

**INTERVIEWS, PUBLIC HEARING, SPECIAL SESSION, WORKSESSION
AND EXECUTIVE SESSION**

Monday, April 7, 1997

Executive Session 3/24/97 - Moved by Elrich; seconded by Porter. Council convened in Executive Session by unanimous vote at 10:12 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Chavez, Davenport, Elrich, Porter, Rubin, Williams. STAFF PRESENT: Habada, Grimmer, Sartoph, Perlman. (1) Council discussed litigation, and directed staff on how to proceed. (2) Staff members left the session, and the Council continued with a discussion of the City Administrator's evaluation. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(8) and (1)(i)).

OFFICIALS PRESENT:

Mayor Sharp

Councilmember Chavez

Councilmember Davenport

Councilmember Elrich

Councilmember Porter

Councilmember Rubin

Councilmember Williams

City Administrator Habada

City Clerk Sartoph

Public Works Team Leader Shafer

Planning Center Coordinator Ludlow

Planner George

Community Development Coordinator Sickle

COLTA Executive Director Lee-Bryant

The City Council convened at 7:38 p.m. in the upstairs meeting room of the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland.

COUNCIL COMMENTS

Councilmember Rubin introduced a woman who is visiting Takoma Park from the Czech Republic, sponsored through the National Academy of Public Administration, to study public administration.

INTERVIEWS

1. Public Safety Citizens Advisory Committee. The Council interviewed Rino Aldrighetti, Marie Ritzo and Doug Tursman.

2. Personnel Appeals Board. Gary Reisner was not present for the interview. City Clerk Sartoph will contact Mr. Reisner to reschedule the interview.

SPECIAL SESSION

Moved by Williams; seconded by Davenport. The Council convened in Special Session.

3. Single Reading Ordinance re: Elevator Consultant. Public Works Team Leader Shafer explained that the Municipal Building elevator was installed in 1971. The elevator has a life expectancy of 20 years and recently, has undergone major repairs. He stated that staff has received a lot of advice to rehabilitate the elevator, and noted that the City also needs to bring the elevator into compliance with the ADA requirements.

City Administrator Habada described an incident involving the Recreation Director entering the elevator and without her pushing any buttons, the elevator slipped from the ground floor to the basement level.

Councilmember Rubin asked if the elevator is unsafe.

Mr. Shafer responded that while there is no reason to be alarmed, the elevator does need to be evaluated. Some parts are obsolete and unreplaceable.

Moved by Williams; seconded by Davenport.

Mr. Rubin commented that in preparation for this discussion he took a ride on the elevator earlier this evening and that it seemed to be functioning well.

Mr. Shafer said that the elevator is inspected annually by a State Inspector. Last year, the City was required to re-secure the cab. There were concerns about the controls and hydraulic system. He remarked that there also needs to be a better way to collect the oil, explaining that currently, it spills out into the pit. Mr. Shafer stated that the Southeastern controls are out-of-date. He commented that the recommended consultant is under contract with Montgomery County. Mr. Shafer said that he hoped to piggyback the County's contract for this consultant, but also noted that there was another consultant proposal submitted. The second quote was higher.

Councilmember Porter questioned whether the contract will be based on an hourly rate.

Mr. Shafer explained that there will be an hourly rate, but that the total will not exceed the contract budget being requested. He described the consultant's work with Montgomery County, and concluded that he would also like to see this consultant help the City with regular inspections.

Ms. Porter anticipated that the outcome to this project will be some major elevator rehabilitation.

Councilmember Davenport commented that as a one-time manager of a high rise building that had antique elevators, he thinks this is a great idea. He encouraged staff to seek a vendor who has parts on hand at affordable prices, is a qualified technician, and offers a warranty/guarantee, if possible.

Mr. Shafer remarked that the City currently has an annual contract with a consultant who comes out to do yearly maintenance on the elevator, but explained that he does not feel comfortable

developing a proposal by himself or even with the assistance of this company. He concluded that this is the reason staff is requesting approval to contract the recommended consultant.

Ordinance #1997-10 was adopted unanimously, awarding a contract to Robert L. Seymour & Associates, Inc. in the amount of not to exceed \$8,800, from the Contract Services Account #3100-6145 (VOTING FOR: Sharp, Chavez, Davenport, Porter, Rubin, Williams; ABSENT: Elrich).

ORDINANCE #1997-10
(Attached)

WORKSESSION/ ADJOURNMENT

The Council moved into Worksession at 8:26 p.m. Following the Worksession, the Council immediately convened in Executive Session. The Council later adjourned for the evening.

EXECUTIVE SESSION

Executive Session 4/07/97 - Moved by Elrich; seconded by Davenport. Council convened in Executive Session by unanimous vote at 10:25 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Chavez, Davenport, Elrich, Porter, Rubin, Williams. STAFF PRESENT: Hobbs, Sartoph, Silber. Staff consulted with Council on items related to (1) personnel matters and (2) litigation. Council directed staff on next steps. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(i) and (8)).

Introduced by: Councilmember Williams

Adopted: 4/7/97
(Single Reading)

ORDINANCE NO. 1997 - 10
CONSULTANT SERVICES FOR EVALUATION OF
ELEVATOR INSTALLED IN THE CITY BUILDING

WHEREAS, the City requires Consultant services to evaluate and subsequently develop specifications to renovate a hydraulically operated passenger Elevator (Barbee Curran) which was installed in the City Building in 1971; AND

WHEREAS, City personnel have limited knowledge in the field of Elevator standards and the complexity of the equipment; AND

WHEREAS, it is recommended by Public Works Team Leaders that contracting an outside source to accomplish this will better serve the City's needs; AND

WHEREAS, Robert L. Seymour & Associates, Inc, a Vertical Transportation Consultant, is currently under contract with Montgomery County ; AND

WHEREAS, the City has been offered the opportunity to piggy back on Montgomery County's contract for the same hourly rate; AND

WHEREAS, the City will be billed monthly based on time spent using Montgomery County's hourly fee schedule and option of contracting for additional services as needed; AND

WHEREAS, the City would like to proceed with Robert L. Seymour & Associates for the first phase "Design Services" at a cost not to exceed EIGHT THOUSAND AND EIGHT HUNDRED DOLLARS (\$8,800); AND

WHEREAS, funds are available to address these services in the Contract Services Account No.3100-6145.

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

SECTION 1. THAT authority be granted to award a contract to Robert L. Seymour & Associates, Inc. in the amount of not to exceed EIGHT THOUSAND AND EIGHT HUNDRED DOLLARS (\$8,800); and.

SECTION 2. FURTHER THAT funds to cover this procurement in the amount of EIGHT THOUSAND AND EIGHT HUNDRED DOLLARS (\$8,800) be authorized from the Contract Services Account # 3100-6145.

Adopted this 7th day of April, 1997 by Roll Call Vote:

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

NAY: None

ABSTAINED: None

ABSENT: Elrich

**INTERVIEW, PUBLIC HEARING, REGULAR MEETING
WORKSESSION AND EXECUTIVE SESSION**

Monday, April 14, 1997

Executive Session 4/07/97 - Moved by Elrich; seconded by Davenport. Council convened in Executive Session by unanimous vote at 10:25 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Chavez, Davenport, Elrich, Porter, Rubin, Williams. STAFF PRESENT: Hobbs, Sartoph, Silber. Staff consulted with Council on items related to (1) personnel matters and (2) litigation. Council directed staff on next steps. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(i) and (8)).

OFFICIALS PRESENT:

Mayor Sharp	City Administrator Habada
Councilmember Chavez	Assistant City Administrator Hobbs
Councilmember Davenport	City Clerk Sartoph
Councilmember Elrich	Planning Center Coordinator Ludlow
Councilmember Porter	Senior Planner Schwartz
Councilmember Rubin	Volunteer Coordinator Moffet
Councilmember Williams	COLTA Executive Director Lee-Bryant

The City Council convened at 7:35 p.m. in the Council Chambers of the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland.

Local Cub Scout Troop (Den 2, Pack 33) which has been studying citizenship, took a tour of the Municipal Building early in the evening and led the Council and audience in the Pledge of Allegiance.

Following the Pledge of Allegiance, these remarks were made:

ADOPTION OF MINUTES -- Adoption of Council Meeting Minutes from 3/24 was postponed until 4/28. (Minutes were not distributed in Council packages.)

CITIZEN COMMENTS

Benjamin Onyeneke, Maple Avenue, remarked about violent activities in local schools, and urged residents to take a more responsible role in monitoring youth exposure to violence, pornography, etc.

REGULAR MEETING

1. Resolution re: City Volunteers. (Introduced by Mayor Sharp) Mr. Sharp said that he is always astounded at the annual number of volunteer hours, adding that it is a testimony to the kind of people who live in the City.

Councilmember Porter commented on the capabilities and skills of City volunteers, and stated that it is wonderful that so many people are willing to donate their expertise to the City at no cost. She remarked that officials from other jurisdictions are always amazed at the amount of work that volunteers put in for the City. It is a tribute to the Takoma Park community. She expressed her gratitude.

Councilmember Davenport added his appreciation, emphasizing that many people have no idea about the commitment and amount of work put in by the City's volunteers.

Councilmember Rubin expressed his appreciation to the volunteers. He said that he is of the opinion that whatever the charge, the City is the best "at it". He remarked that the Council and staff depend upon citizens to help run the City, and that this approach pays off evidenced by the many people who participate. He reiterated Mr. Davenport's statement that volunteers are not only a model for other communities but also for other residents in the City (e.g., Cub Scouts here this evening).

Lonni Moffet, Volunteer Coordinator, invited volunteers to come forward and be recognized as a group.

Benjamin Onyeneke, Maple Avenue, supported adoption of the resolution, commented that volunteering builds a community, and thanked the volunteers.

Resolution #1997-18 was adopted unanimously, expressing appreciation and commending service of City volunteers. (VOTING FOR: Sharp, Chavez, Davenport, Porter, Rubin, Williams; ABSENT: Elrich)

RESOLUTION #1997-18 (Attached)

INTERVIEW

2. Personnel Appeal Board. The Council interviewed Gary Reisner.

PUBLIC HEARING

3. Montgomery College Expansion Plan -- New Proposals. Senior Planner Schwartz noted a written statement for the record received from Rosa Gwinn, pointed out that Mr. White is here

representing Montgomery College, and stated that the previously advertised Worksession discussion has been moved from April 21 to April 23 (next week). (NOTE: The April 23 meeting was rescheduled for April 24.)

