

CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and Council
December 4, 1989

CITY OFFICIALS PRESENT:

Mayor Del Giudice	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 Moore	Police Chief Fisher
Councilmember Prensky	Recreation Director Ziegler
Councilmember Sharp	Corporation Counsel Silber

The Mayor and City Council convened at 8:05 P.M. on Monday, December 4, 1989 in the Council Chamber at 7500 Maple Avenue, Takoma Park, Maryland.

Following the pledge, Mayor Del Giudice noted the Recreation Department's recent Awards Banquet honoring volunteers for the time and work they donate to the department and its programs. He pointed out that department's budget would be much higher but for the work those individuals do, and thanked them all both for their efforts of the last year and for years past. He noted as well receipt of an invitation to himself and members of the Council to a Prayer Breakfast on December 5, 6:30 a.m., at the Sligo Seventh-Day Adventist Church. He explained this would be the first of a number of Prayer Breakfasts the church hopes to hold within the coming year. He said he had pointed out to one of the organizers of the event that it might be difficult for members of the elected body to attend at such an early hour on a Tuesday due to the late hours they sometimes have at Monday night meetings. Regarding the meeting schedule for the elected body during the holiday season, the Mayor noted that there would be a worksession on December 11, a Regular Meeting on December 18, followed by a recess until January 8, at which time a worksession would be convened.

The Mayor noted Councilmember Prensky had recently represented the City at the founding meeting of the National Association of Nuclear Free Zones which was held at the meeting of the National League of Cities. Mr. Prensky remarked he had been honored to attend the meeting and to represent the City. He said there had been councilmembers and alderman from 21 cities and towns at the meeting, Mayors from 3 others, as well as representatives of a number of national associations, including Nuclear Free America. He related that the association was formed at the meeting; bylaws and applications for incorporation and for tax-exempt status in the State of Maryland were being finalized. Mr. Prensky said he had been nominated and elected to the interim executive committee and had agreed to serve as Secretary-Treasurer of the organization, as well as being one of its incorporators. He related that the President of the organization was Jaime Vasquez, a City Councilmember for Jersey City, New Jersey; Vice President was Susan Reed, a Councilmember from Ashland, Oregon. Mr. Prensky said that when documentation was finalized, he would be coming before the citizenry and elected body to propose that Takoma Park become an official dues paying founding member of the organization.

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

Sharon Bond, 608 Philadelphia Avenue: noted she was accompanied by Jane Lawrence and Nancy Evans, and that they were representing the immediate neighborhood where Bernard Aaronson resides. She said they wished to make a public response to the public demonstrations that had been held in front of Mr. Aaronson's house and also to the letter submitted by Jay Levy and recently published in the City Newsletter. She presented and read a letter, bearing signatures of a number of residents of the community, which essentially stated that they felt it inappropriate for demonstrations to be held in front of a private individual's home because it not only invaded that person's privacy and security but also that of their neighbors, and requesting that the demonstrations against government policy be moved to a more appropriate site, e.g., the site of the government. She said one could

easily conclude that what had been occurring had an element of personal harassment.

Nancy Evans, 7613 Takoma Avenue: said she wished to emphasize that the 80 signatures on the letter were those of immediate neighbors of the Aaronsons, those living next door, immediately behind, etc. She said the Newsletter article had implied that Mr. Aaronson's neighbors were demonstrating against him, however, that would depend upon how one defined "neighbors." She said not one of his immediate neighbors had ever demonstrated against him, and about 95% of them had signed the letter.

Rino Aldrighetti, 7213 Central Avenue: thanked Councilmember Sharp for his mention of Mr. Aldrighetti's position on the Newsletter to the Council, which he said he had been trying to get across for the last 4 years. He said, however, what was represented was not totally correct; his point was that the Newsletter should be reflective of the fact that Takoma Park is a community, and should not be a vehicle for government to push its agendas. While it appeared the movement was in the right direction, citizens should be encouraged to use the publication to display their events, to depict the quality of life in Takoma Park, to promote local community fundraisers, etc. He said he thought the report that had been developed would help in that. Mr. Aldrighetti said he, too, had been reading about the aforementioned demonstrations in front of Mr. Aaronson's house. He remarked he did not know Mr. Aaronson well, however, would take issue with the earlier speaker's statement that his neighbors did not demonstrate against him, and said therein lies a real problem in the city -- also a question of quality of life in the city -- when standards of neighborliness degrade. He said there was no question that there were tremendously arguable points in government policy regarding El Salvador and other government policies. However, when neighbors, people living in the same city, take to the streets to demonstrate and use a community vehicle like the City Newsletter and get their Mayor to attempt to put together meetings (as he said he understood had happened), then there becomes a level of harassment that is unacceptable, despite the fact it's protected by the First Amendment -- which did not mean, however, that it was right. He said everyone's life was degraded, regardless of where they lived in the city, when those sorts of things happen. He said he sometimes feared a morality police state was developing, and there came a time when it was every individual's responsibility to stand up and say no; the article in the Takoma Voice referring to Scott Peck's book should also have taken note of what Mr. Peck had to say about groups with inner powers to coerce -- and those were not only groups like government.

Brint Dillingham, 7018 Carroll Avenue: said he had a great deal of respect for those who had spoken in defense of Mr. Aaronson and the privacy of his home; however, said he differed with them in that it entailed freedom of speech and those demonstrating had the right to do so under the First Amendment. He said he did not think people were becoming morality police when a person was the key representative in probably the major flash point of the world for the administration policy. He said he had agreed with Mr. Aaronson on some things, however, felt the abuses the U.S. was condoning against people in Salvador and Nicaragua far outstripped what was going on from other sources in many ways. As the key representative for that area and considering what was occurring, and upholding and defending the U.S.'s policy, there was a certain appropriateness for people to come to Mr. Aaronson's home and speak out. Mr. Dillingham said he did not consider that sort of action as being morality police, did not think a group of local demonstrators were going to overwhelm what the U.S. was doing; they were simply trying to stand up against a power far greater than themselves and say what was right.

Mr. Dillingham referred to a first notice of violation of the Recycling Ordinance which he and some of his neighbors had recently received. He said he had called the Recycling Coordinator, who acknowledged that it was unknown who (of the number of apartment dwellers using the repository) was committing the violation, so everyone using the container had been issued the notice. He said that approach was not appropriate and certainly not fair or just. Mr. Dillingham said recycling was an important program, however, that sort of approach

would not breed respect or compliance. He said he had conveyed that to Ms. Braithwaite, she had concurred, and he hoped it would not happen again.

Councilmember Douglas commented that there was a continuing problem regarding the way trash was put out at the location Mr. Dillingham had referred to. He said it was difficult to ascertain which individual was causing the problem, but there was a need to do so and remedy it. In the course of ensuing dialogue, Mr. Dillingham pointed out that apparently there was some confusion and problems attributable to city government regarding the process as well, citing the fact that bundled newspapers had not been picked up on schedule and conflicting advice had been given regarding when residents should put trash out for pickup.

Councilmember Leary remarked that, as another neighbor of Mr. Aaronson's, he wished to strongly endorse the comments made by Ms. Bond, Ms. Evans, and Mr. Aldrighetti. He said he agreed completely with what they had said, and hoped the people who had engaged in the demonstrations would recognize that seven separate instances were sufficient to have expressed their point of view and that Mr. Aaronson had surely gotten their message. He said he would hope also that they would think a bit about the sort of precedent that would be established by that sort of violation of personal privacy in order to promote a political point of view that could be better expressed at the source of the problem.

ITEMS FOR COUNCIL ACTION:

1. Second Reading of an Ordinance Eliminating Sec. 6-76 and 6-80.17(g)-(i); and Eliminating Sec. 6-80.17(j) Sunset Provision. Councilmember Hamilton moved adoption of the ordinance, duly seconded by Councilmember Sharp.

Brint Dillingham: pointed out that those who receive agendas through the mail sometimes receive them after the meeting has occurred, sometimes receive them on Saturday before the meeting. He said that on the day he received the agenda for the present meeting, he also received the City Newsletter which stated that Second Reading of the ordinance at hand would occur on December 11 -- which was certainly conflicting information. Mr. Dillingham said about a week earlier, he had been given a copy of the ordinance at hand by the Housing Coordinator and advised that it was the current reigning landlord-tenant law. He expressed confusion regarding what was being changed in the law.

Housing Director Weiss said that the only change occurring from the version Mr. Dillingham had was that Section 6-80.17(j), the Sunset Provision, was being eliminated, with the legislation being reenacted retroactive to March of 1988 when that provision would have taken effect. She explained that the other sections referenced also had a sunset provision in them; all that was being done was to ensure that the legislation maintained its effectiveness. Following brief dialogue, the Mayor clarified that due to a failure in communication between DHS and the Clerk's Office, the agenda heading for the item was not very definitive; he said the amendment was very technical, essentially dealt with the sunset provisions and gave full force and effect to other provisions, i.e., Sec. 6-80.1(c) dealing with municipal infractions.

The Mayor affirmed there had been a mistake in the Newsletter regarding the meeting schedule; he said the elected body would be meeting in worksession on December 11 and in Regular Session on December 18. Mr. Dillingham commented that when a date for addressing an issue had been incorrectly publicized in the Newsletter, it should then be rescheduled for somewhat beyond that date rather than dealing with it prior to the published date.

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

ORDINANCE #1989-51
(attached)

2. Single Reading Ordinance Authorizing Purchase of Surveillance Vehicle.

Councilmember Hamilton moved adoption of the ordinance, duly seconded by Councilmember Moore. It was noted a staff report had been provided documenting the process that was undergone for procurement of the vehicle. Mr. Moore noted that \$7,500 had been provided for the purchase, however, the cost of the vehicle was \$6,800; he inquired whether the City had to return the unused funds. Asst. City Administrator Habada said the City did not return the extra money, however, had to document how it was spent inasmuch as it was government grant money. Councilmember Prensky noted in connection with the Nuclear Free Zone Ordinance, the vehicle would fall under the provisions for used vehicles, thus, certificates of compliance would not be pertinent. Councilmember Douglas referred to a recent conversation he had had with Captain Wortman on the subject and said he had discussed with him concerns similar to those he had with the DHS vehicle recently purchased, i.e., that he did not think the procedure was in strict compliance with the NFZ Act. He said he thought that needed to be discussed at some point in the near future, as well as the question of a fleet policy prior to buying additional vehicles in the coming year.

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

ORDINANCE #1989-52
(attached)

3. Public Testimony re Variance Appeal 10326 - 7216 New Hampshire Avenue.

The Mayor noted a staff report had been provided; it recommended approval with certain conditions. He noted as well that a resolution setting forth staff's recommendation had been drafted. Councilmember Sharp moved passage of the resolution, duly seconded by Councilmember Hamilton.

Community Planner Lisa Schwartz briefly summarized the requested variances, noting they were needed before a use and occupancy permit could be issued for the dry cleaning establishment that would be located on the commercial property. She said she had recommended approval be granted the variances provided it would not in any way impinge upon completion of the hiker/biker trail along Sligo Creek, which was slated to run along the subject property. She said when she had last spoken with Park & Planning the prior week, they had not yet done a full investigation of what impact, if any, the variance request would have on the trail; however, it had been determined that there was at least 8 feet of existing right-of-way where the trail could go.

