

CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the City Council  
and  
Public Hearing re Bond Ordinance and  
Historic Preservation Task Force Report  
March 12, 1990

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	Dev. Construction Coord. Ziek
Councilmember Moore	Public Works Director Giancola
Councilmember Prensky	
Councilmember Sharp	

The City Council convened at 8:05 p.m. on Monday, March 12, 1990, in the Council Chamber at 7500 Maple Avenue, Takoma Park, Maryland.

Following the pledge, the Mayor noted the Minutes of the February 12, 1990 Regular Meeting had been distributed in the Wednesday Council packet. Consensus was to defer consideration of those Minutes at present.

MAYOR DEL GIUDICE'S COMMENTS AND PRESENTATIONS:

The Mayor referred to testimony concerning the Municipal Infractation Law given the previous week in Annapolis before the House Judiciary Committee; he said he and the Mayor of College Park had testified and he felt it went quite well. He said it was hoped the bill would move forward this year and there would be some reform of the legislation.

Concerning the tax assessment rate and the related debate going on in Annapolis, the Mayor explained that there was legislation pending before the state legislature that would set the maximum annual assessment increase at 10% -- that legislation was being pushed particularly hard by the Montgomery County legislation. He said the legislation as it presently stood would allow counties to set a maximum assessment rate below 10% if they chose to do so; MML had some concern that allowing the counties to do so for all property within the counties without giving municipalities some reference would essentially dictate the tax rate in municipalities and would probably require that the tax rate go up if assessments were held down significantly. He said there was a good deal of debate going on and it was unknown what the outcome would be, however, it did appear that some legislation would be going through limiting the statewide maximum assessment level, which was currently at 15%, to 10%.

Councilmember Sharp noted that the Housing Committee would be meeting in the Mayor's Office the following night, 3/13/90, at 7:30 p.m. to discuss rent petition criteria.

Councilmember Douglas noted that Administration & Finance Committee was scheduled to meet on Wednesday night, 3/14/90, to continue talking about Corporation Counsel's contract.

Councilmember Leary noted that Planning, Transportation & Zoning Committee would meet Thursday night, 3/15/90, to discuss a variety of issues with the Acting Director of Community Development.

ITEMS FOR COUNCIL ACTION:

1. Council Decision on Tree Commission Appeal, Case #89-2.  
Councilmember Sharp moved that the elected body convene as the Tree Commission Appeal Board, duly seconded by Councilmember Hamilton; the motion carried by unanimous vote.

For the record, the Mayor noted the elected body had heard the appeal filed by Mr. Robert Ginsberg in relation to property on Maple Avenue; Case #89-2, Appeal #TC90-1. The appeal was filed as a result of a decision rendered by the Tree Commission. He noted that when the appeal was heard on 2/12/90, Mr. Ginsberg testified, as well as a representative of the Tree Commission; a number of issues were submitted in writing and also raised at the appeal.

The Mayor said that the elected body had made certain Findings of Fact, based on their review of the record, and found, in essence, that the decision of the Tree Commission should be upheld. Councilmember Sharp moved that the Opinion & Order of the elected body sitting as the Tree Commission Appeal Board be adopted, duly seconded by Councilmember Moore. Councilmember Sharp noted Corporation Counsel had opined that each member of the Council should sign the Opinion; he pointed out there were some minor typographical changes to be made and said the final version would be circulated prior to meeting adjournment so that it could be sent out on the next day's date. The motion to adopt the Opinion & Order carried by unanimous vote, with the Mayor noting it would be signed and sent out to the appropriate parties, as well as made available to anyone who might wish to review it.

RESOLUTION #1990-23  
(attached)

Upon motion by Councilmember Sharp, duly seconded by Councilmember Leary, the elected body adjourned as the Tree Commission Appeal Board at 8:15 p.m., and reconvened in regular session as the Mayor and Council.

2. Second Reading of an Ordinance Authorizing Purchase of Replacement Police Vehicle.

Councilmember Hamilton moved adoption of the ordinance, duly seconded by Councilmember Moore. Councilmember Sharp remarked that the language of the first "Whereas" clause was confusing, could be construed to mean that the Nuclear Free Zone Act addressed the competitive bid process, which was not so. The Mayor pointed out he thought the clause was meant to indicate that the vehicle, a Dodge Diplomat, was acceptable under the terms of the Nuclear Free Zone Act. Following brief discussion of whether to strike the clause, consensus was that it remain; however, the Mayor noted that what was intended was to indicate that the vehicles themselves were acceptable under the terms of the Nuclear Free Zone Act -- at the time the vehicles were manufactured, the maker was not engaged in the manufacture of nuclear weapons.

Councilmember Douglas pointed out that the "Ordain" clause read "...the Mayor and City Council"..., noting that [the Mayor] should be deleted, in accordance with the new Charter. He asked that the City Clerk take care in future that the clause was written correctly. The change was accepted as an editorial amendment.

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

ORDINANCE #1990-5  
(attached)

3. First Reading of FY90 Budget Amendment #2.

The Mayor noted that while the ordinance had not yet been discussed in worksession, he had felt it could be taken up for First Reading and then subsequently addressed in worksession prior to Second Reading. Councilmember Hamilton moved acceptance for First Reading, duly seconded by Councilmember Leary.

Councilmember Hamilton moved that the amount required to extend the protective fencing along Philadelphia Avenue up to Holly, as discussed some months ago, be added to the budget amendment. He referred to the fact that a school child had been hit the previous week trying to cross the street in that area. Councilmember Leary duly seconded the motion. Public Works Director Giancola said that \$3,500 should adequately fund that project. The maker and seconder of the motion to amend agreed that the amount stated was acceptable to them. Responding to query from the Mayor, Asst. City Administrator Habada said the amount would be added as both an expenditure and as an amendment to the Capital Budget. Responding to query from Councilmember Douglas, Mr. Giancola affirmed that he had recommended that the fencing be installed all the way to Holly Avenue. Responding to further query from Councilmember Sharp, Mr. Giancola explained that the original request for the fencing had come from the local PTA; he said their reasoning was that if the fence were extended all the way to Holly, it would force children to go to Birch, where there was a crossing guard on duty, to cross Philadelphia. He said what had happened the previous week was that a child had run out into the street on Philadelphia Avenue just beyond the existing fence and had been hit.

Councilmember Sharp said that while he was certainly troubled about what had occurred, he felt it was not only a problem for the City, but also for the school. He suggested that an effort be made to discuss possible cost-sharing on the cost of installing the fence. He said it would be an appropriate thing for the county to share in the cost. Councilmember Leary commented that one of the co-presidents of the PTA had mentioned to him in a telephone conversation the possibility of the PTA sharing the cost of putting in the additional fencing. Mr. Douglas remarked that the same proposal had been mentioned to him in conversation. Mr. Sharp commented that while it was laudable the PTA was willing to do that, it appeared to him that there was a responsibility there that the school, i.e., the county, should meet.

Councilmember Douglas said he would be willing to vote for the amendment in order to keep the issue alive, however, felt it was something that needed to be seriously addressed with the county, the school system, and perhaps even the state inasmuch as Philadelphia Avenue was a state road. He said while there had been several incidents over the last year or so at the location in question, there were a number of other locales where crossing the street was very hazardous, and they should all be looked at and considered -- simply putting up a fence in one area was not going to solve all the street-crossing problems in the city.

The motion to amend carried by unanimous vote. The ordinance, as amended, was accepted for First Reading by unanimous vote. The Mayor noted the ordinance would be on the next week's worksession agenda for discussion.

ORDINANCE #1990-7  
(attached)

4. Second Reading of an Ordinance to Prohibit Parking on the South Side of Westmoreland Avenue.

Councilmember Prensky moved adoption of the ordinance, duly seconded by Councilmember Hamilton.

Acting City Clerk Jewell noted that, in response to letters sent out to residents of the area, a letter of support for installation of the signs was received from Harold Maumberger of 6509 Westmoreland Avenue. In the course of brief ensuing dialogue, Mr. Giancola affirmed that the southwest side of the street was the correct location for the signs; he said the [east] side of

the street as designated in the ordinance at First Reading had been incorrect. Councilmember Prensky moved to amend the ordinance by substitution of the designation southwest in place of [east] in Section 2.; the motion to amend was duly seconded by Councilmember Hamilton, and carried by unanimous vote.

Arthur Karpas, WACO: said that the letter Ms. Jewell had noted earlier had been sent under the auspices of WACO; he said the organization was in favor of having No Parking on one side of the street in that area. The Mayor pointed out, for the record, that the action being taken had originated from earlier discussions and communication with the Westmoreland Avenue Community Organization.

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

ORDINANCE #1990-4  
(attached)

5. Resolution to Close Laurel Avenue Between Eastern and Carroll Avenue for Farmers' Market.

Councilmember Douglas moved passage of the resolution, duly seconded by Councilmember Hamilton. The resolution was passed by unanimous vote.

RESOLUTION #1990-24  
(attached)

6. Resolution Authorizing Additional Expenditures by the Centennial Committee.

Councilmember Douglas moved passage of the resolution, duly seconded by Councilmember Hamilton. Councilmember Elrich referred to mention during worksession discussion of money already existing within the budget for the employee luncheon; he inquired whether there was need to appropriate money or whether an administrative decision simply needed to be made to use existing funds for the purpose stated. The Mayor noted that the proposed resolution set forth a \$1,000 expenditure for the employee luncheon; he said to his recollection, Mr. Wilson had indicated at the worksession that the major portion of the expenditure would be covered by funds already in the budget. Councilmember Prensky commented that he recalled the statement having been made at worksession that the total amount needed would be \$1,750, half of which would come from funds in the City Administrator's Budget; so the amount in the resolution should read \$875, rather than \$1,000. Following brief discussion, during which it was affirmed that Mr. Prensky's recall of the situation was correct, Mr. Prensky moved to amend the figure in the resolution to read \$875, reducing it by \$125.; the motion was duly seconded by Councilmember Hamilton. The Mayor noted the need to also reduce the appropriate item in the budget amendment by \$125. The amendment was passed by unanimous vote.

Responding to questions raised by Councilmember Sharp, the Mayor affirmed that the additional funds needed for the Centennial Celebration were being appropriated in the budget amendment; the purpose of the resolution was to give City staff and the committee a clear understanding of what they could and couldn't do with the monies.

Barbara Beelar, Co-Chair of Centennial Committee: commented she was glad that the budget figures were being addressed. She said that, following the last worksession, both of the Co-Chairs of the committee were fairly distressed with what took place -- while they were willing to take some of the responsibility for the existing confusion, they needed some of the direction now

being provided concerning the Council's will regarding the celebration and how much they were willing to spend on the event. She said had they had that information earlier, it would have made their job easier and they could have moved ahead more quickly. She said she thought the whole issue of remuneration for the Co-Chairs, which had apparently come up as a surprise to the elected body at the worksession, had surfaced as their roles evolved into a staff-like slot, e.g., working on developing and submitting budgets to Council, attending and sometimes chairing staff meetings, developing a whole range of activities that would be much more appropriate for a staff function. In order to clarify the situation, she said they had submitted to the City Administrator and his staff a detailed work plan of where they saw their role in the coming weeks and the tasks that needed to be done. She said it was hoped that document would be constructive, and copies were available for members of the Council.

Ms. Beelar said the committee chairs hoped the Council would in future think about the experiences related to this event. She said before volunteers were asked to contribute their time, the Council should have a very clear idea of whether or not they want to have such a celebration. She said there appeared to have been a lot of divisiveness among members of the Council on the subject at worksessions, which made it very hard on the committee, particularly in trying to formulate a plan that would be acceptable to all. She said they would also ask that in future a budget be worked out in advance, so it would be known how much money the committee would have to work with. Ms. Beelar said that for volunteers to successfully pull off something of the scale they had thought was envisioned for the Centennial Celebration, a minimum of 6 months' time was required for planning and coordination. She said both she and Ms. Seavey had been very distressed by the personal attacks and allegations made at the last worksession -- they were unwarranted, unnecessary, and counter-productive. She said they had written a memo detailing their position in more depth, however, the important thing would be to move forward from the present meeting. She pointed out the time was growing short until the beginning of the events, a fantastic celebration had been planned, Takoma Park was a great city, and if it were kept in mind that a century of community was being celebrated and all worked together on it, a really good time could be had by everyone.

Concerning the question of Centennial pins and the quantity to be produced and purchased, which had been raised earlier by Councilmember Leary, Asst. City Administrator Habada explained that Mr. Wilson had recommended not purchasing the pins for City employees because previous plans had been made to develop a longevity pin for longterm employees and that would move forward rather than having the Centennial pins serve that purpose. Responding to questions raised, Ms. Habada said she did not know for certain what the purpose of the 300 pins being ordered was, however, assumed that they would be given to guests of the City at the celebration, handed out to visitors, etc. She reaffirmed, responding to query from Councilmember Douglas, that they were not intended for City employees. Mr. Douglas commented he thought they would be a very saleable item at the celebration, and any money invested would be recouped; also, if they were going to be given out at all, they should also be available for purchase by the citizenry. The Mayor commented that if 100 were held out for distribution to visiting officials, etc., he thought the other 200 would probably be as many as would be readily sold.

Councilmember Sharp commented that having not spoken at the contentious meeting of the previous week, he wished to state that he felt very sorry about the tone that was set regarding the effort the Centennial Committee was making. He said he did believe there had been some misunderstanding concerning whether

the effort was intended to be by volunteers or not, but agreed that when it reached the point of the committee chairs leading staff meetings and such, it was more than they should be doing. He said while he could not support paying the committee chairs, he certainly did appreciate the work they had done and the effort they had put forth.

The Mayor commented that he felt he had to personally accept responsibility for what he considered to be the City's failing to have planned better for the event, as they had for the parade, which had been budgeted for in advance. He said, however, he did not think any members of the elected body had envisioned the celebration being as time-consuming or costly as it was turning out to be. He said he apologized not only to Ms. Beelar and Ms. Seavey, but to the committee as well, for the lack of direction provided them, and thanked them for the work they had done. He said he hoped that in future, discussions could be more constructive than had been the case at the previous week's worksession.

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

RESOLUTION #1990-25  
(attached)

Ms. Beelar said the committee hoped to have the completed calendar of events available by mid-week; she encouraged that those present let everyone know, and said she thought it would be an incredible 6 weeks of activities.

PUBLIC HEARINGS:

1. First Reading of Bond Ordinance.

The Mayor noted the public hearing was formally convened to hear public comment on First Reading of the ordinance which would approve infrastructure bonds 1990 Series A.

Asst. City Administrator Habada explained that the new Charter, adopted the previous October, required under Section 922, that any new indebtedness acquired by the City and exceeding 5% of the annual budgeted revenue, be subject to a public hearing and the Council could take no action on the new indebtedness less than 14 days from the date of said public hearing. She noted a technical problem had been encountered at Second Reading of the ordinance in January when it was learned that the intervening period amounted to only 13 days because of Martin Luther King's Birthday and also appropriate formal advertisement of the public hearing had not occurred, as was done for the present public hearing.

There was no response to the Mayor's inquiry concerning whether there were citizens present wishing to comment on the issue at hand. The Mayor noted that the bond issue had been considerably more contentious among members of the elected body than among citizens.

Councilmember Elrich moved acceptance for First Reading, duly seconded by Councilmember Sharp.

Councilmember Douglas noted the need to correct the spelling of the Mayor's name [Del Guidice] to read Del Giudice on pages 9 and 19 of the ordinance prior to Second Reading.

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

ORDINANCE #1990-8  
(attached)

The Public Hearing on the Bond Ordinance was formally closed by the Mayor.

**2. Formal Presentation and Discussion of Historic Preservation Task Force Report.**

The Mayor noted a brief presentation would be made by the Chair of the Task Force, outlining the group's recommendations to the elected body. He pointed out that an Executive Summary of the report was printed in the March issue of the Newsletter; the final report itself was available for examination at the Library and the Administrative Office, and copies had been made for those in attendance. In light of the 30 or more people who had signed up to speak on the subject, the Mayor asked that those commenting try to limit their testimony to 3-5 minutes.

