

CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and Council
November 13, 1989

CITY OFFICIALS PRESENT:

Mayor Del Giudice	City Administrator Wilson
Councilmember d'Eustachio	Asst. City Administrator Habada
Councilmember Douglas	Acting City Clerk Jewell
Councilmember Elrich	Cable Coordinator Smith
Councilmember Hamilton	Community Planner Schwartz
Councilmember Leary	Housing Services Director Weiss
Councilmember Martin	Public Works Director Giancola
Councilmember Sharp	Corporation Counsel Silber
	Asst. Corporation Counsel Perlman

The Mayor and City Council convened at 8:10 P.M. on Monday, November 13, 1989 in the Council Chamber at 7500 Maple Avenue, Takoma Park, Maryland.

Following the pledge, Mayor Del Giudice expressed thanks to the Board of Judges who had served so well in the recent City Election; he noted they had certified the election results to the Mayor and Council at a meeting held on November 8.

The Mayor noted receipt of a Variance Request for 6912 Prince George's Avenue (#10-322), which had been set for hearing on 11/21/89 before the Board of Appeals. Inasmuch as expressions of opposition had been received from some neighboring property owners, he asked that the item be placed on the agenda for the November 20 meeting and that staff so notify the petitioner and neighboring property owners.

The Mayor noted dissemination of copies of a Proclamation, which he asked be passed as a Resolution, regarding the 19th Festival of Praise to be conducted at the Sligo Seventh-Day Adventist Church on the upcoming weekend. Councilmember Hamilton moved passage of the resolution, duly seconded by Councilmember Martin. The Mayor explained that during the festival, the church and members of the community came together to make donations of food and clothing for distribution to those less fortunate members of the community to help in providing for their care and well-being during the upcoming holiday season. The resolution was passed by unanimous vote; the Mayor noted a copy would be presented to the congregation on Saturday at their festivities.

RESOLUTION #1989-104
(attached)

ADDITIONAL AGENDA ITEMS:

Councilmember Leary noted having received a call from a resident at 7307 Holly Avenue, a next-door neighbor of the Hurs, whose petition for a Special Exception for an accessory apartment at 7309 Holly Avenue had been considered at the October 30 meeting. He explained that the caller said she had received no notification of the matter coming before the Council on 10/30/89, nor had 4 other individuals who, like herself, opposed granting of the Special Exception. For that reason, Mr. Leary asked that the item be reconsidered. The Mayor said the lack of proper notification had come to his attention as well, and suggested that the Council's position be reconsidered as a part of the present agenda, noting that the county hearing would be held on the upcoming Wednesday.

Resolution Appointing Members to Martin Luther King Committee
(Hamilton)
Technical Amendment to Executive Pay Plan (Wilson)

The Mayor noted receipt of a communication from Helen M. Grune concerning the Variance Request for 8108 Hammond Avenue, an item that had been placed on the Consent Agenda. He said it might be necessary to remove that item from the Consent Agenda and discuss it at the appropriate point in the agenda.

ITEMS FOR COUNCIL ACTION:

1. Reconsideration of Request for Special Exception for Accessory Apartment at 7309 Holly Avenue.

Councilmember Hamilton moved to reconsider the matter, duly seconded by Councilmember Douglas. The motion carried with Councilmember Sharp voting Nay, balance of Council voting Aye. Councilmember Leary moved that the Council take no position on the application, duly seconded by Councilmember Hamilton. Mr. Leary explained that his rationale, which had been fortified by comments received from constituents, was based on concern about the excessive proliferation of accessory apartment approvals in that particular small area of the city. At the very least, given the abundant evidence of the concentration of accessory apartments in the particular area, he said he did not think the Council should go on record as endorsing an additional one. Responding to query from Councilmember Sharp regarding why he did not propose that the Council oppose the application, Mr. Leary said that based on the prior vote on the matter, he felt the most he could probably hope for would be that the Council choose to take no position, which might be of some benefit to those neighbors who wished to build a case before the county authorities against granting of the request.

Regarding the question of taking no position, the Mayor commented that the elected body was again confronted with a situation wherein there was an apparent procedural error, i.e., failure of appropriate notice having been given to adjoining property owners. He said he did not know why that had occurred; however, pointed out that the petitioner was not present, and when the matter was previously addressed, those who would have opposed it were not present. He said he did not think the elected body was in any position to take a position one way or the other on the application, which would leave both the applicant and those who opposed granting of the request the option of bringing their cases before the Board of Appeals. He said he would ask, however, that staff report back to the elected body on the question of why, if that were indeed the case, notices were not sent to all adjoining and nearby property owners. Councilmember Leary noted that DHS's report listed the 43 property owners to whom notice was sent, and that list did not contain the addresses of the 5 individuals who opposed granting of the Special Exception, despite the fact that all of them lived within 1/2 block of 7309 Holly Avenue.

Dorothy Maluskey, 7302 Holly Avenue: said she was one of the five people opposing the request and who had written to the Board of Appeals. She said she had been unaware that the Council was going to address the matter. Ms. Maluskey pointed out that of the 12 accessory apartments located in the immediate area of her neighborhood, 50% were on Holly Avenue between Dogwood and Tulip. She said only two people in that area of Holly (between Dogwood and Tulip) were notified by DHS of the fact that the Council would be addressing the Special Exception request on October 30. She asked that if the Council decided to convey no position to the Board of Appeals, they also write a letter to them explaining what had happened.

The petitioner, Mr. Hur, having arrived at the meeting, inquired what was going on. Mayor Del Giudice recapped for him what had occurred concerning the lack of notice to all concerned parties, the fact that the Council's prior decision had been brought back to the floor for reconsideration based on the defect in the procedure that had occurred, and the motion that was presently on the floor.

Councilmember Sharp pointed out that the taking of no position had been suggested earlier, based on the fact that the petitioner and those who opposed granting of the request were not present. Noting those parties were now present, he said he felt the Council would be in a position to adopt a position on the request, and said he would be interested in hearing some more substantive information from Mr. Hur and those opposing the application. Mr. Hur commented that would be acceptable to him, however, he had thought the matter settled when it was addressed at the October 30 meeting. Councilmember Martin remarked she would like to amend the motion on the floor to state that the Council opposed granting of the Special Exception. The Mayor pointed out that would be a substitute motion rather than an amendment.

The elected body recessed for several minutes in order to briefly

discuss and consider the situation and the motion to take no position.

Mr. Hur related that in the time since the Council had addressed his application for a Special Exception, he had had 3 more people knock on his door to express interest in renting the proposed accessory apartment. He said one facet of the situation was where the City government stood on the issue of affordable housing near the Metro for people in Takoma Park.

Nancy Currier, adjacent property owner to the Hurs: said she felt that accessory apartments weakened a neighborhood by undermining its claim to single-family zoning status should that status ever be challenged. She pointed out that the neighborhood in question was bordered by East-West Highway, Piney Branch Road and the Metro Station and was vulnerable to pressure for higher density zoning; in order to protect the neighborhood, its zoning status had to be protected from anything that would weaken it, including an accumulation of accessory apartments. She said that was the light in which she viewed the petition by the Hurs. She said she hoped the elected body would reconsider their position on the request for Special Exception.

The question was called on the motion to take no position; the motion carried with Councilmember Elrich voting Nay, balance of the Council voting Aye. The Mayor noted that the City's position would be conveyed to the county Board of Appeals. He said a full report would be expected from staff detailing why appropriate notice from the City was not sent to all adjoining and nearby property owners.

2. Second Reading of an Ordinance Amending Section 6-105 of Housing Licensing Requirements.

Councilmember Hamilton moved adoption of the ordinance, duly seconded by Councilmember Sharp. Mr. Hamilton noted subsection (e) had been amended subsequent to First Reading, as well as the effective date of December 1, 1989 having been inserted. Housing Services Director Weiss explained that the only substantive change was the insertion of the effective date; other changes were technical in nature, simply moving certain clauses from one portion of the legislation to another. She said the language now contained in subsection (e) had simply been moved down from subsection (d) so as to make the legislation more readable.

In the course of ensuing brief discussion, it was noted that sections and subsections of the legislation could probably be more clearly defined through the use of more obvious designations and a somewhat different drafting style. Ms. Weiss noted the need for renumbering of the remainder of the Code section being amended, as appropriate. Councilmember Douglas moved passage of the amendments subsequent to First Reading, including any required renumbering of Code Section 6-105; Councilmember Sharp duly seconded the motion. Councilmember Hamilton inquired whether the effective date of 12/1/89 would give DHS ample time to put the legislation in place. Ms. Weiss responded that it gave ample time for DHS to at least create temporary documents so that the property owners would not experience any further delays. She said she was not certain that the printers making up the permanent documents would have them ready by December 1. She said, responding to further query from Mr. Hamilton, that an effective date of January 1 would certainly give staff more time to prepare documents, however, would create additional delays for constituents. She said DHS could have the certification forms prepared by December 1 for the backlog of license applications. The amendments were passed by unanimous vote.

Councilmember Martin commented she understood the reason the City was doing this was that the time that would be required by Montgomery County due to their data base would pose a problem. She asked whether the City could still go to Prince George's, or let them know that the City was issuing licenses and if they were aware of any violations, they should make Takoma Park aware. Ms. Weiss said that, as she had mentioned at worksession, it was her intention to notify both counties any time the City licensed a property so that they would have the information. She said, however, that the two counties' abilities differed drastically as to what they would do with the information. 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 #1989-42
(attached)

3. Second Reading of Tree Ordinance:

Councilmember Martin moved adoption of the ordinance, duly seconded by Councilmember Elrich. Councilmember Martin suggested amending the ordinance by insertion of residential in place of [private] at the end of the first line in the second "Whereas" clause so that the language would read ... "the City Council has approved residential and commercial site plans." The amendment was accepted as editorial. Councilmember Douglas commented there were a number of defects in the Tree Ordinance upon which people had commented; he said he hoped the next Council would deal with those expeditiously. The ordinance was adopted by roll call vote as follows: AYE: Councilmembers d'Eustachio, Douglas, Elrich, Leary, Martin and Sharp; NAY: None; TEMPORARILY ABSENT: Councilmember Hamilton.

ORDINANCE #1989-43
(attached)

4. Second Reading of FY 1990 Budget Amendment No. 1.

Councilmember Douglas moved adoption, duly seconded by Councilmember Elrich. Asst. City Administrator Habada noted several amendments to the ordinance which had been effected subsequent to First Reading, including items a. and h. under Revenue Amendments, items b., e. and k. under Expenditure Amendments and item d. under Capital Budget. Councilmember Hamilton moved passage of the amendments, duly seconded by Councilmember d'Eustachio. Responding to query from Councilmember Douglas, Ms. Habada explained that the replacement police vehicle would replace one that had been totalled in an accident; while an ordinance (#1989-27) was adopted in July authorizing the purchase, she said she felt more comfortable also including the amount in the budget amendment. The amendments were passed by unanimous vote. 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 #1989-44
(attached)

5. Resolution of Council Position re #1 Columbia Avenue (Leon Trager requesting a second review of revised plans).

The Mayor noted that Variance Request #A-2660, applicant Leon Trager, was set for a hearing before the county Board of Appeals on November 15, and that a resolution had been prepared by staff setting forth the elected body's position. He additionally noted the matter had been before the Council on at least two prior occasions, as well as at the last worksession where a revised plan was reviewed. Councilmember d'Eustachio moved passage of the resolution, duly seconded by Councilmember Hamilton. The Mayor noted need for insertion of a date in the next to last "Resolve" clause. Mr. d'Eustachio said that the site plan referred to was the one attached to the Council packet, however, there was some question about the date of it. Following brief dialogue, Mr. Trager said that the date of the last revised site plan was 11/11/89. Inasmuch as there was confusion concerning which site plan was being moved as an attachment to the resolution, Mr. d'Eustachio, for the record, noted that that particular one reflected a gross building square footage of 4,503 square feet. He said it was his intent that the building not exceed that area, that at least 13 parking spaces be provided, that the area from the property line at the corner of Pine and Columbia Avenues to the house be filled in with greenspace, and parking to the lot line on the residentially zoned side of Pine Avenue. The Mayor pointed out that the site plan dated 11/11/89 and which staff was recommending be approved did reflect a building square footage of 4,503; however, it made an adjustment to parking spaces 12 and 13 from what had been indicated on the previous site plan.

Community Planner Lisa Schwartz explained that a memo had been distributed at the present meeting with 3 different site plans attached, which Mr. Trager had submitted to her earlier in the day. She said

the first one was essentially the same as that submitted at the work-session the previous week -- with a planting strip along Pine and Columbia Avenues added, a dogwood tree near parking space 12, and some other changes, e.g., arrows on the macadam that would indicate the traffic flow direction. The second plan showed traffic flowing in the opposite direction, i.e., entering on Pine Avenue and exiting onto Columbia with a reconfiguration of the parking spaces and an additional parking space. She said she preferred that one because she felt it provided a better flow of traffic, as well as better parking configuration. The third was one Mr. Trager had submitted earlier in the day for the elected body's consideration. Mr. d'Eustachio commented there did not appear to be critical differences between the plans; however, what he felt to be important was the greenspace, the building size and the number of parking spaces provided. He noted that in the version staff was recommending, there were 14 parking spaces rather than 13, and the additional space would certainly be desirable. Councilmember Sharp commented that the plan showing traffic entering from Pine Avenue and exiting onto Columbia Avenue would appear more likely to keep traffic out of the residential area. In the course of discussion concerning the need to differentiate between the several plans all bearing the same date, Mr. Trager pointed out that each had a different project number appearing underneath the date. It was noted that the plan recommended for approval by staff was project #11FCD. Consensus was that in the third "Resolve" clause, where there was a blank for a date, the date 11/11/89 and also the wording ... "and numbered 11FCD" ... be inserted, so as to clearly identify which of the plans was being approved. Ms. Schwartz suggested inclusion in the resolution of language denoting the total square footage of the building and number of parking spaces on the plan being approved. Mr. d'Eustachio suggested adding to the next to the last "Resolve" clause language stating that the applicant's second revised site plan, a copy of which is attached, is also acceptable and may be substituted in lieu of the revised plan, provided that all of the above conditions do apply; such conditions shall include 14 parking spaces and a total structure square footage of 4,503.

Councilmember Douglas noted the tree to be planted was specified as a Florida Dogwood; he asked whether there was a reason for being so specific as to the species. Ms. Schwartz explained that Mr. Trager had stated a preference for an ornamental or something not overly large; she said the species was not critical, that it could be a dogwood or some other ornamental. Mr. Douglas said he had expressed a concern in worksession about the traffic flow impacting upon the neighborhood; he remarked the present plan appeared to address that potential problem well.

Councilmember Martin commented that addition of the 14th parking space seemed to really fill up the right corner of the lot; she said it ate up that much more of the open space. Ms. Martin wondered if the traffic flow could not just be reversed on the earlier plan that reflected 13 parking spaces. The Mayor noted that some concern had been expressed regarding provision of an adequate number of parking spaces. Councilmember d'Eustachio commented he frankly supported the additional parking space and thought the neighborhood would too.

Bob Sheldon, Pres. of B. F. Gilbert Citizens' Assn.: said he had spoken with neighbors about the revised site plan and none had any objections. He noted their understanding of the plan was that there would be a driveway behind the addition; i.e., that there would be space between the Sickler property and the addition so that cars could get through -- that had been a concern of citizens living on Pine Avenue. He said it appeared traffic would be reduced by at least one half by being able to exit onto Columbia Avenue.

The resolution, endorsing the application with conditions (including that there be 14 parking spaces provided and a total building square footage of 4,503) and based on the revised site plan numbered 11FCD dated 11/11/89, was passed by unanimous vote.

RESOLUTION #1989-105
(attached)

6. First Reading of an Ordinance Placing Speed Humps on Elm Avenue (between Woodland and Prince George's Avenue).

The Mayor noted a staff report had been provided, as well as the draft ordinance. Councilmember d'Eustachio moved acceptance for First Reading, duly seconded by Councilmember Hamilton. Acting City Clerk Jewell noted the item had been tabled at a September meeting pending fulfillment of additional petition requirements from the 400 and 600 blocks of Elm Avenue. She said those petitions had now been received and verified; notices were sent out notifying residents the item would be considered by the Council for First Reading at the present meeting, with Second Reading/adoption on November 20. She said one phone call had been received from Mr. & Mrs. Phillips of 415 Elm Avenue who opposed installation of the speed humps on the basis that the street was an emergency route and such an installation could present problems for vehicles responding in an emergency situation. Responding to query, she affirmed that was the only communication that had been received expressing opposition.

Councilmember Sharp commented that when the next Council took office, he was going to recommend that in addition to other existing committees, a speed hump committee be formed. He said perhaps that would allow the Council to address the issues regarding speed humps that need to be addressed, e.g., are speed humps going to be installed on every street where citizens ask for them. He said the elected body had not had for a long time any analysis of what those installations did to traffic on other streets, how they should be paid for, etc. He said while he was not opposed to the proposed installation, he did not think the Council could continue to do what it had been doing without a serious analysis of the situation.

Councilmember Martin concurred with Mr. Sharp's comments; she said she had noted in the Police Department's memo on the subject that there was not a speeding problem on the street because the existing speed limit there was 30 mph due to no 25 mph speed limit sign being posted. She said she had asked a long time ago that the Council be furnished figures indicating what it would cost to post 25 mph speed limit signs on all residential streets in the city, or whether signs stating that the speed limit throughout the city was 25 mph could be posted at city boundaries and would satisfy the state requirement and allow proper enforcement. She said she thought something along those lines needed to be done.

Bob Sheldon, Pres. of B. F. Gilbert Citizens' Assn.: said he had written a letter in June or July to the City expressing the citizens' association's support for the speed hump request.

Councilmember Martin noted having spoken with citizens in connection with other speed hump installations and who opposed the installations, as well as the phone call from the residents of 415 Elm Avenue who opposed the proposed installation because of the street being an emergency route. She said she really thought the elected body needed to seriously consider the impact speed humps would have on police and other emergency vehicles responding to calls.

Mayor Del Giudice said he would support the requested installation, based on the fact he used to live in the 500 block of Elm Avenue and his children played in the park there. He pointed out one of the criteria for evaluating speed hump requests was that they should particularly be considered for installation in the area of playgrounds. He said the location proposed for the speed hump was on a hill and people tended to speed up and down the hill, and around the park, despite the stop sign in the area. For those reasons, whatever could be done to slow down traffic would be worthwhile. While there might be a minor impact on police response time, the City's police department has one of the best response times in the state and a few more seconds would not be of vast importance.

Councilmember Sharp noted the major concern was not the police response time, but the fire department's. He noted the police department's report indicated they had done an analysis, evaluated the speed of the traffic, and the conclusion was that the average rate of speed for vehicles in the area was 24.3 mph and that there was no speeding problem there.

Councilmember d'Eustachio commented that, having spent a fair amount of time in that area and routinely taking his children to the park there, he found it hard to believe that the average rate of speed of vehicles there was 25 mph. He said a continuing complaint from residents of that neighborhood as well was that nobody stopped at the stop sign that had been referred to earlier, which he had personally observed to be an accurate statement. He said while he recognized the concerns about proliferation of speed humps and about costs, and about the impact of speed humps on emergency vehicle response time, the tradeoff had to be balanced -- i.e., the difference between a slightly slowed response time for police and fire vehicles versus what damage a speeding vehicle could do to a child.

Councilmember Sharp commented he had seen far more people run the stop sign on East-West Highway than he had observed run the one on Elm Avenue, which he frequently travelled.

The ordinance was accepted for First Reading with Councilmember Sharp abstaining, balance of Council voting Aye.

ORDINANCE #1989-
(attached)

7. First Reading of an Ordinance to Purchase a Housing Services Replacement Vehicle.

Councilmember Hamilton moved acceptance for First Reading, duly seconded by Councilmember d'Eustachio. Housing Services Director Weiss noted that Public Works had checked out the vehicle and reported it to be in satisfactory condition. Responding to query from Councilmember Sharp, she related that the bid had been advertised twice in the paper, as well as prospective bidders having been personally notified. City Administrator Wilson noted that the winning bidder had offered a choice between two vehicles -- one with 15,000 miles and another with 10,000 miles at a higher price which was close to the maximum bid -- the choice had been to go with the vehicle having 15,000 miles at the lower price. Responding to query from Councilmember Martin regarding why Chryslers, in particular, were being sought, Housing Services Director Weiss explained that when DHS changed over from obsolete and unsafe Ford Pintos to newer, more acceptable and safer vehicles, an extensive study was conducted regarding what would be an appropriate vehicle for that department's use. She noted the vehicle would have to meet the requirements of the Nuclear Free Zone Ordinance, would have to service the department for a number of years, would need to provide safe transportation for staff. She said they looked at what other area jurisdictions were buying and using and determined that the K cars would be the best the City could do for the money. Since they had gone down that road, it seemed reasonable and sensible to continue down the same road so that all the cars would be the same, which would facilitate their maintenance and repair by Public Works.