Councilmember Prensky inquired whether the applicant, Mr. Petrocelli, intended to operate a dry cleaning plant that would do work for a number of other cleaning establishments or would do such work only for his own clientele. Ms. Schwartz said she did not know; she remarked she had spoken to the applicant's attorney and had invited him to attend the present meeting, however, he was not there. Councilmember Moore commented that there were prices posted at the property for cleaning a variety of items, so it would appear the business would be retail, at least in part. He commented as well that the proposed landscaping would be an improvement over what was presently there; it appeared to be a good plan. Regarding the hiker/biker trail, he pointed out that in her report, Ms. Schwartz had pointed out that the landscaping strip, if 6 ft., would extend 5 ft. into the public right-of-way at at least one point. He asked what the implications of that would be -- whether it was likely the planting strip would have to be torn up in several years due to the trail and what impact that would have on the zoning requirements. Ms. Schwartz said that had been one of her concerns; however, in talking with county staff, she had understood the trail would not actually be constructed for 2-3 years. She said she did think that at the time of construction of the trail, that particular portion of the planting strip might have to be disturbed. However, if the planting were widened in such a way that it projected more onto the property itself, that could make it more difficult for traffic to circulate. The Mayor expressed concern about letting

someone put in landscaping that would eventually have to be torn out because of the hiker/biker trail; he said it appeared better use could be made of the existing space and the landscaping widened perhaps at the corner area without impinging upon access and the flow of traffic. Responding to query, Ms. Schwartz affirmed the hiker/biker trail had to be 8 ft. wide. Following brief discussion, Ms. Schwartz, in response to query, explained that Park & Planning would be holding a hearing on December 6 and would shortly thereafter be formulating their recommendation. The Mayor remarked that his suggestion would be that the City's approval be further conditioned upon the applicant widening the strip in the corner area of the property near the junction of New Hampshire Avenue and Sligo Creek Parkway. Councilmember Sharp inquired whether the Mayor felt the City should not support granting of the variances if the applicant did not agree to that particular condition. It was noted the applicant's attorney was now present. The Mayor responded that he would not particularly favor denial of approval, however, would strongly recommend and see if the applicant's agreement could not be gotten as the matter proceeded before the county. Mr. Sharp remarked that given the plans for the hiker/biker trail, it would appear to him that Park & Planning might also have some interest in the landscaping and putting some conditions on how it was done.

Daniel LaPlaca, attorney for the applicant, Nicholas Petrocelli: said that while expansion of the planting strip to a width greater than 6 ft. from the ultimate right-of-way line had been considered, it posed a problem with regard to parking space number 7 in front of the entrance to the dry cleaner. He explained that a car had to pull in frontways to get into that space and then had to back up to leave it; altering traffic circulation was examined and it would be going only one way. One would have to back up, turn left and exit onto New Hampshire Avenue. However, the more narrow the space was made, the more difficult would be the turn and maneuvering of the car to get in and out.

The Mayor explained the relationship of the hiker/biker trail to the property in question, noting that one of the proposed routes would carry it right along the edge of the property and could in future result in the loss of some of the proposed greenspace. He said he had recognized existing problems in relation to parking spaces 6 and 7, which was why he had suggested widening of the planting strip in the corner area where it would not appear to impact much on anything else. Mr. LaPlaca said he had not been able to speak personally with appropriate staff at Park & Planning, so did not know exactly where the hiker/biker trail would be constructed; however, he wondered whether it would be appropriate to condition the City's approval on the ultimate location of that trail. The Mayor explained that the resolution before the Council clarified that the City's support was conditioned on the landscaping not creating any conflict or problem with installation of the hiker/biker trail. Mr. LaPlaca commented that the drawing provided did not appear accurate to him in that the landscape strip was supposed to be a minimum of 6 ft. wide at all points. The Mayor said that, rather than including any additional conditions in the resolution, inasmuch as Mr. LaPlaca had appeared and was now aware of the elected body's concerns, he would ask that he go back and work with his client and make him aware of the concerns regarding any eventual conflict with the hiker/biker trail, that it would be desirable that there be as much greenspace as possible given the site plan, and that it would be desirable that any greenspace planted be able to be preserved in future. Mr. LaPlaca thanked the elected body, said their favorable recommendation was appreciated, and that it was hoped the property would be an asset to the community. Councilmember Sharp noted the property was located in his ward, said he had received comments from constituents regarding the present appearance of the property, and said he looked forward to its improvement. He referred to the properties south of the subject corner property on New Hampshire Avenue (which Mr. LaPlaca said his client did not own) and said perhaps Mr. Petrocelli would be willing to work with the City to encourage the owners of those properties to make improvements to them so that they did not look so neglected.

Responding to Councilmember Prensky's earlier question about the nature/scope of the business (which he reiterated), Mr. LaPlaca said

it was his understanding that the business would not be a processing center for a number of other cleaning establishments, but would be a single dry cleaning establishment. He said the owner appeared to be a small business person, and to his knowledge, did not own multiple locations. He said he did not know the answer for a fact, however.

The resolution was passed by unanimous vote.

RESOLUTION #1989-118
(attached)

4. Resolution Authorizing Memorandum of Understanding With Prince George's County State's Attorney's Office re Drug Forfeitures.

Councilmember Moore moved passage of the resolution, duly seconded by Councilmember Sharp. The Mayor explained that the State of Maryland had recently enacted a new drug seizure law which gave the state and local governments the right to seize in forfeiture proceedings real property and other assets previously not available to local governments -- those were previously under the jurisdiction and authority of the federal government. The state law also allowed local governments to recognize State Attorneys in various counties to act on behalf of the municipal governments as a forfeiture authority, basically handling forfeiture proceedings on behalf of the local government. The proposed resolution would allow the City Administrator to enter into an agreement for the State's Attorney in Prince George's to represent the City in such proceedings in that county; proceeds from any forfeiture proceedings brought on behalf of Takoma Park would come to the City minus a small amount deducted for handling costs of bringing the action. He said this would be a new source of revenue and he felt it to be a worthwhile endeavor.

Responding to query from the Mayor, Corporation Counsel Silber said that were the State's Attorney to decide not to prosecute a forfeiture in court, the first clause of the resolution provided that the City could then end the agreement and proceed to do so themselves. However, so long as the county was the forfeiture authority for the City, they would have the discretion to decide not to prosecute. The Mayor pointed out that under the former state law, certain sorts of forfeitures had occurred automatically, e.g., cash, and had not required court action. Ms. Silber said that under both the old and new law, court action was required; she said a suit was required for any amount. Chief Fisher explained that what the Mayor may have been thinking of was that when money was seized in the course of an arrest, it was then placed in escrow for possible reclaiming, and if not claimed within a year, was then turned over to the City Treasurer.

Councilmember Sharp remarked it appeared that in order for the City to prosecute a forfeiture that the State's Attorney chose not to pursue, the City would have to terminate the agreement. He said he didn't understand why that would be the case, or why the State's Attorney would particularly care if the City chose to do so. Ms. Silber said such a decision would pertain only to the case at hand, that if the City chose to act in such a case, they would be acting outside the agreement in that case only. She said the State's Attorney's position was that they did not want to be put in a position of having to prosecute a case that they did not feel had merit, which was why they wanted the clause included in the resolution. Mr. Sharp commented that that was not inconsistent with how other things were handled, e.g., zoning cases; if the county chose not to pursue a case, the City could follow through if it so desired.

The resolution was passed by unanimous vote of those present (Councilmember Hamilton absent for vote).

RESOLUTION #1989-119
(attached)

5. Resolution re Silver Spring Central Business District Sector Plan.

The Mayor noted a resolution had been prepared by staff reiterating the City's opposition to adoption of the CBD Preliminary Draft Sector Plan Amendment. He noted the matter would be going back before the County Planning Board for a hearing on December 6. Councilmember

Leary moved passage of the resolution, duly seconded by Councilmember Elrich. Mr. Leary explained the matter was going before the Planning Board again as a result of the lawsuit brought by the Takoma Park-Silver Spring Traffic Coalition in protest against the original action of the Planning Board, and which was partially upheld in court, resulting in a decision by the Kramer administration that the action would have to be retaken by the Planning Board. Mr. Leary said he, Mr. Elrich, and the citizens' groups who had remained active on the subject, felt that it would be useful for the City Council to reiterate its opposition to the proposed plans. He said that despite a two-year lapse and the widespread opposition that had been expressed, the plans remained the same and the developer, Lloyd Moore was still making his same proposal that had been so opposed. Mr. Leary said he saw no reason to abandon opposing what were felt to be ill-considered plans.

Councilmember Elrich commented that he had served on the committee that did the Sector Plan Review for Silver Spring and when the whole process started, that group's argument had been that a Sector Plan should be done comprehensively for Silver Spring and then whatever project was approved should be done so in the context of the Sector Plan; it should be done at one time and done fairly, with everyone knowing what was being done. He said they were told by Mr. Moore and by the county that Mr. Moore was imminently going to sign the department stores and could not wait for a year and a half for a Sector Plan Review to be completed. Mr. Elrich pointed out that the review had been completed and passed on by citizens to the county at the beginning of last summer; Mr. Moore still had not signed his department stores -- if the county had followed what had been suggested, they would have had the comprehensive review and could have made the down-zoning decisions in such a way that there might not have been so many objections raised. He said the county's attorney had recommended simply changing the language of the Sector Plan to eliminate any reference to "staging." Mr. Elrich said there was, in fact, no staging because the Planning Board knew that there would be no second stage because all the capacity in Silver Spring had been allocated to the core projects and there would be no development available outside the core. Ignoring their own staff's testimony, the Planning Board had chosen to pursue the myth that they were staging things, and they were now trying to get out of that by saying that they were not really staging. He said property owners outside the core were told they shouldn't bother to submit applications for 2 years; the only proposals on the table were those that came from the core developers. The way the county was now doing it, they would remove the staging guidelines and those proposals would remain on the table as if they had been submitted from day one, and there still would be no room for anyone to submit and compete for space in Silver Spring. He said it was an interesting process, and the lawyers should have a lot of fun looking at it when it was all over; however, it would be important for Takoma Park to continue to maintain its opposition and to, hopefully, give the Planning Board some sense that everyone was not willing to buy off on what was essentially a political quick fix for something that should have had a planning solution. He said Mr. Kramer and his staff, however, did not appear willing to go the route of a planning solution.

Councilmember Sharp inquired whether it was anticipated that the City's resolution would have any impact at all on the situation. Mr. Elrich said there were staff and Planning Board members who had some confusion about the situation and what was appropriate, there was some concern on the Planning Board about the process, and anything that would increase the level of concern would be worthwhile. Mr. Leary commented that Mr. Moore had gone to great lengths in recent weeks to project an image of having rallied the community around what was going to take place -- probably in part to help persuade a department store to sign on the dotted line. He said he thought that every official statement of continuing opposition to Mr. Moore's grandiose plans would have some effect, however minimal, in reminding department stores that they would face a hailstorm of criticism if they decided to move into Silver Spring.

The Mayor remarked he understood that Mr. Moore had engaged in a number of discussions with people in the community regarding the size

of his initial proposal, however, had not downgraded it. Mr. Leary said people who had opposed the initial proposal had responded quite favorably to a proposed alternative, however, Mr. Moore had since abandoned it, clearly believing that he could ram through his more grandiose proposal.

The resolution was passed by unanimous vote.

RESOLUTION #1989-120
(attached)

Acting City Clerk Jewell referred to a comment made earlier by Mr. Dillingham, who had since departed the meeting, regarding the Council's December meeting schedule. She said there were 3 pages in the recent Newsletter reflecting the correct meeting dates, as well as a copy of the rolling agenda for December on page 5 of the publication, indicating that the Housing legislation would be addressed on December 4.

6. Resolution re Historic Preservation Taskforce.

The Mayor noted that approximately 35 applications had been received from people wishing to serve on the taskforce -- some by telephone call, as well as by written application, with a couple coming in after the deadline -- however, consideration had been given to some of those which had been received and brought in by Councilmembers. He said a complete list of applicants would be compiled by staff. The Mayor pointed out that the resolution previously enacted called for appointment of 11 individuals to serve on the taskforce, however, he would ask that the size of the group be enlarged to 15 members, which would allow for better representation of all the diverse points of view on the subject. Additionally, he said the legislation originally enacted was somewhat confusing in that it indicated use would be made of staff from both counties as they move forward with consideration of their historic districts, but did not clearly state that the taskforce would be looking at boundaries of an historic district in the Prince George's portion of the city, which he would like for them to do. He said that would obviously have to be a second priority for them inasmuch as there was a shorter time frame for decisions to be made regarding boundaries for the district in the Montgomery County section. He said he did envision, however, that the City would try to come up with a single set of guidelines/regulations for the local advisory committee, which would operate on both sides of the jurisdictional line within the city. He said two of the applicants to serve resided on the Prince George's side of the city, and he would be nominating them for membership; in addition, he said he would like to reserve two additional membership slots for people residing in the Prince George's sector to be appointed at a later date. In summary, he said he would ask that the previous resolution be amended to enlarge the membership to 15 persons, and that the powers and duties section be amended to clarify that the taskforce was to look at the boundaries of a Master Plan Historic District in both counties. Councilmember Douglas so moved, duly seconded by Councilmember Hamilton.

