the property; Mr. McMinn affirmed that was correct. Mr. Rast stated he intended to remove the majority of the parts, however, intended to salvage and store some. He said he would ensure that they were stored somewhere other than in the yard. Councilmember Hamilton emphasized that what the elected body was trying to do was give Mr. Rast sufficient time to bring the property into compliance with the Code, so that it would not be necessary for the City to take further steps, however, a specific timetable needed to be furnished by Mr. Rast. He responded that, weather permitting, he could have the cars disposed of, put some paint on exterior surfaces needing it, and board up the door in question within 4 months. Councilmember Martin commented she understood the situation at the property in question had been ongoing for quite some time; she said while the City could not require the owner to occupy the property, they could require him to maintain it in such a way that neighbors did not find it a nuisance. She asked whether the City was going to have to continually remind Mr. Rast to keep the property in proper condition, to keep overgrown vegetation cut down, etc.

Corporation Counsel Perlman explained that the next step in the process for the elected body, having earlier adopted the ordinance requiring the Show Cause Hearing, would be to adopt legislation declaring the property to be a nuisance and ordering the violations to be abated within a time certain, which would be set in the ordinance. If there were no abatement within that specified time period, the Mayor and Council could then order the removal of the structure or its repair. If the repair were ordered by the City, the cost could then be assessed against the property and become a tax lien. The property could be sold at tax sale to collect the lien. If the county did not start proceedings within 30 days after a request from the municipal tax collector, then the City could sell the property for unpaid taxes or charges (whatever had been spent to repair the property). In that event, she said the buyer would purchase a tax certificate and would have 2 years to file a complaint to foreclose the right of redemption. She pointed out the City would not necessarily have to repair the property up to Code if the necessary repairs were found to be substantial; it could be certified that the building needed substantial repair in order to comply with Housing Code and whoever bought it at tax sale would have to make the repairs. Alternatively, the Mayor pointed out, condemnation proceedings could be initiated. Ms. Perlman explained that the ordinance declaring the property a nuisance could be written broadly enough to also declare the building substandard, which would frankly speak more to the blighting condition in the neighborhood, would lead basically to an abatement order to repair and the levy of a fine, which would be similar to the Municipal Infractions already issued.

Ms. Perlman pointed out that the City Code outlined a 2-stage proceeding, which she did not necessarily support; the second stage of that proceeding would be a condemnation declaring the building to be unfit for human habitation, which would require another ordinance and hearing, resulting in condemnation of the building. It could then not be lived in until the violations were corrected, and it could be demolished. She said the disadvantage to that was that the Code did not provide that the cost of either demolition or repair would become a tax lien, so the cost could not be collected by the City unless the ordinance were amended. Thus, the advantage of declaring the property a nuisance would be that the City could effect repairs and the cost would become a tax lien. In condemnation, the end result would be that the building was condemned, could not be used for human habita-

tion (the advantage would be that it prevented anyone from living in it until defects were corrected), or the building could be destroyed. She said a disadvantage with that process would be that a condemned building could remain status quo for years, but neither the owner nor anyone else could inhabit it. She said Mr. McMinn had done an excellent job of documenting the conditions on the property, so the City was in pretty good shape to proceed either way that was chosen. She said she would furnish the elected body with a memo on the subject for their consideration.

Responding to questions raised by Councilmember d'Eustachio regarding the Municipal Infractions issued, the Mayor said it was his understanding that the property owner was required to notify the City Department of Housing in writing by November 1 whether he wished to pursue court proceedings on the matter. He said while Mr. Rast had indicated orally that he would want to do that, he would be required to so state in writing by the specified date of November 1. The court date would then be set for sometime after November 1.

Mr. McMinn pointed out that there were 2 dates on the Municipal Infractions, one being a time frame within which the citation and fine could be settled through payment (not through abatement), the other being the time by which a hearing on the citation itself had to be requested if desired. He said the citations with the November 1 deadline to which Mr. Rast had referred were the second set of Municipal Infractions issued; the option to request a hearing in writing on the initial set issued expired on October 23, which now gave the City the option to proceed with getting a court date for those citations. Councilmember d'Eustachio moved that DHS and Corporation Counsel be authorized to proceed with getting a court date for those citations, duly seconded; the motion carried by unanimous vote.

The Mayor noted that there would be need for the elected body to discuss the situation in worksession and decide upon which course of action to pursue; should there be a desire to pursue the avenue of condemnation, there would be need to amend the existing ordinance to allow for the assessment of costs incurred by the City. He said he would suggest the matter be taken up at the next worksession, proceeding simultaneously with other action needing to be taken, and recognizing that the property owner would have the additional time period within which to make efforts to abate the violations. He pointed out it would take approximately 30 days to enact an ordinance either declaring the property a nuisance or condemning it; two readings of the legislation would be required.

John Gieleser, 6741 Eastern Avenue: said residents of the street had been working very hard to clean up the entire block on which the subject property is located. He said he very much appreciated the elected body's attitude concerning the property; there had been a number of properties on that particular block that had been a great nuisance. He said at the next meeting of the citizens' association, he would report what had transpired with the subject property.

Mr. Rast said he completely concurred with the prior speaker; he said it had been only in the last few years that any efforts had been made along those lines, and unfortunately the problems with his property had occurred only within that time. He said since the property next door had been fixed up, he felt much more obligated to improve his, which was when he started on disposing of the cars.

Inasmuch as there were a number of citizens present to address original agenda item #4, Councilmember Leary asked that that item be addressed next, barring any objections. Consensus was to do so.

## 2. First Reading of an Ordinance Authorizing Placement of Speed Hump on Holly Avenue.

Councilmember Leary moved acceptance for First Reading, duly seconded by Councilmember Douglas. Mr. Leary noted that the most tangible guideline in the existing guidelines for installation, i.e., the traffic count, was fulfilled by a wide margin. He said the guidelines cited a minimum of 500 trips a day and the traffic count for the location indicated about 1,100 a day. The Mayor noted there had been some concern regarding a review of the guidelines; he said he felt it



appropriate that that question be referred to the new Transportation, Planning & Zoning Committee. He said the question had been raised by several of those signing the petition for the speed hump whether a 3-way stop sign should be tried prior to installing a speed hump. He said the guidelines to an extent suggest trying other traditional traffic controls and then going to a speed hump if they prove ineffective; however, he pointed out that the situation on Holly Avenue dealt with a substantial volume of vehicles. He noted the guidelines also suggested taking into consideration the proximity of roadways to schools and to parks where there would be a large volume of children at risk; for that reason, he said he did not think it would be appropriate to consider a more traditional traffic control for the location. The ordinance was accepted for First Reading by unanimous vote. Mayor Del Giudice remarked that the ordinance would be scheduled for Second Reading at the next regular Council Meeting.

ORDINANCE #1988-  
(attached)

**3. Council Position on Zoning Application G-602, 6839 Eastern Avenue.**  
The Mayor referred to a staff report on the subject, as well as a report from the applicants, copies of which had been furnished.

Stan Abrams, Abrams, West and Storm, representing Dr. & Mrs. Gibbons: said the applicants' case was not a precedential one which would cause the elected body any great concern; he said a mistake had occurred with reference to the property, and that would be explained by Mr. Phil Perrine of Perrine Planning & Zoning, using visual materials.

Mr. Perrine, referring to graphic maps and other visual displays, explained that during the formulation and adoption processes for the Master Plan in the early 1970's, the recommendation was that the property in question and others in the area fronting on Eastern Avenue be zoned R-20 because of their location on a major street and the fact there was not enough economic incentive to renovate them for single-family use. At that time there was a mix of R-20, R-40 and R-60 zoning, however, Dr. Hansen, the Planning Commission Chairman, recommended that the entire block be zoned R-20 and said it would be desirable to have the whole block in one zone; Minutes from Planning Commission meetings during that time reflect that Planning staff mentioned that there were buildings on that street that were deteriorating and would be difficult to rehabilitate for single-family use. In the Minutes of the meeting wherein the final draft was adopted as the County Council's Plan, it was noted that zoning to R-20 would eliminate 4 single-family residences, i.e., the two on each side of the garden apartment complex on the block; in addition, it was noted that the County Council was sympathetic to Takoma Park's residential character and desire to preserve that feature. What they did was retain the single-family zoning on some properties, including the subject property; however, at that time (in 1974), there was no problem with the multi-family use of a single-family structure -- that use could legally continue. Mr. Perrine said the County Council was aware of the multi-family use of the subject property despite its appearance of being a single-family structure; there was a zoning case concerning the property prior to its acquisition by the present owners and the multi-family use was noted in the record of the case. He pointed out it was not until 1978 that the phaseout law was enacted, so at the time the property was zoned for single-family use, it was not known that a structure zoned R-60 would not be able in the future to be legally used for multi-family occupancy. He said the multi-family use of the subject property was appropriate because of its location between a garden apartment building and a commercial use -- the use made sense. He said while the property had always previously been zoned R-60, at the time rezoning occurred, while a number of properties that had developed as garden apartment type multi-family uses were zoned as R-20 and a number that had never been put to multi-family use were zoned R-60, the assumption by the County Council at that time was that the multi-family use of the property in question could continue under its R-60 zoning -- it was only at a later point in time that the phaseout law was enacted and affected its use. He said he felt the multi-family use of the building to be appropriate; however, were it rezoned for that use it could not be reconstructed and could not meet the 16,000 square feet requirement for a garden apartment building

because the structure has only approximately 11,000 square feet.

