

CITY OF TAKOMA PARK, MARYLAND (FINAL 9/25/92)
REGULAR MEETING OF THE CITY COUNCIL AND
PUBLIC HEARING RE: SPEED HUMPS

Monday, September 14, 1992

CITY OFFICIALS PRESENT:

Mayor Sharp	City Administrator Habada
Councilmember Elrich	Deputy City Admin. Grimmer
Councilmember Johnson	Ass't. City Admin. Hobbs
Councilmember Leary	City Clerk Jewell
Councilmember Porter	Corporation Counsel Silber
ABSENT: Councilmember Hamilton	Public Works Dir. Knauf
	Community Planner Schwartz

The City Council convened at 8:03 p.m. on Monday, September 14, 1992 in the Council Chambers at 7500 Maple Avenue.

Following the Pledge, the following comments were made.

MAYOR/COUNCIL COMMENTS

Mr. Sharp noted that on September 11th, he participated in a meeting sponsored by the Metropolitan-Washington Council of Governments on the future of transportation and growth issues in the metropolitan area. As a result, there will be a series of town meetings for citizens to talk to groups of local officials and leaders towards development of long term themes and solutions; the first local meeting scheduled for citizens in this area is 9/29.

Ms. Porter announced that Carole Highlands Elementary had been awarded the 1992 Education Support Advisory Council Incentive Grant Award for its poetry writing workshops.

Mr. Prensky announced that the Public Forum on the City's proposed transportation plan was scheduled for 9/24/92 at 7:00 p.m.

Ms. Porter announced that the City would be holding an Open House on Sunday, September 27th, 2-5 p.m. and was inviting all citizens to come in to meet staff and tour the renovated City Municipal Building facilities.

Mr. Sharp recognized Tom Espinosa, newly elected President of Local 3399.

Mr. Espinosa addressed everyone present and said that like the elected and appointed officials, members of Local 3399 also shared the privilege of serving the citizens of Takoma Park. He said this required sacrifices from both labor and management. He said he looked forward to working together with management and the Council and he asked for the mutual respect of all.

Adoption of Minutes from 9/27/92 and 9/10/92

Without objection, the Minutes were deferred until the next Council meeting.

Additional Agenda Item

Discussion re rescheduling the September 28th Council Meeting to September 29th in order to recognize Rosh Hashanah was added to the evening's agenda.

AGENDA

1. Resolution of Appreciation to M-NCPPC Staff. Without objection, the Council moved from the Consent Agenda, a Resolution of Appreciation to Maryland-National Capital Park & Planning Commission Staff for assistance they provided to the City on the study for the acquisition proposal of Parker Memorial Church. The Resolution was moved by Mr. Sharp; seconded by Ms. Porter and passed unanimously.

Mr. Sharp read the Resolution and then presented a copy to M-NCCP&PC staff member Nancy Sturgeon.

RESOLUTION #1992-
(Attached)

2. Introduction of City Employees.

Ms. Habada announced the appointment of Nancy Grimmer to the position of Deputy City Administrator on August 3rd who comes to the City with over 15 years of public administration service and was the City's former Director of Housing and Community Development. Ms. Grimmer's areas of responsibility will include budget and procurement, supervision of the Library, Recreation, and Housing and Community Development.

Ms. Habada announced that on August 27th, the Administration Office was reorganized, and as a result, the City's Personnel Officer for the past two years, Wayne Hobbs, will now carry the title of Assistant City Administrator/Personnel Officer. Previously with the City of Laurel, Mr. Hobbs is a retired U.S. Army Lieutenant Colonel and in his new role, would continue personnel duties and also be responsible for risk management, management of government administration, supervision of the Newsletter Editor and will be managing the City's cable TV contract.

3. Introduction of Newsletter Editor. Mr. Hobbs noted that after an extensive screening and interviewing process this summer, the City was pleased to hire Richard Gross as the Newsletter Editor. Mr. Gross has over 23 years with UPI where he reached the position of Foreign Editor. Mr. Gross is currently the Assistant Foreign Editor and a Reporter with the Washington Times.

4. Public Hearing Re: Installation of Speed Humps for Poplar Avenue, Boston Avenue, and Heather Avenue and 1st Reading Ordinance Proposing Installations.

Bill Dunlop, 6717 Poplar Avenue said he supported speed humps on Poplar Avenue and commented that there have been problems with not only the volume of traffic but the speed. Mr. Dunlop said the locations on the map did not correspond to the addresses listed in the Ordinance. He said the preference of persons on his street was to have one hump towards Spring Park and he suggested the hump be placed toward Spring Avenue. He noted that the other hump was marked for the top of the hill which was a blind spot and it may be too soon for drivers to notice the speed hump at that location. He said it would be preferable to move this also towards Spring Park-- at 6713 Poplar Avenue. Mr. Dunlop pointed out that when the original petition was done, they took into account individuals who lived outside the City line and it was unanimous on their behalf that it would help to slow traffic down on the Prince George's County side of Poplar Avenue.

Kathy Funk, 6727 Poplar Avenue said she was in favor of speed humps and agreed with Mr. Dunlop that the problem was the speed. She said the street led to New Hampshire Avenue and cars entered and exited New Hampshire at high speeds. Ms. Funk said there were many children on Poplar Avenue and surrounding streets and she encouraged the Council to pass the Ordinance.

City Clerk Jewell noted a phone call from Sue Sala, 6706A Poplar Avenue who supported the speed humps.

Art Jasso, 613 Boston Avenue noted that he had sent a letter to the Council following last week's worksession to explain the confusion regarding the Boston Avenue speed humps that had been going since 1986. Mr. Jasso said that there was also confusion on the map as to where the hump was going to be located. He suggested the hump be put on the property line between 701 and 703 so that no one would have to straddle the speed hump in order to park their cars.

Peggy White, 601 Boston Avenue said she opposed the installation of speed humps. She said if the humps were installed, could they be placed beyond her house which was at the corner of Boston and

Takoma.

Sue, Decker, 613 Boston Avenue recommended that the speed humps be placed at the end of Boston where the park was located.

City Clerk Jewell noted phone calls received from Joyce Pitzer who was not in favor of speed humps on the lower portion of Boston Avenue, but supported their installation by the playground. Also, from Mr. Sanford, 605 Boston who expressed opposition to the speed humps; Helen Polinger, 608 Boston opposing the speed humps; William Kamela, 611 Boston Avenue said he would support speed humps; Mr. and Mrs. Richard Will who supported the speed humps; and Janet Long and Royce Fitch at 705 Boston were in favor.

Ron Murphy, 701 Boston Avenue said he thought people were responding to the idea there would be several speed humps as they were installed at the upper end of the Block, when this proposal actually called for the installation of only one speed hump.

Joan Warren, 102 Heather Avenue said she supported the speed humps on Heather Avenue and there had been a baby boom on the block which occurred in tandem with an increase of traffic using Heather Avenue as a cut through to Sligo Creek and in light of this the neighbors would like to see speed humps installed. She said the situation has come to a point where there was discussion of the feasibility of placing two speed humps. She said the numbers on the Heather map did not also correspond to the addresses in the Ordinance.

In response to Ms. Porter's request for clarification, Ms. Warren said that the speed humps needed to be moved further down towards the west end of the street towards Sligo Creek so that vehicles coming up Heather Avenue could immediately see there was speed hump and could serve as a deterrent for persons going down Heather.

Carolyn Pion, 1008 Heather Avenue said she agreed with Ms. Warren's suggestion for placement of the speed hump.

Johanna Potts, 1016 Heather Avenue said she would accept the speed humps sign if they were closer to Elm. She said people tended to ignore the no outlet sign and she was concerned that drivers who come down Heather, get to the end and out of annoyance, speed back to the speed hump.

Ginny Hughes, 906 Heather Avenue said she supported the petition because there have been nights she has been awakened by cars screeching down Heather; she said she would like it placed closer towards Elm and Heather.

Duraiswamy David, 1011 Heather said he supported the speed humps.

Bob Thompson, 908 Heather Avenue said he was concerned about cars coming up Heather from Sligo at great speed and turning onto Elm and coming from Elm and turning right onto Heather and a speed hump in this area would take care of the problem. Mr. Thompson said he was here in support of his neighbors who lived farther east on Heather and said he strongly supported a speed hump there.

Grace Stacy, 1003 Heather Avenue said she supported the speed humps on Heather Avenue.

Art Jasso said the speed hump drawn on the map was actually at 707 Boston Avenue; he recommended the hump be placed at the property line between 701 and 703 in order to safe guard the children at the playground.

Mr. Sharp brought the Public Hearing to a close.

1st Reading Ordinance Proposing Installations. Motion to accept the Ordinance at first reading was made by Ms. Porter; seconded by Mr. Elrich.

Mr. Johnson asked that once the Ordinance was passed, could the Department of Public Works inform the Council as to the installation date.

Mr. Knauf responded that these speed humps would most likely be installed at the end of September.

Ms. Porter asked what the Director's recommendation was in terms of the speed humps on Heather Avenue and said his recommendation was for humps to be placed between 1007 and 1009 although the map appeared to show these closer to 1003 and 1006.

Mr. Knauf said the intention was to put the speed hump between 1007 and 1009 Heather and his rationale for this was based on the merits of the speed hump ordinance requirements which had to be satisfied. He said the Ordinance criteria was that speed humps could not be located within 200 feet of stop signs and a series of speed humps should be 300-500 feet apart from each other. Mr. Knauf said another consideration for determining the location were the obstructions in the area; they had to be concerned about manholes, driveway curb cuts, etc.

Ms. Porter proposed that the speed hump proposed for Heather Avenue be moved closer to the intersection with Elm as close as the Director of Public Works felt it would be feasible and asked for his suggestion for second reading of the Ordinance.

Mr. Prenskey noted there seemed to be a lot of support for the speed humps and since there had been confusion regarding the maps and proposed location, he proposed that Council proceed forward with first reading of the Ordinance and have the Public Works Director meet with the citizens, get their recommendations for placement of the speed humps, survey the area based on the recommendations and bring his recommendation back for second reading. Mr. Prenskey also encouraged the citizens to contact their Councilmembers as to what they thought were the right locations.

Mr. Leary said there had been no objections made from Public Works Director about citizen suggestions for proper locations. Mr. Leary said unless Mr. Knauf knew now of some objection to these proposed slight relocations, he would assume that was where the Director would put them.

Mr. Leary noted on the Boston Avenue proposal, that despite the opposition expressed, 60% of the residents in the block favored the proposal. He said there was also the objective standard that the proposal would provide some protection for children in the playground. Mr. Leary said he thought the Council should approve the proposal.

Council Action: The Ordinance was accepted at first reading by unanimous vote (Absent: Hamilton).

ORDINANCE #1992-32
(Attached)

5. Preliminary Subdivision Application #4-92067 - Wildwood, Section 2, Block 7 (Glenary Place).

Ms. Schwartz noted the Resolution before Council and read some alternative language for Condition #7.

Ms. Porter commented that there would have to be continued discussions with the applicant which may or may not affect the Council's going ahead with the Resolution this evening.

Ms. Schwartz said the applicant agreed to submit for the approval of the City Administrator a drawing showing proposed driveway locations and footprints of the proposed buildings on the three

lots in relation to the existing trees on the property as identified on the tree survey and that this approval by the City be obtained prior to approval of County building permits for development of the property. Ms. Schwartz added that the applicant pointed out to her that the City's stormwater management ordinance only requires approval of a stormwater management concept plan prior to recordation of the final subdivision and she suggested that the language be changed to read "obtain final stormwater management concept plan approval prior to recordation of final subdivision plat".

Ms. Porter explained the change that Ms. Schwartz indicated and said the last condition for Council's approval which was based on the suggestion made by Council at the last worksession, was that because of concerns in the neighborhood about the location of the houses in relationship to the trees, a meeting with the owner, architect and residents turned up a major concern that the maximum number of trees be preserved. Discussions were on how citizens could influence the decision to keep the maximum number of trees and a suggestion was made that the City require the applicant to either show the footprint or the final plans prior to final subdivision approval. Ms. Porter said City staff had discussions with County staff who had concerns about this and the owner called Ms. Porter with his concerns on this. Ms. Porter said she understood that the city had the opportunity to participate in the preliminary subdivision plan approval process. Once preliminary approval is given, the final approval was pro forma based on the applicant satisfying the conditions for the preliminary plan.

Ms. Porter said the owner at this point did not have plans for the housing and didn't have anything to show the City at this point. Ms. Porter said it would be difficult for the neighbors in the area to judge the footprint plans in terms of the trees affected because a tree survey was not available. Ms. Porter said the language read by Ms. Schwartz was a suggestion to the owner that he agreed the City would have final approval on the final plans or the footprint prior to his going forward with the building permit process. Ms. Porter said the owner's concern was that he not be put into a position where the footprint was shrunk so much that he could not build a house of sufficient size to be economically feasible.

Dan Dillion, representative of the owner of the property, said he was more comfortable with the new wording of the alternative language for Condition #7. He said he understood that the Stormwater Management Ordinance would require them to provide a concept plan and there would be a more detailed process to get a stormwater management permit from the City.

Mr. Elrich asked if it was understood that improvements to Glengary Place to provide access would be fully to the City Code requirements. He said he was concerned that a road might be put in for access that meets the immediate purposes and then the City ended up with a long term maintenance bill.

Ms. Schwartz confirmed that this was required in the Code.

Citizens Comments

Carolyn Pion, 1008 Heather asked if the barrier at the end of Heather, separating Heather and Glengary, would be moved or affected by the applicant's proposal.

Ms. Schwartz said the applicant's proposal is for the barrier to be moved to where the pavement on Glengary currently stops and to pave from Heather down to where the pavement at Glengary ended and to erect a barrier there and for the access to be from Heather; she said this was not specifically stated in the Resolution because it was within the City's authority to approve, not the County's.

Ms. Porter further clarified that there would have to be a separate process for formerly closing the street; the City would have to

hold a public hearing, and that would generate a lot of discussion at that point regarding what the form of the barrier should be, where the location of the barrier and where the access for the houses would be.

Mr. Sharp questioned why the City was approving a subdivision plan now when the owner states it would be several years before he would build on the property.

Ms. Schwartz responded that there were certain hook-up fees from WSSC if the approval was after a certain point and she asked the owner to address this further. Ms. Schwartz said in terms of the City's approval, since the subdivision plan was submitted, the City did not have the option of waiting; she said there was a 70 day deadline from time of submission to the time the decision was made by the County and the City did not have the option of extending that deadline.

Chukwama Chidozie responded that once the subdivision was approved, it was approved unless the lot was subdivided again.

Mr. Dillion explained that the property was owned for the past 30 years by his family, a small family business. He said they were now at the point where in settling his grandparents' estate, they were interested in selling the property at its maximum value by dividing it into three lots to build three homes and sell them off.