Councilmember Sharp pointed out that the Nuclear Free Zone Ordinance permitted the City to buy any car it wished if the purchase could be justified -- there was no provision requiring any pre-selection prior to making a survey of what was available. He said it appeared to him that the vehicle being purchased had been pre-selected and the price was higher than would be necessary if the City went out and bought new cars -- a new car could be bought for less than \$6,800.

Councilmember Elrich inquired whether a decision was made not to look at, for instance, an imported new car, e.g., Hyundai. Ms. Weiss said that Hyundai's safety record and longterm maintenance record was not nearly as good as Chrysler's. She said she had, in the past, gotten bids from Mitsubishi and a couple of other foreign car makers.

The ordinance was accepted for First Reading with Councilmember Sharp voting Nay, balance of Council voting Aye.

ORDINANCE #1989-
(attached)

8. First Reading of an Ordinance Establishing New Positions in the Classification System.

Councilmember Hamilton moved acceptance for First Reading, duly seconded by Councilmember d'Eustachio. Ms. Habada noted 3 positions were proposed for inclusion in the Classification System, i.e., Building Mechanic Helper, Account Clerk II½, and Personnel Officer/Budget Analyst. Councilmember d'Eustachio moved to strike the Personnel Officer/Budget Analyst position, pointing out that his concern was not that of adding another position but of the structure of the position, per se. He said while he had come to see the need in the City for a personnel officer, he did not think that function could appropriately be combined with that of a budget analyst inasmuch as they were two very different jobs and required very different backgrounds and education. Councilmember Elrich commented he would second Mr. d'Eustachio's remarks and motion. He said it did seem premature to him to be creating the position when the reorganization of the department had not been decided upon; he said he would prefer to wait awhile on it.

Councilmember Leary commented he felt it premature also and that thus far there was a majority sentiment against creating such a position until the situation could be considered more fully and the arguments heard again. He said he had not been persuaded to date to support classifying such a position.

Councilmember Martin commented she had long felt there was a real need for a personnel officer in the City. She said it was her understanding that the individual would basically be looking at the budget in terms of personnel rather than the overall budget, so perhaps budget analyst could be deleted from the title; however, that might slightly downgrade the position. She said, however, she did think the matter should be deferred until such time as the front office and other parts of the department were looked at and examined also.

Councilmember Hamilton said he had long seen the need also for a personnel officer in the City, someone to deal with the two unions, with Workmen's Compensation, etc.; however, he said he agreed that budget analyst should be deleted from the title and that the function should be primarily that of a personnel person.

The motion to amend by striking of the Personnel Officer/Budget Analyst position from the ordinance carried by unanimous vote.

Responding to query from Councilmember Martin, Public Works Director Giancola briefly explained that the Building Mechanic Helper would not be adding a position but would essentially be restructuring an existing position. An individual currently doing primarily janitorial work would be assisting the Building Mechanic, whose workload had become overwhelming, with tasks associated with that position, but would still be doing some custodial jobs as well.

Ms. Martin raised a question regarding qualifications for the Account Clerk III position. Following brief discussion, consensus was that a college degree, e.g., B.A., would equate with the required 4 years of progressive experience.

The ordinance, as amended, was accepted for First Reading by unanimous vote.

ORDINANCE #1989-
(attached)

9. Resolution re Takoma Old Town Business Association Bank Loan. City Administrator Wilson referred to his memo dated 11/3/89 outlining the situation; he summarized, explaining that the business association had called the City advising they were having some financial difficulties and inquiring whether the City might be able to lend them some assistance. Mr. Wilson said it appeared the best way to help them would be to co-sign on a note; he noted there had been some initial objections to the request, however, the Mayor had submitted a proposal which he had reviewed and did not object to. However, the question remained whether the City should support such a loan in an affair that had essentially been removed from the City's purview but in which the City remained a co-sponsor. Responding to query from Councilmember

Martin, Mr. Wilson said he felt it to be a policy question; he did not personally have any feeling one way or the other about it, did not particularly like the idea of exposing the City in such matters, but the amount was relatively small. He said the City had been into the project in the past on a similar level of funds, and using the reimbursement scheme the Mayor had proposed would lower the risk of the City losing any money.

Responding to query from Councilmember d'Eustachio, Corporation Counsel Silber said she did not see any legal objections to the proposal so long as some agreements were entered into in the event the loan fell through, as the Mayor had suggested. She said the Council should understand, however, that co-signing a note meant that the City was also indebted. She said she had had discussions with Ms. Habada about the fact that co-signing such a note should be done by ordinance since it involved the degree of indebtedness that it would. Otherwise, she said she agreed with Mr. Wilson that it was a policy decision.

Mr. Wilson pointed out that if the funds became due and payable by the City, then an ordinance would have to be done because there would be no funds appropriated for the purpose. The Mayor noted that by co-signing the note, a liability would be created and if it became necessary to fund it, then the City would have to do so.

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

Councilmember Douglas commented he did have some concerns, including the process question of whether the Council ought to be undertaking a liability in such a manner, as well as a policy concern about whether the City ought to be essentially bailing out a private enterprise, which could amount to public intervention in a private undertaking. He said while he would be willing to go along with it, there ought to be some recognition on the part of the business association that the City was contributing to their welfare and that they should, in turn, be cognizant of the City's welfare and try to be better organized in the future on the street fair and in doing somewhat better in management of properties by keeping the area clean and well-kept -- which was not always the case at present. He said if the Council approved the resolution, it would be a gesture of good faith and he would want to see that matched by the business association in the future.

For the record, the Mayor noted receipt of a memorandum from the business association to the Mayor and Council.

Councilmember Sharp commented he would like to have some indication of the likelihood of the City having to essentially fork over \$5,000.; he said the memorandum distributed to the elected body discussing the legal avenues being pursued as part of the process frankly made him more uneasy about the situation, and he did not know what the side agreement with the business association looked like.

Susie Murphy, Secretary of TOT Business Assn.: said there was almost no likelihood of the City becoming liable for the money; if there was a shortfall, the business owners would do whatever was necessary to make it up, e.g., hold bazaars, fundraisers, a raffle, etc. She said they were hoping that once they brought the person who ran the street festival to court or came to an agreement with him/her, a resolution would be reached, but one way or the other, they would assure the City didn't become liable. At present, she said the businesses had already put personal lines of credit on the line to make up the shortfall in the interim so that checks could be made good on and those who worked for the festival could be paid. She said she thought that indicated the seriousness with which the business owners viewed the matter. Responding to query from Mr. Wilson, she said it would be difficult to estimate what amount the accounts payable were because the person who ran the festival was being very difficult to communicate with; it would depend in part upon whether some monies that were promised in sponsorship were really out there or not and simply needed to be collected. Additionally, she said there was a lot of invoicing for programming that had not been done; there was a couple of thousand dollars simply needing to be collected.

Councilmember Sharp asked whether the Mayor had a proposal for the City safeguarding in future against such a situation arising, particularly inasmuch as there were a number of events the City quasi supports, e.g., the House & Garden Tour, the Folk Festival, etc. The Mayor said he viewed the present situation as an unfortunate one that would probably not be repeated. He said the business association needed to take some steps that were easy to take in order to alleviate some of the problems that had come to light in the situation; one of the reasons they had not been able to secure a loan on their own was because they are not incorporated, and that would be a simple matter to rectify. He commented he did think it appropriate for the City to continue to furnish staff support for the Street Festival, for the Folk Festival, the House & Garden Tour and any other events supported by the City. He said he would be interested in talking with the business association about the possibility of creating a commercial development management authority which would give them a means to organize, would convert the association from an informal voluntary association to a more formal organization wherein dues were collected on a formal basis and the funds turned over to them for use as they saw fit. He pointed out there was a CDMA in the Takoma-Langley area and that, in general, they functioned quite well and successfully. He said that would be an alternative to incorporation and should help to avoid a repetition of the present situation.

Councilmember Leary commented that the resolution, as drafted, did not appear to identify any distinguishing features of the situation that would enable the elected body to resist a similar application in the future from another business organization in the city if they should experience financial difficulties. He said he could not vote in support of the resolution as written because there was nothing in it to avoid the setting of a precedent. Corporation Counsel Silber said she was glad Mr. Leary raised the question because there really should be a stated public purpose for the Council to undertake co-signing of the note -- under State Law, the City could not co-sign or borrow money unless it was for a stated public purpose rather than for a private purpose. She said she thought there was adequate history in terms of the benefit of the Old Town Festival to the community; it used to in fact be sponsored by the community; but the public purpose needed to be explicitly stated in the resolution. Mr. Wilson suggested the item be temporarily tabled to allow for amendment to the draft as outlined, with the agreement proposed by the Mayor to be included as an attachment to the resolution.

Rino Aldrighetti, 7213 Central Avenue: pointed out there used to be a time when there was a community festival where there was advertising in the City Newsletter, posters in city neighborhoods, and where city residents attended the festival as a social event. He said whatever was done, he hoped in the future it would be seen as an event that had some logical relationship to the city.

Councilmember Douglas moved to table the item until a later point in the present meeting; the motion was duly seconded by Councilmember Leary and carried by unanimous vote.

10. Receipt of Report of Newsletter Committee.

Councilmember Douglas moved acceptance of the report, duly seconded by Councilmember Hamilton. Councilmember Leary, Chair of the committee, commented it should be noted that the committee completed its task before the change in Councils. He said, however, that the amount of work and the number of useful and sensible suggestions from the committee warranted a serious worksession discussion in the near future. He said there was a range of views from the various committee members and those would be worthwhile for the Council to hear in a forum on the subject; a number had some alternative proposals they would like to present to the elected body.

Councilmember Sharp commented the report was very good; he said having served on a previous Newsletter Review Committee, he was aware of the amount of work involved in doing the task. He said while there might be issues he would raise in connection with some of the recommendations, he felt the report to be good, very detailed, and that it would be useful to the elected body.

For the record, Mr. Leary noted that the report concluded that the Newsletter served a valid and useful purpose for the City and should be continued, but there were a number of ways in which its production could and should be improved without increasing the cost to the City.

Rino Aldrighetti, 7213 Central Avenue: commented on the importance of having copies of pertinent material for all agenda items available on the table for the public. He said, having borrowed a copy of the report to examine, that he thought it was a good report and that there would be some issues that should be brought up for public debate. He said the report appeared to reject the idea that the Takoma Voice carry the Newsletter as an insert. At the same time, he said the Newsletter Editor, Reid Baron, had indicated that if the report were implemented as completed, there would be increased costs. He said he thought those things would be open to debate, and that ways to involve citizen groups in use of the Newsletter as a tool should be sought and encouraged.

Councilmember Leary concurred with the need for public input; however, he said the report recommended that the Council do some things regarding the publication, and following a worksession discussion, he hoped to bring some of those things before the elected body for action. He noted that some public commentary had been solicited and received during the course of the committee's work, including some helpful and useful ideas from Mr. Aldrighetti. He said he recognized that some of the issues were policy questions that the Council would need to consider in open debate.

The Mayor commented he thought the major points of the report were worthy of being summarized and reproduced for publication in the Newsletter. He said it was not intended that the present discussion of the report be considered the full and final one, but primarily that it be the presentation of the document to the Council, with a full review and public discussion to follow. He said one major point for consideration and discussion would certainly be whether the Newsletter should continue as an independent publication or whether it should be something distributed with the Takoma Voice.

Kevin Capps, Eastern Avenue: pointed out that the Police Blotters published in the Newsletter are not complete. He said that information needs to be complete so that people can be fully aware of criminal activity occurring in their neighborhood. He said he would suggest also that the City work with the 4th District Police in D.C. so as to be more aware of crime occurring in the area immediately adjacent to the City boundary -- particularly regarding people being mugged and robbed on their way from the Metro station.

The resolution receiving the committee's report was passed by unanimous vote of the Council.

RESOLUTION #1989-107
(attached)

11. Historic District - Council Discussion and Action.

The Mayor noted receipt of a City staff report on the matter. He pointed out that the Council had never discussed, either in a worksession or public meeting, the various proposals and matters that had been presented to them in a somewhat piecemeal fashion.

Community Planner Lisa Schwartz noted that the staff report, dated 11/3/89 and to which had the Mayor referred, was distributed in the Council packet. She said her memorandum basically summarized the process and some of the issues to date and concluded with some recommendations; Ms. Schwartz related the substantive information contained in her report, including the evolution process regarding historic districts and how the existing process functions. She pointed out that when the Montgomery County Historic Commission had reviewed the Takoma Park National Register Historic District in 1984, it recommended its inclusion on the Master Plan and also suggested that the boundaries were inadequate and asked that the citizens of the City provide further data for consideration of further expansion. County Planning staff then scheduled consideration of Takoma Park's Historic

District for the Fall of 1989. Ms. Schwartz noted a public discussion was held on the matter on October 5, and the Planning Board was holding their record open until November 17; Planning Board staff was currently preparing their recommendations, and the board itself would be holding worksessions. Planning Board staff had offered to present their recommendations prior to presenting them to the board, and the process would then continue, with the recommendations going to the County Executive and thence to the County Council. She said Prince George's County had a separate process, and they were presently at the very beginning of their process with a public hearing having been held on November 2. A citizens' advisory committee had been appointed, they would take 4-5 months to review the district and come up with a recommendation, at which time a joint hearing between the County Council and the Planning Board would be held.

Regarding the process for reviewing Historic Area work permits, Ms. Schwartz noted that properties on the locational atlas, based on an August ruling by the County Attorney, were now reviewed by the Department of Environmental Protection with input from Historic Preservation Commission staff, until such time as they might be placed on the Master Plan. Formerly, they underwent the same review as those properties already on the Master Plan, i.e., review first by the local historic committee and then by the county Historic Preservation Commission. Additionally, she noted Montgomery County had recently amended their Historic Resources Preservation Ordinance; the two major changes were that the Historic Preservation Commission was now required to adopt rules, regulations and guidelines for administration of their responsibility and the appeals process was changed so that the county Board of Appeals would be the body hearing appeals from the Historic Preservation Commission.

Ms. Schwartz addressed historic districts as defined in the legislation, the criteria a site or area must meet in order to be so defined; she noted that it was possible to create differential treatment for different qualities of resources within an historic district, based on a finding of contributing or non-contributing resources or a fine distinction between the level of contribution of the resource. She related that the Takoma Park Historic Preservation Committee had surveyed both the National Register area and the contiguous area and had made a recommendation which the Council had received, with a copy in the Library for review by the public. She said City staff had not reviewed the merits of the proposed district boundaries. Ms. Schwartz noted that drafts of two resolutions and an ordinance which staff was directed to prepare had been disseminated in the Council packet.

Responding to query from the Mayor, Ms. Schwartz affirmed that Prince George's County would review their historic resources as a whole over the coming 4-6 months, rather than reviewing individual districts, per se. She noted that county did not have an ongoing process such as Montgomery County does. Regarding the differential treatment within a district which she had mentioned earlier, i.e., primary, secondary and non-contributing resources, she affirmed that Kensington had a similar type of designations within their historic district; however, she did not have a lot of detail regarding that or how that district worked. Regarding the Historic Preservation Commission's review of their administrative rules and regulations, she said they were presently addressing their procedural guidelines, however, recognized a need to eventually consider architectural design guidelines as well. She said, to her knowledge, district specific regulations were not being considered or discussed at present.

Responding to query from Councilmember Douglas, Ms. Schwartz affirmed that the differentiation between resources within a district was a part of the narrative of the plan rather than a part of the actual guidelines or review standards; thus, the narrative for any Takoma Park district could be written so as to be unique to Takoma Park, which would allow for a considerable amount of flexibility in defining resources within the district. Mr. Douglas noted having had a recent conversation with a member of county staff, and said he understood that addressing district specific review standards was definitely a part of the county's long-range agenda.

Responding to query from Councilmember Martin, Ms. Schwartz affirmed that the public record was being held open until November 17; however, there would be a considerable period of time thereafter during which the Planning Board and the Planning Commission would be considering the matter and, during that time period, the process could also be slowed down if so desired -- there was no date specific for completion. The county did have an internal deadline of summer 1990, but did not have to stick to that schedule.

The Mayor noted that the draft legislation prepared by staff included an ordinance which would repeal the original legislation that had created the existing Historic Preservation Committee and would also repeal legislation which originally created the Historic District and the Historic District Commission; one of the resolutions would create a Historic Preservation Taskforce to review a variety of issues and the other would deal with the recommendation regarding the Historic District itself. He noted that the ordinance would require two readings, so if the Council wished to move forward with it, it should be accepted for First Reading at the present meeting so that adoption could occur prior to the upcoming change of Councils.

For the record, Councilmember Hamilton noted receipt by the Council of a letter from Allison Kiefer, 120 Sherman Avenue; Herman Goodyear, 119 Sherman Avenue; Mary McGrath, 121 Sherman Avenue; and Susan Becker, 122 Sherman Avenue.

Councilmember Elrich moved passage of a resolution he had prepared, duly seconded by Councilmember Douglas. Mr. Douglas moved to amend the resolution such that the first "Whereas" clause would read: The City of Takoma Park endorses the creation of a Takoma Park Historic District as an amendment to the Montgomery County Master Plan for Historic Preservation. The second "Whereas" clause would read: The City believes that there are areas adjacent and contiguous with the existing National Register Historic Districts that merit inclusion in a Master Plan Historic District. Mr. Elrich, as maker of the motion for passage, accepted Mr. Douglas' amendments.

Councilmember Sharp noted that the resolution on the floor was not one of the three pieces of legislation that had been disseminated in the Friday packet, but one that Mr. Elrich had drafted and disseminated earlier in the evening. The Mayor noted that Mr. Elrich's resolution would request that the county Planning Board keep the record open for an additional 60 days to permit the City to provide adequate citizen involvement in the process, would authorize creation by the Council of a taskforce to address issues of process, policies, procedures and boundaries, and would ask that the Planning Board delay consideration of the Historic District for Takoma Park until March 1, 1990, and direct that the City Administrator forward copies of the resolution to appropriate authorities. At the Mayor's request, Mr. Douglas reiterated his amendments, which he explained did not in any way change the intent of the resolution but merely clarified the language.

Councilmember d'Eustachio commented that the resolution at hand appeared to present a compromise that many people were striving to reach a week previously. He said it recognized the importance of formally creating an historic district; if passed, it would put the Council on record as firmly favoring creating a historic district within the Master Plan structure and, further, would put the Council on record as favoring an expansion of existing boundaries of the historic district. He said he thought the resolution recognized that it was premature for the present Council to specifically delineate any of the boundaries; it recognized that the existing districts should be included and that the boundaries should be expanded, recognized that the two districts should become a single contiguous district, and appropriately left open the question of how the boundaries should be drawn. In addition, it outlined a process that would allow the City to approach the process question, which all recognized needed examination and alteration; and in conclusion, it asked that the Planning Board slow down the process, recognizing that neither the City nor most of its residents had really had adequate time to digest the material that had been presented. He said he thought the resolution was realistic and that the Planning Board would respond favorably. Mr. d'Eustachio said he thought the resolution implicitly recognized the favorable impact that

historic districts had had on the city -- while the districts had accomplished a great deal, they have also caused some problems and dislocations and unhappiness, they have also achieved a great deal in the city -- what now needed to be done was to recognize that the City was capable of structuring a historic district so that it could continue to provide the city with the protection of its resources that was needed without encumbering people with a process that was unacceptable and unworkable. He said he thought the basic intent of the legislation was very commendable.

Responding to query from the Mayor, Messrs. Elrich and Douglas affirmed that it was their intention that the resolution drafted by staff which would create a taskforce would contain specific reference to the report the Council had received from the Takoma Park Historic Commission regarding proposed boundaries, providing a basis and starting point for the taskforce to accomplish their charge.

Councilmember Leary commented on having been impressed by the fact that out of the 75-80 people who had testified the previous week at the City's public forum on the issue, with the testimony having been divided just about evenly pro and con, there was a considerable area of agreement among speakers on a number of essential points, i.e., that placing a Takoma Park historic district on the county Master Plan would be desirable, that expansion of existing district boundaries would make sense, and that the process in the past had resulted in some decisions that made no common sense and needed to be improved upon. Given that broad base of agreement and given the intelligent nature of the debate on the issue to date, Mr. Leary said he thought there would be a great deal to be gained by postponing a formal decision on the matter for a few months. He said he personally thought the record should be held open for an additional 90 days rather than 60 days, which would take it to the middle of February; the Council would need that much time in order to forward a formal decision to Park & Planning. Councilmember Douglas suggested that a fixed date of March 1 be used rather than specifying the number of days. Messrs. Elrich and Douglas, makers of the motion for passage of the resolution, accepted Mr. Leary's suggestion as an amendment to the resolution.

