

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

Tuesday, September 8, 1998

Executive Session 7/27/98 - Moved by Williams; seconded by Stewart. Council voted unanimously to convene in Executive Session at 11:30 p.m. in the Conference Room.
OFFICIALS PRESENT: Porter, Chavez, Elrich, Hawkins, Rubin, Stewart, Williams. STAFF PRESENT: Habada, Sartoph, Silber. The Council discussed a proposed settlement to avoid potential litigation with Greenhorne & O'Mara, Inc. The Council agreed to terms of settlement (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(8)).

OFFICIALS PRESENT:

Mayor Porter

Councilmember Chavez

Councilmember Elrich

Councilmember Hawkins

Councilmember Rubin

Councilmember Stewart

Councilmember Williams

City Administrator Habada

Assistant City Administrator Hobbs

City Clerk Sartoph

Corporation Counsel Silber

The City Council convened at 7:32 p.m. in the upstairs meeting room of the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland.

ANNOUNCEMENT

Mayor Porter noted that meeting of Monday, September 21--the second night of the Jewish holiday, Rosh Hashanah--has been moved to Tuesday evening, September 22 at 7:30 p.m.

SPECIAL SESSION

1. **Resolution re: Greenhorne & O'Mara, Inc. Settlement.** Corporation Counsel Silber described the resolution, which is related to a long-time issue surrounding engineering work done in 1993-1994. There were some serious problems with the lack of documentation regarding the authority to do the work and billings which were submitted late. Violations of the billing procedures as described under the contract with G&O were discovered. G&O has since provided

Mr. Williams explained how the costs were adjusted to make the bids comparable.

Mr. Hobbs expressed confidence that he can negotiate the price down, and that if the Council approves the ordinance at first reading, he will begin negotiating the price before second reading.

Mr. Williams remarked that it was very helpful that Slavin broke down the costs by components of the contract.

Ms. Porter confirmed that Slavin was the contractor used in the last City Administrator search.

Councilmember Rubin questioned to what extent Mr. Hobbs feels that Slavin came out ahead because of their work with the City in the past.

Mr. Hobbs acknowledged that Slavin has knowledge of the City from previous work, but that in this case, Slavin was judged the most responsive in their attention to the process that the City has outlined (e.g., use of citizens committee).

Ms. Porter commented that one advantage of using them again, is that we do not have to go out and extensively research their background and experience.

Mr. Williams noted that Slavin has helped recently with the Compensation Study, and that also in their favor, they spelled-out (which we thought was valuable) how they would assist with evaluating the new Administrator's performance, to include a follow-up.

Ms. Porter pointed out that Slavin saw the number of minorities that they have recruited and put in place as important, and that this is very important to the City.

Councilmember Stewart commented that it was interesting to go through the proposals.

Ms. Porter noted that all three raters, rated Slavin the highest.

Mr. Chavez pointed out that there are more female employees with Slavin than the other contractors who submitted bids.

Moved by Williams; seconded by Stewart.

Ms. Porter noted for the record that Council will rely primarily on the citizens committee to make recommendations on the resumes received, and will rely on the consultants to (1) help with recruiting, and (2) check references/backgrounds on candidates who are selected as finalists. There will be some other things that the consultant will be responsible for doing, but these are the two primary functions.

Mr. Williams commented on the importance of recruiting candidates for the position.

RESOLUTION NO. 1998-39

(Settling dispute with Greenhorne & O'Mara, Inc. concerning 1993/1994 engineering and consulting services rendered on Time and Material Basis)

WHEREAS, Greenhorne and O'Mara, Inc. provided Takoma Park with engineering in 1993-1994 (including engineering advice, field survey services, zoning plat development, topographic survey) pursuant to a contract with the City of Takoma Park; and

WHEREAS, Takoma Park timely paid for all work pursuant to lump sum Task Orders but Takoma Park refused to pay for work on a time and material basis that was not authorized by written task orders; and

WHEREAS, Greenhorne & O'Mara, Inc. billed Takoma Park for Forty Two Thousand Six Hundred Seventy Seven Dollars and Seventy Cents (\$42,677.70) plus interest and fees; and

WHEREAS, Takoma Park disputed those fees as not being pursuant to contract, being duplicative, inflated or not properly authorized; and the billing process itself being violative of the contractual terms between the parties; and

WHEREAS, Greenhorne & O'Mara, Inc. submitted the dispute to binding arbitration, as referred by the contract; and

WHEREAS, the parties have tentatively agreed upon a settlement of this dispute, subject to Council ratification.