Joseph White, Montgomery College, summarized written testimony (attached). He suggested that the Council provide the Board of Trustees with its “best advice” in the form of a letter or resolution. The Council should also state a preference for one of the two Concept Plans. The Board would be comforted if it could hear recognition from the City that the College does have a problem that needs to be addressed, and receive an indication of the City’s willingness to work through problems that will arise in the future. The college is interested in improving its image (i.e., providing a gateway to the campus and some green space). There has been a community willingness to talk about problems (e.g., double barrier if the college were to expand in the direction of Georgia Avenue--bridge Fenton Street, relocate the street close to the railway, traffic calming measures). An evaluation of options would need to be done by an architect. Mr. White also explained the need for the college to have priority consideration in scheduling athletic activities which would be conducted in the Jesup/Blair Park. The college is interested in a “monumental” bridge--something that makes a statement and not just a “form with function.” He remarked about the possibility of the college requesting an exception to the zoning ordinance (i.e., height restriction) along Fenton Street.

Mr. Rubin presented Mr. White with a copy of the resolution adopted by the Council on February 3, and summarized its contents. Mr. Rubin noted the occurrence of the first meeting of the Town and Gown Committee, and explained that this group has recommended that the Council adopt another resolution in line with the requests made by Mr. White. The resolution would express the City’s desire to further discuss the points made in the first resolution.

Randy Boehm, Co-Chair North Takoma Citizens Association (Co-Chair of Gateway Coalition), stated that NTCA strongly supports retaining the campus in North Takoma Park and expanding the campus into South Silver Spring. The association supports building a pedestrian bridge. He said that from the South Silver Spring point of view, it is important to realize that the college would not just be moving into a void. The Gateway Coalition has been active for the past three years. There is a wonderful community for the college to move into. The Coalition has already been responsible for a couple of successful initiatives (i.e., new road through park, major improvements to the park, likely establishment of a community development corporation, tot lot, etc.). The Coalition has looked at the college as an important factor in revitalization. He commented on the merits of the college bridging into the park, concluding that the college would be saving the park by going with Concept Plan 1. The Gateway community is supportive of the college’s need to potentially build in the park; so, the community would not be shocked. The college would provide a splendid architectural presence in South Silver Spring and an entrance into Montgomery County. The direct economic impact of this is not expected to be great; however, the image of a safe and vital place would ultimately draw business back to South Silver Spring. Therefore, the community impact is enormous. Mr. Boehm supported Concept Plan 1.

Lorraine Pearsall, Takoma Avenue, expressed her relief that Historic Preservation regulations would not need to be waived for the college. The neighborhood supports the college expansion and is happy with the new relationship which lends itself to working things out with the college. She remarked about options for Fenton Street, and expressed her confidence that together, the college and community can work around problems. She supported the notion that the college should have priority scheduling in the park.

Benjamin Onyeneke, Maple Avenue, said that he supports Concept Plan 2, on behalf of the young people. The future of young people is depending on a new facility, not a renovation. He concluded that the neighborhood should not play a part in depriving the new generation of a more advanced facility.

Mr. Sharp thanked the speakers. He noted that Mr. Rubin thought, as a result of the Town and Gown Committee meeting, there might be a consensus of thoughts that could be put in the form of a resolution for the Council's consideration.

Mr. Rubin volunteered to work with Ms. Schwartz to formulate a resolution that conveys the position of the neighborhood and Council. He praised Ms. Schwartz's efforts in regards to the matter of the Montgomery College Expansion Plan.

The public hearing was closed at 8:25 p.m.

REGULAR MEETING

4. Resolution re: Unification-related Sectional Map Amendment and Grandfathering Text Amendments. Planning Center Coordinator Ludlow said that based on the Council's discussions, she drafted a resolution recommending approval of the proposed amendments. She explained the couple of areas where there are still differences, and noted the conditions in the resolution. She described her conversation with Ms. Porter about re-zoning (R18 to R30) along Flower Avenue. The proposed R30 zone would increase the density. Ms. Schwartz explained a proposal to only down-zone (to R40) the properties discussed in the Master Plan as moving toward single family dwellings. This would be an alternative to the current proposal to re-zone all R18 properties to R30.

Moved by Porter; seconded by Chavez.

Ms. Porter proposed an amendment to the resolution (i.e., add a fifth condition which would modify the April 7 proposal) to re-zone the four properties zoned R18 (discussed in Master Plan as ultimately going to single family dwellings) so that they will be zoned to a lesser density (R40). This will not affect the current use of these properties. They would continue as non-conforming uses after Unification. She reiterated the neighborhood concern which was articulated by Rino Aldrighetti last week.

Mr. Sharp questioned whether the property owners lose some possible economic gain potential, and asked how their rights are affected.

Ms. Ludlow described the individual properties--two-unit building at 700 ½ Chaney Drive, two six-unit buildings on Flower Avenue, and one four-unit building at 7304 Flower Avenue. The R40 zoning allows up to two units.

Mr. Sharp cautioned that the owners of these buildings could be harmed. Ms. Porter responded that they would not be harmed as long as they remain non-conforming uses.

Councilmember Elrich asked whether the buildings could be sold as non-conforming uses. Ms. Ludlow responded in the affirmative.

Ms. Porter noted that in another instance of a non-conforming use, the owner had to have the units occupied in order to maintain non-conforming use for a given number of units. If units remain unoccupied for a period of six months, the non-conforming use for “x” units will lapse.

Ms. Ludlow read the section of the Master Plan which addresses the properties along Flower Avenue. She noted that throughout the process of preparing for Unification, staff has been trying to match uses with similar Montgomery County zoning and not re-zoning properties. She concluded that she can, therefore, make an argument in either direction.

Ms. Porter supported the argument for going with a lesser density (R40).

Mr. Williams confirmed that a non-conforming use could lapse, and that the owner would lose the non-conforming use status for any more than two units under the R40 zoning proposal. Ms. Porter responded that if an owner stops having a non-conforming use, he essentially gives up the right to the non-conforming use. Mr. Williams stated that this strikes him as being unfair.

Fred Boyd, Montgomery County Park and Planning, pointed out the abandonment provisions of the Zoning Ordinance. Ms. Ludlow stated that she cannot conclude whether a vacancy would fall under “abandonment” provisions.

Ms. Ludlow remarked that she believes the property on Chaney Drive is already zoned half in each county (i.e., R18 and R30).

Ms. Porter stated that in this case, she would be willing to forego including this property in the R40 zoning. Mr. Elrich said that he would rather have it re-zoned R40 along with the others.

Ms. Ludlow noted that this proposal has not been discussed with the property owners.

Mr. Davenport seconded the amendment, and asked for clarification about abandonment.

Ms. Porter commented on an instance where an owner voluntarily gave up his right to more units.

Ms. Ludlow remarked that she has also seen cases where a building sits vacant for some time and the owner loses his right to non-conforming use.

Mr. Sharp reiterated that the proposal does strike him as going against the Council's policy of ensuring that no harm should be experienced by anyone with the move. He asked what is the time frame for this resolution.

Ms. Ludlow responded that the Planning Board is meeting on Thursday, April 17. She stated, however, that she has gotten the sense that all issues will not be resolved on Thursday, and that the discussion will be continued on May 1. The real time frame is based on when the County Council takes action.

Mr. Rubin said that he would feel better if he knew the feelings of the property owners. Mr. Davenport agreed.

Ms. Porter remarked that the issue is how many units are protected as a matter of zoning right. If an owner stops using a building for a long period of time, he would be similarly affected by the non-conforming use rules. Unless the Council decides not to go forward with the resolution at all, it needs to take action tonight.

Mr. Williams said that taking the point about non-conforming uses, issue is to how many units would the use lapse back.

Mr. Sharp proposed that the resolution be put forth with everything but the proposed amendment. The Council can get back to the Board on this issue.

Ms. Porter noted that this concern was raised last week, and that if the April 7 proposal goes forward, as is, it would increase an owner's right to "use"--number of units.

Mr. Sharp pointed out that the R30 zoning would not harm the owner's economic potential.

Ms. Porter referred to the statement in Master Plan that the use ought to change over time--down, not up.

Mr. Sharp asked whether the upcoming Master Plan process will address these properties once it gets underway. Ms. Ludlow responded in the affirmative.

Ms. Porter expressed concern about down-zoning through the Master Plan process if the density is made any greater.

Mr. Sharp noted that no notice has been given to these property owners about the R40 re-zoning

proposal.

Ms. Porter suggested that the resolution be sent forward with a statement that the City Council is examining this issue with an eye toward changing the zoning, and that the Council will get back to the Board before May 1.

Mr. Boyd explained that the formal portion of the Sectional Map Amendment will happen before the County Council which will hold a public hearing. He proposed that the City present testimony at that public hearing, but said that it would not hurt to include a statement as described by Ms. Porter in the resolution being considered this evening.

Ms. Porter said that she would rather get this proposal into the initial Planning Board discussions. She offered a substitute for the original amendment--"the Council is continuing to examine the situation of these four properties and will be submitting a proposal to the Planning Board." (Mr. Davenport did not object to the substitution.) She stated that she would like for the Council to discuss this matter and get a recommendation to the Board by May 1. (The amendment was accepted unanimously.)

Resolution #1997-19 was adopted unanimously, as amended, recommending approval of proposed Unification-related Sectional Map Amendment and Grandfathering Text Amendments (VOTING FOR: Sharp, Chavez, Davenport, Elrich, Porter, Rubin, Williams).

**RESOLUTION #1997-19
(Attached)**

5. 1st Reading Ordinance re: Westmoreland Avenue Special Assessment. Mr. Sharp explained the ordinance.

Mr. Williams noted a letter received from John Urciolo, business owner in Old Town, and his proposal for action before second reading of the ordinance.

Moved by Porter; seconded by Chavez. The Council moved into session as the Storm Water Management Board.

City Administrator Habada noted that notices were mailed to affected residents, and that staff received only one written response (i.e., Mr. Urciolo's letter).

Mr. Williams asked what kind of luck staff would have getting a response to the points raised by Mr. Urciolo before second reading of the ordinance.

Ms. Habada stated that Mr. Urciolo's concern is about the \$17,000 of engineering fees, and that she believes the Council has taken a position on this matter in the past.

Mr. Sharp explained that it is probably an issue still under discussion in an Executive capacity, and that it would be prudent not to discuss it at this point.

Moved by Williams; seconded by Chavez.

Mr. Sharp commented that the improvements project has been a long effort to try to resolve a storm water situation, and that it is unfortunate that it has become necessary to increase the assessment fee. He explained, however, that once the City got involved in this project, it had to be seen to completion.

Mr. Williams noted that the project has been going on for over three years, and clarified that the special assessment does not include associated legal fees.

Ordinance #1997-11 was accepted unanimously, amending original Special Assessment Ordinance (#1995-4) to set forth the actual amount of the special assessment levy for the storm drainage improvements project in the Upper Westmoreland area and to revise the due date for payment of the first installment of the special assessment (VOTING FOR: Sharp, Chavez, Davenport, Elrich, Porter, Rubin, Williams).

