

CITY OF TAKOMA PARK, MARYLAND

Special Session of the Mayor and Council  
July 10, 1989

CITY OFFICIALS PRESENT:

Mayor Del Giudice	City Administrator Wilson
Councilmember d'Eustachio	Asst. City Administrator Habada
Councilmember Douglas	Deputy City Clerk Jewell
Councilmember Elrich	Cable Coordinator Smith
Councilmember Hamilton	Community Planner Schwartz
Councilmember Leary	Housing Services Director Weiss
Councilmember Martin	Police Chief Fisher
Councilmember Sharp	Public Works Director Giancola

The Mayor and City Council convened in Special Session at 8:06 P.M. on Monday, July 10, 1989 in the Council Chamber at 7500 Maple Avenue, Takoma Park, Maryland.

Following the pledge, the Mayor noted that one additional item would be added to the agenda, i.e., the First Reading of an Ordinance Authorizing Purchase of a Replacement Police Vehicle, as item #3.

1. Variance Request - 7309 Jackson Avenue.

The Mayor noted that staff had affirmed that notice of the present meeting and its subject matter was sent to all neighboring property owners. He noted, as well, that staff's recommendation was that the elected body convey approval of Variance Request #10104 and take no position on Variance Request #10103; a resolution to that effect had been prepared and provided by staff.

Community Planner Lisa Schwartz, Department of Economic & Community Development, showed a videotape of the property in question, orienting it in relation to adjoining and nearby properties and explaining what the requested Variances entailed. She pointed out the Abundant Life Faith Church property parking lot, adjoining the garden on the property in question, which she said was under contract for sale with the prospective buyer intending to construct houses on it. Responding to query from Councilmember Sharp, Ms. Schwartz explained that the church was selling both its properties, the site on which the church was located as well as the parking lot located across the street. She said the parking lot adjoining the property in question was zoned for single-family detached dwellings. Responding to query from the Mayor, she explained that the parking lot was actually comprised of 2 lots plus a 35 ft. wide portion of Lot 3, with the remaining part of that specific lot (3) being owned by the Variance applicants. She said she had spoken with the agent for the church property earlier in the day and at that time, the Riedels had not contacted him or made any effort to purchase the 35 ft. wide portion of Lot 3. She affirmed, in response to the Mayor, that it was possible the Variance might not be necessary if the Riedels were to purchase that strip of property; however, she pointed out she had only determined that possibility earlier in the day.

Karl Riedel identified himself as the applicant and owner of 7309 Jackson Avenue, stating he had resided in the city for about 8 years. He displayed a drawing of the neighborhood which he said showed its general context, and noted that the elected body had a copy of the plat. He referred to his property on which his house stands and noted he had identified it as "A" on the drawing, explaining that the Variances requested for that property were needed to validate what existed. He said unbeknownst to him when he purchased it, the house exceeded the existing 25 ft. setback by 2 ft.; the uncovered side stoop was .1 ft. into the side yard setback. On lot B, he said he was requesting a 525 sq. ft. reduction in area; the required lot size in Prince George's County was 6,500 sq. ft., and the existing lot size was 5,975 sq. ft. In addition, he said the lot width was 50 ft. in a constant width and the front building width, i.e., 25 ft. back from the curb line, according to current zoning, needed to be 65 ft. -- so that was a 15 ft. reduction that was being requested.

Mr. Riedel related that he had gone to the City Library, where they have a city map that shows lot sizes for properties. He said he had colored in in red on the map those lots he saw that were 6,000 sq. ft. or less, and, while he was primarily interested in those near his own property, said he had noticed some larger blocks of built-up lots in other areas of the city that fell into that category. He pointed out that those he had colored orange consisted of 6,500 sq. ft. or less, which would be non-conforming to current zoning in Prince George's County; he had colored in his own property in yellow. Mr. Riedel pointed out that there was a pretty broad mix throughout his general neighborhood; right behind him was a house with a lot less than 6,000 sq. ft.; so what he was asking for would be consistent with the current makeup of the neighborhood. He said he had examined the staff report Ms. Schwartz had prepared for the elected body, and felt it touched upon all the points he had thought about as to why they should consider voting on his requests one way or the other. He said he would point out that in the 1960's the lot could have been built upon in Prince George's County as of right; if it were situated across the street in Montgomery County, it could be built upon as of right -- he thought the size for a buildable lot in Prince George's County in the 1960's was 5,000 sq. ft., and at that time, it would have exceeded the required size. Responding to query, he said he had heard the change in requirement was made in 1968 or thereabouts. Mr. Riedel pointed out there was a park across the street from his property; that would never be constructed, so there would still be open space in the area. Regarding the church property which was up for sale, he said he understood an art studio was interested in purchasing it; that building was on a large lot. He said if the Variance were granted allowing him to put a house on his side lot and the adjacent lot had 2 additional houses built on it, the density of the block would still be very low -- much lower than that of surrounding streets.

Responding to query from Councilmember Leary, Mr. Riedel affirmed that he had lived at his present address for 8 years. He said the reason he had not made the request for Variances in earlier years was because he and his spouse were now expecting a third child and need a larger house; the house had been up for sale for a couple of months, and in its condition as one lot, as combined property, there had been no offers for it. In looking for what he could do about that, he said it was explained to him that they really had more potential value than they had realized. He said quite frankly, as most people would, he was looking for the best value he could get for his property in selling it and did not feel his requests to be unreasonable. He said he felt what he had requested to be in context with what already existed. He pointed out a nearby area, on Park Avenue, where a major portion of the lots were all less than 6,000 sq. ft. Viewing the situation citywide and looking at where one could reasonably build another house, he said there was so little density on Jackson Avenue and that would basically stay that way with the park and the church property; so it would not seem unreasonable to fit in a house on his lot.

Greg Seekins, 409 Ethan Allen Avenue: said that based upon what Mr. Riedel had said, his request appeared very reasonable. He said he had recently gone through a Variance Request for his own property, and knew for a fact that most of the houses in Takoma Park were in non-conformance with both Montgomery County and Prince George's County requirements regarding property lines, building lines, setbacks, etc. He said it seemed a reasonable thing to him to want to obtain a Variance and build a new house on the property. He said it appeared to him that along Rt. 410, houses built a long time ago were on much smaller useable lots.

Responding to query from Councilmember Martin regarding whether the lot sizes would be adequate if the adjacent church parking lot were developed and 2 houses constructed on it, Ms. Schwartz said she did not know what the exact size of the lots would be, but that they were 6,500 sq. ft. or better, i.e., buildable lots. Mr. Riedel commented that the parking lot was 16,000 sq. ft. Ms. Schwartz noted that that total included a portion of Lot 3, adjacent to Mr. Riedel's property.

Councilmember Douglas moved passage of the resolution prepared by staff, amended, however, to state in the second "Resolve" clause

pertaining to Variance application #10103 that the Mayor and Council OPPOSE granting of the request made in that application; the motion was duly seconded by Councilmember Leary. The Mayor clarified that the motion would approve Variance application #10104 and would oppose Variance application #10103.

Councilmember Douglas commented that one of his continuing concerns about Takoma Park was the density of development; he said every little nook and cranny was being sought out in which to cram another structure; opportunities to put additions up and out. He said Variances were fairly often approved of for side yards and other things. He said he really believed that over a period of time that had an effect on quality of life in the city, and on an area where people had particularly taken pride in terms of its liveability, its urban forest, its park-like atmosphere; such an area could simply not sustain developing every single piece of property. He said he had no problem with lot sizes that had already been platted at standard or greater square footage, however, the case at hand appeared to be one where the county has policies regarding certain sizes for lots and he did not believe there was a public policy in Takoma Park of minimizing that and taking some 550 sq. ft. and putting another house in there. He said he believed the time had come where the City had to start saying that enough was enough -- 1/10 of a foot here and 5 feet there was one thing, but 550 sq. feet was certainly something else. For those reasons, he said he felt Variance Request #10103 should be opposed.

Councilmember d'Eustachio said normally he would not oppose what was being requested, but felt there were a couple of compelling reasons for him to support Mr. Douglas' opposing motion. He said he felt one had to look at the specifics within the law; referring to staff's report, he said the zoning law quoted therein authorized the Board to grant variances when, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of specific parcels of property, the strict application of which would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, provided such relief can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan. Mr. d'Eustachio pointed out that none of those things applied in this case; the lot was not particularly narrow, the topography was not rough or difficult compared to that citywide -- it was, in fact, a fairly regular lot. Regarding undue hardship -- the Council was simply being asked to increase the property owner's financial return, and that did not present a hardship. On the other hand, he said he would consider it a hardship, were Variance Request #10104 denied, to require the owner to remove 2 feet off the front of his house. He said the other substantial concern he had was that while there was not currently a very high density in the affected neighborhood, there was no way of knowing for certain what was going to happen with the adjoining lot(s) and the church property on the other side of the street. If, in fact, Mr. Reidel's Variance for a smaller lot were granted, it would be predictable that the owner of the adjoining 16,000 sq. ft. parcel of property would request Variances for smaller lots so as to squeeze 3 rather than 2 houses onto the property. If the Variance at hand were approved of, it would be hard to find grounds for denial of the same thing to the next applicant. He said the church property across the street was a good-sized lot, and as property in the city becomes more highly developed, it would be very hard to ensure that there would not be additional development on that piece of property. He said he was concerned about that, and about the precedent that the Council would be setting in the neighborhood. While there were clearly substandard lots in the neighborhood, and he, himself, lived on a substandard lot, there were reasons why those lots were made substandard. He said, if the fire department needed to get its apparatus between his and his neighbor's house, they could not, and the house could burn down because they could not get behind it. Lot requirements, setbacks, side yard requirements, etc., were improvements and had come about over a period of time. He said he was not sure that the existence of substandard lots should be used as a basis or a compelling factor for the Council to create more of such lots.

Councilmember Sharp said, in his opinion, it would be an improvement if houses were built on the church parking lot; he said he drives by

there every day and does not find it visually pleasing, would much prefer to look at houses with some landscaping. He pointed out that, in order to get 3 houses on that parcel, each lot would have to be about 5,300 sq. ft., which would require a 1,200 ft. variance per lot -- substantially different from a 550 ft. variance. He said his house was also on a substandard lot, approximately 5,500 sq. ft., and he did not feel crowded or that the density was excessive. He said he recognized the owner would receive an economic return, but the City would also receive an economic return, and there would be more available housing, which was one of the things the area certainly needs.

Councilmember Leary commented he felt the difference between the parking lot and the wooded lot which was the subject of the Variance Request was apparent to all from the videotape shown earlier. He said, along with Messrs. Douglas and d'Eustachio, he felt it important to try to preserve, wherever existing guidelines gave the opportunity for preservation, those diminishing numbers of lots and terrains that everyone felt were special about Takoma Park. He said the very fact, as Mr. Seekins had said, that there were so many lots in Takoma Park that did not measure up to existing standards should render the Council very cautious about approving any further departures from those existing standards, which have a good basis for having been arrived at.

Councilmember Elrich commented he had trouble seeing what would be a good basis for arriving at what proper lot size should be; the neighborhoods where there were plenty of substandard lots did not seem to be places where people shouldn't live or couldn't live comfortably and healthfully, couldn't enjoy their property and their neighbors. He said the community had survived quite well with what are now called substandard lots; the county had, at different points, seemingly arbitrarily decided what lots were and were not substandard. He said he was puzzled about any threat to property values, given the latest assessments -- they would appear to indicate that Takoma Park had become a more and more desirable place to live. He said he did not think that allowing someone to build a house on a lot that, when it was recorded was obviously intended to be a buildable lot, was unreasonable. It would be a totally different question if someone were to come in with a 12,000 sq. ft. platted lot and asked to subdivide it into 2 lots. The one in question was an existing lot, was created at a time when it would have been a perfectly adequate lot to build on, and not much different than many other lots in the city. He said he could not find compelling reasons to oppose the Variance Request.

Councilmember Martin inquired if the lot were grandfathered in, why the owner needed a Variance; why could he not just apply for a building permit. Ms. Schwartz explained that it was not totally grandfathered; although standards may have been different at the time the lot was established, the new standards apply to even existing properties unless it was established before 1928 in Prince George's County (then it would be grandfathered) or 1958 in Montgomery County. If the lot were located in Montgomery County, it would be buildable. Clarifying the last sentence in paragraph 1 under "Site Location and Description" in her memorandum dated 7/7/89 to the Mayor and Council, Ms. Schwartz said the lots were grandfathered in terms of subdivision, but not in terms of zoning. She said it would probably be possible to combine the other portion of Lot 3 with that owned by Mr. Riedel, but it would have to go through the subdivision process.

Councilmember d'Eustachio referred to Mr. Elrich's statement that he could not see a compelling reason to deny the request. He said what had to be understood was the law, and the law did not say that a compelling reason should be found to deny a Variance, but that a compelling reason should be found to allow granting of same. He said an exceptional circumstance had to be found to allow a departure from the law, rather than otherwise. Regarding lot sizes, he said they were not simply arbitrary; while all may not agree on what the size should be, the numbers were chosen with some eye toward utility, with some purpose and/or intent, and the Council needed to recognize that.

Councilmember Douglas, referring to Mr. Sharp's earlier comments, said the current use of the adjoining property was not at issue, i.e., whether it was being put to its best use or whether it met anyone's

aesthetic criteria; the question was what was the best planned use of the area. He said it certainly was planned for residential development, whether or not anyone had found it economic to construct houses or not to date. He said there appeared to be some evidence that the lot in question could be made buildable by acquisition of 550 sq. ft. of the adjoining vacant property, which it appeared was too big for 2 houses and too small for 3 houses. He said it seemed to him there was some play in the overall lot line of that particular corner, which would lead him to believe there was no hardship but an opportunity to maximize return. He said the Council needed to look at what would be in the best interest of the community rather than what was in the best interest of a particular property owner.

Councilmember Elrich said he did not like to think anyone could be adversely affected or impacted in Takoma Park by having a house built on a lot that was 5,950 sq. ft. He said perhaps it was platted the wrong way, or when it was subdivided, a lot was created that was 15 ft. too narrow. Councilmember d'Eustachio interjected that In that event, the owner needed to apply for a Mistake or Change Rule. Mr. Elrich said he would be content to find reasons within those presently available to allow Mr. Riedel to build a house on his lot.

Councilmember Sharp requested that the question be divided. The question of approving the Variance Request, #10104, for the existing structure at 7309 Jackson Avenue carried by unanimous vote.

The Mayor inquired whether there was anything further the petitioner wished to say on his own behalf prior to the question being called on Variance Request #10103. Mr. Riedel said what he considered to be the hardship in the situation was that he had a lot which was a reasonable building lot, given the context; and the zoning was created for a general area and he had asked that the Council look at a specific area. He said, were Takoma Park unified and had Montgomery County Zoning Laws, the issue would not exist.

Councilmember Martin commented that after considering the pros and cons, she would be voting in opposition to granting of the Variance, primarily because the owner has the option of selling the lot -- perhaps to whoever owns the adjoining property occupied presently by the church parking lot. She said had the piece of property been sitting there vacant with no other option, she would probably have voted in favor of granting the request because, in some ways, she did not think it was bad to have a similar size house next to a similar size house. If someone were asking for a much smaller house next to a much larger house, she would oppose it. Mr. Elrich inquired whether Ms. Martin would feel differently if Mr. Riedel had approached the owner of the parking lot property about buying the extra amount of land he needed and been turned down. Ms. Martin said the owner still had the option of selling the lot.

The question was called on Variance Request #10103; the vote was 4-3 in favor of opposing granting of the Variance.

The Mayor noted that, in accordance with the final "Resolve" clause of the resolution, a copy of the resolution would be sent to the appropriate Prince George's County authorities.

As an editorial amendment, Councilmember d'Eustachio asked that, in the first "Resolve" clause, the word eneourage be changed to request.

The Mayor thanked those who had attended and participated.

RESOLUTION #1989-67  
(attached)

2. Resolution Re: Council Position on Maryland National Park and Planning Commission Finding Regarding Historical Significance of 7126 Sycamore Avenue (Site #37/03-4 Treadwell House).

The Mayor related that his most recent understanding from staff was that it was not necessary that the elected body make any final decision on this matter during the present meeting. Ms. Schwartz explained that county staff had advised her that they would be recommending that the Planning Board leave the record open on the matter until

the district as a whole could be assessed, which was scheduled for the upcoming Fall. In light of that, she said she would suggest amending the resolution she had presented to reinforce that position, i.e., to include a statement that the Mayor & City Council support staff's recommendation to leave the record open on the matter. She affirmed that it was probably not necessary for the elected body to make a decision on the issue at the present time, but said it might reinforce county staff's position. Responding to query from Councilmember Douglas, Ms. Schwartz affirmed that, to her understanding, Mr. Treadwell's only present concern was that he wanted a determination from the county as to whether the structure was considered to be historic, and he believed that the way to get that accomplished was to make application to demolish the house -- if a demolition permit was issued, that would indicate that the structure had no historic value, or at least, not enough to warrant saving it; if it were denied, then obviously, they felt it had some historic value. She said what she understood from Mr. Treadwell was that he did not intend to actually demolish the house if the permit were granted, but that applying for the permit to do so triggered a requirement for the county to hold a hearing to determine the question of the structure's historic value. Mr. Douglas inquired, if the demolition permit were granted (which would indicate the Planning Board did not feel the house had sufficient historic value to warrant saving) and Mr. Treadwell did not demolish the structure but decided at some point downstream in time to do additional construction work on it (which would normally require a Historic Area work permit), whether he would still have to obtain that work permit since he had previously received a demolition permit. Ms. Schwartz said her understanding of how that worked was that within the area designated in the locational atlas, the transition from that to the Master Plan was that certain houses within the district would be considered contributing resources, others would be considered non-contributing resources, and those considered contributing resources would have to meet a higher set of standards to obtain a Historic Area work permit than would those others. If he obtained the demolition permit and did not act on it, however, he would still have to go through the process and obtain a Historic Area work permit, but it would not be judged as severely. Mr. Douglas said there then appeared to be two issues, i.e., whether the house had any inherent historic value, and whether or not it was a contributing resource to the Historic District. Ms. Schwartz affirmed that was correct. She said the Planning Board would not actually determine whether or not to grant the demolition permit, but would determine whether or not it was a contributing resource and belonged on the Master Plan for Historic Preservation. Mr. Douglas remarked it appeared the urgency of Mr. Treadwell's issue had subsided and a process seemed to be underway to get the historic value of a number of properties resolved. He said it seemed reasonable to him that the elected body support Planning Board staff's recommendation that the record be kept open pending consideration of the entire application.

