

Regular Meeting and Worksession of the City Council

October 11, 1993

CITY OFFICIALS PRESENT:

Mayor Sharp	City Administrator Habada
Councilmember Elrich	Deputy City Administrator Grimmer
Councilmember Johnson	City Clerk Sartoph
Councilmember Leary	
Councilmember Porter	
Councilmember Prensky	

CITY OFFICIALS ABSENT:

Councilmember Hamilton

The City Council convened at 7:35 p.m. on Monday, October 11, 1993, in the Council Chamber at 7500 Maple Avenue.

Following the Pledge of Allegiance, the following remarks were made.

MAYOR AND COUNCIL COMMENTS

Mr. Sharp read a Proclamation recognizing the members of citizen advisory committees and city volunteers, and noted that a party is taking place upstairs in honor of these persons during the Council meeting this evening.

Ms. Broadwater named several of the committees, commissions, and positions in the City Departments that are staffed by volunteers, and noted that 500 hours per month is the average total service of the volunteers. She said that she anticipates that this figure will increase in the Fall.

Mr. Sharp said that one of the most valuable things about this city is the amount of time and effort that citizens are volunteering. He expressed his appreciation and thanked the volunteers for being present for this presentation.

Ms. Porter added her thanks to the comments made by Mr. Sharp and noted that the expertise contributed by the many volunteers cannot be replaced. She said that the city could not work as well as it does without a number of hours of volunteer labor, and emphasized that volunteer efforts are greatly appreciated.

Mr. Johnson reiterated Ms. Porter's comments.

Mr. Leary said that volunteerism has been a long standing tradition in the City of Takoma Park--one that is indispensable. Many activities could not take place if not for the work of volunteers.

Mr. Prensky thanked Ms. Broadwater for the list of activities, and stated that the breadth of activities and expertise brought by volunteers is extremely impressive. He said that had this been a resolution, he would have offered an amendment to include some mention of the work that volunteers provide around issues of social conscience, consequence and political courage, and that he hopes that a Budget Task Force will be established in the Spring.

Albert Nunez, Member of the Committee on the Environment suggested that there be a directory of all the committees, subcommittees and positions staffed by volunteers, made available to all citizens.

Mr. Sharp said that this is a good idea.

Andrea DiLorenzo, Volunteer from the Library commented that she has served on many committees in the past and thanked the City staff for accepting volunteers and working them into their daily activities and busy schedules-

-making them feel welcome.

Kay Rader, Assistant Director Takoma Park Library thanked all of the volunteers that have helped over the past years and commented on some of the tasks and programs that have been staffed by volunteers.

Mr. Sharp said that Mr. Prensky noted that this recognition also includes the volunteers for the Turkey Trot. He offered the volunteers a round of applause on behalf of the Council and citizens of Takoma Park.

Mr. Sharp announced that last week there was a fire at 6733 Eastern Avenue, that burned out two units and caused water damage to the remaining lower level units. He noted that the Community Services Center of the Adventist Church is accepting contributions from anyone who would like to provide assistance.

Mr. Johnson stated that, as is well known, at the Nominating Caucus no one came forth to be nominated as the Councilmember for Ward 6 during the forthcoming election, and that in the spirit of keeping the city fully informed, he is pleased to announce that within the past ten days there was a meeting held with representatives of Hampshire Gardens, Hillwood Manor, and Hampshire Towers. All persons who attended that meeting agreed that it would be preferable to have the residents of Ward 6 determine who they wish to represent them on the Council, rather than to turn that decision over to the Council as is provided in the City Charter. He noted that one person has already stepped forward and indicated that he would like to be considered as a write-in candidate. There has been a flyer that was distributed over the weekend that urges persons in Ward 6 who are interested in running for office to contact either Tom Guins (Hampshire Gardens Citizens Association), Kay Dellinger (Hampshire Towers), or Mike Moore (Hillwood Manor Citizens Association).

Mr. Prensky noted that write-in candidates must register, in writing with the City Clerk before close of business on October 26th, to be officially eligible to be elected.

MINUTES

Moved by Ms. Porter; seconded by Mr. Prensky. The minutes from 8/2/93 were unanimously adopted.

Ms. Grimmer noted that item #8 scheduled for the Worksession will be removed from this evening's agenda. There have been meetings between the property owners of 7611 Maple Cooperative and staff. She said that staff has determined that the Cooperative representatives are not quite ready to come forward to discuss this matter at this time.

Montez Boatman, 133 Ritchie Avenue stated that under the county's new False Alarm Reduction Program, all alarm owners in Montgomery County are required to register and pay a one time fee of \$30 to the county. She asked that, in so much as the residents of Takoma Park receive their police services from the City, will the City benefit at all--monetarily or otherwise--from this program?

Ms. Grimmer said that Ms. Boatman raises a good question that will require staff investigation. She stated that she does not know whether the law will apply to municipalities that have their own emergency services, and that if it does apply, whether any portion of the revenues will come to the City.

Mr. Prensky stated that it is his understanding that it is the intention of the county that the law apply in the City regardless of where the money winds up. He said that he thinks it is an important legislation that protects citizens from neighborhoods that are incessantly plagued by false alarms, and that the City might need to talk to Montgomery County about having the money from Takoma Park citizens go back into the City, since the city police will be the ones to respond to those false alarms.

Ms. Boatman said that the fee is due to Montgomery County by October 15th, and that something needs to be done very soon.

Mr. Johnson said that the law was enacted as a county response to the high volume of calls that the Montgomery County Police Department had to make in response to false alarms. Since the Takoma Park Police Department has not had to make an inordinate number of calls, one can make an argument that there should be some rebate at the very least.

Ms. Boatman questioned the status of the request submitted to Montgomery County for the reprogramming of CDBG funds in order to complete the project at Heffner Park. She also requested the status of the renovation project at the park.

Ms. Grimmer stated that staff would have to check into these matters and that staff would call her in the morning.

Kay Dellinger, Hampshire Towers commented that the article in the Takoma Voice was accurate. She noted that at last week's Worksession, Paul Ngo began speaking about other missing equipment that was not on the list, and that Mr. Sharp had cut-off his comments. She said that when a person takes the time to come to a meeting, they should be allowed to say what they have come to say.

Mr. Sharp said that Mr. Ngo had some information to provide about missing equipment and that the Assistant City Administrator has been tasked with looking look into this matter. He said that he suggested to Mr. Ngo that he provide the information to Mr. Hobbs so that it could be investigated.

Ms. Dellinger read the list into the record: Computer AMIGO (\$5,000), JVC 210 Camera (\$5,000), a tripod (\$3,000), four [unintelligible] (\$3,000), two equipment carts (\$1,000), three microphone stands (\$100).

Mr. Sharp commented that Mr. Hobbs has not yet been able to establish whether the listed equipment was actually Takoma Park equipment, and that Mr. Hobbs is not completely sure whether some of the equipment has not been accounted for. The status of that equipment is still open, and Mr. Hobbs will be reporting on this issue.

Ms. Dellinger noted for the record that Mr. Hamilton's mother was paid \$100 a week for six weeks beginning at the end of June, his son was paid \$25 a week for operating a camera, and Ms. Clark is being paid \$100 a week for doing the bulletin board. She said that she does not believe that any of these persons should be paid, and that she thinks that the City can find volunteers to do this work. If volunteers cannot be found, then the City should advertise these positions as jobs that all persons are welcomed to apply for.

Mr. Sharp commented that this is a good idea and asked Ms. Grimmer to talk about this with the City Administrator. He noted that the City Administrator is currently trying to deal with an interim period but that this is a good point.

Ms. Dellinger noted that she has a paper that was a contract between Fred Zimmerman and Mr. Hamilton, for Fred to pay \$100 per week to rent the audio room upstairs, starting September 17, 1991. She asked whether Mr. Zimmerman had ever paid \$100 per week.

Mr. Johnson called for a point of order because this is a citizen comment period. He said that if this is a dialogue that the Council is going to maintain with the speaker, that he would like to engage in the discussion also.

Mr. Sharp stated that he does think it is significant and important to make a comment with regard to charges that are made, instead of letting the charge remain unanswered. He noted that he has heard about the alleged contract, but that no one has ever given it to staff so that staff can examine the document.

Ms. Dellinger stated that she gave it to Mr. Hobbs this evening to pass on to the City Administrator, and brought her comments to a close.

#1 Community Development Block Grant (CDBG) Funds - Takoma Junction Project. Mr. Sharp explained that this is a resolution authorizing the application for additional CDBG funds for Takoma Junction.

Moved by Mr. Prenskey; seconded by Ms. Porter.

Mr. Prenskey stated that with the combined efforts of the City Administrator, representatives from Congressman Wynn's office, and himself an additional allocation of \$175,000 in CDBG funding through Montgomery County has been obtained. He said that he hopes that this will further aid the City in moving ahead to affect the shape of the development of Takoma Junction, and expressed his anticipation of citizen comments during the public hearing scheduled for November 8th.

Mr. Sharp noted that this is a supplement to the City's regular CDBG funds.

Mr. Leary stated that in supporting this, the important word in the resolution is "application", and noted that no final decisions have been made about whether or not any of this money will in fact end up being spent. The Council is proceeding with the process so that if a number of conditions are met and some circumstances turn out the right way, that the City would be prepared to move ahead with the project. He said that he would not agree to go ahead until there has been a public discussion of what the City contemplates doing.

Tom Anastasio, 32 Columbia Avenue congratulated the Council for its work in getting the Block Grant funding for the City and that in some ways the future aspect of the City will be affected by how the Takoma Junction area is developed. He said that he is very pleased that the residents will have a say in this matter, and that the Council is providing the citizens with a venue in which to be able to say something about the kind of neighborhood they would like to have. He said that he is delighted to hear that the direction in which the City will go, subsequent to this, will in part be decided based on the citizen comments that will be heard at the public hearing on November 8th. There seem to be open minds, and the people of the City will have a voice in the actions to come.

Mr. Sharp clarified that the developer has not agreed to the approach that the City is taking and that there is still the possibility that the developer may go ahead and develop the site, at which point the City would have to implement some other approach to dealing with the development. He said that he does not want people to think, at this point, that it is simply a matter of the City opening up to citizen suggestions about what should go into the development, because the City is not quite at that stage yet.

The resolution was unanimously adopted.

RESOLUTION #1993-89
(Attached)

#2 Washington Adventist Hospital Bond Transaction. Mr. Sharp explained that this is a resolution to amend the bond transaction that the City floated in 1991.

Moved by Mr. Johnson; seconded by Ms. Porter.

Ms. Porter noted that the resolution does not change the conditions under which the bonds were floated or the city's liabilities in terms of the bonds.

