

**SPECIAL SESSION, WORKSESSION AND EXECUTIVE SESSION  
OF THE CITY COUNCIL**

Monday, August 1, 1994

**OFFICIALS PRESENT:**

Mayor Sharp	City Administrator Habada
Councilmember Chavez	Deputy City Clerk Espinosa
Councilmember Davenport	Public Works Director Knauf
Councilmember Elrich	DHCD Director Nance-Sims
Councilmember Porter	Asst. Dir. for Special Projects Ludlow
Councilmember Rubin	
Councilmember Williams	

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)).

The Council convened in Worksession at 7:45 p.m. on Monday, August 1, 1994, in the upstairs meeting room at the Municipal Building, 7500 Maple Avenue.

**CITIZEN COMMENTS**

Mr. Mark Stahr announced that AIDSWALK 1994 will be held on Saturday, September 24, and that he is helping Whitman-Walker Clinic recruit walkers for the event. He thanked Volunteer Coordinator Broadwater for her recruitment assistance. Mr. Starr noted that he will be writing an article about AIDSWALK 1994 for the "Takoma Voice". He asked Council to support the event.

Ms. Porter asked if a "city team" of walkers could enter the walk.

Mr. Rubin suggested that the Council designate the team members.

Mr. Stahr encouraged the Council to pursue forming a team of city residents to participate in AIDSWALK 1994.

**SPECIAL SESSION****#1 Adoption of Minutes.**

It was noted that copies of the minutes for 6/13/94 are missing page 4.

Moved by Ms. Porter; seconded by Mr. Sharp. The minutes for 6/13/94, 6/30/94 and 7/11/94 were unanimously adopted.

**#2 2nd Reading Ordinance re: Municipal Building Emergency Generator.** Moved by Ms. Porter; seconded by Mr. Rubin.

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

ORDINANCE #1994-25  
(Attached)

**#3 Single Reading Ordinance re: Stormwater Management Contract.** Moved by Ms. Porter; seconded by Mr. Rubin.

Mr. Sharp noted the substantial differences in the bids received for the

capital improvement project on Elson Place.

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

ORDINANCE #1994-26  
(Attached)

#4 Resolution re: Agreement - Boyd Avenue Alley. The item was removed from the evening's agenda.

#5 Resolution re: 7071 Carroll Avenue. Mr. Sharp explained that the resolution is in regards to a parking waiver application filed by Ms. Linda Pompa with the Montgomery County Department of Environmental Protection. He further noted the three resolutions that have been provided for the Council's consideration: (1) recommending approval with conditions, (2) recommending denial, and (3) taking no position, regarding the application. Mr. Sharp said that the Council has the freedom to make a choice regarding its position.

Mr. Williams moved the resolution "recommending approval with conditions"; seconded by Mr. Rubin.

Mr. Williams commented that the applicant has shown a great willingness to work with the community and will likely continue as such. He stated that the neighbors in and around the Takoma Junction area want a cafe-style operation as proposed by Ms. Pompa. He remarked that permit parking could be contemplated for the area, noting that it would generate income for the city.

Ms. Porter stated that the larger issue is not the parking waiver, but the insufficient parking in the Takoma Junction area. She said that the current problem of inadequate parking has not been resolved, and questioned whether the approval of a parking waiver would only add to the existing problem. Ms. Porter emphasized that the residents in the proximity of Takoma Junction have priority for parking.

Mr. Williams supported the remarks made by Ms. Porter. He agreed that the problem is larger than the issue at hand, the parking waiver application. However, he noted that the parking waiver will help economic development, another concern for Takoma Junction.

Ms. Porter recognized the "chicken-and-egg" dilemma of both resolving the parking problems and fostering economic development in Takoma Junction. She asked whether the Council will be creating a problem a year from now by supporting the parking waiver today.

Mr. Williams stated that the Takoma Old Town Business Association (TOTBA) supports the waiver.

Mr. Chavez asked if there is any problem with parking in the adjacent neighborhoods.

Mr. Sharp recommended that Mr. Chavez speak with Mr. Williams in regards to his question.

Mr. Williams acknowledged that parking can be a problem in and around Takoma Junction, but emphasized that the need for businesses in the area is a greater problem.