Mr. Abrams explained that what was being attempted was the rezoning of the property in accordance with its use, which had been established over a number of years. He said the owners had attempted to always maintain the property and make it an asset to the area. He said while he had not been present at an earlier meeting on the subject, he understood there was a concern about the case being precedential and what effect it might have on other zoning cases in the city. He said zoning cases were decided on a factual basis, and it would be extremely difficult to find an analogous situation in the Sector Plan area, pointing out that the property was located within about 100 ft. or less of a commercial zone, it was right up against R-20 property developed for garden apartments, it fronted on a main arterial roadway, and was across the street from a non-residential use, i.e., a parking lot, and it had been used for multi-family purposes for a substantial period of time. He said he questioned whether another property matching all those factors could be found within the same Sector Plan area. He said while staff had indicated there might be a similar property on Grant Avenue, that would not be within the same Sector Plan area, but would fall within the Takoma Park Master Plan, adopted at a different point in time. Mr. Abrams referred to a letter he had submitted dated October 12, and said court decisions recognize the very essential element that zoning of property which is nearby, even next door, is not necessarily a basis for compelling a City or County Council to rezone property which is under consideration at a later time. He cited the Messenger Case as an example and related the situation and findings in that case. Mr. Abrams pointed out that rezoning the property would in no way alter or change the character of the neighborhood, would actually only rectify a mistake that was made in its last zoning because future events were not anticipated. He said the elected body would need to examine the goals of the 1974 Sector Plan and the following comprehensive zoning; he said the County Council had, at that time, tried to preserve the single-family residential character of the property, had tried to provide/retain moderately priced housing which could be better provided by a multi-family unit than a single-family unit, and were trying to create a transition between the residential and commercial zones in the area. Four years later, however, the phaseout law was enacted which said multi-family use of the property could not continue under its designated R-60 zoning. He said the County Council in 1974 failed to recognize the coming trend all across the county to provide a transition in zoning from commercial to single-family detached -- it would be a very odd configuration to come back from Laurel Avenue commercial area to an R-60 zone, then go up in density and intensity of use to an R-20 zone, and then back down to R-60, and then back up to R-40 -- that was not the way planning occurred in the county, or in the majority of municipalities. He said it was his contention that the County Council in 1974 intended that the subject property be a transitional area and that today's Council would agree with that intention, however, he felt the City's position would carry substantial weight in the decision of the hearing examiner and the county because the City's elected body speaks for the community. Mr. Abrams said what his clients were trying to do was to preserve the longstanding use of the property, not to create a precedent. He said he felt a City position of approval of the zoning request would be supported by the facts in the case.

Economic & Community Development Coordinator Lisa Schwartz referred to a memo from Corporation Counsel providing background on the change or mistake rule; she said it pointed out that in such cases, the burden of proof was on the applicant, there needed to be strong evidence of mistake, and while a change in conditions or mistake in a zoning plan permitted reclassification of a particular property, it did not particularly compel it. In addition, it was noted each application was decided on a case by case basis, however, the decision of a zoning application of this nature necessitated a legal finding of mistake or change; if the decision of the Mayor and Council were based on grounds other than legally sufficient ones, it could be subjected to reversal without requiring a super-majority of the County Council. Ms. Schwartz referred to a staff memorandum which had been prepared regarding materials the applicant submitted after the application was considered at the October 3 worksession; she said in this case, the issue was not whether the property was appropriately located for

multi-family zoning, but whether there was an actual mistake in the zoning and whether there were sufficient implications for a finding that a mistake had been made. She said while it was correct that rezoning decisions made on the basis of a mistake were decided individually, she believed that each of the arguments that had been presented by the applicants, although perhaps not all together, could be applied in other situations. She said there was no reference or proof in any of the documentation provided that the intent of the County Council in 1974 was to permit the continued multi-family use under single-family zoning in order to retain the single-family character of properties; even if the Council was aware of the multi-family use of the subject property, there was no indication that their intent was to continue that use indefinitely, and she said she felt the 1978 phase-out law provided proof of that. Ms. Schwartz said that same argument could be made for many other properties in Takoma Park. Regarding the 1963 Master Plan which originally zoned the property R-20, she pointed out that was superseded by the 1974 Sector Plan, so the former plan should not apply in the present case; the earlier plan was based on assumptions which had changed, and that plan showed a substantial area of land in the subject area that was recommended for R-20 zoning, as well as a substantial part of Grant Avenue that was recommended for R-10 zoning. Regarding the stated goal of providing moderately-priced housing, she said she did not believe that was intended to apply to any specific property, but as an overall goal of the city, and that goal was met in other areas of the city. She said while multi-family zoning as a transition between commercial and single-family properties might be a planning principle, she did not think it to be an absolute rule; she said in the 1982 plan, in fact, there were a number of areas in Takoma Park where that rule was not applied. In summary, Ms. Schwartz said the case being presented was that the property was unique and because it met the various conditions cited, the rezoning should be granted; she said her position was that she had trouble with each of the arguments, the fact that they were combined still did not make the case, and regarding the specific property, while it could not be redeveloped because it was too small and because a variance would likely not be granted since it was a self-induced hardship, she felt a possibility would exist for combining it with an adjacent property that met a lot of the same criteria, with rezoning reapplied for thereafter. She said while the owner had indicated his willingness to covenant the property, that could not be made a condition of a rezoning, so her recommendation would continue to be denial of the subject application for rezoning.

Responding to inquiry from Councilmember Elrich, Ms. Schwartz said she would not recommend against the finding of a mistake any time or in any case because of the ramifications, but did not feel such a finding was warranted in the present case. She said she did not feel there was adequate premise for such a finding. Mr. Elrich inquired whether the zoning configuration of that block appeared to Ms. Schwartz to be a logical application of present day planning. Ms. Schwartz said the question at hand appeared to be whether the county had made an actual mistake in this case, and she said she believed they understood what they were doing, did not make an actual mistake, so would not recommend that as a finding. She said she did not believe there was an intention on the part of the 1974 County Council to continue the non-conforming uses of properties indefinitely; the retention of the R-60 zoning of the property indicated to her that they did not intend for the multi-family use to continue indefinitely. Mr. Elrich asked whether there were other parcels of property about the county that were zoned one way and used another and were never challenged or changed. Ms. Schwartz explained that in the case of a non-conforming use, it was allowed to continue with the understanding that if the building were damaged in any way or if more than half of it were destroyed, or if it were converted to another use and then an attempt were made to convert it back, it could not be rebuilt according to the non-conforming use. She said while the non-conforming use of the subject property was allowed to continue in 1974, the intention was that it would eventually be discontinued.

Councilmember Hamilton asked in what way approval of the application would impact the neighborhood and what repercussions might occur. Ms. Schwartz said as long as the current owner retained ownership of the property, she did not think there would be any great repercussions,

however, should it change ownership, she could envision the neighboring property also being proposed for rezoning under the mistake rule and the two properties possibly being combined.

The Mayor asked whether it could not be argued, assuming the County Council in 1974 knew that it did not intend to indefinitely continue permitting the non-conforming use of the R-60 property, that they had made a mistake in not providing for a transition area between the commercial zone and the R-20 multi-family apartment property. Ms. Schwartz said she did not know, but did not believe that the principle of providing a transition area between commercial and single- or multi-family properties was universally applied; there were, in fact, cases in Takoma Park where it had not been applied and had not been recommended in the 1982 Master Plan. She concurred with the Mayor that a rational planner might provide for a transition area, including the subject property and possibly the one next to it, such as he had outlined; she said that would not be inconceivable. Responding to Councilmember d'Eustachio, she affirmed that the County Council in 1974 did know of the non-conforming use of the subject property because there had been a previous application in 1971 to rezone the property to commercial use, and the Council at that time had recognized the multi-family use of the property. She said in her reading of the summary of the 1974 hearings on zoning in that area, she had not encountered anything dealing with the question of whether or not the County Council opposed or objected to the continuing non-conforming multi-family use of property zoned R-60. Addressing Mr. Abrams, Mr. d'Eustachio said he understood a covenant on the property could not be a part of the zoning application, but asked whether there was any other way such a covenant could be permanently attached to the property and enforced. Mr. Abrams said that the property owner could give such a covenant to the City; he explained that basically covenants could not be used as a material element by decision-makers in making a decision on a zoning application, because that would be a form of conditional zoning, which is prohibited. He pointed out, however, that the City's elected body would not be the decision-makers in the subject zoning case, thus, it would be permissible for the property owner to covenant with the City. He said that would give the City some level of comfort that the property would not be redeveloped by the owners. He said even if, at some future time, the property were combined with the one next door, it would not be economically feasible for a developer to redevelop the approximately 22,000 sq. ft. as a garden apartment, but would be more sensible to retain what already existed and continue to lease it out as multi-family.

Councilmember Douglas asked that Mr. Abrams review Corporation Counsel Silber's memo outlining the basis on which the elected body must make their decision in the case and let them know if he had any problem with what she had advised. Mr. Abrams said he agreed with the law as outlined in the first paragraph of the memo; he said he had some problem with the last sentence in the second paragraph which stated that if the Mayor and Council's decision was based on other than legally sufficient grounds, it might be subjected to reversal without requiring a super-majority of the County Council. He said he thought the County Council could do as it darn well pleased, that if the City Council voted to disapprove of the application, the super-majority would be in effect irrespective of whether the Council thought the City's reasons for their recommendation were valid or not; he said they could no more look behind the City Council's reasoning than a court could second guess a County Council on an appeal of a Council decision of a zoning case. Dialogue between Mr. Douglas and Mr. Abrams ensued concerning the goal of the Sector Plan; Mr. Abrams said he felt the County Council at that point in time knew the non-conforming uses were in existence and that the goal of affordable housing could best be achieved in a multi-family setting because of the number of units that could be afforded to families of the economic standing needing them. He said that assumption the District Council had made, contrary to some recommendations of Park & Planning staff and the elected body of Takoma Park, etc., had proven over the passage of time to be erroneous. Park & Planning had recommended R-20 zoning and use along that strip on Eastern Avenue, the City Council at that time did not agree with that recommendation because they wished to retain a single-family or residential character; when the District Council made their decision regarding the zoning, they did not have

the benefit of knowing that the phaseout law would subsequently be enacted in 1978. Councilmember Douglas said he had a concern that Mr. Abrams was rewriting history of the zoning law a bit; he said the property had been zoned for single-family, the fact that its use was multi-family was illegal; whether or not enforcement action was taken. He said non-conforming use of a property did not legalize that use. For that reason, he said, he had a concern about its setting of a precedent. In the course of ensuing dialogue, Mr. Abrams said he could not produce any evidence of when the building became a non-conforming use because all government records had been exhaustively researched and no indication could be found.

Councilmember Martin inquired why, if it was known that the building contained 3 units, it was not zoned R-30 or R-40, which would seem more appropriate. Mr. Abrams said there was no R-30 nearby, R-40 was down at the other end of the block and would not provide for the density necessary; he explained R-40 was basically duplex zoning. He said while the house next door was zoned R-60, it was apparently being used as a duplex and taxed as such, but he did not know anything further about that situation, other than that it was a 2-unit building. He said his client's property was a 3-unit building, he had suggested R-30 zoning which would be appropriate for the property and his client would be willing to covenant to maintain that density.