Councilmember d'Eustachio remarked that he had mixed feelings about the matter; he pointed out that the draft resolution did not only support the leaving open of the Planning Board record on the matter until the Fall, but also the alternative that the Board make a finding that the property should be included in the Master Plan for Historic Preservation. He said he frankly did not support that option; he felt the only truly historic part left of the house was the fact that it was the genesis of the infamous suit that spawned the whole phaseback battle. He said while it may once have been a wonderful house, there was not much left of the original structure; it had been converted to 12 living units and then reconverted back to 1 unit, and was badly butchered in the process. He said he would move passage of the resolution presented, but amended to insert a period following the word "fall" in the first "Resolve" clause and strike the language following thereafter in that clause. Councilmember Douglas duly seconded the motion. Mr. d'Eustachio noted the word "either" should also be deleted in the third line of the same clause. The Mayor said he would ask that the City Administrator's cover letter accompanying the resolution indicate that the Council's position was being taken with the understanding that a review would be conducted in the Fall and that there was no present urgency to make a decision on the particular case at hand -- that it should be reviewed along with others that would be reviewed in the Fall. He said he would also want it stated that

should the Planning Board find it necessary to make a decision on the case before the Fall, the City would want an opportunity to reconsider its position on the application.

The resolution, as amended, was passed.

RESOLUTION #1989-68  
(attached)

3. First Reading of an Ordinance Authorizing Purchase of a Replacement Police Vehicle.

Councilmember d'Eustachio moved acceptance of the ordinance for First Reading, duly seconded by Councilmember Sharp. Mr. d'Eustachio noted need to editorially amend the ordinance to reflect that the vehicle was totalled in a traffic accident rather than a ~~departmental~~ accident. Mr. d'Eustachio inquired of Chief Fisher whether the other driver in the accident, who apparently did not yield the right-of-way to an emergency vehicle, was charged. Chief Fisher responded that he did not recall for certain, but did not think so. He said the other party was carried on the record as being at fault in the accident -- by failing to respond to an emergency vehicle. Responding to further query from Mr. d'Eustachio, Chief Fisher explained that the City deals directly with the Local Government Insurance Fund, and it was his understanding that they would be pursuing reimbursement from the other party's insurance carrier. City Administrator Wilson pointed out that LGIT's responsibility was to get as much as was possible for their clients, i.e., the municipality or county. He said he would try to ensure that was done, and that whatever amount could be collected was rebated to the City.

Councilmember Sharp referred to Chief Fisher's proposal to use seized drug monies to fund the balance of the money needed to purchase the new vehicle over what the City had been paid by insurance for the totalled vehicle. He said he had understood from budget discussions that while seized drug monies were not in a separate account, they were kept track of as a separate item so a net balance could be maintained of those funds. He said the currently proposed use of some of those funds did not seem appropriate, given the policy decision the elected body had made during the budget process. He asked whether the equipment reserve would be a more appropriate source for the needed money; the Mayor responded in the negative, stating that those funds were not intended for automobiles -- particularly patrol cars. Ms. Habada said she thought what the police department had tried to do was to find a source for the needed additional money and, given the limited number of sources for funds, the drug monies were one of the sources they looked at. She said she felt the police department had been resourceful in trying to provide a source for the money, rather than simply presenting their problem without any suggestion for funding. In the course of discussion, Mr. Sharp emphasized the fact that the decision agreed upon by the elected body during the budget process was that while the drug seizure monies would be put into the general fund, they would be separately kept account of and would not be drawn from until such time as a decision was made on their use by the Mayor & Council; he said what was presented appeared to be contrary to that. Ms. Habada pointed out that in order for money to be spent for the replacement vehicle, a Budget Amendment would have to be effected transferring funds, and the elected body would have to make a decision at that time where the money should specifically come from.

Councilmember Douglas said he viewed Chief Fisher's proposal for a source for the money as a suggestion only, noting that Ms. Habada had pointed out the needed money would come from general revenues and the source would be specifically identified at the time of enactment of the necessary Budget Amendment. He said, however, regarding use of the drug forfeiture monies, that remained an open issue with the Council and to his recall, the agreement was that the amount of drug monies coming to the general revenue fund from the drug escrow fund would be monitored. He said, however, those funds were unappropriated balances for the City, were not earmarked for any specific use, and he had hoped the notion had been put to rest that a decision would be made to put that money to some specific use. He said he felt to the extent money was needed, it was taken from the general revenue fund, and those funds should not be separated out, whether or not a separate

tracking was done of them. The Mayor pointed out that the commentary was out of order; there was no proposal on the table regarding use of drug forfeiture money. He said he had put several proposals concerning the use of that specific money before the Council, and no consensus could be reached. He said the only decision that had been made was to monitor the funds, but not how to expend them. He reiterated the subject of the agenda item under discussion.

Councilmember Leary began to comment regarding the drug forfeiture funds; however, the Mayor reminded him that such commentary was out of order at present. Councilmember Douglas again raised the question of whether an attempt was being made to recoup the difference between what the City was having to pay for a new vehicle and the amount they had been reimbursed to date from the insurance company; it was affirmed that was the case, that LGIT was attempting to do so on behalf of the City.

The question was called; the ordinance was accepted for First Reading.

ORDINANCE #1989-  
(attached)

Upon motion, duly seconded, the Special Session adjourned at 9:12 p.m., to reconvene briefly in Executive Session and thereafter in worksession.



Introduced by:

First Reading: 7/10/89  
Second Reading

ORDINANCE NO. 1989-

AN ORDINANCE TO PURCHASE A CHRYSLER PATROL VEHICLE FROM BOB BANNING, JR. CHRYSLER-PLYMOUTH TO REPLACE CAR #130.

WHEREAS, Prince George's County conducted a valid competitive bid process for the purchase of 1989 police package vehicles in 1988; AND

WHEREAS, Prince George's County and other local governments have taken delivery of all Chrysler Plymouth vehicles they purchased from Bob Banning, Jr. Chrysler-Plymouth, leaving four police package vehicles still available from the dealership as a result of the County bid process; AND

WHEREAS, the City Administrator qualifies this purchase of one police package vehicle from Bob Banning, Jr., as a cooperative purchase by "piggybacking" onto the Prince George's County bid process and their purchase from said dealership; AND

WHEREAS, the purchase of one police package vehicle outside of the normal budgetary cycle is recommended by the City Administrator due to the need to replace Patrol Car #130 which was irreparably damaged in an accident, and for which insurance claim proceeds will be forthcoming towards said replacement.

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

SECTION 1. THAT authorization is given for the purchase of one (1) Chrysler police package vehicle from Bob Banning, Jr., Chrysler-Plymouth, at a cost not to exceed \$11,200; AND

SECTION 2. THAT the purchase of the vehicle be charged to Account 9100-8000, Capital Expenditures; AND

AYES:

Sharp

NAYS: None

ABSTAIN: None

ABSENT: None

Introduced By: Councilmember Douglas  
Drafted By: L. Schwartz

ADOPTED: JULY 10, 1989

Resolution No. 1989-67

- WHEREAS, Karl and Katherine Riedel have applied to Prince George's County for variances for part of Lot 3 and 4 and part of Lot 4 and 5, Block 93, Beales Subdivision, being 7309 Jackson Avenue, Takoma Park (Variance Requests # 10103 and 10104); AND
- WHEREAS, this property is located in the City of Takoma Park and the applications have therefore been referred to the City for review and comment; AND
- WHEREAS, the applications have been reviewed by City staff, which has recommended APPROVAL of application # 10104, and NO POSITION on # 10103, on the basis of analysis contained in the pertinent staff report dated July 7, 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 variance application # 10104, and request that the Prince George's County Board of Appeals APPROVE the subject application.
- BE IT FURTHER RESOLVED THAT the Mayor and Council hereby OPPOSE variance application # 10103.
- 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 10TH DAY OF JULY, 1989.

lss/zonsub1/7309jack.res

CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and Council  
July 17, 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	Housing Services Director Weiss
Councilmember Hamilton	Housing Coordinator Walker
Councilmember Leary	Public Works Director Giancola
Councilmember Martin	
Councilmember Sharp	

The Mayor and City Council convened at 8:05 P.M. on Monday, July 17, 1989 in the Council Chamber at 7500 Maple Avenue, Takoma Park, Maryland. Following the pledge, a moment of silence was observed in commemoration of Mrs. Lee Jordan, a longtime city resident who had recently passed away.

Councilmember d'Eustachio moved adoption of the Minutes of the June 12, 1989 Regular Council Meeting, as written; the motion was duly seconded by Councilmember Leary, and carried by unanimous vote.

The Mayor commented he wished to extend thanks and congratulations to all those who had helped make the recent 4th of July activities a success, particularly the members of the Independence Day Committee, who not only put a lot of effort into the parade, but also extended themselves to successfully coordinate the fireworks, which had to be postponed and rescheduled due to inclement weather. Regarding the auction that was held to generate money to create an Independence Day endowment to assist in paying the costs of future 4th of July parades, the Mayor commented that the auction was not as successful as had been hoped, but did raise \$600. He said he thought those who had attended had a good time, and he wished to extend thanks to Valerie Johnson, Executive Secretary, who had put a great deal of work and effort into the event. In addition, he said he wished to thank all the businesses in the community who had donated generously to the auction and to the Independence Day parade and celebration in general, noting that the parade, particularly, was very dependent upon the support of the community, particularly the business community.

The Mayor noted that when the Charter Committee reported back to the Council, the hope was that the elected body would review the Charter and proposed new document and would move forward with a resolution regarding the proposal at the current meeting. Other pressing things had intervened, however, and review of the document was not complete. He noted further discussion of the proposed Charter Amendments would occur during the worksession following the present meeting; it was hoped the review would be completed at that time, and a resolution regarding the Charter Amendments could be placed on the July 31 meeting agenda. He said he believed that would still allow the necessary time period for petition for any possible referendum and permit inclusion of such questions on the November Election ballot.

As a point of information, Asst. City Administrator Habada pointed out that item #1a on the Consent Agenda, concerning merit increases for department heads and senior management staff, would require a single reading only. The Mayor said that item would be removed from the Consent Agenda and addressed as the third item on the regular portion of the agenda.

ITEMS FOR COUNCIL ACTION

1. Second Reading of an Ordinance Authorizing Purchase of a Replacement Police Vehicle.

Councilmember d'Eustachio moved adoption of the ordinance, duly seconded by Councilmember Hamilton. Councilmember Douglas moved to amend the ordinance by the insertion of language designating that the required funds for the purchase would come from the City's unappropriated reserves. He said that would maintain a balance between

making a decision to spend money and determining from where the money would come. He moved to add a Section 3. to the "Ordain" clause of the ordinance to read: "Funds for this purchase shall be derived from the City's unappropriated reserves." The motion to amend was duly seconded by Councilmember d'Eustachio, and carried by unanimous vote. The ordinance was adopted by roll call vote as follows: AYE: Councilmembers d'Eustachio, Douglas, Elrich, Hamilton, Leary, Martin and Sharp; NAY: None; ABSENT: None.

ORDINANCE #1989-27  
(attached)

2. First Reading of an Ordinance Establishing Rent Stabilization Ceiling.

The Mayor noted that, under the City's present law, there was no need for the elected body to enact any legislation unless there was intent to change the current Rent Stabilization Guideline of 4%, i.e., if no action were taken, the guideline would remain at the same level. Housing Services Director Weiss pointed out that the general practice had been for the elected body to reestablish the rate in effect by resolution; while there was not a lawful requirement that be done, there was a requirement that the Council review the guideline each year, and even if the decision were to keep the rate the same, it had generally been documented by passage of a resolution. Responding to query from Councilmember Douglas, the Mayor said he believed the City Code required the Council to review the Rent Stabilization Guideline in July each year; while that review may have occurred as required in the past, action had sometimes not been taken until Fall, so the present Council was doing better in staying on schedule and were in a position to take action at present if that were deemed desirable. He noted an ordinance had been drafted, with a rate to be filled in.

Councilmember Hamilton moved that the draft ordinance be changed to a resolution and that the rate remain at 4%; the motion was duly seconded by Councilmember Elrich. The Mayor noted that would leave the Rent Stabilization Guideline at its present level. Councilmember Hamilton noted that public testimony had been heard on the subject two weeks earlier; he said he felt rents had basically stabilized, and that landlords had accepted the 4% level based on information presented to COLTA and which COLTA had presented to the elected body -- in 2 years there had only been 8 landlords (out of the 300-400 landlords in the city) who had requested to raise rents above the guideline amount of 4%. He said that indicated to him that the program was working as intended. Additionally, he said 50 tenants had attended the earlier meeting to present their case, and they had unanimously asked that the cap remain at 4% rather than being raised.

Councilmember Martin said her concern about leaving the cap at 4% was that everyone had received increased property assessments and landlords might need additional money to pay their property taxes. Councilmember Elrich commented he thought the majority of landlords would find the extra money needed despite the rent increase cap remaining at 4%; based on an analysis he had done using hypothetical figures, he felt most landlords would continue to turn a significant profit, and those for whom the cap posed a hardship could go to COLTA and ask for an additional increase. He said, as Mr. Hamilton had pointed out, that while an opportunity was presented for all to speak out on the matter, it was the tenants who turned out to testify regarding the Rent Stabilization ceiling.

Councilmember d'Eustachio commented that the decision about the rent increase cap was always a difficult one, particularly because there was such a broad spectrum of financial and property situations among the landlords in the city, including those who were mortgaged to the hilt, those with small mortgages, those with fixed and those with variable rate mortgages; those with energy-efficient buildings and those which were not. He said the sorts of things the elected body was supposed to examine, according to the Code, varied so wildly from one landlord to another, that it was impossible to take an average and put much faith in it. He said he thought what had to be looked at was the overall condition of landlord and tenancy in the city, and it appeared that Mr. Hamilton's observation that rents had stabilized in the city was correct at the present time, and that keeping the cap at

increase in the rent increase ceiling, which would mean a great deal to tenants.

Housing Coordinator Linda Walker said she was responsible for calculating the figures and could provide the elected body with the C.P.I. report she had received from the Bureau of Labor Statistics. Additionally, she said the figures she had used as nationwide figures were obtained over the phone and she had counted on the reliability of the individual with whom she spoke; the figures she had gotten were for the period March 1988 to March 1989, and those probably changed from month to month over a 12-month period, but she did not know what the current figures would be.

The resolution leaving the Rent Stabilization Guideline at 4% was passed 5-2, with Councilmember Martin voting Nay, Councilmember Leary Abstaining, balance of Council voting Aye.

RESOLUTION #1989-69  
(attached)

The Mayor noted that the documentation of the action taken would be put into resolution format.

3. Single Reading Ordinance Authorizing Merit Increases for Department Heads and Senior Management Staff.

Councilmember Douglas moved adoption of the ordinance, duly seconded by Councilmember Hamilton. The ordinance was adopted by roll call vote as follows: AYE: Councilmembers d'Eustachio, Douglas, Elrich, Hamilton, Leary, Martin and Sharp; NAY: None; ABSENT: None.

ORDINANCE #1989-28  
(attached)

CONSENT AGENDA

Councilmember d'Eustachio moved passage of the items on the Consent Agenda, collectively, duly seconded by Councilmember Hamilton. Councilmember Sharp commented he did not feel it appropriate for the Nuclear Free Zone Committee, or other committees, as he had previously tried to make clear, to be making recommendations to the elected body regarding appointments. He said the making of appointments to membership on various committees was the purvue of the Mayor & Council. The items on the agenda were passed, collectively, by unanimous vote.

(1) First Reading of an Ordinance Establishing Handicapped Parking on Montgomery Avenue.

ORDINANCE #1989-  
(attached)

(2) Resolution Effecting Appointments to the Nuclear Free Zone Committee.

RESOLUTION #1989-70  
(attached)

Responding to query, the Mayor noted that those individuals being reappointed to the committee were Jay Bayerl, Hank Prensky and Phil Boyer; no new individuals had sought appointment.

Upon motion, duly seconded, the meeting adjourned at 8:50 P.M., to reconvene shortly thereafter in worksession.

Introduced by: Councilmember d'Eustachio

First Reading: 7/10/89  
Second Reading: 7/17/89

ORDINANCE NO. 1989-27

AN ORDINANCE TO PURCHASE A CHRYSLER PATROL VEHICLE FROM BOB BANNING, JR. CHRYSLER-PLYMOUTH TO REPLACE CAR #130.

WHEREAS, Prince George's County conducted a valid competitive bid process for the purchase of 1989 police package vehicles in 1988; AND

WHEREAS, Prince George's County and other local governments have taken delivery of all Chrysler Plymouth vehicles they purchased from Bob Banning, Jr. Chrysler-Plymouth, leaving four police package vehicles still available from the dealership as a result of the County bid process; AND

WHEREAS, the City Administrator qualifies this purchase of one police package vehicle from Bob Banning, Jr., as a cooperative purchase by "piggybacking" onto the Prince George's County bid process and their purchase from said dealership; AND

WHEREAS, the purchase of one police package vehicle outside of the normal budgetary cycle is recommended by the City Administrator due to the need to replace Patrol Car #130 which was irreparably damaged in an accident, and for which insurance claim proceeds will be forthcoming towards said replacement.

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

SECTION 1. THAT authorization is given for the purchase of one (1) Chrysler police package vehicle from Bob Banning, Jr., Chrysler-Plymouth, at a cost not to exceed \$11,200; AND

SECTION 2. THAT the purchase of the vehicle be charged to Account 9100-8000, Capital Expenditures; AND

SECTION 3. THAT funds for this purchase shall be taken from Unappropriated Reserves.