Mr. Rubin remarked that he and Mr. Williams have been meeting with TOTBA, and commented that any business that considers opening in the area will face a parking problem. He noted four businesses that have attempted and failed at operations in the area.

CITIZEN COMMENTS

Leon Trager stated that he owns property next to the proposed restaurant, and asked how the plan for the parking waiver could work. He noted that he has in excess of 40 years experience in real estate, and that he does not believe the proposed plan is feasible. He questioned what patron is going to want to back up 135 feet to get out of the parking lot. Mr. Trager said that if a restaurant is developed on the site, inadequate parking will kill the patronage of neighboring businesses, resulting in a loss for everyone. He commented on the competitive nature of a restaurant, and said that if the neighbors are adversely affected by parking problems, they will be unlikely

patrons. Mr. Trager noted the proposed configuration of the cafe, pointing out the impacts on his adjacent property. He said that he would like to see Ms. Pompa succeed in her restaurant venture, but remarked that she did not approach him or the neighbors in an attempt to work-out the parking problem.

Joe Ulein, 11 Pine Avenue said that his property abuts the proposed restaurant site, and emphasized that there is already a parking problem on Pine Avenue which will only be exacerbated by the cafe. He stated that he does not want his property to feel the impact of this development, and does not want the parking problems increased. Mr. Ulein commented on a problem with rodents associated with a dumpster that is located on the proposed site.

Elaine Orr remarked that she likes the idea of the proposed restaurant, but would like some kind of a trade-off. She noted the existing problems with parking in the neighborhood and the growing sentiment for permit parking. Ms. Orr suggested that the city consider implementing road barrier markings, as were painted on Walnut Avenue, along Pine Avenue. She said that she does not want to see more speed humps, and proposed the possibility of remote site parking for the restaurant, recognizing that there may be security concerns. She encouraged the council to look at options that could make this proposal more workable.

Linda Pompa (applicant) stated that in regards to the dumpster, the site plan is not final, and that she is open to ideas regarding the placement of the dumpster. She noted that Montgomery County has strict standards governing dumpsters. She acknowledged the potential impact of patron parking in the adjacent neighborhood and supported the idea of instituting residential permit parking that would possibly allow for 2-hour patron parking. Ms. Pompa explained that the cafe will not be a full service restaurant, and that the greatest patronage is expected to be pedestrians. She said that the planned seating for the restaurant resulted in the need for a parking waiver to meet the subsequent parking requirements. Ms. Pompa emphasized that she would very much like to be a part of the economic development in Takoma Junction. She explained that she did not approach Mr. Trager regarding parking because it appeared that his lot was well utilized. Ms. Pompa noted that restaurants often apply the street parking spaces within a 500 foot proximity to the required number of spaces for their development in order to meet the requirements.

Mr. Sharp asked if this means that her parking waiver is not for as many spaces as thought.

Ms. Pompa responded in the affirmative.

Bill Kules stated that he is not present on behalf of the B.F. Gilbert Citizens Association, but as a resident. He said that Ms. Pompa has made a good-faith effort to contact the community about her proposal. He remarked that whether or not the parking waiver is approved, the matter of parking in Takoma Junction needs to be addressed. Mr. Kules commented that every waiver applied for should not be approved, pointing out that the waiver process enables the community to get involved. He encouraged Ms. Pompa and Mr. Trager to work together.

Roy Kahn, Chair of Last Takoma Junction Committee said that the committee has no official position on Ms. Pompa's plan. He remarked that if the neighborhood issues are resolved (e.g. dumpster, etc.), then the Council should work with Ms. Pompa and the community to resolve some of the anticipated parking problems.

Jan Schwartz (business owner on Carroll Avenue) remarked that she would like to see the development of a restaurant. She suggested that the parking meters in the vicinity of Old Town be made 2-hour limits, and that the city should investigate an agreement with Nations Bank to use a portion of its lot for public parking.

Mr. Trager questioned the remarks made by Ms. Pompa regarding the applicability of the 500 feet of street parking spaces.

Mr. Sharp asked for staff clarification.

Assistant Director for Special Projects Ludlow confirmed that Ms. Pompa's comments seemed accurate.

(Mr. Elrich arrived at 8:35 p.m.)