Responding to inquiry from Councilmember Leary, Ms. Schwartz concurred it would seem logical to her that in 1974, had the County Council wished to permit continuation of the existing non-conforming use of the property, they would have guaranteed that by either zoning it R-20 or R-30, rather than retaining the R-60 zoning -- the issue of rezoning it was put before them and they rejected it. Ms. Abrams said she had heard no new evidence from the applicants that would cause her to change her previous recommendation on the subject.

Regarding a point made earlier by Mr. Abrams, Corporation Counsel Silber said she somewhat agreed with him regarding the fact that the County Council would not likely second guess the reasoning of the City's elected body, however, her concern was that if the City Council disapproved of the application and the County Council approved but only by a majority vote, and not by a 2/3 vote, there could be possibility of a court action claiming that the City's decision was not substantiated because it was not based on the proper legal grounds -- if the City Council chose to base its decision on other than the mistake rule. She said her basic concern was not what the County Council would do, but whether the City Council's decision making would be subject to reversal in court.

The Mayor noted that a staff report had been prepared making a recommendation to the elected body on the subject; a resolution had also been prepared. He said he sensed there was a good deal of division among the Council on the matter.

Arthur Karpas, 6916 Westmoreland Avenue, representing WACO: said a recommendation he had furnished from the community organization he now felt was a mistake, that he would like to take it back to the group because after sitting through the discussion, he had realized the situation was a good deal more complex than originally thought. He said he was really not happy with the statement WACO had provided, felt their considerations had unknowingly been extremely narrow in focus, had not addressed Master Plan issues or the rezoning of R-60 properties that had been in multi-family use due to the need for low-cost housing. Mr. Karpas read the statement from WACO which had been agreed upon unanimously following their October 5 meeting, and which stated support for rezoning of the property to permit continuing limited multi-family use, contingent upon the meeting of certain specified stipulations, including reduction of paving on the lot to conform with the amount allowable under its new zoning, correction of stormwater runoff problems, modification of the garage structure to disallow any future commercial use, and zoning which would allow use of the structure for no more apartment units than that for which the lot size would be appropriate under the zoning. Mr. Karpas reiterated he would wish to take the statement back to WACO for reconsideration, and asked that the elected body view what he had read as only a tentative response from the organization.

The Mayor pointed out that in view of the time frame, it might be necessary for the elected body to move to a decision, which would disallow waiting for a further response from WACO. It was noted the case would be going before the Planning Board on November 3, and before an examiner on November 16. Councilmember Leary moved passage of the resolution incorporating staff's recommendation on the matter, duly seconded by Councilmember Douglas. Mr. Leary said he felt that staff's memoranda on the subject, particularly the second one, were very insightful and persuasive. He said given that reality, and their unequivocal and reiterated recommendation, he did not feel the elected body should override that recommendation without abundant evidence to the contrary, which he did not feel had been provided.

Councilmember Elrich commented he felt grounds had been provided to think that a mistake was made; he said looking at the map, it appeared to be a mistake to have R-60 zoning where it was indicated. He said while he respected the work done on the staff report, he felt too much attention had been paid to the precedent setting nature of the situation, that zoning cases had to be considered case by case -- there might, frankly, be other cases in Takoma Park meriting consideration, and he said he would be willing to consider each case on its own merits and not be fearful that approving one thing would lead to all sorts of other things. He said he would support amending the resolution or voting it down.

Councilmember Douglas said he felt good arguments had been made on both sides; he said he saw the construct of the applicant's argument, but was not persuaded it showed him there was a mistake. He said he felt there had been a little stretching of the facts, a little overreaching on what the Master Plan actually said, a lot of playing around with what the current use was and what the zoning laws in the county have been. He said he did not feel the applicant had met the burden of proof to show that a mistake had been made. He said while he had some concern about precedent, he did not feel it to be an overwhelming concern in this case; he simply did not feel the facts had shown that a mistake had been made.

Councilmember d'Eustachio commented it was very difficult to determine a mistake was made when the people who had made a decision were not present; he said all one could do was to surmise, make guesses. To that extent, he said he felt a reasonable conclusion could be made that a mistake was made, inasmuch as it was known to the people making the decision at the time that the property was in use for multi-family purposes; he said he would even go so far as to presume that perhaps at the time that was a legal non-conforming use -- at that time, and now, many non-conforming uses are legal. He said many Councilmembers could have assumed that the situation had existed for a long time and, in fact, existed on some sort of legal basis -- there is no way of knowing for certain one way or the other. He said his line of reasoning was that given the fact the Councilmembers at the time knew of the true situation yet continued to persist in an essentially fictitious zoning, a mistake was made. He said that was his basis for proceeding on the case as he would.

Councilmember Hamilton stated he was also convinced a mistake was made, and also felt that the applicant should not be burdened with the question of what would happen if he sold the property at some later point in time. He said if someone bought the property next door, there would be a process that would have to be gone through to even subdivide property and the City would have some control in that process. He said he felt the applicant had made a valid argument, particularly based on the location of the property in the city; however, such cases had to be considered individually on a case by case basis.

Councilmember Martin said she also leaned toward believing a mistake had been made, based upon a comment made by Councilwoman Garrett at the time of the zoning hearings, i.e., that "R-60 is the proper zone to preserve the houses in Takoma Park. I do not want substantial, moderately-priced housing torn down." Ms. Martin said that comment led her to believe that Ms. Garrett did not want to make the zoning R-20 because she believed that doing so would automatically cause or allow

someone to come in and tear the house down. She said she thought that the County Council at that time thought that by retaining the R-60 zoning they would keep the houses and maintain a residential character in the neighborhood. She said she thought that was a mistake and the properties should have been zoned R-30 or R-40 at that time.

Councilmember Sharp declined comment at the present time. The Mayor said he thought staff's memorandum recognized that there was a rational argument that a mistake was made, that the question was a reasonably close one. He said that, for him, the mistake came from the assumption -- whether it was assumed that the non-conforming use would be allowed to continue or not, in his mind raised an additional question involving the transition from commercial to residential use -- and he said he saw the two as linked, at least in his own mind. He said if one were not going to continue in what Mr. d'Eustachio had referred to as "a fictitious zoning," then one would have zoned the area as a transitional zone. He said the combination of those factors created the mistake in his mind -- and that the area should have been rezoned as a transitional area, rather than avoiding the apparent reality that it was being used in a multi-family way in a residential zone.

The resolution provided by staff recommending disapproval of the application failed by a 4-3 vote. The Mayor commented he had some draft language which might be put into a substitute resolution. Councilmember Elrich proposed amendment of the staff resolution by the deletion of the 3rd "Whereas" clause; changing the 1st "resolve" clause by deleting ...the lack of..., and changing the word "deny" to approve; addition of a 3rd "resolve" clause to state: Be It Further Resolved That, the City Administrator in consultation with the City Attorney execute a covenant with the owner providing such protections regarding density as sought by the City Council. The Mayor concurred that the 3rd resolve clause would be a very necessary one, and said what Mr. Elrich proposed was essentially in agreement with what he would have offered. He suggested amendment of the 3rd "Whereas" clause to include language to the effect that the Mayor and Council had taken into consideration public comments received on the subject application, including staff reports and memoranda submitted by the applicant. He said he thought it might be necessary to also add a "Whereas" clause making a finding of mistake; he proposed draft language which read: Whereas, the Mayor and Council find that a mistake was made in zoning the subject property R-60, in that the District Council adopted that zoning notwithstanding its apparent non-conforming use as multi-family property, and may have assumed the continuance of that non-conforming use; and that consideration of the then existing condition and use of the property, its proximity between commercial and other multi-family zoned property should have resulted in a transitional zoning of that property to a multi-family zone.

The Mayor moved passage of the resolution with the stated amendments, including Mr. Elrich's proposed 3rd resolve clause; the motion was duly seconded by Councilmember Hamilton.

Mr. Karpas asked whether some language could be inserted in the resolution that would express the neighborhood concerns as outlined in WACO's statement and which had brought him before the elected body, e.g., the excessive paving on the lot, the existing garage structure which was suitable for commercial use and could conceivably sometime be reestablished for commercial useage, and the stormwater runoff problem. Councilmember d'Eustachio said while some of the issues might be Code issues, it would be his inclination to include in the resolution language referring to issues brought before the Mayor and Council from the surrounding community. Councilmember Sharp commented on having a concern about expressing an intent and then writing language to express it thereafter. The Mayor suggested that the maker and seconder of the motion for passage accept language as a part of the 3rd resolve clause which would direct the City Administrator to attend to addressing those matters mentioned in Mr. Karpas' letter, in addition to the covenant, with the property owner. Mr. Leary asked how the Council would know that their intentions had been fulfilled. The Mayor pointed out there was a statement of record from the Gibbons' attorney that the owner was more than willing to enter into such a covenant, and would meet with the City Administrator. He said the

other matters could certainly also be taken up at that time, and the City Administrator would report back to the elected body. The Mayor noted there would be a meeting on November 1 and perhaps Mr. Wilson and the City Attorney could meet with Mr. Abrams prior to that time and a status report, or update, could be furnished at the November 1 meeting.

Councilmember Douglas commented he concurred with Mr. Sharp's earlier remark regarding expressing an intent and writing the language later, and while he recognized the situation the City was presently in, he also had a concern that the language Mayor Del Giudice read aloud concerning the findings on the case tended to be somewhat firm in tone, whereas his subsequent explanatory statement sounded somewhat conditional. He asked whether, when the language was put into its final form, it would appear to accept the arguments of the applicant or whether it would more tend to say that the arguments appeared to have some merit. The Mayor pointed out that his initial comment leading into the subject was that even staff apparently recognized that there was a rational argument, a rational basis for finding a mistake. The Mayor reiterated his proposed language, noting that the assumption drawn, i.e., that "[the District Council] may have assumed the continuance of that non-conforming use;" was the only conditional clause and might require some editing. He pointed out there was no way of knowing for certain whether or not the District Council made such an assumption, but said he thought they may have. He said that was why he phrased that language in a conditional manner.

