

CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and Council
September 11, 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 Dev. Coord. VinCola
Councilmember Leary	Housing Services Director Weiss
Councilmember Martin	Public Works Director Giancola
Councilmember Sharp	Recreation Director Ziegler
	Corporation Counsel Silber

The Mayor and City Council convened at 8:05 P.M. on Monday, September 11, 1989 in the Council Chamber at 7500 Maple Avenue, Takoma Park, Maryland. Following the pledge, the Minutes of the July 17, 1989 Regular Session were approved by unanimous vote.

MAYOR DEL GIUDICE'S COMMENTS AND PRESENTATIONS

The Mayor presented a resolution of welcome to Maria Diaz Montgomery, the new principal of Takoma Park Intermediate School; passage of the resolution was moved by Councilmember d'Eustachio, duly seconded by Councilmember Hamilton. Mayor Del Giudice noted Ms. Montgomery had served as vice principal of Walt Whitman High School in Bethesda since 1981, and had an extensive and very professional background in education dating back to 1969. The resolution was passed by unanimous vote and the Mayor presented her personally with a copy, welcoming her to Takoma Park.

RESOLUTION OF WELCOME

(attached)

Ms. Montgomery thanked the elected body and said she was very happy to have joined the team at the school. She presented copies of some material, including a copy of her first newsletter to parents, which she pointed out bore the school emblem which was newly developed in celebration of the school's 50th anniversary.

The Mayor extended congratulations to the Takoma Park Symphony Orchestra on the success of their first performance, which he said he had attended. He explained that Nevilla Ottley, the prime force behind the orchestra, had approached the elected body about a year previously about forming a symphony orchestra, and, at the time, he had doubts and reservations about such an enormous undertaking; however, through Ms. Ottley's drive and energy, an institution had been organized that would hopefully grow and well represent the City in the future. He encouraged those who could to participate in the endeavor, and all to attend upcoming concerts and lend their support.

Mayor Del Giudice extended thanks to all the volunteers, as well as members of the Folk Festival Committee, who he said had again put together a very successful festival. He remarked the weather on the day of the event was somewhat unpleasant, given the heat; however, it was, nonetheless, a tremendous success. He said those who planned and participated in the festival should take a good deal of pride in their accomplishment.

The Mayor related having attended a meeting earlier in the day of members of the Governor's Taskforce on Drugs with Montgomery County officials; he said the City had been presented a citation from the Governor in recognition of its efforts to address substance abuse. He said he felt those employees in the Recreation Department, particularly the Outreach workers, and police employees who had put forth a great deal of effort to address the problem should be recognized and thanked. The Mayor noted, as well, that Councilmember Hamilton had represented the City on the Montgomery County Drug Taskforce. He pointed out that while Prince George's County had been working hard to address the problem, they had not taken some of the steps Montgomery County had, e.g., setting up a municipal taskforce wherein county and

local police and officials would work cooperatively on the problem.

ADDITIONAL AGENDA ITEMS

Staff Report on Proposed Use of Blair Mansion for Transitional Housing

Asst. City Administrator Habada noted receipt of notices that the Montgomery County Board of Appeals was seeking applicants, as well as applicants being sought for the nominating committee for the Board of Trustees for Montgomery College. She noted also that notice had been received from the county on the preliminary draft amendment to the Master Plan for Historic Preservation for Takoma Park; she said the hearing would be on October 5, 1989 at 8:00 at the Planning Board and pointed out there was information on it in the packet. The Mayor remarked he understood it would be on the worksession agenda on September 18. Additionally, Ms. Habada said she had copies of the Executive Summary of Article 7, as requested from DHS, and would be handing those out.

Councilmember Hamilton expressed appreciation to those city residents who had attended the Black Family Reunion at the Mall; he said a number of Takoma Park residents showed up and the weekend was very successful. Additionally, he related that at the previous monthly meeting of the Montgomery County Chapter of the Rainbow Coalition, a decision was made to officially change the chapter name to the Mickey Leland Chapter.

CITIZENS' COMMENTS (not directed at items for Council action)

Robert Ginsberg, 7129 Maple Avenue: referred to an incident on August 31 wherein the wooded area between Maple, Willow and Carroll Avenues and around the old Post Office Building was being cleared of trees by a developer who owns several pieces of property in the city. He said the destruction was stopped by the city police, but that the incident poses a challenge to the tree ordinance. Mr. Ginsberg said that unless the challenge were met and the responsible party prosecuted to the full extent permissible under the law, the ordinance, in the eyes of developers, would count for nothing and might as well be deleted from the Code.

Barbara Beelar, 7112 Maple Avenue: noted she lives across the street from the previous speaker. She said it was her understanding that the manager of the property, with full knowledge of the law, went ahead regardless and cut 7 trees; this should be an instance where the City threw the book at the perpetrator. Ms. Beelar said, as far as she had been able to learn, the perpetrator would only be fined \$200., which he would simply write off in his taxes as a cost of doing business. She said she hoped the case would be prosecuted to the fullest extent possible as a way of supporting the City's ordinance, and that he should be made to replant trees in place of those removed. She said those trees had acted as a buffer between the residential and commercial properties in that area, as well as acting as a pollution screen for the residential neighborhood from the heavily-traveled Carroll Avenue corridor. She said she also thought Officer D'Ovidio should be commended for his handling of the situation. Ms. Beelar said that if the responsible party were only fined, the ordinance would not provide a deterrent to others. She said, however, she did think there was some confusion and lack of information to citizens, and she would be willing to assist in examining the case and finding a way to prosecute it to the fullest extent possible.

Councilmember Douglas commented that there appeared to be some confusion among staff as to what the enforcement was, and that would have to be clarified, as well as the question of exactly what could be done based on the facts. He said there did appear to be some problems with the tree ordinance and administrative procedures for handling certain situations. He said he would be happy to work with other members of the Council and citizens to identify some of the issues and make whatever adjustments were needed. He noted he would be meeting with some of the residents of the area in question later in the week to discuss the incident, as well as other issues. The question was raised whether a zoning issue could perhaps be made of the incident since it had been mentioned that the trees that were cut served as a buffer between the residential and commercial areas. Mr. Douglas said it was his understanding there was no particular legal standing for

the trees as a buffer, but they were very important to the people in the neighborhood that they served as a buffer, and that might be one of the issues that could be raised in reviewing the ordinance -- whether certain kinds of trees in certain settings were more important than certain other ones because of the purpose they serve in the community.

James Welu, 7330 Piney Branch Road: commented he hoped the previous speakers would have some resolution to their problem within 2 years; he related that about 2 years earlier, a large group of citizens had attended a Council Meeting, submitted petitions and an ordinance was presented for First Reading to provide permit parking on Piney Branch Road in the 7300-7400 blocks -- nothing further had ever been heard on the subject.

The Mayor said that, to his recall, the decision of the Council at that time had been to first paint more definitive markings on Piney Branch Road, so as to better delineate driveways, etc., and that was done. However, the legislation had lapsed after its First Reading, and with the change of legislators had not been pursued. Mr. Welu remarked on the omission of any information being relayed by staff to the citizens who had submitted petitions, and said it seemed somewhat senseless to introduce legislation in October when there was going to be a change in elected officials in November. The Mayor explained, responding to comment from Mr. Welu that the residents had wanted permit parking, that the opinion received from the state indicated that the City could not put permit parking on a state highway, but perhaps parking meters could be installed. He said that, rather than immediately undertaking that course, the decision had been to paint the stripes, and the matter was not pursued thereafter. Mr. Welu said it was his understanding the state had indicated either permit parking or meter parking could be put there, so long as the City controlled the permit parking. He said he understood the whole ordinance had been prepared, the stickers for the permit parking had even been printed and were just waiting for the Council to enact the ordinance.

Responding to query from Mr. Welu as to why he had not pursued the issue, Councilmember Leary said that in those few conversations he had had with Piney Branch Road residents, the option that was presented to him as the available option was to continue to see if the striping of the road as described would improve or alter the problem -- the only alternative of which he had been made aware was that of installing meters. He said the few people with whom he had spoken did not favor that option.

Mr. Welu emphatically stated that the majority of residents of the area wanted some form of parking control for residents, as other areas near Metro already have. He said there were cars with Virginia tags parked along there constantly -- the owners must not even be Maryland residents -- or if they are, then they are in violation of the law.

Councilmember Douglas suggested that since no one was totally clear regarding the events of two years earlier, staff research the Minutes of that era and the present Council could then resume the issue where it had been dropped. Mr. Welu commented that the situation at hand was one reason citizens were unwilling to attend Council Meetings -- that the elected body was unresponsive and unclear on the City law.

Brint Dillingham, 7018 Carroll Avenue: remarked that while Mr. Douglas' suggestion was feasible, the timing was poor in that it was again just prior to City election. He inquired whether there was any process for a new Council to be informed of those matters remaining on the agenda of the previous Council and needing to be addressed, or whether there was a black hole in that area. The Mayor said that there were many briefings, discussions, dissemination of information, however, no one could be compelled to pursue any particular issue. Councilmember Douglas said that the Piney Branch Road issue was one about which new Councilmembers were informed, however, Mr. Leary's discussions with constituents, as he had already stated, indicated that people were not interested in pursuing the matter. He said the present timing for raising the issue was unfortunate, however, it was also unfortunate that Mr. Welu or others still interested had not come before the elected body a year ago and expressed their interest in

pursuing the matter further. He said from his point of view, the issue had been resolved, and for those who felt otherwise, he was sorry, but the Council could not be aware of constituents' feelings unless they were advised.

Responding to further query from Mr. Dillingham, the Mayor affirmed that there was a formal institutional process for a new Council to be informed of what the prior Council had left on the burner. He explained that there was a rolling agenda of items that had been requested to be placed on the agenda, or which at one point had been put on the agenda and then referred to administration or committees for further work. He explained that process had been instituted prior to the present Council taking office, so the Piney Branch item should have been on the rolling agenda presented to them when they took office; a copy of that agenda could be obtained from the City Clerk's office.

Mr. Dillingham noted he had received a notice from the City regarding misinformation and/or missing information in the article on the nominating caucus that had appeared in the recent Newsletter; he asked whether all citizens had received that. Deputy City Clerk Jewell explained that in the article on page 16, due to an error on the part of the publisher, two question marks appeared where dates should have been inserted. She said the correction notice had been sent to those on the agenda mailing list. Ms. Jewell pointed out that the correct dates were indicated elsewhere in the publication, in the Election Timetable; she said that the caucus would take place on Tuesday, October 3, beginning at 8:00 p.m. Anyone wishing to participate in the caucus should be on the voter registration roll of the appropriate county no later than Friday, September 29; however, the counties would be accepting and passing on updates to Ms. Jewell all the way up to the actual date of the caucus. She said the election would take place on Tuesday, November 7; in order to be eligible to vote therein, one must be on the appropriate county voter register no later than October 16. She said that, at the direction of the City Administrator, a correction article would appear in the next issue of the Newsletter, which would be disseminated at the end of September. The Mayor asked that staff check with the Takoma Voice regarding their publication date and see whether a correction notice could also be published in their paper. He pointed out that publication generally came out prior to the Newsletter. Ms. Jewell noted that the correct information was also being disseminated on the City cable channel. Mr. Dillingham emphasized that everything possible should be done, perhaps a mass mailing, to get the correct information to all residents of the city.

Mr. Dillingham referred to a request he had made for information from DHS regarding applications for extraordinary rent increases and the landlords who made them for the years 1984-1988; he said in March, he had finally received partial information on that request. He said he was submitting at the present meeting a letter asking for all the information he had previously and originally requested, as well as the same information for 1989 to date. He said the City now had the capacity to furnish the information; it had been proven important to have the information, e.g., during discussions of the Rent Stabilization ceiling, as had been demonstrated during that discussion recently. He said he expected a response to what he was requesting, and would like to have it as quickly as possible -- sooner than 4-6 months. The Mayor asked that Mr. Dillingham leave his letter with Ms. Jewell who would disseminate copies to the elected body and to Housing Services Director Weiss.

Wayne Upton, 7600 Maple Avenue: referred to the ballot question on Unification in 1985 and asked whether anything would be on the ballot at the upcoming election. The Mayor said that a decision had not yet been made whether to include a non-binding referendum on the upcoming ballot -- while that could be done, it would be all that could be done. He said while a decision could be made to do so, it would have to be within the next week so that it could be gotten to the Board of Election Supervisors in time. Additionally, Mr. Upton spoke regarding racism and the recent senseless slaying in New York.

James Welu: again raised the issue of residents' request for permit parking on Piney Branch Road, after which he remarked he had been

shocked earlier to realize the City still had a newsletter. He said he thought the Takoma Voice portrayed the city news. He said he did not know whether it was conspiracy or ineptitude, but he had not received a City Newsletter at his house for the past year. He said whoever was in control of the distribution system for the Newsletter should check on what is going on.

Mr. Dillingham responded briefly to Mr. Upton's commentary regarding the attack on the young black man in Bensonhurst; he said it was entirely appropriate to denounce racism, but abhorrent to try to connect the events in any way with the ethnic background of the perpetrators -- it had to do with a sickness or evil in society, not with the fact they were Italian-Americans.

ITEMS FOR COUNCIL ACTION:

1. Second Reading of an Ordinance Authorizing Handicapped Parking at 38 Oswego Avenue.

Councilmember Hamilton moved adoption of the ordinance, duly seconded by Councilmember Elrich. Councilmember Sharp asked that the specific dollar amount of the fine be deleted from Section 3 of the ordinance, pointing out that only the class offense need be listed and that ordinances should not cite specific dollar amounts of fines. The Mayor said he would take that as a motion to amend, and that the deletion should include the word [of] immediately preceding the dollar amount; the motion was duly seconded by Councilmember Hamilton and carried by unanimous vote.

Responding to query from Councilmember Martin, Ms. Habada stated that annual review of handicapped parking spaces would be the responsibility of the Public Works Department. The ordinance, as amended, was adopted by roll call vote as follows: AYE: Councilmembers Douglas, Elrich, Hamilton, Leary, Martin and Sharp; NAY: None; ABSENT: Councilmember d'Eustachio.

ORDINANCE #1989-30
(attached)

Councilmember Hamilton noted that there had been an additional request attached to the parking request. He explained that the handicapped individual attended Montgomery College and had also requested a number of curb cuts that would allow him to get to the school from his residence. Mr. Hamilton said he had talked with Public Works Director Giancola and understood the curb cuts would cost about \$3,000; however, he said he thought this was important not only to this person, but to other handicapped people in the city confined to wheelchairs inasmuch as it would allow them to get around better. Mr. Giancola explained that there was no money budgeted for this purpose, however, he had referred the request to the City Administrator's Office several weeks earlier and, most likely, a budget amendment would be required to allocate funds. Regarding signage for the handicapped space, he said it would take only a couple of days for that to be erected.

2. Second Reading of an Ordinance Amending Composition of COLTA.

Councilmember Sharp moved adoption of the ordinance, duly seconded by Councilmember Douglas. The Mayor noted a change in language that had been effected subsequent to First Reading in subsection (a) of the ordinance. Councilmember Douglas moved to amend the ordinance by acceptance of the new subsection (a), duly seconded by Councilmember Hamilton. Councilmember Sharp commented he would be voting against the amendment because he did not think it added anything of substance, the Council would do what it proposed anyway. Councilmember Hamilton commented that he had been the only member of the elected body to vote against the ordinance at First Reading, based on the fact that the commission had been set up to reflect landlord, tenant, and general public representation, and the ordinance at hand essentially eliminated that situation. He said in order for the body to fairly adjudicate landlord-tenant cases, he thought it had to be ensured that there was a very good balance. He said he supported the amendment because it would insert language placing responsibility on the Council to ensure that a balance was kept among those who serve on the commission; without the language, it might be lost sight of whose responsibility it was to ensure a continuing balance.

The amendment was passed with Councilmember Sharp voting Nay, balance of Council voting in the affirmative.

Councilmember Sharp spoke briefly, stating the intent of the ordinance and pointing out it was necessitated by the resignation of the landlord members of the commission. He explained that their absence would effectively terminate operation of COLTA because there were several instances in the Code requiring their presence in order to do business, e.g., for a quorum for a business meeting and for a quorum for a 3-member panel to adjudicate a case. He said he wanted landlord members on the commission; they add an important perspective and they have played an important role in providing a balance. He said, however, he also felt the commission should continue to function, and it should not be permitted to lapse in its business because of a decision by any one group of people not to participate.

James Welu: commented that the title of the body should be changed because if there was no requirement that landlords be represented, the present title would not be appropriate. He said residents of Takoma Park pay taxes to the counties for many services and things they don't receive. He pointed out Montgomery County has an Office of Landlord-Tenant Affairs, and perhaps the burden of adjudicating such cases should be thrown back on the county -- apparently they have a commission able to maintain landlord representation. He said he thought the City had to ask the question why landlords are not participating on their commission. He referred to a remark in an article in the Takoma Voice which said that it was politically unwise for landlords not to be present in large numbers for the discussion of the Rent Stabilization ceiling. Mr. Welu said landlords were a part of a participatory democracy, which meant they should not have to have all their numbers present at every meeting. He said the purpose of someone making a recommendation was for that recommendation to be taken seriously -- time and thought had been put into its making. He said landlords should not have to turn out in large numbers or do other extraordinary things to gain the attention of the elected officials; people who had studied the issue had made a recommendation and, because tenants turned out in larger numbers for the discussion, the elected body went with the tenants rather than with the recommendation of the professionals. Mr. Welu said there were a number of issues and cited one stated by Mr. Elrich in an article in the Takoma Voice, i.e., fear of gentrification; he said he had never seen any great gentrification of apartment units in the City of Takoma Park -- only on a very limited scale, if at all. He said the majority of apartments in the city were moderately priced. Mr. Welu said that if the City were concerned with gentrification, the fact should be looked at that 7 out of the 8 elected officials were homeowners, and gentrification was occurring in the single-family homes that went on the market. He said if the concern was to halt gentrification, a price control could be put on the sale of houses. He said he thought there was a direction in the city, and in the county, to reduce the number of rental units in one form or another -- landlords would eventually reach a point where they would sell their units and get out of the business -- then there would be real gentrification, particularly of those properties containing only a few units and where the tenants could not afford to buy them. He reiterated he thought the City should be asking why landlords were staying away from meetings, and said he thought some of them felt greatly discriminated against. Mr. Welu pointed out that controls were not placed on food, clothing, gasoline, or other essentials, but the City felt it could put controls on rental housing which was also an essential and was a business for those owning and operating it.

Brint Dillingham inquired where the ordinance indicated that there did not have to be landlord members on the commission and was advised that those sections containing such requirements were being deleted and the pertinent material was indicated by enclosure within brackets. The Mayor explained that the ordinance would remove the requirement for 4 landlord, 4 tenant and 4 general public representatives on the commission; it would open membership up to anyone in any of those groups without having specific number requirements for each group or constituency. Councilmember Douglas pointed out that the amendment passed earlier required that the Council try to keep a broad representation on the commission.

Mr. Dillingham said the reason landlords were driven from the commission was greed, and not what Mr. Welu had indicated; he said it was perhaps the normal greed expected of businesspersons, or perhaps excessive greed. He said the remark from the Takoma Voice article Mr. Welu had referred to and which had said lack of landlord representation at the meeting had an effect on the outcome of the Rent Stabilization level was only the opinion of the writer of the article; however, another thing that should be considered was that there were complaints also that COLTA's recommendation was not taken seriously. Mr. Dillingham said the reason COLTA's recommendation was not taken seriously was because it was based on information that was, in part, erroneous, and that had come out in the course of the hearing. As an aside, Mr. Dillingham pointed out that his earlier request for information regarding applications by landlords for extraordinary rent increases was in keeping with subsection (e) of the proposed ordinance. Regarding Mr. Welu's remark that landlords felt they were discriminated against, Mr. Dillingham said that, in fact, data that came out at the aforementioned meeting indicated that landlords, in the majority of cases, when they applied for rent increases, got them; they did not always get the amount they asked for, but generally got a large percentage of what they asked. Mr. Dillingham said he did have a concern about removing the representation requirements from COLTA because the body could also become unbalanced by having more members with landlord interests than tenant interests.

Mr. Welu remarked that Mr. Dillingham had misunderstood his comment about discrimination -- what he was talking about was discrimination against landlords in relationship to other business people who operate within the city limits of the City of Takoma Park, and who have no controls insofar as what they charge for the goods or services they offer.

Norman Gleichman, 7113 Central Avenue, Chair of COLTA: expressed support for the ordinance, for the reasons outlined by Councilmember Sharp. He said, even in the resignation submitted, the landlords had made no complaint relative to the commission itself, any grievances as to how they were treated by the commission, any problems with any of the processes of the commission or handling of cases. He said he felt the commission had done a good job, and would not want any implication that landlords were driven from the commission -- no one drove them; they got in the car and stepped on the gas themselves and left. He said, as far as he was concerned, some of them could come back.

Housing Services Director Weiss noted typographical errors in subsection (f), pointing out the sentence should read "The Commission shall provide such other information as may be requested by the Mayor and City Council." She noted, as well, that pages 14, 15 and 17 of the proposed rewrite of Article 7, which was available in DHS for the public, referenced the changes anticipated to be made through adoption of the ordinance at hand.

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

ORDINANCE #1989-31
(attached)

Directed to staff, Councilmember Douglas commented that numbering pages of ordinances facilitated reference to them. As a point of information, Councilmember Hamilton pointed out that resident managers of rental units within the city could represent landlords on COLTA; he said he did not think that was well understood by all.

3. Resolution Adopting Proposed Charter Amendment.

Councilmember d'Eustachio moved passage of the resolution, duly seconded by Councilmember Douglas. The Mayor noted the resolution would essentially create a new Charter for the city.

Robert Mandel, 7003 Woodland Avenue: related he had checked out and examined a copy of the proposed Charter from the Library, and had listed numerous typographical, spelling, etc., errors, as well as some suggestions. Referring to provision made therein for imposition of a

nighttime curfew for youth, he pointed out "nighttime" was very non-specific and the provision ought to apply to everyone generally rather than only youth so that it would cover those instances that might arise where it was necessary to impose a general curfew. He said confining the provision to youth might also provide basis for a complaint of age discrimination. Mr. Mandel pointed out that the Charter copy available from the Library was the June issue and not the later revised version, which Councilmember d'Eustachio had kindly provided to him; he said in the revised version, he had noted a number of things he had observed in the earlier version had been corrected, and his page references would now be incorrect on the 5-1/2 pages of errors/suggestions he was submitting. Mr. Mandel said he hoped the elected body would not rush through a final adoption of the proposed Charter in its present form, particularly since it still appeared to need some blanks filled in in some portions. Mr. d'Eustachio said he probably should have provided Mr. Mandel with a final bound copy of the document, knowing that he would be examining it very carefully, rather than giving him one of the later but not final versions. He said the blanks referred to had now been filled in, the elected body had gone over the document with a fine tooth comb numerous times and, hopefully, had caught all errors and made necessary corrections. Mr. d'Eustachio commented that the Council had discussed the section regarding a curfew and noted that probably the greatest problem with it was that it was flagrantly unconstitutional. He said by and large boiler plate language had been pulled from the state's model Charter for municipalities; a lot of the Powers section, in which the power referred to was included, were intended to be overly broad rather than particularly narrow -- essentially, it would allow the Council to do anything it was not specifically prohibited from doing by State Law and by the Constitution of the United States. He said a number of examples of powers that could be exercised were listed and, perhaps, some of those could be reasonably criticized, such as the one regarding the curfew which Mr. Mandel had cited. He asked whether Mr. Mandel had noted other instances about which he would have suggestions or criticisms.