Mr. Rubin made several comparisons. He addressed Mr. Ulein, and said that he

does not recall there having been objections to the recent parking waiver for 7063 Carroll Avenue.

Mr. Ulein said that he does not object to the proposed restaurant, but that he would like to note the buffer landscaping of the 7063 Carroll Avenue site.

Mr. Rubin asked whether there had been a parking problem associated with GreenGoods and Takoma Traders.

Ms. Orr responded in the negative. She stated that she is concerned about the times of day when there will be traffic associated with the proposed restaurant.

Mr. Rubin asked Ms. Pompa what will be the hours of operation.

Ms. Pompa said that the hours are open to discussion with the neighbors. She proposed being open until 8:00 or 9:00 p.m. on weekdays and 11:00 or 12:00 midnight on weekends. She emphasized, however, that she is not looking to operate a "late-night hangout".

Mr. Rubin questioned the anticipated type of traffic--pedestrian vs. automobile.

Ms. Pompa reiterated that she expects a large number of pedestrians. She said that the focus is on catering to commuters when other businesses are closed. She commented, for example, that she wants to provide carry-out dinner for persons passing by on their way home.

Mr. Sharp noted that the Council needs to take a position on the parking waiver application this evening.

Ms. Pompa noted that the development proposal includes a solid wooden fence that would act as a buffer.

Mr. Sharp commented that the staff may have some ideas regarding a recommendation for approval of the parking waiver with conditions, and that community impact issues need to be considered in the direction given to staff.

Mr. Rubin asked whether permit parking can be tied into the conditions of approval.

Mr. Sharp explained that the neighborhood will need to petition the Council regarding permit parking.

Ms. Porter said that the Council might want to consider both the options of residential permit parking and a 2-hour parking zone.

Mr. Rubin concurred.

Ms. Porter asked whether staff has time to review these options.

Ms. Ludlow noted the Technical Review Committee's process for reviewing "simple" issues, but stated that a more complex matter might require a traffic engineer.

Mr. Davenport asked whether Ms. Pompa is considering a delivery service in conjunction with her restaurant operation.

Ms. Pompa responded that she has considered the idea.

Mr. Williams questioned whether there is a lighting requirement for the development.

Ms. Pompa responded in the affirmative, and directed his attention to the site plan.

Mr. Williams asked if there is a possibility of putting the dumpster in the garage, freeing up parking space and alleviating some concern regarding the potential rodent problem.

Mr. Rubin suggested that the Council call for a joint committee made up of the Pine Avenue residents, staff and Ms. Pompa to address the matters discussed this evening.

Mr. Sharp confirmed with Ms. Pompa that her application will come before the

Montgomery County authorities on 8/30/94.

Ms. Porter questioned whether a joint committee is necessary.

Mr. Rubin responded that the Council needs to ensure that community input has been heard and addressed.

Mr. Sharp noted that the Park & Planning Commission has requirements for the consideration of community concerns.

Ms. Orr commented that Ms. Pompa is approachable, and therefore, a committee is probably not necessary.

Mr. Sharp suggested that a provision be added to the resolution stating that the Park & Planning Commission will consult with the city staff on the development project.

Ms. Porter queried if the Council wants the Park & Planning Commission involved?

Mr. Sharp stated that the Park & Planning Commission makes the decision on the waiver application in consideration of the city's position on the matter. Therefore, he concluded that the commission should coordinate with staff on the landscaping plan.

Mr. Williams supported Mr. Sharp's suggestion to add a provision regarding the Park & Planning Commission coordinating with the city staff.

Ms. Habada asked for clarification as to whether the Council is suggesting that staff proceed with preparing a plan for dealing with the issues.

Ms. Porter stated that she does not want the Park & Planning Commission to get involved in second guessing the city's concerns or position.

Ms. Habada remarked that the Department of Environmental Protection (DEP) will be responsible for making the decision on the waiver application.

Mr. Rubin proposed the addition of a "resolved clause" following the first: "...that the Department of Environmental Protection coordinate their decision on the waiver with the staff in light of the effort being made to ameliorate parking conditions on city streets."

Ms. Habada asked what will happen if the DEP does not concur. She pointed out that Ms. Pompa would then have to request a continuance.

Ms. Pompa remarked that the DEP generally defers to a city's position in matters of this kind.