Mr. Sharp asked if the County were to approve the subdivision application with the conditions recommended by the Council, would the owner then have any alternative way to provide access to the houses except off of Heather.

Mr. Dillion said in discussions with his architect, Ms. Porter and some of the citizens, they concluded that for a safety factor, it would be dangerous to add additional cars to that roadway going to Sligo Creek Parkway because of the steep grade.

Ms. Porter clarified that at that meeting, the citizens did not reach a decision on the issue; she said people seemed to be receptive to the argument that it might be safer not to channel more cars up Glengary in its current state.

Ms. Porter asked if the applicant submitted plans for subdivision approval which showed a barrier on the street in a certain location, did that give that location and that type of barrier any kind of advantage in the process later.

Ms. Schwartz said the County worded its condition regarding the access and the street, that it shall be approved according to the City of Takoma Park. Ms. Schwartz said her understanding of the plan that was shown to the residents at that meeting, that had a barrier on it was not the plan that was submitted for subdivision approval--it was an illustrative plan showing the proposed location of the barrier and to her knowledge there would be no impediment to the City making a completely new decision as to what the City would like to see the applicant do in terms of how and where the street was closed off.

Mr. Sharp said he would have a hard time supporting the subdivision at this time if he thought the City was locking itself into one decision or another later on. He asked staff to put together some language to acknowledge by the owners that the decision was completely in the purview of the City of Takoma Park. Mr. Sharp said he shared the concerns expressed by residents that a decision not be made when it was not clear what the plan was going to look like.

Mr. Elrich added that his preference would be for the City to explore whether the City could require that Glengary be improved by

the developer so that access to Sligo Creek Park was safe to accommodate additional houses.

Corporation Counsel Silber explained that it needed to be clear that our approval should not mean there should be reliance by the owner on a particular Glengary plan. She noted that some of the Resolution's "Resolved Clauses" gave that impression. Ms. Silber also said it was clear that it was within the City's power as to what we did with our own rights-of-way. Regarding the closing or opening of streets, Ms. Silber said this would require legislative action by the Council, and the City's approval to Park & Planning would be solely contingent upon subsequent approval of the access through the City's rights-of-way. Ms. Silber also said that the 70 day limit is critical; if the City did not act, the approval would be granted because of non-action.

Mr. Sharp said that some of these contingencies needed to be in writing tonight and he asked the matter to be deferred for a few minutes while staff drafted some alternative language. Mr. Sharp also said the street closing issue should be dealt with soon to make it clear to the County that the City's intention was to take this issue under our own advisement and not to have the owner or County rely on any preliminary plans made so far.

Mr. Elrich said the language needed to be explicit enough so that it was clear the City had not made any determination about access and City approval was not based on, in any way, access from Heather at this time.

Ms. Silber noted that another option would be for the owner to voluntarily withdraw or stay his request in front of Park and Planning and the City could commit itself to taking up the issue of access.

Joan Warren, 1002 Heather Avenue expressed concern about what she saw as a failure in the process for involving the citizens on Heather; she said the notification was delivered on a Monday in August about a meeting held on a Thursday.

Without objection, the Council tabled this item for a few minutes and continued with the rest of the agenda. (Clerk's Note: Discussion continued on page 10 of these Minutes)

6. Resolution of Appreciation to Dan Robinson and Reid Baron
The Resolution was moved by Mr. Sharp; seconded by Mr. Leary. Mr. Sharp read the Resolution which expressed appreciation to Mr. Robinson and Mr. Baron for their assistance in publishing the Newsletter during the editor vacancy.

The Council commented that they appreciated the willingness in coming to the City's assistance and the flexibility allowed by Mr. Robinson and Mr. Reid in handling information after the appointed deadlines.

Council Action: The Resolution passed unanimously. (Absent: Mr. Hamilton).

RESOLUTION #1992-57
(Attached)

7. Resolutions Re: Police Department Awards. Mr. Sharp noted that as part of the City's Open House celebration on September 27th, the Resolutions would be formally presented to police staff. Moved by Mr. Johnson; seconded by Ms. Porter.

For 1991 Command Recognition:

- #1992-58 to Officer Richard Skibicki
- #1992-59 to Corporal Daniel Parker
- #1992-60 to Officer Mark Gardner
- #1992-61 to Corporal Kathleen Coursey

For 1991 Honorable Service Medal:

- #1992-62 to Corporal Steve Vermillion
- #1992-63 to Officer Richard Cipperly

For 1991 Police Officer of the Year:

- #1992-64 to Officer Dan Frishkorn

Council Action: The Resolutions were passed unanimously. (Absent: Mr. Hamilton)

8. Program Year 19 (FY'94 CDBG Funds In Prince George's County

Moved by Ms. Porter; seconded by Mr. Prensky. Ms. Porter moved an amendment to add a second Resolved Clause that spoke to the concern of County putting more emphasis on City services; the motion was seconded by Mr. Prensky and passed unanimously.

Mr. Sharp said he was concerned about the request to fund a merchant organizer for the Rt. 410/New Hampshire Avenue area and said the major work to be done was outside the City, and the City may not have authority to spend money for that type of work. Mr. Sharp also said there was no clear indication that the merchants wanted to be organized and the City could end up spending money on a project that was completely fruitless. Mr. Sharp said area was close to his home and he would like to see it improved, but he did not think this would work.

Ms. Porter also shared Mr. Sharp's concerns regarding how much effort should be put into organizing people outside of the City and she questioned how successful the City could be in cleaning up that commercial area.

Mr. Elrich commented that he would like to see some priority given to affordable housing issues.

Mr. Leary suggested that a part or full time consultant should not be hired to work for a year or so before looking into whether this project would be feasible.

Mr. Johnson said he agreed that the area needed some attention, and that Mr. Sharp's point was well taken. He said that the problems first needed to be identified in order to address solutions; Mr. Johnson said he would vote for the proposal, although with some reluctance.

Ms. Porter said she would support any efforts the City would make to try and get the County to agree to support part of this proposal.

Mr. Leary said he hoped City staff would think about what would be the best way to get something started--keeping in mind the City's limited resources.

Ms. Grimmer responded that City staff would actively work with the County and Prince George's County economic development association between now and the time the proposals go forward to work on a plan for organizing the merchants in the Rt. 410/New Hampshire Avenue

area.

Council Action: The Resolution passed unanimously. (Absent: Mr. Hamilton).

RESOLUTION #1992-65
(Attached)

8. First Reading Ordinance Amending City Code Re: Americans With Disability Act Nondiscrimination Provision. Mr. Hobbs explained that the Ordinance proposed an amendment to the City Code to repeal redundant Section 8B-142 and add a provision to Sec. 8B-107 regarding the City's nondiscrimination policy on the basis of disability. Moved by : seconded by Mr. Johnson.

Council Action: The Ordinance was adopted at first reading. (Absent: Mr. Hamilton).

ORDINANCE #1992-33
(Attached)

9. 1st Reading Ordinance Re: City Administrator's Authority for Traffic Control Signs and Devices. Moved by Mr. Elrich; seconded by Mr. Johnson.

Mr. Leary questioned whether the speed hump installations would be covered under this legislation. The answer from the City Administrator was no.

Mr. Elrich moved to delete section (b) of the Ordinance; the provision that the requirement for traffic control signs and devices conform with the Manual on Uniform Traffic Control Devices for Streets and Highways", and said that this would be covered in the regulations to be promulgated by the City Administrator. The amendment carried.

Mr. Prensky moved an amendment to subsection (newly lettered (b)) to delete the words "is authorized to adopt" and substitute this with the language shall issue appropriate regulations... The motion was accepted as an editorial amendment.

Council Action: The Ordinance was unanimously accepted at first reading. (Absent: Mr. Hamilton).

ORDINANCE #1992-34
(Attached)

10. 1st Reading Ordinance Establishing A Fee for Placement of Dumpsters in City Right-of-Ways. Moved by Mr. Prensky; seconded by Mr. Elrich. The Ordinance proposes establishment of a permit fee to be charged for placing construction dumpsters in City right-of-ways.

Council Action: The Ordinance was unanimously accepted at first reading. (Absent: Mr. Hamilton).

ORDINANCE #1992-35
(Attached)

11. Resolution Re: Montgomery County Code Cable Consumer Protection Laws. Moved by Mr. Johnson; seconded by Ms. Porter. The Resolution allows the City to opt into Montgomery County Code Chapter 8A, regarding cable consumer protection laws.

Council Action: The Resolution was unanimously passed. (Absent: Mr. Hamilton).

RESOLUTION #1992-66
(Attached)

12. Consent Agenda

Moved by Mr. Sharp; seconded by Mr. Leary, the Council unanimously passed the following Resolutions in the form of one motion:

- (a) #1992-67 - Appointing Jeffrey Tryens and Mark Robinowitz as additional members of the Environment Committee.
- (b) #1992-68 - Appointing Edward Kimmel, Jonathan Weiss and George LaRoche as additional members of the Ethics Task Force.
- (c) #1992-69 - Appointing Dana Hoffman, Donald Kennedy, James Collins, Timothy Holmes, Barbara Thorne, Gary Reisner and Judith Rosenthal to the Americans with Disabilities Act Task Force.
- (d) #1992-70 - Appointing Melissa Gregory as an additional member to the Task Force on Family Diversity.

RESOLUTIONS #1992-67 THROUGH #1992-70 (Attached)

13. Discussion of September 21, 1992 Council Of Governments (COG) Meeting. Mr. Sharp noted that the Council would be meeting with COG officials on September 21st, at 7:30 p.m. to talk about the benefits of COG. Ms. Habada suggested one topic of discussion the Council might want to consider would be the HUD work study program. Mr. Sharp asked that Councilmembers think about other issues they would like to address with COG staff or activities they would like COG to be more proactive on and let Staff know this week.

#14. Continued Discussion of Preliminary Subdivision Application #4-92067. Ms. Schwartz distributed the amended Resolution and read the revised sections regarding Condition #1 re stormwater management plan; Condition #3 inserted as new condition that City will initiate consideration of access to subdivision including opening and closing streets; Condition #6 amended to drop the first phrase; and Condition #7 amended as read earlier.

Ms. Porter suggested that in order to accomplish the terms outlined in Condition #7, some type of written agreement exist between the City and the owner. Ms. Porter moved an amendment to Condition #7 to add the phrase that the applicant agree in writing to submit...

Ms. Porter moved adoption of the Resolution as amended; seconded by Mr. Leary.

Citizen Comments

Carolyn Pion voiced discomfort with the Council approving the Resolution prior to addressing the issue of access which she said would become an issue.

Barbara Hoyman, 7240 Glengarry Place said her house was the only house that existed on that street and she has used the area for parking for the last 16 years and if the street was used as an access to the new subdivision, both her tenant and she would lose parking and be subject to other inconveniences.

Ginny Hughes, seconded Ms. Pion's comments and said she was very concerned about the Resolution being passed without a better understanding of the access issue.

Johanna Potts, 1016 Heather said she was also concerned about access as well as enforcement of the City's ordinance regarding building within certain locations of the trees which provided a buffer to the street.

Duraiswamy David, 1011 Heather said he was opposed to the use of Heather Avenue for bringing in construction vehicles and materials to build the houses.

Ms. Hughes said there were more issues surrounding this and addressing the comments made by Ms. Warren, she said when this issue came back up, notices needed to be sent out more timely.

Council Comments

Mr. Leary said for the reasons explained several times tonight, the dilemma before the Council was that they either recommend disapproval of the application or recommend approval with some conditions. He noted that the Council was considering a fairly lengthy list of conditions; some of which were onerous; and it was conceivable that the issue of access could "kill" the project altogether; however the path the Council was embarking on was the most responsible one.

Mr. Prenskey said he was concerned for the citizens on Heather and the person on Glengary and he asked Mr. Dillion if he would consider asking the County to postpone their decision so the City would have another month or two for citizens to become more involved in this process.

Mr. Dillion said he understood the City's concerns; but this was originally a minor subdivision and there was a shorter time for approval and through the City's request, they've extended the time which was already granted and they would now like to move on.

Mr. Elrich said most of the time when the County approved a subdivision, access is part of that--they know where the roads are and they know how people will access their property. He said the City tonight was being asked to approve the subdivision without determining the access. He said what seemed like a relatively simple subdivision a week ago, turned into a question of access. Mr. Elrich said he did not feel the Council should be approving a subdivision without a clear sense of what the access was going to be. He also asked the owner to agree to making the request of the County to postpone this.

Mr. Sharp asked the Council to take up the possibility of disapproving the proposal by going through each Condition to take into account the likelihood that disapproval will be overridden by the County. The Council went over each condition to see which ones the City would continue to have authority over.

Ms. Silber suggested that if Council's will was to go for disapproval, it should be framed that disapproval was based on the applicant's failure to apply for opening or closing of streets which are required for access to the property. Ms. Silber also said there was the option of recommending disapproval and then having a fallback that if the Board did not vote disapproval, the City would want conditions on the approval as discussed.

Citizen Comments

Carolyn Pion asked the Council to recommend disapproval and then taking the odds of letting the County override the City's disapproval. She said if the City had Conditions 1 - 6 as bargaining chips, she would be willing to bargain with Condition #7. Ms. Pion also commented that she would still oppose passage of the Resolution.

Duraiswamy David said that he supported Ms. Pion's comments.

Chukwama Chidozie commented that their proposal was in accordance with the approved Master Plan for Takoma Park.

Council Comments

Mr. Prenskey commented that he did not believe anyone was saying that the Council did not want to see any houses anywhere on the lots--ever. He suggested that the Council could allow for the process to have more possibilities by going along Corporation Counsel's suggestion--stating disapproval for a specific reason that the access issue was not resolved.

Ms. Porter offered an amendment to disapprove the subdivision plan proposed by applicant and proposed that the City also send a letter to the County Planning staff stating the reasons for the Council's disapproval, including the conditions listed in the Resolution.

Mr. Leary said he agreed with Ms. Porter's amendment but said he would not cloud the issue by reiterating all the conditions that were totally in the City's control. He said the crucial Condition was #7 and this ought to be emphasized. Mr. Leary said he agreed with Mr. Prensky that in voting this way, he was not saying that a decision was made there should never be any development or that two months from now after having the public hearing on closing Glengary, the Council would not agree to recommend approval of the subdivision with similar conditions as well as a decision regarding access that satisfied the majority.

Ms. Porter accepted Mr. Leary's suggestion as a friendly amendment.

Council Action: Upon motion duly made and seconded the Council unanimously passed an amendment in the nature of a substitute Resolution disapproving the subdivision application which states the Condition #7 and addresses the issue of access. The Council asked that the transmittal letter contain these reasons as well.