Carl Iddings, 7416 Carroll Avenue, former Councilmember and Chair of the Historic Preservation Task Force; noted he had chaired the group for the past 3-1/2 months, working with them to produce the final report that had been presented. Mr. Iddings referred to the meeting 4 months earlier wherein approximately 70 persons spoke on the subject and there had been a fairly equal division of opinion pro and con the Master Plan process as it had progressed to date, with many of the views expressed being both vehement and persuasive. He said it appeared the situation could become very divisive on the subject, however, the Council wisely decided to take a breather and appoint a task force to examine the issues behind the process and the procedures that had caused need for the hearing. He said the task force's first meeting in December was also somewhat raucous, however, he held out hope that once issues and goals had been explored, a measure of agreement and general consensus could be reached which would broadly reflect the interest of the community in preserving its history. He briefly related the process the task force had undergone, and said he felt the outcome had been a document that represented a consensus opinion of how the City could move ahead with historic preservation planning on the Montgomery County side. Mr. Iddings expressed thanks to a number of people who had assisted the task force in accomplishing its goal, including City staff, particularly Community Planner Lisa Schwartz and Community Development Construction Coordinator Robin Ziek; County staff, including Gwen Marcus, a Historic Preservation Planner for Park & Planning, Jarrett Cooper, a staff member to the Montgomery County Historic Preservation Commission, Howard Berger, staff to the Prince George's County Park & Planning Commission. Additionally, he thanked citizens who had attended the meetings of the task force, particularly Barbara Gibson, Cavan Capps, Herb Kaufman, Ed McMahon, all of whom had asked meaningful questions and contributed to the process; also members of the now defunct local Historic Preservation Committee for the background work they did, particularly Carolyn Alderson, who had prepared a 12-page paper for the task force which they had found to be very useful; and, finally, all the members of the task force for their time and efforts, and particularly Ross Wells, Ken Norkin, Susan Gilbert, Brandon Littman, and Travis Price, all of whom participated and contributed significantly in the preparation of the report.

Mr. Iddings read from the report verbatim, noting that the task force recommended that the Council support amendment to the Montgomery County Master Plan for Historic Preservation to include a Takoma Park Historic District, subject to two specific sets of conditions pertaining to boundaries and guidelines. He said he thought the conditions addressed the concerns raised by both factions at the November 6 public hearing on the subject. Mr. Iddings pointed out that the proposed boundaries for the district had been published in the March issue of the Newsletter, noting that present boundaries would be extended and the Takoma Junction and Takoma Old Town business districts would be included. He said the task force believed that the boundaries



encompassed the major portion of resources depicting the historical significance of Takoma Park and worthy of preservation. Mr. Iddings noted the proposed guidelines were intended for use by the county in evaluating resources within the historic district and also to administer the historic district work permit process. He spoke concerning the categorization of resources within the district, remarking that the task force felt a majority of the resources within the district, particularly the bungalows, would be categorized as secondary contributing resources. Additionally, he noted that the categorization of any particular resource would be subject to a rebuttal process based on alterations that may have occurred over time. He explained that different sets of guidelines would apply to the different categories of resources, with the focus being primarily on preservation of the character of neighborhoods and the structures therein, particularly the front of the house and those portions viewed from the street, with a lesser focus on the rear of the structure. Mr. Iddings said the task force had believed that the public interest was served by preserving what was visible from the public right of way and contributed to the streetscape in the historic district. He said it was felt the county's guidelines for primary resources should be adhered to; they were not as stringent as they may once have been or as people appeared to believe, and, as pointed out earlier, the majority of the resources within the district would not be considered to be primary. A separate set of guidelines had been formulated for secondary resources, which would comprise the vast majority; he said he believed those guidelines addressed many of the concerns people had raised during the November public hearing, and provided a considerable amount of leniency and leeway with regard to alterations and additions. The guidelines pertaining to non-contributing resources followed those of the county, essentially requiring review only in terms of scale, massing, and size in relation to surrounding properties. Any new structures built on vacant lots would be categorized as non-contributing resources. He said guidelines had been formulated for the commercial areas, however, the vast majority of structures would be considered to be secondary or non-contributing resources, with only a few resources the county might identify as primary in its evaluation; the guideline language would allow flexibility in development in that area. He said the task force had been fairly clear on not viewing historic preservation and the Historic Preservation Master Plan as a means for preventing development; it was seen more as a way of shaping development to be consistent with the adjoining and surrounding residential neighborhoods.

Mr. Iddings said that while it was well and good that a consensus had been reached and the guidelines formulated, the question now became one of ensuring that the county would follow them. He noted that the City had gained zoning veto power several years earlier over any zoning changes that would affect the city, so the task force was recommending that the proposed guidelines and the language of the boundary modifications be incorporated into the Master Plan in a way that was substantially reflective of the task force's intent. He said that if it were adopted into the Master Plan, he believed it would then be binding on the County Historic Preservation Commission when they evaluated historic area work permits and the historic districts within Takoma Park. If that were not the case, he said the county should be pressed to take whatever steps were necessary to ensure that it was binding. Mr. Iddings said the task force had been very clear on the fact that if there were going to be a Master Plan Amendment for Takoma Park, the amendment ought to reflect the contents of the task force's report; the task force hoped that if the Council adopted the report, they concurred with that stipulation. If that were the case, when the draft went before the Planning Board at its final public hearing on the Master Plan Amendment, if the content of the task force report was not reflected, the City



would need to either ensure that it was included or else not support the amendment -- the same thing would hold true at the District Council.

Mr. Iddings noted the task force was recommending that review for historic area work permits occur only at the county level, and that a new local committee be set up that would focus almost entirely on education regarding historic preservation and serving to some extent as a resource for people involved in the historic area work permit process.

Ken Norkin, member of Historic Preservation Task Force: thanked Mr. Iddings, as well as Carolyn Alderson for her assistance. He spoke in support of the report that had been submitted, and rebutted some aspects of Arthur Karpas', President of Westmoreland Area Community Organization, January 16 commentary before the elected body, which was also published in edited form in the March Newsletter. He said he did not subscribe to Mr. Karpas' idea that the City should wait and see what the county was going to do, but believed, and the task force had proposed, that the City take action to transform the process into what it wanted it to be; i.e., spell out the procedural changes wanted, describe how Takoma Park believed historic resources should be categorized; the areas of the city in which the resources are located must be identified, and the guidelines for how alterations to structures within the district will be evaluated and approved must be proposed. The county must be told that designation of Takoma Park's historic district on the Master Plan absolutely requires inclusion of the City's proposed guidelines, boundaries and procedures in the language of the Master Plan Amendment, so that the City's concept of how to protect itself would be given the force of law. He said the County Historic Preservation Commission should no longer be allowed to unilaterally decide what property owners could and could not do in Takoma Park; instead, through a properly worded Master Plan Amendment, the City would tell the commission how to do its work. He said the City needed to take action now because the county was acting now -- permanent dislocation and loss of valuable resources could result from delay. He said the task force's report should be the sole focus of current and future debate, and questions should pertain to the material contained therein. He said only if the task force had totally failed in its mission should that group itself become a bone of contention, pointing out that early in the process, some had chosen to make the composition of the taskforce an issue and in so doing had lowered the level of public debate and contributed nothing to public understanding of the real issue. Mr. Norkin rebutted a number of criticisms that had been voiced or made regarding the task force, and said that the majority were unfounded. He said he was proud to have served on the group.

Dennis Fruitt, 706 Devonshire Road, member of task force: said it had been a pleasure to work with the other members of the group, and particularly under Mr. Iddings' leadership. He said the report that had been presented was truly a consensus document, probably not reflecting some of the very heated debate that had occurred at meetings. He said while he had been in the minority on some questions, he felt very comfortable supporting the recommendations that had been put forth and encouraged that the elected body adopt them. He said if there was one recommendation he felt did need further consideration, it would be the one addressed on page 26 of the report concerning community outreach and education. He said in talking with friends and neighbors, he had come to realize the general confusion and lack of adequate knowledge that existed regarding historic preservation, and that was something that needed to be addressed. He said he would be happy to continue to work with a group dedicated to providing a resource forum for citizens, if one were set up.

Doug Varn, 7709 Takoma Avenue, task force member: echoed comments of earlier speakers; he said he had never participated on a committee that started out with so many people with diverse views and in the end achieved a true consensus -- while no one achieved exactly what they had hoped for, all were very comfortable with the consensus reached. He said he thought the elected body should also feel comfortable in endorsing the task force's report and recommendations, despite the fact testimony would probably be given indicating the report was too strict and some indicating it was not strict enough. He said he thought what had been achieved in terms of a middle ground was very fair and achieved a balance recognizing that Takoma Park was not Williamsburg or Sturbridge Village, but was a place where people live; it did, however, retain the ability to preserve the feeling of a community that all value so much. He said he unreservedly supported the report.

Caroline Alderson, 7137 Maple Avenue: thanked Mr. Norkin for his kind words and remarked that his commentary was very good, very articulate. She said she supported the recommendation to include the historic district in the Master Plan for Historic Preservation; she said the report was very in depth, well written, and she was both surprised and pleased that the group had been able to reach a consensus. She spoke in support of the proposed boundaries and said the proposed district appeared to be a very strong and cohesive one. She commended the committee's ability to recognize the urgent need to protect the commercial corridor, commenting that it was a key part of the city and no one would wish to see it lost. Regarding design review, she commented the tiered process appeared to be a good middle ground and would certainly help to build consensus on the subject within the community. She said she did not think there would be any sacrifice on the part of commercial owners; very little ambiguity had been shown about limiting the ability of landlords to achieve the potential of their properties in renting, and what was proposed was much less of a sacrifice. Ms. Alderson said she did think that the subject of new construction needed to be addressed in more detail; the criteria addressing size and shape only were too minimal, and insufficient to ensure compatibility, particularly in the residential district. She said there was plenty of room for eclecticism, diversity, artistic expression; however, without some sort of design control, there was likelihood of too much monotony. Ms. Alderson spoke in support of the single review authority proposed, however, said that lacking a local review group, there needed to be a system for keeping the public informed of unusual changes and/or plans. Regarding the proposal to make the new local committee responsible for distribution of educational material, she said she thought that was asking too much of volunteers, was potentially too time-consuming, and should be handled by City staff.

Peggy Edwards, Sycamore Avenue: said she was opposed to mandatory inclusion of properties in the historic district; thought homeowners should be allowed to choose whether or not their homes were included. She related having had to go through the previous two-tiered approval process in order to have a small bay window installed and said she felt it was far too lengthy and involved. She said she was aware of people going ahead and having work done without approval because of the process they would be subject to, and that seemed a shame. She said people who chose to live in older homes were not out to destroy or damage their appearance, however, it had to be recognized that money concerns were important, and the process should be streamlined so as to allow for preliminary approval of plans for additions/alterations so that homeowners could move ahead with work and not be tied up at length in the process. Ms. Edwards asked why there was a need to move so quickly with the City adopting a position, when it was still an unknown what the county was going to do vis-a-vis the Master Plan.

The Mayor responded that the county was, in essence, waiting for Takoma Park to forward its recommendation. The only thing holding the county up from taking action was the City's request that they not do so until the City's recommendation was submitted. Cheryl Schutz, 301 Ethan Allen Avenue: noted she had lived at her address for 10 years; was glad those on the task force were happy with the report, however, said she was also glad her house was not proposed to be included in the historic district because she preferred having the freedom to make her own decisions concerning what was appropriate and tasteful in regard to her own house. She said the most basic function of any preservation effort was to place limitations on new construction and renovation, and not everyone could afford a custom built house. She said she could envision restrictions imposed on things people want or need to do with their property, and special interest groups trying to rule on what they could or couldn't do. She said she hoped some guidelines would be formulated for new construction and for those houses that were not contributing resources.

Dan Treadwell, 7126 Sycamore Avenue: said he felt there had been a communication failure, pointing out that the December issue of the Newsletter made no mention at all of the November 6 meeting on the subject; he asked why that had occurred.

The Mayor said that the Council did not dictate the content of the Newsletter -- that decision was made by the Editor, who he pointed out was sitting immediately to the right of Mr. Treadwell. He suggested he discuss that question with Mr. Baron, and pointed out that when the present Editor was hired to replace the previous Editor, the matter of dictating the contents of the publication was taken out of the hands of the elected body, and was left entirely to the sole decision and discretion of the Editor.

Mr. Treadwell said the task force did not have any members who were lay people, and he felt that to be a serious flaw; while he had heard it was well-rounded, it was a well-rounded group of architects and builder-related people, which omitted a certain flavor that should have been a part of the effort. He said he was a member of the B. F. Gilbert Citizens' Association, and that group had voted to remain outside the Montgomery County Master Plan for a sufficient amount of time to evaluate the historic review process -- they did not wish to be in the historic district at present, but wished to sit back, see how the process worked, evaluate it, and decide at some later time whether the process had improved or whether it was the same old one that nobody liked. He submitted, for the record, a signed letter from members of the association so stating.

In addition, Mr. Treadwell said the task force failed to adequately review the historic district concept, did not consider the real crux of the issue, which was summed up in the May-June 1989 issue of The Preservationist, published by the Montgomery County Historic Preservation Commission. He read briefly from the publication and said it concluded by recommending that individual properties be studied and considered for designation, rather than designating by district, with which he said he concurred completely. He said he felt houses should be designated individually; there were far too many in the city that were simply plain ordinary houses that would not in any way be historic even a hundred years hence, and he strongly believed in the right of the property owner to make his house look the way he wanted. The Mayor noted that the letter Mr. Treadwell intended to submit had already been received by the elected body.

Larry Mattingly, 7107 Sycamore Avenue: said he was against Takoma Park having an historic district; he said he agreed with Mr.

Treadwell that people had a right to make their own decisions regarding their property; while he might be uncomfortable with decisions some people might make, he would be more uncomfortable with some body dictating what people could or could not build. He related that he was in the midst of putting a much needed addition on his house, and had felt intimidated for the past year by the whole process. He said he had moved to Takoma Park 8 years earlier, and liked the eclectic atmosphere -- while he did not like all of the houses, he did like the diversity. He said he particularly did not want Sycamore Avenue included in the county's Master Plan, and thought many of his neighbors felt the same way.

Barbara Gibson, 7110 Woodland Avenue: said that while the task force had not had the balance that was originally intended, the members had served with integrity and worked together in a spirit of compromise in order to gain consensus. She said, however, it was felt that the final report would have been different if the membership of the body had better fulfilled the guidelines of the resolution that created it. While the task force had attempted to resolve many problems, she said there were still changes she would like to see, e.g., further adjustments to the boundaries, particularly on those streets where there are strong objections to inclusion in the district. She suggested the boundary issue might best be dealt with on a ward basis, and asked that her Council representative, Mr. Prensky, meet with people in the ward who remained opposed to inclusion in the Master Plan, so as to better understand their concerns, prior to the Council making a final recommendation to the county. She said questions remained about a large segment of Takoma Park being entered into the county's Master Plan before the county's new rules and regulations had even been adopted; while there might be some protection afforded by the City's own guidelines, the county would still be in a position to establish procedures that citizens in Takoma Park might not find acceptable. She said it would be far more sensible to have a smaller district where strong support for inclusion had been demonstrated, and allow other areas where opposition had been voiced to adopt a wait and see attitude. Additionally, she pointed out the task force report did not clearly state what would happen if the county did not accept the City's guidelines, as written -- while the report did state that as a condition for being entered into the Master Plan, it did not state what would happen if changes were made or compromise was suggested. She pointed out that in the course of the task force meetings, Gwen Marcus had stated that the county probably would not accept the guidelines exactly as presented. She said that issue should be seriously considered. Ms. Gibson commented favorably on the guidelines having been made less stringent and the latitude provided new construction. She said she felt it important that each and every property owner be notified of the categorization of their property, i.e., primary, secondary, or non-contributing resource, with provision for rebuttal of the assignment. She said the new historic preservation committee that would provide information, education and outreach to interested property owners would be a key to the success of the historic district, and the City should be prepared to support the committee and oversee that it was fulfilling its function. She said she supported the streamlining of the work permit process and anything else that could be done to make the process less burdensome and intimidating, and did not support having any sort of local review. She said she also supported publication of a property owner's bill of rights that would clearly state what the county Historic Preservation Commission could or could not permit, and some sort of provision that a homeowner's economic constraints would be taken into consideration in reviewing their plans. Ms. Gibson said while it was difficult for her, she pretty much agreed with the task force report; she said she really did not want to see anyone having to live under a set of

guidelines to which they had not agreed, however, in a spirit of compromise she had to acknowledge those people who felt strongly about wanting to be placed in an historic district. She said she had come a long way in the past few months, and hoped others would recognize that and take her concerns into consideration as well. She thanked all members of the task force for giving so generously of their time, and for participating in an intelligent and respectful manner.