Councilmember Douglas pointed out that, the Prince George's process being on a somewhat slower time frame, the taskforce might wish to divide the charge and not try to take on the entire assignment at one time. He said it was hoped staff from both counties would serve as ex officio members of the taskforce, and they should be helpful in scheduling dealing with the issues. Councilmember Sharp remarked he would take issue with Prince George's County being characterized as "slow" -- their time frame was simply somewhat different. Responding to query from Mr. Sharp regarding enlarging the number of members from 11 to 15, the Mayor explained that there had been a tremendous response from one ward in particular, and many of those applicants represented a number of the various views that had been presented on the subject; thus, a larger membership would help in providing greater balance and expertise within the group; by increasing the number, he would be able to allocate 4 seats to people living on the Prince George's side and the other 11 to Montgomery County residents.

The Question was called on the amendment and the amendments were carried by unanimous vote.

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Mayor Del Giudice commented that he was impressed with the number of applications that came forward. He said that there many applicants with very strong credentials, tremendous interests and lots of expertise and knowledge. He said that he was sure the committee process will be an open process. Unfortunately everyone who expressed an interest and desire to serve could not be appointed. The Mayor said that he hope that these people will follow the Committee and attend the meetings.

Following brief dialogue, the Mayor said he would be appointing Brandon Lipman, with whom he had had some dealings on a personal basis; however, he wished to make clear that Mr. Lipman's appointment was based not on any personal relationship, but on the fact that he was an architect, he had represented numerous people before the commission, and had some understanding of how the system had worked and had not worked. He said he was making the disclosure publicly in the hope that it would be understood that his personal involvement with Mr. Lipman had nothing to do with his nomination of him and recommendation that he serve on the taskforce.

Councilmember Douglas remarked that he wished to echo the Mayor's praise for the quality of applicants that had responded and wished to serve. He said he hoped the same sort of enthusiasm could be generated on some other things, because the City needed to get qualified and committed people involved in addressing a variety of issues. He said he hoped each and every one of the applications could be acknowledged and a short note of appreciation sent to the applicants. Regarding the appointment of Mr. Lipman, he said he had personally spoken at length with him and encouraged him to apply and was glad that he did so.

The Mayor said he also wished to thank former Councilmember Carl Iddings for agreeing to chair the committee when he contacted him and asked that he do so. He said it should be noted that Mr. Iddings, during his tenure on the Council, was involved in the initial effort to create an historic district in the community and bring about some recognition of the importance of historic preservation. He said Mr. Iddings would bring a good deal of understanding of official past history to the taskforce as it moves forward with its charge.

The resolution and appointments were passed by unanimous vote.

RESOLUTION #1989-121
(attached)

Upon motion, duly seconded, the meeting adjourned at 9:37 p.m., to reconvene shortly thereafter in worksession.

Introduced by: Hamilton

1st Reading: 11/20/89

2nd Reading: 12/4/89

Effective Date:

Ordinance # 1989 - 51

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:

- (i) Operating expense increases are greater than increases in the total income;
- (ii) Need to increase cash flow levels;
- (iii) Capital improvements;
- (iv) Change in the level of service; and/or
- (v) Inadequate rate of return.

(B) The affidavit shall include:

- (i) 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.
- (ii) The method of accounting used: cash basis or accrual basis.
- (iii) 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.
- (iv) All relevant tax assessment information.
- (v) All relevant documents on any encumbrances on the property.

(C) The following may be included as expenses:

- (i) Utilities,
- (ii) Administrative expenses,
- (iii) Operating and maintenance expenses,
- (iv) Payroll,
- (v) Taxes and insurance payments,
- (vi) Uncollected rents and vacancy losses,
- (vii) Debt service payments, amounts deposited to reserves, and
- (viii) 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:

- (i) Fines resultant from noncompliance with Housing Code violations or COLTA orders;
- (ii) Damages paid to tenants as ordered by COLTA or the courts;
- (iii) Depreciation or other expense items recognized by the Federal government but not recognized by the Takoma Park Municipal Code;
- (iv) Late fees or service penalties imposed by utility companies, lenders, or other entities providing goods or services to the landlord or the dwelling;
- (v) Membership fees in organizations established to influence legislation and regulations;
- (vi) Mortgage principal payments;
- (vii) Contributions to lobbying efforts;
- (viii) Contributions for legal fees in the prosecution of class action cases;
- (ix) Political contributions to candidates for office;
- (x) 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;
- (xi) 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;
- (xii) 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 heterogeneous 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 legislation shall expire on March 31, 1989.]
This Ordinance shall be retroactive to March 31, 1989.

ADOPTED THIS 4th DAY OF December, 1989.

Introduced by: Councilmember Hamilton

Single Reading: 12/4/89

ORDINANCE NO. 1989- 52

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

- SECTION 1. THAT the police department received a Federal grant in July, 1989, which provided for purchase of a surveillance vehicle for use in stepped-up drug enforcement activities; AND
- SECTION 2. THAT a surveillance vehicle is needed to carry out the drug enforcement mission of the Department; AND
- SECTION 3. THAT a used vehicle has been located which is in good condition and suitable for police surveillance needs; AND
- SECTION 4. THAT funds in the amount of seven thousand five hundred dollars (\$7,500.00) covering purchase of the vehicle be appropriated from line item 0010-7225 (Special Revenue).
- SECTION 5. THAT the bid accepted by the City of Takoma Park is in compliance with the Nuclear Free Zone requirements.

ADOPTED BY THE MAYOR AND COUNCIL OF TAKOMA PARK, MD. ON 12/4/89

AYE: Douglas, Elrich, Hamilton, Leary, Moore, Prensky, Sharp
NAY: None _____
ABSTAINED: None _____
ABSENT: None _____

Introduced By: Councilmember Sharp
Drafted By: L. Schwartz

Resolution No. 1989-118

WHEREAS, Nicholas Petrucelli has submitted an application to the Board of Appeals for Prince George's County for variances for Lot 1, Block 7, Wildwood Subdivision, Section 2, being 7216 New Hampshire Avenue, Takoma Park, Maryland (Case No. 10326); AND

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

WHEREAS, the Mayor and Council have reviewed the application and make the following findings, based on the staff report dated December 1, 1989 and public comments received on the subject application:

--that the applicant would suffer hardship and unusual practical difficulties should the Board of Appeals fail to grant the requested relief under Section 27-230 of the Prince George's County Zoning Ordinance; and

--that the application can be granted without substantial impairment of the intent, purpose and integrity of the Master Plan for the City of Takoma Park;

--that, upon initial scrutiny, granting the application would not seem to interfere with construction of the Sligo Creek Hiker/Biker trail

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, and recommend that the Board of Appeals for Prince George's County APPROVE the subject application.

--That the Mayor and Council's support shall not be interpreted by the Board of Appeals to counter any recommendations regarding the site plan on the part of planning staff of the Maryland-National Capital Park and Planning Commission that would assist in the implementation of the Sligo Creek Hiker/Biker trail.

The Master Plan also recommends a County bikepath at this location. This bike path, the Sligo Creek Hiker/Biker Trail, is currently in the planning stages. Construction is expected to begin in two to three years. The proposed trail alignment will skirt the subject property (see attached map). I have discussed the variance application with staff at the Park and Planning Commission, They are reviewing the application, and have not reached a position on the variances. However, the minimum required trail width is 8 feet, and it therefore appears from the site plan that the trail could be located entirely within the existing right of way. The trail construction may result in disruption of the landscaping strip, but since construction is several years down the road, I do not feel that it should affect consideration of this application, except to the extent that Park and Planning staff may have recommendations regarding the site plan that would assist in the implementation of the Hiker/Biker trail.

Other Site Considerations

The number of parking spaces provided on the site is one more than required by the Zoning Code. The location of parking space #6 seems somewhat awkward for traffic entering from Sligo Creek Parkway. The location of the loading space to the rear of the building may require that some mature trees to the rear of the property be removed. However, given the constraints of the site, and the necessity of providing a loading space, few other alternatives are apparent.

CONCLUSIONS AND RECOMMENDATION

The requested variances appear reasonable and do not seem to be in conflict with the Master Plan. Therefore, the staff of the Department of Economic and Community Development recommends that the Mayor and Council SUPPORT the subject variance application, with the condition that this support should not be interpreted by the Board of Appeals to counter any recommendations regarding the site plan on the part of Park and Planning staff that would assist in the implementation of the Hiker/Biker trail.

lss/zonsub2/7216nhav.mem

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

ADOPTED THIS 4th DAY OF December, 1989.

ATTEST:

Paula S. Jewell
Acting City Clerk

zonsub2/7216nhav.res

E5

AZER KUMRUM
RED MAPLE

4

2 1/2' TO 3' CAL.

PL 1/2

PL 1/2

AZALEA
DWARF SENFERVIFEN'S
AMERICAN KORNWOOD

7

6 1/2' MIN

4' OC.

JUNIFERUS 7/2
BLUE FUA JUNIFER

5

8'-10"

CONT.

ILEX CERNITA VAR.
JAPANESE HOLLY

3

8'-10"

CONT.

36

2'-2 1/2'

4' OC.

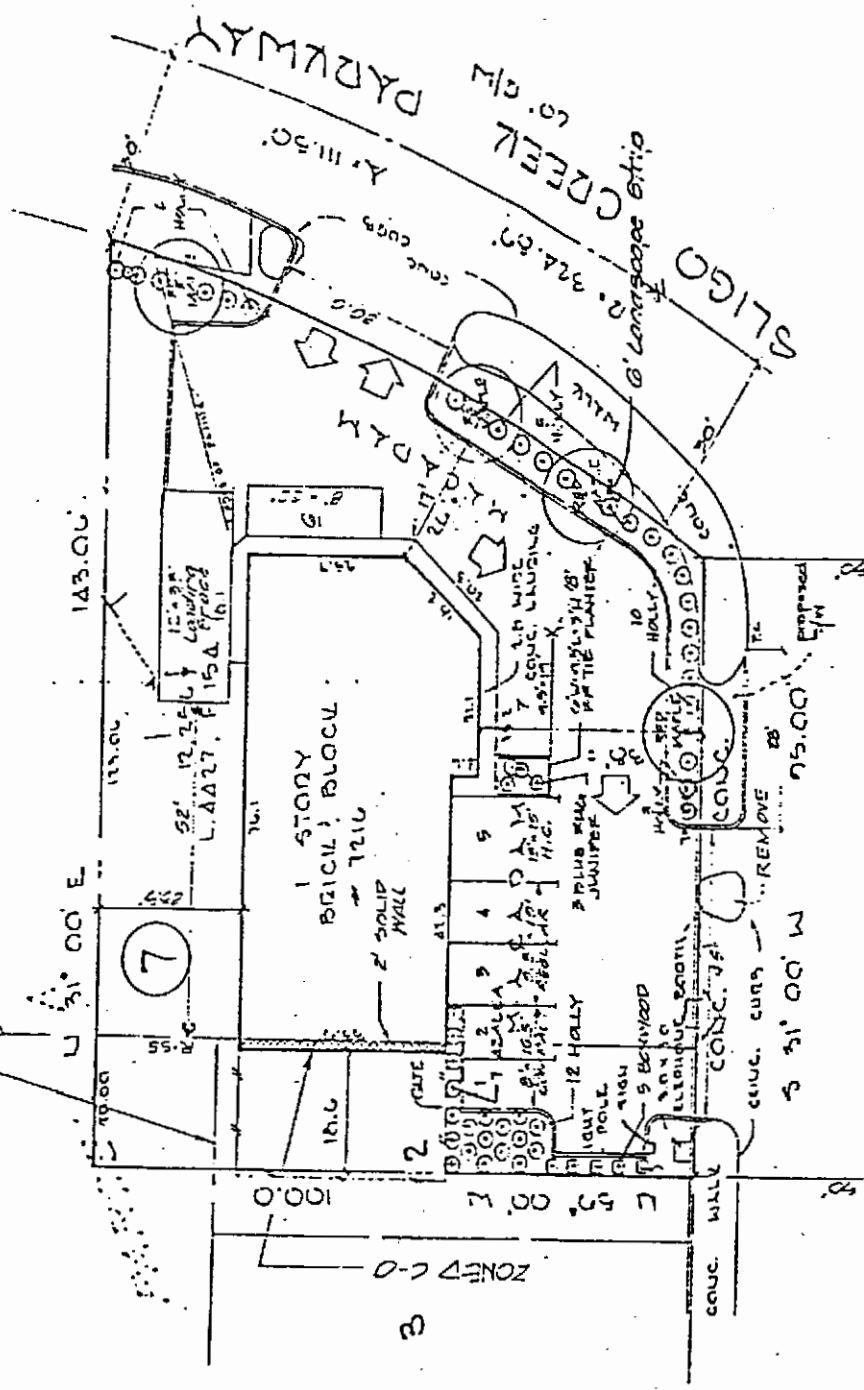
ZONED R-55

ZONED C-5-C

143.00'