ORDINANCE #1997-11
(Attached)

Mr. Sharp asked about the time frame for adoption of the ordinance. Ms. Habada responded that Finance would like to get the bills out in June. Mr. Sharp requested that an Executive Session be scheduled on April 28 to discuss matter raised by Mr. Urciolo.

6. Resolution re: Metricom Agreement. Mr. Sharp explained the resolution, and noted some of the terms of the agreement--e.g., franchise term of 3 years, fee of 5% of proceeds from City subscribers, two free subscriptions, right to amend if other jurisdiction later enters into better agreement with Metricom, etc.

Moved by Williams; seconded by Davenport.

Mr. Elrich recalled that he had requested, as an item on the wish list, connections to public schools in the City. He said that in this case, extension to schools would be something comparable to a free modem and waiver of subscriber fees. He remarked that it would seem that this item should have been easy to negotiate with Metricom, and added that it would have also set a good precedent for future negotiations with other telecommunications companies. Mr. Davenport agreed.

Ms. Porter commended the City Administrator for the items included in the terms of the agreement (i.e., two free subscriptions), items which were not offered in the beginning.

Mr. Williams stated that the County should have negotiated for the same type of arrangement.

Mr. Elrich reiterated that he still thinks the City should have pushed for connections to schools.

Charlie Martin, Kansas Lane, asked about the location of the 25 poles. He said that the devices will disturb the environment, and that they are not without significant influence if they are not properly set-up. He expressed concern about frequency interference.

Michael McKinnon, Metricom representative, stated that the 25 locations have not been explicitly set, yet. They will be put on a map and provided to staff. He said that he will gladly make sure that there is not a radio in front of Mr. Martin's home. In regards to the radio transmitter interfering with cable or other devices, Metricom can only guarantee that this will not happen to the extent that the FCC regulations prevent interference. He stated that their communication band is at the bottom of the "food chain", and that if someone were to claim interference, Metricom would have to prove that their devices are not responsible. He said that the interference problems experienced with their devices has been minimal.

Mr. Rubin confirmed that the technology being discussed is similar to that of wireless speakers.

Mr. McKinnon described how portable phones have the ability to change channels if interference occurs, and stated that the Metricom devices will automatically do this channel "switching".

Ms. Porter noted that in the agreement, Metricom will relocate radios within 15 days of written notice from the City, if the complaint meets certain criteria.

Mr. Elrich requested that Metricom consider providing some link to the schools in the City. He said that he will not hold up this agreement because links to the schools are not included, but explained that schools have very limited technology resources.

Mr. McKinnon commented that Metricom is in the process of discussing an agreement with the School Board, and that the company would very much like to provide service to schools. He said, however, that Metricom cannot deal with the City's schools individually because they are County operated schools. He suggested that it might help if the City Council requested the County School Board's support of such a pilot program.

Benjamin Onyeneke, Maple Avenue, questioned the safety of the devices attached to deteriorating poles/wire structures. He asked whether the devices can be protected from criminals, vandalism and theft. Mr. Onyeneke commented that if safety concerns can be resolved, he would urge Council to adopt the resolution.

Mr. McKinnon stated that the device hangs from a street light, directly behind the cobra head light fixture (18-20 feet in air). It is installed permanently; there is no maintenance. It will not drop off or fall from the pole. He said that it is probably more secure than the cobra head because the light

fixture is on a sleeve extension. Mr. McKinnon noted that there have been a couple of instances in California where devices have been shot off of poles, but that it is not a common occurrence. He said that the device does not add an unsafe weight to the pole.

Mr. Davenport confirmed that the devices are safely secured.

Nellie Moxley asked how much of the cost will be passed on to the residents, and questioned the radiation output per device and per pole.

Mr. Sharp again, explained that the resolution establishes what Metricom will pay to the City for use of poles in the City. He described how a franchise arrangement works, and said that only subscribers to the service will be billed.

Mr. McKinnon said that the electrical bill is paid directly by Metricom to PEPCO. It amounts to about \$5.00/year. In regards to radiation, a radio hanging on a pole 50 feet away, has ½ the radiation of a baby monitor plugged into a wall 1 foot way. Metricom pays the utility company for use of poles. A franchise fee is billed to subscribers only.

Mr. Williams confirmed that a franchise fee is billed in addition to the \$29.95/month fee for subscribers.

Resolution #1997-20 was adopted unanimously, approving Metricom DC, L.L.C., Franchise Agreement (VOTING FOR: Sharp, Chavez, Davenport, Elrich, Porter, Rubin, Williams).

**RESOLUTION #1997-20
(Attached)**

7. Resolution re: Community Advisory Committee (CAC). Ms. Porter stated that she does not recall the Council having appointed members to the CAC in the past. For all other Council-appointed committees, the Council interviews the appointees. She asked whether the Council has decided not to interview for this committee.

Mr. Sharp tried to draw distinctions among Council-appointed committees. Mr. Rubin commented on functions of various committees and the nature of work for each, as related to whether applicants are interviewed by the Council.

Ms. Porter said that she does not object to the recommended appointments, adding that they would all be good additions to the committee. She asked how the Council wishes to make a distinction regarding interviews for Council-appointed committees.

Mr. Rubin agreed that this is a good point. The Council has been inconsistent. He commented, however, that he does not see where this is a problem.

Ms. Porter remarked that the Council needs to have some guidelines, and that she would like for the Council to think about how appointments are made. There needs to be a more rational process.

Resolution #1997-21 was adopted unanimously, appointing eleven persons to the Citizens Advisory Committee (VOTING FOR: Sharp, Chavez, Davenport, Elrich, Porter, Rubin, Williams).

**RESOLUTION #1997-21
(Attached)**

8. Resolution re: Public Safety Citizens Advisory Committee (PSCAC). City Clerk Sartoph recalled the Council's discussion last week and the decision to make some of the appointments but leave a few positions open in hopes of identifying persons from Wards 5 and 6 to complete the committee's membership.

Mr. Elrich expressed his support for this approach, adding that he knows of someone who may be interested in appointment.

Ms. Porter recommended appointment of the five applicants from Ward 2--Rino Aldrighetti, Doug Tursman, Marie Ritzo, Bonnie Kirkland, and Richard Smith.

Mr. Rubin recommended appointment of the four applicants from Ward 1--David Bates, Mary Forrest-Doyle, Thirkield Cravens, and Wolfgang Mergner.

The Council could not reach consensus on appointments to the committee. Mr. Sharp suggested that the discussion be continued next week.

The Resolution was tabled until April 28.

9. 1st Reading Ordinance re: Boards and Commissions. Mr. Sharp explained the ordinance.

Moved by Williams; seconded by Rubin.

Ordinance #1997-12 was accepted unanimously, amending the Code (Chapter 2. Article 6. Boards and Commissions) to add a cross-reference to the Free Burma Committee (Chapter 3A. Burma, Restricted Relations With, Section 3A-9. Takoma Park Free Burma Committee) (VOTING FOR: Sharp, Chavez, Davenport, Elrich, Porter, Rubin, Williams).

**ORDINANCE #1997-12
(Attached)**

WORKSESSION / ADJOURNMENT

The Council adjourned at 9:45 and immediately convened in Executive Session to discuss a personnel matter. Following the Executive Session, the Council adjourned for the evening.

EXECUTIVE SESSION

Executive Session 4/14/97 - Moved by Williams; seconded by Davenport. Council convened in Executive Session by unanimous vote at 9:45 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Chavez, Davenport, Elrich, Porter, Rubin, Williams. Council continued discussion of personnel matter (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(i)).

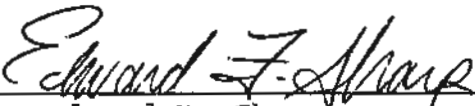
RESOLUTION 1997-18

IN APPRECIATION OF
THE CITY OF TAKOMA PARK VOLUNTEERS

- WHEREAS, National Volunteer Week is April 13, 1997 through April 19, 1997 and volunteers across the nation are recognized for their efforts; AND
- WHEREAS, the City of Takoma Park volunteers and members of citizen advisory committees have given their time to the City and fellow residents; AND
- WHEREAS, they have worked to help the children of Takoma Park by providing educational and recreational opportunities, to provide assistance to victims of crime, to maintain city parks, AND
- WHEREAS, they have assisted in researching, planning, and implementing policies that affect individuals with disabilities, the environment, affordable housing, community development and more; AND
- WHEREAS, they contributed over 3,500 hours of service through the year to the City.

NOW THEREFORE, BE IT RESOLVED THAT the City Council of Takoma Park, Maryland, on behalf of the Citizens and Staff of the City of Takoma Park, commend these volunteers on their exemplary contributions and service to the citizens of Takoma Park, Maryland.

DATED this 14th day of April, 1997.



Edward F. Sharp
Mayor

ATTEST:



Catherine E. W. Sartoph, CMC, City Clerk



Introduced By: Councilmember Porter

Resolution No. 1997-19

**Resolution Recommending Approval of Proposed Unification-Related
Sectional Map Amendment and Grandfathering Text Amendments**

WHEREAS, the Montgomery County Planning Department has proposed a Sectional Map Amendment and grandfathering text amendments in order to rezone the area that will become part of Montgomery County on July 1, 1997 to Montgomery County zones; AND

WHEREAS, the current uses are consistent with the City's Master Plans and have not been identified as problems by the City government or its citizens; AND

WHEREAS, the Montgomery County Planning Department has proposed Montgomery County zoning that, for the most part, implements the existing Master Plans for the area; AND

WHEREAS, the Montgomery County Planning Department has proposed text amendments that grandfather existing legal uses and, for the most part, address differences between Prince George's County and Montgomery County land use regulations; AND

WHEREAS, substantive differences between the Prince George's County C-S-C zone and Montgomery County C-2 zone, the Prince George's County C-O zone and Montgomery County R-60/O-M zone, and between the Prince George's County and Montgomery County subdivision regulations, can be resolved by text amendments;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND, THAT, the City Council hereby recommends that the Sectional Map Amendment and grandfathering text amendments proposed on April 7, 1997 be **Approved with the following recommended changes:**

- 1. In the C-2 zone, amend the provisions for automobile fluid maintenance stations; automobile repair and services; automobile parts, supplies and tire stores; and automobile sales to be the same as existed in the Prince George's County C-S-C zone on June 30, 1997, if the property had been in the Prince George's County C-S-C zone on June 30, 1997;**

2. In the C-2 zone, amend the footnote regarding the exemption of motels built before 1972 from nonconforming use status to include properties that were not in Montgomery County at the time of construction;
3. In the R-60/O-M zone, amend the provisions for dwellings or dwelling units to be the same as existed in the Prince George's County C-O zone on June 30, 1997, if the property had been in the Prince George's County C-O zone on June 30, 1997; and
4. A text amendment to subdivision regulations be prepared that allows building on a single parcel described only by deed, providing that the parcel was in Prince George's County on June 30, 1997 and would have been able to obtain a building permit under the Prince George's County subdivision regulations in effect on June 30, 1997 for the proposed structure, and providing that the parcel has not been changed in size or configuration since June 30, 1997.