Ms. Grimmer noted the presence of Ms. Virginia Pisarra, Vice President of the Washington Adventist Hospital, and stated that the City's Bond Counsel has reviewed the resolution and has indicated no substantive changes.

The resolution was unanimously adopted.

RESOLUTION #1993-90
(Attached)

#3 City Boycott of Royal Dutch/Shell Products. Mr. Sharp explained that the resolution will rescind a previous resolution.

Moved by Mr. Prensky; seconded by Mr. Johnson.

Mr. Elrich stated that he will abstain from the vote on this resolution. He explained that what is being considered is not South Africa but instead, Royal Dutch/Shell, and that the reality is that the sanctions against South Africa were for the policies that were being carried out in South Africa. The fact that the situation in South Africa has changed and Royal Dutch/Shell's investments may now be permitted under international guidelines, does not change the behavior of Royal Dutch/Shell that caused people to look for a boycott of Shell. He said that essentially the boycott was for what many people felt to be the immoral actions of that corporation.

Mr. Prensky noted that the resolution before the Council only rescinds the two resolutions that condemn the government of South Africa and that it does not repeal the ordinance regarding the ban on Royal Dutch/Shell. He stated that he spoke with one of the coordinators of the International Shell Boycott, who gave some interesting history. He commented that the Deputy City Clerk called the South African Embassy for clarification and was referred to the African National Congress Office. The call by Nelson Mandela did not recommend the rescinding of any bans on weapons, nuclear products, or oil products. He said that at this point, the recommendation is not to repeal the City's ordinance regarding the Royal Dutch/Shell products.

Virginia Jenkins, 32 Columbia Avenue said that she was in South Africa and saw the effects of the international sanctions against South Africa, and that it is very important to continue the boycott of weapons, nuclear technology, and oil. She commented that she is proud of the City for being a part of this effort over the past years and stated that she supports the resolution and the continuation of the Shell Boycott.

Tom Anastasio, 32 Columbia Avenue noted that this is an example of how the City took on an international problem, and that even if it was a small and symbolic "drop in the bucket", it was a part in a larger effort. The City should be proud of the effects of its little drop in the larger bucket. He noted that the fact that South Africa is moving now, is no doubt largely due to the sanctions that were imposed on the ruling class in South Africa. He said that the City had a symbolic role to play in an international concern, and that this should be a lesson to the City that there are other things that we can do to make a difference.

Mr. Prensky suggested an amendment to the final whereas clause "systems of apartheid with the exception of those relationships pertaining to weapons, nuclear technology, or the import of oil." Seconded by Mr. Elrich.

The resolution was unanimously adopted as amended.

RESOLUTION #1993-91
(Attached)

#4 2nd Reading Ordinance re: 1993 Election Judges. Mr. Sharp noted the additional twelve names that have been added since the ordinance was considered at 1st reading.

Moved by Mr. Elrich; seconded by Mr. Leary.

Mr. Johnson stated that he would support the ordinance and pointed out that in view of some of the things that are going on with regard to some of the contested candidacies, the Council should consider as soon as possible following the elections the appointment of an Elections Commission. He said that among other things, the Commission would provide a means of appealing decisions that might be made by the City Clerk with regard to the eligibility of candidates and other elections disputes. He commented that as it currently stands, if an individual is concerned about a procedure

during the course of the election, that person may appeal to the City Clerk, but that after that, the City Charter is vague as to what steps might be taken after that initial appeal. He said that he hopes the successor Council will be able to take this matter into consideration following the elections.

Rino Aldrigetti, 7213 Central Avenue commented on the circumstances that have arisen in Ward 6 regarding write-in candidates, and that he wishes to raise the question of when a "write-in" is not a "write-in". He stated that it seems to him that a "write-in" is not a "write-in" when it is not an "absolute write-in". He recalled his question the night of the Caucus regarding what will happen if no candidate is nominated the evening of the caucus. He said that as expressed in the "Takoma Voice", he wants to clarify the need for an "absolute write-in" versus a potential candidate "registering" as a write-in. Mr. Aldrigetti stated that he believes that if the process of registering as a write-in candidate had been fully explained the night of the caucus, the vote to close the nominations for Ward 6 would have remained open until a candidate had been nominated.

Mr. Prensky noted that the chairperson kept the nominations open and called for a nomination three times before closing the nominations for Ward 6. He explained the history of the provision being added to the City Charter to allow for write-in candidates. He stated that the Council added the write-in provision, one that he believes in Mr. Aldrigetti's opinion would be described as a "limited write-in". He said that he does not feel that there is a failure on the part of the Council to explain the provisions for write-in candidates.

Mr. Aldrigetti suggested that there was a failure in Ward 6 to understand the provision and subsequently come forth with a candidate, and that when the Council is able it should pass an ordinance that will allow for an absolute write-in as opposed to the current "registered" write-in candidate. He said that in the event a write-in candidate does not register in writing with the City Clerk, the Council should pass a resolution allowing for the person who receives the most write-in votes on election day to be appointed to office.

Mr. Johnson said that it is not a matter of the residents of Ward 6, not getting their act together or failing. It was a conscious decision on the part of the residents not to come forward with a candidate for nomination. He noted that as of last Tuesday, one individual indicated that he would register his name as a write-in candidate. He reiterated that there will also be concerns and issues that will come up in regards to elections and that an Elections Commission would be helpful in addressing these types of questions.

Mr. Aldrigetti asked for the Council to show a concurrence regarding this matter to affect future elections.

Mr. Prensky stated that the current Council cannot introduce a Charter amendment that will carry over to the next Council for final adoption.

Mr. Sharp said that the rationale for a deadline of October 26th to declare oneself a "registered candidate for write-in" does not seem to be necessary, and that the Council should look at removing the provision for registering as a write-in candidate.

Jack Mitton commented on the Charter amendment that allows for non-U.S. citizens to vote in Municipal Elections. He asked if the Election Judges that are being appointed by this 2nd Reading Ordinance have been informed that the persons who will be eligible to vote in this year's election, are not required to meet the same qualifications as U.S. citizens. He said that the election judges must prepare to certify an unconstitutional election. Mr. Mitton asked who is acting as a Board of Elections for the certification of non-U.S. citizens?

Mr. Sharp stated that the City does not have any indication that the City's provision to allow for non-U.S. citizens to vote is unconstitutional and that Corporation Counsel has advised the Council that the law and the registration forms that are being used are legal and in conformance with

the Charter and State law. He said that he feels that the procedures and forms provided by the City Clerk are sufficient for establishing a regular process. Mr. Sharp said that the Councilmembers have discussed among themselves the issue of persons who have been convicted of crimes or persons under guardianship for mental disability, and the fact that a non-U.S. citizen in that circumstance would be allowed to vote and a U.S. citizen would not. Mr. Sharp noted that most of the Councilmembers agree that this distinction ought not to exist, and that this distinction is something that the Council would like to have corrected prior to the next election.

The ordinance was unanimously adopted at second reading by roll call vote (Absent: Hamilton).

ORDINANCE #1993-32
(Attached)

#5 Takoma Park Recreation Council. Mr. Sharp noted that the resolution changes the name, the meeting times, and the grammar of Article 3, Sec. 1.

Moved by Mr. Elrich; seconded by Mr. Prensky.

The resolution was unanimously adopted.

RESOLUTION #1993-92
(Attached)

Moved by Mr. Johnson; seconded by Ms. Porter. The Council adjourned to Worksession at 8:43 p.m. and later adjourned for the evening at 10:18 p.m.

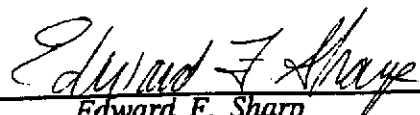
PROCLAMATION

IN APPRECIATION OF THE CITY OF TAKOMA PARK VOLUNTEERS

- WHEREAS,** *The City of Takoma Park volunteers and those individuals serving on the many citizen advisory councils, committees, and commissions have given their time, talent and resources to the service of the City of Takoma Park and the residents of the community; AND*
- WHEREAS,** *their services among which have included providing assistance to crime victims, addressing critical issues such as latch key children, offering recreation, tutoring, and guidance to our youth, and helping to maintain our city parks; AND*
- WHEREAS,** *they have assisted in researching, planning, and advising on policies that improve the well-being and the quality of life for the residents of the City; AND*
- WHEREAS,** *these volunteers have enabled the City to more efficiently provide public services and to seek new and better ways in which to directly serve the residents; AND*
- WHEREAS,** *they have contributed over 500 hours of service a month to the City on a regular basis.*

NOW THEREFORE, BE IT PROCLAIMED THAT I, Mayor Edward F. Sharp, on behalf of the citizens, employees, and Council of the City of Takoma Park commend these volunteers on their exemplary contributions and service to the Citizens of Takoma Park, Maryland.

Dated this 11th day of October, 1993.



Edward F. Sharp
Mayor

Introduced by: Councilmember Prensky

Adopted: 10/11/93

RESOLUTION 1993 - 89

A Resolution to approve an application for additional Community Development Block Grant funds for Takoma Junction in the amount of \$175,000 to enable the City to acquire the Note and Deed of Trust on the property in the ownership of Mike Zarpas.

WHEREAS, City Council has previously determined that it is in the interests of City residents to take an active role in the direction of development of this parcel and adjacent parcels located within the designated business revitalization district; and

WHEREAS, City Council commissioned a market study which provided recommendations for the use of this land to better serve the surrounding neighborhoods; and

WHEREAS, The ability to impact the direction of development is tied to the level of financial participation in structuring the development package; and

WHEREAS, The funds required to provide the financial capacity to the City to take such an action must be obtained from a source other than the City's General Funds.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT the Department of Housing Community Development is hereby directed to submit an application to Montgomery County requesting additional Community Development Block Grant Funds in the amount of \$175,000.

Dated this 11th day of October, 1993

CITY COUNCIL OF TAKOMA PARK, MARYLAND

Resolution #1993-90

RESOLUTION APPROVING CERTAIN AMENDMENTS TO DOCUMENTS RELATING TO BONDS ISSUED BY TAKOMA PARK, MARYLAND, FOR THE BENEFIT OF WASHINGTON ADVENTIST HOSPITAL, INCORPORATED AND AUTHORIZING THE EXECUTION THEREOF

RECITALS

On September 11, 1991, the City of Takoma Park, Maryland (the "City"), issued pursuant to the Maryland Economic Development Revenue Bond Act its \$31,055,000 Hospital Facilities Revenue Refunding Bonds (Washington Adventist Hospital Project) Series 1991A, Subseries 1, \$23,210,000 Hospital Facilities Revenue Refunding and Improvement Bonds (Washington Adventist Hospital Project) Series 1991A, Subseries 2 (both such subseries herein referred to as the "1991A Series Bonds"), and \$16,210,000 Hospital Facilities Subordinate Revenue Improvement Bonds (Washington Adventist Hospital Project) Series 1991B (the "1991B Series Bonds" together with the 1991A Series Bonds, the "Bonds"), for the benefit of Washington Adventist Hospital, Incorporated, a Maryland not-for-profit corporation (the "Corporation"), for the purpose of (i) financing or refinancing the costs of the acquisition by the Corporation, or certain facilities located at 7600 Carroll Avenue in the City of Takoma Park, Maryland, (ii) refunding or refinancing certain prior indebtedness of the Corporation (including, without limitation, certain bonds previously issued for the benefit of the Corporation), (iii) the funding of reserves, and (iv) costs of issuing the Bonds.

