

Training Session, Regular Meeting and Worksession of the City Council

Monday, February 14, 1994

**OFFICIALS PRESENT:**

Mayor Sharp	Deputy City Administrator Grimmer
Councilmember Chavez	Assistant City Administrator Hobbs
Councilmember Davenport	City Clerk Sartoph
Councilmember Elrich	Corporation Counsel Silber
Councilmember Porter	Acting Chief Police Wortman
Councilmember Rubin	Public Works Director Knauf
Councilmember Williams	

The City Council convened at 7:38 p.m. on Monday, February 14, 1994, in the Council Chamber at 7500 Maple Avenue.

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

MAYOR AND COUNCIL COMMENTS

Mr. Sharp announced that on Tuesday, February 8, 1994, the Bi-County Committee of the Prince George's delegation to the Maryland General Assembly voted in favor of the Unification Bill, PG/MC 12-94 and noted that this is the first time that the bill has received a favorable vote from this committee. The full Prince George's delegation is scheduled to vote on the bill on Friday, February 18th. He said that persons wishing to travel to Annapolis on Friday should check with the City offices on Thursday evening, since there is a good chance that the vote may be postponed.

ADOPTION OF MINUTES

Moved by Mr. Rubin; seconded by Mr. Chavez. The Council meeting minutes from 1/10/94 and 1/24/94 were unanimously adopted.

PRESENTATIONS

Mr. Sharp stated that awards of appreciation were originally scheduled to be presented to Paul Plant, MARJACK'S and the Washington Adventist Hospital (WAH) this evening, but that the presentation for WAH has been postponed and no one is present to accept the awards on behalf of the other two parties.

REGULAR MEETING

#2 Resolution of Condolence - Phoebe Rhodes. Mr. Sharp read the resolution into the record.

Moved by Mr. Sharp. The resolution was unanimously adopted.

RESOLUTION #1993-5  
(Attached)

#3 Training Session - "Conducting Effective Meetings" (presented by Richard Hillman). Mr. Hillman, of the Maryland Department of Housing and Community Development gave a presentation designed to "enhance the effectiveness, efficiency, and harmony of meetings of public deliberative bodies by examining the framework, setting, and rules in which the meetings are conducted." He discussed the needs for adopting Public Hearing rules and conducted a mock Council meeting using Councilmembers and persons from the audience to demonstrate various motions that can be made by members of a deliberative body and how to manage such motions according to Robert's Rules of Order.

#4 Heffner Park Improvements - Single Reading Ordinance.

Mr. Davenport asked when will the work begin, and how will the work be staged.

Mr. Knauf replied that if the Council adopts the ordinance this evening, the contract will be awarded to Ben Pro Enterprises, Inc. this week. He commented that the weather is a factor in estimating the completion date, but that the work should be completed within ninety days from the date the contract is awarded.

Mr. Sharp asked what the contract says regarding a completion date.

Mr. Knauf stated that the contract states a deadline for completion of the work. In response to Mr. Davenport's question about the staging of the work, Mr. Knauf explained that the work is scheduled to begin in mid-March, but the work plan has not yet been determined in regard to project phases. Various portions of the work would be performed simultaneously.

Ms. Grimmer clarified that the contract is primarily for the grounds portion of the work planned for Heffner park.

Mr. Knauf explained the add/alternate items to the contract--purchase and installation of a picnic shelter, and installation of a concrete slab.

Condie Clayton said that the community is behind the efforts to improve Heffner Park and that he would like to thank the Council for their work on this project.

Clarence Boatman, 133 Ritchie Avenue stated that he is concerned about the maintenance following the improvement of the building at Heffner Park. He said that many citizens feel that a maintenance plan needs to be in place to preserve the renovations made to this facility. He suggested that the city might consider a community committee to inspect and ensure that the facility is back to its original condition after any event held at the building.

Mr. Sharp said that it is certainly important that the building be maintained, and that this will be included in the city's building maintenance plan.

Ms. Grimmer commented that a separate security system is being considered for the Heffner facility.

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

ORDINANCE #1994-1  
(Attached)

#5 Takoma Avenue Storm Drain - Single Reading Ordinance.

Mr. Knauf noted that the funding for this contract is under the current Stormwater Budget.

Mr. Sharp made a motion that the Council simultaneously move into a Stormwater Management Board (seconded: Porter).

Mr. Williams asked whether the chosen contractor specializes in this type of work. He noted that the contractor offered the high bid on the Heffner Park improvements, and the low bid on this drain project.

Mr. Knauf replied that the contractor has done street improvements for other municipalities.

Mr. Sharp noted that the previous ordinance listed the contractors and their bids in the body of the ordinance, but that this item has the bid information listed in the cover memo. He suggested that future ordinances awarding contracts be consistent in listing the bid information in the cover memo. The ordinance should only list the contractor which has been chosen and the amount of the contract to be awarded.

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

ORDINANCE #1994-2  
(Attached)

#6 Sidewalk Sales - 1st Reading Ordinance. Mr. Sharp explained the history of the original ordinance and its sunset provision, and stated that the currently proposed ordinance reinstates the provisions of the original sidewalk sales ordinance on a permanent basis.

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

Ms. Porter proposed amendments to two whereas clauses. With no objections from the Council, the amendments were accepted.

Raymond Altevogt commented on the importance of maintaining the atmosphere of the Farmer's Market, and remarked about how the Council might address the situation of persons crossing the median and disturbing the roots of trees and other vegetation. He suggested that the market vendors be reconfigured to face outward from the median (back-to-back) such that pedestrian traffic could flow up onto the sidewalks.

Mr. Sharp noted that this issue has been addressed in the past and it was decided at that time, not to change the configuration of the market, but it has not yet been brought up in the context of this year's market discussions.

Ms. Porter asked for staff to investigate whether there would be the same number of vendor spaces available if the vendors were reconfigured with their backs to the median strip, as a factor if reconfiguration is considered for this year's market.

The ordinance was unanimously accepted at first reading (ABSENT: Davenport, Elrich).

ORDINANCE #1994-3  
(Attached)

#7 Non-Commercial Activity Permits - 1st Reading Ordinance. Mr. Sharp explained that this is the first reading of an ordinance regarding non-commercial activity permits for the bricked area adjacent to the Farmers Market.

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

Mr. Rubin proposed an amendment by substitution to the ordinance on the table (second: Williams).

Mr. Rubin referred to the substitute ordinance titled "Activities in Public Spaces Adjacent to Farmers Market." Mr. Rubin commented that he and Mr. Williams have given this matter considerable thought and that they would like to propose an experimental ordinance with a sunset date--the end of this year's market season. He further explained that the ordinance can be revisited at any time during this year's market season as initiated by staff or Councilmembers. He said that the problem is not increasing numbers of persons interested in using the space adjacent to the market, or a concern that musician performances are negative to the market (he referred to the results of a survey circulated among the market vendors). The problem is a lack of clarity about the meaning of "non-commercial" activities. The substitute ordinance clarifies that there shall be non-commercial activities only and defines what these activities--definition is identical to that in the original ordinance. The substitute ordinance reiterates the existence of pre-existing laws and ordinances (city and state) which protect pedestrian and vehicular right-of-way and public safety. He stated that the substitute ordinance differs from the original ordinance in that it is silent on the matter of a permit process, meant to indicate that there shall be no permit process. Mr. Rubin remarked that the substitute ordinance calls for an experiment in using common courtesy, professional discretion on the part of law enforcement officers and staff, and common sense.

Ms. Porter said that she does not object to anything that Mr. Rubin has said but that this substitute ordinance is significantly different from the original ordinance and is something the Council had not seen until this evening. She felt it should be discussed further by the Council before a vote is taken. She made a motion that this item be postponed for discussion at the next Worksession (seconded: Chavez).

Council voted in favor of the motion (OPPOSED: Sharp)

Mr. Sharp noted that the item is off the agenda for this evening, and stated that he thinks that the Council should have asked staff what problems postponing this discussion may cause in terms of timing.

#8 Takoma/Langley Phase II Project - Single Reading Ordinance. Before putting the item on the table, Mr. Sharp commented on the cover memo and the decision not to award the low bidder. He said that he understands that it is a matter of policy correctness that it is appropriate not to award the low bidder if a decision is made that staff does not feel the low bidder can do the job. He recalled that in the case of the contract awarded for the Municipal Gym improvements, the bidder could not perform the work and hence, the Council had to later approve a contract award for the completion of the work. He said that in the current case, the low bidder appears to be head-and-shoulders above the rest, and asked what specific standards the staff used in determining that the bidder could not perform the work.

Ms. Grimmer said that she could not speak to the specifics, but that the Request for Proposal (RFP) was designed with specific selection criteria that was made known within the RFP itself. Some criteria may have been weighed differently. She commented that past experience has been that some of the smaller municipal jobs get lost when contracted to larger companies.

Mr. Sharp asked for clarification about the statement (see memo) that the "management approach was better defined and more in line with DHCD expectations."

Ms. Grimmer responded that she thinks it refers to overall familiarity with and perhaps the willingness to deal with federal regulations in the reporting requirements that the city must meet. She stated that she believes the over-riding item in this case is the first, given the experience of the principals in the firm.

Mr. Sharp noted that the experience according to item #1 has to do with how long a principal has been with the firm, and asked whether there is any indication about how much experience in the business the principals have. Is there a similar degree of difference in experience in the business, between the two firms?

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

Ms. Porter said that in this process, it appears that the selection was handled differently than it normally is. Normally with construction contracts the city considers the lowest bidder and determines whether that bidder is competent to handle the job or not. She stated that in this case it appears that the city looked at all bidders and decided which one was most desirable. She asked whether this was handled this way because this is an engineering contract rather than a construction contract.

Ms. Grimmer commented that the city has had ongoing difficulties with getting what we feel is not good engineering service. The Request for Proposal (RFP) is designed to focus not only on the bid submitted by a company, but to provide for the consideration of a company's ability to deliver the services to the city in a thorough and timely fashion. She commented that with this contract the city has also held open a window of possibility, based on performance, of using this company for future jobs.

Mr. Sharp asked what has happened to Greenhorne & O'Mara.

Ms. Grimmer said that they are under contract with the city, but that the city has some concerns about their responsiveness.

Mr. Rubin noted that the bids on this job appear to be closer together than on the previous contract awards considered this evening, and asked whether there is a reason.

Ms. Grimmer suggested that since these bids are clustered more together, the staff felt they have a little more leeway than in trying to go at other selection criteria aside from price alone.

Mr. Sharp commented on the Code provisions regarding contracting, and asked whether the appropriate procedure was followed such as to permit the city to choose a bidder other than the lowest bidder.

Mr. Davenport asked what is the level of experience of the principals

referenced in item #1 of the memo.

Mr. Sharp responded that staff is not prepared to respond to this question. He noted that staff has indicated that the proper process has been followed, and that it is staff's advice that this award is in compliance with code provisions. He said that he does not think that the range of the bids is a basis for determining whether the city has more flexibility in considering the bids. Flexibility is determined by whether the appropriate process, as prescribed by the Code, permits it.

Mr. Rubin asked what is the urgency of awarding this contract.

Ms. Grimmer said that this award is part of the current Program Year for Community Development Block Grant funds, and that the city wants to have the engineering work completed in preparation for the Spring construction season.

Ms. Porter clarified that this is work that the city received money to do last year (PY18).

Ms. Grimmer agreed.

Mr. Sharp asked whether the item can be considered next week at a Special Session on February 22nd. With no objection from Ms. Grimmer, he made a motion to the same effect, stating that staff is to address the question regarding the experience of the principals of the firm referenced in item #1 (seconded: Rubin). The motion carried unanimously.

#9 Parking Tickets and Court Dates - 2nd Reading Ordinance.

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

Mr. Sharp noted the amendments since first reading as referenced in the cover memo.

Ms. Porter noted that the ordinance permits but does not require the City Administrator to ticket cars that are blocking leaf collection.

The ordinance was unanimously adopted at second reading by roll call vote (AYE: Chavez, Davenport, Porter, Rubin, Sharp, Williams; ABSENT: Elrich).

ORDINANCE #1993-36  
(Attached)

#10 Consent Agenda. Mr. Sharp commented on the items on the consent agenda. Moved by Ms. Porter; seconded by Mr. Williams. The items on the consent agenda were unanimously adopted.

Resolution of Appreciation - Kay Rader, departing Assistant Library Director of the Takoma Park Library.

RESOLUTION #1994-6  
(Attached)

Resolution of Appointment - Committee on the Environment. The resolution effected the appointments of Paul Gunter and Forrest Chambless Bittner.

RESOLUTION #1994-7  
(Attached)

ANNOUNCEMENT

Mr. Sharp announced that in 1996, Prince George's County will be celebrating its 300th Anniversary. The P.G. Tricentennial Committee is in the process of enlisting many organizations to be a part of this event, and are asking for someone from Takoma Park to serve on the subcommittee for municipalities for the tricentennial. He said that they would like to have the name of a representative by February 18th, and explained that the first meeting will be a brainstorming session to discuss how the various municipalities wish to participate. Mr. Sharp asked that if any Councilmembers are interested in participating on that subcommittee that they see him for the name of the contact person.

RECONSIDERATION OF AGENDA ITEM #7 - NON-COMMERCIAL ACTIVITY PERMITS

Mr. Williams moved that the Council reconsider agenda item #7 in light of Mr. Sharp's comments regarding staff timing for public notice regarding the ordinance provisions (seconded: Rubin).

Ms. Porter asked staff to respond to any timing concerns that would be raised if this item is not discussed this evening.

Ms. Silber noted that it is not a timing problem if there is not going to be a permitting process. The only timing concern was the announcement of the regulation that goes with the permitting. She said that if the basic thrust of the Council is to go with the substitute ordinance, there is no rush and the discussion could easily be postponed to the next Worksession. Ms. Silber stated that staff needs some indication of the Council's intent in regard to whether or not there will be a permitting process. The rush this evening was to get the permit process in place before the opening of the market.

Mr. Sharp asked whether the city currently has any regulation of the bricked-in area.

Ms. Silber responded that the City Clerk's office has been issuing permits for that area for some time but without any particular ordinance or regulations to support it.

Mr. Sharp asked whether such activities are covered by sidewalk sales.

Ms. Silber replied, definitely not.

Mr. Sharp questioned whether commercial businesses then could use the bricked-in area.

Mr. Rubin said that staff has been issuing permits generally attempting to restrict use of the bricked-in area to non-commercial entities, but that there is no firm guidance as to the definition of "commercial", and therefore, "non-commercial".

Mr. Sharp said that he is not as convinced, as some other councilmembers, that the definition of "non-commercial" resolves all the problems, and stated that he is worried about how the definition would apply to groups like the "House and Garden Tour".

Ms. Silber said that if the Council is leaning toward some kind of permitting procedure, then there is a need for accepting a Regulation and 1st Reading Ordinance tonight.

Ms. Porter stated that she is not prepared to vote on the substitute ordinance at this time, since she has not had time to review it prior to this evening.

Mr. Rubin contended that the substitute ordinance is not a reversal of the original ordinance as discussed at the last Worksession. He said that he feels that the city is moving into a dangerous area of over-regulation which is going to create many more citizen complaints than it alleviates. Mr. Rubin commented that the substitute ordinance is an experimental ordinance.

Ms. Porter noted that she does not object to the substance of Mr. Rubin's statement, but that the Council would be better prepared to discuss this at the next Worksession.

Mr. Sharp made a motion to postpone the first reading of this ordinance to the next Regular meeting to allow for Council discussion in Worksession. Without objection, the discussion of the ordinance was postponed to February 22nd.

Moved by Mr. Davenport; seconded by Mr. Chavez. The Council adjourned to Worksession at 10:18 p.m. and following the Worksession, adjourned for the evening at 10:48 p.m.

Introduced by: Councilmember Porter

Drafted By:  
Linda S. Perlman  
Assistant Corporation Counsel

First Reading: 12/13/93  
Second Reading: 2/14/94

Draft Date: 2/8/94

Effective Date: 2/14/94

**ORDINANCE NO. 1993-36**

(Parking Violations and Enforcement)

**WHEREAS**, the City has experienced problems in enforcement of its parking regulations; and

**WHEREAS**, the following amendments to Chapter 13, Vehicles and Traffic, of the Takoma Park Code dealing with the issuance and enforcement of tickets for parking violations, penalties for late payment of parking fines, establishment of emergency or temporary no parking zones, and towing and impounding illegally-parked vehicles are intended to aid the City's parking enforcement process.

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

**SECTION ONE.** Chapter 13, Vehicles and Traffic, of the Takoma Park Code is amended as follows:

**Chapter 13. Vehicles and Traffic.**

**Article 4. Parking Meters.**

\* \* \* \*

**Division 2. Parking Meter Regulations.**

\* \* \* \*

~~Sec. 13-41. Enforcement of parking meter regulations; procedure.~~

~~(a) Any police officer or any other city employees specifically designated by the Council shall police the parking meters and report;~~

~~(1) The location of each parking meter which indicates that the vehicle occupying the parking zone adjacent to the parking meter is or has been parked in violation of any of the provisions of this Article.~~

~~(2) The state license and license number of the vehicle.~~

~~(3) Any other facts, a knowledge of which is necessary to a thorough understanding of the circumstances attending the violation.~~

#### **Sec. 13-42. Violations and penalties.**

~~A violation of this Article is a Class C offense. Any person issued a ticket for a violation of Article 4 shall be subject to a fine [[of Ten Dollars (\$10.00).] as set forth in Sec. 13-81 (Schedule of fines and charges).~~

#### **Sec. 13-43. Impounding vehicles parked overtime.**

~~Any vehicle unlawfully parked within any parking meter zone for a period in excess of two (2) hours may be taken into possession by the police officers of the city and towed to some proper storage place and there held until the penalty provided for in Section 13-42 of this Article is paid and until the towing and storage charges incurred shall also have been paid.~~

\* \* \* \*

#### **Article 7. Stopping and Parking.**



\* \* \* \*

**Sec. 13-63.1. Parking permit areas.**

\* \* \* \*

(h) The City Administrator is authorized to prepare promulgate written regulations in accordance with Ordinance 1989-32, adopted September 11, 1989 Chapter 2, Administration, Article 5, Administrative Regulations, to implement the provisions of this section.

(i) The City Administrator is authorized to recommend to the Council a parking permit fee for permits to be issued pursuant to this section in an amount sufficient to pay the costs incidental to the issuance of permits authorized by this section. The permit fee shall become effective upon the affirmative action of the Council.

~~(j) A violation of this section is a Class N offense.~~

~~(k)~~ (j) In addition to any other penalties available under law, violations of the City Administrator's written regulations promulgated under Subsection (h) of this section may result in revocation, by the City Administrator or the City Administrator's designee, of permits issued by the City Administrator or the City Administrator's designee.

**Sec. 13-64. Parking or standing; prohibited areas.**

\* \* \* \*

(b) Any person issued a ticket for violation of Subsection (a)(6) (fire lanes) ~~is a Class M offense~~ shall be subject to a

fine ~~[[of One Hundred Dollars (\$100.00) for each violation]]~~ as set forth in Sec. 13-81 (Schedule of fines and charges).

(c) Any person issued a ticket for violation of subsection (a) (11) (handicapped parking) ~~is a Class B offense~~ shall be subject to a fine ~~[[of Two Hundred Dollars (\$200.00) for each violation]]~~ as set forth in Sec. 13-81 (Schedule of fines and charges).

**Sec. 13-64.1. Enforcement of parking and standing regulations.**

~~For the purpose of enforcement of parking and standing regulations contained in this Article, the Mayor and Council~~ The City Administrator may designate a parking enforcement official (or officials), who shall have concurrent jurisdiction with police officers in the enforcement of ~~Article 7~~ the parking and standing regulations contained in this chapter.

~~Sec. 13-64.2. Penalty; exception.~~

~~Except as provided in sections 13-63.1, 13-64(a)(6) and 13-64(a)(11), a violation of this Article is a Class N offense.~~

\* \* \* \*

**Sec. 13-69. Reserved. ~~[[Penalty;]]~~ Violations and penalties; exceptions.**

Except as provided in Sections 13-64(b) (fire lanes) and 13-64(c) (handicapped parking), any person issued a ticket for a violation of Article 7 shall be subject to a fine of ~~[[Twenty Five Dollars (\$25.00).]]~~ as set forth in Sec. 13-81 (Schedule of fines and charges).

\* \* \* \*

## Article 8. Traffic Signs.

\* \* \* \*

### Sec. 13-71. Temporary signs; time limit.

To deal with temporary situations, the Director of Public Works is authorized, whenever the Chief Police Officer concurs, to place, erect and maintain temporary traffic signs and devices, and temporary signs controlling parking and standing, effective for not more than seventy-two (72) hours.

### Sec. 13-72. Reserved. Establishment of emergency or temporary no parking and no traffic zones.

(a) The City Administrator or his or her designee and City police officers are hereby authorized and empowered at any time to designate any streets and areas within the City as emergency or temporary no parking zones or temporarily to prohibit vehicular and pedestrian traffic on such streets and areas, in the event of emergencies such as fires, riots, accidents or other events likely to attract large crowds, for the purposes of street maintenance, leaf collection, Fourth of July festivities, City-sponsored events, and [[or]] for any other public purpose.

(b) When and in the event such streets and areas are so designated, parking of vehicles and vehicular and pedestrian traffic in such streets and areas is prohibited[.] and any vehicle parked in violation of the provisions of this section may be towed and impounded as provided in Sec. 13-74 (Towing and impounding illegally parked vehicles).

~~(c) Any person issued a ticket for violation of this section shall be subject to a fine as set forth in Sec. 13-81 (Schedule of fines and charges) [[of Twenty-Five Dollars (\$25.00)].]~~

~~[[Sec. 13-73. Reserved- Parking vehicles in violation of traffic signs.]]~~

~~[[No vehicle shall be parked in violation of any traffic sign provided for in this Chapter or other official sign, and both the owner or operator thereof shall be subject to the penalties provided for in this Chapter for any such violation.]]~~

Sec. 13-~~[[74.]]~~ 73. ~~Snow emergencies; route signs;~~ impounding of vehicles.

~~(a) During periods of snow or ice accumulation, the City Administrator or his or her designee and the Chief of Police are hereby authorized and empowered to prohibit or restrict parking or to prohibit vehicular traffic on any streets and areas within the City for the purpose of facilitating snow removal and for the purpose of public safety.~~

~~(b)-(a) When a snow emergency is declared by the Superintendent of State Police or his or her designee or by other authorized [[appropriate]] officials [[of]] for Montgomery County, Maryland, parking of vehicles shall be prohibited at any time during the snow emergency period on the streets designated in Subsection ~~(c)-((b))~~.~~

~~(c)-(b) The Director of Public Works or his or her designee is authorized to place in appropriate locations [[permanent]] signs indicating a designation as a "snow emergency route"~~

[[bearing the wording SNOW EMERGENCY ROUTE - SNOW TIRES OR CHAINS REQUIRED - NO PARKING DURING EMERGENCY]] along certain streets as follows:

[[ (1) ]] Maple Avenue - East side from the District of Columbia line to [[Philadelphia Avenue.]] Sligo Creek Parkway.

[[ (2) ]] Maple Avenue - Both sides, Philadelphia Avenue to Sligo Creek Parkway.]]

(d) A person may not drive or attempt to drive a vehicle during a snow emergency period on any street that is designated and appropriately signposted as a snow emergency route, unless the vehicle is equipped with snow tires or chains on at least one wheel at each end of a driving axle.

(e) ~~[[ (d) ]]~~ (e) A violation of this section is a Class M offense. Any person issued a ticket for a violation of this section shall be subject to a fine [[of One Hundred Dollars (\$100.00).]] as set forth in Sec. 13-81 (Schedule of fines and charges).

(f) (e) Any vehicle parked and left unattended in violation of the provisions of this section or of any snow emergency order or declaration [[of]] issued by the Superintendent of State Police or his or her designee or by other authorized [[the appropriate]] officials [[of]] for Montgomery County or Prince George's County, Maryland may be [[removed]] towed and impounded as provided in Sec. 13-74[[75]].

Sec. 13-74[[75]]. Towing and impounding illegally parked vehicles.

(a) Any vehicle parked in violation of this Chapter or otherwise parked so as to constitute a hazard to public safety or that is ~~[[so]]~~ parked, stopped or standing so as to impede or obstruct the normal movement of traffic or pedestrians may be towed or impounded by police officers or other authorized persons designated by the City Administrator.

(b) In any case involving the towing or impounding~~[[ment]]~~ of a vehicle pursuant to this section, a service fee as set forth in Sec. 13-81 (Schedule of fines and charges) ~~[[an administrative fee of Twenty-Five Dollars (\$25.00)]]~~ may be charged to the owner of the vehicle in addition to all outstanding fines and penalties assessed ~~[[pursuant to]]~~ for violations of this Chapter, plus any towing or storage charges incurred. ~~[[c]]~~ All such fines, penalties, ~~[[costs and fees]]~~ service fees, and charges, shall be paid to the City or its agent before the owner or his or her authorized agent may reclaim or secure the release of the vehicle.

#### Article 9. Speed Humps.

Sec. 13-~~75~~ ~~[[75 76]]~~. Erection and maintenance of speed hump installations.

\* \* \* \*

#### Article 10. Bridges.

Sec. 13-~~76~~ ~~[[76 77]]~~. Weight limits.

\* \* \* \*

#### Article 11. Parking tickets; enforcement.

Sec. 13-~~77~~ ~~[[78]]~~. Issuance of parking tickets.

(a) Any police officer or parking enforcement official of the City of Takoma Park finding a vehicle parked or standing in violation of this Chapter shall:

(1) Deliver a parking ticket to the operator of the vehicle or, if the vehicle is unattended, attach a ticket to the vehicle in a conspicuous place; and

(2) Keep a copy of the citation, bearing his or her certification under penalty of perjury that the facts stated in the citation are true.

(b) In the absence of the operator, the registered owner of the vehicle is presumed to be the person receiving the ticket.

(c) ~~[(b)]~~ Parking tickets shall state:

(1) The state license number of the vehicle.

(2) The make and model of the vehicle.

(3) The section of the Takoma Park Code the vehicle was parked or standing in violation of.

(4) The date, time and location of the violation.

(5) The amount of fine charged for the violation.

(6) The name of the officer reporting the violation.

(7) Any other facts necessary to an understanding of the circumstances of the violation.

(8) In any violation involving a vehicle parked at a parking meter, the parking meter number.

~~[(c)]~~ The parking ticket shall instruct the owner or operator of the vehicle to pay the fine imposed as a penalty for such violation to the City of Takoma Park within fifteen (15)



days from the date of issuance of the parking ticket, or to give written notice to the City of Takoma Park within ten (10) days from the date of issuance of the parking ticket of the owner or operator's intention to stand trial for the violation in the District Court.

(e)[(d)] The parking ticket shall notify the owner or operator of the vehicle that failure to pay the prescribed fine by the payment date or to appear in court may result in the vehicle's registration not being renewed or transferred by the State Motor Vehicle Administration and in the imposition of an additional penalty and service charge.

(f) The registered owner of the vehicle is responsible for a parking ticket issued for a violation of this Chapter, whether or not the owner was the operator or otherwise in possession of the vehicle at the time of the violation and whether or not the owner actually received the parking ticket.

Sec. 13-78 [(79)]. Election to pay or stand trial; presence of officer at trial.

(a) The owner or operator of a vehicle receiving a parking ticket shall:

(1) Pay the fine for the violation directly to the City of Takoma Park by the payment date set forth in the parking ticket; or

(2) Request to stand trial on the violation.

(b) A request to stand trial on the violation shall be made by sending a written notice of intention to stand trial to the



City of Takoma Park at least five (5) days before the payment date specified in the parking ticket.

(1) If a person requests a trial on the violation and desires the presence at trial of the officer who issued the parking ticket, he or she shall so notify the City of Takoma Park at the time the request to stand trial is made.

(2) If proper notification is not given, the officer need not appear at the trial and the copy of the parking ticket bearing the officer's certification under penalty of perjury shall be prima facie evidence of the facts stated in the ticket.

(c) If a defendant who has timely requested a trial on the violation fails to appear in District Court on the trial date set, then before a new trial date may be scheduled the defendant shall post collateral with the City of Takoma Park in the amount of the parking ticket fine, along with any penalty and service charge due for the violation as set forth in Sec. 13-79 (Failure to pay or comply; penalty for late payment; service charge), unless otherwise ordered by the court.

(1) If the defendant fails to appear in District Court on the new trial date set for the violation, the collateral shall be forfeited in full as the fine on the original violation, unless otherwise ordered by the court.

(2) If the defendant does appear in District Court on the new trial date set for the violation:

A. First, the collateral shall be applied to any fine and other charges that the court imposes for the violation; and

B. Then, the balance of the collateral not applied to the fine and other charges shall be returned to the defendant.

Sec. 13-79. Failure to pay or comply; penalty for late payment; service charge.

(a) In the event the owner or operator of the vehicle neither sends written notice of his or her election to stand trial within ten (10) days from the date of issuance of the parking ticket, nor pays the fine for the violation within fifteen (15) days from the date of issuance of the parking ticket, ~~[[nor appears]]~~ or if the owner or operator of the vehicle does not appear in District Court on the trial date set, then as an additional penalty the fine for the violation shall double. In addition, a service charge as set forth in Sec. 13-81 (Schedule of fines and charges) ~~[[of Ten Dollars (\$10.00)]]~~ shall be imposed if payment of the fine is made more than thirty (30) days after the date of issuance of the parking ticket.

(b) Notwithstanding the foregoing, the fine for a violation of Sec. 13-64(a)(10) (handicapped parking) shall not double if an election to stand trial is not timely made or if the fine is not paid by the payment date set forth in the parking ticket, but as an additional penalty, the fine shall increase as set forth in Sec. 13-81 (Schedule of fines and charges). A service charge ~~[[of Ten Dollars (\$10.00)]]~~ also shall be imposed as set forth in

Sec. 13-81 (Schedule of fines and charges) [[subsection (a).]] if payment of the fine for a violation of Sec. 13-64(a)(10) (handicapped parking) is made more than thirty (30) days after the date of issuance of the parking ticket.

(c) A request to stand trial on the violation made after ten (10) days from the date of issuance of the parking ticket shall be granted provided that the owner or operator of the vehicle posts collateral [[a penalty deposit]] with the City of Takoma Park in the amount of the parking ticket fine, along with any additional penalty and service charge as set forth in subsections (a) and (b).

(1) If the defendant fails to [[does not]] appear in District Court on the trial date set, the [[deposit]] collateral shall be forfeited in full as the fine on the original [[charge, if authorized by the court.]] violation, unless otherwise ordered by the court.

(2) If the defendant does appear in District Court on the trial date set:

A. First, the [[deposit]] collateral shall be applied to any fine and other charges that the court imposes for the violation; and

B. Then, the balance of the [[deposit]] collateral not applied to the fine and other charges shall be returned to the defendant.

(d) The City Administrator is authorized from time to time to implement an amnesty program for forgiveness of late payment

penalties and service charges on parking tickets. Any such amnesty program shall be of limited duration and shall provide that the owner or operator of a vehicle that has any unpaid parking tickets may pay the fine for the violation during a specified period of time without any additional penalty for late payment or service charge.

[(d) Whenever the City is able to ascertain by reasonable access to state motor vehicle administration records, the name and address of the owner of the vehicle, the City shall send a written notice to the vehicle owner that the parking ticket fine is overdue, that the fine has been increased as set forth in subsection (a), and, if applicable, that a service charge has been added. The failure of the City to give such written notice or the failure of the vehicle owner to receive such written notice shall not affect the validity of the parking ticket fine or any additional penalty or service charge.]]

Sec. 13-80. Effect of parking violation on vehicle registration.

(a) In accordance with the provisions of State of Maryland law, the Motor Vehicle Administration may not register or transfer the registration of any vehicle involved in a parking violation under this Chapter if:

(1) The City of Takoma Park notifies the Motor Vehicle Administration that the owner or operator of a vehicle that has received a parking ticket under this Chapter has failed to either:

A. Pay the fine for the violation by the payment date specified in the parking ticket; or

B. File a written notice of his or her intention to stand trial for the violation;

(2) The City of Takoma Park notifies the Motor Vehicle Administration that an owner or operator who has requested a trial on the violation has failed to appear for trial.

(b) The Motor Vehicle Administration shall continue the refusal to register or transfer the registration of a vehicle involved in a parking violation under this Chapter until:

(1) The City of Takoma Park notifies the Motor Vehicle Administration that the parking ticket fine, along with any additional penalty and service charge due for the violation as set forth in Sec. 13-79 (Failure to pay or comply; penalty for late payment; service charge) has been paid; or

(2) The City of Takoma Park notifies the Motor Vehicle Administration that the owner or operator of a vehicle that received a parking ticket under this Chapter has appeared for trial on the violation in District Court or has pleaded guilty and paid the parking ticket fine, along with any penalty and service charge due for the violation.

(c) An owner of a vehicle who is denied registration of a vehicle under the provisions of this section or State of Maryland law shall pay the fee established by the Motor Vehicle Administration before renewal of the registration of the vehicle.



Article 11. Fines, Late Payment, Penalties, and Service Charges.

Sec. 13-81. Schedule of fines and charges.

The amount of the fines, additional penalties, and service charges for violations of Chapter 13, Vehicles and Traffic, shall be as follows:

<u>Article/ Section</u>	<u>Brief Description</u>	<u>Fine</u>	<u>Penalty<sup>1</sup></u>	<u>Service Charge<sup>2</sup></u>
<u>Article 4</u>	<u>Parking meter regulations</u>	<u>\$10.00</u>	<u>\$10.00</u>	<u>\$15.00</u>
<u>Article 7, except Sections 13-64(b) &amp; 13-64(c)</u>	<u>Parking prohibitions (\$13-63); residential permit parking (\$13-63.1); prohibited parking areas (\$13-64); manner of parking (\$13-65); displaying for sale sign on parked vehicle (\$13-66); commercial vehicle parked in residential zone (\$13-67); storing or parking vehicles (\$13-68).</u>	<u>\$25.00</u>	<u>\$25.00</u>	<u>\$15.00</u>
<u>Section 13-64(b)</u>	<u>Fire lanes</u>	<u>\$100.00</u>	<u>\$100.00</u>	<u>\$15.00</u>
<u>Section 13-64(c)</u>	<u>Handicapped parking</u>	<u>\$200.00</u>	<u>\$100.00</u>	<u>\$15.00</u>
<u>Section 13-72</u>	<u>Emergency or temporary no parking and no</u>	<u>\$ 25.00</u>	<u>\$ 25.00</u>	<u>\$ 15.00</u>

<sup>1</sup> See Sec. 13-79. A penalty for late payment is imposed if the fine for the violation is not paid within fifteen (15) days from the date of issuance of the parking ticket.

<sup>2</sup> See Sec. 13-79. A service charge is imposed if payment of the fine is made more than 30 days after the date of issuance of the parking ticket.

Traffic zones.

Section 13-73 Snow emergency. \$100.00 \$100.00 \$ 15.00

Section 13-74 Towing and impounding. Fine for the violation, plus towing/storage charges. \$15.00 \$15.00<sup>3</sup>

**SECTION TWO.** This Ordinance shall be effective immediately.

Adopted this 14th day of February, 1994 by roll call vote as follows:

Aye: Chavez, Davenport, Porter, Rubin, Sharp, Williams

Nay: None

Absent: Elrich

Abstain: None

**EXPLANATORY NOTE:** Shading indicates additions to the current Takoma Park Code language.

Crossouts indicate deletions from the current Takoma Park Code language.

\* \* \* \* indicates material from the Takoma Park Code which is not reproduced in this ordinance.

Under lined shading indicates additions to Ordinance No. 1993-36 made after 1st reading.

[[Double bracketing]] indicates deletions from Ordinance No. 1993-36 made after 1st reading.

Double under lined shading indicates additions to

<sup>3</sup>  
Sec. 13-74. In any case involving the towing and impounding of a vehicle, the \$15.00 service fee is imposed immediately and must be paid before the vehicle may be released to the owner or his/her authorized agent.

Ordinance No. 1993-36 made after the Council work session on  
2/7/94.

[[[Triple bracketing]]] indicates deletions from  
Ordinance No. 1993-36 made after the Council worksession on  
2/7/94.



Single Reading: 2/14/94

ORDINANCE NO. 1994-1

To Award A Contract for the Purpose of  
Park Improvements at Heffner Park

- WHEREAS, Open Space funds have been earmarked to address these improvements; AND
- WHEREAS, appropriate advertising was placed in the Washington Post and the Dodge and Blue Reports; AND
- WHEREAS, outreach efforts to minority contractors were pursued through Prince George's County Black Contractor's Association; AND
- WHEREAS, bids were publicly opened at 2:00 p.m., January 28th, 1994 with nine bids, including add alternates, being received as follows; AND

<u>BIDDERS</u>	<u>BASE BID</u>	<u>ADD/ALTERNATES</u>	<u>TOTAL BID</u>
Ben Pro Enterprises	\$31,341	\$8,400	\$39,741
HMF Contracting	\$30,435	\$9,508	\$39,943
Nekoosa Inc.	\$31,358	\$9,806	\$41,164
Triple J Construction	\$30,548	\$11,025	\$41,473
Avon Corporation	\$34,029	\$14,798	\$48,827
Jupiter Contracting	\$39,267	\$10,530	\$49,820
Peak Incorporated	\$39,684	\$10,780	\$50,464
Montage Inc.	\$44,000	No bid	
NZI Construction Corp.	\$83,000	\$19,000	\$102,000
Engineer's Cost Estimate	\$32,231	\$9,500	\$41,731

- WHEREAS, it has been determined that Ben Pro Enterprises, Inc. has submitted a responsive and responsible bid; AND
- WHEREAS, sufficient earmarked Project Open Space funds are available.

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

SECTION 1. THAT the low bid received from Ben Pro Enterprises, Inc. in the amount of THIRTY NINE THOUSAND SEVEN HUNDRED AND FORTY ONE (\$39,741) be accepted; AND

SECTION 2. THAT this expenditure be charged to Open Space Account No. 0010-7189; AND

SECTION 3. THAT authority is granted to award a contract to Ben Pro Enterprises, Inc. accordingly.

Adopted this 14th day of February, 1994 by Roll Call Vote:

AYE: Chavez, Davenport, Porter, Rubin, Sharp, Williams  
NAY: None  
ABSTAINED: None  
ABSENT: Elrich

Introduced by: Mayor Sharp

Single Reading: 2/14/94

Ordinance No. 1994-2

Takoma Avenue Drainage Replacement

- WHEREAS, TV inspection of underground storm drain piping has revealed that street settlement in the vicinity of Takoma Avenue and New York Avenue is attributed to a collapsed storm drain pipe; AND
- WHEREAS, replacement of this collapsed pipe is considered a priority matter; AND
- WHEREAS, replacement is considered an emergent project not identified in the FY-94 Budget; AND
- WHEREAS, in accordance with City procurement procedures a request for bids was advertised in the Washington Post, Dodge Reports and Blue Reports; AND
- WHEREAS, bids were publicly opened at 2:00 p.m., January 26, 1994 with five bids being received; AND
- WHEREAS, the apparent low bid was submitted by NZI Construction Corporation in the amount of \$19,998.00.
- WHEREAS, the Director of Public Works has determined that the apparent low bidder is considered to be responsive and responsible; AND
- WHEREAS, sufficient unexpended funds are available in the FY-94 Budget; NOW

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

SECTION 1. THAT the low bid being received from NZI Construction Corporation in the amount of NINETEEN THOUSAND NINE HUNDRED AND NINETY EIGHT DOLLARS (\$19,998.00) be accepted; AND

SECTION 2. THAT funds to cover this work in the amount of \$19,998.00 be charged to Capital Expenditures Account 3700-8001.

AYE: Chavez, Davenport, Porter, Rubin, Sharp, Williams

NAY: None

ABSTAIN: None

ABSENT: Elrich

Introduced by:

1st Reading: 2/14/94

2nd Reading:

Effective Date:

ORDINANCE #1994 - 3

SIDEWALK SALES

**WHEREAS,** a number of owners of retail businesses in the City have been displaying and selling merchandise on the sidewalk in front of their retail business; **AND**

**WHEREAS,** the City is willing to issue permits which would allow retail business owners to use the sidewalk, a public right of way, directly outside of the retail business to display and sell merchandise which is a regular part of the inventory of the retail business; provided, however, that such sidewalk display and sale of merchandise does not impede or inconvenience the public use of the sidewalk; **AND**

**WHEREAS,** Ordinance #1992-12 which authorized sidewalk sales contained a sunset date of September 30, 1992, in order to give the Council a chance to review the effect of allowing sidewalk sales; **AND**

**WHEREAS,** as sidewalk sales appear not to have impeded or inconvenienced the public, the Council desires to extend on a permanent basis the right of street level retail business owners to use the sidewalk in front of their retail business to display and sell merchandise and to eliminate the sunset provision of the prior ordinance.

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

**Section 1. Sidewalk Displays and Sales of Merchandise.**

(a) Any person who owns or operates a street level retail business in the City shall be permitted to sell, attempt to sell, or display for sale any goods, wares, or merchandise which is a regular part of the inventory of such retail business on the sidewalk directly in front of such business provided that:

(1) Such sidewalk display and sale of merchandise does not block or impede pedestrian passage or ingress and egress to and from any building, and does not cause the area to become so congested as to create a safety hazard or impede or inconvenience the public.

(i) There shall be a presumption that pedestrian passage is being blocked or impeded if there is less than a five foot clearance for pedestrian passage on the sidewalk from the edge of the curb to the beginning of the sidewalk display and sale of

merchandise.

(ii) The burden of showing that the sidewalk display and sale of merchandise does not block or impede pedestrian passage or ingress and egress to and from any building, and does not cause the area to become congested shall be on the person who owns or operates the retail business.

(2) The sidewalk display and sale of merchandise occurs at a time when the retail business is open for business.

(3) All fixtures used for sidewalk displays and sales of merchandise are removable and no such fixtures remain on the sidewalk when the retail business is closed.

(b) All sidewalk displays and sales of merchandise shall be at the sole risk of the retail business and the City shall not be responsible for any injuries to persons or damage to property which result from such sidewalk displays and sales of merchandise.

(c) A violation of this Section is a Class C offense.

#### **Section 2. Removal of Merchandise.**

(a) Any person who displays or sells merchandise on the sidewalk in violation of this Article shall immediately desist from such display or sale and remove the merchandise and all fixtures used for the display, sale, or storage of such merchandise from the sidewalk upon the direction of a police officer.

#### **Section 3. Sidewalk Sales Permit Required.**

(a) No person shall display or sell any merchandise on the sidewalk without first having obtained a sidewalk sales permit from the City.

(b) Application for a sidewalk sales permit shall be made to the City Clerk on a form to be furnished by the Clerk.

(1) The sidewalk sales permit application shall require the applicant:

(i) To certify that the applicant is the owner or operator of the retail business for which the sidewalk sales permit is sought and that the business is validly licensed under all applicable city, county and state laws;

(ii) To specify the type of merchandise which will be displayed and sold on the sidewalk in front of the retail business and to certify that all merchandise which will be displayed and sold on the sidewalk will be a regular part of the inventory of the retail business;

(iii) To indemnify and hold the City harmless

for any personal injuries or property damage which result from the sidewalk sale or display of merchandise;

(iv) To certify that the applicant shall comply with all applicable City, county, state and federal laws and with any City rules and regulations which are adopted to carry out the provisions of this Article.

(2) The fee for a sidewalk sales permit shall be \$25.00, which shall be paid at the time an application for the permit is made.

(c) Sidewalk sales permits are nontransferable and shall be effective for one year from the date of issuance.

(d) Sidewalk sales permits shall be displayed prominently, either on the sidewalk display of merchandise or in the retail business.

(e) A violation of this section is a Class C offense.

#### **Section 4. Denial or Revocation of Sidewalk Sales Permits.**

(a) A sidewalk sales permit may be denied or revoked for any of the following reasons:

(1) The applicant has failed to completely and accurately complete the sidewalk sales permit application.

(2) The applicant has failed to pay any personal property tax applicable to the retail business.

(3) The applicant has previously violated any provision of this Article or has failed to pay any assessed fine for a violation of the Takoma Park Code.

(4) The applicant has previously failed to comply with the direction of the police officer to desist from the sidewalk sale of merchandise or to remove any merchandise and display fixtures from the sidewalk.

(b) Prior to the denial or revocation of a sidewalk sales permit, the City Clerk shall give written notice to the applicant, by regular first-class mail to the address set forth in the permit application or to the applicant's last known address, setting forth the basis of the permit denial or revocation.

(c) Any applicant whose sidewalk sales permit has been denied or revoked may appeal the denial or revocation to the City Administrator in writing within two (2) weeks after the date of the written notice of the permit denial or revocation.

**Section 5.        Effective Date.**

This Ordinance shall be effective immediately upon adoption.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 1994,  
by roll call vote as follows:

AYE:

NAY:

ABSTAINED:

ABSENT:

ordin\sidewalk.per

**RESOLUTION OF CONDOLENCE**

**#1994 - 5**

**WHEREAS**, it was with sorrow that the City Council learned of the death on January 24, 1994 of Phoebe Rose Sidwell Rhodes, a longtime resident and outstanding citizen of Takoma Park; **AND**

**WHEREAS**, Mrs. Rhodes served the City as Shelver and Reference Librarian at the Takoma Park Maryland Library for eighteen years; **AND**

**WHEREAS**, Mrs. Rhodes' career at the Library was distinguished by her warmth, courtesy and professionalism in dealing with Library patrons, and her improvements to the Reference Collection, particularly in the areas of history and horticulture; **AND**

**WHEREAS**, through her longtime gardening activities, and her membership in the Takoma Park Women's Club and the Takoma Park Presbyterian Church, Mrs. Rhodes served her community with distinction and established herself as a good friend of many generations of Takoma Park residents, **AND**

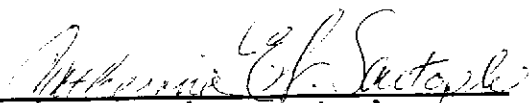
**WHEREAS**, Mrs. Rhodes will long be remembered for her intellectual curiosity, her adventurous spirit, her broadmindedness, her diligence, her sense of humor and kind-heartedness; and her memory will be cherished by her colleagues and many friends, who share with her family a deep sense of loss.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Takoma Park, Maryland, on behalf of its employees and the citizens of the community, that we hereby extend to Mrs. Rhodes' family this expression of heartfelt sympathy.



**Edward F. Sharp**  
Mayor

**ATTEST:**



**Catherine Sartoph**  
City Clerk


**RESOLUTION 1994 - 6**  
**IN APPRECIATION OF KAY RADER**  
**ASSISTANT LIBRARY DIRECTOR**

- WHEREAS,** Kay Rader is leaving the City of Takoma Park to accept a position as Director of the American Library of Paris, as of February 11, 1994; AND
- WHEREAS,** Ms. Rader began her assignment with the City of Takoma Park in October of 1989; AND
- WHEREAS,** she was responsible for coordinating the Library's technical operations, including the first stages of its transition to an automated catalog; AND
- WHEREAS,** she expanded the Library's pool of volunteers, by recruiting and training volunteers to provide afterschool assistance in the Children's Room and various kinds of technical work; AND
- WHEREAS,** she demonstrated a high standard of public service in her direct assistance to Library patrons, by scheduling the staffing of public areas, and by advancing staff training; AND
- WHEREAS,** she provided valuable support and assistance in the inception of the Friends of the Library, development of the Cops and Kids programs, and numerous other projects; AND
- WHEREAS,** as a direct result of her efforts and exceptional abilities, the Takoma Park Library has been enabled to provide services with greater efficiency and cost-effectiveness, and to find new avenues by which to directly serve the citizenry.

**NOW, THEREFORE, BE IT RESOLVED THAT** the City Council, on behalf of the citizens and employees of the City of Takoma Park, commends and thanks Kay Rader for her exemplary contributions and dedicated service to the citizens, staff and Council of the City of Takoma Park, Maryland.

  
\_\_\_\_\_  
Edward F. Sharp  
Mayor

**ATTEST:**

  
\_\_\_\_\_  
Catherine Sartoph  
City Clerk



Introduced By: Councilmember Porter

RESOLUTION #1994 - 7

APPOINTING ADDITIONAL MEMBERS TO COMMITTEE ON THE ENVIRONMENT

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

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

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

<u>Name</u>	<u>Address</u>
Paul Gunter	6704 Westmoreland Avenue
Forrest Chambless Bittner	1103 Kirklynn Avenue

Adopted this 14th Day of February, 1994.

  
Edward F. Sharp  
Mayor

ATTEST:

  
Catherine Sartoph  
City Clerk

SPECIAL SESSION AND WORKSESSION OF THE CITY COUNCIL  
 Tuesday, February 22, 1994

## OFFICIALS PRESENT:

Mayor Sharp  
 Councilmember Davenport  
 Councilmember Elrich  
 Councilmember Porter  
 Councilmember Rubin  
 Councilmember Williams

City Administrator Habada  
 Deputy City Administrator Grimmer  
 City Clerk Sartoph  
 Corporation Counsel Silber  
 DHCD Asst. Director Ludlow  
 Community Dev. Coordinator Sickie  
 Code Enforcement Supv. Castillo  
 Environmental Specialist Braithwaite

## OFFICIAL ABSENT:

Councilmember Chavez

The City Council convened at 7:48 p.m. on Tuesday, February 22, 1994, in the Municipal Building upstairs meeting room at 7500 Maple Avenue.

Following opening remarks and a report by the Committee on the Environment regarding general activities and lead based paint hazards, the City Council moved into Special Session by unanimous consent at 9:20 p.m.

#3 Employment Discrimination (Montgomery County Bill 5-94). Mr. Sharp briefly explained that the resolution is in support of Bill 5-94 which proposes to delete clauses permitting certain types of employment discrimination based on sexual orientation from the current Montgomery County, Human Relations and Civil Liberties Law.

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

Ms. Porter addressed a question to Mr. Williams who formerly served on the Family Diversity Task Force that raised awareness about the issue of discrimination in the current Montgomery County law, and asked whether the law will be acceptable to the City if the amendment is passed.

Mr. Williams responded that the amendment would make the Human Relations and Civil Liberties Law acceptable, and would also eliminate any disparities between the Montgomery County and Prince George's County Human Relations and Civil Liberties Laws.

The resolution was adopted unanimously.

RESOLUTION #1994-8  
 (Attached)

#4 Employment Discrimination (HB127). Mr. Williams explained that the resolution supports HB127 which proposes to add protection against discrimination based on sexual orientation to State law.

Moved by Mr. Williams; seconded by Mr. Davenport.

The resolution was adopted unanimously.

RESOLUTION #1994-9  
 (Attached)

#5 Single Reading Ordinance re: Takoma/Langley Phase II Project. Mr. Sharp explained why the Council tabled their vote on this matter during the Regular Meeting on February 14th, and noted a staff memorandum addressing concerns raised by Council at that meeting.

Ms. Ludlow commented on the comparison criteria used when evaluating contractors, especially in response to Council's question regarding the overall experience of a contractor's principals.

The single reading ordinance was adopted unanimously by roll call vote (ABSENT: Chavez, Elrich).

ORDINANCE #1994-4  
 (Attached)

Without objection, the Council moved into Worksession at 9:28 p.m., and later adjourned for the evening at 11:35 p.m.

Introduced By: Councilmember Williams

RESOLUTION NO. 1994 - 8

IN SUPPORT OF MONTGOMERY COUNTY COUNCIL BILL NO. 5-94

WHEREAS, by Ordinance No. 2539, adopted November 10, 1980, the City of Takoma Park adopted the Human Relations and Civil Liberties law (Chapter 27) of the Montgomery County, Maryland, Code, and provided for its enforcement in the City by the Montgomery County Human Relations Commission; AND

WHEREAS, since November 10, 1980, Montgomery County, Maryland, has revised its Human Relations and Civil Liberties Code; AND

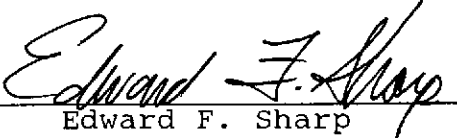
WHEREAS, on June 8, 1992, the City Council of Takoma Park adopted Resolution No. 1992-38, establishing a Task Force on Family Diversity; AND

WHEREAS, the Task Force on Family Diversity review of human rights statutes determined that the existing provisions of Chapter 27, Section 19(d)(4), of the Montgomery County Code, are contrary to the values and beliefs of the members of our Community; AND

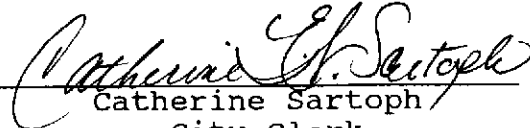
WHEREAS, Bill No. 5-94, to repeal an exception relating to advocacy of certain sexual orientations in Montgomery County law prohibiting employment discrimination, and to generally amend the Montgomery County law regarding employment discrimination because of sexual orientation, has been introduced to the Montgomery County Council.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Takoma Park, Maryland, on behalf of its citizens and staff, that support is hereby expressed for Montgomery County Council Bill No. 5-94, and that its prompt passage is urged.

Adopted this 22nd day of February, 1994.

  
\_\_\_\_\_  
Edward F. Sharp  
Mayor

ATTEST:

  
\_\_\_\_\_  
Catherine Sartoph  
City Clerk

Introduced By: Councilmember Williams

RESOLUTION NO. 1994 - 9

IN SUPPORT OF HOUSE BILL NO. 127

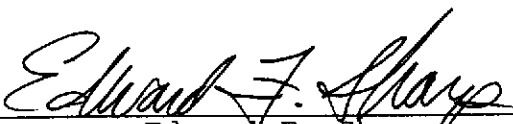
WHEREAS, on June 8, 1992, the City Council of Takoma Park adopted Resolution No. 1992-38, establishing a Task Force on Family Diversity; AND

WHEREAS, the Task Force on Family Diversity review of human rights statutes determined that the existing provisions of the Annotated Code of Maryland, contrary to the values and beliefs of the members of our Community, are inadequate not only to prohibit discrimination based on sexual orientation with regard to public accommodations, housing, and employment, but also are inadequate in providing remedies for victims of discrimination based on sexual orientation; AND

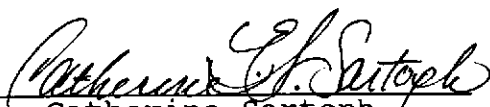
WHEREAS, House Bill No. 127 has been introduced to the Maryland General Assembly to revise and amend Article 49B of the Annotated Code of Maryland for prohibition of discrimination based on sexual orientation and for provision of remedies for victims of discrimination in public accommodations, housing, and employment.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Takoma Park, Maryland, on behalf of its citizens and staff, that support is hereby expressed for House Bill No. 127, and that its prompt passage by the Maryland General Assembly is urged.

Adopted this 22nd day of February, 1994.

  
Edward F. Sharp  
Mayor

ATTEST:

  
Catherine Sartoph  
City Clerk

Introduced by: Mayor Sharp

Adopted: 2/22/94  
(Single Reading)

**ORDINANCE NO. 1994-4**

**TAKOMA LANGLEY PHASE II A - ENGINEERING SERVICES CONTRACT**

WHEREAS, Prince George's County has allocated \$169,406 in Program Year 18 funds to the City through the Community Development Block Grant Program for drainage and alleyway improvements at the Takoma/Langley Crossroads Shopping Center; AND

WHEREAS, the City of Takoma Park desires to obtain Professional Engineering Services for the proposed drainage and alleyway improvements; AND

WHEREAS, appropriate solicitation of interest through a formally advertised Request for Proposals resulted in the submission of seven responsive and responsible proposals; AND

WHEREAS, based on the selection criteria and in consideration of other qualifications included in the Request for Proposals, the selection board recommended award of the contract to Chester Environmental; AND

WHEREAS, based on the cost of the engineering services to be provided, the allocated funds are sufficient to purchase the engineering services for the proposed drainage and alleyway improvements,

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

SECTION 1. THAT the contract is awarded to Chester Environmental in the amount \$15,860.00; AND

SECTION 2. THAT the funds to cover this purchase in the amount of FIFTEEN THOUSAND EIGHT HUNDRED SIXTY DOLLARS AND ZERO CENTS (\$15,860.00) shall be charged to Special Revenue Fund, Account No. 0010 6821.

ADOPTED THIS 22nd DAY OF FEBRUARY, 1994

AYE: Davenport, Porter, Rubin, Sharp, Williams

NAY: None

ABSTAINED: None

ABSENT: Chavez, Elrich

PUBLIC HEARING, REGULAR MEETING AND WORKSESSION OF THE CITY COUNCIL  
Monday, February 28, 1994

## OFFICIALS PRESENT:

Mayor Sharp	City Administrator Habada
Councilmember Chavez	City Clerk Sartoph
Councilmember Davenport	Corporation Counsel Silber
Councilmember Elrich	DHCD Director Nance-Sims
Councilmember Porter	Patrol Commander Lt. Gowin
Councilmember Rubin	Construction Specialist Kowaluk
Councilmember Williams	Asst. Dir. for Special Projects Ludlow

The City Council convened at 7:36 p.m. on Monday, February 28, 1994, in the Council Chamber at 7500 Maple Avenue.

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

MAYOR'S COMMENTS AND PRESENTATIONS

Lt. Gowin commented on the Multicultural Christmas Party that the Police Department has held for the past three years, and noted that the Washington Adventist Hospital has always made generous donations for the event. Mr. Gowin presented representatives from the hospital with a plaque of appreciation.

Mr. Sharp remarked that the hospital has made many contributions to the community and that the city is very appreciative.

CITIZEN COMMENTS

Margaret Taylor, 6913 Westmoreland Avenue spoke on behalf of the Westmoreland Avenue Community Organization (WACO), and commented on the billiard hall that is being planned for the portion of the building located behind Taliano's Restaurant. The plan is for an expansion of Taliano's to accommodate a billiard hall with six pool tables, a number of card tables and a coffee bar; the plans also involve an expansion of the Westmoreland Avenue parking lot, and access to the billiard hall from the parking lot and Taliano's. She stated that the neighbors want to go on record in opposition to the commercial pool hall, because of its potential effects on the surrounding neighborhood. Ms. Taylor noted that there was a private meeting between Carleton & Carleton Co.'s architects and Construction Specialist Ted Kowaluk (DHCD) to discuss the plans. She explained how the architects have skirted the need for a special exception permit, based on the claim that the pool hall will be an accessory to the entire building and hence all businesses that front the building on Carroll Avenue-- Taliano's, Chuck & Dave's book store, women's health clinic, etc. The neighbors are afraid that Carleton & Carleton Co. will expand in increments to get around the requirement for a permit. She recalled how Taliano's expanded from a small family restaurant to a full bar, with late operation hours, and reiterated that the neighborhood residents are afraid that Carleton & Carleton Co. may work out an agreement with Taliano's for an expansion that leads out to the parking lot on Westmoreland Avenue. In summary, the residents are opposed to a pool hall, even if it is separate from Taliano's and does not have a liquor license, because of their concern that it will increase loitering and crime, and discourage other businesses from coming to that area. She said that further, they oppose any expansion of Taliano's that would give it access to the parking lot on Westmoreland Avenue, which is a residential street, and any expansion of the Westmoreland Avenue parking lot since the current lot has already caused severe storm water problems.

Ms. Taylor presented a written statement and petition signed by Westmoreland Avenue Community Organization (WACO) residents in opposition to the proposed pool hall (attached).

Marianne Clarke, 6910 Westmoreland Avenue said that the proposed pool hall does not fit in with the small community retail area of Old Town, and that the city should consider the increased crime in the surrounding areas, when looking at any proposed development plans. This type of development provides the opportunity for people to loiter. She said that the neighbors

do not want this opposition to be perceived as a general opposition to any type of development, but that they feel that this type of development is not appropriate.

Paula Roark 7001 Westmoreland Avenue commented on the historic perspective of the area--Old Town revitalization. When Taliano's wanted to develop, there was no opposition from WACO because Taliano's was to be a family restaurant; however, Taliano's now operates as a night club which has changed the focus. She said that when the development of Taliano's was being discussed, there was testimony by the owners that the establishment would be a family restaurant. As part of the plans, the original proposition was that all of the mail trucks would enter from Westmoreland Avenue, but WACO did not want the driveway to enter into Westmoreland from the parking lots. She stated that the compromise was that the mail trucks would enter from Eastern Avenue. Residents were concerned about the playground across Westmoreland Avenue opposite the parking lot. The parking lot was planned to cater to 9:00-5:00 traffic in anticipation that there would not be a lot of in-and-out or evening traffic. Ms. Roark said that if Taliano's is even granted an incremental allowance to have an exit to the parking lot, it would not be in keeping with the original agreement.

John Fleming, 6907 Westmoreland Avenue stated that he worked on the Community Development Block Grant Citizens Advisory Committee that obtained funding for the Old Town revitalization project. He said that he thinks the pool hall, despite the representations that it would be a "family event", would not be. The Washingtonian has even noted that pool halls in neighborhoods have proven not to be family oriented and have been responsible for increased patrons and associated loitering activities. Operating a business in Takoma Park is precarious, and the area is seeing an increase in crime. He noted problems and incidents in the vicinity of Carroll Avenue. Mr. Fleming urged that the city not let this become a pattern, and said that he would like to see the city look for new businesses to occupy the vacant properties in the area but that he is afraid that any further increase in crime will be discouraging.

Richard Joy, 7002 Westmoreland Avenue said that Taliano's currently uses Carroll Avenue for parking, because they do not currently have the legal ability to allow their patrons to park in the rear lot. To open a back door to Taliano's would encourage patrons to park in the rear lot accessed from Westmoreland Avenue. He commented that children play in the park across the street from the parking lot and that increased traffic in-and-out of the driveway to the Westmoreland lot could be dangerous. He stated that he opposes the use of a back entrance to a billiard hall and the subsequent use of the Westmoreland Avenue parking lot.

#### INTERVIEWS - ETHICS COMMISSION

The Council interviewed both Jim Douglas and Nancy O'Donnell who have expressed their interest in appointment to the Ethics Commission.

Mr. Sharp remarked that he believes there will be one more interview for the positions on the Ethics Commission, and that the appointments should be made at some point during March.

#### PUBLIC HEARING

#2 Washington Adventist Hospital Bonds - Refinancing. Ms. Habada introduced the City's Bond Counsel Patrick Arey, Washington Adventist Hospital (WAH) Administrator Virginia Pisarra, and WAH Bond Counsel Arlene Fine.

Mr. Arey commented that the purpose of the resolution is to authorize the refinancing of the bonds which would lower the interest rates of the bonds. He recalled the last amendment to the bonds, when the Council adopted a resolution that allowed for a portion of the bonds to be refinanced. Mr. Arey stated that the Federal tax law requires that the Council approve this transaction, and he briefed the Council on the agreements that have been made to date regarding the bonds. He reassured the Council that none of the prior agreements will be affected by this refinancing if approved by the Council.

Ms. Porter asked if any of the City's responsibilities are affected by this refinancing.

Mr. Arey responded in the negative.

Mr. Davenport asked about the location planned for the heli-pad.

Ms. Pisarra explained that the heli-pad will be on the roof of the five-story section of the hospital complex, and that access would never be at ground level. Pilots will approach the heli-pad over the college and open grounds to the roof of the hospital.

Mr. Chavez asked about the financial standing of the Washington Adventist Hospital.

Ms. Pisarra named the subsidiary Adventist hospitals, and commented that Washington Adventist Hospital and Shady Grove Hospital both realized a profit last year.

Ms. Fine commented on the fluctuation of the interest rates, and said that she could not comment on the exact savings to be affected by the refinancing.

Mr. Elrich asked what are the prospects of a portion of the profits being returned to the community in the form of increased services.

Ms. Pisarra noted that the hospital's mission is always to serve the community, but that she is not prepared to make a commitment on how the profit will be spent. She reminded the Council that the WAH is a non-profit organization, but that even so, there are costs involved with running a hospital facility like maintenance of equipment, for example.

Mr. Sharp called the public hearing to order at 8:15 p.m.

Rudy Arredondo, 251 Manor Circle commented on his opposition to the refinancing of the bonds and recounted his experience with the WAH emergency room (written statement - attached). He proposed that a Citizens Advisory Committee be established to oversee the activities of the hospital.

Patricia Axelrod said that she witnessed Mr. Arredondo's treatment at the hospital, and commented on the incident between the hospital staff and Mr. Arredondo. She remarked that she also witnessed the unequivocal racial treatment by WAH of Mr. Perez and Mr. Santos-Ramos. She said that it is not professional for the hospital to be unable to provide treatment that bridges the language barrier of the multi-cultural residents in Takoma Park. Ms. Axelrod asked whether the Council has investigated whether any civil rights complaints have been filed against the hospital, and said that in the absence of the Council's knowledge of this matter, she cannot understand how the Council is prepared to go forward with this resolution. She asked whether the Council knows the exact amount of the savings to be afforded by the refinancing.

Mr. Rubin asked how any savings realized by the refinancing will benefit the community.

Mr. Arey stated that he could not respond exactly, and pointed out that since he is not the attorney for the hospital, he cannot respond to Ms. Axelrod's question about civil rights violations.

Mr. Davenport asked Ms. Axelrod to justify her remarks about the WAH being racially discriminatory.

Ms. Axelrod stated that she was told that Mr. Ramos was told by hospital staff that he should learn how to speak English. She said that she has noted disparities in the treatment of persons of different skin color, and emphasized that this is a matter that deserves serious consideration.

Ms. Fine said that in regard to public benefit, the refinancing would allow the hospital to reduce its interest rate--the mortgage debt is not affected. This would allow the hospital to use money that it would otherwise pay out in interest for other projects.

Ms. Pisarra said that the WAH is jointly accredited, every member of the medical staff is board certified after three years of affiliation with the organization, the same level of care is afforded to all patients, the hospital staff is multi-cultural, there is an in-house translator bank accommodating 25+ languages, and the hospital undergoes civil rights inspections to ensure uniform treatment across all nationalities. She noted that if there are any complaints regarding hospital staff or patient treatment, there is a mechanism in place to handle such perceptions.



Mr. Elrich asked if the Council were to investigate whether there are any complaints against the hospital, would the Council find that there have been no such complaints.

Ms. Pisarra responded that to the best of her knowledge, there are no such complaints.

Mr. Elrich asked whether there is 24-hour accessibility to the language bank.

Ms. Pisarra stated that any nursing coordinator has access to the language translator 24-hours a day.

Ms. Porter commented on the large Spanish speaking community in Takoma Park, and suggested that the WAH might consider having a Spanish speaking person on duty at all times in the hospital.

Ms. Pisarra said that it is her belief that at any given time, there is a Spanish speaking employee on duty, and noted that off-duty employees may also be contacted by telephone in the event a Spanish speaking employee were not available.

Mr. Rubin asked Ms. Habada about the history of the city's dealings with the hospital.

Ms. Habada recounted the history, noting that the City first entered into the bond agreement with the hospital in 1985, amended in the bonds in 1991, and most recently, in late 1993.

Mr. Chavez commented on his prior work at the hospital, and said that he is aware that the hospital has written off many expenses that were unpaid by insurance companies.

Mr. Elrich remarked on some of the historic concerns of community members and the hospital's replies that he feels addressed the concerns. Certainly, lowering the hospital's bond cost at least reduces some of the set rates, since financing costs affect the hospital's ability to set higher rates. One benefit to the community will be lower rates affected by reduced finance costs. He stated that for the record, he would like to clarify whether there is a history of civil rights complaints against the hospital, and would like to know in a more formal way how the hospital plans for situations in which a patient may not speak English.

Ms. Porter stated her support for the suggestions made by Mr. Elrich.

Ms. Axelrod asked for a further clarification of the WAH emergency facility and said that she is of the understanding that the emergency room is run by a separate, for-profit association. She asked to see something in writing about the corporate structure in this regard. Ms. Axelrod responded to Mr. Chavez's comment about the hospital writing-off expenses.

Ms. Pisarra clarified that the emergency room physician group is a contract group, but that the nursing staff is employed by the hospital. She said that she is not privy to the financial statements of the physician group.

Mr. Davenport and Mr. Rubin expressed their support for the requests made by Mr. Elrich.

Ms. Pisarra said that she is fairly sure that she has a letter in her office stating that the hospital is in compliance with Title XX (Civil Rights Complaints), and that she will provide the city with a copy.

Ms. Fine said that it is necessary for the Council to take action on this Resolution tonight. The interest rates are being watched daily, but getting the paperwork underway will assure the hospital its best shot at being prepared when the rates reach the desired low.

Ms. Silber commented that what the Council really wants in regard to civil rights complaints is State and County Human Rights Commission reports, in addition to Title XX reports.

Mr. Arey clarified that there is some urgency with this matter, and that the financial people would like to have the bonds on the market by the week of March 7th.

Moved by Ms. Porter; seconded by Mr. Chavez. The Resolution was adopted

(OPPOSED: Rubin; ABSTAINED: Davenport).

RESOLUTION #1994-10  
(Attached)

#3 1994 Farmers Market. Mr. Sharp explained that the resolution authorizes the closure of Laurel Avenue between Eastern Avenue and Carroll Avenue for the operation of the Takoma Park Farmers Market on Sundays from April 24 to November 20, 1994, 9:15 A.M. to 2:30 P.M.

Moved by Ms. Porter; seconded by Mr. Rubin. There was no discussion of the resolution.

The resolution was adopted unanimously.

RESOLUTION #1994 - 11  
(Attached)

#4 2nd Reading Ordinance re: Sidewalk Sales. Mr. Sharp explained the ordinance.

Moved by Mr. Williams; seconded by Ms. Porter. There was no discussion of the ordinance.

The ordinance was adopted unanimously at second reading by roll call vote.

ORDINANCE #1994 - 3  
(Attached)

#5 1st Reading Ordinance re: Use of Public Space Adjacent to Farmers Market. Moved by Mr. Rubin; seconded by Mr. Williams.

Mr. Williams asked for clarification about the deletion of the sunset provision.

Ms. Silber stated that it was her understanding from the last discussion that the Council wanted to delete the sunset provision, but that it would be easy to replace it.

Ms. Porter said that it was her understanding that the sunset provision would be left in the ordinance.

Mr. Rubin noted that the suggestion was only to remove the language in regard to staff requesting a review of the ordinance at any time during the 1994 market season.

The Council agreed to an amendment to specify the application of the ordinance to the 1994 Market Season (Sec.(4)(b)).

Ms. Porter asked for clarification of the definition of "non-commercial". She suggested striking Sec.1(a)(1) and (a)(2), and replacing with "...an activity which involves the promotion or sale of commercial goods or property and is conducted on behalf of for-profit business enterprises." She said that this would address the Council's concern about not prohibiting such organizations as Cows for Kids, the House and Garden Tour, etc. from selling items or tickets (Seconded by Mr. Rubin).

Mr. Sharp said that he believes this amendment provides a better balance.

Amendment carried by unanimous Council consent.

Mr. Rubin said that he thinks this alternative to the original ordinance is a good approach. Ms. Porter agreed.

The ordinance was accepted unanimously at first reading.

ORDINANCE #1994 - 5  
(Attached)

ADJOURNMENT

Moved by Mr. Davenport; seconded by Mr. Williams. The Council adjourned to worksession at 9:20 p.m. and following the worksession, adjourned for the evening at 10:36 p.m.

Margaret L. Taylor  
6913 Westmoreland Avenue  
Takoma Park, Maryland 20912  
270-1564

Montgomery County Liquor Board  
Board of License  
Licensing Commissioners  
16650 Crabb Branch Way  
Rockville, Maryland 20855

Dear Commissioners:

My neighbors and I request you investigate the planned expansion of a bar/pizza parlor located up the street from our homes. Taliano's, located at 7003 Carroll Avenue, Takoma Park, Maryland, has plans to expand back into the adjoining building located at 7014 Westmoreland Avenue, owned by Carleton & Carleton Company. The plans, as we understand them, are for the expansion of the bar to include a large billiards room, and access to the parking lot located off Westmoreland Avenue. Westmoreland Avenue is a quiet residential street and the parking lot would exit directly across from a childrens playground.

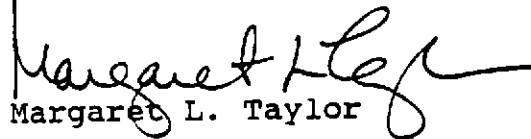
The planned expansion of Taliano's directly contradicts with the promises and statements made by it when it applied for its liquor license. Taliano's liquor license was approved by your office based on statements it would be a family-oriented pizza restaurant. Since then, Taliano's has expanded the bar area, and now has bands performing a couple of nights a week. The character of Taliano's is therefore far more like a bar/nightclub than a family restaurant.

Construction for the expansion has been going on for a couple of weeks. Mark Moran, Zoning Investigator for the Montgomery County Department of Environmental Protection, is investigating any possible zoning violations. He can be reached at 217-6276 (please reference case number 199400384), and said he would be happy to discuss with you his investigation of this matter. We would like you to investigate whether such an expansion of Taliano's is permissible without further licensing review, public hearings, and approval of your office, as there has been no posting of such a hearing.

As evidenced by the attached letter to the Board of Zoning Appeals - Zoning Enforcement Division, and Maryland National Capital Park and Planning Commission, our neighborhood strongly opposes the expansion of the bar and any access it may have onto Westmoreland Avenue.

I would appreciate your prompt investigation of this matter.

Sincerely,

  
Margaret L. Taylor

MLT:mbl  
Enclosure

cc: Carleton & Carleton Company  
7014 Westmoreland Avenue  
Takoma Park, Maryland 20912

Taliano's  
7003 Carroll Avenue  
Takoma Park, Maryland 20912

Mark Moran  
Department of Environmental Protection  
250 Hungerford Drive  
2nd Floor  
Rockville, Maryland 20850-2589

Councilman Derrick Berlage  
County Council Building  
100 Maryland Avenue  
Rockville, Maryland 20850

Councilman Bruce Williams  
City Council of Takoma Park  
7500 Maple Avenue  
Takoma Park, Maryland 20912

**CARLETON & CARLETON CO.**

7014 WESTMORELAND AVENUE  
TAKOMA PARK, MARYLAND 20912

(301) 270-1113  
FAX (301) 270-3439

**February 16, 1994**

Maryland-National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Board of Appeals and Zoning  
Enforcement Division  
100 Maryland Avenue  
Rockville, Maryland 20850

Ted Kowaluk, Construction Specialist  
City of Takoma Park  
7500 Maple Avenue  
Takoma Park, Maryland 20912

Bruce Williams, Councilmember Ward 3  
City of Takoma Park  
7500 Maple Avenue  
Takoma Park, Maryland 20912

Dear Ladies and Gentlemen:

This letter is in response to a letter dated February 4, 1994, by a group of residents in Takoma Park regarding the vacant rental space at 7014 Westmoreland Avenue. We both represent the entity that owns that property and are principals in its ownership.

The February 4th letter was obviously written by someone who is unfamiliar with the actual facts. In fact, I have been told that the letter was drafted and promoted by a prospective tenant who was disgruntled by not being involved in the leasing of the space themselves.

The first obvious inaccuracy in this letter is the false statement that renovations are going forward without benefit of building permits. In fact, no renovations have gone forward and we have at all times been in contact with the appropriate County authorities concerning the work that is contemplated there. Whenever any renovations may be done to the space we will continue to abide by whatever appropriate permits and regulations may apply.

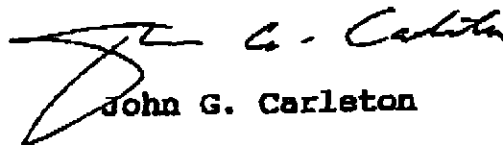
February 16, 1994  
Page 2

Regarding the issue as to whether the addition of several billiards tables to the Taliano's restaurant is a good thing for the community or not, I would like to clarify that the type of billiards operation being considered is the currently popular "up-scale" type of operation that can be seen at Shootz in Bethesda, Bedrock Billiards in Adams Morgan, Babes at Tenley Circle, and Atomic Cafe on Connecticut Avenue. In fact, any billiards operation at Taliano's will be very similar to these upscale operations.

Anyone familiar with billiards operations knows that they are distinctly neighborhood gathering places having special leagues, tournaments, and programs for the elderly. They certainly do not attract any undesirable elements. As owners of the property, we would certainly not allow any business on the property unless we were fully satisfied that it would not be anything but a positive influence for our property, our tenants, and the surrounding properties. Our reputation in such matters is well established.

I believe that if the persons signing the February 4th letter could visit some of these other operations they could be satisfied that such an expansion would represent no negative influence on this neighborhood.

Sincerely yours,



John G. Carleton

JGC:jc

zc: Cathy Cherry, AIA  
Travis Price, AIA

MARGARET L. TAYLOR  
6913 Westmoreland Avenue  
Takoma Park, Maryland 20912  
(301) 270-1564

February 9, 1994

The Maryland National Capital Park  
and Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Board of Appeals  
Zoning Enforcement Division  
100 Maryland Avenue  
Room 217  
Rockville, Maryland 20850

Re: 7014 Westmoreland Avenue  
Takoma Park, Maryland

Ladies and Gentlemen:

Enclosed is a letter signed by many concerned citizens of Takoma Park regarding a proposed pool hall to be located at 7014 Westmoreland Avenue in Takoma Park.

Please let us know what your investigation of this matter reveals, so that we can decide how best to proceed. We look forward to hearing from you and we thank you for your assistance.

Very truly yours,

*Margareth Taylor*  
Margaret L. Taylor

Enclosure

cc: Mr. Bruce Williams (w/encl.)  
Councilman Derrick Berlage (w/encl.)  
Department of Environmental Protection (w/encl.)  
Bedrock Billiards (w/encl.)

*Other  
cc's:*

*Mr. Baer -  
Everyone  
got copy  
of everything*

February 4, 1994

The Maryland-National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Board of Appeals and Zoning  
Enforcement Division  
Rockville, Maryland

Ladies and Gentlemen:

We are a group of Takoma Park (Montgomery County) neighbors concerned about the planned opening of a commercial pool hall in our neighborhood. We understand that Carlton & Carlton Co. is presently renovating a large second floor space at 7014 Westmoreland Avenue in Takoma Park in order to lease the space as a pool hall. The plans provide that the pool hall may be entered from Westmoreland Avenue and through Taliano's, a restaurant and bar located around the corner on Carroll Avenue. These renovations are going forward, apparently, without the benefit of building permits. More importantly, there has been no special exception granted to change the use of this space from its former use as office space to a pool hall.

We don't know whether Carlton & Carlton Co. intends to petition for any special exception as required for a commercial pool hall or whether it will attempt to get around the requirements for a hearing and filing of opposition to the change of use by arguing its "only an expansion" of Taliano's. It is out of a fear of the latter that we are setting forth our opposition to this planned use.

The space at 7014 Westmoreland Avenue is particularly unsuited for a pool hall or expansion of a bar. The property is in a block which is a residential neighborhood with twenty (20) children living on this one block. It is also directly across the street from a heavily used playground; a gathering spot for families year round and particularly on summer evenings. The Westmoreland Avenue access to the proposed pool hall is across from that playground. The possibility of accidents is great as pool hall patrons or others who have been drinking at Taliano's drive down a steep driveway, and then down our residential street, or up the street and turn on to Carroll Avenue, which is an often blind corner.

There is inadequate on-site and offsite parking to serve a pool hall. The street parking on Westmoreland Avenue is already full with residents' cars, and those of people patronizing the shops and boutiques on Carroll Avenue, or using the other services offered on the first floor of 7014 Westmoreland Avenue.



One of those services is a medical facility providing kidney dialysis. The vans, taxis and buses which transport its patients to the medical facility already have a difficult time negotiating access to the facility.

The planned use is out of character not only with our residential neighborhood, but with the other tenants of 7014 Westmoreland, namely, the medical facility; a photography studio; part of a bookstore; and stores selling environmentally-friendly products. It is particularly inappropriate to have a pool hall located above this medical facility, which is open evenings. Kidney dialysis must be hard enough to undergo without the noise of a pool hall above one.

Our neighborhood has already faced an increase in drug activity, assaults and armed robberies, and has formed citizen patrols to try to slow this trend and to preserve our beautiful and friendly neighborhood. Please don't add to our troubles by allowing a pool hall or expansion of a bar at 7014 Westmoreland Avenue.

<u>Name</u>	<u>Address</u>	<u>Telephone</u>
Rebecca Fowler	6914 Westmoreland Ave.	270-3563
Cathy Marcus	6914 Westmoreland Ave	270-3563
Sharon Cohen	65 Walnut Avenue	270-3132
Mr. Shanon	6906 Westmoreland Ave	571-2580
Teanna <sup>Mixon</sup> Lyons	6906 Westmoreland Ave	891-2585
Crit Clements	7005 Westmoreland Ave.	270-5994
Michael W. Barber	7005 Westmoreland Ave.	270-5994
Carol Brown	7003 Westmoreland Ave	
Muff Kelly	7003 Westmoreland Ave	
Andrew Rooks	6909 Westmoreland	891-3223
Mitchell Rooks	6909 Westmoreland	891-3223
Meg Taylor	6913 Westmoreland Ave	270-1904

Suzanne Fleming 6907 Westmoreland Ave. T.P. 270-3125  
~~Marie~~ 6907 Westmoreland Ave. T.P. 270-3125  
Marie Davich 6901 Westmoreland Ave. T.P. 270-8239  
Suzanne Hubbard 68 Walmley Ave. TP 270-1488  
Jane Powers 6908 Westmoreland Ave. 270-3484  
~~W. (Kirkland)~~ 6908 Westmoreland Ave. " "  
Margaret Warner 6912 Westmoreland Ave 270-1627  
Russell H. Blower 6912 Westmoreland Ave 270-1627  
George Loh 7000 Westmoreland Ave  
J. M. Hill 7000 Westmoreland Ave. TP 270-108  
~~John Hill~~ 7002 " " 270-6766  
Margaret Miller 6913 Westmoreland Ave. 270-2686  
Paula Donnelly-Ross 7001 Westmoreland Ave 270-3374  
Paula Ross 7001 Westmoreland Ave 270-3574

cc: City Council and Mayor of Takoma Park  
7500 Maple Avenue  
Takoma Park, Maryland 20912

Carlton & Canton Co.  
7014 Westmoreland Avenue  
Takoma Park, Maryland 20912

Taliano's  
7003 Carroll Avenue  
Takoma Park, Maryland 20912

RUDY ARREDONDO  
251 Manor Circle, #5  
Takoma Park, MD 20912  
February 28, 1994

The Honorable Edward Sharp  
Mayor  
City of Takoma Park  
7500 Maple Avenue  
Takoma Park, MD 20912

Mayor Sharp and City Council:

My name is Rudy Arredondo and I reside at 251 Manor Circle, Apt. 5, here in Takoma Park. I'm a former Commissioner for the state of Maryland on Black and Minority Health. I am proud to announce that the Governor has just appointed me to his newly formed Governor's Commission on Neighborhoods.

This is in reference to the upcoming refinancing of bonds for the Washington Adventist Hospital here in Takoma Park.

I am opposed to the refinancing of the Washington Adventist Hospital bonds by the City of Takoma Park. I base my opposition on my own personal experience, as a patient, at the hospital as well as my subsequent observations of the treatment of other patients.

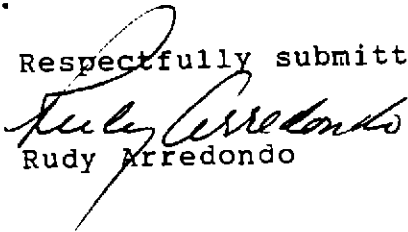
**I do not see that any specific benefit will be derived by the the people of the City of Takoma Park from the City's guarantee of the refinancing of these bonds?**

I was personally denied admission at the Washington Adventist Hospital Emergency Room during the evening of October 8, 1993 at about 9:00 p.m. I was mishandled by the staff, considering the fact that I had a herniated disc. I was held **incommunicado** from 9:00 p.m., which is when I arrived, until 2:45 a.m. the next morning of Saturday, October 9, 1993. I was not permitted to have relatives or friends during that period of time **nor** was I allowed to call or send messages from inside the emergency room. Additionally, I was threatened by the medical doctor in charge, Dr. Buxbaum, that he was going to put me out in the parking lot to wait for the ambulance to take me home.

During that same evening of October 8, 1993, a Mr. Ramon Perez was denied treatment for a crushed finger injured in a work accident. He left the hospital finger bleeding and without treatment.

Since that medical nightmare, I have had occasion to witness the manner of treatment of other Hispanic patients who go to the Washington Adventist Hospital Emergency Room. I personally took Mr. Santos Ramos to the emergency room after he appeared at my home, bleeding, disoriented and unsteady on his feet after an auto accident and the Bladensburg Police failed to call an ambulance at the scene. The Washington Adventist Hospital staff was extremely hostile and difficult, but eventually, the medical staff did treat Mr. Ramos. However, the two stitches that Mr. Ramos needed for the gash in his head were administered **without anesthesia** and the hospital initially refused to X-ray Mr. Ramos because of possible internal injuries he might have sustained due to the high impact of the accident.

This is certainly not the type of institutions that we, as responsible residents of Takoma Park, should be supporting without further scrutiny. I propose that a citizen review committee to oversee the activities of Washington Adventist Hospital.

Respectfully submitted,  
  
Rudy Arredondo

CITY COUNCIL OF TAKOMA PARK, MARYLAND

Introduced by: Councilmember Porter

Adopted February 28, 1994

RESOLUTION NO. 1994-10

A RESOLUTION adopted pursuant to the Maryland Economic Development Revenue Bond Act providing for the issuance and sale by Takoma Park, Maryland, as its limited obligations and not upon its faith and credit or pledge of its taxing power, of one or more series of its bonds (as defined in such Act) in an amount not to exceed \$95,000,000, for the purpose of refunding all or a portion of certain outstanding bonds issued by the City of Takoma Park, Maryland, which were issued for the purpose of financing for the benefit of Washington Adventist Hospital, Incorporated certain capital expenditures, construction of an addition to its existing hospital facilities, renovation of its existing hospital facilities, acquisition of equipment, and provision of working capital, refinancing certain of its prior indebtedness and reimbursement of prior capital expenditures; specifying and describing the facilities to be financed; reserving in Takoma Park, Maryland certain rights concerning the issuance of such bonds; generally describing the public purposes to be served and the financing transaction to be accomplished; specifying the maximum aggregate principal amount of such bonds that may be issued; authorizing the Mayor to specify, prescribe, determine, provide for or approve certain matters, details, forms, documents or procedures appropriate to the authorization, sale, security, issuance, delivery, or payment of or for such bonds; and specifying and describing various matters in connection therewith, as required or permitted by such Act.

RECITALS

The Maryland Economic Development Revenue Bond Act, Subtitle I, Title 14, §§14-101 to 14-108, inclusive, of Article 41 of the Annotated Code of Maryland (the "Act"), provides that in order to accomplish the legislative policy of the Act, any public body (as defined in the Act) may issue and sell its bonds (as defined in the Act), as its limited obligations and not upon its faith and credit or pledge of its taxing power, at any time and from time to time, for the purposes of financing or refinancing any costs of the acquisition (as defined in the Act) of one or more facilities (as defined in the Act) for one or more facility users (as defined in the Act) or of refunding outstanding bonds, including the necessary expenses of preparing, printing, selling, and issuing those bonds, the funding of reserves, and the payment of interest with respect to financing such acquisition in such amounts, or for such period, as the public body deems reasonable.

The City of Takoma Park, Maryland, a body politic and corporate and a political subdivision of the State of Maryland (the "State") and a public body (as defined in the Act) (the "Issuer"), has received a letter of intent dated February 28, 1994, a copy of which is attached hereto as Exhibit A and made a part hereof (the "Letter of Intent"), from Washington Adventist Hospital, Incorporated, a Maryland not-for-profit corporation (the "Facility Applicant"), pursuant to which the Facility Applicant has requested the Issuer to participate in the refinancing of the costs of the acquisition of facilities located in Takoma Park, Maryland (the "Facilities") and the refinancing of certain prior indebtedness of the Facility Applicant by the issuance and sale by the Issuer of its refunding bonds in an aggregate principal amount not to exceed \$95,000,000, pursuant to and in accordance with the Act. The existing bonds of the Issuer, issued for the benefit of the Facility Applicant, to be refunded in whole or in part consist of the outstanding principal amount of the \$31,055,000 Hospital Facilities Revenue Refunding Bonds (Washington Adventist Hospital Project) Series 1991A, Subseries 1 (as reissued in 1993), \$23,210,000 Hospital Facilities Revenue Improvement Bonds (Washington Adventist Hospital Project) Series 1991A, Subseries 2 (as reissued in 1993), and the \$16,210,000 Hospital Facilities Subordinate Revenue Improvement Bonds (Washington Adventist Hospital Project) Series 1991B (as reissued in 1993) (collectively, the "Prior Bonds").

The Letter of Intent indicates that the Facilities will consist of and include the facilities, improvements and uses financed or refinanced with the proceeds of the Prior Bonds.

The Letter of Intent indicates that the Facility Applicant operates and will continue to operate the Facilities for tax-exempt purposes in its activities as an acute care hospital.

The Letter of Intent expresses the Facility Applicant's intention that the interest payable on such bonds shall be exempt from federal income taxation pursuant to the applicable requirements of §103 of the Internal Revenue Code of 1954, as amended (the "1954 Code") and §103 of the Internal Revenue Code of 1986, as amended (the "1986 Code"; together with the 1954 Code, the "Code"). The Facility Applicant acknowledges in the Letter of Intent that the Issuer reserves certain rights concerning the issuance of such bonds as provided in Section 4 of this Resolution.

The Issuer, based upon the findings and determinations and subject to the reservation of rights set forth below, has determined to participate in the refinancing of the costs (to the fullest extent permitted by the Act) of the acquisition of the Facilities and the refunding of all or a portion of the Prior Bonds by the issuance, sale and delivery, at any time or from time to time and in one or more series, of its refunding bonds in the maximum aggregate principal amount of not to exceed \$95,000,000 (the "Bonds"), such proceeds to be applied in accordance with the provisions of the Act and this Resolution.

The word "bonds", as defined in the Act, includes bond anticipation notes issued in anticipation of the issuance and sale of the bonds, and it is intended that the provisions of this Resolution applying to "bonds" and "Bonds" shall include such bond anticipation notes, and any bonds issued to refund any bond anticipation notes issued pursuant to this Resolution, unless the context clearly requires a contrary meaning. Words and terms used in this Resolution (including these Recitals) that are defined in the Act shall have the meanings indicated in the Act, unless the context clearly requires a contrary meaning.

NOW THEREFORE, IN ACCORDANCE WITH THE ACT, BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND:

Section 1. Acting pursuant to the Act, it is hereby found and determined as follows:

(1) The Issuer is a "public body" within the meaning of the Act; the Facility Applicant is a "facility applicant" and a "facility user" within the meaning of the Act; the Facilities constitute a "facility" within the meaning of the Act; the Mayor of the Issuer is the "chief executive officer" of the Issuer within the meaning of the Act; and the Letter of Intent is a "letter of intent" within the meaning of the Act.

(2) The issuance and sale of the Bonds by the Issuer, pursuant to the Act, for the purpose of refinancing the costs (to the fullest extent permitted by the Act) of the acquisition of the Facilities and the refunding or refinancing of the Prior Bonds will promote the declared legislative purposes of the Act by (a) sustaining jobs and employment by the creation or retention of a significant number of jobs, thus relieving conditions of unemployment in the State and in Takoma Park; (b) encouraging the increase of industry and commerce and a balanced economy in the State and in Takoma Park; (c) assisting in the retention of existing industry and commerce and in the attraction of new industry and commerce in the State and in Takoma Park; (d) generally promoting the health, welfare and safety of the residents of the State and Takoma Park by, among other things, inducing the Facility Applicant to continue its operation of the Facilities in the City of Takoma Park, and (e) reducing the costs of financing the acquisition of the Facilities by refunding all or a portion of the Prior Bonds.

(3) The Bonds of any series and the interest on them are limited obligations of the Issuer the principal of, premium, if any, and interest on which are payable solely (except for bond anticipation notes, which shall be payable from the first proceeds of the bonds in anticipation of the sale of which they are issued) from revenues to be received in connection with the financing or refinancing of the Facilities and from any other moneys

made available to the Issuer for such purpose. Neither the Bonds of any series 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.

(4) Neither the proceeds of the Bonds of any series nor the payments of the principal of and premium, if any, and interest on the Bonds of any series will be commingled with the Issuer's funds or will be subject to the absolute control of the Issuer, but will be subject only to such limited supervision and checks as are deemed necessary or desirable by the Issuer to insure that the proceeds of the Bonds of any series are used to accomplish the public purposes of the Act and this Resolution. The transactions provided for hereby do not constitute any physical public betterment or improvement or the acquisition of property for public use or the purchase of equipment for public use. The public purposes expressed in the Act are to be achieved by refinancing the acquisition of the Facilities.

(5) Based on information provided to the Issuer by the Facility Applicant, the Issuer has considered (a) the availability or feasibility of conventional financing on reasonable terms to finance the Facilities, (b) the competitive effect of the issuance of the Bonds on other business entities conducting business activities similar to those of the Facility Applicant within the jurisdiction of the Issuer, and (c) the necessity for the issuance of the Bonds for competitive economic development purposes to ensure job opportunities and to provide for a sufficient tax base.

(6) The refunding of the Prior Bonds will fulfill the purposes of the Act.

Section 2. This Resolution, among other things and in addition to any other resolution heretofore adopted by the City Council of the Issuer, evidences the present intent of the Issuer to issue, sell and deliver the Bonds in accordance with the terms and provisions of this Resolution. The Mayor of the Issuer is hereby authorized, empowered, and directed to accept the Letter of Intent on behalf of the Issuer in order to further evidence the intent of the Issuer to issue and sell the Bonds in accordance with the terms and provisions of this Resolution. The Issuer intends that the adoption of this Resolution shall be and constitute "official intent" within the meaning of §1.150-2 of the Income Tax Regulations prescribed by the United States Department of Treasury pursuant to the 1986 Code. The Issuer and the Facility Applicant contemplate that, upon the effectiveness of this Resolution, the Facility Applicant may proceed with plans for refinancing the costs of the Facilities and refunding the Prior Bonds, it being understood that, as stated in the Letter of Intent, no volume cap allocation is required with respect to the Bonds.

Section 3. The Issuer may issue, sell and deliver the Bonds, at any time or from time to time and in one or more series, in the maximum aggregate principal amount of \$95,000,000, subject to the provisions of this Resolution.

For the purpose of applying the foregoing limitation in the event that any bond anticipation notes are issued, the outstanding principal amount of any bond anticipation notes, provision for the payment of which has been made from the proceeds of such bonds, shall not be taken into account in determining the aggregate principal amount of bonds issued, sold and delivered pursuant to this Resolution.

The Issuer will lend or otherwise make available the proceeds of the Bonds of any series to the Facility Applicant pursuant to the terms and provisions of a separate loan agreement (within the meaning of the Act) for each series of Bonds or any other agreement as permitted by the Act (any such agreements are herein referred to as the "Loan Agreements"), to be used by the Facility Applicant for the purpose of (i) refinancing the costs of the Facilities, (ii) refunding the Prior Bonds and thereby refinancing the costs (to the fullest extent permitted by the Act) of the acquisition of the Facilities, and (iii) paying costs of issuance of the Bonds, credit enhancement fees and providing reserves, all to the extent permitted by the Act and the Code.

The Loan Agreements entered into with respect to the Bonds of any series will require that (1) the proceeds of the Bonds of such series be used solely to (a) refinance the costs of the Facilities, (b) refund the Prior Bonds, and (c) pay costs of issuance of the Bonds, credit enhancement fees and provide reserves, all to the extent permitted by the Act and the Code, (2) the Facility Applicant shall make payments which will be sufficient to enable the Issuer to pay the principal of and interest and premium, if any, on the Bonds of such series when and as the same become due and payable, and (3) the Issuer shall not be required to take or hold title to the Facilities.

Section 4. The Issuer reserves the right, in its sole and absolute discretion, to take any actions deemed necessary by the Issuer in order to insure that the Issuer complies with all present and future federal and State laws which may apply to or restrict the issuance or sale of the Bonds, including, without limitation, requirements relating to the exemption of interest paid on the Bonds from federal income taxation. It is further understood by the Issuer that no volume cap or state ceiling allocation will be required in connection with the issuance of the Bonds and that the Issuer shall have no responsibility therefor.

Section 5. The Bonds may be issued at any time or from time to time and in one or more series, and each series of the Bonds shall be identified by the year of issue or by some other or additional appropriate designation; provided, however, that the Bonds must be issued within six months after the effective date of this Resolution as set forth in Section 10 hereof. The provisions in this Resolution providing for the issuance of the Bonds shall expire with respect to Bonds (or any portion of the Bonds herein authorized) which have not been issued by such date, unless, either prior to or after such date, (i) the Mayor of the Issuer extends the period of time during which the Bonds may be issued, and (ii) the Bonds are issued within any time period specified in such extension and such reservation.

Section 6. The Bonds shall be executed in the name of the Issuer and on its behalf by the Mayor of the Issuer, by the Mayor's manual or facsimile signature, and the corporate seal of the Issuer or a facsimile thereof shall be impressed or otherwise reproduced thereon and attested by the City Clerk of the Issuer, by the City Clerk's manual or facsimile signature. The signatures of the Mayor and the City Clerk of the Issuer on the bonds may be executed by facsimile, provided that at least one signature required or permitted to be placed on the Bonds is manually subscribed (which manual signature may be the bond trustee's certificate of authentication). The Mayor of the Issuer, the City Administrator of the Issuer, the Assistant City Administrator of the Issuer, the City Clerk of the Issuer and other officials of the Issuer are hereby authorized and empowered to do all such acts and things and to execute, acknowledge, seal and deliver such documents and certificates, including (without limitation) the Loan Agreements and any trust agreement or indenture, as either the Mayor of the Issuer or the City Administrator of the Issuer may determine to be necessary to carry out and comply with the provisions of this Resolution, subject to the limitations set forth in the Act and any limitations set forth in this Resolution.

Section 7. As permitted by the Act, the Bonds of any series shall be sold at private (negotiated) sale and at par or at such discount as either the Mayor of the Issuer or the City Administrator of the Issuer, with the consent of the Facility Applicant, deems appropriate, unless either the Mayor of the Issuer or the City Administrator of the Issuer deems it to be in the best interests of the Issuer, with the consent of the Facility Applicant, to sell the Bonds of any series at public sale or above or below par, in either or both of which events, the Bonds of such series shall be sold in such manner and upon such terms as either the Mayor of the Issuer or the City Administrator of the Issuer deems to be in the best interests of the Issuer, with the consent of the Facility Applicant.

Section 8. Prior to the issuance, sale and delivery of the Bonds of any series, the Mayor of the Issuer, by executive order or otherwise, may approve the issuance of the Bonds and:

- (1) shall prescribe the form, tenor, terms and conditions of and security for the Bonds of such series;
- (2) shall prescribe the principal amount, rate or rates of interest, denomination or denominations, date, maturity or maturities (within the limits prescribed in the Act), and the time and place



or places of payment of the Bonds of such series, and the terms and conditions and details under which the Bonds of such series may be called for redemption prior to their stated maturity or maturities;

(3) may appoint a trustee, a bond registrar and a paying agent or agents for the Bonds of such series;

(4) shall approve the form and contents of, and execute and deliver (where applicable), the Loan Agreements, and such other documents, including (without limitation) trust agreements, assignments, mortgages, deeds of trust, escrow agreements, guaranties and security instruments to which the Issuer is a party and which may be necessary or desirable to effectuate the issuance, sale and delivery of the Bonds of such series;

(5) may approve the preparation and distribution, in conjunction with representatives of the Facility Applicant and the prospective purchasers of or underwriters for the Bonds of any series, both a preliminary and a final official statement, offering memorandum or other similar document in connection with the sale of the Bonds of any series, if determined to be necessary or desirable in connection with the sale of the Bonds of such series,

(6) may execute and deliver a contract or contracts for the purchase and sale of the Bonds of any series (or any portion thereof) in form and content satisfactory to either the Mayor of the Issuer or the City Administrator of the Issuer;

(7) shall determine the time of execution, issuance, sale and delivery of the Bonds of such series and prescribe any and all other details of the Bonds of such series;

(8) may determine the method, and shall approve the terms, of the sale of the Bonds of such series, as provided in Section 5 of this Resolution;

(9) shall provide for the direct payment by the Facility Applicant of all costs, fees and expenses incurred by or on behalf of the Issuer in connection with the issuance, sale and delivery of the Bonds of such series, including (without limitation) costs of printing (if any) and issuing the Bonds of such series, legal expenses (including the fees of bond counsel) and compensation to any person (other than full-time employees of the Issuer), performing services by or on behalf of the Issuer in connection therewith;

(10) may provide for the issuance and sale of any bond anticipation notes or other obligations issued in anticipation of the issuance of the Bonds;

(11) may provide for the funding of reserves for the Bonds of such series, as either the Mayor of the Issuer or the City Administrator of the Issuer deems reasonable;

(12) may, by certification or otherwise, deem final for the purposes of Rule 15c2-12(b)(1) of the United States Securities and Exchange Commission any official statement, offering memorandum or other disclosure document relating to the Bonds; and

(13) specify, prescribe, determine, provide for or approve such other matters, details, forms, documents or procedures and do any and all things necessary, proper or expedient in connection with the authorization, sale, security, issuance, delivery or payment of or for the Bonds of such series and in order to accomplish the legislative policy of the Act and the public purposes of this Resolution, subject to the limitations set forth in the Act and any limitations prescribed by this Resolution.

It is understood that all of the foregoing terms and conditions shall also be acceptable to the Facility Applicant.

Section 9. The provisions of this Resolution are severable, and if any provision, sentence, clause, section or part hereof is held to be illegal, invalid or unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Resolution or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Resolution would have been passed if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included herein, and if the person or circumstances to which this Resolution or any part hereof is inapplicable had been specifically exempted from the provisions hereof.

Section 10. This Resolution shall take effect on the date of its adoption and approval by the Mayor of the issuer, as provided in §14-1-4(d)(4) of the Act.

ADOPTED this 28th day of February, 1994.

APPROVED this 28th day of February, 1994.

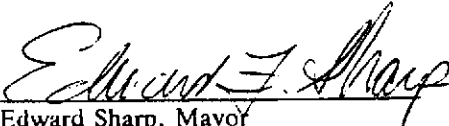
  
Edward Sharp, Mayor

Exhibit A - Letter of Intent

TAK00303.RSO (February 24, 1994)

#### Certificate of City Clerk

I hereby certify that the foregoing is a true, correct and complete copy of Resolution No. 1994-10 (the "Resolution"), adopted by the City Council of the City of Takoma Park, Maryland, at a regular meeting duly called and held on February 28, 1994, and approved by the Mayor of the City of Takoma Park, Maryland, on February 28, 1994. 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: February 28, 1994

  
Catherine E. Settoph  
City Clerk

Introduced by: Councilmember Porter

RESOLUTION NO. 1994-11

A RESOLUTION AUTHORIZING THE CLOSING OF LAUREL AVENUE BETWEEN EASTERN AVENUE AND CARROLL AVENUE FOR THE OPERATION OF THE TAKOMA PARK FARMERS MARKET ON SUNDAYS FROM APRIL 24 TO NOVEMBER 20, 1994, 9:15 A.M. TO 2:30 P.M.

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND, THAT the City Administrator (or designee) is hereby authorized to establish and administer the Takoma Park Farmers Market.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT in order to promote the effective and efficient administration of the Market, the City Administrator (or designee) is hereby authorized and empowered to develop, adopt, and promulgate such guidelines and policies as may from time to time be necessary to administer the Market.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND, THAT Laurel Avenue between Carroll and Eastern Avenues shall be closed to all through traffic on the following dates during the following times:  
Every Sunday between (and including) 24 April 1994 - 20 November 1994, from 9:15 a.m. (local time) to 2:30 p.m. (local time)

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

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

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

ADOPTED THIS 28th DAY OF FEBRUARY, 1994.

Introduced by: Councilmember Williams

1st Reading: 2/14/94

2nd Reading: 2/28/94

Effective Date: 2/28/94

ORDINANCE #1994 - 3

SIDEWALK SALES

**WHEREAS,** a number of owners of retail businesses in the City have been displaying and selling merchandise on the sidewalk in front of their retail business; **AND**

**WHEREAS,** the City is willing to issue permits which would allow retail business owners to use the sidewalk, a public right of way, directly outside of the retail business to display and sell merchandise which is a regular part of the inventory of the retail business; provided, however, that such sidewalk display and sale of merchandise does not impede or inconvenience the public use of the sidewalk; **AND**

**WHEREAS,** Ordinance #1992-12 which authorized sidewalk sales contained a sunset date of September 30, 1992, in order to give the Council a chance to review the effect of allowing sidewalk sales; **AND**

**WHEREAS,** as sidewalk sales appear not to have impeded or inconvenienced the public, the Council desires to extend on a permanent basis the right of street level retail business owners to use the sidewalk in front of their retail business to display and sell merchandise ~~and to eliminate the sunset provision of the prior ordinance.~~

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

**Section 1. Sidewalk Displays and Sales of Merchandise.**

(a) Any person who owns or operates a street level retail business in the City shall be permitted to sell, attempt to sell, or display for sale any goods, wares, or merchandise which is a regular part of the inventory of such retail business on the sidewalk directly in front of such business provided that:

(1) Such sidewalk display and sale of merchandise does not block or impede pedestrian passage or ingress and egress to and from any building, and does not cause the area to become so congested as to create a safety hazard or impede or inconvenience the public.

(i) There shall be a presumption that pedestrian passage is being blocked or impeded if there is less than a five foot clearance for pedestrian passage on the sidewalk from the edge of the curb to the beginning of the sidewalk display and sale of

merchandise.

(ii) The burden of showing that the sidewalk display and sale of merchandise does not block or impede pedestrian passage or ingress and egress to and from any building, and does not cause the area to become congested shall be on the person who owns or operates the retail business.

(2) The sidewalk display and sale of merchandise occurs at a time when the retail business is open for business.

(3) All fixtures used for sidewalk displays and sales of merchandise are removable and no such fixtures remain on the sidewalk when the retail business is closed.

(b) All sidewalk displays and sales of merchandise shall be at the sole risk of the retail business and the City shall not be responsible for any injuries to persons or damage to property which result from such sidewalk displays and sales of merchandise.

(c) A violation of this Section is a Class C offense.

#### **Section 2. Removal of Merchandise.**

(a) Any person who displays or sells merchandise on the sidewalk in violation of this Article shall immediately desist from such display or sale and remove the merchandise and all fixtures used for the display, sale, or storage of such merchandise from the sidewalk upon the direction of a police officer.

#### **Section 3. Sidewalk Sales Permit Required.**

(a) No person shall display or sell any merchandise on the sidewalk without first having obtained a sidewalk sales permit from the City.

(b) Application for a sidewalk sales permit shall be made to the City Clerk on a form to be furnished by the Clerk.

(1) The sidewalk sales permit application shall require the applicant:

(i) To certify that the applicant is the owner or operator of the retail business for which the sidewalk sales permit is sought and that the business is validly licensed under all applicable city, county and state laws;

(ii) To specify the type of merchandise which will be displayed and sold on the sidewalk in front of the retail business and to certify that all merchandise which will be displayed and sold on the sidewalk will be a regular part of the inventory of the retail business;

(iii) To indemnify and hold the City harmless

for any personal injuries or property damage which result from the sidewalk sale or display of merchandise;

(iv) To certify that the applicant shall comply with all applicable City, county, state and federal laws and with any City rules and regulations which are adopted to carry out the provisions of this Article.

(2) The fee for a sidewalk sales permit shall be \$25.00, which shall be paid at the time an application for the permit is made.

(c) Sidewalk sales permits are nontransferable and shall be effective for one year from the date of issuance.

(d) Sidewalk sales permits shall be displayed prominently, either on the sidewalk display of merchandise or in the retail business.

(e) A violation of this section is a Class C offense.

#### **Section 4. Denial or Revocation of Sidewalk Sales Permits.**

(a) A sidewalk sales permit may be denied or revoked for any of the following reasons:

(1) The applicant has failed to completely and accurately complete the sidewalk sales permit application.

(2) The applicant has failed to pay any personal property tax applicable to the retail business.

(3) The applicant has previously violated any provision of this Article or has failed to pay any assessed fine for a violation of the Takoma Park Code.

(4) The applicant has previously failed to comply with the direction of the police officer to desist from the sidewalk sale of merchandise or to remove any merchandise and display fixtures from the sidewalk.

(b) Prior to the denial or revocation of a sidewalk sales permit, the City Clerk shall give written notice to the applicant, by regular first-class mail to the address set forth in the permit application or to the applicant's last known address, setting forth the basis of the permit denial or revocation.

(c) Any applicant whose sidewalk sales permit has been denied or revoked may appeal the denial or revocation to the City Administrator in writing within two (2) weeks after the date of the written notice of the permit denial or revocation.

**Section 5.           Effective Date.**

This Ordinance shall be effective immediately upon adoption.

Adopted this 28th day of February, 1994, by roll call vote as follows:

AYE: Chavez, Davenport, Elrich, Porter, Rubin, Sharp, Williams

NAY: None

ABSTAINED: None

ABSENT: None

ordin\sidewalk.per



Introduced by: Bruce Williams  
Larry Rubin

1st Reading: 2/28/94  
2nd Reading:

Drafted by: Bruce Williams  
Larry Rubin  
Susan Silber, Corporation Counsel

ORDINANCE #1994 - 5

ACTIVITIES IN PUBLIC SPACES ADJACENT TO FARMER'S MARKET

**WHEREAS,** the City sponsored Takoma Park Farmer's Market on Laurel Avenue in the Takoma Old Town Business District has enjoyed tremendous success over the past nine years and draws patrons from inside the community and visitors from outside of the City; AND

**WHEREAS,** representatives from community, educational, health, environmental and other types of groups as well as performers offering entertainment contribute to the diversity of our community and promote freedom of expression, two valued characteristics of the City; AND

**WHEREAS,** merchants participating in the Farmer's Market or near the Farmer's Market also contribute to the valued character of the City; AND

**WHEREAS,** existing state laws and City ordinances require that activities taking place in public spaces are conducted in a safe manner, do not create a nuisance, and do not block public rights of way, AND

**WHEREAS,** in order to preserve the atmosphere of the Farmer's Market, the City Council recognizes the need to regulate the activities of persons and groups in public spaces adjacent to the Takoma Park Farmer's Market.

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

**SECTION 1. Definitions**

(a) "Noncommercial activities" shall include any activity by a group or an individual except an activity which involves the promotion or sale of commercial goods or property and which is conducted on behalf of for-profit business enterprises.

(b) Public performances by individuals or groups who seek voluntary contributions from spectators for their performances shall be considered "noncommercial activities".

(c) "Public spaces adjacent to the Takoma Park Farmer's Market" consist of the bricked-in area in front of the Adventist Church located at the southwest corner of the intersection of Laurel and Carroll Avenues and all areas outside of and contiguous to the parameters of the Farmer's Market.

**SECTION 2. Activities Shall Be Noncommercial.**

(a) Activities in public spaces adjacent to the Takoma Park Farmer's Market are limited to those activities which are noncommercial, provided that:

(1) Such activity does not block or impede pedestrian passage, access to or operation of farmer or vendor stands, or ingress and egress to and from any building, and does not cause the area to become so congested as to create a safety hazard or impede or inconvenience the public.

(i) There shall be a presumption that pedestrian passage is being blocked or impeded if the activity permits less than a five foot clearance for pedestrian passage on the sidewalk, as measured from the edge of the curb.

(ii) The burden of showing that the activity does not block or impede, access to or operation of farmer or vendor stands, or ingress and egress to and from any building, and does not cause the area to become congested shall be on the person or group engaging in the activity.

(2) Such activity does not create a disturbance or offense of the public peace as defined by Sections 121 - 122 of Article 27 of the Annotated Code of Maryland and amendments thereto and Chapter 8, Article 3 of the Takoma Park Code and amendments thereto.

(b) During the operation of the Farmer's Market, activities in the street on either side of the police barricades are prohibited.

(c) Lawful commercial activities by Farmer's Market vendors with valid permits and by those conducting sidewalk sales pursuant to Takoma Park Ordinance No. 1992-12 are specifically permitted, and shall have priority in the use of the area set forth in their valid permits over all authorized noncommercial activities.

(d) The activities authorized by this Ordinance shall be subject to all applicable City, County, State and Federal laws and regulations, whether civil or criminal.

(e) A violation of this Section is a Class D offense.

**SECTION 3. Artificial Amplification Prohibited.**

(a) The use of electrical or other mechanical means of

amplifying the volume of performances or other activities permitted in accordance with Section 2 is prohibited.

(b) A violation of this section is a Class C offense.

**SECTION 4. Effective Times and Date.**

(a) This Ordinance shall be effective beginning, April 24, 1994, the opening day of the Farmer's Market season, 1994.

(b) This ordinance shall be in effect during the 1994 Farmer's Market season on Sundays 10:00 a.m. - 2:00 p.m. beginning with the opening day of the Farmer's Market and ending the final day of the Farmer's Market.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 1994 by roll call vote as follows:

AYE:  
NAY:  
ABSTAINED:  
ABSENT:

mkt.ord  
hdr-mcr