BE IT FURTHER RESOLVED THAT the Council will continue to examine the recommended zoning for the properties located at 700-1/2 Chaney Dr., and 7209, 7213 and 7304 Flower Avenue and will provide additional comments to the Montgomery County Planning Board by May 1, 1997.

ADOPTED THIS 14TH DAY OF APRIL, 1997.

ATTEST:



Catherine E. W. Sartoph, CMC
City Clerk

Introduced by: Councilmember Williams

RESOLUTION #1997 - 20

APPROVING METRICOM DC, L.L.C., FRANCHISE AGREEMENT

WHEREAS, Metricom DC, L.L.C., has requested the City of Takoma Park to enter into a Franchise Agreement granting it Right of Way access to install radio equipment on utility poles throughout the City; **AND**

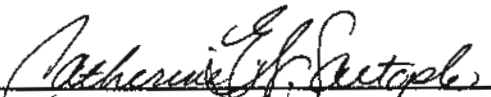
WHEREAS, Metricom DC, L.L.C, will use the Right of Way access for its "Ricochet" communications service to provide its customers with two-way access to digital computer services; **AND**

WHEREAS, City staff and the City Administrator have negotiated with Metricom DC, L.L.C., Franchise Agreement terms favorable to the City of Takoma Park.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of Takoma Park, Maryland, hereby approves of the Franchise Agreement between Metricom DC, L.L.C., and the City of Takoma Park and authorizes the City Administrator to enter into such Franchise Agreement on behalf of the City of Takoma Park, Maryland.

ADOPTED this 14th day of April 1997.

ATTEST:


Catherine Sartoph, CMC, City Clerk

Introduced by: Councilmember Porter

Resolution No. 1997 - 21

A resolution appointing community representatives to fill vacancies on the Community Advisory Committee.

WHEREAS, the City by Resolution 1996 - 28 established the Community Advisory Committee (CAC) to collaborate with Council on long-term community goals; and

WHEREAS, City Council has determined that a membership which brings a wide range of community perspectives can provide the most effective body for providing recommendations to the Council; and

WHEREAS, the Council has found it helpful to obtain recommendations from the CAC on the use of the Community Development Block Grant; and

WHEREAS, an community-wide invitation was made through the City's newsletter for persons to register an interest in serving on the CAC.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT Appointments to the Community Advisory Committee are made as follows for a three-year period:

Name

Sandra Filippi, Ward 2

Mary Stover, Ward 2

Howard Kohn, Ward 3

Julie Strawn, Ward 3

Lisa Hawkins, Ward 4

Therese Brown Gibson, Ward 3

Ashley Files Flory, Ward 1

Allyson Martin, Ward 4

George Haddow, Ward 3

Menchu Martinez, Ward 2

Greg Cichy, Ward 4

BE IT FURTHER RESOLVED THAT the City Administrator shall be, and is hereby empowered to appoint additional members who make their desire to participate on the CAC know and are recommended for participation by the Council representative for their respective wards; such additional appointments are to be effected on or before May 15, 1997.

BE IT FURTHER RESOLVED THAT the activities of the CAC shall be conducted in accordance with the "Standards of Participation" attached hereto and made a part hereof by reference.

Adopted this 14th day of April, 1997.

C:\MyFiles\CACappt97res.cou.wpd

Introduced by: Councilmember Porter

First Reading: April 14, 1997

Second Reading:

Drafted by: Linda Perlman

Asst. Corporation Counsel

Draft Date: April 15, 1997

ORDINANCE NO. 1997-11

(An amendment to Ordinance No. 1995-4, Levying Special Assessment Charges Against Properties in the Upper Westmoreland Area of the City of Takoma Park for the Costs of Storm Drainage Improvements, to set forth the actual project costs and to revise the due date for payment of the first installment of the special assessment.)

WHEREAS, on March 27, 1995, the Council, sitting as the Stormwater Management Board for Takoma Park, passed Ordinance No. 1995-4 levying special assessment charges for the costs of storm drainage improvements in the Upper Westmoreland area of the City (*i.e.*, the area defined by Westmoreland Ave. to the north, Eastern Ave. to the south, Laurel Ave. to the west, and Walnut Ave. to the east); and

WHEREAS, the levy of special assessment charges against the properties in the Upper Westmoreland area of the City for the storm drainage improvements project was based upon the estimated cost of the project; and

WHEREAS, the storm drainage improvements project has now been completed and the actual project costs exceeded the estimated costs of the project; and

WHEREAS, the Council, sitting as the Stormwater Management Board for Takoma Park, wishes to amend the provisions of Ordinance No. 1995-4 in order to set forth the actual total amount of the special assessment levy for the storm drainage improvements project in the Upper Westmoreland area and to revise the due date for payment of the first installment of the special assessment.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, SITTING AS THE STORMWATER MANAGEMENT BOARD FOR TAKOMA PARK.

SECTION 1. The special assessment levy made by Ordinance No. 1995-4 is amended in order to set forth the total actual project cost for the storm drainage improvements in the Upper Westmoreland area. The actual costs of the Westmoreland storm drainage improvement project were as follows:

Engineering Fees (Greenhorne & O'Mara)	\$17,000.00
Construction Contract Cost (HMF Construction)	\$63,927.00
Modifications - 1st Construction Change Order	\$ 6,420.00
Modifications - 2nd Construction Change Order	<u>\$ 3,280.00</u>
TOTAL.....	\$90,627.00

In accordance with the provisions of Ordinance No. 1995-4, the total costs of the storm drainage improvements project are to be apportioned according to the percentages of total drainage contributions in the Upper Westmoreland area (as determined by Greenhorne & O'Mara, Inc., engineers), as follows:

Class I: Commercial Area - Urciolo (Lots 49, 50, 51, and 52, Block A, Gilbert & Wood subdivision--6929, 6927, 6925, 6923, 6921, 6919, 6917, 6915, and 6909 Laurel Ave.; 6855 Eastern Ave.). Class I properties pay 33.59% of the total costs of the storm drainage improvements project; or approximately \$30,441.61 based on the actual total project costs. Based on a five-year assessment period, each annual installment for Class I properties will be approximately \$6,088.32, plus applicable interest charges on the unpaid special assessment balance.

Class II: Commercial Area - Carleton (Lots 11, 12, 13, 38, 37, 36, 35, 34, and 33, Block A, Gilbert & Wood subdivision--7007, 7014, 7012, 7010, 7008 Westmoreland Ave.; 7009, 7007, 7005, 7003, 7001B, 7001, 6939, 6937, 6935, and 6931 Carroll Ave.). Class II properties pay 5.56% of the total costs of the storm drainage improvements project; or

approximately \$5,038.86 based on the actual total project costs. Based on a five-year assessment period, each annual installment for Class II properties will be approximately \$1,007.77, plus applicable interest charges on the unpaid special assessment balance.

Class III: Vacant Lot (Lot 9, Block A, Gilbert & Wood subdivision--6847 Eastern Ave.). The Class III property pays 2.51% of the total costs of the storm drainage improvements project; or approximately \$2,274.74 based on the actual total project costs. Based on a five-year assessment period, each annual installment for the Class III property will be approximately \$454.95, plus applicable interest charges on the unpaid special assessment balance.

Class IV: Lot with Rear Yard Paved (Impervious Surface) (Lot 7, Block A, Gilbert & Wood subdivision--6839 Eastern Ave.). The Class IV property pays 6.14% of the total costs of the storm drainage improvements project; or approximately \$5,564.50 based on the actual total project costs. Based on a five-year assessment period, each annual installment for the Class IV property will be approximately \$1,112.90, plus applicable interest charges on the unpaid special assessment balance.

Class V: Apartments (Lots 4, 5, and 6, Block A, Gilbert & Wood subdivision--6833A & B Eastern Ave. [Eastern Gardens]). The Class V property pays 16.43% of the total costs of the storm drainage improvements project; or approximately \$14,890.02 based on the actual total project costs. Based on a five-year assessment period, each annual installment for the Class V property will be approximately \$2,978.00, plus applicable interest charges on the unpaid special assessment balance.

Class VI: Remaining Residential Area (Lots 22 - 32, Block A, Gilbert & Wood subdivision--68, 66, 64, 62, 60, 58, 56, and 54 Walnut Ave.; 6811 and 6815 Eastern Ave.; Lot 8, Block A, Gilbert & Wood subdivision--6845-6843 Eastern Ave. (duplex); and Lots 39-48, Block A, Gilbert & Wood subdivision--7006, 7004, 7002, 7000, 6916, 6914, 6912, 6910, 6908, and 6906 Westmoreland Ave.). Class VI properties pay 35.77% of the total costs of the storm drainage improvements project; or approximately \$32,417.28 based on the actual total project costs (approximately \$1,543.68 for each property over a five-year assessment period). Based on a five-year assessment period, each annual installment for all Class VI properties will be approximately \$6,483.46, plus applicable interest charges on the unpaid special assessment balance; or approximately \$308.74 per year for each property, plus applicable interest charges on the unpaid special assessment balance.

SECTION 2. The first annual installment of the special assessment charges for the Upper Westmoreland storm drainage improvements project shall be due and payable on July 1, 1997.

SECTION 3. All other provisions of Ordinance No. 1995-4, levying special assessment charges against properties in the Upper Westmoreland area of the City for the costs of the storm drainage improvement project, not amended by this Ordinance shall remain in full force and effect.

ADOPTED THIS ____ DAY OF _____, 1997, BY ROLL CALL VOTE AS FOLLOWS:

Aye:

Nay:

Abstain:

Absent:

f:\wpdocs\takoma\sp-asses\supp'l.ord

Introduced: Councilmember Williams

1st Reading: 4/14/97

2nd Reading:

ORDINANCE #1997-12

AMENDING CHAPTER 2. ADMINISTRATION, ARTICLE 6. BOARDS AND COMMISSIONS, TO ADD REFERENCE TO FREE BURMA COMMITTEE

WHEREAS, on November 12, 1996, the City Council adopted Ordinance #1996-36 which amended several sections of the Code to add general provisions regarding statutory Council appointed committees, to assign specific months/dates on which terms will begin and end for each committee, and to delete the distinction between "primary" and "alternate" members of the Tree Commission; **AND**

WHEREAS, the amendment to Chapter 2. Administration, Article 6. Boards and Commissions, included a list of statutory committees, reference to the section of the Code where each is described, and the term length and expiration date of terms for each committee; **AND**

WHEREAS, prior to the adoption of this ordinance, the Council adopted Ordinance #1996-33 which established a policy for the City in regards to prohibited activities with Burma and chartered the Takoma Park Free Burma Committee; **AND**

WHEREAS, since the Free Burma Ordinance had not been codified prior to the adoption of Ordinance #1996-36, it was not possible to include a cross-reference to the section of the Code dealing with the Free Burma Committee--a section had not been assigned at that time; **AND**

WHEREAS, the Code has been updated to add a supplement including Ordinances #1996-33 and #1996-36; **AND**

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THAT the following amendments to the City Code shall be effected:

CHAPTER 2. ADMINISTRATION

Article 6. Boards and Commissions.