Jane Lawrence, 7704 Takoma Avenue, representing North Takoma Citizens' Association: said the citizens' association had met the previous week and had voted to endorse the task force's recommendations. She referred to Ms. Gibson's comments, and said that while she was expressing the association's endorsement, she had also promised one member that she would express concern regarding ensuring that the guidelines were liberal. Speaking personally, she said she really thought residents would look back ten years hence and regret the lack of guidelines for new construction. She pointed out that the task force had met 16 times, had reached a consensus despite initially holding very polarized views, and said she thought the City would be crazy not to endorse the consensus position that had been presented and submit it forthwith to the Planning Board.

Cavan Capps, 6737 Eastern Avenue: said that given the contentious nature of the debate on the subject, he had not believed that anyone would ever come to any sort of consensus position. He said he, too, had problems initially with the makeup of the committee and had not thought they would be able to reach any agreement. He said he thought those opposed to the process should be thanked particularly for their efforts in reaching out to the Council and to the task force, making their concerns known, so that it was possible to reach a level of consensus. Additionally, he said Carl Iddings and other members of the task force deserved a great deal of thanks for opening the process up, making materials available to interested individuals and allowing them to address the task force. He said he felt the process had been very open, had addressed both sides of the issue. He said he particularly liked the fact that the recommendation was that additions and alterations to bungalows to meet space needs be accepted, and also liked the idea that the boundaries of the district could be expanded in future if that was desirable. He said he thought everyone on the task force, regardless of their persuasion, had worked very hard to make the whole historic process very friendly; those who had had unfortunate experiences with the process in the past should find it much friendlier in future. He said he thought many who were actually opposed to historic preservation would become friendly to it in future because of changes that were being made, and once the process was established and people became familiar with and accustomed to it, he said he thought a larger segment of residents would want to be included in the district. He said he particularly concurred with the recommendation that the local committee not be a regulatory body (or an advisory regulatory body, which would become a de facto regulatory body), and supported a liberal approach to new construction that would allow for variety and eclecticism in architectural style. Mr. Capps said that, as someone opposed to the process, he had initially felt left out, however, due to the reaching out that occurred, that had changed. He congratulated and thanked Mr. Iddings and all members of the task force for their hard work and efforts.

Wabi Aboudou, 7133 Maple Avenue: congratulated the task force on the report and recommendations they had produced, and stated his support for it. He said any time he had submitted anything to the Historic Preservation Commission, it had been approved; he did not think they were out to get people who wished to improve



their properties, but did think it was in everyone's best interest that there be some review and control.

Dolores Milmoie, 7212 Cedar Avenue: said she was impressed with the efforts people had made in the course of the task force meetings toward compromise and reaching a consensus; it was a perfect example of the constructive sort of work a committee could accomplish. She said she had brought 40 letters of endorsement for the historic district with her, which she would submit for the record, and said most of them spoke in favor of including the commercial area. Ms. Milmoie remarked that she shared Ms. Alderson's concerns about the review process for new construction; she pointed out that a letter from Diane Curran related a very positive experience in working with the advisory board to come up with an attractive and appropriate design for a property at Montgomery and Hickory Avenues. Ms. Milmoie said she thought new construction needed to be addressed in more depth.

Ken Abfell, 7118 Cedar Avenue: spoke in strong support of the report and recommendations; he said he thought a fair compromise had been reached that was balanced, tried to weigh out the needs of individuals as well as the needs of the community. He said unless there were strong standards in a community, there was not a community over time, and Takoma Park had always had those and needed them. Concerning new construction, he said while it was fine to have diversity, unless there would be some control over houses such as one currently being built on Piney Branch Road, then what was proposed was not stringent enough.

Jennifer Saloma, 7124 Maple Avenue: spoke in support of adoption of the task force report and recommendations. She said she was very pleased that inclusion of the Old Town business district had been recommended, however, said she did not feel what was proposed vis-a-vis new construction was adequate. She thanked the elected body for finding a way to address all the citizen concerns that had been expressed at the November meeting, and thanked the task force for all the work they had done in order to reach a consensus.

Elliot Schwartz, 7103 Cedar Avenue: congratulated Mr. Iddings and members of the task force for the remarkable job they had done in reaching a state of agreement. He said often a consensus meant that not everyone had gotten exactly what they wanted, but had at least been able to agree on the position that was reached. In that spirit, he said he would hate to see any part of it pulled out, would hate to see the B. F. Gilbert Citizens' Association secede from the consensus, because that could cause some of the pieces to unravel. Because a consensus had been reached, he said it should be easy for the Council to adopt the report and recommendations and really push it with the county. He said while a lot had been accomplished, there would remain a great deal to do, and the process should move forward.

Hank Cox, 7331 Piney Branch Road: said while an earlier speaker said the debate over the issue at hand had taken Takoma Park to a new low, he did not think that was possible. Additionally, he said someone had stated there were no ordinary people on the task force and he knew that to be untrue because Doug Varn was ordinary. In a less facetious vein, he said while there were serious issues involved in telling people what they could or could not do with their property, he thought some failed to understand the economic pressure being brought to bear because of the Metro station. He said he thought there were some large development plans looming on the D.C. side; simple economics dictated the building of large apartments around Metro stops so that people could take advantage of the easy access to downtown D.C., and the City needed the historic district as another way of regulating the type of development that would occur within the city limits.

He said even though a certain amount of freedom on the part of the individual would be conceded, the task force appeared to have made a good faith effort to come up with a reasonable plan, and urged that the Council adopt it.

Nan Knight, 7211 Holly Avenue: said she lived in a primary resource, and spoke in support of the report. She said, as an historian, there were some portions of the report that she wished could have gone farther, however, had to commend the committee for examining everyone's view and accomplishing what they had.

Roland Halstead, 7116 Maple Avenue: said he had watched the process from beginning to end, and congratulated the elected body in its foresight in allowing the citizens to come to a consensus. He said it was thought at the beginning that there was a consensus, but it had not been realized that there was such widespread opposition. He said he had been very pleased to hear Barbara Gibson say that while she had not thought she would be able to support an historic district, she had come to the point of being able to support the task force's report. He said while he, too, would have liked to have seen stronger standards in some areas, particularly regarding new construction, he supported the report and felt the task force had taken the right approach. He said he thought it would be important to include sites such as the John Nevins Andrews School, which might be a potential development site in future, as well as the business districts. While some had spoken strongly against including the commercial areas, there was a need to preserve the streetscape in the community.

Carol Highsmith, 7501 Carroll Avenue: said she was in strong support of the historic district, however, thought there was need to be very careful regarding size and scale of new buildings and ensure that unsightly and incompatible structures were not put up.

Ed McMahon, 7105 Cedar Avenue: referring to Hank Cox's remarks, said the present process was practically a love feast compared to Takoma Park's political past history, and thanked Cavan Capps for noting the increased friendliness of members of the past local advisory committee -- he said they had all had counseling over the last few months to try to help them. On a more serious note, he said he thought that on the whole all who had worked on behalf of historic preservation were pleased with the report, however, he did have some concerns regarding new construction. He related having recently attended a speech given by Prince Charles at the American Institute of Architects, in the course of which the statement was made, in speaking of historic preservation, that a city without a past was like a man without a soul. Mr. McMahon spoke concerning the reasons for preserving historic resources, pointing out that the physical heritage of a city was as much a part of its people as its social and cultural heritage. He said it was important, as well, to preserve the past because the current technological age was spawning a great deal of homogeneity; people had commented on liking the eclecticism of Takoma Park, however, all special places were that way because steps had been taken to keep them as they were. He said during the period he had served on the local advisory committee, 31 new houses were approved and built; they reflected a wide array of sizes and styles, however, they had one thing in common -- they fit well into the street or block where they were located. He referred to two new houses being built, one on Piney Branch Road behind Councilmember Leary's house and one on Carroll Avenue near East-West Highway -- if those were the sort of construction the new standards would allow, then a grave mistake was being made regarding new construction and that subject should be reexamined. He thanked all who had served on the task force, and said that their effort showed that people of different political persuasions and philosophical beliefs could all be people of good will.



Herb Kaufman, 214 Tulip Avenue: delivered and read into the record a letter on behalf of the Old Takoma Citizens' Association dated March 8, which endorsed inclusion of a Takoma Park historic district on the county's Master Plan for Historic Preservation and commented in support of the process that had occurred, as well as the recommendations of the task force. He noted the letter was signed by Stephen Quick, the association's new president, and thanked the Mayor and Council for setting up the process that had resulted in the compromise, as well as Mr. Iddings and all members of the taskforce for the admirable job they had done.

Ken Norkin, task force member: said he wished to tender a public apology to Arthur Karpas for having singled him out and having directed some of his earlier remarks at comments voiced by Mr. Karpas at a meeting in January and in the Newsletter publication of the statement. He said he had taken some of those remarks personally, however, understood Mr. Karpas' former position had been swayed by attendance at some of the taskforce meetings.

Dorothy Cichello, 7320 Piney Branch Road: spoke in favor of enlarging the present historic district in Takoma Park; related that being in the district had aided in resolving problems with a new house that was built on a lot next to her property, and would ensure quality construction and preservation of the city's past history.

Arthur Karpas, 6916 Westmoreland Avenue: said he wished to preface his remarks by making it clear that he was speaking as a representative of the 250 members of WACO and not personally as the earlier Newsletter article had indicated, and thanked Mr. Norkin for his apology. He briefly recapped WACO's initial position on the matter and said that now, having reviewed the task force's report, that group felt that another statement was in order. He said they wished to commend Mr. Iddings and all members of the task force for the dignified process they had undergone and for the stately and highly useful report they had produced. He said WACO now felt that their initial doubts regarding the process were misplaced, and asked that the report and recommendations be afforded serious consideration and discussion. He commented favorably on various facets of the process and concluded by saying that WACO felt that the concerns they had voiced earlier had been sensitively and effectively addressed by the task force.

Kathy Porter, 1002 Elm Avenue, Treasurer of Historic Takoma, Inc: speaking on behalf of Historic Takoma, said she had attended many of the task force meetings and would echo many of the favorable comments that had been voiced concerning the openness and fairness of the process. She said while the recommendations did not include everything her group would have liked to see, they supported it as a reasonable and fair compromise; particularly they were in support of the recommendation that the Takoma Park historic district be included in the Montgomery County Master Plan subject to the conditions stated. She said they would also like to thank Mr. Iddings and all members of the task force, and would urge that the report and recommendations be adopted and the process move forward.

Brian Foss, 706 Devonshire Road: spoke in favor of adoption of the task force's report; said a city that values trees as much as Takoma Park does ought to also value historic properties. Referring to the subject of new construction, he alluded to the new townhouses being constructed at East-West Highway and New Hampshire Avenue, and said while the structures were only 3 stories,

they were the equivalent of having 6-story buildings looming down on the neighborhood behind them. He commented on the need for public education concerning historic preservation, and said he hoped the process would move ahead with addressing an historic district in the Prince George's portion of the city.

Ellen Harris, 7904 Flower Avenue: said she had testified at early meetings on the subject, had been pretty upset at that time and was very much in favor of historic preservation. She said she was pleased that the task force had come to what appeared to be a very good consensus, and hoped there would now be a community-wide movement toward support for historic preservation. She said she would echo comments of other speakers regarding the need to reexamine and further consider the subject of new construction.

Bob Sheldon, 7013 Sycamore Avenue: noted he was president of the B. F. Gilbert Citizens' Association, however, was not speaking on behalf of that group because they had not yet taken a vote on the task force's report. As an individual, he said he was in favor of historic preservation and the historic district; he complimented the task force on the job they had done. He said he would like further information on how the boundaries were arrived at, and echoed comments concerning the need for further consideration of how new construction should be addressed. He said while he had criticized the efforts of the former committee in initial meetings on the subject, he later felt badly about that and wished to rescind his remarks, realizing they should be commended for the time they had given as volunteers and the work they had done.

Ann Norman, 7204 Spruce Avenue: commented in support of historic preservation and inclusion of the city's district in the county's Master Plan. She congratulated the task force on reaching such a fair consensus, expressed support for their report, and said she hoped the elected body would endorse it.

Kevin Mutchler, 7014 Woodland Avenue: said he had been an interested but not close follower of the issue; he explained he had moved to Takoma Park in 1977, had enjoyed living here, had particularly liked the sense of community that existed. He pointed out the city had early on initiated a voluntary newspaper recycling program, in which he had participated, but which had later become mandatory -- he said he wasn't happy to see that change; felt something had been taken away from him in that he was no longer doing something voluntarily to help in the community effort, but was now required to do so by law. He said he had since seen other things move in that same direction, and that had raised questions in his mind about the quality of life in Takoma Park -- for example, the fact that trash was previously collected from his back porch and he now had to put it at the curb, which he said he did not view as an advance in the quality of life in Takoma Park. He said while he felt sure the task force's report and recommendations spoke to very important issues for the community and, apparently if the City did nothing, the county would regardless. However, he said he was not very happy about the fact that houses would be designated and categorized because while such designations/categorizations did not readily change once applied, the things people did with them were subject to change. He said he applauded the guidelines, felt them to be quite liberal, however, understood they only carried the weight of recommendations and one could only hope they would be followed -- in his own experience, he said he felt it was difficult to control bureaucracy once it was created. He expressed concern that in attempting to protect the city, controls on homeowners might be too restrictive; he said the guidelines for the commercial areas did not appear as stringent as those for residential properties, and thought the need for protection was probably greater there than for private homes. He said he feared that the

homeowners were going to end up being the ones really controlled, and the developers would find a way to do what they had always done over the years, unless the community were to take specific action aimed at growth and development, which would be a viable option. He referred to the inclusion of the John Nevins Andrews School property within the historic district in order to have some control over it, and said that made clear to him that people wanted to have some say over what happened with large potentially developable parcels of land, but said he saw nothing that would justify its inclusion on the grounds of historic preservation. He said that sort of thing concerned him; he thought the City had bonafide concerns on a variety of issues confronting it, but would like to see those issues addressed clearly and forthrightly, in their own terms, rather than intermixing them, because that generated a lot of confusion.

Acting City Clerk Jewell read a letter addressed to Councilmember Leary from Eric Hartfelder, 521 Albany Avenue, into the record. It stated that he had read a copy of the final report of the task force and objected to it as drafted on the basis that if adopted by the county, the principles and guidelines for secondary contributing resources would be grossly inadequate to protect the largest category of properties within the proposed district. It elaborated and expounded on the basis of Mr. Hartfelder's contention, commenting that the report was long on listing what was permitted, but short on describing what it was that should be protected, and it was hard to envision any proposal short of demolition that would be denied under the guidelines as they were written. In conclusion, he asked that the Council take his comments into account and revise the guidelines before making a recommendation to the county.

There being no others wishing to speak, the Mayor noted the Council would need to discuss the subject at length in worksession, would need to put together a resolution setting forth its position which could be presented for passage at the next Regular Council Meeting.