Mr. Mandel raised the question of including the provision that Councilmembers must reside in the ward they are elected to represent; Councilmember Douglas noted Mr. Mandel had raised that question twice in writing to the elected body, however, in the course of several discussions on the subject, consensus was that it was important to retain that requirement. Councilmember d'Eustachio referred to the legal issue, court cases and legislation having to do with the responsibility of a jurisdiction to ensure equal representation and one person, one vote -- if the City had a Councilmember living in one ward and representing another, it could be challenged under the doctrine one person, one vote. He said one of the experts advising the City had said it might not be legal to change the provision.

Mr. Mandel referred to the section providing that City elected officials were forbidden to hold any other publicly-elected office; he said that appeared overly restrictive in that there might be a time when, for instance, someone on the School Board might also wish to sit on the Council -- while that might be time-consuming, those now on the Council also hold full-time jobs in the private sector. He said it did not appear reasonable to exclude public officials from sitting on the Council any more than those who are privately employed are excluded.

Mr. Mandel referred to the section allowing the Council to set up a pension system or a group insurance plan; he said that appeared to say one or the other could be done and perhaps "or both" should be added. Councilmember Douglas reiterated that the list was intended to be suggestive only of what the body could do, not restrictive to those things cited -- they were examples drawn from the state's model Charter.

Mr. Mandel referred to the section stating the City Police could make arrests up to 1/2 mile outside the City limits in unincorporated areas; he inquired whether arrangements with the counties had been made to allow that. Mr. Douglas pointed out an ordinance would have to be adopted and such arrangements made with the proper authorities in order for that to occur; the section was an example indicating that

the Council had the power to do so. Councilmember d'Eustachio said he believed that police powers were generally controlled by State Law; he pointed out there were instances where what was cited was necessary, e.g., hot pursuit and those cases where the City was called upon to back up police officers from other jurisdictions needing assistance. Mr. Mandel suggested that perhaps the language of that section should be more specific rather than simply citing a 1/2 mile limit for City police making arrests.

Lynne Bradley, 8112 Flower Avenue: said it appeared 2 of the main changes being proposed regarded the voting powers of the Mayor and the role of the City Clerk. Councilmember Douglas pointed out the City Administrator was also mentioned in the Charter for the first time. Additionally, the Mayor noted that the new Charter, as proposed by the committee, created an office of Clerk-Treasurer; the Council, in the course of its review, had separated out those two functions, allowing the City Administrator to hire a City Clerk and to either hire a Treasurer or assign those functions and duties to another employee, which was what the City had been doing for the past 12 or more years. Ms. Bradley commented in favor of strengthening the role of the Mayor; she also spoke concerning how officials are elected, and suggested electing 7 members of the Council by district only, 2 at-large, as well as the Mayor who would have a vote. Ms. Bradley said while she was glad to see the articulation of the role of the City Administrator, she supported the City Clerk position being a separate function, appointed by and reporting directly to the Council which, in a way, provided a check and balance for the City Administrator position. She said she strongly advised that the Council retain approval of department heads hired/appointed by the City Administrator, rather than completely removing themselves from that responsibility.

Councilmember Douglas remarked that he wished to clarify the notion that the only way the Mayor could be given a vote was to change the number of Councilmembers; he said those were two separate questions/issues for the committee, i.e., should the Mayor have a vote and how many members should there then be on the Council. He said the committee's logic was that having an 8-member body could create a number of problems, e.g., 4-4 votes. It was felt that a 9-member or larger body might be unworkable, might become more moribund than it already was at times; so the decision was to stay with a 7-member body -- to have 6 Councilmembers and the Mayor. Ms. Bradley commented it was probably difficult to come up with any ideal number; she said she favored more opportunities at-large in general for people to have a say citywide, and the Mayor having a vote would be a help in that.

Councilmember d'Eustachio remarked that Ms. Bradley had done a very good job of going through the proposed Charter and picking out issues which had generated a lot of discussion on the committee and on which a considerable amount of time had been spent in coming to a majority decision. Regarding the City Clerk position, he said in terms of the committee and the 3 members of the elected body who had served thereon, there was a consensus in agreement with Ms. Bradley's point of view; however, the majority sentiment on the Council was not in agreement with that view -- they felt administrative problems would be created by having that an independent function. Regarding the proposition of at-large members of the Council, he said there was a general consensus that a body of 9 or more members would be unmanageable. Examining the question of having perhaps 4 wards and 3 at-large members, the past history of the system was researched, and it appeared that when the system went from at-large elections to district only, there was overwhelming support for that system. While that sentiment had not been reiterated, neither had there been any movement for going back to any sort of at-large representation. For that reason, he said the decision was that the system should be left as primarily district-based. There was a certain amount of reluctance to go too far in changing the system from what presently existed. Regarding the Council retaining control over the hiring and firing of department heads, Mr. d'Eustachio said he had originally felt very strongly that that control should be retained; however, that opinion had been almost unanimously disputed by the citizen members of the committee. He said they felt that in all management structures, there was one person who was ultimately accountable; the way department heads were controlled would depend upon how the City Administrator was controlled. He said

unless the City Administrator were willing to put his own job on the line, there would be a built-in set of check and balances regarding what he would do. Ms. Bradley commented that while she understood what Mr. d'Eustachio was saying, she wondered if there might not be some sort of hybrid arrangement that would be workable, given the relatively small size of the city.

Brint Dillingham, 7018 Carroll Avenue: referred to the earlier point regarding the curfew, which Mr. Mandel had raised, and which had been characterized as "flagrantly unconstitutional." He asked whether there were any other similar things that might be so characterized and which had been left in anyway. The Mayor said that, to the best of his knowledge, there were not; he said while he respected Mr. d'Eustachio's representation of the state of the law on that issue, it was not clear that a curfew in a time of emergency would, in fact, be unconstitutional. He said there were things in the Charter where, hopefully, the City would not need to exercise its powers; however, in an emergency, it might be necessary to do so. He pointed out it was well known that powers used by governments could be abused if not properly checked by citizens and courts. Mr. Dillingham commented that including powers in Charters and such, when in doubt, invited abuse slightly. Mr. Douglas reiterated that the 69 instances cited were not specific powers, but examples; he pointed out they were in the existing Charter and had not been changed. Mr. Dillingham referred to the example regarding City police making arrests within a specific limit outside the city boundaries; he said perhaps that should be made more non-specific, e.g., simply stating that the police would operate within the confines of State Law, rather than citing a figure which might be subject to change in future.

The Mayor noted that passage of the resolution adopting the new Charter would be only the first step in the process; he said for a 40-day period following the present meeting, copies of the resolution would be made available and posted in the Municipal Building; copies of the final draft of the Charter would be at the Library; a fair and accurate summary would be published in newspapers of general circulation, as well as the City Newsletter. During the 40-day period, citizens could challenge the Charter in general, or any particular provision, and take it to referendum if 20 percent of the registered voters signed the petition. Should that occur, a special election would be held in December for anything taken to petition. If there were no petitions and nothing was challenged, after the 40th day, there would be a 10-day waiting period before the new Charter became effective. Responding to query, he said the City could not submit issues to a binding referendum, could not create a binding initiative, under State Law. The City could only conduct a non-binding referendum. He noted the resolution at hand contained a number of blanks needing to be filled in; he pointed out on page 3, subsection 5, the effective date to be filled in would be October 31, 1989; the resolution would be posted until October 21, 1989, which would be the end of the petition period. Publication would occur in the Montgomery Record and the Prince George's Sentinel, as well as the Newsletter, beginning the week of September 18, and subsequently on the weeks of September 25, October 2 and October 9. On page 4, he noted there were a number of dates needing to be filled in and also the official vote tally. By way of general comment, the Mayor said he believed one of the most significant changes in the Charter, aside from the Mayor being given a vote, was the recognition being afforded the office of the City Administrator. He said he did feel it important that the Mayor have a vote; being the only official elected at-large, he should have a role in policy. In recognizing the City Administrator's office, a step was finally being made from the commission form of government within which the Council used to function to a council form of government. The City Administrator was being given clear authority that the office lacked in the past, and which he needed to function on a day to day basis in the City. He said this was just the first step in what he considered to be a reorganization of the City government in a final stage; movement had been toward a Council-Manager form of government over the past 20 years, but this would be the first stage in the final process. He said he hoped that in the next 2 years, the City government would undertake a Code review and bring the Code into reality, into conformity with the new Charter, and update its provisions.

Councilmember Hamilton expressed appreciation for the education he had gained through this process; he said those citizens and committee members involved had all done a good job. Mr. Hamilton said one of the first problems he had seen was that department heads should not be political appointees, that they had to be administratively accountable. He said he had pondered the question of the City Clerk's position, however, supported having it under the supervision of the City Administrator; he said he envisioned that role as being primarily administrative, rather than legislative. The responsibility for evaluation of the City Administrator and his/her performance was sufficient for the part-time Council, without having to do the same for the City Clerk, which was also a full-time position. He pointed out that a number of department heads were now drafting their own legislation, which disseminated some of the City Clerk's responsibility to those other positions. He said it was necessary to look at how the City government could be run as both a better business and a smaller business. He said the only thing remaining in the Charter that concerned him was the example concerning the curfew, and he would still recommend that the word "youth" be deleted, because he felt if it were necessary to impose a curfew, people had to understand that the "youth" were not the only perpetrators of crime -- adults were guilty of that as well. Finally, Mr. Hamilton said he felt the City's function was being brought into the 1990's, but there was still a long way to go, a lot of things that needed doing with the City Code. He said he hoped all those employed by the City would understand that what had been done would make their jobs a lot easier.

Councilmember Martin commented she agreed with Ms. Bradley's remarks concerning the Council giving up their role in the hiring and firing of department heads. She said she had repeatedly expressed her concerns, but had been voted down, and she would want it on record for future Councils that they had to carefully examine and evaluate the performance of the City Administrator to ensure that the individual holding that position was fair in his/her dealings.

Councilmember Elrich commented that his concern had been on the opposite side of the fence from Ms. Martin's; i.e., based on observations and things he had heard from past and present members of the elected body, he feared over-politicalization of department heads. He said he had a concern that the elected body may not always get full information and/or participation from department heads, because they were not sure where 4 votes were on the Council. He said as the City moved toward professionalization of its staff, he would want staff to bring forward their recommendations and analyses unweighted by perceptions of majority Council sentiments -- it was a disservice if it were otherwise. They should feel free to bring forward their unbiased recommendations untainted by any perception of a threat to their jobs. He said he felt what was being done would free the Council to better oversee the overall actions of the City Administrator, to set out priorities and reestablish parameters for what they wanted City government to accomplish. He said he felt quite comfortable with the change and its direction, and supported the role of the City Clerk as set forth. He said he did not think the Council had either the time or ability to provide day to day oversight over that position, and for the same reasons the City Administrator would be held responsible for department heads, he/she would be held responsible for that position and its function. Regarding ward vs. at-large elections, he said he had fairly strong feelings about changing the Charter at all, primarily because the last time it had been changed, it was for the purpose of bringing about elections as they presently exist and was based on a fairly large widespread movement within the populus. There had been no comparable movement to make the changes proposed in the new Charter, so he had not felt particularly comfortable supporting them, and did not feel particularly comfortable supporting them at present. However, he said, those particular changes would not become effective until the election following the upcoming election; so, if people really preferred to keep the system status quo, they would have adequate time to do so. There would be time to implement whatever sort of system the people really wanted, and there were a number of possibilities if people wanted to effect changes. He said overall he thought the new Charter was an excellent document and brought the operation of the City into the 20th century.

Councilmember Douglas commented he was in strong support of the proposed Charter; had had the privilege of serving on the Charter Review Committee, along with the Mayor and Councilmember d'Eustachio, as well as 4 esteemed city citizens. He said all involved had learned a great deal during the process. In addition to the two key changes pointed out regarding the Mayor having a vote and the role of the City Administrator, he said there were other things that should not be overlooked, e.g., the fact that the present Charter had a great deal of clearly extraneous material which was not of a charter or constitutional nature, did not set broad governmental structure and direction. It consisted of two Articles poorly organized; the new Charter is structurally sensible, has a table of contents, headings that can be followed, and needed information can readily be found. That in itself is a great public service. He pointed out that all of that material that should not and would not be in the new Charter, but which ought to be included in City law, would have to be codified, and as the Mayor had mentioned, the entire Code needed revision and updating. Thus, he said, a substantial amount of work remained to be done. Referring to Councilmember Elrich's remarks, he pointed out that while the majority of the new Charter would take effect fairly soon, that portion regarding election of 6 Councilmembers in addition to the Mayor would not take effect until 1991 after redistricting was accomplished. He said there had been some consensus that there would be need to redistrict anyway after the Census. Mr. Douglas said one thing he had felt was very important in the new Charter was the consolidation of the authority and responsibility of the City Administrator's role for all functions, rather than department heads having to have any question as to who their boss actually was -- that was critical from a management standpoint. He said he felt it unfortunate that the City Clerk would not be set forth as an independent position in the new Charter -- that it was important that the individual filling that position should have the confidence of the Council rather than the City Administrator because the function would be primarily legislative and performed for the legislative body. However, he said he was willing to bow to the majority sentiment that that function should stay with the City Administrator, but felt there was a contradiction in earlier comments that the function should stay with the City Administrator but that the Council ought to have a say regarding the job description for the position -- he said he did not think you could have it both ways -- it would still be splitting the control. He said he hoped the next City Council would reexamine the issue and decide that it made sense to make the City Clerk responsible to the City Council and not to the City Administrator.

Councilmember Leary commented he felt it noteworthy that, despite having essentially totally rewritten the City Charter, there had been only a few issues that had provoked any serious debate and, even on those issues, there was a broad range of agreement and a minimum of disagreement. Regarding jurisdiction over the City Clerk, Mr. Leary said it was an even larger contradiction to suggest that the individual be appointed and, supposedly, supervised by the City Council. He said he thought what the Council needed was not jurisdiction over hiring and firing the individual, but a competent person filling the position. Any deficiencies could certainly be pointed out and if those were not corrected, then it would be a determining factor in how long the City Administrator were retained. He said the only way he could envision an independent City Clerk providing a check and balance on the City Administrator would be to provide that person a staff, hire additional administrative staff, which the City could neither afford, nor was it needed. Mr. Leary said he felt by far the most essential change the new Charter made was to assign full real authority to the City Administrator to run the City, and there was no half-way, abridged way of accomplishing that -- either the individual had the authority clearly and unambiguously or they did not -- otherwise it would be taking away with one hand what had been given with the other if the individual's decisions were subject to Council approval. Mr. Leary expressed concurrence with Ms. Bradley's comments about ward representation vs. at-large representation; he said he thought her suggestions should be examined very seriously. He said he had suggested election of 4 Councilmembers by district, 2 at-large, and the Mayor, and said he did think it important to have an odd number who vote, with 7 being a more than adequate number for the City. He said he thought there might be some advantage to having additional at-large

representation in the city, however, and if there were others who thought so, he hoped they would make their sentiments known because there would be adequate time in the next year or so for a change to be made.

Councilmember d'Eustachio commented that while there would not be noticeable changes in the way the City runs, he did think it was a substantial accomplishment to now have a Charter that would be laid out in a comprehensible format and that would be readable and up-to-date. More than anything else, he said the Charter would recognize and legitimize the direction the City was taking, would recognize the role of the City Administrator and that individual's responsibilities in managing a full-service city. Mr. d'Eustachio said he did not think the other issues that had surfaced, e.g., the City Clerk and number of Councilmembers, would have any drastic effect regardless of how they were resolved. He said he felt the Charter to be a good document, workable, and he was very pleased with the final result.

The Mayor noted the example regarding a curfew had sparked a good deal of comment; he said he would suggest changing that section, on page 15, by deleting the word [~~yeuth~~] and inserting in its place the word citizens; at the end of the same sentence, he would strike everything from the word ...[unreasonable]..., adding in its place times of emergency, to protect public health and safety. The section would then read: To prohibit the citizens of the city from being in the streets, lanes, alleys, or public places at times of emergency, to protect public health and safety. He said that would provide that the Council could establish a curfew under the conditions cited, but would limit the power to do so except when it was to meet those needs. He moved to amend the proposed Charter, Section 501.(b).(20)., as stated, duly seconded by Councilmember Hamilton. Following brief discussion concerning the definition of "curfew," the amendment was passed by unanimous vote.

Councilmember Douglas pointed out that a number of small typographical, grammatical, etc., errors remained in the document, however, they were of such a nature that they could be corrected as editorial amendments. On page 27, Section 702.(c)., he pointed out that it was stated that election results would be certified to the Mayor; however, thought it was intended that those be certified to the Council. Consensus was that Mr. Douglas was correct and that would be done as an editorial change. On page 44, Section 1102, he noted Mr. Mandel had pointed out that the City was not given the specific authority to abandon right-of-ways; to correct that, he suggested adding a subsection (i) stating to abandon public ways. He moved to so amend the proposed Charter, duly seconded by Councilmember d'Eustachio. The amendment was passed by unanimous vote. The Mayor thanked Mr. Mandel for bringing that matter to the elected body's attention.

On page 45, Section 1103.(a)., he suggested the insertion of commas after the words "property" and "way" so as to better clarify the language; that was accepted as an editorial change.

On page 51, Section 1302.(d)., 5 lines from the bottom, ..."and the [~~limit~~] and place"... should read ..."and the time and place"... The change was accepted as editorial. In the same section, subsection (g), Mr. Douglas noted Mr. Mandel had pointed out the power was not given the City to impose penalties and interest on special assessments that became overdue and became liens, such as was done with taxes. He moved to add a sentence at the end of the section to read: "The City may also impose penalties and interest on such overdue assessments." The motion was duly seconded by Councilmember Hamilton and carried by unanimous vote.

The Mayor noted the resolution, as amended, and which would repeal the existing City Charter and adopt the new Charter was required to be adopted by roll call vote. The vote was recorded as follows: AYE: Councilmembers d'Eustachio, Douglas, Elrich, Hamilton, Leary, Martin and Sharp; NAY; None; ABSENT: None.

RESOLUTION #1989-79
(attached)

4. Resolutions of Appreciation to Charter Review Committee and Institute for Governmental Service.

Councilmember Douglas moved passage of the resolutions, collectively, duly seconded by Councilmember Hamilton. Mr. Douglas commented on the substantial contribution the citizen members who served had made, as well as the Institute for Governmental Service, particularly Mr. Weber, who worked with the committee and did most of the drafting of language for the document. The resolutions were passed, collectively, by unanimous vote and copies were presented to Mr. Weber, Mr. Thomas, and Ms. Nina Seavey.

RESOLUTION #1989-80
(attached)

RESOLUTION #1989-81
(attached)

5. Resolution Adopting CAC Recommendations for CDBG Funding Requests for FY 91, with Changes as Proposed by DECD and Council.

At the request of Councilmember Leary, the item was moved up on the agenda to accommodate those citizens present to address it. The Mayor noted there was a staff report with recommendations based on worksession discussions.

Councilmember Hamilton commented he appreciated staff having researched and presented two options. He elaborated on an earlier suggestion that the \$16,000 for a Code Enforcement Officer be deleted, explaining that that proposal had been put forward by the Block Grant Committee, of which he was Co-Chair, several years earlier. In the two years since, the position had not been filled; the City had gone through two cycles of its rental licensing process. He said he thought it was now 2 years too late, that landlords had made a 180 degree turnaround on a lot of the properties about which there had been concern. He said since the money had not been expended and there was now danger of losing it, he had recommended using it to fund some of the projects the present committee considered to be priority items. For that reason, he suggested that the funds be reprogrammed as outlined in staff's report/recommendations, and said he would support option 2 as set forth.

Housing Services Director Weiss noted that the full-time Code Enforcement Office position had been vacant for two weeks. She said testing for the Block Grant position had been accomplished and the results were promising. She said while she would concur with Mr. Hamilton that there had been good results with a number of properties in the city, there remained some that still presented problems and needed to have inspections done on a semi-annual basis. For that reason, she said she hoped to be able to use the Block Grant person to help address those remaining problems, as well as performing Block Grant related work. She said she anticipated being able to hire someone to fill that position by the end of the month and would hope, if the Council were inclined to consider that option, that they would wait for 2 weeks to see if someone could be hired. In the course of ensuing dialogue with Councilmember Hamilton, Ms. Weiss stated that the original proposal was to reinspect those buildings found through the state-funded survey to have a concentration of violations -- not high-rise buildings in particular, however, it was expected at the time that a certain number of those would be included.

In the course of brief discussion initiated by Councilmember Sharp and regarding taking funds out of one department and putting them to use in another, City Administrator Wilson confirmed that he approved what had been proposed regarding reprogramming the funds, as did the Acting Director of DECD, who had also signed the report.

Councilmember Hamilton moved passage of the resolution accepting staff's report and authorizing reprogramming of the subject funds, put forth as option #2. For the sake of discussion, Councilmember d'Eustachio seconded the motion.

Responding to query from Councilmember Martin, Community Development Coordinator VinCola said that staff had talked about ways of using the funds other than for air conditioning for the Municipal Gym, e.g.,

using it to make street improvements -- indirectly that was what would be done if staff's recommendation were followed -- program Year 14 money would be used to accomplish Year 16 street improvements and, in the process, money would be freed up to use for the balance of the air conditioning. She said there were discussions about using the money for additional street improvements because a multitude of requests were received by the committee; however, the deficit to make up the necessary amount for the air conditioning was given a higher priority. Ms. Martin inquired of Recreation Ziegler whether the gym was not being used due to the lack of air conditioning, and what it was like some years ago. Recreation Director Ziegler explained that attendance at the facility was always down during the summertime. She said, however, following the renovation there had been a lot of use despite the heat because of the novelty of it being reopened. She said there was a window fan and several others, but they did not do much good; the heat and humidity made it like a sauna bath, which affected attendance at programs. The Mayor, referring to the opening ceremony he attended at the gym, said he could confirm the comparison to a sauna, particularly after one had exerted playing basketball, ping-pong, etc., on a warm day.

