

CITY OF TAKOMA PARK, MARYLAND (FINAL 2/3/93)

Public Hearings and Regular Meeting of the City Council  
Monday, January 11, 1993

CITY OFFICIALS PRESENT:

Mayor Sharp	City Administrator Habada
Councilmember Elrich	City Clerk Jewell
Councilmember Johnson	Deputy City City Clerk Sartoph
Councilmember Leary	Ass't City Admin. Hobbs
Councilmember Porter	Public Works Dir. Knauf
Councilmember Prensky	Dep. City Admin. Grimmer
ABSENT: Councilmember Hamilton	Corp. Counsel Silber
	Ass't. Corp. Counsel Perlman

The City Council convened at 8:01 p.m. on Monday, January 11, 1993 in the Council Chamber at 7500 Maple Avenue. Following the Pledge of Allegiance, the following comments were made.

MAYOR/COUNCIL COMMENTS

Mr. Johnson noted that the City's commemoration celebrating the birthdate of the Reverend Dr. Martin Luther King would be held on Monday, January 18, 1993 at 7:30 p.m. in the Council Chambers. Mr. Johnson also noted that on January 20th, at Montgomery College, there would be an inauguaral celebration, sponsored by the Montgomery County Democratic Central Committee.

Ms. Porter noted that on January 21, 1993, at 7:30 p.m., the Friends of Carole Highlands Elementary School would be holding another meeting at the school.

Mr. Prensky noted that a City Paper comic strip, "President Bill" drawn by Takoma Park Ward 3 resident, Bill Brown, was being withdrawn from publication out of respect for the President Elect Bill Clinton. Mr. Prensky noted that there would be a "wake" for "President Bill" at the Quarry House in Silver Spring, on January 20th at 7:00 p.m.

ADOPTION OF MINUTES FROM 9/16/91; 11/23/92 AND 12/14/92

Adoption was moved by Ms. Porter; seconded by Mr. Prensky. Mr. Sharp noted that he had a few typographical errors that he would pass along to the Clerk. Without objection, the Minutes were unanimously adopted. Mr. Prensky noted that this was the first time in three years that the City had been completely up to date in the adoption of Minutes for all meetings previous to the current meeting, and he publicly thanked the City Clerk and her staff for this accomplishment and said he looked forward to the City being up to date in the future.

ADDITIONAL AGENDA ITEMS/AGENDA CHANGES

Mr. Johnson moved that Agenda Item #9, regarding the award of a contract for the Heffner Park Improvements be moved up to follow the three public hearings. Without objection, the item was moved.

CITIZEN COMMENTS (on items not on Council's agenda)

Larry Ruben, Park Avenue, representing the committee that was planning the Takoma Park Inaugural celebration invited each member of the Council to the celebration planned for January 20, 1993 at 7:30 p.m. at the Montgomery College Campus. He said it would be a great evening of dancing, music and also included a juggling act.

Ms. Habada noted two additional agenda items for Council's consideration: a Resolution requesting an amicus curiae brief from the Maryland Municipal League and the Resolution authorizing the execution of the Cable Contract. Mr. Sharp noted that the Council would consider the amicus curiae resolution at the end of the evening and he would defer to the Council on whether to take up the resolution on the Cable Contract immediately after the public hearing on the same.

PUBLIC HEARING #1 - WSSC Systems Development Charges

Mr. Sharp acknowledged the presence of Joe Carrigan, from the WSSC's Office of Investments and Funding and Prince George's County Councilmember Richard Castaldi. He noted that the City had attempted to get representatives from the Montgomery County Chamber of Commerce and the Suburban Maryland Building Association (SMBA) but the Chamber of Commerce was unwilling and SMBA was unable to come and speak at the public hearing even though the Chamber of Commerce had gone on record in opposition to the bill.

Councilmember Richard Castaldi, Prince George's County Council explained that the System Development Charge State legislation (SDC) simply meant that growth and new development should pay for itself. Mr. Castaldi said that the rate payers, taxpayers, the homeowner and business customers established in Prince Georges and Montgomery Counties had for some time not only been paying for the usage of water and sewer coming to their establishments, but the maintenance of those lines and also the environmental charge. He said the charges would continue and there would be extensive mandates coming from the State and Federal Government. Mr. Castaldi said the concern was that the burden of growth was being foisted upon the rate payers. He said it was learned that WSSC did not have the authority given by the State Legislature to impose the fee, although some other counties and the City of Rockville did have such fees. He said WSSC was told they could keep the money collected thus far in order to keep the rates down; however authorization was needed from the State Legislature in order to impose a new system development charge.

Mr. Castaldi explained that in 1990, as Chairman of the Prince George's County Council, he had formed a study group to analyze WSSC, its operating and capital budgets and how they worked and to make sure it was operating efficiently. He said they talked to both Montgomery County and Prince George's County Executives, Councils, and each of their staffs, and the recommendation they came up with was implemented in 1991. He said they had support from everyone except from the Prince George's County Executive. Mr. Castaldi said they lost the issue before the P.G. County delegation, but they were back again this year to start with the Prince George's delegation and were trying to get the legislation passed.

Mr. Castaldi said without the legislation, there would be rate increases of 15-16%. He said a lot of taxes had already been imposed on residents in the State of Maryland and they needed to make sure no additional burden was placed on existing customers; this was an issue of fairness. Mr. Castaldi said that WSSC has pared down its budget and this was the proper way to go. As a bi-county municipality, he said he hoped that Takoma Park could understand the difficult issues and encourage the citizens to write their delegates on the Prince George's County side.

Mr. Castaldi noted that the system development charge as it related to affordable housing had become an issue, and both Councils had agreed to a modification in the legislation that would exempt all affordable projects that were sponsored by government entities. He noted that they had agreed to an amendment that would base the fee on the number of fixtures in a building. This would mean that a larger house with more bathrooms would pay a larger fee than a smaller house with fewer bathrooms. He said the issues had been looked at and they think they've covered all the bases and believed the legislation was in the best interest of the citizens. Mr. Castaldi also noted that most of the City's land area had already been developed; there were no vast areas in Takoma Park that needed expensive extensions of water and sewer lines by WSSC, and he said that Takoma Park's customers should not have to support the costs of major development.

Joe Carrigan, WSSC Office of Investments and Funding added that the legislation would be enabling only; he said that it did not set a

charge; this would be set annually by the two County Councils in connection with WSSC's annual budget. The WSSC budget would have to go through public hearing and Council determination.

Ms. Porter noted that during the Prince George's County Municipal Association Legislative Dinner, Takoma Park's County Councilmember Steve Del Giudice had spoken in support of the SDC legislation.

Mr. Prensky commented on the affordable housing issue and asked if there was anything preventing developers from taking steps to accomplish the goal of affordable housing; he said there was nothing that he was aware of from preventing the developers from having greater efficiency in their production, seeking smaller profits, and working with other developers who had successfully built lower cost affordable housing.

Mr. Castaldi agreed that there was nothing preventing the developers from taking the steps noted by Mr. Prensky; he also said that the County Council has allowed for all affordable housing units to be exempt from the SDC.

Mr. Sharp commented on the issue of affordable housing as it was addressed based upon the number of fixtures and he said this was an imprecise way to go about this.

Mr. Castaldi said this was not an affordable housing issue per se; it was showing a progressivity of the rate. He again emphasized that the Council had agreed to an amendment that would exempt all affordable housing that was governmentally sponsored.

Mr. Leary moved that the Council take action in support of the proposed legislation; the Motion was seconded by Mr. Elrich and unanimously passed (Mr. Hamilton absent).

Ms. Habada suggested that an article appear in the Newsletter scheduled for publication on January 22nd about the Council's support of the proposed legislation. The Council agreed that staff should draft a resolution of the Council's support and have it distributed as part of a press release or letter to be sent to Takoma Park's citizen's associations.

MOTION PASSED AS RESOLUTION #1993-1  
(Attached)

PUBLIC HEARING #2 - Proposed Contract With Takoma Park Community Television, Inc.

Mr. Sharp commented that the proposed contract had been the subject of much discussion over a long period of time, regarding the arrangement with the volunteer citizens who had been running the station. He said that the Council had been making efforts to regularize the service and provide for the payment of services provided by the group in order to assure the continuing access of programming through the station.

CITIZEN COMMENTS

Kay Dellinger, Hampshire Towers said that the agenda item was coming before the Council earlier on the Agenda than anticipated and that it placed citizens who wished to comment on the matter at a disadvantage. Ms. Dellinger questioned if the contract had been changed so that Takoma Park residents did not have to pay dues to become members of TPCT. Ms. Dellinger also asked who was allowed to vote for the Board of Directors.

Ms. Habada responded that the specific provision regarding City resident dues had been removed. Corporation Council Silber added that the contract did not require membership dues but the bylaws of the organization provided an alternative option that members perform a certain level of services and that the Board of Directors may require voluntary services or work requirements.

Mr. Prensky noted that, additionally, there was a fee required for members to be certified in order to operate the camera equipment.

Mr. Leary, responding to Ms. Dellinger's second question, responded that only members who were certified could vote. Ms. Sinclair-Jacobs was asked to explain this.

Mary Sinclair-Jacobs, Chief Executive Officer, TPCT, Inc. said that the organization needed qualified technicians and training was required in order to be certified. She said the concept of television was to put on programs and this required a person's willingness to put in the time to fully produce the programs. Ms. Sinclair explained in response to another question that a fee of \$200 a month was taken out of the budget; TPCT was not going to purchase the equipment from the City. The City would retain ownership.

Ms. Dellinger commented that all Takoma Park residents should be able to vote for the Board; she also said that TPCT should publicize their meetings and attempt to get more citizens involved in producing television programs and one way citizens could get involved was by having them vote for the Board. Ms. Dellinger also said that residents complained about the poor quality of the programs and about the lack of variety in the station's programming.

There being no further citizens wishing to comment, Mr. Sharp closed the public hearing at 8:55 p.m.

#### COUNCIL COMMENTS

Mr. Leary commented that the issue of the contract had been given extensive, full, and careful consideration and it was time for the Council to make a decision. He moved to put the Resolution authorizing Mayor Sharp to executive the contract on the Council's agenda. The motion was seconded by Mr. Johnson.

Mr. Johnson said the issue had been actively germinating for almost a year now and he could not think of a single issue that had consumed as much time and public discussion as this one had. He said the Council owed TPCT a debt of gratitude for continuing to serve in the midst of contention that had existed over the past several months. Mr. Johnson said he had not heard from residents in Ward 6 or other parts of the City that they have not had a chance to participate in TPCT activities. He said the contract was a fair document and although he was not necessarily satisfied with every aspect of the programming put out by TPCT, he urged the ratification of the contract.

Mr. Elrich said he had stated his opposition to the contract in the past at every possible public occasion; he said he continued to find the fees that were charged to Takoma Park residents for services, training, and production of programming, excessive and the cable station was receiving a great deal of City revenue that in return for which citizens in Takoma Park ought to get a more reasonable break in terms of the prices they were required to pay to get access to the use of the equipment. Mr. Elrich said this was troubling and he did not find these requirements in the bylaws to be what community television was about. He commented that the cable station was going to become a community producers "club" and not a community channel. He said Takoma Park Cable Television was not the best in the Metropolitan area and he hoped over time the group running the station would find some way to broaden the programming so that it reflected more of what the City of Takoma Park was about.

Ms. Porter said she supported ratification of the contract but she urged the Council not to take up the Resolution at this time since the council agenda did not state that a vote would be taken on this issue. She moved to table the Resolution to the Council's January 25th meeting and asked that adequate notice be provided by way of

noting the vote on the Council's agenda. Mr. Prenskey seconded the motion.

Council Action: The Motion to table was carried.

PUBLIC HEARING #3 - Proposed Waiver to Nuclear Free Zone Act

Mr. Sharp called the public hearing to order at 9:03 p.m.

Ms. Habada explained that the request for waivers of the Nuclear Free Zone ordinance was to permit the purchase of Sony cameras for Cable Television operations and the purchase of Bendix brake systems for the operation of administrative and police vehicles. Ms. Habada said that a recommendation from the Nuclear-Free Takoma Park Committee was also part of the process. She said she was not recommending that the Council vote for waivers this evening, but the resolution would be forwarded to the Committee members for review at their next meeting.

Mr. Prenskey noted a clarification on the procedure for requesting waivers and said that the City Code was not completely clear. He said the City Council determined after diligent and good faith search that a necessary good or service could not reasonably be obtained from a source other than nuclear weapons producers. He said he assumed that the Council, through the City Administrator, agreed that the brake systems and the Sony equipment could not be reasonably purchased from a non nuclear weapons producer. Mr. Prenskey asked for reassurance that the Council was in the right process for holding a public hearing; he asked what was the date and method for notification to the Committee of the City's intention to seek a waiver.

Ms. Habada responded that notification went by mail last week.

Mr. Prenskey cited the City Code section requiring notification to be made 30 days prior to the consideration of a waiver resolution and said the Council could not legally consider a Resolution until a month from the date that Ms. Habada had specified. He noted that during this time the Committee would be providing the Council with its advice on the recommendation for a waiver.

Ms. Habada said the issue of waivers had been discussed for the past two months and if held to the letter of the law in terms of the interpretation she was using, the 30 days did not pass because Committee members did not have the letters in their hands 30 days ago. However, Ms. Habada noted that at the last two Committee meetings, the intention was discussed and 30 days had certainly passed from that point.

Ms. Silber commented on the issue of whether informal notice was notice within the meaning of the law and said that when Council originally discussed amendment to the law regarding replacement parts, the City Administrator notified the Committee and the Council that waivers would be requested for the items. Ms. Silber said this was two months ago and was noted in formal memoranda, and she believed that this served as adequate notice.

CITIZEN COMMENTS

Reuben Snipper, Chair, Nuclear-Free Takoma Park Committee said that the Committee had been aware for months that there were items coming up for possible waiver. He said he appreciated the City using the new procurement procedures, elaborately discussed for many months and finally put into place, and he appreciated the City departments providing the information necessary as part of the budget process and alternative suppliers on searching for alternatives and in working through the procedure. He said the procedures have worked as intended; for some time the Committee knew that some items would require waivers. Mr. Snipper said that the Committee would be discussing this at its January 21st meeting and would be providing a report as required by law for the Council's next meeting.

Tom Anastasio, 32 Columbia Avenue, Member of Nuclear Free-Takoma Park Committee seconded Mr. Snipper's comments; he said the City was doing a remarkably good job in respect to the Ordinance. He said he had never felt the Committee was being "stone-walled"; the City ought to be commended for its cooperation. Mr. Anastasio said in regard to Ms. Silber's statement, she was perhaps referring to the memo dated October 16th which stated that if the Committee did not accept the policy exceptions outlined the City would then need waivers on the Bendix brake system. He said he did not accept this as notification to the Committee. Mr. Anastasio said the clock on notification had just started; he also said there was a question of process--one of the reasons of having a waiver hearing was to have citizen comments and to allow the Committee to have a say in the matter. As a committee member and as a citizen, Mr. Anastasio said he did not yet understand the issues involved regarding the Sony cameras and the Bendix brakes for vehicles other than the truck and he did not feel he could make a statement about those particular waiver items. Mr. Anastasio said he'd like to see the City take other options, e.g., persuading nuclear suppliers to get rid of their contracts they had that made them nuclear suppliers or the City looking into doing some reasonable stocking of parts to minimize the chances of having to use supplies from nuclear companies. Mr. Anastasio said the City also needed to pay attention to what the process should be in the future; the City should be sure there aren't public hearings on issues without first making sure everything that could be done is done and having the citizens informed on the issues.

Kay Dellinger, Hampshire Towers, Member of Takoma Park Peace Task Force and Peace Network complained that the Newsletter article regarding the proposed waivers was not adequate because the issues were not outlined and the article did not say what the waivers were being proposed for. She said it was impossible for citizens to have a debate without all the issues being put forth. Ms. Dellinger also suggested that the City publish the expanded list of nuclear companies because many residents did not know the City was using an expanded list. She asked that the Council not take any action on the proposed waivers at this time. Ms. Dellinger stressed that the nuclear free zone law was still very important because the policies of the U.S. government had not changed, and she suggested that the City and the Committee write a letter to Sony to explain their City's nuclear free policies and ask that they not make another nuclear contract.

#### COUNCIL COMMENTS

Mr. Prensky expressed appreciation to the City's departments and the City Administrator for trying to stay in compliance with the law and said there was a tremendous good faith effort on everyone's part. He said the City was in a new era in its consideration of the Nuclear Free Zone Act, citing the new procurement regulations and the new list of nuclear weapons producers. He also noted the amendment to the law adopted recently to allow for the purchase of replacement parts. Mr. Prensky said this was a lot of progress, information and education. However, he said he felt the City had fallen down in its adherence to process. Mr. Prensky said if the Committee was not prepared to speak to the issue of the waivers, the citizens were certainly not prepared to have an opinion and speak on the issue. Mr. Prensky said the City failed to provide information and education to its citizens and said it would be helpful for the Council to develop clearer steps in the process and procedure.

Mr. Elrich said he agreed that the steps as outlined did not seem like notice to the Committee. He said there were no answers to the questions raised tonight and the issues might have been solved if the Committee had heard about them and had their meeting and reported back to the City Administrator on what the issues were and how the City would respond to them. Mr. Elrich said that he would vote for the waivers because he felt they were appropriate; however he felt that the City was going to use the public hearing as an

educational opportunity to the community. He said the Council had to inform its residents what was being voted on and a brief statement why they were voting for the waivers; he said he was prepared to return to the issue in a few weeks after proper notice in the Newsletter.

Mr. Sharp moved that the Council schedule another public hearing for February 22nd; Mr. Elrich seconded the motion and the motion carried. Mr. Sharp said that Staff should be prepared to answer the questions raised tonight on February 22nd.