Councilmember Leary asked that members of the task force think about the many comments that had been heard concerning the need to add some strength to the guidelines regarding new construction and provide the elected body with their input on the subject at the next week's worksession discussion. Carl Iddings, Chair of the task force, explained that the language regarding new construction in the report echoed that in the county's ordinance about how new construction was reviewed; he said the task force did spend a lot of time discussing that particular issue, and the language in the report reflected the consensus of the group. He said he was not certain it would be worthwhile to reconvene the task force in order to rediscuss the issue. Responding to Councilmember Douglas, who had inquired whether the house on Piney Branch being built behind Mr. Leary's and referenced earlier would be acceptable new construction under the guidelines, Mr. Iddings said he had not seen the house, however, understood some changes were going to be made to it to orient it more to the street and to its surrounding area. He said the intent of the guidelines was that mass and size be taken into account, however, and if the house in question were a one-story house on a street of two-story and three-story houses, then it would appear those factors were not taken into account when the structure was approved. Following brief dialogue, Mr. Iddings noted his statement about the language for new construction was not totally correct and read verbatim from the county ordinance which stated: "in the case of an application for work on an historic resource located within an historic district, the commission shall be lenient in its judgment of plans for structures of little historical or design significance or for plans involving new construction, unless such plans would seriously impair the histori-

cal or architectural value of surrounding resources or would impair the character of the historic district." Mr. Iddings commented he felt the task force's language to be somewhat stronger than that of the county ordinance, however, it would depend as well on how one interpreted "leniency." He said one of the concerns the task force had was to not include overly restrictive language -- the wish was to allow a lot of flexibility in new construction and give people the opportunity to be creative and responsive to the built environment.

Councilmember Moore inquired whether the task force had any feel for how many buildable lots on which new construction could occur existed within the proposed historic district. Mr. Iddings said that would be hard to guess and that information was not specifically researched; however, a task force had examined the amount of open space and potentially buildable lots remaining in the city 4-5 years ago.

Councilmember Elrich commented he appreciated the way in which the material pertaining to the commercial area had been written; he said he did not favor the use of historic designation as a tool to control development. He asked whether, in opening up the Master Plan, there would be any opportunity to suggest rezoning, i.e., could the City suggest that the prima facie TSM zone presented a possibility for development that was inappropriate given the scale of the surrounding community. Mr. Iddings said there would not be an opportunity in the Master Plan for Historic Preservation; the Master Plan that recommended the TSM Zone was the Sector Plan for the Takoma Park Transit Impact Area, and there was a consensus that TSM was an inappropriate zoning. He said that plan was long overdue for its review and needed to be reassessed and addressed -- that TSM zone should be removed. He said he thought there was a concern, however, about what the county might want to do if the plan were revisited -- particularly if there were a lot of development across the street.

Responding to query from Councilmember Douglas, Mr. Iddings affirmed that it was the task force's intention that structures within the commercial area would be designated as to their value as historic resources in one of the three categories. He said they had intended that historic preservation not be used as a tool against development, but as a way of shaping development. He pointed out that historic preservation was only one of a number of things that an architect had to take into consideration; there were a number of zoning requirements to be met as well. Mr. Douglas raised the question of public notice, which he pointed out had been mentioned as a concern in the course of meetings, as well as by some of his constituents. Mr. Iddings said the administrative regulations that were nearing finalization included a provision for public notice similar to that for Special Exceptions; additionally, he said the task force had felt it would be a simple matter for county staff to flag and forward copies of all historic district work permits that were not on the consent agenda and those could be made available at the City Office for review by interested citizens. He said they did not, however, envision any procedure that would require any great amount of City staff time.

Upon motion, duly seconded, the meeting/public hearing adjourned at 11:00 p.m.



3/12/90

RESOLUTION 1990-23

CITY OF TAKOMA PARK  
CITY COUNCIL, SITTING AS THE  
TREE COMMISSION APPEAL BOARD

IN THE MATTER OF:

Appeal No. TC 90-1  
(Tree Commission  
Appeal No. 89-2)

An Appeal from the decision of :  
the Tree Commission regarding :  
permission to cut down trees at :  
7123, 7125, and 7127 Maple Avenue :  
:  
Robert Ginsberg, Appellant :

OPINION AND ORDER

I. INTRODUCTION

On November 9, 1989, the Takoma Park Maryland Tree Commission ("Commission") pursuant to Sec. 12-26(b) of the Takoma Park Code, conducted a hearing into the matter of a denial by the director of the Department of Public Works ("Director") of a request by Mrs. Bridget Crimi and her representatives, Mr. and Mrs. Joseph Sparacino ("Applicants") for a permit to remove trees at 7123, 7125 and 7127 Maple Avenue. The Director authorized the removal of two of the four trees for which a permit was requested--Tree #2 and Tree #4. See Finding of Fact #5 of the Tree Commission Findings of Fact, Hearing Summary, Conclusion of Law and Order dated February 6, 1990. The Applicants sought authorization from the Commission to remove the other two trees.

The Commission, after considering written and oral evidence from the Applicants, the Director, and various interested citizens, unanimously determined that a permit should be granted for removal of Tree #2, but not for Tree #4. See Decision and Recommendation of the Tree Commission decision dated February 6, 1990.

One of the interested citizens, Mr. Robert Ginsberg ("Appellant"), of 7129 Maple Avenue, Takoma Park, Maryland, entered a timely appeal of the Commission's decision to allow the removal of Tree #2. Pursuant to Section 12-26(c) of the Takoma Park Code, the City Council is authorized to hear appeals of Commission decisions. The hearing of the appeal was held on February 12, 1990.

## II. DISCUSSION OF APPEAL TO MAYOR AND COUNCIL.

In his written submission, the Appellant contended that:

1. The Commission failed to administer oaths or affirmations as specified in the Takoma Park Code;

2. The Commission erroneously failed to dismiss the request for a permit when, at the hearing, the Applicants changed the designation of the species of tree for which a removal permit was sought from that listed in the application;

3. The Commission erroneously failed to dismiss the request for a permit when, at the hearing, the Applicants changed the address of the trees for which a removal permit was sought from that listed in the application;

4. The Commission's decision to allow the removal of Tree #2 was unsupported by the evidence. In particular, the Commission failed to evaluate the contribution made by the tree to the setting in which it exists, that is, part of a "wilderness", and that its irregular growth pattern is quite consistent with its environment.

In his statement at the appeal hearing, the Appellant reiterated the first three points noted in his written appeal and added that he had requested a verbatim transcript of the Commission hearing as permitted under the Code, but had failed to receive it. As a result, he stated he was unable to show the manner in which he had been prevented by the Chair of the Commission from offering testimony on alleged previous illegal cutting of other trees on the same properties by the Applicants after previous discussion of it had taken place at the hearing. See Excerpt from 2/12/90 Council Meeting Minutes, p. 2, 1st full paragraph.

At the appeal hearing, the Chair of the Commission, Kristine M. L. Steinkoenig, affirmed that: (1) no oath had been administered to anyone, (2) there had been some question about the identification of the trees; (3) at the hearing 7127 Maple had been added as an address of one of the trees, and (4) she did rule that the appellant's attempt to discuss other alleged cuttings was out of order. Concerning the first point, the Chair stated that since no oath was administered to anyone, all of the testimony was treated identically. She stated further, in response to a question from the Council, that there was no issue of credibility raised at the hearing. Points 2 and 3 concern identification of the trees and she believes that all of the parties at the Commission were aware of the specific trees being discussed. The trees had been marked by yellow plastic ribbons prior to the hearing and were readily visible. Finally, while she did allow some discussion of an alleged previous cutting, at the point that it appeared that the

parties at the Commission hearing were starting to make it an issue for debate, she ruled that the topic was not pertinent to the subject of the hearing. See Council Minutes Excerpt, p. 2, 2nd full paragraph.

#### FINDINGS OF FACT

Based on its review of the record developed at the Commission hearing, the appeal letter submitted by the Appellant, and the testimony presented at the appeal hearing, the City Council finds, with regard to the procedural matters raised, that there is not sufficient reason to overturn the Commission decision. Regarding the issue of the failure to conduct the hearing under oath, everyone was treated identically, and there was no question of witness credibility raised at the Commission hearing. Concerning the identification of the trees, both with regard to their location and species, the Council finds no evidence that the parties to the hearing were confused about which trees were being considered or that anyone was disadvantaged in presenting their arguments. The Appellant and those who joined him at the Commission hearing were opposed to cutting down any of the trees and did offer reasons for not cutting down the tree for which the Commission authorized a removal permit. The Council also finds that the ruling of the Chair that any previous alleged cuttings were not relevant to the subject of the hearing was proper. Thus, the Council finds that the Appellant's failure to receive a verbatim transcript did not hinder the Appellant in presenting his case since, in his statement, it was to be used to show how he had been denied an opportunity to address this issue.

Turning to the Appellant's claim that there is not "competent, material and substantial evidence" in the record to conclude that Tree #2 should be removed, the Council finds that there was sufficient evidence to support the Commission conclusion. The Commission received testimony from the Director that the growth pattern of Tree #2 is interfering with other trees. See Hearing Summary of Tree Commission decision at 2. The Director is the staff person assigned to the Commission to provide technical advice and the Commission may give great weight to his advice.

#### CONCLUSION

By unanimous vote\*, the City Council affirms the decision of the Tree Commission in Case 89-2.

\*Unanimous Vote of the six (6) Councilmembers in attendance at the time of the Vote. Councilmember Marc Elrich, Ward 5 was not present for Vote.



ORDER

UPON CONSIDERATION of the foregoing Introduction, Discussion, Findings of Fact, and Conclusion, and in accordance with Section 12-26(d) of the Takoma Park Code, it is this 12th day of March, 1990 by the Council of the City of Takoma Park sitting as the Tree Commission Appeal Board,

ORDERED, that the February 6, 1990 decision of the Tree Commission in Appeal No. 89-2 is hereby affirmed.

NOTICE OF RIGHT TO APPEAL

Any person who was a party to the proceedings before the Tree Commission or the Mayor and Council may seek judicial review of the decision of the Mayor and Council within 30 days of the date of this Order in accordance with Subtitle B of the Maryland Rules of Procedure, as provided in Section 12-26(c) of the Takoma Park Code.

Stephen J. DelHindin  
Ward 1

John G. ... Ward 2

... WARD 3

... Ward 4

Michael D. ... - Ward 6

Edward F. ... Ward 7

(Councilmember Marc Elrich, Ward 5, was absent at the time of Vote.)

ATTEST: Paula S. Jewell  
Paula S. Jewell, Acting City Clerk

Introduced by: Councilmember  
Hamilton

First Reading: 2/26/90  
Second Reading: 3/12/90

ORDINANCE NO. 1990-5

**AN ORDINANCE TO PURCHASE A CHRYSLER PATROL VEHICLE FROM BOB BANNING, JR. CHRYSLER-PLYMOUTH TO REPLACE CAR #131.**

**WHEREAS,** Prince George's County conducted a valid competitive bid process for the purchase of 1989 police package vehicles (Dodge Diplomats) acceptable under the Nuclear Free Zone Act) in 1988; AND

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

**WHEREAS,** Purchase of the remaining police vehicle is the most economical way to replace fleet vehicle #131, and allows maintenance of the fleet in the numbers previously authorized by the Council, AND

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

**WHEREAS,** The purchase of one police package vehicle outside of the normal budgetary cycle is recommended by the City Administrator due to the need to replace Patrol Car #131 which was irreparably damaged in an accident, and for which insurance claim proceeds in the amount of \$5,675 have been received,

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

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

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

Adopted this 12th day of March, 1990.

**AYES:** Douglas, Hamilton, Leary, Moore, Prensky, Sharp

**NAYS:** None

**ABSTAIN:** None

**ABSENT:** Elrich (for vote)

First Reading: 3/12/90

Second Reading:

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

ORDINANCE #1990-7  
FY 90 BUDGET AMENDMENT NO. 2

AN ORDINANCE TO AMEND THE FISCAL YEAR 1990 BUDGET

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

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

REVENUE AMENDMENTS

- a. Increase appropriation of revenue account 3600-3680, Miscellaneous-Other, from \$5,000 to \$16,200, to recognize insurance claim proceeds.
- b. Increase appropriation of revenue account 3600-3680, Miscellaneous-Other, by \$5,000 for tree replacement program, in recognition of funds received from the Gypsy Moth Citizens Committee, which funds were to be matched with City funds appropriated for FY 90 for said program.
- c. Appropriate [\$9,700] \$9,425 from Unappropriated Reserve for City Centennial Committee & Historic Preservation Taskforce expenses.
- d. Appropriate \$3,500 from Capital Reserve for installation of fence along Philadelphia Avenue.
- e. Increase appropriation of revenue account 3600-3680, Miscellaneous-Other, by \$18,883 to recognize insurance claim proceeds from trash truck accident as revenue.
- f. Appropriate \$3,453 from Capital Reserve to cover increased costs of bullet proof vests.
- g. Increase appropriation of revenue account 3600-3680, Miscellaneous-Other, by \$17,541 to recognize revenue received from the Federal Emergency Management Agency for storm damage reimbursement.

**EXPENDITURE AMENDMENTS**

- a. Transfer \$14,285 from Account 9000-4056, Merit Pay/Senior Staff to the following accounts for funding of senior staff salaries as previously approved by Council action (Ordinance No. 1989-45):
  - 1) \$4,950 to Account 3100-4010, Public Works Administration salary account.
  - (2) \$4,689 to Account 2100-4010, Police Salaries, Sworn and Civilian.
  - (3) \$4,646 to Account 1120-4010, Salaries, City Administrator and Staff.
- b. Transfer \$11,951 from Account 9000-7010, General Contingency, to Account 9100-8000, Capital Equipment, to cover actual purchase costs of Vehicle exhaust extraction equipment.
- c. Appropriate \$11,200 to Account 9100-8000, Capital Equipment, for the purchase of a replacement patrol vehicle for the Police Department.
- d. A new expenditure account is created, entitled City Commissions, Committees, Taskforce expenses, with an Account number 1100-7016, and an initial appropriation of [\$9,700] \$9,425 to cover the FY 90 expenses of the Historic Preservation Taskforce and the Centennial Committee.
- e. Account 9100-8001, Bond Proceeds, is renamed Capital Expenditures.
- f. Transfer \$5,000 from Account 3600-4010, Public Works Street Division Salaries to 3600-6915, Street Division Equipment Rental, to cover the cost of bulldozer rental.
- g. Transfer \$5,000 from Account 8000-7300, Debt Service Bond Issuance, to Account 9000-6605, General Liability insurance, to provide funding to cover deductible costs from insurance claim under 1988 Police Liability insurance coverage with Scottsdale Insurance Company.

- h. Transfer \$4,100 from Account 9000-7010, General Contingency, to Account 3300-5335, Public Works Repair Shop-Outside Parts & Labor, for the repair of the Recreation Bandstand.
- i. Transfer \$6,359 from Account 9000-7010, General Contingency, to Account 9100-8001, Capital Expenditures, to cover Public Works roof repair work previously approved by Ordinance 1989-36; repair work costs which total above the \$21,000 appropriated from Bond proceeds for approved roof repair work.
- j. Transfer \$40,000 from Account 2100-4010, Police Salaries, to Account 2100-4032, Overtime/Holiday, to cover Holiday pay expenses.
- k. Transfer \$8,000 from the following accounts to Account 3200-6145, Building Maintenance Subcontracts, for building repairs:
  - 1) \$4,000 from Account 3600-4010, Street Division Salaries.
  - 2) \$4,000 from Account 3500-7100, Sanitation Refuse Disposal fees.
- l. Transfer \$5,800 from Account 3200-4010, Building Maintenance Division salaries, to Account 3200-6145, Building Maintenance Subcontracts for costs of temporary contract labor for janitorial services.
- m. Transfer \$3,500 from Account 3500-7100, Sanitation Refuse Disposal Fees, to Account 3500-4030, Sanitation - Overtime.
- n. Transfer \$3,000 from Account 3500-7100, Sanitation Refuse Disposal Fees, to Account 3300-5305, Repair Shop Repair Materials to cover costs of police cruiser fire extinguishers and repair material parts.
- o. Transfer \$4,215 from Account 9000-7010, General Contingency, to Account 3300-5335, Public Works Repair Shop Outside Parts & Labor for accident repairs and snow plow mounting.