Councilmember Leary inquired whether there were options other than the one recommended by staff and more street repairs. Ms. VinCola said that, looking at CAC's recommendations and those about which they felt strongly, it would essentially boil down to the Maple/Sherman Avenue commercial area revitalization, the gym air conditioning, and the mutual housing association -- and they appeared to feel fairly strongly about the air conditioning for the gym. She said the Recreation Department had submitted 3 different proposals for additional recreational equipment, and the air conditioning consistently came out on top. A Phys. Ed. teacher who was also a committee member had repeatedly emphasized that the air conditioning should be a priority because of the sort of activity the City was trying to encourage by reopening the gym. For those reasons and because the CAC wanted to get away from strictly bricks and mortar and streetwork, she said she felt the recommendation for the air conditioning was the best recommendation. Mr. Leary inquired whether it was Ms. VinCola's, or other staff's, judgment that the improvements requested for Grant Avenue and referred to Public Works were ineligible for CDBG funding. Ms. VinCola said that item was not considered priority by the committee because they did not feel it strongly affected safety in the area, the expense was fairly minor, and when Mr. Giancola had given his presentation, he had indicated that because the expense was not great, perhaps it could be added to the Public Works regular maintenance schedule. She affirmed, however, that it would be eligible for CDBG funding. Mr. Leary commented that Mr. Giancola was not now present and it appeared the matter could not be resolved forthwith, however, he felt there was apparently some dispute as to how modest the needed amount of funding was for that project.

Councilmember d'Eustachio suggested that one approach might be to represent the issue to the CAC for another opinion, given the substantial chunk of money that would be available if the funds were reprogrammed. He inquired of Ms. VinCola what the deadline was for taking action. Ms. VinCola stated that the deadline for submission to Montgomery County was September 29. The Mayor noted the matter could be taken up at the 9/25/89 meeting if it were referred back to CAC to see if they concurred with staff's recommendation to spend the money on the gym air conditioning and still held that to be a priority item. Responding to query from Councilmember d'Eustachio, Karen Mitchell, Chair of the CAC, said it would be quite possible for the CAC to reconvene and consider the matter -- probably within the week; she said she thought it would be useful to do so. Mr. d'Eustachio moved to bifurcate the issues between the two counties, duly seconded by Councilmember Hamilton; the motion carried by unanimous vote.

Mr. d'Eustachio moved passage of the resolution insofar as it adopted the recommendations of the CAC in regard to the Block Grant proposals for the Prince George's portion of the city, duly seconded; the motion carried by unanimous vote.

RESOLUTION #1989-82
(attached)

Attention was directed to staff's recommendation for reprogramming of funds and CDBG funding for the Montgomery County portion of the city. Councilmember Douglas commented he would support referring the major issue back to the CAC for input; however, he inquired why the apparently pressing need for air conditioning for the gym had not come up at the time planning was underway for the renovation. Recreation Director Ziegler explained that the main reason it was not addressed at that point in time was lack of funding for the project; she said she had to cut way back in expenditures at the beginning of the work, and the primary concern was getting the facility back in useable shape so it would be available to the community. Mr. Douglas inquired whether it was anticipated that requests for expenditures for things for the gym were going to be an ongoing and endless process, or whether the air conditioning was considered to be the final thing needed to make it fully useable. Councilmember Hamilton explained that the initial \$27,000 allocated for the renovation project by the previous Council was based on a 3-year old estimate for the work; he said the question of air conditioning for the facility had been brought up during the budget process -- he had pointed out the need and advised the Council there was only \$4,000 left over from the work and that was not sufficient to accomplish it. Mr. Hamilton said the City had a responsibility to that facility, as well as Heffner Park and other City-owned properties, to allocate money in the budget for their maintenance. He said air-conditioning for the gym should have been addressed years ago, as should the gym and maintenance of Heffner Park, but those things had been ignored. He said he had pointed out to Public Works Director Giancola the need to put money in the budget on a routine basis for the regular maintenance of City properties.

Mr. Douglas referred to the Grant Avenue request mentioned by Councilmember Leary earlier. He explained that the request had been made by a number of residents of Grant Avenue and that the CAC had asked that it be turned over to Public Works. He said the involved citizens were pressing for action on the matter. Mr. Douglas explained that the garden apartments on the right-hand side of Grant (coming down the hill) once had access to Grant Avenue, however, that access had been blocked at some point in time by the installation of concrete-filled pipes; those had been hit a few times, knocked askew and chipped up, and had become generally unsightly. While those barriers were on private property, there were also aprons and sidewalk configurations on public property at the location which were no longer in use. The private property owner had indicated he had no problem with the City removing the barriers and planting a greenstrip there. Mr. Douglas said there appeared to be some confusion about the cost of accomplishing what was wanted -- the City Engineer had estimated about \$2,700. He said the citizens had applied for other kinds of funding, e.g., Montgomery County beautification money, to help underwrite the cost. Mr. Douglas said he understood from Ms. Mitchell that the project would be eligible for CDBG funds and he felt it would be a viable option for using some of the available money.

Councilmember Sharp commented it did not seem appropriate to him to use public funds to remove a structure from private property and then to install in its place what might be termed an enhancement; he suggested that there were private organizations interested in beautifying the city, e.g., the House & Garden Tour, and which might be willing to make a grant that would fund the project.

Karen Mitchell, Chair of the CAC: said that the CAC had used a rating system when they went out and looked at all the proposed street repairs -- the system included ratings for safety, function, preventive maintenance and appearance. She said the Grant Avenue proposal did not qualify under that system -- safety was not affected, function was not affected, nor was preventive maintenance. She said the committee had talked with Ms. Wells, one of the citizens, and had explained their problem with regard to the bollards being on private property; the owner of the property had essentially stated that he did not have the money to do anything about them or to contribute toward the cost, but would be happy to have the City remove them and do anything they wished to improve his property. In addition, the question was posed of whether, if the driveway aprons that were in use at one time were removed, was there any assurance he might not want them put back again

at some later point in time. She said Mr. Giancola had advised the CAC that it would be relatively inexpensive to remove the bollards. The committee had then suggested that since members of the community felt as strongly about the beautification as they apparently did, that they do the planting themselves, as had other similar groups in the city. She said the CAC was not negating or overlooking the proposal; they had discussed it, asked for feedback from the citizens' group on 3 separate occasions, which they did not get.

Responding to query from Councilmember Hamilton, Councilmember d'Eustachio explained that what he proposed was that the Mayor ascertain from the Council whether the majority sentiment was to reprogram the \$16,000; if so, then he would want the CAC to examine the options and recommend the best use(s) of that sum. Mr. Hamilton said he supported that proposal, however, having chaired the CAC for 2 years previously, he did not think the Council should ask that committee to re-examine projects about which they had already made a considered judgment, based on complaints from a group of citizens that their request had been disqualified or downgraded.

Councilmember Elrich pointed out that one of the proposals that had been axed completely by the CAC was Edinburgh Lane, which he explained was not a paper street, but one that was unique in its total lack of curb and gutters. He said if the \$16,000 became available, he would ask that the CAC reconsider whether that project was deserving.

Mr. Douglas explained that the Grant Avenue citizens had requested that their project be funded through Public Works, he had thrown in the idea of using some of the CDBG monies himself -- however, if it was ineligible for that, it was ineligible. He said, however, he hoped the matter could be discussed again at a later date.

Councilmember d'Eustachio moved to table the resolution for 2 weeks to allow the CAC time to consider their recommendation regarding use of the reprogrammed funds; the motion was duly seconded by Councilmember Hamilton and carried by a 4-2 vote. Mr. d'Eustachio moved that the \$16,450 be removed from its currently allocated use, duly seconded by Councilmember Hamilton. Councilmember Sharp raised the question of whether what was being done amounted to rebudgeting outside of the budget process; the Mayor asked that staff examine that question, and if it were necessary to do a budget amendment, one could be prepared. The motion to reprogram the funds carried with 3 affirmative votes, 1 negative, 2 abstentions.

The Mayor commented that the next item on the agenda, resolutions of appreciation for the members of the CAC, would be deferred for 2 weeks as well, and would be presented at the time the committee came back before the Council with their recommendation regarding the reprogrammed funds.

Cindy Wells, 5 Grant Avenue: said the request of the citizens' group to Councilmembers Douglas and Leary was that they take the necessary steps to have Public Works look at the work they wanted done. She referred to the staff report of the CAC to the Mayor & Council for Year 16, and pointed out that in it, Grant Avenue was specifically addressed. She said while they understood their request had been turned down, it had been discussed and considered. She cited and read sections of the report which stated that the citizens group were encouraged to contact Public Works regarding removal of the bollards (and installation of sidewalk, curb and gutter installed on 2 private driveways on east side of the street leading to the apartments on Hancock) -- Ms. Wells noted that the report addressed removal of the sidewalk, curb and gutter in addition to removal of the bollards -- contradictory to what Ms. Mitchell had stated. Additionally, she cited and read a section outlining the proposal and relating that Mr. Giancola had stated that the project was minor in cost and labor and he would be willing to look at having Public Works do the labor in conjunction with the residents helping with the landscaping. Ms. Wells said it appeared to her that the staff report said more than merely that Mr. Giancola had considered removing the bollards -- it essentially represented a commitment made by him in front of the CAC. She said the citizens were looking for someone to initiate steps to get Mr. Giancola to do what he had said he would do.

The Mayor said that, having for the first time listened to most of the details of the situation, there was a very serious policy issue involved, and it was something the Council would have to decide. He said while the City may have, on occasion, spent money to improve private property, it was strictly a decision of the Council, and had been in such instances as facade improvements in the course of commercial area renovations. For anyone to make a representation on behalf of the City, and which was wholly beyond their purview, was unfortunate, and it was unfortunate if that was the way Mr. Giancola's comment was understood by the citizens. He said Mr. Giancola had no authority to commit the City to doing anything in the way of improvements on private property. Additionally, he said while the cost involved may have been projected as fairly minor, that cost as estimated by the City Engineer was substantially more than what Mr. Giancola may have originally thought. The Mayor said it would be setting a very dangerous precedent to use public money to improve private property, other than through some of the means that had been used in past in cooperation with private owners, e.g., the facade ordinance, etc. He said he thought the citizens deserved a clarification of the situation and, certainly, if a commitment was made to make some improvements to the public property in the area, it would be appropriate for the City to do so in a timely fashion.

Ms. Wells related that the citizens had encountered great difficulty in getting a clear and definitive answer as to what constituted private vs. public property, e.g., regarding driveway aprons. Mr. Douglas suggested that appropriate staff research the question, as well as providing cost estimates for doing what was wanted in the area. The Mayor directed that staff furnish a staff report on the matter and that the issue be brought back to the Council in October as a separate agenda item, perhaps at the first worksession in the month.

6. Second Reading of Administrative Regulations Ordinance.

The Mayor noted the ordinance had been accepted for First Reading on April 4, 1989; since that time, it had been amended substantially as a result of various meetings and discussions. Councilmember Sharp moved adoption of the ordinance, duly seconded by Councilmember Elrich. The Mayor noted that language changes subsequent to First Reading were denoted by underlining for additions, bracketing for deletions. Councilmember d'Eustachio moved passage of the amendments, collectively; the motion was duly seconded by Councilmember Sharp.

At the request of Councilmember Douglas, the Mayor summarized the ordinance, noting that the legislation set out a 2-part process by which the City Administrator and department heads could establish regulations and rules of operation. A notice of proposed regulations would be required to be published in the City Newsletter; a minimum 21-day period would be allotted for comments to the official proposing the regulations; once the comment period had passed, the official was required to consider any comments, but could then move to second stage final action by issuing a notice of final action in a subsequent Newsletter. The effective date of the final regulations had to be no less than 10 days after the date of publication of the final notice. He said the system was more or less set up so that there could be a smooth flow of the process, allowing for finalization and effectiveness of fairly simple regulations within a 45-day period. In more complicated cases, e.g., procurement regulations, the City Administrator was permitted to use his discretion in setting out a longer comment period and subsequent periods, with a longer time for finalization. Additionally, and again responding to Mr. Douglas, he said the process would facilitate the Code review by allowing regulations to be formulated that would simplify and/or replace a lot of existing Code material; e.g., the City Administrator would promulgate regulations regarding handicapped parking spaces, a process for handling those would be initiated, and such decisions would no longer have to be made by the Council. Following brief discussion regarding the need for planning, coordination and input from department heads, the amendments were passed by unanimous vote. The Mayor noted that the effective date of the ordinance, as amended, would be October 1, 1989, rather than immediately. The ordinance, as amended, was adopted by roll call vote as follows: AYE: Councilmembers d'Eustachio, Douglas, Elrich, Martin and Sharp; NAY: None; ABSTAINED: Councilmember Hamilton;

ABSENT: Councilmember Leary.

ORDINANCE #1989-32
(attached)

The Mayor thanked Councilmember Sharp and Corporation Counsel Silber, both of whom he said had spent a great deal of time with him putting the ordinance together. He noted this item had been one of his announced initiatives when he last ran for office.

7. First Reading of an Ordinance Establishing 1989 City Election.
The Mayor noted a revised edition of the legislation, disseminated at the meeting, which contained a section regarding the Caucus. Councilmember Hamilton moved acceptance for First Reading, duly seconded by Councilmember d'Eustachio. Councilmember Douglas noted that there were other things that needed to be done prior to election but need not be included in the ordinance, e.g., advising the Election Judges not to park in the short term spaces near the building, but providing spaces elsewhere for them on the lot. The ordinance was accepted for First Reading by unanimous vote.

ORDINANCE #1989-
(attached)

8. Discussion and Action on Silver Spring CBD Sector Plan.
The Mayor noted the plan had been opposed in the past, however, would be going before the commission for consideration. Asst. City Administrator Habada pointed out copies of a memo had been distributed referring to a public hearing that would be held the following afternoon; she said the County Executive would be recommending to the County Council that they oppose the Sector Plan and send it back to the Planning Board for reexamination of the entire plan.

Councilmember Leary commented he thought the City should play an active part on this issue, rather than simply opposing alterations to particular intersections that happen to be within the city. He said the entire plan would affect the entire city in many many ways and the overall plan and its potential impact should be very carefully evaluated. Councilmember Elrich pointed out that the major concern and focus of most opposition was what was anticipated for the core development; the outlying community and low-rise buildings were pretty well protected from redevelopment and the zoning was shifted away from office to residential -- the developers had created a scenario wherein it made more sense to rehabilitate properties than to rebuild them. The Mayor commented that there were probably varying levels of concerns about a variety of issues related to the sector plan, however, he thought all members of the Council could probably agree that they opposed the plan in its present form and would like to have it reexamined. Councilmember Hamilton moved to oppose the plan in its present form and support its reexamination by the Sector Plan Review Committee, duly seconded by Councilmember Leary. Consensus was that the City would take a more active role in examining the plan, would more actively participate in discussions on the matter than had been the case previously. The motion carried by unanimous vote.

9. Discussion and Action on City Legislation for 1990 State Legislative Session and Status of MML Legislative Agenda.
The Mayor noted that MML had adopted 4 priority issues at its meeting on 9/9/89, which would now go before the full body at the legislative conference; i.e., legislation regarding provisions of the State's Incorporation Law re severability, the bill for State aid for police which was also submitted the previous year, a newly-proposed amusement tax which would extend that tax beyond theaters, and the City's request (combined with that of College Park) re Municipal Infractions, which would clean up that law. The Mayor pointed out he would need some direction regarding what the elected body wished to pursue in the way of local legislation before the State Legislature, inasmuch as the deadline for pre-filed bills and local legislation was the middle of September. He said the City would have to advise its representatives what it wished them to sponsor. He said he thought it would be worthwhile to pursue the library bill; unification had been repeatedly presented, year after year, and all indications were that nothing would happen with that until redistricting following the 1990 Census.

Consensus was that the unification bill would be resubmitted regardless, as well as the library bill. Councilmember d'Eustachio commented he did not think it worthwhile to actively pursue the double taxation issue, lacking MML's dedicated support; working with the County Council would be more productive at present. The Mayor remarked that some amazing things were being done on the housing issue regarding reimbursement, things that would impact the City, as well as all other municipalities that had adopted their own liveability code under the state mandate and dealing with enforcement issues; he said he thought that issue was worth raising at the upcoming session. He said he thought the City should be contacting the county about discussions re the library and housing prior to their budget director making announcements of his decisions. The Mayor said members of MML all felt pretty strongly about the issue Takoma Park had raised of the state not paying for insurance costs in relation to the infrastructure loan program; however, there were indications that the situation was in the process of being resolved, that a request had been submitted that the Governor fund it in his budget. Thus, that matter may possibly be dealt with administratively rather than legislatively. Regarding the City's legislation for WSSC stormwater management, the Mayor, responding to query from Mr. Wilson, stated that Royal Hart was drafting the legislation and it should be moving forward.

10. Resolutions Requesting Prince George's Park & Planning Funding for Hiker/Biker Trail and Stabilization of Sligo Creek Stream Bank.

Councilmember Martin moved passage of the resolutions, collectively, duly seconded by Councilmember Sharp. Ms. Martin pointed out that the 5th "Whereas" clause of the resolution regarding the hiker/biker trail should read "Whereas, the surrounding community desires to have a hiker/biker trail".... The amendment was accepted as editorial. The Mayor commented he and Ms. Martin had discussed the proposals and hoped WSSC and Park & Planning could be persuaded to do the work all at one time, so the creek bed would not have to be disturbed more than once. The resolutions were passed collectively by unanimous vote.

RESOLUTION #1989-83
(attached)

RESOLUTION #1989-84
(attached)

11. Proposed Use of Blair Mansion for Transitional Housing.

Councilmember Douglas noted that Ms. Weiss' report pretty well summarized the situation; he said apparently a County Councilmember was proposing that the property be used as housing for single-parent families and there had not been any consultation with the surrounding community. He said he would move that the City's concern be expressed at the hearing on the next day and that Park & Planning be asked not to make any final decision pending further input from the community. Councilmember Elrich inquired regarding the nature of the community's concern insofar as Mr. Douglas had understood. Mr. Douglas said he understood there was concern that the structure might not be the best sort structurally to house the type of operation that was being proposed. Councilmember d'Eustachio commented on the lack in the process; he said, in his observation, those instances in which such endeavors had been successful were those in which the local community had been involved and supported the project -- otherwise, dissension occurred and failure was imminent. The Mayor said he would ask that the resolution also state that the Mayor & Council had not adopted an official position, nor had they been invited to participate in the process. While the location was not within city boundaries, it was a part of the general community and a part of the history of the area. He said while there were pros and cons on the issue, he personally had a problem with taking one of only a few remaining historic properties and converting it to the proposed use. While there was a clear need for such a facility, it would be ridiculous to suggest that there were not other available and more appropriate properties to house it. He said he felt some concern that the historic significance of the property had not been considered in the proposal.

Councilmember Leary duly seconded Mr. Douglas' earlier motion. He said concerns expressed to him had dealt exclusively with historic preservation of the property and, from reading through the staff

report quickly, that appeared to have been considered and may possibly be addressed; however, he said there was no reliable way to be assured of that and any plan to approve the proposal should include the local community, including Takoma Park. Mr. Leary pointed out the map included indicated a proposed day care center and proposed office space; he said he would want to know about those proposals as well.

Ms. Weiss explained that there were 2 auxiliary structures on the Blair site; those were being proposed for the uses mentioned, as a part of the transitional housing plan.

Councilmember Sharp said he concurred with the concerns expressed about the process; however, he pointed out there was not any surrounding residential neighborhood, so there could not be a more ideal place for such a facility -- there was recreational space, as well as stores nearby -- and there could not be any complaints about the facility diminishing the quality of any nearby housing. The question of historic preservation remained, however, there was a real need for this sort of facility and a mandate that the authorities start building them.

The question was called; the motion carried by unanimous vote.

Responding to query from Ms. Weiss, the Mayor clarified that his remarks regarding historic preservation were personal and not intended for conveyance to the county -- the primary concern to be expressed was regarding process and the need for inclusion of input from the surrounding community in making any final decision.

CONSENT AGENDA:

Councilmember Douglas moved passage of the consent agenda items, collectively; the motion was duly seconded by Councilmember Hamilton and carried by unanimous vote.

12. Resolution Requesting Favorable Ruling From the IRS.

RESOLUTION #1989-85
(attached)

13. Resolution Authorizing City Participation With FEMA.

RESOLUTION #1989-86
(attached)

Councilmember Douglas noted a question from the Library Director regarding election campaign materials. The Mayor said it would be appropriate for the Library to follow its past practice of designating a table at the rear of the adult reading room for such materials, so long as notice was given in the Newsletter that any candidate wishing to have such material disseminated could bring it to the Library. It was suggested that such a notice also be included in the information packet given candidates after the Caucus.

Upon motion, duly seconded, the meeting adjourned at 12:39 a.m., to reconvene briefly in Executive Session, and thereafter in Regular Session at 8:00 p.m. on September 25, 1989.

Introduced by: Mayor Del Giudice

RESOLUTION OF WELCOME

WELCOMING MARIA DIAZ MONTGOMERY
PRINCIPAL, TAKOMA PARK INTERMEDIATE SCHOOL

WHEREAS, in July, 1989, Maria Diaz Montgomery joined the staff at Takoma Park Intermediate School (TPIS), as the new Principal; AND

WHEREAS, Ms. Montgomery comes to Takoma Park from the Walt Whitman High School in Bethesda, Maryland where she served as Assistant Principal since 1981; AND

WHEREAS, Ms. Montgomery's extensive and varied professional experiences in the educational field date back to 1969; AND

WHEREAS, Ms. Montgomery has special knowledges and skills in foreign languages, community and human relations, minority education problems and goals and will surely be an important addition to TPIS and the Takoma Park community.

NOW THEREFORE, BE IT RESOLVED THAT the Mayor and Council hereby extend this official welcome to Takoma Park Intermediate School Principal, Maria Diaz Montgomery.

Dated this 11th day of September, 1989

ATTEST:

Stephen J. Del Giudice
Mayor

James S. Wilson, Jr.
City Administrator

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

1st Reading: 7/31/89
2nd Reading: 9/11/89

ORDINANCE NO. 1989-30
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 Class C fine 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 11th day of September, 1989 by Roll Call Vote as Follows:

AYE: Douglas, Elrich, Hamilton, Leary, Martin, Sharp

NAY:

ABSTAIN:

ABSENT: d'Eustachio (for Vote)

Introduced by Councilmember Sharp
(Drafted by S. Weiss)

1st Reading - 07/31/89

2nd Reading - 9/11/89

Effective: _____

Ordinance 1989 - 31

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

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. The Mayor and Council shall make every effort to ensure that the Commission has broad representation. 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 11th day of the month of September, 1989, by the Mayor and Council of the City of Takoma Park, Maryland, by Roll Call vote as follows:

Aye: d'Eustachio, Douglas, Elrich, Hamilton, Leary, Sharp
Nay: None
Abstained:
Absent: (for roll) Martin

Note: Underlined text added for 1st reading
[Bracketed text] deleted for 1st reading
Bold, underlined text added for 2nd reading
[**Bold, bracketed text**] deleted for 2nd reading

Posted: 9/12/89

COUNCIL OF THE CITY OF TAKOMA PARK

RESOLUTION NO. 1989-79

Introduced by Mayor Del Giudice

City Council Hearing: September 11, 1989

Amendments Adopted: (As Amended on September 11, 1989)

Adoption Date: September 11, 1989

Effective Date: October 31, 1989

A RESOLUTION concerning

CHARTER AMENDMENT - ADOPTION OF NEW CHARTER

FOR the purpose of repealing the Charter of the City of Takoma Park and adopting a new Charter for the municipal corporation known as the City of Takoma Park to stand in the place of the Charter so repealed; for the purpose of reestablishing a form of government for the municipal corporation known as the City of Takoma Park; providing for the election and appointment of officials for the municipal corporation; providing for the filling of vacancies on the Council; providing for a Board of Supervisors for Elections; specifying the procedures of registration for all City elections; specifying the procedures for voting in City elections by absentee ballot; specifying the powers of the municipal corporation; providing for the procedure of adopting, amending, or rejecting municipal ordinances; providing for the enforcement of ordinances and levying of fines as municipal infractions for violations of ordinances; providing for the power to petition to referendum vote of the qualified voters of the City any ordinance adopted by the Council within a specified time period except those ordinances prohibited from referendum by the proposed Charter; providing for the appointment of a City Administrator and specifying the duties and responsibilities of said position; providing for the appointment of a City Corporation Counsel and specifying the duties and responsibilities of said position; designating the Council to be the Takoma Park Water and Sewer Board and specifying the duties and responsibilities of said Board; providing for the borrowing of funds and the creation of debts and other obligations by and on behalf of the municipal corporation for various purposes, and updating the procedures for dealing with other taxation and financial matters of the municipal corporation; providing for the continuation of ordinances and resolutions enacted by the Council

of the City of Takoma Park prior to the adoption of this Charter except under certain circumstances; providing that the adoption of this Charter is not intended to alter ownership, title or control of property in which the municipal corporation had an interest prior to its adoption; providing that adoption of this Charter does not affect any liabilities, debts or other obligations entered into or incurred by or on behalf of the municipal corporation prior to its adoption and that such liabilities, debts and other obligations shall continue to be fulfilled and satisfied by the municipal corporation; providing that the terms of office and incumbency of existing City Councilmembers and the continuity of units of the city government are not affected by the adoption of this Charter; and all such and other matters generally relating to the continued existence and operation of the municipal corporation known as the City of Takoma Park.