Mr. Leary commented that delaying a formal decision would allow for a period of education for those participating regarding what was involved in whatever action the City and/or county would take, would provide an opportunity to improve the procedures and process for reviewing applications for work permits in a historic district, and would allow ample time to refine proposed boundaries for the expanded district. He said he felt the result would be that the City could forward a recommendation to Park & Planning by March 1 that would have the support of an overwhelming majority of affected city residents, rather than taking a recommendation to them that might appear to split the community down the middle on the crucial issue of historic preservation. He said he supported the resolution.

Councilmember Hamilton commented he, too, supported the resolution. He said he felt also that at the public forum on the issue, while there appeared to be divisiveness among speakers, there were also areas of agreement. He said he felt that not only the report, but other input such as the letter noted earlier, should be considered and addressed, because they provided some alternative solutions to protecting the community that should be examined. Mr. Hamilton said he felt members of the Council should sit down with their constituents over the next couple of months and educate them about what was occurring. Additionally, he said there should be wider dissemination of the Historic Preservation Commission's report that had been referred to. He said he felt the resolution was a very good compromise under the circumstances the Council had to deal with, and did not think a delay in making a decision would affect the county's final decision, if the City presented an essentially united front on the issue.

Councilmember Elrich said his intention in presenting the resolution had been to try to give the City a process that would ensure some longterm victory. He said he had felt that an alternative resolution could be passed but might end up failing at the county level, and noted that if the community could present a united front before the

county, it had a much greater chance of getting what was wanted than if there were any indication of divisiveness. He said he had been advised by county staff the previous week that if the City asked for an extension of time, they would support granting of the request. He said since there appeared to be a consensus regarding full and adequate citizen input and participation on the issue and the county appeared willing to allow the City extra time, it would appear advantageous for the City Council to avail itself of that opportunity. He said he, too, had been impressed with the good faith he had heard expressed at the public forum and in discussions since with various people, and hoped that good faith would carry over to the work of the taskforce, so the issue could be brought to a conclusion that everyone would be reasonably satisfied with -- that everyone would feel they had had an opportunity to be heard, and that when the City's decision went before the county, it would have solid citizen support as well as that of the Council.

Councilmember Douglas expressed support for the resolution. He said on the issue of historic preservation, as well as on other issues, he felt process to be very important and the rules had to be very clear; allowing various facets of the process to become sloppy or neglected would adversely affect the overall function and its impact on people. He said he believed there was a need for an historic district in Takoma Park that went beyond the fact that there were some nice architectural design examples that made up a nice streetscape -- it would convey a message that residents cared about the community -- enough to make it a definable community distinct from the rest of the communities in the area. He said while a variety of things went into the definition of a community, one of the important things was the integrity of its historic resources. Mr. Douglas said he thought the advisory committee that had presented their recommendations to the Council ought to be highly commended -- they had done a tremendous amount of work, and perhaps some of their neglect of the review process could be attributed to the amount of work they had put into documenting the historic resources in Takoma Park. While the report could perhaps stand some final refining and reviewing, that would occur as a part of the process and, hopefully, the county would participate in that as well. However, it should not be lost sight of that the ultimate goal was community preservation and protection, and, hopefully, that could be accomplished in a way that would be acceptable to a majority of people.

William Eckert, 7106 Woodland Avenue: noted he had testified at the public forum on the issue and had, at that time, asked that the Council please try to find a way to back up somewhat and avoid the sort of divisiveness that appeared to be imminent. He said he was under the impression that may have been accomplished, expressed support for the resolution, and urged that the Council pass it. He said he felt that whatever problems existed could be resolved locally, and it would be in everyone's best interests to try to do that rather than having people resort to arguing their case before the county. He said he felt it best to back off somewhat and allow time for a consensus to be reached by all involved so that a uniform position could be presented to both the counties. Mr. Eckert said he would be willing to lend support and assist throughout the process in any way possible, and would hope that when members were appointed to the taskforce there would particularly be representation of all the different points of view.

Travis Price, 7303 Birch Avenue: noted he resides in the Historic District. Mr. Price related he also owns 7050 Carroll Avenue in Takoma Old Town, which was indicated on the map as having been built in 1900-1910. He pointed out that building was only constructed 4 years ago, which underscored the need for some additional time for the City to get its information better organized and correct before making any final decision. He said some serious consideration and time should be spent on studying what should and should not be included in an historic district. Mr. Price presented a petition signed by all the commercial property owners in Takoma Old Town stating strenuous objection to inclusion of those properties in the historic district and the Master Plan for Historic Preservation. Mr. Price said he would also wish to point out that the biggest issue still there was open land and the pressure to do a small amount of development --

which the City had encouraged. Regarding Kensington, which had been mentioned earlier, Mr. Price said there was a case going on there wherein an empty buildable lot that a builder wants to build a house on and that was formerly considered insignificant was now significant because it was in the Circuit Court because the Historic District Commission decided that it was of great significance. He said he thought that would be more and more of an issue when it came to the commercial district. In general, he said he was glad to see that the issue was not being pushed along and that some time would be spent on it because he would not wish to see the community divided over it. He said he would not want to see a message conveyed prematurely to the county in any way that there was any final decision on favoring expansion of the existing historic district, which he felt could be implied reading between the lines of the resolution. He said he hoped the Council would keep an open mind throughout the process on that question.

Barbara Gibson, 7110 Woodland Avenue: expressed support for the resolution, commenting she did so in a spirit of compromise. She said she favored a delay in the process to allow time for citizen input, noting it had been made clear at the public forum that there were many people in the community who had strong feelings on the issue, both pro and con. She said she did not favor using the local advisory committee's report as a starting point in the process, but thought it should be commenced from scratch. She said she also had a problem with the City endorsing the creation of an historic district and wished the Council would take no stand on any boundaries of an historic district at present. She said the language of the resolution made an implication by stating that the Council wanted areas adjacent to the existing historic districts to be included. Ms. Gibson said she felt the decisions regarding establishment of boundaries of an historic district should be made by the citizens of Takoma Park, and the Council was being precipitous by making the statement referred to in the resolution. She said she appreciated Mr. Leary's amendment extending the time; with holidays coming up, it would have been a problem time-wise for many people who might wish to serve on the taskforce. Ms. Gibson said she would hope citizens would be afforded an opportunity to make some recommendations about the composition of the taskforce so as to ensure that all viewpoints within the community were adequately represented. She said she was not insensitive to those favoring historic districts, however, felt adequate protection could be achieved through alternative means. She thanked the elected body for recognizing that there were problems involved with the historic district and affording citizens their rightful opportunity for input into whatever decision would be made; if all were willing to work together in good faith, she said it would be possible to maintain those qualities of Takoma Park that each most values.

Norman Greene, 6712 Westmoreland Avenue: said while an historic district appeared on the surface to be a good thing, he wondered how it would affect him and his property, e.g., what would the implications be if he wanted to make changes to his house -- it sounded as though he would have to go through a cumbersome process and would be restricted in what he could do. He said he appreciated the proposed time extension so that the public could become more educated and aware of what the issue entailed.

Robert Turner, owner of Turner Electric at Ethan Allen & Sycamore Avenues: said he understood it was proposed that his property be included so that the historic districts could be joined; he said he had no idea what that would mean to him and, having attended the public forum the previous week and hearing the variety of opinions on the issue, remained confused. He said he felt that all those whose property might be affected by expansion of the existing boundaries should have the issue explained to them, as well as what the implications would be for each property owner. From what he had heard, he said he did not think he would want his property included.

Paula Donley Rourke, 7001 Westmoreland Avenue: said she thought her street was the sort that could really benefit under the resolution; she said one end of the street may qualify for inclusion in an historic district, but the other end might not -- the resolution would hopefully afford the city adequate time to come up with just what the

boundaries of the historic district should be. She said she strongly supported the resolution. Ms. Rourke related that she lived next door to 6913 Westmoreland, which was first built in 1870, burned and was rebuilt in 1899, and was essentially intact. She said it was a beautiful old home with large grounds, has an absentee landlord, and had been put on the market the previous Sunday. She said the listing for real estate agents indicated that the lots could be parceled out, which neighbors hoped wouldn't happen. She said she thought the neighborhood would all agree that that specific property should be designated as an historic resource as soon as possible, and she hoped something could be done toward that end. Ms. Rourke noted her house was about 3 houses away from the commercial district, and also noted she was a tenant in one of the old Seventh-Day Adventist buildings slated for demolition. She said she wished to remind the Council that those buildings had been sold, would be going to settlement in February, and the developer's plans included demolition in late 1990 of the building at Laurel & Eastern, demolition of the building in which she was a tenant in early 1991. The developer intends building a retail/office complex with a minimum of 100 condominium apartments. She said with the sort of pressure that would put on Takoma Park's existing business district, she saw no feasible alternative to putting it squarely into the historic district in order to save it from encroaching and increased commercialism.

Regarding 6913 Westmoreland Avenue, Councilmember d'Eustachio said that property had been brought to his attention previously, and that the lot was platted as a single large lot -- not combined lots. The Mayor noted that apparently the situation regarding that property had been looked into to some extent, but as to what could be done about it immediately, unless it could be put on an historic registry under its own merits, it would be up for grabs until the community as a whole reached some decision on the issue of the historic district.

Daryl Stevens, 6800 Westmoreland Avenue, Chair of the Montgomery County Rainbow Coalition: said the coalition wished to go on record as opposing the insensitive blanket approach to historic designation as a tool against overdevelopment of Takoma Park. He said they agreed with the general principle of preserving the present character of the community, however, vehemently opposed the poorly drafted proposal to redraw the historic area. He said they did not believe it to be an overt elitist or racist effort on the part of the dedicated and sincere citizenry who proposed the changes, however, felt there were irregularities that could not and would not be overlooked. He said the proposed/recommended boundaries, rather than including streets with examples of quaint old architectural designs, did a much better job of describing areas of gentrification whose population was now almost entirely white. Of notable absence were those streets such as Spring Street, Manor Circle, Boyd, Jackson, Maplewood, Erie, Geneva, and Ritchie Avenue, all of which contain some examples of older homes (at least as many as lower Westmoreland or Sherman Avenues). He said those areas that were not proposed for inclusion differed not so much in their architecture as in their demographics -- they were predominantly African-American or Hispanic neighborhoods. He said while he would not wish to see historic district restrictions or accompanying expenses imposed on those populations (or anyone else), by excluding those areas while identifying other areas that were deemed worthwhile, the City as much as declared open season on excluded areas. He said developers would, at the very least, read that as a message that the excluded areas were good ones for speculation, if not reading it as an endorsement of redevelopment in those areas. Mr. Stevens said that by denying equal protection to all members of the community, whether by design or by accident, the Council would be guilty of redlining. He said the coalition would not let that happen without a fight; they too wished to limit further development in order to preserve the unique community Takoma Park has, felt a consensus position could be reached, and hoped to have the opportunity to work with the City and its elected body toward that end. He said the currently recommended boundaries for the historic district definitely did not represent a consensus position, and asked that any action in that regard be postponed. He said the coalition supported the resolution at hand; to act otherwise would be to precipitate an ugly, divisive fight on the county level and in the courts, which he felt sure all wished to avoid.

Ross Wells, 12 Sherman Avenue: commented in support of the resolution and commended those responsible for coming up with such a reasonable approach. He noted there were a lot of valid concerns on both sides of the issue, however, said he did not think those who opposed restrictive design controls (such as himself) would question others' legitimate concerns, such as the possibility of potential over-development in certain areas of the city. He said they did not want any front line areas sacrificed to commercial development either, nor did they desire that the existing commercial area end up looking like Bethesda or Rockville. He said there was a lot of common ground, and the resolution did a good job of identifying that. Mr. Wells said he thought former Councilmember Iddings was particularly convincing in his arguments at the public forum regarding the need to protect Carroll Avenue from becoming 4-lane, overbuilding in the portion zoned R-30 (multi-family), and of the Carroll Avenue bridge itself; however, Mr. Iddings did not address the question of additions/alterations to an historic resource. Mr. Wells said that should have been of some concern to Mr. Iddings as well, inasmuch as he is in the process of putting an addition on his home. He said while the 3-tiered system talked about earlier might not impact Mr. Iddings situation, Mr. Iddings would not have to go through such a process anyway because he does not live in the historic district. However, if he did, it might be a different story. Mr. Wells said he would not wish to see the city's architectural heritage bulldozed or made unrecognizable, but also did not want to see the city become populated by a bunch of busybodies who try to protect streetscapes by denying neighbors the right to install skylights, porches, decks, etc., of their choice. He said he felt inclusion in the resolution of the language stating that the Takoma Park Historic District should be included in the county's Master Plan for Historic Preservation was inappropriate at the present time because the problems were with the Master Plan -- its rules which have strict design controls. To express support for inclusion in that plan at present rather than simply saying that Takoma Park wished to create an historic district would not really address the spirit of the debate at the public forum. Additionally, he said he felt the map indicating recommended boundaries should be disregarded; while the research that had been done was appreciated, there appeared to be a lot of problems with it. Rather than using the recommendation of boundaries as a starting point, the question of where those boundaries should realistically be should be the actual starting point.

James Helmuth, 7212 Willow Avenue: said he would have to disagree with Councilmember Leary's earlier contention that there was any agreement among any considerable majority of those present at the public forum on the issue of whether a Takoma Park historic district should be included in the county's Master Plan. He said personally he felt the City could come up with some different approach that would be superior to simply following the trodden path, something that would keep the best of the past, but would also allow for innovation, and could apply to the city as a whole rather than only specific neighborhoods. He said he felt entities such as historic commissions to be a negative thing because they set down rigid rules and design guidelines that had to be complied with, a lot of things were disallowed, and there was no encouragement for things to happen beyond what could be seen in the present mind's eye.

Ian Spatz, 7304 Willow Avenue: said he would not reiterate comments he had made at the public forum in favor of an historic district; he said it appeared at present that there was a will to move forward, but to allow for real citizen input on the issue. He said he would suggest taking the first two "Whereas" clauses of the resolution and making them "Resolve" clauses, so as to make clear that the community does support inclusion of its historic district in the county Master Plan, as well as expansion of the existing boundaries, but that more time was needed to consider boundaries and how they should be approached. He said he would hope that the effort would move forward with what was outlined in the resolution, that the momentum of the process would be continued and not postponed. Mr. Spatz referred to the litigation in Kensington that had been mentioned earlier; he said that was a situation concerning side lots on a very historic property and about which the community was very concerned and was trying to use the historic district ordinance to prevent undesirable development from

occurring.

Ed McMahon, 7105 Cedar Avenue: spoke concerning the need to identify areas of agreement and disagreement in order to reach a general consensus; he said he would support a resolution that would help those involved to reach such a position, that he had great respect for many of those who had spoken, including those who opposed what he believed very strongly in -- the value of historic preservation. Of those he knew who shared his view, he said he thought they all felt as he did and were interested in reaching a state of agreement with those who felt otherwise, so that something could be created that would work for everyone. Regarding references made to strict design rules, people having to move out of their homes because of not being able to expand, etc., Mr. McMahon said that over the last 4 years, 150 applications had been handled by the Historic Preservation Commission; out of those, 103 were approved as submitted, 41 were approved with conditions, 6 were denied, with 5 of the 6 being later resolved through negotiations -- no one had ever had to move out of their house in the city because of historic preservation, nor had anyone ever been denied the right to build a porch, an addition, put in skylights, vinyl siding -- a wide variety of things. He said that strict design control in the city was a myth -- it was actually quite liberal and flexible -- however, that was not to say that everyone had always been happy in every case with what had occurred. However, he said there was a lot of misinformation about the exact nature of what historic preservation entailed. He said he supported the resolution.

For the record, the Mayor noted that he had not tried to deter Mr. McMahon from making comments regarding design control, which would be more appropriate in connection with one of the other resolutions not presently being considered, because he had not been successful in deterring an earlier speaker who took the opposing view from Mr. McMahon's -- and it appeared appropriate, if a proponent of one view were going to be allowed to voice his opinion, that the other side be allowed to respond.

Roland Halstead, 7116 Maple Avenue: said he had strongly supported inclusion of Takoma Park historic districts in the county's Master Plan; however, said he also thought it was time for a compromise, so supported the proposed resolution.

The resolution, as amended, was passed by unanimous vote.

RESOLUTION #1989-108
(attached)

Councilmember Douglas moved passage of the resolution establishing an Historic Preservation Taskforce, duly seconded by Councilmember Leary. Mr. Douglas briefly summarized the proposed composition of the taskforce and its charge; he said he would wish to add a mandate under Section 2. of the draft resolution (as subsection c., with renumbering as appropriate) that the taskforce review the recommendation of the Takoma Park Historic Preservation Committee regarding boundaries. Mr. Douglas suggested that the language of the new subsection read: to review the recommendations of the Takoma Park Historic Preservation Committee regarding the boundaries of a Montgomery County Master Plan historic district. Under the section addressing membership, based on staff conversations with their county counterparts, he said he would add language indicating that ex officio members representing Prince George's and Montgomery Counties may also be appointed. He pointed out that would give the City the sort of resources and contacts it may need at the county level. In addition, Mr. Douglas said he would ask that the 6th "Whereas" clause from staff's proposed resolution, which had been replaced by the resolution presented by Mr. Elrich, be inserted into the resolution regarding the taskforce as a 5th "Whereas" clause, so as to provide some context to the taskforce's charge to review and comment on the local Historic Preservation Committee's report and recommendations. The amendment adding county representatives as ex officio members of the taskforce was accepted by the seconder of the motion for passage as an editorial amendment. Councilmember Douglas moved the other two amendments he had outlined, duly seconded by Councilmember Leary. Mr. Douglas remarked on the need to appoint people quickly to the taskforce so that body could get under-

way on the tremendous amount of work they would be required to accomplish within the given timeframe. He said that, despite the comments some had made regarding the historic committee's report and recommendations, he believed it to be an important piece of information that deserved consideration; that group included a lot of dedicated professionals who had a responsibility to come up with recommendations and those were deserving of consideration by the taskforce. Concerning membership on the taskforce, he said it would be particularly important to include representatives from the commercial areas as well as citizen members, because those people would have some special interests and perspectives.

The Mayor commented there was no denying that there was a need in the community for study of what was wanted concerning historic preservation. He said the taskforce would allow those who had disagreements on the issue, some philosophical and some practical, to come together and perhaps reach a position of consensus; that would depend on the willingness of those participating to dialogue and to compromise. He said he was an optimist, believed in the process, and believed that it was possible agreement could be reached. He said he hoped that was the case, because historic preservation meant more to him personally than simply stopping unwanted development; it meant preserving some of the city's historic housing stock -- not in a way that would stop someone from putting on an addition to their house that was needed -- the design guidelines should be flexible enough to permit that to happen in a reasonable and economic way.

Daryl Stevens, 6800 Westmoreland Avenue: inquired what the criteria would be for membership on the taskforce; he said it sounded as though professional credentials would be needed to serve.

The Mayor explained that only 2 out of the 11 membership slots required special expertise; the other 9 were wide open. He said the way members were generally chosen was that individuals submitted written applications to the Mayor, who would then make nominations to the Council for membership on the committee. He pointed out that other requirements of the resolution mandated that membership be broad-based, representing geographic, social, economic and cultural concerns of the community;

Mr. Stevens remarked that it appeared historic preservation was being used as a protection against over-development and that issues were being intermingled and muddled, i.e., preservation of architectural integrity and zoning issues; it appeared the taskforce would have a dual assignment not really in conformance with what had been discussed.

Councilmember Douglas said the issue was not one concerning zoning and was not a technique for preventing development; the first resolution passed expressed the Council's agreement that there were historic resources in the city worthy of preservation; the taskforce would be charged with figuring out how review processes should work, what appropriate guidelines there should be, etc. They would not be dealing with zoning issues -- that was a different part of the county code. Nor was historic preservation being used as a tool to protect against overdevelopment, despite the fact it would have certain implications for development and may, in some other communities, be used as such.

James Helmuth, 7212 Willow Avenue: inquired whether there was some way the taskforce could expand its scope rather than operating within the rather narrow confines as set forth in the resolution.

Councilmember Douglas pointed out that it had to be understood that the City was working with county law -- county zoning and historic preservation law -- they had set the basic structure within which the City had to operate. The City could go beyond that in enacting City laws, but could not affect very much land use that way because it would be acting outside its power. In the course of ensuing dialogue, the Mayor noted that the taskforce's meetings would be public; those people who were interested should ascertain the meeting schedule from City staff and should attend and participate.