The Corporation has requested that the City authorize and approve certain amendments to the Indenture of Trust and Loan Agreements relating to the Bonds and reissuance of the Bonds in order to: (i) authorize the issuance of the Bonds in denominations of \$5,000, (ii) place the 1991B Series Bonds on a parity with the 1991A Series Bonds and to redesignate the title of the 1991B Series Bonds to delete the term "Subordinate", (iii) restructure the debt service reserve fund to create a single reserve fund with a debt service reserve requirement equal to the maximum annual debt service on the Bonds for any year, and (iv) make other changes incident thereto.

The Corporation has represented to the City that the holders of 100% of the aggregate principal amount of the Bonds and all other parties whose consent is required (other than the City) have consented to the foregoing amendments.

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

1. The City hereby approves the proposed amendments to the Indenture of Trust, dates as of September 1, 1991, between the City and First Trust National Association, trustee (the "Original Indenture"), the 1991A, Subseries 1 Loan Agreement, dates as of September 1, 1991, the 1991A, Subseries 2 Loan Agreement, dates as of September 1, 1991, and the 1991B Loan Agreement, dates as of September 1, 1991, all between the City and the Corporation (the "Original Loan Agreements"), and to any and all other documents, instruments and agreements relating to the Bonds, including without limitation, the forms of the Bonds (together with the Original Indenture and the Original Loan Agreements, the "Original Bond Documents"), for the purposes described above, which shall be in such form as may be approved by the officers of the City authorized to execute and deliver such amendments.

2. The amendments to the Original Bond Documents shall be executed on behalf of the City by the Mayor or the person then acting as Mayor and attested (if required) by the City Clerk or any designated Deputy City Clerk. The Mayor, or the person then acting as Mayor, the City Administrator and the City Clerk or any designated Deputy City Clerk are hereby authorized to execute and deliver on behalf of the City any other documents, certificates, tax filings, agreements or instruments as they may deem required or necessary in connection with the amendment of the Original Bond Documents for the purposes described above.

3. The execution of the amendments to the Original Bond Documents and the execution by the officers of the Issuer of any other documents, certificates, agreements or instruments shall be conclusive evidence of the approval of the final terms, provision, form, content and substance thereof.

4. The Corporation shall pay directly all costs, fees and expenses incurred by or on behalf of the City in connection with the execution and delivery of the amendments to the Original Bond Documents, including (without limitation) legal expenses and compensation to any person (other than full-time employees of the City) performing services by or on behalf of the City in connection therewith.

5. The Bonds and the interest on them are limited obligations of the Issuer the principal or, premium, if any, and interest on which are payable solely from revenues received in connection with the financing or refinancing of the Corporation's facilities and from any other moneys made available to the Issuer for such purpose, all to the extent provided in the Original Bond Documents. Neither the Bonds nor the interest thereon shall ever constitute an indebtedness or a charge against the general credit or taxing powers of the Issuer within the meaning of any constitutional or charter provision or statutory limitation and neither shall ever constitute or give rise to any pecuniary liability of the Issuer.

6. This Resolution shall take effect on the date of its adoption.

Certificate of City Clerk

I hereby certify that the foregoing is a true, correct and complete copy of Resolution No. 1993-90 (the "Resolution"), adopted by the City Council of Takoma Park, Maryland, at a regular meeting duly called and held on October 11, 1993. A proper quorum was present throughout such meeting and the Resolution was duly proposed, considered and adopted in conformity with all applicable requirements, including, without limitation, the Charter of the City of Takoma Park. The Resolution has not been amended, repealed or rescinded since its original adoption and is in full force and effect on the date of this certificate.

Dated: October 11, 1993.


Catherine Sartoph
City Clerk

Introduced by: Councilmember Prensky

(Drafted by: T. Espinosa)

RESOLUTION #1993 - 91

RESCINDING RESOLUTIONS NOS. 1985-26 AND 1987-16

WHEREAS, the citizens of the City of Takoma Park, Maryland, have recognized their collective responsibilities as a community to express their repugnance of and moral outrage against the racist apartheid regime in South Africa and to take action to bring about the end of apartheid; AND

WHEREAS, to effect the community's intentions with regard to the apartheid systems in South Africa, the Council of the City of Takoma Park, Maryland, on September 9, 1985, passed Resolution No. 1985-26, which called upon the Government of the United States of America to prevent commercial activity and all other forms of so-called "constructive engagement" with South Africa until the unconditional freeing of all political prisoners, including Nelson Mandela, as well as the ending of the systems of apartheid in South Africa, were achieved in South Africa; AND

WHEREAS, to effect the community intentions with regard to the apartheid systems in South Africa, the Council of the City of Takoma Park, Maryland, on March 9, 1987, passed Resolution No. 1987-16, whereby the Council of the City of Takoma Park, Maryland, endorsed the Call to Conscience challenge to United States foreign policy in southern Africa; AND

WHEREAS, negotiations among the Government of South Africa, the African National Congress, and other concerned parties have resulted in the freeing from incarceration of Nelson Mandela as well as numerous other political prisoners, the successful conclusion of multilateral agreements on the enactment of a transitional constitution, the institution of a transitional executive council, and the formation of an election commission; AND

WHEREAS, all inclusive, multi-party elections for a democratic South Africa, as agreed to by the Multi-Party Negotiating Forum of South Africa, are scheduled for April 27, 1994; AND


WHEREAS, on Friday, September 24, 1993, Mr. Nelson Mandela, of the African National Congress, deeply appreciative of initiatives of local communities to isolate apartheid South Africa, and assertive of the reality that South African Multi-Party Negotiating Forum agreements have been translated into a specific program that will enable South Africa to seek a united, democratic, non-racial and non-sexist country, extended an earnest appeal to the governments and peoples of the United Nations to take all necessary measures to end the economic sanctions imposed upon South Africa in response to the systems of apartheid, with the exception of those relationships pertaining to weapons, nuclear technology, or the import of oil.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THAT Resolution No. 1985-26 is hereby RESCINDED; AND

BE IT FURTHER RESOLVED, THAT Resolution No. 1987-16 is hereby RESCINDED.

ADOPTED THIS 11th DAY OF OCTOBER, 1993.

ATTEST:


Catherine Sartoph
City Clerk

~~Shadowing~~ denotes addition.
~~Strikeout~~ denotes deletion.

Introduced by: Councilmember Elrich

RESOLUTION NO. 1993-92

Amending the City of Takoma Park Recreation Council Constitution

WHEREAS, the charter and code of the City of Takoma Park, Maryland, empower the Mayor and Council to appoint such special and standing committees as may be deemed necessary; AND

WHEREAS, On May 10, 1993 the City Council adopted the Constitution and By Laws of the Takoma Park Recreation Council under Resolution 1993-50.

WHEREAS, the members have determined that three amendments are needed in order for the Recreation Council to more effectively serve the citizens of the City of Takoma Park and the City of Takoma Park Recreation Department. The Recreation Council recommends the following amendments be approved by Mayor and Council.

NOW, THEREFORE, BE IT RESOLVED THAT the Constitution and By Laws of the Takoma Park Recreation Council be amended to read as follows:

Constitution

ARTICLE I	Name
Section I	The name of this Council shall be Takoma Park Recreation Council- Committee.

ARTICLE II	Authority
Section I	This Council is established as a body of citizen volunteers by resolution adopted as an official action of the City Council of Takoma Park, Maryland.

ARTICLE III

Purpose

Section I

The purpose of this Council ~~Committee~~ shall be to work cooperatively with the ~~Prince George's County Maryland National Capital Park and Planning Commission Recreation Department and the Montgomery County Department of Recreation to support the Takoma Park Recreation Department in developing, planning and implementing a well rounded recreation program for the community. With and except the Takoma Park Recreation Department in developing, planning and implementing well rounded recreation facilities and programs for the community. The Committee will also work cooperatively in partnership with the Prince George's County Maryland National Capital Park and Planning Commission Recreation Department and the Montgomery County Department of Recreation.~~

ARTICLE IV

Membership

Section I

The members of this Council shall consist of the present membership once approved by the City Council of Takoma Park. Additional membership of the Takoma Park Recreation Council shall consist of any individuals interested in recreation for the community who may be appointed by either of the following two (2) methods: 1) direct City Council appointment or 2) recommendation from the membership of the Recreation Council and subsequent concurrence of the City Council. Members in good standing (those eligible to vote) shall include members of the executive committee and any other members who have attended at least three meetings during the previous twelve months.

ARTICLE V

Officers

Section I

The officers of the Council shall be a President, Vice-President, Secretary and Treasurer and they and they shall be elected to two year terms.

Section II

The officers of the Council shall be elected from a slate of nominees to be presented to the membership by a Nomination Committee selected by the Executive Committee (which shall consist of the elected officers and standing Committee Chairmen listed in Article II of the By Laws) no more than sixty and no less than thirty days prior to the Annual Meeting in January.

Section III The duties of the officers shall be as are implied by their respective titles.

Section IV Vacancies shall be filled by vote of the officers and standing Committee Chairmen, otherwise known as the Executive Committee.

ARTICLE VI

Quorum

Section I A quorum exists when one third number of members in good standing are in attendance.

ARTICLE VII

Amendments

Section I This constitution may be amended at any meeting of the Council by two-thirds vote of the voting members of the Council present, provided written notice of the proposed amendment shall have been presented to all Council members not less than thirty days prior to the next meeting of the Council.

By Laws

ARTICLE I

Meetings

Section I A regular meeting of this Council shall be held the ~~fourth Tuesday of each month unless otherwise~~ monthly as needed, as specified by the President.

Section II Special meetings may be called by the President provided ten days notice is given Council members.

Section III The regular meeting held in January shall be the Annual Meeting.

ARTICLE II

Committees

Section I The President may appoint the chairmen of the following standing Committees needed:

Finance	Sports	Teen Clubs	Facilities
Publicity	Playgrounds	Survey	Membership

Section II Such other standing committees authorized by the Council shall also be appointed by the President.

