

**INTERVIEWS, SPECIAL SESSION, WORKSESSION AND EXECUTIVE SESSION
OF THE CITY COUNCIL****Monday, July 7, 1997**

Executive Session 6/16/97 - Moved by Williams; seconded by Davenport. Council convened in Executive Session by unanimous vote at 10:15 p.m., in the Conference Room. OFFICIALS PRESENT: Chavez, Davenport, Elrich, Porter, Rubin, Williams. OFFICIAL ABSENT: Sharp. STAFF PRESENT: Habada, Sartoph, Monk, Sylvania (Telecommunications Legal Counsel). Council was briefed on contract negotiations with MFS Network Technologies, Inc. Council directed staff and legal counsel to proceed with additional research and negotiations. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(14)).

OFFICIALS PRESENT:

Mayor Sharp	City Administrator Habada
Councilmember Chavez	City Clerk Sartoph
Councilmember Davenport	Senior Planner Schwartz
Councilmember Elrich	Planner Center Coordinator Ludlow
Councilmember Porter	Assistant Corporation Counsel Perlman
Councilmember Rubin	
Councilmember Williams	

The City Council convened at 7:34 p.m. on Monday, July 7, 1997, in the upstairs meeting room of the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland.

These following remarks were made:

INTERVIEWS

- 1. Free Burma Committee.** The Council interviewed Raju Charles who has expressed interest in appointment to the Free Burma Committee. Mayor Sharp noted that Kathleen Vickery, who is scheduled for an interview this evening, is not present. City Clerk Sartoph is to follow-up with Ms. Vickery.
- 2. Commission on Landlord-Tenant Affairs (COLTA).** Mr. Sharp noted that Ms. Carr notified staff that she is sick and unable to be here this evening, and that Mr. Ramsey has indicated that he is not interested in reappointment. Ms. Carr's interview will be rescheduled.

COUNCIL COMMENTS

Councilmember Rubin introduced three citizens who performed the "Unification" song. The words to the song were printed in the latest edition of the *Takoma Voice*.

The artists introduced themselves ("Just Three Chords")-- John Kusick (Takoma/D.C.), Paul DeEfranke, Tim Weil (P.G. side of City). Mr. Weil stated that the song was written by him and his wife, Nancy, who would have been here performing on wash tub bass, but who is recovering from surgery.

EXECUTIVE SESSION

Executive Session 7/07/97 - Moved by Davenport; seconded by Porter. Council convened in Executive Session by unanimous vote at 7:55 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Chavez, Davenport, Porter, Rubin, Williams. OFFICIAL ABSENT: Elrich. STAFF PRESENT: Habada, Sartoph, Rick Ellrod (Telecommunications Legal Counsel). Council was briefed on contract negotiations with MFS Network Technologies, Inc., and discussed strategy for negotiations. Council directed staff and legal counsel to proceed with additional research and negotiations. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(14)).

SPECIAL SESSION

The Council reconvened at 8:30 p.m. in Special Session.

3. (Tentative) Resolution re: MFS Network Technologies, Inc. Mr. Sharp commented on the Executive Session topic, explaining that consideration of this item will be deferred until negotiations are completed.

The Council reached consensus to postpone consideration of the resolution.

4. Single Reading Ordinance re: Leaf Vacuum. Mr. Sharp explained the ordinance, and summarized points from the staff memo (e.g., the vacuum was bought in conjunction with a COG contract).

Moved by Davenport; seconded by Chavez.

Councilmember Davenport received clarification about the piece of machinery.

City Administrator Habada said that the City currently has five leaf vacuums and is in the process of replacing the old machines.

Councilmember Williams remarked about the wonderful job done by Public Works crews during last year's leaf collection season. He said that having good equipment contributes to a job well done.

Ordinance #1997-33 was adopted unanimously, authorizing the purchase of one (1) leaf vacuum for the Public Works Department from Old Dominion Brush, in the amount of \$13,595 to be charged to Capital Budget Account #9100-8003 (VOTING FOR: Sharp, Chavez, Davenport, Porter, Rubin, Williams; ABSENT: Elrich).

Mr. Rubin asked if there are any other pieces of equipment on the list to be purchased that could be purchased under a COG contract.

Ms. Habada stated that when possible, the City does try to take part in cooperative purchases, and that she would have to check with Public Works Team Leader Shafer to know for sure what other items are on the list for acquisition.

Mr. Sharp remarked that he believes staff stays tuned-in to these types of opportunities.

WORKSESSION / EXECUTIVE SESSION / ADJOURNMENT

The Council moved into Worksession at 8:35 p.m. and later convened in Executive Session at 10:50 p.m. Following the Executive Session, the Council adjourned for the evening.

Executive Session 7/07/97 - Moved by Davenport; seconded by Williams. Council convened in Executive Session by unanimous vote at 10:50 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Chavez, Davenport, Elrich, Porter, Rubin, Williams. STAFF PRESENT: Habada, Sartoph, Schwartz, Perlman. (1) Council discussed land acquisition possibilities as related to the Open Space Plan; staff was given direction. (NOTE: Staff left the Conference Room.) (2) Council discussed a personnel matter; no action was taken (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(3) and (1)(ii)).

Introduced by: Councilmember Davenport

Adopted: 7/7/97
(Single Reading)

ORDINANCE NO. 1997 - 33
PURCHASE OF ONE (1) LEAF VACUUM
FOR THE PUBLIC WORKS DEPARTMENT

WHEREAS, the FY98 Capital Budget allocated \$19,000 for the purchase of one (1) replacement Leaf Vacuum, Model No. LCT600, for the Public Works Department; AND

WHEREAS, Old Dominion Brush (O.D.B.) was awarded the cooperative purchasing contract with the Washington Metropolitan Council of Government, to supply Leaf Vacuums to all participating jurisdictions; AND

WHEREAS, Old Dominion Brush (O.D.B.) Leaf Vacuum, Model No.LCT600, is available through this cooperative purchase; AND

WHEREAS, the City has been offered the opportunity to piggy back on COG's contract for ODB's Leaf Vacuum, Model No.LCT600, at last year's price of \$13,595 thereby saving the City \$5,400 for this purchase; AND

WHEREAS, the City would like to proceed with the purchase of Leaf Vacuum, Model No. LCT600, at a cost of THIRTEEN THOUSAND FIVE HUNDRED AND NINETY FIVE DOLLARS (\$13,595); AND

WHEREAS, funds are available for this purchase in the Capital Budget Account No. 9100-8003.

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 Old Dominion Brush, in the amount of THIRTEEN THOUSAND FIVE HUNDRED NINETY FIVE DOLLARS (\$13,595); AND

SECTION 2. THAT funds to cover this procurement in the amount of THIRTEEN THOUSAND FIVE HUNDRED NINETY FIVE DOLLARS (\$13,595) be authorized from the Capital Budget Account # 9100-8003.

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

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

**EXECUTIVE SESSION, REGULAR MEETING, WORKSESSION AND
EXECUTIVE SESSION
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OFFICIALS PRESENT:

Mayor Sharp	City Administrator Habada
Councilmember Chavez	City Clerk Sartoph
Councilmember Elrich	Senior Planner Schwartz
Councilmember Porter	Community Planner George
Councilmember Rubin	Assistant Corporation Counsel Perlman
Councilmember Williams	Legal Counsel Silviera (Telecommunications)

OFFICIAL ABSENT:

Councilmember Davenport

The City Council convened at 7:35 p.m. on Monday, July 14, 1997, in the Council Chambers of the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland.

Following the Pledge of Allegiance, these remarks were made:

COUNCIL COMMENTS

Mayor Sharp noted that Councilmember Davenport's wife is ill this evening, and that he will not be able to attend the meeting. Councilmember Elrich is attending a Silver Spring meeting this evening and may be arriving later.

Mr. Sharp thanked staff for the tremendous amount of work that they did planning for and orchestrating the events related to Unification. He extended personal thanks to the "Director", Larry Rubin, who served as the producer of the event held here in the Council Chambers the night of July 1, and especially for the wonderful script he provided. Mr. Sharp commented on the success of the event, and noted that the Recreation Department has a video tape for sale.

Councilmember Williams remarked that he will not be here for the last two meetings of this month when he understands that a more formal "thank-you" to staff will take place. However, he said that he wants to add a particular thank-you to the people who were involved in planning the Takoma-Langley event that got rained out. Erwin Mack, Lisa Schwartz, Carol Bannerman, Sgt. Coursey and Lt. Creamer, all put a lot effort into the planning of the festival.

Councilmember Rubin thanked the Mayor for his remarks. He said that the Silver Spring Advisory Committee on Planning had a sub-group to study the City's Fire Station. That group put together a report basically supporting the position of Takoma Park. He elaborated on the points made in the report.

Councilmember Chavez thanked the Takoma-Langley CDA for the time and effort they donated to planning and holding the Unification festival. He said that he is sorry that the event had to be canceled. Mr. Chavez added thanks to Mr. Rubin, and said that with Unification, Ward 6 now truly feels a part of the City.

Mr. Rubin commented that this past Saturday he attended the MCGEA (Montgomery County Government Employees Association) picnic which was also attended by many Montgomery County officials, who approached him with welcoming remarks on Unification.

ADOPTION OF MINUTES

The Council Meeting Minutes from 5/27, 6/02, 6/09 and 6/16 were adopted unanimously (VOTING FOR: Sharp, Chavez, Porter, Rubin, Williams; ABSENT: Davenport, Elrich).

CITIZEN COMMENTS

Dave Depner, owner of apartments on Houston Court, presented some photographs illustrating a brick building that he erected on his property to house trash receptacles. He explained that he

was instructed by the City's Code Enforcement Office to build this structure. Other residential owners along the street were told that elevated cement pads, enclosed by wooden gates, met Code standards for containment of trash receptacles. Mr. Depner commented on rat infestation in/around the other receptacles, and stated that he sees no rats around his brick building. He called on the City to take action to remedy this situation.

Mr. Sharp requested that City Administrator Habada talk with the Housing Department about compliance in this area, and asked for a report to Council about what steps are being taken to remedy the problem.

Mr. Depner stated that problems exist at the following properties: 8102, 8103 and 8108 Houston Court.

Ronald Albaugh, 7202 Central Avenue, read from a written testimony (attached), recalling times when the Council Chambers were filled beyond capacity with residents who participated in government. He commented on the Longbranch-Sligo Creek and urged the Council to protect the creek. The citizens spoke their "voice" about preserving the Longbranch stream and valley, the green space area at Jackson/Garland, and the trail, during the discussions of the Master Plan. The land owner at that time, Clarence Coffin, and the "voice" were in favor of preserving the "part Lot 3" and Lot 10 as green space. He commented on access to the property, and explained how Lot 8 was sold separate from the other two. He said that the citizens objections to Mr. Casey's plans are clear. To date, approximately 500 citizens have signed the petition against development of the property at Jackson/Garland. Also to date, the Council has taken several steps to preserve the desires of the residents. He urged the Council to follow the will of the people. He sympathized with the difficulty that Mr. Casey has run up against in trying to get approval to develop the property. He stated that the residents are seeking funds to buy the two lots, and urged Mr. Casey to enter into discussions with Mr. Rothman to buy Lot 8 back, as access to Lot 10. Mr. Albaugh asked the Council to "stay the course for the people", and called upon the Council to find will, creativity, and desire to save the Longbranch Stream.

EXECUTIVE SESSION

Executive Session 7/14/97 - Moved by Williams; seconded by Chavez. Council convened in Executive Session by unanimous vote at 8:03 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Chavez, Porter, Rubin, Williams. OFFICIALS ABSENT: Davenport, Elrich. STAFF PRESENT: Habada, Sartoph, Maria Silviera (Telecommunications Legal Counsel). Council was briefed on contract negotiations with MFS Network Technologies, Inc., regarding possible agreement pertaining to fiber optic cable along Route 410. Based on the briefing, the Council decided to go forward with consideration of a resolution to authorize execution of the agreement. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(14)).

REGULAR MEETING

The Council reconvened at 8:30 p.m.