133.00'

143.00'



NEW HAMPSHIRE AVENUE

SLIGO CREEK

PARKWAY

5 31' 00" W

75.00'

REMOVE 28'

CONC. CURB

100.00'

100' MIN

50' TO 6'

MD RTE 650



Adopted: 12/4/89

Introduced By: Councilmember Moore
Drafted By: Susan Silber
Corporation Counsel

RESOLUTION NO. 1989- 119

A resolution to designate the Office of the State's Attorney for Prince George's county as the Forfeiting Authority for seizures made by the Takoma Park Police Department in Prince George's County for the purpose of filing and prosecuting forfeiture complaints, subject to certain conditions.

WHEREAS, Takoma Park has jurisdiction over certain assets subject to forfeiture, pursuant to Maryland Code Article 27, §297, et seq; and

WHEREAS, pursuant to state law, a municipality's governing body may designate the Office of the State's Attorney as the "Forfeiting Authority" to prosecute such forfeitures; and,

WHEREAS, the State's Attorney for Prince George's County has offered to prosecute those forfeitures arising from seizures in the Prince George's County portion of the City of Takoma Park, at no cost to the City; and,

WHEREAS, the City believes it is in the best interests of law enforcement if the civil forfeiture proceedings are coordinated with the criminal prosecution.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, that the Mayor is hereby authorized to enter into an agreement with Alexander Williams, Jr., State's Attorney for Prince George's County, designating the Office of

the State's Attorney for Prince George's County as the Forfeiting Authority for the purpose of filing and prosecuting forfeiture actions arising out of assets subject to the jurisdiction of the City of Takoma Park and seized in the Prince George's County section of Takoma Park; and,

BE IT FURTHER RESOLVED THAT this Agreement contain as material elements the following:

1. That the agreement can be terminated by either party at any time for whatever reason subject only to reasonable notice to the other party; and

2. That the City Administrator, or his designee, shall represent the City in the ongoing implementation and monitoring of this agreement;

3. That State's Attorney will exercise its discretion which cases it will prosecute.

4. That the Office of the State's Attorney will keep the Takoma Park Chief of Police and the Takoma Park Corporation Counsel informed of the cases it is handling;

5. That the State's Attorney will treat Takoma Park as a client that has a basic right to be consulted on critical stages of the case and ultimately to give or withhold settlement authority; and,

6. That the State's Attorney will not charge attorney's fees to the City of Takoma Park for carrying out its duties as the Forfeiting Authority. Costs may be offset from the proceeds.

Dated this 4th day of December, 1989.

Introduced by: Councilmember Leary
Drafted by: L. Schwartz

RESOLUTION NO. 1989- 120

WHEREAS, the City of Takoma Park has previously determined that the proposed level of development for Silver Spring will adversely impact on our own community, as well as other neighborhoods near the Silver Spring Central Business District (CBD); AND

WHEREAS, the City has previously advised the Montgomery County Planning Board and the Montgomery County Council of its opposition to the Silver Spring CBD Preliminary Draft Sector Plan Amendment; AND

WHEREAS, the Maryland-National Capital Park and Planning Commission has issued a November, 1989 Silver Spring CBD Preliminary Draft Sector Plan Amendment that eliminates the staging provisions of the 1987 Silver Spring CBD Sector Plan Amendment; AND

WHEREAS, the Montgomery County Planning Board has scheduled a public hearing on the Plan Amendment for Wednesday, December 6, 1989.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the City of Takoma Park continue to oppose adoption of the Silver Spring Central Business District Preliminary Draft Sector Plan Amendment, and recommend that the Planning Board DENY approval of the Plan Amendment.

ADOPTED THIS 4th DAY OF December, 1989.

ATTEST:

Paula S. Jewell
Acting City Clerk

zonsub2/sscbdsp.res

MEMORANDUM

TO: Mayor and Council

VIA: James S. Wilson, Jr. ~~City Administrator~~
Beverly Habada, Assistant City Administrator *W/S BPH*

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

SUBJECT: SILVER SPRING CBD PRELIMINARY DRAFT SECTOR PLAN
AMENDMENT--RESOLUTION FOR DECEMBER 6 PUBLIC HEARING

DATE: December 1, 1989

Per your request, I am attaching a draft resolution stating the Council's opposition to the November 1989 revision to the Silver Spring CBD Sector Plan Amendment, which eliminates the staging provisions of the 1987 Silver Spring CBD Sector Plan Amendment. I have attempted to locate previous resolutions on this Plan Amendment to include for your information, but my efforts so far have been unsuccessful.

It is my understanding that a representative from the Council will present this resolution at the public hearing on December 6th.

lss/zonsub2/sscbdsp.mem

Introduced by: Councilmember Douglas

ADOPTED: DECEMBER 4, 1989

RESOLUTION 1989-121

WHEREAS, the Council of the City of Takoma Park adopted Resolution 1989-109 on November 13, 1989, which resolution establishes a Historic Preservation Task Force; AND

WHEREAS, the composition, powers, and duties of this Task Force are described in Resolution 1989-109, as amended on December 4, 1989; AND

WHEREAS, the Mayor and Council have solicited nominations to the Task Force via public notice; AND

WHEREAS, the Mayor and Council have received and reviewed several such nominations;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT the following individuals are appointed as members of the Historic Preservation Task Force:

1. Chair: Carl Iddings, 7416 Carroll Ave., Ward 2
2. B. Holly Schadler, 7322 Piney Branch Rd., Ward 1
3. W. Douglas Varn, 7709 Takoma Avenue, Ward 1
4. Ian Spatz, 7304 Willow Avenue, Ward 2
5. Susan Gilbert, 5 Valley View Avenue, Ward 2
6. Ellen Marsh, 7405 Maple Avenue, Ward 2
7. Ross Wells, 12 Sherman Avenue, Ward 2
8. Brandon Lipman, 328 Boyd Avenue, Ward 2
9. Travis Price, 7050 Carroll Avenue (Bus.), Ward 1
10. Ken Norkin, 14 Hickory Avenue, Ward 3
11. Joan Duncan, 25 Pine Street, Ward 3
12. Bryan Sayer, 215 Spring Avenue, Ward 3
13. Dennis Truitt, 706 Devonshire Road, Ward 7
14. _____
15. _____

BE IT FURTHER RESOLVED THAT the terms of the members of the Historic Preservation Task Force shall expire on March 1, 1990 unless extended by a further resolution of the Council.

ADOPTED THIS 4TH DAY OF DECEMBER, 1989.

zonsub2/hptfmemb.res

CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and Council
December 18, 1989

CITY OFFICIALS PRESENT:

Mayor Del Giudice	City Administrator Wilson
Councilmember Douglas	Asst. City Administrator Habada
Councilmember Elrich	Acting City Clerk Jewell
Councilmember Hamilton	Cable Coordinator Smith
Councilmember Leary	Housing Coordinator Walker
Councilmember Moore	Housing Services Director Weiss
Councilmember Prensky	Public Works Director Giancola
Councilmember Sharp	Corporation Counsel Silber
	Asst. Corp. Counsel Perlman

The Mayor and City Council convened at 8:02 P.M. on Monday, December 18, 1989 in the Council Chamber at 7500 Maple Avenue, Takoma Park, Maryland. Following the pledge, the Minutes of the November 13, 1989 Regular Council Meeting were presented for approval. Councilmember Douglas noted that on pages 5 and 6 (and perhaps elsewhere), the spelling of Bob Sheldon's surname required correction; he additionally noted lack of numbers assigned to some ordinances, which it was explained were assigned numbers upon adoption only -- not at First Reading. Councilmember Sharp asked that the official vote on the reconsideration of an accessory apartment at 7309 Holly Avenue (page 2) be verified inasmuch as he questioned Councilmember Elrich's vote as it was recorded. Mr. Elrich had not yet arrived for the meeting, so could not verify his vote on the issue. Additionally, he said that on page 6, he thought a point that he had made during the speed hump discussion had been omitted; i.e., that the police department does speed verifications on streets requesting speed humps, however, in the particular instance being addressed, they had indicated they did not feel there was any problem with speeding. That point was ignored, and he said he had raised the question why the police should be required to continue doing the surveys if they were not going to be given any weight. The Mayor remarked that would be a substantive change to the Minutes; he thought he recalled Mr. Sharp making that point, and perhaps the Minutes should be returned for checking against the official tape and amendment, if appropriate, prior to approval. Councilmember Douglas moved to table the Minutes pending their revision, duly seconded by Councilmember Hamilton.

The Mayor noted that the elected body would be convening in worksession following the present meeting, but would then be adjourning for the holidays and would not reconvene until January 8. Additionally, he noted that the elected body would be conducting a planning session on January 6. He said he and the City Administrator had met with representatives of the Institute of Governmental Services at Maryland University, and they would be assisting in developing an agenda for the planning meeting; he felt confident they would provide strong support service for the attempt to meet and accomplish some strategic planning.

Councilmember Prensky related that he and Councilmember Hamilton had attended a recent presentation at Takoma Academy regarding drunk driving. He said the school had erected signs on the property designating it as a drug free zone, and he wished, on behalf of the elected body, to congratulate schools in the community for their efforts to create a healthy and drug free environment for the young. He said the school administration had approached him and Mr. Hamilton regarding holding an assembly of both the secondary and elementary school concerning the City's commitment to drug free zones around schools and said they would be asking members of the Council to participate. He said he had told them the elected body would probably be very happy to cooperate in such an event. Councilmember Hamilton said he thought the students as well as administration of the school, which was a private institution and not subject to a lot of the same things as the county school system, should be commended for their efforts and for recognizing that drugs were a problem that affected all segments of the population.

The Mayor, on behalf of the elected body, extended to everyone in the community a happy holiday season and a healthy New Year.

ADDITIONAL AGENDA ITEMS:

Resolution of Congratulations to Bobby Bobo - Consent Agenda (Hamilton)

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

Gary Sutton, 7335 Carroll Avenue: noted he had previously appeared before the elected body on November 13, at which time he had referred to a letter he had sent to Councilmember Douglas concerning problems he had encountered with his tenancy, particularly code violations, some of which he had been coerced into remedying under threat of increased rent, as well as not having been afforded Right of First Refusal when the property had been placed up for sale, an excessive rent increase (more than double) when exterior code violations were corrected, and serious violations that remained uncorrected. Mr. Sutton read the letter verbatim into the record. He said he understood that a copy of his letter had been forwarded to the City Administrator and, inasmuch as 5 weeks had elapsed since he had first come forward, wondered about the status of his complaint. Councilmember Douglas commented he had not received any information to date. The Mayor said Mr. Douglas had forwarded the letter with a cover memo, a copy of which he had personally received, and had followed it up with a second memo requesting a response; he remarked that a number of very disturbing questions had been raised by the situations related in Mr. Sutton's letter. The Mayor said he would request that the City Administrator respond to the letter as soon as possible, i.e., within the week.