ARTICLE III

Business Meetings

Section I The business transacted at a regular meeting of the Council shall follow the order established by Robert's Rules of Order.

BE IT FURTHER RESOLVED THAT the Takoma Park Recreation Council will submit quarterly financial reports, running with the City's July 1 fiscal year;

BE IT FURTHER RESOLVED THAT the Recreation Council may not bind the City to contracts, nor obligate City funds, without prior authorization of the City Administrator. The Recreation Council shall exercise full authority over its own funds, except that any contracts over \$5000.00 will have prior approval of the City Administrator.

Adopted this 11th day of October, 1993.

Introduced by: Councilmember Elrich
(Drafted by: C. Sartoph)

1st Reading: 9/27/93
2nd Reading: 10/11/93

ORDINANCE #1993 - 32

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

SECTION 1. THAT the persons named below, all registered voters of the City of Takoma Park, are hereby designated as Judges to serve as a Board of Election for the November 2, 1993 City Election:

- (1) Claire B. Kozel, 7804 Wildwood Drive
- (2) Pearl Blacksin, 652 Kennebec Avenue
- (3) Gene E. Sidwell, 7209 Spruce Avenue
- (4) Paul C. Aloï, Jr., 14 Sherman Avenue
- (5) June A. Aloï, 14 Sherman Avenue
- (6) Harold Alston, 7710 Maple Avenue, #105
- (7) Verne Wilson, 907 Davis Avenue
- (8) Paul Weisbord, 6753 Eastern Avenue
- (9) Billie M. Dyhouse, 7051 Carroll Avenue, #617
- (10) Rein S. Parris, 7620 Maple Avenue, #730
- (11) Martin Morse Wooster, 8624 Flower Avenue, #101
- (12) Virginia S. Jenkins, 32 Columbia Avenue

- (13) Valerie Potts, 7212 Spruce Avenue
- (14) Valerie Doss, 7405 Carroll Avenue
- (15) Joan N. Sidel, 605 Boston Avenue
- (16) Steven A. Proctor, 7104 Woodland Avenue
- (17) Howard P. Miller, 7725 Carroll Avenue
- (18) Carol M. Durdick, 4 Elwyn Court
- (19) Billy D. Williams, 407 Dign Avenue, #103
- (20) Thomas S. Gains, 1200 Kingswood Drive
- (21) Diana Jacob, 7801 Gosh Avenue
- (22) James A. Barclay, 7314 Piny Branch Road
- (23) Helen T. Johnson, 7011 Carroll Avenue, #1011
- (24) Lynn J. Fox, 7015 Deborah Avenue

SECTION 2. THAT this Ordinance becomes effective upon adoption.

Adopted this 11th day of October, 1993 by Roll Call Vote as follows:

AYES: Elrich, Johnson, Leary, Porter, Prenskey, Sharp
NAYS: None
ABSTAIN: None
ABSENT: Hamilton

NOTE: Additions to the ordinance since first reading 9/27/93 are marked with shading.

Regular Meeting, Worksession and Executive Session
of the City Council

October 25, 1993

CITY OFFICIALS PRESENT:

Mayor Sharp	City Administrator Habada
Councilmember Elrich	Deputy City Administrator Grimmer
Councilmember Hamilton	City Clerk Sartoph
Councilmember Johnson	
Councilmember Leary	
Councilmember Porter	
Councilmember Prensky	

The City Council convened at 7:40 p.m. on Monday, October 25, 1993, in the Council Chamber at 7500 Maple Avenue.

Following the Pledge of Allegiance, the following remarks were made.

MAYOR AND COUNCIL COMMENTS

Mr. Sharp read a Proclamation in appreciation of retiring Takoma Park Police Chief, A. Tony Fisher and in recognition of his accomplishments and contributions to the city during his tenure. He thanked Mr. Fisher and presented him with the proclamation.

Mr. Fisher commented that it has been a pleasure serving the community and expressed his appreciation for the proclamation. He said that he will continue to do all that he can to see that all communities begin to do the kinds of things necessary for impacting the fear and crime that invades communities today.

Mr. Sharp thanked Mr. Fisher for his ten years of service. He said that he thinks it is very clear to everyone who watched the department that the Police Department has grown and developed quite a lot while Mr. Fisher has been the Police Chief. On behalf of the citizens, Mr. Sharp thanked Mr. Fisher for his work.

Mr. Johnson commented on his high level of admiration for Mr. Fisher and said that colleagues in both Montgomery and Prince George's Counties have commented on the high regard they hold for both Chief Fisher and the Takoma Park Police Department. These things are the result of the leadership and tone that is set for the department. He said that Chief Fisher is the most popular person in Ward 6, and that he and other officers have consistently come to community meetings and been responsive to the citizens of the City. Mr. Johnson said that the City owes Mr. Fisher a debt of gratitude and thanks for a job well done.

Ms. Porter added her thanks and noted that Mr. Fisher implemented community oriented policing. She expressed her appreciation that in spite of the difficulties in implementing the program, he has stuck with it.

Mr. Elrich noted that before Mr. Fisher came to the Police Department, the department did not have a particularly good reputation, and that the image has changed. The police service in the City is viewed as better than the services provided by the counties. He said that he has always appreciated Mr. Fisher's candor in fighting for important issues surrounding the budget and wished him luck.

Mr. Prensky commented on his past when he spent time demonstrating against police, and said that today, he has respect for Chief Fisher and other officers in the Police Department. In this community, it is important and critical that the residents and police are friends. He said that he has witnessed a change in attitude among officers--they listen more to the citizens. He wished Mr. Fisher the very best in his future endeavors and said that he hopes that the department will continue in the direction that it has turned.

Ms. Grimmer said that on behalf of City staff she would like to congratulate Mr. Fisher on his achievements for the City and wished him well.

Mr. Sharp announced the passing of Judge Angelo Gagliardo, the father of former Corporation Counsel Tom Gagliardo, and noted that Judge Gagliardo served for many years as a juvenile court judge in Ohio. The funeral services were held today at St. Peter's Catholic Church in Olney. He said that City residents who know Tom Gagliardo and his wife, MaryAnne Highlander may wish to send them a card to offer their condolences. Mr. Sharp stated that he sends his personal condolences to the Gagliardo family.

Mr. Sharp read a press release that went out today--a joint statement made by the Takoma Park candidates in support of the unification of the City into one county. The Candidates will hold a press conference at 7:00 p.m. on October 27th to discuss unification efforts and to answer questions; the Takoma Foundation Forum follows at 8:00 p.m. Mr. Sharp noted that there needs to be a correction to the time for the press conference on the press release. He stated that the joint statement also calls for unification to be the City's major General Assembly priority in 1994 and states "we believe that the Maryland State legislation should pass a law which would allow the citizens of Takoma Park to vote in a binding referendum on whether to unify and which county to unify into."

Mr. Sharp announced that the Board of Appeals, Montgomery County, is seeking applicants for a four year term, and noted that the members of the board receive a salary of \$11,330 annually, with the Chair receiving \$16,900. Members work approximately 12-15 hours a week and hear Board of Appeals cases. He said that if there are any Montgomery County residents who are interested in the position should submit a resume to the Board of Appeals, Montgomery County Council Stella B. Warner Office Building, 100 Maryland Avenue, Rockville, no later than Wednesday.

Mr. Sharp noted that Mr. Leary will not be able to attend this evening's meeting due to pressing duties at work.

Ms. Porter stated that the PTA for Carole Highlands Elementary School is meeting next Monday, November 1st, and said that it is a regular meeting of the PTA and anyone in the community can join the PTA. One item of discussion will be the renovation of the school. She noted that the meeting is scheduled for 7:30 p.m. at Carole Highlands Elementary School.

Mr. Johnson announced that there are four registered write-in candidates for Ward 6--Forrest Bittner, Lamar Burnside, Reggie Chavez, and Mary Ralston--and said that he believes this is very encouraging. He commented that he has observed and received a number of complaints for what appear to be repeated violations of the sign ordinance with respect to political signs. He noted that there have been complaints about Mr. Sharp's and Mr. Clayton's signs, and said that candidates should be encouraged to sensitize their workers of the sign ordinance.

Mr. Sharp said that he does take personal responsibility for where his signs are placed and that he would like to know the exact locations of the signs that are felt to be in violation so that he can have them removed.

Mr. Prenskey announced that write-in candidates may still register until 5:00 p.m. on October 26th.

Mr. Sharp commented that the Takoma Park Symphony Orchestra had a very wonderful concert yesterday and mentioned some of the features of the performance. He encouraged all Takoma Park residents to support the orchestra and noted that the symphony now has a calendar that they are using as a fundraiser.

Mr. Hamilton stated that he participated in the MML Legislative Conference last week and commented on some of the workshops. He commented on a seminar presented by Stephen DelGiudice that focused on the need for people to get involved in the political process from the committee level. He said that the conference was very positive and that municipalities have gotten geared up for the legislative agenda that will begin in January.

MINUTES

Mr. Hamilton stated that he would like to move the adoption of the minutes but that he would like to separate the minutes by the two dates for discussion.

Moved by Mr. Hamilton (9/13/93); seconded by Mr. Johnson. The minutes for 9/13/93 were unanimously adopted.

Mr. Hamilton said that he will move adoption of the minutes from 9/27/93 but that since he was not present at that meeting, he would like to respond to the comments made during the citizen comment period. He noted that on September 27th he was at a committee meeting to represent Takoma Park, and that he wishes to direct his comments to the statement made by Ms. Dellinger. He said that his intent is not to change the citizen comments reflected in the minutes of 9/27/93, but to correct information that was stated. Mr. Hamilton said that he noticed that the City Administrator and Corporation Counsel were present at the meeting, and as a first issue he would like to correct is the statement made about him running the cable station. He stated that for the last two years, he has not been involved with the station, and that the City Administrator and Corporation Counsel both negotiated the TPCT contract with the Board of Directors. The City Administrator runs the cable station. He noted that both Ms. Habada and Mr. Hobbs have met with the Board of Directors of TPCT over the last few months, meetings which he was not involved in. He commented that other Councilmembers did not make a statement on 9/27/93 regarding the equipment that was moved to Kensington. Mr. Hamilton read a memo (dated 7/7/93 from Ms. Habada to the City Council), that includes a explanation of the work being done to the PA system in the Council Chamber, a statement that the old Council Chamber speakers will be removed and taken to the Town of Kensington for their use, where the armory is being set up for cable production purposes for the Maryland Municipal League Chapter, and a reference to a list of audio equipment that is proposed to be loaned to the MML cable station until they are able to purchase their own equipment. He stated that the Council was made aware of the City Administrator's intentions regarding the transfer of equipment. The equipment was moved to the Town of Kensington in accordance with a Memorandum of Understanding between the City Administrator and the President of the Maryland Municipal League. Mr. Hamilton said that the City Administrator and Department Heads have to start clarifying their position on issues, for the record, and that the actions that have taken place in regards to cable equipment have been done openly, on the public record, and all persons have had the opportunity to comment.