Adopted this 17th day of July, 1989, by Roll Call Vote:

AYES: d'Eustacchio, Douglas, Elrich, Hamilton, Leary, Martin, Sharp

NAYS: None

ABSTAIN: None

ABSENT: None

Introduced by: Councilmember Hamilton

RESOLUTION NO. 1989 - 69

- WHEREAS the Sec. 6-80.17 (a) of the Code of Takoma Park requires the City Council to conduct an annual review of the rent stabilization provisions of Article 7; AND
- WHEREAS the City Council has been provided with substantial information which evidences emergency housing conditions in the Washington Metropolitan Area and in particular, in the City of Takoma Park Maryland; AND
- WHEREAS the Department of Housing Services has recommended that rent stabilization be continued in the City of Takoma Park, and that the rate for rent increases be limited to five percent (5%) per annum; AND
- WHEREAS the Commission on Landlord-Tenant Affairs (COLTA) has recommended that rent stabilization be continued in the City of Takoma Park, and that the rate for rent increases be limited to five percent 5% per annum; AND
- WHEREAS the aforesaid recommendations are the results of thoughtful analyses which included consideration of the Washington-Area Consumer Price Index, the Washington-Area Consumer Price Index figures for rents, in accordance with by Sec. 6-80.17 (a), and included consideration of other appropriate factors: AND
- WHEREAS the City Council held a public hearing on June 26, 1989 and received relevant testimony from persons representing tenant and landlord interests; AND
- WHEREAS the City Council, in accordance with Sec. 6-80.17 (a) has conducted an annual review of the rent stabilization provisions taking the recommendations of the COLTA and of the Department of Housing Services, along with public testimonies, into consideration.
- NOW, THEREFORE, BE IT RESOLVED that rent stabilization shall continue in the City of Takoma Park; AND
- BE IT FURTHER RESOLVED that the rent stabilization ceiling shall remain at a rate of four percent (4% ) per annum.

Adopted this 17th Day of July, 1989 by the City Council of Takoma Park, Maryland.

Introduced By: Councilmember Douglas

Single Reading: 7/17/89

ORDINANCE #1989-28

AN ORDINANCE TO AUTHORIZE MERIT INCREASES FOR DEPARTMENT HEADS AND SENIOR MANAGEMENT STAFF

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

Section 1. THAT the City Administrator has completed performance evaluations of all Department Heads and Senior Management staff and has made certain recommendations for merit increases which were transmitted to Mayor and Council for review and approval.

Section 2. THAT the City Administrator's recommendations are accepted as follows:

Executive Level 4: 3rd Quartile	Police Chief	49,405 to 50,875 and \$1,000
Executive Level 4: 2nd Quartile	Public Works Director	45,000 to 47,250
Executive Level 3: 2nd Quartile	Asst. City Administrator	40,951 to 43,000
Executive Level 2: 3rd Quartile	Library Director	40,513 to 42,540
Executive Level 2: 4th Quartile	Police Captain	44,379 to 46,000
Executive Level 2: 2nd Quartile	Recreation Director	37,404 to 39,275
Executive Level 2: 1st Quartile	Housing Director	34,403 to 36,124
Executive Level 1: 2nd Quartile	Asst. Public Works Dir.	34,020 to 35,720 and a \$1000 bonus

Section 3. THAT these merit increases shall become effective July 1, 1989.

Adopted this 17TH day of July 1989, by Roll Call Vote as Follows:

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

NAY: None

ABSTAINED: None

ABSENT: None



D R A F T

Introduced By:  
(Drafted by P. Jewell)

1st Reading: 7/17/89  
2nd Reading:

ORDINANCE NO. 1989-

AN ORDINANCE ESTABLISHING HANDICAPPED PARKING AT 13 MONTGOMERY AVENUE

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

SECTION 1. THAT it has been determined that there is a need for the establishment of a parking space expressly for the handicapped on Montgomery Avenue, the Unit block: AND

SECTION 2. THEREFORE THAT in conformance with Sec. 13-64(a) (10) of the Code of Takoma Park, Md., 1972, as amended, the following site is hereby designated, subject to annual review, for the exclusive use of vehicles displaying a special registration plate or permit issued to the disabled by any state or the District of Columbia:

(a) On Montgomery Avenue, one parking space opposite 13 Montgomery Avenue

SECTION 3. further that a violation of subsection (a) (10) is a Class C Offense and that any person issued a citation in violation of this ordinance shall be subject to a fine of \$75.00 for each initial violation as prescribed in Sec. 13-64(a) (10) (A) of the Code of Takoma Park, 1972, as amended.

(underlining) denotes additions.

Adopted this \_\_\_ day of \_\_\_\_\_, 1989 by Roll Call Vote as Follows:

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

Introduced by: Councilmember d'Eustachio  
(Drafted by P. Jewell)

RESOLUTION #1989-70

A RESOLUTION APPOINTING MEMBERS TO THE  
CITY'S NUCLEAR-FREE COMMITTEE

- WHEREAS, Section 8A-12, Nuclear-Free Takoma Park Committee, of the Takoma Park Code, 1972, as amended, sets forth the provisions for establishment and duties of a Nuclear-Free Takoma Park Committee, to oversee implementation of and adherence to the Takoma Park Nuclear-Free Zone Act; AND
- WHEREAS, the Committee consists of seven Takoma Park residents; AND
- WHEREAS, currently, there exists three vacancies as a result of terms that expired in June 1989; AND
- WHEREAS, no applications of interest have been received to date and the three members whose terms have expired have expressed a desire to be re-appointed to another term.
- NOW THEREFORE BE IT RESOLVED, THAT the applications of the following individuals are hereby accepted by the City Council and the following individuals are appointed to serve on the Nuclear-Free Takoma Park Committee, with terms of office to expire June 1991:

COMMITTEE MEMBERS	ADDRESS
Jay Bayerl	6733 Eastern Avenue Takoma Park, MD 20912 (H) 270-1456
Phil Boyer	702 Chaney Drive #202 Takoma Park, MD 20912
Hank Prentsky	6803 Westmoreland Avenue Takoma Park, MD 20912 (H) 270-2550

Dated this 17th day of July, 1989

July 12, 1989

\*  
\* TO BE INCLUDED IN MINUTES OF  
\* JULY 17, 1989, MAYOR AND COUNCIL  
\* REGULAR SESSION  
\*  
\* \* \* \* \*

MR. MAYOR, CITY COUNCILMEMBERS, CITY ADMINISTRATOR, OTHER NOTED GUESTS, AND MY NEIGHBORS, I regret I cannot be present tonight to express my views. As it should be with all of us, our children and family needs must come first.

I cannot imagine a caring MAYOR, CITY COUNCILMEMBERS, or the DIRECTOR for the DEPARTMENT OF HOUSING considering tampering with the RENT STABILIZATION stature for the City of Takoma Park. I believe as you should believe that it is necessary to have and keep RENT STABILIZATION as is for the constituents of the City of Takoma Park. I truly have problems with this seemingly lack of understanding, compassion, and common-sense for the persons who might be and are less fortunate than you. If, the Director of Housing and others have been keeping abreast with the plight of the homeless population; then, how in good conscience could or would you consider tampering with a system that is presently in place. This system I believe will at least keep a small group of citizens in good decent housing. Although, we would be the first to admit there are some improvements needed in our apartment complexes. Some of our homeless of today were once home owners or were buying their homes, held good paying jobs, until that unforgettable nightmare struck! I am not talking about that segment of community that has emotional handicaps or the substance abusers-shells of humanity. I am referring to those who were suddenly afflicted with death in their families, lost of job or income, divorce, separation, and/or a catastrophic accident or illness. The lost of a business that no doubt was caused by greed of others. When will this madness

of gorging our fellow human being for profit stop? Help me to understand this logic. We citizens trust and believe our leaders. We vote for the leaders that promise to help and protect our rights. We are guaranteed the right to pursue happiness as each of us define happiness.

It would be well to remember or become aware that we are all becoming older. The older we get the less we are able to get. Even a job that we are qualified for becomes unavailable to the older person who is rated over-qualified. What a joke? This is only the beginning. I am reminded of a speech made by Mr. Julian (1) Synder. Mr. Synder stated that: "Consumer debt is currently rising 20% annual rate and at this rate under compounding, the total consumer debt would double in 3 1/2 years. Further contributing to the debt snowball is our trade deficit which is being financed largely by borrowing from overseas. If present trends continue, it has been estimated that by 1990 the United States and its citizens will owe upward of a trillion dollars to foreigners not including the compounding factor. The basic fault is that we are violating badly, even wantonly, the cardinal rule of public finance. Government must extract from the people in taxes what they dispense in benefits, services, and protection. Indeed, there is not a single case in all history--ancient or modern--in which sustained and egregious violation of that rule did not eventually lead to economic ruin and financial disorder." Mr. Synder made these remarks July 15, 1985.

Footnote (1)

Julian Synder, Editor and Publisher, International MONEYLINE  
Speech: THE INVISIBLE ENEMY, Interest Rate Compounding, Nassau,  
Bahamas, July 15, 1985.

If you have children to educate, the rising cost is becoming unimaginable. If you <sup>are</sup> thinking about buying a house, the prices are out of sight. Even moving one hour to two hours commuting to the city prices are prohibited. If you are presently paying for a home the expenditures for taxes, water, sewer, heating, and maintenance just keep escalating. You can be sure also, that the last time you or I stopped to buy food, even the day-old bread, it cost the same for you as it did for me. This same day-old bread cost the same for one who is on that fixed income, the one who is making \$1,500,000, making as little as \$5,000 or the unemployed or homeless. The amount of money I pay for my rent is not discounted for my neighbor who is on a fixed income. If, you are without a job, please don't bother to apply. You will not be considered.

As I stated in my article entitled, "THE AMERICAN DREAM SEEPED IN GREED"; We can no longer just meekly assume that the superficiality of high prices give or guarantee you quality and conveniences. We can no longer let the rich get richer by trampling upon the backs of the poor and uninformed." Just remember that as you enter into your detached homes with two-car garages, manicured lawns, picket fences, security alarm systems, this is your choice and you are blessed to have the resources to realize your dreams. It would be well to note that a single match, a catastrophic accident or illness, lost of job/income and the failure of your business is and can be only a heartbeat away for all of you.

Mr. John E. Jacob <sup>(2)</sup> stated: "Government can help and only government can deal with problems like hunger, poverty, and unemployment. If you are rich, the government cut your taxes. If you are poor, the government raises your taxes and takes away desperately needed programs". Be so blessed to live a long fruitfull live and not wished that you had cared about the less fortunate today. None of us can be so immuned to the old adage, "for by the Grace of God there go I!"

I shall close with this French riddle for children about the water lily. "Suppose you own a pond on which a water lily plant doubles in size each day. If the lily plant were allowed to grow unchecked, it would completely cover the pond in 30 days, choking off the other form<sup>of</sup> life in the water. For a long time the lily plant seems small, and so you decide not to worry about cutting it back until it covered half the pond. On what day will that be? On the 29th day of course. You have one day to save your pond". <sup>(3)</sup> The greed must stop somewhere and with someone. Do not tamper with RENT STABLIZATION. There are unencumbered pleasures with renting. This our choice in housing. Let us have this kind of security and solitude as tenants.

Footnote (2)

Mr. John E. Jacob, President, National Urban League; Speech: A MOVEMENT THAT HAS MADE A DIFFERENCE, A Human Society Based on Values, Washington, DC, July 21, 1985-

Footnote (3) Mr. Julius Synder speech July 15, 1985; page 2.

CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and Council  
July 31, 1989

CITY OFFICIALS PRESENT:

Mayor Del Giudice	City Administrator Wilson
Councilmember d'Eustachio	Asst. City Administrator Habada
Councilmember Douglas	Deputy City Clerk Jewell
Councilmember Elrich	Admin. Clerk II Mitchell
Councilmember Hamilton	Cable Coordinator Smith
Councilmember Leary	Community Planner Schwartz
Councilmember Martin	Housing Services Director Weiss
Councilmember Sharp	Housing Coordinator Walker
	Code Enf. Supervisor Morning
	Public Works Director Giancola
	Recreation Director Ziegler
	Corporation Counsels Silber and Perlman

The Mayor and City Council convened at 8:05 P.M. on Monday, July 31, 1989 in the Council Chamber at 7500 Maple Avenue, Takoma Park, Maryland. Following the pledge, Councilmember d'Eustachio moved approval, collectively, of the Minutes of the June 26, 1989 Regular Session, July 10, 1989 Special Session and July 17, 1989 Regular Session. The motion was duly seconded by Councilmember Leary, who then commented that the 7/17/89 Minutes, in that portion dealing with First Reading of the Rent Stabilization ceiling ordinance, did not adequately reflect a conversation between himself and Housing Services Director Weiss regarding her recommendation (on behalf of DHS) for a 5% rent stabilization ceiling, particularly the statement she had made in responding to his query about that original recommendation. He said she had reiterated her original recommendation and said she had heard nothing that would persuade her to change her mind, although she would not oppose whatever decision the Council chose to make. For the sake of the record, he said he thought that information should be added to the Minutes, and moved to table the 7/17/89 Minutes until such time as they could be revised to contain it. The motion to table was duly seconded by Councilmember Sharp. Mr. Sharp pointed out that the vote on that same item required correction, i.e., the resolution leaving the Rent Stabilization Guideline at 4% was passed 4-1 (2 abstentions); Councilmember Martin voted Nay, Councilmembers Leary and Douglas Abstained, balance of Council voted Aye. The 7/17/89 Minutes were tabled by unanimous vote pending further revision. The 6/26/89 and 7/10/89 Minutes, collectively and as written, were approved by unanimous vote.

MAYOR DEL GIUDICE'S COMMENTS AND PRESENTATIONS

The Mayor introduced a visitor to Takoma Park, Mr. Godwell Khosa, City Administrator for Chinhoyi, Zimbabwe, Africa, noting that he would be visiting for a week. The Mayor pointed out that the City of Chinhoyi was the hometown of the President of Zimbabwe, Mr. Robert Mugambe. He said Mr. Khosa had recently completed 6 weeks of management training in Illinois arranged by the Institute of International Education, and would be returning to Zimbabwe after his one week visit in the city. During the next few days, he said Mr. Khosa would be visiting with City Administrator Wilson and city department heads, to observe how local government operates in a bi-county setting. In addition, he and Mr. Wilson would be visiting Annapolis, MML offices, and other points of interest. At the invitation of Mayor Del Giudice, Mr. Khosa spoke briefly, noting he had had an opportunity to view some areas of Takoma Park and thought it was quite beautiful, particularly the numerous large old trees. He explained that while there were trees in Chinhoyi, they were not nearly so numerous. He went on to briefly describe his town, which he said had a population of approximately 35,000, and said the local government had responsibilities similar to those in Takoma Park but also had responsibility for water, sewage, etc. Mr. Wilson related he had learned from Mr. Khosa that elected officials in Zimbabwe still wore robes at formal official meetings, and some still wore wigs as well.

The Mayor noted he had received word from MML that he would again be

afforded the opportunity to serve on the MML Legislative Committee. He said he looked forward to doing so, and related that Deputy City Clerk Paula Jewell had been appointed to serve as an alternate on the committee. He congratulated Ms. Jewell on her appointment.

Mayor Del Giudice noted that a resolution had been drafted and was on the Consent Agenda regarding the elected body's recess during the month of August. He said the Mayor and Council would not meet during August, barring any unforeseen emergency; the first worksession in September would be on the 5th and the first Regular Session would convene on September 11, at which time it was hoped a resolution and the final revised version of the City Charter would be addressed. He noted the final draft of the Charter was presently being prepared by the Institute for Government Services, as a result of worksession deliberations.

Regarding the resolution concerning the elected body's August recess, Mr. Wilson pointed out that in the second "Whereas" clause of the original version of the document, the stipulated date had been ~~August 31, 1989~~; that should be corrected to July 31, 1989.

#### ADDITIONAL AGENDA ITEMS

Resolution re Variance Request for 308 Elm Avenue (d'Eustachio)  
First Reading Ordinance re Proposed Changes to Article 7, Composition of COLTA (Sharp)

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

Nina Seavey: noted she and Barbara Beelar had attended together and explained that they were two of the representatives from the Charter Review Committee. She said she'd like to offer a couple of comments for the elected body to think about during their August recess, and to further elaborate upon the citizen participation in the process. She said the basis for making some of the decisions about the Charter that the committee had recommended was because they wished to plan for the future and did not want to have to repeat the process any time soon; as Takoma Park and the communities surrounding it become more complicated, there would need to be a better problem-solving mechanism than what presently existed. She said that a number of citizen members of the committee were not aware that the Mayor did not have a vote -- they had thought that since that office was elected at-large, it had a vote on the Council. When it was learned that was not the situation, it became a high priority item for change in the Charter. Regarding the Clerk-Treasurer issue, she said there was equally strong sentiment that the City Administrator position, which would become even more powerful under the new Charter, should be separated out from the Clerk-Treasurer position -- there seemed to be a mandate to remove the revenue process from the budgetary process, and provide for a system of checks and balances. She said that all of the citizen members of the committee felt very strongly that those two functions should be separated. While there might be some concern about creation of additional bureaucracy, what was envisioned was that there would be a Clerk-Treasurer, a Deputy City Clerk, a Deputy Treasurer, and some support staff, and it need not become an unwieldy bureaucracy, but would serve as a check on the City Administrator's authority, which, if the new Charter were adopted as presented, would give an enormous amount of authority to the City Administrator. She said what the committee had hoped to do was to provide a document that would serve the community well into the future, and a great deal of consideration had gone into its preparation. Ms. Seavey said the committee would be looking forward to the September 11 meeting at which the proposed Charter would be taken up in its final form.

Carl Riedel, 7309 Jackson Avenue: reminded that he had appeared before the elected body 2 weeks previously regarding a Variance Request for his property. He said a couple of things had changed in the interim which might give good reason to reconsider the earlier vote on the matter. Mayor Del Giudice explained that one of the Councilmembers who had voted in the majority (i.e., to deny granting of the Variance) would have to move to reconsider the item, the motion would have to be seconded, and then the item could be added to the agenda for further consideration. At the Mayor's invitation, Mr. Riedel explained the changed circumstances. He said when he appeared earlier, having not



gone through the process before, he did not really know what was expected and had talked with neighbors about his plans only informally. Since that time, he said he had made a point of personally visiting 10 neighbors, some of them adjacent property owners, taking his specific plans with him, and they had all said they would support what he proposed to do. He said they had expressed surprise that there was any issue about his proposal and that the Council had voted against it. He said while he had not yet contacted everyone in the neighborhood, all those whom he had had willingly signed in support of his plans, which would indicate clear citizen support in the neighborhood. Regarding the suggestion that was made to him at the July 10 meeting of buying the necessary strip of property from the adjacent property owners so as to circumvent the Variance process, he said he had contacted the property owners and they were not at all interested in selling him the strip he would need, nor were they much interested in buying his property -- they had indicated they might consider that at some future point, but the possibility was dim. For those reasons, Mr. Riedel said he would ask that the Council reconsider their earlier decision regarding his Variance Request.