- p. Transfer \$9,315 from Account 9000-7010, General Contingency, to Account 3600-6145, Streets Division Subcontract work, to cover costs of dead tree removal and temporary labor costs for leaf collection.
- q. Transfer \$2,672 from Account 9000-7010, General Contingency, to Account 3200-6145, Public Works, Building Maintenance Subcontract work, for costs of new Municipal Building fire extinguishers and a compressor for the library.
- r. Increase the appropriation to Account 9100-8001, Capital Improvements, by \$5,000 for street tree replacement.
- s. Increase the appropriation to Account 9100-8000, Capital Equipment Expenditures, by \$3,500 for installation of fence along Philadelphia Avenue.
- t. Increase appropriation to Account 3300-5335, Repair Shop-Outside Parts & Labor, by \$18,883 to provide for repairs to trash truck.
- u. Increase appropriation to Account 9100-8000, Capital Equipment Expenditures, by \$3,453 to cover increased costs of bullet proof vests.
- v. Transfer \$4,635 from Account 2100-4010, Police Salaries, to Account 9100-8000, Capital Equipment Expenditures, for the purchase of computer equipment (hardware).
- w. A new expenditure account, Account 6000-7205 Economic & Community Development - Farmer's Market, is created with an appropriation of \$500.
- x. Appropriate \$17,541 to Account 9000-7010, General Contingency in recognition of funds drawn from General Contingency to cover overdrawn Public Works accounts.



SPECIAL REVENUE BUDGET

REVENUE AMENDMENTS

- a. Delete \$500 appropriation of Special revenue account 0010-3680, Miscellaneous revenues.

SPECIAL REVENUE BUDGET

EXPENDITURE AMENDMENTS

- a. Delete \$500 appropriation of Special Revenue account 0010-7205, Farmer's Market.

CAPITAL BUDGET

- a. Purchase of an replacement patrol vehicle for the Police Department is authorized at a cost not to exceed \$11,200.
- b. A total of \$10,000 is approved for the purchase and installation of street trees as a FY 90 capital budget project.
- c. Installation of fence along Philadelphia Avenue is authorized at a cost not to exceed \$3,500.
- d. Authorize the Police Department to purchase computer equipment at a cost not to exceed \$4,635.

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

Upon motion by \_\_\_\_\_, duly seconded by \_\_\_\_\_, the ordinance was adopted by roll call vote as follows:

AYE:  
NAY:  
ABSTAIN:  
ABSENT:

Introduced by: Councilmember Prenskey  
(Drafted by: P. Jewell & T. Giancola)

1st Reading: 2/26/90  
2nd Reading: 3/12/90  
Effective: 4/1/90

ORDINANCE NO. 1990-4

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

- SECTION 1. THAT parking shall be prohibited on the South side of Westmoreland Avenue from its intersection with Second Avenue, and continuing along the 6500 Block to Highland Avenue and the City limits; AND
- SECTION 2. THAT the Director of Public Works is hereby directed to erect the appropriate signing on the [east] southwest side of the 6500 block of Westmoreland Avenue; AND
- SECTION 3. THAT this ordinance shall become effective at the expiration of twenty calendar days following its adoption.
- SECTION 4. THAT the penalty for violation of this ordinance shall be in accordance with Sec. 13-64(A) of the Code of Takoma Park, Md., 1972 as amended

Adopted this 12th day of March, 1990 by Roll Call Vote as follows:

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

NOTE:

In this ordinance [brackets] shall denote language removed after 1st reading and underlining shall denote language added.

Introduced by: Douglas

Adopted: March 12, 1990

Drafted by: V. VinCola

RESOLUTION NO. 1990-24

A RESOLUTION AUTHORIZING THE CLOSING OF LAUREL AVENUE BETWEEN EASTERN AVENUE AND CARROLL AVENUE FOR THE OPERATION OF THE TAKOMA PARK FARMERS MARKET ON SUNDAYS FROM APRIL 22 TO NOVEMBER 18, 1990, 9:15 A.M. TO 2:30 P.M.

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

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

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

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

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

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

Every Sunday between (and including) 22 April 1990 - 18 November 1990, from 9:15am (local time) to 2:30pm (local time).

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

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

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

ADOPTED THIS 12th DAY OF March, 1990.

HF: Farmers Market 1990  
FMZ/farmkt90.res

City OF TAKOMA PARK, MARYLAND

Regular Meeting of the City Council

March 26, 1990

CITY OFFICIALS PRESENT:

Mayor Del Giudice	Asst. City Administrator Habada
Councilmember Moore	Acting City Clerk Jewell
Councilmember Douglas	Cable Coordinator Smith
Councilmember Sharp	Community Planner Schwartz
Councilmember Hamilton	Dev. Const. Coord. Ziek
Councilmember Sharp	Public Works Dir. Giancola
Councilmember Prensky	Sue Weiss, DHCD
ABSENT: Councilmember Leary	
James Wilson	

The City Council convened at 8:03 p.m. on Monday, March 26, 1990, in the Council Chamber at 7500 Maple Avenue, Takoma Park, Maryland.

Following the pledge, the Mayor said that the minutes from the 2/12 and 2/26 meetings had been distributed. City Clerk Jewell called to the Councilmembers' attention that Larry Hodes' name had been misspelled in the 2/26 minutes. Councilmember Moore said that on page 6 of the 2/12 minutes in the Tree Commission hearing, the final paragraph contained an error; in the sentence beginning "The Council waived the credibility", "waived" should be "weighed". The Mayor asked for other corrections or addenda, and hearing none, Councilmember Douglas moved to adopt with corrections the minutes to that meeting, seconded by Councilmember Hamilton and unanimously adopted.

Mayor Del Giudice's COMMENTS AND PRESENTATIONS:

The Mayor first commented on pending legislation in Annapolis concerning additional state aid for municipal police departments. Noted at the recent worksession that the governor's recent supplemental budget included an additional \$1 million dollars for local police, approximately \$900 per officer. The City would benefit, he said, by passage of this supplemental budget, and he supported it. He mentioned next the City's recycling program. The City has received notice that it has been awarded \$38,800 in a grant from the state to repay the City for money spent on the recycling truck. Also, the City has been told it will receive an award from the Maryland Municipal League for its recycling program. He congratulated the City's recycling task force and coordinator Daryl Braithwaite, the Director of Public Works Tony Giancola, the Sanitation Division workers in the Public Works Department, and additionally, all citizens who participated with Del Giudice in the program to make it a model recycling program in the state.

He then spoke of the City's centennial celebration on April 3 and mentioned that calendars listing events would be available through April up until the final event on May 13. He said the City was incorporated on April 3, 1890, and the first City Council meeting was held on May 15, 1890. He noted especially the April 1st races - 10k and 2k; the City's annual kite-flying contest at 12 noon that day; and the symphony concert that evening. Beginning that day, and running through the month, was an historic exhibit at the library. A performance would be given that day by the Takoma Repertory, re-enacting the City's first meeting plus historical essays would be read. He mentioned tie-in events with Earth Day in April also.

The Mayor then said that he wanted to make some comments about Brint Dillingham but would reserve them for the citizen comment portion of the evening, as that was most fitting. He asked for any additional comments. Councilmember Sharp announced that the Housing Committee would be meeting tomorrow at 7:30 to discuss Article 7. Councilmember Douglas reminded the Council that the normal Wednesday night meeting for Admin & Finance Committee was



cancelled.

The Mayor then moved to additional agenda items. He said City staff had brought to his attention a single reading ordinance to award a contract for the recycling program, and that will be added to the agenda and called item #12. He asked for additional agenda items and received none.

CITIZENS COMMENTS HONORING BRINT DILLINGHAM: Mayor Del Giudice said that he had wanted to honor Brint Dillingham at this time and asked citizens who wished to speak to do so now.

MR. GAGLIARDO He said that everyone had loved Brint Dillingham and he wanted to share with everyone tonight something that had been said about him at his funeral this morning, that he "comforted the afflicted and afflicted the comfortable". He said that he and his friends were worried that the City might miss Brint, so he promised to continue to afflict the comfortable in his place. He suggested that Brint would prefer that, instead of observing a moment of silence, everyone shout out for justice.

LYNNE BRADLEY Lynne conveyed to the Council the wishes of Rosemary Dillingham, Brint's wife, that all be invited to the house at 7110 Woodland Avenue tonight. Participating in song for Brint would at least approach his enthusiasm though no one could fill his shoes in terms of intelligence and wit. She said that the family might set up a memorial to Brint in the future and the community would be able to be involved in it. She asked that everyone stand to sing "We shall not be moved", and the song was sung with improvisory lyrics. After the song, Lynne said that she and others hoped to find a way to invoke the ideals of Brint, whether people agreed and disagreed with his politics, and wished him farewell.

Mayor Del Giudice said that the Council had proposed and agreed to dedicate one seat with a plaque in the Council Auditorium to Brint, especially since he was a part of the proceedings on a regular basis, to recognize his contributions.

An unidentified citizen read what she had written about Brint, her understanding of him, his politics, and his illness.

A.D. BUSBY, TENANT LEAGUE said that in the spirit of Dillingham glasnost, he would see that every Council seat was contested henceforth, and he asked the Council to consider write-in ballots for Takoma Park. Remarking on Brint's awful jokes, he then told Brint's "whale" joke.

Councilmember Prensky added that Rosemary had last night spoke of missing Brint, that although life would surely be different without him, it certainly was different with him. Councilmember Douglas added that it had been a thrill to run against him four years ago, and that Brint had integrity and honesty and kept everyone else honest. Councilmember Hamilton commented that Brint was one of the first persons to explain to the Park Ritchie Tenants Association that they had rights, and needed to inform the City and that was the reason why he is on the Council today.

ALICE TREMBAR, 7304 BIRCH AVENUE said that she felt that Brint was loyal to the issues, that he was an eloquent speaker, made no compromises, and had a sense of outrageousness, and wished that all of those qualities could continue to be present in City politics.

BARBARA GIBSON spoke of Brint's sensitivity to others.

The Mayor noted that Brint was serious, cared about the issues, but that at the same time he knew how to make people laugh. Mayor Del Giudice said that Brint taught him that while there was important business, not to take ourselves too seriously.

Lynne Bradley commented that while watching the two children playing in the Council Chambers this evening, she was reminded that although Brint had no children he loved them and was a father in his own way. Tom Gagliardo invoked the phrase Brint would have: "Don't mourn for him; organize". He also said that an informal poll had been taken and it was decided that the biggest chair should be dedicated to Brint, and that was the Mayor's chair. The Mayor said it was the thought that counted, and that Brint will be missed.

Councilmember Elrich remarked that when he was getting out of school, Brint was running for Sheriff, and he seemed like one of the new guard, ahead of his time. Brint had asked him about Article seven several weeks ago, and he reiterated that Brint would have wanted people to continue to be involved in issues.

The Mayor thanked the citizens for speaking in remembrance of Brint.

**SAKINAH SHAKURA, ESSEX HOUSE TENANTS ASSOCIATION** Ms. Shakura presented a two-page letter to the City Council requesting an investigation into poor conditions at the house. She said she had not gotten results from the Dept. of Housing.

Councilmember Sharp requested that the matter be directed to the Assistant City Administrator. The Mayor said that the City Administrator himself should look into the problem, and investigate the problems and complaints. Mr. Sharp asked if it would be appropriate to request a response from the Administrator within three weeks; the Mayor replied that some items might need quicker attention and that those could be reported upon during the worksessions, as was appropriate.

**ITEMS FOR COUNCIL ACTION:**

**1. Second Reading of FY '90 Budget, Amendment #2**

The Mayor noted additional items brought to the Council's attention by staff, and it was moved and seconded to put them on the floor. He said that there were items to be added by amendment, and they were the underlined ones in the draft distributed for the evening. Douglas said he was intrigued by Mr. Giancola's leveraging - making one dump truck into two. Mr. Giancola explained that in '89 monies were approved to buy one large dump five-ton truck. Since he has been here, he said the need for a large truck was less critical than the need for a mid-size dump truck. Right now, he said that probably two could be bought for the same amount of money. He pointed out that the money was taken from him to buy a recycling truck, and now he wanted it back, now that the grant has come through. He said that the top priority is the purchase of the two mid-size dump trucks and so would be eliminated from next year's budget. Councilmember Moore asked, with reference to a discussion last Monday night whether \$10,000 mentioned then for priority street repairs, was on line. Mr. Giancola said he spent a few days checking the amount of work and added some items of repair, noting that it was only consistent to make similar repairs to all streets. Mr. Douglas asked for a clarification on the \$17,000 coming from the Bond issuance line. Ms. Habada replied that when the City originally planned to do the Bond, the cost of issuance was assumed to be paid out in cash, as opposed to the current scenario where it was built into the debt service, amortization of the whole amount including issuance costs. So the City would be paying interest on the issuance cost for the next ten years. Ms. Habada said that the cost of the bond issuance, therefore, would be the legal fees incurred, and any other kinds of legal advertising needed for the bond. She said that \$35,000 was budgeted to cover the total issuance cost.



Mr. Sharp asked Ms. Habada if the dump trucks were in the sinking fund, and she replied that they were not. Mr. Giancola said they had been excluded. Councilmember Douglas reiterated for the record, that this budget amendment was primarily for the purpose of moving money around and that it adds money for sidewalk repairs, to build the fence on Philadelphia Avenue near the school, and it adds money to buy the two dump trucks. Ms. Habada said that most of it was transfers of money from one account to another for contingencies. The only items requiring dipping into other monies would be reflected in the revenue amendments - unappropriated reserve for the committees expenses, the capital reserve for the fence, and the capital reserve for the bullet proof vests. The only other reserve amendment would be the Miscellaneous Other category, which would be increased to receive the grant from the state, which is actually a reimbursement. Funds would only be expended when the Governor's office actually issued the grant announcement.

Mr. Douglas asked Ms. Habada her reason for taking the fence out of capital reserve. She said that it was a capital item. He asked if the vests were coming out of capital reserve, and she said yes, the definition of a capital item was anything over \$1,000 having a certain life expectancy. She suggested that the vests could have been taken from appropriated reserve. Someone asked if there was a line item for bullet proof vests, which would be discussed later that evening. She said that it had been an approved capital item and was already budgeted; this latest expenditure was to cover the excess costs, and to "piggyback" the costs on at Montgomery County purchase.

JAKE QUINN, 7121 WILLOW AVENUE, CO-PRESIDENT OF THE PINEY BRANCH ELEMENTARY SCHOOL PTA requested that the fence be extended at the school, that children dart all over, and that the expense seemed a small one to pay. He asked the Council to name a completion-of-job date, assuming the amendments are adopted and funds allocated. Mr. Giancola said he had a contract and with a go-ahead from the Council, he could call the contractor tomorrow and it could be done in a few weeks. Mr. Sharp then asked Mr. Quinn how to proceed in asking the school for funding. He replied that the fence was not on school property and was more a community issue. Mr. Sharp then said that last week it was determined to talk to the school to assume some responsibility. Mr. Quinn said he could draft a letter to the Montgomery schools if needed, but he felt they would not respond. He said he was grateful at least that the City of Takoma Park was willing to take the responsibility.

MEL RATH, 7319 WILLOW AVENUE, MEMBER OF ALL THREE PTAS INVOLVED reminded the Council, that in the original debate 1 1/2 years ago, there had been no mention of the school's footing the bill. He quoted a memorandum dated 11/9/88 from Mr. Giancola recommending extension of the fence in the FY'90 budget, and noted that as the City had originally taken on the building of the fence, it should continue to do so, especially since the amount was trivial. Mr. Sharp said he had supported the fence all along, with the City paying. He said that once the fence was up, perhaps other organizations would be willing to make a financial contribution. Last week he inferred from a PTA member, a willingness to talk to the school on this matter; apparently this changed, although he suggested writing the above letter to see if school funds weren't available. He hoped the City might prepare such a letter.