2. Resolution re: MFS Network Technologies, Inc. Mr. Sharp explained that the Council is returning from an Executive Session briefing regarding an Interim Agreement with MFS Network Technologies, Inc.

Moved by Rubin; seconded by Williams.

Mr. Rubin stated that he is eager to support the resolution because it represents the City telling this company that we feel, demand, support, and advocate for the right of our City to protect our citizens from disruption. Secondly, the resolution supports the position that the City has the right to control the streets that run through it. Thirdly, we want our citizens to reap the rewards of new technology. This agreement allows us time to craft an ordinance to meet these goals and a few others. This agreement does not put limitations on various questions that are before the Council in addressing the goals. The City is taking a lead in this area; we are amongst the first to be pro-active in reaching these goals, and are not about to knuckle under to pressure by large corporations.

Resolution #1997-43 was adopted unanimously, approving an Interim Agreement between the City and MFS for Telecommunications facilities owned by MFS to occupy and use public rights-of-way in the City (VOTING FOR: Sharp, Chavez, Porter, Rubin, Williams; ABSENT: Davenport, Elrich)

RESOLUTION #1997-43 (Attached)

3. Single Reading Ordinance re: Traffic Engineering Services. Mr. Sharp explained the ordinance.

Moved by Porter; seconded by Chavez.

Community Planner George summarized her memorandum, explaining that Mr. John Christman who was the principal person with the A/E Group (originally, awarded the contract) has left the firm. The review committee wants to move forward with the current project and is recommending that the contract be re-awarded to the RBA Group. The RBA Group has said that they will try to work with Mr. Christman on the project.

Mr. Sharp commented that the Council was originally willing to accept other than the lowest bid, to ensure Mr. Christman's involvement. He pointed out, as explained in the memo, that now there is no guarantee that the RBA Group will be able to work out something to ensure Mr. Christman's involvement.

Councilmember Porter further explained that the Council was willing to pay more for the work of Mr. Christman, who is believed to work well with the citizens and has demonstrated this ability in the past. Without his involvement, the Council is not willing to pay the same high fee for another company.

Ms. George described professional moves that Mr. Christman has made over the past year.

Mr. Rubin asked if there is some other option of being able to work with Mr. Christman.

Ms. George stated that the projects in question have been in the works for some time, and that staff would like to get them resolved. There are other projects that will be coming forward, and Mr. Christman's company will be recognized as a future bidder on projects.

Jack Mitton, 501 Philadelphia Avenue, asked several questions: (1) who are the members of the review committee; (2) why wasn't cost a major consideration, originally; (3) is this approach typical; (4) why wasn't the RBA Group accepted originally; (5) how many bids were received; and (6) since this is not in the FY98 Budget, how can this be a single reading ordinance.

City Administrator Habada stated that funds have been allocated for Traffic Engineering Consultant Services, so the money is in the budget. She deferred to Ms. George for responses to the other questions.

Ms. George said that the review committee consisted of Planning Center Coordinator Ludlow, Senior Planner Schwartz, and herself. She remarked that she does not have with her tonight, the criteria which they used to select the vendor, but said that they were concerned with more than simply the price tag. There was a sensitivity to the vendor's experience and involvement in working with neighborhoods. The criteria was included in the bid package.

Ms. Porter commented that with professional services contracts, it is not uncommon for someone other than the lowest bidder to be accepted. This is also not uncommon in the Federal Government. She noted, however, that the criteria are put out ahead of time.

Mr. Rubin stated that price is always a major consideration, but there is also a question of what you are getting. The balance the quality of work against the principle of "getting what you pay for" is important. In this case, the factor of Mr. Christman, a known "quality" to the City, was considered to be of some worth by the Council. Now it turns out that we cannot have him for these two projects, and a recommendation is being made to go with the lowest bidder.

Ordinance #1997-34 was adopted unanimously, rescinding ordinance #1997-26 and awarding the traffic engineering consultant service contract for FY1997 to the RBA Group for the amount of \$7,039.79 (VOTING FOR: Sharp, Chavez, Porter, Rubin, Williams; ABSENT: Davenport, Elrich).

ORDINANCE #1997-34
(Attached)

4. Single Reading Ordinance re: Rehabilitation Project (TPSS Food Co-op). Mr. Sharp explained the ordinance.

Ms. Porter commented that the reason the City is doing this is because the money for the work is coming through the City.

Moved by Williams; seconded by Porter.

Mr. Williams remarked that this money is a portion of the \$500,000 grant from the State. He clarified that if the Council adopts the ordinance, it will go forward to the State Board of Public Works for their consideration.

Ms. Porter noted that the City appears to be going with the lowest set of bidders for the work.

Mr. Sharp named each of the four different companies.

Ordinance #1997-35 was adopted unanimously, authorizing rehabilitation assistance to Takoma Park-Silver Spring Cooperative State Capital Allocation (VOTING FOR: Sharp, Chavez, Porter, Rubin, Williams; ABSENT: Davenport, Elrich).

ORDINANCE #1997-35
(Attached)

5. 1st Reading Ordinance re: Sound Amplification Permits. Mr. Sharp explained the ordinance.

Moved by Chavez; seconded by Porter.

Ms. Porter remarked that the ordinance deals with the requirement that anyone who is undertaking an activity that involves amplified noise in the public right-of-way is required to get a permit. The change being made would require that the permit come from the City Administrator instead of the Council. She recalled that last week, the Council discussed with the City

Administrator combining this permit with others (e.g., block party) which have a likely connection with sound amplification.

Mr. Sharp noted that the ordinance also allows for promulgation of Administrative Regulations to address the latter point raised by Ms. Porter.

Mr. Rubin stated that this, in no way, changes the standards for “quiet” in the City. It only addresses the permit process. He concluded that he thinks this is a wise change.

| Greg Seekins, 409 Ethan Allen Avenue, asked for clarification about the permit.

Ms. Porter emphasized that the ordinance does not change the current requirement in the Code in terms of a person having to obtain a permit for a sound amplification. It amends the Code to allow the City Administrator to issue the permits, instead of the Council.

| Mr. Seekins questioned what is considered the “right-of-way.”

Ms. Porter responded that the common understanding of “right-of-way” is all of the City-owned property (right-of-way).

Mr. Williams noted that in most cases, the right-of-way extends into the front of what most residents consider their property.

| Mr. Seekins asked whether the ordinance would apply to radios in moving vehicles.

Mr. Sharp stated that radios in cars would be addressed by State and County noise ordinances. This is not the issue that the Council is addressing tonight, but it could be addressed at another time. Tonight, the Council is considering the adoption of an ordinance to make an administrative change about how sound amplification permits are issued.

Mr. Rubin remarked that car radio amplification would probably be addressed by the County ordinance which sets certain decibel levels for sound.

| Mr. Seekins asked whether he needs to obtain a permit to play the radio in his car.

Mr. Sharp restated that this would not fall under the sound amplification permit provisions.

| Mr. Seekins noted that he disagrees with the permit approval authority being granted to the City Administrator, and that he thinks this authority should remain in the purview of the Council.

Ordinance #1997-36 was accepted unanimously, amending the Code to authorize the City Administrator to approve sound amplification permits, and to promulgate regulations setting

permit provisions (VOTING FOR: Sharp, Chavez, Porter, Rubin, Williams; ABSENT: Davenport, Elrich).

**ORDINANCE #1997-36
(Attached)**

WORKSESSION / EXECUTIVE SESSION

The Council moved into Worksession at 8:57 p.m., and later convened in Executive Session at 9:45 p.m. Following the Executive Session, the Council adjourned for the evening.

Executive Session 7/14/97 - Moved by Rubin; seconded by Chavez. Council convened in Executive Session by unanimous vote at 9:50 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Chavez, Elrich, Porter, Rubin, Williams. OFFICIAL ABSENT: Davenport. STAFF PRESENT: Habada, Sartoph, Schwartz, Perlman. (1) Council was briefed on possible litigation relating to a City loan; Council directed staff to continue to pursue efforts to recover on the loan. (2) Staff provided an update on possible land acquisition; Council directed staff to continue land purchase efforts. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(8) and (3)).

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REGULAR MEETING

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Mr. Sharp commented that the Council was originally willing to accept other than the lowest bid, to ensure Mr. Christman's involvement. He pointed out, as explained in the memo, that now there is no guarantee that the RBA Group will be able to work out something to ensure Mr. Christman's involvement.

Councilmember Porter further explained that the Council was willing to pay more for the work of Mr. Christman, who is believed to work well with the citizens and has demonstrated this ability in the past. Without his involvement, the Council is not willing to pay the same high fee for another company.

Ms. George described professional moves that Mr. Christman has made over the past year.

Mr. Rubin asked if there is some other option of being able to work with Mr. Christman.

Ms. George stated that the projects in question have been in the works for some time, and that staff would like to get them resolved. There are other projects that will be coming forward, and Mr. Christman's company will be recognized as a future bidder on projects.

Jack Mitton, 501 Philadelphia Avenue, asked several questions: (1) who are the members of the review committee; (2) why wasn't cost a major consideration, originally; (3) is this approach typical; (4) why wasn't the RBA Group accepted originally; (5) how many bids were received; and (6) since this is not in the FY98 Budget, how can this be a single reading ordinance.

City Administrator Habada stated that funds have been allocated for Traffic Engineering Consultant Services, so the money is in the budget. She deferred to Ms. George for responses to the other questions.

Ms. George said that the review committee consisted of Planning Center Coordinator Ludlow, Senior Planner Schwartz, and herself. She remarked that she does not have with her tonight, the criteria which they used to select the vendor, but said that they were concerned with more than simply the price tag. There was a sensitivity to the vendor's experience and involvement in working with neighborhoods. The criteria was included in the bid package.

Ms. Porter commented that with professional services contracts, it is not uncommon for someone other than the lowest bidder to be accepted. This is also not uncommon in the Federal Government. She noted, however, that the criteria are put out ahead of time.

Mr. Rubin stated that price is always a major consideration, but there is also a question of what you are getting. The balance the quality of work against the principle of "getting what you pay for" is important. In this case, the factor of Mr. Christman, a known "quality" to the City, was considered to be of some worth by the Council. Now it turns out that we cannot have him for these two projects, and a recommendation is being made to go with the lowest bidder.

Ordinance #1997-34 was adopted unanimously, rescinding ordinance #1997-26 and awarding the traffic engineering consultant service contract for FY1997 to the RBA Group for the amount of \$7,039.79 (VOTING FOR: Sharp, Chavez, Porter, Rubin, Williams; ABSENT: Davenport, Elrich).

**ORDINANCE #1997-34
(Attached)**

4. Single Reading Ordinance re: Rehabilitation Project (TPSS Food Co-op). Mr. Sharp explained the ordinance.

Ms. Porter commented that the reason the City is doing this is because the money for the work is coming through the City.

Moved by Williams; seconded by Porter.

Mr. Williams remarked that this money is a portion of the \$500,000 grant from the State. He clarified that if the Council adopts the ordinance, it will go forward to the State Board of Public Works for their consideration.

Ms. Porter noted that the City appears to be going with the lowest set of bidders for the work.

Mr. Sharp named each of the four different companies.

Ordinance #1997-35 was adopted unanimously, authorizing rehabilitation assistance to Takoma Park-Silver Spring Cooperative State Capital Allocation (VOTING FOR: Sharp, Chavez, Porter, Rubin, Williams; ABSENT: Davenport, Elrich).

**ORDINANCE #1997-35
(Attached)**

5. 1st Reading Ordinance re: Sound Amplification Permits. Mr. Sharp explained the ordinance.

Moved by Chavez; seconded by Porter.

Ms. Porter remarked that the ordinance deals with the requirement that anyone who is undertaking an activity that involves amplified noise in the public right-of-way is required to get a permit. The change being made would require that the permit come from the City Administrator instead of the Council. She recalled that last week, the Council discussed with the City

Administrator combining this permit with others (e.g., block party) which have a likely connection with sound amplification.

Mr. Sharp noted that the ordinance also allows for promulgation of Administrative Regulations to address the latter point raised by Ms. Porter.