Barbara Gibson, 7110 Woodland Avenue: expressed concern that the resolution pre-supposed some things, that if the two members of the taskforce required to have special expertise were biased, that could affect the work of the group. Mr. Douglas pointed out that those two members could be individuals having experience with the current work permit process, rather than professional credentials in planning or historic preservation. The Mayor commented that he would not exclude from nominations those persons who had spoken out against the process, and it would be equally irresponsible to exclude those having professional experience in historic preservation. He said it would not be his intent to stack the committee membership or to exclude people from either side of the issue.

Councilmember Leary commented that it should be apparent that a majority of the Council, himself particularly, were in strong support of a Takoma Park historic district being included on the county's Master Plan; however, the resolution would not have been passed if there were not also a strong desire that all viewpoints be heard and a common ground be found, if possible. He said citizens would have to have a little trust that the taskforce would be structured so as to include as many divergent viewpoints as possible, and that the elected body would listen to what came out of that group. He said while he had strong points of view himself regarding historic preservation, he realized there were things to be learned about how the process could be improved and he would want to hear them.

Responding to query from Barbara Gibson, Councilmember Douglas said that ordinarily the resolution authorizing formation of the taskforce would be published in the Newsletter and applications for membership solicited; however, given the existing timeframe, it would be necessary to publicize it primarily through word-of-mouth. He asked that everyone spread the word and encourage interested parties to volunteer to serve.

For the record, Councilmember Hamilton pointed out there was not a consensus of the elected body on the issue; he said he personally opposed inclusion of an historic district on the county's Master Plan, and represented an entire ward of constituents that felt likewise, primarily because they did not understand the issue.

Steve Snyder, 7506 Hancock Avenue: said one thing that had not been explained in the course of the meetings was how the historic committee drew up the boundaries, why some areas were included and others excluded. He asked what significance the historic committee's recommendation would have for the taskforce, and to what degree the Council expected that they would adhere to the recommendation.

Councilmember Douglas said it was not anticipated that the taskforce would adhere to anything, that the recommendation was simply a piece of information that they would look at, along with countless other pieces of information. He said he did think it merited some serious consideration because it had been formulated by a group of people who had some expertise and who had put a great deal of time and work into coming up with it. Councilmember Leary pointed out that the recommendation was based upon the county's guidelines for what areas should be designated historic districts.

Travis Price, Birch Avenue: said that when the taskforce was formed, it should be ensured that the membership was pretty evenly divided in their viewpoints on the issue. He said it may be found that a great deal of flexibility was needed in connection with an historic district in Takoma Park, and he would hope the Council would be open-minded about whatever came out of the committee as a recommendation.

Councilmember Martin suggested the historic preservation committee might put together an educational video on the subject that could be aired on the City's cable channel.

Asst. Corporation Counsel Perlman pointed out there was a blank in Section 5 of the resolution for a sunset date to be filled in; consensus was that March 1, 1990 be inserted in that blank -- at least for the present.

Discussion ensued concerning publicizing the taskforce and solicitation of members; consensus was that information be published in the December Newsletter, and membership appointments be effected at a December 4 meeting of the elected body, so that the process could move forward without delay.

The resolution, as amended, was passed by unanimous vote.

RESOLUTION #1989-109
(attached)

Councilmember d'Eustachio moved acceptance for First Reading of the ordinance that would repeal legislation enacted in October 1982 creating the historic district and related committees/commissions; the motion was duly seconded by Councilmember Hamilton. The Mayor asked that those members of the Historic Preservation Committee who had participated in the cataloging of properties on both sides of the city, make their records regarding properties on the Prince George's side available to the taskforce. He noted that the City had gone on record with Prince George's County as wishing to participate in their process which was now beginning and which would designate historic areas and resources in that county. He said there would be a number of ways in which the City could participate in that process, and the aforementioned records would be of value to the City's representative as the process moved forward. Responding to query from Councilmember Sharp, the Mayor said it was his understanding that the Historic Preservation Committee would not play any role in the current process as it had been defined; county staff would be dealing with work permits, and so long as the City did not have an historic district, the committee would no longer play a local advisory role on review matters. He explained that group had formerly been recognized by the county as the local advisory committee, and in that capacity, they had other roles besides design review -- e.g., education and outreach. He said it would be incumbent upon him, as Mayor, to inform the county if the proposed ordinance were adopted, and to advise them that they should rely upon the taskforce and the Council for any advice that might be necessary until such time as a new process was in place.

Councilmember Douglas commented he thought it important that the contribution the Historic Preservation Committee had made to the City over the last several years be recognized; while there had been some problems, there had also been a lot of good things that had happened. However, a point had been reached where it was best to wipe the slate clean and start over, which he said he hoped the taskforce would do. In achieving that, he said it was sometimes necessary to repeal legislation which was in some ways contradictory and no longer served the purpose for which it was originally enacted. He said he supported acceptance of the proposed ordinance for First Reading.

The ordinance was accepted for First Reading by unanimous vote. The Mayor noted it would be scheduled for Second Reading/adoption on November 20.

ORDINANCE #1989-
(attached)

9. Resolution re Takoma Old Town Business Association Bank Loan - (CONT'D.)

The Mayor noted a revised resolution had been drafted. Councilmember Elrich moved to remove the item from the table, duly seconded by Councilmember d'Eustachio; the motion carried by unanimous vote. Councilmembers Elrich and Douglas, who had previously moved and seconded passage of the original draft resolution, withdrew their motion. Councilmember Elrich moved passage of the revised resolution, duly seconded by Councilmember Sharp; the motion carried by unanimous vote.

RESOLUTION #1989-106
(attached)

12. Council Action on Variance Request for 8108 Hammond Avenue.
The Mayor noted receipt of correspondence from Helen M. Grune of Hammond Avenue, registering complaints about drainage problems. Councilmember Martin moved to remove the item from the Consent Agenda; the

motion was duly seconded by Councilmember Douglas, and carried by unanimous vote. Mayor Del Giudice noted that staff's recommendation was that no objection be registered to granting of the Variance, or that no position be taken. In the course of ensuing discussion, the Mayor noted that Ms. Grune was not opposing granting of the Variance, however, was asking that the drainage problem be addressed; he suggested the City go on record in support of granting of the Variance, with the condition that the applicant make provision for addressing the drainage problem on Lot 12 cited by that neighbor.

The applicant, Mr. Van Tron, responding to query from the Mayor, said he did not think what he intended to do would worsen the problem Ms. Grune had cited; he said the previous owner of his property had not raised the ground level of the property, that Ms. Grune's just happened to be lower than his, so the water tended to run down and collect on her property. He said he would not build anything that would cause harm to his neighbor.

Following brief additional discussion, Councilmember Martin moved that the Council take no position on the Variance request, but that Ms. Grune's letter be forwarded to the Board of Appeals and that they be asked to take it into consideration; the motion was duly seconded by Councilmember Sharp, and carried by unanimous vote.

13. Resolution Appointing Members to Martin Luther King, Jr. Commemoration Committee.

The Mayor noted members had been solicited in the Newsletter; he said additional members could be appointed should people come forward wishing to serve. Councilmember Hamilton moved passage of the resolution, duly seconded by Councilmember d'Eustachio. The resolution was passed by unanimous vote.

RESOLUTION #1989-110
(attached)

14. Technical Amendment to Executive Pay Plan.

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

ORDINANCE #1989-45
(attached)

Upon motion, duly seconded, the meeting adjourned at 12:49 a.m.

Introduced by: Councilmember Hamilton

RESOLUTION 1989- 104

A RESOLUTION IN HONOR OF THE NINETEENTH ANNUAL FESTIVAL OF PRAISE UNDER THE SPONSORSHIP OF THE SLIGO SEVENTH-DAY ADVENTIST CHURCH OF TAKOMA PARK, MARYLAND.

WHEREAS, Thanksgiving Day was first declared a national holiday by President Abraham Lincoln in 1863 as a day of thanksgiving and praise; AND

WHEREAS, the Thanksgiving season in November has continued to be a time set aside for community and family sharing traditions, of giving thanks for the basic necessities of life - food, shelter, and work; AND

WHEREAS, on Saturday, November 18th, 1989 at 11:00 A.M., the Sligo Seventh-Day Adventist Church will continue its annual Thanksgiving tradition marking the 19th Annual Festival of Praise Celebration; AND

WHEREAS, this Celebration includes a procession of food and clothing by the church members as an offering to be distributed to needy families; AND

WHEREAS, those who receive the donations of food and clothing include the working poor, elderly citizens living on fixed incomes, new immigrants to this country, and the homeless; AND

WHEREAS, the Mayor and Council has supported and lauded similar efforts to feed and clothe the community's needy families by working with Helping Hand and other community groups.

NOW THEREFORE BE IT RESOLVED, THAT the Mayor and City Council of Takoma Park, Maryland hereby note their appreciation to this Church and its members for their efforts to share with families and individuals in need and do hereby recognize the NINETEEN YEARS of continuing support to this community and the Metropolitan Washington area.

Adopted this 13th day of November, 1989.

ATTEST:

Stephen J. DelGiudice
Mayor

James S. Wilson, Jr.
City Administrator

Introduced by: Councilmember Hamilton First Reading: 10/03/89
Second Reading:
Effective: December 1, 1989

ORDINANCE 1989 - 42

AN ORDINANCE TO IMPROVE THE EFFICIENCY OF THE LICENSING PROCESS FOR RENTAL HOUSING IN THE CITY OF TAKOMA PARK

WHEREAS It is the legislated responsibility of the Director of the Department of Housing Services to license rental housing in the City of Takoma Park; AND

WHEREAS The legislated requirement for the Director of the Department of Housing Services to determine compliance with applicable county codes prior to the issuance of such licenses has resulted in unacceptable delays in the licensing procedure.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THAT Section 6-105, Licensing Procedures, Subsections (c) and (d), of the Takoma Park Code is hereby amended as follows:

Sec.6-105. Licensing procedures.

(c) The application shall contain the following information:

(1) The name, address and telephone number of the owner.

(2) If the owner is a corporation, a certified copy of those documents indicating that it is qualified to do business in the State of Maryland.

(3) If the owner is a partnership, the name, address and phone number of each general partner.

(4) The name, address and telephone number of the owner's agent, as specified in Section 6-102(c).

(5) The address of the rental facility to be licensed.

(6) The number of rental units in the rental facility to be licensed.

(7) A schedule of rents charged for each apartment on the date specified for determining lawful rent increases in Section 6-80.17(c) of this Code; and the rents charged for each apartment on the date an application is filed.

(8) A statement by the owner certifying that to the best of his or her knowledge:

(A) There are no existing violations of applicable state or county health, fire, building, electric, plumbing, property maintenance, safety and zoning codes; and {furthermore, that there are}

(B){that}There are no uncorrected conditions for which a county infraction citation or notice of violation from any other jurisdiction has been issued; and {or}

(C) There is no {or any} unpaid fine or penalty resulting from such citation or notice. {; provided, however, that if a citation is pending adjudication, the fact that a fine or penalty is unpaid shall not act as a bar to issuance of a license.}

(d) Before a license is issued the Director shall determine that {[that]the following, however issuance of a license shall not operate to bar the City of Takoma Park or any other jurisdiction or person from asserting, notwithstanding the issuance of a license, that applicable violations do in fact exist.}

(1) The information contained in the application is true and accurate.

(2) The appropriate fees have been paid.

(3) There are no existing violations of [applicable] City health, housing, [fire, building, electric, plumbing,] property maintenance, or safety, [or zoning] codes. [Issuance of a license shall not operate to bar the City of Takoma Park or any other jurisdiction or person from asserting, notwithstanding the issuance of a license, that such violations do in fact exist.]

(4) There are no uncorrected conditions for which a municipal [or county infraction] citation or notice of violation [from any other jurisdiction] has been issued, or any unpaid fine or penalty resulting from such citation or notice; provided, however, that if a citation is pending adjudication, the fact that a fine or penalty is unpaid shall not act as a bar to issuance of a license.

(5) There are no unpaid city taxes on the rental facility.

(6) That the units sought to be licensed have passed inspection within the twelve (12) calendar months immediately preceding the date the license is to become effective. In the event that such is not the case, the Director shall cause an inspection of such units to be made. No license shall be issued for a unit until it passes inspection.

(e) Issuance of a license shall not operate to bar the City of Takoma Park or any other jurisdiction or person from asserting, notwithstanding the issuance of a license, that applicable violations do in fact exist.

This Ordinance shall take effect on 1 December, 1989.

ADOPTED THIS 13th DAY OF November, 1989.

Note: Remaining subsections to be relettered. For first reading additions are underlined and deletions are [hard bracketed] For second reading additions are *italicized* and deletions are {soft bracketed}.

Remainder of Section to be renumbered/relettered.

Introduced by: Councilmember Martin

(Drafted by P. Jewell, J. Martin)

1st Reading: 10/30/89

2nd Reading: 11/13/89

ORDINANCE #1989-43

AN ORDINANCE TO AMEND CHAPTER 12 (TREES AND VEGETATION),
ARTICLE 4 (URBAN FOREST) OF
THE CODE OF THE CITY OF TAKOMA PARK, MARYLAND

WHEREAS, on July 11, 1983, the City Council adopted Ordinance #2677 to protect existing trees of the Urban Forest of Takoma Park, Maryland with trunks measuring more than twenty-four inches in circumference; AND

WHEREAS, over the years, the City Council has approved residential and commercial site plans that called for planting of shade trees with circumferences that fall below twenty-four inches and are therefore not subject to the provisions of Article 4; AND

WHEREAS, the Tree Commission and the Department of Housing Services and the Department of Public Works have required trees to be planted to replace trees removed that have fallen within the provisions of Article 4; AND

WHEREAS, it is the Council's desire to extend the provisions of the urban forest Article to trees smaller than twenty-four inches in circumference that have been or will be planted and/or maintained in response to any governmental action and/or agreement, both City and County, such as site plan approvals, easements, and settlements; and agreements or orders to tree permit approvals or abatements of municipal infractions arising from the provisions of this article.

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

SECTION 1. Article 4, Section 12-23 of the Takoma Park Code is hereby amended as follows:

Sec. 12-23. Certain trees part of urban forest; applicability.

[All] The following trees on private property in Takoma Park [measuring more than twenty-four (24) inches in circumference at four and one-half (4 1/2) feet above ground level] are considered as part of the city's urban forest and are subject to the provisions of this Article:

- a. trees measuring more than twenty-four (24) inches in circumference; at four and one-half (4 1/2) feet above ground level[;]
- b. [or] any trees otherwise required to be planted or maintained, whether pursuant to governmental order, agreement, stipulation[s], covenant or easement;
- c. trees planted with goverment funding; or
- d. trees planted under government programs.

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

NOTE: In this Ordinance, underlining shall denote language added to the existing Code language.

[Brackets] shall indicate language deleted at first reading and double underlining shall indicate language added at first reading.

Adopted this 13th day of November, 1989, by Roll Call Vote as follows:

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

filename: TREES

First Reading: October 30, 1989
Second Reading: November 13, 1989

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

ORDINANCE #1989-44
FY 90 BUDGET AMENDMENT NO. 1

AN ORDINANCE TO AMEND THE FISCAL YEAR 1990 BUDGET

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

SECTION 1. that the Fiscal Year 1990 Budget be amended as follows:

REVENUE AMENDMENTS

- a. Appropriate [\$20,426] \$11,018 from Unappropriated Reserve for Mayor and Council salaries and benefits.
- b. Appropriate \$7,100 from Unappropriated Reserve for purchase of a Housing Services vehicle.
- c. Appropriate \$3,496 from Capital Reserve for installation of speed humps.
- d. Appropriate \$3,290 from Capital Reserve for fence replacement at Philadelphia.
- e. Appropriate \$5,520 from Unappropriated Reserve for repayment to Montgomery County for the audiocassette tapes purchased in FY 88 with Community Development Block Grant funds.
- f. Appropriate \$27,246 from Unappropriated Reserve for payment to Montgomery County for Fire Service.
- g. A new revenue account, Account 3300-3331, Montgomery County Cable TV Maintenance, is created with an appropriation of \$10,000.
- h. Appropriate \$11,200 from Unappropriated Reserve for purchase of a replacement police package vehicle.

Page Three
FY 90 Budget Amendment No. 1

- i. Appropriate an additional \$27,246 to Account 9000-6130, Fire Service.
- j. Appropriate \$10,000 to a new Cable Budget Account, 1150-6811, Equipment Miscellaneous, for maintenance of Cable TV equipment.
- k. Appropriate \$11,200 to Account 9100-8000, Capital Equipment for the purchase of a replacement police package vehicle for the Police Department.

SPECIAL REVENUE BUDGET

REVENUE AMENDMENTS

- a. Delete Account 0010-3391, Section 402 Traffic Grant.
- b. Appropriate an additional \$13,200 to Account 0010-3365, Montgomery County CDBG Year 14 funds, for improvements at the Heffner Park Recreation Center.
- c. Appropriate an additional \$37,267 to Account 0010-3376, Sister City, Program Open Space funds, for Phase I improvements to the B. Y. Morrison Park.
- d. Appropriate an additional \$21,423 to Account 0010-3362, Montgomery County CDBG Year 12 Contract No. 75616AA for facade improvements at Erie/Flower business district.
- e. Appropriate an additional \$10,000 to Account 0010-3366, Montgomery County CDBG Year 14 for streetscape improvements at Erie/Flower business district.
- f. Appropriate \$40,000 to Account 0010-3377, Forest Park, for receipt of Program Open Space funds.

Page Five
FY 90 Budget Amendment No. 1

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

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

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

NAY: None

ABSTAIN: None

ABSENT: None

Introduced By: Councilmember d'Eustachio

ADOPTED: NOVEMBER 13, 1989

Resolution No. 1989-105

WHEREAS, Mr. Leon Trager has submitted a revised site plan dated 9/4/89 to the Board of Appeals for Montgomery County pursuant to his application for parking lot setback variances for part of Lots 3 and 4, Block 16, B.F. Gilbert's Addition to Takoma Park Subdivision, located at 1 Columbia Avenue, Takoma Park, Maryland (Case No. A-2660), a copy of which is attached and made part of this document by this reference; AND

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

WHEREAS, the Mayor and Council recommended DENIAL of the petitioner's original application in Resolution 1989-71, adopted July 31, 1989; AND

WHEREAS, the Mayor and Council have reviewed the revised application and make the following findings, based on the staff report dated November 3, 1989 and public comments received on the subject application:

--that the relief requested is the minimum required for granting of this application;

--that the revised application can be granted without substantial impairment to, and in fact is in accordance with, the 1974 Sector Plan for the Transit Impact Area in Takoma Park;

--that approval of the revised application will not be detrimental to the use and enjoyment of adjoining or neighboring properties;

--that approval of the revised application will result in an affirmative benefit to the area and the City, by encouraging the improvement of the property and ensuring preservation of the property's green space and current vehicular circulation pattern.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT, the Mayor and Council hereby support the subject variance application based on the revised site plan dated 9/4/89 and recommend that the Board of Appeals for Montgomery County APPROVE

the subject application, with the condition that the applicant make the following additional changes to the revised site plan:

1. Provide solid 6 foot fence on property's boundary with 5 Pine Avenue.
2. Provide a planting strip between the eastern side of the Columbia Avenue driveway and the northern side of the Pine Avenue driveway. Replace existing unhealthy shrubs.
3. Provide a low planted area on the western side of the Columbia Avenue driveway.
4. Provide either concrete curbing or railroad ties to separate pedestrian walkway from parking area, and to separate plantings from parking area, on the south side of the Pine Avenue driveway.
5. Pave pedestrian walkway to porch in concrete or better material.
6. Reinforce direction of vehicular circulation with arrows painted on pavement and appropriate signage, with all signs to be in compliance with the Takoma Old Town Facade Ordinance. Direction of vehicular circulation indicated on 9/4/89 site plan may be reversed, with appropriate reconfiguration of parking spaces 12 and 13, if considered more appropriate by the applicant's land planner and County planning staff.
7. Insure that any exterior lighting on the site does not shine into neighboring residences.
8. Plant ornamental tree in vicinity of parking space 12.

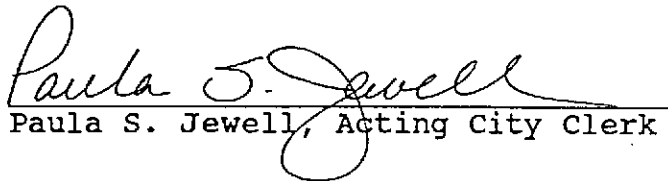
BE IT FURTHER RESOLVED THAT the support of the Mayor and Council for the petitioner's variance application is conditioned expressly on the revised site plan dated 9/4/89 with the additional conditions outlined above.