Division 1. General Provisions

Sec. 2-125. Membership of statutory Council-appointed committees.

(a) Except as otherwise provided in Sections specific to individual committees, all members of committees shall be residents of the City of Takoma Park, and in the event a

committee member ceases to reside in the City of Takoma Park, that member is ineligible to serve on the committee as an active member.

(b) The length and expiration month/date of terms for each committee shall be as follows:

Committee	Term	
	Length	Expiration
Commission on Landlord-Tenant Affairs (§6-89)	3 years	6/30
Ethics Commission (§2-15)	2 years	9/30
<u>Free Burma Committee (§3A-9)</u>	<u>2 years</u>	<u>3/31</u>
Nuclear-Free Committee (§8A-12)	2 years	3/31
Personnel Appeal Board (§8B-181)	3 years	3/31
Tree Commission (§2-141)	3 years	9/30

BE IT FURTHER ORDAINED THAT this Ordinance shall become effective upon adoption.

ADOPTED this ____ day of _____, 1997.

AYE:

NAY:

ABSENT:

ABSTAIN:

NOTE: Additions to the current text of the Code are underlined.

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

Thursday, April 24, 1997

EXECUTIVE SESSION

Executive Session 4/14/97 - Moved by Williams; seconded by Davenport. Council convened in Executive Session by unanimous vote at 9:45 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Chavez, Davenport, Elrich, Porter, Rubin, Williams. Council continued discussion of personnel matter (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(i)).

COUNCILMEMBERS PRESENT:

Mayor Sharp
Councilmember Elrich
Councilmember Porter
Councilmember Rubin
Councilmember Williams

City Administrator Habada
Assistant City Administrator Hobbs
City Clerk Sartoph
Assistant Corporation Counsel Perlman
Senior Planner Schwartz
Police Chief Anderson

COUNCILMEMBERS ABSENT:

Councilmember Chavez
Councilmember Davenport

Major Wortman
Lieutenant Gowin
Lieutenant Rosenthal
Lieutenant Creamer
Sergeant Coursey
Sergeant D'Ovidio
Corporal Riseling
Acting Corporal Hammond
Private Marble

The City Council convened in Special Session on Thursday, April 24, 1997, at 7:43 p.m. in the Upstairs Meeting Room of the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland.

The following remarks were made:

SPECIAL SESSION

1. Resolution re: Montgomery College Expansion Plan -- New Proposals. Moved by Rubin; seconded by Williams.

Councilmember Rubin explained that this resolution came about as result of the presentation given by Joseph White, Director of Facilities for Montgomery College, and discussions that have taken

place between the residents, college and recently formed, Town and Gown Committee. He described the resolution.

Heija Wheeler, Montgomery College representative, expressed appreciation for the resolution and commended the fine work that has been accomplished over the past few months between residents, staff, and the college.

Benjamin Onyeneke, Maple Avenue (Generation X), stated that the future generation is disappointed with this resolution's support for Concept Plan 1. He questioned why Concept Plan 2 cannot be chosen, expressing support for using available funds to build a new school versus renovating old facilities.

Councilmember Elrich said that over the past couple of years, the City has worked to improve relations with institutions within the community. He recognized that the City seems to be finding ways to communicate and work together in a more productive way.

Mr. Rubin added that there are some points of discussion which still need to be resolved, but observed that there are options that the neighborhood association and college both find acceptable. This shows that the process is moving in a positive direction, and that together, the City and college can come up with good solutions.

Resolution #1997-22 was adopted unanimously, reaffirming the City's support of Concept Plan 1 and expressing commitment to engage in discussions that will lead to resolution of remaining issues (VOTING FOR: Sharp, Elrich, Rubin, Williams; ABSENT: Chavez, Davenport, Porter).

**RESOLUTION #1997-22
(Attached)**

WORKSESSION / ADJOURNMENT

The Council adjourned at 10:00 and immediately convened in Executive Session to (1) obtain legal advice and (2) discuss a personnel matter. Following the Executive Session, the Council adjourned for the evening.

EXECUTIVE SESSION

Executive Session 4/24/97 - Moved by Rubin; seconded by Williams. Council convened in Executive Session by unanimous vote at 10:00 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Elrich, Porter, Rubin, Williams. OFFICIALS ABSENT: Chavez, Davenport. STAFF PRESENT: Habada, Sartoph, Perlman, Rick Ellrod (legal counsel). (1) Council received advice on negotiations with a telecommunications company; staff was given direction. Staff left the meeting. (2) Council continued discussion of personnel matter (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(7) and (1)(i)).

Introduced By: Councilmember Rubin

Resolution No. 1997-22

Resolution Concerning Expansion Plans for Takoma Park Campus of Montgomery College

WHEREAS, on February 3, 1997, the Takoma Park City Council adopted a resolution supporting a proposal to renovate and expand the current Takoma Park campus of Montgomery College--a proposal referred to as "Concept Plan I;" AND

WHEREAS, subsequent meetings and discussions between the College, the Council, and the community have revealed that, in order for Concept Plan I to be realized, several additional issues need to be addressed.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT the City Council hereby reaffirms its support of Concept Plan I and expresses its commitment to engage in discussions that would lead to resolution of issues that include but are not necessarily limited to the following:

- Improving the ability of Fenton Street to serve as an entrance point for the area and mitigating the "double barrier" effect of Fenton Street and the railway.
- Scheduling of Jesup Blair Park to give first priority to accommodating College programs.
- Building a pedestrian bridge that is both functional and aesthetically pleasing.
- Assuring that due consideration will be given to exceeding height limits on the Fenton Street side of the campus should a sound architectural reason arise during renovation.

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

ADOPTED THIS 24th DAY OF APRIL, 1997.

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

Monday, April 28, 1997

Executive Session 4/24/97 - Moved by Rubin; seconded by Williams. Council convened in Executive Session by unanimous vote at 10:00 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Elrich, Porter, Rubin, Williams. OFFICIALS ABSENT: Chavez, Davenport. STAFF PRESENT: Habada, Sartoph, Perlman, Rick Ellrod (legal counsel). (1) Council received advice on negotiations with a telecommunications company; staff was given direction. Staff left the meeting. (2) Council continued discussion of personnel matter (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(7) and (1)(i)).

OFFICIALS PRESENT:

Mayor Sharp

Councilmember Chavez

Councilmember Elrich

Councilmember Porter

Councilmember Rubin

Councilmember Williams

City Administrator Habada

Assistant City Administrator Hobbs

City Clerk Sartoph

Planning Center Coordinator Ludlow

Forester Busciano

Corporation Counsel Silber

Assistant Corporation Counsel Perlman

COLTA Executive Director Lee-Bryant

Police Chief Anderson

Deputy Police Chief Wortman

OFFICIAL ABSENT:

Councilmember Davenport

The City Council convened at 7:35 p.m. on Monday, April 28, 1997, in the Council Chambers of the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland.

Following the Pledge of Allegiance, these remarks were made:

MAYOR AND COUNCIL COMMENTS

Councilmember Williams noted recent action taken by the Federal Government in regards to sanctions against Burma. He also commented that the Montgomery County School Board Superintendent's ruling to prohibit broadcast of the Shades of Grey Program has been overruled by the School Board.

Mayor Sharp announced that the Council will meet in Executive Session this evening to discuss

(1) litigation and (2) a personnel matter.

ADOPTION OF MINUTES

The minutes from 3/10, 3/24, 4/07 and 4/14 were adopted unanimously (VOTING FOR: Sharp, Chavez, Porter, Rubin, Williams; ABSENT: Davenport, Elrich).

CITIZEN COMMENTS

Benjamin Onyeneke, Maple Avenue (Generation X), requested a moment of silence in memory of D.C. Officer Johnson. He welcomed the new Police Chief Anderson, and said that the youth are looking forward to working with the Chief. Mr. Onyeneke suggested that the PSCAC be chaired by the Chief of Police, and that the Deputy Chief be appointed as a member of the committee.

Charles Martin, Kansas Lane, referred to an article in the March 1997 Newsletter which stated that the Sligo Mills developer was fined for unlawfully cutting down trees. He asked the Council to respond to whether the \$10,000 fine which was assessed has been received by the City. If so, he requested that the money be put back into the PineCrest community. Mr. Martin said that he received a storm water bill and noted the provision for a late fee (percentage of total bill). He asked whether the same percentage is being applied to the tax payments which were submitted to the City prior to the injunction associated with *Roat vs. Takoma Park* case. He requested that the City address storm water problems in Pine Crest without imposing a special assessment on the residents living there as was done in the case of the Westmoreland Avenue Improvements Project.

Mr. Sharp clarified that the special assessment for the Westmoreland Avenue project was done in agreement with the residents in that area [to solve a problem between private parties].

PRESENTATIONS

1. Recognition of Participants in Glenside Rescue.

Takoma Park Volunteer Fire Department Chief Jarboe, said that his brother Bob, President of the Volunteer Fire Department, will be making the presentations. Chief Jarboe commented that fire fighters and police officers have dangerous jobs, and that often, lives are lost in rescue efforts. The individuals being honored tonight were in the right place at the right time and did very courageous things.

Bob Jarboe, described the events surrounding the December 2, 1996, Glenside Avenue fire and rescue efforts. He noted that Ken Martin and Michael Paul Jones arrived first on the scene and rescued two unconscious persons from the burning home. Police Officer Brian Davis and Richard Gamble were next to arrive on the scene, and together crawled into the home to rescue a woman.

Plaques were presented to Ken Martin, Officer Brain Davis and Richard Gamble. Mr. Jones was not available this evening.

Councilmember Rubin said that as the liaison to the Fire Department, he would like to repeat some of his remarks from the recent celebration of the 75th anniversary of the fire department's incorporation. The station itself is 103 years old. Mr. Rubin commented that the residents of the City are very proud of the fire department, and that he would like to think that reason the City has such a fine department is because it is in such a fine community. He said that it is important, from time to time, for Council and residents to thank the Takoma Park Volunteer Fire Department.