Mr. Rubin stated that this, in no way, changes the standards for “quiet” in the City. It only addresses the permit process. He concluded that he thinks this is a wise change.

| Greg Seekins, 409 Ethan Allen Avenue, asked for clarification about the permit.

Ms. Porter emphasized that the ordinance does not change the current requirement in the Code in terms of a person having to obtain a permit for a sound amplification. It amends the Code to allow the City Administrator to issue the permits, instead of the Council.

| Mr. Seekins questioned what is considered the “right-of-way.”

Ms. Porter responded that the common understanding of “right-of-way” is all of the City-owned property (right-of-way).

Mr. Williams noted that in most cases, the right-of-way extends into the front of what most residents consider their property.

| Mr. Seekins asked whether the ordinance would apply to radios in moving vehicles.

Mr. Sharp stated that radios in cars would be addressed by State and County noise ordinances. This is not the issue that the Council is addressing tonight, but it could be addressed at another time. Tonight, the Council is considering the adoption of an ordinance to make an administrative change about how sound amplification permits are issued.

Mr. Rubin remarked that car radio amplification would probably be addressed by the County ordinance which sets certain decibel levels for sound.

| Mr. Seekins asked whether he needs to obtain a permit to play the radio in his car.

Mr. Sharp restated that this would not fall under the sound amplification permit provisions.

| Mr. Seekins noted that he disagrees with the permit approval authority being granted to the City Administrator, and that he thinks this authority should remain in the purview of the Council.

Ordinance #1997-36 was accepted unanimously, amending the Code to authorize the City Administrator to approve sound amplification permits, and to promulgate regulations setting

permit provisions (VOTING FOR: Sharp, Chavez, Porter, Rubin, Williams; ABSENT: Davenport, Elrich).

**ORDINANCE #1997-36
(Attached)**

WORKSESSION / EXECUTIVE SESSION

The Council moved into Worksession at 8:57 p.m., and later convened in Executive Session at 9:45 p.m. Following the Executive Session, the Council adjourned for the evening.

Executive Session 7/14/97 - Moved by Rubin; seconded by Chavez. Council convened in Executive Session by unanimous vote at 9:50 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Chavez, Elrich, Porter, Rubin, Williams. OFFICIAL ABSENT: Davenport. STAFF PRESENT: Habada, Sartoph, Schwartz, Perlman. (1) Council was briefed on possible litigation relating to a City loan; Council directed staff to continue to pursue efforts to recover on the loan. (2) Staff provided an update on possible land acquisition; Council directed staff to continue land purchase efforts. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(8) and (3)).

Introduced by: Councilmember Rubin

RESOLUTION NO. 1997-43

**Approving an Interim Agreement Between the City and MFS
for Telecommunications Facilities Owned by MFS to
Occupy and Use Public Rights-of-Way in the City**

WHEREAS, Metropolitan Fiber Systems of Baltimore, Inc. ("MFS") has requested access to City rights-of-way to construct, maintain, and remove its facilities in the public ways of the City for the purpose of providing telecommunications services; and

WHEREAS, the City has authority to manage its rights-of-ways and to require fair and reasonable compensation from telecommunications providers for use of the public rights-of-way on a non-discriminatory basis; and

WHEREAS, while the City is developing an ordinance governing use of the public rights-of-way by telecommunications providers, MFS and the City desire to enter into an interim agreement that allows telecommunications facilities owned by MFS to occupy and use the public rights-of-way.

NOW, THEREFORE, BE IT RESOLVED THAT the Council of the City of Takoma Park hereby approves the Interim Agreement between MFS and the City of Takoma Park, in substantially the form attached to this Resolution, and authorizes the City Administrator to execute such Interim Agreement on behalf of the City of Takoma Park.

THIS RESOLUTION IS ADOPTED THIS 14th DAY OF JULY, 1997, BY ROLL-CALL VOTE AS FOLLOWS:

Aye: Sharp, Chavez, Porter, Rubin, Williams
Nay: None
Absent: Davenport, Elrich
Abstain: None

Introduced By: Councilmember Porter

Adopted: July 14 1997
(Single Reading)

ORDINANCE NO. 1997 - 34

TRAFFIC ENGINEERING SERVICES CONTRACT

WHEREAS, on June 2, 1997, the Council of the City of Takoma Park, Maryland awarded the FY 1997 Traffic Engineering Consulting Services contract to the A/E Group (Ordinance No. 1997 - 26; AND,

WHEREAS, John Christman, P.E. was the principal staff for the personnel assigned to this project by the A/E Group; AND,

WHEREAS, the review committee recommended the A/E Group based on references of John Christman, P.E. as the most experienced in working with elected official and citizen volunteer groups; AND,

WHEREAS, Mr. Christman and the A/E Group terminated their contractual agreement prior to executing the Contract with the City of Takoma Park, Maryland; AND,

WHEREAS, the review committee reassessed the original recommendation and based on the selection criteria and in consideration of other qualifications included in the Request for Proposals, the review committee recommended the following:

- 1.) Rescind Ordinance No. 1997 - 26;
- 2.) Award of the traffic engineering consultant service contract for FY 1997 to the RBA Group for the amount of \$7,039.79 AND,

WHEREAS, the allocated funds of \$9,500 are sufficient to pay for the cost of the traffic engineering consultant services to be provided;

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

SECTION 1. That Ordinance No. 1997 - 26 be rescinded; AND

SECTION 2. THAT the Traffic Engineering Consulting Services contract is awarded to the RBA Group in the amount of \$7,039.79; AND

SECTION 3. THAT the funds to cover this purchase in the amount of SEVEN THOUSAND THIRTY - NINE DOLLARS AND SEVENTY - NINE CENTS (\$7,039.79) will be charged to the General Fund Account No. 5500.6105.

ADOPTED THIS 14 DAY OF JULY, 1997.

AYE: Sharp, Chavez, Porter, Rubin, Williams

NAY: None

ABSTAINED: None.

ABSENT: Davenport, Elrich

ORDINANCE NO. 1997 - 35

Rehabilitation Assistance to Takoma Park-Silver Spring Cooperative
State Capital Allocation

- WHEREAS, The City of Takoma Park has received a Capital Allocation in the amount of 500,000 from the State of Maryland to be used in the revitalization of Takoma Junction; AND
- WHEREAS, The rehabilitation of the Turner Electric property located at 201 Ethan Allen Avenue for use by the Takoma Park-Silver Spring Cooperative is an important step in the revitalization initiative; AND
- WHEREAS, The MD Department of Public Services concurred with the City's request to use \$125,000 of the Capital Allocation as a grant to the Cooperative for rehabilitation activities; AND
- WHEREAS, The City and the Cooperative entered into an agreement dated June 9 which defined how the grant funds are to be used; AND
- WHEREAS, In accordance with City Procurement procedures a Request for bids was advertised in the Washington Post; AND
- WHEREAS, Bids were received as listed in the attached Bid Tabulation with the lowest responsive and responsible bidders as follows:

Drywall & AC Tile: Cindell Construction Co.	\$28,340.00
Electrical: Lauman Electric, Inc.	\$45,745.00
Plumbing: Cranford Mechanical	\$27,300.00
HVAC: Interstate Service Company	\$23,615.00
TOTAL	\$125,000.00

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

- SECTION 1. THAT the bids received in the total amount of ONE HUNDRED TWENTY FIVE THOUSAND DOLLARS AND ZERO CENTS (\$125,000.00) be accepted; AND
- SECTION 2. THAT funds to cover this work in the amount of ONE HUNDRED TWENTY FIVE DOLLARS AND ZERO CENTS (\$125,000.00) be charged as follows:

STATE CAPITAL ALLOCATION	ACCOUNT NO. 0010 6854
--------------------------	-----------------------
- SECTION 3. THAT the City of Takoma Park enter into a joint agreement with the Takoma Park-Silver Spring Cooperative and Opus 3 Ltd., General Contractor, for execution of the rehabilitation work in the Turner Electric building, 201 Ethan Allen Avenue.

ADOPTED THIS 14th DAY OF JULY, 1997

- AYES: Sharp, Chavez, Porter, Rubin, Williams
- NAYS: None
- ABSTAIN: None
- ABSENT: Davenport, Elrich

Introduced by: Councilmember Chavez

1st Reading: 7/14/97

2nd Reading:

ORDINANCE #1997-36

AMENDING THE CODE TO AUTHORIZE THE CITY ADMINISTRATOR TO APPROVE SOUND AMPLIFICATION PERMITS

WHEREAS, currently, the City Council is required to approve requests for permits for sound amplification in public rights-of-way; AND

WHEREAS, the City Council desires to delegate this authority to the City Administrator.

NOW, THEREFORE, BE IT ORDAINED THAT the following amendments to the City Code Chapter 8. Morals and Conduct, Article 3. Offenses Against Public Peace, Division 2. Noise Control, Section 8-30. Sound amplification in public area; permit required, shall be effected:

Sec. 8-30. Sound amplification in public area; permit required.

(a) No person shall, without first having made application in writing to the [Mayor and Council] City Administrator or his/her designee and receiving a permit to do so, use or operate or cause to be used or operated any mechanical device, radio, machine, apparatus or instrument for the intensification, reproduction or amplification of the human voice or any sound or noise on the streets and alleys or in other public places within the limits of the city. A violation of this section is a Class C offense.

(b) Permit provisions 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").

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

ADOPTED this _____ day of _____, 1997.

AYE:

NAY:

ABSTAIN:

ABSENT:

NOTE: Language in [brackets] shall be deleted; language underlined shall be added.

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

Monday, July 21, 1997

Executive Session 7/14/97 - Moved by Williams; seconded by Chavez. Council convened in Executive Session by unanimous vote at 8:03 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Chavez, Porter, Rubin, Williams. OFFICIALS ABSENT: Davenport, Elrich. STAFF PRESENT: Habada, Sartoph, Maria Silviera (Telecommunications Legal Counsel). Council was briefed on contract negotiations with MFS Network Technologies, Inc., regarding possible agreement pertaining to fiber optic cable along Route 410. Based on the briefing, the Council decided to go forward with consideration of a resolution to authorize execution of the agreement. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(14)).

Executive Session 7/14/97 - Moved by Rubin; seconded by Chavez. Council convened in Executive Session by unanimous vote at 9:50 p.m., in the Conference Room. OFFICIALS PRESENT: Sharp, Chavez, Elrich, Porter, Rubin, Williams. OFFICIAL ABSENT: Davenport. STAFF PRESENT: Habada, Sartoph, Schwartz, Perlman. (1) Council was briefed on possible litigation relating to a City loan; Council directed staff to continue to pursue efforts to recover on the loan. (2) Staff provided an update on possible land acquisition; Council directed staff to continue land purchase efforts. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(8) and (3)).

OFFICIALS PRESENT:

Mayor Pro Tempore Elrich
Councilmember Chavez
Councilmember Porter
Councilmember Rubin

City Administrator Habada
Assistant City Administrator Hobbs
City Clerk Sartoph
Corporation Counsel Silber
Assistant Corporation Counsel Perlman
Public Works Team Leader Braithwaite
Community Development Coordinator Sickle

OFFICIALS ABSENT:

Mayor Sharp
Councilmember Davenport
Councilmember Williams

The City Council convened at 7:39 p.m. on Monday, July 21, 1997, in the upstairs meeting room

of the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland.

INTERVIEWS

- 1. Commission on Landlord-Tenant Affairs (COLTA).** The Council interviewed Deborah Carr who has expressed interest in re-appointment to COLTA.
- 2. Free Burma Committee.** The Council interviewed Kathleen Vickery who has expressed interest in appointment to the Free Burma Committee.

ADDITIONAL AGENDA ITEM

- 3. Memorandum re: Single Reading Ordinance authorizing Purchase of Two Refuse Trucks.** Councilmember Porter stated that she thinks it would be helpful to have a presentation and discussion prior to voting on this item.

The Council reached a consensus to add this item to the Worksession agenda.

PRESENTATION

- 4. Current Status of Contamination at Corner of Sligo Creek Parkway and New Hampshire Avenue** (presenter: Jim Richmond, Maryland Department of the Environment).

Community Development Coordinator Sickle provided a brief introduction, and introduced Mr. Richmond.