BE IT FURTHER RESOLVED THAT the applicant's revised site plan dated 11/11/89 and named TRAGER11.FCD, a copy of which is attached, is also acceptable to the Mayor and Council and may be substituted in lieu of the revised site plan dated 9/4/89, provided that all of the above conditions continue to apply. Such conditions shall include a maximum total building square footage of 4,503 square feet, and a maximum of 14 parking spaces.

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

ADOPTED THIS 13th DAY OF NOVEMBER, 1989.

ATTEST:


Paula S. Jewell, Acting City Clerk

lss/zonsub2/1columb.r2

Agenda Item # 1
(old Council)

Introduced by:

1st Reading: 11/13/89
2nd Reading:

ORDINANCE #1989-_____

INSTALLATION OF TWO SPEED HUMPS ON ELM AVENUE
(BETWEEN WOODLAND AND PRINCE GEORGE'S AVENUE)

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

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

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

(t) Elm Avenue, between Woodland and Prince George's Avenues, two speed humps to be installed; one across from 515 Elm and Forest Park, and the second hump across from 503 and 504 Elm Avenue.

SECTION 2. THAT funds to cover this work be appropriated from the street repair materials, Account #9100-8000.

ADOPTED BY THE CITY COUNCIL THIS _____ DAY OF _____,
1989, BY ROLL CALL VOTE AS FOLLOWS:

AYE:
NAY:
ABSTAINED:
ABSENT:

Introduced by:

First Reading: 11/13/89
Second Reading:

ORDINANCE NO. 1989-

AN ORDINANCE TO PURCHASE A CHRYSLER VEHICLE FROM AVIS CAR SALES TO REPLACE VEHICLE #118

WHEREAS, There is a need to replace City (Code Enforcement) Vehicle #118 which was irreparably damaged in a collision which was caused by another person's error and not the fault of the Code Enforcement Officer driving the vehicle; AND

WHEREAS, The City's insurance carrier reimbursed the City in the amount of \$5,000.00 for the loss sustained; AND

WHEREAS, The Department of Housing Services conducted a valid competitive bid process in accordance with City Procurement Procedures for the purchase of a 1989 vehicle similar to the vehicle which sustained irreparable damage by soliciting bids from 3 vendors and by placing advertisements in one newspaper; AND

WHEREAS, That bids were publicly opened at 2:00 p.m., November 3, 1989 and the following bids were received:

<u>FIRM</u>	<u>BID</u>
Avis Car Sales	\$6,800.00
Glenmont Chrysler Plymouth	\$10,812.00

WHEREAS, Both bidding firms have provided the City with proper Certification of Non-Involvement in the Nuclear Weapons Industry; AND

WHEREAS, The purchase of one vehicle outside of the normal budgetary cycle is recommended by the City Administrator.

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

SECTION 1. that the low bid of \$6,800 from Avis Car Sales is hereby accepted; AND

SECTION 2. that funds to cover this purchase in the amount of SIX THOUSAND EIGHT HUNDRED DOLLARS be charged to the Capital Expenditures Account, 9100-8000.

Adopted this _____ day of November, 1989.

Introduced by: Councilmember Hamilton

1st Reading: 11/13/89
2nd Reading:

ORDINANCE NO. 1989-

An ordinance to amend the Personnel Classification System

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

SECTION 1. Class title change and grade change. The grade structure adopted by Ordinance No. 1986-53, Section 2, as amended, is amended, to change a class title and reallocate a class to a certain grade:

<u>GRADE</u>	<u>JOB CLASSES</u>
GRADE 1 :	
GRADE 2 :	Custodian
GRADE 3 :	Laborer; Clerk Typist I;
GRADE 4 :	Account Clerk I; Library Shelver; Communications Dispatcher; Assistant Driver; Police Records Clerk;
GRADE 5 :	Recreation Aide; Tool Library Attendant; Equipment Operator I;
GRADE 6 :	Account Clerk II; Secretary; Personnel Clerk; Library Assistant; Recreation Specialist; Driver Foreman; Equipment Operator II; Clerk Typist II; <u>Building Mechanic Helper;</u>
GRADE 7 :	Administrative Clerk I; Playground Coordinator; Equipment Operator III; Code Enforcement Officer I; Police Private; Clerk Typist III;
GRADE 8 :	Administrative Clerk II; <u>Account Clerk III;</u> Gym Supervisor; Police Private First Class; Tree Maintenance Foreman; Building Mechanic; Mechanic; Community Development Coordinator;
GRADE 9 :	Account Supervisor; Administrative Supervisor; Deputy City Clerk; Executive Secretary; Police Affairs Specialist; Police Corporal; Parks Foreman; Street Foreman; Master Mechanic; Housing Rehabilitation Construction Coordinator; Code Enforcement Officer II; Community Planner I; Youth Outreach Assistant;
GRADE 10 :	Librarian; Police Sergeant; Sanitation Supervisor; Street-Parks Supervisor;

- GRADE 11 : Youth Outreach Worker; Recreation Supervisor;
Code Enforcement Supervisor; Housing Coordinator;
Recycling Coordinator; Supervisor of Administrative
Services (Police)
- GRADE 12 : Assistant Library Director; Police Lieutenant;
Cable TV Coordinator;
- Executive 1: Assistant Public Works Director; Director of
Economic & Community Development;
- Executive 2: Library Director; Recreation Director; Housing
Services Director; Police Captain (Deputy Chief);
- Executive 3: Assistant City Administrator;
- Executive 4: Police Chief; Public Works Director.

SECTION 2. EFFECTIVE DATE. This Ordinance shall become
effective upon enactment.

NOTE: Underlining indicates new matter to be added to existing
code language.

[] indicates matter to be deleted from existing code
language

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

AYE:
NAY:
ABSTAINED:
ABSENT:

O-PYPL1.WP
d#O/R1

Introduced by: Councilmember Hamilton

1st Reading: 11/13/89

2nd Reading:

ORDINANCE NO. 1989-

An ordinance to amend the Personnel Classification System

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

SECTION 1. Class title change and grade change. The grade structure adopted by Ordinance No. 1986-53, Section 2, as amended, is amended, to change a class title and reallocate a class to a certain grade:

<u>GRADE</u>	<u>JOB CLASSES</u>
GRADE 1 :	
GRADE 2 :	Custodian
GRADE 3 :	Laborer; Clerk Typist I;
GRADE 4 :	Account Clerk I; Library Shelver; Communications Dispatcher; Assistant Driver; Police Records Clerk;
GRADE 5 :	Recreation Aide; Tool Library Attendant; Equipment Operator I;
GRADE 6 :	Account Clerk II; Secretary; Personnel Clerk; Library Assistant; Recreation Specialist; Driver Foreman; Equipment Operator II; Clerk Typist II; <u>Building Mechanic Helper;</u>
GRADE 7 :	Administrative Clerk I; Playground Coordinator; Equipment Operator III; Code Enforcement Officer I; Police Private; Clerk Typist III;
GRADE 8 :	Administrative Clerk II; <u>Account Clerk III;</u> Gym Supervisor; Police Private First Class; Tree Maintenance Foreman; Building Mechanic; Mechanic; Community Development Coordinator;
GRADE 9 :	Account Supervisor; Administrative Supervisor; Deputy City Clerk; Executive Secretary; Police Affairs Specialist; Police Corporal; Parks Foreman; Street Foreman; Master Mechanic; Housing Rehabilitation Construction Coordinator; Code Enforcement Officer II; Community Planner I; Youth Outreach Assistant;
GRADE 10 :	Librarian; Police Sergeant; Sanitation Supervisor; Street-Parks Supervisor;

Introduced by: Councilmember Douglas

(Drafted by: P. Jewell)

**RESOLUTION #1989- 107
RECEIVING THE REPORT OF THE
NEWSLETTER REVIEW COMMITTEE**

WHEREAS, on February 27, 1989, the Mayor and Council established the Newsletter Review Committee and subsequently on May 15, 1989 appointed Councilmember William Leary (Chair), Jay Bayerl, Lynne Bradley, Bevi Chagnon and Linda Rabben to serve on the Committee; AND

WHEREAS, the Committee has worked diligently evaluating the current production of the Newsletter, recommending needed improvements, and has conducted one public meeting on July 12, 1989 to offer interested parties the opportunity to express comments on the production of the Newsletter; AND

WHEREAS, on October 30, 1989, the Newsletter Review Committee submitted the "Report of the Takoma Park Newsletter Review Committee" to the Mayor and Council.

NOW THEREFORE BE IT RESOLVED, THAT the Report of the Takoma Park Newsletter Review Committee is hereby received; AND

BE IT FURTHER RESOLVED, THAT the Committee's report and recommendations will be further discussed at appropriate meetings, as determined by the Mayor and Council, in order to develop strategy for implementing recommendations; AND

BE IT FURTHER RESOLVED, THAT the Mayor and Council do hereby extend their appreciation to the members of the Committee for their work in preparing the report.

Dated this 13th day of November, 1989.

Introduced by: Councilmember Elrich

RESOLUTION 1989-108

REGARDING TAKOMA PARK HISTORIC DISTRICT

- WHEREAS, the City of Takoma Park endorses the creation of a Takoma Park historic district as an amendment to the Montgomery County Historic Plan for historic preservation; AND
- WHEREAS, the City believes that there are other areas adjacent to and contiguous with the existing Historic District that merit inclusion in a Master Plan Historic District; AND
- WHEREAS, the City believes that citizen involvement and input into the process is essential in developing policies and boundaries that will reflect the best interests of our citizens; AND
- WHEREAS, the City believes that the County's process has proceeded too rapidly to permit an adequate level of citizen involvement; AND
- WHEREAS, the City has found that there has been an inadequate amount of information available to affected residents; AND
- WHEREAS, the City is aware of problems and concerns with the current procedures of both the local and County HPC's; AND
- WHEREAS, the City believes that the above problems could be remedied in such a way as to allow us to build a strong community consensus for the creation of an historic district, if we have adequate time to address questions and concerns of our citizens.
- NOW THEREFORE, BE IT RESOLVED THAT the Mayor and Council hereby request that the Montgomery County Planning Board keep the record open until March 1, 1990, in order to permit the City to provide for adequate citizen involvement in our process; AND
- BE IT FURTHER RESOLVED that the Council will create a Task Force that will address issues of process, policies, procedures and boundaries; AND
- BE IT FURTHER RESOLVED THAT the Council requests that the Planning Board delay consideration of the Historic District for Takoma Park until March 1, 1990; AND
- BE IT FURTHER RESOLVED THAT the Council directs the City Administrator to send copies of this resolution to Gus Bauman, Chair of the Planning Board, and Gwen Marcus, staff person for the Park and Planning Commission.

Adopted this 13th day of November, 1989.

ATTEST:



Paula S. Jewell
Acting City Clerk

Introduced by: Councilmember Douglas

Resolution date: 11/13/89

Expiration date: 3/1/90

RESOLUTION NO. 1989-109

(Establishing a Historic Preservation Task Force)

WHEREAS, the City of Takoma Park was one of the first planned suburbs of our nation's capital and has within its boundaries two areas which are listed on the National Register of Historic Places, in addition to other structures and sites of historic, architectural, or cultural value; and

WHEREAS, portions of Takoma Park are now listed on the Montgomery County Locational Atlas of Historic Sites; and

WHEREAS, inclusion on the Montgomery County Locational Atlas of Historic Sites was intended as a temporary measure to identify and protect potential historic sites and districts until they could be evaluated more thoroughly and placed on the Master Plan for Historic Preservation, and

WHEREAS, Montgomery County is currently considering amendment of its Master Plan for Historic Preservation to designate a Takoma Park Historic District; and

WHEREAS, the Takoma Park Historic Preservation Committee has surveyed the affected area and has recommended the boundaries indicated on the attached map which include the National Register historic district boundaries and contiguous areas that have : architectural, historic or cultural merit; and

WHEREAS, Prince George's County will soon be studying its Master Plan for Historic Preservation; and

WHEREAS, the City of Takoma Park wishes to preserve its historic, architectural, and cultural heritage; and

WHEREAS, there is a need to balance the preservation of historic resources with the rights and interests of individual homeowners; and

WHEREAS, individual homeowners have raised concerns about the perceived arbitrariness, unfairness, and inconvenience of the current Historic Area Work Permit process and, in particular, about the procedures and practices of the Takoma Park Historic Preservation Committee which is recognized as a Local Advisory Committee (LAC) to the Montgomery County Historic Preservation Commission; and

WHEREAS, the Council wishes to set up a Historic Preservation Task Force to study the City's role and involvement in historic preservation matters in Takoma Park; to develop criteria for review of historic resources within the Takoma Park Historic District by the Historic Preservation Commission; to study and recommend guidelines, processes and procedures to be employed in the design review and historic area work permit application process; to consider the appropriate role for a Local Advisory Committee and its accountability to the Council; and to develop specific recommendations; and

WHEREAS, the Council also desires the Historic Preservation Task Force to examine the above issues and areas; to work with both Montgomery and Prince George's Counties and with the Maryland-National Capital Park and Planning Commission (M-NCPPC);

to assist in City of Takoma Park involvement in the development of regulations, guidelines, and procedures related to the designation of historic districts, historic resource levels, and the historic area work permit process; and to report back to the Council with specific recommendations for appropriate legislative and executive action.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND.

SECTION 1. Historic Preservation Task Force - Generally.

(a) A task force to be known as the "Historic Preservation Task Force of Takoma Park" is hereby created.

(b) The Historic Preservation Task Force shall consist of eleven (11) members appointed by the Council, one of whom shall be designated as the chair of the Task Force. Each member must be a resident of the City of Takoma Park. The Historic Preservation Task Force shall include at least two (2) members who have special interest, knowledge or training in the fields of historic resource preservation, urban planning/design or architecture, or who have experience with the current historic area work permit process. The remaining members shall, to the extent possible, be selected to represent the various geographical, social, economic and cultural concerns of the community. In addition, the Council may appoint ex officio members representing Montgomery and Prince George's Counties to the Historic Preservation Task Force.

(c) The Historic Preservation Task Force shall hold such regular meetings which, in its discretion, are necessary to perform its duties and shall develop such rules of procedure as it finds necessary to conduct its business. Historic Preservation Task Force meetings shall be open to the public.

(d) The City Administrator shall have the authority to assign to the Historic Preservation Task Force such employees, services and facilities of the City of Takoma Park as are necessary or appropriate for the proper performance of the Historic Preservation Task Force's duties.

SECTION 2. Powers and Duties.

The Historic Preservation Task Force shall have the following powers and duties:

(a) To study the historic area work permit design review process as it has been working and to make recommendations for its improvement, including appropriate standards and guidelines.

(b) To study appropriate mechanisms for reviewing historic area work permit applications, including the appointment, membership, role, status, authority, and rules of procedure of a local committee and the relationship of such a committee to the City of Takoma Park and to County authorities.

(c) To review the recommendations of the Takoma Park Historic Preservation Committee regarding the boundaries of a Montgomery County Master Plan Historic District.

(d) To review current legislation and proposals affecting historic preservation, such as the amendment of the Montgomery

County Master Plan for Historic Preservation to designate a Takoma Park Historic District, and the development of revised regulations, guidelines, procedures, and processes to be employed in the design review and historic area work permit application process, and make recommendations on such legislation and proposals to the Council.

(e) To consider criteria for review of different levels of historic resources within a Takoma Park Historic District.

(f) To study such other historic preservation issues as the Historic Preservation Task Force deems to be necessary or desirable.

SECTION 3. Report.

(a) The Historic Preservation Task Force shall prepare and submit to the Council by February 1, 1990 a report on its work under Section 2 with recommendations to the Council on:

- (i) such standards, guidelines, or other measures that would be appropriate for classification and review of activities within a Takoma Park Historic District;
- (ii) the creation, appointment, membership, role, status, authority, and rules of procedure of a local committee and the relationship of such a committee to the City of Takoma Park and the appropriate County authorities;
- (iii) City of Takoma Park or County programs and legislation needed to encourage and

facilitate historic preservation in the City
of Takoma Park; and

- (iv) any other matters the Task Force finds
relevant.

(b) Upon submission of the report to the Council, the
Council shall take necessary actions to enact laws, give
direction to the City Administrator, or make recommendations to
appropriate County authorities.

SECTION 5. Effective Date.

This Resolution shall be effective upon its adoption and,
unless extended by a further resolution of the Council, shall
expire on March 1, 1990.

ADOPTED THIS 13th DAY OF NOVEMBER, 1989 BY THE COUNCIL OF
THE CITY OF TAKOMA PARK.

historic.res

corr39/cp

Introduced by:

1st Reading: 11/13/89

2nd Reading:

Drafted by: Susan Silber
Linda S. Perlman
Office of Corporation Counsel

Draft date: November 8, 1989

Effective Date:

ORDINANCE NO. 1989-

(Repealing Historic Preservation Committee and
Historic District Commission Ordinances)

WHEREAS, on May 10, 1982, the Council enacted Ordinance No. 2608 which established a Historic Preservation Committee as a standing committee of the City of Takoma Park; and

WHEREAS, on October 25, 1982, the Council adopted three ordinances as emergency legislation as follows: Ordinance No. 2622 which created a historic district on the site of the Washington Adventist Hospital; Ordinance No. 2633 which created a Takoma Park Historic District Commission (codified in Article 6, Division 1, §§2-125 through 2-140 of the Takoma Park Code); and Ordinance No. 2634 which appointed members to the Takoma Park Historic District Commission; and

WHEREAS, based on public testimony, letters, and other information received by the Council, the Council is concerned that these Ordinances do not adequately preserve and protect the historic resources of the City and that there have been problems and difficulties in implementing these Ordinances; and

WHEREAS, the City of Takoma Park remains committed to preserving its historic resources and by separate resolution is establishing a Historic Preservation Task Force to study how best to preserve and protect the historic resources of the City within

the parameters of the City's powers and to make recommendations for appropriate action to the Council; and

WHEREAS, the Council now wishes to repeal the aforesaid ordinances.

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

SECTION 1. Ordinance No. 2608, Ordinance No. 2632, Ordinance No. 2633, and Ordinance No. 2634 are hereby repealed.

SECTION 2. The Mayor shall notify the Montgomery County Historic Preservation Commission (1) that the City of Takoma Park has repealed Ordinance No. 2608 which created a standing committee known as the Historic Preservation Committee of Takoma Park, Maryland and to forward any requests for local advice to the Council until a revised structure is in place and (2) informing them that Takoma Park has established a Historic Preservation Task Force and asking for their help and cooperation in the work of the Task Force.

SECTION 3. This Ordinance shall be effective immediately upon its adoption.

Adopted the ____ day of _____, 1989, by roll call vote as follows:

Aye:

Nay:

Abstained:

Absent:

Introduced by: Councilmember Hamilton

RESOLUTION 1989-105

A RESOLUTION TO AUTHORIZE THE CITY ADMINISTRATOR TO CO-SIGN A SOVRAN BANK LOAN ON BEHALF OF THE CITY ALONG WITH THE TAKOMA OLD TOWN BUSINESS ASSOCIATION.

WHEREAS, the Old Town Street festival was created by the City as a way of celebrating community, fostering the businesses of the City, and raising funds for nonprofit activities that benefit the community, AND;

WHEREAS, the Street Festival is attended by a wide spectrum of citizens in the City, AND;

WHEREAS, the activities and publicity from the Street Festival enhance the reputation of the City, AND;

WHEREAS, although the Street Festival is now sponsored by the Old Town Business Association, it continues to provide a valued public service, AND;

WHEREAS, the Takoma Old Town Business Association needs funds to meet its immediate cash flow needs to pay expenses of the 1989 Old Street Festival, until such time as its outstanding accounts receivables are collected AND;

WHEREAS, the City of Takoma Park is willing to act as co-signatory on a Sovran Bank loan

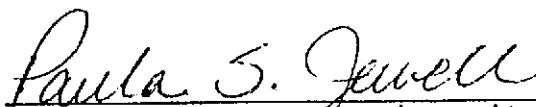
NOW THEREFORE BE IT RESOLVED THAT the Mayor and Council of Takoma Park do authorize the City Administrator to act on behalf of the City to execute co-signature of a Sovran Bank loan by the City with the Takoma Old Town Business Association.

BE IT FURTHER RESOLVED THAT the City Administrator is hereby authorized to complete all documents necessary to effect City co-signature of the Sovran Bank loan with the Takoma Old Town Business Association including but not limited to the Resolutions of Corporate Board shown as Attachment 1 to this Resolution.

BE IT FURTHER RESOLVED THAT the City's co-signature be conditioned upon the City and the Takoma Old Town Business Association (TOTBA) entering into an agreement negotiated on behalf of the City by the City Administrator to protect the City's interests which specifically shall include a provision that requires that if the City pays TOTBA's liability, TOTBA will repay that liability in full within one year.