RESOLUTION #1992-72
(Attached)

Council Action: The question was then called on the original Resolution to approve, as amended; the Resolution passed unanimously. (Absent: Mr. Hamilton)

#15. Discussion of a Public Hearing regarding the street closure. Ms. Schwartz explained the code process for closing streets. Notice to be in Newsletter and sent to residents by mail.

Mr. Prensky suggested staff provide Council with a recommendation on the process for closure of streets.

#16. City Administrator Status Update:

Ms. Habada announced that the mark up on the Cable contract was due from TPCT, Inc. on September 18 and then the City would start meeting with them on negotiations. Ms. Habada also reported on upcoming and ongoing construction projects: Work on Maple/Sherman Avenue got underway last week. CDBG street work started last week on Roanoke Avenue. The Gateway signage in the Takoma/Langley shopping area started last week. WSSC completed their pipe bursting work for the stormwater construction project on Westmoreland and the City contractor should be going in shortly.

Ms. Habada also noted that a historic marker would be installed at B.Y. Morrison Park by October 1st and the City would be dedicating the mural at the Park in Takoma Junction on October 17th at 2 p.m.

The Council asked that staff remember to give reasonable notification to residents in the neighborhoods where construction is going to take place.

#17. Additional Agenda Item - Discussion of change of date for 9/28 Council Meeting. Mr. Prensky moved that the Council postpone the next regular meeting to Tuesday, September 29th in order to recognize the Rosh Hashanah holiday on September 28th. Ms. Porter seconded the motion and it was carried unanimously.

The Council adjourned 11:28 p.m., to reconvene in Regular Session on Tuesday, September 29, 1992.

Introduced By: Mayor Sharp

RESOLUTION #1992 - 57_

EXPRESSING APPRECIATION TO DAN ROBINSON AND REID BARON
FOR THEIR ASSISTANCE WITH THE CITY NEWSLETTER

WHEREAS, in September, 1991, Dan Robinson and Reid Baron took on the role of temporary Newsletter Editors; AND

WHEREAS, for the past year, Mr. Robinson and Mr. Baron have worked diligently to keep up publication of the Newsletter, using an "open-door" approach with City staff that allowed some flexibility with deadlines while maintaining timely publication schedules; AND

WHEREAS, Mr. Robinson's and Mr. Baron's pride in being Takoma Park residents as well as their creative expertise allowed staff to meet their departments' goals and the Council's goal of providing a source of reliable information for City residents; AND

WHEREAS, in August 1992, Richard Gross was hired to serve as the new Editor for the Takoma Park Newsletter.

NOW THEREFORE BE IT RESOLVED THAT the City Council of Takoma Park, Maryland on behalf of the City officials and staff hereby express appreciation to Dan Robinson and Reid Baron for their assistance in publishing the City Newsletter over the past year.

Dated this 14th day of September, 1992.

Introduced By: Mayor Sharp

RESOLUTION

*To Express Appreciation to Maryland-National Capital
Park and Planning Commission Staff for Assistance
to the City of Takoma Park*

- WHEREAS,** *the City of Takoma Park recently investigated the possibility of acquiring the Parker Memorial Baptist Church as a potential location for a City multi-cultural community center; AND*
- WHEREAS,** *as part of this investigation, the City requested assistance from the Maryland-National Capital Park and Planning Commission (M-NCPPC); AND*
- WHEREAS,** *with limited notice during the summertime, the M-NCPPC staff completed a site assessment study for both the Parker Memorial Church and the Takoma Park Intermediate School; AND*
- WHEREAS,** *M-NCPPC staff further assisted the City by attending a public forum in August regarding the Parker Memorial Church property; AND*
- WHEREAS,** *the findings of the M-NCPPC staff report provided valuable input to the City's decision not to go forward with plans to acquire the Parker Memorial Church property.*

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT, *the City Council hereby expresses its appreciation to the M-NCPPC for their assistance with this project, particularly to Planning Director Robert Marriot and the following staff members:*

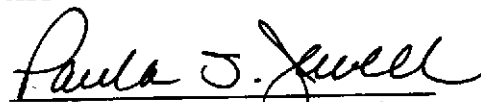
*Calvin Nelson
Nancy Sturgeon
Bill Gordon*

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

Dated this 14th day of September, 1992.


Edward F. Sharp, Mayor

ATTEST:


Paula S. Jewell, CMC City Clerk

Introduced By: Councilmember Porter

ADOPTED: SEPTEMBER 14, 1992

Resolution No. 1992-72

A Resolution to Recommend Disapproval of a Preliminary
Subdivision Plan for the 7200 Block of Glengarry Place

WHEREAS, Mr. Chukwama D. Chidozie has applied to the Prince George's County Maryland-National Capital Park and Planning Commission for a preliminary subdivision for Block 7, Lots 8-10, Wildwood Subdivision, in the 7200 block of Glengarry Place in Takoma Park (Preliminary Plan #4-92067); AND

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

WHEREAS, the application has been reviewed by City staff, AND

WHEREAS, the City of Takoma Park has the authority to issue construction permits for City-maintained roads, permits for stormwater management, and permits for tree removal under the Urban Forest Ordinance; AND

WHEREAS, the City Council has taken into consideration public comments received on the subject application and weighed the public interest, especially as to safety;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT, the City Council hereby recommends that the Prince George's County Planning Board DISAPPROVE the subject application, for the following reasons:

1. Because no application has been filed pursuant to Takoma Park Code provisions (Article 6, Sections 11-51 through 11-56) requiring Council approval to open/close streets.

2. The applicant has not met conditions which are necessary preconditions for the City to approve access to the property herein. Access to the property (a City prerogative) may be predetermined by subdivision approval. The City must hold a public hearing with certain notice requirements before the subdivision should be approved.

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

ADOPTED THIS 14TH DAY OF SEPTEMBER, 1992.

Introduced by:

1st Reading: 9/14/92

2nd Reading:

Effective:

ORDINANCE #1992-32

INSTALLATION OF SPEED HUMPS

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

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

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

- (a) Boston Avenue (between Chicago and Takoma), one (1) speed hump to be placed in the 700 block of Boston Avenue at a location to be determined by the Public Works Director. ~~adjacent to 703 Boston Avenue.~~
- (b) Heather Avenue (between Heather and Elm), one (1) speed hump to be placed on Heather Avenue at a location to be determined by the Public Works Director. ~~between 1007 and 1009 Heather Avenue.~~
- (c) Poplar Avenue (between Elm and Circle), two (2) speed humps, one to be placed in the 6700 block of Poplar Avenue at a location to be determined by the Public Works Director. ~~adjacent to 6709 and one to be placed adjacent to 6729 Poplar Avenue.~~

SECTION 2. THAT funds to cover these installations be appropriated from Capital Expenditures, Account 9100-8001.

SECTION 3. THAT this Ordinance becomes effective upon adoption.

ADOPTED BY THE CITY COUNCIL THIS _____ DAY OF _____, 1992, BY ROLL CALL VOTE AS FOLLOWS:

AYE:

NAY:

ABSTAINED:

ABSENT:

filename:BSHEAPOP.SPH

Introduced by: Mayor Sharp

RESOLUTION #1992-58

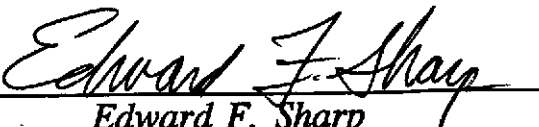
WHEREAS, *Police Chief A. Tony Fisher has selected OFFICER RICHARD SKIBICKI to be the recipient of 1991 Command Recognition; AND*

WHEREAS, *While on night patrol, his exceptional alertness and professionalism led directly to the apprehension of a burglary suspect inside a store who was in the process of prying open the door to a check-cashing area,*

NOW, THEREFORE, BE IT RESOLVED THAT *the Mayor and Council hereby commend and offer congratulations and a \$50 Savings Bond, to*

OFFICER RICHARD SKIBICKI

Dated this 14th day of September, 1992.


Edward F. Sharp
Mayor

ATTEST:


Paula S. Jewell, CMC/City Clerk



Introduced by: Mayor Sharp

RESOLUTION #1992-59

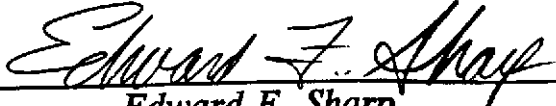
WHEREAS, *Police Chief A. Tony Fisher has selected CORPORAL DANIEL PARKER to be the recipient of 1991 Command Recognition; AND*

WHEREAS, *He is recognized and admired for a high level of police professionalism and for dedication to auto seat belt enforcement,*

NOW, THEREFORE, BE IT RESOLVED THAT *the Mayor and Council hereby commend hereby commend and offer congratulations and a \$50 Savings Bond, to*

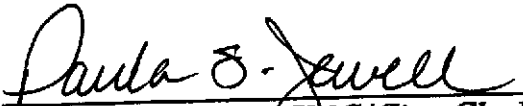
CORPORAL DANIEL PARKER

Dated this 14th day of September, 1992.



Edward F. Sharp
Mayor

ATTEST:



Paula S. Jewell, CMC/City Clerk



Introduced by: Mayor Sharp

RESOLUTION #1992-60

WHEREAS, *Police Chief A. Tony Fisher has selected OFFICER MARK GARDNER to be the recipient of 1991 Command Recognition; AND*

WHEREAS, *He is recognized for the dedication, professionalism and enthusiasm with which he conducts the Takoma Park D.A.R.E. program in elementary schools,*

NOW, THEREFORE, BE IT RESOLVED THAT *the Mayor and Council hereby commend and offer congratulations and a \$50 Savings Bond, to*

OFFICER MARK GARDNER

Dated this 14th day of September, 1992.

Edward F. Sharp

Edward F. Sharp

Mayor

ATTEST:

Paula S. Jewell
Paula S. Jewell, CMC/City Clerk



Introduced by: Mayor Sharp

RESOLUTION #1992-61

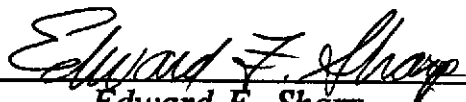
WHEREAS, *Police Chief A. Tony Fisher has selected CORPORAL KATHLEEN COURSEY to be the recipient of 1991 Command Recognition; AND*

WHEREAS, *She is recognized for the dedication, professionalism and enthusiasm with which she conducts the Takoma Park D.A.R.E. program in elementary schools,*

NOW, THEREFORE, BE IT RESOLVED THAT *the Mayor and Council hereby commend and offer congratulations and a \$50 Savings Bond, to*

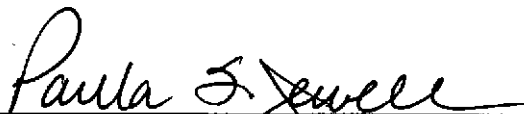
CORPORAL KATHLEEN COURSEY

Dated this 14th day of September, 1992.



Edward F. Sharp
Mayor

ATTEST:



Paula S. Jewell, CMC/City Clerk



Introduced by: Mayor Sharp

RESOLUTION #1992-62

WHEREAS, *Police Chief A. Tony Fisher has selected CORPORAL STEVE VERMILLION to be the recipient of the 1991 Honorable Service Medal; AND*

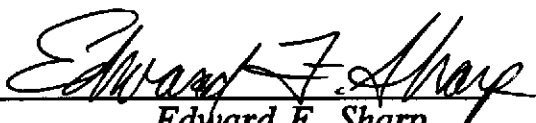
WHEREAS, *On his own initiative, and with enthusiasm and professionalism, Corporal Vermillion undertook total revision of the police department's Field Training Officer Manual and related forms, spending several weeks of his own time to complete the Manual; AND*

WHEREAS, *Thereafter, he also edited and revised the police department's official Procedure on Field Training Officers, likewise on his own time,*

NOW, THEREFORE, BE IT RESOLVED THAT *the Mayor and Council hereby commend and offer congratulations and a \$50 Savings Bond, to*

CORPORAL STEVE VERMILLION

Dated this 14th day of September, 1992.


Edward F. Sharp
Mayor

ATTEST:


Paula S. Jewell, CMC/City Clerk



Introduced by: Mayor Sharp

RESOLUTION #1992-63

WHEREAS, *Police Chief A. Tony Fisher has selected OFFICER RICHARD CIPPERLY to be the recipient of the 1991 Honorable Service Medal; AND*

WHEREAS, *Officer Cipperly is being honored for starting and aggressively following up on one of the Department's first C.O.P. projects on a family whose minor children were frequently being arrested and who lived in a building with serious Code violations; AND*

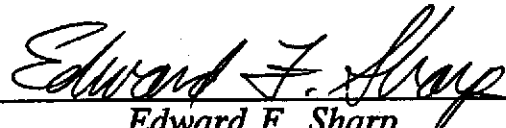
WHEREAS, *Officer Cipperly coordinated his work closely with Juvenile Court and other County officials, as well as the City's Department of Housing and Community Development; AND*

WHEREAS, *This officer also maintained a high number of D.W.I. arrests and was instrumental in enabling Montgomery County Police to close three strong-arm robbery cases,*

NOW, THEREFORE, BE IT RESOLVED THAT *the Mayor and Council hereby commend and offer congratulations and a \$50 Savings Bond, to*

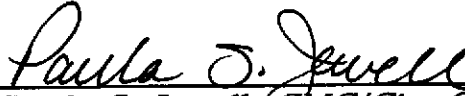
OFFICER RICHARD CIPPERLY

Dated this 14th day of September, 1992.



Edward F. Sharp
Mayor

ATTEST:



Paula S. Jewell, CMC/City Clerk



Introduced by: Mayor Sharp

RESOLUTION #1992-64

WHEREAS, Police Chief A. Tony Fisher has selected OFFICER DAN FRISHKORN to be the 1991 Police Officer of the Year, AND

WHEREAS, In 1991, this officer was among the first to apply the new community-oriented policing concept, even as he continued to make a high number of in-view and D.W.I. arrests, AND

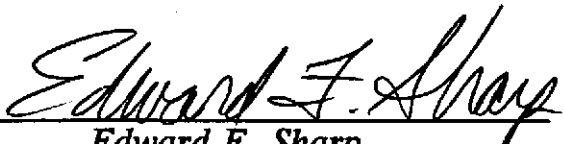
WHEREAS, When the City was plagued by a series of late-night burglaries through the roofs of commercial establishments, Officer Frishkorn's extensive investigation led him to identify and arrest a suspect, after which he went to the tin roof of the most recently burglarized business, and found and removed a shoeprint exactly matching the suspect's shoes, resulting in confessions and an end to the burglaries; AND

WHEREAS, Officer Frishkorn has received written praise from the Fire Department, the State's Attorney's office and individual citizens,

NOW, THEREFORE, BE IT RESOLVED THAT the Mayor and Council hereby commend and offer congratulations and a \$100 Savings Bond to the 1991 POLICE OFFICER OF THE YEAR,

OFFICER DAN FRISHKORN

Dated this 14th day of September, 1992.