Moved by Mr. Johnson; seconded by Mr. Hamilton. The minutes from 9/27/93 were unanimously adopted.

ADDITIONAL AGENDA ITEMS

Mr. Sharp said that he will later be proposing that the Council move the date of the November 1st meeting, and that the Council will not be considering the Ethics Ordinance this evening. He said that the Council will consider the Ethics Ordinance next week, and that he hopes by that time Corporation Counsel will have had sufficient time to prepare her thoughts. There will be an executive session this evening for a discussion of a personnel matter, and to receive legal advice.

CITIZEN COMMENTS

Barbara Beelar, 7112 Maple Avenue said that she is here this evening as a business owner who has been harassed, whose business is being undermined, and who has done everything possible (memos, phone calls, and requests to Council and staff at all levels) to ask for help in the situation she is currently facing which is threatening her business. It is threatening her business in two ways, (1) financially and (2) in terms its reputation. She said that she would like at some point to deal extensively with Council over the issue of lead and the inadequacy of lead enforcement at the city, county and state levels, and that she would also like to examine how the City can have a Code Enforcement that does not enforce codes. Ms. Beelar asked for the Council's assistance in getting the graffiti off the front of her building. The graffiti is over the top of a store that is supposedly environmentally responsible, and widely recognized and acclaimed as such. She noted that her business has been up by 30% over the past year, but that in recent months the percentage has been dropping. She stated that the graffiti was painted over the night of October 2nd, and that she does not know who did it. She said that she hand delivered a memo to the City on October 4th asking for help around lead issues. One thing she asked for was for the City to name a staff person as a contact that she could speak with to obtain updates on what the City is doing in regards to this matter. Ms. Beelar said that Mr. Calcara is responsible. Once the City found out that there was lead and that Mr. Calcara was illegally removing it, he was required to put a sign up "Caution Lead Hazard". The City posted a similar sign in mid September, but there is no record of when that was done. She

noted that the sign was posted on the side of the building--not proper posting according to the state. She recounted the events to date, especially focusing on the City's and State Department's actions and enforcement. She stated that in spite of numerous calls to the Code Enforcement Supervisor and Director of Housing and Community Development, that it appears that there has been no communication with Mr. Calcara to inform him that the graffiti does not constitute a legal sign in Takoma Park. She noted that Mr. Calcara has told her and her lawyer that the state told him that he had to keep that particular sign--the graffiti, and that is was only last Friday that the state inspector told Ms. Sickie that the state follows the code of the local jurisdictions. So if graffiti is not a legal sign in the Code of Takoma Park, then it is subsequently not legal. She said that Mr. Calcara still believes that the graffiti is required by the City and by the state. Ms. Beelar commented that she has not gotten phone calls returned by the City, and asked that someone help her in this situation.

Mr. Sharp said that he has been assured by the City Administrator that the City is treating this as a matter of graffiti and that the City is working to get it eliminated. He stated that he had fully expected that the graffiti would be gone today, and asked that the City Administrator report about the status of the matter. He commented that he had also mentioned to Ms. Habada the complaints made by Ms. Beelar about not getting phone calls returned. Mr. Sharp said that it seems to him that that is not acceptable, and that a contact point should have been appointed at the beginning.

Ms. Grimmer said that she is not familiar with the recent events but that she would check into this matter first thing in the morning and call Ms. Beelar to discuss the issue.

Mr Hamilton asked that if the issue is the removing of the graffiti, does the City have the authority to tell Mr. Calcara to paint over it and then access the violations?

Ms. Grimmer stated that the City has never removed graffiti before and that the City has primarily taken actions like going onto a property and cutting grass, generally after some due notice to the property owner.

Ms. Beelar said that the problem is that the graffiti does constitute legal notice about the lead, and that Mr. Calcara did post other notices but failed to secure them properly and the fell down.

Mr. Hamilton said that if those notices had been secured properly, based on the fact that Corporation Counsel did witness the signs being posted, that the City could resolve the issue of appropriate notice. He noted that he is asking the City Administrator to look at the action of removing the graffiti.

Mr. Sharp said that he thinks that the City has removed graffiti before, certainly in public areas, but maybe not on private property.

Ms. Grimmer said that she would review the matter in the morning and work toward a resolution.

AGENDA

#1 Blair High School. Mr. Sharp explained that the resolution reaffirms supporting the siting of Blair High School at the Kay-Tract.

Moved by Mr. Elrich; seconded by Mr. Hamilton.

Laura Steinberg, Blair Cluster PTA Coordinator said that the School Board Commission did an Architectural Feasibility Study after the County Council allocated funds last Spring, the results of which were presented to the School Board last week. The findings suggest that the money allocated will only provide for 2,000 of the projected 2,800 students. She said that County Councilmembers, Berlage, Legget, Adams, Ewing, sent a memo to the Council President requesting that there be a Council briefing on the new data, architectural information, and Eastern area impacts be scheduled. The Council President did not concede. Ms. Steinberg stated that she feels it is very important for the public and County Council to be briefed on the additional information and reconsider the siting of the school. She asked the City Council to add to the resolution "...the City Council requests that the County Council have a public briefing of the additional information contained in the architecture report."

Mr. Elrich made a motion to add to the resolved clause of the resolution, "...the City Council requests that the Montgomery County Council hold a public meeting to present the additional information that is contained in the architecture report from the School Board"; seconded by Mr. Hamilton.

Mr. Hamilton stated that the City originally supported a 2,800 student school and proposed an amendment to the second whereas clause to add this specific number.

The amendments carried unanimously.

Mr. Elrich stated that Ms. Praisner and the County Council should not be allowed to simply make adjustments by cutting the current plans, like omitting windows and downsizing space, to reduce the anticipated cost overrun.

Mr. Hamilton said that the County Council is looking at the school as one that operates from 9-5:00 p.m, and that none of the evening programs have been considered. He stated that there needs to be a focus on both educational programs and the vocational needs of the students. He commented that there is a need for a tutorial system that addresses vocational and educational needs. He commented that at the currently proposed site for the school, Park and Planning owns the ball fields and that it cannot be predicted what will happen if Park & Planning later decides to reclaim their fields for another use.

Mr. Sharp asked what is the political position of the County Council at this time.

[unintelligible], said that the Council is faced with the question of what to do with the new set of facts that has been presented by the School Board. Mr. Leggett has expressed his dislike for Ms. Praisner's denial for a public briefing on the new information. It is hoped that Ms. Praisner will realize that her present position is not in keeping with the goal of full disclosure of the facts, and realize that elected officials should be responsive to the citizens.

Mr. Leary asked whether Ms. Praisner could make such a decision by herself, or if another member of the County Council could suggest reopening the decision for reconsideration.

Mr. [unintelligible], said that in recent history there have not been precedents and that it is not known what procedures the Council and President must follow in this situation.

Ms. Steinberg reiterated that the councilmembers have requested that the issue be publicly discussed.

Mr. Hamilton asked that copies of the resolution be sent to each member of the County Council and the School Board.

The resolution was unanimously adopted.

Mr. Sharp noted that the individual City Councilmembers need to be talking to the County Councilmembers regarding this issue.

RESOLUTION #1993-93
(Attached)

#2 Municipal Gym Contract. Mr. Leary explained that the single reading ordinance awards a contract to Bob Porter Construction Company, Inc. to complete the municipal gym renovation project.

Moved by Mr. Elrich; seconded by Mr. Johnson.

Ms. Grimmer stated that this ordinance is before Council subsequent to last week's discussion of the matter and briefly summarized the sources for funding.

Barbara Beelar, Maple Avenue asked whether the Committee on the Environment had been consulted in regards to assessing the lighting for the gym to ensure that the lighting is as cost efficient as possible.

Ms. Grimmer said that she would address this question with the Public Works Department.

The ordinance was unanimously adopted at single reading by roll call vote (ABSENT: Hamilton).

ORDINANCE #1993-33
(Attached)

#3 Budget Amendment - Capital Improvements and Special Revenues. Mr. Sharp explained that the ordinance amends the FY94 Budget to allow for certain capital equipments purchases and reflects Special Revenue changes relating to the Takoma Junction Project.

Moved by Mr. Prensky; seconded by Mr. Johnson.

Mr. Leary commended the City Administrator on her identification of priority capital equipment needs.

Mr. Sharp listed the immediate capital needs: emergency generator, recoating of the City building roof, matching funds for street tree replacement plantings.

Mr. Prensky said that the budget amendment is also creating an opportunity for the City to have the ability to spend up to \$50,000 on the Takoma Junction Development Project.

The ordinance carried unanimously at first reading.

ORDINANCE #1993-34
(Attached)

#4 Montgomery County False Alarm Law.

Moved by Mr. Johnson; seconded by Ms. Porter.

Mr. Prensky read the notice that was printed in the Takoma Park Newsletter putting residents on notice that they may be due a refund from the County, and said that the notice suggests that the City has decided on the action it will take in regards to the county's law. He stated that he is not aware that the City has any plan regarding the matter that is before the Council this evening for consideration. He said that he would like to have an open discussion on this topic.

Mr. Sharp noted that just because this item is on the agenda does not mean that the Council is going to adopt it, and that he also has some comments and questions regarding the matter.

Mr. Prensky summarized Ms. Boatman's comments from 10/11/93 and spoke about the interests of the citizens. He said that he believes that it is valuable for the City to have a false alarm law on the books, and asked for an argument supporting why the city should opt out of this law and not have this type of protection for our citizens.

Acting Police Chief Wortman stated that fees paid to the County afford a service that the City police will have to provide since they respond to all alarm calls. He explained that past practice has been to send letters to residents who have had several false alarms, and concluded that this method has been effective in reducing false alarm frequency. He said that he would hate the citizens to pay for a service that they would not require.

Mr. Prensky asked whether this type of legislation would be helpful for the Police Department in enforcing against false alarms, and would it be helpful if the City were receiving the fee?

Mr. Wortman said that the question would be who will be responsible for inspecting the systems that are installed. The County currently inspects systems at the time of installation and inspects old systems, but does not do periodic inspections.

Mr. Sharp asked whether the City would have a way to enforce against false alarms if the City opts out of the county law?

Mr. Wortman replied that there is a state law that the City can cite.

Mr. Elrich said that it seems that the city has had a nice low key community way of dealing with this problem and that he does not see why the

City should now change things and go with the county legislation, when the Police Department does not feel there is a need.