Adopted this thirteenth day of November, 1989.

ATTEST:


Paula S. Jewell Acting City Clerk

Introduced by: Councilmember Hamilton

RESOLUTION #1989-110

A RESOLUTION APPOINTING MEMBERS TO THE
1990 MARTIN LUTHER KING, JR. COMMEMORATION COMMITTEE

WHEREAS, in years past, the Mayor and City Council of Takoma Park, Maryland, have observed a day of memory for the late Dr. Martin Luther King, Jr., a leader of remarkable vision and courage; AND

WHEREAS, these observances have included successful commemoration celebrations planned by a Council appointed committee, made up of the citizens and City staff of Takoma Park, Maryland; AND

WHEREAS, such celebrations are planned to coincide with the Federal holiday observance of Dr. King's day of birth which is celebrated on Monday, January 15, 1990.

NOW THEREFORE, BE IT HEREBY RESOLVED THAT the following persons are hereby appointed to serve on the 1990 Martin Luther King, Jr. Commemoration Committee:

A. J. Mitchell, 7600 Maple Ave., #1210
Councilmember Gregory V. Hamilton, Ward 4
Karen Mitchell, Administrative Office
Mary Grice, 7611 Maple Ave. #202
Mary Jacobs, 7777 Maple Ave., #605
Sherry Hicks, 6608 Cockerille Ave.

Dated this 13th th day of November, 1989

Introduced By: Mayor DelGiudice

Single Reading: November 13, 1989

ORDINANCE #1989-45

AN ORDINANCE TO AMEND ORDINANCE 1989-28, AN ORDINANCE THAT AUTHORIZED MERIT INCREASES FOR DEPARTMENT HEADS AND SENIOR MANAGEMENT STAFF

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

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

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

Executive Level 4: 3rd Quartile	Police Chief	49,405 to 50,875 and \$1,000
Executive Level 4: 2nd Quartile	Public Works Director	45,000 to 47,250
Executive Level 3: 2nd Quartile	Asst. City Administrator	40,951 to 43,000
Executive Level 2: 3rd Quartile	Library Director	40,513 to 42,540
Executive Level 2: 4th Quartile	Police Captain	[44,379 to 46,000] <u>\$44,379 to \$46,598</u>
Executive Level 2: 2nd Quartile	Recreation Director	37,404 to 39,275
Executive Level 2: 1st Quartile	Housing Director	34,403 to 36,124
Executive Level 1: 2nd Quartile	Asst. Public Works Dir.	34,020 to 35,720 and a \$1000 bonus

Section 3. THAT these merit increases shall become effective July 1, 1989 and the amendment shall be effective retroactive to July 1, 1989.

Adopted this thirteenth day of November 1989, by Roll Call Vote as Follows:

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

Received 11/13/89
Pzewell

PETITION TO EXCLUDE
CARROLL-LAUREL AVENUE
OLD TOWN, TAKOMA PARK AREA FROM INCLUSION
IN TAKOMA PARK HISTORIC DISTRICT AND
INCLUSION IN THE MASTER PLAN FOR HISTORIC PRESERVATION

=====

The undersigned property owners of commercial property in the "Old Town" area of Takoma Park hereby strenuously object to the inclusion of our properties in the Takoma Park Historic District and the Master Plan for Historic Preservation.

John B. Carter
John B. Carter
Travis Price

7001-7003 Carroll Ave.
7010 Westmoorland Ave.
7050 Carroll Ave
6935 Carroll Ave

William J. Stogren

All of Laurel Ave.
7010 Westmoorland Ave.

Robert J. ...
Robert J. ...

7000 E. ...
6935 Laurel Ave Shopping Center
6935 Laurel Ave (6901-6939)

Frank ...

7060 Carroll Ave. Tk. Pk, MD

Roman ...
Shelley ...

7030 + 7034 Carroll Ave
7000 thru 7006 Carroll Ave

October 17, 1989

To: Property Owners in Takoma Old Town

Re: Historic District Expansion

Subsequent to the County Council Hearings the City held a brief informal acceptance (for review only) of the Historic Commissions recommendation at the City Council chambers on October 9, 1989.

At that time I raised the issue as your representative that the City staff and Council should be aware that there is strong opposition to the inclusion of Takoma Old Town into the Historic District. I insisted that the City staff put equal time into the review of the property owner's concerns as they will on the Historic Commissions concerns. Issues such as full development rights per zoning regulations vs Historic declarations of open space or 1 story buildings will be one of many concerns. The mayor and City Council agreed to incorporate our concerns and assigned staff to flow through. I think this is an important step towards the apply equal merit to the business communities needs along with the Historic Commissions recommendations.

Further the Historic Commission agreed that they would research and present us with apriori written agreements for our properties should the inclusion occur go forward.

There is an official Public Hearing at the Takoma Park City Council on the evening of Nov. 6, 1989. We should all plan to attend and speak as we did previously at the Planning Commission.

In the interim, Lisa Schwartz of the City Staff, Caroline Alderson of the Local Advisory Commission to the Historic Preservation Commission and City Councilmember, Jim Douglas have requested a meeting with us on Thursday October 26th at 5:00 p.m. at our office at 7050 Carroll Avenue, Second Floor.

This meeting in no way commits us to support the Historic District Expansion, but indeed will help the City clarify and fairly represent Takoma Park's business community's position. If you have any questions or concerns please don't hesitate to reach me.

Please let me know if you can come, by leaving a message at my office or letting me know personally.

Travis L. Price III, AIA
270-9222

CITY OF TAKOMA PARK, MARYLAND

Special Meeting of the Mayor and Council
November 20, 1989

CITY OFFICIALS PRESENT:

Mayor Del Giudice	City Administrator Wilson
Councilmember d'Eustachio	Acting City Clerk Jewell
Councilmember Douglas	Cable Coordinator Smith
Councilmember Elrich	Community Planner Schwartz
Councilmember Hamilton	Comm. Dev. Coordinator VinCola
Councilmember Leary	Housing Coordinator Walker
Councilmember Martin	Newsletter Editor Baron
Councilmember Sharp	Police Chief Fisher
	Police Captain Wortman
	Public Works Director Giancola
	Corporation Counsel Silber

The Mayor and City Council convened at 8:07 P.M. on Monday, November 20, 1989 in the Council Chamber at 7500 Maple Avenue, Takoma Park, Maryland. Following the pledge, the Minutes of the 9/25/89, 10/16/89 and 10/30/89 Regular Council Meetings were moved for approval, as written, by Councilmember Sharp. The motion was duly seconded by Councilmember Hamilton and carried by unanimous vote.

Mayor Del Giudice related having attended and participated in the Sligo Seventh-Day Adventist Church's 19th Annual Festival of Praise the previous weekend. He spoke briefly regarding the festival and said the amount of food donated by the congregation for distribution to the needy in the area was very impressive and represented a tremendous amount of generous giving.

The Mayor noted dedication of the new structure in Takoma Junction on the weekend as well, the ribbon-cutting at the park in commemoration of B. Y. Morrison. He said he thought the structure would prove very helpful and handy for those waiting for public transportation in the area as inclement weather sets in. He said he hoped the second portion of the revitalization in the area could soon commence.

The Mayor pointed out that winning posters in the contest sponsored by Sligo Adventist School and Washington Adventist Hospital pertaining to the Great American Smokeout on November 16 had been displayed on the wall of the Council Chamber. He commented a number of local businesses had joined in sponsoring the contest, and said the children had done a good job on their posters.

The Mayor related that he had authorized addition of his name to a letter being sent to President Bush and members of Congress by Mayors of cities and towns in the U.S. that have either Sister Cities or companion city relationships with towns and communities in El Salvador asking that the government work hard to initiate some negotiations for a comprehensive political solution to the ongoing political struggle in El Salvador. He pointed out that Takoma Park has a companion city in El Salvador, Santa Marta.

Councilmember Hamilton noted that the Cable Board elections, held in connection with the recent City Election, had resulted in election of Sherry Hicks, Mary Sinclair Jacobs, Kathy Gayheart, and Lewis Adam to serve a two-year term on the board. He thanked Robert Mandel and Rein Parris for acting as judges for the Cable Board election, and expressed thanks to City Administrator Wilson, Acting City Clerk Jewell, and Norene Wells for their contributions and assistance with that election. Mr. Hamilton, on behalf of the Cable Board, said he would also like to thank those citizens who support cable and who had voted in the recent election. He noted the next meeting of the Cable Board would be on December 6 at 7:30 p.m. The Mayor noted the results of the Cable Board election had been certified on November 8 by the Election Judges to the elected body along with the results of the election for Mayor and Councilmembers.

ADDITIONAL AGENDA ITEMS:

Use of back library lot by TPVFD for sale of Christmas trees (Wilson)

Public Works Director Giancola's memo re Carroll Avenue sidewalk repairs (Douglas)

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

Gary Sutton, resident of Carroll Avenue: related he had been a tenant on Carroll Avenue for about 9 years; he explained he had recently written Councilmember Douglas a letter regarding his attempt to exercise Right of First Refusal to purchase the building in which he lives. He said the landlord had been trying to circumvent the law and had raised his rent more than double the amount it had been. He said primarily he wanted it on the record that he had written Mr. Douglas about the situation and had forwarded a copy as well to Mayor Del Giudice. He said he would appreciate any help the elected body could give him in trying to resolve the situation.

Councilmember Douglas said Mr. Sutton had raised a number of questions in his letter; he said he had asked the City Administrator and DHS for some guidance on the matter, as well as having forwarded a copy of the letter to the Housing Committee for their input. He said he hoped to soon receive some guidance concerning how the City might assist in resolving the situation.

Mr. Sutton commented that there were a number of outstanding Code violations on the property that had not been corrected, including crumbling asbestos on the furnace which was a longstanding problem. He said he would particularly like to see something done to address that problem.

ITEMS FOR COUNCIL ACTION:

1. Second Reading of an Ordinance Authorizing Installation of Speed Humps on Elm Avenue.

Councilmember d'Eustachio moved adoption of the ordinance, duly seconded by Councilmember Hamilton. Councilmember Sharp remarked he would be abstaining from the vote; he said he was not so much opposed to the particular installation, but felt there was an ongoing problem with the speed hump law. He said there was need to develop a better way of evaluating how speed humps should be placed; the Traffic Committee should be revitalized and charged with examining a comprehensive traffic plan for the city -- lacking that, traffic controls were being put in piecemeal throughout the city without any coordination. He pointed out that while the required petitions from the neighborhood, indicating support, had been filed and verified, the police department's report indicated there was not a speeding problem on the street and that had been essentially ignored. He said there had been very few cases in which the police department came back with such a finding, and if that were going to be ignored, then there was little sense in having them review the situation, and the rules for the process should be changed accordingly. Councilmember Douglas concurred with Mr. Sharp's comments and said the situation was not as clear cut as he would wish; he commented that a comprehensive traffic plan had been an initiative for staff for some time, however, had not yet come to fruition. He said the Traffic Committee had been asked to examine the speed hump policy and come up with some recommendations, however, those had not been very helpful. He said, however, he hoped the next Council, perhaps with Mr. Sharp's leadership, would address the situation. Councilmember Martin referred to concerns she had expressed at First Reading of the legislation, particularly access for emergency vehicles and impact on response times for both fire and police. She said while she could see need for, perhaps, a speed hump near the park, she wondered whether a stop sign could not be used at other locations rather than putting in speed humps. She said perhaps if police more actively enforced stop signs at various locations throughout the city, it would be helpful in making people more routinely observe them. Ms. Martin said as far as she was aware, enforcement of traffic laws and controls in residential neighborhoods was not a high priority item for the police department, and perhaps it should be. She said a stop sign had been installed in her neighborhood in place of a speed hump that was requested, and it had been effective in slowing down the traffic. She said while people occasionally ran the stop sign, they slowed down at least before doing so. She said she thought stop signs versus speed humps should be examined, particularly for major roads like Elm Avenue.

Councilmember d'Eustachio spoke in support of the proposed installation; he concurred that the Council had talked for 4 years about the need to examine speed hump policy and come up with a comprehensive traffic plan, however, it would not be fair to penalize Elm Avenue because the Council had not carried through on what it intended, particularly when installations had been approved for other streets asking for them. He said he thought increased enforcement at stop signs would in general be wishful thinking; while a stop sign might slow traffic a bit, it would not be sufficient near the park where a lot of small children congregate and play. He said one of the nice things about speed humps, as one of the police sergeants had said, was that they were self-enforcing. He said, as he had remarked at the November 13 meeting, that while it was recognized speed humps impacted on emergency vehicles and their response time, there was also a trade-off and, perhaps, if there were a speed hump, an emergency vehicle would not have to respond down Elm Avenue to pick up someone's child who had been hit by a speeding car.

Vicky Hoy, resident of Elm Avenue: pointed out that, if necessary, emergency vehicles could avoid the 500 block of Elm Avenue by going around Woodland Circle and Prince George's Avenue. She said she suspected if the neighborhood were before the elected body after a child had been hit, the emergency vehicle response would not be quite as important an issue. She pointed out that the police department's traffic study was performed from the top of the hill at Woodland and Elm, and said there may not be much of a speeding problem at the top of that hill -- however, the area of concern was the middle of the block and the approach to the park area. She said she had lived there for 8 years and could verify that cars do speed on the street; stop signs do not seem to be effective. She said people often run the one that is presently in place at Prince George's and Elm, and then accelerate to get up speed going up the hill. She pointed out there were 13 children on the block aged 10 and under, and many children from adjoining neighborhoods use the park as well. She said when she had circulated the petition, every single household she went to signed it. She said people were aware there was a very dangerous situation on the street, and felt there was no other effective way to control it.

Patricia Knight, 609 Elm Avenue: said she had lived at her address for around 25 years, and that there was not only a curve on the street, but also the hill. She said she had not signed the petition because she was bitterly opposed to the speed humps. She said she had raised 4 children, had never had any problem either with the children or with pets, was not aware of all the speeders people were talking about. She said she thought the elected body had their answer in the results of the study the police department had done. She said she thought the stop sign referred to had done a lot to slow down traffic. She said she thought speed hump installations encouraged children to play in the street -- motorists feel like they are infringing on children's territory when they try to drive along streets having the humps. Ms. Knight said when her children were young, there were a number of other children on the street as well and there was never any problem with any of them in connection with traffic. She said if the City had money for speed humps, she would like to see it used in some more useful way, e.g., addressing a large deep hole in the street at Prince George's and Elm that needs attention. She said the street was in need of improvements and there were no curbs; she'd rather see her tax dollar spent on things like that, rather than more speed humps. Ms. Knight pointed out other communities had Metro, had cut-through traffic going to and from Metro stations, but did not have a proliferation of speed humps.

Kenneth Gair, 608 Elm Avenue: said while he had not initially favored any speed humps in the city, he now favored the ones being proposed. He said that, rather than putting two in the 500 block, however, he would ask that one be put on the 600 block, or that two additional be put in the 600 block because of the curve at the top of the hill which the previous speaker had mentioned, and where there were many near hits and also accidents -- a couple of which had ended up in Ms. Knight's front yard. He said it was getting to the point that Elm Avenue was a racetrack -- you couldn't back out of your driveway, and the stop sign was totally ineffective.

Acting City Clerk Jewell noted that in response to letters sent out by her office, a number of phone calls were received from people not able to attend the meetings, i.e., Wardell Townsend and Diane Martin at 509 Elm Avenue in support of the speed humps based on safety factors; Mrs. Hammond of 407 Elm Avenue expressed support; Mr. & Mrs. Richard Phillips of 415 Elm Avenue expressed objections based on the street being the only snow and emergency route in the area; Mr. Thomas Linbarger of 623 Elm Avenue said the hill was steep and humps placed at the bottom of it could prove dangerous for drivers, otherwise he had no opposition; Mr. Kenneth Mitchell and Elsie Mitchell of 501 Elm said speed humps were badly needed, Mr. Mitchell was 82 years old and was afraid to cross Elm Avenue -- he also cited the number of children using the park; Ms. McKinnan of 517 Elm expressed support for installation of the speed humps; Ms. Susan Jones of 6721 Poplar Avenue said she favored the speed humps 100%.

Andrew Thompson, 600 block of Elm Avenue: noted he had lived at his address for 15 years; said the City's efforts in upgrading the park and making it available to the children were very much appreciated. He said he had noted stop signs on the street being flagrantly violated, and he was very much concerned about the safety of the children. He said he thought it would be most helpful to have at least one speed hump at the park to help ensure safety of the children using the facility.

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

ORDINANCE #1989-46
(attached)

2. Second Reading of an Ordinance Authorizing Purchase of Replacement Vehicle for Housing Services Department.

Councilmember Hamilton moved adoption of the ordinance, duly seconded by Councilmember d'Eustachio. Councilmember Sharp commented that the ordinance to some extent raised the question of the future of the City's fleet of vehicles, noting that both options were Chrysler products. While he said he understood that the majority of City vehicles were Chrysler products and there was a desire for uniformity so as to facilitate maintenance and repair and allow stocking of parts, the fact was that Chrysler would no longer be making police packages, so some other kind of cars would have to be included in the fleet. He said that should be discussed fairly early on in the new Council, and a decision made regarding what should be done about the non-police package cars as well. He said he had some concern as well about contract procedures that mandated going to bid even if it were known that there were a product available that was potentially cheaper than what would be gotten through the bid process. He said he had had discussions with Ms. Habada about this issue, and in future, the procurement regulations should be addressed and modified, if necessary, so that a less expensive product could be bought outside the bid process if it were available.

Regarding uniformity within the City's fleet, Councilmember Douglas inquired whether that was a formal policy. Mr. Wilson explained that it was assumption based on past practice; it was a matter of practicality as far as the Public Works Department was concerned; the mechanics were trained to repair and maintain Chrysler products. Councilmember Douglas inquired of Mr. Wilson what thoughts he had in terms of recommendations for a more formal policy on selecting by vehicle type for reasons other than the Nuclear Free Zone Ordinance, but for consistency of maintenance, parts, training, etc., and whether that was something the City ought to be doing. Mr. Wilson affirmed he did think so because in the end it would make a significant savings in maintenance and repair, both preventive and actual; also would give the City staff familiarity with parts sources and service sources where they were not capable of dealing with the problem. However, he said the question remained that Councilmember Sharp had raised regarding the policy.

Robert Alpern, Chair of Nuclear Free Takoma Park Committee, 316 Elm Avenue: asked for some further information regarding the vehicle(s) in question so as to ascertain whether the purchase would be in conformance with provisions of the revised Nuclear Free Zone Ordinance.

Mr. Wilson said the vehicle was a used car, either 1988 or '89 model, and would meet the limits of concern set forth under the ordinance. He pointed out there was a certain amount of vagueness in the legislation regarding how the City should approach the purchase of any used vehicle; however, he noted that in buying a used car, the purchase was at least one step removed from supporting the original manufacturer.

Councilmember Elrich commented that, given the freedom allowed under the ordinance regarding used vehicles, he was somewhat disappointed that bids were not solicited for other makes of used vehicles because he felt sure some money could have been saved; as far as maintaining the City's fleet, he said he would echo Mr. Sharp's comments that, given the impending need to make a change in the purchase of police package cars, the Council needed to address the question of a fleet policy very soon.

Councilmember Leary inquired whether there was some pressing need to take action on the ordinance at the present meeting; it was pointed out that the primary reason was that the vehicle was needed in order for Housing Inspectors to have transportation to do their job(s). Mr. Wilson pointed out that the car was a replacement vehicle for one that had been totalled in an accident.

Councilmember Douglas commented that he was troubled by some of the questions that had been raised; he said he did not believe that the Nuclear Free Zone Ordinance required pre-selection -- while the City Administrator had said it was based on past practice, he said he believed that past practice had been erroneous -- while the question had been raised in many ways and many times, it had yet to be addressed by those making procurement decisions. He said he had questions about how serious an attempt was being made to get the best deal possible for the City. He pointed out this same question had been raised regarding the vehicle in question earlier on in the process, but had not been addressed. He commented that it appeared half answers were being given in regard to procurement procedures, and it did not appear to him that the City was being well served.

Councilmember Leary inquired how long it was estimated it would take for the process to be redone so as to be more acceptable. Mr. Wilson said the primary time factor would be if the question of what other makes of vehicles would be clear under the requirements of the Nuclear Free Zone ordinance; he said the position had been taken not to send bids to any manufacturer that was already on the list -- that was the issue Mr. Sharp had raised, and it had been the case from the beginning.

The Mayor commented he concurred that there was a larger issue that needed to be addressed, however, did not know that the decision at hand should be deferred until such time as that question had been addressed, particularly inasmuch as the new Council would be taking office and could take up that issue and hopefully resolve it.