Mr. Johnson said that he supported the Mayor's suggestion and said that he trusted that the time would come when the Council and the City would show as much concern for affirmative action, minority entrepreneurship to ensure that all that Takoma Park did in its matters of public policy truly reflected the face of the nation and he said he hoped that the Council and others in the community would feel the same sense of urgency to address those issues as with the nuclear free zone issue.

#### AGENDA

#1. Single Reading Ordinance Awarding Contract for Heffner Park Improvements. Motion to adopt the Ordinance was made by Mr. Leary; seconded by Mr. Johnson. Mr. Sharp noted that the Ordinance would award a bid to Marina General Contractors in the amount of \$12,094 to make improvements to the Heffner Park Recreation Center.

#### CITIZEN COMMENT

Condie Clayton, President, Ritchie Avenue Civic Association commended the Council for expending the time and money on improvements to Heffner Park. He said the Association had previously met with the City Administrator and members of the City's Housing and Recreation Departments; there was a lot of concern about the condition of Heffner Park which was used by over 60 Takoma Park civic associations and various groups. Mr. Clayton said that the civic associations had agreed to commit time, effort and energy that would help extend the City's resources in getting the building into shape.

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

#### ORDINANCE #1993-1 (Attached)

#### #2. Second Reading of Anti-Stalking/Harassment Legislation

Mr. Johnson moved adoption of the Ordinance at second reading; seconded by Ms. Porter who noted that at first reading, the Council had amended the last "Whereas" clause to read "harassment and stalking", instead of "domestic violence". This was accepted as a technical amendment.

Mr. Johnson noted that the Council had received in their packages, information regarding the victims' assistance program and he asked if the material could be made available to the public. The City Administrator confirmed that they could.

#### CITIZEN COMMENTS

Joan Dubrule said she was concerned about the implementation of the law by the local police department; she said the City needed a proactive police force. She said the City could no longer tolerate any act by the police department that does not bear accountability for the officers involved. Ms. Dubrule said she spoke to the Prince George's County Chief of police and to a representative from the Los Angeles police department, and she learned that any report made out on this type of crime should carry the category of stalking; not domestic violence and that many stalking victims had no relation to domestic violence. Ms. Dubrule also suggested that the City's passage of the legislation be advertised in the City Newsletter. Ms. Dubrule asked about the Ordinance definition of

"stalk" and said she was concerned about this definition.

Mr. Johnson explained that the Council, through this definition, needed to ensure that nothing in the legislation would suggest that any citizen could not confront any person in the exercising of their freedom of speech. He said he was not sure the provision was worded in the way he would have liked to see it but it was necessary to public's right.

Mr. Sharp confirmed that this was the language in the Prince George's County Code. Mr. Sharp also said it would make sense to categorize stalking separately from domestic violence as a crime category. He asked the City Administrator to speak with the Chief of Police regarding what were the crime categorizations relating to the two. Mr. Sharp suggested that a group of citizens may want to meet with the City's Police Department on how the law would be implemented.

The Council discussed the Ordinance definitions of "harass" and "stalk" and noted that it wasn't clear in Section (b) of the Ordinance whether the unlawful acts listed were a combination of the two or whether harassment and stalking in and of itself were an unlawful act. The Council discussed a number of suggestions for amending the language and reached consensus to amend Section (b) to read: "A person who willfully follows, stalks, ~~or~~ harasses another person, ~~and~~ or who makes a credible threat against the person shall be guilty of a misdemeanor."

Ms. Porter commented that it was important that the Council move rapidly on the legislation; the sooner the law was enacted, the sooner the City would have an ordinance that protected residents in both Counties of the City. Ms. Porter said she appreciated Ms. Dubrule's continued interest in the issue. People who are involved in the types of incidents the legislation addressed can deal with the issues in many ways and the most constructive way is to take public action in support of policies that prevent other people from being in the same situations. She applauded Ms. Dubrule for taking a more activist course of action. Ms. Porter said the Council would be monitoring the implementation of the legislation.

Mr. Johnson said that he was very sensitive to the issue, and more often than not it was women who were victims of stalking and harassment. He said this was a problem which affected men as well and the issue needed to be looked at from the public interest rather than from the strictly gender issue.

#### CITIZEN COMMENT

Kay Dellinger, Hampshire Towers said that the legislation was very important and she hoped the City would do everything possible to have the legislation passed in the State of Maryland.

Council Action: The Ordinance, as amended, was unanimously adopted at second reading. (Absent: Mr. Hamilton).

#### ORDINANCE #1992-44 (Attached)

Without objection, Mr. Sharp moved that the Resolution expressing support of the Prince George's County legislation that was adopted in October 1992 prohibiting stalking and harassment, be moved from the Consent Agenda and considered by the Council separately.

#3. Resolution in Support of Prince George's County Anti-Stalking Legislation. Moved by Ms. Porter and duly seconded, the Council discussed the following amendments to the Resolution and asked that the Clerk incorporate them into the final Resolution: (a) note the City Council's passage of its own legislation, (b) note the re-introduction of the State legislation before the General Assembly, (c) encourage the State to pass the legislation, and (d) encourage Montgomery County to adopt similar measures.



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

RESOLUTION #1993-2  
(Attached)

#4. Prince George's County Historic District Citizens Advisory Committee Report. Moved by Mr. Elrich; seconded by Ms. Porter.

Mr. Johnson said that he endorsed the receipt of the Committee's report and the appointment of an educational committee, and said that the Council needed to stress that the formation of the education committee was not to be interpreted as any endorsement of action that may flow out of the Committee. He said the Council was trying to have as much opportunity for citizen involvement in the development of any proposals that might come forward.

CITIZEN COMMENTS

Jim DiLuigi, 7106 13th Avenue asked about the intent of the language with any applicable budget recommendations for FY'94 in the Resolution.

Mr. Sharp responded that there had been some hope there would money set aside for the activity; however, the Council had not made a decision with regard to that; he said with the budget constraints, the Council would have to make a determination about funding essential services and where this fit in the calculations.

Mr. DiLuigi said that one aspect that was problematic in neighborhood community discussions was that all opportunities were not explored as to what alternative there might have been to provide some assistance or for maintaining the integrity of the community. He said in maintaining the character of the community, one of the suggestions was that perhaps the County group could provide guidance, review and recommendations to those who wanted to avail themselves of that information.

Henry Wilder 3221 Elson Place said that he appreciated the comments Mr. Johnson made at the last meeting regarding the position of the residents of Hillwood Manor. Mr. Wilder said he could not understand how Park and Planning could operate his home better than he could. Mr. Wilder said the only reason he saw for the historic preservation issue--to create more jobs for Park and Planning. He urged the Council to let the matter drop and let the residents live their lives in peace.

Delores Allen, 3212 Elson Place said that polls were taken in her neighborhood several times and that people did not want a historic district.

Mr. Sharp clarified for the audience that the Council was only acknowledging receipt of the CAC's report which recommended not having a historic district.

Brian Sayer, Member of the Citizens Advisory Committee commented that the CAC saw the purpose of an education committee was to address several of the issues Mr. DiLuigi brought up and that one of the ways talked about had to do with design guidelines which were for the district already in place in Montgomery County. He said it also had to do with distribution of informational material about the history of Takoma Park. Mr. Sayer also said that because there was a historic district in Montgomery County in Takoma Park, there was an obligation for the governments involved to make sure that citizens were informed of any regulations required on obtaining permits, what standards applied, etc.

COUNCIL COMMENTS

Mr. Prenskey proposed that the title of the Resolution be reworded. Without objection, the Council reached consensus to re-word the

Resolution title to read, "A Resolution Acknowledging Receipt of the Citizens Advisory Committee Report".

Ms. Porter thanked the CAC for the work done and the effort they made at public outreach. She noted they had put in a tremendous amount of work into the process of public outreach.

Mr. Johnson said that the CAC was one of the rare bodies appointed by Council that came back with a recommendation that was completely opposite of what they intended to do. He also expressed appreciation to the Committee and personally acknowledged Todd Bethel and Janet Baldwin who he said did not actually seek membership on the CAC but who had been drafted and had little idea of the work that was required. He thanked all the individuals present and everyone who had participated in the process.

Council Action: The Resolution, with the title amended, was unanimously passed. (Absent: Mr. Hamilton)

RESOLUTION #1993-3  
(Attached)

#5. First Reading Ordinance Amending Article 6, "Unsafe Buildings"  
First reading of the Ordinance was moved by Mr. Elrich; seconded by Mr. Johnson.

Mr. Sharp noted the changes discussed by Council in Worksession on January 4th. He questioned why the word "morals" was removed on page 5.

Ms. Perlman responded that she removed the word because of criticism that no one really knew what was meant by the word; in addition, she said that the other standards, i.e., health, safety or general welfare seemed to cover the standard "morals".

The Council then made suggestions for amending the legislation to be discussed prior to second reading.

Council Action: The Ordinance, as amended, was accepted for first reading.

ORDINANCE #1993-2  
(Attached)

#6. 2nd Reading Ordinance Re: Professional Engineering Services  
Moved by Mr. Elrich; seconded by Mr. Prensky, the Ordinance was unanimously adopted on second reading, as amended, authorizing the City Administrator to enter into a contract with Greenhorne & O'Mara to provide general engineering services, street design and street construction inspection services and stormwater management engineering services.

ORDINANCE #1992-45  
(Attached)

#7. Single Reading Ordinance Authorizing Cooperative Purchase of City Vehicles. Moved by Mr. Elrich; seconded by Ms. Porter, the Ordinance was unanimously adopted on single reading, authorizing the purchase of two Ford Festivas, one Ford 1/2 Ton Full Size Pick-Up Truck and one Ford 1-Ton Dump Truck with lift and CNG Conversion, for a total price of \$61,880.

ORDINANCE #1993-3  
(Attached)

#8. Additional Agenda Item - Request for Amicus Curiae Brief.  
The Council discussed whether to authorize a request for the Maryland Municipal League to file an Amicus Curiae ("Friend of the Court") brief on behalf of Takoma Park in the appeal case filed by

the tobacco vending machine companies. Mr. Sharp noted that in September 1992, the P.G. Circuit Court upheld Takoma Park and Bowie's ordinances regulating cigarette vending machines and the vending companies have since filed an appeal.

Ms. Habada noted that there was a \$200 fee that must accompany the City's request to the League. The Council discussed the issue and expressed some concern about the City having to incur the full costs, up to a maximum of \$2,000, of this representation on a matter that could affect other Maryland municipalities right to home rule.

Mr. Prensky noted the importance of the League's participation and he offered to pay the initial filing fee of \$200 out of his Council salary if necessary.

There was indication that the City of Bowie, a co-defendant in the case, may be willing to share the expenses and Mr. Sharp asked that the City Administrator follow up with Bowie's City Manager on this proposal. In addition, Mr. Sharp noted that he would call the MML President to see if the League had any interest in this issue and would be willing to support it.

Mr. Prensky moved that the Council authorize the initial filing fee of \$200 and that the Resolution be amended to reflect this payment and not the authorization for payment of the balance of the amicus curiae fee until the details could be worked out; the motion was seconded.

Ms. Jewell, a League Board Member said that if it was the Council's wish, she could present the City's argument to the full MML Board, for having the balance of the amicus curiae fees waived or the possibility of sharing the fee with other municipalities.

Council Action: Resolution #1993-4 was unanimously passed (Absent: Mr. Hamilton).

RESOLUTION #1993-4  
(Attached)

#9. CONSENT AGENDA. Upon motion by Mr. Elrich; duly seconded, the Consent Agenda was unanimously adopted.

(a) Resolution #1993-5 - Expressing appreciation to the Prince George's County Historic District Citizens Advisory Committee.

(b) Resolution #1993-6 - Approving merger of Health Insurance Benefits Group into Local Government Insurance Trust (LGIT).

RESOLUTION #1993-5  
RESOLUTION #1993-6  
(Attached)

Upon motion duly made and seconded, the Council adjourned at 11:26 p.m. to reconvene in Regular Session on Monday, January 25, 1993.

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

RESOLUTION #1993-4

REQUESTING THE MARYLAND MUNICIPAL LEAGUE'S PARTICIPATION IN THE  
CIGARETTE VENDING MACHINE LITIGATION APPEAL

WHEREAS, in July 1990, the City of Takoma Park enacted Ordinance #1990-39, establishing smoking prohibitions and restrictions regarding smoking in work places, eating and drinking establishments, and the distribution of tobacco products; AND

WHEREAS, the City of Takoma Park's law and the City of Bowie (who had enacted similar legislation) were challenged by two vending machine companies in a law suit before Prince George's County Circuit Court; AND

WHEREAS, on September 8, 1992, the Prince George's County Circuit Court upheld both municipalities' ordinances allowing the banning of cigarette vending machines in places deemed accessible to youth; AND

WHEREAS, the vending companies have filed an appeal of the Circuit Court's September 1992 decision; AND

WHEREAS, the potential for reversal of the earlier Court's decision could have a far reaching effect on Maryland municipalities and their authority for enacting laws which are designed to protect the health, safety and welfare of municipal residents; AND

WHEREAS, it is in Takoma Park's interest and the best interest of other Maryland municipalities to request that the Maryland Municipal League (the League) serve as Amicus Curiae ("friend of the Court") in the appeal litigation.

NOW THEREFORE, BE IT RESOLVED THAT, the City Council of Takoma Park, Maryland hereby requests the League's participation in any and all matters regarding the cigarette vending machine litigation appeal; AND

BE IT FURTHER RESOLVED THAT the City Administrator is hereby authorized to process payment of up to the \$200 review fee to accompany the City's request for amicus curiae review.

Dated this 11th day of January, 1993.

ATTEST:

  
Paula S. Jewell, CMC/City Clerk

Introduced by: Councilmember Leary

Adopted: 1/11/93  
(Single Reading)

**ORDINANCE NO. 1993-1**

**HEFFNER PARK RECREATION CENTER BUILDING RENOVATIONS**

WHEREAS, Montgomery County has allocated \$30,000 in Program Year 18 funds to the City through the Community Development Block Grant Program for improvements to the Heffner Park Recreation Center and new playground equipment (to be bid at a later date); AND

WHEREAS, in accordance with City procurement procedures a Request for Bids was advertised in the Washington Post, Baltimore Sun, Dodge Report, and Blue Reports; AND

WHEREAS, bids were publicly opened at 2:00 p.m., December 21, 1992 with seven (7) bids being received; and

WHEREAS, the apparent low bidder is considered to be responsive and responsible; AND

WHEREAS, based on the unit costs of the low bidder, the allocated funds are sufficient to accomplish the authorized work at the park.

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

SECTION 1. THAT the low bid received from Marina General Contractors in the amount of TWELVE THOUSAND NINETY FOUR DOLLARS AND ZERO CENTS (\$12,094) be accepted; AND

SECTION 2. THAT funds to cover this work in the amount of TWELVE THOUSAND NINETY FOUR DOLLARS AND ZERO CENTS (\$12,094) be charged as follows:

MONTGOMERY COUNTY ACCOUNT NO. 0010 6907 (\$12,094)

ADOPTED THIS 11th DAY OF JANUARY, 1993

AYES: Sharp, Elrich, Johnson, Leary, Porter, Prenskey

NAYS: None

ABSTAIN: None

ABSENT: Hamilton

Introduced by:

First Reading: 1/11/93  
Second Reading:

Drafted by: Linda S. Perlman  
Asst. Corporation Counsel  
Draft Date: 1/20/93

Effective Date:

ORDINANCE NO. 1993 - 2

UNSAFE BUILDINGS  
(Chapter 6, Article 6 of the Takoma Park Code)

~~WHEREAS, in the past few years the Council has had to deal with a number of unsafe properties in the City under the statutory scheme set forth in Chapter 6, Article 6, Unfit Housing, of the Takoma Park Code, and has found that these statutory provisions have not always been effective in dealing with such problem properties; and~~

~~WHEREAS, the Council, having had occasion to deal with a number of unsafe properties in the City under the statutory scheme set forth in Chapter 6, Article 6, Unfit Housing, of the Takoma Park Code, has found these statutory provisions to be insufficient in remedying the conditions at these properties; and~~

WHEREAS, the Council desires to revise the provisions of Article 6 in order to allow the City ~~to act~~ to abate a serious situation promptly; and

WHEREAS, the Council wishes to change the procedure for declaring a building or structure in the City to be unsafe and ordering it to be repaired, vacated or demolished ~~from a Council~~ to an administrative ~~rather than a Council~~ function; and

WHEREAS, the present Article 6 establishes different sets of standards and different procedures to be followed in the case of unsafe structures, substandard buildings, and unfit buildings

(those which are unfit for human habitation) and ~~the~~ Council wishes to revise and unify the standards for declaring buildings and structures in the City to be unsafe and for ordering such buildings and structures to be repaired, vacated, or demolished; and

WHEREAS, the Council finds that the following comprehensive revision of Article 6 creates a more efficient and effective procedure to handle the problem of unsafe buildings in the City; and

WHEREAS, this revision of Article 6, along with other City agreements, renders Chapter 5, Fire Prevention, of the Takoma Park Code obsolete and the Council hereby repeals said Chapter 5 of the Takoma Park Code.

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

SECTION ONE. Chapter 6, Housing, Article 6, Unfit Housing, of the Takoma Park Code is hereby repealed and replaced with the following:

**TAKOMA PARK CODE**

**CHAPTER 6. HOUSING  
ARTICLE 6. UNSAFE BUILDINGS**

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**ARTICLE 6. UNSAFE BUILDINGS**

Sec. 6-63. Definitions.

In this Article, the following words have the meanings indicated:

(a) "Building" shall mean any building or structure of any kind and shall include parts of any building or structure.

(b) "City" shall mean the City of Takoma Park, Maryland.