REGULAR MEETING

2. Resolution re: Gay Pride Month. Mr. Sharp read the resolution. (Moved by Sharp)

Mr. Rubin asked whether the resolution could be introduced by the Council as a whole. Mr. Sharp responded that he believes it could, but that he does not feel it is necessary, pointing out that the entire Council will vote on the resolution.

Benjamin Onyeneke, Maple Avenue, asked whether there will be a parade celebrating Gay Pride Month.

Mr. Williams responded in the negative, but noted activities that are being organized by Montgomery County.

Mr. Onyeneke questioned whether the message being sent to the youth by adoption of this resolution is appropriate.

Jeffrey Trunzo, representative of Montgomery County Gay and Lesbian Consortium, received the resolution, and thanked the Council on behalf of Montgomery County and the Consortium.

Councilmember Chavez referred to Mr. Rubin's recommendation about the introduction of the resolution, and requested that the introduction be left to one Councilmember.

Resolution #1997-23 was adopted, recognizing Gay Pride Month and Montgomery County Gay Pride Day (VOTING FOR: Sharp, Elrich, Porter, Rubin, Williams; ABSTAIN: Chavez; ABSENT: Davenport).

RESOLUTION #1997-23 (Attached)

3. Resolution re: Donation from Takoma Park House and Garden Tour. Planning Center Coordinator Ludlow recognized Jan Schwartz and Patricia Vucich, Co-Chairs of the Takoma Park House and Garden Tour Committee.

Mr. Sharp read the resolution. (Moved by Sharp; seconded by Porter)

Councilmember Porter remarked that just as Mr. Rubin pointed out how proud residents are of the fire department, residents are also very proud of the House and Garden Tour. She said that it is particularly gratifying that Ms. Schwartz, who was one of the main movers in the unification efforts over the years, is one of the persons responsible for the House and Garden Tour's contribution to the City's unification celebration.

Mr. Williams seconded Ms. Porter's remarks, and commended Ms. Schwartz for moving the House and Garden Tour into new neighborhoods. He expressed his hope that the tour will continue to expand into and be representative of the various neighborhoods in the City.

Mr. Chavez thanked Ms. Schwartz and Ms. Vucich, on behalf of Ward 6, noting that his ward (currently in Prince George's County) is one of the areas that will be unifying into Montgomery County.

Mr. Sharp remarked that the House and Garden Tour has always heralded the coming of spring. He expressed his gratitude for the contribution, and presented the resolution.

Resolution #1997-24 was adopted unanimously, expressing appreciation to the Takoma Park House and Garden Tour Committee for its contribution towards Unification events (VOTING FOR: Sharp, Chavez, Elrich, Porter, Rubin, Williams; ABSENT: Davenport).

RESOLUTION #1997-24
(Attached)

Ms. Schwartz accepted the resolution on behalf of the House and Garden Tour Committee, and noted that next year will be the 25th anniversary of the tour.

4. Resolution re: Municipal Clerks Week. Mr. Sharp read the resolution. (Moved by Sharp; seconded by Chavez)

Mr. Sharp commented that the Whereas clauses of the resolution do a good job of stating the duties of the City's Clerk's Office.

Ms. Porter said that in addition to the professionalism displayed by staff, they are very patient and cheerful with Council and members of the public. She suspected that patience, in the face of adversity, is probably one of the unstated job requirements.

Mr. Rubin noted that he recently asked members of the Clerk's Office to assist him with a project, beyond the call of duty, in response to issues raised on the Internet by residents. He thanked staff for their assistance, and said that there have also been a number of comments on the Internet expressing gratitude.

Benjamin Onyeneke, Maple Avenue, supported the resolution. He described the work of the Clerk's Office as stressful and challenging, and commended the work that is being done.

Resolution #1997-25 was adopted unanimously, recognizing Municipal Clerks Week (May 4-10) (VOTING FOR: Sharp, Chavez, Elrich, Porter, Rubin, Williams; ABSENT: Davenport).

RESOLUTION #1997-25
(Attached)

5. Single Reading Ordinance re: Tree Maintenance Contract. Mr. Sharp described the ordinance. Moved by Williams; seconded by Chavez.

Mr. Williams asked Forester Busciano to describe the scope of work.

Mr. Busciano said that in November 1996, he started a City-wide inventory of trees in public rights-of-way. He showed a map with the City divided into five areas. He explained that the work being done under this contract will not follow this inventory, but that future contracts will be done according to information in the inventory. Mr. Busciano stated that this year's list is comprised of trees in need of maintenance that he has noted when driving around the City in addition to calls from City residents. There are approximately 6,000 trees in the City, and this contract will cover 60 prunings, 30 stump grindings and one cabling. It is not inclusive of the work that is being done in the parks. He noted that the City does not have a tree maintenance program at this time, but that he is working on developing one. He commented that he plans to develop a database to help identify maintenance needs and areas where trees need planting--a more systematic way of handling a what is now a haphazard process.

Mr. Rubin questioned whether there is a method for private citizens, who have obtained permission to cut trees, to piggyback onto this contract.

Mr. Busciano said that he could imagine that in the case of several dozen requests for pruning on private property, staff might help negotiate some arrangements with the contractor. He noted, however, that this would be time consuming.

Mr. Rubin said that he is not recommending this approach, and that he was just interested in staff's response.

Mr. Williams asked where the City is in the process of developing a tree maintenance program. Mr. Busciano responded that things are just getting started.

Councilmember Elrich noted that there are no trees in his Ward on the list, and asked whether this is an indication that these trees do not need maintenance.

Mr. Busciano said that maintenance needs vary from one sector of the City to the next. For

example, in Old Town there are many old trees that need maintenance. There are other areas where there are a lot of recent plantings. This year there was a 35% rejection rate from residents who were asked approval to plant a tree in front of their home.

Mr. Rubin questioned whether the debris produced when tree removal takes place, becomes part of the mulch process. Mr. Busciano responded in the negative.

Charles Martin, Kansas Lane, provided the Council with photographs that he described as illustrating the criminal behavior of arborists. He commented that all pictures illustrate cuttings which are contrary to the City's existing statute.

Ms. Porter stated that the illustrations appear to be of PEPCO cuttings.

Mr. Martin described photos #1-3, and suggested that penalties for this type of behavior be added to the ordinance and monies collected in fines be returned to the aggrieved parties. In terms of City pruning, the adjacent homeowner should be notified prior to maintenance work.

Ordinance #1997-13 was adopted unanimously, awarding a contract for City-wide street tree pruning, removal and stump grinding to POGO Tree Experts in the amount of \$13,445 to be charged to account #3400-6145 (VOTING FOR: Sharp, Chavez, Elrich, Porter, Rubin, Williams; ABSENT: Davenport).

ORDINANCE #1997-13
(Attached)

Ms. Porter requested that staff institute a method of notifying homeowners adjacent to trees schedule for maintenance.

Mr. Busciano said that this idea has been brought up in the past, and that he is not exactly sure how to go about this type of notification. It could be a very time consuming proposition. He commented on the liability issues related to needed tree maintenance, and differentiated between "acts of God" and "liability issues". Mr. Busciano explained how requiring notification to residents could hold up the process.

Mr. Sharp stated that if the Council wants to further discuss this issue, it should be put on a future Worksession agenda.

Ms. Porter suggested that some kind of a notification leaflet be sent to adjacent homeowners informing them that "in the next couple of weeks, a tree pruner will be coming..." Staff is to consider this suggestion.

Mr. Williams remarked that we would also like to discuss monitoring of PEPCO cuttings.

The Council reached consensus to continue the discussion on June 2.

6. Resolution re: Unification-related Sectional Map Amendment. Mr. Sharp explained the resolution. He noted what seems to be new information included in the staff memo.

Ms. Ludlow said that she tried to investigate the impact of rezoning to R30 versus R40 for the four properties in question. Park & Planning has recently determined that rezoning to R30 would not allow for the property owners to increase the number of units in their dwellings. Essentially, there would be no adverse effect from zoning these properties R30. She noted comments from Chuck Stanley, and others received by phone which she transcribed and distributed to Council.

Moved by Porter.

Mr. Rubin asked, in light of the new information, why this is coming up now instead of during a Worksession, given staff's recommendation.

Ms. Porter responded, and explained that the reason it was scheduled for this evening is because any Council action on this particular item would be needed prior to May 1. She clarified that she is going to recommend that this item not be acted on, but that her intent in moving the resolution is to get it on the floor and provide an opportunity for persons in the audience to speak on the issue.

Seconded by Rubin.

Ms. Porter noted that she received phone calls from people who are confused by this issue (i.e., change to more dense zoning). She said that she did not have the additional information in staff's memo when she spoke to those persons. The two new pieces of information are as follows: (1) regardless of zoning, owners of the subject properties will not be able to increase the numbers of units in their dwellings because of the sizes of the lots, and (2) this rezoning is a temporary measure. The entire issue of zoning in Takoma Park will come up for discussion during the Master Plan process. There will be a full discussion of where the community is going in terms of land use. So, this is not the last chance to speak on this issue. She said that she will withdraw her motion on this resolution after persons have had an opportunity to testify.

Eugenia David, owner of 7304 Flower Avenue, expressed confusion. She said that she is not sure how a reduction in units will benefit the neighborhood. She noted that there are four rented units in her dwelling, and described the units. She remarked about what would happen if she had to reduce to two units, and suggested that it might mean that the units would be rented to larger families with more persons of driving age, thus increasing the number of parked vehicles in the vicinity of the property. She said that currently, she provides housing for four single persons.

Ms. Porter remarked that all of the property owners should be aware that changing the zoning would not immediately change the use of the affected properties because all are operating as "non-conforming uses." The only way the underlying zoning could affect the property is if the current use were to be discontinued. The subject properties will remain non-conforming uses

when Unification takes place.

Ms. David explained how the R40 zoning could have a negative impact, if a financing institution were to see that the number of allowable units is reduced.

Charles Martin, Kansas Lane, stated that with respect to increasing density in certain areas of the City, he stated that a certain density has been approved in the Pine Crest area, and that he hopes the Master Plan process will be an opportunity to change this density which has allowed for townhouse developments. He concluded that the approvals of the two townhouse developments have not appeared to go forward with the possibility of changed zoning in mind.

Doug Tursman, Trescott Avenue, stated that he knows of many people in the neighborhood who would like to see density reduced, but recognized the flip-side to this issue in regards to wanting the properties to continue to be well maintained. He stated that he would like to see things not be changed at all from the current conditions.

Ms. Porter moved to table the resolution (seconded by Williams).

Mr. Sharp questioned the Council's next steps in terms of this item.