The resolution, as amended, was passed by a 4-3 vote, with Councilmembers Douglas, Leary and Sharp voting Nay, balance of Council voting Aye. The Mayor noted that the resolution, when finalized, would be forwarded to the appropriate county authorities. He thanked those who had attended for their time and patience.

RESOLUTION #1988-86  
(attached)

4. Resolution Opposing Liquor License Application for 6809 New Hampshire Avenue.

Councilmember d'Eustachio moved passage of the proposed resolution which would recommend that the Prince George's Board of License Commissioners deny granting of the requested liquor license transfer, duly seconded by Councilmember Leary.

Donna LaPlaca, Esq., representing license applicants: noted that one of the applicants, John McGraw, was present; the others were unable to attend. She pointed out that one of the applicants resided in Prince George's County, thus, the residency requirement for the license was met. She related that having only received notification of the meeting on Friday, she had been unable to get together all the information she would have liked to submit to the elected body. She related that the proposed location was a former gas station, presently boarded up; the landlord had evicted the prior tenant because the premises were not kept up, and was very anxious to get the prospective tenant in occupancy. Ms. LaPlaca said specific plans for the building were not yet complete, but the applicant would gladly submit them to the City for inspection when they were ready, which would probably be within the next couple of days; she noted, however, that the county hearing was scheduled for Thursday. She said that while the staff report indicated 2 drive-through windows were anticipated, only 1 was proposed, and that would be subject to the approval of the Board of License Commissioners. While staff's report had indicated a concern regarding litter generated by such establishments, she said both the landlord and tenant had a vested interest in keeping the premises clean, well-maintained and free of litter, and the lease would require that be done. She affirmed there were several other liquor stores in the general area, however, noted that a fourth one referred to just north of University Boulevard East (Langley Liquors) had been closed for about a year. She said there was another liquor license in the general area, i.e., Shoppers' Food Warehouse at Eastern Avenue which had a beer license, but said she did not view that as serving the same market or being in the same immediate area. Ms. LaPlaca said the proposed site was not chosen at random, that a market analysis had shown a demand for an additional liquor license in the area to serve



the market; she said she would be happy to provide the City with a copy of the market study. She said the applicants believed the granting of the license for the proposed location to be essential to accommodate the public, that the applicants were experienced in running and managing liquor establishments; the landlord of the building was very interested in urban revitalization and in renovating the building under consideration. The Mayor pointed out that the only way the City would consider the documentation Ms. LaPlaca had offered to submit would be if a decision at the present meeting were deferred, which could only occur if the hearing were not scheduled to take place on the upcoming Thursday. He said if Ms. LaPlaca cared to propose that she would seek a continuance from the county on the hearing, then the Council might agree to defer making a final decision at present and examine whatever evidence on the proposal she might wish to submit. Ms. LaPlaca responded that, unfortunately, she would have to ask that a decision be made at the present meeting because the license had been purchased actually out of a state of bankruptcy.

Councilmember d'Eustachio inquired why, if the landlord had a vested interest in maintaining the property as Ms. LaPlaca had stated, he had not done so; he pointed out that the building was in a state of disrepair (peeling paint, broken windows, etc.) and had numerous code violations. Ms. LaPlaca said the condition of the premises was why the prior tenant had been evicted; that lease had been in existence when the present landlord purchased the property and he had had to buy out the lease. She said the landlord felt certain the prospective tenants would maintain the property and he was willing to invest a significant amount of money to put it into decent shape. Mr. d'Eustachio expressed concern that liquor stores tended to attract a market that generated a lot of trash and litter, and said the condition in which the property had remained for quite some time did not demonstrate to him a desire on the part of the owner to properly maintain it.

Councilmember Elrich inquired how need for a liquor store to serve the market was assessed. Ms. LaPlaca said there were various market research methodologies which indicate the average amount spent per capita and per household on alcoholic beverages and that was related to the square footage of retail alcoholic beverage sales available; existing square footage of alcoholic beverage retail space available was calculated, and a determination was made whether the demand was either not being met or being met inadequately. Mr. Elrich said he had a hard time envisioning that people did not have adequate access to alcohol, was not convinced there were not adequate opportunities in the area in question. Ms. LaPlaca remarked that people would find food stores also, no matter how far they had to travel or how long they had to wait in line. The Mayor inquired whether the market research done had included the Langley Crossroads, i.e., New Hampshire Avenue/University Boulevard intersection area; Ms. LaPlaca responded the research extended up toward that area, however, the standard market area consideration for a liquor license was one mile, and if there were a license within a one mile radius the convenience was considered to be good. Responding to the Mayor, she said the Tick Tock would not have been considered in the process due to its location and the market it generally served, i.e., the students from the University of Maryland. The Mayor pointed out that both that establishment and Shop Rite Liquors, which was in fairly close proximity, were considered to be among the largest distributors in the state, not to mention the several other smaller local liquor stores in the general area. He said he could not see the need for another large retail distributor in the area.

Councilmember Martin inquired whether one of the market considerations had been the Montgomery County part of Takoma Park, which really did not have any liquor stores to speak of; the response was in the negative. However, Ms. LaPlaca explained that would certainly provide some drive-through considerations; she said there were 2 aspects to the market component -- the drive-through and the resident considerations -- basically, the primary and secondary markets. She said those in the Montgomery County part of the city which was not served by liquor stores would be considered a part of the secondary market area, as would some portions of D.C. -- both tending to be part of the drive-through market.

Councilmember Douglas inquired whether in the course of the market study any consideration had been given to the traffic impact and what the flow would be, given the existing volume and complexity of traffic on New Hampshire Avenue and in the shopping area. Ms. LaPlaca said a traffic study was not done, however, the shopping center was served by a light with an exclusive left turn lane, as well as 5 or 6 driveway cuts along the shopping center; she said they did not believe access would present a problem, and that there was more than ample parking. She said a lot of the customers of the liquor store would be customers of other businesses in the shopping center as well. Mr. Douglas said when the issue was discussed in worksession the previous week, the implication seemed to be that there would be drive-through business only. Ms. LaPlace explained that was incorrect, what was proposed was a self-service liquor store with one drive-through window. She said she did not know what the anticipated volume was, however, 4,000 sq. ft. was intended to be devoted to the self-service retail store part of the business.

Leslie Moore, representing liquor store owners in favor of the proposed resolution: noted she was accompanied by Dave Kushner, owner of Shop Rite Liquors, and Robert Carter, owner of R & R Deli. She said she was in full support of comments made by the elected body; she said there were numerous liquor stores in the general area in addition to those pointed out by City staff's report, e.g., Schooner Bay, R & R Deli, Tick Tock, Crown Liquors, Dot and Lou's, Eastover Carryout, University Liquors, etc. She said she and her clients would disagree that the market area extended only within a one mile radius, particularly when that one mile was just outside an intersection where several liquor stores were located. She said Mr. Carter's business was located in the same shopping center in which the applicants were proposing to locate; she said he would confirm that there had been several robberies in that complex within the last 7 months, the landlord of the shopping center was trying to improve the area, but it was not thought an operation of the sort being proposed would move toward that end. She said there was a letter on file at the Liquor Board from County Councilmember Tony Ciccioria noting his opposition to the proposal and indicating that he had received calls from several constituents expressing their concern. Regarding the access/traffic issue, she pointed out there were a number of curb cuts into the shopping center. She said rather than making for smoother access, those actually created problems because there were more conflicting traffic movements, and that situation would be exacerbated by the existence of a drive-through window and the accompanying traffic. The Mayor said he concurred completely with that last comment, having observed that the number of curb cuts worsened traffic problems at the shopping center. He said it would probably be an improvement in controlling entrance and egress if half of them were done away with.

The resolution was passed by unanimous vote.

RESOLUTION #1988-87  
(attached)

**5. First Reading of an Ordinance re Organization of Cooperatives Under City's Right of First Refusal Law.**

The Mayor noted a draft ordinance prepared by Asst. Corporation Counsel Perlman had been distributed which would amend the existing law to provide for financing contingencies when the sale of the rental dwelling was made in connection with a condominium or cooperative. Councilmember Elrich moved acceptance for First Reading, duly seconded by Councilmember Hamilton.

Ms. Perlman explained that the purpose of the ordinance was to extend the time period for arranging financing when a cooperative or condominium was contemplated; she briefly enumerated the various sections and their purpose(s). Ms. Perlman pointed out there were 2 points she and Housing Services Director Weiss had discussed and which the elected body might wish to consider at or prior to Second Reading, i.e., a better definition of multi-family complexes and stating that the valid offer of sale may be hand-delivered rather than sent by First Class Mail as was currently provided in the law -- also provision that the owner must notify the tenants either as soon as the property was put

on the market for sale or when an offer to purchase was made or accepted, whichever was earliest. She said it had been found many tenants did not find out their building was for sale until a third party contract had already been signed, and it was felt they should be informed as soon as possible. The ordinance was accepted for First Reading with Councilmember d'Eustachio Abstaining, balance of Council voting Aye. The Mayor noted the ordinance would be discussed and considered further at the November 7 worksession.

ORDINANCE #1988-  
(attached)

6. Resolution re City Position on HOC Public Hearing and Purchase of 7611 Maple Avenue.

It was noted that the county hearing on the matter would be held November 9. Councilmember d'Eustachio commented that, given the lateness of the hour and the fact that the 3-page draft resolution setting forth the City's position had only been received the present evening, he would not wish to vote on it without time to read and consider it. The Mayor suggested that a Special Session could be convened on November 7 to take action on the resolution. Responding to inquiry from Mr. d'Eustachio regarding why the item was not included in the previous Friday's packet, Mr. Wilson said he felt staff, given their other obligations, had not had adequate time to prepare the item for distribution in the Friday packet. The Mayor explained that staff was dealing in this instance with a somewhat uncertain situation; it was clear from the Council's worksession that the City would present testimony at the county hearing and that it would essentially be based on what Ms. Weiss had outlined in her report, however, it was not until Thursday when agenda planning was occurring that the question arose of whether a resolution should be prepared outlining the testimony -- until that time, staff had not been given specific direction to prepare such a resolution. Ms. Weiss explained that she had prepared a draft resolution earlier, however, attended a county meeting on Thursday morning and found at that time that HOC had made a change in their regulations on which the resolution was based. She said she was not able to get a copy of the new regulations until late Friday. Councilmember Douglas moved to table the resolution definitely until the November 7 worksession, at which time a Special Session could be convened; the motion was duly seconded by Councilmember Sharp and carried by unanimous vote.