Jim Richmond recalled having received a letter from the Mayor expressing concern about the presence of chemical contamination at the site of the Dry Cleaner. The Maryland Department of the Environment (MDE) conducted a surprise inspection at the end of March, 1997. A conclusion was reached at that time, that no one at the Dry Cleaner was intentionally dumping or misusing the chemical. Since that time, the MDE, WSSC, and a contractor for the business have taken samples from the monitoring wells on the site. He cited exact readings which have been taken, and commented on maximum levels permitted in drinking water. Mr. Richmond said that now, it has to be determined whether the chemical (perchloroethylene) is having an effect on the wildlife in the adjacent Sligo Creek. The owner of the business has been directed to respond to the MDE regarding the location of contamination and its proximity to the creek. If the property owner does not respond, the department can take action.

Ms. Porter commented that she understands that this chemical is a long-lasting and dangerous one, which does not readily break down.

Mr. Richmond responded in the affirmative, but pointed out that MDE has to evaluate the exposure to the chemical (e.g., are children playing in the creek, are people eating fish from the creek, etc.). MDE has to obtain answers to more questions before deciding what to do.

Ms. Porter asked if it is common for the department to ask the property owner to study the levels of contamination.

Mr. Richmond responded in the affirmative. He explained the sampling procedure. If the property owner does not comply, the department can take its own action.

Ms. Porter questioned what would be the next steps if it turns out that the chemical is contaminating the creek.

Mr. Richmond stated that it would depend on the level of contamination and geology of the area. He described how contaminated water might be pumped out so that it does not run into the creek.

Ms. Porter asked what is the continuous source of the chemical.

Mr. Richmond remarked that it could depend a lot on the geology, and described how the topography of the bed rock might provide low areas where the chemical may be pooling. One theory is that when the well was replaced, a pool of the chemical which had accumulated was released with the construction. The chemical does not mix well with ground water. He commented on dispersion of the chemical, and said that there are a lot of site characteristics which would effect how the chemical moves through the soil and how the chemical is cleaned up.

Ms. Porter asked what is the time frame on the property owner to respond.

Mr. Richmond stated that it is hard to say, but assured the Council that the MDE stays in contact with the property owner. It depends a lot on the case. He noted that a letter went out at the end of June giving the owner 60 days to respond. If the sample plan is not returned, the MDE can take its own action. If the plan is turned in as requested, MDE will evaluate the sample plan and provide direction to the owner. The department has to give the property owner a reasonable time to respond to directions. The time frame for the department to go in (if needed) could be immediate, in addition to whatever time it takes to get mobilized (30-60 days).

Ms. Porter commented that she has heard a lot of concern in the surrounding neighborhood about the news of a serious chemical in the ground. At every meeting of the community association, concerns are raised.

Mr. Richmond stated that he does not think the chemical is coming in contact with residents. MDE has tested the creek and found no trace of the chemical. He noted that he sampled the water coming out of the storm drain at the stream, and that there were no traces of the chemical. He explained that the chemical vaporizes in the air. So, while it may be present in the water

running through the drain pipe, the distance that it falls from the drain opening may be long enough for the chemical to evaporate.

Councilmember Chavez asked how dangerous is the chemical.

Mr. Richmond commented that it is hard to say, since he is not a doctor. He pointed out, however, that the chemical is used in the dry cleaning process and consequently, people who use dry cleaners have this chemical in contact with their skin. It is also an airborne chemical. He remarked that if a dangerous level of the chemical were detected in drinking water, MDE would caution people to drink bottled water and order the contamination to be cleaned up.

Councilmember Rubin commented that the concern is that the chemical is ending up somewhere that people are ingesting it. He noted, however, that this is not the only pollutant in the creek.

Mr. Richmond emphasized that the creek is in good shape, noting that he did not find traces of many chemicals on his list when he did the sampling. He said that he thinks that the sewer line going in there has had a lot to do with the chemical not going into the creek. There is a treatment system at the Dry Cleaner through which things go before entering the WSSC system.

Mr. Chavez questioned whether there is a danger to the birds or other wildlife that drinks the water.

Councilmember Elrich concluded that the City needs to receive regular updates on this issue.

Mr. Richmond stated that he will keep the City up-to-date, and that the MDE will take action if needed. He said that it is his understanding that this site use to be a gas station. He remarked about the separator that may have been used by a service station to separate water and oil, adding that the same separator would not be sufficient to separate water and the chemical. He commented that the old drain probably dumps right into the ground.

Mr. Elrich stated that he would like to know if there comes a point that the MDE has to respond, and what the time frame would be for the response. He again requested that the City be kept informed.

Mr. Rubin commented that it might pay for the City to stock the creek if it is clean enough.

Mr. Elrich noted that he has seen trout in the creek, and that it has been a long time since he has seen crayfish.

City Administrator Habada remarked that she has heard that the business owner may be planning to close.

Mr. Richmond remarked that he does not know for certain, but that it would not make a

difference since MDE holds the property owner responsible.

SPECIAL SESSION

The Council convened in Special Session at 8:13 p.m.

5. 1st Reading Ordinance re: Pay for Performance Consultant.

Assistant City Administrator Hobbs noted that in the FY97 budget, the Council approved an expenditure of up to \$37,000 for a Pay for Performance Consultant. He explained that there was no proposal completed for this item in FY97, but that now there is a proposal for \$30,000 for this study. He noted the persons on the review committee, and explained how the committee examined the four written proposals and interviewed the bidders. It came down to two bidders. Two were considered unresponsive because they have had no local government experience. The other two have extensive local government experience. The scoring of technical proposals were very close; however, the cost proposals varied. The committee suggests that the contract be awarded to Slavin Management Consultants, Inc., of Norcross, Georgia.

Mr. Rubin said that it is interesting that there were not more local bids.

Mr. Elrich questioned whether we are at a point where Mr. Hobbs can say that all parties are happy with the process up to now.

Mr. Hobbs responded in the affirmative.

Mr. Rubin asked how many times the committee met.

Mr. Hobbs described all of the meetings, noting that Councilmember Williams was not able to sit in on the interviews.

Mr. Rubin observed that the group met frequently. He asked whether the point system was carried out in a group process.

Mr. Hobbs explained that each individual scored the proposals separately, and the scores reflected were an average of those submitted.

Ms. Porter questioned whether there was unanimity in the scores.

Mr. Hobbs responded in the affirmative.

Human Resources Assistant Hampton stated that the scores were largely consistent.

Mr. Hobbs pointed out that the criteria were listed in the RFP, and stated that October 1997 is the anticipated completion date for the study.

Moved by Rubin; seconded by Chavez.

Benjamin Onyeneke, Maple Avenue, asked for clarification about the compensation plan. What kind of work will the consultant be doing? He stated that he thinks the City has qualified staff to work on this plan.

Mr. Hobbs explained that the consultant will be looking at the entire pay structure of all the employees, and considering questions like: whether it is adequate to meet our needs, and whether it is retaining staff. All aspects of the City's compensation structure will be reviewed to design ways to reward outstanding workers.

Mr. Onyeneke reiterated that he thinks the City has enough qualified staff to conduct the plan "in house", and that the money could be better used for other projects. There are also City volunteers qualified to do this kind of study.

Mr. Rubin commented that he has raised this same concern in the past. As a general statement, he said that he would always prefer to do things "in house", but pointed out that in this case, it has been over a year and a half that a proposal to study the compensation plan has been on the table. He remarked that he is convinced that in this case, the various parties that need to be involved, if this is going to be a meaningful process, will work better if there is an outsider bringing it together. This is more than a case of crunching numbers. A lot of positions that will be advocated for need to be balanced. Mr. Rubin said that he thinks if the Council does not approve this approach, the issue will remain on the table.

Mr. Onyeneke commented that he thinks there are people who are qualified to work on a committee to examine this issue. The \$30,000 could save three jobs in the City.

Mr. Rubin responded that \$30,000 would not go far to pay benefits for employees. He said that he pushes a lot for volunteer committees to do everything possible, but that in this situation, it is time to just "do it." The most important issue before the Council has to do with the staff and particularly the Police force--how to attract persons and retain them on staff.

| Mr. Elrich added that the issue we are wrestling with is moving from a merit system, where people get steps and merit increases just for being on the job, to a pay for performance system where people get paid for doing excellent work. This is a matter of how employees should be rewarded, and is a lot more complicated than a comparative study. This is a discussion about how to fundamentally pay employees in a different way.

Ms. Porter commented that this is a question of what best fits with staff, and probably one of the instances where someone from the outside can give a perspective that we would not otherwise

get.

Mr. Hobbs restated that the work should be completed by mid to late October 1997.

Mr. Onyeneke supported adoption of the ordinance.

Mr. Chavez pointed out that if the study were done "in house", some employees might complain that there is a conflict of interest.

Mr. Hobbs added that it will be necessary to negotiate any change to the pay plan with the two local unions.

Mr. Rubin commented that he thinks this is the most expeditious way to accomplish this goal.

Ordinance #1997-37 was accepted unanimously, awarding a contract for a City wide compensation study to Slavin Management Consultants in an amount not to exceed \$30,000 (VOTING FOR: Elrich, Chavez, Porter, Rubin; ABSENT: Sharp, Davenport, Williams).

ORDINANCE #1997-37
(Attached)

ADDITIONAL AGENDA ITEM

6. 1st Reading Ordinance re: Payment for Legal Services (Miller & Van Eaton). Mr. Elrich described the ordinance.

Ms. Porter explained that it has been important in this instance to use outside legal counsel. It is essential that the City have specialized counsel on the matter of telecommunications.

Mr. Rubin remarked that the City is taking a ground-breaking step in this area.

Mr. Elrich noted that MFS will be reimbursing the City with \$5,000 in addition to some \$25,000 that will be provided by MFS. This legal expense is being well paid for.

Moved by Chavez; seconded by Rubin.

Ordinance #1997-38 was accepted unanimously, authorizing payment of the final FY97 billing from Miller & Van Eaton not to exceed a total of \$9,609.68 for FY97 telecommunications related legal expenses (VOTING FOR: Elrich, Chavez, Porter, Rubin; ABSENT: Sharp, Davenport, Williams).

ORDINANCE #1997-38

(Attached)

WORKSESSION / EXECUTIVE SESSION

The Council moved into Worksession, and later convened in Executive Session. Following the Executive Session, the Council adjourned for the evening.

Executive Session 7/21/97 - Moved by Porter; seconded by Chavez. Council convened in Executive Session by unanimous vote at 10:45 p.m., in the Conference Room. OFFICIALS PRESENT: Chavez, Elrich, Porter, Rubin. OFFICIALS ABSENT: Sharp, Davenport, Williams. STAFF PRESENT: Habada, Sartoph, Silber. Council was briefed on dispute over a contract billing that is disputed by the City. Silber discussed her analysis of the contractors' bills and justification. No action was taken. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(7)).

INTRODUCED BY: Councilmember Rubin

First Reading: 7/21/97
Second Reading:

ORDINANCE NO. 1997 - 37

To Award A Contract For A City Wide Compensation Study

WHEREAS, Funds were allocated in the Fiscal Year 97 Operating Budget; AND
WHEREAS, appropriate advertising was placed in the Washington Post; AND
WHEREAS, proposals were received from the following: AND

Fox Lawson Associates of Roseville, Minnesota;

Productivity Advisory Services of Middletown, Maryland;

HR Solutions of Radnor, Pennsylvania; and

Slavin Management Consultants, Inc. of Norcross, Georgia.

WHEREAS, it has been determined that Slavin Management Consultants, Inc. have submitted the most responsive and responsible proposal.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT the City Administrator or her designee is authorized to execute a contract with Slavin Management Consultants, Inc. for the conduct of a City Compensation Study and that the amount of the contract may not exceed \$30,000; and that the funds in the amount of \$30,000 be brought forward from the approved FY 97 appropriations and used to fund this study during FY 98.