ITEMS FOR COUNCIL ACTION:

1. Resolution Recognizing Volunteers Who Participated in Community Service Day on October 21, 1989.

Councilmember Douglas moved passage of the resolution, duly seconded by Councilmember Prensky. For the record, the Mayor pointed out that the resolution noted the City's participation in the statewide event; working in conjunction with citizens' organizations and other community groups, a cleanup of Sligo Creek took place. He said the response was good, a number of people and groups came out to participate and lend support to the effort. The resolution was passed by unanimous vote.

RESOLUTION #1989-122
(attached)

The Mayor noted that certificates of appreciation had been prepared for those who had participated in the Sligo Creek cleanup; he presented them to John Robinson and Linda Robinson who were present, and noted that the other certificates would be mailed to those who were not at the meeting.

2. Resolution Endorsing Proposed Administrative Reorganization Plan.

The Mayor noted that the plan dealt with, in particular, the Housing Services Department and the Department of Economic & Community Development, and their proposed reorganization. Councilmember Douglas moved passage of the resolution, duly seconded by Councilmember Leary.

Councilmember Sharp spoke in opposition to the proposal, remarking he felt it to be premature; the issue had not been discussed in sufficient detail for him to be able to endorse the consolidation as a first step toward improving management efficiency and effectiveness. He said he would suggest that the consolidation may have no beneficial effect on efficiency and effectiveness at all; in his view, there was no lack of those factors in the subject departments that the proposed reorganization would address. While there had been allusions to some of the departmental functions overlapping or being related, he said he did not think that had produced any inefficiency. Additionally, Mr. Sharp said he did not think an analysis had been done of what would be lost if DHS were essentially abolished. While all of that department's functions would not be done away with, the focus on housing would be lost. If the belief was that the present directors of those two departments had full time jobs, then something would have to give if the two were combined into one job -- some work would have to fall by the wayside, and not simply supervisory functions, since both of

those jobs contained some essential staff work that would need to be continued. He said he saw no provision in the sketchy proposal that had been presented that clarified how that work would continue to be accomplished. He said he felt those questions needed to be addressed prior to approving any plan, and he would not support the proposal.

Councilmember Douglas pointed out that the final "Resolve" clause of the resolution referred to ordinances that would be required to effect the reorganization; he inquired what the nature of that legislation would be. Asst. City Administrator Habada explained that the ordinances that would have to be prepared would set forth the positions that would have to go into the classification plan. Mr. Douglas commented that he agreed with Mr. Sharp up to a point; the elected body had discussed the matter in worksession, however, he did not feel any final discussion had occurred, particularly regarding how the unified department would be organized or how the programs would be carried out. He said while the resolution stated that there would not be any reduction in the services provided, he would like to see additional detail describing exactly how the programs would be implemented prior to making a final decision. He said he would want to have assurance that the third "Resolve" clause was indeed true, and felt that discussion had not been finalized to a point that could give such assurance.

Councilmember Sharp pointed out that the 5th "Whereas" clause stated that the City Administrator had submitted a comprehensive reorganization plan to the elected body; he said the thrust of his argument was that the plan that had been submitted was certainly not comprehensive.

Councilmember Leary commented that he supported the proposal; he said the City Administrator had submitted a considered plan to the elected body for reorganizing the delivery of services, had taken a measure that the elected body had anticipated, expected and encouraged him to take as a part of the Charter revision, which precisely assigned responsibility for this sort of leadership to his position. He said the elected body clearly did not, and could not, know everything about how the reorganization would work, however, they did know enough and knew as much as they would know in the near term, to endorse the general plan the City Administrator had presented for reorganizing staff -- one which would present some savings in personnel costs and would permit additional staffing of what the City Administrator considered to be vital currently unmet needs within the city. At the same time, an increase in the City's budget, which could possibly generate a need for an increase in taxes, was not anticipated. For those reasons, he said he supported the proposal; if it turned out badly, other changes could be made.

Councilmember Hamilton said he, too, supported the City Administrator's plan, based on what Mr. Leary had voiced. Additionally, he said that one of the things the Council would have to do in light of the new Charter was to turn over some of the power the elected body previously had over department heads. He said there had been a clear understanding that the elected body wanted to give the power to run the City to the City Administrator; there were no budget considerations involved, and it was not the role of the Council to micro manage departments. If something did not work out well with the reorganization, that would be the City Administrator's responsibility. He said this would be one of the first major decisions the City Administrator would make in his new role, and the Council should support him, despite the fact it might be difficult due to the change in roles from what existed under the old Charter. Mr. Hamilton said he supported the City Administrator's proposal 100%; he said he felt the most critical part of the plan would be the fact that a personnel officer would finally be hired, which the City badly needed.

Councilmember Elrich said that he opposed the proposed plan 100%; felt it to be one of the most ill-conceived and poorly thought out proposals that the elected body had witnessed. He said there were a number of things that concerned him; he agreed with and supported the Charter changes that had been effected, the changes in the way that the City was administered; however, did not believe that meant that the City Council surrendered its overview of things, and it would be important for them to examine how City services would be delivered and what departments would exist, how they were staffed, etc. He said he

thought that would continue to be within the Council's purview, and pointed out that the proposal had not been submitted to either the Housing Committee or the Administration Committee for their examination and/or input, despite the fact that would have been fully appropriate. He said he, too, had concern about how 1-1/2 to 2 full time positions could possibly be combined into one, and felt that what was happening was an attempt to get a personnel officer at the sacrifice of a City department. He said he thought the Council was being sold a bill of goods regarding the fact that the proposal would not cost anything; a single person administering both departments would not provide the overworked Housing staff with sufficient support for them to accomplish their jobs. Even after the reorganization was accomplished, an additional person would be needed to partially fill the shoes of the previous Director of Housing and that would cost money. Also, he said there would have to be redefinitions of jobs in the Housing Department and that would lead to raises in pay, again not making for an even tradeoff. He said he felt sure that within a year to a year and a half, the City would end up with an additional staff person that did not currently exist. Mr. Elrich agreed that if the proposal did not work out, it could always be re-examined; however, he pointed out that if things went wrong, it would affect over 4,000 households living in rental properties in the city, which could be a serious matter. He said he was reluctant to discuss it, but felt that the Council had to consider the performance of the City Administrator in overseeing departments because it was relevant to the situation. He referred to a change made during his time on the Council of the head of a department that had been chronically mismanaged for years. In the interim period between the current Director of DHS and the previous Director during which the City Administrator managed that department -- he said that department was rendered a total shambles during that period of time -- it was not in great shape beforehand, but was not improved during the City Administrator's regime of administering it. He said the Council had had ongoing concerns in those areas, and to support the proposed reorganization on the basis of the very sketchy plan that had been presented for how services would be delivered to a large segment of city residents was not something he could support. He said more detail and discussion was needed, information on how the departments would function; and said he did not want a surprise at budget time in April with a position or two proposed that did not currently exist because of the reorganization that had occurred.

Councilmember Moore commented that in his short time on the Council, he had seen a number of indications that a personnel officer was needed, and thought it was a good idea to try to find a way that the City could have someone in that position. He said he understood a lot of cities combine housing and community development functions in one department, however, he would personally need more detailed information and input, particularly from staff, regarding the proposed changes before he would feel comfortable voting on implementing a combining of the departments. He said he would want to be assured that one or the other of the departments would not be given short shrift if they were combined under one department head.

Councilmember Douglas said he fully supported the resolution, however, felt when the ordinances to reclassify people were presented, that would be the proper time to look at a lot of the questions that had been raised and to ensure that there would not be any reduction in services. He said he believed it important to move forward, and that the additional information could be presented at the appropriate time.

The Mayor commented in support of the resolution, pointing out that it was a memorialization of the discussions that had occurred. He said while some may feel that adequate discussion had not occurred, that it had, in fact, been discussed for some time and had been on the agenda for some time. He said if in fact the Housing Committee and the Administration & Finance Committee chose not to review the plan that had been submitted to the Council in September by the City Administrator, then that was something the elected body should consider. He said the resolution reflected the outcome of the discussion at the last worksession, it did not spell out just how the two departments would be consolidated; however, an attachment depicted the envisioned organization by function which showed preservation of the principal func-

tions of both departments. He pointed out that the prior Director of DECD had taken on many functions to fill a void that existed at the time, many of which should properly have been done by other departments. He said he felt confident that with a bit better organization, the City, like many other municipalities, could have a single department that worked effectively in the areas of housing and economic and community development. He said it would take some reorganization of the existing departments to accomplish that, some jobs may have to be redefined, and that might result in some additional costs in refactoring of positions, however, that was an unknown. There may, however, be some savings as well in other positions that are reorganized, and that was also an unknown. He said he thought the elected body needed to defer to the City Administrator, who would be making the decisions, and should defer to a degree, as well, to the person who would be hired to direct the department -- they might wish to have some say in how their resources were organized. He said the resolution put the elected body on record as favoring the proposed reorganization, and stated that they wanted the reorganization to preserve the services presently provided. In addition, it indicated that the City Administrator would come back to the elected body with some more concrete plans, and that the ordinances referred to would reflect personnel changes that were effected as a result of the reorganization. He noted, as well, that consolidation of the two departments would provide more balance administratively, would somewhat lessen the number of department heads the City Administrator would have to supervise. He said he did not believe there would be any compromise in the provision of services to citizens.

Councilmember Sharp said while the Mayor and some members of the Council had alluded to the new Charter and the fact that more power was granted under it to the City Administrator, which should result in a more hands off attitude on the part of the Council, he did not believe that meant the Council should give up its review function -- if they thought something that was going on would affect the provision of services in the City, it remained their responsibility to address that situation. He said that, in his judgment, what was proposed could have a direct effect on the effectiveness of the housing program in the city that had been painstakingly built up, and the Council would be remiss in deferring to the City Administrator's proposal unquestioningly. Additionally, he said one of the arguments the City Administrator had put forth was that the reorganization would reduce the span of control, would reduce the number of people reporting directly to him. He said he concurred with putting the Cable Coordinator under the purview of the Library Director, which would reduce the span of control by one. He noted that the reorganization plan indicated that 3 department heads would report directly to the Assistant City Administrator and 4 to the City Administrator, which he said was fine; however, that could be done without any reorganization taking place, and it would effectively reduce the span of control.

Councilmember Leary commented that deference to the authority of the City Administrator under the new Charter was only one of many reasons why he endorsed the proposal; he said his main reason was that he felt it made sense to combine the two relatively small departments, which were frequently combined in other municipalities, at a time when there was a vacancy in the director's position in DECD.

Paul d'Eustachio, former Councilmember, 6611 Allegheny Avenue: said he felt the Council clearly needed to move ahead with the reorganization. He said while the plan was not finalized, the basic concept was there and it was important. He said the basic concept was not just a way to finagle getting a new personnel director; if that were the case, it would have been done at an earlier point in time. He said the history of the proposal went back a long way; it was something the last Council should have taken care of, and to delay the inevitable combining of the two small departments into a single larger one that could compete on an equal footing both administratively and for funds with the other large departments in the City government would be senseless and unnecessary. He said the Council may, in time, wish to consider combining other departments because there are other instances in which that might be beneficial. He urged that the Council move forward with the resolution; said it would start the process, would make clear what would be happening, would provide a framework for staff to proceed

with fleshing out the details of the proposal.