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT Takoma Park will pay Twenty Thousand Dollars (\$20,000.00) to Greenhorne & O'Mara, Inc. in full and final settlement of the disputed claim for payment.

BE IT FURTHER RESOLVED the Council authorizes the City Administrator to execute a Settlement Agreement and Release to implement the terms of the settlement and to disburse Twenty Thousand Dollars (\$20,000.00) to Greenhorne & O'Mara, Inc.

THIS RESOLUTION IS ADOPTED THIS 8th DAY OF SEPTEMBER, 1998.

Introduced by: Councilmember Williams

First Reading: 9/8/98
Second Reading:
Adopted:

ORDINANCE NO. 1998-35

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

SECTION 1. THAT requests for proposals for hiring an Executive Search Firm to assist in the recruitment, selection and hiring of a new City Administrator were solicited from qualified agencies; AND

SECTION 2. THAT six proposals were received from:

- a. Jensen & Cooper of Bellevue, Washington;
- b. The PAR Group of Chicago, Illinois;
- c. Slavin Management Consultants of Norcross, Georgia;
- d. The Mercer Group, Inc. of Atlanta, Georgia;
- e. David M. Griffith & Associates, LTD. of Rockville, Maryland, and
- f. Bennett Associates of Norwell, Maine.

SECTION 3. THAT after evaluating all of the proposals, it was determined that the proposal submitted by Slavin Management Consultants in the amount of \$11,180.00 plus expenses not to exceed \$4,472.00 is the most responsive proposal; AND

SECTION 4. THEREFORE THAT the Assistant City Administrator is hereby authorized to negotiate and enter into a contract with Slavin Management for assistance in the selection of a new City Administrator, said contract not to exceed ~~\$15,652~~ \$13,130.

SECTION 5. FURTHER THAT funds to cover this contract in an amount not to exceed ~~Fifteen thousand and six hundred and fifty-two dollars (\$15,652.00)~~ Thirteen thousand and one hundred thirty dollars (\$13,130). ~~be appropriated from~~ be charged to Account 1110-7015, Council Expenses.

Adopted this day of

AYE:

NAY:

ABSTAIN:

ABSENT:

Note: Indicates language deleted after first reading.
 Indicates language added after first reading.

PRESENTATIONS, BRIEFING AND REGULAR MEETING
OF THE CITY COUNCIL

Monday, September 14, 1998

Executive Session 9/08/98 - Moved by Rubin; seconded by Chavez. Council voted unanimously to convene in Executive Session at 10:30 p.m. in the Conference Room. OFFICIALS PRESENT: Porter, Chavez, Elrich, Hawkins, Rubin, Stewart, Williams. STAFF PRESENT: Habada, Sartoph, Perlman. The Council discussed final negotiations on the purchase of the Pringle Property, and gave the City Administrator guidance on negotiations. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(3)).

OFFICIALS PRESENT:

Mayor Porter	City Administrator Habada
Councilmember Chavez	Assistant City Administrator Hobbs
Councilmember Elrich	City Clerk Sartoph
Councilmember Hawkins	Public Works Team Leader Shafer
Councilmember Rubin	Planning Center Coordinator Ludlow
Councilmember Stewart	Community Development Coordinator Sickle
Councilmember Williams	Administration Clerk/Typist Vidal

The City Council convened at 7:55 p.m. in the Council Chambers of the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland.

COUNCIL COMMENTS

Mayor Porter noted that there has been some discussion before the Council about the inaccessibility of the polling place for Precinct 13-21 (Parker Memorial Baptist Church) for tomorrow's Primary election. In particular, there is a steep flight of stairs leading to the downstairs where the voting will take place. The Board of Elections has made a decision to provide curb-side voting at the church and also at the Board of Elections for other voters in Montgomery County who were assigned to inaccessible polling places. This a very important primary for Takoma Park. Residents are encouraged to get out and vote tomorrow.