Edward F. Sharp
Mayor

ATTEST:


Paula S. Jewell, CMC/City Clerk



Introduced by: Councilmember Porter

Drafted by: V. VinCola

Resolution #1992-65

A Resolution to adopt the recommendations of the Citizens Advisory Committee regarding Community Development Block Grant requests to Prince George's County for Fiscal Year 1994 as amended by the City Council, and to authorize DHCD staff to submit applications to Prince George's County.

WHEREAS, the City anticipates receiving federal Community Development Block Grant (CDBG) funds through Prince George's County for Fiscal Year 1994 (Program Year 19) to use for eligible projects; AND

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

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

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

Prince George's County

Merchant Organizer	\$40,000
Transitional Housing Program	\$100,000
Casa Employment & Assistance	\$20,000
Holton Lane Street Improvements	\$25,000
Takoma/Langley Facade Program	<u>\$100,000</u>
TOTAL	\$285,000

BE IT FURTHER RESOLVED THAT the City's request will be accompanied by a statement discussing reasons that the County should structure CDBG funding to emphasize the needs for housing and social services over infrastructure needs in these difficult economic times; AND

BE IT FURTHER RESOLVED THAT staff of the Department of Housing and Community Development is hereby authorized to submit applications for Fiscal Year 1994 (Program Year 19) CDBG funding for the recommended projects to Prince George's County.

ADOPTED THIS 14th DAY OF SEPTEMBER 1992.

ATTEST:

Paula S. Jewell, CMC
City Clerk

Introduced By:
(Drafted By: T. W. Hobbs)

1st Reading: 9/14/92
2nd Reading:

ORDINANCE #1992-33

AN ORDINANCE TO AMEND THE CITY CODE
SECTION 8B-107. MERIT PRINCIPLES
SECTION 8B-142. EMPLOYMENT POLICY

WHEREAS, the Americans With Disabilities Act (ADA) of 1990 prohibits employment discrimination on the basis of disability; AND

WHEREAS, the current City Code, Section 8B-107, provides for equal employment opportunity for "handicapping conditions" and should be amended to change "handicapping conditions" to "disability"; AND

WHEREAS, Section 8B-142 is a restatement of the policy contained in Section 8B-107 and therefore is redundant.

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

SECTION 1. THAT Section 8B-107 of the Takoma Park City Code is amended as follows:

Merit principles.

(4) The city should treat all employees and applicants for employment fairly and equitably in all aspects of personnel management. Political affiliation, race, color, religion, national origin, sex, ancestry, marital status, age, sexual orientation, and [handicapping condition] disability are not relevant to their treatment. The city must give proper regard for their privacy and constitutional rights.

SECTION 2. THAT Section 8B-142, Employment Policy, of the Takoma Park City Code is redundant and therefore deleted from the Takoma Park City Code.

SECTION 3. THAT this Ordinance becomes effective upon adoption.

Note: Underlining indicates new material to be added to existing code language.

[] indicates matter to be deleted from existing code.

ADOPTED BY THE CITY COUNCIL THIS ____ DAY OF _____, 1992 BY ROLL CALL VOTE AS FOLLOWS:

AYE:
NAY:
ABSTAINED:
ABSENT:

Introduced by:
Drafted by: L. Perlman

1st Reading: 9/14/92
2nd Reading:
Effective Date:

(Amended 9/14/92)

ORDINANCE NO. 1992 -34

Authority to Install Traffic Control Signs and Devices

WHEREAS, current law requires the Council to designate the locations in the City of Takoma Park for the placement of traffic control signs and devices; and

WHEREAS, the Council feels that the determination of the locations for traffic control signs and devices is an administrative function which can be better carried out by the City Administrator and that the standards and procedures for the installation and maintenance of traffic control signs and devices should be set forth in regulations; and

WHEREAS, the Council desires to transfer responsibility for the location of traffic control signs and devices to the City Administrator and to authorize the City Administrator to promulgate regulations to govern the installation and maintenance of traffic control signs and devices in the City.

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

Section 1. Chapter 13, Vehicles and Traffic, Article 8, Traffic Signs, of the Takoma Park Code is amended as follows:

Sec. 13-70. Erection and maintenance of traffic signs.

~~In the regulation and supervision of traffic, the Director of Public Works is authorized to place, erect and maintain upon and along the public highways of the City these traffic signs and devices and the Mayor and Council have or may direct, at the locations designated by the Mayor and Council.~~

(a) On every highway and parking area under the jurisdiction of the City of Takoma Park, the City Administrator shall place and maintain those traffic control signs and devices that he or she considers necessary to regulate traffic and parking and for the safety or control of vehicular or pedestrian traffic.

[[(b) All traffic control signs and devices shall conform to the most recent edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways" with regard to design, color, size and placement.]]

~~(b) [(c)] The City Administrator shall issue appropriate regulations for the placement, installation, and maintenance of traffic control signs and devices in the City of Takoma Park.~~

Section 2. Effective Date.

This Ordinance shall be effective immediately.

Adopted this _____ day of _____, 1992 by roll call vote as follows:

- Aye:
- Nay:
- Abstained:
- Absent:

NOTE: ~~Shading~~ means language added to the Takoma Park Code. ~~Strikeout~~ means language deleted from the Takoma Park Code.

~~[[double brackets]]~~ indicate language deleted from the Ordinance at first reading and double underlining indicates language added at first reading.

corr175/kw
install.ord

Introduced by:
(Drafted by: P. Jewell)

1st Reading: 9/14/92
2nd Reading:

ORDINANCE #1992-35

ESTABLISHING A FEE FOR PLACEMENT OF DUMPSTERS
IN CITY RIGHT-OF-WAYS

WHEREAS, Chapter 11, Article 4, "Streets - Obstruction and Protection of Streets" of the Takoma Park Code outlines certain provisions for protecting roadways from damage by excavation debris; AND

WHEREAS, dumpsters used to haul debris from construction and excavation sites, can threaten the convenience and safety of persons who use the City right-of-ways and pose a hardship on the City's infrastructure; AND

WHEREAS, there is a need to regulate the placement of these dumpsters on Takoma Park right-of-ways.

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

SECTION 1. THAT Takoma Park Code Chapter 11, Article 4, "Streets - Obstruction and Protection of Streets" is hereby amended by the addition of a new Section 11-33 "Permit required to place construction dumpsters in public streets".

Sec. 11-33. Permit required to place construction dumpsters in public streets.

No person without a permit shall park or cause to be parked on a City right-of-way, a dumpster for the purpose of storing and hauling construction and excavation debris without first having obtained a permit from the Clerk. To obtain a permit, the applicant must submit plans to the Clerk bearing the approval from the Director of Public Works. A violation of this section is a Class B offense.

(Sec. 11-33 and Sec. 11-34 are to be renumbered accordingly.)

SECTION 2. THAT Takoma Park Code Chapter 7, Sec. 7-1, "Licenses and Permits - Schedule of License and Permit Fees" is hereby amended by the addition of a provision for dumpster placement as follows:

<u>Regulated Activity</u>	<u>License Required</u>	<u>Permit Required</u>	<u>Fee</u>	<u>Insurance Or Bond</u>
Streets:				
Alter or Change		§ 11-25	\$10.00	§ 11-27
Driveway construction		§ 11-26	\$10.00	§ 11-27
<u>Dumpster Placement</u>		<u>§ 11-33</u>	<u>\$25.00</u>	<u>N/A</u>
Excavation		§ 11-28	N/A	N/A
Fencing		§ 11-30	N/A	N/A
Vent or door in Street		§ 11-29	N/A	N/A

SECTION 4. THAT underlining in this Ordinance indicates additional language to be added to the Takoma Park Code.

SECTION 5. THAT this Ordinance shall become effective immediately upon adoption.

Adopted this _____ day of _____, 1992 by Roll Call Vote as follows:

- AYE:
- NAY:
- ABSTAINED:
- ABSENT:

filename: ORDINANC\DUMPSTER.FEE

Introduced by:
Effective Date:

Resolution 1992-

SUBJECT: ADOPTION OF REVISED CHAPTER 8A OF MONTGOMERY COUNTY CODE, ENTITLED "CABLE COMMUNICATIONS"

WHEREAS, Montgomery County Bill 26-89 amended Chapter 8A of the Montgomery County Code, effective October 12, 1990; and

WHEREAS, the City has been requested by the Montgomery County government to adopt the amendments to Chapter 8A, to allow the County to administer and enforce Chapter 8A within the corporate boundaries of the City; and

WHEREAS, the City Council has determined that adopting the amendments to Chapter 8A of the Montgomery County Code so that Montgomery County will administer and enforce the provisions of Chapter 8A within the corporate boundaries of the City is in the best interest of the City of Takoma Park.

NOW, THEREFORE, be it resolved by the City Council of the City of Takoma Park that the provisions of Montgomery County Bill 26-89, amending Chapter 8A of the Montgomery County Code, entitled "Cable Communications, " shall be applicable within the corporate boundaries of the Town.

BE IT FURTHER RESOLVED THAT Montgomery County is requested to administer and enforce the provisions of Chapter 8A within the corporate boundaries of the City of Takoma Park.

Adopted this _____ day of _____, 1992.

Introduced By: Mayor Sharp

RESOLUTION #1992 - 67

APPOINTING ADDITIONAL MEMBERS TO COMMITTEE ON THE ENVIRONMENT

WHEREAS, on April 13, 1992, the City Council, established a Committee on the Environment and has subsequently appointed thirteen members to serve on the committee which will make recommendations to the Council on how the City can be more environmentally responsible; AND

WHEREAS, two additional residents have expressed an interest in serving on this Committee.

NOW, THEREFORE, BE IT RESOLVED THAT the following persons are hereby appointed to the Committee on the Environment:

1. Jeffrey Tryens 6602 Allegheny Avenue
2. Mark Robinowitz 209 Spring Avenue

Dated this 14th day of September, 1992

envircom.add

Introduced By: Mayor Sharp

RESOLUTION #1992 - 68

APPOINTING ADDITIONAL MEMBERS TO ETHICS TASK FORCE

WHEREAS, on July 13, 1992, the City Council, by Resolution 1992-47 established an Ethics Task Force and appointed five initial members to serve on the committee which will make recommendations to the Council on the City's Ethics Code and on the establishment of a local Ethics Commission; AND

WHEREAS, it is important that the Task Force represent the diversity of the Takoma Park, Community; AND

WHEREAS, three additional residents have expressed an interest in serving on this Task Force.

NOW, THEREFORE, BE IT RESOLVED THAT the following persons are hereby appointed to the Ethics Task Force:

1. Edward M. Kimmel 215 South Manor Circle
2. Jonathan B. Weiss 16 Philadelphia Avenue
3. George S. LaRoche 7030 Carroll Avenue

Dated this 14th day of September, 1992

Introduced By: Mayor Sharp

RESOLUTION #1992 - 69

APPOINTING AN AMERICANS WITH DISABILITIES ACT TASK FORCE

WHEREAS, in order to comply with the mandates of the 1990 Americans With Disabilities Act (ADA), local governments will need to implement provisions to eliminated discrimination against disabled persons in the areas of public service and employment; AND

WHEREAS, the City Council desires to appoint a standing committee of persons from the community whose purpose will be to advise the Council on the implementation of the ADA as it relates to City government; AND

WHEREAS, a number of persons have expressed an interest in serving on this advisory committee.

NOW THEREFORE BE IT RESOLVED, THAT the following individuals are hereby appointed to serve on the ADA Task Force:

	<u>Name</u>	<u>Address</u>
1.	Dana J. Hoffman	P.O. Box 5915, Takoma Park, 20913
2.	Donald Kennedy	7207 13th Avenue, Takoma Park
3.	James Collins	7710 Maple Avenue, #1101, Takoma Park
4.	Timothy C. Holmes	7711 Garland Avenue, Takoma Park
5.	Barbara G. Thorne	406 Lincoln Avenue, Takoma Park
6.	Gary C. Reisner	7110 Woodland Avenue, Takoma Park
7.	Judith F. Rosenthal	505 Elm Avenue, Takoma Park

Dated this 14th day of September, 1992.

Introduced By: Mayor Sharp

RESOLUTION #1992 - 70

APPOINTING ADDITIONAL MEMBERS TO TASK FORCE ON FAMILY DIVERSITY

WHEREAS, on June 8, 1992, the City Council established a Takoma Park Task Force on Family Diversity and subsequently appointed eleven members to explore ways in which the City can recognize and support citizen's familial rights and obligation; AND

WHEREAS, it is important that the Task Force represent a broad cross section of the Takoma Park, Community; AND

WHEREAS, one additional resident has expressed an interest in serving on this Task Force.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council hereby appoints to the Task Force on Family Diversity:

Melissa Gregory 6503 Eastern Avenue

Dated this 14th day of September, 1992

FAMDIV.ADD

CITY OF TAKOMA PARK, MARYLAND (FINAL 10/8/92)
Regular Meeting of the City Council

Tuesday, September 29, 1992

CITY OFFICIALS PRESENT:

Mayor Sharp	City Administrator Habada
Councilmember Elrich	Deputy City Admin. Grimmer
Councilmember Johnson	City Clerk Jewell
Councilmember Leary	Dir. Public Works Knauf
Councilmember Porter	COLTA Ex. Dir. Lee-Bryant
Councilmember Prensky	
ABSENT: Councilmember Hamilton	

The Council convened at 8:00 p.m. on Tuesday, September 29, 1992 in the Council Chamber at 7500 Maple Avenue. Following the Pledge of Allegiance, the Council observed a moment of silence in the memory of Gibson E. McKenzie, Sr., a former Takoma Park Councilmember and Father-in-law of City employee, Donna McKenzie, who passed away September 28th. Mr. Sharp commented that Mr. McKenzie was a resident for 54 years, served as Councilmember from April 1954 to April 1968 and had also served on the Council appointed Public Works Committee. He announced the funeral arrangements for Mr. McKenzie and noted that the Council would pass a Resolution of Condolence at its October 12th Regular Meeting.

Council Comments

Ms. Porter announced that Mr. Prensky and she were sponsoring a forum on concerns regarding Forest Park; scheduled for Tuesday, October 13th, at 7:30 p.m. at Heffner Park.

Adoption of Minutes from 9/10/91; 9/23/91; 7/27/92 and 9/14/92 Council Meetings. Moved by Mr. Johnson; seconded by Ms. Porter. Mr. Sharp noted that there were a couple of typos in the Minutes and he would make note of these with the Clerk. Without objection, the minutes were adopted unanimously.