(c) "City Administrator" shall mean the City Administrator of the City or his or her designated representative.

(d) "Code Enforcement Officer" shall mean a City employee, officer, or other designated representative who is charged with the responsibility of inspecting buildings in the City for the purpose of determining whether any condition exists which render such place an unsafe building and of investigating complaints filed by any person to the effect that a building is or may be in violation of the terms of this Article.

(e) "Department" shall mean the Department of Housing and Community Development of the City or any other department or agency of the City government to which the City Administrator



assigns responsibility for the enforcement and administration of this Article.

(f) "Director" shall mean the Director of the Department of Housing and Community Development or his or her designated representative.

(g) "Occupant" shall mean any person who, lawfully or unlawfully, is living, sleeping, cooking, eating in, or in actual possession of a building. An occupant shall include a tenant.

(h) "Owner" shall mean any person who, alone, jointly or severally with others:

(1) Has legal title to any building, with or without accompanying actual possession thereof; ~~and/or~~

(2) Has charge, control or care of any building as ~~owner~~ ~~manager~~ or agent of the owner, or as officer, administrator, ~~mortgagee~~, trustee, partner, guardian, or personal representative of the estate of the owner, ~~or as mortgagee, beneficiary or lender under a mortgage or deed of trust made by the owner and secured by the building.~~ Any such person thus representing the actual owner shall comply with the provisions of this Article to the same extent as if he or she ~~were the owner~~ ~~had legal title to the building.~~

(i) "Person" shall include a corporation, partnership, association, organization or any other entity as well as individuals. It also shall include an administrator, trustee, receiver, personal representative, guardian, or conservator appointed according to law.

Sec. 6-64. Unsafe Buildings; Public Nuisance Declared.

(a) All buildings or structures, or parts thereof, which may have any or all of the following defects shall be deemed unsafe buildings:

(1) Those which have been damaged by fire, wind, storm, or other causes so as to have become dangerous to life, safety, or the general health and welfare of the occupants or the public;

(2) Those which have become or are so dilapidated, decayed, damaged, unsanitary, unsafe, or vermin- or rodent-infested that it creates a hazard to the health, safety, or general welfare of the occupants or the public;

(3) Those having light, air, sanitary, plumbing or heating facilities or other essential equipment which are inadequate to protect the health, safety or general welfare of the occupants or the public;

(4) Those having inadequate facilities for egress in case of fire or panic or which are dangerous to life, health, property or the safety of its occupants by not providing minimum protection from fire;

(5) Those which are structurally unsound, dangerous, or of such faulty construction or unstable foundation that they are likely to partially or completely collapse, or which have parts thereof which are so attached that they may fall and injure members of the public or their property;

(6) Those which are abandoned or are blighting or deteriorating factors in the neighborhood or which because of their general condition are unsafe, unsanitary, or otherwise dangerous to the health, safety or general welfare of the public.

(b) All unsafe buildings are hereby declared to be public nuisances, and shall be repaired, or demolished as provided in this Article.

Sec. 6-65. Right of Entry.

(a) The City Administrator, Code Enforcement Officer, and police or their designated representatives, upon exhibiting the proper credentials or proof of identity on request, shall have the right to enter any building in the City at any reasonable hour or at such other times as may be necessary in an emergency that immediately endangers life, property or public safety for the purpose of performing duties under this Article or enforcing the provisions thereof.

(b) Police, fire, health and other departments having authority in the City shall render necessary assistance in the enforcement of this Article when requested to do so by the City Administrator.

Sec. 6-66. Emergencies.

(a) In cases where it reasonably appears that there is actual and immediate danger to the life, health or safety of any person unless an unsafe building or part of it is immediately repaired, vacated, or demolished, the Code Enforcement Officer shall report such facts to the City Administrator and the City

Administrator shall cause the immediate repair, demolition or vacating of such unsafe building.

(b) For purposes of this section, the City Administrator shall employ the necessary labor and materials to perform the required emergency work as expeditiously as possible.

(c) The costs of such emergency repair, vacation or demolition of such unsafe building shall be paid by the owner of the real property upon which the building stands or did stand. The City shall send the owner a bill for the costs of such emergency repair, vacation, or demolition by certified mail, return receipt requested, and by regular mail to the owner's last-known address or by any other means reasonably calculated to bring the bill to the owner's attention. If the owner does not pay the bill within one (1) month after it is presented, the cost shall be a lien against the real property which may be collected and enforced in the same manner as are taxes, special assessments, and other liens on real property or collected as provided for in Section 6-75(b).

Sec. 6-67. Service.

(a) Any notices or orders provided for in this Article shall be in writing and served upon the owner, occupant, and all other persons having an interest in the property as shown by the property tax records of the City, as the case may require. Unless a different manner of service is specified in this Article, a notice or order is properly served if:

(1) A copy is personally delivered which shall mean delivering a copy to the individual personally or leaving a copy at the individual's residence or usual place of abode with some individual of suitable age and discretion then residing therein or in the case of a corporation or a partnership or other unincorporated association, by delivering a copy to an officer, a managing or general partner or agent, or to any other agent authorized by appointment or by law to receive service; or

(2) A copy is sent by certified mail, return receipt requested, to the last known address of the owner, occupant or other persons having an interest in the property.

(b)(e) If, after reasonable effort, service cannot be made on the owner, occupant or other persons having an interest in the property by personal delivery or certified mail, then service of the notice or order may be made by regular mail to the last known address of the owner, occupant or other persons having an interest in the property as shown by the property tax records of the City, as the case may require, plus posting of the notice or order in a conspicuous place on or near the unsafe building to which it relates. Such mailing and posting shall be deemed adequate service.

(1) In the case of personal delivery, "reasonable effort" means two good faith efforts on separate days to serve the notice or order; and

(2) In the case of certified mail, "reasonable effort" means return by the United States Postal Service of the properly

addressed and stamped envelope containing the notice or order which was mailed by certified mail, or the return receipt thereof, marked as unclaimed, refused, addresses unknown, or other indicia of non-delivery.

(c) ~~(b)~~ The notice or order also may be posted in a conspicuous place on or near the unsafe building to which it relates.

Sec. 6-68. Notice and Correction Order.

(a) Whenever the Code Enforcement Officer determines that there has been a violation of this Article, the Code Enforcement Officer shall give written notice and a correction order to the owner and/or to all other persons having an interest in the property, as shown by the property tax records of the City, of any building found by him or her to be an unsafe building.

(b) The notice and correction order provided for in paragraph (a) of this section shall:

(1) Specify the particulars which make the building or part of it an unsafe building;

(2) Describe with reasonable accuracy the unsafe building and its location;

(3) Describe in general terms the corrective action which, if taken, will effect compliance with this Article.

(4) Establish a reasonable time to do or have done the work or act required by the notice and correction order.

(5) Advise of the potential penalties for violation of this Article as set forth in Section 6-74, of the right to

request an informal conference with the Director as set forth in Section 6-71, and of the right to appeal the notice and correction order as set forth in Section 6-72.

(c) An owner served with a notice and correction order shall correct the violation of this Article within the time specified in the notice and correction order.

Sec. 6-69. Reinspection; Report to City Administrator.

(a) Following the expiration of the period of time provided in Section 6-68(b)(4), the Code Enforcement Officer shall reinspect the unsafe building described in the notice and correction order.

(b) When, after a reinspection, the Code Enforcement Officer determines that the violation specified in the notice and correction order has not been corrected or has only been partially corrected, the Code Enforcement Officer shall report such noncompliance to the City Administrator and take any other action authorized by this Article to ensure compliance with or prevent violation of its provisions.

Sec. 6-70. Standards for Repair, Vacation, or Demolition.

The following standards shall be followed in substance in ordering the repair, demolition, vacating, and placarding and securing of any unsafe building:

(a) Repair.

(1) If the unsafe building can be reasonably repaired so that it will no longer be in violation of the terms of this Article, it shall be ordered to be repaired.

(2) The owner of an unsafe building that has been ordered to be repaired shall be given notice of the required repairs and a reasonable time to make the repairs.

(b) Demolition.

(1) In any case where an unsafe building is substantially damaged or decayed or deteriorated from its original value or structure and the building cannot reasonably be repaired so that it will no longer be in violation of the terms of this Article, it shall be ordered to be demolished.

(2) In all cases where an unsafe building is a fire hazard existing or erected in violation of the terms of this Article or any ordinance of the City or provision of County or State law, it shall be ordered demolished.

(3) The owner of an unsafe building that has been ordered to be demolished shall be given notice of this determination and a reasonable time to remove the building.

(4) Whenever the owner fails, neglects, or refuses to remove the unsafe building within the specified time, the City may apply to a Court of competent jurisdiction for a demolition order, or take legal action to force the owner to demolish the building.

(5) The costs of the demolition work, if performed by the City or by a person awarded a contract for the work in accordance with the laws of the City, shall be paid by the owner of the real property upon which the building stands or did stand. The City shall send the owner a bill for the costs of such



demolition by certified mail, return receipt requested, and by regular mail to the owner's last-known address or by any other means reasonably calculated to bring the bill to the owner's attention. If the owner does not pay the bill within one (1) month after it is presented, the cost shall be a lien against the real property which may be collected and enforced in the same manner as are taxes, special assessments, and other liens on real property or collected as provided for in Section 6-75(b).

(6) Demolition, whether carried out by the owner, by the City or by a person awarded a contract for the work, shall include the removal of the debris resulting from the demolition and the filling in of the excavation remaining on the property on which the demolished building was located in a manner so as to eliminate potential danger to the public health, safety, or welfare arising from the excavation.

(c) Vacating and Placarding.

(1) If an unsafe building or part of it is in such condition as to make it dangerous to life, property or public safety, the building or part of it shall be ordered to be placarded and vacated.

(2) The owner and any occupants of an unsafe building that has been ordered to be vacated shall be given notice to vacate immediately or within a specified time and a warning placard shall be posted at each entrance to such a building.

(A) The warning placard shall include language similar to the following: THIS BUILDING IS UNSAFE AND ITS USE OR

OCCUPANCY HAS BEEN PROHIBITED BY THE CITY OF TAKOMA PARK. The warning placard shall remain posted until the required repairs are made or demolition is completed.

(B) No person shall deface or remove any ~~such~~ warning placard after it has been posted until the required repairs or demolition have been completed.

(C) No person shall remain in or enter any dangerous building which has been so posted except for the purpose of making the required repairs or of demolishing the same.

(3) (A) Any person occupying a dangerous building or part of it which has ordered to be vacated shall vacate the building or part of it in accordance with the terms of the order to vacate.

(B) A person shall not occupy and an owner shall not permit a person to occupy a dangerous building or part of it which has been posted with a warning placard and ordered to be vacated until the Code Enforcement Officer approves the reoccupancy and removes the warning placard.

(C) Once the dangerous building is vacant, the owner shall secure and board all windows and doors that are accessible from the ground, from an adjacent structure, or by the reasonably foreseeable use of a ladder, table or other device, and must keep them secured against unauthorized entry.

(4) Upon the failure of an owner or occupant of a dangerous building which has been ordered to be vacated to vacate

the building or part of it or the failure of an owner to properly secure the dangerous building, the City may cause the building to be vacated or secured through appropriate court action, or by contract or arrangement with private persons. The costs thereof, including reasonable attorney's fees, shall be paid by the owner. The City shall send the owner a bill for the costs by certified mail, return receipt requested, and by regular mail to the owner's last-known address or by any other means reasonably calculated to bring the bill to the owner's attention. If the owner does not pay the bill within one (1) month after it is presented, the costs shall be a lien against the real property which may be collected and enforced in the same manner as are taxes, special assessments, and other liens on real property or collected as provided for in Section 6-75(b).

(5) Tenant Displacement. A tenant of an unsafe building who is required to leave the building or part of it as a result of an order to vacate issued under this Article is displaced.

(A) The owner is not required to locate alternative housing if the tenant's displacement was the result of an act of God or other conditions beyond the control of the property owner, or was caused by the tenant's negligent, wrongful, or malicious acts or omissions.

(B) Except as provided in paragraph (A) above, the owner is required to locate alternative housing for a displaced tenant until such time as the Code Enforcement Officer

authorizes reoccupation of the unsafe building, approves any repairs made in accordance with this Article, or until the lease term of the tenant expires, whichever occurs first. The lease term of the tenant shall be deemed to include any notice period required by applicable law for the landlord to terminate the tenancy of the tenant. Any displaced tenant shall continue to be responsible for payment of the rent in the same amount as paid to the owner immediately preceding the displacement, which rent may be paid either to the owner or to the provider of the alternative housing pursuant to the conditions herein described. The owner shall be responsible for the difference between the rent as paid prior to the displacement and the rent required for the alternative housing, except that the owner is not responsible for such difference beyond the lease term of the tenant.

(C) Any costs, including reasonable attorneys fees, incurred by the City in the relocation of any displaced tenants shall be paid by the owner. The City shall send the owner a bill for the costs of such relocation by certified mail, return receipt requested, and by regular mail to the owner's last-known address or by any other means reasonably calculated to bring the bill to the owner's attention. If the owner does not pay the bill within one (1) month after it is presented, the cost shall be a lien against the real property which may be collected and enforced in the same manner as are taxes, special assessments, and other liens on real property or collected as provided for in Section 6-75(b).

Sec. 6-71. Informal Conferences.

(a) A person aggrieved by a notice or order issued in connection with an alleged violation of this Article, or by a notice and correction order requiring the repair, demolition, vacating, placarding or securing of an unsafe building issued under Section 6-68 may apply to the Director for a reconsideration of such notice or order within one (1) week after it has been served. An application for reconsideration shall be in writing and personally delivered or sent by certified mail, return receipt requested, to the Director.

(b) The Director shall specify a time and place for an informal conference on the matter within one (1) week after receipt of the application for reconsideration. The Director shall advise the applicant, in writing, of the time and place of the conference. ~~If, within one (1) week after receipt of the application for reconsideration, the Director does not schedule an informal conference, then the application for reconsideration shall be deemed to have been denied and the original notice or order shall remain in effect.~~

(c) At the informal conference, the applicant shall be permitted to present grounds for revocation or modification of a notice or order to the Director.

(d) Within one (1) week after the close of the informal conference, the Director shall advise the applicant whether or not the notice or order will be modified or revoked. If the Director does not advise the applicant of his or her decision

within one (1) week, then the application for reconsideration shall be deemed to have been denied and the original notice or order shall be deemed to have been affirmed remain in effect.

(e) Unless otherwise specifically provided by the Director in writing, an application for reconsideration shall not stay or extend the time for compliance with the notice or order which is the subject of the application for reconsideration or affect or extend the time for an appeal to the City Administrator as provided for in Section 6-72.

(f) Upon receipt of an application filed at any time from a person who is required to take action under a notice or order and an agreement by such person that he or she will comply with the notice or order if allowed additional time, the Director may, in his or her discretion, grant an extension of time within which to complete the repair, demolition, vacating or securing of the unsafe building provided that the Director determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property.

#### Sec. 6-72. Appeals.

(a) A person aggrieved by a notice or order issued in connection with an alleged violation of this Article, or by a notice and correction order requiring the repair, demolition, vacating, placarding or securing of an unsafe building issued under Section 6-68 may file with the City Administrator a written notice of appeal specifying the reasons for contesting the notice or order.

(b) The notice of appeal shall be filed within the earlier of either one (1) month after the notice or order has been served on the person or within the time specified for correction of the violation in a notice and correction order issued under Section 6-68.

(c) Upon receipt of a properly filed notice of appeal or a report of noncompliance with a notice and correction order from the Code Enforcement Officer pursuant to Section 6-69(b), the City Administrator shall give written notice to the owner, occupant, and all other persons having an interest in the property as shown by the property tax records of the City, as the case may require, in the manner provided by Section 6-67 to appear before him or her on a date and at a time and place specified to show cause why the unsafe building should not be repaired, demolished, vacated or secured in accordance with the statement of particulars set forth in the notice and correction order provided for in Section 6-68 or in such other notice or order which is being appealed.

(d) The City Administrator shall hold a hearing within one (1) month of the date of receipt of the notice of appeal or report of noncompliance and hear such testimony as the Code Enforcement Officer, owner, occupant, and any other person having an interest in the property shall offer relative to the unsafe building.

(e) Within one (1) month after the date of the hearing, the City Administrator shall:

(1) Make written findings of fact from the testimony offered pursuant to paragraph (d) as to whether or not the building in question is an unsafe building;

(2) Issue a final order based upon the findings of fact made pursuant to paragraph (1) affirming, modifying, or revoking the notice and correction order or such other notice or order which is the subject of the appeal and, if applicable, commanding the owner, occupant, and all other persons having an interest in the property to repair, demolish, vacate or secure any building found to be an unsafe building.

(3) The City Administrator may grant a variance from the provisions of this Article whenever he or she finds that:

(A) There is practical difficulty or unnecessary hardship connected with the performance of an act required by this Article;

(B) Strict adherence to this Article would be arbitrary; and

(C) A variance is consistent with the public health, safety, and welfare.

(f) If the City Administrator fails to hold a hearing within one (1) month of the date of receipt of the notice of appeal or report of noncompliance or to make written findings of fact and issue a final order within one (1) month after the date of the hearing, then the original notice or order shall be treated as a final order of the City Administrator for the purposes of paragraph (g) of this section, provided that, with



~~the written consent of the person who filed the notice of appeal, the time period for the City Administrator to hold a hearing or to make findings of fact and issue a final order may be extended for up to two (2) additional months.~~

~~(g)-(f)~~ Any person aggrieved by a final order of the City Administrator issued under this section may file an Order for Appeal with the Clerk of the Circuit Court of the county in which the building is located. The procedures for an appeal from a final order of the City Administrator shall be governed by Chapter 1100, Subtitle B (Administrative Agencies - Appeal From) of the Maryland Rules, as amended.