Adopted this day of , 1997 by Roll Call Vote:

AYE:

NAY:

ABSTAINED:

ABSENT:

Introduced by: Councilmember Chavez

1st Reading: 7/21/97

2nd Reading:

Ordinance No. 1997 - 38

**Authorization for Payment of Legal Services
(Miller & Van Eaton)**

WHEREAS, the City retained the legal services of the Miller & Van Eaton law firm to represent the City's interest on telecommunication matters, particularly on negotiations with MFS, Inc., a fiber optic cable company; AND,

WHEREAS, the City Code gives the City Administrator the authority to spend \$5,000 for professional services; AND,

WHEREAS, for expenditures over \$5,000, City Council approval is required; AND,

WHEREAS, current billing paid to date is \$2,390.75 through May, 1997 and the bill for June, 1997 is \$7,142.60, for a total of \$9,609.68.

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

SECTION 1: THAT the City Administrator is authorized to pay the final FY 97 billing from Miller & Van Eaton not to exceed a total of \$9,609.68 for FY 97 telecommunications related legal expenses.

SECTION 2: THAT the funds to cover this expenditure shall be charged to Account 1140-6121, Government Administration, Legal Services.

Adopted this _____ day of July, 1997.

AYES:

NAYS:

ABSTAIN:

ABSENT:

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

Monday, July 28, 1997

Executive Session 7/21/97 - Moved by Porter; seconded by Chavez. Council convened in Executive Session by unanimous vote at 10:45 p.m., in the Conference Room. OFFICIALS PRESENT: Chavez, Elrich, Porter, Rubin. OFFICIALS ABSENT: Sharp, Davenport, Williams. STAFF PRESENT: Habada, Sartoph, Silber. Council was briefed on dispute over a contract billing that is disputed by the City. Silber discussed her analysis of the contractors' bills and justification. No action was taken. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(7)).

OFFICIALS PRESENT:

Mayor Sharp

Councilmember Chavez

Councilmember Porter

Councilmember Rubin

City Administrator Habada

Assistant City Administrator Hobbs

City Clerk Sartoph

Public Works Team Leader Braithwaite

Assistant Corporation Counsel Perlman

Corporation Counsel Silber

Planning Center Coordinator Ludlow

OFFICIALS ABSENT:

Councilmember Davenport

Councilmember Elrich

Councilmember Williams

The City Council convened at 7:45 p.m. on Monday, July 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:

COUNCIL COMMENTS

Mayor Sharp noted that Councilmembers Elrich and Williams are out of town, and that Councilmember Davenport called earlier to explain that he may be arriving later this evening.

ADOPTION OF MINUTES

The Council Meeting Minutes from 7/07 and 7/14 were adopted unanimously (ABSENT: Davenport, Elrich, Williams).

CITIZEN COMMENTS

David Depner, Houston Court (owner of apartment buildings), noted that a few weeks ago he spoke to the Council and presented pictures of what he finds to be a very serious situation and health problem. Prior to that time, a written complaint had been filed. He commented on the rats that are running the streets at night. There are so many rats running around the garbage bin and storage areas such that it is frightening. He stated that he has yet to receive a response from the City.

City Administrator Habada noted that on Wednesday, Public Works Team Leader Daryl Braithwaite, Code Enforcement Officer Travis Aldous, and she inspected the areas of concern, and noted a number of Code violations that need to be cited. Letters will go out to the property owners who were noted to have violations.

Mr. Depner questioned whether the car with no license plates was observed.

Ms. Habada responded in the affirmative, and assured Mr. Depner that the City is acting on the violations.

Benjamin Onyeneke, Maple Avenue, urged the Council to direct the Public Safety Citizens Advisory Committee to facilitate cross-jurisdictional discussions about public safety. If this cannot be done, the committee should be dismantled. He remarked about fire safety, and suggested that a Code amendment be adopted to require that fire extinguishers be provided to tenants in apartment buildings. Mr. Onyeneke remarked about the detrimental effects of teenage smoking. He asked about the date of the next meeting of the Public Safety Citizens Advisory Committee.

Mr. Sharp suggested that Mr. Onyeneke consult with the City Administrator about the meetings of the committee.

PRESENTATION

1. Fire Station Feasibility Study. Public Works Team Leader Braithwaite introduced persons in attendance.

Jeff Luker, Quinn Evans / Architects, stated that they have been studying the station since May. He commented on the service area for the station, concluding that the station is well located for its current missions. He said that they have worked together with several government agencies and community groups in completing the study. Mr. Luker described the expertise of the Quinn

Evans / Architects and Hackley & Zambito Architects. He commented on the zoning in the area of the fire station.

The limited site area will require the purchase of adjacent properties (residential property side) to provide adequate parking and make the current site buildable. The property boundaries were platted in 1886 in the area, and in many instances, the footprints of nearby buildings appear to overlap the fire station property. The building is listed as a resource within the Historic District. The extent of alternations to the building have been recognized in the County Historic Preservation Plan. Any further work to the building would require county work permits.

The building does not meet the required standards. He elaborated--height of the apparatus bay is too small, the doors are too small, the dorm facilities are too small, the storage and work areas are inadequate, and the office area is insufficient. Mr. Luker commented on the deteriorating structure of the building. The building is served by two relatively new HVAC systems. The electrical, lighting, and apparatus systems have reached the end of their lives and need to be replaced. In addition, a truck exhaust ventilation system is recommended. A new building can be built on the site, and would cost approximately \$3 million.

Michael Hackley, Hackley & Zambito Architects, referred to page 53 of the plan, and described Scheme A. He then referred to page 59, and described Scheme B; this scheme would occupy two additional adjacent lots. He commented on the approaches toward architectural designs for both schemes.

Councilmember Porter requested clarification about what portions of the existing station would be retained in each of the schemes.

Mr. Hackley said that the circulation would be more efficient in scheme B. He said that for work to continue from this point, there would need to be resolution about the issues of property ownership and an investigation of lot lines (surveys required). Additionally, one house lot needs to be acquired for Scheme A, and two house lots for Scheme B.

Mr. Sharp asked for clarification about the increase in footprint size of the building.

Mr. Hackley responded, and concluded that the footprint for Scheme B is much larger.

Councilmember Rubin pointed out that aside from the acquisition of the adjacent lots, Scheme B is larger and less expensive.

Mr. Hackley confirmed, and noted some of the reasons.

Mr. Sharp asked what is the requirement for parking.

Mr. Luker said that in the County Program of Requirements, there are four criteria that need to be

addressed, and explained that 25 parking spaces are needed. The TPVFD currently has 16 parking spaces.

Mr. Sharp said that he has always understood the station to have a service area of 35,000 residents.

Mr. Luker stated that the call load for this station has remained stable, and is expected to remain stable.

Mr. Sharp remarked that the City is approximately 2.2 square miles in size.

Neal Shorb stated that the service area does exceed the City's boundaries, and that he believes the area includes approximately 24,000 people.

Mr. Rubin said that it would be correct to say that the station serves an area larger than the City proper, since the City has approximately 17,500 residents.

Mr. Shorb commented on the committee's recommendation about fire and rescue services in this area. He remarked about the recommendation to retain the existing three stations in the area, but made it clear that the Fire and Rescue Commission has not made a final decision on this matter. He said that in his personal opinion, Scheme B is a better facility. He remarked about a single floor station, and stated that it offers a much more functional layout. The fire station is essentially a home. It is an area where one sleeps, eats, and works. Scheme B has some substantial advantages over Scheme A. Mr. Shorb commented about the three-floor layout of Scheme A.

Mr. Sharp asked the architects to comment on the reason for the expansion in one direction instead of the other.

Mr. Luker said that in the study, six different areas were considered in terms of expansion. The expense, as well as the likelihood of obtaining the commercial lot were considered. He said that they did consider a scheme which would include the commercial lot in the scheme, but that it was highly complex.

President TPVFD, Bob Jarboe, stated that he concurs with Mr. Shorb's comments about the feasibility of Scheme B versus Scheme A. Notwithstanding some safety concerns that the VFD has right now, they look forward to having a new station in the present location within the next few years. The endeavors on the part of the City to come up with this study are certainly appreciated by the fire department personnel, as well as residents.

Mr. Rubin commented that one of the concerns was about the living quarters in the present station. He asked whether the schemes presented address these concerns.

Mr. Jarboe responded in the affirmative.

Ms. Braithwaite noted the letter presented to the Council this evening from Kent Abraham.

Mr. Rubin stated for the record that Historic Takoma has endorsed Scheme B, as well.

Ms. Porter said that the Council had some concerns of their own which prompted us to fund this study, and stated that we are impressed with the amount of work and study that went into this report. She commended the people who did the study, and described it as a very fine piece of work. She asked what happens now that the Council's question about the feasibility of building at this site has been answered.

Mr. Shorb remarked that this report does answer some of the concerns raised in the Work Group Report. The timing of this study does happen to dovetail very nicely with the county's CIP process that is underway. He commented on the process of facility planning, explaining that a lot of information from this report will be used as a foundation for moving forward. He said that he thinks the Commission will render a decision about what to do about the Silver Spring/Takoma Park Fire Stations by the end of the summer. The CIP process will be ongoing. It is the intention to formulate a project description and forward it to the County Executive in January. He noted that this is a six year program, pointing out that the schedule could be accelerated or decelerated over time.

Ms. Porter said that if things move forward as one would hope, we would be talking about something actually happening in 3-6 years.

Mr. Shorb said that this would be a best case scenario if everything moves forward the way we would like to lay it out. He commented on the helpfulness of this report.

Ms. Porter requested that an article be put in the next Newsletter regarding the report. Ms. Habada made a note.

Mr. Luker thanked the Council and staff for the opportunity to work with the City. They look forward to continuing the relationship.

Mr. Sharp returned the thanks, observing that the result has been what appears to be a very useful document.

Mr. Rubin added his congratulations and thank-you's to those of the Mayor and Ms. Porter. He said that he is looking forward to a very worthwhile resolution of a still complicated situation.

REGULAR MEETING

2. Resolution re: Unification Efforts. Mr. Sharp read the resolution for the record. Moved by Sharp; seconded by Porter.

Mr. Sharp said that the resolution really speaks for itself, but added that the congratulations are truly heartfelt.

Ms. Porter noted a special thanks, especially since staff did this work in addition to their normal duties. Staff invested an enormous amount of time and effort. She commented on the remarkable smooth transition that has taken place.

Resolution #1997-44 was adopted unanimously, expressing appreciation to Takoma Park community members and City staff for their efforts related to Unification (VOTING FOR: Sharp, Chavez, Porter, Rubin; ABSENT: Davenport, Elrich, Williams).

**RESOLUTION #1997-44
(Attached)**

3. Resolution re: Unification-related Sectional Map Amendment. Mr. Sharp explained the resolution, and noted the staff memo.

Planning Center Coordinator Ludlow said that no date has been set for the County Council discussion and final action, but that she would expect that the vote will occur in October. She noted that a copy of the resolution was omitted from the agenda item materials, and left the room to retrieve a copy of the resolution.

The item was temporarily tabled.

4. Resolution re: AFSCME Local 3399 Contract. Mr. Sharp explained the resolution.

Assistant City Administrator Hobbs summarized his memo. This year there is an agreement on a 2% COLA and to re-open negotiations in October about merit increases.

Mr. Rubin asked whether the membership voted to accept the contract.

Mr. Hobbs responded in the affirmative, noting that the membership voted on Friday to accept the agreement.

Mr. Rubin asked whether Mr. Hobbs' knew of the vote tally. Mr. Hobbs responded in the negative.

Moved by Rubin; seconded by Porter.

Mr. Rubin said that he feels that the Council has to pass the resolution to ratify what both parties (management and union) have agreed to. He commented that he is voting in favor of the

resolution, not on the merits of the contract itself but on the fact that it is what was agreed to.

Resolution #1997-45 was adopted unanimously, ratifying the Collective Bargaining Agreement between Local 3399, the American Federation of State, County and Municipal Employees and the City of Takoma Park, Maryland (VOTING FOR: Sharp, Chavez, Porter, Rubin; ABSENT: Davenport, Elrich, Williams).