Councilmember Rubin thanked the members of the Takoma Park Folk Festival for the wonderful

event yesterday. He commented on the new location for this year's festival--on the grounds of the Municipal Building and Ed Wilhelm Athletic Field. He noted nationally renown people who were at the festival, and commented on the local musicians who took part in the festival. Mr. Rubin stated that there have been comments that this was the best festival ever, and that people would like for the festival to remain at this site in the future. He closed by recognizing a few people who contributed to the success of the festival.

Ms. Porter seconded Mr. Rubin's comments. She said that with the new venue, however, she had some difficulty finding the right stage for her opening remarks. She applauded the success of the festival.

Councilmember Williams added that he also heard comments that people would like to keep the festival at this year's location.

Mr. Rubin noted that the Council Chambers was packed for Hazel Dickens performance.

COUNCIL MEETING MINUTES - 7/27

Ms. Porter postponed consideration of the minutes until the next regular meeting.

CITIZEN COMMENTS

Benjamin Onyeneke, Maple Avenue (Generation X), remarked about the revelations contained in the Kenneth Star report regarding the Clinton/Lewinsky sexual encounters, and spoke about the offensive nature of the actions of President Clinton. He emphasized that President Clinton's actions were of a criminal nature, regardless of his political position.

PRESENTATIONS

1. Resolution re: Tuskagee Airmen.

Ms. Porter remarked that some of the participants were invited to be here this evening, but are unable to attend. The resolution will be postponed until a later date.

2. Resolution re: Parks Supervisor/City Forester, Mark Busciano. Ms. Porter asked whether Mr. Busciano will be here this evening.

Public Works Team Leader Shafer noted that he was asked to attend the meeting, but that he is not here.

Ms. Porter decided to go forward with consideration of the resolution. She read the resolution for the record.

Moved by Porter; seconded by Williams.

Resolution #1998-40 was adopted unanimously, expressing appreciation to Parks Supervisor/City Forester, Mark Busciano upon his leaving the employment of the City (VOTING FOR: Porter, Chavez, Hawkins, Rubin, Stewart, Williams; ABSENT: Elrich).

RESOLUTION #1998-40
(Attached)

Ms. Porter thanked Mr. Busciano for his work with the City, commented that he has always been helpful in providing his time and expertise.

Councilmember Chavez referred to the resolution, noting that he likes the phrase “wacky sense of humor”. No wonder the trees are smiling.

Mr. Williams commented on Mr. Busciano’s hard work, noting that he worked up until his last hour with the City.

Ms. Habada noted that Mr. Shafer is here this evening for two items later in the agenda, but is comfortable, if the Council desires, to move the two single reading ordinances to Worksession next week.

Ms. Porter said that she would like to bring up these items this evening for discussion, as planned.

BRIEFING

3. Silver Spring Development Plans (presented by: M-NCPPC Staff). Planning Center Coordinator Ludlow introduced members of M-NCPPC staff (Gary Stith re: Foulger-Pratt Plan and Sandy Taunt re: Sector Plan). She commented on the Sector Plan which has an exciting level of bicycle/pedestrian connections. There are some different approaches to zoning which may need discussions. In particular, there are concerns about the vague approaches to the S.S. Development Plan. Ms. Ludlow remarked about the proposal regarding the demolition of the Silver Spring Armory, and suggested that the Council should discuss the uses on the East side of Fenton Street.

Gary Stith, Developer for the Silver Spring Redevelopment Center, defined the geographical boundaries for the project being discussed this evening (within area bounded by Cedar Street, Wayne Avenue, Georgia Avenue and Colesville Road), noting, however, that all of the area within the boundaries is not part of the plan. To accommodate the uses, the developer worked very

closely with the community. He noted the different sections in the plan area, and remarked about general characteristics for each area. He described the various elements of the development plan, and commented on the proposal for a parking garage to support the retail uses in the plan (Area B). He remarked about the restoration of the Silver Spring Shopping Center (Colesville/Georgia corner) historic facade, and described the renovation of the old theater which will house the Round House Theater (including classrooms) and space for other performing groups. He noted that the tallest buildings (one of which is a 150 room hotel) in the project will be located on Georgia Avenue, across the street from other high-rise business buildings. The more intensive uses will be located in the sections (Areas B & C) closest to the Metro. He noted that the demolition of the Armory has been approved.