(1) An Order for Appeal shall be filed within thirty (30) calendar days from the date of the final order of the City Administrator.

(2) Prior to filing an Order for Appeal with the Circuit Court, the person shall serve a copy thereof on the City Administrator.

~~(3) The filing of an Order for Appeal shall not act as a stay of the action appealed from, except that the Circuit Court, after notice to the City and a hearing, may grant a stay upon such condition or such security or bond as it deems proper.~~

~~(4)-(3)~~ The Circuit Court shall affirm the final order of the City Administrator if it finds that the factual conclusion was based upon substantial evidence in the record.  
Sec. 6-73. Recordation; Liability of Transferee.

(a) The City Administrator may cause a final order issued under Section 6-72(e) to be recorded among the land records of the county in which the unsafe building is located.

(b) A transferee, successor, or assignee of the unsafe building described in a recorded final order shall be considered to have notice of the continuing existence of the violations and is subject to the penalties and procedures provided by this Article to the same degree as was the transferor, predecessor, or assignor.

(c) On determining that there has been compliance with a recorded final order issued under this Article, the City Administrator shall cause a notice of compliance to be recorded among the land records of the county. The notice of compliance shall recite the liber and folio land record reference of the recorded final order.

Sec. 6-74. Violations and Penalties.

(a) The failure of any owner of any unsafe building to comply with any notice or order issued under this Article such building shall be a Class A municipal infraction as provided by Section 1-19 of the Takoma Park Code. Each day such failure to comply continues beyond the date fixed for compliance shall be deemed a separate offense.

(b) The failure of any occupant of any unsafe building to comply with any posted warning placard or notice to vacate shall be a Class D misdemeanor offense as provided by Section 1-20 of the Takoma Park Code.

(c) The defacing or removal of any warning placard or notice which is posted on an unsafe building shall be a Class C municipal infraction as provided in Section 1-19 of the Takoma Park Code.

Sec. 6-75. Civil Enforcement.

In addition to the penalties for violations of this Article set forth in Section 6-74, the City may:

(a) Enforce the provisions of this Article through injunctive, mandamus, or any other appropriate proceedings, and a court of competent jurisdiction may issue a restraining order, interlocutory or final injunction, mandamus or other form of relief to restrain or correct violations of this Article;

(b) Bring suit to collect all costs, assessments or liens imposed or incurred by the City in repairing or causing to be vacated, secured or demolished unsafe buildings; and

(c) Take such other legal action as is necessary to carry out the terms or provisions of this Article.

SECTION TWO. Chapter 5, Fire Prevention of the Takoma Park Code is hereby repealed.

SECTION THREE. This Ordinance shall be effective immediately.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 1993 by roll  
call vote as follows:

Aye:  
Nay:  
Absent:  
Abstained:

NOTE:

~~Shading~~ indicates additions made after the 1st Reading on  
1/11/93.

~~Strikeout~~ indicates deletions made after the 1st Reading on  
1/11/93.

c:\corr\kw  
unsafe93.ord

Introduced by:  
Councilmember Johnson

1st Reading: 12/14/92  
2nd Reading: 1/11/93

**ORDINANCE NO. 1992-44**

(Repeated Harassment and Stalking of Persons Prohibited)

WHEREAS, acts of repeated harassment and stalking of persons have become issues of increasing concern for Takoma Park residents; AND

WHEREAS, the City wishes to specifically prohibit repeated acts of harassment and stalking of persons within its jurisdiction, and to provide criminal penalties for violation of such prohibitions; AND

WHEREAS, at least twenty states across the country have already enacted legislation that prohibits the repeated harassment and stalking of persons; AND

WHEREAS, the State of Maryland has not yet enacted such legislation and although Prince George's County has criminalized such conduct, Takoma Park citizens in Montgomery County are not yet protected and Takoma Park wishes to enact the same standard throughout the City; AND

WHEREAS, existing State law does not provide adequate protection to victims of harassment and stalking.

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

Section 1. Chapter 8, Article 4 (Offenses Against Public Welfare) of the Code of the City of Takoma Park is added as follows:

ARTICLE 4. OFFENSES AGAINST PUBLIC WELFARE.  
Division 4. Repeated Harassment and Stalking.

Sec. 8-62.

(a) For purposes of this division:

(1) "Course of conduct" means a persistent pattern of conduct, composed of two or more acts over a period of time, however short, that evidences a continuity of purpose.

(2) "Credible threat" means an expressed or implied threat against the life of another person or to cause bodily injury to another person which is made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or for the safety of another person or to suffer substantial emotional distress.

(3) "Harass" means to engage in a knowing and willful course of conduct directed at a specific person which serves no legitimate purpose and which would seriously alarm, annoy, or intimidate the person. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress.

(4) "Stalk" means to engage in an intentional course of conduct directed at a specific person which serves no legitimate purpose and which would seriously alarm, annoy, intimidate, or harass the person. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress.

(5) This section does not apply to any peaceable activity intended to express political views or provide information to others.

(b) Unlawful Acts:

A person who willfully follows, stalks, harasses another person, or who makes a credible threat against the person shall be guilty of a misdemeanor.

Sec. 8-63. Penalty.

Each violation of this division shall be a Class A misdemeanor and, upon conviction, punishable by a fine not exceeding One Thousand Dollars (\$1,000.00) or imprisonment for not more than six (6) months, or both in the discretion of the Court.

Section 2. This ordinance shall be effective upon enactment.

Adopted this 11th day of January, 1993 by roll call vote as follows:

Aye: Sharp, Elrich, Johnson, Leary, Porter, Prenskey  
Nay: None  
Abstain: None  
Absent: Hamilton

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Introduced by: Councilmember Johnson

RESOLUTION #1993-2

IN SUPPORT OF PRINCE GEORGE'S COUNTY LEGISLATION  
PROHIBITING REPEATED HARASSMENT AND STALKING OF PERSONS

- WHEREAS, acts of violence and invasion of one's privacy have become issues of increasing concern for many;  
AND
- WHEREAS, at least twenty states across the Country have already enacted legislation that prohibits the repeated harassment and stalking of persons; AND
- WHEREAS, during the 1992 Session, special interest groups in the State of Maryland were unsuccessful in getting the Maryland General Assembly to enact similar legislation; AND
- WHEREAS, support for state-wide legislation has come from the State's Attorney Office and Police Department, the Prince George's County Municipal Association, the Prince George's Commission on Women, and the Stephanie Roper Committee; AND
- WHEREAS, this year, the 1993 Maryland General Assembly Session decided to re-introduce the legislation; AND
- WHEREAS, on October 20, 1992, the Prince George's County Council adopted CB-83-1992, an act to prohibit repeated harassment and stalking of a person and providing penalties for violation; AND
- WHEREAS, on January 11, 1993, the Takoma Park City Council unanimously passed Ordinance #1992-44, prohibiting the repeated harassment and stalking of persons in Takoma Park and making these unlawful acts a misdemeanor; AND

NOW THEREFORE BE IT RESOLVED, THAT the City Council of Takoma Park, Maryland, hereby expresses its support of Prince George's County Bill CB-83-1992; AND

BE IT FURTHER RESOLVED, THAT the City Council encourages Montgomery County Council to enact similar legislation; AND

BE IT FURTHER RESOLVED, THAT the City Administrator is directed to forward a copy of this Resolution to the Montgomery County Executive, as well as to Takoma Park's State legislators to encourage the successful passage of this type of legislation into law.

Dated this 11th day of January, 1992.

ATTEST:

  
Paula S. Jewell, CMC/City Clerk

Introduced by: Councilmember Elrich

Drafted by: Bryan Sayer

**Resolution 1993-3**

**A resolution acknowledging receipt of the  
Citizens Advisory Committee report.**

WHEREAS, the City of Takoma Park, through the Aid to Municipalities program, requested of the Planning Department, Maryland-National Capital Park and Planning Commission (M-NCPPC), a survey of the historical merit of the Prince George's County portion of Takoma Park; AND

WHEREAS, the survey was completed and a report entitled Takoma Park, Maryland Prince George's County An Historic District issued by the Historic Preservation, M-NCPPC, Prince George's Planning Department; AND

WHEREAS, the City Council appointed a Citizens Advisory Committee (CAC) to evaluate the report and make a recommendation concerning the establishment of an historic district in the Prince George's section of Takoma Park; AND

WHEREAS, the CAC studied the report, toured the area in consideration and held several public forums and discussions; AND

WHEREAS, the CAC concludes that a locally designated historic district is not desired by the public at this time; AND

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

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THAT the Council acknowledges receipt of the CAC's report and concurs with the CAC's recommendation that no locally designated historic district on the Prince George's County side of the City be established at this time.



BE IT FURTHER RESOLVED THAT the Council shall establish a bi-county Historic Preservation Education Committee, which shall be charged with the following:

- coordinating an ongoing city-wide program of community education;
- outreach and involvement in historic preservation issues in the City as a whole;
- development of informational materials on the history of the City, maintenance and restoration of historic properties, with any applicable budget recommendations for FY94.

ADOPTED THIS 11th DAY OF JANUARY, 1993

ATTEST:

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Paula S. Jewell, CMC  
City Clerk

Introduced by: Councilmember Elrich

1st Reading: 12/14/92

2nd Reading: 1/11/93

Adopted:

Ordinance No. 1992-45

Authority to Negotiate for Professional Engineering Services

- WHEREAS, the City of Takoma Park desires to enhance its Professional Engineering Service capabilities for general engineering services, street design and construction inspection services, and general services related to Stormwater Management projects and issues, AND
- WHEREAS, appropriate solicitation of interest through formally advertised Request for Proposals was followed, AND
- WHEREAS, the City Administrator appointed a Selection Board to review submitted proposals in accordance with the Takoma Park Procurement Regulations, AND
- WHEREAS, the Selection Board properly convened for screening evaluation and subsequent interviews with a recommended short list of interested engineering firms, AND
- WHEREAS, the Selection Board has recommended that the firm of Greenhorne & O'Mara be selected as an engineering services provider, AND
- WHEREAS, the Selection Board has made recommendations that the current engineering services provider be considered for contract extension beyond the current contract expiration date of March, 1993, AND
- WHEREAS, the finite scope of services required will be contingent upon the [bond issue currently under consideration or other] funding and project authorization by the Takoma Park City Council, AND
- WHEREAS, contractual arrangements with Greenhorne & O'Mara and Gilford & Chase through open ended contracts is considered to be in the best interest of the City of Takoma Park.

NOW THEREFORE BE IT ORDAINED THAT

- SECTION 1 - The City Administrator or her designee is authorized to negotiate with and enter into a contract with the engineering firm of Greenhorne & O'Mara to provide professional engineering services for general engineering services, street design and street construction inspection services, and Stormwater Management engineering services.
- SECTION 2 - The City Administrator is authorized to consider an extension of the current contract with Gilford & Chase beyond March, 1993 for engineering services.
- SECTION 3 - This Ordinance becomes effective upon adoption.

AYE: Sharp, Elrich, Porter, Prenskey

NAY: None

ABSTAIN: None

ABSENT: (for Vote: Johnson, Leary); Hamilton

Note: In this Ordinance, [Brackets] indicate language deleted at 1st Reading.

Encl. (3) to RHK Memo 11/25/92

Introduced by: Councilmember Elrich

Single Reading: 1/11/93

Ordinance No. 1993-3

- WHEREAS, the FY-93 Budget included \$20,000 for the purchase of two (2) Department of Housing and Community Development vehicles, and \$43,500 for the purchase of two (2) Public Works Department vehicles, AND
- WHEREAS, these replacement vehicle purchases were included in the FY-93 Budget pursuant to the Takoma Park Vehicle Fleet Replacement Policy, AND
- WHEREAS, two Ford Festivas are available from Century Ford for \$8,715 each for a total of \$17,430 through Council of Governments cooperative purchasing, AND
- WHEREAS, a Ford 1/2-ton Full Size Pick-up Truck is available for \$13,863 from Century Ford through Council of Governments cooperative purchasing, AND
- WHEREAS, a Ford 1 ton Dump Truck with Lift and CNG Conversion is available for \$33,512 from Century Ford through Council of Governments cooperative purchasing, AND
- WHEREAS, trade-in values are not included in the COG cooperative purchasing prices, AND
- WHEREAS, trade-in amounts of \$25, \$200, \$300 and \$2,400 for a 1983 Chevy Malibu (#133), a 1984 Dodge Diplomat (#139), a 1977 F250 Pick-up Truck (#123), and a 1978 F350 Dump Truck (#117) respectively, for a total trade in amount of \$2,925, have been negotiated, AND
- WHEREAS, funds earmarked for the purchase of these vehicles in the FY-93 Budget are sufficient.

NOW BE IT ORDAINED THAT authorization is granted to purchase two (2) Ford Festivas, one (1) Ford 1/2-Ton Full Size Pick-up Truck and one (1) Ford 1-Ton Dump Truck with Lift and CNG Conversion, from Century Ford for SIXTY FOUR THOUSAND EIGHT HUNDRED AND FIVE DOLLARS (\$64,805) with trade-in allowances of TWO THOUSAND NINE HUNDRED AND TWENTY FIVE DOLLARS (\$2,925) for a net purchase price of SIXTY ONE THOUSAND AND EIGHT HUNDRED AND EIGHTY DOLLARS (\$61,880).

Adopted by Roll Call Vote As Follows:

AYE: Sharp, Elrich, Porter, Prensky

NAY: None

ABSTAINED: None

ABSENT: (for Vote: Johnson, Leary); Hamilton

Introduced by: Councilmember Elrich

Drafted by: Theodore W. Kowaluk

**Resolution 1993-5**

**A resolution to recognize the members of the Prince George's County Historic District Citizens Advisory Committee and express appreciation for their service to the City of Takoma Park**

WHEREAS, the Historic Preservation Section of the Prince George's County Maryland-National Capital Park and Planning Commission (M-NCPPC), completed a survey and report on the historical merit of the Prince George's County portion of Takoma Park; AND

WHEREAS, the City Council appointed the Prince George's County Historic District Citizens Advisory Committee (PGC-HD-CAC) to evaluate the report and make recommendations regarding the establishment of a locally designated historic district on the Prince George's County side of the City; AND

WHEREAS, the PGC-HD-CAC has completed its review and evaluation of the report and has submitted its recommendations to the City Council; AND

WHEREAS, the members of the PGC-HD-CAC have generously volunteered their time, knowledge, and talents in developing these recommendations, and have performed a valuable service for the community;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT the City Council formally thanks the members of the Prince George's County Historic District Citizens Advisory Committee, listed below, and commends them for their service to the City of Takoma Park.

NAME

REPRESENTING

Janet Baldwin  
Todd Bethel  
Pierre Erville  
Martha Feldman  
Dennis Fruitt  
Doug Harbit  
Jim Martin  
Bryan Sayer  
Ann Vogel

New Hampshire Gardens  
Hillwood Manor  
Circle Woods  
B.F. Gilberts  
SOSCA  
SOSCA  
WACO  
Circle Woods  
Longbranch-Sligo

ADOPTED THIS 11th DAY OF JANUARY, 1993

ATTEST:

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Paula S. Jewell, CMC  
City Clerk

Introduced By: Councilmember Elrich

CITY OF TAKOMA PARK

RESOLUTION NO. 1993-6

BY: THE COUNCIL OF TAKOMA PARK

A RESOLUTION

ENTITLED

A RESOLUTION authorizing and empowering City of Takoma Park to participate in the Local Government Insurance Trust and the Health Benefits Pool of the Local Government Insurance Trust; approving, and authorizing and directing the execution and delivery of, the Fifth Amended and Restated Local Government Insurance Trust Agreement dated as of July 1, 1992, by and among the Trust and those local governments participating in the Trust and the Health Benefits Funding Agreement dated as of July 1, 1992, by and among the Trust and those local governments participating in the Trust; pledging the full faith and credit and unlimited taxing power of City of Takoma Park to the prompt payment of all payment obligations under the Health Benefits Funding Agreement; authorizing and directing all officials, employees and agents of City of Takoma Park to take any and all action necessary or appropriate to effect the participation of City of Takoma Park in the Trust; making certain findings in connection with the participation of City of Takoma Park in the Trust; and generally relating to the participation of City of Takoma Park in the Health Benefits Pool of the Local Government Insurance Trust.

## RECITALS

1. Political subdivisions and municipal corporations of the State of Maryland (collectively, "Local Governments"), including City of Takoma Park, are authorized by Article 48A, Section 482B of the Annotated Code of Maryland (1986 Replacement Volume and 1989 Cumulative Supplement) (the "Act"), to pool together for the purpose of purchasing health insurance or self-insuring health risks.

2. Pursuant to the authority granted in the Act, certain Local Governments, including City of Takoma Park, have determined that it is necessary and desirable to pool together for the purpose of providing health benefits to public entity employees and retirees and their dependents and cost containment and managed care advice to Local Governments, all for the public purpose of reducing the cost of providing health benefits to public entity employees and retirees and their dependents.

3. City of Takoma Park has determined that it is in the best interests of the citizens of City of Takoma Park for City of Takoma Park to participate in the Health Benefits Pool of the Local Government Insurance Trust (the "Trust") and to adopt this resolution pursuant to the Act approving, and directing the execution and delivery of, the Health Benefits Funding Agreement to be dated as of July 1, 1992 (the "Agreement") and the Fifth Amended and Restated Local Government Insurance Trust Agreement dated as of July 1, 1992 (the "LGIT Agreement").

4. UNDER THE TERMS OF THE ACT, ANY HEALTH BENEFITS PAYMENT OBLIGATION OF CITY OF TAKOMA PARK UNDER THE AGREEMENT WILL BE A GENERAL OBLIGATION OF CITY OF TAKOMA PARK TO WHICH ITS FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER IS PLEDGED AND WILL NOT BE SUBJECT TO ANNUAL APPROPRIATION BY CITY OF TAKOMA PARK.