Councilmember Sharp pointed out that in addition to the issue of the procurement, there was the issue of the fleet policy, and that could be an overriding consideration regardless of what else was done. For that reason, he said the Council should probably move forward with the ordinance at hand, but very soon take up those other questions.

Mr. Alpern cited provisions from the Nuclear Free Ordinance regarding the purchase of used products by the City, which allowed, under certain conditions, considerable leeway, whether or not the product had originally been manufactured by a nuclear-related firm. He noted the policy was quite different from stipulations concerning new products.

Councilmember Douglas commented he agreed with Mr. Sharp that there were reasons to proceed with the proposed purchase for fleet considerations; however, he would want the record to clearly reflect that when he voted in favor of the ordinance at hand, it was for those

reasons, and not because of any misinterpretation of the Nuclear Free Zone Ordinance.

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

ORDINANCE #1989-47
(attached)

3. Second Reading of an Ordinance Establishing New Positions in the Classification System.

Councilmember Hamilton moved adoption of the ordinance, duly seconded by Councilmember d'Eustachio. Councilmember Douglas noted that a third proposed position had been deleted at First Reading; he said he wished to make clear that his support of the positions in the proposed ordinance did not indicate that the other one had been forgotten, but needed to be addressed further. Mr. Wilson related that staff, in light of comments voiced at First Reading of the ordinance and taking those into consideration, was in the process of redrafting the position description for the one that had been deleted, with more focus on the primary function of the position.

Councilmember Martin commented that while she had voted in support of the ordinance at First Reading, she had qualms about voting in favor of its adoption because the Account Clerk III position could assume Council approval of the proposed reorganization plan for the Accounting Department which had yet to be discussed or decided upon.

Mr. Wilson said he did not view it in that light, that the point of decision was the matter of the positions themselves; any discussion about the organization or reorganization would be at another level. Whether or not the positions were there, the reorganization questions would remain. Responding to query from Ms. Martin, he said it was intended that the positions would be filled once the ordinance was adopted -- in one case, it would be a promotion for a present employee; in the other, it would be an extension of a job already in place. He said what would be occurring was that some accounting employees' job responsibilities would be changed and upgraded to meet the roles they are currently playing.

The ordinance was adopted by roll call vote as follows: AYE: Councilmembers d'Eustachio, Douglas, Elrich, Hamilton, Leary and Sharp; NAY: Councilmember Martin.

ORDINANCE #1989-48
(attached)

4. Second Reading of an Ordinance Repealing Historic Preservation Committee and an Historic District Created by Legislation Previously Enacted.

Councilmember Hamilton moved adoption of the ordinance, duly seconded by Councilmember Douglas. Responding to questions raised, the Mayor clarified that the historic district to be repealed was the one that had been at one time created on the site of the Washington Adventist Hospital and whose historic value had altered.

Ellen Harris, 7904 Flower Avenue: noted she was a member of the committee proposed to be repealed. She requested that the Council, the City government, and the members of the taskforce soon to be formed recognize the hard work past and present committee members had donated. She said a lot of negative comments had been voiced about the survey and mapping work that had been done, but that work took hundreds of volunteer hours to accomplish and would have cost the City thousands of dollars if performed by an architectural historian or an architect. She said much of that volunteer work was done by people who do the same sort of work professionally, and asked that it be used as a basis for further study rather than starting the process from scratch.

Councilmember Leary commented he was glad Ms. Harris had reminded the Council of the fact that the work the committee had done had taken hundreds of hours over a period of years; he said it was invaluable,

particularly the work surveying proposed boundaries of a new historic district. He said he had hoped the previous week's discussion and the action taken had made clear that the elected body did not intend to throw out the work the committee had done and start from scratch, but would expect the taskforce to work with that as a basis, making adjustments as they deemed warranted or necessary.

Councilmember Douglas echoed Mr. Leary's comments; he said in addition to the hours of work and the tangible products produced and presented, the City owed that committee and all the other volunteers who do work for the City a tremendous debt of gratitude. He said he hoped the members of that particular committee would continue to serve the City in other capacities.

The Mayor noted the historic preservation process that was now getting underway in Prince George's County and said he felt that to be another reason not to essentially discard the work of the committee and start anew. He said it would be important that the taskforce or some other group pick up the data already put together and deal with the question of an appropriate historic district in the Prince George's portion of Takoma Park. He said it had never been his own personal intent to ignore that data that had already been assembled, and he appreciated the work that had been done in putting it together.

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

ORDINANCE #1989-49
(attached)

5. Reconsideration of Variance Requests for Lot at 7307 Jackson Avenue.

Community Planner Lisa Schwartz summarized the history of the situation and what the requested Variances entailed, noting that the requests had previously been brought before the elected body in July. She related briefly events that had occurred in the interim since the issue was last considered, pointing out that the Board of Appeals had deferred action on one of the requests pending reconsideration by the City; however, they had failed to notify the City to that effect. The Mayor noted that Ms. Schwartz's report to the Mayor & Council dated November 17, 1989 detailed the situation very well. Councilmember Martin, having voted in the majority on the issue previously, moved that the matter be reconsidered based on the fact the county Board of Appeals had deferred action pending such reconsideration; Councilmember Elrich duly seconded the motion. In the course of brief ensuing discussion and responding to query from Councilmember Douglas, Ms. Schwartz said the county had never formally and directly asked the City to reconsider the matter, however, had advised the applicant that he might ask the City to reconsider his request. She said she had been advised by county staff on the telephone that action had been formally deferred and not rescheduled for consideration, so the Variance request was still pending. The motion to reconsider carried 4-3.

The Mayor noted that a petition bearing signatures of neighbors who had no opposition to granting of Variance Request #10103 for 7307 Jackson Avenue had been presented.

Karl Riedel, 7309 Jackson Avenue, applicant for the Variances: said when he had last appeared before the elected body, he had shown how the lot in question, if accepted as buildable, would be quite in keeping with the character of the neighborhood -- other lots adjacent and nearby of the same size had houses built on them. Additionally, he said he had demonstrated that if the lot were built upon, the density of the neighborhood would not be adversely affected -- across the street there was a Project Open Space park with a church property next to it that will not likely be developed beyond what is already on it. He said after appearing before the elected body in July, he had gone out and personally canvassed neighbors, had gotten 18 signers of the petition who had no opposition to his proposal, probably could have gotten more, but had not come across anyone with whom he had spoken who thought it was an issue. Mr. Riedel pointed out that when he appeared before the City previously, the only neighbor who appeared

to testify spoke in support of the Variance Request; when he appeared before the county Board of Appeals, another neighbor attended and spoke in favor of granting of the Variances. He said he had felt the demonstrated support of neighbors would carry considerable weight and would justify the Council's reconsideration of the issue. He said the decision made would primarily affect those neighbors who had signed his petition, and he hoped the elected body would take that into consideration. Mr. Riedel said that while there had appeared to be a concern about making a decision that could be precedential, the decision about his lot should not be such because zoning cases had to be considered individually and on their own merits and it was most unlikely that another case would arise having the exact same circumstances as those regarding his lot. If a house were built on his lot, the density of the area would still be far below that of any of the adjacent streets; a house built upon the lot would still be quite in keeping with the character and sizes of existing lots and houses nearby.

Responding to query from the Mayor, Mr. Riedel said if the Variance for the lot were granted, it was not his intention to develop it himself but to put it up for sale as a buildable lot.

The Mayor inquired of Ms. Schwartz whether it was appropriate to condition a Variance Request to subsequent site plan approval. Ms. Schwartz responded that that might be difficult to do; since it was not normally done, the applicant would have to agree to it and then a subsequent purchaser would be stuck with the requirement. For that reason, she said she did not know that the Board of Appeals would go along with it; if Mr. Riedel were intending to develop the lot himself and were willing to go along with such a stipulation, then perhaps the Board would be agreeable to imposing the condition. The Mayor commented that it was of some concern that the City could approve granting of the Variance, the lot was relatively small, and there would then perhaps be little control over what sort of structure was built on the lot. Mr. Riedel said he would have no hesitation about making the purchaser of the lot subject to site plan review by the City. The Mayor remarked that he was not certain just how far the City could go with that proposition because it would then involve a body other than the Board of Appeals, i.e., the Planning Commission, when one got into the area of site plan review and approval.

Responding to query from Councilmember Elrich, Mr. Riedel said he understood the worth of a buildable lot in the neighborhood would be approximately \$50,000, and that houses comparable to his sold in the area for about \$190,000 -- one had sold at the corner of Jackson and Boyd for that amount in the summer.

Councilmember Leary remarked that by approving the request, the Council would not be in any way contributing to solving the problem of affordable housing -- a house built on the lot in question within the next year would be worth in the area of \$250,000 -- if it took longer it could be worth \$300,000. In addition, he said he opposed granting of the Variance based on the fact that the lot in question was one of a very small number of open lots remaining in the city and an effort should be made toward preserving some of those.

Referring to the map attached to Ms. Schwartz's aforementioned report, brief discussion ensued concerning Lots 1 and 2 and the fact that if those lots were built upon they could require Variances due to their total square footage, and perhaps due to an insufficient front footage to meet requirements.

Referring to Mr. Leary's expressed concern about preserving remaining open spaces in the city, Mr. Riedel pointed out that the City and the state, as well, had gone to the expense of putting in the park directly across the street.

Clarence Kochinka, 321 Ethan Allen Avenue: said the empty parking lot was very ugly and what was really needed on Jackson Avenue near Ethan Allen was a cute little house built there in the same price range as others nearby. He said it did not appear to him that there would be room on the lot for a large expensive mansion that would not be in keeping with the rest of the neighborhood. He said one more small

house in keeping with others already existing would only add to the attractiveness of the community, and would not affect the existing low density.

Councilmember Douglas pointed out that the parking lot Mr. Kochinka referred to was not pertinent to the discussion.

Matt Malinoski, 403 Boyd Avenue: said his house backed up to both lots and touched the corner lot. He said he was a contractor and builder by profession, and referred to questions raised about the size of a house which could be built on the lot in question. He pointed out there were sideyard setback requirements that had to be met, which would limit the width of a house; there was also a greenspace rule which would have an impact; so there would be a limit to the size of house that could be put on the lot -- a mansion could not be built there without additional Variances. He said the house to which Mr. Riedel referred and which had sold for \$190,000 was in Montgomery County and had sold for the highest price of any in the neighborhood -- \$150,000-\$160,000 was much more typical. He said he understood that when the house that formerly stood on the land where the park is situated was torn down, there was a lot of concern and discussion about removing it because there was some feeling that a house should stand on that property to sort of ease the neighborhood up to Ethan Allen. He said he strongly supported Mr. Riedel's proposal and thought that other neighbors did as well.

Tom Ziegler, 400 Boyd Avenue: said he was an architect, had known Mr. Riedel for the past 5-6 years. He said he had little to add to what had already been said, but that Mr. Riedel had maintained the lot in beautiful condition and he hoped the elected body would support granting of the Variance so that the lot could be sold.

Councilmember Elrich commented it had baffled him, and continued to do so, how anyone could raise the issue of density in connection with the neighborhood -- about 80% of the lots were substandard by the latest interpretation of R-55 zoning requirements, did not have the requisite 65 ft. frontage. He said he wondered whether those Councilmembers who were concerned about density and building on such small lots would imply that there was something wrong with the neighborhood because it had houses on lots smaller than what current standards required. He said he wondered whether anyone thought that seriously affected the quality of life in the neighborhood. He said his own response to those rhetorical questions would be an emphatic "no" based on his own observations of the neighborhood and the support he had heard voiced by residents for an additional house in the community. Mr. Elrich said while he had not commented on affordable housing, it would be unrealistic for him to expect anyone to build a \$70,000 unit on a \$50,000 lot, but that there was a shortage of available and affordable housing in all income brackets in the metropolitan area.

Councilmember d'Eustachio commented that while he wished the issue were what the neighborhood wanted and/or neighborhood density, if one read the regulations governing the decision to be made, those factors were irrelevant -- the regulation spoke to whether or not a hardship would be created if the Variance were denied, as well as unusual lot size, unusual topography, and created a presumption that the Variance would be denied unless the aforementioned terms could be demonstrated. He said the applicant had not been able to demonstrate that any of those things were pertinent in the case at hand. Mr. d'Eustachio said that while he tended to sympathize with the applicant in this instance, were the Council to ignore the requirements of the zoning law in this case, he did not feel confident that it would not be precedential.

Councilmember Martin commented that while she had previously voted in the negative on the Variance Request, she had since had some remaining questions clarified for her; she felt the applicant had proven a degree of hardship in that he had been unable so far to sell his house with the lot, and would not be able to sell the lot separately lacking the Variance.

Councilmember Douglas commented he felt the Council should not be reconsidering the item and should not alter its prior position; he

said the county had apparently decided not to act on the request, but had not made any formal request that the City reconsider it. He pointed out that the new information the applicant had presented, the petition, did not in any way address the issues that were critical for granting a Variance; nor had any testimony been presented to prove a hardship. He said he felt granting of the Variance would be inappropriate and he would oppose altering the City's previously adopted position.

Councilmember Martin moved that the Council approve granting of the requested Variance with the condition that a site plan be approved prior to any construction on the lot; Councilmember Sharp duly seconded the motion.

Councilmember Leary inquired what would happen if the county would not accept attachment of that sort of condition to approval of a Variance. The Mayor pointed out that the City's action was not binding upon the county; while it was shown some deference, they were free to act as they saw fit. Councilmember Douglas remarked that forwarding of such a position to the county would show very poor judgment; he said it made absolutely no sense; staff had already stated that attaching such a condition would be very problematic and probably not workable.

The question was called; the motion carried with the vote 3-3 (1 abstention). The Mayor voted in the affirmative, breaking the tie. Councilmembers Martin, Sharp and Elrich voted in the affirmative, Councilmembers d'Eustachio, Douglas and Leary voted in the negative, Councilmember Hamilton abstained.

6. Resolution Authorizing Memorandum of Understanding With Prince George's County Re Drug Forfeiture.

Mr. Wilson requested tabling of the item until such time as further information could be received by the Police Chief from the State's Attorney's Office. Councilmember Sharp so moved, duly seconded; the motion to table carried by unanimous vote.

Councilmember d'Eustachio spoke briefly, thanking the Mayor and other members of the Council with whom he had served in his 4 years on the body, as well as citizens with whom he had worked and who had supported him. He said he would be coming back before the next Council with the proposed tax credit program on which he had been working. He said he had enjoyed serving on the elected body and the opportunities it had offered him.

Councilmember Martin said it had been very hard to give up her seat on the Council, however, with the new baby and the fact that she would likely later be going back to work full time, had felt it imperative due to time and energy constraints. She said she particularly regretted giving up the position after only 2 years because it had taken a long time to become familiar with all the issues the Council addresses and deals with, however, hoped she would be able to pass along some of what she had learned to the new Councilmember from her ward. She said she did regret that there would not be a female representative serving on the Council during the upcoming term, and hoped in future more older women who had raised their families would become politically active in the city.

Upon motion, duly seconded, the meeting of the outgoing Council adjourned at 9:50 p.m.

Photos were taken of the outgoing and incoming members of the elected body. The oath of office was administered to Mayor Del Giudice by Chief Deputy Clerk Colleen Walling of Prince George's County and by Deputy Clerk Geraldine Stark of Montgomery County. The Mayor then administered the oath to the new members of the Council.

The meeting of the new Council convened at 10:02 p.m. and the roll was called by City Administrator Wilson as follows:

Mayor Del Giudice	Councilmember Leary
Councilmember Douglas	Councilmember Moore
Councilmember Elrich	Councilmember Prensky
Councilmember Hamilton	Councilmember Sharp

In the time allotted for his comments, the Mayor expressed particular thanks to his wife for agreeing to his public service for another 2 years and to the sacrifice of his time and energies which that entailed; he also thanked his children and said he missed seeing them and spending as much time with them as might otherwise be the case. He said as he and the newly installed elected body embarked on their task, it would be important that they reflect upon what lay ahead and set some goals to guide them. He said they would be meeting over the next couple of months to do some planning and hoped priorities would be identified and put in order. The Mayor noted that in April, the City government would be celebrating its Centennial; in the course of the year historic districts in both counties would be placed into each county's Master Plan for Historic Preservation so as to protect the heritage, historic resources and character of the community. He said he felt appropriate programs and festivities should be planned for the Centennial, and he would propose creation of a Youth Council to be selected by the Mayor and each Councilmember on the basis of essays and which would meet at the Centennial Meeting to enact legislation for their and Takoma Park's future. He pointed out that those young individuals would be the City's potential future leaders. He said he would also ask that the Council create a Future Commission comprised of a broad spectrum of citizen representatives to assess and plan for both short and long range community needs for services, programs and facilities. Based on the burgeoning population of children in the city, he said there may need to be readjustments in the number and types of services the City provides for its youth and that would need to be addressed. He pointed out that the job initiated in the previous term of the elected body with adoption of the new Charter needed to be continued, and he would ask that the Council create a Code Review Committee to work with the Council and the City Administrator to produce a simplified City Code and a new set of City Regulations. He said in conjunction with that effort, it would be necessary to move forward with other legislative reform efforts. A new Housing Code would need to be enacted; the City's Ethics Code would need to be reviewed and reformed, as well as other important and immediate needs. While significant strides had been made in improving the City's fiscal position, further plans would have to be made to ensure fiscal security and the elected body would have to resist the temptation to spend unappropriated revenues on additional programs and services. He said questions would have to be addressed concerning whether the City tax rate could be lowered, whether more monies could be put aside to create a reserve for infrastructure maintenance and repair.

The Mayor referred to the increasing crime rate fueled by the drug epidemic, said the police department could not effectively fight the problem alone, and a total community response would have to be developed. He said he would be asking that the Chief and his department implement over the coming few years a systematic change in service to a community-oriented police service model. There would be changes in neighborhood beats and officers assigned to those beats; the success of the effort would depend greatly on the community's response and willingness to participate. Active watch programs would be instituted.

Regarding recycling, the Mayor noted the need to move forward with additional efforts, such as recycling of hazardous household waste materials and assisting owners and residents of multi-family properties with recycling. The City would need to work closely with neighboring municipalities to encourage the counties to build separation facilities which would be essential if plastic products and bi-metal containers were going to be recycled. Federal and state governments and certain industries, including major newspaper publishers, would need to be pressured to commit resources to development of new recycling technologies, facilities, and products so that markets would exist for recycled waste. He said Takoma Park had proven that citizens were more than ready to recycle -- their efforts and the local government's now awaited the tardy response and action of government and industry.

The Mayor noted that some time ago, an Open Space Committee had been created which had never completed a report to the Council. In the

meantime, he said continuous infill development had been witnessed and the City map still showed numerous paper but potential streets. He said a policy must soon be decided upon for the declining open space and decisions made as to what should be preserved for parks or allowed for development. The City would need to work closely with citizens, WSSC, and the two counties in completing the hiker/biker trail through Sligo Creek.

Legislation giving Takoma Park control over its stormwater management system would be going before the State Legislature in the coming year; the City would be accepting a large responsibility, but he said he felt confident it would be able to do a better job without significant additional costs. He said legislation would have to be enacted locally to implement the authority granted by the State Law and allowed under the City's Charter; the question would also have to be addressed of whether the system should be fiscally maintained through the current property tax or through a user fee which might spread the cost more equitably.

In conclusion, the Mayor noted there were a number of challenges before the new Council; he said he had confidence in the abilities of the members of the elected body to meet them and looked forward to working with all. He said he hoped a spirit of compromise could be maintained, putting major goals ahead of minor differences, which would result in most of the challenges being turned into opportunities which could better the community.

The Mayor noted it was traditional and authorized by the Charter that the Mayor appoint a member of the Council as Mayor Pro Tem; he said his wish would be that Councilmember Sharp serve in that capacity.

ADDITIONAL AGENDA ITEMS:
Carroll Avenue Sidewalks

ITEMS FOR COUNCIL ACTION:

1. Resolutions of Appreciation for Outgoing Council.

The Mayor read a resolution of appreciation which had been prepared for former Councilmember Martin; he moved its passage, duly seconded by Councilmember Sharp.

Ray Dinnenberg, 1319 Elson Place: spoke briefly, saying he would be happy to have his wife, Ms. Martin, at home on Monday nights; however, thought she had done a good job of representing the ward over the past 2 years and felt confident Mr. Moore would do a good job as well.

Councilmember Sharp asked that former Councilmembers Martin and d'Eustachio please keep in mind the Takoma Park tradition that former members of the Council did not come back to meetings in order to harass the incumbent elected body. Councilmember Leary commented he felt Ms. Martin had made a valuable contribution to the Council during her tenure; he remarked on her attention to details which many tended to overlook and said he would miss that talent. Councilmember Moore commented he felt Ms. Martin had done an excellent job representing Ward 6; her hard work and knowledge of city affairs was appreciated by constituents. Councilmember Hamilton thanked Ms. Martin for spreading light among the Council; he said he agreed with Ms. Martin that a woman's perspective would be missed by the Council.