Mr. Rubin questioned whether it is up to the city staff to determine whether parking issues between Ms. Pompa and the neighbors are being addressed.

Mr. Williams said that the Council needs to keep the community issues in mind.

Mr. Sharp stated his desire for Mr. Trager and Ms. Pompa to discuss the development plan, and asked whether it is necessary for this to be a provision of the resolution. He said he would hope the Council could rely on the good faith of the two parties to discuss their differences.

Ms. Porter said that the burden is on the Council to commit to amelioration of the problems, and that it should be addressed between city staff and the community.

Mr. Williams remarked that taking a position in support of the parking waiver, the Council is indicating that it wants to solve the associated problems.

Mr. Elrich suggested that staff should address the problems, stating that Ms. Pompa should not be expected to take on the Council's responsibility to lead the resolution of the problems.

Ms. Porter applauded Ms. Pompa for her efforts and the time she has spent discussing her development plans with the community.

Mr. Davenport recalled the citizen comment regarding the possibility of utilizing some of the Nations Bank parking as public parking, and asked that

staff investigate this possibility.

Mr. Elrich requested that staff analyze dropping the fees for permit parking.

Ms. Pompa stated that in regards to the Nations Bank parking lot proposal, the owner is not interested in working out any deals.

Mr. Sharp called the question on the resolution "recommending approval, with conditions", unamended.

The resolution was unanimously adopted.

RESOLUTION #1994-44  
(Attached)

Mr. Sharp made an announcement about the Hazmat Report, and instructed staff to come to a conclusion about the procedures that would be followed in the occurrence of such an event.

Ms. Porter asked that staff pursue some understanding with the Takoma Park Volunteer Fire Department (TPVFD) in regards to Hazmat procedures.

#6 Resolution re: Exceeding 25% Change Order Limit for Street Construction Contract. Mr. Sharp explained the resolution.

Ms. Porter asked whether the city has had a good response record with NZI Construction, Inc.

Mr. Knauf responded in the affirmative, stating that NZI Construction, Inc. has been very good. He said that if the city were to re-bid the FY95 street work, the contract would most probably again be awarded to NZI Construction, Inc.

Moved by Mr. Sharp; seconded by Mr. Chavez.

The resolution was unanimously adopted.

RESOLUTION #1994-45  
(Attached)

ADJOURNMENT

The Council adjourned from Special Session at 9:19 p.m., and moved into a Worksession. Following adjournment from the Worksession, Council convened in Executive Session at 10:50 p.m. to discuss land acquisition.

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Executive Session 8/1/94 - Moved by Mr. Rubin; seconded by Ms. Porter. Council convened in Executive Session by unanimous vote at 10:50 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Chavez, Davenport, Elrich, Porter, Rubin, Williams. STAFF PRESENT: Habada, Grimmer, Hobbs, Perlman, Espinosa. Council discussed a potential land acquisition; no action was taken (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(3)).

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1st Reading: 7/25/94  
2nd Reading: 8/01/94  
Effective: Immediately Upon Adoption

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.

Adopted this 1st day of August, 1994.

AYE: Sharp, Chavez, Davenport, Porter, Rubin

NAY: None

ABSTAIN: None

ABSENT: Elrich, Williams

ORDINANCE NO. 1994-26

TAKOMA/LANGLEY ALLEYS AND DRAINAGE IMPROVEMENTS

- WHEREAS, Prince George's County has allocated \$114,842 in Program Year 18 and \$67,388 in Program Year 19 to the City through the Community Development Block Grant Program for alley and drainage improvements at the Takoma/Langley Crossroads Shopping Center; AND
- WHEREAS, in accordance with City Procurement procedures a Request for bids was advertised in the Washington Post, Dodge Report, and Blue Reports; AND
- WHEREAS, one bid was received and publicly opened at 2:00 pm, August 12, 1994; AND
- WHEREAS, the sole bidder is considered to be responsive and responsible; AND
- WHEREAS, based on the unit costs of the sole bidder, the allocated funds are sufficient to accomplish the authorized work on the alleys and drainage improvements.