A member of the Council had earlier asked whether the matter could be reconsidered in September, at which time staff could supply an updated report on the matter. Responding to query from the Mayor as to whether that would be appropriate, Mr. Riedel explained that his hearing before the county was scheduled for the upcoming Wednesday, August 2.

Councilmember d'Eustachio commented that while he would not support reconsideration of the matter at the present meeting and without any information from staff, he would be willing to do so in September. He said the applicant could either proceed with the hearing as scheduled and see what the outcome was, could reapply if the Variance were denied, or he could request a continuation from the county, which the City could support, and the continuation would likely be granted. Councilmember Douglas said he, too, would not be willing to reconsider the matter without input from staff; he remarked that he did not think the new information Mr. Riedel had supplied really went to the heart of the issue, i.e., that the configuration of the piece of property was not out of character with the existing neighborhood -- Mr. d'Eustachio's comments were most appropriate when the matter was considered by the Council and he would really only be willing to reconsider if new information were provided addressing that particular point. Councilmember Leary commented he thought Mr. d'Eustachio's suggestion that Mr. Riedel might ask for a continuation was quite feasible and he thought the county would likely grant that request.

Mr. Riedel said that Mr. d'Eustachio's suggestion that he proceed with the hearing and see what the outcome was possible, however, he could not reappear before that body again on the same issue for a 12-month period of time. Additionally, he said he did not see what would change in staff's report inasmuch as the issues remained basically the same, however, he had ascertained that there was considerable support for his proposal among members of the neighborhood.

It was noted that staff's recommendation in the original report was that the Council take no position on the request. Councilmember d'Eustachio reiterated that he would not be willing to reconsider, or move to reconsider, the Council's vote on the matter at the present meeting. Councilmember Leary said he would not be willing either to reconsider on the spur of the moment; he said he would want to think about the information Mr. Riedel had presented and would not close his mind to reconsideration at a later date.

Wayne Upton, 7600 Maple Avenue: referred to an article in the 7/26/89 issue of the Congressional Record regarding HJ Resolution #276, which would declare September 14 as National DARE (Drug Abuse Resistance Education) Day. The program would use trained police officers to educate 5th and 6th grade students about drug prevention and related issues, which would be a major hope for reducing drug abuse. He urged that the Council support the resolution and that citizens contact their congressional representatives and ask them to support it as well. Mr. Upton remarked on the need for early education regarding drugs, and said he was pleased that Congresswoman Connie Morella was taking an interest in the program. Mayor Del Giudice commented he was

aware of a number of municipalities in Prince George's County that participate in the DARE program; Greenbelt, in particular, has an active program and it might be one that Takoma Park would want to look at, however, it does take a commitment of resources to free up police officers from street duty and put them into the schools to do the program. Unfortunately, he said, the federal government has not made money available to help local governments with such programs.

ITEMS FOR COUNCIL ACTION

1. Council Position re 7217 Holly Avenue Accessory Apartment Application.

The Mayor noted the hearing on the requested Special Exception was scheduled for August 30.

Code Enforcement Supervisor Morning spoke, pointing out that the parking situation was probably of prime interest. She said a recent inspection of the property revealed that there was sufficient off-street parking, however, because of the way it was situated and the long narrow driveway, it would not be possible for both the property owner and the tenant to use it at the same time without juggling cars. The total number of parking spaces would accommodate 4 small or 3 average-size cars. Ms. Morning referred to the zoning map of the area requested by Councilmember Martin, and pointed out it indicated how congested the area was with accessory apartments; she distributed copies of the map. Ms. Morning explained that the map had not been updated since the previous February, because the intern who was working on the project had left City employ. The Mayor noted that 12 accessory apartment requests had come before the elected body in March, and those would not be indicated on the map; he said a number of them were located in the Ward 1 area where the present request was situated.

Responding to query from the Mayor, Ms. Morning affirmed that DHS's recommendation was to approve granting of the Special Exception, with the conditions stipulated under "DHS Recommendations" in the staff memorandum/report dated 7/28/89. She asked that the Council pay particular attention to condition #3 regarding a ceiling height waiver. Ms. Morning said that while the ceiling height was below that required by the Code, there were several means of egress in the apartment.

Councilmember Leary moved adoption of DHS's recommendations and report, duly seconded by Councilmember Elrich. Regarding the parking situation, Mr. Leary said he would stipulate that the City's approval be conditional upon certification by the county that the parking on the property was adequate and could be effectively used.

Housing Services Director Weiss explained that the reason the information regarding ceiling height was included in the DHS report was because until new legislation concerning waiver provisions that would be coming before the elected body was adopted, DHS could issue only temporary licenses to owner/operators of properties where the ceiling height was below the standard but was considered to be useable and not posing any hazard to the occupants. She said it would not pose any difficulties before the county as far as granting the Special Exception.

City Administrator Wilson remarked that Deputy City Clerk Jewell was researching the files to ascertain the outcome of the Special Exception Appeals the Council had addressed the previous March. The Mayor said that while action might be taken prior to having that information, it could be added to the record. He noted Mr. Leary's proposed amendment that would ask that the county certify the sufficiency and useability of the off-street parking for the property and that would ask that they pay particular attention to that item; the seconder of the original motion to approve accepted the amendment.

Councilmember Douglas commented that while he would support the motion to approve, he had a concern that the particular neighborhood and particular street were becoming quite dense with accessory apartments. He said if the phrase in the law regarding density were to have any meaning, there was a need for the elected body to start dealing with that issue. He said he would suggest that the appropriate people,

whether it were the Housing Committee, staff, or others, start a process for addressing the density issue before a level was reached that was not anticipated or desired. He said it would be very useful as a standard reference for staff to maintain an up-to-date map on such units. He said while he supported Mr. Leary's view regarding the parking for this particular property, he did have a concern that parking configurations with a long narrow driveway with no passing lane provide an incentive for people not to use the off-street parking, but to park on very congested residential streets. He said he thought the record on this property should state very clearly that the City expected that the owner would do everything in their power to ensure that the off-street parking was used, rather than any of the occupants parking on the street to avoid the hassle of juggling cars. He said that of all the streets in the area, Holly Avenue probably had the worst parking situation and he would not want to see that exacerbated.

Deputy City Clerk Jewell related that in response to letters from the City Clerk's Office that went out to neighboring property owners on July 19, two phone calls were received; one was from Michael Kirby at 7106 Holly Avenue who favored allowing the subject accessory apartment, and one from a Ms. Malusky who had no problem with the accessory apartment so long as there was off-street parking available for the tenant. Regarding the number of accessory apartment cases the elected body had reviewed the previous February/March, Ms. Jewell related that petitions had been granted for 7203 Holly Avenue, 7103 Birch Avenue, 8014 Maple Avenue, 7305 Baltimore Avenue and 7607 Takoma Avenue; one for 104 Tulip Avenue was denied.

Katherine Simpson: said she had been concerned that approval for an accessory apartment had been given in one or two cases where there was not adequate off-street parking, and, in one case, no off-street parking at all. She said she had been involved in discussions pro and con accessory apartments long prior to the law being written, and had always favored such units; she said that particularly in Takoma Park there were a lot of properties that could not economically continue to be used as single-family homes. She said there had always been a consensus, however, that off-street parking had to be provided for the accessory units as well as the property owner. She said one reason people were opposed to boarding houses was the amount of parking congestion they created; for that reason, accessory apartments, with appropriate off-street parking, were favored over boarding houses.

Councilmember Leary commented he strongly endorsed Councilmember Douglas' remarks; in substantiation of his general comment regarding the proliferation of accessory apartments in the particular neighborhood, he pointed out that DHS's list reflected 13 in the general area. He said he thought it was time that all involved give some consideration to the general condition in the law regarding density, which had a good basis for being included in the law -- if the opportunity for accessory apartments were overused/abused, then support for it would degenerate everywhere. Mr. Leary said he felt the elected body had a responsibility to exercise vigilance to ensure that particular neighborhoods did not become too densely populated with such units, which were an exception to the general rule.

Responding to query from Councilmember Martin, Ms. Weiss explained that the subject unit was operated several years ago as an accessory apartment, however, was obviously illegal since it had no Special Exception permit at the time. That use was discontinued and the structure has been used during the last few years for owner occupancy only. She said it appeared the owners did not intend to use the accessory unit until such time as they were granted legal authority to do so. She affirmed it was not one of the units subject to the Phaseback Law. Responding to query from the Mayor, she affirmed that if pending legislation, the Zoning Text Amendment, were to pass, the unit could be considered a residential living unit since it was to be occupied by an employee of the owner rather than rented out, and thus would not be subject to the Special Exception process but would be authorized at the discretion of the Montgomery County Department of Housing and Community Development.

The motion to approve granting of the Special Exception with the

conditions mentioned earlier carried by unanimous vote.

2. Second Reading of an Ordinance Establishing Handicapped Parking at 13 Montgomery Avenue.

Councilmember d'Eustachio moved adoption of the ordinance, duly seconded by Councilmember Leary. For the record, the Mayor noted the ordinance would create one handicapped parking space opposite 13 Montgomery Avenue. Councilmember Martin pointed out there was nothing in the ordinance that would address removal of the handicapped signage when such spaces were no longer needed and inquired whether something should not be included in the law to address that eventuality. Councilmember d'Eustachio commented he thought the Administrative Procedures Act which was presently being formulated and which would provide for creation of such zones administratively rather than through a law and codification would resolve the problem Ms. Martin had noted; presumably, there would be an annual reapplication process or something similar. Mr. Wilson pointed out that Section 2. of the ordinance at hand addressed the matter by stating that the site would be subject to annual review. The Mayor commented that the problem Ms. Martin had identified was essentially one of enforcement, and staff should ensure that was done. He noted Councilmember Douglas had pointed out that if citizens notified the City when the individual needing the handicapped space was no longer at the location, then enforcement would be greatly facilitated; otherwise, the police department would have to monitor the use of such spaces. The ordinance was adopted by roll call vote as follows: AYE: Councilmembers d'Eustachio, Douglas, Elrich, Leary, Martin and Sharp; NAY: None; ABSENT: Councilmember Hamilton.

ORDINANCE #1989-29  
(attached)

3. Council Action re Variance #A-2660, Montgomery County, for #1 Columbia Avenue.

The Mayor noted City staff had provided a report on the requested variance(s). Councilmember Elrich recused himself from participating in any consideration of the item, due to prior and current dealings with the subject property.

Community Planner Lisa Schwartz explained that the request was for four variances for the subject property, with the hearing before the County Board of Appeals scheduled for August 30. She described the physical location of the property, as detailed in her report dated 7/28/89, and explained that the variances being requested entailed 3 ft. from the west side of the property, 28.5 ft. from the north (Columbia Avenue) side, 10 ft. from the east (Pine Avenue) side, and 8 ft. from the south side (abutting residential property). She said the applicant was planning to build a two-story addition with basement which would amount to 3,319 sq. ft.; the existing structure contained 2,655 sq. ft., so with the addition, the total square footage of the building would be 5,974 sq. ft. If the currently existing structure were built today, even without the proposed addition, it would require the variances; however, if the owner were renovating the structure but not building the addition, the variances would not be needed. Ms. Schwartz showed a videotape of various views of the property and surrounding area to assist in orientation. She said that staff's recommendation was that the Mayor and Council oppose granting of the requested variances on the bases of the property being on the edge of the commercial district, surrounded on 3 sides by residential property, and therefore, more sensitively located than a property located in the midst of the commercial district. Also, closing off the driveway by building of the addition as planned would change the traffic circulation pattern and put more of a burden on the residential areas, and would require paving over existing lawn in order to provide parking; closing off of the driveway area would likely present difficulties in accessing the trash area.

Councilmember Martin inquired of Ms. Schwartz what the implications would be of denying the variances, i.e., whether there would not be enough parking spaces for the applicant to build the addition. Ms. Schwartz explained that in order to build the addition, there would have to be 15 total parking spaces provided -- the requested variances were for parking lot setbacks, as required under the Code. She

affirmed that cutting off the back entrance to the property, along with the number of parking spaces, would put a burden on the residential neighborhood. Ms. Martin inquired whether Ms. Schwartz thought people would not use the driveway around the building, from Columbia Avenue, to get to the back area. Ms. Schwartz said she thought it most likely people would use the Pine Avenue entrance to the property, particularly with the parking configured the way it was planned; she said she thought it likely cars might tend to block the driveway, the way it was presently planned. Ms. Martin commented the applicant could put parking spaces on the left side, have it at 8 ft., and still have 8-9 parking spaces; she asked how many parking spaces would be needed if the addition were not built. Ms. Schwartz said that, for the existing building, there would be a sufficient number of parking spaces where they were currently located -- the additional 5 spaces would not be needed. She explained that the requirement was that there be 2.5 parking spaces per 1,000 sq. ft. of building space -- so a total of 8 spaces would be needed for the present structure. Ms. Schwartz affirmed that basically, denying the variances would equate with denying the building of an addition. She pointed out that she had suggested in her staff report the possibility of building a smaller addition which would not create the sort of parking and access difficulties the present proposal would. She said she had discussed that, however, with the applicant and he had indicated that was not really an option.

The applicant for the variances, Mr. Leon Trager, remarked that there were two letters of support he would wish to read to the elected body; however, would first address the question of what would occur if the variances were not granted. He said if the variances were not granted, parking would continue to be right up against the 6 ft. fence as it had been, it would also continue to be elsewhere on the property all around the fence as it had been, as well as on the side of the driveway as it had been. He said there were presently over 15 parking spaces on the site and there would continue to be; he said the traffic pattern was one-way and exited onto Pine Avenue -- regardless of whether anything was changed or not.

Mayor Del Giudice noted that copies of the two letters to which Mr. Trager had referred earlier were attached to the City staff report and were a part of the record, however, if he wished to read them, he might do so. Mr. Trager read verbatim a letter dated 7/24/89 expressing support and approval for his proposal and addressed to Ms. Judith Heimann, Chair of the County Board of Appeals, from the Takoma Park Local Advisory Committee and signed by its Chair, Caroline Alderson. He said that the letter represented an incredible amount of time, effort and expense to come to the approved plan -- it was not one or two presentations or plans, but many of them, and a great deal of effort and thought went into it. Mr. Trager read a second letter of support and approval dated 7/21/89 from the Montgomery County Historic Preservation Commission, signed by its Chair, Jeff Miskin, and also addressed to Ms. Judith Heimann, Chair of the County Board of Appeals.

Mr. Trager referred to the City staff report, page 4, paragraph 2, wherein it was stated that "the addition of five parking spaces on the north side of the property (Columbia Avenue) will require paving over the lawn." He explained that prior to grass being planted on the lawn referred to, there was a gravel drive -- there was still blue stone remaining -- and parking and a drive could be put there again -- so the aforementioned statement was not pertinent. He said the grass area and picnic benches were put in about 6-7 years ago when the Takoma Cafe was there. In the same paragraph, he referred to the statement regarding lack of any plantings along Columbia Avenue or the north portion of Pine Avenue to help screen the parking area, and said that just the previous week he had advised Ms. Schwartz that there would be plantings/screening in that area. Despite the fact it was not depicted on the plan, it would be put in and he would be happy to make a statement or agreement to that effect, or whatever was deemed desirable. Again referring to the same paragraph 2 on page 4, Mr. Trager addressed the question of the configuration of the parking spaces; he said "awkward" was a matter of subjective interpretation -- the plan was the very best plan possible for the site, as evidenced by all the plans that had been reviewed, discussed and changed, with the plan at hand being the final result. He said the present plan had

been reviewed by the Takoma Park Local Advisory Committee, the County Historic Preservation Commission, his architect and his land planner; he felt it to be an excellent plan and the best possible plan for the site. Mr. Trager said there was an alternative plan that could have been used; he explained the parking and traffic situation that plan would involve, noting the road would not go through, 5 parking spaces could be provided, but it would not look as nice, circulation would not be as good, and there would be a dangerous situation because cars would have to back out. For those reasons, that plan had been put aside.

Mr. Trager referred to page 4, paragraph 3, concerning the extension of the building changing the circulation pattern so that traffic could no longer enter the main parking area from the commercially-zoned side of the property. Referring to the plan, he explained that people would be looking for 1 Columbia Avenue; unless they were familiar with the area, would probably not even be aware of the Pine Avenue entrance, would normally enter the property from Columbia and drive on through until they found available parking. While some employees may live in the area and use the Pine Avenue entry, they would simply park and remain, would not be coming and going frequently. Regarding a possible increase in use of the Pine Avenue entrance to the parking lot because of parking lining both sides of the new drive along Columbia Avenue, he said the county would not allow approval of a plan that would permit encroachment on a driveway. He said what was referred to was not a new driveway, but an existing driveway that would be widened -- whether it was widened or not, it would remain there -- and it would not increase the use of the Pine Avenue entrance to the property. He said if it made any difference, he would agree to leave the Pine Avenue entrance as it presently was and not widen it -- it was not the primary entrance, but simply a secondary entrance. Mr. Trager said that cars coming in and out of the property basically affected only one property, i.e., #5 Columbia Avenue; he said he had spoken with the owner of that property, shown him his plans, and that individual had no objections to what he was proposing. In the same paragraph, Mr. Trager referred to the conclusion that "the impact of traffic on the surrounding residences will therefore be increased;" he said he did not understand how the traffic would be increased on the residences when there would not be more cars there as a result of the plan than there were already existing parking spaces; the traffic pattern was already established and would remain as it had always been. He said he did not see how it would change or impact anything. Regarding trash pickup being made more difficult by changing the driveway, he said it did not -- all that had to be done was to bring the truck in as always, push the dumpster over, pick it up and put it back in place. The trash pickup was by a private concern, and if there were any problem, it would be his and not anyone else's.