MARY ELLEN KANE, PTA, CO-PRESIDENT, TAKOMA PARK identified herself as the unnamed PTA member above. She said that writing a letter to the school system was appropriate enough, but that she and other PTA members agreed that they had a better chance to receive funds if they approached the County Council.

SUE POENES, CO-PRESIDENT, PTA, PINEY BRANCH said she had been at the meeting last week, and that after the worksession had mentioned to the Mayor that a letter to the school might not be most expedient. She said that in her experience not much can be done. Dr. Brown advised her that going to the school would be a waste of time; they would say it wasn't on their property.

Councilmember Douglas moved to adopt the amendment, and Councilmember Hamilton seconded. There was no further discussion on the amendment, and the Council voted unanimously to adopt the amendments.

ORDINANCE 1990-7  
(Attached)

2. Second Reading of the Bond Ordinance. The Mayor noted for the record that this item was on the agenda two weeks ago, at the public hearing. He asked for discussion, received none, asked Ms. Habada to comment, and she declined. The Mayor asked for a vote and the roll. All voted aye except Councilmember Prensky who abstained.

ORDINANCE #1990-8  
(Attached)

3. Council Action on the Recommendations to the Montgomery County Planning Board on the County Designation of the Historic District. Councilmember Prensky asked that two pieces of information be entered regarding this matter: the first is a letter to the Mayor and Council from Barbara Gibson dated 3/19/90 which includes petitions, the second, a letter dated 3/19/90 from Robert Sheldon to the Mayor and Council, giving comments as president of the B.F. Gilbert Citizens Association. The Mayor asked that another letter from Mr. Robert Sheldon be entered into the record. Mr. Douglas mentioned a third letter sent to the Montgomery County Planning Board from Plan Takoma, and asked it also be incorporated into the record. The Mayor asked if the City had received a copy of this communication and asked that Ms. Schwartz make a copy of that letter to be made available to the Council this evening. The Mayor asked that the Council consider the resolution discussed in the worksession. He asked for a motion to adopt the resolution; he noted that Mr. Elrich moved it and Mr. Douglas seconded it. He asked for discussion and receiving none and opened the floor to comment on the historic district.

Kathy Breckbill, 7104 Woodland Avenue commented that Barbara Gibson deserves to be commended for being active in the historic district issue and she spoke in support of Takoma Park's diversity.

Cheryl Schutz, 3018 Ethan Allen Avenue voiced her reservations about a government philosophy that restricts free choice and deems them untrustworthy to choose their environment. She mentioned a garbage-bag slashing incident by a City employee, and said that the distrust occasioned by this incident is also found in the historic district issue. She noted that those who wished for tighter restrictions were greedy and had admitted it themselves; they did not have community welfare at heart. She did not trust them, she said, or those who said that vinyl siding damaged houses, or those who defined what was ugly. She accused the Council of acting impatiently and discourteously to her neighbors who questioned restrictions, and questioned the leadership quality of the Council. Finally, she said a Council member told her that they had to limit certain commercial density, such as high-density housing; there was no choice but to rely upon traditional styles to guide the future. She noted that the Task Force guidelines were aimed at homeowners, not developers. The Task Force could not prevent major high-density development or six-lane highways, however. She was surprised that the Council could only come up with the two paragraphs in the Task Force report concerning

commercial development. She was concerned with future Master Plan process and the specter of greater rifts, and the inability of the City to withdraw once the process is begun. She hoped for a more efficient procedure than had been done so far, and cited groups in Prince George's County that had changed zoning, "trusting themselves to protect their own future; why can't we."

Receiving no other comments from citizens, the Mayor spoke on the resolution and agreed with an earlier citizen praising Barbara Gibson's role. He noted that the issue was divisive, in that some people presumed things about others before speaking with them. There was a presumption that people were unwilling to talk and compromise, when in fact that was not the case. There had been accusation concerning himself, he noted, that the Task Force was skewed in its view. People tended to see it as an "either-or" proposition, but in actuality the vast majority of people fell in the middle, between the idea that historic preservation was a good idea, but that it had to be balanced; that the process had to be fair. The needs of people presently living here, the eclecticism of the community, the desired growth of the community, all were important, and the Task Force recognized that, the Mayor said. There is no guarantee that everyone will be satisfied, and he regretted that there were members unwilling to participate in the process unless that guarantee was given. But government does not work that way. Attempts have been made to correct problems with the system. His major concern, he said, was that certain areas not participating in the process would be overlooked, and he was not sure when they could come forward for inclusion or participation.

Despite lack of guarantees, he went on, if the City is dissatisfied, there are other options. In checking with other municipal leaders in Montgomery County, he found they believed that municipalities should control historic preservation. In both Montgomery and Prince George's Counties, historic preservation has been made largely the county's business. However, sentiment in Takoma Park leans now toward the City's establishing its own historic district process, if not satisfied with the county. He said he was happy with the Task Force's report, that it was respected and showed the long hours and the consensus achieved as a result, and he supported the resolution. The resolution adopts the Task Force's recommendations, of broad consensus, representing many interests in the community.

Mr. Douglas also said he supported the Task Force and resolution and pointed out that there have been a number of forward-looking citizens over the years who have seen that Takoma Park was worth saving. He mentioned Mr. Elrich's participation last November, resulting in consensual achievement on the historic district. He felt the document represented what certain members had in mind when The Task Force was first conceived. He cited as a specific problem addressed by the Task Force the new construction problem, mentioned two weeks ago at the public hearing. He said he was convinced that the underlying statute was weak, and that new construction was generally feared in the community. There were good and bad examples in the community; suggestions had been made that the good examples be documented in the Master Plan, an idea which he supported. He suggested that certain key phrases in the Task Force report be incorporated, in a specific sense, i.e., that if porches are a predominant feature on houses, that porches should be in new construction; if houses are oriented toward the street, new houses should be also: thus, flexibility but differences with infill. Finally, he noted that the report is in two parts: 1) general recommendations to the County, and 2) the Task Force's recommendations to the Council itself. Citizens should be kept informed of the Master Plan as well as of the wishes of their neighbors, and he closed by saying he hoped that a new process would be started that would address that concern.

Mr. Elrich said that he was pleased with the debate. He felt that there had always been a majority on the Council to approve historic preservation, but now there was a resolution and a plan which could go forward to the County. Several months ago the community was dangerously divided, but people took the time to work out their differences, and he especially liked the consensus process used by the Task Force, ensuring compromise and engendering trust. Simply voting does not require trust, he noted.

The resolution having been moved by Councilmember Elrich, seconded by Councilmember Douglas and discussed, the Mayor asked for a vote. The resolution carried unanimously. It was noted that Mr. Leary was out of town, but that he had been a strong supporter of the historic district and Task Force.

RESOLUTION #1990-26  
(Attached)

4. Resolution Commending Members of Historic Preservation Task Force

The Mayor said that he was happy to move to adopt the Resolution, with one amendment, one that adds a third resolve clause thanking the Takoma Park City staff, especially Ms. Schwartz and Ms. Ziek for their assistance in making this Task Force work so well. This was seconded by Councilmember Douglas with no discussion. The vote was unanimous in support of the resolution as amended.

RESOLUTION #1990-27  
(Attached)

5. Hampshire Towers Cooperative Purchase Mayor Del Giudice noted that there were some representatives from the Hampshire Towers Tenants Association present, and thanked them for joining the meeting. The Mayor asked the Council if they expected to take some formal action or take discussion only. Sue Weiss spoke and requested the Council to formally let the Cooperative Purchase to know of the change in funds, or to at least authorize staff to pursue it through the bureaucratic channels. Mayor Del Giudice asked Ms. Weiss to summarize the situation as put forth in the memorandum to the Council.

Ms. Weiss said that the City has been meeting with State and Prince George's County officials and the tenant's association, as well as the association's bankers, architects, etc., in order to convert over 440 units at the Hampshire Towers complex, to a tenant ownership/cooperative. Most of the pieces are in place, but she said she thought more tenants could participate in the purchase if their were down payment assistance for low and moderate income tenants. A goal is to provide moderate income housing in the long term, she noted, and said she is looking to provide down payment assistance in cases where the equity shares will be kept, so that the housing will be kept affordable now and in the future for the next tenants. The document details elements of the housing rehab partnership program, citing the cooperative's experience in persuading tenant participation. She sees a process enabling them to make good use of block grant funds programmed by the City to use.

The Mayor asked if Sue envisioned working within income limits as in the past, i.e., available only to those who qualify for the federal government guidelines. Ms. Weiss replied that the block grant funds criteria and limitation apply regardless of whether the current programming remains or whether it changes. He affirmed that therefore the money would go to the neediest, although there might be other programs for others with less restricted guidelines. He asked for the range of down payment assistance, and she gave the figure of \$4,000, and that there were approximately 56 households qualifying, and possibly more. Ms. Weiss said an income survey planned would pinpoint this. The member said that these were

loans, that the money was to be repaid; did she have a time period for repayment. She responded that she understood that these would be no more than 15-year loans, and there would be no substantial delay.

Mr. Prensky noted for the record that he worked with Mr. Charles Shipp of the Board of Directors of the Hampshire Towers Tenants Association, that they are both employed at the Neighborhood Reinvestment Corporation. He said that, if talking of units where equity had been capped, how that could be defined. Ms. Weiss responded that they wanted to use the definition already adopted by Montgomery County, which was already in use in parts of the City. Councilmember Sharp responded that he understood that definition to be determined by wage rates.

Mr. Elrich wondered how the repayment would be processed. Ms. Weiss said there were a few alternatives: 1) to enter in an agreement with the Counties for the funds to be funneled back into the City; or 2) the funds would come back to the Prince George's County Urban Development Corporation and to be used for future projects of a similar nature. Mr. Elrich said he had reservations if the money was returned to the urban Development Corporation. He thought it should return to the City, not the county. The nature of this option was discussed, and Ms. Weiss said it was to be discussed later that week with the two counties. She suggested that those funds could be earmarked for Takoma Park. Mr. Elrich said he wished that the City would create a down payment assistance fund, but he had reservations about the funds being removed and wanted the funds to be controlled by the City. Ms. Habada said that a negotiation between the two counties would point up that conflict as well. Also, she said that HUD had told them eligibility for the project was based on using a non-profit through which these funds would be funneled to the tenants. If they don't use UDC, they'd have to find another non-profit. At any rate, they don't know what is possible until the negotiations take place, and certainly one county would not want its funds used for another. She was not sure Montgomery County would even want to re-direct the money.

Mr. Sharp requested information about collateral. Ms. Weiss said it would simply be the right to occupy the unit. He requested the fee amount that UDC charged, and she said she did not know, nor did she have a figure for the interest rate. She expected the rate to be similar to the one established in HRPP, as low as possible, although she understood that Montgomery County might want it commensurate with rates for other programs. In response to a question about the interest rate, Ms. Weiss said that if the Council has a desire as to what it would prefer to see, they could bring that information into the meeting and requested the Council to give an opinion for the record on the interest rate debate for future negotiations with the counties. The Mayor said they needed a little more information, but understood that certainly lower interest was desirable. Ms. Weiss mentioned the other alternative, varying interest rates based on income levels.

Mr. Moore asked what happened if, once Montgomery County permitted the multi-family rental rehab program funds to be reprogrammed, the substantial disbursement isn't made by the May 28 date. If they are not dispersed by that date, Ms. Habada responded that the funds would have to be returned to Montgomery County. Ms. Weiss said she hoped that tonight she could find some general agreement in the Council, go to the County, and then return with some details. She said she needed the Council to say whether they approved of the reprogramming of funds, and if there were other issues the Council felt strongly on, to speak to those as well.



Mr. Douglas said for what its worth, that tiering the interest rates made sense and its an approach he would like to see taken. Mr. Moore commended the constituents and the ongoing process, saying that it has been alot of work on their package to purchase their complex and said that the money was there, and that it should be reprogrammed. Councilmember Hamilton asked if the pay-back could be structured so that the funds revolved into a fund so that the next group of needy tenants could draw on it. Ms. Weiss said that this involved two issues. One is that the tenants and their primary lender are comfortable at having no more than 20% of the shares at limited equity; however, certainly it might be possible to incorporate present funds for such a purpose. Mr. Hamilton then asked what would occur if the whole process fell through. Ms. Weiss responded that the process could continue by exploring the secondary market, but not as many low and moderate income people would be able to buy in. There would be a higher level of displacement, and over time the units might not be able to be maintained as affordable units. Mr. Hamilton asked what happened if a tenant did not qualify. Ms. Weiss mentioned that state guidelines regulated that but that current tenants favored letting tenants stay longer than those guidelines mandated. She said that over time, the expectation that the conversion would be total. Mr. Hamilton questioned if any of the units would be rental; Ms. Weiss responded that the expectation is over time it would be a total conversion. Mayor Del Giudice said he understood there was a three-year conversion period. He pointed out that a restriction on incomes has so far hampered the success of the multi-family housing rehab program, because of income restriction. He was concerned that the amount of money that is made available for the project be capped. For instance, it is not certain that 56 households would immediately make use of it. If enough money was allowed for 38 households, then the rest of the money could be used for other possible future cooperative projects. In the meantime, the City should try to get additional block grant monies from both counties, even adding City money. He wanted to be able to help future projects and not use all the money for one building, although a lot could be used.

There was general discussion about the time left with which to use the money and whether it could it be held for future projects or whether it was tied to a contract. Ms. Habada said that this was year 12 CDBG money and we were currently in year 16. Mr. Elrich said the City administered a revolving loan fund with CDBG money, but for this particular one a non-profit was needed to administer it, and he did not understand the discrepancy. Ms. Weiss explained that certain uses of funds are only permitted when administered by non-profits, and down payment assistance is one of those. But rehab is not, and in this case government entities are not considered non-profit. Mr. Hamilton said he wanted to know more about the second option that the Council would need to rule on. Ms. Weiss said they were not prepared to present it to the Council.

Mr. Douglas said that he wanted assurance that whatever happened to the outcome - whether money went back to UDC and was committed to Takoma Park, or somehow it returned to the City unused - would the money be a revolving fund, so it could be used to purchase on an individual sale basis. Ms. Weiss felt that the counties would allow this arrangement. Mr. Hamilton inquired as to whether the tenant's association qualified for the TAP money, and she answered saying that there was not a complete survey of the qualification question; she felt they would have, as far as incomes go. But the second aspect of the TAP fund regulations, is that the way the regulations are structured they do not deal with projects of this magnitude. Mr. Hamilton stated that he was primarily interested in making sure the tenants qualified.

Councilmember Moore asked that a motion be made to authorize staff to go forward with discussion with the two counties on reprogramming the funds for use in a low-interest, revolving loan fund for low to moderate income tenants for the purpose of down payment assistance. He duly made the motion for staff action on the matter, it was duly seconded by Councilmember Hamilton, and it carried unanimously.

**6. Award Approval of Contract 90-3 Carriage House Stabilization**  
Councilmember Douglas moved adoption of the Ordinance, and it was duly seconded as an ordinance at single reading. Mr. Douglas mentioned that implicit in the contract was that it was for \$19,500, total, \$19,900, the difference to come from a private group known as the Friends of the Thomas Sieglar Garden. He questioned whether that remaining amount was to be paid directly by the Friends group directly to the contractor, or would they provide the money to the City. Ms. Habada could not confirm that. The Mayor asked for the roll call and the ordinance was adopted as follows: AYE: DOUGLAS, ELRICH, HAMILTON, SHARP. (ABSENT: Prenskey, Moore, and Leary).