Mr. Prenskey said that if the Acting Chief of Police does not feel that there is a problem and that the City still has enforcement power under the state law, then he does not have a problem with the City opting out of the county law.

Ms. Porter supported Mr. Prenskey's statement, and added that she assumes that the Police Department will inform the Council if the number of alarm cases increases.

Mr. Wortman reassured the Council that he does not foresee a problem with the City opting out of this law.

The ordinance carried unanimously at first reading.

ORDINANCE #1993-35
(Attached)

#5 Tree Appeal Decision. Mr. Sharp explained that this item involves a Council vote on the Final Opinion in regards to the Appeal of the Tree Commission Decision by the applicant of 7419 Hancock Avenue.

Moved by Mr. Leary; seconded by Mr. Hamilton. The final opinion of the Tree Commission Decision was unanimously affirmed.

FINAL DECISION - TREE APPEAL DECISION
(Attached)

#6 Boyd Avenue Alley. Mr. Sharp said that the resolution grants a request to close a section of the alley adjacent to 317 and 319 Boyd Avenue. He noted that there is a typographical error in the title of the Ordinance, and that a correction page has been presented to the Council this evening. Mr. Sharp stated that the correction page has four options (1) exclusive use, (2) closure, (3) abandonment/transfer of property, and (4) abandonment/transfer of property with compensation to the City.

Mr. Prenskey moved the resolution with the four options; seconded by Mr. Hamilton.

Ms. Porter proposed that the Council postpone the decision on this item this evening. She said that she continues to feel that it is important that the Council deal with this issue in the context of an overall examination of the City's policy in regards to alley ways and other City rights-of-way that are not improved.

Elrich supported the motion to table; seconded by Mr. Hamilton.

Mr. Sharp said that he would like citizens to have the opportunity to make some comments on this matter.

Mr. Elrich stated that it is his view that the new Council should address this matter by setting up a meeting to discuss the broader criteria mentioned by Ms. Porter as well as the broader concerns raised by some of the neighbors.

Mr. Hamilton withdrew his second to table the resolution, to allow for citizen comments and Council discussion.

Mr. Hamilton said that he would like to see the City Administrator and Corporation Counsel to work with the group of residents from the Boyd Avenue area to address some of the issues that have been brought up.

Mr. Prenskey stated that the resolution has an additional option #4 that was suggested by the applicants in regards to their willingness to compensate the City if the Council decides to deed them the property. He acknowledged that the issue is broader than the Council has been able to deal with and suggested that instead of just tabling this issue until a future Worksession discussion, that the Council also understand that staff will be directed to provide the new Council with a map and survey of all the potentially affected City alleys and rights-of-way, a statement of the City's interests in the variety of situations, and to seek input from the neighbors along Boyd and Carroll Avenues, as well as asking for input from

representatives of the community associations that encompass alleys and rights-of-way. Staff will then be able to provide the new Council with some guidance about what the issues are and how they may be properly addressed (public hearings, citizen task force, resolution).

Mr. Hamilton said that it is important that the Council not lose this particular alley in a general discussion, because there is the issue of exclusive use in this case. He noted that he thinks what is currently before the Council and some of the questions that have been raised provide a good starting point for further discussion.

Richard Spiezman, 319 Boyd Avenue said that he has no objection to what has been proposed here this evening, and that he hopes that in the process, the council does not lose sight of the fact that there is a specific issue involved here regarding a particular segment of an alley. He stated that he does believe that they have a unique situation here, and that in terms of soliciting input from neighborhood associations, the Council needs to recognize the difference between associations and those formed around a specific issue.

Joe Huebner, 7405 Carroll asked whether the Council has received the three page document that the Boyd-Carroll Neighborhood Association submitted, and proceeded to read the first paragraph of each of each page into the record. He commented that many associations arise out of an adhoc environment and develop into active associations that are useful in addressing other community issues.

BOYD-CARROLL NEIGHBORHOOD ASSOCIATION STATEMENT
(Attached)

Paul Plant, 7411 Carroll Avenue commented on how the resolution currently reads, and said that after reviewing the letter from 1956, he got the impression that when the alley was granted for exclusive use by the residents of 317 and 319 Boyd Avenue, the City had no obligation to contribute to maintenance and upkeep of the alley. He said that the resolution makes it appear that the City has abandoned its responsibility.

Mr. Elrich moved to table the resolution; seconded by Mr. Leary.

Mr. Sharp said that January 17th will be the tentative date for further consideration of this issue, and noted that if necessary the date could be extended but that he does not want it to become an indeterminate matter.

Motion carried unanimously to table the item.

Ms. Grimmer said that staff will be able to respond to Council in the next two weeks regarding whether the staff can meet the January 17th date for continued discussion of the item.

Mr. Sharp noted that the Council is currently scheduled to have a Council Worksession on November 1st, that the voting machines will be delivered on that morning, and that there is a question of security if there is access to the rooms upstairs. He suggested that the Council take up the discussion of the Ethics Ordinance in Worksession following the Special Meeting of November 3rd, to receive the certified results of the election. He reminded the Council that they are targeting November 8th for the second reading of the Ethics Ordinance.

Mr. Prensky said that he will be out of town for the November 3rd discussion, and that he regrets that he will not be present for that meeting.

Moved by Mr. Elrich; seconded by Mr. Leary. The Council adjourned to Worksession at 9:20 p.m., and later adjourned to Executive Session to discuss a personnel matter at 10:25 p.m. following which, the Council adjourned for the evening.

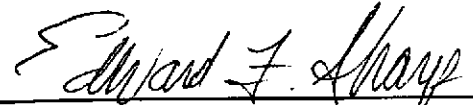
MAYORAL PROCLAMATION

IN APPRECIATION OF POLICE CHIEF A. TONY FISHER

- WHEREAS, *Police Chief A. Tony Fisher is resigning as police chief effective October 30, 1993; AND*
- WHEREAS, *Since he took office in 1983, Chief Fisher has with great determination led the police department in the direction of modernization, improved community service, resourcefulness, and professionalism, as a result of which the Department became nationally accredited in 1991; AND*
- WHEREAS, *Early on in his tenure, Chief Fisher brought forward the matter of the City's unfunded liability for dangerously large amounts of compensatory time and ensured that the matter was corrected; AND*
- WHEREAS, *Also early on in his tenure, he took on a total revamping of the police promotional process, to make it a fair and highly professional one; AND*
- WHEREAS, *He succeeded in establishing and maintaining a productive and sensitive relationship with the new police union; AND*
- WHEREAS, *Chief Fisher demonstrated by his frequent presence at civic meetings and other Takoma Park events that he was approachable and anxious to work with citizens; AND*
- WHEREAS, *He understood and taught the value of good media relations while setting an example of openness and cooperation with the media for officers and other employees to emulate; AND*
- WHEREAS, *Chief Fisher introduced community-oriented policing to Takoma Park, ensured that affirmative action goals were given top priority in the police department, and continually stressed the value of training and higher education; AND*
- WHEREAS, *Throughout his 10 years of dedicated service, Chief Fisher made many friends in Takoma Park and demonstrated that a police chief can be not only friendly and available, but also candid.*

NOW, THEREFORE, I, Edward F. Sharp, Mayor of Takoma Park, Maryland, on behalf of the City Council, employees and citizens of the City of Takoma Park, commend and thank A. Tony Fisher for his distinguished and dedicated service, and wish him every success and happiness in the months and years ahead.

Adopted this 25th day of October, 1993.


Edward F. Sharp, Mayor

ATTEST:


Beverly K. Habada, City Administrator

Introduced by: Councilmember Elrich

RESOLUTION 1993-93

WHEREAS, on January 25, 1993, the City Council held a public hearing to take public comment on community concerns about the overcrowded conditions at Blair High School; AND

WHEREAS, as a result of the public hearing on January 25, 1993 City Council voted unanimously to endorse the proposal for construction of a new Blair High School on the Kay tract (Resolution 1993-7); AND

WHEREAS, City Council continues to be concerned about the conditions at Blair High School because students residing in the Montgomery County portion of Takoma Park are assigned to attend Blair High School; AND

WHEREAS, because of the rich diversity of communities like Takoma Park that feed into the Blair Cluster, students that attend Blair High school are unique and have special needs, particularly those students who speak English as a second language; AND

NOW THEREFORE BE IT RESOLVED, THAT the City Council of Takoma Park, Maryland reaffirms support for construction of a new high school that is equal and comparable to other high school facilities in Montgomery County to replace the current overcrowded facility at Blair High School; AND

BE IT FURTHER RESOLVED, THAT City Council restates its commitment to relocation of Blair High School to the Kay Tract and continuation of the current Blair Cluster feeder school assignments to maintain the diversity of the Blair High School student population.

BE IT FURTHER RESOLVED, THAT the City Council requests that the Montgomery County Council hold a public meeting to discuss the additional information contained in the Blair architecture evaluation report.

Adopted this 25th day of October, 1993

Introduced by: Councilmember Elrich

Single Reading: 10/25/93
Adopted : 10/25/93

Ordinance No. 1993-33

To Authorize Award of a Sole Source Contract for
Completion of the Municipal Gym Renovation Project

WHEREAS, the CDBG funded construction contract to correct certain code violations and facility deficiencies in the Municipal Gym has been terminated, AND

WHEREAS, additional work remains to correct the code violations and facility deficiencies in the Municipal Gym, AND

WHEREAS, the uncompleted status of the worksite, and the pending closure of the current architect's office are considered to render conventional contracting cumbersome, AND

WHEREAS, all procedures recommended by the Montgomery County CDBG Monitor have been followed with regard to offering opportunities to complete the work to the other two bidders, AND

WHEREAS, one bidder declined to consider completing the work, AND

WHEREAS, the other bidder made a cost proposal which exceeded available funds and is considered inordinate, AND

WHEREAS, the Bob Porter Company, Inc. was contacted in view of prior experience, AND

WHEREAS, Bob Porter Construction Company, Inc. has indicated a willingness to assist in completing this project with a contract containing time and material provisions at a cost not to exceed \$23,000, AND

WHEREAS, the regional HUD office has verbally assented to this contractual approach, AND

WHEREAS, unexpended CDBG project funds in the amount of \$23,610.72 remain, AND

WHEREAS, City funds in excess of the \$23,000 CDBG funds required for completing the project can be identified.

NOW THEREFORE BE IT ORDAINED THAT the City Council awards a sole source, time and material contract, not to exceed \$23,000 to the Bob Porter Construction Company, Inc. for the scope of work as substantially described in the attached plan.