Ms. Ludlow responded that the resolution previously adopted by Council, which has already gone to the Planning Board, is the document that they will be using. She summarized the earlier resolution.

Ms. Porter clarified that by taking no action on tonight's resolution, the subject properties will be rezoned to R30, as recommended by Park & Planning. She noted that her motion was to table the resolution indefinitely.

Ms. Ludlow concluded that since the Council has no more to say on this item, the Planning Board will not await further comment.

7. 1st Reading Ordinance re: Right-of-Way Disturbance -- Public Utilities. Moved by Williams; seconded by Rubin.

City Administrator Habada stated that staff has had numerous discussions with the utility companies. The only items which we have not come to conclusion on are (1) the performance bonds (Bell Atlantic requests no action on this), and (2) the tree trimming (other utility companies are concerned about this).

Mr. Sharp questioned the rationale behind requiring a performance bond.

Ms. Habada noted that a provision authorizing the requirement of a performance bond is already in the Code. However, the City has not been requiring bonds.

Mr. Sharp confirmed that the City already has the authority but has not been using it.

Ms. Habada said that if a utility company was doing a major project (e.g., poles along an entire street with impact on trees, or underground installations along the entire length of a street, etc.), a bond might be appropriate. She suggested that the Council address how performance bonding should be handled.

Ms. Porter clarified that the proposed ordinance permits the City Administrator to require a bond but does not require a bond. She explained that basically, this is an ordinance to regulate how utilities make improvements (e.g., dig holes) in the City's rights-of-way. It establishes more restrictions and fees, allowing the City to more tightly regulate this kind of activity.

Ordinance #1997-14 was accepted unanimously at first reading, amending Chapter 11, Streets, Article 3, Permits and Improvements, of the Takoma Park Code to increase the permit fees for construction work within a public right-of-way and to establish a design and inspection fee (VOTING FOR: Sharp, Chavez, Elrich, Porter, Rubin, Williams; ABSENT: Davenport).

**ORDINANCE #1997-14
(Attached)**

Ms. Habada asked whether the Council wants to revisit the matters of the performance bond and tree trimming before second reading of the ordinance.

Mr. Sharp responded in the affirmative, stating that he also wants to know of any response from Washington Gas.

Mr. Williams questioned whether a provision for moratoriums on construction work on recently paved streets needs to be discussed.

8. 1st Reading Ordinance re: Article 7 ("Actual and Reasonable Interest"). Mr. Sharp said that he does not fully understand the information contained in the memo on this item, and questioned whether the Council is in a position to consider the ordinance this evening.

Mr. Elrich proposed that the discussion be moved to Worksession.

The Council reached consensus to add this item to the evening's Worksession agenda.

9. Resolution re: Public Safety Citizens Advisory Committee (PSCAC) Appointments.
Moved by Williams; seconded by Rubin.

Mr. Sharp read the names of persons being appointed by the resolution.

Mr. Williams noted a correction to the address for Thirkield Cravens--it should be "Carroll"

Avenue.

Resolution #1997-26 was adopted unanimously, effecting the appointments of ten residents to the Public Safety Citizens Advisory Committee (PSCAC). (VOTING FOR: Sharp, Chavez, Elrich, Porter, Rubin, Williams; ABSENT: Davenport).

RESOLUTION #1997-26
(Attached)

10. Resolution re: Personnel Appeal Board. Moved by Williams; seconded by Rubin.

Mr. Sharp explained that the resolution would effect the reappointment of Milford Sprecher to the Board. He noted that there is one vacancy for which Council has interviewed three candidates, and that there is another member whose term has expired and who is scheduled for an interview on May 19. The Council will further discuss appointments in Worksession.

Resolution #1997-27 was adopted unanimously, reappointing Milford Sprecher to the Personnel Appeal Board (VOTING FOR: Sharp, Chavez, Elrich, Porter, Rubin, Williams; ABSENT; Davenport).

RESOLUTION #1997-27
(Attached)

11. 2nd Reading Ordinance re: Code Cross-Reference to Free Burma Committee. Mr. Sharp explained the ordinance. Moved by Williams; seconded by Chavez.

Mr. Rubin stated that although the ordinance deals with a technical amendment, discussion of this item does give him the opportunity to welcome President Clinton to the "bandwagon" of jurisdictions declaring sanctions against Burma.

Ordinance #1997-12 was adopted unanimously, amending Chapter 2. Administration, Article 6. Boards and Commissions, to add reference to the Free Burma Committee (VOTING FOR: Sharp, Chavez, Elrich, Porter, Rubin, Williams; ABSENT: Davenport).

ORDINANCE #1997-12
(Attached)

Mr. Williams questioned whether the Council should make appointments to the Free Burma Committee from the persons interviewed to date, or wait until enough people to fill the committee have been interviewed.

Mr. Sharp stated that it makes sense to go forward with some appointments.

Mr. Williams noted that Phil Robertson recently indicated that he is aware of other persons who are interested in the committee but believes that they must not have sent in their letters of interest, yet.

WORKSESSION

The Council moved into Worksession. Following the Worksession, the Council convened in Executive Session at 10:31 p.m. to discuss (1) litigation and (2) a personnel matter. Following the Executive Session, the Council adjourned for the evening.

EXECUTIVE SESSION & ADJOURNMENT

Executive Session 4/28/97 - Moved by Porter, seconded by Williams. Council convened in Executive Session by unanimous vote at 10:40 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Elrich, Porter, Rubin, Williams. OFFICIALS ABSENT: Chavez, Davenport. STAFF PRESENT: Habada, Sartoph, Silber. (1) Council discussed possible litigation, and declined the opportunity to pursue lawsuit. (NOTE: Habada and Sartoph left the room.) (2) Council continued discussion of a personnel matter, and provided direction to Counsel (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(7) and (1)(i)).

Introduced By: Mayor Sharp

RESOLUTION NO. 1997 - 23
DESIGNATING JUNE, 1997, AS LESBIAN, BISEXUAL, TRANSGENDER, AND
GAY PRIDE MONTH

WHEREAS, the lesbian, bisexual, transgender, and gay communities are a significant part of the City of Takoma Park's population and contribute morally, financially, culturally, and spiritually to its wealth; AND

WHEREAS, the lesbian, bisexual, transgender, and gay communities have contributed to the diversity and enrichment of our City; AND

WHEREAS, the laws of the City of Takoma Park protect our citizens from discrimination on the basis of race, color, religious creed, ancestry, national origin, handicap, age, or sexual orientation; AND

WHEREAS, the national theme for this year's pride events is "Equality through Visibility;" AND

WHEREAS, June is a time to acknowledge and celebrate the many accomplishments of the lesbian, bisexual, transgender, and gay communities.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, that the month of June, 1997, is hereby designated as "Lesbian, Bisexual, Transgender, and Gay Pride Month" in the City of Takoma Park; AND

BE IT FURTHER RESOLVED, THAT the City of Takoma Park joins with Montgomery County, Maryland, in declaring Sunday, June 1, 1997, as "Pride Day — Equality Through Visibility" and all our citizens are encouraged to join in recognizing the contributions made by lesbian, bisexual, transgender, and gay individuals.

ADOPTED this 28th day of April, 1997.

Introduced By: Mayor Sharp

Resolution No. 1997-24

**Resolution Accepting Donation from 1997 Takoma Park House and Garden Tour
For Unification Events**

WHEREAS, the Takoma Park House and Garden Tour is an annual event to draw attention to and promote the community of Takoma Park; AND

WHEREAS, the 24th annual House and Garden Tour will take place on May 4th, is titled, "On and Off Carroll Avenue: A Walk Down Our Main Street," and will feature examples of Takoma Park's excellent collection of vernacular architecture; AND

WHEREAS, the Takoma Park House and Garden Tour is also a fundraiser, proceeds of which are donated to local community organizations; AND

WHEREAS, the 1997 Takoma Park House and Garden Tour Committee has donated two hundred dollars to the City of Takoma Park to use in funding events celebrating Takoma Park's Unification into Montgomery County this year; AND

WHEREAS, the City Council greatly appreciates the contributions made by the Takoma Park House and Garden Tour Committee in promoting Takoma Park and supporting local organizations;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND, THAT, the City Council hereby happily accepts the donation of two hundred dollars from the 1997 Takoma Park House and Garden Tour Committee for use in funding Unification events.

BE IT FURTHER RESOLVED THAT the Council praises the Takoma Park House and Garden Tour Committee for its continuing efforts in promoting and supporting the community of Takoma Park.

ADOPTED THIS 28TH DAY OF APRIL, 1997.

Introduced By: Mayor Sharp

RESOLUTION NO. 1997 - 25

RECOGNIZING MUNICIPAL CLERKS WEEK

WHEREAS, the Office of the Municipal Clerk, a time-honored and vital part of local government, exists throughout the world; AND

WHEREAS, the Municipal Clerk is the oldest among public servants; AND

WHEREAS, the Office of the Clerk provides the professional link between the citizens, the local governing bodies, and agencies of government at other levels; AND

WHEREAS, Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all; AND

WHEREAS, the Clerk serves as the information center on functions of local government and community; AND

WHEREAS, Municipal Clerks continually strive to improve the administration of the affairs of their Office through participation in education programs, seminars, workshops, and the annual meetings of their state, province, county and international professional organizations.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THAT the Week of May 4 through May 10, 1997, be and it hereby is recognized as Municipal Clerks Week in the City of Takoma Park; AND

BE IT FURTHER RESOLVED, THAT appreciation is extended to our City Clerk's Office, comprised of Catherine Sartoph, City Clerk, Thomas Espinosa, Deputy City Clerk, and Lee Vidal, Clerk-Typist, and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

ADOPTED this 28th day of April, 1997.

Introduced by: Councilmember Williams

RESOLUTION #1997-26

**EFFECTING APPOINTMENTS TO THE
PUBLIC SAFETY CITIZENS ADVISORY COMMITTEE**

WHEREAS, in 1996, the City Council established a permanent Public Safety Citizens Advisory Committee (Resolution #1996-66) to provide input and advice to the Council and the City's public safety agencies about how the City can better meet the ongoing needs and concerns of residents in the area of police services and public safety;
AND

WHEREAS, desiring to better enable the committee to address the broad charter outlined in Resolution #1996-66, the Council adopted Resolution #1997-15 on March 24, 1997, expanding the membership of the committee to a membership which shall not exceed twelve members, appointed by Council; **AND**

WHEREAS, several residents have expressed interest in appointment to the committee and have been interviewed by the Council.