Councilmember Prensky expressed confusion as to why the resolution was necessary, pointing out that the worksession summary from 12/11/89 indicated that the consensus of the elected body was support for the proposal, with the understanding that details of the function of DHS would be provided by the City Administrator and positions impacted by the reorganization plan would be reviewed, with a draft ordinance to be presented at the 1/8/90 worksession. The Mayor pointed out that the resolution, as he had stated earlier, was a memorialization of what had taken place in worksession, noting that no final decisions could be made by the elected body in worksession -- things could only be discussed and a straw position taken by the Council. However, until formal authorization was given the City Administrator to proceed with development of the proposal in detail, he could not do so. He pointed out that the resolution gave the policy direction required by the City Administrator to proceed, however, not being an ordinance, it was not set in stone. Councilmember Douglas commented he felt it appropriate that the outcome of important and meaningful discussions in worksession be memorialized in the form of a resolution in regular session, as was being done. Councilmember Elrich pointed out that the previous Council had not had any proposal for combining the two departments on its agenda, and other prior Councils, when faced with that question, had opted for maintaining the departments separately. He said that, generally, when the two functions were combined in other municipalities, there was either a Deputy City Administrator who oversaw them or they still had two separate directors. He said he maintained that down the line there would be a need for an additional director's position to be added within the combined department. Additionally, he said he maintained that the Council needed more detailed information on the plan and its anticipated cost, needed to be able to assess whether it appeared workable, before endorsing the proposal. Responding to Mr. Leary's earlier comments, Councilmember Sharp referred to the remark that DHS and DECD were combined in many other municipalities; he said many other municipalities do not have libraries or full service police departments; Takoma Park had made a choice regarding what it wanted, and because things were done differently in other municipalities did not seem to him a valid reason for doing anything.

The resolution was passed by a 4-3 vote with Councilmembers Douglas, Hamilton, Leary and Moore voting Aye; Councilmembers Elrich, Prensky and Sharp voting Nay.

RESOLUTION #1989-123
(attached)

3. Request for Additional Funds for Leaf Collection Facility.

Public Works Director Giancola referred to his memo dated 12/8/89, which outlined the need for the additional funds for the leaf collection facility. He noted that a part of the dilemma regarding the original estimate involved a need for more excavation than had been anticipated. He said what remained to be done on the project was installation of an appropriate fence, which was a necessity for the facility. Responding to query from Councilmember Sharp, he said the work was not done under bid; it was issued as a task order on the existing open end contract. He said the contractor was doing the work at the amount it actually cost to do it, there was no inflation in the amount. He affirmed that the open end contract had been bid competitively, and a market rate was gotten in terms of the unit cost of things. He said that earlier there had been a huge woodpile stacked on the site of the leaf collection facility, and that had made it hard to accurately estimate on the required excavation.

Responding to query from Councilmember Douglas, Asst. City Administrator Habada affirmed that the \$60,000 originally estimated for the project was to come from the bond issue -- the state had verified the City could proceed with the project, paying bills as they came in from revenues, and then reimbursement could occur when the bond funds came in in January. Mr. Douglas pointed out that on the estimate sheets attached to Mr. Giancola's memo, some other items appeared to be substantially higher than originally estimated, e.g., line 9., Rip-Rap Class I UngROUTED, which appeared to be about 4 times the original

estimate, as well as the chain link fence itself. Mr. Giancola explained that, at the time the fence was estimated, it was not thought that slats would be required, however, those would be needed to prevent the leaves from blowing out of the fenced area and would enhance the appearance of the facility.

Regarding the increased cost in the rip-rap, City Engineer Henry Guilford explained that in the course of the project, he had realized that by using a much larger rip-rap (which cost more) than the gravel that was originally estimated, more water could be infiltrated, trapped in the ground, before it ran over the hill and down behind the Park Ritchie Apartments. He said, overall, it would improve the situation in that it better handled the water runoff.

Responding to query from the Mayor, Asst. City Administrator Habada affirmed a budget amendment would be done to cover transfer of the additional funds needed for the project. She remarked that the latest she had heard from the state regarding the bond issue was that they may be picking up some of the issuance costs, which would save the City some money. Following brief discussion, consensus was to pass a resolution authorizing expenditure of the funds and authorizing signature by the Mayor of a letter of intent to the state to increase the bond issue by \$17,000, as suggested by Ms. Habada. Councilmember Hamilton so moved, duly seconded by Councilmember Sharp. Mr. Sharp pointed out that what was being done was sensible, inasmuch as the City was getting 8-1/4% interest on its bank account and would be borrowing the money at 7-1/4 to 7-1/2% interest rate. Councilmember Douglas said that while he supported the resolution, he did feel it unfortunate that the miscalculation had occurred, and would urge more careful review of documents, estimates, etc., in future before proceeding, particularly on projects of any magnitude. The resolution was passed by unanimous vote.

RESOLUTION #1989-124
(attached)

4. First Reading of an Ordinance Abolishing Cable Board.

Councilmember Sharp moved to table the ordinance indefinitely, duly seconded by Councilmember Douglas. The motion carried by unanimous vote.

5. Resolution Establishing Cable TV Review Committee.

Councilmember Sharp moved passage of the resolution, duly seconded by Councilmember Douglas. Mr. Sharp commented that he had proposed formation of a Cable TV Review Committee because, for the past 4 years, the elected body had been faced at budget time with examining how they felt the cable station was operating and there was never adequate time then to do such a review satisfactorily. He said cable was a relatively small item in comparison to the rest of the budget, and there was not often a lot of dedication to doing an in-depth review of it when getting the budget done was first priority. He said, however, that he had had a continuing sense that there was something lacking in the operation, and felt an in-depth analysis and discussion of its function was needed, as well as how money would continue to be expended on it. He remarked that there were some members of the Council who felt the City should not continue to fund cable television, while others felt it was an important community resource that should be continued. He said he felt it should be continued, however, was becoming increasingly uneasy about continuing to fund all the functions currently funded, given what he viewed as a lack of a base of citizen support for the function -- partially because of the small size of the city. He said he feared that the population base was simply too small to support a cable television station of the magnitude that the elected body had in mind, pointing out that MML had given up on its channel, Rockville did not attempt to do much community-based television. He said, however, he would like to have answers to some of the questions he had, based on an analysis that was done outside the budget process and done by a citizens' review group. He pointed out that the Newsletter review had been completed, and he had found it helpful to have the citizens' group analyze that operation and provide input. Mr. Sharp said he would like to have the cable television review completed and the report presented to the Council prior to budget time so that they would have

a meaningful document to examine.

Councilmember Douglas commented that he supported the proposal, affirming that during his time on the Council, faint attempts had been made to examine the cable operation at budget time. He said that during the last budget cycle, the Cable Board had come forth and asked that the Council look into some major issues, which they had committed to doing. He said the board had reminded the elected body last Fall of that commitment, and the resolution would move forward with fulfilling it. Mr. Douglas said it was a known fact that there had been some problems with having one person working many nights and trying to keep track of a lot of equipment, as well as programming, managing volunteers, etc., and while some of that may be helped through the anticipated administrative reorganization, there remained issues needing to be addressed.

In response to the question raised concerning the proposed number of committee members, the mover and seconder of the motion for passage of the resolution agreed that 7 members would be optimum.

Councilmember Hamilton pointed out that Takoma Park had had their cable station longer than the cable system had existed; over the past 2 years, up until 6 months ago, 60% of the city was not even wired for cable. For that reason, he said he did not feel it was the citizens' fault for not participating, and pointed out that 2 additional buildings were only being wired for cable the present day. He said he thought it had to be recognized that the City was really ahead of time with its station in regard to people having access to cable. He said he concurred that the process should be reviewed, and had no problem with the committee doing so. He said he hoped that the cable board itself could provide some recommendations as a part of the review, and that the effort could be two-fold, with the cable board providing information on such things as the internal workings of the training programs occurring, programs that they are producing, etc. He said his hope would be not that cable would be done away with in the city, but that information concerning how it could help the community would result, as well as some projections regarding the path it should take in future. Mr. Hamilton said he would like to see a requirement included in the resolution that the cable board also come back with a recommendation regarding the inner workings of the system.

Councilmember Prensky commented that rather than having two possibly competing groups working separately on the same review, he would like to see some of the seats on the committee, perhaps 2, reserved for members of the cable board, so as to provide for a cooperative effort. Councilmember Sharp pointed out that recent practice had been for the Mayor to make proposals to the Council regarding committee membership. Councilmember Leary commented that he supported the proposal, however, did not feel it would be appropriate to have two separate but concurrent studies of the cable operation occurring. He said he hoped the citizens' committee would examine some of the fundamental basic questions, not simply how to make cable work better, but such things (as Mr. Sharp had suggested) as whether Takoma Park had tried to do too much; once that group had reported, then it would be appropriate, based on whatever recommendations were adopted, to get further guidance and recommendations from the cable board regarding how to implement whatever changes in direction were intended.

Councilmember Sharp pointed out that some members of the Newsletter Review Committee had raised the question of whether the publication should be eliminated; he said he would hope the Cable TV Review Committee would also examine that same option. He said he did not personally support that alternative at present, thought the channel was a valuable community resource -- particularly in the area of education -- however, he said he felt the programming was weak. He said he understood the reasons for that, the sort of resources that were required to provide consistently strong productions, and those resources had not been provided. As with the Newsletter, he said he felt a good product had been received for the money expended. However, he said he thought the committee should feel free to examine any question without constraint, including abolishment of the cable station, if they felt that to be a sensible option.

Regarding the number of committee members, the Mayor said he thought 7 was a good number and that one or two members of the cable board could probably be included in the membership. He said his hope would be to involve people in the review who had not previously been involved with the channel and its operation. Mayor Del Giudice said that in his four years' tenure, he had considered himself a fairly strong supporter of cable TV, pointing out that during his administration, the cable budget had been increased, the Cable Coordinator's position had been increased from a part-time to full-time job. On the other hand, he said that for that same four years, people in the community had said they would be coming in with a plan to generate money to support community programming; lack of a direct link to Rockville had been cited as a problem, but that now existed; lack of capability to do direct broadcast had been cited as a problem and that was now possible; each year during the budget cycle, the need for a community side to cable was brought up and it had not happened. He said he did not understand the situation, and that would be one of the questions he would want examined. A broad base of community support had not been generated, money had not been raised as promised, foundations and other sources of possible support had not been sought out. He said some had indicated that was the Cable Coordinator's responsibility, however, in the view of most members of the elected body that individual's job, as a City employee, was to provide basic service and take care of municipal programming. He said his fear was that if answers were not gotten to some of the existing questions, cable would not go anywhere and would simply die a slow death. While cable was still in its infancy in a way, he said what he had expected and anticipated once the capacity for live broadcast was there was a direct link to the station, and that had not happened, nor did he see a foundation for it happening. Additionally, he said he recognized that one of the problems connected with lack of a community operation was the fact that it was never envisioned that the City of Takoma Park would be the sole source of community television; it was originally anticipated that there would be a downcounty access center provided by Montgomery County and that had not occurred. He said he thought that was another issue needing to be addressed, because until that happened and there was some sort of studio facility, there would not likely be much in the way of community programming.

Adele Abrams, 311 Elm Avenue: noted she was a past Chair of the cable board, was a continuing community producer for Channel 54. She said a lot of good points had been raised, particularly regarding fundraising, community involvement, and community outreach. She affirmed that things had stalled, said she did not have specific answers why, but thought startup of the station, overseeing transfer of the franchise after the initial franchise holder proved unsatisfactory, transitions during change of Cable Coordinators, etc., contributed. She said early on some attempts at fundraising were made, however, once programming got on the air, some inertia may have set in. She said after being on the cable board for a few years, she had personally gotten burnt out, and perhaps others had experienced the same thing. However, an election was just recently held, there was new blood on the board, the people serving had been active volunteers, and perhaps some of the vitality of the group would be replenished. She suggested perhaps the review should appropriately be done by the cable board which was comprised of Council appointees, as well as people elected because of expertise in the field of cable, television production and demonstrated activism in the community, with perhaps a couple of extra individuals appointed so as to ensure that there was no built-in bias in the process. She said she thought that idea merited consideration because the people just elected to the cable board had not yet had an opportunity to prove what they could do to turn things around.