Mr. Williams asked whether there is a provision in the plans for a new civic building for a down-county cable station.

Mr. Stith said that there will be a multi-media center located at the site, but basically operated by the library.

Ms. Porter questioned whether it will have a broadcast facility.

Mr. Stith responded in the negative. He explained his understanding that the County is looking for a location for a down-county broadcast facility (possibly a site in the City of Takoma Park).

Mr. Williams remarked that the civic building struck him as the perfect site.

Ms. Porter asked whether the civic building will have dance floors.

Mr. Stith said that the floors could be used for dancing, but that they were not specifically designed for that purpose.

Ms. Porter commented that she understands that the Armory has very good dance floors, and added that she would hate to lose that resource.

Mr. Stith explained that the Armory does have wooden floors which have been covered over with carpet for many years, and that the space is not currently used for dancing.

Councilmember Hawkins noted that she knows the Armory was used for dancing at one time.

Mr. Rubin asked whether people have been surveyed about the proposed displacement of activities.

Mr. Stith responded in the affirmative, recognizing that there will be some displacement, but assuring the Council that the activities will be accommodated in the new building.

Mr. Rubin questioned whether the decision to demolish the Armory is final.

Mr. Stith explained that demolition is necessary for this project. The final decision has not been made by the Planning Board; however, other agencies have approved the proposal. He provided information about the Planning Board's process.

Ms. Porter referred to the proposed zoning changes and the question about whether they should be made temporary or permanent.

Mr. Stith explained that the underlying zoning in the project area was effected by the 1993 Sector Plan. This proposal does not require changes to be made to the plan; staff is pretty certain that the proposed plan would not violate what would otherwise be allowed in the underlying zoning. There are some building heights that are being considered. He said, however, that he thinks the proposal could have gone forward without any flexibility in the existing requirements.

Councilmember Elrich clarified that the proposed project does not include the Fenton village area.

Ms. Ludlow noted that one of the things distributed this evening is a copy of excerpts from Park & Planning's review of this plan, and said that the technical conditions are entirely reasonable. Regarding the Armory, she referred to her memo and emphasized a couple of points. (1) In the discussions, there is an arrangement that Park & Planning can swap the Armory site for the parking lot behind Park & Planning, enabling this project to go forward. She said that she doubts that this tainted the decision, but said she would recommend that if this proposal proceeds, Park & Planning should swap another site that could be used for public use. (2) The Armory is closer to the Metro than the community center proposed in this plan. It does not seem that it would be an easy walk from the Metro to the town center. She suggested that a shuttle service be explored, adding that she thinks access will make a difference in the success of the center. (3) Ms. Ludlow suggested that the City should emphasize that there should be some good building design for this project, and encourage that there be a strong attention to something that adds architectural character to the area.

Sandy Talent, Silver Spring/Takoma Park Development Team, noted that efforts have been made to look at the issue of revitalization in Silver Spring. In the Spring of 1997, a very aggressive public participation process was launched which has continued throughout the process. The plan makes CBD wide recommendations for things that are "wide" spreading (e.g., transportation), as well as, recommendations for four major revitalization areas. She described each of the areas.

Glenn Gregor, Team Leader of Silver Spring/Takoma Park Development Team, recalled the last Master Plan exercise (1992-1993). One primary difference between this and the last effort is the process itself. This process looks at things comprehensively. It includes an area-wide circulation study (transportation) in hopes of anticipating future problems and identifying possible solutions. The CDB Plan is currently pending before the Planning Board. He acknowledged the City's concern about traffic impacts from area and regional developments. The recommendation will

ultimately be made in the Takoma Park Master Plan. He said that he does not anticipate that when Park & Planning gets to that point, it will be making a recommendation to widen roads. He commented that he would anticipate alternatives to widening roads. These plans will come out in February, and will serve as the vehicle under which these concerns will be addressed. Mr. Gregor said that the revitalization of downtown Silver Spring is very important, and that he is enthusiastic about the CDB Plan that is on the table now. He assured the Council that the City's concerns are being addressed in the process.