NOW, THEREFORE, BE IT RESOLVED THAT the following persons are hereby appointed to serve on the Public Safety Citizens Advisory Committee:

NAME	ADDRESS
Wolfgang Mergner	104 Tulip Avenue
Elizabeth Reynolds	203 Spring Avenue
Lisa Hawkins	7520 Maple Avenue, Apt. #107
Richard Smith	809 Hayward Avenue
Thirkield Cravens	7051 Carroll Avenue, #217
Mary Forrest-Doyle	7415 Piney Branch Road
David Bates	46 Philadelphia Avenue
Rino Aldrighetti	7213 Central Avenue
Doug Tursman	7208 Trescott Avenue
Marie Ritzo	7113 Central Avenue

BE IT FURTHER RESOLVED THAT appointments to this Committee shall be effective immediately.

ADOPTED this 28 day of April, 1997.

ATTEST:


Catherine E. W. Sartoph, City Clerk, CMC

Introduced by: Councilmember Williams

RESOLUTION #1997-27

**REAPPOINTING A MEMBER TO THE TAKOMA PARK
PERSONNEL APPEAL BOARD**

WHEREAS, the Code of the City of Takoma Park provides for the composition of the Personnel Appeal Board for the purpose of hearing employee appeals; **AND**

WHEREAS, Section 8B-181 of the Code provides that the Board shall be composed of five (5) members; **AND**

WHEREAS, there are currently two (2) expired terms and one (1) vacancy on the Board; **AND**

WHEREAS, Council has interviewed an incumbent member of the Board, who has expressed interest in continuing his service on the Board, as well as other City residents who have expressed interest in serving on the Board.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Takoma Park, Maryland, that the following person is hereby reappointed, effective immediately, to the Takoma Park Personnel Appeal Board:

Name/Address	Term Expires
Milford Sprecher	March 31, 2000

BE IT FURTHER RESOLVED, THAT further appointments will be effected by Council resolution following upcoming interview(s).

ADOPTED this 28 day of April, 1997.

Introduced: Councilmember Williams

1st Reading: 4/14/97

2nd Reading: 4/28/97

ORDINANCE #1997-12

AMENDING CHAPTER 2. ADMINISTRATION, ARTICLE 6. BOARDS AND COMMISSIONS, TO ADD REFERENCE TO FREE BURMA COMMITTEE

WHEREAS, on November 12, 1996, the City Council adopted Ordinance #1996-36 which amended several sections of the Code to add general provisions regarding statutory Council appointed committees, to assign specific months/dates on which terms will begin and end for each committee, and to delete the distinction between “primary” and “alternate” members of the Tree Commission; **AND**

WHEREAS, the amendment to Chapter 2. Administration, Article 6. Boards and Commissions, included a list of statutory committees, reference to the section of the Code where each is described, and the term length and expiration date of terms for each committee; **AND**

WHEREAS, prior to the adoption of this ordinance, the Council adopted Ordinance #1996-33 which established a policy for the City in regards to prohibited activities with Burma and chartered the Takoma Park Free Burma Committee; **AND**

WHEREAS, since the Free Burma Ordinance had not been codified prior to the adoption of Ordinance #1996-36, it was not possible to include a cross-reference to the section of the Code dealing with the Free Burma Committee--a section had not been assigned at that time; **AND**

WHEREAS, the Code has been updated to add a supplement including Ordinances #1996-33 and #1996-36; **AND**

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THAT the following amendments to the City Code shall be effected:

CHAPTER 2. ADMINISTRATION

Article 6. Boards and Commissions.

Division 1. General Provisions

Sec. 2-125. Membership of statutory Council-appointed committees.

(a) Except as otherwise provided in Sections specific to individual committees, all members of committees shall be residents of the City of Takoma Park, and in the event a

committee member ceases to reside in the City of Takoma Park, that member is ineligible to serve on the committee as an active member.

(b) The length and expiration month/date of terms for each committee shall be as follows:

Committee	Term	
	Length	Expiration
Commission on Landlord-Tenant Affairs (§6-89)	3 years	6/30
Ethics Commission (§2-15)	2 years	9/30
<u>Free Burma Committee (§3A-9)</u>	<u>2 years</u>	<u>3/31</u>
Nuclear-Free Committee (§8A-12)	2 years	3/31
Personnel Appeal Board (§8B-181)	3 years	3/31
Tree Commission (§2-141)	3 years	9/30

BE IT FURTHER ORDAINED THAT this Ordinance shall become effective upon adoption.

ADOPTED this 28 day of April, 1997.

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

NAY: None

ABSENT: Davenport

ABSTAIN: None

NOTE: Additions to the current text of the Code are underlined.

Introduced by: Councilmember Williams

Adopted : 4/28/97
(Single Reading)

ORDINANCE NO. 1997 - 13

To Award A Contract for City-wide Street Tree Pruning, Removal, and Stump-Grinding

- WHEREAS,** funds have been identified for City-wide Street Tree Pruning, Removal and Stump Grinding improvements; AND
- WHEREAS,** appropriate advertising was placed in the Washington Post and mailed to interested vendors; AND
- WHEREAS,** bids were publicly opened at 2:00 p.m., April 18, 1997 with three (3) bidders; AND
- WHEREAS,** Olney Gardens, Inc. T/A POGO Tree Experts submitted the lowest bid of \$13,445; AND
- WHEREAS,** it has been determined that POGO Tree Experts has submitted a responsive and responsible bid; AND
- WHEREAS,** sufficient funds are available.

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

SECTION 1. THAT the low bid received from POGO Tree Experts in the amount of THIRTEEN THOUSAND FOUR HUNDRED AND FIFTY FIVE DOLLARS (\$13,445) be accepted; AND

SECTION 2. THAT authority be granted to award a contract to POGO Tree Experts and charged to account #3400-6145 accordingly.

Adopted this 28th day of April, 1997 by Roll Call Vote:

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

Introduced By: Councilmember Williams

First Reading: 4/28/97
Second Reading:
Effective Date:

ORDINANCE NO. 1997-14

(Amending Chapter 11, Streets, Article 3, Permits and Improvements, of the *Takoma Park Code* to increase the permit fees for construction work within a public right-of-way and to establish a design and inspection fee.)

WHEREAS, a City permit is required for excavation in the public right-of-way such as installing, repairing, or replacing any type of underground utility; and

WHEREAS, the City's present permit fee for work performed in the public right-of-way does not cover the City's costs; and

WHEREAS, the City's costs include permit processing and issuance, and review and inspection of right-of-way construction plans and work in order to minimize disturbances of the public right-of-way and to ensure the proper restoration of public property; and

WHEREAS, the City also is responsible for street paving and maintenance of public rights-of-way; and

WHEREAS, street cuts, excavations, and other disturbances within the right-of-way reduce the useful life of street paving and can cause other damage to public property; and

WHEREAS, the Council wishes to increase the construction permit fees to a level that more accurately reflects the costs related to infrastructure repair and improvement.

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

SECTION 1. Chapter 11, Streets, Article 3, Permits and Improvements, of the *Takoma Park Code*, is amended as follows:

CHAPTER 11. STREETS.

ARTICLE 3. PERMITS AND IMPROVEMENTS.

Sec. 11-15. Permit required for grading or construction.

(a) No person shall grade, construct, cut or excavate any street, road, highway, alley, driveway apron, sidewalk, right-of-way, curb or gutter or begin any of the work of such grading or construction, without first having obtained a permit from the City Clerk. ~~To obtain a permit, the applicant must submit plans to the Clerk bearing the approval from the Director of Public Works or the Director's representative.~~

(b) No person, including any utility company, shall cut any road or public right-of-way for the purpose of installing or connecting underground power, communication lines, water or sewer lines, cable television wires, or for any other purpose without first obtaining a permit from the City.

(c) In the event of an unexpected repair or emergency, a utility company may commence such repair and emergency response work as required under the circumstances, provided that the utility company shall notify the City as promptly as possible of such repair or emergency work and shall obtain a permit from the City for such work as soon as possible.

(d) A violation of this section Article and any regulations adopted to implement or enforce this Article is a Class B offense.

(e) In addition to all other means of enforcement provided for by law and in this Article, the City Administrator, City Code Enforcement Officers or police officers may issue a stop-work order to any utility company or person who violates any provision of this Article or any regulations adopted to implement or enforce this Article. Any utility company or person who receives such a stop-work order shall immediately cease the work which constitutes the violation. The utility company or person shall comply with all terms and conditions imposed by the stop-work order before the work may resume.

* * * *

Sec. 11-21. Permit and inspection fees.

(a) Before any street, sidewalk, gutter, curb or drainage project (~~except a project which is entirely a grading project~~) may be begun on a road or street or within the boundaries of a dedication to the public use, the applicant for a permit to undertake the project shall pay to the Treasurer four percent (4%) of the estimated cost of the project as determined by the Director, as an inspection and engineering fee. a fee for road construction, right-of-way openings, pavement cuts, excavations, and other disturbance work within a public right-of way of the greater of \$25.00 or the following:

(1) For disturbance activities within the roadbed: \$.60 per linear foot.

(2) For disturbance activities outside of the roadbed: \$.30 per linear foot.

(b) In addition to the permit fee, a permittee shall reimburse the City, on an hourly basis, for reasonable engineering and staff expenses related to the review and inspection of construction within a public right-of-way. The hourly rates for such engineering and staff time shall be established by regulations promulgated in accordance with the provisions of Chapter 2, Article 5, Administrative Regulations, of the *Takoma Park Code* ("Administrative Regulations Ordinance").

~~(b) — Where any project is entirely a grading project, the applicant shall pay ten percent (10%) of the estimated cost of the project as determined by the Director to the Treasurer as an inspection and engineering fee if the office of the Director does the engineering work on the project and two percent (2%) if the applicant for the permit furnishes the engineering work.~~

~~(c) — In other projects involving street cuts, excavation, curb cuts or driveway aprons, the Director may require that an inspection and engineering fee of ten dollars (\$10.) be paid by the applicant to the Treasurer before work is begun.~~

~~(c) (d) In all cases in this Article, the Director of Public Works City Administrator or his/her designee may require that an escrow deposit or a bond to cover costs of possible damage or related problems to public property be paid to the Treasurer. The amount of the escrow deposit or bond shall be determined by the Director City Administrator or his/her designee based on the project and shall be refunded after completion of the project with the approval of the Director City Administrator or his/her designee.~~

SECTION 2. This Ordinance shall be effective immediately.

Adopted this _____ day of _____, 1997 by roll-call vote as follows:

Aye:

Nay:

Absent:

Abstain:

EXPLANATION:

1. ~~Additions~~ to the current language of the *Takoma Park Code* are shown by ~~shading~~.
2. ~~Deletions~~ to the current language of the *Takoma Park Code* are shown by ~~strikeouts~~.
3. * * * * denotes language of the *Takoma Park Code* which is not changed by this Ordinance and is not set forth in this Ordinance.

f:\wpdocs\takoma\ordinanc\permit.ord