**RESOLUTION #1997-45
(Attached)**

3. Resolution re: Unification-related Sectional Map Amendment. Ms. Ludlow commented on the effect of the proposed sectional map amendment and grandfathering text amendments as they apply to auto-related uses and zoning. She said that she studied each of the sites which might be impacted by the amendment. In this particular case, when the matter went before the Planning Board, they felt that Montgomery County restrictions were best.

Mr. Sharp requested clarification.

Ms. Ludlow elaborated on the situations of the two sites she studied. She explained that she looked at current uses as a gauge of the likelihood of whether there will be new or different development on the sites. Anything that is existing will not be impacted. The amendment only impacts new development.

Ms. Porter referred to the chart presented in the memo, and confirmed her understanding of the information presented.

Ms. Ludlow stated that she thinks it is a good idea to show that we are working cooperatively with the County on this issue. She said that certainly, we could include other comments (ones not in the resolution) in the testimony before the County Council.

Mr. Sharp questioned what zones the auto-uses could go into without a Special Exception.

Ms. Porter confirmed that the impact will be that there will be fewer places where auto-related uses could be developed under Montgomery County standards.

Moved by Porter; seconded by Chavez.

Resolution #1997-46 was adopted unanimously, recommending approval of proposed Unification-related sectional map amendment and grandfathering text amendments (VOTING FOR: Sharp, Chavez, Porter, Rubin; ABSENT: Davenport, Elrich, Williams).

RESOLUTION #1997-46

(Attached)

5. Single Reading Ordinance re: Refuse Trucks. Mr. Sharp explained the ordinance, noting the extensive discussion provided in Ms. Braithwaite's memo.

Ms. Porter noted that the proposal is to purchase two different sized trucks.

Ms. Braithwaite confirmed, and described each of the trucks and the service each could provide.

Ms. Porter stated that the ordinance also would authorize the acquisition of dumpster and cart lifts.

Mr. Sharp asked whether there is some certainty that these lifts will be used, and asked about the costs.

Ms. Braithwaite said that the lifts will be used, and commented that there are areas in the City that could be served by one or the other (dumpster or cart). The additional cost is \$3,200 per lift. She commented on the aging workforce and related workman's compensation issues. She said that there are benefits of being able to provide additional services to residents, and avoiding personnel issues in the future.

Mr. Sharp asked about an analysis of the payback for the lifts.

Ms. Braithwaite responded. Basically, the City lost the patronage of apartment building owners when the City implemented the requirement for curb-side container pick-up. But we might be able to regain these customers by offering dumpster service. She remarked about a possible survey to these apartment owners, to get a sense of who might be interested in taking advantage of dumpster service from the City. Ms. Braithwaite said that the results of such a survey would be instrumental in preparing a cost/benefit analysis. She further commented on the merits of the carts and dumpsters.

Ms. Porter said that there is a difference between the dumpsters and carts, and asked whether Ms. Braithwaite thinks it would be cost effective to offer dumpster pick-up.

Ms. Braithwaite responded in the affirmative, and offered an explanation. It would allow some areas to improve their cleanliness. She said that she would think that most people would find dumpsters a useful alternative. It would require some initial dollar outlay, but in the long run it would improve the appearance in some places and work areas.

Moved by Porter; seconded by Rubin.

Ms. Porter asked whether it would be possible to put a stop on the order for dumpster and/or cart

lifts if the preliminary assessment shows that either the dumpster or cart service would not be cost effective.

Ms. Braithwaite explained how there might be a leeway of a couple of months to cancel a request for the lifts. She said that she would have to check.

Mr. Sharp asked for a discussion about the recommendation to award the purchase contract to Weber's White GMC Trucks, Inc., even though this firm was not the lowest bidder.

Ms. Braithwaite commented on the bids that were received. The lowest bidder, Wilbar Truck, offered a Volvo cab and chassis and a Pak-mor body. The second lowest bidder was Weber White offering a Leach body. City staff has experience with the Leach body. Our vehicles have a 13-year life--long, compared to other jurisdictions. She noted that almost everyone she spoke to from other jurisdictions had a preference for the Leach bodies when they had one on their lot. Additionally, the Pak-mor bid differed from the bid specifications in some areas as outlined in the memo--areas that Wilbar Truck took exception to our specifications.

Mr. Sharp noted that there is about a \$7,000 difference in the bids. He asked whether this was a sealed bid.

Ms. Braithwaite noted that the bid process was done in accordance with the City's procurement process.

Mr. Sharp questioned whether the advertisement stated that we would accept the lowest bid.

Ms. Braithwaite explained that the City's process does allow for some flexibility, and noted that she consulted with Corporation Counsel.

John Urciolo, commercial property owner, said that he thinks the versatility of having the dumpster lift is something that the City should pursue. He said that as a commercial property owner, he would be interested in the option. He supported adoption of the ordinance.

Mr. Sharp confirmed where the funding for this acquisition is coming from in the budget. He observed that if the money is being taken away from other "designations", these acquisitions would consequently have to be delayed, possibly extending prescribed life-spans.

Ms. Habada said that it will require redistributing when it comes time to deal with the recycling trucks. The other option would be to remove the lifters from the ordinance.

Single Reading Ordinance #1997-39 was adopted unanimously, awarding a contract to Weber's White GMC Trucks, Inc., for two refuse trucks with dumpster and cart lifts, in the amount of \$243,800 to be drawn from the Equipment Replacement Reserve Account #9100-8003 (VOTING FOR: Sharp, Chavez, Porter, Rubin; ABSENT: Davenport, Elrich, Williams).

ORDINANCE #1997-39
(Attached)

6. 2nd Reading Ordinance re: Westmoreland Avenue Special Assessment. Ms. Habada noted that the ordinance needs to be amended to change the due date of the first installment to September 1 (Section 2).

Moved by Porter, as amended; seconded by Chavez.

Ms. Habada recalled that there was a concern about the engineering costs at the time of the first reading in April. Specifically, the concern was about the engineering costs being included in the total cost of the project.

John Urciolo, represent some commercial property on Carroll Avenue, recalled his letter in which he expressed that the engineering fees of Greenhorne & O'Mara (G&O) came out to 21% of the project costs. The firm caused the assessed parties considerable damage due to negligence. He remarked about the pipe that almost caused a landslide situation, had the City not responded so quickly to remedy the situation. He recalled questioning the engineers about the size of the pipe, only to get a response that he should not worry about the size--it was sufficient. This response was given by the engineers. He described the sequence of events. There is a \$10,000 cost for which G&O should be held liable; it is a result of their faulty planning. He said that if there is some change to the total project cost as a result of the G&O presentation, he would like the ordinance to be later amended. He stated that he would also like the City to find out why there is this cost, and commented that he would stand by the City in any legal challenge it might pursue with G&O. He provided some photographs of the pipe he had described to the Council.

Mr. Sharp announced a two minute recess at 9:15 p.m.; the Council reconvened at 9:17 p.m.

Ms. Porter said that in response to Mr. Urciolo's concern, she would be glad to sponsor a reduction in the assessment should an agreement for reduction be reached with G&O.

Ordinance #1997-11 was adopted unanimously at second reading, amending 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 (VOTING FOR: Sharp, Chavez, Porter, Rubin; ABSENT: Davenport, Elrich, Williams).

ORDINANCE #1997-11
(Attached)

PRESENTATION

7. Greenhorne & O'Mara Engineering Fees. The presentation was given by Greenhorne & O'Mara representatives regarding outstanding billing and contract dispute over engineering fees.

Brandon Smith, principal for G&O, noted that also with him this evening is Pete Spuler, Contract Director, and their legal counsel. He said that G&O was contracted to provide certain services to the City. There are two invoices, one dated December 28, 1994, and another dated October 25, 1995. The work was ordered by either Beverly Habada or Richard Knauf. Originally, G&O was told that the invoices would be paid if back-up documentation could be provided to the City. This information has been provided. After two years of going back-and-forth, G&O was told in January that payment would be forthcoming. G&O contacts have had discussions since that time with Corporation Counsel Silber. He stated that they have now been told that Ms. Habada and Mr. Knauf were not authorized to approve work in excess of the original task orders. He said that additionally, G&O has been told that the bills were submitted too late for payment.

Ms. Habada said that it was pointed out to G&O that the bills were submitted substantially later than the time when the work was performed, but that it has not been said that this is the reason they have not been paid. There was some question about whether this work had already been billed.

Mr. Smith invited Mr. Spuler to explain the process by which he was requested to do the work and the benefits enjoyed by the City after completion of the work. He noted that there are in excess of 20 items on the unpaid list, all of which have been discussed in detail with Ms. Silber

Pete Spuler, G&O (registered, professional engineer in State of Maryland), pointed out that all of the work done for the City from January 1993 through 1995 was done on "lump sum" work orders. He said that one of the things that he has learned in his career is that you seldom have problems with lump sum agreements. G&O has excellent files on work provided to the City. He commented that the City always paid their bills on time. He chose a few of the items on the list of discrepancies, as examples, and elaborated on each. (1) 112 Sheridan Avenue -- The City met with G&O in response to a letter received from Mr. Knauf about a resident's storm water problems. G&O was told in the letter that the City wanted to do this work under a "time and materials" agreement. He commented how they met in the field with the property owner, documented the problems, and summarized the findings in a letter to the City. The work was completed within 30 days, and a letter was sent back to G&O saying that the City accepted the work and that it was very good. (2) Municipal Building -- Mr. Knauf said that he thought it might be about \$5,000 to do a water damage study of the building. G&O received a letter from Tyrone Lester authorizing the work, and proceeded to conduct a draft study. The City came back with addendums (extra items). A final study was presented, but the City wanted continued work. Mr. Spuler pointed out that the funding limit was going to be exceeded, and that when he warned Mr. Knauf of this, Mr. Knauf said that he would "up" the "time and materials". Mr. Spuler remarked that Mr. Knauf seemed to be inundated by work, and was assigning a lot of work to G&O which would have been better done in-house. He remarked about a letter he received from Mr. Knauf praising the responsiveness of the firm and the quality of their work.

Mr. Smith summarized that G&O has performed their work in a timely and professional matter. Much of the work done by G&O saved the City thousands of dollars. He said that up until now, they were always of the understanding that the bills would be paid. The offer of \$8,000 made by Ms. Silber, in exchange for \$43,000 of work, is not acceptable. He stated that G&O is here to work things out.

Ms. Porter recalled the comments made by Mr. Urciolo, and requested a response from G&O.

Mr. Smith said that pipes simply do not crack when there is an overflow of water. Cracks usually occur when there is poor construction or damage during backfill.

Mr. Spuler commented that the outstanding invoices do not include invoices related to Westmoreland. From an engineering standpoint, there is a large gap from the time when G&O did the plans and current time. At the time when the plans were drawn, the pipes were oversized. He explained. Mr. Spuler said that at the time the plans were accepted, the Public Works group (not professionals in the engineering field) were looking for cost-effective ways to alter the plans. He said that he would not be surprised if final work that was done differs from the original plans.

Ms. Porter said that the concern was with the original design, not changes to the plan.

Mr. Spuler stated that if it turns out that the plan was not changed, then the problem was probably with the construction. He said that he has never seen a pipe crack from excessive water load.

Mr. Smith commented that G&O would be willing to assist in the final resolution of the Westmoreland Avenue situation.

Mr. Sharp noted that the Council will be discussing this item later in Executive Session.

REGULAR MEETING

8. 1st Reading Ordinance re: Requirements for Right-of-Way Improvements. Mr. Sharp explained the ordinance.

Ms. Ludlow referred to the memorandum, and offered to answer any questions.

Ms. Porter stated that it looks like the big change to the current Code are to put in a method for making street grades, and establish a waiver process including public notification.

Moved by Porter; seconded by Chavez.

Mr. Rubin questioned why this ordinance is being considered at this time.

Ms. Porter responded that there is no particular timeliness related to this item, but explained that it has come before the Council because of an outstanding request for a waiver of street requirements. It does not prejudice whether the Council would grant the outstanding waiver request, but gives flexibility in the Code to grant a waiver if desired, later.

Mr. Rubin stated that he is not sure that changing the Code in response to an outstanding request is a good way of doing business. He said that he would feel better about resolving the current situation and later discussing the merits of changing the Code.