7. Second Reading of and Public Hearing on an Ordinance Amending the FY 1988-89 Budget. Budget Amendment #1.

Councilmember Douglas moved adoption of the ordinance, duly seconded by Councilmember Sharp. For the record, the Mayor noted a need to amend the ordinance as outlined in a memo from staff dated October 19, 1988. Councilmember Douglas moved to amend the ordinance as outlined in the aforesaid memo, duly seconded by Councilmember Hamilton. The Mayor noted the amendment would add an item "g" under revenue, and would delete numerous items under expenditures, with accompanying renumbering of remaining items. The motion to amend carried by unanimous vote. For the record, the Mayor noted that language had also been added regarding the recycling containers which would allow staff to proceed with purchase of them. The ordinance, as amended, was adopted by roll call vote as follows: AYE: Councilmembers d'Eustachio, Douglas, Elrich, Hamilton, Leary, Martin and Sharp; NAY: None; ABSTAINED: None.

ORDINANCE #1988-47(a)  
(attached)

8. First Reading of an Ordinance re Sick Leave Requirements.

Councilmember d'Eustachio moved acceptance for First Reading, duly seconded by Councilmember Martin. The ordinance was accepted for First Reading by unanimous vote.

ORDINANCE #1988-  
(attached)

9. Single Reading Ordinance Awarding Construction Contract for Improvements to Jeguie Park.

Asst. City Administrator Habada pointed out that the last clause in

the ordinance should read "Be It Further Ordained..." rather than "Be It Further Resolved..." Councilmember Leary moved adoption of the ordinance with the noted editorial change, duly seconded by Councilmember Douglas. The Mayor noted staff's report outlining the bid process and that the ordinance would award the contract to the low bidder. Mr. Douglas reminded that about \$3,000 had been set aside for contingencies in this project; he said he would ask that the money not be expended simply because it had been appropriated, but only if it were actually needed to cover unforeseen costs. The ordinance was adopted by roll call vote as follows: AYE: Councilmembers d'Eustachio, Douglas, Elrich, Leary, Martin and Sharp; NAY: None; ABSTAINED: None; ABSENT: Councilmember Hamilton.

ORDINANCE #1988-48  
(attached)

**10. Consent Agenda:**

Councilmember Douglas moved adoption, collectively, of those items on the Consent Agenda, duly seconded by Councilmember Elrich. The items were adopted, collectively, by roll call vote as follows: AYE: Councilmembers d'Eustachio, Douglas, Elrich, Hamilton, Leary, Martin and Sharp; NAY: None; ABSTAINED: None. They are as follows:

**(a). Resolution to Appoint Representatives to Prince George's FY15 CDBG Community Development Advisory Committee.**

RESOLUTION #1988-88  
(attached)

**(b). Resolution Appointing Members of Traffic and Transportation Planning and Policy Committee.**

RESOLUTION #1988-89  
(attached)

**(c). Single Reading Ordinance Authorizing Police Vehicle Purchase for Drug Taskforce (Additional Agenda Item).**

ORDINANCE #1988-49  
(attached)

Councilmember Sharp reminded that the point had been made earlier in the meeting that there was need for an overall review of the speed hump program and guidelines; he suggested inasmuch as members had now been formally appointed to the Traffic & Transportation Planning & Policy Committee that that matter be referred to the group for their examination and recommendation(s). The Mayor commented that Councilmember Leary, as Chair of the group, would be relied upon to refer the issue to the Traffic Committee for appropriate action. Councilmember Martin asked that they also be directed to address the subject of guidelines for stop signs.

**11. Discussion of Use of Temporary Driveway on Colby Avenue.**

Councilmember Sharp explained that while the item was one that should have been discussed in worksession, it had only come to his attention last week. He related that a new house was being built off of Colby Avenue; the indication initially was that access would be from Hayward Avenue, however, the owner had started to use Colby Avenue and had put up gravel for a driveway off of Colby which would either cross or be located just next to the pedestrian path there. He said there was need to address the issue of whether the City should permit the driveway on either a permanent or temporary basis, and why an individual would think they had authority to proceed with putting in a driveway without permission from the City. He said there was apparently some confusion, that the owner had some county permissions that he thought were all he needed, etc. Mr. Sharp said there was a need to discuss the issue fairly soon and proposed that at the November 1 meeting some time be set aside to do so. The Mayor noted that staff had sent a letter to Prince George's County pointing out that building permits were being issued by the county in that county's portion of the city without the City having issued driveway permits, and that problem would have to be resolved.

Mr. Garlow, owner of the property, affirmed that a meeting between himself and members of the community was scheduled the following night, but might be cancelled because he had spoken with a number of residents on the weekend and everyone with whom he had spoken had signed his petition to the Council asking support for his request that temporary and permanent access to his property be granted.

Richard O'Connor, Esq., representing property owner: said he had drafted a letter to Corporation Counsel and would provide the elected body with copies; he said the issue at hand was that Mr. Garlow had ceased and desisted, upon advice of counsel, from proceeding until coming before the City Council. He said they would wish to present a bifurcated proposal, i.e., granting of a temporary access to the property, with a proposal for permanent access to be presented at a later date, including a detailed engineering and site plan analysis. He said the reason for the urgency in the situation was that the house was presently in a configuration critical to finishing it, i.e., closing it in, prior to snow and other inclement winter weather which could damage the structure. In order to do that, temporary access for a crane and other machinery would be needed for an approximate four week period. He said there had been confusion about what the owner could and could not do, and that could willingly be discussed at a later time, if so desired. Mr. O'Connor said remedial action would be taken to protect the accessway, a bond could be posted, if necessary, and the City could be indemnified for any possible damages that could occur on the accessway.

The Mayor commented that he thought historically the Council had allowed for such temporary access; as an example, he cited Ms. Shoepach's property in Ward 2. Councilmember Sharp commented he would wish to review the matter further before making a decision, would also want to see what happened at the citizens' meeting scheduled the following evening, which he would be attending. He said he agreed there was some confusion at present and the meeting might be cancelled, but he would want to see what happened. Mr. O'Connor pointed out that 13 residents of Colby Avenue had signed Mr. Garlow's petition, which he submitted for the record.

Councilmember Douglas commented he would defer to Mr. Sharp concerning the granting of temporary access; however, regarding the permanent access, he said when an adjacent or nearby property was dealt with earlier in the year, it was agreed that the longterm solution would be paving of Hayward Avenue off of Sligo Avenue, with assessments to cover costs levied on adjoining property owners. He said if nothing had been done to accomplish that, he felt steps should be taken to do so. Mr. Sharp pointed out that would require drafting of legislation because it would be adding on of a tax. Councilmember Martin commented she would like to see detailed site plans of the property in question; Mr. O'Connor remarked he had copies with him for each member of the elected body if they wished to examine them. Mr. Sharp said he thought drafting of any legislation regarding paving Hayward Avenue would be premature, pointing out that the problem at hand was not that street, but Colby Avenue and whether the use of the driveway off of it would be temporary or permanent. He said he did not think the Council had been quite as definitive on the issue of paving Hayward as Mr. Douglas remembered, that that question needed to be examined in a larger context because there were probably other unpaved roads in the city having the identical problem that Hayward Avenue has and where the City was not looking at going out and taxing the property owners in order to put in a paved road. He said he felt that issue had to be approached on a systematic and consistent basis.

The Mayor noted that the consensus appeared to be that the issue of access to Mr. Garlow's property would be reconsidered at the meeting on November 1 in Special Session. Mr. Wilson noted that there were several contractual differences between the case at hand and a similar one dealt with at an earlier point in time, i.e., in the agreement with Mr. Garlow, the Director of Public Works would be given responsibility for accepting construction plans for the driveway and ensuring that they conformed to state, county, and local laws, and insurance would be provided which would cover a much larger potential liability than that covered by simply a liability deposit as was done in the earlier case.

It was noted that this item, as well as the matter regarding 7611 Maple Avenue, would be addressed in a Special Session to be convened on November 1.

**12. Resolution Declaring November 8, 1988 "Takoma Park Votes Day."**

The Mayor noted that copies of the draft resolution presented earlier by Ms. Beelar had been distributed to members of the elected body. He pointed out that current City policy was to provide employees two hours of leave during the workday in order to vote, and noted the child care problems that arise for those families wherein both parents work and the children are out of school due to closing of the schools for use as polling places. He said while he had considered the possibility of granting of a day of leave for employees with those problems to deal with, perhaps, alternatively, such employees could be allowed to use sick leave rather than annual leave at the discretion of the City Administrator.

Councilmember Leary commented he would support the resolution if items #3 and #4 were stricken from the resolve clause, with the Mayor's proposal inserted if that were desired. The Mayor remarked he understood Mr. Leary had a problem with the City offices being used by individuals, even in a non-partisan voter participation campaign; he asked if Mr. Leary would wish to elaborate on that. Mr. Leary said he felt the majority of people voted because they had a partisan reason to do so, not because they were exhorted to do their civic duty; in addition, he said he felt there were a number of practical problems, i.e., a part of the building would have to be cleared for the purpose, what sort of precedent would it set, what would the legal ramifications be of use of City facilities for such an effort, how could non-partisanship be ensured, why was a bank of phones needed to provide voter information and why did the calls all have to be made from the same location. He said he did not think Election Day was the time for such an effort, that most people would be at work; the most appropriate and successful time would be the weekend before the election.

Ms. Beelar said she had not planned that the phone bank activities would occur on Election Day; people would do that out of their homes during the week prior to the election. She said the reason the City Office was designated as a basic location was because that was where people called for information anyway, and what would be provided would be some extra help to answer the questions that do come in; it would provide a switchboard where information could be given about getting a ride to the polls, where daycare was being provided, etc. There might be some last-minute calling of people who had not been reached in the previous week to urge them to vote, but the major portion of that effort would be done in advance; what would be needed would just be a corner of space to work out of during the major portion of the day so that one phone number to call could be publicized. Mr. Leary commented he felt that City staff had probably been trained to deal with calls for information on Election Day, were accustomed to doing so. The Mayor pointed out that while the political parties offered assistance to voters needing a ride, people often hesitated to accept that help for fear of being subjected to partisan persuasion, and perhaps this group could provide that service on a non-partisan basis. Additionally, he said he understood from discussions with members of the group that they intended providing some sort of daycare for children as needed. Councilmember Hamilton commented he had reservations about making special provisions for employees with childcare problems, explaining that he and his wife had to make their own arrangements, with no special consideration, regarding the care of their children. He said he had trouble viewing an effort supported by the City Council as non-partisan; it appeared to him that the effort and its coordination should be the responsibility of the Precinct Chair.