Mr. Prensky asked about the status of the 1991 Minutes. Mr. Sharp commented that the Minutes would most likely be up to date by Thanksgiving.

Ms. Habada announced the presence of Ms. Sylvia Davis, PEPCO's Senior Government Affairs Representative, who presented the Council with a property tax check from PEPCO in the amount of \$99,505.41.

The Council welcomed Ms. Davis to Takoma Park. Mr. Prensky noted that the City's Environment Committee would be looking at issues regarding energy efficiency and cost saving measures in the City and said he hoped that PEPCO could provide some assistance to the Committee in this area. Ms. Henry said she would be delighted to help out in this area and she offered to serve as a liaison to the City.

CITIZEN COMMENTS (not on Council's agenda)

Peggy Gray, 7413 Maple Avenue said she lived in the City for 12 years after purchasing a historic home which she has restored. She raised complaints regarding inaccurate code inspection violations that she had been cited for. Ms. Gray also commented that there was a 50 foot decaying tree on a neighboring property which needed to be cut down but the owners could not afford to have it removed.

Mr. Sharp referred the matter to the City Administrator to follow up with the Department of Housing and Community Development and he asked that staff look into both issues.

AGENDA

1. Introduction of New City Employee (Norma Jurado - Police Intern). Ms. Habada introduced Norma Jurado, and noted that the recently hired intern would be working throughout the school year with the Police Department.

2. 2nd Reading Ordinance Proposing Installation of Speed Humps for Boston Avenue (between Chicago and Takoma, Poplar Avenue (between Elm and Circle), and Heather Avenue (between Heather and Elm).
Moved by Mr. Prensky; seconded by Mr. Leary.

Mr. Johnson commended staff for proposing an amendment to the Ordinance that would allow the Public Works Department some flexibility in determining the actual speed hump locations that met the concerns of the residents and the City's guidelines.

Susan Sala, 6707A Poplar Avenue said she had been working on the speed hump petition since its inception and there was a definite problem with speeding on Poplar Avenue. She urged the Council to adopt the Ordinance.

Mr. Johnson commented that while traveling to another City this week, he saw some speed humps which were very attractive; they were raised bricks in the pavement similar to the ridges built into toll plazas. He said he hoped that as the City began exploring different traffic controls for use in the City, this type of measure would not be overlooked.

Council Action: The Ordinance was adopted unanimously on second reading. (Absent: Mr. Elrich, Mr. Hamilton).

ORDINANCE #1992-32
(Attached)

3. 1st Reading of Ordinance establishing a policy for the purchase of recycled products. Ms. Habada noted that staff recommended that this item be pulled from the evening's agenda. Without objection, the Ordinance was deferred.

4. Resolution re-appointing Councilmember Kathy Porter and Assistant Director for Special Projects Valerie VinCola as the City's representatives to the Prince George's County Community Development Advisory Committee. Moved by Mr. Sharp; seconded by Mr. Leary.

Ms. Porter said she was pleased to accept the nomination to serve on the Committees and she hoped the County would at least succeed in getting her name on the mailing list this year, which they did not do last year.

Council Action: The Resolution was unanimously passed. (Absent: Mr. Elrich, Mr. Hamilton).

RESOLUTION #1992-73
(Attached)

5. 2nd Reading Ordinance establishing a fee for collection of recyclables in multi-family dwellings of six units and less.
Moved by Ms. Porter; seconded by Mr. Prensky.

Mr. Prensky explained that the Ordinance established a fee for recyclable collections from multi-family rental properties with six units or less, who did not receive regular garbage collection from the City but who would like to receive recyclable collection on a voluntary paying basis.

Council Action: The Ordinance was adopted unanimously on second reading. (Absent: Mr. Elrich, Mr. Hamilton).

ORDINANCE #1992-31
(Attached)

6. 2nd Reading Ordinance to transfer responsibility for the location of certain traffic control signs and devices to the City Administrator and authorizing the promulgation of regulations to govern such signs. Moved by Ms. Porter; seconded by Mr. Johnson.

Council Action: The Ordinance was adopted unanimously on second reading. (Absent: Mr. Elrich and Mr. Hamilton; and for the vote, Mr. Prensky)

ORDINANCE #1992-34
(Attached)

7. 2nd Reading Ordinance Amending City Code by repealing redundant Sec. 8B-142 and adding a provision for a nondiscrimination policy on the basis of disability to Sec. 8B-107. Moved by Mr. Johnson; seconded by Ms. Porter. Mr. Sharp noted that the Ordinance amends City Code Section 8B-107 to include disability as a provision for the fair and equitable treatment of all City employees and applicants for employment. In addition, the Ordinance repeals redundant Code Section 8B-142 which is already stated in Section 8B-107.

Council Action: The Ordinance was adopted unanimously on second reading. (Absent: Mr. Elrich, Mr. Hamilton).

ORDINANCE #1992-33
(Attached)

Mr. Prensky commented that a friend of his had seen the video filmed in Takoma Park that is being used to promote the Americans with Disabilities Act and had said it was terrific. Mr. Sharp said he hoped the City could obtain a copy of the video that could be shown on Cable 54.

8. 2nd Reading Ordinance Re: Dumpsters in City Right-of Ways, establishing that a permit be required and a fee be charged for placing construction dumpsters on City streets. Moved by Mr. Prensky; seconded by Mr. Johnson.

Council Action: The Ordinance was adopted unanimously on second reading. (Absent: Mr. Elrich, Mr. Hamilton).

9. Resolution initiating the closure of Glengary Place and setting a public hearing on the matter for November 9, 1992. Mr. Sharp explained the item was on the agenda as a result of a proposed subdivision that the owner of some Glengary Place property had made to Prince George's County. In reviewing the subdivision plans, the City noted that a crucial issue would be access to the property and the City needed to determine where the access would be from. Mr. Sharp said because this had not been done, this was used as the basis for disapproving the subdivision plan which carried with it an implicit request that the subdivision decision be postponed until the City had taken a position on the closing. He noted that Prince George's County had scheduled a reconsideration of the subdivision plan on November 12th, and said the Resolution set a City council public hearing for November 9th where the Council would need to make a decision with regard to the closing of Glengary Place.

Mr. Sharp moved the Resolution, noting a change to the first Resolved Clause to add the phrase "or as soon thereafter as possible"; to give the Council flexibility so they do not have to convene exactly at 8:00 p.m.; the motion was seconded by Ms. Porter.

Ms. Porter noted that the Resolution also came back because of discussions with citizens about the closing. She said there were a number of people concerned about the issue and there would be

neighborhood meetings to discuss the issue with them prior to it coming before the Council. Ms. Porter also noted that added to the Resolution were requirements that notification be made to the neighbors on Heather Avenue and the part of Sligo Creek Parkway that backed up to that portion of Heather.

Ms. Habada noted that the City had received a letter from the attorney representing Mr. Dillon, making a similar request for closure of Glengary. She said the attorney was advised that the Council would be initiating the closure.

Corporation Counsel Silber recommended the title of the Resolution be amended to read, "A Resolution to Schedule a Public Hearing to Consider Opening/Closing of Glengary Place. She cited a section in the Code which specified that whenever an alley is being widened into a street, it was referred to as an opening and had to be done by Council action. Ms. Silber also noted that the word "opening" should be added to the first Whereas Clause. This was accepted by the Council as a non substantive amendment.

Council Action: The Resolution passed unanimously, as corrected. (Absent: Mr. Elrich, Mr. Hamilton).

RESOLUTION #1992-74
(Attached)

10. 1st Reading Ordinance amending Article 8, "Tenant Opportunity to Purchase" Legislation. Mr. Sharp noted that the item had been discussed at some length in Council Worksessions and the Ordinance before the Council had some adjustments that reflected decisions made by the Council. The Ordinance was moved by Mr. Johnson; seconded by Mr. Prensky.

Mr. Prensky noted a grammatical correction on page 8, (c) to delete the word "either". He also commented that the District of Columbia's right of first refusal law required that a document be provided, signed by the current tenant(s) stating that they did not wish to purchase their building. Mr. Prensky compared this with the City's "tenant opportunity to purchase law" and said recent Council discussions centered around the notification process and the perceived problems of whether or not tenants received timely notice that their buildings were for sale. He asked what the City's intent was in adopting a process that made it difficult to try and assure notification and inclusion of tenants in the process of finding buyers, rather than the way the District addressed this.

Mr. Sharp suggested that this question might involve some research into State law since the District of Columbia may be, for purposes of property transfer, a state, and have the ability to control real estate contracts which Takoma Park, as a municipality in a state, may not have the ability to control. He asked that this be looked into and the question be addressed by staff at an October worksession.

Mr. Elrich commented that in Section 6-108, page 11, regarding deposits, his concern was allowing that a landlord or owner may require an association to put up a deposit of that amount may prove to be an extraordinary onerous burden on the building.

Mr. Sharp said this provision was in the law six years ago. He suggested that there were probably some options and he asked that staff come back to the Council with a recommendation on whether purchase deposits could be lowered for larger buildings by substituting the deposits with security deposits. Mr. Sharp also suggested that staff talk to persons involved in the purchase of 7611 Maple Avenue about this.

CITIZEN COMMENTS

Kay Dellinger, President, Hampshire Towers Tenant Association commented that she had not had time to review the entire Ordinance, but she asked about the suggestion made by Charlie Rinker regarding time to express interest after 3rd party contract for all units for 2-4, 5-20 and over 20. She said the original proposal was 15 days; Mr. Rinker had recommended 30 days and she said she hoped this would be changed. Ms. Dellinger also said she agreed with Mr. Elrich's comments regarding deposits. She explained that in the process of trying to buy a building, tenants often did not have any money because it was impossible to know what the deposit would be until after the agreement on the price of the building has been worked out.

Mr. Sharp said the language could be made less confusing, but he did not read it to mean that the deposit would have to be some percentage price of some unknown number. He said he did agree that the numbers were too high and this was something the Council could look at.

Ms. Dellinger said the tenants put in a lot of work and were not compensated and this should surely show good faith on their part and should be taken into consideration. Ms. Dellinger also commented that while she was in full support of limited equity co-ops, the language regarding extension of time for limited equity co-ops ought to be looked again towards giving the other types of co-ops the same extension.

Council Action: The Ordinance was accepted at first reading with the understanding that there were several proposals and amendments to be discussed at the October 19th Worksession. (Absent: Mr. Hamilton; absent for vote: Mr. Prensky).

ORDINANCE #1992-36
(Attached)

11. Single Reading Ordinance Authorizing Purchase of Police Vehicles. Mr. Sharp explained that the Ordinance would authorize the purchase of three Crown Victorias for \$38,361 through a cooperative purchasing arrangement set up through a Council of Governments contract. He noted that this amounted to a savings of a little under \$7,000 of the amount budgeted.

The Ordinance was moved by Mr. Leary; seconded by Mr. Johnson.

Mr. Leary said he did not understand the first Whereas Clause statement which read: that the vehicles to be replaced "fall outside the City's fleet criteria guidelines".

Mr. Sharp explained that this meant that these fall out of the criteria for keeping the vehicles.

Mr. Leary suggested that the phrasing was awkward and he proposed an amendment to read: "...Police cars in the existing Police Department vehicle fleet are due for replacement according to the City of Takoma Park Vehicle Fleet Replacement Policy". Mr. Elrich seconded the motion.

Public Works Director Knauf explained that the thrust of the replacement policy was to establish fleet criteria--describing what the Council wanted the fleet to be. He said when a vehicle was outside of that criteria, then replacement would be considered. Mr. Knauf said the policy was established before the budget process and during the budget process, the recommendation was made to replace the three vehicles based on the fact that they were outside of that policy. Mr. Knauf further explained that all three vehicles will have an excess of 60,000 miles.

Citizen Comment

Ms. Dellinger asked what happened to the cars once they obtained 60,000 miles, she suggested that 60,000 miles seemed a very low mileage and she wondered that if a car was in good condition, whether it really needed to be replaced at that mileage. She said each car should be judged by the shape that it was in, rather than by the mileage.

Ms. Habada explained that these would be traded in if the City could get the company to accept trade-in on them. She said in the past, police vehicles would be handed down to other City departments; however this would no longer take place because the fleet replacement policy indicated that once a vehicle has reached its replacement point, it ought to be replaced and not used because of the maintenance costs.

Ms. Porter added that the City also decided to do trade-ins because the cars were police vehicles, they contained heavy duty equipment, i.e., heavy and large engines, and were very fuel inefficient. She said the City was trying to move to smaller, more fuel efficient cars.

Mr. Sharp said when the fleet replacement policy was established, nothing was locked in concrete, although the Council expressed the position raised by Ms. Dellinger. He said as the Public Works Director had stated, the car became a candidate for replacement when it reached 60,000 and that car would be evaluated, and he asked Mr. Knauf if the 1987 diplomats were evaluated.

Mr. Knauf responded that these three vehicles were clearly outside the fleet criteria; they were well beyond 60,000 miles.

Mr. Leary asked if these were the only three police vehicles currently owned by the City which fall outside the guidelines.

Mr. Knauf said there were others, but these were the three in the worst condition. He said that there were nine vehicles which fell outside the established criteria and there were comments in the budget submission which spoke to 2-3 other vehicles also outside the established criteria but which were not recommended for replacement.

Mr. Leary said it was generally agreed that the Council would try its best to follow the criteria, but they recognized that budgetary realities may not always permit that. He said when a vehicle hit 60,000 miles, it was a reminder to staff that the vehicle should be evaluated, and to the extent that resources permitted, it would be replaced.

Mr. Prensky suggested a minor correction to the fourth Whereas Clause to add an "s" to "Council of Governments".

Council Action: The Ordinance was adopted on single reading. (Absent: Mr. Hamilton).

ORDINANCE #1992-37
(Attached)

Without objection, the Council moved to discuss the City Administrator's Update on Action Items while in Council worksession that would immediately follow.

The Council adjourned at 9:31 p.m. to reconvene in Regular Session on October 12, 1992.

Introduced by: Councilmember Prensky

1st Reading: 9/14/92
2nd Reading: 9/29/92
Effective: 9/29/92

ORDINANCE #1992-32

INSTALLATION OF SPEED HUMPS

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

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

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

- (a) Boston Avenue (between Chicago and Takoma), one (1) speed hump to be placed in the 700 block of Boston Avenue at a location to be determined by the Public Works Director. ~~adjacent to 703 Boston Avenue.~~
- (b) Heather Avenue (between Heather and Elm), one (1) speed hump to be placed on Heather Avenue at a location to be determined by the Public Works Director. ~~between 1007 and 1009 Heather Avenue.~~
- (c) Poplar Avenue (between Elm and Circle), two (2) speed humps, one to be placed in the 6700 block of Poplar Avenue at a location to be determined by the Public Works Director. ~~adjacent to 6709 and one to be placed adjacent to 6729 Poplar Avenue.~~

SECTION 2. THAT funds to cover these installations be appropriated from Capital Expenditures, Account 9100-8001.

