

CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and Council
March 13, 1989

CITY OFFICIALS PRESENT:

Mayor Del Giudice	Asst. City Administrator Habada
Councilmember d'Eustachio	Deputy City Clerk Jewell
Councilmember Douglas	Cable Coordinator Smith
Councilmember Elrich	Ec. & Community Dev. Director Neal
Councilmember Hamilton	Public Works Director Giancola
Councilmember Leary	
Councilmember Martin	
Councilmember Sharp	

The Mayor and City Council convened at 8:05 P.M. on Monday, March 13, 1989 in the Council Chamber at 7500 Maple Avenue, Takoma Park, Maryland. The Mayor noted that Councilmember Hamilton would be late in arriving as he was attending a drug forum convened by members of the religious community in Montgomery County. Following the pledge, the Mayor noted that Clara Mills, a very longtime resident of the city, had recently passed away at the age of 104; a moment of silence was observed in commemoration of Ms. Mills.

The Minutes of the February 13 and 27 Meetings were moved for approval, as written and collectively, by Councilmember d'Eustachio, duly seconded by Councilmember Douglas. The Mayor noted that at the 2/27/89 meeting, he had mentioned CASA de Maryland's annual potluck supper to celebrate their founding; he said the recent dinner was in honor of their 4th anniversary, rather than the 3rd as originally thought. The 2/13/89 and 2/27/89 Minutes were approved by unanimous vote. Mayor Del Giudice commented that CASA's anniversary dinner was a very enjoyable event and extended congratulations on both the success of the event and the beneficial work the organization is doing in the community.

The Mayor related having recently attended a meeting, along with Bob Alpern, Hank Prensky, and Greg Hamilton, held in connection with the National League of Cities Conference in D.C. He explained that those conference attendees who represented communities in the country that are Nuclear Free Zones also attended the subject meeting which addressed the ongoing effort to create a National Association of Nuclear Free Zones. He said the meeting was productive and successful, it was hoped such an organization would be created, and that a first meeting of the group would be held at the next National Conference of the National League of Cities, scheduled to be held in Atlanta, Georgia, in October. He commented it was hoped the organization would move forward in cooperation with the Nuclear Free America group. He said materials gathered at the meeting would be disseminated to the Council at a later date, and commented that he and others in the city's Nuclear Free Committee would be drafting material that would assist in the creation of the national organization.

The Mayor noted that a Rally for Children would be held on March 16 at the Capitol, sponsored by numerous groups and as a part of a 100-day campaign, for the purpose of bringing to the attention of the present administration the needs of children in our society, such as child-care, and particularly the needs of homeless children.

ITEMS FOR COUNCIL ACTION:

1. Single Reading Ordinance Awarding Contract for Processing of Collected Recyclables.

Councilmember Douglas moved adoption of the ordinance, duly seconded by Councilmember d'Eustachio. Public Works Director Giancola spoke briefly concerning the ordinance, explaining that while the bid was advertised in the Washington Post, there were 6 bidders on the list and they were personally contacted, only one bid was received. He said that bid was within the estimate and recommended adoption of the ordinance. The ordinance was adopted by roll call vote as follows: AYE: Councilmembers d'Eustachio, Douglas, Leary and Martin; NAY: None;

ABSENT: Councilmembers Elrich, Hamilton and Sharp.

ORDINANCE #1989-10
(attached)

2. Resolution Expressing City's Position re Application for Transfer of Location of a Class A, Beer & Wine License to Sunny Market, Inc., 7525 New Hampshire Avenue.

Councilmember Martin moved passage of the resolution expressing support for the subject application, duly seconded by Councilmember Leary. Ms. Martin related that she had spoken with a number of constituents who had no problem with the proposal, including Tom Guins, President of Hampshire Gardens Citizens' Association, who she said lived directly across from the location in question. She enumerated a number of others with whom she had spoken and who had raised no objections. It was noted that the applicant was present at the meeting. The resolution was passed by unanimous vote of those present, with the Mayor noting that the City's position of support would be transmitted to the appropriate county authorities.

RESOLUTION #1989-26
(attached)

3. Resolution of Council Position on Liquor License for 6-12 Convenience Store at 8120 Piney Branch Road.

Economic & Community Development Director Neal explained that he had spoken with Councilmembers Elrich and Hamilton following the prior week's worksession discussion of the application and the consensus was that, considering the surrounding neighborhood and other existing licenses in the area, the City should oppose granting of the license, and a resolution had been drafted so stating. He pointed out that under the law, the county was obliged not only to ascertain that the applicant met necessary residency requirements but also that there was a demonstrated need for granting of the license in order to meet the public need and/or demand. He said that latter requirement did not appear to be met, considering other existing licenses in the immediate vicinity.

Councilmember d'Eustachio pointed out that several of the establishments cited in the resolution were restaurants and a distinction would have to be made between on and off premise sales; staff did not have information that would confirm whether sales at those establishments would be for on-premise consumption only. Councilmember Leary remarked that would be an important point, that if the establishments cited in the resolution sold alcohol for on-premise consumption only, then they would be irrelevant in considering an application for off-premise sales.

Ardis Mardirossian, Owner of 6-12 Store: said while he owned the store, he had nothing to do with the liquor license and the owner of that part of the business would address the elected body and respond to any questions. He said Takoma Park held a special place in his heart; when he came to this country in the 1960's, he went to Montgomery College to learn English and lived in the city. He spoke concerning the history of 6-12 stores, explaining that they are a franchise operation and that only people living in a community are allowed to buy a franchise in that community and the owner is required to work 70% of the time himself in the store in order to retain the franchise. He said the stores were very community-oriented, did not allow game machines or any sort of pornographic magazines or material. He said 6-12 required their stores not only to adhere to local laws, but to their own regulations which required that anyone under age 30 wishing to buy beer or wine had to show identification to do so -- anyone found to be not complying with that would lose their franchise. He said the restaurants cited in the resolution held Class B licenses for on-premise sale and consumption. Responding to inquiry from Councilmember Martin, he said beer and wine probably amounted to 20% of the sales in the 6-12 stores, and none of the profit from those sales went to the 6-12 franchise owner. He said the beer and wine stock was not allowed to occupy any more than 20% of the store premises. Responding to query from the Mayor, Mr. Mardirossian said the grocery store in the area had a Class A license, which permitted sale of alcohol for off-premises consumption.

Mark Starner, 11961 Andrew St., Wheaton, Liquor License Applicant: said he had resided in Montgomery County for 24 years, grew up and went through school in the county, his father had been a county police officer for 18 years and now worked part-time with him. He pointed out that while the other establishments in the area had very limited parking facilities, the 6-12 would have a total of 20 parking spaces including 2 handicapped spaces, which would better accommodate the public, particularly those who were driving. Responding to query from Councilmember Leary, he said the 6-12 store had been open for a month; denial of a license would affect sales by about 20% as outlined earlier. He pointed out that the store also carried a full line of hot foods, a bakery, and groceries.

Lynne Bradley, 8112 Flower Avenue, former Councilmember: referred to a proposal 5-6 years ago for development of the property in question by a fast food chain; she said, at that time, the Council voted against the proposition, and said she even had some questions personally about the 6-12 store going in at that location. She referred to the dangerous and congested traffic situation at the location and said she would personally support the Council opposing the application, particularly at the present time. She said she thought it should be observed how the traffic flowed in and out of the location, and, if it were found that the hazard was not too great for traffic as well as pedestrians, then perhaps granting of a license could be supported at some later point in time -- particularly if improved methods of controlling traffic in that area were implemented. She commented she had understood that the county had slated that area for economic redevelopment and said perhaps they would do traffic studies if or when that project was undertaken. Responding to query from Councilmember d'Eustachio, Ms. Bradley confirmed that her primary concern about granting of the license was the traffic situation at the location, and that granting of it would apparently generate 20% more traffic in and out of the locale.