Introduced By: Councilmember Porter

First Reading: 10/25/93

Second Reading: 11/08/93

**ORDINANCE #1993 - 34
FY 94 BUDGET AMENDMENT NO. 1**

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

SECTION 1. that the Fiscal Year 1994 Budget be amended as follows:

General Fund

Appropriate \$44,400 from Unappropriated Reserves for: replacement of emergency generator (\$18,000); recoat city building roof (\$20,000); matching funds for replacement of street trees (\$6,400), to Account 9100.8001, Capital Improvements.

Special Revenue Fund - Revenue Amendments

- a. Delete the appropriation of \$38,000 Community Development Block Grant (CDBG) funds for the Transitional Housing Rehabilitation (Montgomery County PY18) project: Account 0010.3713
- b. Delete \$12,000 in CDBG fund appropriations for the Housing (Montgomery County PY19) project: Account 0010.3715.
- c. Create a revenue account for \$50,000 in CDBG funds for the Takoma Junction project: Account 0010.3721
- d. Delete \$24,436 in CDBG appropriations for the Street Construction project (Montgomery County PY17): Account 0010.3706
- e. Delete the appropriation of \$5,112 CDBG funds for the Maple-Sherman Revitalization project; Account 0010.3704
- f. Appropriate an additional \$29,548 CDBG funds for the Heffner Park project: Account 0010.3712
- g. Delete \$5,000 in Program Open Space funds for Jackson-Boyd Park: Account 0010.3838

- h. Create a revenue account in the amount of \$5,000 in Program Open Space funds for Colby Park: Account 0010.3831

Special Revenue Fund - Expenditure Amendments

- a. Delete the appropriation of \$38,000 in Community Development Block Grant funds for the Transitional Housing (Montgomery County PY18) project: Account 0010.6823
- b. Delete \$12,000 in CDBG appropriations for the Housing Rehabilitation (Montgomery County PY19) project: Account 0010.6825
- c. Create an expenditure account for the Takoma Junction project in the amount of \$50,000: Account 0010.6831
- d. Delete \$24,436 in CDBG appropriations for the Street Construction project (Montgomery County PY17): Account 0010.6818
- e. Delete the appropriation of \$5,112 CDBG funds for the Maple-Sherman Revitalization project: Account 0010.7246
- f. Appropriate an additional \$29,548 CDBG funds for the Heffner Park project: Account 0010.6822
- g. Delete \$5,000 in Program Open Space funds for Jackson-Boyd Park: Account 0010.7187
- h. Create an expenditure account in the amount of \$5,000 in Program Open Space funds for Colby Park: Account 0010.7192.

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

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

Introduced by:
Councilmember Elrich

First Reading: 10/25/93
Second Reading: 11/8/93

Effective Date: 11/8/93

ORDINANCE NO. 1993-35

(Exemption from Chapter 3A, Alarms, of the
Montgomery County Code)

WHEREAS, Article 23A, Section 2B of the Annotated Code of Maryland and Section 1-203 of the Montgomery County Code provide that legislation enacted by a county does not apply to a municipality located in the county if the municipality specifically exempts itself from the county legislation; and

WHEREAS, Montgomery County recently amended Chapter 3A of the Montgomery County Code by enacting Bill No. 2-92 dealing with alarm user registration, alarm response fees, suspension of police response to alarms signals under certain circumstances, and other matters regarding alarms (hereinafter "false alarm law"); and

WHEREAS, the Montgomery County false alarm law relates to a subject with respect to which the City of Takoma Park has a grant of legislative authority provided by public general law (Article 23A, Annotated Code of Maryland) and its charter; and

WHEREAS, the City of Takoma Park wishes to specifically exempt the City from Chapter 3A, Alarms, of the Montgomery County Code.

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

SECTION ONE. Pursuant to the authority conferred by Article 23A, Section 2B of the Annotated Code of Maryland and by Section 1-203 of the Montgomery County Code, the City of Takoma Park exempts itself from Chapter 3A, Alarms, of the Montgomery County Code, as amended from time-to-time.

SECTION TWO. This Ordinance shall be effective immediately.

Adopted this 8th day of November, 1993 by roll call vote as follows:

Aye: Elrich, Porter, Prensky, Sharp
Nay: None
Absent: Hamilton, Johnson, Leary
Abstained: None

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

IN THE MATTER OF;

Tree Commission Appeal
No. 93-1

An Appeal from the decision of :
the Tree Commission denying a :
permit to remove 3 trees at 7419 :
Hancock Avenue, Takoma Park, :
Maryland. :
Alan Adler, Appellant :
=====:

OPINION AND ORDER

I. INTRODUCTION.

On April 14, 1993, the Takoma Park Tree Commission (hereinafter "Tree Commission") pursuant to Section 12-26(b) of the Takoma Park Code conducted a hearing into the matter of the denial by the Director of the Takoma Park Public Works Department (hereinafter "Director") of a request by Alan Adler (hereinafter "applicant") for a permit to remove three (3) trees at 7419 Hancock Avenue, Takoma Park, Maryland. The applicant sought authorization from the Commission to remove the three (3) trees.

The Tree Commission, after considering written and oral evidence from the applicant, the City Arborist, and various interested citizens unanimously determined that a permit for the removal of the three trees (3) should be denied. See Introduction, Findings of Fact, Conclusions of Law and Order, Appeal No. 93-1 (June 11, 1993) (hereinafter "Decision").

The applicant noted a timely appeal to the Council of the Tree Commission's decision denying a permit to remove the three trees. Pursuant to Section 12-26(c) of the Takoma Park Code, the Council of the City of Takoma Park, Maryland is authorized to hear appeals from Tree Commission decisions. A hearing on the appeal was held on September 13, 1993.

II. STANDARD OF REVIEW.

Section 12-27 of the Takoma Park Code provides that the Tree Commission's findings may only be reversed if the Council finds that the applicant's substantial rights were prejudiced and the Tree Commission's conclusions are:

- (1) In violation of constitutional provisions;
- (2) In excess of the statutory authority or jurisdiction of the agency;

- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Unsupported by competent material and substantial evidence in view of the entire record as submitted; or
- (6) Arbitrary or capricious.

III. FINDINGS OF FACT.

Based on its review of the record of the evidence presented to the Tree Commission hearing, and the testimony presented at the appeal hearing, the Council makes the following findings:

1. The applicant's rights were not prejudiced by the Commission's decision. The Tree Commission's findings were based on an accurate and thoughtful appraisal of the testimony, written documentation, and other evidence presented to the Tree Commission. There is substantial evidence in the record to support the Tree Commission's decision to deny a permit to remove the three (3) trees at 7419 Hancock Avenue, Takoma Park, Maryland and the Council does not find any error of law or unlawful procedure in the decision of the Tree Commission.

2. The applicant had the burden of demonstrating to the Tree Commission that removal of the three (3) trees is necessary to achieve his proposed development and use. He was also charged with demonstrating the degree of hardship he would suffer from a modification or rejection of his application. The Council finds that the applicant failed to meet this burden as follows:

a. The applicant alleged that the location of the trees near the center of Lot 12 makes it impossible to build a single family home on the lot without cutting down the trees. However, the applicant did not support this allegation with any facts to the Tree Commission, and the veracity of the allegation was questioned by several witnesses. For example, there were no submissions from architects, contractors, or other experts indicating that there are no alternative locations to build a single family home on Lot 12 which would preserve the trees.

b. The applicant failed to show the Tree Commission that he attempted to save the trees by considering all possible modifications to his building plans. The Tree Commission was not sufficiently convinced that Mr. Adler could not construct a smaller house on a different section of the lot. The Tree Commission did not find hardship to the applicant from a rejection of the tree removal permit. The Council does not find that this finding is unsupported by competent and material evidence.

CONCLUSION

By unanimous vote, the Council affirms the decision of the Tree Commission in Appeal No. 93-1.

ORDER

UPON CONSIDERATION of the foregoing Introduction, Discussion, Findings of Fact, and Conclusion, and in accordance with Section 12-26(d) of the Takoma Park Code, it is this ____ day of _____, 1993 by the Council of the City of Takoma Park sitting as the Tree Commission Appeal Board,

ORDERED, that the June 11, 1993 decision of the Tree Commission in Appeal No. 93-1 is hereby affirmed.

NOTICE OF RIGHT TO APPEAL

Any person who was a party to the proceedings before the Tree Commission or the Mayor and Council may seek judicial review of the decision of the Mayor and Council within 30 days of the date of this Opinion and Order in accordance with Title 7, Chapter 200 (Judicial Review of Administrative Agency Decisions) of the Maryland Rules of Procedure, as provided in Section 12-16(c) of the Takoma Park Code.

Edward F. Sharp, Mayor

Bill Leary, Ward 1

Kathy Porter, Ward 2

Hank Prensky, Ward 3

Gregory V. Hamilton, Ward 4

Marc Elrich, Ward 5

Lloyd Johnson, Ward 6

BOYD-CARROLL NEIGHBORHOOD ASSOCIATION

c/o Roberta L. Valente
7409 Carroll Avenue
Takoma Park, MD 20912

September 24, 1993

City Council
City of Takoma Park, Maryland
Maple Avenue
Takoma Park, Maryland 20912

**RE: POSSESSION AND DISPOSITION OF THE ALLEY
LOCATED BETWEEN 317 AND 319 BOYD AVENUE**

To the Members of the City Council:

In response to the notification sent out by the City of Takoma Park regarding the alley located between 317 and 319 Boyd Avenue, the Boyd-Carroll Neighborhood Association wishes to inform the City Council that we are presently opposed to any action which would limit public access to the above-mentioned alley. We further request that the City Council refrain from taking any action resulting in the final disposition of this alley until the City has provided all residents living on or owning property which touches upon this alley the information requested below; without adequate information, it is difficult, if not impossible, for the residents of this neighborhood to properly respond to the City's proposal that this public alley be permanently converted to private ownership.

(1) Upon what grounds would the City give the exclusive use or outright ownership of the above-mentioned alley to the current residents of 317 and 319 Boyd Avenue?

At its worksession last Monday, the City Council suggested that only a few alternatives exist for resolving the question of the use of the alley: allowing the present residents to have exclusive use of the property; abandoning the property; and deeding the property over for free. The Boyd-Carroll Neighborhood Association believes that three other alternatives should be considered by the City as well: (1) having the present residents of 317 and 319 Boyd Avenue vacate the alley (removing all obstructions and debris caused to be placed in the alley by them or any other residents of 317 and 319 Boyd Avenue since 1956) and leave it open for public use as an unimproved public thoroughfare; (2) have the City reassert public possession and use of the alley and improve and maintain it as a paved alley; or (3) deed the property over to the current residents of 317 and 319 Boyd Avenue in exchange for fair market value.