SECTION I: BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, pursuant to Article XI-E of the Constitution of the State of Maryland and Article 23A of the Annotated code of Maryland (1957 edition, as amended), title: "Corporations - Municipal," that the Charter of the City of Takoma Park as it now exists, as found in Chapter 138 of Municipal Charters of Maryland, Vol. XI, 1983 Edition, 1988 supplement, and previously found in the Code of Public Local Laws of Montgomery County and in the Code of Public Laws of Prince George's County, and subsequently amended, consisting of Sections 73-1 through 73-43 inclusive in the case of the former, and incorporated therein by reference in the case of the latter, be and the same is hereby repealed, and a new Charter for the municipal corporation known as the City of Takoma Park, attached hereto and incorporated therein by reference, is hereby adopted to stand in the place of the Charter so repealed.

SECTION II: AND BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, That all ordinances and resolutions enacted by the Council of the City of Takoma Park prior to the date upon which the Charter adopted by this Resolution takes effect shall thereafter continue in full force and effect, except to the extent that the authority, either express or implied, for any such ordinance or resolution is not granted to the City of Takoma Park by the Charter adopted by this resolution or by other law, and further except to the extent that any such ordinance or resolution may irreconcilably conflict with any provision of the Charter adopted by this Resolution.

SECTION III: AND BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, That this Resolution repealing the Charter of the City of Takoma Park and adopting a new Charter for the municipal corporation known as the City of Takoma Park shall not alter ownership, title or control of any property in which the municipal corporation had an interest prior to the effective date of the Charter adopted by this Resolution; nor shall the adoption of this resolution adopting a new Charter for the municipal

corporation affect any liabilities, debts or other obligations entered into or incurred by or on behalf of the municipal corporation known as the City of Takoma Park prior to the effective date of the Charter and all such liabilities, debts and other obligations shall continue to be fulfilled and satisfied by the municipal corporation; nor shall the adoption of this resolution adopting a new Charter for the City of Takoma Park affect the term of office or incumbency of any Councilmember or any appointed member of any department, office, board, commission, committee, agency or other unit of the City, and the continuity of every department, office, board, commission, committee, agency or other unit of the City government is retained, it being the intent of the Council in adoption of this Resolution that the affairs of the municipal corporation be continued without interruption and without substantial changes in the form or manner of government under the restated and readopted Charter.

SECTION IV: AND BE IT FURTHER REESTABLISHED AND ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, That if any provision of this Resolution or the Charter adopted by this Resolution, or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect the other provisions or any other applications of this Resolution or of the Charter which can be given effect without the invalid provisions or applications, and to this end all the provisions of this Resolution and of the Charter are hereby declared to be severable.

SECTION V: AND BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, That the date of adoption of this Resolution is September 11, 1989, and the amendment of the Charter of the City of Takoma Park hereby enacted shall become effective on October 31, 1989, unless a proper petition for referendum hereon shall be filed as permitted by Article 23A of the Annotated Code of Maryland Section 16, provided a complete and exact copy of this Resolution shall be continuously posted on the bulletin board of the Municipal Building until October 21, 1989, and provided further that a copy of the fair summary of this Charter Resolution shall be published in "Montgomery County Record" and "Prince George's Sentinel", newspapers of general circulation in the City of Takoma Park, or in any other newspaper of such general circulation, one in each of the weeks beginning September 18, 1989, September 25, 1989, October 2, 1989, and October 9, 1989.

SECTION VI: AND BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, That the City Clerk is hereby specifically commanded to carry out the provisions of Section V hereof, and, as evidence of such compliance, the City Clerk shall cause to be maintained appropriate certificates of publication of the newspaper or newspapers in which the title of the Resolution shall have been published. If a favorable referendum is held on the proposed/amended Charter, the Council shall proclaim the proposed/amended Charter hereby enacted to have been approved by

the voters and the charter amendment shall become effective on the date provided by law.

SECTION VII: AND BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, That as soon as the Charter Amendment hereby enacted shall become effective, either as provided herein or following a referendum, the City Clerk shall send by registered mail, to the Department of Legislative Reference of Maryland, a clear certified copy of this Resolution showing the number of Councilmembers voting for and against it and report on the votes cast for or against the amendment hereby enacted at any referendum thereon and the date of such referendum.

The above Charter Amendment was enacted by the foregoing Resolution which was passed at a Regular Meeting of the Council of the City of Takoma Park on Monday, September 11, 1989, seven members of the City Council voting in the affirmative, no members of the City Council voting in the negative, no members of the City Council abstaining and no members of the City Council absent, and the said Resolution becomes effective in accordance with law on the 31st day of October, 1989.

ADOPTED this 11th day of September, 1989.

COUNCILMEMBERS OF THE CITY OF TAKOMA PARK

- Stephen J. Del Giudice

Mayor
 - William Leary, Ward 1

 - James Douglas, Ward 2

 - Paul d'Eustachio, Ward 3

 - Gregory V. Hamilton, Ward 4

 - Marc Elirch, Ward 5

 - Janice Martin, Ward 6

 - Edward Sharp, Ward 7

- Councilmembers

ATTEST:

Paula S. Jewell
Clerk

September 12, 1989
Date

Introduced by: Mayor Del Giudice

RESOLUTION #1989-80

EXPRESSING APPRECIATION TO THE INSTITUTE FOR GOVERNMENTAL
SERVICE OF THE UNIVERSITY OF MARYLAND

WHEREAS, on November 14, 1988, the Mayor and Council of Takoma Park adopted Ordinance #1988-52, accepting the offer from the Institute for Governmental Service to assist the Council in a Charter review; AND

WHEREAS, the Institute has worked dilligently with the Mayor and Council, the City's Charter Review Committee, and City staff since January 1989 and have together, successfully produced a proposed new Charter for the Council's consideration and the citizens of Takoma Park.

NOW THEREFORE, BE IT RESOLVED, THAT the Mayor and Council do hereby offer their sincere gratitude and appreciation to Dr. Brian Gardner, Edwin (Ike) Webber and the staff at the Institute for Governmental Service, for their persistent efforts that resulted in the City's new Charter of 1989.

Dated this 11th day of September, 1989

ATTEST:

Stephen J. Del Giudice
Mayor

James S. Wilson, Jr.
City Administrator

Introduced by: Mayor Del Giudice

RESOLUTION #1989-81

EXPRESSING APPRECIATION TO THE CITY OF TAKOMA PARK
CHARTER REVIEW COMMITTEE

WHEREAS, on January 17, 1989, the Mayor and Council of Takoma Park adopted Resolution #1989-2, creating a Charter Review Committee that consisted of three Councilmembers and four Takoma Park citizens; AND

WHEREAS, the Charter Review Committee Members have worked dilligently with the Institute for Governmental Service, the Mayor and Council and City Staff, since January 1989 and have together, successfully produced a proposed new Charter for the Council's consideration and the citizens of Takoma Park.

NOW THEREFORE, BE IT RESOLVED, THAT the Mayor and Council do hereby offer their sincere gratitude and appreciation to Charter Review Committee members, Barbara Beelar, Nina Gilden Seavey, Robert M. Thomas, and James F. Wolf for their persistent efforts that resulted in the City's new Charter of 1989.

Dated this 11th day of September, 1989

ATTEST:

Stephen J. Del Giudice
Mayor

James S. Wilson, Jr.
City Administrator

Introduced By: Councilmember Hamilton

Adopted: 09-11-89

Drafted By: V. VinCola

Resolution No. 1989 - 82

A resolution to adopt the recommendations of the Citizens' Advisory Committee regarding Community Development Block Grant requests to Prince George's County for Fiscal Year 1990-91 as amended by Mayor and Council, and to authorize DECD staff to submit applications to the respective County

WHEREAS, the City anticipates receiving federal Community Development Block Grant (CDBG) funds through Prince George's County for Fiscal Year 1990-91 to use for eligible projects; AND

WHEREAS, to achieve maximum citizen input into how CDBG funds received by the City are spent, the City government has formed a Community Development Block Grant Citizens' Advisory Committee (CAC) composed of representatives of citizen, tenant, civic, neighborhood, and business organizations and groups for the purpose of reviewing and evaluating proposals for the use of available CDBG funds, and to make a funding recommendation based on those proposals to the Mayor and Council; AND

WHEREAS, the Citizens' Advisory Committee has now completed its review and has issued its final report; AND

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT the recommendations of the Citizens' Advisory Committee for requests for CDBG funding from Prince George's County, as amended by Mayor and Council, are hereby ADOPTED.

BE IT FURTHER RESOLVED THAT staff of the Department of Economic and Community Development is hereby authorized to submit applications for fiscal year 1990-91 CDBG funding for the recommended projects to Prince George's County.

ADOPTED THIS 11th DAY OF SEPTEMBER 1989.

Introduced by: Councilmember Sharp

1st reading: 4/10/89

2nd reading: 9/11/89

ORDINANCE NO. 1989-32

Short Title: Administrative Regulations Ordinance

An Ordinance To:

(A) Relieve the Mayor and Council from the details of carrying out administrative functions and making decisions properly carried out and made by various agencies of the City by delegating these functions to the various agencies;

(B) Recognize that the City has a professional, full-time staff that carries out executive branch functions;

(C) Authorize the City agencies and the City Administrator to adopt regulations to implement City ordinances;

(D) Establish consistent procedures for adopting, reviewing, and repealing regulations and soliciting and responding to the comments of the City's citizens;

(E) Establish a uniform procedure for proposed and final regulations to be compiled, published, and made available to the public; and

(F) Establish a process by which ordinances and provisions of the Code may be repealed and reenacted as regulations; [Repeal certain ordinances and to promulgate the same as regulations; and to remove the repealed regulations from the Code and codify and publish the regulations in a separate compilation.]

(c) Code. "Code" means the City of Takoma Park Code, 1972, as amended.

(d) Council. "Council" means the Council of the City of Takoma Park, Maryland.

(e) Mayor. "Mayor" means the Mayor of the City of Takoma Park, Maryland, the executive officer of the Council.

(f) Regulation. "Regulation" means any agency order, directive, or statement of general or particular applicability and future effect, authorized by law, designed to implement, interpret law or policy, including an amendment or repeal of a prior regulation.

(g) Internal Regulations. "Internal Regulations" mean those regulations which specifically pertain to the procedures, policies, or the implementation of legislation, which relates to the City government's internal matters. Such matters include, but are not limited to: office procedures of the Mayor, the Council, the City Administrator, or any City Agency or subdivision thereof; certain personnel procedures or policies.

(h) External Regulations. "External regulations means those regulations which pertain to the procedures, policies, or the implementation of legislation, which directly affect the general public or the citizens of the City of Takoma Park, Maryland.

Sec. 2-52. Authority.

(a) Express and Implied Authority. If an agency is authorized to implement or enforce an ordinance or law, the

(c) Comment Period [Period of prior notice. The notice shall be published within the time specified by the ordinance or law authorizing the action, or if no time is specified, at least 60 days before the proposed effective date of the proposed regulation.] Following notice of a proposed regulation there shall be a minimum period of twenty-one (21) [30] days for comment on the proposed regulation.

(d) Publication of [prior] notice-exception. [Prior] N[n]otice does not have to be published in the Takoma Park Newsletter if all persons subject to the proposed regulation are named, and either personally served or otherwise given actual notice in accordance with law.

(e) Content of [prior] notice. In the prior published notice, an agency shall either accurately summarize the substance of the proposed regulation and the subject and issues involved or set forth the full text of the proposed regulation. If the proposed regulation is summarized, an agency shall state the place where the full text is available. If a hearing will be held, the place, date, and time of the hearing shall be stated. The [prior] notice shall solicit public comment. The [prior] notice shall also contain the requirements or procedure for submitting any written data, comments, or views; the name, address, and telephone number of a contact person who can provide further information; the deadline for receipt of comments and the name, address and telephone number of the person to whom comments

be published at least ten (10) [30] days before the effective date of the final regulation.

b. [(2)] If the proposed regulation becomes final [is approved or otherwise promulgated], an agency may publish or make available a summary response to public comments received.

c. [(3)] If the proposed regulation becomes final [is approved or otherwise promulgated], an agency shall:

a. Cite the issue of the Takoma Park Newsletter that contains the [prior] notice of the proposed regulation if there is no substantive difference between the proposed regulation and the final [approved otherwise promulgated] regulation.

b. If the agency makes any substantive change to the proposed regulation before it is final [approved or otherwise promulgated], the agency shall publish either a summary of the changes and state the place where the full text is available, or it may set forth the full text of the final regulation with a summary of the changes.

Sec. 2-58. Internal Regulations

a. The provisions of the Administrative Regulations Ordinance shall apply to all internal regulations except that:

(1) Internal regulations do not require prior notice to the public;

(2) An Agency may solicit comments from the staff members who will be affected by the proposed internal regulations;

(d) The Mayor and Council may repeal an emergency regulation at any time according to the provisions of Section 2-60 of this ordinance.

(e) Notice of the approval of an emergency regulation, its repeal, extension, or any other final action taken regarding the emergency regulation shall be given in the next Takoma Park Newsletter to be published, and in Takoma Park Regulations, if appropriate.

(f) Emergency regulations must pertain to situations presenting a clear and present danger to the public health, safety, and general welfare.

Sec. 2-60. Repeal and Modification [Approval] of Regulations by Mayor and City Council

(a) The Mayor and Council may comment on any proposed regulation during the comment period provided in the public notice. [approve or object to any regulation or emergency regulation, in whole or in part, by resolution, within the thirty (30) day period of notice and comment by the public.]

(b) The Mayor and Council may, by resolution, repeal any final or emergency regulation. [If the Mayor and Council rejects any regulation or emergency regulation, or any part of a regulation or emergency regulation, the Mayor and Council shall give a written statement to the City Administrator giving the reasons for the rejection.]

executive functions and shall not attempt to delegate its legislative power to an agency. Following final adoption of any regulations, Mayor and Council may repeal any ordinance or Code provisions that duplicate the final regulations.

[(b) The Mayor and Council are authorized to repeal any ordinance or any part of any ordinance that duplicates a regulation.]

Sec. 2-62. Compilation of Regulations.

(a) Takoma Park Regulations established. The Takoma Park Regulations is hereby established and shall include: (1) each regulation of the City; (2) any document that the City Administrator determines should be included; (3) any explanatory annotation; and (4) an index by agency and subject matter.

(b) Duties of City Administrator.

(1) The City Administrator with the assistance of the City Clerk shall compile, codify, edit, index, publish, and supplement the Takoma Park Regulations. The City Administrator may procure a contract to meet the requirements of this subsection.

(2) The City Administrator may remove a regulation or a part of a regulation from the Takoma Park Regulations if the regulation is declared unconstitutional or otherwise illegal by a Court after final appeal; or the agency that enforced or administered the regulation ceases to exist and the functions and

The Mayor and Council shall review the Regulations from time to time as is deemed appropriate. No later than five years after a regulation's publication, a regulation shall be reviewed by the City Administrator for the purpose of determining whether the regulation should be repealed or amended.

Sec. 2-64. Severability.

If any section, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court, that decision shall not affect the validity of the remaining portions of this Ordinance.

Sec. 2-65. Effective Date.

This Ordinance shall be effective October 1, 1989 [upon adoption].

Adopted this 11th day of September, 1989, by roll call vote as follows:

Aye: d'Eustachio, Douglas, Elrich, Martin, Sharp
Nay: None
Abstained: None
Absent: (for vote) Leary, Hamilton

Draft for 2nd reading September 11, 1989.
Ordin.ap/TP139/TP#5/sp

Introduced by:

1st Reading: 9/11/89

2nd Reading:

Effective:

(Drafted by: P. Jewell)
Revised 9/11/89

ORDINANCE #1989-__

SETTING FORTH THE 1989 TAKOMA PARK CITY ELECTION

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

SECTION 1. THAT the City Clerk shall call a meeting of the citizens for the nomination of candidates for Mayor and Councilmembers on Tuesday, October 3, 1989 at 8:00 PM in the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland; the said meeting shall be conducted as follows: [prescribed by City Ordinance; AND]

a. At the beginning of the Caucus, the Secretary of the Caucus shall select by random drawing, ward numbers one through seven to determine the order in which Ward nominations are received.

b. Nominations for Mayor shall immediately follow all seven ward nominations.

SECTION 2. THAT a City Election shall be held at the Municipal Building on Tuesday, November 7, 1989, between the hours of 7:00 AM and 8:00 PM for the purpose of electing a Mayor and seven Councilmembers. The Mayor shall be elected at large, and one Councilmember from each ward shall be elected by the voters of that ward only. The election shall be conducted by voting machines and, as nearly as practicable, all laws and regulations governing the use of voting machines in Prince George's County elections shall apply. Absentee voting shall be available as set forth by City Ordinance; AND

SECTION 3. THAT the City Clerk shall arrange with the Supervisors of Elections of Prince George's County for the use of eight voting machines at the said election, with a separate machine for the exclusive use of each of the seven wards, and an eighth for the use only in the event of

malfunction. The City Clerk shall place the names of the candidates nominated for Councilmember at the Citizens' Meeting on separate ward voting machines, with each machine displaying the names of candidates for one ward only, and shall place the names of persons nominated for the office of Mayor on all voting machines; all of the names of candidates nominated at the Citizens' Meeting shall be so placed, except any who within three days thereafter may have filed in writing with the City Clerk a declination; AND

SECTION 4. THAT notice of the Citizens' Meeting and the City Election to be inserted in the Montgomery County Business Record and the Prince George's Sentinel during the two weeks prior to October 3, 1989. In addition, the Clerk shall have inserted in the Montgomery County Business Record and the Prince George's Sentinel, during the week preceding the election, a facsimile of the arrangements of the names and wards which will appear on the voting machines; AND

SECTION 5. THAT voter authority cards and lists shall be prepared for each ward separately, bearing the names, addresses and election wards of all eligible voters as certified by the Boards of Supervisors of Election for Prince George's and Montgomery Counties, and supplied to the Judges of Election on election day; AND

SECTION 6. THAT the Clerk shall recommend to the Mayor and Council the names of twenty-eight persons for designation by the Council as Judges of Election on election day; AND

SECTION 7. THAT the judges of Election shall meet in the Municipal Building as a Board of Election at 7:00 P.M., Wednesday, November 8, 1989, and shall determine and certify the results of the election, as provided in the City Charter; AND

SECTION 8. THAT the Mayor and Council shall meet in Special Session at 8:00 P.M., Wednesday, November 8, 1989, to receive the certification of the election from the Judges; AND

SECTION 9. THAT this Ordinance becomes effecton upon adoption.

Adopted this ____ day of September, 1989, by Roll Call Vote as Follows:

AYE:
NAY:
ABSTAINED:
ABSENT:

Introduced by: Janice Martin
Dated: September 11, 1989

RESOLUTION NO. 1989-83

STABILIZATION OF SLIGO CREEK'S STREAM BANKS

- Whereas, Sligo Creek is a naturally meandering creek flowing through a very narrow valley, which, along with the surrounding land, is owned and maintained by Maryland National Capital Park and Planning Commission, and is known as the Sligo Creek Stream Valley Park; AND
- Whereas, the portion of Sligo Creek Parkway between New Hampshire Avenue and the Prince George's County line under Prince George's County jurisdiction lies within Takoma Park's City limits and it is used not only as a major thoroughfare from one part of the City to the next, but it also provides the sole access to four city streets: Cherry Ave., Colby Ave., Aspen Ave., and Hayward Ave.; AND
- Whereas, Sligo Creek Parkway runs parallel to Sligo Creek following its path in a rolling and twisting fashion; AND
- Whereas, Sligo Creek Parkway is used not only by residents to travel through the City and to reach their homes, it is also used by both the City and county governments to provide services to the community including police, fire, emergency medical, trash, school transportation, snow removal, etc.; AND
- Whereas, pedestrians and bicyclists use Sligo Creek Parkway and its shoulders not only to travel to and from their homes, but also for recreation; AND
- Whereas, the amount of water flowing through Sligo Creek has increased dramatically, especially during rain, because of increased urban run-off due to continued development in the Sligo Creek watershed, causing accelerated erosion of the stream banks; AND
- Whereas, it is natural for a stream to be constantly changing its direction by undercutting its stream banks; AND
- Whereas, the amount of land between the Parkway and the streambank has been continually narrowing for several years because of the combined effects of erosion and the undercutting of the stream banks, the stream bank

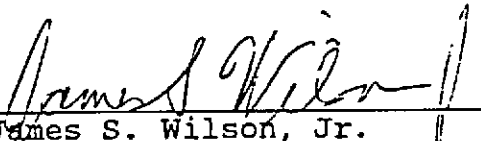
next to Sligo Creek Parkway is threatening the Parkway and in some portions now there are extremely narrow shoulders or no shoulder at all; AND

Whereas, Montgomery County has stabilized Sligo Creek's stream banks next to Sligo Creek Parkway in the past by building stone retaining walls and putting in rip-rap; AND

Whereas, because of the reliance on the Parkway, the City has a compelling interest in insuring that the Parkway is safe and accessible for both pedestrians and vehicular traffic.

NOW THEREFORE, BE IT RESOLVED THAT the Mayor and Council do hereby request that the Maryland National Park and Planning Commission include in its budget, Capital funding to permanently stabilize Sligo Creek's stream bank adjacent to Sligo Creek Parkway between Flower Ave. and the county line by building retaining walls or using any other method that would provide adequate shoulders along this section.