Rudy Arredondo, 7105 Woodland Avenue: said while he empathized with some of the concerns expressed by Councilmembers, he shared Ms. Abrams' views concerning the newly elected cable board, noting that he, too, had previously served on the cable board and had recently again gotten active concerning cable. He said he would also like to see the new cable board given a chance to review the cable operation and make some recommendations to the Council.

Mary Sinclair Jacobs, resident of Takoma Park: said she was shocked to learn that the citizens' vote for their candidates of choice to serve

2 year terms on the cable board was being thrown aside. She said she had campaigned on a promise to bring positive images and quality exciting programs to the citizens -- although many people were not wired for cable, her own building was just being wired, they were ready to view Channel 54. She said she had been trained in the field of cable TV, had been taking advanced classes offered by the city channel as well and working as a volunteer on a regular basis. She said she demanded to serve her 2 years on the board as provided under the law.

Sherry Hicks, member of the cable board: enumerated her credentials and experience with the cable station, culminating in election to the cable board. She said the idea of a review committee seemed reasonable to her and that apparently new people were wanted for that function. She pointed out that all the current members of the cable board were new people, there was new blood. She pointed out that 100 people had gone through the classes offered since last February and had gotten their certificates. They work as volunteers and do community shoots on Saturdays; they also do municipal functions, e.g., the Council Meetings; they spend hours and hours producing, editing, because one person could not do the entire operation. Regarding fundraising, she said she understood the concern expressed; said she was not sure why that had not happened because it was possible, however, felt the new board would likely be looking into it. She said she felt the interest and participation in cable was growing steadily, rather than dying a slow death, and that a new vitality was coming into being. She said she concurred that the programming was weak, but that improved prime time scheduling was being worked on presently and a lot of new things would be forthcoming.

Edgar Adjarjo, 8201 Roanoke Avenue: said while there were a number of means of communicating information to citizens in the city, the cable TV was really a plus. He said he had been impressed with the qualifications and credentials of those elected to the cable board, had been very concerned to see the proposed ordinance that would abolish that board on the agenda, despite its having been tabled. He related he had personally met Mary Jacobs and her crew when they videotaped the Takoma Park Symphony, which was an impressive performance. He said he did not yet have cable TV, but went to a friend's house to look at it. Regarding fundraising, he said he had suggested that copies of the symphony videotape be sold, which would help to raise funds, and pointed out that an average of 300-400 people had been attending the concerts, even when the weather was very inclement. He said he felt strongly that the cable board should serve as the review committee for the cable function.

For the record, the Mayor noted receipt of a communication from Novella Otley of the Takoma Park Symphony Orchestra, given to him by Mr. Adjarjo, pointing out factors and benefits she wished the elected body to consider. He said he would circulate it to members of the Council for their information.

Louis Adam, 7600 Maple Avenue, member of cable board: referred briefly to his training and background in television and radio, as well as some of the programming he had hoped to produce. He briefly outlined the history of the small country from which he had come, and said until coming to the U.S., he had never experienced free elections. He said he appreciated many things in this country, but thought that, according to the ethics of a democratic society, someone elected to hold a position such as sitting on the cable board, would not be removed from his seat except through death, impeachment, resignation, or the end of his term -- however, none of things applied to the present case. He said if the cable board were abolished, he would be forced to conclude that the system here was no better than the one in the country from which he had originally come.

Casey Garhart, 6815 Eastern Avenue: said she had been appointed last year to serve out an unexpired term on the cable board and had subsequently been reelected. She said she was glad that the proposed ordinance to abolish the board had been tabled indefinitely, and thought that the proposed review was appropriate. She spoke briefly concerning her longtime work background with new technologies trying to get off the ground, e.g., computers in schools, interactive video

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to get off the ground, e.g., computers in schools, interactive video disk training programs, and said that getting those sorts of things accepted, underway and stabilized takes time, as does a cable operation. She said she thought the present time was only now appropriate for a review to be done of the cable station and what was envisioned for its operation; said she strongly supported a review being done, but thought it would be appropriate to involve cable board members in the effort rather than having an outside group come in.

Thomas Morris, 308 Grant Avenue: said he had taken the cable courses offered in the city during the past year, and prior to that time had not known how to get involved with the cable operation. He said he had since contributed some programming and thought that was the way that the programming would grow with time. He pointed out that the classes were only one year old, the cable station was four years old. Having heard 4 members of the board speak, he said they all had strong ideas of where they hoped to see cable go in the city, and he would hope there would be substantial representation of the elected members of that group on the committee doing the review, which he said he supported.

Gary Lovett, 308 Grant Avenue: said he was a volunteer with the cable station. He said he had never seen or heard of any of the former cable board members pitching in and helping to film events, edit tape, etc. He spoke regarding the time-consuming job that the Cable Coordinator has, against abolishment of the cable board, and said the county should be pressed for funds for the City to build a down county access center.

Rino Aldrighetti, 7213 Central Avenue: said he had a concern about the general closing down of debate in the city. He inquired regarding whether the elected body had met with the newly-elected members of the cable board; it was affirmed they had not. Mr. Aldrighetti pointed out that some of those board members were elected by more votes than some of the incumbent Councilmembers had received. He said he was glad the proposed ordinance abolishing the cable board had been withdrawn, however, feared it might just be a neater way of achieving another result without the public discussion that should be held on the overturning of an election. He asked how the question of abolishing a duly elected body could even be suggested without discussing it with that body. He said the one really sensible proposal he had heard made was that the review committee be comprised totally of cable board members. While it had been said earlier that it was customary for the Mayor to appoint committee members, he said he knew full well that that was not always the case, e.g., members of the Newsletter Review Committee were not all Mayoral appointments. He said his suggestion would be that the newly-elected cable board members be appointed as the review committee, which would serve to reestablish their function, rather than continuing to undercut them as had essentially been done. Mr. Aldrighetti pointed out that the members of the Council, during their last election campaign and when they came to citizens' association meetings, could have raised the need for fundraising for the cable operation, however, they did not, and it was not right to use that as a weapon at the present point in time given that omission. He said his point about the Newsletter, as well as about cable, was that process in the City was being trashed.

Brief dialogue ensued between Councilmember Sharp and Mr. Aldrighetti, with the Mayor interjecting to conclude the exchange.

Councilmember Hamilton pointed out that the elected body had in past met with the cable board, i.e., on 9/18/89, the agenda included "Leasing of Air Time by the Cable Board" and "Reorganization of the Cable Board." He said he was reading from the summary of that meeting, and read a portion verbatim. He noted that during discussion of the latter item, discussion of abolishment of the board was not discussed.

Judith Treesberg, representing the Bi-Cultural Center at 5506 Kenilworth Avenue: said she had come by to drop off a letter, however, listening to the discussion, noted that a number of issues raised were addressed in the letter, which she read verbatim. The letter expressed thanks for the support and encouragement received from Takoma Park Cable TV and the Cable Coordinator, Robert Smith, which had helped to

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turn the center's dreams of a video project into reality. It elaborated on the function of the center working with the deaf and hearing impaired, and said the center had been contacted by community access centers around the country wanting to use their tapes as soon as they were available. In addition, it noted that the center had been contacted by the National Organization of Community Access Stations to present a workshop on their work with Takoma Park Community Television at their convention in Washington, D.C., in July. In conclusion, it stated that Takoma Park Cable TV had been providing an invaluable service to minorities in the local area, and the Bi-Cultural Center looked forward to working with them; hoped the support given in the past could continue -- it was realized and appreciated by people in the community.

Clarence Boatman, 133 Ritchie Avenue: said he had been very concerned when he received the agenda mailing and noted the proposed ordinance that would abolish the cable board, and that was his reason for attending. He said he had been able to follow the Council Meetings very well by watching the cable broadcast, and feared that if the board were done away with, he would no longer have that convenience. He said when he had voted for 4 members of the cable board, he had very carefully read their resumes and hoped the 4 elected people would be reviewing the cable function along with any others appointed to serve on the committee. He said he did not oppose having a review done, but did support Mr. Aldrighetti's views and those of the lady from Pennsylvania.

Lynne Bradley, 8112 Flower Avenue: said she had served on the original citizens' cable group that would soon be 10 years old; she related that virtually all the cable discussion in the city began out of pure volunteer effort with very little support from the City government as a whole -- there was a lot of ambivalence from both elected and other officials. She said she supported the review, felt the cost of the function and how cable could be used as a tool to communicate should be reviewed periodically, as should other city services, many of which take up considerably larger portions of the City budget. She said while members of the newly-elected cable board should definitely be involved, others who had some institutional memory should also be invited to participate. She said she felt it was totally appropriate to expect that there would be some fundraising done. Ms. Bradley said she thought it was healthy for debate to occur and hoped cable could be used as a tool to further it. In addition, she said she had notes and information from the early stages of cable setting forth what the vision for it was at that time, and would be willing to share those. She said she did not think participation in the review should be narrow or limited, but should include broad community discussion with forums, calling people, and doing a lot of initiation of communication -- not waiting for people to come forward, because that did not always work in terms of finding out how something like cable could best be used. Ms. Bradley volunteered to participate in the review to the extent possible, and suggested that the proposed ordinance to abolish the cable board be completely withdrawn rather than tabled, which would have a different connotation.

Councilmember Hamilton pointed out that the ordinance that established the Cable Board is still in effect and that the Board has the responsibility for annual reporting of the municipal station. He said that this charge has been given to the Board and that they need to follow through on it. Mr. Hamilton said that this Committee is being given the opportunity to only do what the law says.

Councilmember Leary said he disagreed with Councilmember Hamilton. He stated that the purpose of the Board is to take a broad ranging look at how the Cable station has operated and will operate in the future. He said that he hoped the new Cable Board will look carefully at that responsibility and hopes that the Board will take a serious look at effective fundraising efforts as well. Mr. Leary said that he hopes current and previous members like Ms. Bradley will participate and provide the context and history to those discussions and that this proposal is the first serious effort to have serious discussions about the future of Cable TV. Mr. Leary said he did not see this as "stifling debate".

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Councilmember Elrich commented that he is convinced that the Cable system is not working well and had voted for cable appropriations for the last 2 years and had asked then when the station was going to move towards greater self-sufficiency. He said that he has heard nothing in response to questions raised by the Council on what the City Administrator was doing administratively regarding complaints about operation and administration of the Cable operation. Mr. Elrich said that all of this combines for the need for review of the system and he'd like a fresh look at it. Mr. Elrich stated that the creation of a committee did not preclude the Cable Board from doing its own examination and making its own recommendations and suggestions to a review committee.

Councilmember Douglas said that upon hearing everyone's comments tonight he was more convinced that a review committee is a good idea. Mr. Douglas reiterated Mr. Leary's points about looking at what the vision of the Cable station was 10 years ago and see what worked and what did not work. He said he is concerned about putting financial resources into a project like this without understanding why goals can't be met and that he doesn't share the view that the system is working well. In response to Mr. Aldrighetti's comments, Mr. Douglas said that this was an issue in his campaign during the election and that he had held a number of coffee gatherings where questions were raised about the funding the Council put into the Cable TV and that citizens were not getting much out of the station.

The question was called and the resolution was passed by unanimous vote. Following discussion on whether remaining appointments would be made to the Cable Board, Mayor Del Giudice stated that the Council would advertise for persons interested in serving on the Cable Board but that the Council would preserve the right or option to make the decision of whether to make such appointments.

RESOLUTION f1989-125 (attached)

Consent Agenda

(a) COLTA Appointment - Moved by Councilmember Douglas, duly seconded by Councilmember Moore, appointing William E. Ramsey to the vacant seat on COLTA.

Resolution f1989-126 (attached)

(b) Fire Board Resolution - Councilmember Douglas moved amendment of the Resolution to have Councilmembers Prensky and Hamilton serve as the City's representatives on the Board for 2-years and recommending that the Gym Supervisor serve as an ex-officio member of the Board.