Ms. Beelar explained that the reason she had initiated the effort was that she felt outreach to individuals was not occurring, a lot of people wanted to do something to improve the voting turnout but didn't know what they could do. She said she had felt that Takoma Park did a lot of things that were slightly unusual for City governments to undertake and had felt that by supporting this effort, the City government would be making a statement regarding its belief in Democracy, in people participating in the electoral process, which was the fundamen-

tal act within the Democratic system. She said it would make a statement about the anticipated malaise of the people in the upcoming election, would challenge residents to turn out and vote.

Councilmember d'Eustachio commented he supported the resolution generally but would suggest the striking of item #4. He said he did not view what the City Council does as being a partisan activity, noting that members of the body who were federal employees (and there were and have been some) were prohibited by the Hatch Act from participating in partisan political activities. He said he did not feel the resolution, if passed, need be in any way connected with any registered political party. Regarding the setting of a precedent, he said he did not feel there was anything wrong with a municipality encouraging people to vote, had no concern with using City offices to do so. He said he would propose putting a single volunteer in the City Office to answer as many phone calls concerning the election as they could on Election Day, and pointed out there were a number of phone jacks around the building where phones could be plugged in for use by volunteers. He said that would probably take some of the pressure off of City staff on that day and would be of assistance to them.

Responding to inquiry from Councilmember Elrich, Ms. Beelar explained that what was intended regarding the phone bank was to get as many lists of registered voters from the Precinct Chairs as were available and have volunteers call the people thereon and encourage them in a neighborly way to get out and vote and to offer assistance if needed. Mr. Elrich said he would feel comfortable with what Mr. d'Eustachio had suggested and, perhaps, volunteers using the City Office in a controlled way after 5 p.m. to call people who were then getting home from work.

Councilmember Sharp suggested that a vote be taken on the first two items of the resolution, with the other items handled administratively by Mr. Wilson. He said, however, he would not want to see the City's business interrupted or deferred. Councilmember d'Eustachio suggested rewording #3 to direct the City Administrator to work with the Takoma Park Votes Project to the extent feasible to make the City's office space and telephone facilities available. Councilmember Leary moved passage of the resolution, including items #1 and #2, with language inserted to the effect that the City Administrator was authorized to work out an arrangement that would make maximum use of the project's volunteers. Councilmember Sharp duly seconded the motion. Responding to inquiry from Councilmember Martin, Mr. Wilson affirmed that the City does pay for outgoing calls from the building, however, the charge for local calls was a very minimal amount. The Mayor pointed out that there would probably not be any significant number of outgoing calls made from the Municipal Building until evening hours. It was noted #4 was to be stricken from the resolution. Councilmember Douglas noted a need for strict non-partisanship on ballot questions as well as elective offices; the Mayor concurred, pointing out that volunteers should be advised not to wear any buttons or anything promoting any particular position on anything having to do with the election. Ms. Beelar provided a draft of an article on the effort for publication in the Newsletter, if possible. The resolution, as amended, was passed by unanimous vote.

RESOLUTION #1988-90  
(attached)

The Mayor noted there would be a press conference at the Municipal Building at 11:00 a.m. the following day sponsored by the Citizens in Support of the Gun Ban. He said a number of community groups would be in attendance, and the usual rental fee (\$12.00) for use of the facility would be paid by the group.

Upon motion, duly seconded, the meeting adjourned at 12:33 p.m. to reconvene in Regular Session at 8:00 p.m. on November 14, 1988.

PROCLAMATION

WHEREAS, The late Opal A. Daniels, a native resident of Takoma Park for forty-two years, was known throughout Takoma Park for her community involvement; AND

WHEREAS, she was a charter member of the Takoma Park Recreation Council for twenty-three years, a member of the Montgomery County Eastern Area Recreation Advisory Board for six years, a charter member of the House and Garden Tour Committee, and a scout leader for twenty-five years; AND

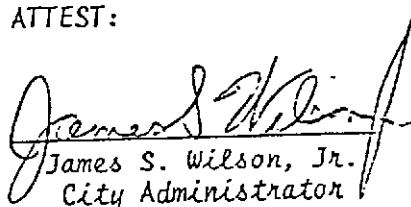
WHEREAS, the Maryland-National Capital Park and Planning Commission, Montgomery County, officially renamed the Sheridan-Hancock Park after Opal because of her dedication and untiring efforts in Parks and Recreation; AND

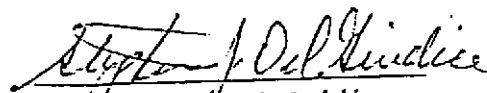
WHEREAS, on Saturday, November 5, 1988, at 11:00 A.M., the Maryland-National Capital Park and Planning Commission will be dedicating the recently renamed Opal A. Daniels Memorial Park at Sheridan and Hancock Avenues.

NOW, THEREFORE, BE IT PROCLAIMED THAT in memory of Opal A. Daniels, the Mayor and City Council of Takoma Park, Maryland, on behalf of its members and citizens, hereby proclaim November 5, 1988 as Opal A. Daniels Day in the City of Takoma Park.

Adopted this 24th day of October, 1988.

ATTEST:

  
James S. Wilson, Jr.  
City Administrator

  
Stephen J. Del Guidice  
Mayor





Introduced by:

1st Reading: 10/24/88  
2nd Reading:

ORDINANCE #1988-

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 (q) to Section 1, as set forth below:

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

(q) Holly Avenue, between Philadelphia and Grant Avenues there will be one speed hump installed next to 215 Hodges Lane.

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

ADOPTED BY THE CITY COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_,  
1988, BY ROLL CALL VOTE AS FOLLOWS:

AYE:  
NAY:  
ABSTAINED:  
ABSENT:

Introduced By: Mayor Del Giudice

ADOPTED: 24 October 1988

Resolution No. 1988-86

WHEREAS, Laurence and Andrea Gibbons have applied to Montgomery County for a zoning map amendment to re-classify from the R-60 to the R-20 zone part of Lots 7 and 8 in Block A of the Gilbert and Woods Subdivision, being 6839 Eastern Avenue, Takoma Park; AND

WHEREAS, this property is located in the City of Takoma Park and the application has therefore been referred to the City for review and comment; AND

WHEREAS, the Mayor and Council have taken into consideration public comments received on the subject application including staff reports and memoranda submitted by the applicants; AND

WHEREAS, the Mayor and Council find that a mistake was made in zoning the subject property R-60, in that the District Council adopted that zoning notwithstanding its apparent nonconforming use as multi-family property, and may have assumed the continuance of that nonconforming use; and that consideration of the then-existing condition and use of the property, and its proximity between commercial and other multi-family zoned property, should have resulted in a transitional zoning of that property to a multi-family zone;


NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT, the Mayor and Council hereby express support of the subject zoning map amendment application, and encourage the District Council for Montgomery County to APPROVE the subject application; AND

BE IT FURTHER RESOLVED THAT the City Administrator in consultation with the City Attorney execute a covenant with the owner providing such protections regarding density as sought by the City Council; AND

BE IT FURTHER RESOLVED THAT the City Administrator is hereby directed to send a copy of this Resolution to the appropriate Montgomery County authorities.

ADOPTED THIS 24th DAY OF OCTOBER, 1988.

ATTEST:

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

INTRODUCED BY: Councilmember d'Eustachio  
DRAFTED BY: D. Neal

ADOPTED: 10-24-88

RESOLUTION NO. 1988-87

A Resolution to oppose the granting of the transfer of a Class A Beer, Wine and Liquor License from Landover Liquors in Landover Mall to Hampshire Liquors at 6809 New Hampshire Avenue in Prince George's County.

WHEREAS, John J. McGraw, Laura J. Fields, and Patricia Minovitz have applied to the Prince George's County Board of License Commissioners for the transfer of a Class A Beer, Wine, and Liquor License (off-sale) to 6809 New Hampshire Avenue in Prince George's County; AND

WHEREAS, on the basis of testimony and information provided by City staff the Mayor and Council of Takoma Park find that said transfer is not necessary for the accommodation of the public, as required pursuant to Article 2B, Section 74(b) of the Annotated Code of Maryland;

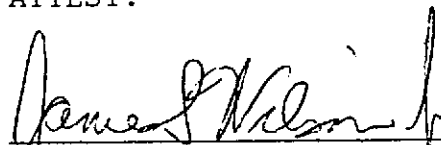
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT the City of Takoma Park hereby OPPOSES the approval of said transfer and urges the Prince George's County Board of License Commissioners to DENY said application for the license transfer.

BE IT FURTHER RESOLVED THAT the City Administrator is hereby directed to forward a time and correct copy of this Resolution to the Prince George's County Board of License Commissioners and to the Applicants.

ADOPTED THIS 24th DAY OF October, 1988.

AYE: Councilmembers d'Eustachio, Douglas, Elrich, Hamilton, Leary, Martin, and Sharp.

ATTEST:

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

Introduced By:  
Drafted By: L. Perlman  
Draft Date: 10/24/888

710  
First Reading: 10/24/88  
Second Reading:

ORDINANCE NO. 88-

(An Ordinance to amend the Tenant Opportunity to Purchase Law to Provide for a Longer Financing Contingency When the Sale of the Rental Dwelling is Being Made in Connection With a Condominium or Cooperative Conversion)

WHEREAS, the purpose of Chapter 6, Article 8, of the Code of the City of Takoma Park, the Tenant Opportunity to Purchase law, is to provide maximum opportunities for tenants to become homeowners; and

WHEREAS, the intent of the law is to allow a tenant association to exercise its opportunity to purchase in connection with a conversion of the rental dwelling to condominium or cooperative status on an equal basis with other types of home ownership.

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

SECTION 1. Chapter 6, Article 8, Section 6-88 of the Code of the City of Takoma Park is hereby amended as follows:

Sec. 6-88. Good faith bargaining.