Joseph Capadona, Director of Food Service Operations for 6-12 Stores: noted that he resides on Glenside Drive in the city and had lived there for 9 years. He pointed out that the additional 20% in sales generated by the liquor license included people who stopped there to shop anyway for grocery items and would also pick up beer or wine because it was available and convenient for them to do so -- thus, the additional percentage in sales would not necessarily equate with a similar level of increase in traffic. He said he had been at the store at all different times of day and night and had not observed any problems with traffic either entering or exiting the parking lot. He said he felt the 6-12 store to be an asset to the community, as was the building across the street which had been newly renovated and much improved in appearance. Responding to inquiry from Councilmember Douglas, Mr. Capadona said that while the liquor license, if granted, would likely generate an increase in new customers, the primary increase in sales would come from people who shop at the store already.

Mr. Mardirossian explained that a market analysis and traffic study had already been done; he said the traffic study indicated that the 6-12 store's parking lot would actually improve traffic conditions at the location because people who were presently leaving their cars on Piney Branch Road and obstructing the flow of traffic in order to pick up beer or wine at the small grocery store would park at the 6-12 where there was adequate parking provided and pick up what they wanted there.

Mr. Neal pointed out staff had made no recommendation on the issue to the elected body; he said no full or in-depth study had been done on the matter. The Mayor noted that the property was not located within city boundaries, though it was very close by. Councilmember Elrich moved passage of the draft resolution which had been prepared and which would express a position of opposition to granting of the license; the motion failed for lack of a second. Councilmember Douglas moved that the City take no position on the application, duly seconded by Councilmember Sharp. Councilmember Elrich commented that if, indeed, the restaurants in that vicinity did not have licenses permitting alcoholic beverage sales for off-premises consumption, the county should be taking some enforcement action because he had personally

observed people leaving some of the establishments with beer; in addition, he said from what he had observed, he did not think convenience stores generally did a good job of enforcing laws in connection with a liquor license and did not think it would end up being an asset to the neighborhood. The Mayor remarked that, in connection with some of Ms. Bradley's comments, he had a concern about people trying to cross Piney Branch Road at that location based on an individual he knew being killed trying to do so at night a few years ago. In the course of continuing brief commentary, Councilmember d'Eustachio noted that while he did not generally favor the proliferation of liquor licenses, particularly in Takoma Park, and while he empathized with a number of the concerns voiced, there was not a valid basis for opposing such a license at the location in question. He noted Mr. Mardirossian's good reputation and that of his businesses in the county. The motion to convey a position of no position on the issue to the county was passed with Councilmember Elrich voting Nay, balance of those present voting Aye.

4. Resolution Stating City's Position Regarding Prince George's County Variance Request No. 373 (Sunoco Station at East-West Highway and New Hampshire Avenue.

The Mayor noted staff had provided the elected body with a report on the matter at the previous week's worksession; he said the draft resolution at hand incorporated staff's recommendation to approve the Variance with certain conditions attached. Councilmember d'Eustachio moved passage of the resolution; the motion failed for lack of a second. Councilmember Sharp moved passage of the resolution with an amendment which would eliminate the first stated condition, i.e., that the entrance to the property from East-West Highway be eliminated; Councilmember Martin duly seconded the motion. Mr. Neal, responding to inquiry from Mr. Sharp, said that the property owners would not necessarily be required to remove the entrance, however, the Board of Appeals would have the discretion to require it be done. He explained that were the existing station to be built today, the entrance from East-West Highway would not be allowed to be built. He said that State Highway Administration was making a recommendation to the Board that they require the entrance to be eliminated, and Park & Planning staff was making the same recommendation.

The Mayor noted that granting of the Variance would allow for creation of a convenience store at the location. Mr. Neal explained that staff had reviewed various aspects of the site plan vis-a-vis current Code requirements, taking into consideration also other urban design and function concepts and issues existing at that intersection, and what the site plan revision would allow was either another in-depth review of the site plan by the Board, as well as the City Council, or those items deemed necessary. He said staff had examined numerous aspects of the situation, including traffic patterns, aesthetics, how pedestrians would be affected, existing conditions and their degree of compliance with the previously-approved site plan and variances.

Mr. Neal pointed out there was a strong economic motive for Sun Oil to reconvert the property from a service station to a convenience mart which also sold gasoline, and they would be in a position to make changes inasmuch as they would be spending a great deal of money on the property to retrofit it. He said they planned to use the existing building, but renovate the exterior -- its appearance would be typical of such convenience stores, with a mansard and brick facing. He said the landscaping proposed in the submitted site plan was sub-Code -- it was shown as a 5' planting strip, however, the County Code required a 10' strip. He said the applicant had stated that space constraints prevented their providing additional greenspace strip and he had to concur with their argument on that point, however, noted staff had recommended construction of a low brick wall behind the 5' landscaping strip. In addition, he pointed out it was recommended that a substantial amount of the asphalt area at the tip of the property be reclaimed so that better landscaping could be provided, and said if the site plan revision were approved, details of that could be worked out at a later point. In summarizing other conditions staff had set forth in the resolution and in connection with the recommendation of elimination of certain specified entrances onto the property, he said while staff had reviewed accident rate statistics for the intersection and they were pretty bad, given the lack of detail concerning cause of

accident, etc., no specific number of accidents could be attributed to the existence of entrances from the roadway onto the property. To his recall, he said he thought there had been 15-20 accidents at the intersection within the last 2-year period. In addition to those things outlined in the resolution, Mr. Neal said there were a number of repairs recommended, e.g., repaving, fixing up retaining walls, rehabbing the building, putting in new gas pumps and a new canopy, etc. He said Sun Oil's investment in the property would probably amount to \$500,000-\$600,000 total in improvements.

Responding to query from Councilmember Douglas, Councilmember Sharp explained that his rationale for favoring retention of the entrance from East-West Highway onto the property was that, in his experience, he had not found it to present as serious a danger as had been described when exiting onto the roadway, and, were it eliminated, then other traffic problems and hazards would be presented which could be just as bad.

Councilmember Martin commented she concurred with Mr. Sharp, remarking she felt more accidents could be generated and more hazards presented by elimination of the entrance from E-W Highway than by leaving it status quo. In addition, she said she had a concern about the nearby bus stop, which she explained was a transfer point for several lines, and people often had to wait for extended periods, in all kinds of weather, practically right on the street. She said she would like to see provision made, in connection with the landscaping, for a concrete pad where a bench and/or a shelter could be installed and which was off the sidewalk and off the curb. Ms. Martin moved to include a condition containing language stating provided also that the applicant agree to provide a concrete pad of sufficient dimensions for the purpose of installing a bus bench or shelter for the bus stop at a location to be determined by the Metro Bus, the City of Takoma Park, and the applicant. Councilmember Sharp duly seconded the motion. Mr. Neal confirmed that staff was of the opinion that the applicant could be required to provide and pay for the described concrete pad; he said it was a negotiable item, he felt it was a good idea, and while he was not sure what Sunoco's reaction would be, similar things had been done with owners of shopping centers and had worked out well.

David Yakaitis, Sunoco Marketing Representative for Southern Maryland: responding to query from Councilmember Douglas concerning Sunoco's response to the proposition of putting in a concrete pad for the bus stop, he explained the present evening was the first time he had seen the full-blown proposal for the site, so was not prepared to offer any comments.

In the course of continuing discussion, Mr. Neal affirmed he had discussed the conditions outlined in the proposed resolution with the applicant and the only one with which there was any problem at all was the proposal to eliminate the entrance from E-W Highway onto the property. He said while he could certainly not speak for the applicant, he personally felt the proposal for a concrete pad was a minor sort of thing -- an accommodation for the public -- and given the fact the Variance was requesting a 5' greenspace variation, he did not foresee the pad posing any great problem; he noted cost of it would be minimal. The motion to amend carried by unanimous vote.

Councilmember d'Eustachio said he felt the entrance from E-W Highway should be eliminated -- that SHA's current regulations prohibiting an entranceway within 20' of an arc had a sound statistical basis indicating that to be a dangerous area for an entrance/exit. He said he saw no discernible advantages to having the entrance there and, were there any, they were outweighed by the hazard it presented. Additionally, he said he felt the enhanced visual impact that would be gained by closing off that entrance and landscaping the corner would be substantial and very worthwhile for the area. He said he would vote against the resolution based on the elimination of condition #1 which would require elimination of the entrance in question.