ATTEST:


James S. Wilson, Jr.
City Administrator

Introduced by: Janice Martin

Dated: 9/11/89

RESOLUTION NO: 1989-84

FUNDING FOR SLIGO CREEK HIKER/BIKER TRAIL

Whereas, the Sligo Creek Stream Valley Park is in a narrow valley with limited land, located in a densely populated area; AND

Whereas, this park is used both as a thoroughfare for vehicular and pedestrian traffic and for recreational activities and exercise including jogging and biking; AND

Whereas, Sligo Creek Parkway running through this park is quite narrow and has inadequate shoulders, and therefore is quite dangerous for pedestrians, joggers, and bicyclists; AND


Whereas, WSSC is planning to reconstruct major portions of the sewer system in this park; AND

Whereas, the surrounding community desires to have a hiker-biker trail built within this park; AND

Whereas, in exchange for allowing WSSC to repair the sewer lines, the hiker-biker trail will be built concurrently and largely funded by WSSC.

NOW THEREFORE, BE IT RESOLVED, THAT the Mayor and Council do hereby request that the Maryland National Capital Park and Planning Commission include in their next years budget adequate funding for construction of the hiker-biker trail in the Prince George's County portion that will not be funded by WSSC.

ATTEST:



James S. Wilson, Jr.
City Administrator

Introduced by: Councilman Douglas

RESOLUTION 1989-85

- WHEREAS, the 1988 Maryland General Assembly enacted House Bill 561; a law subsequently signed by the Governor which permits employers who participate in the Maryland State Retirement and Pension Systems to "pick up" employee contributions to the State Retirement and Pension Systems, thus exempting those contributions from federal tax during the employee's working career, AND
- WHEREAS, the Pick Up Program affects federal income tax only and will provide City employees participating in the State Retirement Plan with a means of sheltering an additional portion of their income, AND
- WHEREAS, the Maryland State Retirement and Pension Systems has obtained a favorable IRS ruling on their Pick Up program applicable at present only to State employees, AND
- WHEREAS, for the City to participate in the Pick Up Program that the Maryland State Retirement and Pension Systems will operate on its behalf as a participating municipality, the City must first obtain a favorable private letter ruling from the Internal Revenue Service approving City participation in the Pick Up Program and upon receipt of a favorable ruling must submit said letter of ruling to the Maryland State Retirement and Pension System Board of Trustees.
- WHEREAS, City employees participating in the State Retirement and Pension System are not given the option of receiving the amounts in cash directly instead of having them paid by the City to the Retirement System.
- NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF TAKOMA PARK, MARYLAND that the City Administrator is hereby authorized to request a favorable private letter ruling from the Internal Revenue Service for the "pick up" of City employee contributions by the City as a participating employer in the Maryland State Retirement and Pension Systems.
- BE IT FURTHER RESOLVED that the date of September 1, 1989 or at an earlier date if practicable, shall be the effective date for the "pick up" of City employee contributions to the State Retirement and Pension Systems as a participating municipality.

Adopted this eleventh day of September, 1989 to take effect upon enactment.

AYES: d'Eustachio, Douglas, Elrich, Hamilton, Leary, Martin,
Sharp
NAYS: None
ABSENT: None
ABSTAINED: None

DESIGNATION OF APPLICANT'S AGENT

RESOLUTION #1989-86

BE IT RESOLVED BY the Mayor and Council OF Takoma Park, Maryland
(Governing Body) (Public Entity)

THAT Anthony R. Giancola, Director, Public Works Department
* (Name of Incumbent) (Official Position)

N/A OR
* (Name of Incumbent) , Governor's Authorized Representative,

is hereby authorized to execute for and in behalf of the City of Takoma Park Municipal
Governeemt , a public entity established under the laws of the State of Maryland ,
this application and to file it in the appropriate State office for the purpose of obtaining certain Federal financial
assistance under the Disaster Relief Act (Public Law 288, 93rd Congress) or otherwise available from the President's
Disaster Relief Fund.

THAT Takoma Park , a public entity established under the laws of the State
of Maryland , hereby authorizes its agent to provide to the State and to the Federal
Emergency Management Agency (FEMA) for all matters pertaining to such Federal disaster assistance the assurances
and agreements printed on the reverse side hereof.

Passed and approved this Eleventh day of September , 19 89 .

James S. Wilson, City Administrator
(Name and Title)

(Name and Title)

(Name and Title)

CERTIFICATION

I, Paula S. Jewell , duly appointed and Deputy City Clerk of
(Title)

Takoma Park, Maryland , do hereby certify that the above is a true and correct copy of a
resolution passed and approved by the Mayor and Council of Takoma Park, Maryland
(Governing Body) (Public Entity)

on the Eleventh day of September , 19 89 .

Date: September 12, 1989

Deputy City Clerk
(Official Position)

Paula S. Jewell
(Signature)

*Name of incumbent need not be provided in those cases where the governing body of the public entity desires to authorize any
incumbent of the designated official position to represent it.

CITY OF TAKOMA PARK, MARYLAND

Public Hearing/Forum Re Proposed Revisions to
Article 7, Chapter 6 of the City Code

September 18, 1989

CITY OFFICIALS PRESENT:

Mayor Del Giudice	Asst. City Administrator Habada
Councilmember d'Eustachio	Deputy City Clerk Jewell
Councilmember Douglas	Community Planner Schwartz
Councilmember Elrich	Construction Coord. Ziek
Councilmember Hamilton	Housing Services Director Weiss
Councilmember Leary	Housing Coordinator Walker
Councilmember Martin	Public Works Director Giancola
Councilmember Sharp	

The Mayor and City Council convened at 8:28 P.M. on Monday, September 18, 1989 in the Council Chamber at 7500 Maple Avenue, Takoma Park, Maryland, for the purpose of conducting a public hearing/forum on proposed revisions to Article 7 of the City Code pertaining to Landlord-Tenant Relations.

The Mayor noted that the Housing Committee had proposed the legislation at hand following a very long period of work on it. He said from his own review of it, there were a lot of things to be discussed and decided upon; it would probably be under consideration throughout the month of October. He said what he would propose would be that the legislation be summarized, comments be received from the public and questions be responded to. At the first October worksession, a thorough review and discussion could take place, with a First Reading scheduled for the first regular meeting in the month, a subsequent worksession discussion, and final adoption at the end of October. He said he hoped interested parties would attend the meetings and participate as the legislation moved forward through the process. He asked that Councilmember Sharp, Chair of the Housing Committee, briefly summarize the proposed legislation.

Mr. Sharp explained that the effort began a couple of years previously, a polling was done of COLTA members, Corporation Counsel, and interested members of the Council regarding those provisions that needed to be changed, and a list was compiled; that information was patiently worked through by the Housing Committee, in conjunction with City staff and COLTA commissioners. Given the scope of the task, he said he did not think the time it had taken was excessive. He said the Executive Summary noted those things that would likely be most significant to people. While different people would emphasize different things, he said he personally felt the rent stabilization ceiling for vacant units and the self-help provisions in defective tenancies to be important. Most importantly, however, he said there was not a discussion of the Rent Stabilization criteria and of the Tenant Opportunity to Purchase Law -- both of which needed to be addressed, and which the committee intended to address, but had not yet been able to get to in any definitive way. He said he would, therefore, suggest that any discussion of those items would not be germane to the present hearing.

Housing Services Director Weiss remarked she wished to note a couple of errors in the draft so as to allay any possible concern people might have; i.e., page 24, section 6-94.1, where serious violations were being discussed, the second clause under part (c) ... "when the notice of the rent increase is given to the tenant" ... should properly be at the end of sentence (b). Following that, the last statement in the section should say ... "If any of the requirements specified in subsections (a), (c) and (d) of this section cease to be met during the pendency of the notice of the rent increase, the rent increase shall not take effect."... She said that was a change that was effected with the assistance of the Housing Committee so that if a serious violation existed at the time that the notice of rent increase was given, that should be the only time it should have effect on the rent increase.

In section 6-94.2, page 23, Ms. Weiss said the requirement that landlords could not take a vacancy increase if a no-cause eviction had been given to tenants had been inadvertently removed. She said that had not been intended, and it would be put back into the proposed legislation. She said it was intended that only for cause evictions and voluntary terminations of tenancies be addressed, to allow landlords to raise their rents to the vacancy rate -- which, as noted in the summary, had yet to be established by the Mayor & Council.

Regarding the list of violations, section 6-95 did not include itself in the list, which it should because there were violations included in that section which should be a part of the list. It had mistakenly included section 6-89 regarding COLTA Complaints for rent increases, and that should not be a part of the list. Ms. Weiss thanked the members of the Housing Committee for their long hours of work; she said what had been achieved would not have been possible without them. In addition, she thanked Victor Prince, the consultant to DHS who had remained with the project until its completion, despite having voluntarily terminated his service with the City.

Norman Gleichman, 7113 Central Avenue, COLTA: expressed appreciation to all those who had participated for their long hard hours of work on the legislation. He said he endorsed the proposed legislation, with two exceptions which he had outlined and distributed in writing to the members of the elected body. He asked that they review his memorandum of September 13, and said he looked forward to continuing to work with the Housing Committee on the legislation, as did other members of COLTA.

The Mayor commented he would encourage anyone wishing to do so to submit comments in writing; he noted receipt of a memorandum from Ketrec Management regarding the proposed legislation. He said, responding to query from a member of the audience, that copies of comments submitted could be obtained through the City Clerk's Office or through DHS.

Charles Ryan, Director of Office of Governmental Affairs, Apartment & Office Building Association: on behalf of his association, expressed a willingness to work with the elected body and DHS in formulating a fair and equitable landlord-tenant code. He said he had had only a very brief time to review the proposed legislation, however, had made a couple of notations which he would like to provide to the Council. He said he had noted the absence of any provisions regarding drug/alcohol abuse in relation to housing; that issue had been in the local and national forefront and a provision should be included in the legislation prohibiting use, possession, distribution, manufacture, in Takoma Park.

In provision 6-80. requiring renewal of a lease by a landlord, he said he believed that may be unconstitutional in that a governmental agency may not impair a contract between two individuals -- he suggested Corporation Counsel be asked to examine that.

In section 6-80.(b), he pointed out a landlord could be required to pay for actual damages for negligence, and said he would like to also see the same requirement placed on the tenant, which would both balance the requirement and would place a burden on the tenant to behave and act accordingly.

He noted provision 6-80.(d) granted an automatic grace period of 10 days, and said he believed that was tantamount to asking a 10-day free loan of money. He said since rent was due on the day it was due, there was a grace period permitted prior to eviction requests, prior to filing in the courts, and that was a sufficient grace period.

In provision 6-80.(i), termination of a lease, he said he again believed that may be unconstitutional and asked that Corporation Counsel be asked to examine the provision in that light.

In 6-80.1., he suggested adding the words ... "unless evidence is presented to Housing Coordinator of such cost exceeding \$25.00" ... He said he there were instances where costs of things escalated and if a sufficient amount were put in then it may not require correction in

the future. In 6-80.1., he said again he would like to see some provisions of an automatic breach of lease action for drugs.

In section 6-81.1., the tenant was provided with certain rights and awards for failure to meet its obligations; he said he would like to see that balanced and the landlord given an ability to have an award. In the same section, he said he would like to see language inserted to read ..."except as otherwise stated in the lease."... He said many leases required or provided that tenants do certain maintenance in return for reductions in rent, and the code provision proposed would not permit that, as it would mandate the landlord to do such.

In section 6-83.(d), he said he believed the provision may be unconstitutional as the Maryland Code provides for payment of damages for improper use of security deposits -- that is a court action and someone cannot be hit twice for the same violation.

Mr. Ryan said section 6-84.(c) provides that if one is transferring the responsibility for utilities there is a dollar for dollar reduction; if that were so, there would be no reason to allow the tenant to terminate the lease because he would be gaining the benefit of the reduction; there didn't appear to be a reason to allow a termination.

He said in section 6-85., he believed when a tenant breached a lease, he had a cure period and he would want to see that same good faith cure period on behalf of the landlord.

Regarding section 6-88. discussing the composition of the Landlord-Tenant Commission, he said other commissions in and around the region were comprised of 4 landlord, 4 tenant and 4 general public representatives, providing a balanced view and allowing opinions on all sides to be voiced; he said he would like for the Council to review other such commissions and think about the composition of the City's commission.

Regarding section 6-88.5., limiting the returns, he said while Mr. Sharp had indicated that had been looked at, he was not sure the provisions fully reflected market value at present. He said he also believed that the way equity was defined, the impermissible inclusion of mortgage payments, encouraged landlords not to do major repairs, but to do bandaids repairs, because equity was reduced when one went out and refinanced in order to do major renovations. He said he would suggest reexamining that provision.

Regarding section 6-91., the former tenant from obtaining housing, he said one of the provisions of the state FIST Program was a clearing house where if someone violated their lease and was convicted or evicted on a breach of lease for drug violations, their name would be put in a clearing house; that clearing house would be regional, so that if one chose to deal drugs, they would not receive housing in the Washington metropolitan area. He said he would hate for Takoma Park to be the only jurisdiction in the area where that would not apply.

He said he believed provision 6-92.3 was in contradiction to State Law, which sets out how a tenant may withhold rent for a defective tenancy; he said the provisions would have to be in agreement with the State Code, otherwise it would be in violation thereof and unconstitutional.

In closing, Mr. Ryan said he represented landlords, and they did not support rent control. Councilmember Sharp noted that last comment was not in keeping with the subject of the hearing. The Mayor encouraged Mr. Ryan to submit his comments in writing when he had completed his detailed perusal of the proposed legislation.

Referring to Mr. Ryan's remarks regarding the 10 day grace period provided in section 6-80.(d), Councilmember Hamilton asked what the grace period was that Mr. Ryan had said already existed. Mr. Ryan said Judge Sweeney had issued a Judicial Order that all landlords were supposed to abide by and which said he did not want landlords filing actions for nonpayment of rent for at least 5 days and, preferably, 10 days. He explained Judge Sweeney was the administrative Judge for the District Courts.

A. J. Mitchell, 7600 Maple Avenue, Park Ritchie Tenants' Association: raised questions of whether at any time all rental properties in the city had been licensed and whether there had ever been current and complete rent rolls for all of the rental properties in Takoma Park. He referred to the decontrol of rents on vacant units and the escalating rent clause for them and said it appeared to create a book-keeping nightmare because of the other things he had mentioned. Responding to query from Councilmember Leary regarding how he would suggest fixing the situation, Mr. Mitchell said he would have to think that over and get back to the elected body; however, he said he thought it would take more manpower than DHS presently had available. He said if Licensing, particularly, could be made to work as it was intended, then what was proposed probably would also; however, for some reason the Licensing had never worked as it was supposed to. Mr. Mitchell said one section indicated the landlord had the right to charge tenants for use of space when they were in the process of organizing. He said he could not support that, did not think it workable or equitable, because most tenants could not afford to pay a fee to use a party room for that purpose, plus tenants' organizations generally benefitted landlords as well as the tenants.

Michael Mead, landlord of building located at Hancock and Lee Avenues: noted he had been a landlord in the city for 11 years. He commented that obviously a great deal of time had been put into preparing the proposed legislation, however, he found certain portions of it confusing and not readily comprehensible. Mr. Mead pointed out that the old law, on page 7, section 6-80.2.(f) required a quarterly report of complaints filed, disposition of those and the court cases. He said he would like to see that reinserted and retained in the proposed legislation because it was useful information and if the requirement was not retained in the law, it would be lost sight of.

He noted a difference in the definitions for "accessory apartment" in the two counties -- Prince George's referred to a second or third apartment, whereas Montgomery County referred only to a second apartment. The Mayor pointed out that was due to differences in the county laws.

Mr. Mead said from the earlier conversations, he understood that the county law forbade imposition of a late fee on rent payments prior to the tenth of the month. He said some landlords went in at noon on the first of the month and filed court cases against tenants who had not paid their rent -- he said the judge was trying to stop that practice by people who had no idea of whether the tenant might pay the due rent by the close of business on that day. He said while he could sympathize with the judge on that, it was a different proposition from late fees. He said if he filed against a tenant on the fifth of the month, the tenant would not owe him a late fee -- he might owe him the \$12.00 fee for filing -- but there was State Law governing late fees.

Mr. Mead referred to page 3, the last paragraph at the bottom of the page just above section 6-77; in the definition of "tenant," he asked why share owners of cooperatively-owned housing units were excluded, why a distinction was made between co-ops versus condominiums, and why occupants of such units were excluded -- tenants of those sorts of units appeared to be excluded from the protections provided. While those people could be considered potential owners, they may nonetheless need the protections offered.

On page 4, under purposes and policies, Mr. Mead said the law as previously written expressed a spirit of cooperation and cohesiveness between parties which the proposed legislation lacked. He said the contrast between what was proposed and what had been deleted was glaring.

In section 6-79, Mr. Mead noted that a number of laws, e.g., security deposits, were incorporated as a part of the City's law. He inquired whether the City's law overruled, superseded, added to, or was in lieu of State Law -- he said he would also like an explanation of the same question with regard to the laws of Montgomery County. He said he often felt caught betwixt and between trying to comply with both. The Mayor said, in response to the second question, that Montgomery County

Housing Code did not apply; the City, by enacting its own law and by excepting out of the county code, had created its own code; that authority over landlord and tenant relations substituted for the county law essentially. He said regarding State Law, the answer to the question depended on the context and what was being done whether the State Law supplemented or superseded the City's. However, he said there were some issues that needed to be addressed in the proposed legislation regarding conflicts with State Law, as raised by the previous speaker. In some situations, the City could not supersede or overrule State Law without raising significant problems.

Councilmember Sharp explained that the Housing Committee, when working on the proposed legislation, were aware that there were questions in some instances about conflict with state or county law. He said they had raised questions about any inconsistencies and had gotten answers, so to their knowledge there was nothing in the proposed legislation inconsistent with state and county law such that it would render the City's law illegal. The Mayor said he had had some of the same questions that the previous speaker had raised and did not know the answers for fact, so would ask that the Council get an official opinion from Corporation Counsel on those issues in question. Responding to repeated query from Mr. Mead, the Mayor stated that the City has its own Housing Code, its own Housing Law, which governs landlord-tenant relations within the City of Takoma Park, and Montgomery County does not have jurisdiction over those relations within the city.

Mr. Mead referred to section 6-80.(a)(2), bottom of page 4, regarding a one year renewal option; he said that provision was not clear to him. He asked whether his basic lease had to be changed to give tenants that option or whether it was something that could be included in the 60-90 day notice of rent increase -- if he could do it in the rent increase letter, he would have no problem; however, if the basic lease had to be reprinted, it would be problematic. The Mayor commented there might have to be some provision made for leases already in existence. Mr. Mead said that even for brand new tenants, he would not want to give them the option of renewal when they haven't even yet occupied the unit.

At the bottom of page 5, Mr. Mead noted the statement that rents could be raised only once a year; he commented he believed that was State Law. He said there was another place later on where that should be deleted -- it should be included in tenants' leases.

On page 6, section 6-80., paragraph (h), under the provision entitling a tenant to quiet enjoyment of the premises, he said while all attorneys knew the meaning of that, he did not think the average person would. He said that meant they did not want landlords wandering in and snooping around during the day, in the middle of the night, etc. He said the old language of section 6-80.4. concerning the right of entry was more clear and comprehensible and he would like to see that language reinserted so that people would know what the provision was talking about.

On page 7, section 6-81.(f) apparently prohibited landlords from immediately putting into effect any rules for the health, safety and/or welfare of people that were not written into the lease -- the section provided a 30-day waiting period prior to effectiveness. He said that did not appear prudent or sensible in some instances.

In section 6-82.(a), page 9, Mr. Mead said he believed that section needed rewording; there appeared to be typographical errors. He suggested deletion of the word "[only]" from the first line, leaving it in the sixth line, which would then make sense in reading the language. He said when that section was combined with subsection (c), it created a fairly impossible situation for him as a landlord. He said when the housing inspectors were due to come around, he would often post a notice on every apartment door several days in advance notifying the tenants. He said he included a statement in the notice that he would be accompanying the inspectors and would ensure that all apartment doors were locked. The provisions set forth in the proposed legislation would prohibit him from following his past practice, unless he got a specific permission from each and every tenant -- if the tenant did not furnish that or respond, he would be barred from

giving the inspectors entry to the unit. Mr. Mead related a present situation with one of his tenants wherein the tenant had written a letter to HOC complaining that the bathroom door would not lock; he said he had tried twice on a weekend to contact the people, had left a note, but they had not gotten in contact with him, so he could not enter the property to fix the door or find out why it was not locking. He said (c)(1) referred to the situation wherein a tenant repeatedly and unreasonably withheld permission for the landlord to enter the unit; he said if DHS wanted to inspect between 8 a.m. and 5 p.m., the tenant said he wanted to be present and did not get home until 7 p.m., then the unit could not be inspected. By definition, he said the earlier section provided that if a tenant said the landlord could not enter when he was not present, it was not unreasonable. So, putting it all together, it presented a very difficult situation. He said he would ask for some rewording of those provisions.

Mr. Mead said paragraph (d) on page 10 also presented problems in having repair people come in to fix things, e.g., a plumber.

On page 13, section 6-85.(a), it said he could give a tenant a 30-day written notice to vacate if they breached the lease -- except for nonpayment of rent. He said he had no idea why that exception was made. He said he presently had a case where he would be evicting for nonpayment of rent -- for 12 out of 12 months he had gone to court every month and had yet to get a judgment absolute on the individual. He explained that on August 6, he filed on the tenant for still being in arrears for half of June, July and August; the court date was August 30; the State Law was changed the first of July, so they would not give him a judgment absolute on the individual. He had to go back the following Monday and file for the Writ, had to wait for the appeal time to pass, then a week later it goes to the Judge, he signs it and a week later it gets to the Sheriff's Department -- then nothing can be done until the Sheriff sends it on to the landlord. He said on September 15, he had received notice from the Sheriff's Department for him to call and set an appointment for them to come and effect the eviction for owing the July and August rent -- the appointment set for the eviction was October 20. He said while he did not wish to publicly furnish case numbers and tenants' names, he could furnish that documentation. Mr. Mead said he did not think the City government understood just how difficult the situation had become for landlords. He said he had been advised by the Judge's Clerk that he could pursue the matter through issuing a 30-day notice to the tenant stating that he had been a habitually bad tenant, if the tenant did not vacate, he could then go to court and claim the tenant was holding over, there would be a hearing on whether the landlord was being reasonable or unreasonable, and the process would be faster than going through court for the rent. Having been in the middle of the situation just described for a year, Mr. Mead said the exception made in the section really bothered him.

At the top of page 15, just above (d), he noted a reference to section 6-80.16., and pointed out that such a section did not exist in the proposed legislation. At the bottom of the same page, section 6-88.2., regarding investigation and conciliation, he said there was no mention anywhere of conciliation and he thought there should be.

On page 17, paragraph (c)(6), regarding the commission admitting and considering evidence, Mr. Mead asked that language be added from the existing law, section 6-80.2.(i)(4), which specifically says that all evidence shall be made part of the record and kept. He said that had been deleted from the proposed language and perhaps it was inadvertant.