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

SECTION 1. THAT the bid received from NZI Construction in the amount of ONE HUNDRED FORTY SEVEN THOUSAND ONE HUNDRED FIFTEEN DOLLARS (\$147,115) be accepted; AND

SECTION 2. THAT funds to cover this work in the amount of ONE HUNDRED FORTY SEVEN THOUSAND ONE HUNDRED FIFTEEN DOLLARS (\$147,115) be charged as follows:

PRINCE GEORGE'S COUNTY	ACCOUNT NO. 0010 6821 (\$114,842)
PRINCE GEORGE'S COUNTY	ACCOUNT NO. 0010 6828 (\$67,388)

ADOPTED THIS 12th DAY OF SEPTEMBER, 1994

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

NAYS: None

ABSTAIN: None

ABSENT: Elrich



Introduced By: Councilmember Williams

Resolution No. 1994-44

**Resolution Recommending Approval, With Conditions,  
of a Parking Waiver Application  
for 7071 Carroll Avenue, Takoma Park**

WHEREAS, Ms. Linda M. Pompa has submitted an application for parking waivers to the Montgomery County Department of Environmental Protection for the property located at 7071 Carroll Avenue, Takoma Park; AND

WHEREAS, the applicant is seeking to develop the property as a cafe-restaurant and seeks the requested waivers because the parking and landscaping requirements cannot be met on the site; AND

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

WHEREAS, the application has been reviewed by City staff, which has provided its findings to the Council in the pertinent staff report dated July 15, 1994; AND

WHEREAS, the City has provided public notice and the Council has taken public comment on this matter;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND, THAT, the City Council hereby **supports** the parking waiver application and recommends that the Department of Environmental Protection **Approve** the application, **With Conditions**, for the following reasons:

--Strict adherence to the standards for parking lots in the Zoning Code is not possible at this property for the restaurant use proposed.

--The applicant has provided the maximum number of spaces possible for the site.

--No additional off-street parking is available.

--Street parking is available in the area that could serve the needs of the proposed use.

--The property is located in the Takoma Old Town Business District, which is well-served by public transportation and encourages pedestrian traffic.

--The proposed cafe-restaurant would greatly enhance both the subject property and the economic development of the Takoma Old Town business district.

BE IT FURTHER RESOLVED THAT the Council recommends that the Department of Environmental Protection also impose the following Conditions on approval of the application:

1. Require that M-NCPPC coordinate with City staff concerning the type and variety of landscaping for the front of the property.
2. Require that the parking waiver be restricted to the current application and type of restaurant.

BE IT FURTHER RESOLVED THAT the City Administrator is hereby directed to transmit a copy of this Resolution to the appropriate Montgomery County authorities.

ADOPTED THIS 1ST DAY OF AUGUST, 1994.

Introduced by; Mayor Sharp

Resolution 1994-45

- WHEREAS bids were recently received for a contract to accomplish various street rehabilitation throughout the City pursuant to the FY94 Capital Improvement Programs; AND
- WHEREAS, the Council accepted the low bid from NZI Construction, Inc. for this work; AND
- WHEREAS, the Council authorized a contract award to NZI Construction, Inc. for this work in the amount of \$269,638; AND
- WHEREAS, the NZI Construction, Inc. has performed satisfactorily on this and other contracts in the City; AND
- WHEREAS, the NZI construction, Inc. bid for FY94 streets work was approximately 11% and 34% below the engineer's estimate and the next low bid respectively; AND
- WHEREAS, it is the Director of Public Works judgment that bidding the FY95 street work will unlikely be more economical than negotiating and performing the work by these change orders; AND
- WHEREAS, the City Improvement Regulations provide for Change Orders to existing contracts above a 25% limit with the approval of Council; AND
- WHEREAS, FY95 Capital Improvement funds in the approximate amount of \$240,000 will be available for street related work.

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, that the Director of Public Works is authorized, pursuant to section R3-106.01 of the Procurement Regulations relating to construction contracts, to accomplish the FY95 Street Rehabilitation Program by change orders to contract No. PW94-8 in an approximate amount of \$240,000, and for an aggregate change order amount of approximately \$286,000 to contract No. PW 94-8, or approximately 106% of the initial contract.

BE IT FURTHER RESOLVED, that the Director of Public Works will exercise this authority only pursuant to consultation with the City Administrator, relative to the cost, specific streets, and scope of work throughout the City to be accomplished.

Adopted this 1st day of August, 1994.