Councilmember Douglas commented that while he would not vote against the resolution because of the deletion of condition #1, he would support a motion to add the condition, however, would defer to the judgment of the 2 Councilmembers most familiar with the area in

question.

Councilmember d'Eustachio moved to amend the resolution by reinsertion of condition #1 requiring the closure of the entrance from E-W Highway; the motion was duly seconded by Councilmember Douglas. Mr. Neal pointed out that the change in use of the property would substantially increase the volume of traffic entering and exiting the property; with that increased traffic volume, he said he did not think people who currently exited onto E-W Highway and turned left in order to head south on New Hampshire Avenue would continue to do so, but would use some other convenience stop that was more easily accessible to them. Councilmember Leary commented he would oppose the proposed amendment for the reasons already stated; also, he said he understood that this was the sole condition that the applicant, who had been quite cooperative in all other ways, did oppose. The amendment failed by a 4-3 vote. The resolution, as amended, was passed with Councilmember d'Eustachio voting Nay, balance of Council voting Aye.

RESOLUTION #1989-27
(attached)

5. Resolution Establishing 1989 Farmers' Market.

Councilmember Douglas moved passage of the resolution, duly seconded by Councilmember d'Eustachio. The Mayor noted that the resolution specifically delegated the responsibility for developing the criteria and guidelines for operation of the market to the City Administrator and/or his designee, and allowed for closure of Laurel Avenue during times of operation of the market and related parking prohibitions. The resolution was passed by unanimous vote.

RESOLUTION #1989-28
(attached)

6. Resolution Authorizing City Staff to Submit Application for SALT Funds on Behalf of the Takoma Park-Silver Spring Cooperative, Inc.

Councilmember Douglas moved passage of the resolution, duly seconded by Councilmember d'Eustachio. For the record, the Mayor noted that Councilmember Elrich had recused himself from discussion of the resolution. Mr. Neal briefly summarized his rationale in drafting the proposed resolution and pointed out he felt this was an excellent opportunity for the City to again tap into under-utilized low-interest state development funds. He said while he did not think competition for these funds would be too great during the current year, he did think it would be advisable for the City to make the application known to state legislators in Annapolis. He said it was hoped additional funds would be available after July 1 for Fiscal Year 1990, noting there was a bill before the state legislature currently in session which would support an additional \$1,000,000 for next year, and which the City's elected body had supported. He remarked he thought the City's support for that bill would lend a good deal of credibility to the application for funds currently being put together. Responding to inquiry from the Mayor, Mr. Neal said he had inquired concerning designation of Takoma Park as an area to receive SALT funds, however, had not yet received a definitive answer on that; he noted he had, however, pointed out in the resolution that the City qualified as a targeted area and was therefore eligible to apply for the funds. The Mayor asked that an additional "Whereas" clause be inserted as the second such clause in the resolution to read: Whereas, the State SALT Program has funds available for financial assistance in the current Fiscal Year; and; consensus was that the additional language be inserted as an editorial amendment.

Responding to inquiry from Councilmember Leary, Mr. Neal said it would take approximately 2 weeks to complete the application, given the work that had been done on it to date. He said he had spoken with the Director of the program earlier in the day, and explained the program was a new one in the state, only one pre-application form had been received to date, and it was unknown how long it would take the state to process applications for the financial assistance. He said applications for amounts larger than \$200,000 would take longer than those for that amount or less; for loans of \$200,000 or less, the Secretary of Housing & Community Development had authority to give approval, but those exceeding that amount had to be approved by a special interagen-

cy loan committee. Mr. Leary pointed out that the 4th "Whereas" clause of the resolution appeared to state that the proposed development was contingent upon acquisition of the SALT funding; Mr. Neal explained that the SALT Program required that projects for which assistance was sought be of a type that would not occur lacking the SALT funding.

The resolution was passed by unanimous vote of those voting (Councilmember Elrich had recused himself from addressing this item).

RESOLUTION #1989-29
(attached)

7. First Reading of an Ordinance Amending the Nuclear Free Zone Ordinance.

Councilmember d'Eustachio moved acceptance for First Reading, duly seconded by Councilmember Elrich. Mr. d'Eustachio summarized the intent of the proposed ordinance, which he said was two-fold, i.e., to reaffirm the City's commitment to remaining a nuclear-free zone and maintaining its leadership role in the nuclear-free movement, and to effect technical clarifications, particularly in the matter of a citizens' committee having the capability of blocking action by the City Council. He said such an instance had arisen, making the need for clarification obvious, and said he did not think the original legislation had ever intended that to occur or be thought possible. Mr. d'Eustachio said the language he had proposed made clear that it was within the purview of the Council to initiate and carry through the waiver process. In addition, he said the amendments would recognize and address acquisition by lease, which was something that had not been contemplated or included in the original legislation. He pointed out the amendments also addressed the purchase of used equipment, remarking he felt the original intent of the drafters of the legislation was to prevent the City purchasing equipment from nuclear weapons manufacturers, but not second-hand, used items, from non-nuclear-related sources, e.g., used vehicles. He noted language had been included to prevent subterfuge occurring in the purchase of such used items, i.e., a requirement that a significant portion of the useful life of the item be used or consumed by the previous non-manufacturer owner.

In the course of ensuing discussion, the Mayor, responding to query, said that, generally, when a Public Hearing was to be conducted, notice would be published in advance in a newspaper, often the Journal because it covered both counties, and sometimes the City Newsletter as well, depending upon the anticipated level of public interest in the subject matter. When zoning issues were being addressed, he said it was the practice to send notice to neighbors, community associations, etc., rather than newspaper publication. Regarding the conduct of such a hearing, he said there was no clearly prescribed practice, that it depended largely upon the subject matter to be addressed and the purpose of the hearing. Mr. d'Eustachio said the intent of the public hearing requirement in the amendments was not to define the extent of the hearing itself, not to either encourage or discourage public involvement, but to ensure that the Council moved with full public awareness and with deliberate (i.e., slow) speed through the process, so that nothing would be done quickly and without full public knowledge. Councilmember Sharp commented he had a concern that allegations could be made that sufficient public notice was not given for such a public hearing, despite newspaper publication, because people often failed to read the fine print regarding such notices and the section of the newspaper containing them. The Mayor pointed out that given the fact that such a hearing could not occur until 30 days after the Nuclear-Free Zone Committee had been notified of the elected body's intention to seek a waiver, he felt that time period would be adequate to allow for publication of a notice in the City Newsletter, which would better ensure notification to the majority of city residents.

Phil Boyer, 702 Chaney Drive, member of Nuclear-Free Zone Committee: commented that the committee had enjoyed working with Councilmembers Elrich and d'Eustachio in drafting the proposed amendments. He said in preparing the portion regarding public hearing notice, they had gotten some free assistance from Corporation Counsel's staff, who had furnished guidance based on state statutes. He said it appeared that

publication of notice of such a hearing in the Newsletter would satisfy the requirement for notice. He stated, for the record, that the information he had been provided by Ms. Silber's staff was from Section 10-506 of the Annotated Code of Maryland, concerning "Notice of an Open Session." Responding to query from Councilmember Douglas, Mr. Boyer said he did not interpret proposed Sec. 8A-6(f)(1)(B) as particularly constraining the elected body to a 30-day period to allow response from the Nuclear-Free Zone Committee, were they under pressure to move more quickly and should the committee be able to respond in a shorter period; he said, however, he did interpret the 30-day period after notification as set forth in subsection (C) as being an absolute. It was noted, however, that in situations deemed to be of an emergency nature, there were other avenues for action open to the elected body. Mr. Boyer said he had been around since drafting of the original legislation, and did not envision any situation in which the 30-day period following notification would present a serious problem -- anything that did would probably be of an emergency nature and would be addressed by those provisions.