ORDINANCE #1990-9  
(Attached)

**7. First Reading on Nuclear-Free Sign Placement** Moved by Councilmember Hamilton and seconded by Councilmember Prenskey. Councilmember Douglas noted for the record that at last week's worksession, it was determined that they needed to decide on a permanent sign location policy in the City. The Mayor added that there were citizens who wanted the City to do something about signs that clutter. Discussion followed on a City gateway, that is, to hang some signs in a certain place denoting various aspects of the City's life and culture, and that this policy should be pursued. Mr. Prenskey said that Councilmembers Sharp and Douglas and himself recommended review of the signs and their placement. He said that he had surveyed the situation with the Public Works Director last week, and that he selected a temporary spot for the sign. The question was called and the ordinance was accepted for first reading.

ORDINANCE 1990-10  
(Attached)

**8. Single Reading Ordinance - Purchase of Bullet Proof Vests.**  
Councilmember Hamilton moved to adopt the ordinance; duly seconded by Councilmember Douglas but he said so without the third Whereas clause referencing the purchase from General Electric. There was discussion on whether this would comply with the nuclear-free zone act, and Ms. Habada affirmed that the company they were being purchased from by Montgomery County is a wholly-owned company not owned by or a subsidiary of any nuclear weapons producer. Mr. Prenskey said Councilmember Douglas' point is correct, that compliance with the nuclear-free zone act is subsumed under the phrase that's acceptable under bidding requirements contained in the City code. Ms. Habada said that in the past, Council wanted it to be made clear that we are in compliance, thus the reason it was put in the ordinance. The Mayor asked if there was an objection from Councilmember Hamilton (the initial mover of the ordinance) that the third Whereas be deleted; there being no objection from Mr. Hamilton and Mr. Douglas, and no further discussion, and the ordinance was adopted on single reading by roll call vote as follows: AYE: DOUGLAS, HAMILTON, MOORE, PRENSKY, SHARP (ABSENT: Elrich, Leary)

ORDINANCE 1990-11  
(Attached)

9. First Reading Ordinance Changing the Title of Public Works Assistant Director to Deputy Public Works Director. The Mayor noted that this was a classification ordinance amendment to the Executive 1 scale. Councilmember Hamilton moved to accept the ordinance for first reading and Councilmember Moore seconded. Councilmember Sharp noted that the Police Chief and the Public Works Director are at the Executive 4 scale; the Deputy Chief is Executive 2; therefore, he asked why the Deputy Public Works Director was Executive 1. Ms. Habada said that it was the way it was factored--differences in education levels and experience levels. Councilmember Sharp said that he was puzzled by the fact that in approximately equal departments as demonstrated by the fact that the two director positions are at the same level, he's puzzled that the deputy position would come under those levels. Ms. Habada clarified that the DECD director was Level 1 and the DHS director is Level 2. The Mayor suggested that one factor taken into consideration is the danger of work, i.e., the police work would be rated higher; even though the deputy chief does not go out on the street that much, he does have to carry a gun. Councilmember Douglas explained that the rationale behind the change was that the Director of Public Works wanted someone who could act in his stead, and thus they would be less an assistant than a deputy. He asked if therefore the nature of the job would change, and Ms. Habada said there was no change. She said she felt the difference in responsibilities between the assistant director and deputy director was that the assistant had very specific divisions assigned to them, but in this case, on a day-to-day basis, that person would be responsible in the absence of the director, would also be supervising any division, not just specifically selective ones he has been assigned responsibility for. The Mayor then asked for a vote and the motion to accept the ordinance at first reading carried unanimously.

ORDINANCE 1990-12  
(Attached)

10. Appointment to the Cable Board. The Mayor noted that there was a resolution to appoint Mr. William Strassberger to the Cable Board. Mr. Hamilton moved to adopt and Councilmember Prenskey seconded; the resolution carried unanimously.

RESOLUTION 1990-28  
(Attached)

11. Appointment to COLTA. The Mayor said that there were two appointments and a brief change to the resolution. The term of the first appointment, Barbara Brody, was to expire June 30, 1990 as per the Resolved clause. The second, Gregory Payne, would have a Resolved clause noting his term to expire June 30, 1991. The motion to adopt was made by Councilmember Hamilton and seconded by Councilmember Prenskey. Councilmember Sharp requested staff to notify the appointees as soon as possible of their appointments. Mr. Douglas noted that four terms would be coming due at the end of June and that the Council should begin to publicize. The resolution carried unanimously.

RESOLUTION #1990-29  
(Attached)

12. Single Reading Ordinance to Award Contract to Browning Ferris Inc. for Recycling Program. Councilmember Hamilton moved to adopt and was seconded by Councilmember Douglas. Councilmember Sharp had questions concerning the bid procedure. Daryl Braithwaite said that the bid documents included a per-ton processing fee and noted that the more materials you add, the higher the total would be. Also there was a per-roll off service would add to the amount. Different vendors specified different materials that they would recycle, and the cost could be comparative. In response to discussion of AAMCO's bid, she said they just "bid for glass and



aluminum as well", and Councilman Sharp wondered how, if you started negotiating with BFI on tin, would that be compared to what AAMCO was willing to do for tin. He made the point that it was difficult to compare bids, and noted that tin apparently was not very cost-effective to recycle at the moment, if the bids were to be believed. He was worried that BFI might bid high for tin, once they were hired, in fact as high as AAMCO. Ms. Braithwaite said they would always factor in the cost of what the material is worth, and they assume there is 87 tons of tin to be pulled out of the City's waste stream, so they know what the landfill waste-avoidance cost would be for that. If it costs more to put it into the program, that would be the dividing line, she said. She admitted that she did not know the relative bids of AAMCO and BFI for tin but they were both using the same processor, acting as transporters passing off to each the same fee. Essentially, AAMCO added more additional charges to the fee than BFI did despite the fact that the transporters charged each the same fee. The processors reported \$3/ton additional for adding tin into the program. BFI has not yet said if they were willing to agree to that or propose a new option. Councilmember Douglas asked how much the contract with Versatile was. She said the price was based on \$135 per pull, and they estimated they will pull the roll off box 58 times in a one-year period, so it was a little over \$8,000. Therefore the price represented a \$3,000 increase. Councilmember Douglas said the City should pursue its options in trying to recover the lost contract with Versatile. City Administrator Wilson said that this was being pursued, that the actual increase was \$3,400, and that it would have been a two-year contract, the first year of which would have expired at the end of this month. So there was a year missed at the differentiated price, he said. He reported having scheduled a meeting with Sue Silber to discuss the status of the organization and whether to pursue it. He said they would know more by the end of the week. Councilmember Moore asked how often the contract was re-bid. Ms. Braithwaite spoke and said they had been factoring in a time frame that would give the City the option to look at the County's processing facilities once both counties have them on line, presently slated for Spring 1991. So the year the contract was for only one year so as to allow the City that time frame. The idea was not to lock the City into a long-term contract. Councilmember Douglas affirmed that Silver Spring Recycling was still on contract for newspapers, and Ms. Braithwaite responded that that was a one-year contract with a roll-over clause. They are now paying the City \$5/ton; the contract calls for any amount based on the market up to \$0. They take up to 75 tons a month. Councilmember Douglas asked about an item he saw in the newspaper about a warehouse re brokering of newspapers and she affirmed that. Discussion followed on the Washington Post recycling practices, their owned forests, and their recycling plant in Tennessee. The question was called and the ordinance was adopted at single reading by roll call vote as follows: AYE: DOUGLAS, ELRICH, HAMILTON, MOORE, PRENSKY, SHARP (ABSENT: Leary)

ORDINANCE #1990-13  
(Attached)

13. Consent Agenda - Item A. Resolution in Recognition of National Community Development Week and the CDBG Program; and Item B. Resolution to Express Council Support for the "Trails to Rails" Legislation. Councilmember Douglas moved passage of the Consent Agenda; duly seconded by Councilmember Hamilton. Mr. Prensky to correct the agenda, said that the Resolution reads that the Council supports a "trails to rails"; that the Resolution should read: rails to trails. Mr. Prensky also urged councilmembers to send a letter in support of the metropolitan branch trail as the Mayor has done. He said that he envisioned that one day the trail would run from Union Station to and beyond Takoma Park.

Upon motion, duly seconded, the meeting was adjourned at 10:34 p.m., to reconvene in regular session on Monday, April 11, 1990.

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

RESOLUTION NO. 1990-25  
AUTHORIZING ADDITIONAL FUNDS FOR CITY CENTENNIAL EVENTS

WHEREAS, on April 3, 1990, the City of Takoma Park will mark its 100th Anniversary of incorporated status by hosting a variety of events; AND

WHEREAS, the City Centennial Committee has come before the Council with an amended budget (attached hereto and incorporated herein) with funding requests to carry out certain events for the celebration activities; AND

WHEREAS, the City Council met in Worksession on March 5, 1990 and agreed to authorize additional funds for Centennial events.

NOW, THEREFORE BE IT RESOLVED THAT the City Council hereby authorizes the City Administrator to proceed with the necessary arrangements for additional funds in the amount of three thousand four hundred twenty-five dollars (\$3,425.00) for City Centennial Expenses.

Dated this 12th day of March, 1990.

Revised 3/9/90

TAKOMA PARK CENTENNIAL CELEBRATION

Amended Budget

Budget Requests

<u>Event</u>	<u>Old Request</u>	<u>NewRequest</u>
<u>Publicity</u> Includes Desktop publishing for flyer to go with invitations, one large poster for all eventss, and one large poster for May 13 Centennial celebration -- all design and duplication work	-0-	\$2,000
<u>Centennial Council Meeting</u> Reenactment For rental of period costumes	\$800.00	-0-
Reception Following 200 people with centennial cake, coffee service, and punch	-0-	\$800.00
Poster Duplication To duplicate the winning poster	\$1000.00	-0-
<u>May 13 City Celebration</u> Music by Stephen Wade	-0-	\$1500.00
Music by others and prizes	-0-	\$500.00
Plaque for Time Capsule	-0-	\$50.00
Time Capsule	\$800.00	\$50.00
Additional fifty dollars requested for capsule and contents		
<u>City Employee Celebration</u> Employee lunch	-0-	\$875.00
Pins (300)	-0-	\$1,250.00
	<hr/>	
	\$2,600.00	
Old budget authority	\$3,000.00	
New budget request		\$7,150.00
Total estimated budget	\$9,750.00	
Anticipated revenue	<hr/>	
	\$3,200.00	
Total budget request	\$6550.00	
	<hr/>	
	- \$3000.00	
	\$3550.00	\$3,425.00 (Net)

Estimated Revenue

<u>Description</u>	<u>Amount</u>
Sale of flags	\$ 700.00
Sale of pins	<del>1750.00</del>
Sale of space in time capsule	500.00
Sale of Centennial poster	1000.00
Takoma-Langley Business Assn. Donation	500.00
Other anticipated business revenue	500.00
	<hr/>
Total anticipated revenue	\$4950.00
	- <u>1750.00</u>
	\$3200.00

Introduced by:

1st Reading: 3/12/90  
2nd Reading:

**To View The Entire Document, please  
See Paula Jewell, Administration Office,  
OR CALL 270-1700**

ORDINANCE NO. 1990-8

CITY OF TAKOMA PARK

INFRASTRUCTURE BONDS, 1990 SERIES A

ORDINANCE OF THE COUNCIL OF TAKOMA PARK OF THE CITY OF TAKOMA PARK, A MUNICIPAL CORPORATION OF THE STATE OF MARYLAND, PROVIDING FOR THE ISSUANCE AND SALE OF FIVE HUNDRED FIFTY FIVE THOUSAND FIFTY EIGHT DOLLARS (\$555,058) AGGREGATE PAR AMOUNT OF BONDS OF THE CITY OF TAKOMA PARK, TO BE KNOWN AS "THE CITY OF TAKOMA PARK INFRASTRUCTURE BONDS, 1990 SERIES A", TO BE ISSUED AND SOLD PURSUANT TO THE AUTHORITY OF SECTIONS 501 AND 922 OF THE CHARTER OF CITY OF TAKOMA PARK, AS AMENDED, AND SECTIONS 31 THROUGH 37 OF ARTICLE 23A OF THE ANNOTATED CODE OF MARYLAND, AS AMENDED, FOR THE PURPOSE OF PROVIDING FUNDS NECESSARY FOR ROAD IMPROVEMENTS, LIBRARY RENOVATIONS, REPAIR OF LEAF MULCH PLANT, REPLACEMENT OF PUBLIC WORKS BOILER, REPLACEMENT OF PUBLIC WORKS ROOF, AND RELATED COSTS; PROVIDING THAT THE BONDS SHALL BE ISSUED UPON THE FULL FAITH AND CREDIT OF THE CITY OF TAKOMA PARK; PROVIDING FOR THE DISBURSEMENT OF THE PROCEEDS OF THE SALE OF THE BONDS AND FOR THE LEVY OF ANNUAL TAXES UPON ALL ASSESSABLE PROPERTY WITHIN THE CITY OF TAKOMA PARK FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST, AND PREMIUM, IF ANY, ON THE BONDS AS THEY SHALL RESPECTIVELY MATURE; PROVIDING FOR THE FORM, TENOR, DENOMINATION, MATURITY DATE AND OTHER PROVISIONS OF THE BONDS; PROVIDING FOR THE SALE OF THE BONDS; AND PROVIDING FOR RELATED PURPOSES, INCLUDING THE METHOD OF FIXING THE INTEREST RATE TO BE BORNE BY THE BONDS.

WHEREAS, The City of Takoma Park (the "Issuer") is a municipal corporation of the State of Maryland organized and operating under a charter (the "Charter") adopted in accordance with Article XI-E of the Constitution of Maryland and Article 23A

of the Annotated Code of Maryland, as amended ("Article 23A");  
and

WHEREAS, under Sections 501 and 922 of the Charter, the Issuer is empowered to borrow money for any proper purpose and to evidence such borrowing by the issuance and sale of its general obligation bonds; and

WHEREAS, Section 31 of Article 23A empowers every municipal corporation to borrow money for any proper public purpose and to evidence such borrowing by the issue and sale of its general obligation bonds in the manner therein prescribed; and

WHEREAS, pursuant to the authority of Sections 501 and 922 of the Charter and Sections 31 through 37 of Article 23A, the Issuer has determined to issue its general obligation bonds in the principal amount of Five Hundred Fifty Five Thousand Fifty Eight Dollars (\$555,058), to be known as "The City of Takoma Park Infrastructure Bonds, 1990 Series A" for the purpose of providing funds necessary for road improvements, library renovations, repair of leaf mulch plant, replacement of public works boiler, replacement of public works roof (the "Project"), and payment of costs of issuance, bond insurance premiums and other related costs; and

WHEREAS, the Issuer proposes to issue and sell the bonds to the Community Development Administration, an agency in the Division of Housing Finance of the Department of Housing and Community Development, a principal department of the government of the State of Maryland (the "Administration"), in connection

with the Infrastructure Financing Program of the Administration (the "Program"); and

WHEREAS, Section 922 of the Charter requires that any proposed new indebtedness of the Issuer which exceeds five percent (5%) of the annual budgeted revenue shall be subject to a public hearing, and the Council may not take final action with respect to such proposed indebtedness less than fourteen (14) days from the date of the public hearing; and

WHEREAS, Ordinance No. 1990-1, previously adopted by the Council failed to comply with the requirements imposed by Section 922 of the Charter, is hereby repealed and this Ordinance, in substantially the same form and substance as Ordinance No. 1990-1, is being introduced in a manner to comply with Section 922 of the Charter; and

WHEREAS, it is the intention of the Issuer by this Ordinance to provide for the issuance and sale of the aforementioned Bonds and the obtaining of a loan from the Administration pursuant to the Program (the "Loan").

NOW, THEREFORE, BE IT ORDAINED:

Section 1. Ordinance 1990-1 Repealed. Ordinance 1990-1, previously adopted by the Council on January 29, 1990, is hereby repealed.

Section 2. Authorization, Terms, Form of Bonds.