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF TAKOMA PARK:

SECTION 1. The participation of City of Takoma Park in the Local Government Insurance Trust is hereby approved.

SECTION 2. The Agreement in substantially the form attached hereto as Exhibit A, is hereby approved, and the Mayor is hereby authorized and directed to execute and deliver to the Trust the Agreement in substantially the form attached hereto as Exhibit A with such changes as the Mayor may approve, such approval to be evidenced conclusively by the Mayor's execution and delivery of the Agreement.

SECTION 3. The LGIT Agreement in substantially the form attached hereto as Exhibit B, is hereby approved, and the Mayor is hereby authorized and directed to execute and deliver to the Trust the LGIT Agreement in substantially the form attached hereto as Exhibit B with such changes as the Mayor may approve, such approval to be evidenced conclusively by the Mayor's execution and delivery of the LGIT Agreement.

SECTION 4. PURSUANT TO THE ACT, ANY PAYMENT OBLIGATION OF CITY OF TAKOMA PARK UNDER THE AGREEMENT SHALL BE A GENERAL OBLIGATION OF CITY OF TAKOMA PARK TO WHICH ITS FULL FAITH AND

CREDIT AND UNLIMITED TAXING POWER IS PLEDGED AND MAY NOT BE SUBJECT TO ANNUAL APPROPRIATION BY CITY OF TAKOMA PARK.

SECTION 5. All officials, employees and agents of City of Takoma Park are hereby authorized and directed to take any and all action necessary or appropriate to effect the participation of City of Takoma Park in the Trust and to execute and deliver all documents, instruments, certificates, and opinions necessary or appropriate in connection therewith.

SECTION 6. The Recitals to this resolution are hereby declared to be, and shall at all times and for all purposes be deemed to be, the findings of City of Takoma Park in connection with its decision to participate in the Trust, to make premium payments, provided for in the Agreement, and execute and deliver the Agreement and the LGIT Agreement.

[This space left intentionally blank.]



SECTION 7. This resolution shall become effective immediately upon its adoption.

CITY OF TAKOMA PARK

[SEAL]

Edward F. Sharp  
Mayor Edward F. Sharp

William H. Leary  
Councilmember Bill Leary

ATTEST:

Kathy Porter  
Councilmember Kathy Porter

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

Hank Prensny  
Councilmember Hank Prensny

Gregory V. Hamilton  
Councilmember Gregory V. Hamilton

Marc Elrich  
Councilmember Marc Elrich

Lloyd Johnson  
Councilmember Lloyd Johnson

Date of Adoption: January 11, 1993

CITY OF TAKOMA PARK, MARYLAND (FINAL 2/12/93)

Public Hearing and Regular Meeting of the City Council  
Monday, January 25, 1993

CITY OFFICIALS PRESENT:

Mayor Sharp	City Administrator Habada
Councilmember Elrich	City Clerk Jewell
Councilmember Johnson	DHCD Director Nance-Sims
Councilmember Leary	Corporation Counsel Silber
Councilmember Porter	Ass't Corp. Counsel Perlman
Councilmember Prensky	Ass't Dir/Spec. Proj. VinCola
	Police Chief Fisher

The City Council convened at 8:05 p.m. on Monday, January 25, 1993 in the Council Chambers at 7500 Maple Avenue. Following the Pledge of Allegiance, the following comments were made.

MAYOR/COUNCIL COMMENTS:

Mr. Sharp announced that Cable Channel 54 was experiencing signal problems and that the Council Meeting would not be shown live.

Mr. Sharp complimented Mr. Johnson, members of the Martin Luther King, Jr. Commemoration Committee and all of the participants on an inspirational and interesting commemoration program.

Mr. Johnson commented on the death of retired Supreme Court Justice Thurgood Marshall and said that his name would go down in history among the many great Americans. The Council observed a moment of silence in the memory of Thurgood Marshall.

CITIZEN COMMENTS (those directed at items not on Council's Agenda  
Tracey Sivitz, Philadelphia Avenue, commended Mr. Sharp for his  
testimony in November before the Montgomery County Council  
regarding plans for the Silver Spring Central Business District.  
Ms. Sivitz said that on January 29, the County Council's planning  
committee would be voting on a plan that proposed widening  
Philadelphia Avenue and she asked the City Council to contact  
County Councilmembers Berlage, Adams and Hanna to voice opposition  
to widening of the intersection which would threaten the health and  
safety of the residents and the quality of community life which was  
already under siege by excessive traffic volume.

Mr. Leary said he had talked to Mr. Berlage who expressed his opposition to including any language in the Sector Plan referring to "improvements" at the intersection. Mr. Leary said Mr. Berlage urged that the City contact the County Council and express their opposition to the proposal.

Mr. Sharp commented that he planned to meet with Mr. Hanna on January 27th and would talk to him about the issue.

INTRODUCTION OF STAFF

Ms. Habada introduced Catherine Sartoph, Deputy City Clerk who came to the City from Walter Reed's Department of Anatomic Pathology.

Ms. Habada then introduced Gloria Nance-Sims, Director of Housing and Community Development who came to the City from High Point, North Carolina where she was administrator of the housing and community development division.

ADDITIONAL AGENDA ITEMS

Ms. Habada noted that Community Planner Schwartz had submitted a revised Resolution for agenda item #9; the appointments to the Alternative Transportation Modes Committee.

Ms. Schwartz noted a few points on Agenda Item #9, appointments to the Alternative Modes Transportation Committee; she noted she had a background statement on Byrne Kelly, was expecting a background statement for Larry Himelfarb, and that Jeff Tryens requested that

his name be withdrawn from consideration because he was currently a member of the Environmental Committee and didn't feel that he could effectively serve on both. Ms. Schwartz also noted that Peter Feiden was also a nominee for the Affordable Housing Committee and he had indicated that he would have time for both.

## #2. Public Hearing Re: Blair High School

Mr. Sharp said there was a proposal made a few weeks ago, for the Council to take a position on the overcrowding conditions at Blair High School; he noted that the agenda did not call for Council to take a position at this time but suggested that the Council may want to discuss the matter following the public hearing.

### Citizen Comments

Dick O'Connor, 7110 Maple Avenue urged the Council to support the rebuilding of Blair HS on the Kay Tract. He said the school had deteriorated badly and the student population would expand to over 2,700 students by 1997. Mr. O'Connor noted the accomplishments of Blair HS students and the gifted and talent (magnet) science and math program. He said statistics show the middle class had come back; however, he expressed fear that the trend would not continue if a quality facility was not offered to future students. He said the key to a quality middle program was a facility large enough to meet the demands of a diverse student population, and a new Blair on the Kay Tract was the only viable option of all options now being considered by the school board and County Council.

Laura Steinberg, Blair Cluster Coordinator, resident said that Blair was beyond 100 percent capacity; she gave some history of Blair and how the Kay Tract was developed as an alternative site for the high school. She said the County Council had requested an independent cost-benefit analysis in which the consultant compared several alternatives and concluded that although the Kay Tract was the most expensive option studied, it provided significantly more benefits than any of the other options.

Mr. Sharp asked about the time frame the County Council was scheduled to act.

Ms. Steinberg replied that the Board of Education would prepare alternatives as requested by the County Council; the Superintendent would make recommendations to the Board of Education on February 1, 1993, and alternatives to the recommendations would be presented on February 11, 1993. She said the Board of Education would hold public hearings the end of February and take action on March 9, 1993 and their recommendation would be sent to the County Council in time for action on the Capital Improvement Plan.

Mr. Hamilton asked for a clarification on the process and asked if the City Council's position of support was exclusive of the Committee's recommendation.

Ms. Steinberg responded that this was correct and confirmed that the Committee had not made a recommendation.

Jane Lawrence, 7704 Takoma Avenue commented that she had never seen an issue as complicated and important to the community. She said the Council's support would help provide the best solution to the problem; the community was facing scary times in terms of the children's education and she urged the Council to move soon.

Elliott Andalman, PTA President, Takoma Park Intermediate School said he also served on the Blair Cluster group. He said the prior speakers summed up the necessity for the Kay Tract and he asked the Council to fully support it as the best solution to the problem. He said the City needed and deserved the best facility they could get; it was not correct for the County Council to balance its budget on the back on the educational needs of the community. Mr. Andalman noted that it was interesting that the area with the highest minority population and its poor people had the oldest high

school for its community. He said that the Blair school site should remain open as a school to provide community services to the area.

Jerome Ernst, 7303 Cedar Avenue said his wife was a teacher at Blair HS and there was no more crucial issue than the continuation of today's Blair and its improvement on the Kay Tract. He said he was convinced that the new Blair was crucial to the community and he urged the Council to take a significant role in guaranteeing that the quality education and diversity of services offered by Blair continued and that the Council use the occasion to improve the present educational opportunities.

Dan Parr, resident of Houston Avenue (not in the City) pleaded with the Council that the issue was fundamental to the City and surrounding community. He commented that equal education meant equal facilities. Mr. Parr said that the overcrowded facility which currently housed 2,200 students would increase until a peak capacity of 2,700 students was reached by 1997 when any proposed new facility would be completed. Mr. Parr said Blair currently sat on 15 acres and the standard for high schools was 30 acres. He said the preferred alternative which was voted on by the Board of Education was to build a new Blair on the Kay Tract and that any other alternative meant that Takoma Park's children would go to substandard schools.

Holly Mines, 804 Avenue invited the Council to attend the Citizens for a Better Blair meetings; she said the community as a whole was united by this proposal and that it included the tenants on Maple Avenue, the NAACP, all the area's civic associations; it was not only an issue to those who had children in this community, it was an issue that had significantly united the entire community. She urged the Council to attend the meetings and said she hoped the Council would consider supporting this proposal.

Ralph Coleman, 7611 Maple Avenue said he was a proud father of an alumni of Blair HS. He commented that the issue reminded him of 35 years ago when schools were segregated. He said he had noticed that not only was the physical structure of Blair constantly deteriorating, but also the educational curriculum; he said they needed more efficient and high tech classes to keep up with the job market of the area. Mr. Coleman said he was involved with the youth of the community and the City had always taken pride and set examples of the way America should be and he urged the Council to take a position on this issue of educating the City's children.

#### COUNCIL COMMENTS

Mr. Elrich said that he had felt for some time a proposal for building a new Blair on the Kay Tract was the only equitable and fair solution for the community. He said Blair would have to be a large school with an ability to accommodate 2600-2800 students and to deal with the some of the issues intended with Blair. Mr. Elrich said the issue ought to be equity and the only way this could be delivered to the County would be to build a new Blair. Mr. Elrich said he was sensitive to concerns expressed about vocational programs, but he said these had nothing to do in the long run of whether Blair was on a site that was adequate; he said those concerned needed to stay involved in the educational battle and not think that if the County were to build a new Blair, that the education would be what everyone hoped it to be; the first thing needed was an adequate facility and an adequate site. Mr. Elrich said he talked to County Councilmember Subin who had raised issues regarding problems with size and who seemed to acknowledge that the problems could be adjusted with additional funds. Mr. Elrich said the problems associated with Blair were not insurmountable or insolvable but they would require that the County make the commitment to solve the problems and the City had the right to insist on that commitment.

Ms. Porter said most people she represented were on the Prince George's side of the City and she had relatively little knowledge of this issue. However, she said she was persuaded that the interest of students of Takoma Park would be best served by the alternative proposal presented. Ms. Porter said she was impressed by the speakers who stressed the issue of equity in the schools and she said she hoped that equity would be extended to the Prince George's side as well. Ms. Porter said those on the Prince George's side and the Montgomery County side have worked together in favor of education on several issues and she would like for that type of coordinated work to continue; there were a number of schools on the Prince George's side which were old and in need of renovation; i.e., Carole Highlands which was over 40 years old and although slated for renovation, plans had been postponed on many occasions because of the State's reluctance to commit funds.

Mr. Leary moved that the Council endorse the proposed construction of a new Blair HS on the Kay Tract; the motion was seconded by Mr. Hamilton.

Mr. Sharp suggested that the letter sent to the County Council emphasize the issue of equity, as well as the specific City issue which was transportation development impacts--he said that taking the Blair Tract out of higher density development would be a good idea for the City as well.

Council Action: The Motion passed unanimously.

RESOLUTION #1993-7  
(Attachment)

#3. Public Hearing - Socially Responsible Investment Policy

Mr. Sharp called the public hearing to order at 9:10 p.m. and invited citizens to comment on the second draft of the Policy.

Reuben Snipper, Chair, Nuclear-Free Takoma Park Committee said that the Council spent a fair amount of time on this and he believed that the draft policy before them was ready to be adopted. He said he had some "word-smithing" to share with the City Administrator.

Tom Anastasio, 32 Columbia Avenue said that Ms. Habada deserved a lot of credit for her response to Tom Mooney's letter to the Journal Editor. He also said he thought the policy was right and it was time to adopt it. Mr. Anastasio commented that he would like the City to move towards a socially responsible procurement and employment policy as well. He also commented that in City Code Section 8A, the City had a list of permitted investments; it was not clear that every investment under the Maryland Local Investment Pool on page 7, sec. (A)(1) was socially responsible. Mr. Anastasio also said that on page 7, sec. (A)(3), there should be listed a range of securities and the City should stay away from, such as T-bills. Mr. Anastasio also said that in sec. 4(D), he would like to see the City be proactive in finding ways to make deals with local banks in exchange for monies the City might invest in such banks. He said an example might be that the banks promise to invest money locally, particularly in local and small businesses, minority businesses, etc. Mr. Anastasio said he hoped there would be a strict separation by any financial advisors, whether voluntary or paid, for placing City funds and he said there had to be no conflict of interest as well as no appearance of a conflict of interest.

Mr. Johnson commented that if the speakers were suggesting that the City's proposed policy did not go far enough in addressing the needs of small business people, i.e., minority entrepreneurs, etc., that he agreed and he noted that the policy was a good beginning but more was needed.

Mr. Anastasio said as an investment policy the draft policy went far enough, but he said there should be other policies for procurement, employment, etc.

#### COUNCIL COMMENTS

Mr. Sharp said he did not agree that the Policy was ready to be adopted; he noted that he had editorial comments and had noted some areas where there was some duplication of provisions and that there was still some work to be done on the draft.

Mr. Leary seconded the Mayor's sentiments and said he did not know what the paragraph "city authority" meant and how it related to section 4, "investment objective". He said there was need for additional Council discussion.

Mr. Prensky said that on page 7, Sec. (a) "Permitted Investments" should read, "...according to State Code". He said on page 4, under Article 3, he was in agreement with the first six lines outlining the "City Authority"; however, he was uncomfortable with the language of the rest of that paragraph and that further discussion should separate the Code requirement that the City's investments not benefit industries or institutions knowingly engaged in nuclear weapons production from a broader definition of Socially Responsible Investment Policy. He said the terminology of how the City defined the socially responsible investment policy was what the City had to move forward to.

Ms. Porter said she also concluded the same thing; the definition of socially responsible investment policy was more of an objective; she said the first six lines were in fact statutory authority; the rest was something the Council chose to define that statutory authority as and might be more appropriately defined as an objective. Ms. Porter also noted that a definition of "local banks" was needed.

Mr. Sharp commented that the Nuclear Free Zone Act did not need to be cited as justification for doing this; the Council was actually creating a policy. He suggested that the language could note that the policy was in part carrying out the City statute but the Council was in fact setting policy which went beyond the Nuclear Free Zone Act.

Ms. Habada pointed out that in the summary provided after the last Council discussion, the request was for a section entitled legal requirements which she termed "statutory requirements" or a new section entitled "socially responsible guidelines".

Mr. Sharp suggested that the Council should plan to discuss any proposed rewrites at the Worksession on February 16th. Mr. Prensky suggested that an article be written for the next issue of the Newsletter in order to engage citizens in more discussion. He suggested a further public hearing after the next issue of Newsletter.

Mr. Sharp said he did not see any point in a second public hearing until the Council had time to more fully structure the policy draft. He suggested that the Council continue discussion of the policy at the February 16th Worksession and plan to hold a second public hearing on March 8th. He encouraged the Councilmembers to talk to staff and do their rewriting prior to that Worksession.

#### #4. Contract Between Takoma Park Cable Television, Inc. (TPCT) and City for Cable Services

Mr. Hamilton announced that he would not be participating in the evenings' discussion or vote on the matter, citing a conflict of interest.

Mr. Leary moved passage of the Resolution; seconded by Ms. Porter. He noted that the Council had received a fully satisfactory budget submitted by TPCT which the Council had requested. Mr. Leary said

that the income anticipated was from County revenues that would be from County franchise fees and a grant. He noted that the budget showed expenditures for new equipment and supplies, but that no money was budgeted to pay for staff.

Mr. Prenskey commented on the Fees Schedule dated 11/1/92 and asked for a clarification on schedule #5, and #6; he asked if it would be correct to change the titles because this meant money that was actually a cost to a producer not fees paid to producer and crew.

Ms. Sinclair-Jacobs confirmed that Mr. Prenskey was correct; the costs were for taping and not any payment made to producers and crews.

Kay Dellinger, Resident, Hampshire Towers asked if TPCT was still paying a consultant; she recommended that the consultant be asked for an opinion on what equipment to purchase before any funds were expended on equipment. Ms. Dellinger also asked about the grant.

Ms. Habada said that Council authorized \$6,000 in the FY'93 City budget for consultant assistance to advise the City Administrator on technical elements on running the station; she said that no money to date had been spent by the City or TPCT for consultant work.