Councilmember Sharp commented that he would be moving to amend the proposed ordinance at Second Reading by deletion of the language following the semicolon in Sec. 8A-9(e), concerning used products. He said he did not envision the City engaging in any sort of subterfuge in order to purchase a used item, and pointed out that, for instance, the useful life of a car was deemed to be 5 years and, should the City wish to buy a used car that was 1 year old, it could not do so were that specifically restrictive language allowed to remain. The Mayor noted the proposed ordinance, and Mr. Sharp's amendment, would be discussed in worksession prior to Second Reading. Councilmember Elrich pointed out that the language in question was intended as a protection for the City -- not with any idea of the City engaging in any sort of subterfuge; he said, however, that perhaps the percentage specified should be examined and discussed.

Councilmember d'Eustachio commented that the intent of the legislation in general was to send a message to the appropriate manufacturers that it was the City's intention to affect their market. He said he felt that the secondary market for vehicles affected the primary market for them, and what needed to be done was to create as large a difference between the original manufacturer and the City as possible, so that there could be no mistake that the City was not creating a market for new equipment from those particular manufacturers. He said he concurred with Mr. Elrich that the intent of the language was to protect the City from vendors who might claim that a vehicle that had sat on their lot was a demonstrator, had been used by sales people, etc., so could not be sold as a new vehicle and was, thus, a used vehicle. The Mayor pointed out that while the language would probably exclude that particular example, if the term "used" were not defined, it could probably leave the City open to litigation at some point in time; he said he saw no problem, however, with lowering the stated percentage somewhat, if that were deemed to be desirable.

Lynne Bradley, former Councilmember: commented there was a need to update legislation from time to time, and the City and the committee should be congratulated for doing so. She said she felt the original legislation was intended also as a message to the federal government regarding not buying from nuclear-related manufacturers. She said it appeared to her that the proposed amendments recognized something of a blending of the responsibility of the committee and the Council, but also recognized that final decisions and the handling of emergency situations rested with the elected body.

The ordinance was accepted for First Reading by unanimous vote.

ORDINANCE #1989-
(attached)

Hank Prensky, 6803 Westmoreland Avenue: commented that, as usual, the City was in the lead in dealing with the issue of used equipment. He said that in all his conversations at the NFZ Conference he had attended, no one had as yet dealt with that issue. He congratulated all responsible on the smoothness of the process. Mr. Prensky referred to the Mayor's earlier comments concerning attendance at the meeting of

CITIZENS' COMMENTS: (not directed at items for Council Action)
Brint Dillingham, 7018 Carroll Avenue: related his ongoing quest since early December for certain information from DHS. He briefly reiterated his areas of concern, including landlords' compliance with reporting requirements, the impact to date of the county Phaseback Law on the city, and the number of petitions received from landlords over the past 5 years for rent increases above the rent stabilization level and details of those petitions. He pointed out those particular things were included as DHS initiatives in the City's current budget and money was appropriated to study them; some of them were addressed in the Housing Taskforce's 1987 report; the reporting requirement for landlords had been on the books since 1983. He commented it appeared that by now the information should be current and readily available, however, that was apparently not the case, and moreover, he had been astonished to receive a letter from DHS in March which requested that he pay for information regarding the number of petitions received for extraordinary rent increases between 1984 and 1988 and details of the petitions. He said he thought it quite bizarre to ask that any citizen pay for information that had been provided for in the City budget; alternatively, he suggested perhaps he should be reimbursed for the time and effort he had had to put forth to try and get answers to things that had been set forth as departmental initiatives. Mr. Dillingham pointed out that budget hearings for Housing Services would soon be coming up and said he would like to have the information he had requested prior to those hearings. He again asked the elected body's assistance in ensuring that all the information he had requested was provided to him, noting that a portion of what he had originally requested had been furnished. He said that what he had requested was not simply related to some obscure, arcane personal interest, but was something that citizens and the elected body needed in order to make important decisions on housing matters.

Responding to query from Councilmember Sharp, Mr. Dillingham explained that what he had requested was the number of petitions filed by landlords during the years 1984-88 for extraordinary rent increases, which landlords filed them, what the results were, i.e., how many were granted or denied, when those granted were granted, the amount asked for and the amount given, which buildings were involved. He said he had been given the information for 1987, was given the number of cases pending for 1988, however, was given number of petitions only for 1984-86 and was told if he wanted further details he would have to pay a \$36 fee for the information because it took considerable time to compile the data. He said a staff member and staff time had been budgeted to update the COLTA digest, it was a necessity that it be done, and citizens should not be charged for updated information. He said one important piece of information had surfaced in the letter he received in March, i.e., that about 20% of landlords had not complied with the reporting requirements for rent increases, which he thought was a fairly high percentage out of 354 buildings. He suggested that those buildings wherein the landlords had not complied be posted by the City with a notice to tenants that the landlord had not complied and that they should not be subject to a rent increase due to that failure and that they should contact DHS if such an increase were imposed; alternatively, he said the individual tenants in such buildings should be notified in writing by the City. Mr. Dillingham pointed out it would have been beneficial if the elected body had known there was a 20% failure to comply with City requirements among landlords at the time the rent stabilization level was addressed. Additionally, from the little information he had gotten, he said it appeared that when landlords petitioned for extraordinary rent increases, they usually got them and got about 60-70% of the amount they asked for.

Mayor Del Giudice said he felt it appropriate that DHS staff be directed to respond to the elected body regarding the information Mr. Dillingham had requested and also regarding the cost issue for any of it. He said it was standard practice to charge individuals for Xerox copies of file material, however, if that was not what was being cited, then it should be looked into. Mr. Dillingham affirmed he was aware of the Xerox charge, had no problem with that, however, this was another sort of charge apparently. The Mayor assured that the matter would be looked into.

representatives from other nuclear-free zones in conjunction with the National League of Cities meeting in D.C. He said it was a useful and productive meeting and thanked the Mayor and Councilmember Hamilton for their active participation. The Mayor congratulated Mr. Prenskey also for his efforts, and thanked him and the local committee for hosting a very nice evening at the Friends Meeting House with NFZ representatives from around the country.

The Mayor noted a worksession and Executive Session would convene in the conference room following adjournment.

Rino Aldrighetti said he had been late in getting to the meeting, however, wished to thank the elected body and City staff for following up on his request to look into citizens on the Prince George's side of the city being authorized the use of Montgomery College's Library facilities. He said the effort was successful and he appreciated it. Mr. Aldrighetti referred to the early days of the Nuclear Free Movement in the city, the drafting of the legislation; he commended the leadership on the committee, the efforts being made, and said he felt it to be a good piece of legislation.

Upon motion, duly seconded, the meeting adjourned at 10:10 P.M., to reconvene in regular session at 8:00 P.M. on March 27, 1989.

Introduced by: Councilmember Douglas

Single Reading: 3/13/89

ORDINANCE NO. 1989-10

AN ORDINANCE TO AWARD A CONTRACT FOR PROCESSING OF COLLECTED RECYCLABLES.

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

WHEREAS, the Mayor and Council have approved the expansion of Takoma Park's recycling program beginning April 3, 1989; AND

WHEREAS, the expanded program allows residents to commingle glass bottles and aluminum cans in a recycling container provided by the City to each household; AND

WHEREAS, in order for the glass and aluminum to be recycled it must be sorted, cleaned and prepared for a buyer; AND

WHEREAS, the Director of Public Works and the Recycling Coordinator have determined that the processing would be most cost effectively and efficiently done through a private vendor; AND

WHEREAS, bids were publicly opened at 3:00 pm., February 22, 1989 and a bid was received from Versatile Systems Inc.; AND

WHEREAS, the City Administrator has determined that there is only one qualified source for the work requested and that the sole bid received was responsive; AND

WHEREAS, Versatile System Inc. has submitted the required notarized statement certifying that company is not involved in the nuclear weapons industry; AND

WHEREAS, the bid for pick-up, transport and processing of certain recyclable material was:

\$135 per pick-up (one pick-up per month minimum),
Delivery of roll-off box: \$ 75 (one time fee)
Monthly charge of \$30 (for having the roll-off box);
AND

WHEREAS, Year 1 costs are anticipated to be \$7,455;
Year 2 costs are expected to be \$9,540.