Ms. Porter thanked him for the notice, and said that the City is not only concerned about threats to the roads in Takoma Park, but also about the way that development is done. Development design can impact traffic--development that is bicycle/pedestrian friendly and provides access to Metro/public transportation reduces vehicular traffic. She suggested that the approach should be to design the development to minimize traffic impacts on the surrounding neighborhoods.

Mr. Williams asked for comments on the zoning experiment that is being discussed down around the B&O station (i.e., zoning "residential" where there is currently "commercial").

Mr. Gregor responded, and went on to explain that overlay zones are recommended in the draft plan in an attempt to introduce some zoning flexibility with the hope of providing incentives for development.

Mr. Elrich noted that he participated in the 1993 process, and referred to the Fenton Village portion of the plan. There was always the feeling that the success of Fenton Village would be determined by the revitalization of the "core". He said that the revival of the "core" will spill-over to Fenton Village, and expressed optimism that this could happen even without changing the zoning in Fenton Village. Mr. Elrich remarked about his concern regarding the potential for over-development.

Mr. Gregor stated that the 1993 plan was seen by many as the "Silver Bullet" Plan. He described the plan. However, staff has heard from people in the Fenton area that the zoning in this area is too restrictive. Park & Planning wants to be sure that whatever happens there, works with the surrounding community. Over time, there has been a series of down-zoning in Silver Spring. Originally, assumptions were made about the impact of the Metro, with an eye toward fine tuning the zoning after the Metro was opened.

Mr. Elrich responded, recalling that the issue of zoning was addressed in 1993.

Mr. Gregor remarked that there were structures which could have "physically" been built within the zoning.

Mr. Elrich pointed out, however, that the transit could not have supported such development at that time. He said he is concerned about whether Park & Planning has the long-term tools to maintain Fenton Village, adding that he does not want to lose the sense of the village. He urged

attention to a sense of balance.

Mr. Gregor remarked that staff has heard from merchants that they are restricted in expanding their existing businesses. A market survey was conducted, and the results convinced the department that the merchants have conveyed a good point.

Mr. Elrich questioned how parking will be addressed.

Mr. Gregor referred to Mr. Stith's earlier description of a proposed parking garage.

Mr. Elrich noted that there was concern expressed by the neighborhood along Cedar about the four-story apartment buildings being proposed for development across the street from single family homes. People were enthusiastic about townhouses being developed in this area, as indicated in an earlier plan.

Ms. Talent recognized that an earlier plan had a map indicating that townhouses were planned for this area. Foulger-Pratt had other ideas about housing. Housing studies show that certain types of housing are more viable. High rise development is not foreseen. She said that they have tried to spur development and remain sensitive to the "edge" area.

Mr. Elrich commented that he is sure that this issue will be discussed by the Planning Board, noting again that the plan was presented with townhouses.

Ms. Porter asked for comments about the South Silver Spring (SSS) area.

Ms. Talent commented on the vision for the SSS Gateway. One of the struggles is really understanding the vision for this area and where the market is going to take it. We have found that there have been many shaking tides in Silver Spring. She remarked favorably about Montgomery College and its plan to expand onto Georgia Avenue. The American Film Institute has made a commitment to offer courses at the college. One of the issues is the building stock that is already in place, and questions about the type of industry that can use the buildings that exist. She said that the department feels positive about SSS, and wants to encourage development and activity even prior to the plan going through.

Ms. Porter said that as one looks at SSS, it does not look like a "gateway".

Ms. Talent agreed that the gateway issue is very important to several portals in the CBD, and that the new process is more focused and timely with the issues.

Ms. Porter thanked the representatives for their presentation and comments.