At the bottom of page 17, section 6-88.4., regarding panels, he said it was stated a panel (which could be 2 people) could prohibit him from evicting someone, which he could not do personally anyway without exposing himself to a civil suit. However, having gone through the necessary legal process for an eviction, he said he would not want a 2-person panel to have authority to inject themselves into the process. He said he would want to see that provision changed.

On page 19, section 6-88.6, he said he had two problems, i.e., that if a 3-member panel could not agree and was split 2-1, the issue was referred to the full commission, however, the minority person's opin-

ion was confidential and access to it was limited only to the full commission and City staff. He said obviously that one person from the panel would be siding with the potential loser in the case and it did not seem fair to prohibit that potential loser from viewing the opinion of the one person that was in agreement with his side of the case. He said he would not personally want to be told he could not view an opinion because the City Council had prohibited him from doing so -- he would not feel that was fair. Additionally, the section said the full commission could let the proposed opinion of the majority stand without further review; he said he thought that was a travesty of justice -- if the panel bucked the case up to them, they should at least review it, whether they held further hearings or not.

On page 20, section 6-88.7, he said it was stated he could appeal an order of the full commission; however, having scrutinized the entire proposed law carefully, he could find nothing stating that he could appeal an order of a panel. He said he thought that must be an oversight.

On page 21, section 6-91., Mr. Mead said it appeared to say that if he were evicting someone, it could be defined as retaliation; the section seemed to imply that all evictions were retaliatory. In that event, he said if someone had worked for tenants' rights but did not pay his rent, he either could not evict him or would have to return all of his security deposit regardless of the amount of damage he may have done. He said he would ask that that section be reworded and clarified.

In section 6-91.1.(a), it was stated that a commission panel could terminate a lease between the landlord and tenant and give the tenant relief from any and all future obligations under the terms of the lease. He said that was patently unfair and the tenant could be relieved from any obligation whatsoever. The same sort of relief was provided on page 22, under section 6-92.2.(a)(1) -- it seemed to be overkill.

On page 23, section 6-92.2.(b), if the commission or a commission panel found that a tenant had caused a defective tenancy, the landlord might be entitled to remedies as outlined, including authorization to terminate the lease and gain possession, and in accordance with the Real Property Code. He said the Real Property Code said that the landlord had to go through the court, the judge, the Sheriff, etc., which meant a 16-week process. He said he should not have to wait the period of time it would take for the commission to give him permission to go to court (the court and the Sheriff would not need that permission either), and he said he felt what was provided was a meaningless remedy for the landlord. He said subsection (b)(2) also needed re-examining. The Mayor pointed out that Mr. Mead had spent significant time in providing finite details of his criticisms; he said while that was commendable and he recognized the work it had taken, it would be much more helpful if it could be submitted in written form. He pointed out the elected body had only gotten the proposed legislation the previous week and were doing the same sort of perusal as Mr. Mead had done.

Mr. Mead noted section 6-92.3. said that one week after the landlord was advised of a problem, the tenant could spend up to 2 months' worth of rent to fix the problem themselves. He said that provision interplayed with the permission to enter and really exposed the landlord.

In section 6-94.1.(a), it was stated that if the rental unit did not have any violations at all of any kind of the standards set forth under the Housing Code -- he said he thought that was meant to say "serious violations" -- or at least hoped so. He said he did not think there were any buildings in existence that had zero violations of any kind.

The Mayor reiterated his request that Mr. Mead submit his requests/- suggestions in written form, so they could be examined as the elected body and staff went through the process of refining the legislation. He said he commended and appreciated the work that Mr. Mead had put into his critique, and hoped he would take the extra step of putting it in writing. He pointed out that two of the previous speakers had gone into great detail and there would not be sufficient time for all

those wishing to do so, so asked that they not be repetitive regarding various points. Responding to query from a member of the audience, he reiterated his earlier statement regarding the fact that the proposed legislation would be before the elected body the entire month of October. He explained that it would be addressed at worksessions on the first and second Mondays of the month, would hopefully be scheduled for a First Reading at the first regularly scheduled Council Meeting of the month, would be further addressed at the worksession on the 4th Monday of the month, and if it were considered to be in a form sufficiently finalized for adoption, it would be scheduled for Second Reading at the regular Council Meeting at the end of October. Public comment and input would be sought throughout the process. Responding to a comment from Councilmember Elrich, however, he reiterated his request that those wishing to comment on particular sections and provisions put their comments in writing, explaining that at worksessions, the legislation would be gone through and addressed in an ordered fashion, section by section -- the format would not be that of a public hearing. Responding to further query from the audience, the Mayor said that worksessions generally commenced at 7:30 p.m., regular meetings usually began at 8:00 p.m. He said that written comments should be submitted prior to the elected body beginning its deliberations on the legislation in October, and they should be given to either the Director of Housing Services or to the Deputy City Clerk, who would share their receipts and disseminate them to the Mayor and Council.

Councilmember Douglas noted the extra Monday during October, and suggested that one of the worksessions be devoted entirely to addressing the proposed legislation so that other items on the present agenda could be gotten to, inasmuch as there were people waiting to address them. The Mayor said he recognized what Mr. Douglas was pointing out, however, there were a number of items on the agenda for which he had never received an agenda request form. He said, frankly, if he did not get those request forms henceforth, items would not be put on the agenda. He said there were many more people who had attended to address the proposed legislation which was the subject of the Public Hearing and the time had to be provided to conduct the hearing which had been advertised in the Newsletter. He said he would ask that speakers try to get away from the particularity and specificity of those who had spoken thus far, put specific comments in writing, and comment on more general topics or briefly reinforce points that had been made.

Nancy Ricks, owner of property on Lee Avenue: said she would try to be brief. She said on page 1, there was reference to a bonafide prospective tenant; she said that paragraph appeared to allude to affirmative action, which she did not think was what was intended. She said she thought anyone could be considered to be a bonafide prospective tenant at some point in time.

Regarding fees, section 6-80.1., concerning the \$25.00 for the credit check, she said she had a notice from the United Credit Bureau that they had just raised their rates for tenants to \$40.00. She asked, if the law were passed as presently written, whether the difference would be subsidized by the City for tenants or how the difference would be taken care of. She provided a copy of the notice to the Deputy City Clerk.

On page 23, regarding tenant remedies for defective tenancy, Ms. Ricks said her concern was that if a tenant should remedy a defect and it turned out to be negligent repair work, who would be responsible -- if the City were giving the tenant permission to do that, it should look carefully at whose liability it would be to take care of negligent repair work that had been done under that provision.

Ms. Ricks said that while the present meeting was considered to be a Public Hearing, she had problems viewing it as such inasmuch as the only notice provided was in an article in the City Newsletter. She said that, of the property in the City, at least 60% or more was rental property; most of the landlords who own that property do not reside in Takoma Park. She said she realized that as late as September 14, changes were still being made, so she had questions about how a broad public view was being gotten from the public most

largely affected by the legislation -- notice of either the proposed legislation or the hearing was not mailed out to all rental property owners. She said while Article 7 addressed the obligations of the landlord and of the tenant, she thought there was also need to look at the obligation of the Department of Housing Services in regard to tenant and landlord affairs; there were a lot of conflicts of interest going on within that department as regarded tenant-landlord relationships. Specifically, she said she was talking about the Director of Housing Services taking the position of assisting tenants with finding investors to assist in the purchase of property and stating that they have a 25% interest, which only turns out to be paper. She said she knew that subject was not pertinent to the hearing, but it was not proper use of taxpayers' money, and she was paying taxes. The Mayor said that what Ms. Ricks had raised about including a paragraph in the legislation regarding the obligations of the Department of Housing would be entirely appropriate; however, she had moved from that subject to some allegations about an individual, which was a very serious topic. Ms. Ricks said she had brought the matter up because she wanted it to be public knowledge so that everyone present could not claim that nobody knew about it and it was swept under the rug. The Mayor said there was an Ethics Code in the City, there was a procedure Ms. Ricks could go through in making the sort of allegation she was voicing, and it would be helpful if it were put in writing and addressed to the City Administrator and to the Mayor and Council. Ms. Ricks said she would be glad to do so; she said she felt confident that if the allegations were looked into, the Director of Housing would be removed from her position. Several unidentified members of the audience expressed their agreement verbally and applauded.

David Campbell, landlord of property on Lockney Avenue: concurred with Ms. Ricks' comments regarding lack of notice to landlords, the people most impacted by the proposed legislation. He said he just happened to obtain a copy of the Newsletter containing the pertinent article at 4:30 p.m. on the previous Friday. He said he had called the City Office and asked that a copy of the legislation, which he had never seen, be left at the Police Department for him; that was done, he picked it up and studied it over the weekend. He said it really did bother him that a Public Hearing was being held, landlords want to give it a fair shake, and want to do all the things the document required them to do to give tenants a fair shake. He said he had repeatedly had to submit certification to DHS that he had hand-delivered things to the door to tenants, but when it came to something as important as this proposed legislation, no one bothered to mention it to landlords or that it was the subject of an upcoming Public Hearing -- they generally heard about such things a year after they became effective; e.g., rent control for 4 units -- he said he did not find out about it until it had been in effect for a year -- was never notified. He said not only should they be notified, but should be allowed 30-60 days to consider such legislation; after reading the proposed legislation, he said he was certain there were no landlords on the committee that had drafted it. He said he did not intend in any way to belittle the committee -- what they had done was indeed a lot of work. Councilmember Sharp pointed out that there were landlords involved in the effort -- COLTA was involved in drafting it and had a committee that included landlords working on it. The Mayor pointed out that the legislation had been worked on by DHS and by COLTA for a very long time -- up to a year and a half -- the elected body would now be working on it; further input was being and would be sought; it would be studied and subject to change during the ongoing process.

On page 6, paragraph (g), regarding the requirement to give written receipts, Mr. Campbell suggested inclusion of the fact that a returned check would constitute a receipt, and that the paragraph be extended to read "at the request of the tenant." He said that would require landlords to provide receipts if so requested in writing; they should not be required to do something that was not common practice.

In paragraph (i), regarding leases and a scenario where a tenant was called out of town and had to move because of job requirements or some other emergency situation, the last sentence said the tenant was liable for either one month's rent or actual damages sustained by him. Mr. Campbell said the tenant may have taken the bathtub, the kitchen

sink, and done a couple of thousand dollars worth of damage, however, the landlord could collect only the one month's rent or the actual damages, whichever was the lesser amount -- that appeared to be a gross oversight.

Regarding the \$25.00 fee which Ms. Ricks had pointed out had recently been raised, he said the specific amount of the fee should not be in the section -- it should read "reasonable fee."

Concerning the escalator clause, Mr. Campbell said leases were talked about, what the landlord could do within the next 12 months or the 12 months from the anniversary of the last rent increase. It said he could put into the lease that the rent was a certain amount, that it would be (x) amount on the anniversary of the last rent increase, limited to the stabilization ceiling -- that had to be put into writing and signed by the landlord and the tenant, which constituted an agreement. Then, if the landlord went and asked for an exception to the rent increase limit and it were granted, he could not collect it. Thus, if he had followed the last two paragraphs on page 6, he would have defeated himself with regard to any rent increase beyond the stabilization ceiling. He said that situation needed to be addressed -- the landlord should not be made to put a false restriction into the lease.

On page 7, paragraph (c), top of page, he referred to the language mentioning putting in a clause about rent increases. He said if he had a clause in his lease indicating there would be an increase after 4 months, the proposed legislation indicated that would not be effective unless written notice were given the tenant -- he asked why the landlord should be required to give such notice when the tenant had signed the lease and was already aware of the impending increase.

On the same page, last paragraph, he commented the language was too wordy and complex, the paragraph was too long; it should be rewritten, simplified and stated in simple English that was readily comprehensible. He said the whole piece of legislation leaned too much toward being overly-legalistic in tone, boring, complex and requiring repeated reading for understanding.

Mr. Campbell pointed out that on page 10, section 6-83. regarding security deposits talked about incorporating State Code 8-203 by reference but did not set forth that law; the next paragraph and thereafter went on to enumerate penalties/fines for violations, etc., but those reading it did not know what they were violating in the first place -- he said if law were going to be imposed by incorporation and fines levied, the text should also be incorporated so there would be some understanding of it, and as a courtesy -- otherwise, fines should not be imposed for law that was not set forth in the piece of City legislation.

Referring to page 13, paragraphs (a) and (b), Mr. Campbell said there had been talk about the whole purpose of the legislation being to provide a balance between the tenant and the landlord; he said he had no qualms about taking away any god-like appearance from the position of the landlord and bringing him on a par with the tenant. However, in reading the sections referred to, he felt he had a shotgun looking down his throat -- what the landlord and what the tenant could do were not on an equal level. The tenant could give a 30-day notice and walk out, however, the landlord had to give a 60-day notice for the tenant to vacate -- that was not on a par one with the other, and they should be made equal.

On page 19, regarding the full commission reviewing the dissenter of the panel (which was brought up earlier) and the fact that they could accept the pleading of the majority and the dissenter, but did not have to acknowledge the dissenter -- that person's opinion could simply be discarded. If that was the case, he asked why it should even be referred to the commission. He said he thought that situation was an atrocity. Councilmember Sharp asked, but was denied, permission to respond to that point. He said, regardless, he would wish to state for the record that it was not an atrocity, was a common practice in administrative procedures and there was a very good reason for it. Mr. Campbell remarked he respected Councilmember Sharp's state-

ment.

At the top of page 25, first paragraph, he said the sentence was too long, was too complex to be comprehensible; however, he thought what it intended was very important to the legislation. He suggested it be rewritten so that it was readable, readily understandable and left no question in the reader's mind.

Under penalties, he said he understood a Class A fine carried a \$400. penalty per offense -- while he realized the severity of the legislation and the seriousness of committing a violation of it, not only raising an offense to that level, but making it per day and per unit could create a totally untenable scenario. He said if a small building owner were to raise the rent on a little 4-unit building a nickel or dollar or such over the permitted amount unknowingly, 6 months later, there could come a knock on his door with an individual there to advise him he was in violation and subject to a fine that would be staggering -- that owner would probably leave, go away, and say "take it, it's yours." He said he felt certain that was not what was intended by the section, however, that was how it read. If everyone who ran a stop sign in the city were sent to the guillotine, there wouldn't be many left in the city.

On page 27, he said at the bottom, section 6-97.(a)(1), (2) and (3) needed to be rewritten; particularly (1) which was about as clear as mud. Mr. Campbell said he was truly sorry if he had irritated some; however, he felt it would take more than a month to put the legislation in a polished and acceptable form -- there were things that needed to be changed for the tenant and also the landlord.

Brint Dillingham: said he would reserve the major portion of his comments to be put into written form, as well as for worksession discussions in which public participation was permitted. He said he was running short of time and had to get home to rip out his bathtub and kitchen sink as thousands of tenants were now doing, according to the previous speaker. If there were such a massive movement of huge numbers of people running down the streets carrying off their bathtubs, he said he would join the landlords in a second.

David McSpadden, Property Manager in the city: as a general comment and Councilmember Sharp's comment to the contrary, he said he thought that virtually any landlord that the elected body spoke to would contend that the proposed legislation contained very little that spoke to or addressed what landlords felt were their genuine concerns. He said he thought that had been reflected in the comments of those landlords who had spoken regarding the document. He said it would make owners of rental properties and providers of housing in the city feel a lot better about any law eventually passed if they felt like their concerns were being genuinely considered and addressed -- not necessarily to say that those concerns were all enacted or that they had to feel the law was entirely as they would like to see it -- but, as a whole, landlords felt like they were either ignored or, worse, abused by the process that had occurred so far. He said it would be nice if that could be altered during the process over the next month or so.

There being no further citizens expressing a wish to speak on the issue, the Mayor called the Public Hearing to a close. He said the City would be trying to publicize the meetings, the schedule and the times. He said it was recognized that many landlords did not reside in the city; however, as had been pointed out in the past numerous times, if people would request that they be put on the agenda mailing list, they would be sent the agenda, and that worked fairly well. He said an attempt would be made to accommodate everyone during this process, DHS may even be asked to send out letters to landlords with the schedule of meetings. However, he pointed out there were budgetary restraints on the amount of mailings that could be done by the City, and that had to be taken into consideration. He said he felt it significant there was a fair turnout of landlords for the hearing; word must have gotten around regarding the fact the proposed legislation would be addressed because there was obviously a rather good turnout of both tenants and landlords. The hearing adjourned at 10:02 p.m.

CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and Council
September 25, 1989

PROPERTY OF
TAKOMA PARK MD. LIBRARY

CITY OFFICIALS PRESENT:

Mayor Del Giudice	City Administrator Wilson
Councilmember d'Eustachio	Admin. Clerk II Mitchell
Councilmember Douglas	Cable Coordinator Smith
Councilmember Elrich	Construction Coordinator Ziek
Councilmember Hamilton	Housing Services Director Weiss
Councilmember Leary	
Councilmember Martin	
Councilmember Sharp	

The Mayor and City Council convened at 8:10 P.M. on Monday, September 25, 1989 in the Council Chamber at 7500 Maple Avenue, Takoma Park, Maryland. Following the pledge, Councilmember d'Eustachio moved approval of the July 31, 1989 Council Meeting Minutes, as written; the motion was duly seconded and carried by unanimous vote.

Mayor Del Giudice presented and moved passage of a resolution of welcome to Ms. Donna Phillips, the new principal of the Takoma Park Elementary School; the motion was duly seconded by Councilmember Hamilton and carried by unanimous vote. The Mayor presented Ms. Phillips with a copy of the document.

RESOLUTION #1989-89
(attached)

The Mayor noted a visitor, Mr. Joe Lucero from the Community Relations Office of C & P Telephone Company. Mr. Lucero explained he was representing the Community Action Team of his firm and wished to make a belated presentation to the City commemorating its Centennial Celebration which occurred in July. Mr. Lucero presented a plaque commemorating the City's Centennial and recognizing Mayor Del Giudice for his outstanding leadership. The Mayor thanked Mr. Lucero, said he had enjoyed several opportunities of meeting with C & P's Community Action Team, and appreciated the plaque which would be displayed in the Municipal Building.

Regarding the October meeting schedule, the Mayor said the Council would meet in worksession on October 2, 9 and 23, and in regular session on October 16 and 30.

The Mayor congratulated Long & Foster on their new office in the city, which he said had celebrated its grand opening the previous Thursday evening. He remarked the office was located in the new development on New Hampshire Avenue; if that particular office was representative of others in the development, it was a tremendous accomplishment, and, hopefully, other occupants for the complex would be readily found. He noted Mr. Wilson had filled in for him at the ribbon-cutting ceremony as he had a prior commitment, however, he had personally visited the office later in the evening.

Mayor Del Giudice noted that on Sunday, October 1, the Old Town Festival would be held. He pointed out that the advertising posters for the event had stated Saturday, however, noted they should have read Sunday. He said he hoped it would be well-attended and enjoyed by all.

Councilmember Martin noted a walk-through of the Hiker-Biker Trail was scheduled with Montgomery County on October 11 at 4 p.m. She said she thought the plan included meeting with WSSC at 2 p.m. to walk along the sewer line where construction would occur. On the following day, a similar walk-through was scheduled with Prince George's County of the portion of the trail located in that jurisdiction. She said the plans were tentative; it was hoped some publicity could be afforded to it so citizens could come out and participate. The Mayor commented that if confirmation of the dates could be gotten, notices could be sent out to the citizens' associations along the creek that had been involved in the project; he said he presumed the citizens representing

the communities on the taskforce would be aware of the walk-through dates.

ADDITIONAL AGENDA ITEMS:

First Reading of an Ordinance Adjusting Holiday Leave to Reflect Changes Effected During Contract Negotiations (Wilson)
First Reading of Election Judge Ordinance (Wilson)

Mayor Del Giudice noted the Council would not be taking any action on item #5 on the published agenda, a Resolution Appointing New Personnel to COLTA, due to the need to complete interviews. He said a resolution appointing people to serve on the Tree Commission would be substituted as item #5.

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

Matthew Roberts, Greenwood Avenue: explained he was representing the Takoma Repertory Company's One Act Theater Festival which would occur in October. He said, in future, the group would like to request some assistance from the City in acquiring rehearsal space; they would like to become an ongoing part of the community's cultural activities. He said one of the hardships they had encountered was the funding for rehearsal space on an ongoing basis, and they hoped perhaps there was some City space not in use that they could clean up and use routinely. The Mayor suggested that Mr. Roberts contact the City Administrator during office hours regarding the request, and it could then be discussed and possibilities examined.

An instructor from the Cable Access Group related that two more classes had been commenced for the Fall -- a basic class and an advanced class. He said the camera operators and technical personnel covering the present meeting were members of the Fall class. He said all involved enjoyed the program, got a lot out of it, and hoped it would continue.

ITEMS FOR COUNCIL ACTION:

1. Second Reading of an Ordinance Setting Forth 1989 Election and Election Procedures.

Councilmember Hamilton moved adoption of the ordinance, duly seconded by Councilmember Douglas. The Mayor noted amendments, indicated by underlining, which had been effected at the last worksession; he suggested those be formally passed prior to adoption of the ordinance. Councilmember Martin moved passage of the indicated amendments, duly seconded by Councilmember Douglas. Councilmember d'Eustachio noted that Section 1.b. stated that nominations for Mayor would follow all 7 ward nominations; he said that was a change in tradition, probably with the intent of keeping people's attention throughout a long evening. He said he was not persuaded it would achieve that, and was not sure tradition should be changed in this case. Mr. d'Eustachio moved that the amendment be amended to read that the nominations for Mayor would immediately precede (rather than follow) all 7 ward nominations; the motion was duly seconded by Councilmember Sharp. Following brief comment pro and con by members of the Council, Mayor Del Giudice pointed out the Mayor was the one office elected by all of the citizens; the office merited being first in the nomination process in his estimation; for those reasons he could not agree with that particular proposed amendment. The amendment to Section 1.b. striking the word [follow] and inserting in its place the word precede carried by a 5-2 vote.

Responding to questions raised by Councilmember Martin regarding reference in Section 2. to laws and regulations governing the use of voting machines in Prince George's County, the Mayor explained that that county only was referred to because Montgomery County did not use voting machines, but paper ballots. The City had made a choice a few years previously to use voting machines in its elections. Responding to further query from Ms. Martin regarding Section 4., he said the publications cited therein specialized particularly in publishing legal notices and would be used to satisfy legal requirements; notice would most likely also be published in the Takoma Voice and the Newsletter to reach general readership.

Councilmember Douglas noted the need to editorially amend Section 1. by striking the word [meeting] and inserting in its place Nominating

Caucus; consensus was to do so.

The amendments, as amended, were passed by unanimous vote. The ordinance, as amended, was adopted by roll call vote as follows: AYE: Councilmembers d'Eustachio, Douglas, Elrich, Hamilton, Martin and Sharp; NAY: None; ABSENT: Councilmember Leary.