SECTION 1. THAT the bid of Versatile SYstem Inc for pick-up and processing certain recyclable material is hereby accepted; AND

SECTION 2. THAT funds to cover the cost of this expenditure be charged to Account 881.

SECTION 3. THAT the ordinance become effective upon adoption.

Adopted this 13th day of March, 1989

AYES: d'Eustachio, Douglas, Leary, Martin

NAYS: none

ABSTENTIONS: none

ABSENT: Elrich, Hamilton, Sharp

INTRODUCED BY: Councilmember Martin ADOPTED: 13 March 1989
DRAFTED BY: D. Neal

RESOLUTION NO. 1989-26

A RESOLUTION TO SUPPORT THE GRANTING OF THE TRANSFER OF A CLASS A BEER AND WINE (OFF SALE ONLY) LICENSE FOR THE USE OF SUNNY MARKET, INC., T/A SUNNY MARKET, FROM 4118 QUEENSBURY ROAD, HYATTSVILLE, MARYLAND TO HAMPSHIRE PLACE SHOPPING CENTER AT 7505 NEW HAMPSHIRE AVENUE, TAKOMA PARK, PRINCE GEORGE'S COUNTY, MD.

WHEREAS, Sam Young Moon, President/Secretary/Treasurer of Sunny Market, Inc. has applied to the Prince George's County Board of License Commissioners for the transfer of a Class A Beer and Wine (Off Sale Only) from 4118 Queensburg Road, Hyattsville, Maryland to 7505 New Hampshire Avenue in Takoma Park, Prince George's County; AND

WHEREAS, on the basis of public testimony and information provided by City staff the Mayor and Council of Takoma Park find that said transfer is necessary for the accommodation of the public, as required by 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 SUPPORTS the approval of said transfer and urges the Prince George's County Board of License Commissioners to APPROVE said application for the license transfer.

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

ADOPTED THIS 13th DAY OF MARCH 1989.

c:\wp\res:licsunmk.res

HF: Liquor License: Transfer, Class A, Beer &
Wine, (off sale) 7505 New Hampshire Ave., P.G. County

Introduced By: Councilmember Sharp
Drafted By: V. VinCola

Adopted: 13 March 1989

Resolution No. 1989-27

WHEREAS, Mr. Jack Coopersmith has submitted a revised site plan for Special Exception #373 for Lot 3 of Block 27, Parcel A-1 in B.F. Gilbert's Subdivision, being 6907 New Hampshire Avenue; 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, Mr. Coopersmith has submitted a revised site plan for review by the Mayor and Council; and

WHEREAS, the site plan has been reviewed by City staff, who have recommended APPROVAL of the application WITH CONDITIONS on the basis of analysis contained in the pertinent staff report dated March 3, 1989; AND

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

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 Site Plan Revision application, and encourage the Prince George's County Board of Appeals to APPROVE the subject application with the following CONDITIONS:

- 1) That one of the three entrances from New Hampshire Avenue be eliminated and the southernmost of the remaining two be widened as necessary, in compliance with State Highway Administration regulations;
- 2) That a low brick wall be constructed behind the five foot strip of landscaping along New Hampshire Avenue, and that this wall meet with the approval of the City of Takoma Park;
- 3) That additional landscaping be provided and maintained by the applicant in accordance with a written agreement and a landscape plan acceptable to the City;

- 4) That the crumbling retaining wall be replaced or repaired at the northeast end of the property, and elsewhere as needed;
- 5) That all signs on the subject property conform to code in location, size and height;
- 6) That an adequate number of trash receptacles be provided on the property in locations acceptable to Maryland-National Capital Parks and Planning Commission and the City of Takoma Park, and that those receptacles be emptied with reasonable frequency;
- 7) That canopy and other site lighting be directed away from surrounding residential property; AND
- 8) That the applicant agrees to provide a concrete pad of sufficient dimensions for the purpose of installing a bus bench or bus shelter for the Metrobus stop at a location to be determined by Metro Bus, the City of Takoma Park and the applicant.

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 13th DAY OF MARCH 1989.

VV
FMZ/373res

Introduced by: Councilmember Douglas Adopted: 13 March 1989
Drafted by: V. VinCola

RESOLUTION NO. 1989-28

WHEREAS, the City of Takoma Park has sponsored the Takoma Park Farmers' Market (the "Market") on Laurel Avenue in the Takoma Old Town Business District for the past seven years; AND

WHEREAS, the Market has proven to be a tremendous success that benefits the Takoma Old Town economy and the Takoma Park community as a whole; AND

WHEREAS, the Mayor and Council of the City of Takoma Park are therefore desirous of continuing to sponsor the Market on Laurel Avenue in the Takoma Old Town Business District; AND

WHEREAS, in order for the Market to operate in a safe and effective manner, Laurel Avenue must be closed between Carroll and Eastern Avenues to accomodate the participating vendors, their stands and their customers; AND

WHEREAS, Section 11-24(a) of the Takoma Park Code requires the approval of the Mayor and Council prior to closing a street;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF TAKOMA PARK, MARYLAND, THAT the City Administrator (or designee) is hereby authorized to establish and administer the Takoma Park Farmers' Market.

BE IT FURTHER RESOLVED BY THE MAYOR AND COUNCIL OF TAKOMA PARK, MARYLAND, THAT in order to promote the effective and efficient administration of the Market, the City Adminstrator (or designee) is hereby authorized and empowered to develop, adopt and promulgate such guidelines and policies as may from time to time be necessary to administer the Market.

BE IT FURTHER RESOLVED BY THE MAYOR AND COUNCIL OF TAKOMA PARK, MARYLAND, THAT Laurel Avenue between Carroll and Eastern Avenues shall be closed to all through traffic on the following dates during the following times:

Every Sunday between (and including) 23 April 1989 -
19 November 1989, from 9:30am (local time) to 2:30pm
(local time).

BE IT FURTHER RESOLVED BY THE MAYOR AND COUNCIL OF TAKOMA PARK, MARYLAND, THAT parking on Laurel Avenue between Carroll and Eastern Avenues shall be prohibited on the dates and during the times set forth above, except for officially permitted vendors participating in the Takoma Park Farmers' Market.

BE IT FURTHER RESOLVED BY THE MAYOR AND COUNCIL OF TAKOMA PARK, MARYLAND, THAT in the event that there are fewer than ten vendors participating in the Market on a given Sunday, the City Administrator (or designee) may, at his/her discretion, open the northbound lanes of Laurel Avenue to through traffic between Carroll and Eastern Avenues. In this event, parking shall be permitted in those spaces so designated along the northbound lanes of Laurel Avenue.

BE IT FURTHER RESOLVED BY THE MAYOR AND COUNCIL OF TAKOMA PARK, MARYLAND, THAT the City Administrator (or designee) is hereby authorized to arrange for the physical closing of Laurel Avenue between Carroll and Eastern Avenues and the posting of appropriate signage.

ADOPTED THIS 13th DAY OF MARCH 1989.

HF: Farmers Market 1989
FMZ/farmkt89.res

Introduced By: Councilmember Douglas Adopted: 13 March 1989
Drafted By: D. Neal

RESOLUTION NO. 1989-29

A RESOLUTION AUTHORIZING SUBMISSION BY THE CITY OF TAKOMA PARK OF AN APPLICATION TO THE MARYLANDS STATE ACTION LOAN FOR TARGETED AREAS (SALT) PROGRAM FOR A LOW INTEREST LOAN ON BEHALF OF THE TAKOMA PARK-SILVER SPRING CO-OP, INC.