The exclusive use of the alley in question was granted by the City in a letter dated July 24, 1956. This letter grants exclusive use of the alley only to Mrs. Lillian T. Fowler and Mr.

and Mrs. John H. Bennett. As we understand it, this exclusive usage was granted under unusual conditions: to prevent another resident of the alley from operating a commercial business in the alley. That condition no longer exists and thus cannot provide the justification for allowing the continuing closing of the alley. Furthermore, there is no mention in the letter that the right of exclusive usage was transferable to any future owners of 317 or 319 Boyd Avenue. The permission given by the City "is subject to the City's rights to open the alley and make use of same." This language indicates that the grant of exclusive usage is revocable at any time.

The language of limitation in this letter makes it clear that the City presently has no legal obligation to continue to deny public access to this alley. We request that the City consider alternatives which would not limit public access to this alley.

(2) Council members have suggested that a cost-benefit analysis would favor deeding the alley over because private ownership would yield increased tax revenues and because the cost of reopening and maintaining the alley would be too expensive. Upon what information does the Council base these conclusions?

The Boyd-Carroll Neighborhood Association believes that the Council must, before coming to any conclusions about the disposition of the alley, provide the other residents of the alley with complete information as to the actual amount of increased tax revenues which would be generated if this land were transferred to private ownership. Additionally, the City should also properly survey the site and develop a specific estimate of the cost of reopening the alley, also providing this information to the residents of the alley, so that an accurate, rather than a speculative, cost-benefit analysis may be conducted.

At last Monday's worksession, several persons present expressed concern that the cost of reopening the alley would be high because a concrete retaining wall currently blocks access to the continuous alley. The members of the Boyd-Carroll Neighborhood Association, making use of the information contained in the county plat book records, have actually measured out the alley and found that the concrete wall in question seems to lie on the Manor Circle side boundary line of the alley, not within the alley as the present owners of 319 Boyd Avenue have suggested. We therefore believe that the cost of reopening the alley would not be nearly as prohibitive as was suggested last week at the City Council worksession. In any case, an estimate of the cost of reopening the alley would seem to be required for the City Council to make a properly informed decision.

(3) At last Monday's City Council Worksession, the present owners of 319 Boyd Avenue noted that two oak trees stand in the alley now and would have to be cut down if the alley were reopened.

The members of the Boyd-Carroll Neighborhood Association would certainly describe themselves as "pro-tree"; indeed, nearly every household in the group has actually added trees to those

already on their property within the past five years. We are also aware of the Takoma Park ordinance which favors the preservation of trees rather than their destruction. However, we would like to learn more about the impact of the reopening on the alley on these trees before the tree ordinance is invoked as a means of handing over public property for private usage.

We make no pretense of holding ourselves out as horticultural experts, but after having a look at the trees in question, we do not believe that they are oak trees. There does seem to be an oak tree on the property known as 319 Boyd Avenue, but it does not seem to be at all in the path of the alley. We request that the City ascertain just what is growing in the alley before any decision is made. If these trees are of a fast-growing variety, such as silver maples, it could raise questions whether they were deliberately planted after 1956 to make it more difficult to reclaim the alley for public use. Even if the City Council determines that the tree ordinance is applicable here, that does not end the matter. The tree ordinance does not prohibit the cutting down of trees altogether; it prescribes procedures whereby a request to cut down a tree may be made, including notice of such a request and the opportunity for those opposing the request to be heard. Certainly the full panoply of procedures mandated by the ordinance should be carried out before the City decides whether or not the existence of these trees creates an impediment to the reopening of the alley.

We understood the present owners of 319 Boyd Avenue to say that one of their reasons for asking for permanent ownership of the property is to allow them to put a paved driveway to their garage. The trees in question definitely stand between the entrance driveway and the garage. How are the present owners planning on doing this paving without impacting the same trees they say would suffer from a reopening of the alley? In short, we believe a lot more information must be provided to both the residents of the alley and to the City before even a public hearing is to take place on this issue. If the City does not provide us, the alley residents, with this information, we will not be able to adequately represent our position before the City Council.

(4) Wouldn't transferring this public land into private ownership at no cost to the grantees create a precedent which would benefit others who have been making similar use of other public alleys in Takoma Park, thereby depriving the citizens of the use and enjoyment of public lands without compensation to the City?

There are other cases of public land having been converted over the years into what effectively amounts to exclusive private usage, especially in offstreet areas like the alley. For example, just across the street from this alley on Boyd Avenue is another alley which is the mirror image of the one under discussion. Residents of that alley have also closed off portions of that alley for their own private usage, disrupting the continuity of public access. Because of those enclosures, the alley effectively no longer exists. If the City deeds over

the alley to the present owners of 317 and 319 Boyd Avenue, that action will serve as an encouragement and a precedent for the residents across the street on Boyd Avenue to make similar requests for free land. This would certainly create administrative headaches for the City, as well as being manifestly unfair to those residents trapped in the alley by the enclosing actions of their neighbors, to say nothing of the value of the public property lost.

By allowing the public land between 317 and 319 Boyd Avenue to remain closed to public access, another problem is created. Already in this alley we see the "domino effect" caused by the enclosure at 317 and 319 Boyd Avenue. First, although the 1956 letter only granted Mr. and Mrs. Bennett and Mrs. Fowler the exclusive use of "the alley which lies between your two properties" (a strip of land 10 feet wide and 145.6 feet long, or 1456 square feet), any visitor to the alley will note that the residents of 317 Boyd Avenue have also annexed the land directly behind their property, thus depriving the other alley residents of the use of an area measuring 62.3 by 20 feet (1246 square feet). Additionally, taking advantage of the terminus created by this enclosed space, residents of a home fronting on Manor Circle have erected a structure in the alley (presumably without City permission) and have used the alley as a dumpsite, making yet another 40.8 by 20 feet unusable (816 square feet). And because of this further termination, the portion of the alley adjacent to this additional enclosure has become effectively a parking lot, further obstructing public access and usage. Thus, although Mr. and Mrs. Bennett and Mrs. Fowler were only granted permission to make exclusive use of 145.6 feet of the alley, 289.5 feet of the length of the alley (nearly half of the alley's length of 609.9 feet and a total of 3518 square feet) have been effectively removed from public access and usage. Deeding over the alley to private owners will do nothing to inhibit this problem, and instead will reward those who are taking advantage of the enclosure for their own benefit.

At this point, the members of the Boyd-Carroll Neighborhood Association would like to point out the reasons behind their objections to the permanent enclosure of the alley between 317 and 319 Boyd Avenue.

(1) Enclosure inhibits the sense of community among the alley residents. Those who reside in areas of the alley open to public access have found that a wonderful sense of community has been created. Not only do we have the opportunity to see and talk with our neighbors frequently, but we find that we feel safer, because the alley residents know each other's habits and schedules and can immediately spot suspicious activity and act upon it. The enclosure of the alley only works against this.

(2) Our children would be safer if both ends of the alley were open. Currently, all cars and trucks using the alley have only one entrance and exit. There are five children, four of whom are under the age of five, among the three houses closest to this entrance/exit. If there were two openings to the alley, the

traffic would obviously be more evenly distributed over both ends and the hazard to our children would be lessened. Additionally, because there is only one entrance/exit, many cars and trucks back out of the alley, thus creating another hazard for our children that would be reduced if the other end were open.

(3) Access to parking for the alley residents is made more difficult by enclosure. There are many problems attendant upon parking in the street on Boyd Avenue. First, parking on Boyd is in short supply because of the prohibition against parking on Carroll Avenue and because the other alley across the way on Boyd is not usable due to enclosure. Second, parking on the street on Boyd Avenue is often hazardous: not only have there been thefts of cars and articles left in cars, but there have been attempted assaults on residents of Boyd Avenue who have been engaged in the process of parking on the street. Making the alley accessible on both ends would make it easier for a number of alley residents to park behind their houses, having the double benefit of reducing parking on the street and increasing the safety of the residents.

(4) Snow and ice removal would be easier if both ends of the alley were open. Right now, with only one entrance to the alley, it is difficult to engineer snow and ice removal, because it is difficult to get equipment in where there is no room to turn around and no other means of exit. Improved access means safer driving conditions and therefore less hazards to persons and property.

In conclusion, the members of the Boyd-Carroll Neighborhood Association request that the City Council refrain from making any permanent decision as to the ultimate disposition of the alley on Monday, September 27th, until the City provides us with the information requested above.

The Association further requests that this information and notice of any public hearings or worksessions be given to all residents of the alley, including those living on Carroll and Boyd Avenues and Manor Circle. We additionally request that a public hearing be scheduled two weeks after the information has been given to us to allow us to submit both written and oral responses to the proposal by the residents of 317 and 319 Boyd Avenue as to the disposition of the above-mentioned public alley.

The members of the Boyd-Carroll Neighborhood Association thank the City Council for their interest in adequately addressing this issue.

Sincerely,

Paul J. Hurlner 7405 CARROLL AVE.

George Phillips 7405 Carroll Ave.

John Catron 7403 CARROLL AVE

Winifred Ann Walker 309 Boyd Ave

309 Boyd Ave

Robert Va. Center, 7409 Carroll

Kent [Signature] 7401 Carroll Avenue
Diana [Signature] " "

Joni Plant 7411 Carroll Ave.

Paul E. [Signature] 7411 CARROLL AVE
7409 CARROLL AVE

BOYD-CARROLL NEIGHBORHOOD ASSOCIATION

PETITION

TO THE MEMBERS OF THE CITY COUNCIL OF TAKOMA PARK:

We, the undersigned, request that the City Council stay any decision on the disposition of the alley located between 317 and 319 Boyd Avenue, until the City has properly provided us adequate information concerning the history and proposed disposition of the aforementioned alley, as well as providing us a reasonable opportunity to respond to such information.

Name	Address	Phone
Paul J. Hurlner	7405 CARROLL AVE. TAKOMA PK, MD 20912	270-0736
Kathryn Kelly	7405 Carroll Ave. Takoma Park, Md 20912	270-0736
Roberta J. Valente	7409 Carroll Ave Takoma Park, MD 20912	270 9211
John Catron	7403 CARROLL AVE TAKOMA PARK MD 20912	891-2194
Kurt Abraham	7401 Carroll Ave Takoma Park, MD 20912	270-6981
Dianne Roach Abraham	" " " "	" " " "
Andrew Ann Watson	309 Boyd Ave Takoma Park MD.	891 2817
Joni Plant	7411 Carroll Ave	270-6308
Paul E. Reent	2411 Carroll AVE	270-6308
Ellen A. Lopez	307 Boyd Ave	891 3976
Sam E. Lopez	397 Boyd Ave	891-3976
Neil Goldstein	7409 Carroll AVE	270-9311