Ralph Coleman of TPCT explained that the grant to the Montgomery County Commission on the Humanities For Multicultural Programs was applied for by TPCT to purchase equipment in order to upgrade existing equipment. He said the station was non profit and that the grant was for public service announcements in multicultural languages and any grant money obtained would be spent as specified in the grant.

Ms. Dellinger said she was surprised to read that Takoma Park residents would not have to pay to take classes; however the fee schedule stated that they must pay; she said she could only assume that the article she read in The Takoma Voice was wrong. (The Council confirmed that what she had read was incorrect). Ms. Dellinger said the City was not charging rent for the use of office or studio space by TPCT. She commented on the volunteer work that was required by persons who wanted to produce programs and said that because of the various charges required at every level for operating the equipment or producing, Takoma Park residents should not have to pay for their cable station. Ms. Dellinger also remarked that there was no appeal process for an organization or individual to go through if their tape had been rejected by TPCT. Ms. Dellinger commented on a statement made by Mr. Johnson that he had not heard complaints about persons not gaining access to the station; she read from a set of 9/23/91 City Council Meeting Minutes and cited a number of residents who complained about the lack of access they had with producing cable programs.

Mr. Johnson responded that Ms. Dellinger's reading of the Minutes were from Council Meetings that took place two months prior to his tenure as Councilmember. Mr. Johnson said that 76% of the Ward 6 citizens asked him to represent them on the Council and he has represented them to the best of his ability with reasonable effectiveness.

Ginger Wong, 5805 Warsaw Drive, Bethesda said she frequently watched Takoma Park's channel and she was impressed with the multi-cultural and ethnic programs which were stimulating and educational to the younger population. She said TPCT should be given a pat on the back and said that this was a non-profit organization and if there were persons who thought there were faults with the station, they ought to be willing to volunteer their time to help improve it.

Hank Cox, 7331 Piney Branch Road said the TPCT volunteer group was

doing a good job; the volunteers were devoting a lot of time to the effort and it gave a lot of people the chance to participate in the Cable proceedings.

#### COUNCIL COMMENTS

Mr. Leary noted that all specific complaints raised by Ms. Dellinger occurred while the City was paying a \$40,000 a year Cable Coordinator, and he was confident that the station would do a lot better without paying a full time staff member. He said he agreed with speakers who said the City ought to be thanking the volunteers for doing hard work and making a good faith effort to address the many complaints that have been made over the months. Mr. Leary said he was confident that TPCT would continue to improve the quality of the product they offered.

Mr. Elrich asked if he were a producer and he wanted to put a one hour show on, what were the costs associated with this.

Ms. Sinclair-Jacobs responded that TPCT would arrange for a technician if the person did not have one and the costs would be \$20 for the tape.

Mr. Elrich then asked said if a group did not have a producer, would they still be charged \$125?

Ms. Sinclair-Jacobs said that such a group would need to have technicians certified through TPCT or they would have to pay the fee. She said the fee was used to offset expenses involved in producing programs, costs for editing, time, etc.

Mr. Elrich said he still felt the costs for City residents to produce programs for cable were excessive.

Mr. Leary noted that one provision of the contract allowed the City Administrator, at her discretion, to designate up to 12 programs over the course of the year that must be filmed by TPCT at no charge.

Mr. Johnson said that the fees the organization charged were truly depressed and he could not understand how TPCT could charge so little for the quality of the programs; he cited as an example, the quality of the presentation of the Martin Luther King Commemoration ceremony which he said was complimented on by everyone.

Ms. Sinclair Jacobs said the Board tried to take all aspects into consideration; for those who wanted work done, they needed to commit themselves to doing volunteer work or pay the costs to help defray the expenses.

Will Young, 7611 Maple Avenue and Member of TPCT said it was unfair for persons to make the implication that the fees were excessive; he said for someone to come in that had not taken any classes or taken any part in the volunteer effort to help run the station should have to pay for the services that were provided.

Ms. Porter noted that there were three level of fees and she asked why was there a significant difference depending on where the programs were taped.

The Council agreed that the language outlined in the Fees Schedule needed to be clarified regarding fees charged to City and non City residents for taping and producing programs. In addition, the Council agreed that in the Schedule it needed to be made clear that the money listed was for the costs for producers and crew members for taping programs and were not fees paid to producers and crew members.

Council Action: The Resolution passed by a 5 to 1 vote (Nay: Mr. Elrich; Abstained: Mr. Hamilton).



RESOLUTION #1993-8  
(Attached)

#5. Affordable Housing Committee

Ms. VinCola explained that the Resolution established and appointed seventeen members to the Affordable Housing Committee.

Mr. Prenskey asked about the term "physical capabilities" in the last Whereas clause and said that the language was cumbersome. Recommendation from Staff was made to change the language to "physical disabilities". Mr. Prenskey also proposed adding an eighth goal: "to explore expanded relationships with local and regional lenders to maximize access to capital, credit and creative partnerships"; his motion was seconded by Mr. Elrich and unanimously adopted.

Mr. Sharp moved that in the last Resolved clause, the phrase "not to exceed twenty members" be deleted; the motion was seconded by Mr. Elrich and carried unanimously. Mr. Sharp commented that the Council would look carefully at going over twenty.

Ms. Porter commended staff on their efforts to recruit tenants for the Committee and she noted that seven of the seventeen members were tenants.

RESOLUTION #1993-9  
(Attached)

#6. 2nd Reading Ordinance Amending Article 6, "Unsafe Buildings" Legislation. The Ordinance repeals Chapter 6, Article 6 of the Takoma Park Code and replaces it with stronger provisions for abating situations of unsafe properties in the City. Moved by Mr. Elrich; seconded by Ms. Porter, the Ordinance was unanimously adopted on second reading. (Absent: Mr. Hamilton, Mr. Leary, Mr. Prenskey)

ORDINANCE #1993-2  
(Attached)

#7. Single Reading Ordinance Awarding Contract for Municipal Gym  
The Ordinance awards a contract to Rosa's Contracting in the amount of \$29,944 to renovate the Takoma Park Municipal gymnasium. Moved by Mr. Elrich; seconded by Mr. Johnson; the Ordinance was unanimously adopted on single reading. (Absent: Mr. Hamilton, Mr. Leary, Mr. Prenskey)

ORDINANCE #1993-4  
(Attached)

#8. Police Grant Proposal

Mr. Sharp explained that the contract was a resurrection of a grant that the City submitted last year; the expectation was that a current officer on staff would be paired with a new officer whose salary would be funded by the grant. The Resolution was moved by Mr. Johnson and seconded by Ms. Porter.

Ms. Porter noted that some of the money obligated under the grant would be spent out of next year's budget and by doing so, the Council was making a decision on some spending for next year's budget. Ms. Porter said she did not disagree with the allocation of money but it was important that people understood that this was being done.

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

RESOLUTION #1993-10  
(Attachment)

#9. Appointments to the Alternative Transportation Modes Committee  
Moved by Mr. Prenskey and duly seconded. Mr. Sharp asked how this would affect Phase II of the Traffic Plan.

Ms. Habada said that the individual studies for Phase II would be ongoing and she would be trying to get the studies from Prince George's County out; she was told they would not be finished until May.

Mr. Sharp said a good deal of the Plan would have to do with being able to affect other governmental entities and changing the ways Americans exist globally and he did not want this factor to slow down Phase II of the Plan.

Ms. Porter said it was very important that the Council act at this time; she said a lot of the complaints Council has heard by residents on the City's major roads were the result of traffic volume and traffic speed and the only way to address traffic volume was through the development of this phase of the Plan.

Mr. Prenskey noted the following amendments: in the third Whereas clause the word "assist" should be "assistance". In addition, he suggested that the language in the fifth Whereas clause be changed because it appeared that the Committee was being asked to reduce overall traffic volumes; Mr. Prenskey said they are charged with recommending ways the City can go about reducing traffic volumes.

Mr. Prenskey asked that it be noted in the Resolution by asterisk that one member resided outside of the City limits.

RESOLUTION #1993-11  
(Attached)

The City Council adjourned at 10:38 p.m. to reconvene in Regular Session on February 8, 1993.

*City of Takoma Park*  
*Takoma Park, Maryland 20912*

13011 270-1700

RESOLUTION #1993-7

OFFICE OF THE  
MAYOR

January 28, 1993

**FAXED**  
1/28/93

The Honorable  
Michael Subin  
Chair, Education Committee  
Montgomery County Council  
Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, MD 20850-2371

Dear Councilmember Subin:

On January 25, 1993, the Takoma Park City Council held a public hearing to listen to the community's concerns about the overcrowding conditions of Blair High School and proposals for alleviating these conditions. As a result of the testimony heard, the City Council voted unanimously to endorse the proposal for construction of a new Blair High School on the Kay Tract.

Students residing in the Montgomery County portion of Takoma Park are in the Blair Cluster and are assigned to Blair High School. Because of the rich diversity of the Takoma Park community, these students are unique and have special needs; they include many minority students, economically deprived students, and English as a second language students. In addition to the varied make-up of the student body, the enrollment for Blair High School is projected to increase by an additional 600 students within the next several years.

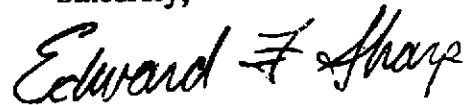
Any proposal before the Montgomery County Council that diminishes the diversity of the student population of this community is not acceptable. Any proposal before the County Council that offers to provide a new high school that is not equal or comparable to other school facilities in Montgomery County is not acceptable. In conclusion, any proposal before the Montgomery County Council that does not fully address and meet the educational needs of the students in this community and does not fulfill our desire to maintain the diversity and stability of the communities that this school serves is not acceptable. In addition to the quality of education issue, relocating Blair High School to the Kay Tract would have positive impacts on transportation development; taking the Blair Tract out of an area that is designated for high density development is a good idea from our perspective.

The Honorable Michael Subin  
January 28, 1993  
Page 2

The City Council of Takoma Park has always been deeply concerned about the quality of education for the children in this City. We have gone on record in support of County tax increases in order to maintain effective levels of educational services in our schools. In 1981, we successfully fought for the right to keep open a Takoma Park Jr. High School that was slated for closure. And now, we are strongly urging the Montgomery County Council to adopt and fund the proposal to build an adequate facility for this community—a new Blair High School on the Kay Tract.

On behalf of the Takoma Park City Council, thank you for the opportunity to comment on this important issue. Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Edward F. Sharp".

Edward F. Sharp  
Mayor

Copies to:

Neal Potter, County Executive  
Montgomery County Councilmembers  
Dr. Paul L. Vance, School Superintendent  
Takoma Park City Council

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

RESOLUTION #1993-8

AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH  
TAKOMA PARK COMMUNITY TELEVISION, INC. (TPCT) TO PROVIDE CABLE  
SERVICES FOR THE CITY OF TAKOMA PARK, MARYLAND

WHEREAS, on December 9, 1991, by Resolution #1991-104, the Council authorized the development of a contract between the City and TPCT that would transfer the full authority and responsibility to operate Takoma Park's cable station, pursuant to guidelines established in the Resolution; AND

WHEREAS, over the past year, the Council, the City Administrator and TPCT members have been negotiating the terms of such an agreement so that the management and operation of the City's Cable channel will best serve the purposes and goals of effective municipal and community access programming; AND

WHEREAS, a final contract has been proposed and initially agreed upon by all concerned parties and has been presented before the citizens of Takoma Park for public comment.

NOW THEREFORE BE IT RESOLVED, BY THE TAKOMA PARK CITY COUNCIL THAT the Contract Between the City of Takoma Park, Maryland and Takoma Park Community Television, Inc. (hereinafter referred to as the "Contract") is hereby accepted; AND

BE IT FURTHER RESOLVED, THAT subject to the conditions of Ordinance #1992-25 (*Exemption of Cable Services from the Competitive Bidding Provisions of Chapter 9A, Purchasing of the Takoma Park Code*), the Mayor of Takoma Park is hereby authorized and directed to execute the Contract on behalf of the City of Takoma Park; AND

BE IT FURTHER RESOLVED, THAT this Resolution shall become effective immediately upon adoption.

Dated this 25th day of January, 1993.

ATTEST:

  
Paula S. Jewell, CMC/City Clerk

Introduced by: Councilmember Leary  
1st Reading:

2nd Reading: 6/22/92  
Effective Date: 6/22/92

Drafted by: Susan Silber  
Corporation Counsel

ORDINANCE NO. 1992- 25

(Exemption of Cable Services from the Competitive Bidding Provisions of Chapter 9A, Purchasing, of the Takoma Park Code)

**WHEREAS**, the City of Takoma Park, Maryland is a co-franchisor of the Montgomery County Cable Television franchise; and

**WHEREAS**, a municipal channel on the Montgomery County Cable Television system has been dedicated for the use of the City of Takoma Park; and

**WHEREAS**, the Takoma Park municipal channel has significant potential as a communications vehicle for use by the City of Takoma Park and its residents to inform, educate, and entertain with regard to matters of public and cultural interest; and

**WHEREAS**, Takoma Park Community Television, Inc. ("TPCT") and its predecessor volunteer organization have provided ongoing support, management and operational services to the municipal channel, and have contributed significantly to the goal of maximizing community access to the Takoma Park municipal channel; and

**WHEREAS**, by Resolution No. 1991-104, the City Administrator was authorized to develop a contract between the City of Takoma Park and TPCT providing for TPCT to operate the Takoma Park municipal channel; and

**WHEREAS**, the Council finds that TPCT has the capability in all respects to operate the Takoma Park municipal channel, as well as the necessary experience, reliability, and capacity to assure good faith performance; and

**WHEREAS**, the Council finds that TPCT is the best qualified source and that it is in the interest of the City of Takoma Park to contract with TPCT for the operation of the municipal channel without going through a competitive bidding process; provided, however, that TPCT provides the City with a certification from the State of Maryland of TPCT's status as a duly-organized non-profit corporation and, provided further, that TPCT provides evidence that it has submitted a bona fide application for 501-C(4) status to the Internal Revenue Service.

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

**Section 1. Exemption of Cable Services Procurement from Competitive Bidding.**

The procurement of municipal cable services is hereby exempted from the provisions of Chapter 9A, Purchasing, Sections 9A-10 to 9A-14, of the Takoma Park Code, and all other provisions or regulations relating to competitive bidding. Upon receipt of both certification from the State of Maryland of TPCT's status as a duly-organized non-profit corporation and a bona fide application to the Internal Revenue Service for 501-C(4) status, the City Administrator is hereby authorized to enter into a contract with TPCT for the operation of the Takoma Park municipal channel.

**Section 2. Effective Date.**

This Ordinance shall be effective immediately.

Adopted this 22nd day of June, 1992 by roll call vote as follows:

**Aye: Leary, Hamilton, Johnson, Porter, Prensky**

**Nay: Elrich**

**Abstained: none**

**Absent: Sharp**

corr164/kw  
cable2.ord

Drafted by: V. VinCola  
Introduced by: Councilmember Prensky

Resolution 1993-9

**To establish and appoint members to an Affordable Housing Committee**

WHEREAS, there is a need to develop a comprehensive multi-year affordable housing strategy in the City of Takoma Park to:

- ensure, to the greatest extent possible, safe and affordable housing for all City residents; and
- respond to population trends and housing needs with creative ways to address them;
- establish priorities which provide a multi-year framework for decisions on the City's housing policy and housing-related programs; and
- guide the development of innovative programs to expand the availability of affordable housing options and preserve the City's diversity in terms of the race, ethnicity, age, income, and physical disabilities of its population.

WHEREAS, The City Council desires to appoint an Affordable Housing Citizens Committee to provide recommendations on the direction and implementation of a comprehensive multi-year affordable housing strategy for the City; AND

WHEREAS, several Takoma Park residents have expressed an interest in serving on the Affordable Housing Committee; AND

WHEREAS, the Affordable Housing Committee is charged with carrying out, with the assistance of City staff, the following duties by the end of the 1993 Fiscal Year:

1. identify and prioritize housing needs based on the City's housing and population characteristics and prevailing market conditions;
2. identify how existing housing programs and resources, including those of the Counties, State, Federal and local non-profits, can be used in Takoma Park to address unmet needs;
3. recommend new program ideas which may be necessary to fill in gaps between the City's identified needs and the availability of existing outside programs and resources to meet those needs;



4. initiate an evaluation of the merits of creating a housing authority, and the prioritize this evaluation in relation to other identified needs in (1) above;
5. develop guiding principles to be used by the City for selecting sites to acquire and/or develop;
6. recommend a procedure for monitoring progress on the City's affordable housing goals and adopting modifications to this strategy as new information/conditions become known;
7. explore expanded relationships with local and regional lenders to maximize access to capital, credit, and creative partnerships; and
8. present final recommendations of policy and program initiatives to expand affordable housing options in the City over the next five years; these recommendations shall include program priorities and a projection of financial resources needed to carry out each program initiative.

NOW THEREFORE BE IT RESOLVED THAT the City Council does hereby appoint the following members to the Affordable Housing Committee:

(T)	Jack Amick	407 Tulip Avenue #3
(T)	Rae Ballard	7403 Hancock Avenue #201
	Kathleen Bissa	7315 Wildwood Drive
	Peter Feiden	7025 Eastern Avenue
	Mary Grice	7611 Maple Avenue
	Louise Howells	102 Elm Avenue
(T)	John Jefferson*	1705 East-West Highway*
	Stephen Johnson	7217 Central Avenue
	Brandon Lipman	328 Boyd Avenue
(T)	Laura Misener	8308 Flower Avenue #505
(T)	Wallace Nunn	7777 Maple Avenue
	Gabby O'Brien	7009 Poplar Avenue
(T)	Kirsten Springer	16 Philadelphia Avenue
(T)	Charles Shipp	7333 New Hampshire Ave #905
	Charlotte Sobel	905 Elm Avenue
	Gail White	609 Hudson Avenue
	Bruce Williams	326 Lincoln Avenue

(T) Tenant

\* outside City limits

BE IT FURTHER RESOLVED THAT the City Council may make additional appointments to this Committee as necessary, not to exceed twenty members, may amend and/or prioritize the duties as described above, and may set completion dates on certain tasks at a later date.