- WHEREAS, the State of Maryland sponsors a financial assistance program called State Action Loans for Targeted Areas (SALT) for the purpose of promoting commercial redevelopment and economic revitalization efforts in certain targeted areas; AND
- WHEREAS, the State SALT program has available funds for financial assistance this fiscal year; AND
- WHEREAS, under the regulations governing SALT the City of Takoma Park qualifies as a targeted area and is therefore eligible to apply for financial assistance for certain development projects from SALT; AND
- WHEREAS, the Takoma Park-Silver Spring Co-op, Inc. (the "Co-op") is, in conjunction with other business partners, developing a vacant parcel of commercial property on Carroll Avenue in the Takoma Junction Business District (the "Development"); AND
- WHEREAS, the Co-op has requested that the City of Takoma Park make application on the Co-op's behalf to the State of Maryland for a low interest SALT loan to make possible this development, which, without said loan, would not otherwise be possible; AND
- WHEREAS, the Mayor and Council find that it is fully consistent with the City's policy and program of stimulating appropriate commercial redevelopment and economic revitalization in the Takoma Junction Business District to assist the Co-op in obtaining third-party financial assistance necessary to proceed with the Development; AND
- WHEREAS, Given that there are no other SALT-eligible projects in the City that appear ready to receive SALT funding, the Mayor and Council find that the submission of said SALT application by the City on behalf of the Co-op will not likely deprive other projects of valuable SALT resources during FY 1989;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE
THE CITY OF TAKOMA PARK, MARYLAND THAT, the City Administrator
or his designee is hereby authorized to prepare and submit a
SALT application for a \$400,000 low interest loan on behalf
of the Co-op for the purpose of financing the Development.

BE IT FURTHER RESOLVED THAT the Mayor is authorized to sign said
application on behalf of the City Council.

ADOPTED THIS 13th DAY OF MARCH 1989.

c:\wp\res:saltaply.res

HF: SALT

Draft Date: 03/13/89 (3rd Draft)
d'Eustachio

1st Reading:
2nd Reading:

Introduced by:

ORDINANCE #1988-____
NUCLEAR-FREE ZONE ORDINANCE AMENDMENTS

WHEREAS, the City of Takoma Park, Maryland has declared itself a nuclear-free zone and has urged its citizens and representatives to work to redirect resources previously used for nuclear weapons toward endeavors which promote and enhance life, such as human services, including child care, housing, education, health care, emergency services, public transportation, public assistance and jobs; AND

WHEREAS, the City of Takoma Park, Maryland has been an international leader in the nuclear-free movement, and it is the intent of the Mayor and Council to continue to fully exercise this leadership role; AND

WHEREAS, the Mayor and Council of the City of Takoma Park, Maryland have determined that the Nuclear-Free Zone Ordinance is in need of a number of minor technical changes and clarifications.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT CHAPTER 8A OF THE CITY CODE, COMMONLY KNOWN AS THE NUCLEAR-FREE ZONE ORDINANCE, BE AMENDED AS FOLLOWS:

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

Section 8A-6. Eligibility for City Contracts

(b) The City of Takoma Park and its officials, employees or agents shall not knowingly and intentionally grant any award, contract or purchase order, directly or indirectly, to purchase or lease products produced by a nuclear weapons producer.

Section 8A-6(f) Waivers. be repealed in its entirety and reenacted as follows:

Section 8A-6(f)

(1) The provisions of Sec. 8A-6(a) and (b) may be waived by resolution passed by a majority vote of the Mayor and Council provided that:

(A) the Mayor and Council shall determine, after a diligent good faith search that a necessary good or service cannot reasonably be obtained from any source other than a nuclear weapons producer; and

(B) that the City Administrator or his designee shall notify the Nuclear-Free Zone Committee of the Mayor and Council's intent to consider a "Waiver Resolution" thirty (30) days prior to the formal consideration of such a resolution, and that the Committee upon receipt of such notice shall provide the City

Council with its considered advice, provided however that, failure to provide such advice shall not prohibit the City Council from taking appropriate action after the thirty (30) day notification period; and

- (C) that the City Council shall hold a public hearing, prior to the passage of a "Waiver Resolution" and no sooner than thirty (30) days after the notification to the Committee of the City Council's intent to consider such a resolution.

(2) Remain as is.

Section 8A-7 Exclusions.

(2) Nothing in this chapter shall be interpreted, construed, or applied to prevent the Mayor and Council or the City Administrator of the City of Takoma Park, Maryland from acting to remedy, ameliorate or prevent an emergency situation presenting a clear and present danger to the public health, safety and general welfare, as defined in Section 2-6.1 of this code; provided that should any such emergency situation require the purchase of products or services from, or entry into a contract with a nuclear weapons producer, then the City Administrator or the City Administrator's designee shall notify the Chairperson or the Chairperson's designee of the Nuclear-Free Zone Committee within three working days of the City's actions.

(3) Nothing in this chapter shall be interpreted, construed, or applied to superceed, or bypass any procurement regulations whether those regulations are legislative or administratively promulgated, provided however that no procurement regulations pertaining to the the granting of any award, contract or purchase order shall alter or abrogate the intent or requirements of this ordinance.

Section 8A-9 Definitions.

(e) A product produced by a nuclear weapons producer is any product which is made wholly or primarily by a nuclear weapons producer, except products which prior to their intended purchase by the City have been previously owned and used by an entity other than the manufacturer or distributor; such products shall not be considered produced by a nuclear weapons producer if, prior to their purchase by the City, more than twenty five percent (25%) of the useful life of such product has been used or consumed by the previous non-manufacturer owner. The useful life of a product shall be defined, where possible, by the applicable rules, regulations or guidelines of the United States Internal Revenue Service.

Section 8A-12(c)(6) Nuclear-Free Zone Takoma Park Committee.

(6) Before a waiver of the provisions of Sections 8A-6(a), (b), or (c) above pursuant to Subsection 8A-6(f) may be sought, the Committee in conjunction with the City Administrator shall conduct a diligent search to determine the availability of reasonable alternative sources for a necessary [[produce]] product or service, except however, the City Administrator and/or the Committee's unwillingness or inability to conduct such a search shall not preclude actions by the Mayor and Council pursuant to Subsection 8A-6(f).

Draft Date: 03/13/89 (3rd Draft)
d'Eustachio

1st Reading:
2nd Reading:

Introduced by:

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NUCLEAR-FREE ZONE ORDINANCE AMENDMENTS

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WHEREAS, the City of Takoma Park, Maryland has been an international leader in the nuclear-free movement, and it is the intent of the Mayor and Council to continue to fully exercise this leadership role; AND

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Council with its considered advice, provided however that, failure to provide such advice shall not prohibit the City Council from taking appropriate action after the thirty (30) day notification period; and

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Council with its considered advice, provided however that, failure to provide such advice shall not prohibit the City Council from taking appropriate action after the thirty (30) day notification period; and

- (C) that the City Council shall hold a public hearing, prior to the passage of a "Waiver Resolution" and no sooner than thirty (30) days after the notification to the Committee of the City Council's intent to consider such a resolution.

- (2) Remain as is.

Section 8A-7 Exclusions

- (2) Nothing in this chapter shall be interpreted, construed, or applied to prevent the Mayor and Council or the City Administrator of the City of Takoma Park, Maryland from acting to remedy, ameliorate or prevent an emergency situation presenting a clear and present danger to the public health, safety and general welfare, as defined in Section 2-6.1 of this code; provided that should any such emergency situation require the purchase of products or services from, or entry into a contract with a nuclear weapons producer, then the City Administrator or the City Administrator's designee shall notify the Chairperson or the Chairperson's designee of the Nuclear-Free Zone Committee within three working days of the City's actions.

- (3) Nothing in this chapter shall be interpreted, construed, or applied to superceed, or bypass any procurement regulations whether those regulations are legislative or administratively promulgated, provided however that no procurement regulations pertaining to the the granting of any award, contract or purchase order shall alter or abrogate the intent or requirements of this ordinance.

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CITY OF TAKOMA PARK, MARYLAND

PROPERTY OF
TAKOMA PARK MD. LIBRARY

Regular Meeting of the Mayor and Council
March 27, 1989

CITY OFFICIALS PRESENT:

Mayor Del Giudice
Councilmember d'Eustachio
Councilmember Douglas
Councilmember Elrich
Councilmember Hamilton
Councilmember Leary
Councilmember Martin
ABSENT: Councilmember Sharp

City Administrator Wilson
Asst. City Administrator Habada
Admin. Clerk K. Mitchell

The Mayor and City Council convened at 8:05 P.M. on Monday, March 27, 1989 in the Council Chamber at 7500 Maple Avenue, Takoma Park, Maryland. Following the pledge, the Minutes of the 2/21/89 Special Session and 3/13/89 Regular Council Meeting were moved for approval, as written and collectively, by Councilmember d'Eustachio, duly seconded by Councilmember Douglas. The Minutes were approved by unanimous vote.