Ms. Ludlow summarized the overall Silver Spring CBD Sector Plan as an exciting document--e.g., concept of incorporating the long-distance bike trails through Silver Spring and what that

can do to tie-together Silver Spring with Takoma Park and cross-over the Metro tracks. This is going to be a different way of us looking at Silver Spring. It will make us think of different ways of connecting with Takoma Park. Knowing that these things are happening, should make us think more about how we interact with Shepard Park in the District and SSS. There are some wonderful options for Takoma Park. Ms. Ludlow commented on the Montgomery College plan for a pedestrian path across Metro to the Jessup-Blair Park, and suggested that the path not terminate in a building, but connect to the existing Takoma Park trail. She remarked about the college's storm-water system, adding that a comprehensive approach will make a difference in the overall water quality for the area. There needs to be a focus on SSS, and it may be necessary to clear some signs of buildings that are not particularly usable. There are some encouraging moves that the County Executive could do to spur some activity. She noted that she put a fairly strong statement about the flexible zoning that is in the Sector Plan in the draft resolution. Ms. Ludlow explained her concern about what can be done if sites are combined and rights are transferred. We could get a project that starts to overwhelm Fenton Village. We do need some zoning that spurs activity; however, we also need assurance from Park & Planning that if a proposed project is too big (even though it meets the zoning criteria) it will be rejected. The Planning Board should take some leadership to hold the line on what might be "legal" proposals that do not meet the vision for Fenton Village.

REGULAR MEETING

4. Resolution re: Silver Spring Development Plans.

Ms. Porter noted that the Planning Board is scheduled to discuss the plans and make a decision later this week.

Ms. Ludlow clarified that a decision will not be made this week, but that there will be a fairly short period of time for the City to submit comments prior to the Board making a decision. The Planning Board is conducting a public hearing on Wednesday. She noted her draft resolution which includes comments about zoning and a statement about the importance of a vision for South Silver Spring. She remarked that there may be other things that the Council wants to address (e.g., Armory).

Mr. Rubin noted that there is no specific language in the resolution regarding the Armory, and asked for Ms. Ludlow's recommendation in this regard.

Ms. Ludlow said that she has not been able to determine whether a Foulger-Pratt type plan could work without demolition of the Armory. Is there a design solution? Maybe. The Armory itself, as a building, would not harm the character of Silver Spring if it were removed. However, there are some aspects of the Armory that are nice.

Mr. Rubin requested clarification on Ms. Ludlow's earlier remark about the "switching" of sites,

as related to the Armory.

Ms. Ludlow explained that the parking lot behind the Park & Planning building (Georgia Avenue) will be traded for the Armory. The county would have ownership of the Armory site, and Park & Planning would no longer have to pay for parking on the lot. She suggested that the swap include some other public use site, other than a parking lot that primarily benefits Park & Planning. Ms. Ludlow said that she does not think that anything in the "swap" satisfies a design solution. She concluded that everyone wants Silver Spring to be a successful area.

Ms. Porter commented that the issue of the Armory is a fairly serious issue which has raised public discussion. The historic value of the Armory has been discussed; however, it should not be kept absolutely sacred solely because of its historic nature. The Armory is presently used as a civic building. The community building in the proposed plan is envisioned as a replacement. There are not enough specifics to evaluate whether it would provide the same level of service. It seems that if the Armory is the only thing that is lost in the development, then it is not such a bad deal.

Mr. Rubin questioned whether the Armory should be addressed in the resolution.

Mr. Porter responded that it is not necessary unless the Council desires to include a statement about the Armory.

Mr. Rubin said that he cannot think of a way to construct a statement.

Ms. Porter remarked that if the Council supports the CBD Plan, then it conveys that we are willing to see the Armory come down. On the other hand, there needs to be some discussion about traffic/transportation in the resolution. The development needs to be sensitive to its traffic generating impact, and we need to encourage development that maximizes transit use and which is accessible to pedestrians and bicycles. She proposed a third paragraph to be added under the Resolved clause "Development plans should take into account the impact of development on traffic in the local area and surrounding areas. We encourage development that maximizes transit use and enables pedestrian and bicycle access."

The Council reached a consensus on the proposed language.