Resolution f1989-127 (attached)

(c) Recycling Taskforce - Councilmember Douglas moved an amendment to increase the number of members to 20; duly seconded by Councilmember Moore. (Councilmember Prensky abstained)

(d) Additional Member to MLK Committee - Councilmember Prensky moved appointment of Liz Reynolds; duly seconded by Councilmember Hamilton.

(e) Resolution of Congratulations - Councilmember Hamilton moved passage of a resolution congratulating Takoma Park resident Bobby Bobo on receiving the Disabled Marylander of the Year Award of Merit by the Governor's Committee on Employment of the Handicapped.

Resolution f1989-128 (attached)

Upon motion, duly seconded, the meeting adjourned at 10:42 p.m. to reconvene shortly thereafter in worksession.

Adopted: December 18, 1989

RESOLUTION 1989-122

A RESOLUTION TO RECOGNIZE THE INDIVIDUALS WHO PARTICIPATED
IN TAKOMA PARK'S COMMUNITY SERVICE DAY - SLIGO CREEK CLEAN-UP

WHEREAS, The Governor of Maryland designated October 21, 1989 as the state's first Community Service Day, AND

WHEREAS, the purpose of the day, was to bring people together to volunteer for a one day community project, AND

WHEREAS, Prince Georges and Montgomery Counties invited Takoma Park to join them in organizing a special event for Community Service Day, AND

WHEREAS, the City of Takoma Park chose to organize a clean-up project in Sligo Creek, one of the most heavily polluted sections of the Anacostia watershed, AND

WHEREAS, the City's effort to encourage volunteers and plan the event was greatly assisted by the Friends of Sligo Creek organization, AND

WHEREAS, 42 volunteers including 23 City residents and 10 members of the Montgomery County Conservation Corps, joined in the clean-up effort, AND

WHEREAS, in addition, the Soroptomist Club organized a beautification project in Eastridge Park, planting tulip and crocus bulbs and mums.

NOW THEREFORE BE IT RESOLVED that the Mayor and Council recognize the efforts of the 42 volunteers who participated in Takoma Park's Community Service Day on October 21, 1989, AND

BE IT FURTHER RESOLVED, that these individuals receive Certificates of Appreciation from the City for there volunteer efforts.

Introduced by: Councilmember Douglas

RESOLUTION NO. 1989 -123

WHEREAS, the Mayor and Council requested the City Administrator to review the administrative organization of the City with the objective of improving the efficiency and effectiveness of the organization without increasing cost or diminishing services to the community, AND

WHEREAS, the vacancy of the position of Director of Economic and Community Development provided the opportunity of examining the feasibility of consolidating this department with the Housing Services Department, AND

WHEREAS, there has been a long standing need for centralizing and consolidating the major administrative functions of the City, namely personnel, procurement and contract administration, AND

WHEREAS, the Cable Office Staff requires more direct management supervision, AND

WHEREAS, the City Administrator has submitted a comprehensive reorganization plan to Mayor and Council, AND

WHEREAS, the Mayor and Council have reviewed the reorganization plan from the perspective of its financial and policy impact and implications.

NOW THEREFORE, BE IT RESOLVED THAT the Mayor and Council endorses and approves the consolidation of Housing and Economic and Community Development Services and the placement of the Cable office staff under the direction of the Library Director as part of the Library department in order to improve management efficiency and effectiveness; AND

BE IT FURTHER RESOLVED THAT the Mayor and Council endorse the addition of one (1) administrative officer to assist the Administrator in the areas of personnel, procurement, and/or contract administration as required by the Administrator; AND

BE IT FURTHER RESOLVED THAT the Mayor and Council fully support all programs effected by this reorganization and anticipate/expect no reduction in any of the services currently provided, and no increase in overall management costs; AND

BE FURTHER RESOLVED THAT, the City Administrator is hereby directed to prepare the ordinances required to effect this reorganization and submit them to Mayor and Council as soon as possible for review and final approval.

PASSED THIS 18TH DAY OF DECEMBER, 1989.

RESOLUTION 1989-124

Upon Motion by Councilmember Hamilton; duly Seconded by Councilmember Sharp, the City Council authorized an additional expenditure of \$16,800 for increased leaf collection facility costs.

This Resolution also authorized Mayor Del Giudice to execute a letter of intent with NZI Construction.

Dated this 18th day of December, 1989.

Introduced by:

First Reading:
Second Reading:

TABLED: December 18, 1989

ORDINANCE NO. 1990

An Ordinance Abolishing the Cable Television Board of Directors

WHEREAS, the Council finds that there has been uncertainty about the role of the Cable Board in the operation of Takoma Park's Cable television station, Channel 54; AND

WHEREAS, the Council has established a Cable Television Review Committee and desires to offer it a completely unfettered opportunity to evaluate Takoma Park's cable television operations.

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

SECTION 1. Ordinance No. 2728, codified as Article 6, Secs. 2-145 thru Secs. 2-149 are hereby repealed.

SECTION 2. Ordinance No. 2728, codified as Article 6, Sec. 2-150 is to be amended as follows:

Sec. 2-150. Use of municipal channel resources.

(a) All city staff, equipment, air time and other resources related to the operations of the channel shall generally be shared evenly among municipal and community needs. In the event of conflict, municipal needs shall be met on a priority basis.

(b) All qualified city residents, whose qualifications shall be determined by the [Board] City Administrator (or his/her designee) shall have the right of reasonable use of:

(1) The city's video equipment package to produce public access programming for presentation on the channel.

(2) Air time on the channel to present technically acceptable public access programming.

(c) The right of use of the city's video equipment package and channel air time by city residents shall be subject to policies determined by the [Board] City Administrator (or his/her designee) that ensure the production and presentation of programming consistent with community standards.

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

In this Ordinance [brackets] shall mean language deleted from the existing code and underlining shall mean language added to the existing code.

Adopted the _____ day of _____, 1990, by roll call vote as follows:

Aye:

Nay:

Abstained:

Absent:

Introduced by: Councilmember Sharp

RESOLUTION 1989-125

Resolution Establishing a Cable Television Review Committee

WHEREAS, Takoma Park's Cable Television station, Channel 54, is an important community resource; AND

WHEREAS, a great degree of uncertainty regarding the role of the Cable Board in the management of the station has developed over the last several years; AND

WHEREAS, the Council determines that it would be beneficial at this time to review the operation of the cable television station; AND

WHEREAS, the Council determines that such a review should be done prior to the FY 1991 budget deliberations.

NOW, THEREFORE BE IT RESOLVED THAT the Council establishes a Cable Television Review Committee to evaluate the operation and role of Takoma Park's Cable television station, including both its municipal and community aspects and the appropriate approach to the management of the channel, AND

FURTHER, BE IT RESOLVED THAT the Committee shall be composed of 7 members; AND

FURTHER, BE IT RESOLVED THAT the Committee shall report its conclusions and recommendations to the Council by March 15, 1990

Dated this 18th day of December, 1989

Introduced by: Councilmember Douglas

RESOLUTION NO. 1989-126

WHEREAS, that there currently exists two vacancies for Landlord Representatives on the City's Commission on Landlord-Tenant Affairs that need to be filled; AND

WHEREAS, several persons have made application to serve on the Commission.

NOW, THEREFORE BE IT RESOLVED THAT THE CITY COUNCIL OF TAKOMA PARK, MARYLAND, does hereby appoint to the vacant seats on the Commission on Landlord-Tenant Affairs:

Name	Address
William E. Ramsey	10 Montgomery Avenue Takoma Park, MD 20912

BE IT FURTHER RESOLVED, THAT this appointment is effective immediately and will expire on June 30, 1991.

Adopted this 18th day of December, 1989.

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

Dated: 12/18/89

RESOLUTION NO. 1989-127

WHEREAS, as a matter of practice, two Takoma Park Councilmembers have been designated to serve on the Takoma Park Volunteer Fire Department Board of Directors; AND

WHEREAS, designation of these roles do not appear in the City of Takoma Park Code of 1972, as amended; AND

WHEREAS, The Mayor and Council desire to appoint two Councilmembers and one Department of Recreation staff person to serve on the Board.

NOW THEREFORE BE IT RESOLVED, THAT Councilmember Gregory V. Hamilton will continue to serve on the Takoma Park Volunteer Fire Department Board, as a Council representative until his 2-year term expires on November 5, 1991, the City's Election Day; AND

BE IT FURTHER RESOLVED, THAT Councilmember Hank Prensky is hereby appointed to serve on the Takoma Park Volunteer Fire Department Board as a Council representative until his 2-year term expires on November 5, 1991, the City's Election Day; AND

BE IT FURTHER RESOLVED, THAT the Mayor and Council hereby recommend the appointment of the Recreation Department's Gym Supervisor, Matthew Corley to serve as the City's Staff representative as an ex-officio member, on the Takoma Park Volunteer Fire Department Board; AND

BE IT FURTHER RESOLVED, THAT the Takoma Park Volunteer Fire Department Board of Directors is encouraged to amend the official bylaws of that organization to reflect the changes noted in this Resolution.

BE IT FURTHER RESOLVED THAT these appointments are effective retroactive to November 8, 1989.

Dated this 18th day of December, 1989.

M E M O R A N D U M

12/15/89

TO : Mayor and Council

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

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

SUBJECT: Consent Agenda Items - Recycling and MLK Committee
Appointments

Just a note to let you know that the previous resolutions on both of these Committee appointments can be amended to reflect the additional members added--no new resolutions are needed.

In the Wednesday (12/13) package, I circulated to the Council the listing of those citizens who expressed an interest in being appointed to the Recycling Taskforce.

For your information, the additional member to be appointed to the Martin Luther King, Jr. Celebration Committee is:

Liz Reynolds, 203 Spring Avenue

RECYCLING TASKFORCE 1989

Appointments made by Resolution 1989-90 (9/25/89);
Resolution 1989-115 (11/20/89) and amendments made on 12/18/89.

1. Diane Curran, 22 Montgomery Ave.,
2. Katherine Gage, 14 Philadelphia Ave.,
3. Ferdinand Hoeffler, 22 Montgomery Ave.
4. Rita Marth, 7308 Cedar Ave.
5. Lori McGilvrey, 48 Philadelphia Ave.
6. Holly Mines, 8004 Maple Ave.,
7. Walter Mulbry, 48 Philadelphia Ave.
8. Richard O'Connor, 7110 Maple Ave.
9. Ann Odean, 504 Albany Ave.
10. Dr. Dean Hoge, 7314 Holly Ave.,
11. Pat Howell, 408 Elm Ave.,
12. Linda A. Lyon, 13 Columbia Ave.,
13. Milford Sprecher, 24 Pine Ave.,
14. Dean R. Tousley, 703 Auburn Ave.,
15. David M. Band, 7101 Sycamore Ave.,
16. Richard Braddock, 38 Philadelphia Ave.
17. Steven Nadel, 515 Elm Ave.,
18. Helen P. Wanning, 7237 Carroll Ave.
19. Lisa Wright, 7018 Carroll Ave.

Introduced by: Councilmember Hamilton

RESOLUTION 1989-128

WHEREAS, On April 28, 1989 Mr. Bobo, a visually handicapped resident of Takoma Park was awarded the Disabled Marylander Of The Year Award Of Merit by the Governor's Committee On Employment Of The Handicapped; AND

WHEREAS, Mr. Bobo is a business owner, was past president of the Sligo Creek Chapter of the National Federation of the Blind of Maryland; has served on the Elderly and Handicapped Advisory Committee of WMATA; AND

WHEREAS, Mr. Bobo is an active citizen in many other church, community, and volunteer affairs; AND

WHEREAS, The Mayor and Council desire to recognize Mr. Bobby Bobo on receiving the Distinguished Disabled Marylander Of The Year Award.

THEREFORE, BE IT RESOLVED that the Mayor and Council on behalf of the citizens of Takoma Park, Maryland hereby extend their congratulations to Mr. Bobby Bobo and offer best wishes for Mr. Bobo's continued success.

Dated this 18th day of December 1989.

Stephen J. Del Giudice
Mayor

ATTEST

James S. Wilson, Jr.
City Administrator