Regarding objections/opposition of neighboring property owners (paragraph 4, page 4), Mr. Trager said he rented to 3 of the adjoining property owners. He said he had shown the plan to the people at #5 Columbia Avenue, Mrs. Thomas, and they had no objections; the Reverend Peterson had no objections, and he had tried to contact Mr. Rockman, had left messages on his recorder, but had been unable to reach him. He pointed out an additional neighboring property, with whose owner he had not spoken, nor had he spoken to Mr. Sickler. In conclusion, Mr. Trager said that if he could not get approval to build the addition on the building that he needed, he would not improve the property because it would not make economic sense -- that was an economic fact of life; if it did not work out in dollars and cents, he could not afford to do it. He said he had other properties he could invest in, other areas where he could invest his money if the plan at hand did not work out.

Councilmember Douglas commented he would focus on Mr. Trager's closing comments because he felt that was the key to the issue -- that economic necessity for the addition was a key factor, which Mr. Trager had not mentioned to the elected body in worksession the prior week. He asked that Mr. Trager expound somewhat on the economic hardship that would require that he have the addition on the building. Mr. Trager related that 7 years ago he had leased the property out, at that time it was in excellent repair inside and out; the lease called for the Takoma Cafe to maintain it in excellent repair, that was their responsibility. He said the Takoma Cafe had and still has possession of the

property, have failed to maintain the property as called for in the lease, have used it for storage until recently, and the property is in poor condition. He said he could go with very little money, do only a little to it, and get a substandard tenant -- which would probably be what will happen if he does not go in and improve it. On the other hand, he said he could go in, make the property a lovely one, improve and beautify it, and make it an asset. Mr. Douglas commented he could not see why, because Mr. Trager had apparently had a tenant who did not adequately maintain the property, that would mean that the current building could not be renovated and occupied by a tenant who would do a better job. Mr. Trager agreed that it could be renovated, could be occupied, but only to a point that made it adequate. He said it did not make sense to go in and do a complete refurbishing of the property because it would not produce a return commensurate with it. Mr. Douglas inquired whether Mr. Trager had done an economic analysis that would reflect that. Mr. Trager said he had been a businessman for 40 years; his economic analysis was the way he looked at the property and what he knew it would bring in, his experience. He said he did not go to an economist or to a specialist for that, but made his own determination. He said he had come to a conclusion that he was willing to spend in the area of 1/4 of a million dollars on improving the property -- for his own benefit -- however, the city and its residents would benefit indirectly. He said he had hoped the elected body would understand and see that. He said he had not gotten any objections from neighbors or from anyone he had come across in the process, but was getting opposition from the City government, and he did not know why.

Councilmember Martin inquired why Mr. Trager felt he had to put such a large addition on the building and what benefits he envisioned the city deriving from it. Mr. Trager said he had drawn up a couple of plans for a 1,500 sq. ft. addition, as suggested in Ms. Schwartz's report, but they did not prove feasible; he explained where he had planned to locate those additions, but said they didn't work out well either aesthetically or economically, so were put aside. He said one of those plans had been submitted to the historic committee, and explained that he had been working with the historic committee(s) and with the plans for about 6 months and there had been a tremendous amount of effort expended and a lot of input from both himself and the community. Ms. Martin commented she was surprised if Mr. Trager had been working with the historic committees for 6 months that the City had only learned about his plans very recently. Mr. Trager responded that he, too, was surprised the City government was unaware -- wondered whether the committee was not in contact with the City. He said had he known that the City was not aware, he would have immediately contacted them and made his plans known; he said it would not be rational for anyone to spend all the time and money he had and then run into tremendous opposition from the local government at the last minute. Ms. Martin inquired whether all the plans submitted to the Local Advisory Committee for their examination involved as large a structure as the one presently proposed. Mr. Trager explained there had been a variety of plans put forth; one designed by Travis Price resembled a New Orleans house with enclosed porches wrapping around the building and was intended for use as a restaurant -- however, there was no way the parking requirements for that could be satisfied, so it was discarded. Another plan would have put additions on the back, side and front of the existing building, but it didn't work well or look well. Still another would have put additions on the side and back, but that, too, was not satisfactory appearance-wise and was not economically feasible. Mr. Trager said he finally came to realize that the property was really both commercial and residential -- that it was a house converted, and right at the edge of both the commercial and residential areas. For that reason, he said it appeared to him that what had to be done was to keep the structure residential in appearance and make it a commercially viable building at the same time; thus, the plan he came up with directed the commercial-appearing part of the building toward the commercial area and the residential-appearing portion toward the residential area. He said he had felt that was a marvelous compromise, attractive in appearance, and was the very best that could be done. Along the way and during the process, he said a number of changes had been made to accommodate suggestions made by the county and local historic groups.

Councilmember Leary inquired why the B. F. Gilbert Citizens' Association had chosen not to forward an opinion on the requested variance. Councilmember d'Eustachio explained that that group had not met during the time the matter had been before the City.

Councilmember d'Eustachio moved passage of the resolution, as written, opposing granting of the variance; the motion was duly seconded by Councilmember Douglas. Mr. d'Eustachio explained that one must examine the law, which clearly stated that when a variance request was made, the onus was not on those who approve or deny such requests, but on the applicant to demonstrate that it was appropriate to grant such request. He said the conditions under which it could be demonstrated to be appropriate to grant a variance included such things as existence of an unusual topographical problem, unusual shape of the lot, unusual slope to the land -- those conditions were clearly not met in the case at hand; the lot was almost perfectly square and flat with no unusual topographical or lot constraints. Another possible ground for granting a variance was undue hardship on the applicant. He said he had heard Mr. Trager speaking for close to an hour and had heard nothing that would demonstrate undue hardship; the property had been commercial for years, there was nothing to indicate the property was not saleable or that it had not been a successful commercial property -- it was probably purchased years ago when real estate was quite inexpensive in Takoma Park -- and no numbers had been presented to indicate that there was an economic hardship in renovating the property as it is. He said Mr. Trager had accurately depicted the property as being surrounded on 3 sides by residential property, and for that reason, he said he felt it important that everything possible be done to minimize the impact of the commercial nature of it on the surrounding neighborhood. Traffic, first and foremost, would be a concern -- and when the size of a building was doubled, it was reasonable to expect that the number of people occupying the building would be doubled, as well as the number of people that come to the building -- and that would dump more traffic into the neighborhood. Mr. d'Eustachio said very little screening was being provided, parking would be right up to the edge of the property, and he felt there would be a substantial impact on the neighborhood, with little or nothing done to mitigate that impact. He said Mr. Trager's proposed alternative to do a substandard job of renovating the existing structure if the variance were not granted and to bring in a substandard tenant came across as something of a threat. In terms of making a decision on zoning law, such a statement would be reason for denial. He said the reason there is a review process when an applicant requests a variance was to determine the impact of the granting of same on the surrounding neighborhood; if, in fact, the applicant should make a threat to do a substandard job, that could be considered an indication that the applicant is not, in fact, terribly interested in mitigating the impact on the neighborhood. He said that, however, was not really an issue for the elected body to consider, but one which the Department of Housing Services could deal with adequately. He said the property was certainly not presently up to Code standards, was a very substantial eyesore and had been so for a number of years; while Mr. Trager had some dissatisfaction with past tenants, that did not present grounds for granting of a variance, but was Mr. Trager's responsibility, as a landlord and a businessman, to either get good tenants who will maintain the property or deal with the situation in some other way to avoid the existing problem. The fact that the building had been allowed to deteriorate to its present state indicated that, perhaps, the applicant was less deserving of a variance rather than more deserving. He said additional concerns were noted in the staff report.

Mark Rockman, 7105 Carroll Avenue: said he was an adjacent property owner and wished to go on record as opposing injection of a major office building on that property with its impact on the neighborhood.

Mayor Del Giudice commented he felt it unfortunate that the variance request had come before the City at such a late date; whoever had advised Mr. Trager regarding with whom he should be talking about his plans had perhaps not given the best of advice. The Mayor said he recalled over the past 3-4 years several pieces of commercial property that had originally been residential and were converted and redeveloped successfully; however, that had been done with the assistance



and guidance of the City's very able Department of Economic & Community Development. He cited several examples, and commented the City was well aware of the problem of how one takes property that has been residential, is now zoned commercial, and brings it into commercial use but also keeps it in conformity with the residential character of the neighboring community, so as not to disrupt or impact that community to an excessive degree. He said he thought the objections being voiced were directed primarily at the scale of the addition -- the size. Were Mr. Trager to continue to pursue less of a development (or redevelopment), on a lesser scale, one that could be done economically, the City's Department of Economic & Community Development could be made available to work with and assist him toward making it successful, and the matter could be officially reconsidered at a later point in time. He said the objections he had heard appeared to indicate that there was no demonstrated economic need for a structure as large as Mr. Trager was proposing. The Mayor said he thought everyone would agree the property needed to be rehabbed from its past commercial use, and everyone present would share Mr. Trager's hope to improve it. He reiterated his regret that the proposal had come before the City at such a late date, rather than after 4-5 months of planning and consultation with the Department of Economic & Community Development.

Councilmember Douglas commented that his opposition was based mostly on process -- both the process of consultation within the community and the planning, development and design process. He said he believed that the design which had been presented and which had apparently met with the approval of both the Local Advisory Committee and the County Historic Preservation Commission was a good design. However, he said there were other issues that had not been resolved, and he believed that was the fundamental problem. He said Mr. Trager and the groups with whom he had consulted had apparently looked at the solution prior to its being obvious that there was a problem that needed to be solved. He said the question remained of what need there was for the particular structure being proposed; he said he had been somewhat disappointed in Mr. Trager's response to that earlier, and while he might not have a 20-page economic study, there surely must be some indication, if it were true, to prove that the current use of the property was not economic. Lacking that, he said he thought Mr. Trager needed to go back and start at the beginning because if there was no demonstrable need to build an addition, then everything else became irrelevant. To the extent that an addition could be proven to be necessary, he said he thought Mr. Trager was on the right track design-wise. Mr. Douglas said he concurred with the Mayor that the scope and mass of the structure would be critical at the particular location, because of the transitional nature of the property between commercial and residential -- it would play a key role in the neighborhood. He said its current condition was certainly deplorable; however, even in that state, it served a useful function -- because of the open space around the building, a transition was provided from the dense commercial area into the residential area; also a building which was residential in character on the exterior was being used for commercial purposes, which further contributed to the transition. He commented that while the design that had been put forth looked nice, he was not sure it continued the sense of transition from the commercial into the residential area, and, were that question relevant at present, he would discuss it further. However, he said he felt that fundamentally most of what had been said at the present meeting was irrelevant because there had been no need proven to even have a discussion in terms of the economic hardship associated with the property. Mr. Douglas said while it was clear that both the county and local historic groups had been involved for some months, it was also obvious that the local citizens and community association had not been involved. He said there was need for that sort of involvement in order to come up with something that would come close to making everyone happy; he encouraged that Mr. Trager go back to the drawing board, rethink his situation and his needs, and concurrently involve the community, as well as the appropriate City government department, in the discussions.

The question was called; the resolution opposing granting of the

variance was passed by unanimous vote.

RESOLUTION #1989-71  
(attached)

The Mayor noted that the Council's position would be transmitted to the appropriate Montgomery County authorities. He thanked all those who had attended and participated.

4. Resolution re Council Position on Montgomery County Zoning Text Amendment #89013.

Housing Services Director Weiss noted that the resolution before the Council was the result of several meetings on the subject; she explained that subsequent to the prior week's worksession she had gotten clarification from Montgomery County staff regarding what was intended in regard to language pertaining to pre-existing accessory apartments -- the intention was that only that language which was no longer relevant, i.e., having to do with the phaseback over a 10-year period, would be deleted. The remaining relevant pre-existing language would remain in the legislation.

Councilmember Leary moved passage of the resolution, duly seconded by Councilmember Douglas.

Councilmember d'Eustachio remarked that it appeared one of the issues discussed by the Council had been inadvertently omitted from the resolution, i.e., opposition to elimination of the requirement that a building be at least 5 years old before the owner could apply for an accessory apartment. Ms. Weiss explained that that was a part of the pre-existing language she had just referred to that would remain as is in the legislation, so there would be no issue. For those Councilmembers who had not been present at the prior week's worksession, Mr. d'Eustachio briefly summarized what occurred, remarking that there had been a general consensus at that meeting about how the City should proceed. He said it was felt that accessory apartments do have a very strong impact on Takoma Park, and by and large, there was support for the concept; however, the concern was that the City needed to have a measure of control over them. He said it had been demonstrated repeatedly that when there were loopholes, most people were willing to obey the law, but there were always those few unscrupulous individuals who would try to drive a bulldozer through it -- and those were the persons about whom there was need to exercise a great deal of care so as not to create loopholes which they could exploit. He said that was the primary opposition to the registered unit -- it appeared to be an unenforceable unit. A lot of the other positions taken were so as to set up the law so that housing in the form of accessory apartments could be provided, but provided in a controlled setting where there was adequate public comment and adequate public supervision of the end result.

Councilmember Martin noted that in discussion of the registered living units, a primary concern had been the lack of a review process for establishment of such unit; she moved to amend the second "Resolve" clause of the resolution to add language stating that basis of opposition, i.e., and lack of a public review process. Councilmember Leary suggested the additional language be inserted in the second line of the clause, following "...Registered Living Unit,..." The maker and seconder of the motion for passage of the resolution accepted the amendment as editorial.

Katherine Simpson: referred to her earlier comments regarding adequate off-street parking for accessory units and said she hoped the elected body would take her remarks very seriously because severe problems could be created, particularly if the city ended up with more apartments in areas than were desirable. She said that had been allowed to happen in some instances and had caused difficulties. She commented that the reduction in the required lot size appeared sizeable. Councilmember d'Eustachio explained that the present requirement was that in order to have an accessory apartment, the main structure had to be on an over-sized lot and that requirement was being eliminated. Ms. Simpson said that, additionally, in early discussions about accessory apartments, one of the most important requirements to those who participated was that the main structure having such units be owner-occu-

pied, and she would not want to see that change.

The resolution carried by unanimous vote. Councilmember Leary suggested that the letter of transmittal to the county indicate that the resolution was passed by unanimous vote of the City Council.

RESOLUTION #1989-72  
(attached)

5. Resolution Approving Concept of Phase One - Memorial Peace Park/Sculpture Garden.

Councilmember d'Eustachio moved passage of the resolution, duly seconded by Councilmember Douglas.

M. C. Carolyn, 316 Elm Avenue, Artist and Sculptor: explained she had introduced the idea of the Peace Park Sculpture Garden in December 1984, presented her initial proposal to the City in January 1985. She presented copies of the group's official letterhead, pointing out they had an impressive collection of people serving as honorary project advisors and who were listed on the letterhead; she noted a "Friends of the Peace Park Sculpture Garden" had been formed, a non-profit group, and they would actually be doing the contracting and dealing with fundraising. Ms. Carolyn explained that the site(s) for the garden chosen by the City's elected officials included the Municipal Building, Library and Memorial Park; in order to facilitate fundraising, the project had been divided into two phases, with Phase I, currently being addressed, to include the Municipal Building and Library, and Phase II to include the Memorial Park. She described the first piece slated for installation in the garden, a 3-part sculpture entitled "Rise in Peace, Reach for the Sky," to be located at the front entryway to the Municipal Building. She said the piece had been specifically created for the site, briefly explained its artistic intent, and emphasized the importance of the single abstract neon element which would be mounted on the auditorium wall to highlight the forms of the projected shadows. Ms. Carolyn noted that the Board of Directors of the "Friends of the Peace Park Sculpture Garden" included Mayor Del Giudice, Councilmember d'Eustachio, Dr. William Loveless, Benedict Wasmuth, Robert Alpern, Rudy Arredondo, Robin Gerber, Norman Greene, Thomas Gagliardo, and herself. She said a separate non-profit organization bank account had been set up under the auspices of TAG (Takoma Artists' Guild); the account would receive all donations to the project and the monies would then be used to pay for contracted services and materials under the supervision of the Mayor & Council. Ms. Carolyn noted receipt of a letter regarding the project; she said she had not yet had an opportunity to meet with the authors, however, would like to respond to a few questions they had raised. She said existing azaleas would not be removed, but would be moved to a more suitable, lightly-shaded location within the Municipal Building area. Drought-resistant plantings which would thrive in the hot, dry area in front of the building would be installed. She said maintenance costs had been a very important factor in the designation of plantings for the area, and what was being proposed would take no more, and probably less, maintenance than the azaleas presently planted there. She pointed out that the azaleas had been dying off either partially or totally at an alarming rate, and the Public Works Department had had to remove and replace a number of them. Ms. Carolyn said there was no intention of removing lawn areas around the Library; as reflected in the concept design presented in September, nothing in that regard would change. The multi-uses offered would provide, however, shade, seating areas and a drinking fountain, with additional pathways so that handicapped persons could access the areas more easily rather than having to cross the lawn. She said it was hoped the sales held in the area would receive added attendance because of the extremely beautiful landscaping and added comfort and convenience. Ms. Carolyn invited interested persons to come by her home and studio and view her work, and on behalf of all those who had worked on the project, thanked the Mayor & Council, as well as Public Works Director Giancola, for their patient guidance with the project. She asked that the elected body vote in the affirmative on the resolution approving Phase I of the concept for the project.

The Mayor asked that, while such was not the case with the resolution copies distributed, a copy of the landscape plan for the project be

attached to the copy of the resolution placed in the official records of the City. He noted that all members of the elected body had previously received copies of the plan and had spent time reviewing it on at least three occasions.

Councilmember Sharp asked for clarification regarding exactly what the elected body would be approving with passage of the resolution and said he felt it important that concerns raised by various groups and individuals be addressed prior to proceeding. Councilmember d'Eustachio pointed out that the final "Resolve" clause indicated general approval of the concept but required that the Mayor & Council authorize construction subsequent to final approval of detailed site plans. He said while Ms. Carolyn had had discussions with both Recreation and Public Works, there probably remained details to be worked out. He pointed out that final approval would also be contingent upon the Mayor & Council's belief that there was adequate funding to begin and complete the project. Councilmember Sharp said that on the basis outlined by Mr. d'Eustachio, he would be prepared to vote in favor of the resolution; however, he would want Ms. Carolyn to understand that he was not prepared to vote affirmatively at present on all the details she had discussed in her commentary. Councilmember Douglas commented he would concur with Messrs. d'Eustachio and Sharp. He said he felt the plan before the Council was in the right ballpark, but was aware that there remained some concerns to be addressed. He pointed out it would take some time to raise adequate money to fund the project, and in the interim there would be time to consider and adjust final details. He said he would support the resolution on the condition that the elected body wanted to move forward, believed the project was on the right track, and, as money began to come in, staff, the public and others would have an opportunity to resolve all problems prior to ground being broken to commence construction. Councilmember Martin said she would be willing to go along with the resolution on the basis stated by Mr. d'Eustachio, however, would hope that in the near future some sort of citizens' committee, whether Council-appointed or advisory, would be formed under the leadership of Public Works Director Giancola to address problems raised by him, Recreation, Police, etc., prior to reaching the point where construction could begin. Councilmember d'Eustachio noted the presence of a number of supporters of the project in the audience. The question was called; the resolution was passed by unanimous vote.