SECTION 3. THAT this Ordinance becomes effective upon adoption.

ADOPTED BY THE CITY COUNCIL THIS 29th DAY OF September, 1992, BY ROLL CALL VOTE AS FOLLOWS:

AYE: Sharp, Johnson, Leary, Porter, Prensky

NAY: None

ABSTAINED: None

ABSENT: Elrich, Hamilton

filename:BSHEAPOP.SPH

Introduced By: Mayor Sharp

ADOPTED: 9/29/92

Resolution 1992-73

A Resolution appointing nominees to the Community Development Block Grant (CDBG) Advisory Committee of Prince George's County for CDBG Program Year 19.

WHEREAS, Prince George's County has formed a Community Development Advisory Committee (CDAC) to advise the County Executive on how best to spend funds received from the federal Community Development Block Grant (CDBG) Program for Program Year 19; AND

WHEREAS, the City of Takoma Park participates in the Prince George's County CDBG program and has an interest in how these federal funds are spent in the County; AND

WHEREAS, the County Executive has customarily appointed representatives of the City of Takoma park nominated by the Takoma Park Council to serve on the County's CDAC.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF TAKOMA PARK, MARYLAND, THAT the following individuals are hereby nominated to serve on the Community Development Advisory Committee for Prince George's County:

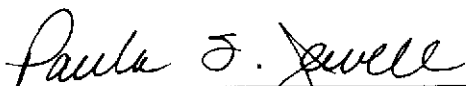
Councilmember Kathy Porter
7500 Maple Avenue
Takoma Park, Maryland 20912

Valerie VinCola (Alternate Representative)
Assistant Director for Special Projects
7500 Maple Avenue
Takoma Park, Maryland 20912

BE IT FURTHER RESOLVED THAT copies of this resolution be transmitted to the County Executive of Prince George's County with a request that these nominees be appointed to the County's CDAC.

ADOPTED THIS 29th DAY OF September 1992.

ATTEST:



Paula S. Jewell, CMC
City Clerk

Introduced by: Councilmember Porter

1st Reading: 7/27/92

2nd Reading: 9/29/92

ORDINANCE NO. 1992-31

Establishing Fee For Collection of Recyclables In Multi-family Dwellings

WHEREAS, Section 10-15 of the Takoma Park Code sets forth fees for the collection and disposal of refuse and recycling from multifamily dwellings; AND

WHEREAS, owners and managers of multifamily dwellings, of up to twelve units, can choose to have City collection or private, commercial refuse collection depending on what meets the needs of the multifamily dwelling; AND

WHEREAS, apartment owners that choose private trash collection, must currently contract with private commercial collectors to establish recycling collection; AND

WHEREAS, the cost for the collection of recyclables from small apartment buildings of six (6) units and less can be substantial; AND

WHEREAS, this substantial cost could act as a disincentive to establishing recycling programs in small multifamily dwellings that have private refuse collection; AND

WHEREAS, the City's recycling collection program can absorb a modest increase in the number of households from which it collects; AND

WHEREAS, by making City recycling collection available to the owners of small apartment buildings that have private, commercial trash collection the City would be encouraging the establishment of recycling programs in Takoma Park.

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

SECTION 1. Chapter 10 (Refuse), Article 3 (Multifamily Unit Refuse Collection), Section 10-15 (Multifamily dwelling units-- refuse fee schedule), of the Takoma Park Code is amended as follows:

Section 10-15. Multifamily dwelling units -- refuse and recycling fee schedule.

(a) The annual fees for collection and disposal of refuse and recyclables placed for collection at the ground level outside the multifamily dwelling in a position easily accessible to the [refuse collector] sanitation personnel or at any point as may be

designated by the Director of Public Works and not more than one hundred (100) feet distant from the side of a street or alley from which the collection is to be made [not more than twice each week] shall be as follows:

(1) [(a)] Multifamily dwellings with two (2) through (10) dwelling units: no fee for the first dwelling unit and one hundred dollars (\$100.00) for each additional dwelling unit.

(2) [(b)] Multifamily dwellings with eleven (11) or more dwelling units: no fee for the first dwelling unit and ninety dollars (\$90.00) for each additional dwellings unit.

(b) The annual fee for the collection of recyclables only, placed at a collection point designated by the Director of Public Works, from multifamily dwellings of six (6) units or less, shall be fifty dollars (\$50.00) for each unit, except the first unit, which shall be collected at no charge.

SECTION 2. This Ordinance shall be effective on adoption.

Adopted this 29th day of September, 1992, by roll call vote as follows:

AYES: Sharp, Johnson, Leary, Porter, Prensky

NAYS: none

ABSTAINED: none

ABSENT: Elrich, Hamilton

Note: In this Ordinance:

1. Underlining indicates additions to the existing Code language.
2. [brackets] indicates existing matter being deleted from the Code language

Introduced by: Councilmember Porter

Drafted by: L. Perlman

1st Reading: 9/14/92

2nd Reading: 9/29/92

Effective Date: 9/29/92

ORDINANCE NO. 1992 -34

Authority to Install Traffic Control Signs and Devices

WHEREAS, current law requires the Council to designate the locations in the City of Takoma Park for the placement of traffic control signs and devices; and

WHEREAS, the Council feels that the determination of the locations for traffic control signs and devices is an administrative function which can be better carried out by the City Administrator and that the standards and procedures for the installation and maintenance of traffic control signs and devices should be set forth in regulations; and

WHEREAS, the Council desires to transfer responsibility for the location of traffic control signs and devices to the City Administrator and to authorize the City Administrator to promulgate regulations to govern the installation and maintenance of traffic control signs and devices in the City.

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

Section 1. Chapter 13, Vehicles and Traffic, Article 8, Traffic Signs, of the Takoma Park Code is amended as follows:

Sec. 13-70. Erection and maintenance of traffic signs.

~~In the regulation and supervision of traffic, the Director of Public Works is authorized to place, erect and maintain upon and along the public highways of the City those traffic signs and devices and the Mayor and Council have or may direct, at the locations designated by the Mayor and Council.~~

(a) On every highway and parking area under the jurisdiction of the City of Takoma Park, the City Administrator shall place and maintain those traffic control signs and devices that he or she considers necessary to regulate traffic and parking and for the safety or control of vehicular or pedestrian traffic.

[[(b) All traffic control signs and devices shall conform to the most recent edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways" with regard to design, color, size and placement.]]

(b) ~~[[(c)]]~~ The City Administrator shall issue appropriate ~~[[is authorized to adopt]]~~ regulations for the placement, installation, and maintenance of traffic control signs and devices in the City of Takoma Park.

Section 2. Effective Date.

This Ordinance shall be effective immediately.

Adopted this 29th day of September, 1992 by roll call vote as follows:

Aye: Sharp, Johnson, Leary, Porter
Nay: None
Abstained: None
Absent: Elrich, Hamilton (for vote: Prensky)

NOTE: Shading means language added to the Takoma Park Code. ~~Strikeout~~ means language deleted from the Takoma Park Code.

~~[[double brackets]]~~ indicate language deleted from the Ordinance at first reading and double underlining indicates language added at first reading.

corr175/kw
install.ord

Introduced By: Councilmember Johnson
(Drafted By: T. W. Hobbs)

1st Reading: 9/14/92
2nd Reading: 9/29/92

ORDINANCE #1992-33

AN ORDINANCE TO AMEND THE CITY CODE
SECTION 8B-107. MERIT PRINCIPLES
SECTION 8B-142. EMPLOYMENT POLICY

WHEREAS, the Americans With Disabilities Act (ADA) of 1990 prohibits employment discrimination on the basis of disability; AND

WHEREAS, the current City Code, Section 8B-107, provides for equal employment opportunity for "handicapping conditions" and should be amended to change "handicapping conditions" to "disability"; AND

WHEREAS, Section 8B-142 is a restatement of the policy contained in Section 8B-107 and therefore is redundant.

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

SECTION 1. THAT Section 8B-107 of the Takoma Park City Code is amended as follows:

Merit principles.

(4) The city should treat all employees and applicants for employment fairly and equitably in all aspects of personnel management. Political affiliation, race, color, religion, national origin, sex, ancestry, marital status, age, sexual orientation, and [handicapping condition] disability are not relevant to their treatment. The city must give proper regard for their privacy and constitutional rights.

SECTION 2. THAT Section 8B-142, Employment Policy, of the Takoma Park City Code is redundant and therefore deleted from the Takoma Park City Code.

SECTION 3. THAT this Ordinance becomes effective upon adoption.

Note: Underlining indicates new material to be added to existing code language.

[] indicates matter to be deleted from existing code.

ADOPTED BY THE CITY COUNCIL THIS 29th DAY OF SEPTEMBER, 1992 BY ROLL CALL VOTE AS FOLLOWS:

AYE: Sharp, Johnson, Leary, Porter, Prensky

NAY: None

ABSTAINED: None

ABSENT: Elrich, Hamilton

Introduced by: Councilmember Prensky

1st Reading: 9/14/92

2nd Reading: 9/29/92

ORDINANCE #1992-35

ESTABLISHING A FEE FOR PLACEMENT OF DUMPSTERS
IN CITY RIGHT-OF-WAYS

WHEREAS, Chapter 11, Article 4, "Streets - Obstruction and Protection of Streets" of the Takoma Park Code outlines certain provisions for protecting roadways from damage by excavation debris; AND

WHEREAS, dumpsters used to haul debris from construction and excavation sites, can threaten the convenience and safety of persons who use the City right-of-ways and pose a hardship on the City's infrastructure; AND

WHEREAS, there is a need to regulate the placement of these dumpsters on Takoma Park right-of-ways.

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

SECTION 1. THAT Takoma Park Code Chapter 11, Article 4, "Streets - Obstruction and Protection of Streets" is hereby amended by the addition of a new Section 11-33 "Permit required to place construction dumpsters in public streets".

Sec. 11-33. Permit required to place construction dumpsters in public streets.

No person without a permit shall park or cause to be parked on a City right-of-way, a dumpster for the purpose of storing and hauling construction and excavation debris without first having obtained a permit from the Clerk. To obtain a permit, the applicant must submit plans to the Clerk bearing the approval from the Director of Public Works. A violation of this section is a Class B offense.

(Sec. 11-33 and Sec. 11-34 are to be renumbered accordingly.)

SECTION 2. THAT Takoma Park Code Chapter 7, Sec. 7-1, "Licenses and Permits - Schedule of License and Permit Fees" is hereby amended by the addition of a provision for dumpster placement as follows:

<u>Regulated Activity</u>	<u>License Required</u>	<u>Permit Required</u>	<u>Fee</u>	<u>Insurance Or Bond</u>
Streets:				
Alter or Change		§ 11-25	\$10.00	§ 11-27
Driveway construction		§ 11-26	\$10.00	§ 11-27
<u>Dumpster Placement</u>		<u>§ 11-33</u>	<u>\$25.00</u>	<u>N/A</u>
Excavation		§ 11-28	N/A	N/A
Fencing		§ 11-30	N/A	N/A
Vent or door in Street		§ 11-29	N/A	N/A

SECTION 4. THAT underlining in this Ordinance indicates additional language to be added to the Takoma Park Code.

SECTION 5. THAT this Ordinance shall become effective immediately upon adoption.

Adopted this 29th day of September, 1992 by Roll Call Vote as follows:

AYE: Sharp, Johnson, Leary, Porter, Prensky
 NAY: None
 ABSTAINED: None
 ABSENT: Elrich, Hamilton

filename: ORDINANC\DUMPSTER.FEE

Introduced By: Mayor Sharp

ADOPTED: SEPTEMBER 29, 1992

Resolution No. 1992-74

A Resolution to Schedule a Public Hearing
to Consider Opening/Closing Glengary Place

WHEREAS, the City Council wishes to initiate consideration of opening/closing of Glengary Place pursuant to Chapter 11, Takoma Park City Code; AND

WHEREAS, the above-referenced provision of the City Code requires that the City hold a hearing on the matter within 45 days of initiation of this consideration;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT, the City Council hereby schedules the hearing for this matter for Monday, November 9, 1992, at 8:00 p.m.

BE IT FURTHER RESOLVED THAT the City Administrator is hereby directed to publish a notice of the hearing in the October/November City Newsletter, to request comments from the appropriate agencies, and to provide written notice at least 14 days in advance of the hearing to every person who has a financial interest in property or lives on property within two hundred (200) feet of the right-of-way, as outlined in the City Code.

BE IT FURTHER RESOLVED THAT the City Administrator is also directed to provide written notice of the hearing at least 14 days in advance to homeowners and residents of properties fronting on Heather Avenue between Sligo Creek Parkway and Glengary Place, and to homeowners and residents of properties fronting on Sligo Creek Parkway between Heather Avenue and Glengary Place.

ADOPTED THIS 29TH DAY OF SEPTEMBER, 1992.

1st Reading: 9/29/92
2nd Reading:
Effective:

ORDINANCE NO. 1992 - 36

TENANT OPPORTUNITY TO PURCHASE
(CHAPTER 6, ARTICLE 8 OF THE TAKOMA PARK CODE)

WHEREAS It is in the interests of the general welfare of the citizens of the City of Takoma Park that permanent residency be encouraged and affordable housing maintained; AND

WHEREAS The current Tenant Opportunity to Purchase law was enacted to assure that tenants and tenant associations have the first opportunity to buy their rental housing when it becomes available for purchase; AND

WHEREAS Takoma Park tenants and tenant associations continue to welcome the opportunity to purchase the property in which they live; AND

WHEREAS Tenants and tenant associations still often do not know when an owner wishes to sell a rental facility until sale to a third party has already occurred; AND

WHEREAS The City Council continues to desire to give tenants and tenant associations in Takoma Park the first opportunity to purchase their rental property for long-term or permanent use and to assure that tenants and tenant associations actually receive the earliest possible notification that their rental facility is available for purchase; AND

WHEREAS It is the intent of the City Council to provide a more workable law for tenants and tenant associations to take advantage of these rights.

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

SECTION 1. THAT Chapter 6, Article 8 of the City Code is hereby repealed and simultaneously reenacted as set forth below:

TAKOMA PARK CODE

CHAPTER 6. HOUSING, ARTICLE 8.
TENANT OPPORTUNITY TO PURCHASE.