Adopted this 25th day of January, 1993.

Single Reading 1/25/93

Introduced by: Councilmember Johnson

RESOLUTION # 1993 - 10

- WHEREAS, During March, 1992, the Governor's Office of Justice Assistance approved the Drug Crime Control Team grant, but without funding; AND
- WHEREAS, In December, 1992, the Governor's office contacted Takoma Park Police and advised they had identified funds for the grant; AND
- WHEREAS, During December, 1992, the Governor's office approved the grant, awarding the City the sum of \$43,094 in Federal funds; AND
- WHEREAS, The City is required to match the Federal funds in the amount of \$10,773; AND
- WHEREAS, The grant would fund the salary of one sworn officer and include the purchase of a used vehicle for \$6,500;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND, THAT the Mayor is authorized to execute an Agreement with the Governor's Office of Justice Assistance for receipt of the above-described grant.

Dated this 25th day of January, 1993.

Introduced By: Councilmember Prenskey  
Drafted By: L. Schwartz

**Resolution #1993-11**

**A Resolution to Appoint Members to the  
Alternative Transportation Modes Committee**

WHEREAS, traffic volumes in the City are currently straining the capacities of major and residential streets in the City, and are projected to increase in the future; AND

WHEREAS, there is a need to reduce overall traffic volumes in the City through alternatives to the single-occupant vehicle, such as transit, ridesharing, bicycling, and pedestrian activity; AND

WHEREAS, the City Council wishes to appoint an Alternative Transportation Modes Committee to provide input for and assistance in the development of an element of the City Transportation Plan (to be known as Phase III) to address these concerns; AND

WHEREAS, the City has issued notice for volunteers to serve on this committee; AND

WHEREAS, the Alternative Transportation Modes Committee will be charged with recommending goals for reducing overall traffic volumes in the City by such means as:

- evaluating and expanding as necessary the City's existing goals and policies for alternative transportation modes such as transit, ridesharing, bicycling, and pedestrian activity;
- evaluating and developing recommendations concerning the alternative transportation mode goals and policies of jurisdictions whose actions impact Takoma Park;
- evaluating measures currently being developed by the Metropolitan Washington Air Quality Committee to attain compliance with the Clean Air Act;
- identifying areas of pedestrian/vehicular conflict, and proposing general measures to address these conflicts;
- recommending potential bicycle and pedestrian routes, including a review of undeveloped rights-of-way (paper streets) for this purpose, in coordination with the work of the City's Open Space Committee;

- developing recommendations concerning transit, ridesharing, bicycling, and pedestrian activity designed to accomplish the agreed upon goals and objectives, including cost estimates for these recommendations, and relating these recommendations to other elements of the City Transportation Plan;
- identifying potential funding sources and prioritizing proposed alternative transportation improvement measures.

NOW THEREFORE BE IT RESOLVED THAT the City Council does hereby appoint the following members to the Alternative Transportation Modes Committee:

<u>Name</u>	<u>Address</u>
1. Maurice Belanger	7421 Cedar Avenue
2. Pamela M. Lebeaux	6843 Eastern Avenue
3. Neil Henrichsen	7322 Piney Branch Road
4. Peter A. Feiden	7025 Eastern Avenue
5. Byrne Kelly	307 Circle Avenue*
6. Larry Himelfarb	24 Philadelphia Avenue

BE IT FURTHER RESOLVED THAT the City Council may make additional appointments to this Committee as necessary.

BE IT FURTHER RESOLVED THAT the Committee shall provide progress reports to the City Council on at least a quarterly basis.

BE IT FURTHER RESOLVED THAT the members of this Committee shall serve until July 31, 1993, unless their terms are extended by the Council.

ADOPTED THIS 25TH DAY OF JANUARY, 1993.

\*resides outside City limits

alttmcom.res

Introduced by: Councilmember Elrich

First Reading: 1/11/93  
Second Reading: 1/25/93

Drafted by: Linda S. Perlman  
Asst. Corporation Counsel  
Draft Date: 1/20/93

Effective Date: 1/25/93

ORDINANCE NO. 1993 - 2

UNSAFE BUILDINGS  
(Chapter 6, Article 6 of the Takoma Park Code)

~~WHEREAS, in the past few years the Council has had to deal with a number of unsafe properties in the City under the statutory scheme set forth in Chapter 6, Article 6, Unfit Housing, of the Takoma Park Code, and has found that these statutory provisions have not always been effective in dealing with such problem properties; and~~

~~WHEREAS, the Council, having had occasion to deal with a number of unsafe properties in the City under the statutory scheme set forth in Chapter 6, Article 6, Unfit Housing, of the Takoma Park Code, has found these statutory provisions to be insufficient in remedying the conditions at these properties; and~~

WHEREAS, the Council desires to revise the provisions of Article 6 in order to allow the City ~~to act~~ to abate a serious situation promptly; and

WHEREAS, the Council wishes to change the procedure for declaring a building or structure in the City to be unsafe and ordering it to be repaired, vacated or demolished ~~from a Council~~ to an administrative ~~rather than a Council~~ function; and

WHEREAS, the present Article 6 establishes different sets of standards and different procedures to be followed in the case of unsafe structures, substandard buildings, and unfit buildings

(those which are unfit for human habitation) and ~~the~~ Council wishes to revise and unify the standards for declaring buildings and structures in the City to be unsafe and for ordering such buildings and structures to be repaired, vacated, or demolished; and

WHEREAS, the Council finds that the following comprehensive revision of Article 6 creates a more efficient and effective procedure to handle the problem of unsafe buildings in the City; and

WHEREAS, this revision of Article 6, along with other City agreements, renders Chapter 5, Fire Prevention, of the Takoma Park Code obsolete and the Council hereby repeals said Chapter 5 of the Takoma Park Code.

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

SECTION ONE. Chapter 6, Housing, Article 6, Unfit Housing, of the Takoma Park Code is hereby repealed and replaced with the following:

**TAKOMA PARK CODE**

**CHAPTER 6. HOUSING  
ARTICLE 6. UNSAFE BUILDINGS**

Sec. 6-63. Definitions. . . . .	3
Sec. 6-64. Unsafe Buildings; Public Nuisance Declared. . . . .	5
Sec. 6-65. Right of Entry. . . . .	6
Sec. 6-66. Emergencies. . . . .	6
Sec. 6-67. Service. . . . .	7
Sec. 6-68. Notice and Correction Order. . . . .	9

Sec. 6-69.	Reinspection; Report to City Administrator. . . .	10
Sec. 6-70.	Standards for Repair, Vacation, or Demolition. . .	10
Sec. 6-71.	Informal Conferences. . . . .	16
Sec. 6-72.	Appeals. . . . .	17
Sec. 6-73.	Recordation; Liability of Transferee. . . . .	20
Sec. 6-74.	Violations and Penalties. . . . .	21
Sec. 6-75.	Civil Enforcement. . . . .	22

**ARTICLE 6. UNSAFE BUILDINGS**

Sec. 6-63. Definitions.

In this Article, the following words have the meanings indicated:

(a) "Building" shall mean any building or structure of any kind and shall include parts of any building or structure.

(b) "City" shall mean the City of Takoma Park, Maryland.

(c) "City Administrator" shall mean the City Administrator of the City or his or her designated representative.

(d) "Code Enforcement Officer" shall mean a City employee, officer, or other designated representative who is charged with the responsibility of inspecting buildings in the City for the purpose of determining whether any condition exists which render such place an unsafe building and of investigating complaints filed by any person to the effect that a building is or may be in violation of the terms of this Article.

(e) "Department" shall mean the Department of Housing and Community Development of the City or any other department or agency of the City government to which the City Administrator

assigns responsibility for the enforcement and administration of this Article.

(f) "Director" shall mean the Director of the Department of Housing and Community Development or his or her designated representative.

(g) "Occupant" shall mean any person who, lawfully or unlawfully, is living, sleeping, cooking, eating in, or in actual possession of a building. An occupant shall include a tenant.

(h) "Owner" shall mean any person who, alone, jointly or severally with others:

(1) Has legal title to any building, with or without accompanying actual possession thereof; ~~and/or~~

(2) Has charge, control or care of any building as ~~owner manager~~ or agent of the owner, or as officer, administrator, ~~mortgagee~~, trustee, partner, guardian, or personal representative of the estate of the owner, ~~or as mortgagee, beneficiary or lender under a mortgage or deed of trust made by the owner and secured by the building.~~ Any such person thus representing the actual owner shall comply with the provisions of this Article to the same extent as if he or she ~~were the owner had legal title to the building.~~

(i) "Person" shall include a corporation, partnership, association, organization or any other entity as well as individuals. It also shall include an administrator, trustee, receiver, personal representative, guardian, or conservator appointed according to law.



Sec. 6-64. Unsafe Buildings; Public Nuisance Declared.

(a) All buildings or structures, or parts thereof, which may have any or all of the following defects shall be deemed unsafe buildings:

(1) Those which have been damaged by fire, wind, storm, or other causes so as to have become dangerous to life, safety, or the general health and welfare of the occupants or the public;

(2) Those which have become or are so dilapidated, decayed, damaged, unsanitary, unsafe, or vermin- or rodent-infested that it creates a hazard to the health, safety, or general welfare of the occupants or the public;

(3) Those having light, air, sanitary, plumbing or heating facilities or other essential equipment which are inadequate to protect the health, safety or general welfare of the occupants or the public;

(4) Those having inadequate facilities for egress in case of fire or panic or which are dangerous to life, health, property or the safety of its occupants by not providing minimum protection from fire;

(5) Those which are structurally unsound, dangerous, or of such faulty construction or unstable foundation that they are likely to partially or completely collapse, or which have parts thereof which are so attached that they may fall and injure members of the public or their property;

(6) Those which are abandoned or are blighting or deteriorating factors in the neighborhood or which because of their general condition are unsafe, unsanitary, or otherwise dangerous to the health, safety or general welfare of the public.

(b) All unsafe buildings are hereby declared to be public nuisances, and shall be repaired, or demolished as provided in this Article.

Sec. 6-65. Right of Entry.

(a) The City Administrator, Code Enforcement Officer, and police or their designated representatives, upon exhibiting the proper credentials or proof of identity on request, shall have the right to enter any building in the City at any reasonable hour or at such other times as may be necessary in an emergency that immediately endangers life, property or public safety for the purpose of performing duties under this Article or enforcing the provisions thereof.

(b) Police, fire, health and other departments having authority in the City shall render necessary assistance in the enforcement of this Article when requested to do so by the City Administrator.

Sec. 6-66. Emergencies.

(a) In cases where it reasonably appears that there is actual and immediate danger to the life, health or safety of any person unless an unsafe building or part of it is immediately repaired, vacated, or demolished, the Code Enforcement Officer shall report such facts to the City Administrator and the City

Administrator shall cause the immediate repair, demolition or vacating of such unsafe building.

(b) For purposes of this section, the City Administrator shall employ the necessary labor and materials to perform the required emergency work as expeditiously as possible.

(c) The costs of such emergency repair, vacation or demolition of such unsafe building shall be paid by the owner of the real property upon which the building stands or did stand. The City shall send the owner a bill for the costs of such emergency repair, vacation, or demolition by certified mail, return receipt requested, and by regular mail to the owner's last-known address or by any other means reasonably calculated to bring the bill to the owner's attention. If the owner does not pay the bill within one (1) month after it is presented, the cost shall be a lien against the real property which may be collected and enforced in the same manner as are taxes, special assessments, and other liens on real property or collected as provided for in Section 6-75(b).

Sec. 6-67. Service.

(a) Any notices or orders provided for in this Article shall be in writing and served upon the owner, occupant, and all other persons having an interest in the property as shown by the property tax records of the City, as the case may require. Unless a different manner of service is specified in this Article, a notice or order is properly served if:

(1) A copy is personally delivered which shall mean delivering a copy to the individual personally or leaving a copy at the individual's residence or usual place of abode with some individual of suitable age and discretion then residing therein or in the case of a corporation or a partnership or other unincorporated association, by delivering a copy to an officer, a managing or general partner or agent, or to any other agent authorized by appointment or by law to receive service; or

(2) A copy is sent by certified mail, return receipt requested, to the last known address of the owner, occupant or other persons having an interest in the property.

(b) ~~(e)~~ If, after reasonable effort, service cannot be made on the owner, occupant or other persons having an interest in the property by personal delivery or certified mail, then service of the notice or order may be made by regular mail to the last known address of the owner, occupant or other persons having an interest in the property as shown by the property tax records of the City, as the case may require, plus posting of the notice or order in a conspicuous place on or near the unsafe building to which it relates. Such mailing and posting shall be deemed adequate service.

(1) In the case of personal delivery, "reasonable effort" means two good faith efforts on separate days to serve the notice or order; and

(2) In the case of certified mail, "reasonable effort" means return by the United States Postal Service of the properly

addressed and stamped envelope containing the notice or order which was mailed by certified mail, or the return receipt thereof, marked as unclaimed, refused, addressee unknown, or other indicia of non-delivery.

(c) ~~(b)~~ The notice or order also may be posted in a conspicuous place on or near the unsafe building to which it relates.

Sec. 6-68. Notice and Correction Order.

(a) Whenever the Code Enforcement Officer determines that there has been a violation of this Article, the Code Enforcement Officer shall give written notice and a correction order to the owner and/or to all other persons having an interest in the property, as shown by the property tax records of the City, of any building found by him or her to be an unsafe building.

(b) The notice and correction order provided for in paragraph (a) of this section shall:

(1) Specify the particulars which make the building or part of it an unsafe building;

(2) Describe with reasonable accuracy the unsafe building and its location;

(3) Describe in general terms the corrective action which, if taken, will effect compliance with this Article.

(4) Establish a reasonable time to do or have done the work or act required by the notice and correction order.

(5) Advise of the potential penalties for violation of this Article as set forth in Section 6-74, of the right to

request an informal conference with the Director as set forth in Section 6-71, and of the right to appeal the notice and correction order as set forth in Section 6-72.

(c) An owner served with a notice and correction order shall correct the violation of this Article within the time specified in the notice and correction order.

Sec. 6-69. Reinspection; Report to City Administrator.

(a) Following the expiration of the period of time provided in Section 6-68(b)(4), the Code Enforcement Officer shall reinspect the unsafe building described in the notice and correction order.

(b) When, after a reinspection, the Code Enforcement Officer determines that the violation specified in the notice and correction order has not been corrected or has only been partially corrected, the Code Enforcement Officer shall report such noncompliance to the City Administrator and take any other action authorized by this Article to ensure compliance with or prevent violation of its provisions.

Sec. 6-70. Standards for Repair, Vacation, or Demolition.

The following standards shall be followed in substance in ordering the repair, demolition, vacating, and placarding and securing of any unsafe building:

(a) Repair.

(1) If the unsafe building can be reasonably repaired so that it will no longer be in violation of the terms of this Article, it shall be ordered to be repaired.

(2) The owner of an unsafe building that has been ordered to be repaired shall be given notice of the required repairs and a reasonable time to make the repairs.

(b) Demolition.

(1) In any case where an unsafe building is substantially damaged or decayed or deteriorated from its original value or structure and the building cannot reasonably be repaired so that it will no longer be in violation of the terms of this Article, it shall be ordered to be demolished.

(2) In all cases where an unsafe building is a fire hazard existing or erected in violation of the terms of this Article or any ordinance of the City or provision of County or State law, it shall be ordered demolished.

(3) The owner of an unsafe building that has been ordered to be demolished shall be given notice of this determination and a reasonable time to remove the building.

(4) Whenever the owner fails, neglects, or refuses to remove the unsafe building within the specified time, the City may apply to a Court of competent jurisdiction for a demolition order, or take legal action to force the owner to demolish the building.

(5) The costs of the demolition work, if performed by the City or by a person awarded a contract for the work in accordance with the laws of the City, shall be paid by the owner of the real property upon which the building stands or did stand. The City shall send the owner a bill for the costs of such

demolition by certified mail, return receipt requested, and by regular mail to the owner's last-known address or by any other means reasonably calculated to bring the bill to the owner's attention. If the owner does not pay the bill within one (1) month after it is presented, the cost shall be a lien against the real property which may be collected and enforced in the same manner as are taxes, special assessments, and other liens on real property or collected as provided for in Section 6-75(b).

(6) Demolition, whether carried out by the owner, by the City or by a person awarded a contract for the work, shall include the removal of the debris resulting from the demolition and the filling in of the excavation remaining on the property on which the demolished building was located in a manner so as to eliminate potential danger to the public health, safety, or welfare arising from the excavation.

(c) Vacating and Placarding.

(1) If an unsafe building or part of it is in such condition as to make it dangerous to life, property or public safety, the building or part of it shall be ordered to be placarded and vacated.

(2) The owner and any occupants of an unsafe building that has been ordered to be vacated shall be given notice to vacate immediately or within a specified time and a warning placard shall be posted at each entrance to such a building.

(A) The warning placard shall include language similar to the following: THIS BUILDING IS UNSAFE AND ITS USE OR



OCCUPANCY HAS BEEN PROHIBITED BY THE CITY OF TAKOMA PARK. The warning placard shall remain posted until the required repairs are made or demolition is completed.

(B) No person shall deface or remove any such warning placard after it has been posted until the required repairs or demolition have been completed.

(C) No person shall remain in or enter any dangerous building which has been so posted except for the purpose of making the required repairs or of demolishing the same.

(3) (A) Any person occupying a dangerous building or part of it which has ordered to be vacated shall vacate the building or part of it in accordance with the terms of the order to vacate.