Councilmember Sharp pointed out a lot of election procedures were previously contained in the City Charter, e.g., reporting requirements for campaign contributions, absentee ballots, etc. He said those were not contained in the new Charter that would be in effect at the time of the upcoming election, and said he would like a status report on how those items currently stand. The Mayor said those provisions in the current Charter would remain in effect until October 31 or thereafter if the new Charter were taken to petition; staff was presently working on an election ordinance that should come before the Council in October, and which would go into effect immediately upon the effectiveness of the new Charter. Mr. Wilson stated First Reading of that ordinance would be scheduled for October 16, with Second Reading on October 30, in order to cover any gap that could otherwise occur. The Mayor noted it would be discussed in worksession on October 9.

Robert Mandel, Woodland Avenue: said he had served as an election judge at the last election and was appalled at the waste of taxpayers' money; there were a lot of uncontested elections and yet the City went to the expense of renting voting machines for them; \$60/day was paid to judges to sit by those machines on which there was no contest; delicious refreshments were ordered for the judges at further great expense. He said he, for one, sat on the piano bench the entire day and read magazines because there were far more judges than were needed. He said while the ordinance as presently written required that 7 machines plus a spare be ordered, it should read that whatever number were actually required for a contested election plus a spare be ordered.

Mayor Del Giudice apologized for not having called for citizen comment on the ordinance and recognized Mr. Mandel at an earlier point. He noted that anyone who had voted in the affirmative for its adoption could now move to reopen or reconsider it, if so desired. Councilmember Sharp so moved, remarking he wished to discuss Mr. Mandel's commentary. For purposes of discussion, Councilmember Elrich duly seconded the motion. The motion carried by unanimous vote.

Councilmember Sharp said Mr. Mandel had made his suggestion some time earlier, perhaps a year ago, and when the Council was solicited for comments to be forwarded to the Charter Review Committee, he had asked that the issue be addressed. He said he understood that was done, and said he would be interested to hear briefly the nature of the discussion. Councilmember Douglas, a member of that committee, affirmed it was discussed. He said they took the issue quite seriously, discussed it at length, as did the full Council when they discussed the draft Charter. He said it was considered along with a similar suggestion -- a somewhat related issue -- regarding whether someone from outside a ward could run for the particular ward if no one from the ward was nominated or filed. He said the decision was that in both cases, it was important for the electoral process that people be allowed to vote; an elective office should not be given to someone by virtue of the fact that no one else was running; it was important that campaigns be run, that elections be held. If elections were going to be held, the whole ceremonial process should be gone through to validate the people's choice for their elected representatives, rather than simply making it a de facto matter. He said even if the Council wished to address Mr. Mandel's point, it would not be possible under the present Charter.

Councilmember d'Eustachio also affirmed that Mr. Mandel's suggestion was considered by the Charter Review Committee; he said that as the Charter was entered into the public record by resolution, there was a requirement, in essence, in the Charter that the voting machines be rented -- although he would echo Mr. Douglas' comments regarding the importance of encouraging candidates, even if they are unopposed, to make contact with the community and their constituents and to have an affirmative vote through the process that they deserve the office.

The Mayor pointed out that if the Mayor's seat were contested, it would be necessary to have the individual machines, regardless of whether the ward seats were contested, because the results would have to be on the machines. He pointed out that at the last election, both the Mayor's seat and quite a number of ward seats were uncontested, however, it was unknown whether that would be repeated very often -- if it were, then consideration may be given to providing some alternative language. He said the language enacted in the ordinance just adopted was fairly standard and repetitive of the existing Charter -- the good thing was that the majority of it was now out of the new Charter and there would be the flexibility to consider making changes in the future more readily and easily through ordinances.

Mr. Sharp noted the ordinance just adopted provided that 8 machines be procured for the election -- that indicated the provision was not in the new Charter. The Mayor affirmed that the new Charter did not require that voting machines be used -- a variety of options would then be open -- paper ballots, voting machines, etc. Mr. Sharp pointed out that would allow addressing the question of whether 8 voting machines and the accompanying cost were needed if there were not a lot of contested elections in future. He said perhaps the ordinance should not be so specific as to number of machines if 8 were not actually needed, and the actual number be left to the City Clerk's discretion based on what grows out of the Nominating Caucus. The Mayor said he did not think the issue could be resolved much further beyond the present evening; he recommended that another vote would have to be cast because the ordinance had been brought back to the table and a motion made to reconsider it -- which, effectively, defeated the prior adoption. He said, however, he felt perhaps the elected body would wish to take the issue up again following the Nominating Caucus if, in fact, staff could show a significant savings based on what occurs at the Nominating Caucus. Mr. Douglas noted Mr. Mandel's comments regarding the number of judges; he said the Second Reading of that ordinance would not occur until after the Nominating Caucus and perhaps the quantity of judges required could be adjusted if that were deemed desirable based on the results of the Caucus.

Councilmember Douglas moved adoption of the ordinance, as amended, duly seconded by Councilmember Martin. Responding to query from Ms. Martin regarding how the voting machines work/record, the Mayor said staff would furnish a report on that at a later date. The ordinance, as amended, was adopted by roll call vote as follows: AYE: Councilmembers d'Eustachio, Douglas, Elrich, Hamilton, Leary, Martin and Sharp; NAY: None.

ORDINANCE #1989-33
(attached)

2. Resolution to Update the Charge and Reappoint Members of the Recycling Taskforce.

Councilmember Douglas remarked he wished to introduce a resolution somewhat different than that presented in the packet -- with a somewhat different resolve clause. He said the additional (third) resolve clause would read Be It Further Resolved, that the Taskforce shall continue its efforts to identify and publicize methods for safe disposal of household hazardous materials. He moved passage of the substitute resolution with the additional resolve clause, duly seconded by Councilmember Martin. Mr. Douglas pointed out that hazardous wastes were not really recyclable, were a disposal issue, and the two issues should not be intermixed. Councilmember Martin commented on the need for the City to address means for periodic collection and disposal of hazardous household wastes that accumulate. Mr. Douglas pointed out that while the final resolve clause of the resolution reappointed certain members, there was an advertisement in the October Newsletter for additional members. He said he would encourage anyone who could and was interested in the issues to volunteer their services. The resolution was passed by unanimous vote.

RESOLUTION #1989-90
(attached)

3. Resolution Declaring October Crime Prevention Month.

The Mayor said he would like to amend the draft presented to add to the resolve clause that the Mayor and Council proclaim the month of October as Crime Prevention Month. He noted the police department had a number of activities planned, e.g., a poster contest in local schools, and others. He moved passage of the resolution, duly seconded by Councilmember d'Eustachio. The Mayor noted a typographical spelling error in the word program in the resolve clause of the draft resolution. Responding to query from Councilmember Martin, Mr. Wilson said he was aware the police department would be publishing a schedule of related events in the Takoma Voice and the Newsletter, however, he did not know details of what was planned for the month. Councilmember Douglas said he hoped Chief Fisher would talk with the Council regarding whether he planned to try to reinvigorate Neighborhood Watch and other community-oriented crime prevention programs which had been allowed to lapse due to staff shortages, lack of participation, etc.; he said he hoped there was a way in which those sorts of programs could be made to work more effectively in the city. Mr. Wilson said he would so inform Chief Fisher and suggest he prepare a report for the Council.

Gaby O'Brien: expressed interest in neighborhood crime prevention programs in the city and citizens' participation; she said she had been away for most of the summer, had notified the police department and her neighbors and all were very cooperative about keeping an eye on her house. She asked whether there was any formal program in the city to ensure residents' homes are watched and checked on at times when they are away on vacation. The Mayor said he was not sure that there was any official program; however, through the Neighborhood Watch Program, people are encouraged to keep an eye on neighbors' houses when they are away and report any suspicious circumstances; he said he hoped that program could be revitalized.

The resolution was passed by unanimous vote.

RESOLUTION #1989-91
(attached)

4. Resolution in Support of March on Washington for Affordable Housing.

Councilmember Elrich moved passage of the resolution, duly seconded by Councilmember Sharp.

Gaby O'Brien, Montgomery County Representative of the Coalition for Affordable Housing: said she felt it ironic that the Council was endorsing the march; it was only (x) number of months ago that people were before the elected body screaming for affordable housing, their efforts were destroyed, and now the Council was endorsing the upcoming march. She said she thanked the Council for endorsing the march, but found it very strange. She said if those present knew of anyone needing space to camp out, she had a large amount of outdoor space, and hoped they would assist in making its availability known. Ms. O'Brien said the march would take place on October 7, but people would be coming into town the previous Wednesday. The Mayor suggested that if more specific information could be given to the City Administrator or to the Director of DHS, perhaps they could direct people who inquired regarding campout space to Ms. O'Brien.

Councilmember Sharp, responding to Ms. O'Brien's remarks, commented that this was the second recent occurrence of history being rewritten before the Council. He said the City Council supported affordable housing; they supported efforts to deal with a problem, recognizing the political situation that existed, recognizing that in that political context, perhaps all would not be gotten that some on the Council wanted, but there was a position that could be taken that would perhaps preserve more affordable housing than would be proposed by Montgomery County. He said he did not think Takoma Park needed to take second place to anyone in the area in terms of a commitment to affordable housing; it appeared history was being rewritten, for some reason or another, by some comments that had been received recently.

Melda Henry, 416 Boyd Avenue: said she had resided at her address for 47 years; was a member of the Interfaith Alliance for the Homeless in

Prince George's County. She said she wanted to express the appreciation of both her organization and others sponsoring the march for the Council's support -- any support shown was extremely important. She urged that all who could join the march in D.C. to show their support, commenting she thought all realized that homelessness and affordable housing were inextricably linked. Ms. Henry said the primary concern had been emergency shelter for the homeless, but once that was addressed, there was still a need to locate some sort of permanent housing for them -- and presently, there was simply nothing to fill that need. She said the upcoming march was intended to make a statement, and the numbers would make the statement. It was hoped that with all the publicity afforded the event, there would be many thousands of people in attendance. She again thanked the Council for their support.

Responding to query directed at him from the earlier speaker, Ms. O'Brien, Councilmember Elrich said he thought it was important that history be viewed from the point where it began and not with what the present Council had done in regard to the situation to which Ms. O'Brien was referring. He said the problem was precipitated a long time ago; another Council did nothing about it, knowing that the clock was ticking. He said he might have, perhaps, pushed for a more radical solution, but was outvoted; the majority sentiment on the Council was to do as much as possible to preserve as much of the housing stock as possible. While he might have preferred a 7-0 vote to a 4-3 vote on the matter, the present Council had a good record on supporting rent stabilization -- better than any other jurisdiction -- the City has better code enforcement than any other jurisdiction -- and he said he agreed with Mr. Sharp that if Takoma Park were not the best friend of affordable housing of any jurisdiction in the metro area, he did not know where would be.

The Mayor commented that he thought many people lost sight of the fact that Montgomery County controls zoning law in the area; while the City could argue the housing issue, the county had the ultimate authority. The City Council had no authority to take an official action on the matter; they attempted to take some action, i.e., to advise the county what they felt should be done. Ms. O'Brien said she understood the elected body did not take a stand in favor of those who would be displaced; the Mayor affirmed that the Council and he personally did not come out and support the movement of the home people or others 100%. He said, however, he thought a very good job was done of preserving a good deal of housing, affordable housing, in the city as compared to other jurisdictions in the D.C. metropolitan area. Ms. O'Brien said she was glad Mayor Del Giudice felt that way, but she thought it was [expletive deleted]. The Mayor remarked that Ms. O'Brien was entitled to her opinion, and the elected body was entitled to theirs.

The resolution was passed by unanimous vote.

RESOLUTION #1989-92
(attached)

5. Resolution Effecting Appointment to Tree Commission.

The Mayor noted the resolution would appoint Ms. Pat Hill to serve on the commission, filling an unexpired term of a commissioner who had resigned. He asked that the Clerk's Office fill in the appropriate dates. In the course of brief discussion, it was affirmed the position was advertised and noted that after the election there would be another vacancy. Councilmember Douglas moved passage of the resolution, duly seconded by Councilmember Leary. The resolution passed by unanimous vote.

RESOLUTION #1989-93
(attached)

6. Discussion of City Position Re Park & Planning Hearing on Historic Preservation Recommendations.

The Mayor noted that, as had been brought out during prior worksession discussion, the matter was not up for discussion of the more general issues of historic preservation and the City's relationship with either of the counties, but specifically with the question of the Historic District -- process and procedures, what works and what does

not and/or improvements that could be effected was not up for discussion. He noted presentations would be made by both the Historic Committee and Historic Takoma.

Caroline Alderson of the Historic Committee spoke, noting that an article on the subject had been submitted to the Newsletter and advance copies provided to the elected body. While Ms. Alderson was setting up her visual display, Councilmember Douglas summarized his memorandum on the subject, commenting that he felt the City should look to making some introductory comments to the county on October 5 and adopting a finalized position later in October. He said he thought Ms. Alderson would be prepared to give a more detailed presentation at the October 9 worksession on her recommendations for the exact boundaries -- which might be a point of departure for some more detailed presentations to Park & Planning. The Mayor affirmed that October 5 would be the first opportunity afforded the City to comment, but that the record would be held open by Park & Planning for a period of time to receive additional comments. For that reason, he said he would like to see the present discussion geared toward identifying the major points it would be desirable to make to Park & Planning -- those could then be discussed in more depth at subsequent meetings and a more thorough recommendation formulated. He said he understood the process would afford the City an opportunity to meet with Park & Planning when they take up their formal recommendation in December.

Ms. Alderson commenced her visual display, remarking she wished address not only placement of the existing Historic District on the Master Plan, but to additionally open up to consideration the question of whether there were other areas worthy of recognition in Takoma Park. She displayed pictures of the existing Historic District, consisting of B. F. Gilbert's first 3 subdivisions, which she remarked probably typified most people's impression of Takoma Park. She noted that by 1900, the first 3 subdivisions were less than 25% developed -- so they were a very small part of the city's resources -- the city was not comprised solely of Victorian mansions -- a majority were other sorts of buildings and they, too, deserve the City's attention. Going into the turn of the century, there were Dutch Colonials, Tudors, Sears bungalows, cottages. She proceeded, noting she would be showing pictures of properties located outside the existing Historic District, asking that the Council give her an opinion on whether they were as worthy of preservation as those in the old district -- if so, that should be conveyed to the county. Ms. Alderson said she felt many of the City's small resources represented a part of the population and history that were just as important as the grand Victorians -- and they were the most fragile. She said there were things other than houses deserving of attention as well, e.g., the Carroll Avenue Bridge, unique outbuildings on some properties, such as a small Dutch Colonial garage on one property matching its house, and other matching garages on certain properties, garden buildings and other landscape features -- all of which add to the overall picture. She said she felt some of the local commercial buildings were unique and precious to the area, including a Tudor gas station which was probably the only one in Maryland and one of only a few in the U.S. Ms. Alderson showed pictures of Takoma Junction, remarking on the aesthetic aspects of streetscapes and the importance of their effect on those viewing them, noting the need for sensitivity to an area in designing a building to blend well with the area. She pointed out that historic preservation would not stop development -- it was not intended to stop development. What it would do would be to allow involvement and the opportunity to shape development so that building would not occur that was totally out of context with the existing character of the area. She noted the need also for sensitivity when designing an addition to an existing structure so as to retain its aesthetic value. Regarding commercial resources, she pointed out that as it presently existed, owners of those resources had no obligation to the City -- many of them live in the community and are sensitive to it, but not all of them -- and those resources could be sold. If there were no protection, unsightly alterations could occur. In closing, Ms. Alderson said she hoped the pretty views in Takoma Park could be preserved for those who presently enjoy them, as well as for future generations.

Ms. Karen Fishman, 7103 Cedar Avenue, President of Historic Takoma, explained that the organization was community-based, was established

in 1979 to promote preservation, community education, and neighborhood improvement. She said the organization was created because Montgomery College was threatening to expand into North Takoma and Montgomery County wanted to widen the roads around Takoma Park; membership of the group is over 100 people from all over the city. She said they would urge that the Council recommend to the County Planning Board that areas of Takoma Park be included into the Master Plan for Historic Preservation, which would help the city in many ways. She said being listed on the National Register and the County Master Plan would afford recognition, would mean the city has unique historic and architectural qualities, would help to protect the city from unneeded and unwanted development and afford it a right to know what was occurring; construction and design would be improved; owners of buildings in Historic Districts would benefit economically through a variety of county, state and federal tax benefits. She said the historic preservation movement had reinforced Takoma Park's unique sense of place, of community pride, the things its residents love about it would be threatened should the city not be listed on the County Master Plan. She said Historic Takoma also urged that the City Council recommend to the Planning Board expansion of the present Historic Districts in the city -- the two districts presently designated should be joined into one; she said they would also like to see Carroll Avenue and the Takoma Junction businesses included, so that the areas could also benefit from the protections under the county's Historic Preservation Ordinance -- inclusion on the County's Master Plan would help to accomplish that.

Nancy Ricks, member of Historic Takoma: submitted a signed statement into the record that the following businesses located on Carroll Avenue were in total support of the expansion of the Historic District in Takoma Park to the Takoma Junction area: The Wonderland Gift Shop, Paul's Electric Appliance, Takoma Park Animal Clinic, A-1 Air and Ice Service, and Carriage House Cleaners.

Robert Mandel, 7003 Woodland Avenue: on behalf of both himself and his wife, spoke in support of expansion of the Historic District. He said he had lived in Takoma Park for over 40 years, liked the city the way it was, and that expansion of the district would help to keep it status quo.

Ellen Marsh, 7405 Maple Avenue: commented on changes over time in Rockville, which had once been a 19th century suburb. She said she would not want to see what had occurred there happen in Takoma Park, particularly in the commercial areas. She spoke in favor of getting on the County Master Plan and inclusion of the business district.

Barbara Gibson, 7110 Woodland Avenue: noted she lives in the Historic District, and said she wished to present the opposing viewpoint. She said she was speaking from personal experience from having gone through the process. Ms. Gibson said she was in favor of historical preservation of appropriately designated properties, however, did not favor the blanket approach of designating entire neighborhoods -- it was not fair to make owners of non-historic homes subject to the same stringent rules and regulations that were required for truly historic sites. Additionally, dealing with the historic committees could be a frustrating and humiliating experience, and homeowners should not be subjected to that sort of treatment. She said that, as the owner of a home, she felt she should be entitled to do what she wanted with her property -- if she wanted to be restricted in what sort of fence she could put up, whether she could screen her front porch or not, she would move to Gaithersburg, sign a covenant stating she couldn't hang her laundry out at certain times of the day; however, she said part of her feeling about Takoma Park was that it gave people a measure of freedom to do as they wanted. She said she thought a lot of what it was about was property values, and that was not consequential to her. Ms. Gibson briefly related her experience with the county and their approval process when she needed to have her front steps redone, and said she did not think it right that homeowners had to go through that sort of experience in order to have work done that needed doing.

Lee Feldstein, 7412 Hancock Avenue: said his neighborhood was not presently included in the Historic District, however, he would like to see it included. He said there was potential for a lot of change in

the neighborhood, it was unknown what could happen, and inclusion would afford a lot of protection for keeping it the way those living there would like to see it.

Pat Hill, 303 Philadelphia Avenue: commented she was amazed to find that the historic parts of the city were not a part of the Master Plan; she said she hoped the City would move as quickly as possible to preserve those areas that those who had moved into Takoma Park had thought were already locked up for future years. She said she thought expansion of the current districts should also be looked at, and inclusion of other portions of the community.

Barbara Beelar, 7112 Maple Avenue: said she thought putting the Historic District on the County Master Plan was an essential part of defending her neighborhood, would afford protection to the "Takoma Frontier Neighborhood" at the end of Maple Avenue. She said people living in that neighborhood, due to the junction of the commercial and residential areas there, made the neighborhood a very vulnerable spot in a sense. She said looking at the Transit Impact Study, she was located where highrises were projected -- and if that happened, the city would lose a lot. She said she thought there was a need to ensure protections and then address the process.

Lou D'Ovidio, 7324 Piney Branch Road: noted he had served on the County Historic Preservation Commission in the late '70's-early '80's; he said while he sympathized with what Ms. Gibson had related, as in any body made up of public volunteers, people sometimes got carried away with minute details, which was unfortunate; however, he said he did not think that was reason to throw out the entire process of what the commission and the county ordinance was designed to do, i.e., to allow communities such as Takoma Park to come up with ways in which to protect themselves. He said when the City's Historic Preservation Ordinance was written in 1979, it was hoped the city could get on the county register -- the protection was needed, and the opportunity was now open to accomplish that. He said the existing districts were fine 15 years ago, however, more protection was needed now and they should be expanded -- he would support doing so.

Carolyn Hatley, 7118 Cedar Avenue: said she had only recently moved to her present address, had chosen the neighborhood primarily because it was in the Historic District, retained many of the characteristics that had existed for a long period of time and which she would like to see preserved. She spoke in favor of extending the district to other neighborhoods as well.

Roland Halstead, 7116 Maple Avenue, co-founder of Historic Takoma: said as an owner of historic property, he felt he had a responsibility to keep the community intact, not to destroy any community resource that reflects some of the City's heritage and where it had come from through the ages. He said if houses that may not be considered particularly historic at present are not preserved, there would be no history from the present to carry on into the future. For that reason, he spoke in favor of expanding the existing Historic Districts, as well as ensuring that they were placed on the County Master Plan.

Ed McMahon, 7105 Cedar Avenue: submitted and read in part a letter from former Councilmember Carl Iddings, who was unable to attend the meeting. Mr. McMahon strongly urged that the Council support inclusion of the existing Historic Districts on the County's Master Plan for Historic Preservation, and consider expanding them to include some of the threatened areas in the city, including the Carroll Avenue corridor. He explained that when he first moved to Takoma Park, he did not live in the Historic District, but lived on the Prince George's side for 8 years; however, was actively involved in a number of issues, including historic preservation. He said he recognized the value of what Takoma Park has, something most communities do not have, i.e., a sense of place, community and caring -- and a part of what gives people that is a sense of architectural and historic identity and uniqueness, which is something worth fighting for, keeping, and doing something to preserve. Mr. McMahon said in discussing any issue, there was a balance of interests, and he respected Ms. Gibson's comments. He said the intent of the historic preservation process in Takoma Park had never been to cause anyone discomfort, and as a member

of the committee, he would wish to apologize to any member of the community who had felt uncomfortable dealing with the process. He said the process could be improved, education about it could be improved, and the procedures could be improved. However, what was at stake presently was the question of the community's identity and future and whether it should be turned over to the marketplace, left open to the whim of developers and speculators, or whether a stand should be taken and a statement made that Takoma Park was different. He said historic preservation was a recognition of difference, gave a sense of protection with an ability to control an area's destiny, would make the city a more attractive and liveable place where people wanted to come and live because of its difference.

Mr. Mandel: noted that the discussion had centered on the Montgomery County side of the city; he pointed out there were quite a number of properties on the Prince George's side deserving of the same sort of protection, and asked that once the issue at hand had been addressed, the City start proceedings to provide similar protection for homes located in the Prince George's portion of Takoma Park.