RESOLUTION #1989-73  
(attached)

6. Resolution re Takoma Park Folk Festival (Insurance and Newsletter Advertisement).

Councilmember Elrich moved passage of the resolution, duly seconded by Councilmember Douglas. Councilmember Douglas noted the resolution was the culmination of discussions that had occurred relative to bringing the Folk Festival enough into the City's purview that its insurance would cover the activities, and recognizing the substantial informal support the City had afforded the event for a number of years. He said the festival organizers and City staff had cooperated in working the issues out. He said he hoped a similar arrangement would be worked out by staff and the organizers for the Old Town Festival in advance of its occurrence, so that there would not be any last-minute problems to address. Councilmember Sharp said he would raise a point he had raised last year, i.e., that he did not see why the City should pay the cost of printing the Newsletter insert for the festival -- that would appear to be a cost of the festival. He pointed out that the City did not print the advertisements for the House & Garden Tour and other similar functions. He said he did, however, support bringing the event under the City's insurance, as well as the in-kind staff time that was devoted. Councilmember Leary commented he was inclined to be sympathetic with Mr. Sharp's view; he said he understood, however, that the insert was a part of the 144 pages that the budget had already funded for the Newsletter for the coming year, and that it was considered to be coverage of an event such as that given the 4th of July celebration. Councilmember d'Eustachio commented that the elected body regularly made decisions regarding how to spend taxpayers' dollars for a variety of services provided, and he considered coverage of the Folk Festival to fall into the category of a service provided to the residents of the City. He said in comparison to the amount the

City otherwise spends on the Folk Festival, e.g., police overtime for festival coverage, the amount the Newsletter insert would cost was small change, and was a reasonable and worthwhile expenditure.

Deputy City Clerk Jewell noted an editorial correction on page 2 of the resolution -- under item 3(b), Takoma Park Middle School should read Takoma Park Intermediate School.

The question was called; the resolution was passed by unanimous vote of those present.

RESOLUTION #1989-74  
(attached)

7. Resolution Accepting PTZ Committee Recommendations re Municipal Building Parking Lot Safety.

Councilmember Leary moved passage of the resolution, duly seconded by Councilmember d'Eustachio. Mr. Leary noted the resolution was pursuant to an experiment the City had been conducting since the previous January to try to improve safety in the Municipal Parking Lot. He said, by and large, he did not think there was much controversy about most of what was recommended in the resolution; however, there was a good deal of controversy about the second recommendation in the "Resolve" clause. He said as far as he was concerned, there were two viable options for dealing with the cut-through traffic in the back parking lot, one being the one that has been in place since January and the other being to install speed humps. He noted commentary from some citizens regarding the inconvenience caused by the separation of the lot into two parking lots, and said that in the resolution presented the recommendation had been to install speed humps; however, based on additional citizen input and which opposed the proposed speed humps, he said he would move to amend the resolution to recommend that the installation of barricades that had been in place since January continue status quo. He said he hoped that Public Works and City staff could come up with a more aesthetic way of accomplishing the same barricade situation, however, so that it would not be so unsightly. In the last "Whereas" clause, Mr. Leary moved to strike the word ~~unanimously~~; and to insert in the first "Resolve" clause, number 2., language recommending retention of the current barricades in the middle of the parking lot to the rear of the Municipal Building and Library. He said the sentence asking that consideration be given to installation of a speed hump on Grant Avenue would be retained. The Mayor inquired whether Mr. Leary wanted staff to look into some sort of more permanent barricade installation for the rear lot. Mr. Leary affirmed that was his wish, however, that whatever they came up with should be explored and discussed with the elected body prior to making installation. Councilmember d'Eustachio, for purposes of discussion, seconded the proposed amendment.

Councilmember Leary pointed out that while some comments had been received from City staff that led to the original recommendation for speed humps in the rear lot rather than the barricade, subsequent comments had been received from Public Works, as well as the Chief of Police, which were in support of the current barricade installation.

Councilmember Douglas remarked that by debating this question, actually the entire resolution was being debated, because the issue at hand was that on which everything hinged. He summarized the problem, pointing out that what existed was a large parking lot surrounding two city buildings, with that lot also being a convenient foot traffic area through which numbers of school children passed going to and from school, as well as a convenient cut-through area for traffic wishing to avoid the traffic light at Maple and Philadelphia Avenues. He said the problem originally raised to the City was the safety hazard the cut-through vehicular traffic presented for school children, and the elected body had been asked to deal with that situation, which they had done. However, that solution presented an additional problem in that it made access to and use of the Municipal parking lot for its original intent somewhat more difficult -- thus, in solving one problem, another had been created. Mr. Douglas said, however, that he felt the problems were not mutually exclusive and both issues could be dealt with. He said, however, he had reservations about supporting a permanent barrier installation; he said he felt the temporary barriers

should be retained and the search should continue for a more permanent structure that would address such things as traffic flow for the bandstand, ingress and egress for the police and for people using the Municipal Building for evening meetings, etc., rather than precipitously installing a permanent barrier. He said as unsightly as the present sawhorses were, they did preserve options for examining the situation again at a later date. He said he would ask that Mr. Leary's amendment be passed, but that the temporary barriers be retained and a more permanent sort of solution continue to be sought.

Councilmember Martin commented that she understood the hazard presented to school children by the traffic in the lot(s); however, as a member of the PTZ Committee, she had favored and supported speed humps rather than a barrier. She said she had had calls from constituents relating that they had had to resort to use of Longbranch Library rather than the City Library because it was all but impossible to get in and out of the Takoma Park Library lot. Ms. Martin pointed out that the school children were in the lot(s) only a small portion of the day; for that reason, she said she had thought that a number of speed humps would slow traffic down sufficiently to make the area safe for the children, but still allow people in vehicles access to and use of the lots. She suggested that perhaps the fence along the back of the parking lot could also be extended all the way to Grant Avenue so that the children would have to walk over to Grant and down that street, rather than coming down the bank and walking through the parking lot as they presently do. Ms. Martin said she would be willing to go along with the temporary barricades for awhile longer so as to consider other options; she had thought they would be there only until speed humps were installed; however, would want to delete the 4th "Whereas" clause in its entirety from the resolution because it was not in conformance with the recommendation of the Planning, Transportation & Zoning Committee. Councilmember Leary remarked he would be amendable to that; the maker and seconder of the motion for passage of the resolution accepted that amendment.

Councilmember d'Eustachio commented he had not received any comments on the situation from constituents, so would have to rely on his own thoughts on the matter. He said he spent a lot of time at the Municipal Building as well as the Library, and while ingress and egress to the two lots was somewhat more difficult, he felt it to be a minor inconvenience. He said he considered driving a car to be a luxury, and would not be willing to go out of his way or urge the City to go out of its way to provide conveniences to those driving cars. He said he felt safety considerations should certainly be first and foremost, and related that during a conversation with Mr. Giancola, it was indicated that there were barriers available that could be moved with the equipment the City already has -- so apparently, something reasonably aesthetic in appearance could be obtained, and it could also be moved at those times deemed desirable. He said he felt that to be a perfectly reasonable option.

Councilmember Sharp pointed out that the major issue appeared to be making the area reasonably safe for school children; if that were the case, he inquired what the view would be on removing the barriers during summer school recess, Christmas vacation, etc. Councilmember Leary said he thought that would be worth considering, however, he said he had understood from a number of City staff that they also wanted some measure to try to eliminate the cut-through traffic from the lot(s) because they had a concern about it.

Mayor Del Giudice pointed out that while the issue originally arose because of concern for the safety of school children, when school is not in session, there are generally even more children in and around the Municipal Building and Library at all hours of the day. For that reason, he said if a permanent solution were adopted, it should also address that fact, as well as general pedestrian safety in the area. He said he was not sure the barricades were the optimum solution and related having been approached by two elderly individuals in the hallway one day who advised him that they enjoyed participating in some of the Recreation Department programs, however, had to park over by the Library and walk to the Municipal Building. While that might be only a minor inconvenience for some, the Mayor said he thought it should be considered that it may present a major obstacle for some

elderly people. He said he would favor some sort of permanent type installation that was also removable; however, would also want to point out that City staff need to be more sensitive to the needs of the elderly for more easy access to the Municipal Building. He said he very often noted City staff and employees' vehicles parked in the very few parking spaces available immediately outside the building. He pointed out that if those employees would park in the area behind the Library, there would be more available parking immediately around the Municipal Building for citizens needing to visit the building. He asked that the City Administrator and staff take action to ensure that City employees do not make use of the few parking spaces around the building, as well as those in the immediate area of the Library entrances (particularly those between the Municipal Building and Library), so as to facilitate parking for those citizens wishing to access either building.

Councilmember Douglas concurred with the Mayor's remarks; he said it would make it easier for people to attend evening meetings if City-owned cars were not parked in spaces immediately outside the building as well. He said if a permanent type barrier was available which was readily removable, as well as fairly aesthetic, that would meet his concerns and would not permanently foreclose other options; he would support that.

Mel Raff: related that he had delivered the original letter from the Elementary P.T.A. which raised the issue; he noted he was accompanied by P.T.A. officers from both the Takoma Park Elementary School and Piney Branch, and all wished to express their support for permanent barriers in the parking lot. He said he did not see how dividing the two lots could prevent anyone from accessing either building -- at worst, it might require them to drive around the block, perhaps causing a short delay. He said any such inconvenience was trivial in comparison with the safety of children; speed humps would not adequately address the safety of the children -- a car moving 5-10 mph could kill a child just as dead as one moving 20-30 mph. While speed humps would slow cut-through traffic down to some extent, they would not stop it -- some people would continue to choose going over the speed humps because they could continue moving rather than sitting at the traffic light.

Jay Quinn, Willow Avenue, Co-Pres. of Piney Branch Elementary School: said he would second Mr. Raff's comments, but had been very inconvenienced by the existing barrier himself; however, he said he felt the purpose it served far outweighed the inconvenience. He said he could not envision any member of the Council voting for the speed hump option as an alternative to the barrier. He said he would, however, favor an installation such as had been mentioned that was removable.

Recreation Director Ziegler related that during the recent band concert, she realized something that had not been foreseen earlier, i.e., that during such events, egress from the lot could be so limited as to be dangerous; she said she was in favor of a barricade, but it should be something that could be removed when necessary. She said there was a problem during the summer months because the children run across Grant Avenue to reach the Municipal Building and/or Library, people in cars get frustrated because of the lot being barricaded and drive too fast behind the building, and that presents a hazard. She said she hoped some solution could be found that would be effective, but would not be permanent and immovable.

Councilmember Elrich said he would favor barriers that could be removed on a time-sensitive basis. He said one thing he had noted was that exiting the Library lot and entering Philadelphia Avenue was exceedingly dangerous at certain times of the day; he said there would be a lot of merit in minimizing that danger if possible, perhaps by allowing traffic to pass freely behind the buildings at certain times of the day. He said one needed to consider that there could be children riding in cars that could be injured as well. Mr. Elrich pointed out the intersection at Maple and Philadelphia was probably one of the worst in the entire city, and said he did not think it was a good thing to overload it further with additional traffic. He said while he appreciated the idea of maintaining the existing flow of traffic around the building, he did think there was some merit to

looking at letting the lot at the front of the building exit toward Grant Avenue. He said he had noticed that a lot of people leaving evening meetings at the building go that way, and that would minimize the amount of traffic circulating around the building.

Public Works Director Giancola, responding to Mr. Elrich's last suggestion regarding traffic around the building, pointed out that there was a need to retain the angled parking in front of the building because the intention was to put in more parking space on the other side of the roadway there and if the parking were straight-in, there would not be sufficient backup space under the Code. He said turning and exiting onto Grant from the angled parking would present difficulties.

The question was called on the amendment that would retain the barrier situation and ask consideration of installation of a speed hump on Grant Avenue; the amendment carried with Councilmember Martin voting Nay, balance of Council voting Aye. Councilmember Martin commented that she had raised a question to staff, had not yet gotten a response, regarding whether extending the front sidewalk between the Municipal Building and Library as proposed would create a public safety hazard in terms of fire safety, i.e., would the fire department be able to adequately get their equipment into the lot if there were a fire in the building. The Mayor said he could only presume that the other members of the Planning, Transportation and Zoning Committee had felt comfortable with the recommendation regarding the sidewalk, and that it would not present a hazard in terms of fire safety.

Councilmember Hamilton, as a Board member of the TPVFD, related that the fire department, having recently obtained a brand new firetruck from the county, had spent the last several months taking the vehicle all around the city to familiarize with its handling getting it in and out of various locations. He said the truck could access the building via Grant Avenue with no problem. At the request of Councilmember Sharp, the Mayor clarified that the amendment just passed would direct staff to formulate a recommendation for the elected body regarding a permanent type barrier installation, including a cost and benefit analysis, and in the meantime the present barriers would be retained. The resolution, as amended, was passed with Councilmember Martin Abstaining, balance of Council voting Aye.

RESOLUTION #1989-75  
(attached)

8. Resolution Authorizing City Administrator to Send a Letter of Intent in Support of the MML Health Benefits Pool.

Councilmember Sharp moved passage of the resolution, duly seconded by Councilmember Douglas. Responding to query from Councilmember Sharp, the Mayor said the reason the City was not getting involved in startup costs at present was because there was no money available in the budget for it. Councilmember d'Eustachio pointed out that the costs appeared to be the same, whether the City got involved at present or at some later date. The resolution was passed by unanimous vote.

RESOLUTION #1989-76  
(attached)

9. First Reading of an Ordinance Authorizing Handicapped Parking for 38 Oswego Avenue.

Councilmember Hamilton moved acceptance for First Reading, duly seconded by Councilmember d'Eustachio. Councilmember Sharp suggested deletion of the dollar amount of the fine in Section 3. He pointed out that citing specific dollar amounts in ordinances would necessitate numerous Code amendments if the fine for the class offense were changed in future. The Mayor suggested that the language indicate that the fine would be that appropriate for a Class C offense; the maker and seconder of the motion accepted the amendment as editorial. Councilmember Martin pointed out that the same situation would apply to agenda item #2, which was handicapped parking for 13 Montgomery Avenue. The ordinance was accepted for First Reading by unanimous vote.

ORDINANCE #1989-  
(attached)



CONSENT AGENDA:

Councilmember d'Eustachio moved passage of the items on the Consent Agenda, collectively, duly seconded by Councilmember Sharp. The items were passed, collectively, by unanimous vote.

10. (a) Resolution of Appreciation - Parade Endowment Auction.

RESOLUTION #1989-77  
(attached)

(b) Proclamation Declaring August 8, 1989 "National Night Out" in the City of Takoma Park.

PROCLAMATION  
(attached)

(c) Resolution Calling for Mayor and Council Recess - August 1989.

RESOLUTION #1989-78  
(attached)

11. Variance Request for 308 Elm Avenue.

Councilmember d'Eustachio noted a resolution had been prepared by staff expressing opposition to granting of the requested Variance. He explained that the request was similar to one submitted by the applicant 7 years earlier -- at which time, there was stiff opposition to its granting from the neighborhood, as well as the City Council. Mr. d'Eustachio related that notice of the Variance request had been received only earlier in the day; the hearing was set for August 15th. He said he would move passage of the resolution expressing opposition on the grounds that there had not been adequate time afforded for the Council to investigate the matter and make a reasonable judgment on it; for that reason, the previous position taken by the Council 7 years earlier would have to be relied upon. He noted there was again substantial opposition in the neighborhood, and said he had been promised a petition bearing the signatures of at least 50 residents. He explained that there was question whether the lot was even buildable -- it was substandard in size, in-fill development was being proposed, the slope of the terrain was very steep -- and the applicant had a record of consistently disregarding the City's laws, Code, etc. Councilmember Leary duly seconded the motion for passage of the resolution. He commented he hoped staff would have time to gather some of the evidence cited to be sent to the county along with the resolution. The Mayor remarked staff was directed to do so. Councilmember Douglas commented that the Council had dealt with a similar case several weeks earlier; he said he would remind that whatever was sent to the county as evidence should be relevant to the issue at hand. The resolution was passed by unanimous vote.

RESOLUTION #1989-79  
(attached)

12. First Reading of Proposed Amendment to Article 7 re Composition of COLTA.

Councilmember Sharp noted that the landlord members of the Commission on Landlord-Tenant Affairs had submitted their resignations the previous week. He said those individuals had indicated to him that they would continue to work on their current case load, so the effective date of their leaving was unclear; however, it was clear that before very long there would be no remaining landlord representatives on the commission. Under the current provisions of the Code regarding composition of the body, when that occurred, the commission would effectively be prohibited from functioning without any members of the landlord category. He said while it was desirable to have landlords represented on the commission and participating in the hearing of cases, the commission's work was too important for it to cease operation based on the absence of any landlord members. For that reason, he said he felt the draft ordinance which would amend the Code requirements to eliminate categories on COLTA should be taken up for First Reading. He explained that staff had examined Article 7 at his

request and had found 3 instances containing category requirements, i.e., one having to do with the composition of the commission generally, one regarding quorum requirements, and one concerning the composition of 3-member panels. Mr. Sharp said the intent of the draft ordinance was to eliminate all category requirements, but to make no other type of changes in the structure of the commission at present. He said he would hope that if the proposed ordinance were accepted for First Reading, that information would be disseminated and perhaps other landlords could be found who would be interested in serving on COLTA; following return from its August recess, the elected body could reassess the situation regarding the continuing functioning of the commission, and if it were deemed unnecessary to adopt the ordinance at Second Reading, that could then be the case. He said, however, he thought there were some arguments for making the change regardless of the situation. Mr. Sharp moved acceptance of the ordinance for First Reading, duly seconded by Councilmember Elrich.