Section 6-100.	Definitions.	1
Section 6-101.	Providing Opportunity to Purchase.	4
Section 6-102.	Applicability.	5
Section 6-103.	Contract Rights of Tenants	7
Section 6-104.	Voiding of Sale for Noncompliance; Payment of Attorney's Fees.	7
Section 6-105.	Notice of Valid Offer of Sale.	7
Section 6-106.	Obligations Upon Foreclosure.	9
Section 6-107.	Good Faith Bargaining.	10
Section 6-108.	Deposits.	11
Section 6-109.	Third Party Contracts and Tenants' Right to Purchase.	11
Section 6-110.	Exercise or Assignment of Rights.	12
Section 6-111.	Waiver of Rights.	13
Section 6-112.	Single-family Rental Facilities.	13
Section 6-113.	Rental Facilities with Two through Four units.	14
Section 6-114.	Rental Facilities with Five (5) through Twenty (20) Units.	16
Section 6-115.	Rental Facilities with more than Twenty (20) Units.	20
Section 6-116.	Time Periods.	24
Section 6-117.	Retaliatory Action.	24
Section 6-118.	Enforcement.	25
Section 6-119.	Violations and Penalties; Severability.	26

September 25, 1992

Section 6-100. Definitions.

(a) "Cooperative interest" means the ownership interest in a cooperative housing corporation which entitles the shareholder or member of a cooperative housing corporation to possessory use of real or personal property or both owned or leased by a cooperative housing corporation primarily for residential use.

(b) ~~"Director"~~ "City Administrator" means the ~~Director of the Department of the Takoma Park Housing and Community Development~~ City Administrator of the City of Takoma Park, Maryland or his or her designee, unless otherwise indicated.

(c) "Domestic Partners" means persons who have lived together for at least one (1) year and who consider themselves to be in a committed relationship or hold themselves out as being in a committed relationship, or, if they have lived together for less than one (1) year, can show other indicia of a committed relationship. A person is not a "domestic partner" if he/she has moved in with the owner for the purpose of obtaining rights under this Article.

(d) "Dwelling" means a building which is occupied in whole or in part as the home, residence, or sleeping place of one (1) or more tenants; but shall not be construed to mean any transient facilities such as boarding houses, tourist homes, inns, motels, hotels, school dormitories, hospitals, nursing homes, or other medical facilities operated for religious or charitable purposes.

(e) "Family member" means any spouse, former spouse, domestic partner, former domestic partner, parent, sibling, or child.

(f) "Limited equity housing cooperative" means a cooperative housing corporation, either domestic or foreign qualified in the State of Maryland, either stock or non-stock, in which each shareholder or member has a cooperative interest in the corporation and in which the appreciation of share values or membership interests is limited to the annual rate of inflation or other comparable index.

(g) "Owner" means any natural person or legal entity, such as a corporation, limited partnership, partnership or joint venture, which has a legal or beneficial interest in a rental facility or has the legal right to act for or instead of one who has such legal or beneficial interests. The term "owner" includes trustees in bankruptcy but does not include trustees of a mortgagee or its successors or assigns. The term "owner" does, however, include a mortgagee or lender who has purchased a rental facility at a foreclosure sale or who has accepted a deed in lieu of foreclosure.

(h) "Put on the market for sale" means any of the following: signing a listing contract with a real estate broker; posting a "for sale" sign on or near the property; placing an advertisement to sell or trade the property in any newspaper, newsletter or other means of written, audio or video communication; or entering into a sales contract for the rental

unit or for the property which includes the rental unit with a natural person, corporation, partnership or other entity that is not a tenant in the rental unit or is not composed of tenants in the rental unit or their assigns. For rental facilities owned by a corporation, the term "put on the market for sale" includes the contemplated transfer of the majority of the outstanding shares of stock in the corporation. For rental facilities owned by any other business entity, the term "put on the market for sale" means the contemplated transfer of a majority interest in the business entity.

(i) "Rental facility" means any dwelling, structure, or combination of related structures and appurtenances, operated as a single entity in which one (1) or more rental units exists.

(j) "Rental unit" means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities for living, sleeping, cooking, and eating. The term "rental unit" also includes a rooming unit comprised of any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating.

(k) "Sale" means the transfer for consideration and does not include transfer by will, intestate succession, gift or by deed given in lieu of foreclosure but does include a trade of real property for other real or personal property. Consideration may include money, the transfer of other valuable assets or the giving or assuming of a promissory note or other financial

obligation. For rental facilities owned by a corporation, the term "sale" includes the transfer of the majority of the outstanding shares of stock in the corporation. For rental facilities owned by any other business entity, the term "sale" means the transfer of a majority interest in the business entity. The term "sale" also means the leasing of the entire rental facility to one lessee which shall include any natural person or business entity, such as a corporation, limited partnership or joint venture, which has a legal or beneficial interest in the rental facility or has the legal right to act for or instead of one who has such a legal or beneficial interest.

(l) "Tenant" means any person who occupies a rental unit for living or rental purposes with the consent of the owner or the owner's agent.

(m) "Tenant association" means an organization whose members represent tenants in at least one-third (1/3) of the rental units in a rental facility, excluding those rental units for which there has been no tenant for the previous ninety (90) days.

Section 6-101. Providing Opportunity to Purchase.

(a) If the sale of a rental facility is within the coverage of Section 6-102, before an owner of a rental facility may go to closing on the sale of the rental facility or issue a notice to quit in a case in which the owner is either contemplating sale of the rental facility within six (6) months or has put the rental facility on the market for sale, the owner

shall give all tenant(s) an opportunity to purchase the rental facility at a price and on terms which constitute a valid offer of sale in accordance with the requirements of Section 6-105 below.

(b) If any property decreases in the number of rental units in connection with a sale, each tenant in the rental facility shall be entitled to all rights under this Article, and the owner may choose which contract, if any, to accept. The number of rental units after the decrease shall determine whether the provisions of Section 6-112, 6-113, 6-114 or 6-115 apply.

Section 6-102. Applicability.

(a) All rental units in the City of Takoma Park are covered by this Article except for the following:

(1) Single-family dwellings and rental facilities containing less than five (5) rental units sold to a family member, provided that the family member intends to occupy the single-family dwelling or one (1) unit in the rental facility as his/her primary place of residence within thirty (30) days of the sale. The burden of proof is on the owner to prove the family member relationship and the bona fide intention to occupy. If the family member purchasing the property at the time of sale or any time thereafter decides to convert the remaining rental units into condominiums or cooperatives, he or she must offer the existing tenants at the rental facility the opportunity to purchase and

otherwise fully comply with the provisions of this Article.

(2) Accessory apartments which are defined as a second or third rental unit either in or added to an existing owner-occupied, one family residence located in a single-family zone (R-60 if in Montgomery County, R-55 if in Prince George's County), or in a separate accessory structure on the same lot as an owner-occupied, one-family residence used as a complete, independent living facility with provisions within the accessory apartment for cooking, eating, sanitation, and sleeping. The accessory apartment also must be an accessory use to the one-family residence.

(3) All rental units under a contract of sale which was executed prior to November 10, 1986, the effective date of this Article.

(b) PROVIDED, however, that all owners of rental facilities excluded from coverage under Section 6-102 (a) (1), (2) and (3) must notify all tenants by a written notice either sent by regular mail or personally delivered to the tenant at the rental address when they put the property on the market for sale or when they accept a contract to sell the property, whichever occurs first.

Section 6-103. Contract Rights of Tenants

The tenant rights given by this Article shall be implied by operation of law into every existing or future lease or other landlord-tenant contract for property covered by this Article.

Section 6-104. Voiding of Sale for Noncompliance; Payment of Attorney's Fees.

If an owner does not comply with any requirement of this Article in connection with the sale of a rental facility covered by this Article, such sale shall be voidable, and reasonable attorney's fees shall be awarded to the prevailing party or parties in any action to enjoin or void the sale. In addition, reasonable attorney's fees shall be awarded to the prevailing party or parties in any action for breach of contract arising under this Article.

Section 6-105. Notice of Valid Offer of Sale.

(a) **Notice of a** A valid offer of sale shall be in writing by the owner and shall include, at a minimum, the following:

(1) The asking price and material terms of the sale;

(2) A statement that the tenant has the right to purchase the rental facility under this Article.

(3) A statement as to whether a contract with a third-party currently exists for the sale of the rental facility. If such a third-party contract does exist, a true and complete copy of it shall be attached to the written offer.

(4) A statement that the owner will make available to the tenant, within seven (7) days of receiving a request for the information, a floor plan of the building, an itemized list of monthly operating expenses for the two preceding years, utility consumption rates for each of the two preceding years, capital expenditures for each of the two preceding years, the most recent rent roll, a list of tenants, and a list of vacant apartments.

(b) The owner shall send, by first class mail or personally deliver, a copy of ~~this~~ the notice of a valid offer of sale to: (1) each tenant; ~~to~~ (2) the President and Secretary of each tenant association in the rental facility; and ~~to~~ (3) the ~~Director~~ City Administrator. In addition, a copy of the written notice shall be posted in a conspicuous place in the common area of any rental facility.

(c) ~~The Notice of the~~ valid offer of sale shall be mailed or personally delivered as provided in subsection (b) above no later than ~~either~~ of whichever occurs first:

- (1) The date the rental facility is put on the market for sale, as that term is defined in Section 6-100 (g); or
- (2) The date an offer to purchase the rental facility is accepted by the owner.

(d) Persons whose tenancy begins after the notice of a valid offer of sale has been made by the owner, but before the sale of the rental facility occurs, shall be supplied by either first class mail or personal delivery with the notice of a valid

*Handwritten
grammatical
correction*

offer of sale within seven days of the commencement of their tenancy. The delivery of a **the notice of a** valid offer of sale to persons whose tenancy begins after the **notice of a** valid offer of sale has been made as provided in subsection (b) above shall not extend the time periods specified in Sections 6-112, 6-113, 6-114, and 6-115 for a tenant or tenant's association to respond to an owner's offer.

(e) An offer of sale is not valid unless the data and information required in Subsection (a)(4) above is actually supplied to any tenant(s) or tenant association if requested.

Section 6-106. Obligations Upon Foreclosure.

(a) An owner of a rental facility who receives a notice of the docketing of a foreclosure action must, within five (5) days of receipt of the notice, post a copy of the notice on the door of a single-family dwelling or in a prominent place in the common area and on the door of each rental unit of a larger rental facility.

(b) An owner of a rental facility in foreclosure must supply to the lender's trustees, no later than the end of any period during which the owner has the right to redeem the property, all information necessary under Section 6-105 of this Article.

(c) A lender's trustees who are foreclosing on a rental facility must give notice of the time, place, and terms of sale to the tenants in the rental facility, by posting such a notice

on the door of a single-family dwelling or in a prominent place in the common area and on the door of each rental unit of a larger rental facility, and also must provide such notice to any tenant association in such a building, by mailing or personally delivering such a notice to the President and Secretary of any such association and to the ~~Director~~ **City Administrator**, within the time frame currently applicable under state law or court rules for giving notice of such information to the present record owner of the property.

Section 6-107. Good Faith Bargaining.

(a) The tenant(s) or tenant association and owner shall bargain in good faith for the sale of the rental facility. The following constitutes prima facie evidence of bargaining without good faith:

(1) The failure of an owner to offer the tenant(s) or tenant association a price or terms at least as favorable as that offered to a third party, within the time period specified in Section 6-112, 6-113, 6-114, and 6-115, respectively, without good cause for so doing;

(2) The failure of an owner to accept an offer from tenant(s) or tenant association which substantially conforms to the price and material terms of a third party contract, within the time period specified in Section 6-112, 6-113, 6-114, and 6-115, respectively, without good cause for so doing; or

(3) The failure of a tenant, tenant association or owner to comply with the provisions of this Article without good cause.

(b) All owners, tenant(s), and tenant associations are presumed to be aware of the provisions of this Article, and lack of knowledge of the law is not good cause under this Section.

Section 6-108. Deposits.

In order to make a contract, the owner may require the tenant(s) or tenant association to pay a deposit of up to five percent (5%) of the contract sales price for a single-family dwelling; up to four percent (4%) of the contract sales price for rental facilities with two through four rental units; up to three percent (3%) of the contract sales price for rental facilities with five through twenty rental units; and up to two percent (2%) of the contract sales price for rental facilities with more than twenty rental units. The deposit shall be refundable in the event of failure of the tenant(s) or tenant association to perform under the contract, despite good faith efforts.

Section 6-109. Third Party Contracts and Tenants' Right to Purchase.

(a) Whenever an owner enters into a contract with a third party to purchase a rental facility, the owner shall immediately send by first class mail or personally deliver a true and complete copy of this contract to all tenants in single-family dwellings and two- to four-unit rental facilities and to all

tenants and tenant associations in rental facilities with more than four rental units. The contract shall also be mailed or personally delivered to the ~~Director~~ City Administrator.

(b) The tenant(s) or tenant association has fifteen days from the receipt of the contract in which to offer to purchase the rental facility on terms substantially the same as those in the third party contract. If the third party contract is received by the tenant(s) or tenant association prior to or during the negotiation periods specified in Section 6-112, 6-113, 6-114, or 6-115, respectively, the fifteen-day period shall not begin to run until the end of the specified negotiation period.

(c) All contracts with third parties shall be contingent on the rights of the tenant(s) or tenant association to purchase under this Article. The time periods for negotiation of a contract of sale and for settlement under this Article are minimum periods, and the owner may afford the tenant(s) or tenant association a reasonable extension of such time, without liability under a third party contract. Third party purchasers are presumed to act with full knowledge of tenant rights under this Article.

Section 6-110. Exercise or Assignment of Rights.

Tenants or a tenant association may exercise rights under this Article in conjunction with a third party or public agency, provided that the tenant or tenant association involved in the purchase must retain at least a twenty-five percent (25%)

interest in the property. ~~This provision may be waived by the Director if the rental facility is to be converted into housing units for low and moderate income renters or homeowners.~~ The tenants and all tenant association members must agree to maintain their ownership interest in the property for at least one (1) year after purchase, and to reside in the property for at least one (1) year after purchase. Notwithstanding the foregoing, a tenant may sell or lease his interest in the property prior to one (1) year after purchase due to an involuntary change of employment from the Washington metropolitan area, death of a major wage earner, unemployment, or other reasons beyond the tenant's control.

Section 6-111. Waiver of Rights.

An owner shall not request, and tenants or a tenant association may not grant, a waiver of the right to receive a valid offer of sale or any other right under this Article. Any such purported waiver of rights shall be void and of no effect.

Section 6-112. Single-family Rental Facilities.

The following provisions apply to single-family rental facilities:

- (1) Upon receipt of a valid written offer of sale from the owner, the tenant shall have fifteen (15) days to deliver to the owner and to the ~~Director~~ City Administrator a written statement of interest. The statement of interest

must be a clear expression of interest on the part of the tenant to exercise the right to purchase as specified in this Article.

(2) The contract of sale shall specify a reasonable period, considering current market conditions, between execution of the contract of sale and settlement for the tenant to secure financing or financial assistance; this time period shall be at least 60 days.