Councilmember d'Eustachio related that in the previous week's discussion, the question had been raised regarding how the City could coordinate the situation between the two counties -- and that was an issue. He said what had to be resolved was how the appropriate authorities from both jurisdictions could be persuaded to cooperate with each other on the issue, so that the whole thing could work as a single entity. The Mayor remarked it was frustrating because he understood there was a good deal of cooperation between the appropriate authorities in the two counties at the time the Master Plan was developed. He said the effort was now going forward in Montgomery County; he felt the City needed to address it once and then reach out to the authorities in Prince George's County to join in the process as soon as possible in putting the areas onto the Master Plan in their jurisdiction.

Mayor Del Giudice said he felt it important that clarification be given to just what the City's representative at the upcoming Park & Planning Hearing would be authorized to say on behalf of City government; he noted Mr. Douglas had made 3 pertinent points in his memorandum on the subject, and said if there were other specific items that should be addressed they should be brought up. He said it would be stated that the City intended to come forward with a more formal proposal and participate actively in the process.

Councilmember Leary commented he felt it appropriate to leave the City's position at present in the fairly general and limited form set forth in Mr. Douglas' memorandum; he said he assumed there was consensus on the Council regarding the 3 points made therein. He said he thought the only likely debate would be about the details of potential expansion of the Historic District, and it would not be proper to address that until a formal proposal was brought forth. He said he personally strongly endorsed the recommendation that Park & Planning and the County Council be encouraged to place the present Historic District on the County's Master Plan, and that that district should be expanded to include Takoma Junction, Old Town, and certain contiguous residential areas that logically belong in such historic districts. Mr. Leary noted the large turnout of citizens to address the issue; in an informal show of hands requested by him, it was ascertained, as indicated by those who had spoken, that the vast majority were in support of placement of the existing districts on the County Master Plan and expansion of those districts.

Councilmember Elrich noted that Mr. Douglas' memo referred to additional areas of the city that were of equal historic/architectural importance and that should be included in the historic district; he said he had heard at no time or from anyone any sort of argument on behalf of the architectural or historic importance of Takoma Junction and/or Old Town. He said what he had heard voiced was an overwhelming fear of a change in development that would swamp the surrounding neighborhoods. He said the City's zoning committee was aware he had concerns about the existing zoning, for instance, in Old Town -- where he felt there was a serious problem with zoning -- an existing TSM Zone which had a potential for fairly serious disaster. He said he

would like to see the zoning changed, would not want to see anything built there that would result in the tearing down of the existing block -- would not want anyone to find a way of building a tower behind the existing buildings, even if they did put parking underneath. He said, however, he was uncomfortable with using historic preservation as a means of trying to protect against a perceived potential development. Mr. Elrich said the two business areas in the city did not look markedly different from a number of other older ones in both counties, and the argument could be made that other business areas with a similar look could be wheedled into an historic district. He said while he supported the intention, he was not sure he could be comfortable with the use of the tool proposed -- was not sure how someone at Park & Planning hearing the argument as it had been phrased at the present meeting would buy into it. Additionally, Mr. Elrich referred to a "before" and "after" picture of a screened-porch addition Ms. Alderson had shown; he said, referring to Ms. Gibson's comments as well, that he could understand perfectly well why someone would screen an existing front porch rather than going to the expense of essentially putting on a room addition on the back with the related foundation cost, etc. Mr. Elrich said he did have a concern about people living in homes in historic districts who need expansion of their living space but perhaps would not be able to afford to do so under the dictates that might be imposed upon them. As in Ms. Gibson's case, he said it did not seem realistic to expect someone to try to duplicate original stonework in order to maintain the appearance, dignity, or whatever, of the structure, if they could not afford it -- they should not be forced to move from their home because they could not afford the sort of renovations that might be required of them because of the historic district. He said that issue was of serious concern to him. Mr. Elrich said he agreed the boundaries of the existing districts were illogical; however, he said he would hope that prior to any change in boundaries, people whose properties would be affected would be surveyed concerning their position regarding inclusion in such an area.

Regarding Mr. Elrich's first point pertaining to the business districts, Councilmember Douglas said he had specifically asked that the evidence on that issue not be presented at the current meeting -- that was why it was not heard. He reiterated that the present discussion was intended to be fairly general and limited regarding the general support of the Council for historic preservation and, generally, support for expansion of the existing districts. He noted Ms. Alderson had taken considerable pains to point out that there were some areas of equal value that were not presently included in the districts -- there was no attempt made to define or delineate just exactly what the districts should include. He said a more detailed presentation would be given on October 9 recommending what the boundaries should be and giving justification therefor. He said he hoped some patience would be demonstrated until such time as a more valid basis for discussion of those details was presented. Mr. Douglas said he had hoped the Council could reach a general agreement in support of historic preservation and in support of expansion of the existing district. Regarding what was and was not acceptable under the process -- an issue raised by a couple of speakers -- he said there were some process questions needing to be dealt with; he had met with the committee recently, had raised some issues, they were aware of problems and probably the Council should start addressing some of them. However, that was a different issue, and the question of what was and was not acceptable could probably be dealt with in that context of how to accomplish affordable renovations within the guidelines and the spirit of architectural integrity. He said he saw no reason that should present a stumbling block to preserving the sort of community Takoma Park has.

The Mayor commented that while he would hope that future Council meetings would not become architectural seminars, he felt some members of the body could benefit from becoming somewhat more well-versed in various historical architectural styles. He said even with his limited knowledge of the subject, he could recognize some of the commercial structures in the city as being of historical architectural merit which deserve to be saved and preserved, regardless of the zoning or potential development of their neighboring properties. He said some actually believed that was a value in and of itself, and he would hope

they would be given credit for that, rather than anyone having the thought that there was always some surreptitious motive involved.

Councilmember Sharp suggested that as much pertinent material as possible be distributed to the elected body prior to the October 9 presentation, so that members would have an opportunity to examine and consider the subject matter in advance. The Mayor pointed out that, as he understood it from Park & Planning staff's presentation, the Montgomery County Historic Preservation Committee had made a recommendation; that staff had already commenced working with City staff in looking at areas outside the existing historic district. He said they had indicated they would keep the record open beyond the October 5 meeting to receive any formal proposal the City might wish to submit. He said he hoped a conclusion of the project and discussion could be reached by the end of the month; he did not think Park & Planning staff would be presenting an actual proposal to the commission until December or thereafter, so there was a measure of flexibility in the timeframe.

Councilmember Sharp inquired whether there was provision for the City to survey property owners who might be affected by a change in the boundaries; Councilmember d'Eustachio pointed out the county had already done a mailing to such property owners -- he had received one himself advising of the process and soliciting comment. In the course of ensuing discussion, the Mayor clarified that while the City's role was essentially advisory in the issue, they would be making a recommendation to the county; Mr. Sharp's question was whether, despite the county having given notification to homeowners (as required of them by law), the City should also notify the homeowners of the recommendation the City was considering making. He said he felt that decision was entirely up to the elected body; citizens' associations in the affected areas could also be notified in order to get the word out -- it could be done in a number of different ways; however, he said he thought the timing should be given some consideration as well as how it would best be done. Councilmember Leary said he agreed that such notification should be given by the City insofar as was possible within the given timeframe. He said he felt each homeowner whose property would fall within an area considered for inclusion in an historic area through expansion of the area should be given notification, and probably individual letters would be most appropriate given the timeframe.

Councilmember d'Eustachio said he would remind the Council that at each and every regular meeting, action was taken by the Council that affects every single person in the city, and heaven forbid that the City would have to send an individual letter to each resident every time an ordinance was adopted that affected them. He said while he had serious questions about how historic districts were made and shared some of Mr. Elrich's concerns, he would not be willing to send a letter to every potential person who would be affected by the historic district before October 9 -- if the City were going to do that, letters should also be sent to every single landlord before rent control was discussed, to dog owners before dogs were discussed, etc. He said he thought general notification, such as the Newsletter, was sufficient, particularly inasmuch as the City Council was an advisory body on this issue and would not be making any final inclusions or exclusions from any historic district. He reminded that it was early in the process and if mailings on the subject were begun now, the City would be bankrupt from postage costs before notification mailings regarding the lengthy process were completed. Mr. Leary said his intent had been to send notification to a limited number of potentially affected property owners subsequent to the discussion on October 9 and after the Council had made some tentative decisions. He said if a decision could be delayed until sometime in November so that a notice could be given in the Newsletter, that would probably serve the purpose. He said he would also second Mr. Sharp's request that the Council be provided written information prior to discussing the issue again, i.e., the Historic Preservation Committee's recommendations along with their justifications.

Councilmember Elrich commented he tended to concur with the idea of providing maximum notification to potentially affected property owners; he said he did not view the issue as being quite the same thing

as rent control and a number of others, particularly since what this amounted to was putting a zoning constraint on people's property. He said he would prefer knowing how those people felt prior to casting a vote on the issue, whether it affected any in his own ward or not. He said he was not particularly committed to the City having to do a mailing, if the same thing could be accomplished through other means.

The Mayor inquired whether there was any opposition among the elected body to the City's representative testifying at the hearing to the effect as outlined in Mr. Douglas' September 20 memorandum, points 1, 2 and 3, i.e., putting the existing historic areas on the County's Master Plan and expansion of those districts where appropriate, as well as raising the question of coordination of the two county districts. No objection was voiced. Consensus was that the position could be represented as the unanimous general position of the City Council, there being no opposition thereto.

7. First Reading of an Ordinance Amending Holiday Leave Section of Personnel Ordinance.

Councilmember Sharp moved acceptance for First Reading, duly seconded by Councilmember Hamilton. The Mayor noted this legislation would delete Columbus Day as a holiday for City employees, replacing it with the Friday following Thanksgiving, in accordance with negotiations that occurred during the collective bargaining process. The ordinance was accepted for First Reading by unanimous vote.

ORDINANCE #1989-
(attached)

8. First Reading of an Ordinance Appointing Election Judges.

The Mayor noted earlier comments on this subject could be taken into consideration prior to adoption, if that were deemed desirable. Councilmember d'Eustachio moved acceptance for First Reading, duly seconded by Councilmember Elrich. The ordinance was accepted for First Reading by unanimous vote.

ORDINANCE #1989-
(attached)

Upon motion, duly seconded, the meeting adjourned at 10:17 p.m. For the record, the Mayor noted that the elected body had met in Executive Session prior to the Regular Session in order to address the personnel matter listed on the formal agenda.

Introduced by: Mayor Del Giudice

RESOLUTION OF WELCOME
RESOLUTION #1989-89
WELCOMING DONNA S. PHILLIPS
PRINCIPAL, TAKOMA PARK ELEMENTARY SCHOOL

WHEREAS, in July, 1989, Donna S. Phillips was appointed to the position of Principal at Takoma Park Elementary School after completing one year as a Principal-Trainee there;
AND

WHEREAS, Ms. Phillip's professional experiences in the educational field date back to 1976; AND

WHEREAS, Ms. Phillips has knowledge and experiences in many areas including special education and human relations and will surely be an important addition to the Takoma Park Elementary School and the Takoma Park community.

NOW THEREFORE, BE IT RESOLVED THAT the Mayor and Council hereby extend this official welcome to Takoma Park Elementary School Principal, Donna S. Phillips.

Dated this 25th day of September, 1989

ATTEST:

Stephen J. Del Giudice
Mayor

James S. Wilson, Jr.
City Administrator

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

1st Reading: 9/11/89
2nd Reading: 9/25/89
Effective: 9/25/89

ORDINANCE #1989-33

SETTING FORTH THE 1989 TAKOMA PARK CITY ELECTION

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

SECTION 1. THAT the City Clerk shall call a [meeting] ("Nominating Caucus") of the citizens for the nomination of candidates for Mayor and Councilmembers on Tuesday, October 3, 1989 at 8:00 PM in the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland; the said Nominating Caucus [meeting] shall be conducted as follows: [prescribed by City Ordinance; AND]

- a. At the beginning of the Caucus, the Secretary of the Caucus shall select by random drawing, ward numbers one through seven to determine the order in which Ward nominations are received.
- b. Nominations for Mayor shall immediately precede all seven ward nominations.

SECTION 2. THAT a City Election shall be held at the Municipal Building on Tuesday, November 7, 1989, between the hours of 7:00 AM and 8:00 PM for the purpose of electing a Mayor and seven Councilmembers. The Mayor shall be elected at large, and one Councilmember from each ward shall be elected by the voters of that ward only. The election shall be conducted by voting machines and, as nearly as practicable, all laws and regulations governing the use of voting machines in Prince George's County elections shall apply. Absentee voting shall be available as set forth by City Ordinance; AND

SECTION 3. THAT the City Clerk shall arrange with the Supervisors of Elections of Prince George's County for the use of eight voting machines at the said election, with a separate machine for the exclusive use of each of the seven wards, and an eighth for the use only in the event of

malfunction. The City Clerk shall place the names of the candidates nominated for Councilmember at the Citizens' Meeting on separate ward voting machines, with each machine displaying the names of candidates for one ward only, and shall place the names of persons nominated for the office of Mayor on all voting machines; all of the names of candidates nominated at the Citizens' Meeting shall be so placed, except any who within three days thereafter may have filed in writing with the City Clerk a declination; AND

SECTION 4. THAT notice of the Citizens' Meeting and the City Election to be inserted in the Montgomery County Business Record and the Prince George's Sentinel during the two weeks prior to October 3, 1989. In addition, the Clerk shall have inserted in the Montgomery County Business Record and the Prince George's Sentinel, during the week preceding the election, a facsimile of the arrangements of the names and wards which will appear on the voting machines; AND

SECTION 5. THAT voter authority cards and lists shall be prepared for each ward separately, bearing the names, addresses and election wards of all eligible voters as certified by the Boards of Supervisors of Election for Prince George's and Montgomery Counties, and supplied to the Judges of Election on election day; AND

SECTION 6. THAT the Clerk shall recommend to the Mayor and Council the names of twenty-eight persons for designation by the Council as Judges of Election on election day; AND

SECTION 7. THAT the judges of Election shall meet in the Municipal Building as a Board of Election at 7:00 P.M., Wednesday, November 8, 1989, and shall determine and certify the results of the election, as provided in the City Charter; AND

SECTION 8. THAT the Mayor and Council shall meet in Special Session at 8:00 P.M., Wednesday, November 8, 1989, to receive the certification of the election from the Judges; AND

SECTION 9. THAT this Ordinance becomes effecton upon adoption.

NOTE: In this ordinance, underlining shall denote language added to the original ordinance; [brackets] shall indicate language being removed; and double underlining is being used to denote language added after first reading.

Adopted this 25th day of September, 1989, by Roll Call Vote as Follows:

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

Introduced by: Councilmember Douglas

Resolution No. 1989-90

A Resolution to amend Resolution No. 1987-76; A Resolution to continue the Recycling Task Force and direct new tasks.

WHEREAS, the Mayor and Council appointed a 17 member Recycling Task Force, whose purpose was "to formulate a City proposal and implementation plan on recycling"; AND

WHEREAS, the Recycling Task Force submitted it's report at the April 18 Council Worksession, recommending the establishment of a mandatory, multi-material curbside collection program for recyclables, AND

WHEREAS, the Mayor and Council adopted Ordinance 1989-4, establishing a mandatory, curbside collection program for recyclables on January 30, 1989, and the program began April 3, 1989; AND

WHEREAS, the Mayor and Council desire to expand the existing recycling program,

NOW, THEREFORE BE IT RESOLVED that the Mayor and Council extend the appointment of the Recycling Task Force until June, 1990.

BE IT FURTHER RESOLVED that the Task Force shall report to the Mayor and Council by January 1, 1990 on recommendations to expand the recycling program to include steel cans, plastics, yard waste, white goods and waste oil; AND

BE IT FURTHER RESOLVED that the Task Force shall continue its efforts to identify and publicize methods for safe disposal of household hazardous materials; AND

BE IT FURTHER RESOLVED that the Task Force shall make recommendations on expanding the recycling program to include apartment buildings and businesses within the City; AND

BE IT FURTHER RESOLVED that the Task Force make recommendations on upgrading the City's leaf composting operations; AND

BE IT FURTHER RESOLVED that the Mayor and Council reappoint the following members:

Diane Curran	Holly Mines
Katherine Gage	Walter Mulbry
Ferdinand Hoeffler	Richard O'Connor
Rita Marth	Ann Odean
Lori McGilvrey	

Dated this 25th day of September, 1989

Introduced by: Mayor Del Giudice

RESOLUTION NO. 1989-91

WHEREAS, October, 1989, is Crime Prevention Month; AND

WHEREAS, Crime and fear of crime adversely affect the quality of life of all residents and institutions in Takoma Park; AND

WHEREAS, Financial losses, personal injury and community deterioration from crime are intolerable; AND

WHEREAS, Citizen crime prevention actions and particularly Neighborhood Watch programs have proven to be successful in reducing crime; AND

WHEREAS, Crime prevention adds immeasurably to the health, safety and vigor of Takoma Park and should be encouraged and supported by government agencies, private business, merchants, schools, community associations and neighbors; AND

WHEREAS, Crime prevention programs implemented at the state, regional and local level require the support of all citizens;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, to encourage efforts on the part of residents, City government, public and private institutions and business, to increase awareness of and participation in effective crime prevention measures, with emphasis on creation or reinvigorations of Neighborhood Watch programs.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Takoma Park to be affixed this 25th day of September, 1989.

Stephen J. Del Giudice
Mayor

ATTEST:

James S. Wilson, Jr.
City Administrator

RESOLUTION 1989- 92

RESOLUTION TO SUPPORT THE NATIONAL MARCH ON WASHINGTON TO MAKE INCREASED FEDERAL FUNDING FOR AFFORDABLE HOUSING A CONGRESSIONAL PRIORITY.

WHEREAS there is a severe shortage of housing available to low and moderate income people in the Washington D.C. Metropolitan Area and nationwide; AND

WHEREAS in the past eight years the Federal Government has decreased funding for low income housing by more than 70%; AND

WHEREAS while state and local governments, including the City of Takoma Park, have taken steps to address this problem it is clear the Federal Government must play a key role in meeting its low income citizens' shelter needs; AND

WHEREAS the need for Federal acquisition, construction, subsidization and rehabilitation of affordable housing must become an immediate Congressional priority; AND

WHEREAS on Saturday, October 7, 1989, a nationally organized March on Washington will be held in support of increased federal funds for affordable housing; and this event is intended to focus national attention on the desperate need for decent, reasonably-priced housing; AND

WHEREAS the Maryland Housing Now! Coalition is a growing association of housing advocates which is coordinating support in Maryland for this march.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the City of Takoma Park support making the matter of additional federal funding to substantially increase the stock of affordable housing a Congressional priority; AND

BE IT FURTHER RESOLVED that the Mayor and Council of the City of Takoma Park support the efforts of the Maryland Housing Now! Coalition and the efforts of the national organization, Housing Now!, to focus national attention on this very serious matter.

Adopted by the Mayor and Council of the City of Takoma Park this 25th day of September, 1989.

Introduced by: Councilmember Douglas

Adopted: 9/25/89

RESOLUTION No. 1989-93

APPOINTING MEMBER TO THE
CITY OF TAKOMA PARK TREE COMMISSION

WHEREAS, Ordinance No. 2674, (as amended) adopted on 6/27/83, established the Tree Commission for the purposes of preserving, protecting and promoting the urban forest of Takoma Park; AND

WHEREAS, there is one vacancy on the Commission as the result of a term that expired on 9/26/89.

NOW THEREFORE, BE IT RESOLVED THAT the following individual is hereby appointed to serve a staggered three-year term to expire on 9/25/92, on the Takoma Park Tree Commission:

Name/Address

Patricia K. Hill, 303 Philadelphia Avenue P

Dated this 25th day of September, 1989

* * * * *

(P) = Primary Member

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

1st Reading: 9/25/89
2nd Reading:

ORDINANCE #1989-34

AN ORDINANCE TO AMEND CHAPTER 8B-132 (PERSONNEL PROCEDURES), ARTICLE 1, SECTION 8B-132(a) OF THE CODE OF THE CITY OF TAKOMA PARK, MARYLAND.

SECTION 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT THE FOLLOWING SECTION OF THE CITY CODE IS HEREBY AMENDED AS FOLLOWS:

Sec. 8B-132 Holiday leave.

(a) The following days shall be recognized as legal holidays for which compensation will be made:

- (1) New Year's Day.
- (2) Martin Luther King, Jr.'s Birthday (January 15, 1986, and every year thereafter).
- (3) Washington's Birthday (third Monday in February).
- (4) Memorial Day (last Monday in May).
- (5) Independence Day (July 4th)
- (6) Labor Day (first Monday in September).
- [(7) Columbus Day.]
- (7) Veterans Day (November 11).
- (8) Thanksgiving Day (fourth Thursday in November).
- (9) Friday after Thanksgiving Day (November 24, 1989, and the fourth Friday in November every year thereafter).
- (10) Christmas Eve (one-half day).
- (11) Christmas Day.

SECTION 2. THAT this Ordinance shall become effective upon adoption.

NOTE: In this Ordinance, [brackets] shall denote language deleted from the Code and underlining shall denote language being added.

Adopted this 2nd day of October, 1989 by Roll Call Vote as Follows:

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

Introduced by:

1st Reading: 9/25/89
2nd Reading:

ORDINANCE #1989-___

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

SECTION 1. THAT the persons named below, all registered voters of the City of Takoma Park, are hereby designated as Election Judges to serve as a Board of Election for the November 7, 1989 City Election:

- (1) Harold E. Alston, 7710 Maple Avenue, #105
- (2) Pearl G. Blacksin, 652 Kennebec Avenue
- (3) Montez H. Boatman, 133 Ritchie Avenue
- (4) Billie M. Dyhouse, 7051 Carroll Avenue, #617
- (5) Beverly Gladd, 711 Devonshire Road
- (6) Ellie Irby, 7600 Maple Avenue, #1206
- (7) Eleanor S. Jaeger, 7213 Trescott Avenue
- (8) Diane Jenkins, 7600 Maple Avenue, #707
- (9) Daniel B. Jessop, 7800 Cole Avenue
- (10) Dorothy S. Jessop, 7800 Cole Avenue
- (11) Georgia B. Johnson, 316 Tulip Avenue
- (12) Helen T. Johnston, 7051 Carroll Avenue, #1013
- (13) Tanya Jones, 601 Hudson Avenue, #206
- (14) Claire B. Kozel, 7804 Wildwood Drive
- (15) Dorothy J. Malusky, 7302 Holly Avenue
- (16) Robert Mandel, 7003 Woodland Avenue
- (17) Rein S. Parris, 7620 Maple Avenue
- (18) Patricia L. Sanchez, 6745 Eastern Avenue
- (19) Genie Sidwell, 7209 Spruce Avenue
- (20) Naomi E. Turner, 7667 Maple Avenue, #1001
- (21) Paul Weisbord, 6753 Eastern Avenue
- (22) Marvel A. Werner, 17 Darwin Avenue
- (23) Verne Wilson, 907 Davis Avenue
- (24) E. Edward Zerne, 7302 Garland Avenue
- (25) Patricia A. Zerne, 7302 Garland Avenue

SECTION 2. THAT this Ordinance becomes effective upon adoption.

Adopted this ___ day of _____, 1989 by Roll Call Vote as follows:

AYE:
NAY:
ABSTAINED:
ABSENT: