

REGULAR MEETING, WORKSESSION AND EXECUTIVE SESSION  
OF THE CITY COUNCIL

Monday, July 11, 1994

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Executive Session 6/20/94 - Moved by Mr. Williams; seconded by Ms. Porter. Council convened in Executive Session by unanimous vote (ABSENT: Davenport, Elrich, Rubin) at 10:20 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Chavez, Porter, Williams. No staff members were in attendance. Council discussed the City Administrator's evaluation (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(i)).

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**OFFICIALS PRESENT:**

Mayor Sharp	City Administrator Habada
Councilmember Chavez	Deputy City Administrator Grimmer
Councilmember Davenport	Assistant City Administrator Hobbs
Councilmember Elrich	Deputy City Clerk Espinosa
Councilmember Porter	DHCD Director Nance-Sims
Councilmember Rubin	Code Enforcement Supervisor Castillo
Councilmember Williams	Asst. Corporation Counsel Perlman

The Council convened at 7:32 p.m. on Monday, June 13, 1994, in the Council Chamber at the Municipal Building, 7500 Maple Avenue.

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

**MAYOR'S COMMENTS**

Mr. Sharp noted the recent death of John F. Kozel, who served on the City Council from 1954 to 1958, and stated that a resolution of commemoration would be prepared for Council's consideration in the near future. Mr. Sharp called for a moment of silence to be observed in memory of Mr. Kozel.

Mr. Sharp commented on the successful 4th of July activities that were enjoyed by all.

Mr. Rubin noted that he recently visited the grave of James Chaney, a civil rights worker killed in 1964 near Meridian, Mississippi, and that Mr. Chaney, as well as Michael Schwerner and Andrew Goodman, were participants in a voter registration campaign and operators of a day care center at the time when all three were murdered.

**PRESENTATION**

Doug Harbit, Chair of Historic Takoma, presented the City with a check for \$3,000 to be used for rehabilitation and painting of the Thomas-Siegler Carriage House, and noted that it is the oldest home in Takoma Park. He expressed his appreciation and thanks to Historic Takoma, Council and City staff for their efforts toward the Thomas-Siegler rehabilitation project.

Mr. Sharp thanked Mr. Harbit and Historic Takoma, on behalf of the City.

**CITIZEN COMMENTS**

Rodney Forbes, resident of College Park said that he is representing "Groceries on Call by Top Banana". He remarked that there are many senior citizens who cannot effectively maintain themselves in their homes or get out to get their groceries. Groceries on Call provides a grocery delivery service for senior citizens who are homebound, a service that complements and supplements other needed programs such as Meals on Wheels, food stamps, and congregate dining. He commented that Groceries on Call is trying to expand its operations in Prince George's County. Persons needing assistance call in their order from a 2500 item price list, early in the week, between the hours of 9:00 a.m. and 5:00 p.m.; later in the week, items are delivered

directly to their homes. Mr. Forbes noted that he has flyers, brochures and a copy of the July newsletter, regarding the service.

Mr. Sharp thanked Mr. Forbes for his presentation, and asked him to leave a copy of the literature with the Clerk. Mr. Sharp asked the City Administrator to arrange for the information to be publicized in the Newsletter and on the Cable channel.

Mr. Chavez clarified that the service is operated by volunteers who help senior citizens pick-up their groceries.

Mr. Forbes responded that the groceries are delivered to the seniors' doors. It is a delivery service for groceries that costs \$6.50 for homebound persons and seniors. He said that it is a money losing operation that often relies on other fundraising efforts to make up the difference. It is a "service", a work of dedication and devotion to seniors, not a money making enterprise.

Mr. Dubin asked how a person could contribute to the service.

Mr. Forbes noted that persons wishing to donate to the service can call their office--number listed on brochure (888-1200). He commented that Groceries on Call is currently running a raffle, but that he is not here this evening to fund raise, but to publicize and get support for the service. He remarked that the service delivers to Charles, Prince George's and Montgomery Counties.

Carl Elefante, representative of Last Takoma Junction Committee noted that he and Mr. John Fleming are here this evening to update the Council on the community design charrette in regards to Takoma Junction, which took place on the 22nd and 25th of June. He said that he felt it was a great success. Approximately 60 persons participated; there was a group of dedicated and hard working architects, landscape architects and urban planners who devoted much time and effort to the success of the charrette. There was a core of people from the Last Takoma Junction Committee who were also instrumental.

Mr. Elefante explained the charrette process, beginning with a brainstorming session that was held Wednesday evening. The key questions posed to the group were "what are the untapped potentials in Takoma Junction" and "what problems exist in Takoma Junction that need to be solved." Discussions led to the conclusion that every problem represents a potential, and a list of issues was compiled. Saturday's meeting began with discussions in four focus groups, roughly geographic groups focusing on (1) Zarpas property and its immediate neighbors, (2) Takoma Junction commercial area, (3) same as #2 but addressed the question "if this is not just a commercial area, what else can it be", and (4) the whole city and the connections Takoma Junction should have with the rest of the city. The afternoon was spent taking the four focus groups and trying to synthesize them into recommendations.

The concerns of the groups merged into quite a unified vision about Takoma Junction, but not without differing opinions, much discussion and many view points. It was recognized that Takoma Junction is a cross-roads--a front door to Old Town, and an introduction to what is the Old Town and Takoma Junction commercial area. There was a very small feeling that this area should be developed as a unified part of the city. It was suggested that a village center zone overlay for the Montgomery County zoning to address the special conditions of that area. Many practical, immediately implementable observations about problems existing in Takoma Junction (e.g. pedestrian crossings) were raised.

There was a lot of focus on the Zarpas site and what type of development should take place on the property, and a realization that intensified development does not necessarily mean bad things. The community should not just be looking at a one story building with a People's Drug, grocery store, or other operation, but should instead be looking at the site as a potential town center. One idea that was proposed is a three story building with the intention of the first floor being Zarpas' floor to develop in such a way as to make the money necessary to develop the entire site, the second floor being the Takoma Park "agenda" floor (i.e. dance studio, day care center, etc.), and the third floor being reserved for moderately priced in-town apartment dwellings to address some of the affordable housing issues. Mr. Elefante commented on the City of Laurel's example of village zoning, where there is total flexibility about use. There are no restrictions on developing affordable housing or day care centers; there is an ability to respond to market conditions and take into account the social agendas that may exist.

Mr. Elefante stated that the architects have met twice since the charrette to try to compile a formal summary which will be published as a redevelopment plan, resulting in three exhibits--(1) map of Takoma Park explaining the significance of the location of Takoma Junction in the city, (2) revitalization plan for the commercial area, and (3) model executed as a 3-dimensional massing study of what some of the urban design concepts translate into for a physical plan for the redevelopment of Takoma Junction. He presented the Council with a written list of objectives (design statements), summaries of the charrette, and a corresponding key plan.

The architects' committee will meet again this week, and the plan will be published within the next couple of weeks. The plan will be presented to the people who participated in the charrette and the groups that were represented by those participants--by and large, a broad base of the city's community associations, for feedback. The committee would like to then pursue an implementation strategy with the city. Mr. Elefante thanked the Council for their support, and commented on the importance of the citizen representation that greatly contributed to the charrette.

John Fleming said that as a businessman, citizen and participant in the design charrette he felt that it was very successful. Certainly, a lot of grand ideas and practical ideas evolved from the charrette. He commented that as a businessman in the 7300 block of Carroll Avenue, the question now is how the committee moves forward to implement some of the plans discussed. Mr. Fleming noted that he has been working with the revitalization program off-and-on since the early 1980's, and there has been some lurching, forward movement over the years depending on local interests and support from city staff. At this point, committee members feel that the charrette serves as a very good "jumping off" point, not only for looking at a major plan for the year 2000 and after, but for trying to implement some of the immediate needs in Takoma Junction. He said that the committee understands that there are some funds available, possibly through CDBG funding programs, and that the city will need to act relatively soon so as not to lose the availability of those funds.

The Last Takoma Junction Committee is proposing that a consultant, perhaps a private consultant, acting on a day-to-day basis as an advocate for this process be brought on board. In the past, some of this work has been done by city staff; this may not be a practical solution in the short run. Because the needs of implementing the kinds of issues that are coming out of the charrette dealing with the Zarpas property and the perceived immediate problems, the committee is asking for the Council's input on how to staff these needs. There has to be an advocate, and the position could possibly be afforded through CDBG funding. Mr. Fleming commented that this is a good time to go back to the county with the charrette, indicating a renewed community interest in the development of the Takoma Junction area.

Mr. Sharp asked Mr. Elefante when the committee will be presenting the charrette summarization to the community.

Mr. Elefante responded that the next meeting of the Last Takoma Junction Committee is this Wednesday evening, July 13th, 7:30 p.m. in the Municipal Building. The subject of the discussion will be where to go from the design charrette. A plan will be generated within the next two weeks.

Mr. Sharp asked City Administrator Habada when is the CDBG deadline.

Ms. Habada replied that the deadline is July 15th.

Mr. Elefante said that he will give the Council a map, five pages of recommendations generated by the charrette from which the plan and implementation strategy will be derived. He asked that the city inform the committee of what it needs to prepare in terms of forwarding a plan to Montgomery County.

Mr. Rubin asked if there is a way for this plan to be reviewed in terms of a CDBG proposal within the next four days.

Mr. Elefante remarked that the model could not be prepared in four days, but that he did not see a problem with preparing a plan.

Ms. Habada commented that in terms of having Council's, community and staff consensus, regarding our input into the process, Friday's deadline cannot be met. She said that staff has indicated to Councilmember Berlage's staff that the city needs more time to address this matter, but that whether the city is granted a time extension is a political issue. She stated that the city

needs to revisit where we are, and what is the best direction to pursue with the county.

Ms. Porter questioned whether it is feasible for the city to inform the county of the processes that have already gone forward and the discussions that have been held in the community, and indicate that there is definitely something moving forward and that the city needs to complete that process before presenting a definite plan to the county.

Ms. Habada indicated that the city has requested an extension, but noted that there are pressures on the county to be able to use the funds elsewhere.

The Council reached a consensus to add a discussion of this matter to the evening's Worksession agenda.

Mr. Elefante said that potential funding implications fall into two categories--(1) the idea of an implementor, and (2) specific implementations of the plan.

#### REGULAR MEETING

#1 1st Reading Ordinance re: Change in Air Conditioning Cut-off Date. Mr. Sharp explained that the ordinance amends the City Code to change the cut-off date from September 7th to October 1st. He noted that this item has not come before the Council in Worksession and therefore, that he would expect some Council discussion akin to that usually held in Worksession. He asked if staff would like to make any comments in addition to those made in the staff memorandum.

Department of Housing and Community Development Director Nance-Sims commented that as stated in the memorandum, there are two ordinances being proposed because in order to effectuate the first ordinance to change the air conditioning cut-off date it will be necessary to also change the heating cut-on date from October 1st to October 15th, by a second ordinance. She noted that Code Enforcement Supervisor Castillo is present to address any questions.

Ms. Porter asked why the change is being proposed.

Ms. Nance-Sims responded that the change is coming relative to a citizen's proposal submitted via Councilmembers Elrich and Williams.

Mr. Sharp asked for a motion to put the ordinance on the floor for discussion.

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

Mr. Elrich explained that the request was brought forward by a constituent of his ward, supported by a wealth of temperature data which indicates that September is indeed a rather warm month in this area. In the constituent's building, historically, the air conditioning has stayed on longer. He remarked that with the change to September 7th, the tenants of that building would actually have their air conditioning reduced before the period it has normally been cut-off. Mr. Elrich stated that he is a little concerned about the October 15th cut-on date for heat, and that a date problem has arisen as a result of the timeframe needed to change over systems. He asked several questions: (1) has staff surveyed more than one building regarding the time necessary to change over from air conditioning to heat systems, (2) did building managers indicate routinely that it would take two weeks to change over, and (3) are some of the things involved, things that could be done during the last phase of air conditioning (e.g. changing filters) making it possible to compress the two week time period.

Mr. Sharp noted that Park Ritchie indicated that they require three weeks for the change over.

Mr. Castillo stated that most of the property managers indicated that they require three weeks, for maintenance and repairs. Some of the repairs require that both units (air conditioning/heating) be turned off--piping, replacing motors, cleaning and getting boilers up to temperature. He said that the two week time frame is consistent with the two weeks allowed in the spring for the change over from heat to air conditioning.

Mr. Davenport said that after much discussion with several of the City's resident managers, it appears that three weeks for change over is an adequate

time frame if problems are being experienced with a system. However, if the system is running fine, fifteen days is more than enough time to change over. He commented that in his opinion, it is going to be too cold if the heat cut-on date is postponed to mid-October.

Mr. Castillo pointed out that the normal evening temperature minimums are relatively cool, and commented that he thinks the people who are requesting air conditioning during September would probably need heat in the evening. He noted that the counties do not have specific dates to trigger cut-on and cut-off of systems. The counties use the general rule of when the temperature outside is 10 degrees below 68 degrees, a temperature of 68 degrees must be maintained inside; they recognize and inform residents that there are periods during the fall and spring when there are "on" and "off" days. When the temperature consistently falls below 58 degrees, the switch over is required.

Mr. Rubin asked why the city has a specific date.

Mr. Castillo responded that the city has adopted the BOCA Code, the BOCA Code makes provisions for dates, and several other jurisdictions and state codes also use specific dates.

Mr. Sharp asked if the county uses the BOCA Code.

Mr. Castillo stated that he believes the county uses the BOCA Code, but that they make amendments to the code.

Ms. Porter remarked that this strikes her as getting overly detailed in setting a law, and asked if there is some other way of handling this.

Mr. Elrich asked how the county deals with air conditioning.

Mr. Castillo replied that the county does not have air conditioning requirements. If a building has mechanical refrigeration, air conditioning has to be provided, but there is no date or temperature requirement.

Mr. Rubin questioned how many persons living in apartment buildings are covered by this ordinance.

Mr. Castillo said that the heating requirement applies to all tenant buildings, whether there is one apartment or 190 apartments. Air conditioning only applies to buildings that are designed for air conditioning.

Mr. Rubin asked how many citizens requested this change in the law.

Mr. Castillo stated that he does not have the exact data, but that he knows of three persons.

Mr. Williams explained that the request was made and that it seemed, to him, quite reasonable that September 7th is too soon to cut off the air conditioning because indian summer is hot. A lot of the buildings that have air conditioning do not have good cross-ventilation, and so it seemed reasonable to say that September 7th is too early regardless of the number of people who requested the change.

Mr. Rubin asked if the city could have a requirement for heat that is the same as the county's, and if the city could have a requirement for air conditioning based on the same type of formula--temperature above a certain level would indicate that air conditioning must be switched on, if the building is equipped with a refrigeration system.

Mr. Castillo said that the city does have a formula for air conditioning along with the date--15 degrees less than the outside temperature.

Mr. Rubin questioned why a date is necessary.

Ms. Porter commented that it makes enforcement difficult unless there are specific dates. If it really takes two weeks to change over from air conditioning to heat, property managers could potentially be penalized for not guessing right two weeks ahead of time.

Mr. Rubin asked if two weeks is accurate for a change over.

Mr. Davenport stated that on an average, if everything is going perfect with a building's system change over could take a week to 10 days, but that if

there is a problem with the system, waiting for replacement parts or repairs could take more time. He suggested that the date be extended to September 7th, but with an exception that if a property manager can demonstrate that there is a problem, a time extension is an option.

Mr. [redacted] observed that with the previous code, there were no air conditioning requirements.

Mr. Williams proposed that the air conditioning date be moved back to September 15th, providing the two weeks into October for the heat to be cut-on.

Mr. Elrich commented that the data shows that October nights are cool, yet that he believes September 7th is too early a cut-off for air conditioning.

Ms. Porter clarified that the proposal is to leave the heat date October 1st and move the air conditioning date to September 15th.

Mr. Davenport added that there should still be provisions for property managers who experience difficulties and require extensions.

Mr. Williams proposed an amendment to the first ordinance to replace "September 7th" with "September 15th".

There were no Council objections, and the Council reached a consensus that the amendment would alleviate the need for the second ordinance to extend the heat cut-on date.

Kay Dellinger, Hampshire Towers said that she approves of the date change. It is important to set a date since the temperature fluctuates tremendously during the spring and fall; all building managers will know when heating and cooling systems have to be turned on and off, so that they can prepare. October 1st is far too late for air conditioning to still be on. She provided the Council with more documentation regarding temperatures in September and October.

The ordinance was unanimously accepted at first reading, as amended.

ORDINANCE #1994 - 24  
(Attached)

#2 2nd Reading Ordinance re: Peddlers and Transient Merchants. Moved by Mr. Chavez; seconded by Mr. Williams.

Ms. Porter noted that the only amendment to the ordinance since first reading is the change in the operation hours from "9:00 a.m. to sunset" to "9:00 a.m. to 9:00 p.m."

The ordinance was unanimously adopted at second reading (ABSENT: Elrich).

ORDINANCE #1994 - 23  
(Attached)

#3 2nd Reading Ordinance re: Speed Hump - 800 Elm Avenue. Mr. Sharp explained that the ordinance authorizes the installation of a speed hump within the 800 block of Elm Avenue.

The ordinance was unanimously adopted at second reading (ABSENT: Elrich).

ORDINANCE #1994 - 22  
(Attached)

#4 Resolution re: City Council's 1994 Summer Recess. Mr. Sharp explained that the resolution sets the Council's summer recess from August 2nd through September 15th.

Moved by Mr. Williams; seconded by Mr. Chavez.

The resolution was unanimously adopted.

RESOLUTION #1994 - 39  
(Attached)

#5 Resolution re: "Newspaper of Record". Moved by Mr. Sharp; seconded by Mr. Chavez.

Mr. Sharp noted that there are notification requirements in Maryland State law and the City Charter and Code that cannot be met by solely advertising in the Takoma Park Newsletter because it is a monthly publication.

Ms. Porter commented that if the Newsletter is designated as the primary "Newspaper of Record", it makes it even more important that all residents promptly receive a copy of the Newsletter.

Ms. Habada noted that the feasibility of bulk mailing the Newsletter is being investigated, and that the Council will be further informed.

Sherry Sanderson, a representative of the Sentinel newspapers, drew attention to the contrary advertising rates of the Sentinel and Journal newspapers. She concluded that the Sentinel newspapers offer a comparable service at substantial savings--approximately 50%.

Mr. Rubin asked if there have been instances where the city has failed to comply with the timing requirements as related to advertisements.

Mr. Sharp responded in the negative.

Ms. Habada stated that one intention of the resolution is to save money.

Ms. Porter remarked that another purpose is to inform citizens, and that the city does not know that every resident consistently receives any publication other than the Newsletter.

Mr. Sharp added that the resolution directs staff to manage advertisements in the most cost effective manner.

The resolution was unanimously adopted.

RESOLUTION #1994 - 40  
(Attached)

#### WORKSESSION

Moved by Mr. Rubin; seconded by Mr. Chavez. The Council moved into Worksession at 8:58 p.m., and later adjourned to Executive Session at 9:20 p.m. to discuss a personnel matter.

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Executive Session 7/11/94 - Moved by Mr. Rubin; seconded by Mr. Chavez. Council convened in Executive Session by unanimous vote (ABSENT: Elrich) at 9:20 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Chavez, Davenport, Porter, Rubin, Williams. STAFF PRESENT: Habada, Hobbs, Silber. Council discussed an inquiry into an allegation about a conflict of interest charge against an individual employed by the City, and received information. No action was taken regarding the allegation (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(i)). Assistant City Administrator Hobbs and Corporation Counsel Silber left the session. The Council discussed the City Administrator's evaluation with Ms. Habada (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(i)).

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Introduced by: Councilmember Porter

1st Reading: 6/20/94

2nd Reading: 7/11/94

Effective: 7/11/94

ORDINANCE 1994-22

INSTALLATION OF SPEED HUMP

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

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

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

- (a) Elm Avenue (800 Block Elm Avenue), one (1) speed hump to be placed approximately 180 feet from the stop sign at Auburn Avenue; exact location shall be at the discretion of the Public Works Director.

SECTION 2. THAT this Ordinance becomes effective upon adoption.

ADOPTED BY THE CITY COUNCIL THIS 11th DAY OF July BY  
ROLL CALL VOTE AS FOLLOWS:

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

NAY: None

ABSTAINED: None

ABSENT: Elrich



Introduced By: Mayor Sharp  
Drafted by: Catherine Sartoph

1st Reading: 6/20/94  
2nd Reading: 7/11/94  
Effective: 7/11/94

ORDINANCE #1994 - 23

REPEALING AND THEN REENACTING WITH AMENDMENTS TAKOMA PARK CODE,  
CHAPTER 4, ARTICLE 3. PEDDLERS AND TRANSIENT MERCHANTS.

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

SECTION 1. CHAPTER 4. BUSINESSES, ARTICLE 3. PEDDLERS AND  
TRANSIENT MERCHANTS, OF THE TAKOMA PARK CODE IS  
REPEALED AND REENACTED AS FOLLOWS:

ARTICLE 3. PEDDLERS AND TRANSIENT MERCHANTS

DIVISION 1. GENERAL

Sec. 4-13. Definitions.

As used in this Article:

(a) **Canvasser** shall include any person, whether or not a resident of the city, who goes from house to house, from place to place or from street to street soliciting or taking or attempting to take orders for sale of goods, wares or merchandise, including magazines, books, periodicals or personal property of any nature whatever for future delivery, or for service to be performed in the future, whether or not the person has, carries or exposes for sale a sample of the subject of the order, or whether or not he collects advance payments of these orders. The term shall also include any person who, for himself or for another person, firm or corporation, hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, hotel room, lodging house, apartment, shop or other place within the city for the primary purpose of exhibiting samples and taking orders for future delivery.

(b) **Junk or secondhand dealer** shall include any person, firm or corporation, whether or not a resident or establishment within the city, who engages in the business of buying, selling or solicits for the purposes of buying, selling or obtaining any used material or thing customarily considered as a household item.

(c) **Peddler** shall include any person, whether or not a resident of the city, who goes from house to house, from place to place or from street to street offering or exposing goods, wares or merchandise for sale, or making sales and delivering articles to purchasers.

(d) Transient merchant shall include any person, firm or corporation, whether or not a resident of the city, who engages in a temporary business of selling and delivering goods, wares and merchandise within the city; and who, in furtherance of this purpose, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, hotel room, lodging house, apartment, shop, street, alley or other place within the city for the exhibition and sale of goods, wares and merchandise, either privately or at public auction.

**Sec. 4-14. Exemptions.**

(a) The provisions of this article shall not apply to any of the following:

(1) Any person who is upon the premises at the request or invitation of the owners or occupants thereof;

(2) Wholesalers who sell personal property to dealers in such articles;

(3) Persons who take orders solely for the delivery of newspapers;

(4) Acts of merchants or their employees in delivering goods:

- (i) in the regular course of business; or
- (ii) to regular customers on established routes;

(5) Any farmer or truck gardener who shall vend, sell or dispose of the products of the farm or garden occupied and cultivated by him;

(6) Any City resident who is not a paid solicitor and is:

(i) soliciting on behalf of and authorized by a nonprofit organization; or

(ii) not involved in the promotion or sale of commercial goods or property conducted on behalf of a for-profit business enterprise; or

(7) Any City park or public building when the activities at such places are under a permit issued by or to the Department of Recreation.

(b) Nothing in this Article shall be held to prohibit any sale required by statute or by order of any court, nor to prevent any person from conducting a bona fide auction sale pursuant to law.

(c) Nothing in this Article shall be held to regulate the distribution of political campaign literature or solicitation of funds for political campaigns, as related to elections.

## DIVISION 2. PERMIT

### Sec. 4-15. Required.

Any organization, society, association, corporation or person desiring to solicit or have solicited, in its name, money or property or financial assistance of any kind, or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organization upon the streets, in office or business buildings, by house to house canvass, or in public places for a religious, charitable, philanthropic, political, cultural or other noncommercial purpose is required to obtain a permit from the City Clerk and shall be exempt from the provisions of Sections 4-17, 4-18, 4-27, and 4-28.

### Sec. 4-16. Application.

(a) Applicants for a solicitor's permit shall file with the City Clerk, on forms provided by the City Clerk, a signed application giving the following information:

(1) Name, local and permanent address, local and permanent telephone numbers, age, date of birth, race, weight, height, color of hair and eyes, and other distinguishing physical characteristics of the applicant, if any;

(2) Name and purpose of the cause for which the permit is sought;

(3) Names and addresses of the officers and directors of the organization, if any;

(4) Period during which solicitation is to be carried on;

(5) Whether or not any commission, fee, wages or emoluments are to be expended or received in connection with such solicitation, and the amount thereof; and

(6) Two (2) prints of a recent photograph of the applicant, approximately two (2) inches by two (2) inches, showing the head and shoulders of the applicant in a clear and distinguishing manner.

(b) Upon being satisfied that the applicant has met the requirements of Sections 4-15 and 4-16, the City Clerk shall

issue a permit to the organization, society, association, corporation or person, specifically listing the person(s) who have completed the application process and have been authorized pursuant to Sections 4-22 and 4-23 to solicit in the City.

### DIVISION 3. LICENSE

#### Sec. 4-17. Required.

No peddler, canvasser, transient merchant, junk or secondhand dealer shall engage in such business within the City without first obtaining a license in compliance with the provisions of this Article.

#### Sec. 4-18. Application.

Applicants for a license under this Article shall file with the City Clerk a sworn application in writing, on a form to be furnished by the City Clerk, which shall give the following information:

- (1) Name, local and permanent address, local and permanent telephone numbers, age, date of birth, race, weight, height, color of hair and eyes, and other distinguishing physical characteristics of the applicant, if any;
- (2) Complete permanent home and local address of applicant and, in the case of transient merchants, the local address from which proposed sales will be made;
- (3) A brief description of the nature of the business and goods to be sold;
- (4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) The source and supply of the goods or property proposed to be sold, or orders taken for the sale thereof, where goods or products are located at the time the application is filed, and the proposed method of delivery;
- (7) If a vehicle is to be used in connection with soliciting, a description of the same, together with the license tag number;
- (8) Two (2) prints of a recent photograph of the applicant,

approximately two (2) inches by two (2) inches, showing the head and shoulders of the applicant in a clear and distinguishing manner;

(9) The name of at least two (2) permanent residents of Montgomery and/or Prince George's County, who will certify as to the applicant's good character and business responsibility, or in lieu of the names of references, other available evidence of the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;

(10) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, other than traffic violations, the nature of the offense, and the punishment or penalty imposed therefor; and

(11) The last cities or villages, not exceeding three (3), where the applicant carried on business immediately preceding the date of application, and the addresses from which the business was conducted therein.

#### **DIVISION 4. REQUIREMENTS - PERMITS/LICENSES**

##### **Sec. 4-19. Background Check.**

All permit and license applicants must obtain and submit a personal Criminal Justice Information System (CJIS) criminal background check to the City Clerk as a supplement to the permit or license application. No application will be considered complete or filed until a CJIS criminal background check report is submitted by the applicant.

##### **Sec. 4-20. Fees; duration and expiration; renewal.**

(a) A non-refundable processing fee of five dollars (\$5) will be charged to each applicant at the time an application for a permit or license is filed with the City Clerk.

(b) An administrative fee of five dollars (\$5) will be charged to each applicant at the time a permit or license, and identification badge is issued.

(c) Every applicant for a license under this Article shall pay a license fee of twenty-five dollars (\$25) a year or fifteen dollars (\$15) for a half year. The annual fee shall be assessed for one year from the date of issuance, the half-year fee for six months from the date of issuance.

(d) Permits will be issued for a period effective for six months

from the date of issuance.

(e) All permits and licenses issued under this Article shall expire at 12:00 midnight either six months or one year from the date of issuance, as applicable.

(f) The same application procedures and requirements apply at the time an applicant seeks renewal of a permit (Sections 4-15 and 4-16) or license (Sections 4-17 and 4-18).

**Sec. 4-21. Identification badge.**

(a) Every person either permitted or licensed to solicit in the City shall prominently display on his/her person at all times while engaged in soliciting, an identification badge issued by the City.

(b) A solicitor's identification badge shall remain the property of the City and shall be surrendered to the City upon expiration, suspension or revocation.

(c) The identification badge shall show the following:

(1) Name and address of the solicitor and the entity he/she is representing, if any;

(2) Dates of issuance and expiration of the permit or license;

(3) One (1) of the photographs submitted by the solicitor; and

(4) Whether or not any commission, fee, wages or emoluments are to be expended or received in connection with the solicitation.

**DIVISION 5. PROVISIONS AND PROCEDURES - PERMITS/LICENSES**

**Sec. 4-22. Conditions for issuance.**

(a) Upon receipt by the City Clerk of a complete application for a permit or license, it shall be referred to the Chief Police Officer or designee, who shall immediately review the background check and institute an investigation as he/she deems appropriate in his/her sole discretion of the applicant's application for the protection of the public safety.

(b) The review of the applicant's background check and any investigation of his/her application, shall give due weight to any conviction for any crimes against person or property.

(c) If as a result of the investigation, the applicant's background check and application are found to be satisfactory, the Chief Police Officer or designee shall endorse on the application his approval, or his disapproval and reasons therefor, and return the application to the City Clerk.

(d) The City may refuse to issue a license upon a finding that the applicant has withheld or falsified any information required to be submitted in order to obtain a permit or license.

(e) The Chief Police Officer or designee shall endorse the application in the manner prescribed in Section 4-22(c) within a reasonable amount of time as determined by the Chief Police Officer or designee after it has been filed by the applicant with the City Clerk, and after the Background Check has been submitted pursuant to 4-19.

**Sec. 4-23. Approval, issuance, content and transferability.**

(a) The City Clerk shall determine, subject to review by the City Administrator as provided in Section 4-26, whether or not the application shall be approved. If the application is approved, the City Clerk shall, upon payment of the prescribed fees issue a permit or license to the applicant, as applicable.

(b) The permit or license shall contain:

(1) The signature of the City Clerk; and

(2) The name and address of the individual applicant or organization accompanied by a listing of each applicant covered by the permit or license; and

(3) The class of permit or license issued; and

(4) The purpose and cause of the permit or kind of goods to be sold; and

(5) The amount of fees paid; and

(6) The date of issuance; and

(7) The expiration date; and

(8) The number and other identifying description of any vehicle used in the licensed business, if applicable.

(c) Each organization or individual provided for in Section 4-15 must secure a permit, and each peddler, canvasser, transient merchant, junk or secondhand dealer, and their bona fide employee(s) must secure a personal license. A permit issued to

an organization will specifically list the persons who have completed the application process and have been authorized to solicit in the City.

(d) No license shall be used at any time by any person other than the one to whom it is addressed.

(e) The Clerk shall keep a permanent record of all permits and licenses issued.

**Sec. 4-24. Denial.**

If an application for a permit or license under this Article is disapproved, the City Clerk shall promptly notify the applicant in writing to that effect.

**Sec. 4-25. Revocation or suspension.**

(a) Permits and licenses issued under this Article may be revoked by the City Administrator for any of the following grounds:

(1) Fraud, misrepresentation or incorrect statement contained in the application;

(2) Fraud, misrepresentation or incorrect statement made in the course of carrying on his/her business as solicitor, peddler, canvasser, transient merchant or junk or secondhand dealer;

(3) Any violation of this Article;

(4) Conviction of any crime or misdemeanor; or

(5) Conducting the business of solicitor, peddler, canvasser, transient merchant, junk or secondhand dealer, as the case may be, in an unlawful manner or in a like manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.

(b) Permits and licenses issued under this Article may be suspended during the period a permit or license holder is under investigation following his/her arrest for any crime.

(c) If a permit or license under this Article is revoked or suspended, the City Clerk shall promptly notify the applicant in writing to that effect.

(d) No person whose permit or license has been revoked or suspended under the provisions of this Section shall make further application for a permit or license within six (6) months



thereafter.

**Sec. 4-26. Appeal of denial, revocation or suspension; procedure.**

(a) The procedure for the handling of appeals, under this Article, shall be governed as follows:

(1) Any person aggrieved by the action of the City Clerk in the denial of a permit or of a license shall have the right to appeal to the City Administrator.

(2) The appeal shall be made by filing with the City Clerk a written statement setting forth fully the grounds for the appeal within fourteen (14) days after receipt of notice of the action.

(3) The City Administrator shall consider the appeal and provide a written response to the applicant within fourteen (14) days after receipt of the his/her appeal.

**DIVISION 6. REGULATIONS**

**Sec. 4-27. Exhibition of license; sign; records.**

(a) Every licensee is required to exhibit his/her license certificate at the request of any citizen.

(b) Each junk or secondhand dealer shall, in some manner, display a sign showing the firm name, type of business and location address in letters at least two (2) inches in height and plainly legible on each side of any vehicle used.

(c) Each junk or secondhand dealer transacting business within the City shall maintain all records of such and shall exhibit them upon demand to any police officer or to the City Administrator.

**Sec. 4-28. Vehicles, maintenance; identification displayed; refuse containers.**

(a) Any vehicle and everything pertaining thereto used by a licensed vendor shall at all times be maintained in a clean and orderly condition. No portion of the contents shall be thrown, spilled or deposited upon the street or other public place.

(b) Every vehicle shall have the name of the vendor and the location where the vehicle is stored, when not in use, painted plainly and legibly.

(c) Vendors selling from stands or vehicles upon the streets or other public places shall attach to such stands or vehicles a box or other receptacle to contain refuse matter incident to their business. Separate boxes or other receptacles are required for recyclable materials, as defined by City ordinance. The receptacle(s) shall have prominently displayed on its side the type of refuse matter it is intended to contain, and be of a form and material and be placed in any position the Director of Public Works or designee may prescribe. The contents of each receptacle shall be removed daily by the person in charge of the stand or vehicle to which it is attached.

**Sec. 4-29. Use of the streets.**

No permit holder or licensee shall have an exclusive right to any location in the public streets, be permitted a stationary location or be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this Article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether or not an area is so congested as to impede or inconvenience the public.

**Sec. 4-30. Hours of operation.**

Permit holders and licensees shall only canvass, solicit or conduct business from 9:00 a.m. to 9:00 p.m. each day; provided that solicitations may be made where the person solicited has agreed by previously arranged appointment for a time other than the prescribed hours.

**Sec. 4-31. Enforcement.**

(1) Any violation of this Article is a Class C offense.

(2) The Police Department shall require any person seen peddling, soliciting or canvassing, who is not known by the officer to be duly permitted or licensed, to produce his/her permit or license or identification badge. The Department shall enforce the provisions of this Article against any person found to be violating the same.

**Sec. 4-32. Records of licenses and convictions.**

The Chief Police Officer or designee shall report to the City Clerk all convictions for violations of this Article. The City Clerk shall maintain a record of each permit and license issued, and record the reports of violations therewith.

SECTION 2. THAT this ordinance shall be effective immediately.

Adopted this 11th day of July, 1994 by roll call vote as follows:

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

NAY: None

ABSTAIN: None

ABSENT: Elrich

Drafted: 7/11/94 (cews)  
ordin\peddler4.v2

Introduced by: Councilmember Williams  
Drafted by : Juan Castillo

1st Reading: July 11, 1994  
2nd Reading:

ORDINANCE NO. 1994 - 24

WHEREAS It is the desire of the City Council of the City of Takoma Park, Maryland to set standards for improved housing conditions, and to provide for and protect the health and safety of persons; AND

WHEREAS Council has received requests from citizens to change the "cut off" date for air conditioning as outlined in Section 6-16 of the City Code, from September 7 to October 1 of every calendar year.

THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT Section 6-16 of the Takoma Park Code shall read as follows.

Sec. 6-16. Air conditioning in buildings designed with Mechanical Refrigeration:

(a) Air conditioning shall be furnished to every occupant of a rental unit in buildings designed with mechanical refrigeration from May 15 to [September 7] September 15. Said air conditioning shall function so as to maintain at least a fifteen (15) degree difference between inside and outside temperatures while operating according to the design specifications required for the Washington area by the BOCA National Mechanical Code. For the purpose of enforcing this section of the code the temperature shall be measured at the thermostat location. A violation of this section is a Class A offense.

This ordinance becomes effective immediately upon adoption:

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 1994.

Aye:

Nay:

Absent:

Abstained:

Deletions are [bracketed]; additions are underlined.

Introduced By: Councilmember Williams

RESOLUTION #1994 - 39

SETTING FORTH THE CITY COUNCIL'S SUMMER, 1994, RECESS

WHEREAS, it has been decided that, in order to accomodate vacation schedules of the City Council, a summer recess shall be called; AND

WHEREAS, this recess shall commence after the Council Worksession scheduled for Monday, August 1, 1994; AND

WHEREAS, with the first Monday of September, 1994, being the Labor Day Holiday, the Council will reconvene their meetings of official business on Monday, September 12, 1994, in Regular Session.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council does hereby set forth its Summer, 1994, Recess from August 2, 1994, through September 11, 1994.

Dated this 11th day of July, 1994.

ATTEST:



Catherine Sartoph  
City Clerk

Introduced by: Mayor Sharp

RESOLUTION #1994 - 40

DESIGNATING A NEWSPAPER OF RECORD FOR LEGAL ADVERTISEMENTS AND PUBLIC NOTICES

- WHEREAS, the Maryland State law, and the Charter and Code of the City of Takoma Park, Maryland, require that public notice in a newspaper of general circulation be provided by the City in specified procedures relating to the rights and responsibilities of resident and non-resident individuals, groups and businesses; AND
- WHEREAS, currently, compliance with public notice requirements is effected by the timely publication of appropriate advertisements in the Montgomery and Prince George's County Journal Newspapers and, infrequently, the Takoma Park Newsletter; AND
- WHEREAS, the Takoma Park Newsletter is a monthly publication, published by the City of Takoma Park, Maryland, and made available to all residents of the City; AND
- WHEREAS, with the understanding that there are some public notices that are required to be published for a period of "consecutive weeks", it is realized that being a monthly publication, the Takoma Park Newsletter may not be an adequate sole source for all public notices; AND
- WHEREAS, it is imperative that the residents of Takoma Park be able to rely upon a consistent, written source for the City's public notices; AND
- WHEREAS, it has been determined that the public interest will be best served by the designation of a "newspaper of record".

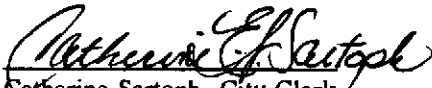
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THAT the Takoma Park Newsletter is hereby designated the City's "newspaper of record"; AND

BE IT FURTHER RESOLVED THAT for notices that the City Charter, Code or State law mandate be published for a period of "consecutive weeks", unless otherwise specified and when possible, at least one week's notice shall be published in the Takoma Park Newsletter accompanied by a statement specifying the publication or combination of publications in which the remaining weekly notices have or will appear; AND

BE IT FURTHER RESOLVED THAT this Resolution shall take effect immediately upon adoption.

Dated this 11th day of July, 1994.

ATTEST:

  
Catherine Sartoph, City Clerk

**PUBLIC HEARING, REGULAR MEETING, WORKSESSION AND EXECUTIVE SESSION  
OF THE CITY COUNCIL**

**Monday, July 25, 1994**

**OFFICIALS PRESENT:**

Mayor Sharp	City Administrator Habada
Councilmember Chavez	Deputy City Administrator Grimmer
Councilmember Davenport	Assistant City Administrator Hobbs
Councilmember Elrich	Deputy City Clerk Espinosa
Councilmember Porter	Asst. Dir. for Special Projects Ludlow
Councilmember Rubin	Community Planner Schwartz
Councilmember Williams	Corporation Counsel Silber
	Asst. Corporation Counsel Perlman

Executive Session 7/11/94 - Moved by Mr. Rubin; seconded by Mr. Chavez. Council convened in Executive Session by unanimous vote (ABSENT: Elrich) at 9:20 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Chavez, Davenport, Porter, Rubin, Williams. STAFF PRESENT: Habada, Hobbs, Silber. Council discussed an inquiry into an allegation about a conflict of interest charge against an individual employed by the City, and received information. No action was taken regarding the allegation (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(i)). Assistant City Administrator Hobbs and Corporation Counsel Silber left the session. The Council discussed the City Administrator's evaluation with Ms. Habada (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(i)).

The Council convened at 7:40 p.m. on Monday, July 25, 1994, in the Council Chamber at the Municipal Building, 7500 Maple Avenue.

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

**MAYOR'S COMMENTS & PRESENTATIONS**

Mayoral Proclamation - Appreciation of Madeline Dougherty. Mr. Sharp read the proclamation for the record.

Resolution of Condolence - Memory of John F. Kozel. Mr. Sharp read the resolution for the record. Moved by Mr. Sharp; seconded by Mr. Rubin.

The resolution was unanimously adopted.

RESOLUTION #1994-40  
(Attached)

**COUNCIL COMMENTS**

Mr. Davenport commented on how wonderful it was to see how many people attended the retirement party for Madeline Dougherty.

**CITIZEN COMMENTS**

Eric Bond, 8 Pine Avenue (Editor of "Takoma Voice") announced a candidates forum that will be held on Thursday, September 1, 1994, at 7:30 p.m. in the Council Chamber. He encouraged residents to attend.

Anna Wynn, Pinecrest area (not within city limits) said she is concerned about the possible annexation of the Pinecrest community area. She commented on the development plan to erect 50 townhomes over 8 acres near a scenic stream valley.

Mr. Sharp remarked how the Unification Bill prohibits annexation, making it impossible for the city to pursue any annexations at this time.

Ms. Wynn asked the city to help the Pinecrest area stop Prince George's County from further degrading their community.

Mr. Sharp said the Pinecrest Newsletter has been helpful in keeping the city informed of happenings in that community.

Ms. Wynn commented on how Prince George's County ignores historic guidelines.

#### PUBLIC HEARING

Dorothy Norton, Lake Avenue said she owns three lots on Lake Avenue that were originally purchased by her father in the 1930's. In 1947 the houses burned, and she has continued to pay taxes, with no income from the properties since that time. She stated she is upset that the city is now discussing buying her land for a nominal fee. Ms. Norton remarked that she does not feel her family is getting what they deserve for the land under the Open Space Plan.

Catherine Tunis, Co-Chair of the Takoma Park Committee on the Environment and Chair of the Natural Resources Subcommittee made several remarks and provided a copy of her testimony to the Council (attached).

Monte Agro, 7813 Carroll Avenue stated he has read the Open Space Plan, and he finds it confusing. He questioned why the city would want to adopt the plan, and said he does not think the conclusions that have been presented can be reached as quickly as they have been. Mr. Agro asked why there is a sense of urgency in regards to open space. He said there is no logical progression from a determined need to acquire open space to the proposed solution, and the plan contains several inconsistencies and contradictions. He made several comments: (1) He referred to the "Current Conditions" section of the report and its suggestion that there might be more parks. Why wasn't a complete inventory of parks, including athletic fields and facilities provided (e.g. Municipal Gym, Montgomery College, elementary school athletic fields, and park areas just outside city limits)? (2) The analysis on page 12 and the table on page 13 are misleading. (3) In regards to Appendix C, efforts should be directed to specific needs, not to the city at large. (4) Open space does not determine needs, indicating the necessity for some standards for evaluating need. (5) Is one-eighth of a mile radius a reasonable criteria for evaluating underserved areas? Some areas in the city have been left out (e.g. Longbranch north of Carroll Avenue). Could a longer radius be considered, or perhaps population density should be the criteria. Mr. Agro stated it might be advantageous to expand existing parks if the surrounding population warrants the expansion. (6) All options other than 4000 sq.ft. acquisition have been ruled out (page 15). The committee has violated the rule of developing criteria after a survey; it appears that conclusions were predetermined. He made the point that the committee must have entered private property without the permission of property owners to obtain the site surveys, otherwise the surveys are incomplete. He concluded by saying he appreciates the work of the committee members, but the report is flawed and the resulting concerns must be acted on.

Edith Barth, 7333 Piney Branch Road noted that Ms. Stern's property is included as is her own property according to the map in the draft plan. She said she wants to again voice her opposition to her property being on the list for easements. If she were to sell her property in the future, she is concerned that an easement would lower the property value. Ms. Barth stated she will not give permission for an easement on her property.

David Lindley, 903 Jackson Avenue (President of Longbranch-Sligo Citizens Association) remarked that the association has not met to take a formal position on the Carroll/Lincoln Avenue property in the plan. He said that if a walk path were made in this area, it would go along the back of the properties on Garland Avenue. He asked that the city consult with the neighbors prior to taking any action in this area.

Hank Prensky, 209 Spring Avenue noted that the house he rents backs up to a property on the open space list. He stated that in 1989, the Lake Street properties were of great interest to the residents of Ward 3, and that as a Councilmember, he worked for four years investigating different funding options for preserving the area. Mr. Prensky said that in the years that open space has been explored there has been little opposition to the city acquiring such land, and questioned why residents are now opposing open space land acquisition. He emphasized the purpose of the plan is to be "proactive", and encouraged a rapid conclusion to the discussion of the plan. He commented on the recent Hoobler appeal to build on the four lots, threatening the open space value of the properties. Mr. Prensky stated his



support for what he believes to be a sound Open Space Plan.

Farroll Hamer, Chair of Open Space Committee said the committee originally had a grandiose idea of "open space" and after visiting some of the sites, they realized their goals were unrealistic. The committee realized that it would be most helpful by providing assistance to the city in its consideration of acquiring open space sites. It is too late for a comprehensive plan other than to establish some criteria for the city's purchase of open space. She commented that she hopes the committee has met this goal, and that if the plan is adopted, its criteria should be used to develop some consistency in land acquisition.

Ed Scorza, 7333 Piney Branch Road stated his concern that identifying a property as one the city is interested in obtaining an easement on, may adversely affect the resale property value. He asked that 7333 be removed from the Open Space Plan list, to alleviate any question about a cloud on the property title.

Paul Rivera, 7901 Carroll Avenue (representing Ruth Rivera) said he feels the plan does not reflect the interests of his family, and it should not be necessary for them to defend why they do not wish to give up their land. He stated he is troubled by the unfairness of their having to "happen" to hear about the Open Space Plan. Mr. Rivera remarked that both sides of the creek are against the plan. He commented on some problems with the plan, questioned the mislabeling of the city parks, and criticized the plan as a brainstorm of six people who felt it necessary to do something with their spare time. He noted that no referendum has been held on the matter, and stated that the city should not go with a plan to require acquisition of open space sites.

Andy Rivera, 7901 Carroll Avenue stated that an easement in the neighboring area will foster an increase in crime, noise and litter. He said he does not believe the city handled this matter as openly as it should have, and citizens should have been given better notice of the city's intentions to allow them reasonable time for response. Mr. Rivera commented that the perception is that the plan was done in an underhanded way.

Janice Martin (former Councilmember) said she was one of the original open space planners before her days on the Council. She stated she feels there should be an open space plan, the city should purchase the Glengary lots, and there are some areas in the city that should be preserved from development. She commented that it is interesting that the existing park areas have been designated as open space, that some of the current parks are not well maintained, and that there are areas of the city without available park land. Ms. Martin said there is one lot near Longbranch, not discernable from the map included in the draft plan, that should be used for park land. She remarked that one of the frustrations of identifying open space is determining where there are vacant lots. Site visits are imperative because side lots are not always evident from land records alone. She encouraged the Council to pass some type of an Open Space Plan.

The public hearing was closed at 8:56 p.m.

## #2 Discussion of Draft Open Space Plan.

Mr. Sharp reminded the Council that he would like to have some action taken with regards to the plan this evening.

Assistant Director for Special Projects Ludlow commented that it would be helpful for the Council to identify any changes to the language or criteria used in the plan so that staff can follow-up.

Ms. Porter said that since the plan was developed some time ago and has been available to the community, the Council should seek closure on the matter. She suggested that the Council should consider the plan and reach a decision on whether to accept the plan.

Mr. Rubin remarked that he would like to propose amendments to two particulars of the plan, and asked how his amendments should be entered into the course of the discussion.

Mr. Sharp recalled the lengthy discussions regarding the Transportation Plan, and stated he does not believe the Council can adopt the Open Space Plan this evening.

(Mr. Elrich arrived at 9:00 p.m.)

Ms. Porter said she would also like to make some amendments to the plan, and she believes that amendments to the plan can be discussed this evening, so staff can be given some direction as to how to proceed. She commented on the three Glengary Place lots, and provided reasons for inclusion of these lots in the plan.

Mr. Rubin suggested that as with the budget discussions, staff could be asked to return with a response to each of the points raised by the Council's discussion of the plan.

Ms. Porter supported his approach, and emphasized, however, that the Council needs to make their intentions known to staff. She went on to comment that implementation of the plan needs to be carefully considered.

Mr. Sharp said that amendments should be made to the plan where necessary, and that the Council should certainly be mindful of the interests of the property owners. He stated that for planning purposes, the issue is how properties rank in the order of land the city may at sometime wish to acquire.

Mr. Rubin informed staff that he would like to visit the site at 7310 Holly Avenue and 7333 Piney Branch Road, noting that from the map, it appears there are actually three properties at the site.

Community Planner Schwartz confirmed that a third property is involved, and noted that the estate owner has been notified of the Open Space Plan.

Mr. Rubin referred to the summary regarding 7310 Holly Avenue and 7333 Piney Branch Road (page 20 of the plan), and asked what would be the regulatory constraints on a developer. Is this an all-or-nothing proposition, requiring that easements be sought for all three properties? He questioned this rationale.

Ms. Ludlow explained the applicable regulatory constraints.

Ms. Porter reminded the Council of the citizen comments that questioned the needs assessment in the first part of the plan and of staff's suggestion to allow for severability of the plan. She suggested that the Council should consider the second part of the plan which contained the designation of high priority areas for preservation as open space. Ms. Porter stated that the Council could move forward with the second half of the plan separate from the first half, noting that the committee was systematic in preparing the second half. She remarked she is still concerned about the inadequacy of notice to some of the residents affected by the plan, and emphasized that public notice should always be a top priority. She said that in response to the concern expressed by several citizens that easements may be a "cloud" on the property title, Corporation Counsel has advised that an easement would not be a "cloud". Ms. Porter stated she would be willing to put something in writing to ensure that easements will not be forced upon unwilling property owners.

Mr. Sharp noted that Takoma Park was mentioned in an environmental journal article, and remarked that even though this is the second public hearing on the Open Space Plan, staff must continue to get the word out to the public.

Mr. Williams suggested in regards to the properties owned by persons unwilling to grant easements, these properties should remain on the list of open space properties. It may be possible to obtain an easement on such a property at some time in the future if ownership should change.

Mr. Sharp said that the city is interested in purchasing some lots.

Mr. Williams clarified his remarks by adding that the city will in no way be forcing easements on property owners.

Mr. Elrich remarked he wants to be clear about the direction the Council will be taking by acting on the Open Space Plan.

Mr. Rubin commented that the committee worked on creating an "ideal" plan, and that now there needs to be a process of balancing the interests concerned. There should be a review of the balance between benefits to the city and detriments of an easement to a property owner, and between benefit of open space and purchase price.

Ms. Porter said that there needs to be a plan separate from the implementation of the plan.

Mr. Rubin stated that each property needs to be looked at one-by-one in consideration of various concerns.

Ms. Porter recognized that there are staff time considerations, but said that Mr. Rubin's concerns should be addressed in an implementation document. She remarked there is a difference in an "ideal" and "practical" plan, adding that the draft plan is the "ideal".

Mr. Sharp made note of the testimonies submitted in writing by persons unable to attend the public hearing, and began discussing a future date to return to this discussion. He said he is not sure what, if any, direction can be given to staff at this time, and suggested that the Council begin by working with the City Administrator on the eventual split of criteria and implementation of the plan. Mr. Sharp added that Mr. Rubin has raised several questions that merit further discussion.

Mr. Elrich said that the residents deserve clarity, and that the Council should be careful as they consider the specifics of the plan.

Mr. Sharp scheduled a continued discussion of the Open Space Plan for the Worksession on September 9, 1994.

### #3 Resolution re: Memorandum of Understanding (MOU) - Piney Branch Road.

Ms. Habada outlined some changes to the final agreement: (1) city will reimburse up to a \$120K cap, including overhead, for parking islands and sidewalks, (2) MOU requires payment of the \$120K in two installments of \$60K in FY95 and FY96, (3) project to begin in September 1994, (4) language change throughout the MOU--replace "municipal improvements" with "betterments", (5) State Highway Administration (SHA) agrees to coordinate with the Takoma Park Police Department regarding traffic during road construction, (6) insertion of "working" prior to "days" allowing the city "10 working days" to review and provide a written response to data and materials furnished the city by the SHA.

Mr. Sharp asked what is the percentage of overhead?

Ms. Habada responded that overhead will amount to approximately \$2K, and that \$118K will be the direct cost.

Ms. Habada continued to outline her recommendations in regards to the MOU: (1) accept the SHA proposal to bill the city for 50% of the total cost for municipal improvements at the time 50% of the improvements are completed, and (2) leave out the contractor's guarantee provision to repair construction imperfections and maintain the work for one year from the date of final acceptance of the municipal improvements, since federal funds do not allow for a guarantee. She added that the SHA agrees that since the road improvements are not a city project, the city cannot be held as a liable party for any claims, suits, damages, losses or expenses arising out of or resulting from the performance of the project.

Mr. Sharp clarified that federal monies are involved in the project.

Ms. Habada confirmed his statement.

Mr. Rubin moved the resolution with the addition of a resolved clause "...resolution will take effect upon receipt of final MOU from the State Highway Administration".

Ms. Habada concurred that she wants a description of the final MOU.

Mr. Rubin said that he is eager to see the resolution passed, but that the city has not yet received the final MOU. He suggested it be left up to the City Administrator whether to add his proposed resolved clause.

Mr. Sharp explained that the resolution is not effective until the city receives the final MOU from the SHA.

Mr. Rubin moved the resolution without amendment; seconded by Mr. Chavez.

Ms. Porter explained the project for the record, noting that the Piney Branch improvements are on the city's list of priority street improvements and that the funding will come from \$300K already dedicated for street improvements.

CITIZEN COMMENTS

Hank Cox said that the city owes a great deal of appreciation to Del. Peter Franchot for his assistance in this matter, and noted that residents of 56 homes gave their consent by signing a petition for the sidewalk repairs to be done.

The resolution was unanimously adopted.

RESOLUTION #1994-41  
(Attached)

#4 1st Reading Ordinance re: Municipal Building Emergency Generator. Moved by Ms. Porter; seconded by Mr. Chavez.

Mr. Sharp noted that the bid received from J&S Electric Corporation in the amount of \$23,000 exceeds the \$18,000 earmarked by the FY94 Budget Amendment No.1 in the Capital Improvements Budget for the replacement of the emergency generator.

Ms. Habada commented that it is expected that other equipment under the Capital Improvements Budget will come in under budget.

The ordinance was unanimously accepted at first reading.

ORDINANCE #1994-25  
(Attached)

#5 Resolution re: Elections Committee. Mr. Sharp explained the resolution that will establish an Elections Committee to make recommendations to the Council concerning the matters of filling Council vacancies and recalls. He proposed an amendment to the first resolved clause "...filling of Council vacancies and recalls".

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

The resolution was unanimously adopted.

RESOLUTION #1994-42  
(Attached)

#6 Resolution re: Committee on the Environment. Moved by Ms. Porter; seconded by Mr. Williams.

Mr. Sharp noted that the resolution authorizes the City Administrator to make future appointments to the committee.

Ms. Porter pointed out that there are now seventeen members on the committee.

The resolution was unanimously adopted.

RESOLUTION #1994-43  
(Attached)

ADJOURNMENT

The Council adjourned from Regular Session at 9:50 p.m., and moved into Worksession. Following adjournment from Worksession, the Council convened in Executive Session to receive a briefing on a disciplinary action.

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Executive Session 7/25/94 - Moved by Ms. Porter; seconded by Mr. Chavez. Council convened in Executive Session by unanimous vote at 9:55 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Chavez, Elrich, Porter, Williams (ABSENT: Davenport, Rubin). STAFF PRESENT: Habada, Hobbs, Phillips. Council received a briefing on a disciplinary action; no action was taken (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(i)).

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**MAYORAL PROCLAMATION**

**#1994 - 3**

**IN APPRECIATION OF MADELINE DOUGHERTY**

**WHEREAS,** *Madeline Dougherty has provided 20 years of continuous service as Resident Manager of Maple View Apartments, 7710 Maple Avenue, Takoma Park, Maryland; AND*

**WHEREAS,** *she was the first recipient of the Takoma Park Resident Manager of the Month award in 1986, a recognition program established by the city's Department of Housing and Community Development; AND*

**WHEREAS,** *with an apparent philosophy that tenants are to be treated as VIP's, their concerns and safety coming first, Ms. Dougherty has earned the love and respect of all building tenants; AND*

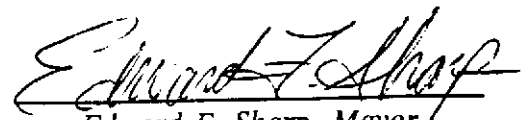
**WHEREAS,** *she always takes time to listen to and act upon tenant complaints; AND*

**WHEREAS,** *Ms. Dougherty's distinguished management and dedication, ensure that the building is maintained in a professional manner; AND*


**WHEREAS,** *in the wake of her departure, there will be "big shoes" and high expectations left behind to be filled, and the tenants of Maple View Apartments will surely miss her.*

**NOW, THEREFORE, I,** *Edward F. Sharp, Mayor of the City of Takoma Park, Maryland, on behalf of the Council, tenants of Maple View Apartments, community at large, and employees of the City, hereby commend Madeline Dougherty for her distinguished and dedicated service, and wish her every success and happiness in the months and years ahead.*

*Dated this 21st day of July, 1994.*

  
Edward F. Sharp, Mayor

**ATTEST:**

  
Beverly K. Habada, City Administrator

Introduced By: Mayor Sharp

**RESOLUTION OF CONDOLENCE**  
**#1994 - 40**

**WHEREAS,** Council was saddened to learn of the death on July 1, 1994, of John F. Kozel, a longtime resident and outstanding citizen of Takoma Park; AND

**WHEREAS,** among his numerous accomplishments and contributions to the community, Mr. Kozel served on the City Council from April 12, 1954, to April 14, 1958; AND

**WHEREAS,** Mr. Kozel will long be remembered for his devotion to community service; and his memory will be cherished by his colleagues and many friends, who share with his 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 citizens of the community, that we hereby extend to Mr. Kozel's family, this expression of heartfelt sympathy.

Adopted this 25th day of July, 1994.

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Edward F. Sharp  
Mayor

**ATTEST:**

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Thomas H. Espinosa  
Acting City Clerk

## GLENGARY LOTS IN OPEN SPACE PLAN:

Introduction- Catherine Tunis, Co-Chair Takoma Park Committee on the Environment and Chair, Natural Resources Subcommittee

I am here to ask you to include the three house lots off Glengary Place in the Open Space Plan with a recommendation for acquisition. These lots are naturally wooded, located directly between the Takoma Park Neighborhood Park and Sligo Creek Park and are currently on the market to be sold and developed.

We worked with the Open Space Committee about half-way through their work. Visited all the sites on the visit list, evaluated for environmental values, provided comments on the sites to the Open Space Committee. We also provided comments on the goals of the Plan (page 2). We thought they should enhance the last goal, "To protect the City's watercourses, important environmental lands and natural resources," to include protection of wildlife habitat and trees, especially because of trees' environmental values: air pollution reduction, temperature moderation, soil protection, watershed protection, and O<sub>2</sub>/CO<sub>2</sub> benefits (breathing and climate change).

The Glengary lots were not on the visit list--they had apparently missed being put on the list of sites evaluated. They clearly meet the criteria of being unimproved and over 4,000 sq. ft..

I did not realize until June, 1993 that these were privately-owned. I always assumed they were part of the Takoma Park Neighborhood Park. Neighbors told me at that time that they were strongly opposed to the lots being developed, mostly due to noise concerns. I sent a memo to the Council dated June 13, 1993 urging inclusion of these lots in the Open Space Plan. I accompanied the mayor and Council on a tour of the Open Space lots scheduled for easement or acquisition last September--the Glengary lots were included on the tour. At that time, the Mayor asked the Open Space Committee to include the Glengary lots in their recommendations. I made a formal request to Lisa Schwartz and the Open Space Committee by memo for their inclusion in the Open Space Plan with a recommendation for acquisition on June 14, 1994.

The Takoma Park Committee on the Environment fully supports this request. The lots have very high environmental values:

- o naturally wooded oak/hickory climax forest with beech, cherry and dogwood trees
- o located right in between two naturally wooded parks
- o habitat corridor for birds, wildlife
- o enhanced biodiversity in surrounding neighborhood due to corridor
- o steeply sloped--woods provide watershed protection (see contour map) (even Glengary place drains to side of lots)
- o rare birds documented (see Anne Becker's letter)

Development of these lots with houses would destroy these values. The lots are very steeply sloped on the back side and commercial development is expected soon on New Hampshire Avenue, precluding this area from serving as a habitat corridor. Once houses are erected, nothing can stop homeowners from having dogs, cats, fences, lawns, and pesticides.

Comparative Risk projects across the Nation have all found physical destruction of habitat to be the highest environmental risk--while only small areas are lost each year, there is a high degree of irreversibility and thus very high environmental damage. Local land use is the major factor causing this loss.

The M-NCPPC's Land Use Plan for Takoma Park (May 1982) considered this area as Special Study Area C (page 34). It recommended these lots for no more than single family residential use because of negative impact on the surrounding community from any higher use. It did not consider environmental values of the lots or the effect on the environmental values of the adjacent parks at all.

The lots currently have well-used hiking trails on them that connect directly to the trails in the Takoma Park Neighborhood Park. The connection to Sligo Creek and the planned hiker/biker trail is more tenuous (down the hill a few feet and across Sligo Creek Parkway) but loss of these lots would make that connection significantly more tenuous than it is now. Acquisition of these lots would solidify the current recreational use as well as the environmental values.

Marty notes that the goals stated in the Plan for Lake Street (page 19) already exist for the Glengary lots. There is existing hiking trails (currently illegal trespass) and it is used as a nature park for education and pleasure, "featuring an ecological system such as might have existed many years ago before development occurred." Unlike Lake Street, which is soon to become ecologically isolated, the Glengary lots are bounded on two sides by naturally wooded parks.

The local populace is very supportive of efforts to preserve these lots. The Heather Street neighbors strongly opposed development, mostly because they would lose their buffer from the noise and pollution on New Hampshire Avenue. They believed houses would create "sound tunnels" to channel noise from New Hampshire into their very tranquil neighborhood. SOSCA supported acquisition and preservation of the lots at their meeting with Lisa Schwartz and, additionally, said they would like to keep the Takoma Park Neighborhood Park in its current, undeveloped condition. We have a citizens petition, signed by 180 Takoma Park Citizens. Very few people asked (maybe 5 or 6) said they did not support acquisition. I have letters from Jack Carson (701 Auburn) who grew up in the area and Anne Becker (1013 Elm), who has documented her observations of birds in the area. I also received a phone call from Mrs. O'Donohue (Mildred, 1005 Sligo Creek Parkway, 270-3925) on Sunday, who asked me to convey her support of this



recommendation to you. (She said she is an elderly person and felt it would be too complicated for her even to call her Councilperson.)

I know the City has some concerns about how this acquisition would be financed. While I believe inclusion in the Open Space Plan is a separate question ("Should we do this?" vs. "HOW should we do this?"), if you do include the lots in the Plan for acquisition, the money question will need to be addressed soon. The asking price for the lots is \$40-50 K each. I've been doing a little research on this and have a few options that can be explored more:

- o Project Open Space money--the City's funds seem to be mostly committed now but the City receives about \$50 K per year allocated from Project Open Space.
- o Maryland Environmental Trust--has a no interest revolving loan fund; there must be a local land trust involved (Historic Takoma Trust has said they would help) and must have a 15% match.
- o Public Land Trust--willing to work with us.
- o Maryland ISTEPA fund--it may be more difficult to establish eligibility under this program, but we should the greenways characteristics, the scenic connection to Sligo Creek Parkway and New Hampshire Avenue, and the connection to the already approved Sligo hiker/biker trail project. A 50% match is required. "Maryland's policy is to place a priority emphasis on acquisition of scenic easements, greenways and scenic or historic sites, particularly those which are in danger of commercial development..."
- o An "affinity" credit card--Chevy Chase Bank would be willing to talk with us about such a card. We provide marketing/promotion opportunities for the card, they do the rest. If we had 1,000 people using a "Takoma Park Conservation Card," we could get \$10 to 13 K per year revenues according to their estimates.
- o Other support may be available to help with administrative costs.

In conclusion, I believe the Glengary lots would be an important--perhaps the most important--acquisition toward preserving Takoma Park's open space from an environmental perspective. I strongly encourage you to include them in the Open Space Plan for acquisition. And I would be happy to work with the City to help make the acquisition happen. Thank you.

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

**RESOLUTION #1994 - 41**

**WHEREAS**, the State Highway Administration (SHA) intends to make improvements to MD 320 (Piney Branch Road) from MD 410 (East-West Highway) to the Washington D.C. line; **AND**

**WHEREAS**, SHA improvement plans include the milling and resurfacing of MD 320; **AND**

**WHEREAS**, the City of Takoma Park, Maryland, has requested that, in addition to the improvements proposed by the SHA, removal and replacement of sidewalks and raised parking islands along MD 320 be included in the SHA's design and construction contract; **AND**

**WHEREAS**, a Memorandum of Understanding (MOU) to be jointly executed by the City of Takoma Park and the State Highway Administration has been proposed and generally provides for the addition of the construction of sidewalks and parking islands to SHA's MD 320 construction contract and specific guidelines as to how the contract will be executed in coordination with the City; **AND**

**WHEREAS**, the MOU further provides that the City will reimburse SHA for fifty percent (50%) of the total cost of the sidewalks and all costs incurred by SHA to construct the parking islands; **AND**

**NOW, THEREFORE, BE IT RESOLVED THAT** the City Council hereby agrees to the general and cost sharing provisions outlined in the Memorandum of Understanding (MOU) as they apply to the State Highway Administration and the City of Takoma Park, Maryland, as amended, as referenced in the City Administrator's letter to Mr. Walter Kowalsky as reflected in Council's agenda package dated July 22nd; **AND**

**BE IT FURTHER RESOLVED THAT** the City Administrator is given the authority to take the necessary steps to negotiate and execute the MOU on behalf of the City of Takoma Park, Maryland.

**ADOPTED** this 25th day of July, 1994.

**ATTEST:**

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Beverly K. Habada, City Administrator

1st Reading: 7/25/94  
2nd Reading:  
Effective:

Introduced by: Councilmember Porter

**ORDINANCE #1994- 25**  
**REPLACEMENT OF EMERGENCY GENERATOR**  
**IN MUNICIPAL BUILDING**

- WHEREAS, funds in the amount of \$18,000 have been earmarked, by FY 94 Budget Amendment No. 1 in the Capital Improvements Budget for the replacement of the emergency generator at the Municipal Building; AND
- WHEREAS, bids were solicited from qualified bidders and also advertised in the Washington Post; AND
- WHEREAS, four bids were received with the low bid being received from J & S Electric Corporation in the amount of \$23,500; AND
- WHEREAS, J & S Electric has agreed to deduct \$500 for the old generator thereby bringing the bid price down to \$23,000; AND
- WHEREAS, J & S Electric Corporation is considered to be both responsible and responsive.

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

- SECTION 1. THAT the low bid being received from J & S Electric Corporation in the amount of TWENTY THREE THOUSAND DOLLARS (\$23,000) be accepted; AND
- SECTION 2. THAT funds to cover this purchase in the amount of \$23,000 be charged to the Capital Expenditures Budget Account No. 9100.8001.

AYE:  
NAY:  
ABSTAIN:  
ABSENT:

Introduced By: Mayor Sharp

RESOLUTION #1994 - 42  
ESTABLISHING THE CITY OF TAKOMA PARK ELECTIONS COMMITTEE AND  
APPOINTING MEMBERS THEREOF

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

WHEREAS, the City of Takoma Park, Maryland, recognizes the need to establish a committee of citizen volunteers to make recommendations to the City Council concerning the filling of Council vacancies and recalls.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THAT the City of Takoma Park Elections Committee is hereby established, to make recommendations to the Council concerning the filling of Council vacancies and recalls; AND

BE IT FURTHER RESOLVED, THAT the following persons are hereby appointed as Members of the Takoma Park Elections Committee:

<u>Name</u>	<u>Address</u>
Edgar Adjahoe	8201 Roanoke Avenue
Rino Aldrighetti	7213 Central Avenue
Nick Arrindell	7115 Central Avenue
Kay Dellinger	7333 New Hampshire Avenue #702
Thomas Gagliardo	107 Hodges Lane
JoHanna Potts	1016 Heather Avenue
Joan Williams	7333 New Hampshire Avenue #1208S

Adopted this 25th day of July, 1994.

Introduced By: Councilmember Porter

RESOLUTION #1994 - 43

APPOINTING AN ADDITIONAL MEMBER 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, one additional person has expressed an interest in serving on this Committee.

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

<u>Name</u>	<u>Address</u>
Barry D. Solomon	414 Boston Avenue

AND BE IT FURTHER RESOLVED, THAT the City Administrator is hereby authorized to make future appointments to the Committee on the Environment.

Adopted this 25th day of July, 1994.