Housing Services Director Weiss said that on page 2 of the draft ordinance, where there was an amendment from a reference to subsection 3 to subsection A., she would suggest replacing the words ~~subsection A.~~ with the words this subsection. She noted that underlined language constituted an addition, bracketed language indicated deletion; she said she had tried to condense/consolidate the language without altering the intent.

Norman Gleichman, 7113 Central Avenue: stated support for the proposed ordinance; he said while he had not read it in detail, if it did what had been explained, that was what needed doing. He said the effect of the landlord members' resignations on the commission, if not corrected, would be fairly devastating, considering the past difficulty encountered in filling landlord positions on the body. He pointed out, however, that it would be particularly devastating for landlords because no relief could be provided under the Code for increases above the Rent Stabilization ceiling. For tenants, the devastation would lie in the fact that the existing Code protections for them could not be enforced in terms of defective tenancies and reduction of services cases. It would also result in a long retroactivity period for tenants in buildings where landlords did petition COLTA, because under the current Code, increases granted were retroactive. If a landlord filed a petition and COLTA could not adjudicate it for some time due to lack of landlord members, there would be a period of retroactivity that would create a substantial burden on tenants. For those reasons and to allow COLTA to continue to operate, he said there was a need for the change in the Code as outlined. Mr. Gleichman said he had not been aware of the action the landlord members were intending to take until he saw a copy of their letter; he said it was not correct, as asserted in the letter, that landlords had been staying away from the commission in terms of seeking increases above the Rent Stabilization ceiling; in fact, the most recent quarterly report of the commission, which would shortly be forthcoming, indicated an increase of petitions in the quarter over the same period for the previous year.

Councilmember Douglas said he would support the proposed amendment; however, as Mr. Sharp had pointed out, it would not necessarily go forward for adoption at Second Reading, nor was he certain it should. He said an obvious, though perhaps not viable, solution to the problem would be to appoint 4 new landlord representatives to the commission. One way or the other, he said he would suggest advertising the 4 vacancies in the September Newsletter, as well as accepting the ordinance for First Reading, which would preserve the options. He said he thought the deletion of categories from the composition of COLTA should be thought through more carefully than was likely to occur at the present meeting and hoped that could be done prior to a Second Reading, as well as a more policy-oriented discussion regarding where the elected body envisioned COLTA going, and the advantages and disadvantages of having categories, intermediate solutions for the problem of having quorums, etc. Mr. Douglas commented he also felt there was an advantage in staggered terms for the commission; he said he was uncertain whether that was the case, but if not, he would like to see that issue dealt with at Second Reading of the ordinance.

Councilmember Hamilton commented he had grave concerns about what the ordinance would do; the commission was set up in categories so that

people could feel there was balanced representation when they came before the commission. He said before categories were eliminated, the public should be notified and the matter should be discussed. Regarding landlord representation on the commission, he said he had always favored anyone owning rental property in the city, be it 2, 5 or 50 units, being able to apply to serve on the commission. He said he would prefer to retain the balance of categorical representation, rather than changing the composition of the body from what was originally intended.

Councilmember Elrich commented he did not like for the City, or the Council, to be held hostage to an interest group. He said for one interest group to apparently think they could boycott a process that had been working and shut it down was not tenable, and perhaps a loosening of the standards, if not outright elimination of categories, would have to occur in order to avoid that situation. He said there were many valid arguments for having representation of the various interest groups, but for one to think they could shut down the process put the City in an unhealthy position. He said the Council should not be put in a position of having to rethink other legislation in order to keep one interest group as a player in the process.

Mayor Del Giudice commented he did not think the policy issues raised could be fully addressed; he said he agreed very much with the proposed legislation. He said it may have been naive to think that a viable judicial decision-making body could be comprised of representatives of two interest groups with a shared interest and representatives of a third group who arguably did not represent either of the interests. He said in his own view, to take a landlord, a tenant, and a general citizen representative and think those individuals were going to shed their own personal interest biases entirely in hearing cases and come up with a fair, balanced and unbiased opinion was not workable. He said he understood many cases were split, and the final decision depended upon where the general public representative cast his vote between the competing interests. He said it appeared to him that in order to create a judicial decision-making process, one should try to find a group of individuals who would try to judge cases not based on an interest, i.e., whether they happen to be a landlord or a tenant, but more on the facts and circumstances presented by each case. He said it was a basic assumption of judicial decision-making that those deciding a case should not share interests. He said he would be willing to explore that situation, however, agreed with Mr. Sharp regarding the need to take some immediate action to resolve the potential problem at hand so that the commission would not be rendered non-functional. He said the proposed ordinance would not bar landlords from serving, would open up the representation; however, there could be no guarantee of slots being available for those who might wish to serve. If the decision were to try to continue the existing model, there would be a duty to try to have representatives on the commission from each of the constituencies.

Councilmember Sharp commented that he had put together the proposed ordinance as a solution to the immediate problem, not as a correct solution for the structure of the commission. He said when the issue was addressed following the summer recess, it had to be kept in mind that the commission had to continue to function; if there was a desire to debate its structure, then something might have to be put in place on an interim basis so that could occur.

The ordinance, as editorially amended by Ms. Weiss, was accepted for First Reading with Councilmember Hamilton voting Nay, balance of Council voting Aye. The Mayor noted the proposed ordinance would be scheduled for worksession discussion in September.

ORDINANCE #1989-  
(attached)

Upon motion, duly seconded, the meeting adjourned at 11:40 p.m., to reconvene shortly thereafter in worksession and, following August recess, in regular session at 8:00 p.m. on September 11, 1989.

Introduced By: Councilmember Hamilton  
(Drafted by P. Jewell)

1st Reading: 7/31/89  
2nd Reading:

**ORDINANCE NO. 1989-**  
**AN ORDINANCE ESTABLISHING HANDICAPPED PARKING AT 38 OSWEGO AVENUE**

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

SECTION 1. THAT it has been determined that there is a need for the establishment of a parking space expressly for the handicapped on Oswego Avenue; AND

SECTION 2. THEREFORE THAT in conformance with Sec. 13-64(a) (10) of the Code of Takoma Park, Md., 1972, as amended, the following site is hereby designated, subject to annual review, for the exclusive use of vehicles displaying a special registration plate or permit issued to the disabled by any state or the District of Columbia:

(b) On Oswego Avenue, one parking space opposite 38 Oswego Avenue

SECTION 3. further that a violation of subsection (a) (10) is a Class C Offense and that any person issued a citation in violation of this ordinance shall be subject to a fine for a Class C Offense for each initial violation as prescribed in Sec. 13-64(a) (10) (A) of the Code of Takoma Park, 1972, as amended.

(underlining) denotes additions.

Adopted this \_\_\_ day of \_\_\_\_\_, 1989 by Roll Call Vote as Follows:

AYE:  
NAY:  
ABSTAIN:  
ABSENT:

Ordinance 1989 - \_\_\_

ORDINANCE TO REMOVE INTEREST GROUP AFFILIATION REQUIREMENTS FOR  
MEMBERSHIP ON THE COMMISSION ON LANDLORD-TENANT AFFAIRS

Introduced by Councilmember Sharp  
(Drafted by S. Weiss)

WHEREAS It is the responsibility of the Commission on Landlord-Tenant Affairs (the Commission) to decide cases based upon complaints and rent increase petitions brought before the Commission; AND

WHEREAS The Mayor and Council find that the legislated interest-group affiliations required by the Code are a hinderance to the Commission carrying out its responsibilities.

NOW THEREFORE, BE IT HEREBY ORDAINED THAT Section 6-80.2 shall be amended to read as follows:

Sec 6-80.2. Commission on Landlord - Tenant Affairs.

(a) The Takoma Park Commission on Landlord-Tenant Affairs is hereby established. The Commission shall consist of twelve (12) members appointed by the Mayor, subject to the approval of the City Council. All members shall be residents of the City of Takoma Park except that there may be as many as two members who are not residents of the City of Takoma Park if such members own rental housing in the City of Takoma Park or if such members are engaged as their primary occupation in the management of rental housing located in the City of Takoma Park. [ The Commission shall contain representation of three groups: Tenants, Public at Large, and Landlords, as follows:]

[ (i) Four (4) members shall be the tenant representatives and shall be tenants who are residents of the City of Takoma Park;]

[ (ii) Four (4) members shall be the public at large representatives who are neither tenants nor landlords and are residents of the City of Takoma Park;]

[(iii) Four (4) members shall be the Landlord representatives. At least two of the landlord representatives shall be residents of the City of Takoma Park and shall either be landlords or shall represent landlords who own one or more rental units within the City of Takoma Park. No more than two of the landlord representatives may be nonresidents of the City of Takoma Park. Any nonresident landlord representative shall own a controlling interest (51% or more) in twelve (12) or more rental units within the City of Takoma Park, or shall be engaged as his or her primary occupation in the management of twelve or more rental units in the City of Takoma Park, unless the Mayor and Council determine that a particular nonresident landlord who owns or manages fewer than 12 rental units can satisfactorily serve in the capacity of landlord representative.]

Each member of the Commission shall be appointed for a term of three (3) years, which shall begin on July 1. [ Each representative group shall have at least one (1) member and no more than two (2) members whose terms shall expire each year. There shall be no more than one (1) representative group each year with two (2) members whose terms shall expire. In the event that a member appointed with the status of Landlord, Tenant, or Public at Large ceases to retain that status under which he or she was appointed, that member is ineligible to serve on the Commission in that capacity. ] In the event that a member ceases to reside in the City of Takoma Park, that member is ineligible to serve on the Commission, except as provided for in Subsection (a) [(iii)], above. Members may be reappointed without limitation. Replacements to the Commission for members who are ineligible or have resigned shall be for the duration of the term of the member being replaced. Members may be reappointed without limitation. The Mayor and Council may, by resolution, remove a Commissioner before the Commissioner's term has expired if the Mayor and Council determines that a Commission has become incapacitated or engaged in misconduct.

(b) The Commission shall elect one (1) of its members as Chairperson, another of its members as Vice Chairperson, and such other officers as it shall desire, each to serve at the pleasure of the Commission. The Chairperson shall convene the Commission as frequently as required to perform

its duties. At the request of a majority of the members, a regular or emergency meeting of the Commission shall be convened. Written notice shall be given to each Commissioner at least three (3) days prior to any regular meeting. Notice of an emergency meeting must be given in writing or orally to all Commissioners no later than twenty-four (24) hours in advance of such emergency meeting. Except as required by Section 6-80.16 of this Article, six (6) Commissioners [, two (2) from each representative group,] shall constitute a quorum for the transaction of business. A majority vote of those present shall be sufficient for any official action taken by the Commission.

(c) Three-member panels.

(1) The Chairperson of the Commission is hereby authorized to designate three (3) members of the commission [, one (1) of whom shall be a tenant member, one (1) of whom shall be a landlord member and one (1) of whom shall be a general public member] to sit as a panel to conduct a hearing on any complaint or petition pending before the Commission. The Chairperson shall designate one (1) panel member to serve as the panel's presiding officer. The Chairperson of the Commission will endeavor to rotate panel membership from time to time among members of the Commission.

(2) In the event any matter is heard by a Commission panel designated pursuant to this subsection, all panel members so designated must be present to conduct the hearing and all official action by the panel shall be taken by the vote of not less than two (2) members of the panel.

(3) Except as otherwise provided in this subsection, the provisions of this Article pertaining to the conduct of hearings before the Commission shall apply to hearings conducted by Commission panels.

(4) The opinion and order of a hearing panel shall be final and binding upon the parties, unless a member of the hearing panel dissents from the opinion and order. Should a member of a hearing panel dissent from the panel's opinion and order, the matter shall be referred to the full Commission for consideration and disposition on the record created before the hearing panel.

(5) If a Commission panel is unable to decide any complaint or appeal pending before it, due to a tie vote resulting from the failure of any panel member to vote, such complaint or appeal shall be referred to the entire Commission for a decision by it based upon the record established before the Commission panel, without further hearing.

(d) The City Administrator shall have the authority to provide housekeeping and staff services to the Commission and shall provide a record of expenses incurred.

(e) The Commission shall, within thirty (30) days following each quarter of the calendar year, report to the Mayor and City Council on the number of complaints filed during such quarter, the nature thereof and the disposition made thereof, and shall make this information public as soon as practicable. This report shall include the titles of all court cases arising under this section.

(f) The Commission shall provide such other information as may be requested by the Mayor and City Council.

(g) In adjudicating complaints filed under this Article and pursuant to the Landlord-Tenant Coordinator's initial determination, the Commission shall initiate a fact-finding hearing to compile additional information necessary in making a determination of the merits of a case. Notice of the hearing and its time and place shall be given to the complainant(s) and respondent(s) who may be affected by the complaint. Such notice shall be prepared and transmitted in such form and process as the Commission shall prescribe, inclusive of posting said notice in a common area at the facility in question as well as in at least two (2) public locations not on said property, so as to notify all interested other parties. Request for postponement and subsequent rescheduling by either party shall be submitted in writing within three (3) working days of the hearing and is subject to the approval of the Chairperson of the Commission or the presiding officer of the Commission Panel.

(h) The hearing shall be open to the public. In conducting hearings, the Commission shall have the power to subpoena witnesses and to require the production of relevant documents and records. Any party to the hearing may request the issuance of a subpoena, which shall be in a form prescribed by the Commission. Any party may appear before the Commission in person, or by a duly authorized representative.

Ordained this \_\_\_\_\_ day of the month of \_\_\_\_\_, 1989, by the Mayor and Council of the City of Takoma Park, Maryland.



Introduced By: Councilmember d'Eustachio  
Drafted By: L. Schwartz

ADOPTED: JULY 31, 1989

Resolution No. 1989-71

WHEREAS, Mr. Leon Trager has applied to the Board of Appeals for Montgomery County for variances for part of Lots 3 and 4, Block 16, B.F. Gilbert's Addition to Takoma Park Subdivision, located at 1 Columbia Avenue, Takoma Park, Maryland (Case No. A-2660); 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 DENIAL of the application on the basis of analysis contained in the pertinent staff report dated July 28, 1989; 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 OPPOSE the subject variance application, and recommend that the Board of Appeals for Montgomery County DENY the subject application as submitted.

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 31st DAY OF JULY, 1989.

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Introduced By: Councilmember d'Eustachio  
(Drafted by P. Jewell)

1st Reading: 7/17/89  
2nd Reading: 7/31/89

ORDINANCE NO. 1989-29

AN ORDINANCE ESTABLISHING HANDICAPPED PARKING AT 13 MONTGOMERY AVENUE

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

SECTION 1. THAT it has been determined that there is a need for the establishment of a parking space expressly for the handicapped on Montgomery Avenue, the Unit block: AND

SECTION 2. THEREFORE THAT in conformance with Sec. 13-64(a) (10) of the Code of Takoma Park, Md., 1972, as amended, the following site is hereby designated, subject to annual review, for the exclusive use of vehicles displaying a special registration plate or permit issued to the disabled by any state or the District of Columbia:

(a) On Montgomery Avenue, one parking space opposite 13 Montgomery Avenue

SECTION 3. further that a violation of subsection (a) (10) is a Class C Offense and that any person issued a citation in violation of this ordinance shall be subject to a fine for a Class C Offense for each initial violation as prescribed in Sec. 13-64(a) (10) (A) of the Code of Takoma Park, 1972, as amended.

(underlining) denotes additions.

Adopted this 31st day of July, 1989 by Roll Call Vote as Follows:

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

NAY:

ABSTAIN:

ABSENT: Hamilton (for vote)

Introduced by: Councilmember d'Eustachio

RESOLUTION NO. 1989-73

APPROVING THE CONCEPT OF PHASE I OF THE  
PEACE PARK MEMORIAL SCULPTURE GARDEN

WHEREAS, the City of Takoma Park, Maryland has demonstrated a commitment to world peace and is a leader in the international nuclear free movement; AND

WHEREAS, Takoma Park sculptor and Artist in Residence, M.C. Carolyn has conceived and proposed the first Peace Park sponsored by a governmental body in the United States; AND

WHEREAS, the Memorial Peace Park-Sculpture Garden project is an extension of the City's commitment as a nuclear free zone and its purpose is to commemorate the victims of all warfare, particularly atomic warfare; AND

WHEREAS, the Mayor and Council have previously reviewed and approved the basic project concept on September 26, 1989.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the City of Takoma Park that the Memorial Peace Park-Sculpture Garden concept is hereby approved, and that the concept landscape design as attached is hereby approved; AND

BE IT FURTHER RESOLVED, that the Mayor and Council authorizes M.C. Carolyn to proceed with fundraising and other activities necessary to bring this project to fruition; AND

BE IT FURTHER RESOLVED, that the Mayor and Council shall authorize the initiation of construction subsequent to final approval of detailed site plan designs, and subsequent to a determination by the Mayor and Council that funding adequate to assure the successful completion of Project Phase One has been received.

Dated this 31st day of July, 1989.

Introduced by: Councilmember Douglas  
(Drafted by: P. Jewell)

Dated: 7/31/89

RESOLUTION #1989-74

AUTHORIZING CITY SUPPORT SERVICES FOR THE  
ANNUAL TAKOMA PARK FOLK FESTIVAL

WHEREAS, since 1977, the City of Takoma Park has been host to the annual Takoma Park Folk Festival, a community celebration of music, dance, crafts and foods from around the world; AND

WHEREAS, the Folk Festival benefits the Takoma Park community by donating funds to local children's activities, providing a consumer's marketplace with local crafters, spotlighting Takoma Park's musicians, dancers, actors and actresses, highlighting community activism, and bringing favorable publicity to Takoma Park; AND

WHEREAS, it is in the City's best interest to support the Takoma Park Folk Festival Committee and it is the Mayor and Council's desire to provide various support services towards the continuing success of the Folk Festival.