Following brief comment and thanks from Councilmembers Douglas and Elrich, the Mayor said he would miss working with Ms. Martin in an official capacity, however, hoped she would remain active in city affairs. The resolution was passed by unanimous vote and a copy presented to Ms. Martin, along with a plaque thanking her for her service to the city. On behalf of the Police Department, Chief Fisher also presented Ms. Martin with a token of appreciation for her 2 years of hard work.

RESOLUTION #1989-113
(attached)

The Mayor read and moved passage of a resolution of appreciation for former Councilmember and Mayor Pro Tem Paul d'Eustachio; the motion

was duly seconded by Councilmember Douglas.

The Mayor commented he felt Mr. d'Eustachio had been remarkable in his contribution to the City. He said from the very beginning of his tenure as Mayor, Mr. d'Eustachio had been someone on whom he could rely for assistance in many ways and who had worked very hard on behalf of the City, had contributed greatly to major accomplishments during the past 4 years. He elaborated on the variety of ways in which Mr. d'Eustachio had served and said he sincerely hoped he would return to elected office in some capacity in future.

Councilmember Sharp commented he felt Mr. d'Eustachio's political judgments had been extremely useful to the City, particularly with the counties, and that sort of insight would be sorely missed. Councilmember Prenskey said he had been pleased to be a constituent of Mr. d'Eustachio's, would try to live up to the model he had set; he expressed appreciation for Mr. d'Eustachio's clarity, diligence and perspective that had been shown during his tenure on the Council. Councilmember Douglas remarked on Mr. d'Eustachio's common sense and stability, said both he and Ms. Martin would be missed during the coming term. Councilmember Hamilton commented on his admiration for Mr. d'Eustachio, his effectiveness in dealing with people, and said he would truly miss him. Councilmember Elrich remarked on Mr. d'Eustachio's leadership, talent for keeping issues in perspective and from becoming a dividing force on the Council; he said he did not think the many accomplishments of the past two years could have occurred without Mr. d'Eustachio's stabilizing influence. He said he appreciated having been able to disagree with someone and then work on the same side on another issue. Councilmember Leary commented he would miss Mr. d'Eustachio's unflinching integrity and forthrightness in all matters, as well as his ability to keep the Council focussed on what was important in an issue.

The resolution was passed by unanimous vote, and a copy presented to Mr. d'Eustachio. Chief Fisher expressed gratitude on behalf of his department for Mr. d'Eustachio's support during his years in office, particularly his ability to understand details, his assistance in getting a substantial rebate from the county for police service, his efforts and hard work on behalf of the 25 year police municipal bill which will benefit many officers throughout the state for years to come.

2. Council Action re Variance Request for 6914 Prince George's Avenue.

Community Planner Lisa Schwartz recapped the basis for the Variance Request, which was to validate an existing sun deck, and said her recommendation was that the elected body oppose granting of the request because the deck had led to trespassing on a neighbor's property and denial of it would not create a hardship for the applicant.

Jon Running, son-in-law of property owner, 6914 Prince George's Avenue: said he had built the deck 10 years earlier, not knowing a permit was required, and that in all that time there had been no problem until recently. He said while he would cut the deck back as required, he would hope it could be cut back to support beams located about 5 feet from the house.

In the course of ensuing discussion, Ms. Schwartz, in responding to questions raised by Councilmember Douglas, said that while she had included some materials from DHS in the Council packet regarding possible City Code violations on the property in question, she did not think those should be considered as having any bearing on the Variance Request.

Mr. Henney, 6912 Prince George's Avenue: said the deck had evolved over the past 10 years to its present size, had been enlarged from time to time, once when he and his family were on vacation. He said he had not been overly worried when the structure seemed to be of a somewhat temporary nature, but became so when they started putting in metal support posts. He related he had complained to the county regarding an oversize shed on the property and had hoped they would also pursue the matter of the deck; however, they had not and he would like to

have the neighborhood dispute resolved. He said the deck had recently been modified, the metal supports had been put in -- the idea that the structure had been there status quo for 10 years was not accurate, and it did create a hardship for him and his family. He presented photos showing the evolution of the deck to its present form, said it was an unsightly structure and moving it back from the property line 7 ft. would be an improvement.

Mrs. Henney: said the staff report covered the situation in a nutshell. She said the structure was clearly in violation of the Code, and granting of the Variance, as commented upon earlier in the meeting, would set a precedent for granting of another in similar circumstances. She said that a prior Variance granted for the property in question was for what was supposed to be a small toolshed, but turned out to be a two-story house -- as large as some of the smaller houses in the city -- and it was built without a permit. Also built without a permit was the huge deck -- over 900 sq. ft. in area. If all the covered area on the property were added up, it would amount to over 30% of the property. She said there were also other things that had not been mentioned, i.e., a central air conditioning unit, a chimney.

Former Councilmember d'Eustachio referred to his earlier comments regarding the need to look at the law when dealing with Variances; he said he did not feel the one at hand entailed any particular hardship. In addition, one reason for setback requirements was to allow for emergency access -- in the event of fire, the fire department would not be able to get equipment behind a house if there were no side yard. If structures abutted one another, fire would spring from one dwelling to another -- there was a valid and logical reason for setback requirements. He said there was also the need to examine setting a precedent concerning building right up to the property line -- and validating something built in violation by a current owner would not be advisable. He asked that the Council carefully examine staff's report and vote in conformance with its recommendation.

Responding to questions from Councilmember Hamilton, Mr. Running explained that 95% of various-sized bricks shown in one of the photos had now been removed from the property. He said he had removed a formerly-existing dilapidated brick wall in order to correct a Code violation; the City had already inspected that correction. Also, the county inspectors had checked the deck and verified it to be structurally sound.

Responding to query from Councilmember Douglas, Mr. Running affirmed that the neighbor's property (the Henney's) was regularly used because of lack of side yard property, particularly to maintain the deck. He said, however, that his father-in-law had owned and occupied the property for 30 years; in the 10 years he had personally lived there, no one had complained until the last few months. He said he had tried to keep the property up, keep things nice, did not know where he had gone wrong, but wanted to comply with what was wanted of him; if the elected body would let him know what he had to do, he would do it, however, wanted to keep as much of the sun deck as was possible.

Councilmember Prensky moved that the Council accept staff's recommendation to oppose granting of the Variance; the motion was duly seconded by Councilmember Sharp. The Mayor explained to Mr. Running that if the Board of Appeals denied the Variance, that would mean he would have to cut the deck back 7 ft. to comply with side setback requirements.

Councilmember Douglas expressed support for the motion; he said it was clear that criteria for granting a Variance had not been met and that the applicant in the present circumstances needed to use his neighbor's property in order to maintain his own due to the configuration of the deck. He said he felt it was appropriate for the City to oppose granting of the Variance. Councilmember Hamilton said he, too, opposed granting of the Variance, but wanted to clarify his opposition had nothing to do with the housing code issues which were a separate thing. Councilmember Leary remarked he felt the evidence to be overwhelmingly in support of the resolution of opposition drafted by staff. He noted as well receipt of a petition signed by 7 nearby property owners and expressing support for the action recommended by

the Henneys and endorsed by the resolution. Mr. Running submitted a letter for the record as well. The Mayor noted receipt of a letter from Natalia Joan DeBrule of 6924 Prince George's Avenue concerning the Variance Request and the aforementioned petition which was signed by a number of individuals residing on Prince George's, Ethan Allen and Elm Avenues. Mrs. Henney presented also a letter from Linda Donald, an architect residing in the neighborhood. Councilmember Sharp noted for the record that all members of the Council had read the letter Mr. Running had submitted. The question was called, the resolution was passed by unanimous vote.

RESOLUTION #1989-114
(attached)

3. First Reading of an Ordinance Eliminating Section 6-76 and 6-80.17(g)-(i); and Section 6-80.17(j) Sunset Provision from Housing Code.

The Mayor noted receipt of a memorandum on the subject of the proposed ordinance. Corporation Counsel Silber explained there had been some question regarding the status of rent control once the sunset provision had lapsed -- which occurred in March 1989 -- and whether it could be put to rights by eliminating the sunset provision retroactive to that time. She said while there had been some rumours floating around on the subject, a careful reading of the ordinance containing the sunset provision revealed it to be very narrow, having to do simply with the procedural way in which a landlord might request a hardship exception to the rent control provisions. Therefore, the lapse from the sunset should not affect the overall framework of the law at all. She said she could hardly imagine a situation wherein anyone would want to invoke that period of time when the provision was out of force. Additionally, she said research indicated that by enacting legislation retroactive to March 31, 1989, the situation could be remedied -- retroactivity of legislation was allowed under Maryland Law so long as it does not undo any vested right. Ms. Silber pointed out that the brackets around the very last line of language on the last page in the proposed ordinance should be eliminated -- their inclusion was a typographical error.

Councilmember Sharp moved acceptance of the ordinance for First Reading, duly seconded by Councilmember Elrich; the motion carried by unanimous vote.

ORDINANCE #1989-
(attached)

The Mayor noted the ordinance would be discussed further at the following week's worksession.

#4. Single Reading Ordinance Authorizing Purchase of Facade Easement Under the Erie/Flower Facade Improvement Program.

Councilmember Sharp moved adoption of the ordinance, duly seconded by Councilmember Douglas. Community Development Coordinator Valerie VinCola noted that because this was a budgeted item, it could be adopted as a single reading ordinance. Mr. Sharp moved adoption of the single reading ordinance and this was duly seconded by Councilmember Hamilton. The question was called and the ordinance was adopted as follows: AYE: Douglas, Hamilton, Leary, Moore, Sharp; NAY: Elrich, Prensky.

ORDINANCE #1989-50

#5. Resolution Appointing Members of the Recycling Taskforce.

Councilmember Douglas moved passage of the resolution, duly seconded by Councilmember Hamilton. Acting City Clerk Jewell noted for the record that the following citizens had written expressing an interest in serving on the Taskforce: Dean Tousley, Pat Howell, Milford Sprecher, Linda Lyon, and Dr. Dean Hoge. Ms. Jewell stated that with the nine members appointed by the Council in September, this brought the total membership to 14. Mayor Del Giudice noted that there was one additional vacancy to fill and that any interested members of the community wishing to serve should be encouraged to do so. The resolution was passed by unanimous vote.

RESOLUTION #1989-115
(attached)

#6. Resolution Appointing Councilmember Prensky as the City's Representative to Attend the U.S. Nuclear Free Zone Association Founding Meeting.

Mayor Del Giudice moved passage of the resolution, duly seconded by Councilmember Hamilton. Mayor Del Giudice noted that the U.S. NFZA invited a representative from Takoma Park to attend the founding meeting on Sunday, November 26, 1989 at the National League of Cities Congress in Atlanta, Georgia. The resolution was passed by unanimous vote with Councilmember Prensky abstaining.

RESOLUTION #1989-116
(attached)

#7. Resolution Authorizing Use of a Part of the Library Parking Lot for the Sale of Christmas Trees by TPVFD.

Councilmember Hamilton moved passage of the resolution, duly seconded by Councilmember Moore. Councilmember Sharp noted that the City Administrator would be determining the exact parameters of the use that was being authorized. Mr. Wilson said that Recreation Director Ziegler and Library Director Robbins were working out details of what would and would not be allowed. Mr. Sharp said he hoped grass would not be damaged. Responding to further questions raised, the Mayor clarified that the City generally prohibited fundraising on City property unless prior approval were given; he said regulations allowed certain types of charitable, non-political fundraising activities but consent of the elected body was required. The resolution was passed by unanimous vote.

RESOLUTION #1989-
(attached)

Regarding the work being done on Carroll Avenue, Councilmember Douglas remarked that Mr. Giancola's memo was not completely clear regarding what was going to be done there. He said his personal observation was that the new curbs were somewhat higher than the walks; he said he understood portions of the walks along Carroll that were in particularly bad shape would also be replaced, and he had some concerns, particularly in light of comments regarding potential hazards that might occur. Consensus was that the subject of the curbs and sidewalks along Carroll Avenue would be on the November 27 worksession agenda.

Regarding the Traffic Committee, Councilmember Douglas noted that group was originally appointed to serve until the date of the Municipal Election, which meant that they were presently not serving, nor had new members been appointed. He said he would propose that the present committee members be reappointed to serve until January 1 or until such earlier time as new members were appointed, and that an advertisement for people wishing to serve be published in the December Newsletter. He moved that the present members of the committee be reappointed as stipulated; the motion was duly seconded by Councilmember Hamilton, and carried by unanimous vote.

The Mayor referred to a memo he had distributed regarding the elected body getting together during the months of December and January for planning sessions. He asked for input on the number of sessions and appropriate dates; brief discussion of dates ensued and the Mayor

The Mayor referred to a memo he had distributed regarding the elected body getting together during the months of December and January for planning sessions. He asked for input on the number of sessions and appropriate dates; brief discussion of dates ensued and the Mayor noted the matter of getting some facilities at the college for the sessions would be looked into.

Councilmember Douglas asked whether something would be put in the December Newsletter asking that people wishing to serve on the Historic Preservation Taskforce make their interest known and clarifying what the charge of the taskforce would be. It was affirmed that would be done.

Following brief discussion regarding the meeting schedule over the holiday season, the meeting adjourned.

Introduced by:

1st Reading: 11/20/89

2nd Reading:

Effective Date:

Ordinance # 1989 - ____

An Ordinance eliminating the Sec. 6-80.17 (j) in order to give full force to Sec. 6-80.1 (c) and to eliminate the sunset provision for Ordinance 1988 - 9, Definitions and Rent Guidelines.

Sec. 6-76

(o) Stabilization Ceiling shall mean the maximum amount amount for a dwelling unit that a landlord is permitted, by law, to charge.

(p) Tenant shall mean any person who occupies a dwelling unit for living or dwelling purposes with the Landlord's consent.

Sec. 6-80.17

(g) Proposed increases in excess of the rent stabilization amount established in Sec. 6-80.17(c).

(1) Whenever a landlord proposes a rent increase of more than the amount permitted by the stabilization ceiling established in Sec. 6-80.17(c), the landlord shall file a petition on the affidavit form provided by the Commission.

(A) The affidavit shall include justification for the rent increase in excess of the stabilization ceiling as follows:

- (1) Operating expense increases are greater than increases in the total income,
- (2) Need to increase cash flow levels.
- (3) Capital improvements.
- (4) Change in the level of service, and/or
- (5) Inadequate rate of return.

(B) The affidavit shall include:

- (1) Information defining the beginning and

end dates of the fiscal year or calendar year during which the actual income and expenses, recorded on the affidavit took place.

(2) The method of accounting used: cash basis or accrual basis.

(3) An accounting for cash flow where past cash flow is defined as the remainder resultant when subtracting expenses from the sum of the maximum possible rental income which can be derived from the rental dwelling plus the maximum amount of all other income which can be derived from the dwelling.

(4) All relevant tax assessment information.

(5) All relevant documents on any encumbrances on the property.

(C) The following may be included as expenses:

- a. Utilities
- b. Administrative expenses.
- c. Operating and maintenance expenses.
- d. Payroll.
- e. Taxes and insurance payments.
- f. Uncollected rents and vacancy losses.
- g. Debt service payments; amounts deposited

to reserves, and

h. A pro-rata share, using straight-line depreciation, of capital improvements which have a useful life in excess of three (3) years.

(D) The following are not to be included as expenses:

- a. fines resultant from noncompliance with Housing Code violations or COLTA orders.
- b. Damages paid to tenants as ordered by COLTA or the courts.
- c. Depreciation or other expense items recognized by the Federal government but not recognized by the Takoma Park Municipal Code.
- d. Late fees or service penalties imposed by utility companies, lenders, or other entities providing goods or services to the landlord or the dwelling.
- e. Membership fees in organizations established to influence legislation and regulations.
- f. Mortgage principal payments.
- g. Contributions to lobbying efforts.
- h. Contributions for legal fees in the prosecution of class action cases.
- i. Political contributions to candidates for office.
- j. Maintenance expenses for which the landlord has been reimbursed by any security deposit, insurance

settlement, judgment for damages, agreed upon payments, or any other method.

k. Attorney's fees charged for services connected with counseling or litigation related to actions brought by the City due to the landlord's failure to comply with applicable housing regulations.

1. Any expenses for which the tenant has lawfully paid directly.

(2) Facts represented in the affidavit shall be documented by true copies of bills, receipts, and other financial records so that the Commission, should it find substantiation of the affidavit necessary, will have documents needed to substantiate the affidavit.

(3) The Commission shall not consider a Landlord's request:

(A) until the affidavit, including supporting documentation as required by Sec. 6-80.17(g)(1)(E), has been submitted to the COLTA Coordinator; or

(B) when serious outstanding code violations, as defined in Section 6-16 of this chapter, are found to exist in the particular dwelling unit for which an increase in rent is sought, or in the exterior structure or common areas and facilities of the building which the dwelling unit is located.

(4) In determining whether to grant, modify, or deny the landlord's request, the Commission shall issue an Order with findings regarding the effect of the request on:

(A) Tenant interests, including tenants' interest locating and keeping affordable, high quality living quarters.

(B) Landlord interests, including the landlord's interest in gaining a reasonable rate of return. In no event shall the rate of return exceed 12% of the landlord's equity per year. The rate of return shall be determined by dividing the cash flow by the landlord's equity. The landlord's "equity" shall be defined as the tax assessed value less any encumbrances on the property. The landlord shall have the option to substantiate need for the rent increase on the basis that the failure to grant an increase beyond the stabilization ceiling would result in a negative cash flow.

(C) Public interest, including the public

interest in maintaining a stable, ethnically diverse and economically heterogenous community and in preserving the quality of affordable housing.

(5) In the event that the Commission shall determine that the landlord is not justified in increasing the rent above the stabilization ceiling, the Commission shall notify the landlord and affected or interested tenants of its finding.

(6) Any person aggrieved by a final order of the Commission may appeal to Circuit Court of the appropriate county within thirty (30) calendar days of service of the Commission's final order. An additional three (3) days will be allowed if service is by first class mail. The date and manner of service shall be made a matter of record at the time it is effected. The appeal will be heard on the record as compiled by the Commission. The Commission's order shall be upheld if supported by substantial evidence in the record.

(h) The Commission shall conduct a fact-finding hearing to compile additional information prior to determining whether or not a rent increase in excess of the stabilization ceiling set forth above shall be permitted.

(i) Notice of the hearing shall be given as provided in Section 6-80.2(g). The hearing shall be open to the public and shall be conducted in accordance with the provisions of Section 6-80.2(h).

[(j) Any violation of Subsections (c), (d), (e) or (f) of this section of this Article shall be a municipal infraction, the penalties for which shall be as follows:

(1) Imposition or attempts to impose a rent increase in excess of the stabilization ceiling provided in Section 6-80.17(c) without the approval of the Commission on Landlord-Tenant Affairs; fifty dollars (\$50.) per dwelling unit.

(2) Imposition or attempts to impose more than one (1) rent increase in a twelve-month period: fifty dollars (\$50.) per dwelling unit.

(3) Imposition or attempts to impose any rent increase without substantial compliance with the notice provisions of Section 6-80.17(e): fifty dollars (\$50.) per dwelling unit.]

(k) In the event that a landlord or anyone acting on behalf

of a landlord brings an action for unpaid rent or for eviction based on failure to pay rent which is unlawful under this Article, proof by a preponderance of the evidence that the landlord or anyone acting on behalf of the landlord has not complied with any provision of this Article shall act as a bar to recovery by the landlord or any person acting on the landlord's behalf of any rent or portion of rent due which is unlawful under this Article. When such proof has been made, the court shall dismiss the action against the tenant and award to the tenant his or her costs and attorney's fees incurred in defending the landlord's action, including any wages or other income lost for time spent in court in the defense of the action.

(1) If, during the pendency of a notice called for in Section 6-80.17(e), the stabilization ceiling provided for in Sections 6-80.17(a) and (c) is lowered by the City Council, a landlord shall be entitled to charge rent only up to the stabilized ceiling as lowered by the City Council, at the proposed effective date of the increase. The landlord may charge rent in excess of the stabilization ceiling as lowered by the City Council only after complying with the requirements of Section 6-80.17(g). In all cases, a finding that a rent increase to the amount called for in the notice is justified under this Article, the Commission on Landlord-Tenant Affairs shall make its order permitting such an increase retroactive to the proposed effective date specified in the notice for such increase, provided that such increase and effective date are otherwise lawful.

[This Ordinance shall be retroactive to March 31, 1989.]

ADOPTED THIS ____ DAY OF _____, 1989.