(a) The tenant and owner shall bargain in good faith for the sale of the rental dwelling. The following constitutes prima facie evidence of bargaining without good faith:

(1) (no change).

(2) The failure of an owner to accept an offer from a tenant or tenants which substantially conforms to the price and material terms [of a third party contract] offered to or accepted from a third party purchaser, except for the period by which the parties must settle, within the time periods specified in Section 6-93, 6-94, 6-95 and 6-96, respectively, and other requirements of this Article without good cause for so doing;

(3) (no change).

SECTION 2. Chapter 6, Article 8 of the Code of the City of Takoma Park is hereby amended by adding a new Section 6-88.10, as follows:

Sec. 6-88.10. Sales for the purpose of condominium or cooperative conversion.

(a) All sales of rental dwellings with five or more dwelling units shall be deemed to be sales for the purpose of creation of a condominium regime or for purpose of cooperative conversion unless:

(1) The owner notifies the Director of Takoma Park Department of Housing Services in writing at the time the owner makes the valid offer of sale under Section 6-86 of this Article that the sale of the rental dwelling is not for the purpose of condominium or cooperative conversion; and

(2) The tenant association notifies the Director of the Takoma Park Department of Housing Services in writing within the time period specified in Sections 6-95 or 6-96 for the tenant association to negotiate a contract of sale with the owner that the proposed purchase of the rental dwelling is not for the purpose of condominium or cooperative conversion.

(b) When the sale of the rental dwelling is for the purpose of condominium or cooperative conversion, the contract of sale between the owner and the tenant association shall contain a contingency allowing the tenant association 180 days to secure financing for the purchase, provided that the tenant association shall use its best efforts to secure financing as soon as possible.

(c) The owner and the tenant association may agree to extend the time for securing financing or settlement without liability to any third party purchaser contract.

SECTION 3. Chapter 6, Article 8, Section 6-97, Time Periods, Subsection (b) of the Code of the City of Takoma Park is hereby amended as follows:

Sec. 6-97. Time periods.

[(a)] (no change).

(b) If a sale of a rental dwelling covered by this Article is made or contemplated in connection with the conversion of the dwelling to condominiums or cooperatives, or with a conversion of a rental facility as defined in Sec. 53A-2 of the Montgomery County Code, the time limits for offering the dwelling to tenants under this Article shall apply before the owner is required to offer the applicable county and/or its designated housing agency the right to purchase the rental dwelling under the terms of the [and all other provisions in] applicable state and county law dealing with condominiums and cooperative housing [are to be followed

insofar as they conflict with this Article.]

SECTION 4. This Ordinance shall be effective upon enactment.

NOTE: Underlining indicates additions to current Code language and brackets [] indicate deletions to Code language.

Section 2 adds a new Code section which has been designated as Sec. 5-88.10.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 1988 by roll call vote as follows:

AYE:  
NAY:  
ABSTAIN:  
ABSENT:

(Dated 10/19/88)

1st Reading: 10/11/88

2nd Reading: 10/24/88

Upon motion by Douglas, duly seconded by Sharp, the following Ordinance was introduced.

ORDINANCE #1988-47(a)  
FY 89 BUDGET AMENDMENT NO. 1

AN ORDINANCE TO AMEND THE FISCAL YEAR 1989 BUDGET

SECTION 1. BE IT ORDAINED and enacted by the City Council of Takoma Park, Maryland that Section 3 of Ordinance 1988-21 be amended as follows:

TECHNICAL AMENDMENT

THAT a Special Revenue Fund is authorized for receipt of and expenditure of Federal or State funded projects with Revenues of [SIX HUNDRED NINETY SIX TWO HUNDRED SEVENTY SEVEN DOLLARS (\$696,277)] SEVEN HUNDRED FOUR THOUSAND FOUR HUNDRED SIXTY NINE DOLLARS (\$704,469) inclusive of a General Fund Transfer of [ONE HUNDRED THIRTY THREE THOUSAND FIVE HUNDRED SEVENTY SEVEN DOLLARS (133,576)] ONE HUNDRED FORTY ONE THOUSAND SEVEN HUNDRED SIXTY EIGHT DOLLARS (\$141,768) and an Expenditure appropriation of [SIX HUNDRED NINETY SIX THOUSAND TWO HUNDRED SEVENTY SEVEN DOLLARS (\$696,277)] SEVEN HUNDRED FOUR THOUSAND FOUR HUNDRED SIXTY NINE DOLLARS (\$704,469); AND

SECTION 2. BE IT FURTHER ORDAINED and enacted by the City Council of Takoma Park, Maryland that the Fiscal Year 1989 Budget be further amended as follows:

REVENUE AMENDMENTS

- a. Appropriate \$14,000 from Capital Reserve for street light installation.
- b. Appropriate \$10,600 from surplus funds for Finance computer purchase.
- c. Appropriate \$12,500 from surplus funds for utility payments to the Takoma Park Volunteer Fire Department.
- d. Appropriate \$33,119 from Capital Reserve for various park improvement projects.

- e. Appropriate \$11,400 to Loan Receipts, Account 476 to account for additional lease finance funds for purchase of Finance computer system.
- f. Appropriate \$10,000 from Capital Reserve for Municipal Gym improvements.
- g. Appropriate an additional \$9,000 to Donations, Account 455, to provide for receipt of donations for purchase of recycling containers.

EXPENDITURE AMENDMENTS

- a. Appropriate \$12,500 to Account 837, Electricity, for payment to Takoma Park Volunteer Fire Department.
- b. Appropriate \$14,000 to Account 995, Capital Expenditures, for street light installation.
- c. Transfer \$31,137 from Account 980, Fire Service, to the following accounts:
  - (1) \$6,500 to Account 995, Capital Expenditures, for the purchase of a police vehicle for personnel participating in the Montgomery County Drug Taskforce.
  - [[ (2) \$13,000 to Account 600, Police salaries, for police personnel participating in the Montgomery County Drug Taskforce. ]]
  - (2) [[ (3) ]] \$3,000 to Account 601, Police overtime, for overtime pay of police personnel participating in the Montgomery County Drug Taskforce.
  - (3) [[ (4) ]] \$8,637 to Account 800, Public Works Office Salaries, to provide increased funding for Director's salary and for Merit pay for the Assistant Director as previously approved by Ordinance No. 1988-32.
- d. Transfer \$14,412 from Account 999, Merit Pay/Senior Staff to the following accounts:
  - (1) \$3,450 to Account 510, Government Administration Salaries



- (2) \$4,398 to Account 700, Housing Services Salaries
- (3) \$3,151 to Account 900, Recreation Department salaries
- (4) \$3,413 to Account 930, Library salaries
- e. Transfer \$7,901 from Account 996, COLA/Merit Pay budget line item to Account 600, Police Department salaries to provide for increases for Senior staff as previously approved by Ordinance 1988-32.
- f. Appropriate \$22,000 to the following accounts:
  - (1) \$8,400 to [[Account 992, Training]] Account 553, Accounting Automation, for training costs associated with installation of the Accounting computer system.
  - (2) \$2,200 to Account 549, Accounting Office Maint./Office Machines, for hardware and software maintenance costs associated with the Accounting computer system
  - (3) \$11,400 to Account 995, Capital Expenditures, for the purchase of the Accounting computer system
- g. Appropriate \$33,119 to General Fund Transfer, Account 1000 for park improvement projects.
- h. Appropriate \$10,000 to Capital Expenditures, Account 995 for Municipal Gym improvements.
- i. Appropriate \$9,000 to Capital Expenditures, Account 995, for the purchase of recycling containers.
- j. Transfer \$2,450 from General Contingency, Account 991, to Capital Expenditures, Account 995, for the purchase of recycling containers.

CAPITAL BUDGET

- a. Add street light installation on Grant Avenue and Piney Branch Road as authorized Capital Budget items at a cost not to exceed \$14,000.
- b. Authorize an additional \$22,000 for the purchase

- c. Authorize an additional \$10,000 for Municipal Gym improvements (painting).
- d. Add recycling containers purchase as an authorized Capital Budget item at a cost not to exceed \$11,450.

SPECIAL REVENUE BUDGET

REVENUE AMENDMENTS

- a. Increase General Fund Transfer, Account 3003.000 by \$33,119 for various park improvements.
- b. Increase Federal Funds CDBG Year 13, Contract #85290AA, Account 3000.170 by \$598.
- c. Increase Program Open Space, Park Development, Account 3001.250 by \$211,289 in recognition of approved Program Open Space grants as follows:
  - (1) \$79,125 for Sister City Park development
  - (2) \$ 9,925 for Colby Totlot development
  - (3) \$23,307 for Jequie Park development
  - (4) \$98,932 for Spring Park development

EXPENDITURE AMENDMENTS

- a. A budget line item 3500.710, Sister City Park, is created with an appropriation of \$79,125.
- b. Increase appropriation for Colby Totlot, Account 3500.706, by \$14,357.
- c. Appropriate \$126,201 for Spring Park, Account 3500.701.
- d. Increase appropriation for Jequie Park, Account 3500.705 by \$25,323.

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

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

AYE: d'Eustachio, Douglas, Elrich, Hamilton, Leary, Martin, Sharp  
NAY: None  
ABSTAIN: None  
ABSENT: None

(Draft dated 10/20/88)

1st Reading: 10/24/88

2nd Reading:

Effective :

Introduced by:

ORDINANCE #1988-  
SHORT TITLE: SICK LEAVE REQUIREMENTS

WHEREAS, the Mayor and Council desire to bring sick leave requirements for employees of the Takoma Park City government into conformance with the Collective Bargaining Agreement and employment practices; AND

WHEREAS, in order to do so, an ordinance to amend the current sick leave requirements is needed for the purposes of:

- (a) authorizing the use of sick leave for illnesses of certain members of an employee's family without regard to whether those persons are members of the employee's household; and
- (b) requiring, for medical appointments or scheduled medical procedures, certain notification to appointing authorities before the use of sick leave.

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

SECTION 1. THAT Section 8B-134 of the City Code is hereby repealed and reenacted with the following amendments:

Sec. 8B-134. Sick Leave.

- (a) Remains as is.
- (b) Remains as is.
- (c) Remains as is.