The Mayor noted that the Takoma Park Volunteer Fire Department would be holding its annual banquet on April 1; Councilmembers d'Eustachio and Hamilton would be attending; however, he said he would not be present due to a prior engagement, but wished to extend thanks and congratulations to the department for another very good year of service to the community. In addition, he said he thought appreciation should be expressed to the fire department for the effort they were putting forth and cooperation given the City in the restoration of the gymnasium, which, hopefully, would soon be completed. He commented it should be noted, as well, that Councilmember Hamilton had played a large role in coordinating the project and helping it to move forward.

ITEMS FOR COUNCIL ACTION:

1. Second Reading of Amendments to the Nuclear Free Zone Ordinance. Councilmember Hamilton moved adoption of the ordinance, duly seconded by Councilmember d'Eustachio. It was noted that language denoted by double underlining had been added as a result of worksession discussion; Councilmember Elrich moved to amend the ordinance by addition of that language, duly seconded by Councilmember d'Eustachio. The amendment was passed by unanimous vote. For the record, Councilmember d'Eustachio noted that the intent of the ordinance amending the original legislation was to strengthen the original law and its intended message. He pointed out that the City's budget could be funded for 40+ years by the cost of a B-1 bomber alone, and spoke briefly on the escalating cost of armament and the fact that the money could be better spent in other ways that would benefit people to a greater degree. In addition, he pointed out the ordinance at hand closed some loopholes in the original legislation, such as leasing from nuclear weapons manufacturers and also provided language that was not gender-biased. The ordinance, as amended, was adopted by roll call vote as follows: AYE: Councilmembers d'Eustachio, Douglas, Elrich, Hamilton, Leary and Martin; NAY: None; ABSENT: Councilmember Sharp.

ORDINANCE #1989-11
(attached)

2. Resolution of Council Position re Montgomery County Subdivision Application No. 1-88317 - Takoma Junction Center.

Responding to query from the Mayor, staff affirmed that all neighborhood and community associations had been notified the previous week that the item would be addressed at the current meeting. The Mayor noted the matter had been discussed a number of times in worksession; several versions of the application had been examined, and a public hearing was conducted, at which time the contract-developer gave a presentation on the proposal for the site. He noted that the draft resolution expressed a position of support by the elected body, with a number of specific conditions. Councilmember Douglas moved passage of the resolution, duly seconded by Councilmember d'Eustachio. Councilmember Martin moved to amend Condition #3

of the resolution by insertion of language to read ... "the applicant grant an easement to the City for possible future construction of a stairway or other type of access to the parking lot"... The motion to amend was duly seconded by Councilmember Leary. Councilmember Douglas raised the question of whether, given the construction of the parking deck, any sort of access other than a staircase would be feasible. The Mayor pointed out that the deck at the rear corner was about at ground level and there might be some possibility of running a pedestrian pathway from it, however, the steepness of the grade might be prohibitive. Alternatively, he said, some still hoped there would not be a need for the parking deck, but that some other provision could be made for parking. The amendment was passed by unanimous vote. For the record, Councilmember Douglas pointed out that not only the present application, but the piece of property itself, had been before the City a number of times and in a number of different ways. He said the resolution at hand was the culmination of a number of years of effort, looking at a lot of different development plans, and represented a victory for the sort of process wherein all segments of the community participated. He said while the process had taken some time, it was relatively easy because a lot of ground had been broken before the present development group presented their plan to the City and asked for approval for a resubdivision. He said he felt the 5 conditions stipulated in the resolution were important not only to protect neighborhood interests, but also the City's interest generally and the developer. He said that, particularly due to its location, the project would be very important to the city; it would not only improve the existing conditions on the site, but would also provide needed services to the community. Councilmember Hamilton commented he felt the Co-Op and all the partners in the development should be commended for the efforts they had put forth to make the venture a success; he said he felt the development would benefit everyone in the city. The Mayor expressed thanks to City staff, particularly Daniel Neal and Lisa Schwartz, for the hard work they had put in on the application and in their dealings with community associations, county officials, etc. The resolution, as amended, was passed by unanimous vote.

RESOLUTION #1989-30
(attached)

CONSENT AGENDA:

Councilmember Douglas moved passage of the Consent Agenda items, collectively, duly seconded by Councilmember Hamilton. The motion carried by unanimous vote.

3. Resolution in Support of the Community Development Block Grant Program.

RESOLUTION #1989-31
(attached)

4. Resolution Supporting Montgomery County Establishment of an "Office of the People's Counsel."

RESOLUTION #1989-32
(attached)

5. Resolution to Appoint Additional Alternate to Traffic Committee.

RESOLUTION #1989-33
(attached)

Upon motion, duly seconded, the meeting adjourned at 8:30 P.M., to reconvene thereafter in Executive Session and Worksession, and in Regular Session at 8:00 P.M. on April 10, 1989.

Introduced by: Councilmember Hamilton

1st Reading: 3/13/89

2nd Reading: 3/27/89

ORDINANCE #1988-11
NUCLEAR-FREE ZONE ORDINANCE AMENDMENTS

WHEREAS, the City of Takoma Park, Maryland has declared itself a nuclear-free zone and has urged its citizens and representatives to work to redirect resources previously used for nuclear weapons toward endeavors which promote and enhance life, such as human services, including child care, housing, education, health care, emergency services, public transportation, public assistance and jobs; AND

WHEREAS, the City of Takoma Park, Maryland has been an international leader in the nuclear-free movement, and it is the intent of the Mayor and Council to continue to fully exercise this leadership role; AND

WHEREAS, the Mayor and Council of the City of Takoma Park, Maryland have determined that the Nuclear-Free Zone Ordinance is in need of a number of minor technical changes and clarifications.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT CHAPTER 8A OF THE CITY CODE, COMMONLY KNOWN AS THE NUCLEAR-FREE ZONE ORDINANCE, BE AMENDED AS FOLLOWS:

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

Section 8A-6. Eligibility for City Contracts

- (b) The City of Takoma Park and its officials, employees or agents shall not knowingly and intentionally grant any award, contract or purchase order, directly or indirectly, to purchase or lease products produced by a nuclear weapons producer.

Section 8A-6(f) Waivers. be repealed in its entirety and reenacted as follows:

Section 8A-6(f)

- (1) The provisions of Sec. 8A-6(a) and (b) may be waived by resolution passed by a majority vote of the Mayor and Council provided that:

- (A) the Mayor and Council shall determine, after a diligent good faith search that a necessary good or service cannot reasonably be obtained from any source other than a nuclear weapons producer; and
- (B) that the City Administrator or his/her designee shall notify the Nuclear-Free Takoma Park Committee of the Mayor and Council's intent to consider a "Waiver Resolution" thirty (30) days prior to the formal consideration of such a resolution, and that the Committee upon receipt of such notice shall provide the City Council with its considered advice, provided however that, failure to provide such advice shall not prohibit the City Council from taking appropriate action after the thirty (30) day notification period; and
- (C) that the City Council shall hold a public hearing, prior to the passage of a "Waiver Resolution" and no sooner than thirty (30) days after the notification to the Committee of the City Council's intent to consider such a resolution.

(2) Remain as is.

Section 8A-7 Exclusions

- (2) Nothing in this chapter shall be interpreted, construed, or applied to prevent the Mayor and Council or the City Administrator or his/her designee of the City of Takoma Park, Maryland from acting to remedy, ameliorate or prevent an emergency situation presenting a clear and present danger to the public health, safety and general welfare, as defined in Section 2-6.1 of this code; provided that should any such emergency situation require the purchase of products or services from, or entry into a contract with a nuclear weapons producer, then the City Administrator or his/her designee shall notify the Chairperson or his/her designee of the Nuclear-Free Takoma Park Committee within three working days of the City's actions.
- (3) Nothing in this chapter shall be interpreted, construed, or applied to supersede, or bypass any procurement regulations whether those regulations are legislative or administratively promulgated, provided however that no procurement regulations pertaining to the the granting of any award, contract or purchase order shall alter or abrogate the intent or requirements of this ordinance.