NOW THEREFORE BE IT HEREBY RESOLVED, by the City of Takoma Park, Maryland that the following support will be provided to the annual Takoma Park Folk Festival:

City Services and Involvement

1. That the City as a co-sponsor of the annual Takoma Park Folk Festival, hereby extends the "umbrella" of its Local Government Insurance Trust insurance coverage over festival activities.
2. That regarding City Newsletter advertisement for the Takoma Park Folk Festival:
  - a. the Festival Committee should devise and produce a four-page insert each year, at their own expense, or using volunteers or other methods at the Committee's discretion. The four page insert would be delivered to the Newsletter editor in camera-ready form, and be subject to his approval; and

- b. The City of Takoma Park shall continue to pay up to \$200.00 for the costs of printing the four page Newsletter insert.
3. That services will be provided by the Takoma Park Department of Public Works (PW) as follows:
    - a. a large generator is to be delivered to the Public Works compound by a private contractor the Friday before the festival on a trailer. PW will deliver the generator at 7:30 AM on the day of the festival to the festival grounds. The PW will pick up the generator at 7:30 PM at the end of the event and store the generator on their compound until it is picked up by the generator rental company the following Monday.
    - b. PW will deliver the City bandwagon to the festival site on the day of the festival at 7:30 AM. The bandwagon and the generator will be left on the Takoma Park Intermediate School field below the hill. A representative of the Folk Festival Committee will meet the bandwagon delivery to help with the placement of the bandwagon. The bandwagon will be picked up at the end of the festival at 7:30 PM.
    - c. The following items on loan from the PW, will be loaded either onto the bandwagon or the truck which will be towing the generator to the festival site to be delivered at the same time as the bandwagon and the generator:
      - 6 Cones
      - 6 Saw Horses
      - 5 Safety vests
      - 2 Rolls of snow fencing
      - 10 stakes for the snow fencing
      - 1 stake pounder
      - 25-30 chairs (from Recreation Dept.)
      - 1 small generator filled with gas.
    - d. The following items are the property of the Folk Festival Committee and will be stored at the Department of Public Works:
      - Handicap ramps
      - large charcoal grills with grates

These items will be organized at the close of the festival by the festival workers and will be picked up by PW along with the bandwagon and generator.

- e. Delivery of booth parts on Friday or Saturday morning, (at a time pre-arranged with the school to a room inside the school, possibly the Industrial Arts Room) to the festival site and pick up of the dismantled booths at the end of the festival at 7:30 PM.
4. That security for the Folk Festival Vendors and control of vehicular and pedestrian traffic (as needed) will be provided by the Takoma Park Police Department.
5. That these services and all City involvement for the annual Takoma Park Folk Festival shall include but not be limited to the Saturday evening Festival Concert and the Sunday Folk Festival.

BE IT FURTHER RESOLVED, THAT the City Administrator is hereby directed and is hereby authorized to implement any necessary procedures to carry out these City services.

Dated this 31st day of July, 1989.

Introduced by: Councilmember Leary  
(Drafted by P. Jewell)

RESOLUTION # 1989-75

Accepting Recommendations of the Planning, Transportation and  
Zoning Committee (PTZ) RE: Municipal Parking Lot Safety

WHEREAS, in January 1989, the City installed temporary barricades in the Municipal parking lot to make pedestrian traffic safer thru this lot; AND

WHEREAS, the Planning, Transportation and Zoning Committee was asked to study the impact of these temporary measures; AND

WHEREAS, the Planning, Transportation and Zoning Committee received comments and concerns about the temporary barricades from citizens and City staff; AND

NOW THEREFORE BE IT RESOLVED THAT the following recommendations of the PTZ Committee are hereby approved:

1. Extend the sidewalk to eliminate the existing entrance between the Municipal Building and the Library
2. Retain the current barriers in the middle of the Public Library lot in the rear of the Municipal Building. Also consider installing a speed bump on Grant Avenue.
3. Continue the existing traffic flow around the Municipal Building from the Grant Avenue entrance. Install a stop sign and make other changes as necessary to minimize congestion where traffic entering Grant Avenue from Maple Avenue must turn left in front of the Municipal Building.
4. Until a permanent plan has been approved and implemented, the current temporary arrangements should remain in place.

BE IT FURTHER RESOLVED THAT the City Administrator is hereby directed to begin implementation of these recommendations; AND

BE IT FURTHER RESOLVED THAT the Mayor and Council and the Planning, Transportation and Zoning Committee hereby express their appreciation to the City staff for their prompt and able assistance in responding to this situation.

Dated this 31st day of July, 1989

Introduced By: Councilmember Hamilton  
(Drafted by P. Jewell)

1st Reading: 7/31/89  
2nd Reading:

ORDINANCE NO. 1989-  
AN ORDINANCE ESTABLISHING HANDICAPPED PARKING AT 38 OSWEGO AVENUE

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

SECTION 1. THAT it has been determined that there is a need for the establishment of a parking space expressly for the handicapped on Oswego Avenue; AND

SECTION 2. THEREFORE THAT in conformance with Sec. 13-64(a) (10) of the Code of Takoma Park, Md., 1972, as amended, the following site is hereby designated, subject to annual review, for the exclusive use of vehicles displaying a special registration plate or permit issued to the disabled by any state or the District of Columbia:

(b) On Oswego Avenue, one parking space opposite 38 Oswego Avenue

SECTION 3. further that a violation of subsection (a) (10) is a Class C Offense and that any person issued a citation in violation of this ordinance shall be subject to a fine for a Class C Offense for each initial violation as prescribed in Sec. 13-64(a) (10) (A) of the Code of Takoma Park, 1972, as amended.

(underlining) denotes additions.

Adopted this \_\_\_ day of \_\_\_\_\_, 1989 by Roll Call Vote as Follows:

AYE:

NAY:

ABSTAIN:

ABSENT:



Introduced by: Councilmember d'Eustachio

RESOLUTION NO. 1989-79

WHEREAS, Mr. Jerald Booth has applied to the Board of Appeals for Prince George's County for a variance for part of Lots 33 and 34, Block 21, B.F. Gilbert's Addition to Takoma Park, Maryland (Case No. 10163); 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, a variance application for this property came before the Mayor and Council in 1982 (Case No. 6322) at which time the Mayor and Council OPPOSED the subject application; AND

WHEREAS, the Board of Appeals for Prince George's County subsequently DENIED the variance application; AND

WHEREAS, the Mayor and Council at this time have not been presented with adequate information to determine that the current application is substantially different from the previous one;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT, the Mayor and Council hereby OPPOSE the subject variance application, and recommend that the Board of Appeals for Prince George's County DENY the subject application as submitted.

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 31st DAY OF July, 1989.

Introduced by: Councilmember d'Eustachio

RESOLUTION #1989-77

OF APPRECIATION - INDEPENDENCE DAY PARADE ENDOWMENT AUCTION  
AND THE INDEPENDENCE DAY ACTIVITIES

WHEREAS, on July 2, 1989, the Mayor and Council and the Takoma Park Independence Day Committee sponsored an auction for the purpose of creating an endowment which will support future Independence Day activities; AND

WHEREAS, this Auction featured a variety of goods, services and entertainment packages that were donated by area businesses, as well as cash donations that were contributed by some businesses directly to the Endowment; AND

WHEREAS, the generous support and spirit of cooperation of these businesses resulted in proceeds which helped to ensure the future and continuing success of Takoma Park's Independence Day Parades; AND

WHEREAS, the City's 100th Anniversary of Independence Day celebrations was a huge success as a result of the generous support and spirit of cooperation of all of the many businesses, organizations, citizens and City staff that contributed their goods, services, monetary donations and time to this important event.

NOW THEREFORE BE IT RESOLVED, THAT the Mayor and Council of Takoma Park, Maryland, hereby express deep gratitude and appreciation to all of the businesses, organizations, citizens, City staff and the Independence Day Committee that helped to make the 100th Anniversary a success;

BE IT FURTHER RESOLVED, THAT the Mayor and Council hereby express special thanks to City Staff member, Valerie Johnson who coordinated the Parade Endowment Auction.

Dated this 31st day of July, 1989.

P R O C L A M A T I O N

- WHEREAS, the National Town Watch Association is sponsoring a special, coast-to-coast community crime prevention project on the evening of August 8, 1989 called "National Night Out"; AND
- WHEREAS, the citizens of Takoma Park play an essential role assisting the Police Department through their cooperative crime prevention efforts in Takoma Park and their support of "National Night Out" locally; AND
- WHEREAS, it is important that all citizens in Takoma Park be aware of the importance of crime prevention programs and the positive impact that their participation can have on reducing crime in our neighborhoods; AND
- WHEREAS, "National Night Out" provides an opportunity for Takoma Park to join together with hundreds of other communities across the country in support of safer neighborhoods and to demonstrate the success of cooperative crime prevention efforts; AND
- WHEREAS, neighborhood spirit and cooperation is the theme of the "National Night Out" project and is also the key ingredient in helping the Takoma Park Police Department to fight crime.
- NOW, THEREFORE, BE IT PROCLAIMED that the Mayor and Council of the City of Takoma Park, Maryland do hereby designate

Tuesday, August 8, 1989 as "National Night Out"

and call upon all of the citizens of Takoma Park to join with the City government and the National Town Watch Association in supporting and participating in this event.

JULY 31, 1989

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Stephen J. Del Giudice  
Mayor

ATTEST:

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James S. Wilson, Jr.  
City Administrator

(Revised 8/7/89)

Introduced By: Councilmember d'Eustachio

**RESOLUTION #1989-78**

**SETTING FORTH MAYOR AND COUNCIL SUMMER 1989 RECESS**

WHEREAS, It has been decided that in order to accommodate vacation schedules of the Mayor and City Councilmembers, a summer recess shall be called; AND

WHEREAS, this recess shall commence after a Regular Council Meeting scheduled for Monday, July 31, 1989; AND

WHEREAS, with the first Monday of September, 1989 being the Labor Day Holiday, the Mayor and Council will reconvene their meetings on Tuesday, September 5, in Council Worksession; AND

WHEREAS, further the Mayor and Council will reconvene their first Regular Meeting of official business, scheduled on Monday, September 11, 1989.

NOW THEREFORE BE IT FURTHER RESOLVED THAT the Mayor and Council hereby set forth their summer recess from August 1, 1989 through September 4, 1989.

Dated this 31st day of July 1989.

Introduced by: Councilmember Sharp

RESOLUTION #1989-76

AUTHORIZING TAKOMA PARK'S LETTER OF INTEREST FOR  
MML HEALTH CARE BENEFITS POOL DEVELOPMENT FUND

WHEREAS, the Maryland Municipal League and the Maryland Association of Counties has determined there is sufficient interest to establish a health benefits/insurance pool; AND

WHEREAS, the establishment of such a pool would offer member entities flexible benefit options and assistance with cafeteria plan and wellness program implementation and would also include an HMO option on terms favorable to the pool and MML members; AND

WHEREAS, in order to determine if the MML membership wants a health benefits/insurance pool, a letter of intent is needed by at least 50% of the League member cities and towns to indicate their participation in the pool development; AND

WHEREAS, the Mayor and Council of Takoma Park, Maryland have reached a consensus to participate in the pool during Fiscal Year 1990-91.

NOW THEREFORE, BE IT HEREBY RESOLVED, THAT the City Administrator is authorized to execute the Letter of Intent on behalf of the City, to participate in the health benefits/insurance pool for the next fiscal year; AND

BE IT FURTHER RESOLVED, THAT the Letter of Intent be merely an expression of the City's interest in participating in the pool during Fiscal Year 1990-1991, and that no contribution to the start-up costs will be made at this time; AND

BE IT FURTHER RESOLVED, THAT if the pool program is implemented and the City of Takoma Park decides to join at a later date, the City of Takoma Park will be expected to pay a "fair share" of the costs at that time.

Dated this 31st day of July, 1989.

MMLHEAL.POO

Ordinance 1989 - \_\_\_\_\_

ORDINANCE TO REMOVE INTEREST GROUP AFFILIATION REQUIREMENTS FOR  
MEMBERSHIP ON THE COMMISSION ON LANDLORD-TENANT AFFAIRS

Introduced by Councilmember Sharp  
(Drafted by S. Weiss)

WHEREAS It is the responsibility of the Commission on Landlord-Tenant Affairs (the Commission) to decide cases based upon complaints and rent increase petitions brought before the Commission; AND

WHEREAS The Mayor and Council find that the legislated interest-group affiliations required by the Code are a hinderance to the Commission carrying out its responsibilities.

NOW THEREFORE, BE IT HEREBY ORDAINED THAT Section 6-80.2 shall be amended to read as follows:

Sec 6-80.2. Commission on Landlord - Tenant Affairs.

(a) The Takoma Park Commission on Landlord-Tenant Affairs is hereby established. The Commission shall consist of twelve (12) members appointed by the Mayor, subject to the approval of the City Council. All members shall be residents of the City of Takoma Park except that there may be as many as two members who are not residents of the City of Takoma Park if such members own rental housing in the City of Takoma Park or if such members are engaged as their primary occupation in the management of rental housing located in the City of Takoma Park. [ The Commission shall contain representation of three groups: Tenants, Public at Large, and Landlords, as follows:]

[ (i) Four (4) members shall be the tenant representatives and shall be tenants who are residents of the City of Takoma Park;]

[ (ii) Four (4) members shall be the public at large representatives who are neither tenants nor landlords and are residents of the City of Takoma Park;]

[(iii) Four (4) members shall be the Landlord representatives. At least two of the landlord representatives shall be residents of the City of Takoma Park and shall either be landlords or shall represent landlords who own one or more rental units within the City of Takoma Park. No more than two of the landlord representatives may be nonresidents of the City of Takoma Park. Any nonresident landlord representative shall own a controlling interest (51% or more) in twelve (12) or more rental units within the City of Takoma Park, or shall be engaged as his or her primary occupation in the management of twelve or more rental units in the City of Takoma Park, unless the Mayor and Council determine that a particular nonresident landlord who owns or manages fewer than 12 rental units can satisfactorily serve in the capacity of landlord representative.]

Each member of the Commission shall be appointed for a term of three (3) years, which shall begin on July 1. [ Each representative group shall have at least one (1) member and no more than two (2) members whose terms shall expire each year. There shall be no more than one (1) representative group each year with two (2) members whose terms shall expire. In the event that a member appointed with the status of Landlord, Tenant, or Public at Large ceases to retain that status under which he or she was appointed, that member is ineligible to serve on the Commission in that capacity. ] In the event that a member ceases to reside in the City of Takoma Park, that member is ineligible to serve on the Commission, except as provided for in Subsection (a) [(iii)], above. Members may be reappointed without limitation. Replacements to the Commission for members who are ineligible or have resigned shall be for the duration of the term of the member being replaced. Members may be reappointed without limitation. The Mayor and Council may, by resolution, remove a Commissioner before the Commissioner's term has expired if the Mayor and Council determines that a Commission has become incapacitated or engaged in misconduct.

(b) The Commission shall elect one (1) of its members as Chairperson, another of its members as Vice Chairperson, and such other officers as it shall desire, each to serve at the pleasure of the Commission. The Chairperson shall convene the Commission as frequently as required to perform

its duties. At the request of a majority of the members, a regular or emergency meeting of the Commission shall be convened. Written notice shall be given to each Commissioner at least three (3) days prior to any regular meeting. Notice of an emergency meeting must be given in writing or orally to all Commissioners no later than twenty-four (24) hours in advance of such emergency meeting. Except as required by Section 6-80.16 of this Article, six (6) Commissioners [, two (2) from each representative group,] shall constitute a quorum for the transaction of business. A majority vote of those present shall be sufficient for any official action taken by the Commission.

(c) Three-member panels.

(1) The Chairperson of the Commission is hereby authorized to designate three (3) members of the commission [, one (1) of whom shall be a tenant member, one (1) of whom shall be a landlord member and one (1) of whom shall be a general public member] to sit as a panel to conduct a hearing on any complaint or petition pending before the Commission. The Chairperson shall designate one (1) panel member to serve as the panel's presiding officer. The Chairperson of the Commission will endeavor to rotate panel membership from time to time among members of the Commission.

(2) In the event any matter is heard by a Commission panel designated pursuant to this subsection, all panel members so designated must be present to conduct the hearing and all official action by the panel shall be taken by the vote of not less than two (2) members of the panel.

(3) Except as otherwise provided in this subsection, the provisions of this Article pertaining to the conduct of hearings before the Commission shall apply to hearings conducted by Commission panels.

(4) The opinion and order of a hearing panel shall be final and binding upon the parties, unless a member of the hearing panel dissents from the opinion and order. Should a member of a hearing panel dissent from the panel's opinion and order, the matter shall be referred to the full Commission for consideration and disposition on the record created before the hearing panel.



(5) If a Commission panel is unable to decide any complaint or appeal pending before it, due to a tie vote resulting from the failure of any panel member to vote, such complaint or appeal shall be referred to the entire Commission for a decision by it based upon the record established before the Commission panel, without further hearing.

(d) The City Administrator shall have the authority to provide housekeeping and staff services to the Commission and shall provide a record of expenses incurred.

(e) The Commission shall, within thirty (30) days following each quarter of the calendar year, report to the Mayor and City Council on the number of complaints filed during such quarter, the nature thereof and the disposition made thereof, and shall make this information public as soon as practicable. This report shall include the titles of all court cases arising under this section.

(f) The Commission shall provide such other information as may be requested by the Mayor and City Council.

(g) In adjudicating complaints filed under this Article and pursuant to the Landlord-Tenant Coordinator's initial determination, the Commission shall initiate a fact-finding hearing to compile additional information necessary in making a determination of the merits of a case. Notice of the hearing and its time and place shall be given to the complainant(s) and respondent(s) who may be affected by the complaint. Such notice shall be prepared and transmitted in such form and process as the Commission shall prescribe, inclusive of posting said notice in a commons area at the facility in question as well as in at least two (2) public locations not on said property, so as to notify all interested other parties. Request for postponement and subsequent rescheduling by either party shall be submitted in writing within three (3) working days of the hearing and is subject to the approval of the Chairperson of the Commission or the presiding officer of the Commission Panel.

(h) The hearing shall be open to the public. In conducting hearings, the Commission shall have the power to subpoena witnesses and to require the production of relevant documents and records. Any party to the hearing may request the issuance of a subpoena, which shall be in a form prescribed by the Commission. Any party may appear before the Commission in person, or by a duly authorized representative.

Ordained this \_\_\_\_\_ day of the month of \_\_\_\_\_, 1989, by the Mayor and Council of the City of Takoma Park, Maryland.