(3) If 180 days elapse from the date an owner has given a valid offer of sale to a tenant under this Article and the owner has not sold or entered into a contract of sale for the rental facility, the owner shall comply anew with the provisions of this Article before selling the property.

Section 6-113. Rental Facilities with Two through Four units.

The following provisions apply to rental facilities with two through four rental units:

(a) The tenants may respond to an owner's offer first jointly, then individually. Upon receipt of a valid written offer of sale from the owner, a group of tenants acting jointly shall have fifteen days to deliver to the owner and to the ~~Director~~ City Administrator, a written statement of interest. Following this fifteen-day period, each individual tenant, who also may be one of the group of tenants acting jointly, shall have five days to deliver to the owner and to the ~~Director~~ City

~~Administrator~~ a written statement of interest. The statement of interest must be a clear expression of interest on the part of the tenant or tenant association to exercise the right to purchase as specified in this Article.

(b) The tenants shall have a reasonable period within which to jointly negotiate a contract of sale with the owner; this time period shall be at least forty-five (45) days from the date of delivery to the owner and the ~~Director~~ ~~City Administrator~~ of a statement of interest. For every day of delay by the owner in providing information as required by this Article, the negotiation period is extended by one (1) day.

(c) If, at the end of the forty-five (45) day period and all extensions thereof, the tenants have not jointly contracted with the owner for purchase of the property, each individual tenant who has delivered a statement of interest to the owner and to the ~~Director~~ ~~City Administrator~~ shall then have fifteen (15) days within which to contract with the owner for the purchase of the rental facility.

(d) The contract of sale shall specify a reasonable period, considering current market conditions, between the execution of the contract of sale and settlement for the tenant to secure financing or financial assistance; this time period shall be at least ~~sixty ninety~~ (90) days. If a lending institution or agency estimates in writing that a decision with respect to financing or financial assistance will be made within one hundred twenty (120)

days after the date of contracting, the owner shall afford an extension of time consistent with that written estimate.

(e) If two hundred forty (240) days elapse from the date an owner has given a valid offer of sale to tenants under this Section and the owner has not sold or entered into a contract of sale for the rental facility, the owner shall comply anew with the provisions of this Article before selling the property.

Section 6-114. Rental Facilities with Five (5) through Twenty (20) Units.

The following provisions apply to rental facilities with five (5) through twenty (20) rental units.

(a) The tenants may respond to an owner's offer only through a tenant association which is organized in such a manner that the organization has the capacity to hold real property. Following receipt of a valid offer of sale by all of the tenants in the rental facility, the tenants have thirty (30) days within which to form an organization with the capacity to hold real property, including, if the chosen form is a corporation, filing articles of incorporation, electing officers and adopting bylaws or, if the chosen form is that of a limited partnership, filing limited partnership articles in accordance with the laws of State of Maryland or, if the chosen form is a partnership, entering into a written partnership agreement.

(b) Within these thirty (30) days, the tenant association shall:

(1) Deliver to the ~~Director~~ ~~City Administrator~~ the ~~and the~~ owner a written statement of interest. The statement of interest must be a clear expression of interest on the part of the tenant or tenant association to exercise the right to purchase as specified in this Article.

(2) Deliver to the ~~Director~~ ~~City Administrator~~ and the owner a copy of its articles of incorporation, articles of limited partnership or partnership agreement.

(3) File with the ~~Director~~ ~~City Administrator~~ and personally deliver or send by regular mail to the owner a registration form listing the name, address and telephone number of tenant officers and legal counsel or other representative, if any, documentation that a tenant association represents at least one-third (1/3) of the occupied rental units as of the time of registration, and such other information as the ~~Director~~ ~~City Administrator~~ shall require.

(c) Registration is complete upon delivery to the Department of Housing and Community Development of a complete and properly filled out registration form. Upon registration, the tenant association becomes the sole representative of the tenants, and the prior offer of sale is deemed an offer to the organization.

(d) The tenant association shall have a reasonable period within which to negotiate a contract of sale with the owner; this time period shall be at least one hundred twenty (120) days from

the date of receipt of the registration form by the owner. For every day of delay by the owner in providing information as required by this Article, the negotiation period is extended by one (1) day

(e) The contract of sale shall specify a reasonable period, considering current market conditions, between execution of the contract of sale and settlement for the tenant association to secure financing or financial assistance; this time period shall be at least one hundred twenty (120) days. If a lending institution or agency estimates in writing that a decision with respect to financing or financial assistance will be made within two hundred forty (240) days after the date of contracting, the owner shall afford an extension of time consistent with that written estimate;

(1) If the tenant association, by its articles of incorporation or resolution adopted by the Board of Directors, by its articles of limited partnership, or by its partnership agreement, provides that the purpose of the tenant association is to convert the rental facility to a limited equity housing cooperative, then the owner shall afford the tenant association not less than one hundred eighty (180) days after the date of contracting in order to secure financing or financial assistance or such additional time as required by this Section;

(2) If the purpose of the tenant association is to convert the rental facility to a limited equity housing

cooperative housing corporation pursuant to Subsection (1) above, the owner shall assist the tenant association in converting the rental facility to a limited equity housing cooperative. Toward this end, at any time after execution of a contract of sale and at the written request of the tenant association, the owner shall provide any and all notices required under the Maryland Cooperative Housing Corporation Act, under Chapter 11C, Cooperative Housing, of the Montgomery County Code; and under any other applicable or successor provisions of state and county law to all tenants at the rental facility and to all applicable government agencies. Such notices and any related documentation or offers of sale shall be prepared solely by the tenant association, and all costs associated with the publication and distribution of such notices shall be the sole responsibility of the tenant association. The tenant association agrees to indemnify and hold harmless the owner from liability for any loss or damage suffered as a direct result of the giving of such notices.

(f) If ~~four hundred fifty (450)~~ **three hundred sixty-five** **(365)** days elapse from the date an owner has given a valid offer of sale to tenants under this Article and the owner has not sold or entered into a contract of sale for the rental facility, the owner shall comply anew with the provisions of this Article before selling the property. In such a case, the tenant association shall also comply anew for the delivery of

registration statement requirements of this Section. The original legal documents creating the tenant association corporation, limited partnership, or partnership remain effective unless defective under their own terms or other provisions of law.

Section 6-115. Rental Facilities with more than Twenty (20) Units.

The following provisions apply to rental facilities with twenty-one (21) or more rental units:

(a) The tenants may respond to an owner's offer only through a tenant association which is organized in such a manner that the organization has the capacity to hold real property. Following receipt of a valid offer of sale by all of the tenants in the rental facility, the tenants have ~~forty-five (45)~~ **sixty (60)** days within which to form an organization with the capacity to hold real property, including, if the chosen form is a corporation, filing articles of incorporation, electing officers and adopting bylaws or, if the chosen form is that of a limited partnership, filing limited partnership articles in accordance with the laws of State of Maryland or, if the chosen form is a partnership, entering into a written partnership agreement.

(b) Within these ~~forty-five (45)~~ **sixty (60)** days, the tenant association shall:

(1) Deliver to the ~~Director~~ **City Administrator** and the owner a written statement of interest. The statement of interest must be a clear expression of interest on the part

of the tenant or tenant association to exercise the right to purchase as specified in this Article.

(2) Deliver to the ~~Director~~ City Administrator and the owner a copy of its articles of incorporation, articles of limited partnership or partnership agreement.

(3) File with the ~~Director~~ City Administrator and personally deliver or send by regular mail to the owner a registration form listing the name, address and telephone number of tenant officers and legal counsel or other representative, if any, documentation that a tenant association represents at least one-third (1/3) of the occupied rental units as of the time of registration, and such other information as the ~~Director~~ City Administrator shall require.

(c) Registration is complete upon delivery to the Department of Housing and Community Development of a complete and properly filled out registration form. Upon registration, the tenant association becomes the sole representative of the tenants, and the prior offer of sale is deemed an offer to the organization.

(d) The tenant association shall have a reasonable period within which to negotiate a contract of sale with the owner; this time period shall be at least one hundred ~~twenty~~ eighty (180) days from the date of receipt of the registration form by the owner. For every day of delay by the owner in providing

information as required by this Article, the negotiation period is extended by one (1) day.

(e) The contract of sale shall specify a reasonable period, considering current market conditions, between execution of the contract of sale and settlement for the tenant association to secure financing or financial assistance; this time period shall be at least one hundred twenty (120) days. If a lending institution or agency estimates in writing that a decision with respect to financing or financial assistance will be made within two hundred forty (240) days after the date of contracting, the owner shall afford an extension of time consistent with that written estimate;

(1) If the tenant association, by its articles of incorporation, or resolution adopted by the Board of Directors, by its articles of limited partnership, or by its partnership agreement, provides that the purpose of the tenant association is to convert the rental facility to a limited equity housing cooperative, then the owner shall afford the tenant association not less than one hundred eighty (180) days after the date of contracting in order to secure financing or financial assistance or such additional time as required by this Section;

(2) If the purpose of the tenant association is to convert the rental facility to a limited equity housing cooperative pursuant to Subsection (1) above, the owner shall assist the tenant association in converting the rental

facility to a limited equity housing cooperative. Toward this end, at any time after execution of a contract of sale and at the written request of the tenant association, the owner shall provide any and all notices required under the Maryland Cooperative Housing Corporation Act, under Chapter 11C, Cooperative Housing, of the Montgomery County Code, and under any other applicable or successor provisions of state and county law to all tenants at the rental facility and to all applicable government agencies. Such notices and any related documentation or offers of sale shall be prepared solely by the tenant association, and all costs associated with the publication and distribution of such notices shall be the sole responsibility of the tenant association. The tenant association agrees to indemnify and hold harmless the owner from liability for any loss or damage suffered as a direct result of the giving of such notices.

(f) If ~~four hundred fifty (450)~~ **three hundred sixty-five (165)** days elapse from the date an owner has given a valid offer of sale to tenants under this Article and the owner has not sold or entered into a contract of sale for the rental facility, the owner shall comply anew with the provisions of this Article before selling the property. In such a case, the tenant association shall also comply anew with the delivery of registration statement requirements of this Section. The original legal documents creating the tenant association corporation, limited partnership, or partnership remain effective

unless defective under their own terms or other provisions of law.

Section 6-116. Time Periods.

(a) If a time period running under this Article ends on a Saturday, Sunday, or legal holiday for the State of Maryland, the time period is extended until the next day which is not a Saturday, Sunday or legal holiday.

(b) If a sale of a rental facility covered by this Article is made or contemplated in connection with conversion of the dwelling to condominiums, cooperative housing or, for rental facilities in Montgomery County, in connection with a conversion of a rental facility as defined in Section 53A-2 of the Montgomery County Code, the time limits for offering the rental facility for purchase to tenants under this Article shall apply before the owner is required to offer the applicable county and/or its designated housing agency the right to purchase the rental facility under the terms of applicable state and/or county law dealing with condominiums and cooperative housing.

Section 6-117. Retaliatory Action.

(a) No owner may take retaliatory action against any tenant or group of tenants who exercise any rights conferred upon him or her by this Article. For the purposes of this Section, "retaliatory action" means eviction, threat of eviction, violation of privacy, harassment, reduction in quality or

quantity of services not authorized by law, and any form of threat or coercion.

(b) An owner shall be presumed to have taken retaliatory action if:

(1) A no-cause notice to quit and vacate is issued to a tenant within ninety (90) days before the rental facility is put on the market for sale, before a valid offer of sale should have been made to tenants, or before a third party contract for the purchase of the rental facility is signed; or

(2) After the rental facility is put on the market for sale, a no cause notice to quit and vacate is issued to any tenant who has not received a valid offer of sale under Section 6-105 of this Article.

Section 6-118. Enforcement.

(a) An owner, tenant, or tenant association may seek enforcement of any right or provision under this Article through a civil action filed with a court of competent jurisdiction and, upon prevailing, shall be entitled to an award of reasonable attorney's fees and costs.

(b) In addition to the above, the ~~Director~~ ~~City~~ ~~Administrator~~ or his/her designated representative may conduct reviews to monitor compliance with and take all appropriate action to enforce the provisions of this Article.

(c) In addition to any other remedy or enforcement measure herein provided, any of the following persons may seek, and any court of competent jurisdiction may (a) issue restraining orders and/or temporary or permanent injunctions if the plaintiff is found likely to succeed on the merits of a complaint against an owner for violation of the provisions of this Article and/or (b) declare any transfer in which an owner has not complied with all requirements of this Article void and the transfer of documents thereto set aside.

(1) Any tenant or tenant association of the rental facility,

(2) Any former tenant who, within ninety (90) days prior to filing suit, has either left the rental facility after being served with a no cause notice to quit and vacate or has been evicted from the rental facility pursuant to such a notice;

(3) Any third party or public agency working with the tenants or tenant association pursuant to Section 6-110.

Section 6-119. Violations and Penalties; Severability.

Municipal Infractions. Any person or legal entity which violates any provision of this Article shall be guilty of a Class A offense and subject to a fine of \$400.00 for the initial offense and \$400.00 for repeat offenses. A separate citation for a municipal infraction may be issued for each day the violation is in existence.

(a) If any provision of this Article, or any section, sentence, clause, phrase or word or the application thereof in any circumstance is held to be invalid, the validity of the remainder of this Article and the application of any other provision, section, sentence, clause, phrase or word shall not be affected.

Introduced by: Councilmember Leary

Single Reading: 9/29/92

Ordinance No. 1992-37

WHEREAS, three (3) 1987 Dodge Diplomat Police Cars in the existing Police Department vehicle fleet are due for replacement according to the City of Takoma Park Vehicle Fleet Replacement Policy; AND

WHEREAS, the FY-93 Budget identifies funds to purchase three (3) replacement Police vehicles; AND

WHEREAS, the recommended, desired and requested replacement vehicle has been identified as the Ford Crown Victoria police car; AND

WHEREAS, 1993 Ford Crown Victoria police cars will be available from Sheehy Ford, Inc. through cooperative purchasing pursuant to a Council of Governments contract; AND

WHEREAS, the \$45,000 authorization in FY-1992-93 Capital Budget for Police Department fleet vehicles is sufficient to satisfy the purchase price of \$38,361.00.

NOW BE IT ORDAINED THAT authorization is granted to purchase three (3) Ford Crown Victoria police cars from Sheehy Ford, Inc. for THIRTY EIGHT THOUSAND THREE HUNDRED AND SIXTY ONE DOLLARS (\$38,361.00), charged to Account 2100-8000.

Adopted this 29th day of September, 1992 by Roll Call Vote:

AYE: Sharp, Elrich, Johnson, Leary, Porter, Prensky

NAY: None

ABSTAINED: None

ABSENT: Hamilton

A:92-5.ORD:dm:wp51