(a) The Issuer shall borrow upon its full faith and credit and shall issue and sell upon its full faith and credit Five Hundred Fifty Five Thousand Fifty Eight Dollars (\$555,058) aggregate principal amount of its bonds, to be issued pursuant to



the authority of Sections 501 and 922 of the Charter and Sections 31 through 37 of Article 23A, to be known as "The City of Takoma Park Infrastructure Bonds, 1990 Series A" (the "Bonds"). The proceeds from the sale of the Bonds shall be used for the purpose of providing funds necessary for the Project and payment of costs of issuance, bond insurance premiums and other related costs.

(b) The Bonds shall be issued as a single fully registered bond in the principal amount of Five Hundred Fifty Five Thousand Fifty Eight Dollars (\$555,058), payable to the registered owner thereof. The Bonds shall be issued in such amount or such lesser amount as determined by the Mayor, which shall be the amount of the Loan to be financed under the Program.

(c) The Bonds shall be dated as of the date of the Administration's \$6,610,000 Infrastructure Financing Bonds (Capital Guaranty Insured) 1990 Series A (the "Infrastructure Financing Bonds"); shall be numbered R-1; shall be registered in the name of the Administration or its designee; shall bear interest from the date which is one month prior to their dated date, payable semi-annually on May 1 and November 1 in the years and at the rates as hereinafter set forth; and shall be payable in annual installments of principal on May 1 in the years and amounts as hereinafter set forth.

(d) The rates of interest to be borne by the Bonds and interest payments on the Bonds, as well as the annual principal installments to be paid on the Bonds are set forth on Exhibit A attached hereto and made a part hereof by reference.

(e) The Bonds shall be in substantially the following form, which form, together with the statement of annual principal installments and semi-annual installments of interest as therein set forth, and all of the covenants and conditions therein contained, is hereby adopted by the Issuer as and for the form of obligation to be incurred by the Issuer and such covenants and conditions are hereby made binding upon the Issuer, including the promise to pay therein contained:

(Form of Bonds)

United States of America

State of Maryland

The City of Takoma Park

Infrastructure Bond, 1990 Series A

No. R-1

\$555,058

THE CITY OF TAKOMA PARK, a municipal corporation duly organized and existing under the Constitution and laws of the State of Maryland (the "Issuer"), hereby promises to pay to

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or its registered assigns, the principal amount of Five Hundred Fifty Five Thousand Fifty Eight Dollars (\$555,058), plus interest on each unpaid principal installment at the rates set forth under the column designated "Coupon" on Exhibit A attached hereto, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payments to be made, as follows: (a) interest on the outstanding and unpaid

principal of this bond shall be due and payable in semi-annual i payments commencing on May 1, 1990 and continuing on the first day of November and May in each year thereafter until final maturity in the aggregate amounts as set forth on Exhibit A; (b) principal of this bond shall be paid, commencing on May 1, 1991 and on May 1 in each year thereafter until final maturity, in the aggregate amounts of principal installments as set forth on Exhibit A.

In the event any payment hereon (whether principal, interest or both) is not paid when due and payable, such payment shall continue as an obligation of the Issuer and shall bear interest until paid at the rates of interest borne by this bond. Payment of principal hereof and interest due hereon shall be made at the offices of the \_\_\_\_\_.

This bond, designated as "The The City of Takoma Park Infrastructure Bond, 1990 Series A" (the "Bond"), is a general obligation of the Issuer, limited to an aggregate principal amount of Five Hundred Fifty Five Thousand Fifty Eight Dollars (\$555,058), and has been duly issued by the Issuer for the purpose of providing funds necessary for road improvements, library renovations, repair of leaf mulch plant, replacement of public works boiler, replacement of public works roof, payment of costs of issuance, bond insurance premiums and other related costs.

The Bonds are issued pursuant to the authority of Sections 501 and 922 of the Charter of the Issuer, as amended, and Sections 31 through 37 of Article 23A of the Annotated Code of

Maryland, as amended, and an Ordinance of the Issuer adopted on March \_\_, 1990 (the "Ordinance"). The full faith and credit of the Issuer are hereby irrevocably pledged to the payment of the principal of this Bond and the interest to accrue thereon.

The Bonds are issued in connection with the Infrastructure Financing Program of the Community Development Administration, an agency in the Division of Housing Finance of the Department of Housing and Community Development, a principal department of the government of the State of Maryland (the "Administration"). The Bonds are subject to the terms and conditions of the Repayment Agreement dated as of January 1, 1990, between the Issuer and the Administration (the "Repayment Agreement").

The Bond is not subject to prepayment by the Issuer prior to June 1, 2000. On or after June 1, 2000, the Bond is subject to prepayment by the Issuer at the prepayment prices, expressed as a percentage of the principal amount to be prepaid, plus accrued interest, if any, to the prepayment date, on the principal amount thereof, and during the periods (both dates inclusive) listed below:

<u>Period</u>	<u>Price</u>
June 1, 2000 through May 31, 2001	102%
June 1, 2001 through May 31, 2002	101
June 1, 2002 and thereafter	100

Notice of prepayment shall be given, the date of prepayment determined, and all prepayments of the Bond shall be applied in accordance with the provision of the Repayment Agreement.

The Issuer may treat the person in whose name the Bond is registered as the absolute owner hereof, whether or not the Bond

shall be overdue, for the purpose of receiving payment thereof and for all other purposes whatsoever, and shall not be affected by any notice to the contrary, except as provided below.

The Bond is assignable and upon such assignment the assignor shall promptly notify the Issuer by certified mail, and the assignee shall surrender the Bond to the Issuer for transfer on the registration records and verification of the portion of the principal amount hereof and interest hereon paid or unpaid, and every such assignee shall take the Bond subject to such condition.

As declared by Section 35 of Article 23A of the Annotated Code of Maryland, as amended, the Bond shall be fully negotiable under the laws of the State of Maryland and nothing contained in the Bond shall affect or impair the negotiability of the Bond. The Bond is issued with the intent that the laws of the State of Maryland shall govern its construction.

No recourse shall be had for the payment of the principal of, the interest on, and premium, if any, or for any claim based hereon or on the Ordinance against any elected or appointed official or employee, past, present or future of the Issuer or any agency thereof; and any such recourse, claim or liability is expressly waived by acceptance by the registered owner of the delivery of the Bond.

It is hereby certified and recited that each and every act, condition and thing required to exist, to be done, to have happened and to be performed precedent to and in the issuance of the Bond does exist, has been done, has happened and has been

performed in full and strict compliance with the Constitution and laws of the State of Maryland, the Charter of the Issuer and the proceedings of the Issuer.

IN WITNESS WHEREOF, The City of Takoma Park has caused this Bond to be signed in its name by the manual or facsimile signature of its Mayor, its corporate seal to be affixed hereto and attested by the manual signature of the Acting City Clerk and this Bond to be dated January 1, 1990.

ATTEST:

CITY OF TAKOMA PARK

\_\_\_\_\_  
Paula Jewell,  
Acting City Clerk

By: \_\_\_\_\_  
Stephen J. Del Guidice,  
Mayor

[SEAL]

(Form of Assignment)

FOR VALUE RECEIVED, \_\_\_\_\_ hereby sells,  
assigns and transfers unto \_\_\_\_\_ the within bond,  
and does hereby irrevocably constitute and appoint \_\_\_\_\_  
Attorney to transfer the same on the books of the Issuer at the  
offices of the Issuer in \_\_\_\_\_.

Dated: \_\_\_\_\_

WITNESS:  
\_\_\_\_\_



(Form of Exhibit A)

[Attach a copy of Exhibit A to Ordinance.]

[End of Bond Form.]

(f) The Bonds are to be issued in connection with the Program to finance the Project and payment of costs of issuance, bond insurance premiums and other related costs. Under the Program, the Issuer will enter into a Repayment Agreement and a Pledge Agreement with the Administration, drafts of which are attached hereto as Exhibits B and C, respectively (the "Repayment Agreement" and the "Pledge Agreement"). The Issuer will also execute and deliver in connection with the issuance of the Bonds and the Program additional documents, agreements, instruments and certificates (which, together with the Repayment Agreement and the Pledge Agreement are herein referred to as the "Program Documents"). The form of the Repayment Agreement and the Pledge Agreement are approved.

Section 3. Execution.

The Bonds and the Program Documents shall be executed on behalf of the Issuer by the manual or facsimile signature of the Mayor of the Issuer, and the seal of the Issuer shall be affixed thereto and attested by the manual signature of the Acting City Clerk of the Issuer. If any officer whose signature shall appear on the Bonds or the Program Documents shall cease to be such officer before the delivery of the Bonds or the Program Documents, such signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The Mayor of the Issuer is hereby authorized, empowered and directed to complete the applicable form of the Bonds or the Program Documents and to make minor corrections or changes thereto in any manner which the Mayor, in

his or her discretion, shall deem necessary to complete the issuance and sale of the Bonds and the execution and delivery of the Program Documents, all as may be in the best interest of the Issuer. The execution of the Bonds and the Program Documents by the Mayor shall be conclusive evidence of his or her approval of the form and substance thereof.

Section 4. Prepayment.

The Bonds are being issued in connection with the Program, and will secure payment of the Administration's Infrastructure Financing Bonds (Capital Guaranty-Insured) 1990 Series A, which are being issued by the Administration to provide funds to purchase the Bonds from the Issuer. The Repayment Agreement limits the ability of the Issuer to prepay the Bonds in accordance with restrictions upon the ability of the Administration to redeem its Infrastructure Financing Bonds. Accordingly, the Issuer may prepay the Bonds only in accordance with the provisions of the Repayment Agreement and the terms governing prepayment as set forth in the Bonds.

Section 5. Replacement of Mutilated, Lost, Stolen, or Destroyed Bonds. In case any Bond (a "Bond" being, for purposes of this section, any one of the Bonds) shall become mutilated or be destroyed, lost or stolen, the Issuer may cause to be executed and delivered a new Bond of like date and tenor and bearing the same or a different number, in exchange and substitution for each Bond mutilated, destroyed, lost or stolen, upon the registered owner paying the reasonable expenses and charges of the Issuer in connection therewith and, in the case of any Bond being

destroyed, lost or stolen upon the registered owner filing with the Issuer evidence satisfactory to it that such Bond was destroyed, lost or stolen, and his ownership thereof, and furnishing the Issuer with indemnity satisfactory to it. Any Bond so issued in substitution for a Bond so mutilated, destroyed, lost or stolen shall constitute an original contractual obligation on the part of the Issuer under this Ordinance whether or not the Bond in exchange for which said new Bond is issued shall at any later date be presented for payment and such payment shall be enforceable by anyone, and any such new Bond shall be equally and proportionately entitled to the benefits of this Ordinance with all other like Bonds, in the manner and to the extent provided herein.

Section 6. Use of Proceeds.

(a) The proceeds of the Bonds shall be held, invested and administered by the Administration pursuant to the Repayment Agreement and shall be used, when and as required, to pay Development Costs (as defined in the Repayment Agreement).

(b) After the design and construction of the Project have been completed and the Project is in operation and all costs and expenses in connection therewith have been paid, any balance of the proceeds of the sale of the Bonds held by the Administration under the Repayment Agreement may be applied to the next maturing principal installment or prepayment of the Bonds, as permitted by the Administration.

Section 7. Covenants.

The Issuer covenants with and for the benefit of the registered owner from time to time of the Bonds, that so long as the Bonds or installments of principal thereunder shall remain outstanding and unpaid:

(a) The Issuer will duly and punctually pay, or cause to be paid, to the registered owner of the Bonds the principal of the Bonds and interest, and premium, if any, accruing thereon, at the dates and places and in the manner mentioned in the Bonds, according to the true intent and meaning thereof.

(b) The Issuer covenants that so long as any of the Bonds are outstanding and not paid, it will levy annually, in the manner prescribed by law, a tax on all real and tangible personal property within its corporate limits subject to assessment for unlimited taxation, ad valorem taxes in rate and amount and sufficient, to provide for the payment of the principal of and interest on the Bonds as the same become due and payable; and in the event that the taxes so levied in any fiscal year shall prove inadequate for the above purposes, the Issuer shall levy additional taxes in the succeeding fiscal year to make up such deficiency; and the full faith and credit and the unlimited taxing power of the Issuer are hereby irrevocably pledged to the punctual payment of the principal of and interest on the Bonds as the same become due.

Section 8. Ordinance a Contract.

The provisions of this Ordinance shall constitute a contract with the purchaser and registered owner from time to time of the

Bonds, and this Ordinance shall not be repealed, modified or altered while the Bonds or any portion thereof remain outstanding and unpaid without the consent of the registered owners of the Bonds.

Section 9. Special Tax Covenants.

(a) The Issuer covenants that it will not make any use of the proceeds of the Bonds or any moneys, securities or other obligations on deposit to the credit of the Issuer or otherwise which may be deemed by the Internal Revenue Service to be proceeds of the Bonds pursuant to Section 148 of the Internal Revenue Code of 1986, as amended, and the Income Tax Regulations thereunder (collectively, the "Code"), which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

(b) The Issuer further covenants that it will not (i) take any action, (ii) fail to take any action, or (iii) make any use of the proceeds of the Bonds, which would cause the interest on the Bonds to be or become includible in gross income for federal income tax purposes in the hands of the registered owners thereof.

Section 10. Pledge of Local Government Payments.

As contemplated and authorized by Article 83B, Section 2-204(16)(iii) of the Annotated Code of Maryland, as amended, the Issuer hereby pledges, assigns and grants a security interest to the Administration, its successors in trust and assigns, all right, title and interest of the Issuer in and to the Local Government Payments (as defined in the Pledge

Agreement), now or hereafter acquired, to secure payment of the principal of, premium, if any, and interest on the Bonds and any other Local Obligations (as defined in the Pledge Agreement) issued and to be issued from time to time by the Issuer under the Program, all as more fully set forth and provided in the Pledge Agreement.

Section 11. Purchase Price of Bonds.

The Bonds shall be sold for cash at not less than par in accordance with the terms and provisions of this Ordinance.

Section 12. Sale of Bonds.

Notwithstanding Sections 32(3) and 34(4) of Article 23A, the Bonds shall be sold to the Administration under the Program at private sale, as authorized by Section 922 of the Charter of the Issuer, and Article 83B, Section 2-204(16)(ii) of the Annotated Code of Maryland, as amended.

Section 13. Actions.

The officers and employees of the Issuer are hereby authorized and directed to do all acts and things required of them by the provisions of this Ordinance, for the full, punctual and complete performance of all the terms, covenants and provisions of the Bonds, the Program Documents and this Ordinance and to do and perform all acts and to execute, seal and deliver all documents or instruments of writing which may be necessary or desirable to carry out the full intent and purposes of this Ordinance and the Program Documents.

Pursuant to the requirements of Sections 308(f) and 310 of the Charter, the Acting City Clerk shall promptly cause this



Ordinance to be posted on the City Hall Bulletin Board for one week after its introduction and for at least three weeks after its adoption and shall promptly cause this Ordinance to be permanently filed among the records of the Council of Takoma Park.

Section 14. Effective Date.

This Ordinance shall take effect immediately upon approval by the Council of the City of Takoma Park, and it is the intent hereof that the laws of the State of Maryland shall govern its construction and the construction of the Bonds. Any copy of this Ordinance duly certified by the Acting City Clerk or his or her successor in office shall constitute evidence of the contents and provisions hereof.

ADOPTED by The Council of Takoma Park of The City of Takoma  
Park and approved by the Mayor on March \_\_, 1990.

ATTEST:

CITY OF TAKOMA PARK

\_\_\_\_\_  
Paula Jewell,  
Acting City Clerk

By: \_\_\_\_\_  
Stephen J. Del Guidice,  
Mayor

[SEAL]

Exhibits

- A - Debt Service Schedule
- B - Form of Repayment Agreement
- C - Form of Pledge Agreement

CD010804.ORD

Exhibit B to  
Ordinance No. \_\_\_\_\_

Form of Repayment Agreement

[Form to Follow]

Form of Pledge Agreement

[Form to Follow]