Section 8A-9 Definitions.

- (e) A product produced by a nuclear weapons producer is any product which is made wholly or primarily by a nuclear weapons producer, except products which prior to their intended purchase by the City have been previously owned and used by an entity other than the manufacturer or distributor; such products shall not be considered produced by a nuclear weapons producer if, prior to their purchase by the City, more than twenty five percent (25%) of the useful life of such product has been used or consumed or one year after its been put into service by the previous non-manufacturer owner. The useful life of a product shall be defined, where possible, by the applicable rules, regulations or guidelines of the United States Internal Revenue Service.

Section 8A-12(c)(6) Nuclear-Free Takoma Park Committee.

- (6) Before a waiver of the provisions of Sections 8A-6(a), (b), or (c) above pursuant to Subsection 8A-6(f) may be sought, the Committee in conjunction with the City Administrator or his/her designee, shall conduct a diligent search to determine the availability of reasonable alternative sources for a necessary [[produce]] product or service, except however, the City Administrator or his/her designee and/or the Committee's unwillingness or inability to conduct such a search shall not preclude actions by the Mayor and Council pursuant to Subsection 8A-6(f).

Adopted this 27th Day of March, 1989 by Roll Call Vote as follows:

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

Introduced By: Councilmember Douglas
Drafted By: L. Schwartz

ADOPTED: 27 March 1989

Resolution No. 1989-30

- WHEREAS. the Takoma Park-Silver Spring Cooperative (the "Cooperative") seeks to develop a retail and office building on part of Lots 32, 33, and 37, and Lots 34, 35, and 36, Block 19, B.F. Gilbert's Addition to Takoma Park subdivision (located on Carroll Avenue near the intersection of Ethan Allen Avenue and Sycamore Avenue, Takoma Park, Maryland): AND
- WHEREAS. in order to achieve a more attractive urban design and minimum disruption of the slope to the rear of the property, the City of Takoma Park has encouraged the applicant to site the proposed building parallel as opposed to perpendicular to Carroll Avenue: AND
- WHEREAS. siting the building in this manner would require building across the existing lot lines, which is not permitted by the Montgomery County Zoning Code: AND
- WHEREAS. the Cooperative has therefore applied to Montgomery County for the resubdivision of the above-referenced property into a proposed single lot: 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, WITH CONDITIONS, of the application on the basis of analysis contained in the pertinent staff report dated March 17, 1989, and earlier staff reports: 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 preliminary subdivision application, and encourage the Montgomery County Planning Board and Hearing Examiner to APPROVE the subject application, with the following CONDITIONS:

1) That the specifications on the attached plan regarding lighting, location and screening of trash containers, location of the building and vehicular and pedestrian access, striping, layout, and landscaping of the parking lot, location of the loading and unloading area, location of building entries, landscaping in the front of the building, limits of grading and construction, soil erosion and tree protection measures, storm water management and sediment control measures, and screening of the parking platform be included as conditions of the property's development in a covenant by the owner of the property, which covenant shall be drafted so as to run with the land, and be binding on future purchasers.

2) That the applicant agree to grant a conservation easement on the portion of the slope beyond the limits of construction to prohibit its future development.

3) That the applicant grant an easement to the City for construction of a stairway to the parking lot of the development at the southeast corner of the property.

4) That the applicant obtain either a waiver from the 10 foot right-of-way dedication requirement along Carroll Avenue or a variance from the 10 foot front setback requirement.

5) That the applicant comply with all requirements of the Montgomery County Department of Environmental Protection regarding stormwater management and sediment control.

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 27th DAY OF MARCH, 1989.

iss:zonsubl
1-88317.r4

HF: Mont. Co. - Prelim. Subdiv. Plan 1-88317

Introduced By: Councilmember Douglas

Adopted: 3/27/89

RESOLUTION #1989-31

WHEREAS, the City of Takoma Park, Maryland has been receiving Community Development Block Grant (CDBG) entitlement funds since 1977 and has been using the funds effectively to improve the quality of life for its low and moderate income residents through the revitalization and stabilization of older neighborhoods and blighted neighborhood commercial districts, through the improvement of parks and other public facilities and through the provision of much-needed public services; and

WHEREAS, the City has received notice of a proposed reduction of the federal CDBG appropriation for Fiscal Year 1990; and

WHEREAS, proposed reductions in CDBG funds will have a serious negative impact upon the quality of life for many of Takoma Park's elderly, handicapped, minority and disadvantaged citizens due to the resulting reduction in services to these populations.

NOW, THEREFORE, BE IT RESOLVED THAT THE MAYOR AND COUNCIL OF TAKOMA PARK, MARYLAND request that the City's Congressional delegation support full funding for the Community Development Block Grant Program and work diligently to oppose proposed cuts in the Community Development Block Grant Program; and

BE IT FURTHER RESOLVED THAT THE MAYOR AND COUNCIL OF TAKOMA PARK, MARYLAND direct that certified copies of this resolution be sent to all members of Takoma Park's Congressional delegation.

ADOPTED THIS 27th DAY OF MARCH, 1989.

VV 3/89

GC/CDBGCONG.RES

HF: Year 15 CDGB Planning Files

Montgomery County and Prince George's County

Dated: March 27, 1989

Introduced by: Councilmember Douglas

RESOLUTION #1989-32

SUPPORTING MONTGOMERY COUNCIL BILL 11-89
ESTABLISHMENT OF OFFICE OF THE PEOPLE'S COUNSEL

WHEREAS, On March 7, 1989, County Councilmember Isiah Leggett along with co-sponsor Councilmember Bruce Adams introduced Bill 11-89, establishing the Office of the People's Counsel and a Citizen's Advisory Board to the Counsel; AND

WHEREAS, this new Office will provide technical assistance, information, and legal expertise on land use and environmental matters to citizens and citizen's groups; AND

WHEREAS, the Office of the People's Counsel will represent the public's interest to assure a complete record in adjudicative proceedings involving land use and environmental issues.

NOW THEREFORE BE IT RESOLVED, THAT the Mayor and City Council of Takoma Park, Maryland, hereby express their full support of Montgomery County Bill 11-89, and encourage its enactment into law.

Dated this 27th day of March, 1989.

INTRODUCED BY: Councilmember Douglas
DRAFTED BY: L. Schwartz

ADOPTED: 3/27/89
(Consent Agenda Item)

Resolution No. 1989-33

A RESOLUTION TO APPOINT AN ADDITIONAL ALTERNATE REPRESENTATIVE TO THE TRAFFIC AND TRANSPORTATION PLANNING AND POLICY COMMITTEE.

- WHEREAS, Resolution 1988-72, adopted September 12, 1988, established a Traffic and Transportation Planning and Policy Committee (the "TTPPC") as a standing committee of the Council of the City of Takoma Park; and
- WHEREAS, that Resolution, as amended by Resolution 1988-89, permits the appointment of alternates to the TTPPC; and
- WHEREAS, the Takoma Junction Revitalization Steering Committee has requested that an additional alternate be appointed to the TTPPC to represent it at times that its primary and alternate representatives are unable to attend; and
- WHEREAS, the Takoma Junction Revitalization Steering Committee has nominated Helen Wanning, of 7327 Carroll Avenue, Takoma Park, to serve in this capacity;
- NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT Helen Wanning is hereby appointed as an additional alternate to the Traffic and Transportation Planning and Policy Committee for the purpose of representing the Takoma Junction Revitalization Steering Committee.
- BE IT FURTHER RESOLVED THAT the term of this appointment shall expire on the next municipal election day.

ADOPTED THIS 27th DAY OF March, 1989.

lss:traffic1
trafres4