Ms. Porter referred to a related memo from legal counsel and the information about granting access to properties via a public right-of-way. She said that she does not consider the proposed ordinance as being directed at the particular situation which will be discussed later this evening. Ms. Porter recognized, however, that changing the Code to provide some waiver flexibility could pertain to the later situation, but she urged Mr. Rubin to look at this ordinance in terms of overall City policy. If this ordinance were not in place and the City were presented with a request to build on a right-of-way, the surface constructed would have to meet full road standards.

Mr. Rubin pointed out that the City could deny the request altogether.

Ms. Porter disagreed, pointing out that the City has received legal advice that we cannot deny access to buildable lots.

Mr. Rubin restated his concern about the ordinance, clarifying that he is against flexibility.

Assistant Corporation Counsel Perlman noted that most of the advice that has been provided to the Council has been legal and confidential. She explained, however, that if there is a legal and buildable lot, the City has to provide access. In regards to Mr. Rubin's comment about the Code, this change is to provide flexibility for the future. This is the same way that Code amendments come about in other areas--in response to a situation.

Mr. Rubin maintained that Code amendments are usually procedural in nature.

Ms. Perlman commented that this amendment is meant to provide flexibility.

Mr. Rubin asked why the current Code cannot be applied to the outstanding request. The City does not have to totally deny access.

Ms. Perlman said that the current requirements about a full road, which might be detrimental to the environment and raise other concerns, would have to be followed to allow access to buildable lots.

Mr. Rubin asked if there is another way to deal with the current situation without changing the Code at this time.

Ms. Porter responded that the option would be to now allow a full width road to be built.

Ms. Perlman acknowledged that there may be ways to deal with the current situation without changing the Code.

Paula Nercession, Elm Avenue thanked Mr. Rubin for raising some important points, and stated that Ms. Porter is moving too hastily. She said that this clearly pertains to a specific situation, and that this change will incur additional costs to the City. She asked what is a “partial road”, and commented that if there are ways to deal with the current situation without changing the Code, then the legal advice should be considered.

Jane Harmon said that she has been talking to a lot of real estate attorneys recently, and that she has learned that the City does not have to create a street on the right-of-way. Assuming that a legal right-of-way does exist, the City can make a decision about whether to permit a street. She said that people use to walk to main streets from their homes, and concluded that there is no reason why that could not be the case here.

Mr. Rubin made a motion to table the ordinance, adding that he would also like to hear more about other creative ways to deal with this situation. He clarified that he would like to table the item pending further suggestions to the Council.

Mr. Sharp confirmed whether the motion is to table the item indefinitely.

The motion was accepted by the Council.

9. 2nd Reading Ordinance re: Sound Amplification Permits. Moved by Rubin; seconded by Chavez.

Mr. Rubin noted that this amendment affects the current Code only in terms of process. The City administrator will have the authority to authorize request for sound amplification.

Ordinance #1997-36 was adopted unanimously, amending the Code to authorize the City Administrator to approve sound amplification permits (VOTING FOR: Sharp, Chavez, Porter, Rubin; ABSENT: Davenport, Elrich, Williams).

**ORDINANCE #1997-36
(Attached)**

10. Resolution re: Thomas-Siegler Carriage House and Garden Property. Ms. Habada requested that consideration of this item be postponed. There were no objections from the Council.

11. 2nd Reading Ordinance re: Legal Expenses (Fiber Optic Cable Agreement). Mr. Sharp explained the ordinance, and commented on the work that has been done by Miller & Van Eaton. He asked about the timing on receiving the monies from MFS, confirming that the City will have to pay the \$9,609.68 before receiving the \$5,000 from MFS.

Moved by Rubin; seconded by Porter.

Mr. Rubin remarked that the City broke some ground in this arena with this agreement, and that the Council hopes that by not prohibiting the entry of new technology, it will result in benefits for the citizens of the City. He stated that an agreement could not have been formulated or decided upon without the expert assistance of Miller & Van Eaton legal firm.

Ordinance #1997-38 was adopted unanimously, authorizing payment the final FY97 billing from Miller & Van Eaton not to exceed a total of \$9,609.68 for FY97 telecommunications related legal expenses (VOTING FOR: Sharp, Chavez, Porter, Rubin; ABSENT: Davenport, Elrich, Williams).

**ORDINANCE #1997-38
(Attached)**

12. Single Reading Ordinance re: Excavation at Takoma Park Volunteer Fire Department (TPVFD). Mr. Sharp explained the ordinance, and described the circumstances leading up to the excavation.

Moved by Porter; seconded by Rubin.

Ms. Porter said that in general, the City got its money out of the contract, and that she does not have a problem paying an the additional couple thousands of dollars.

Mr. Rubin agreed, but stated that he does think it was appropriate for the City Administrator to bring this matter before the Council.

Mr. Sharp questioned whether it should be a single reading ordinance, and asked whether the additional funds fit in under the authorization for the fire station study.

Ms. Habada stated that it does fit under the fire station study, and explained that the monies are coming from the same account that the money for the study came from. Therefore, it need only be a single reading ordinance.

Single Reading Ordinance #1997-40 was adopted unanimously, authorizing payment to P.J. Nice Construction in the amount of \$2,231.25 for the balance of the contract for the engineering evaluation of the Takoma Park Fire Station (VOTING FOR: Sharp, Chavez, Porter, Rubin;

ABSENT: Davenport, Elrich, Williams).

**ORDINANCE #1997-40
(Attached)**

13. Single Reading Ordinance re: Payment for Lobbying Services. Mr. Sharp explained the ordinance.

Mr. Rubin pointed out that this work was related to funding for police radios.

Moved by Chavez; seconded by Porter.

Single Reading Ordinance #1997-41 was adopted unanimously, authorizing payment of the final FY97 billing of \$506.25 for lobbying services to Rifkin, Livingston, Levitan & Silver (VOTING FOR: Sharp, Chavez, Porter, Rubin; ABSENT: Davenport, Elrich, Williams).

**ORDINANCE #1997-41
(Attached)**

14. 2nd Reading Ordinance re: Compensation Study. Moved by Porter; seconded by Chavez.

Assistant City Administrator Hobbs explained that this is the most responsive bid of the two that the committee felt were most responsive. It is also the lowest bidder. There is agreement from the Unions on this choice. He pointed out, however, that there is not agreement from the Unions in wanting to have this done, but that they are going forward with us on this process.

Mr. Sharp expressed his support for the study, adding that he thinks the Council should move forward with this for the City.

Ordinance #1997-37 was adopted unanimously, authorizing the City Administrator or designee to execute a contract with Slavin Management Consultants, Inc., for the conduct of a City Compensation Study and that the amount of the contract may not exceed \$30,000. Funds in the amount of \$30,000 shall be brought forward from the approved FY97 appropriations and used to fund this study during FY98 (VOTING FOR: Sharp, Chavez, Porter, Rubin; ABSENT: Davenport, Elrich, Williams).

**ORDINANCE #1997-37
(Attached)**

15. CONSENT AGENDA (Moved by Porter; seconded by Rubin). The items on the Consent

Agenda were adopted unanimously (VOTING FOR: Sharp, Chavez, Porter, Rubin; ABSENT: Davenport, Elrich, Williams).

(A) **Resolution re: COLTA Reappointment.** Resolution #1997-47 was adopted unanimously effecting the reappointment of Deborah Carr to COLTA.

**RESOLUTION #1997-47
(Attached)**

(B) **Resolution re: Free Burma Committee.** Resolution #1997-48 was adopted unanimously, effecting the appointment of Raju Charles to the Free Burma Committee.

**RESOLUTION #1997-48
(Attached)**

(C) **Resolution re: City Council's 1997 Summer Recess.** Resolution #1997-49 was adopted unanimously, setting forth Council's summer recess from July 29, 1997 through September 1, 1997.

**RESOLUTION #1997-49
(Attached)**

Michael McCarthy read a statement for the record. He expressed his disappointment that the Council did not accept his application for the Free Burma Committee. He requested that the Council disband the committee, and take other measures to make a real difference to affect the lives of the Burmese people. Mr. McCarthy suggested that the Council contribute all or part of their stipends to a relief fund for these people. He said that he would be happy to be part of this grass roots movement and would consult with Phil Robinson about the best way to do this. He then commented on the resolution setting the recess, and urged the Council to do away with useless legislation. Council's energies should be directed toward other areas. We need to set a "lawful" example for a community, not a "lawless" example. Mr. McCarthy concluded with remarks in opposition to the City's Sanctuary legislation.

WORKSESSION / EXECUTIVE SESSION

The Council moved into Worksession. Following the Worksession, Mr. Sharp noted that the Council no longer has a quorum to vote to go into Executive Session. Consequently, the Executive Session was postponed, and the Council adjourned for the evening at 10:38 p.m.

Introduced By: Mayor Sharp

RESOLUTION #1997-44

EXPRESSING APPRECIATION TO TAKOMA PARK COMMUNITY MEMBERS AND CITY STAFF FOR THEIR EFFORTS RELATED TO UNIFICATION

WHEREAS, on July 1, 1997, the City of Takoma Park, Maryland, was unified into Montgomery County after 100 years of being split between two counties; AND

WHEREAS, implementing unification required a great deal of time and effort on the part of many people, especially the Takoma Park City Staff; AND

WHEREAS, the unification was accomplished smoothly and with minimal disruption to citizens or City functions.

NOW, THEREFORE, BE IT RESOLVED, THAT the Council of the City of Takoma Park, Maryland, on behalf of the Citizens of Takoma Park, thanks all City Staff for their work in support of unification, especially those who assisted with the ceremony marking unification; AND

BE IT FURTHER RESOLVED, THAT the Council especially thanks Suzanne Ludlow, Planning Director, and Lisa Schwartz, Senior Planner, for directing and implementing the planning of the myriad of changes required by unification; AND

BE IT FURTHER RESOLVED, THAT the Council especially thanks Erwin Mack, of the Takoma-Langley Commercial District Management Authority; and Lt. Cynthia Creamer and Sgt. Edward Coursey of the Takoma Park Police Department, for their efforts related to unification observances at the Hampshire-Langley Shopping Center; AND

BE IT FURTHER RESOLVED, THAT the Council thanks City Administrator Beverly Habada for her leadership in the implementation of this monumental task.

ADOPTED this 28th day of July, 1997.

Introduced By: Councilmember Rubin

RESOLUTION 1997- 45

**RATIFICATION OF COLLECTIVE BARGAINING AGREEMENT
BETWEEN LOCAL 3399, THE AMERICAN FEDERATION OF STATE, COUNTY AND
MUNICIPAL EMPLOYEES AND THE CITY OF TAKOMA PARK, MARYLAND**

WHEREAS, the Negotiating Team representing the City of Takoma Park, Maryland and the Union representing City employees who are members of Local 3399 of the American Federation of State, County, and Municipal Employees, AFL-CIO, have culminated negotiations over pay issues for the second year of the existing contract which covers three years from July 1, 1996 through June 30, 1999; AND

WHEREAS, both parties request that funds necessary to implement the Agreement be approved by the Council pursuant to Section 8B-206 (g) of the Takoma Park Code; AND

WHEREAS, both parties request Council Approval of any provisions of this agreement which conflict with City Code, rule, or regulation, pursuant to Section 8B-206 (g) of the Takoma Park Code.

NOW, THEREFORE, BE IT RESOLVED, that the Council ratifies the Collective Bargaining Agreement, effective July 1, 1996 through June 30, 1999, as modified for FY 98, between the City of Takoma Park and Local 3399 of the American Federation of State, County, and Municipal Employees, AFL-CIO.

Dated this 28th Day of July, 1997

ATTEST:


Catherine E. Sartoph
City Clerk

Introduced By: Councilmember Porter

Resolution No. 1997-46

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

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

WHEREAS, the Montgomery County Planning Board has proposed text amendments that grandfather existing legal uses and 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, are being 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 be **Approved**.

ADOPTED THIS 28TH DAY OF JULY, 1997.