(B) A person shall not occupy and an owner shall not permit a person to occupy a dangerous building or part of it which has been posted with a warning placard and ordered to be vacated until the Code Enforcement Officer approves the reoccupancy and removes the warning placard.

(C) Once the dangerous building is vacant, the owner shall secure and board all windows and doors that are accessible from the ground, from an adjacent structure, or by the reasonably foreseeable use of a ladder, table or other device, and must keep them secured against unauthorized entry.

(4) Upon the failure of an owner or occupant of a dangerous building which has been ordered to be vacated to vacate

the building or part of it or the failure of an owner to properly secure the dangerous building, the City may cause the building to be vacated or secured through appropriate court action, or by contract or arrangement with private persons. The costs thereof, including reasonable attorney's fees, shall be paid by the owner. The City shall send the owner a bill for the costs by certified mail, return receipt requested, and by regular mail to the owner's last-known address or by any other means reasonably calculated to bring the bill to the owner's attention. If the owner does not pay the bill within one (1) month after it is presented, the costs shall be a lien against the real property which may be collected and enforced in the same manner as are taxes, special assessments, and other liens on real property or collected as provided for in Section 6-75(b).

(5) Tenant Displacement. A tenant of an unsafe building who is required to leave the building or part of it as a result of an order to vacate issued under this Article is displaced.

(A) The owner is not required to locate alternative housing if the tenant's displacement was the result of an act of God or other conditions beyond the control of the property owner, or was caused by the tenant's negligent, wrongful, or malicious acts or omissions.

(B) Except as provided in paragraph (A) above, the owner is required to locate alternative housing for a displaced tenant until such time as the Code Enforcement Officer

authorizes reoccupation of the unsafe building, approves any repairs made in accordance with this Article, or until the lease term of the tenant expires, whichever occurs first. The lease term of the tenant shall be deemed to include any notice period required by applicable law for the landlord to terminate the tenancy of the tenant. Any displaced tenant shall continue to be responsible for payment of the rent in the same amount as paid to the owner immediately preceding the displacement, which rent may be paid either to the owner or to the provider of the alternative housing pursuant to the conditions herein described. The owner shall be responsible for the difference between the rent as paid prior to the displacement and the rent required for the alternative housing, except that the owner is not responsible for such difference beyond the lease term of the tenant.

(C) Any costs, including reasonable attorneys fees, incurred by the City in the relocation of any displaced tenants shall be paid by the owner. The City shall send the owner a bill for the costs of such relocation by certified mail, return receipt requested, and by regular mail to the owner's last-known address or by any other means reasonably calculated to bring the bill to the owner's attention. If the owner does not pay the bill within one (1) month after it is presented, the cost shall be a lien against the real property which may be collected and enforced in the same manner as are taxes, special assessments, and other liens on real property or collected as provided for in Section 6-75(b).

Sec. 6-71. Informal Conferences.

(a) A person aggrieved by a notice or order issued in connection with an alleged violation of this Article, or by a notice and correction order requiring the repair, demolition, vacating, placarding or securing of an unsafe building issued under Section 6-68 may apply to the Director for a reconsideration of such notice or order within one (1) week after it has been served. An application for reconsideration shall be in writing and personally delivered or sent by certified mail, return receipt requested, to the Director.

(b) The Director shall specify a time and place for an informal conference on the matter within one (1) week after receipt of the application for reconsideration. The Director shall advise the applicant, in writing, of the time and place of the conference. ~~If, within one (1) week after receipt of the application for reconsideration, the Director does not schedule an informal conference, then the application for reconsideration shall be deemed to have been denied and the original notice or order shall remain in effect.~~

(c) At the informal conference, the applicant shall be permitted to present grounds for revocation or modification of a notice or order to the Director.

(d) Within one (1) week after the close of the informal conference, the Director shall advise the applicant whether or not the notice or order will be modified or revoked. If the Director does not advise the applicant of his or her decision

within one (1) week, then the ~~application for reconsideration shall be deemed to have been denied and the original notice or order shall be deemed to have been affirmed~~ remain in effect.

(e) Unless otherwise specifically provided by the Director in writing, an application for reconsideration shall not stay or extend the time for compliance with the notice or order which is the subject of the application for reconsideration or affect or extend the time for an appeal to the City Administrator as provided for in Section 6-72.

(f) Upon receipt of an application filed at any time from a person who is required to take action under a notice or order and an agreement by such person that he or she will comply with the notice or order if allowed additional time, the Director may, in his or her discretion, grant an extension of time within which to complete the repair, demolition, vacating or securing of the unsafe building provided that the Director determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property.

#### Sec. 6-72. Appeals.

(a) A person aggrieved by a notice or order issued in connection with an alleged violation of this Article, or by a notice and correction order requiring the repair, demolition, vacating, placarding or securing of an unsafe building issued under Section 6-68 may file with the City Administrator a written notice of appeal specifying the reasons for contesting the notice or order.

(b) The notice of appeal shall be filed within the earlier of either one (1) month after the notice or order has been served on the person or within the time specified for correction of the violation in a notice and correction order issued under Section 6-68.

(c) Upon receipt of a properly filed notice of appeal or a report of noncompliance with a notice and correction order from the Code Enforcement Officer pursuant to Section 6-69(b), the City Administrator shall give written notice to the owner, occupant, and all other persons having an interest in the property as shown by the property tax records of the City, as the case may require, in the manner provided by Section 6-67 to appear before him or her on a date and at a time and place specified to show cause why the unsafe building should not be repaired, demolished, vacated or secured in accordance with the statement of particulars set forth in the notice and correction order provided for in Section 6-68 or in such other notice or order which is being appealed.

(d) The City Administrator shall hold a hearing within one (1) month of the date of receipt of the notice of appeal or report of noncompliance and hear such testimony as the Code Enforcement Officer, owner, occupant, and any other person having an interest in the property shall offer relative to the unsafe building.

(e) Within one (1) month after the date of the hearing, the City Administrator shall:

(1) Make written findings of fact from the testimony offered pursuant to paragraph (d) as to whether or not the building in question is an unsafe building;

(2) Issue a final order based upon the findings of fact made pursuant to paragraph (1) affirming, modifying, or revoking the notice and correction order or such other notice or order which is the subject of the appeal and, if applicable, commanding the owner, occupant, and all other persons having an interest in the property to repair, demolish, vacate or secure any building found to be an unsafe building.

(3) The City Administrator may grant a variance from the provisions of this Article whenever he or she finds that:

(A) There is practical difficulty or unnecessary hardship connected with the performance of an act required by this Article;

(B) Strict adherence to this Article would be arbitrary; and

(C) A variance is consistent with the public health, safety, and welfare.

(f) If the City Administrator fails to hold a hearing within one (1) month of the date of receipt of the notice of appeal or report of noncompliance or to make written findings of fact and issue a final order within one (1) month after the date of the hearing, then the original notice or order shall be treated as a final order of the City Administrator for the purposes of paragraph (g) of this section, provided that, with

the written consent of the person who filed the notice of appeal, the time period for the City Administrator to hold a hearing or to make findings of fact and issue a final order may be extended for up to two (2) additional months.

(g) ~~(f)~~ Any person aggrieved by a final order of the City Administrator issued under this section may file an Order for Appeal with the Clerk of the Circuit Court of the county in which the building is located. The procedures for an appeal from a final order of the City Administrator shall be governed by Chapter 1100, Subtitle B (Administrative Agencies - Appeal From) of the Maryland Rules, as amended.

(1) An Order for Appeal shall be filed within thirty (30) calendar days from the date of the final order of the City Administrator.

(2) Prior to filing an Order for Appeal with the Circuit Court, the person shall serve a copy thereof on the City Administrator.

(3) The filing of an Order for Appeal shall not act as a stay of the action appealed from, except that the Circuit Court, after notice to the City and a hearing, may grant a stay upon such condition or such security or bond as it deems proper.

(4) ~~(3)~~ The Circuit Court shall affirm the final order of the City Administrator if it finds that the factual conclusion was based upon substantial evidence in the record.

Sec. 6-73. Recordation; Liability of Transferee.



(a) The City Administrator may cause a final order issued under Section 6-72(e) to be recorded among the land records of the county in which the unsafe building is located.

(b) A transferee, successor, or assignee of the unsafe building described in a recorded final order shall be considered to have notice of the continuing existence of the violations and is subject to the penalties and procedures provided by this Article to the same degree as was the transferor, predecessor, or assignor.

(c) On determining that there has been compliance with a recorded final order issued under this Article, the City Administrator shall cause a notice of compliance to be recorded among the land records of the county. The notice of compliance shall recite the liber and folio land record reference of the recorded final order.

#### Sec. 6-74. Violations and Penalties.

(a) The failure of any owner of any unsafe building to comply with any notice or order issued under this Article such building shall be a Class A municipal infraction as provided by Section 1-19 of the Takoma Park Code. Each day such failure to comply continues beyond the date fixed for compliance shall be deemed a separate offense.

(b) The failure of any occupant of any unsafe building to comply with any posted warning placard or notice to vacate shall be a Class D misdemeanor offense as provided by Section 1-20 of the Takoma Park Code.

(c) The defacing or removal of any warning placard or notice which is posted on an unsafe building shall be a Class C municipal infraction as provided in Section 1-19 of the Takoma Park Code.

Sec. 6-75. Civil Enforcement.

In addition to the penalties for violations of this Article set forth in Section 6-74, the City may:

(a) Enforce the provisions of this Article through injunctive, mandamus, or any other appropriate proceedings, and a court of competent jurisdiction may issue a restraining order, interlocutory or final injunction, mandamus or other form of relief to restrain or correct violations of this Article;

(b) Bring suit to collect all costs, assessments or liens imposed or incurred by the City in repairing or causing to be vacated, secured or demolished unsafe buildings; and

(c) Take such other legal action as is necessary to carry out the terms or provisions of this Article.

SECTION TWO. Chapter 5, Fire Prevention of the Takoma Park Code is hereby repealed.

SECTION THREE. This Ordinance shall be effective immediately.

Adopted this 25th day of January, 1993 by roll call vote as follows:

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

NOTE:

~~Shading~~ indicates additions made after the 1st Reading on 1/11/93.

~~Strikeout~~ indicates deletions made after the 1st Reading on 1/11/93.

c:\corr\kw  
unsafe93.ord

Introduced by: Councilmember Elrich      Single Reading: 1/25/93

ORDINANCE NO. 1993-4

To Award A Contract for the Purpose of  
Renovation of the Takoma Park Municipal Gym

WHEREAS, deficiencies have been identified in the Takoma Park Municipal Gym, AND

WHEREAS, Community Development Block Grant funds have been earmarked to address these deficiencies, AND

WHEREAS, appropriate advertising was placed in the Washington Post and the Dodge and Blue Reports, AND

WHEREAS, outreach efforts to minority contractors were pursued through Prince George's County Minority Affairs Division and the Prince George's County Black Contractor's Association.

WHEREAS, bids were publicly opened at 2:00 p.m., January 7, 1993 with three bids being received as follows:

Rosa's Contracting	\$29,944
Auger Construction	\$53,491
Santos Construction	\$66,004

WHEREAS, it has been determined that Rosa's Contracting has submitted a responsive bid, AND

WHEREAS, it has been determined that Rosa's Contracting is a responsible contractor, AND

WHEREAS, sufficient earmarked CDBG funds are available.

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

SECTION 1.      THAT the low bid received from Rosa's Contracting in the amount of \$29,944 be accepted, AND

SECTION 2.      THAT authority is granted to award a contract to Rosa's Contracting accordingly.

Adopted this 25th day of January, 1993 by Roll Call Vote:

AYE: Sharp, Elrich, Johnson, Porter

NAY: None

ABSTAINED: None

ABSENT: (for Vote: Hamilton, Leary, Prensky)

January 26, 1993

TO : Distribution Noted Below

VIA : Beverly K. Habada *BKH*  
City Administrator

FROM : Paula S. Jewell, CMC *Paula Jewell*  
City Clerk

SUBJECT: Council Summary from January 25, 1993 Public Hearings,  
Regular Session and Worksession

**DEPARTMENT HEADS: PLEASE READ EACH ITEM CAREFULLY FOR MATTERS THAT  
MAY PERTAIN TO YOUR DEPARTMENTS AND FEEL FREE TO COPY TO OTHER  
STAFF AS NEEDED.**

- [ ] 1. Introduction of Staff - CITY ADMINISTRATOR HABADA introduced DEPUTY CLERK CATHY BARTOPH and DHCD DIRECTOR GLORIA NANCE-SIMS.
- [ ] 2. Public Hearing - Blair High School - The Council heard from five speakers who spoke in support of a proposal to build a new 2800 student Blair High School on the Kay Tract and have the existing Wayne Avenue campus become a middle school. By unanimous motion, the Council voted to endorse the proposal (Resolution #1993-7). STAFF to draft a letter which emphasizes the equity issue (e.g., having a facility in this community that is equal or comparable to facilities in the rest of the County). The letter to be sent to Montgomery County Council by January 28th.
- [ ] 3. Public Hearing - Socially Responsible Investment Policy - The Council heard comments from two members of the Nuclear-Free Takoma Park Committee who felt that the policy was ready for adoption. However, Councilmembers agreed that there was still some editorial work that needed to be done. COUNCILMEMBERS to discuss their suggestions for re-written language with the CITY ADMINISTRATOR and be prepared to discuss further structure to the policy at the February 16th Worksession. STAFF to prepare a detailed article about the policy in the next Newsletter and advertise that a second public hearing on this has been scheduled for March 8th.
- [ ] 4. Contract for Cable (Services - Mr. Hamilton recused himself from discussions and voting on this item, citing a conflict of interest). Resolution #1993-8 was passed by a 5-1-0 vote (Mr. Elrich voted Nay; Mr. Hamilton abstained), authorizing the Mayor to execute a contract

with TPCT, Inc. to provide cable services for the City. The Council agreed that the language outlined in the Fees Schedule needed to be clarified regarding the fees charged to City and non City residents for taping and producing programs. In addition, the Schedule needs to be made clear that the moneys listed are not fees paid to producers and crew members, but are actually the costs for producers and crew members for tapings.

- [ ] 5. Affordable Housing Committee - Resolution #1993-9 was unanimously passed, as amended, establishing and appointing the following members to the Affordable Housing Committee: Jack Amick, Rae Ballard, Kathleen Bissa, Peter Feiden, Mary Grice, Louise Howells, John Jefferson, Stephen Johnson, Brandon Lipman, Laura Misener, Wallace Nunn, Gabby O'Brien, Kirsten Springer, Charles Shipp, Charlotte Sobel, Gail White and Bruce Williams. Amendments were (a) in the first Whereas clause, the last purpose statement needs to be changed regarding the reference to persons with physical disabilities--not physical capabilities; (b) **STAFF** to add an eighth task "To explore expanded relationships with local and regional lenders to maximize access to capital credit and creative partnerships; (c) In the last Resolved clause, delete "not to exceed twenty members", but Council would look carefully before exceeding 20.
- [ ] 6. 2nd Reading Ordinance Amending Article 6, "Unsafe Buildings" Legislation - Ordinance #1993-2 was unanimously adopted on second reading. (Absent: Mr. Hamilton, Mr. Leary and Mr. Prensky), repealing Chapter 6, Article 6 of the Takoma Park Code and replacing it with stronger provisions for abating situations of unsafe properties in the City.
- [ ] 7. Single Reading Ordinance Awarding Contract for Municipal Gym - Ordinance #1993-4 was unanimously adopted on single reading (Absent: Mr. Hamilton, Mr. Leary, and Mr. Prensky), awarding a contract to Rosa's Contracting in the amount of \$29,944 to renovate the Takoma Park Municipal gymnasium.
- [ ] 8. Police Grant Proposal - Resolution #1993-10 was unanimously passed, authorizing Mayor Sharp to execute an Agreement with the Governor's Office of Justice Assistance for receipt of a \$43,094 grant to fund the salary of an additional sworn officer and include the purchase a used vehicle.

- [ ] 9. Alternative Transportation Modes Committee - Resolution #1993-11 was unanimously passed as amended, appointing members to the Committee who will be charged with recommending to the Council, goals for reducing overall traffic volumes in the City.

WORKSESSION

- [ ] 10. Maryland Municipal League Amicus Curiae Brief Re: Cigarette Vending Litigation - Council consensus to request that MML adopt a Resolution in support of Takoma Park in the cigarette vending machine lawsuit. STAFF to call Bowie to ask them to also make this request of the League Board of Directors. CITY CLERK JEWELL to represent Takoma Park's position at the January 29th Board meeting.
- [ ] 11. Payment In Lieu of Taxes Agreement - CITY ADMINISTRATOR will send agreement to Washington Adventist Rehab Center; Council will pass resolution authorizing the execution of a final agreement once it is ready in final.
- [ ] 12. Additional Item for Discussion Maryland Housing Policy Commission - There are five housing bills that have been forwarded that the Commission is trying to set up a review process to evaluate whether the bills make housing more or less affordable. Councilmembers will discuss these bills at future Worksessions and may decide to endorse some of the bills. Mr. Sharp noted that the Council may want to make efforts to persuade MML not to oppose these bills.

Copies to: City Council  
City Administrator Habada  
Deputy City Administrator Grimmer  
Assistant City Administrator Hobbs  
Corporation Counsel  
Housng & Comm Dev (Nance-Sims, VinCola, Schwartz, Ross)  
Police Dept. (Fisher, Wortman, Young, Kendall)  
Public Works (Knauf, Laster, Braithwaite, McKenzie)  
Recreation Department (Ellis)  
Library (Robbins, Brown [Reference Copy])  
Finance Division (McKenzie)  
Cable Office  
Newsletter  
Admin. Office (Rivers, Johnson, Vidal)