[[ (d) An employee absent on account of illness or injury is required to notify his or her immediate supervisor by 10:00 a.m. on the day of the illness. Sick leave shall begin on the day notification is given and terminate upon the employee's return to duty. ]]

[[ (e) Should an employee utilize more than four (4) days' sick leave, he or she may be required to submit to the department head a physician's certificate verifying the illness or injury. ]]

(d) Granting of Sick Leave

Subject to the provisions of subsection (i) below, an employee shall be entitled to use earned sick leave for any one (1) of the following reasons:

(1) illness or injury of an employee;

(2) employee medical appointments;

(3) illness of a member of the employee's immediate family, or illness of a member of the employee's family outside of the employee's household; provided that the term "family" as used in this subparagraph shall be defined as in paragraph (i) below;

(i) The term "family" shall include: an employee's mother, father, domestic partner, spouse, children, siblings or those dependents who reside with the employee.

(e) Approval of Sick Leave

(1) An employee absent on account of illness or injury is required to notify his or her immediate supervisor by 10:00 a.m. on the day of the illness. Sick leave shall begin on the day notification is given and terminate upon the employee's return to duty.

(2) A supervisor or department head shall examine each request for sick leave made by an employee and determine if the granting of sick leave is justified based on the provisions of subsection (d) above.

(3) Should an employee utilize more than four (4) days' sick leave, he or she may be required to submit to the department head a physician's certificate verifying the illness or injury.

(4) In the event of any medical appointment or medical procedure scheduled at least forty-eight (48) hours in advance, the employee shall notify his/her supervisor at least twenty-four (24) hours in advance.

(f) Remains as is.

(g) Remains as is.

[[h) Sick leave may be taken only when an employee is sick or injured.]]

[[i)]] (h) In no case will payment be received by an employee for unused sick leave upon separation from city employment.

[[j)]] (i) After ninety (90) days of continuous employment, an employee may utilize the aggregate amount of sick leave which would accrue to him during the calendar year in which the leave is taken. Any leave taken in excess of that which would have accrued by the end of any calendar year will be considered leave without pay.

SECTION 2. THAT this ordinance is effective retroactive to September 1, 1987.

NOTE: In this ordinance [[double brackets]] indicate that existing language is being deleted from the Code. Underlining indicates new language being added to the Code.

ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1988 BY ROLL CALL VOTE AS FOLLOWS:

- AYE:
- NAY:
- ABSTAINED:
- ABSENT:

Introduced By: Councilmember Leary

First Reading: 24 October 1988  
(Budgeted Item: Only  
one reading  
required.)

ORDINANCE NO. 1988-48

AN ORDINANCE AUTHORIZING THE AWARD OF A CONTRACT FOR THE  
IMPROVEMENT OF JEQUIE PARK.

WHEREAS, the City's FY 1988-89 Adopted Budget as amended,  
authorizes the expenditure of up to \$25,323.00 for the  
improvement of Jequie Park, as specified in the  
applicable plans and contract documents; AND

WHEREAS, bids for said improvements were solicited from  
qualified contractors and by advertising in the Blue  
Report and the Dodge Report; AND

WHEREAS, all bids received in connection with these improvements  
were opened publicly at 4:00 p.m. on 19 October 1988  
in the Takoma Park Municipal Building; AND

WHEREAS, five (5) bids were received for the landscaping  
improvements to the park, with McDonnell Landscape  
Maintenance, Inc. of Bethesda, Maryland having  
submitted the lowest responsive and responsible bid of  
SIXTEEN THOUSAND SEVEN HUNDRED NINETY SEVEN DOLLARS  
(\$16,797.00); AND

WHEREAS, it is in the best interests of the City of Takoma Park  
to accept this bid,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE  
CITY OF TAKOMA PARK, MARYLAND, THAT the bid of  
McDonnell Landscape Maintenance, Inc. for the said  
improvements specified in the applicable plans and  
contract documents is hereby accepted and a contract  
award made to said firm in the amount of SIXTEEN  
THOUSAND SEVEN HUNDRED NINETY SEVEN DOLLARS  
(\$16,797.00).

BE IT FURTHER ORDAINED THAT the City Administrator is hereby  
authorized to execute any and all appropriate contract  
documents necessary to effect this award and to pay  
expenses related thereto from appropriate accounts.

ADOPTED THIS 24th DAY OF OCTOBER, 1988, BY ROLL CALL VOTE AS  
FOLLOWS:

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

NAY: None

ABSTAINED: None

ABSENT: None

lss:park disk  
jequiepk.ord

Consent Agenda  
Item # 10

Introduced By: Mayor Del Giudice  
Drafted By: V. VinCola

Adopted: October 24, 1988

Resolution No. 1988- 88

A Resolution appointing nominees to the Community Development Block Grant (CDBG) Advisory Committee of Prince George's County for CDBG Program Year 15.

WHEREAS, Prince George's County is forming a Community Development Advisory Committee (CDAC) to advise the county on how best to spend funds received from the federal Community Development Block Grant (CDBG) Program during program year 15; AND

WHEREAS, the City of Takoma Park participates in the Prince George's County CDBG program and has an interest in how these federal funds are spent in the county; AND

WHEREAS, the county has customarily appointed representatives of the City of Takoma Park nominated by the Takoma Park Mayor and Council to serve on the county's CDAC;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF TAKOMA PARK, MARYLAND, THAT the following individuals are hereby nominated to serve on the Community Development Advisory Committee for Prince George's County:

Councilmember Paul d'Eustachio (Primary Representative)  
6611 Alleheny Avenue  
Takoma Park, Maryland 20912

Valerie VinCola (Alternate Representative)  
Community Development Coordinator  
7500 Maple Avenue  
Takoma Park, Maryland 20912

BE IT FURTHER RESOLVED THAT copies of this resolution be transmitted to the County Executive of Prince George's County with a request that these nominees be appointed to the county's CDAC.

ADOPTED THIS 24th DAY OF October, 1988.



Introduced By: Mayor Del Giudice

Adopted: October 24, 1988

Resolution No. 1988-89

A resolution to appoint the members of the Traffic and Transportation Planning and Policy Committee in accordance with Resolution 1988-72.

WHEREAS, Resolution 1988-72, adopted September 12, 1988, established a Traffic and Transportation Planning and Policy Committee as a standing committee of the Council of the City of Takoma Park; and

WHEREAS, the composition and method of appointment of members, rules of operation, and duties of the Committee are detailed in that Resolution; and

WHEREAS, Resolution 1988-72 directed that seven citizen representatives be appointed to the Committee by the Mayor with the approval of the Council, and that the Chair of the Committee shall be designated by the Mayor at the time of appointment; and

WHEREAS, the names of primary and alternate nominees have been submitted and received; and the Mayor has reviewed the nominees and made appointments; and

WHEREAS, preference has been given to citizens meeting one or more of the following criteria:

- a) the citizen has been nominated by his or her citizen association;
- b) the citizen lives in an area heavily affected by traffic;
- c) the citizen has particular expertise in the fields of traffic and/or transportation; and

WHEREAS, to the maximum extent practical, these representatives have been appointed from different wards of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT the following citizens are hereby appointed to the Traffic and Transportation Planning and Policy Committee:

[Note: (P) indicates primary representative; (A) indicates alternate]

NAME	ADDRESS
Tim Smith (Chair)	7016 Sycamore Avenue
George Leventhal (P)	676 Houston Ave., #106
Clovia Cox (A)	509 Ethan Allen Avenue
Bruce Phillips (P)	Healey Surgeons 7211 Carroll Avenue (work) 35 Columbia Avenue (home)
Inan Phillips (A)	Healey Surgeons 7211 Carroll Avenue (work) 35 Columbia Avenue (home)
Stephen Quick (P)	7112 Maple Avenue
Jeanne Dooley (A)	7321 Willow Avenue
Tina Hudak (P)	101 Grant Avenue
Karen Davis (A)	7331 Carroll Avenue
Johanna Potts (P)	1016 Heather Avenue
Adele Abrams (A)	311 Elm Avenue
Melvin Schools, Jr. (P)	Columbia Union College 7600 Maple Avenue (work) 12 Grant Avenue, #203 (home)
James Jeffas (A)	7600 Hammond Avenue

BE IT FURTHER RESOLVED THAT all terms shall expire on the next municipal election day.

BE IT FURTHER RESOLVED THAT Resolution 1988-72 is hereby amended to permit appointment of alternates to the Committee.

ADOPTED THIS 24th DAY OF OCTOBER, 1988.

lss #1,trafres2

Adopted: 10/24/88  
(Single Reading Ordinance)

Introduced by: Mayor Del Giudice

ORDINANCE NO. 1988-49

BE IT ORDAINED by the Mayor and Council of the City of Takoma Park, Maryland:

- Section 1. THAT the police department has entered into an agreement with Montgomery County Police for a Municipal Drug Task Force; AND
- Section 2. THAT a surveillance vehicle is needed to carry out the drug enforcement mission of the Department; AND
- Section 3. THAT the City Council passed a Resolution (1988-65) authorizing \$6,500 for the purchase of a surveillance vehicle; AND
- Section 4. THAT a used vehicle has been located which is in good condition and suitable for police surveillance needs; AND
- Section 5. THAT funds in the amount of Six Thousand One Hundred and Ninety-Five Dollars (\$6,195.00) to cover purchase of the vehicle be appropriated from line item 995 of the Capital Budget.

ADOPTED BY THE MAYOR AND COUNCIL OF TAKOMA PARK, MD. THIS  
24th day of October, 1988.

AYE:  
NAY:  
ABSENT:  
ABSTAINED:

Introduced By: Mayor Del Giudice

RESOLUTION #1988-90

RESOLUTION TO DECLARE NOVEMBER 8, 1988 AS  
"TAKOMA PARK VOTES! DAY"

WHEREAS, voter participation in national election is projected to be the lowest in U.S. History;

WHEREAS, citizen participation in the electoral process is a fundamental responsibility of a democratic system of government;

WHEREAS, Takoma Park prides itself in its high level of citizen involvement;

BE IT THEREFORE RESOLVED THAT THE CITY OF TAKOMA PARK:

- 1) Declares November 8, 1988 as "Takoma Park Votes Day"; AND
- 2) Supports the non-partisan "Takoma Park Votes Project" in its effort to mobilize voter participation in the general election in our City.

Dated this 24th day of October, 1988