Introduced by: Councilmember Porter

RESOLUTION #1997-47

REAPPOINTING COMMISSIONERS TO COLTA

WHEREAS, on June 30, 1997, Debrah Carr's term as a Commissioner on the Commission on Landlord-Tenant Affairs expired; AND

WHEREAS, Ms. Carr has requested to be reappointed to continue serving on the Commission on Landlord-Tenant Affairs; AND

WHEREAS, Council has interviewed Ms. Carr and evaluated her qualifications.

NOW, THEREFORE, BE IT RESOLVED THAT the Council of the City of Takoma Park, Maryland, hereby reappoints the following Commissioner to serve a three-year term on the Takoma Park Commission on Landlord-Tenant Affairs:

Debrah Carr 7777 Maple Avenue Term Expires: 6/30/00.

IT FURTHER RESOLVED THAT this appointment become effective immediately.

Adopted this 28th day of July 1997.

ATTEST:


Catherine Sartoph, City Clerk

Introduced by: Councilmember Porter

RESOLUTION #1997-48

**EFFECTING APPOINTMENTS TO THE
TAKOMA PARK FREE BURMA COMMITTEE**

WHEREAS, in 1996, the City Council established the Takoma Park Free Burma Committee (Ordinance #1996-33) to oversee implementation of and adherence to the Takoma Park Free Burma Act (City Code, Chapter 3A. Burma, Restricted Relations With); AND

WHEREAS, the Code describes the committee as being comprised of seven members, and recommends that at least one member should be of Burmese origin; AND

WHEREAS, persons appointed to the committee shall serve two-year terms, except that three of the initial appointees shall serve one-year terms; AND

WHEREAS, currently, there are three vacancies on the committee; AND

WHEREAS, the Council interviewed a resident who has expressed interest in appointment to the committee.


NOW, THEREFORE, BE IT RESOLVED THAT the following person is hereby appointed to serve on the Takoma Park Free Burma Committee:

NAME	ADDRESS	TERM EXPIRES
Raju Charles	7907 Cole Avenue	3/31/98

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

ADOPTED this 28th day of July, 1997.

ATTEST:


Catherine E. W. Sartoph, City Clerk, CMC

Introduced By: Councilmember Porter

**RESOLUTION #1997-49
SETTING FORTH THE CITY COUNCIL'S SUMMER 1997 RECESS**

WHEREAS, in order to accommodate vacation schedules of members of the City Council, a summer recess shall be called; AND

WHEREAS, this recess shall commence following adjournment of the Worksession on Monday, July 28, 1997; AND

WHEREAS, Monday, September 1, 1996, is Labor Day, and City Offices will be closed in observance of the holiday; AND

WHEREAS, the Council will reconvene on Tuesday, September 2, 1997, in Worksession.

NOW, THEREFORE, BE IT RESOLVED, THAT the City Council does hereby set forth its summer recess from July 29, 1997, through September 1, 1997.

ADOPTED this 28th day of July, 1997.

Introduced by: Councilmember Porter

First Reading: April 14, 1997

Second Reading: July 28, 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 September 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 28TH DAY OF JULY, 1997, BY ROLL-CALL VOTE AS FOLLOWS:

Aye: Sharp, Chavez, Porter, Rubin
Nay: None
Abstain: None
Absent: Davenport, Elrich, Williams

EXPLANATORY NOTE: Shading indicates additions to the Ordinance and ~~strikeout~~ indicates deletions to the Ordinance made by amendment at the second reading of the Ordinance.

Introduced by: Councilmember Chavez

1st Reading: 7/14/97

2nd Reading: 7/28/97

ORDINANCE #1997-36

AMENDING THE CODE TO AUTHORIZE THE CITY ADMINISTRATOR TO APPROVE SOUND AMPLIFICATION PERMITS

WHEREAS, currently, the City Council is required to approve requests for permits for sound amplification in public rights-of-way; **AND**

WHEREAS, the City Council desires to delegate this authority to the City Administrator.

NOW, THEREFORE, BE IT ORDAINED THAT the following amendments to the City Code Chapter 8. Morals and Conduct, Article 3. Offenses Against Public Peace, Division 2. Noise Control, Section 8-30. Sound amplification in public area; permit required, shall be effected:

Sec. 8-30. Sound amplification in public area; permit required.

(a) No person shall, without first having made application in writing to the [Mayor and Council] City Administrator or his/her designee and receiving a permit to do so, use or operate or cause to be used or operated any mechanical device, radio, machine, apparatus or instrument for the intensification, reproduction or amplification of the human voice or any sound or noise on the streets and alleys or in other public places within the limits of the city. A violation of this section is a Class C offense.

(b) Permit provisions 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").

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

ADOPTED this 28th day of July, 1997.

AYE: Sharp, Chavez, Porter, Rubin

NAY: None

ABSTAIN: None

ABSENT: Davenport, Elrich, Williams

NOTE: Language in [brackets] shall be deleted; language underlined shall be added.

INTRODUCED BY: Councilmember Rubin

First Reading: 7/21/97
Second Reading: 7/28/97

ORDINANCE NO. 1997 - 37

To Award A Contract For A City Wide Compensation Study

WHEREAS, Funds were allocated in the Fiscal Year 97 Operating Budget; AND
WHEREAS, appropriate advertising was placed in the Washington Post; AND
WHEREAS, proposals were received from the following: AND

Fox Lawson Associates of Roseville, Minnesota;

Productivity Advisory Services of Middletown, Maryland;

HR Solutions of Radnor, Pennsylvania; and

Slavin Management Consultants, Inc. of Norcross, Georgia.

WHEREAS, it has been determined that Slavin Management Consultants, Inc. have submitted the most responsive and responsible proposal.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT the City Administrator or her designee is authorized to execute a contract with Slavin Management Consultants, Inc. for the conduct of a City Compensation Study and that the amount of the contract may not exceed \$30,000; and that the funds in the amount of \$30,000 be brought forward from the approved FY 97 appropriations and used to fund this study during FY 98.

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

AYE: Sharp, Chavez, Porter, Rubin

NAY: None

ABSTAINED: None

ABSENT: Davenport, Elrich, Williams

Introduced by: Councilmember Chavez

1st Reading: 7/21/97

2nd Reading: 7/28/97

Ordinance No. 1997 - 38

**Authorization for Payment of Legal Services
(Miller & Van Eaton)**

WHEREAS, the City retained the legal services of the Miller & Van Eaton law firm to represent the City's interest on telecommunication matters, particularly on negotiations with MFS, Inc., a fiber optic cable company; AND,

WHEREAS, the City Code gives the City Administrator the authority to spend \$5,000 for professional services; AND,

WHEREAS, for expenditures over \$5,000, City Council approval is required; AND,

WHEREAS, current billing paid to date is \$2,390.75 through May, 1997 and the bill for June, 1997 is \$7,142.60, for a total of \$9,609.68.

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

SECTION 1: THAT the City Administrator is authorized to pay the final FY 97 billing from Miller & Van Eaton not to exceed a total of \$9,609.68 for FY 97 telecommunications related legal expenses.

SECTION 2: THAT the funds to cover this expenditure shall be charged to Account 1140-6121, Government Administration, Legal Services.

Adopted this 28th day of July, 1997.

AYES: Sharp, Chavez, Porter, Rubin

NAYS: None

ABSTAIN: None

ABSENT: Davenport, Elrich, Williams

Introduced by: Councilmember Porter

Adopted: 07/28/97
(Single Reading)

Ordinance No. 1997 - 39
Authority to Purchase Two (2) Refuse Trucks for
Public Works Solid Waste Department

WHEREAS, proposals were invited for purchase of Two (2) Refuse Trucks for the Public Works Solid Waste Department pursuant to vehicle replacement policy; AND

WHEREAS, funds have been earmarked to address these purchases in the Equipment Replacement Reserve; AND

WHEREAS, appropriate advertising was placed in the Washington Post on 6/15/97; AND

WHEREAS, outreach efforts to interested vendors were pursued through a bidder's list; AND

WHEREAS, bids were publicly opened at 3:00 p.m. on July 2, 1997 with four (4) bids being received; AND

WHEREAS, Weber's White GMC Trucks, Inc. has submitted the lowest responsive bid; AND

WHEREAS, the funds in the Equipment Replacement Reserve are sufficient to satisfy the purchase price of \$243,800.

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

SECTION 1: THAT the bid received from Weber's White GMC Trucks, Inc. in the amount of TWO HUNDRED FORTY THREE THOUSAND AND EIGHT HUNDRED DOLLARS (\$243,800) be accepted.

SECTION 2: THAT authority be granted to award a contract to Weber's White GMC Trucks, Inc. accordingly.

SECTION 3: FURTHER THAT funds to cover this procurement in the amount of TWO HUNDRED FORTY THREE THOUSAND AND EIGHT HUNDRED DOLLARS (\$243,800) be authorized from the Equipment Replacement Reserve Account #9100-8003.

Adopted this 28th day of July 1997.

AYE: Sharp, Chavez, Porter, Rubin

NAY: None

ABSTAINED: None

ABSENT: Davenport, Elrich, Williams

Ordinance No. 1997-40
Engineering Evaluation of the Takoma Park Fire Station

WHEREAS, Takoma Park awarded a contract for Architectural/Engineering Services for the evaluation of the Takoma Park Firestation on May 5, 1997 to Quinn Evans Architects; AND

WHEREAS, funds to cover this contract in the amount of Twenty Nine Thousand, Nine Hundred and Ninety Five Dollars (\$29,995) were charged to the Capital Improvement Budget, 9100-8000.

WHEREAS, in the course of Quinn Evans evaluation, they determined that some minor demolition work was needed to evaluate structural support beams in the ceiling of the basement of the Fire Station; AND

WHEREAS, the aforementioned work was outside the scope of the Contract between Quinn Evans and the City of Takoma Park; AND

WHEREAS, P.J. Nice Construction, Inc. was contacted by the Project Coordinator, to do the demolition work; AND

WHEREAS, the Takoma Park Volunteer Fire Department, Inc., agreed to cover up to One Thousand Dollars of the demolition work; AND

WHEREAS, the final cost of the demolition work totaled Three Thousand, Two Hundred and Thirty One Dollars and Twenty Five Cents, (\$3,231.25), AND

WHEREAS, the balance of payment owed to P.J. Nice Construction, minus the payment of One Thousand Dollars (\$1,000) by the Takoma Park Volunteer Fire Department is Two Thousand, Two Hundred Thirty One Dollars and Twenty Five Cents (\$2,231.25), AND

WHEREAS, the demolition work was needed to complete the contracted feasibility study performed by Quinn Evans Architects.

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

SECTION 1. THAT payment be made to P.J. Nice Construction in the amount of Two Thousand, Two Hundred and Thirty One Dollars and Twenty Five Cents, (\$2,231.25); AND

SECTION 2. THAT funds to cover this expense be charged to the Capital Improvement Budget, 9100-8000.

Adopted this 28th day of July, 1997.

AYE: Sharp, Chavez, Porter, Rubin

NAY: None

ABSTAINED: None

ABSENT: Davenport, Elrich, Williams

Introduced by: Councilmember Chavez

Single Reading: 7/28/97

Ordinance No. 1997 - 41

**Authorization for Payment of Lobbying Services
(Rifkin, Livingston, Levitan & Silver)**

WHEREAS, the City retained the services of Laurence Levitan, of Rifkin, Livingston, Levitan & Silver, as a lobbyist; AND,

WHEREAS, the City Code gives the City Administrator the authority to spend \$5,000 for professional services; AND,

WHEREAS, for expenditures over \$5,000, City Council approval is required; AND,

WHEREAS, additional billing received in June 1997 of \$506.25, for lobbying Maryland Congressional members on telecommunication funding for a new police radio system, requires Council approval.

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

SECTION 1: THAT the City Administrator is authorized to pay the final FY 97 billing of \$506.25, for lobbying services.

SECTION 2: THAT the funds to cover this expenditure shall be charged to Account 1120-6140, Government Administration, Contracts.

Adopted this 28th day of July, 1997.

AYES: Sharp, Chavez, Porter, Rubin

NAYS: None

ABSTAIN: None

ABSENT: Davenport, Elrich, Williams