Mr. Elrich commented that the traffic numbers for this project make sense, and further elaborated on the traffic that will be associated with the development. In this plan, it is legitimate to reduce the traffic impact by saying that people are already on the road. He remarked about peak flows. The traffic numbers are the soundest that have come out of Park & Planning. It is likely to have far less an impact on Takoma Park than the "American Dream" or other earlier plans. There are a lot of positives in the plan. In regards to the Armory, he commented on the enormous capacity of some existing parking garages. Safety has been an issue in discussions about the slightly longer walks from garages to attractions. However, if this project is successful in revitalizing Silver

Spring, then the streets will be re-animated and contribute to the solution to crime concerns. For the project to be successful, Silver Spring will have to be perceived as safe. Mr. Elrich commented on the pedestrian walking distance in Bethesda. As a member of the committee in 1993, he recalled suggesting that an independent consultant be hired to study the parking needs. This project is too valuable to not go forward over the issue of demolishing the Armory. He said, however, that he will always feel uneasy about how the decision was reached, because none of the decision making bodies did the necessary parking study. There are reasons to be optimistic about the development.

Councilmember Stewart noted that Ms. Porter's proposal is very similar to the sixth Whereas clause.

Ms. Porter acknowledged the point, in terms of the emphasis. She commented on the negative implication of the potential for expansion of roads in Takoma Park.

Mr. Elrich said that the City should be explicit on this point, and confirmed that it will be addressed more specifically in the Takoma Park Master Plan.

Mr. Williams agreed that the Master Plan seems to be a better place to address this concern.

Mr. Elrich suggested that language be added regarding the City's opposition to widening streets.

Ms. Porter proposed adding a sentence to the end of the third paragraph under the Resolved clause--"The City remains opposed to widening City streets and intersections."

Moved by Williams (with changes as proposed by Ms. Porter); seconded by Stewart.

Mr. Elrich asked whether Ms. Ludlow has any other recommendations regarding Fenton Village, in terms of being clear about our desire that Park & Planning pay attention to the vision for the village.

Ms. Ludlow commented that Fenton Village is the one area that needs careful attention, and clarified the Council's desire that the "village" be preserved.

Mr. Elrich emphasized that the village concept is to remain the over-riding vision.

Ms. Talent responded, saying that this will not be a problem. She commented on concerns expressed by owners in the area and their remarks about the need for the area to survive as a business zone. A survey found that Fenton Village was deficient for most retailers in terms of first floor FAR. The density zones and overlays do not affect Fenton Village. The county hired Mainstreet to do an assessment; along Fenton Street, the transition zone always being sensitive for the residents, the residents felt that increased density was appropriate. There is a need to spur business in the area. She pointed out that a few new restaurants are opening along Georgia

Avenue. Another important aspect is the promotion of the private/public partnership. A lot of the retailers are very small and do not have a lot of time to invest in the partnership. Park & Planning will be looking at ways to assist.

Mr. Elrich commented on East Silver Spring.

Ms. Talent remarked about the high price for property that has deterred some development. She concluded with thoughts about Fenton Village and South Silver Spring having some real opportunities.

Ms. Porter noted the resolution, as amended, that is before the Council for consideration, and asked whether there are additional changes. She concurred with Mr. Elrich's comment that the plan generally, portrays a positive development that should be good for the City and Silver Spring. A revitalized area will be very helpful and might have spin-off effects on our own economic development. A lot of people would go to Silver Spring if it had the kinds of amenities that people are looking for.

Resolution #1998-41, as amended, was adopted unanimously, recommending approval of the Draft Silver Spring CBD Sector Plan and of the Urban Renewal Area Project Plan and suggesting modifications (VOTING FOR: Porter, Chavez, Elrich, Hawkins, Rubin, Stewart, Williams.)

**RESOLUTION #1998-41
(Attached)**

5. Single Reading Ordinance re: Backhoe Purchase.

Public Works Team Leader Shafer commented that he came tonight to speak about Mark Busciano and how much the department appreciated his work. Mr. Shafer went on to explain that the City's current backhoe has met its life expectancy, and that staff is requesting approval to replace this piece of equipment. The Mechanics Shop evaluated the machine, and estimated that it would cost approximately \$25,000 to revitalize the machine.

Ms. Porter said that if the issue is refurbishing versus buying a new machine, she would like to see a comparison of the life expectancies under both scenarios. She expressed concern about the single bid received for this piece of equipment. How can we be sure that this is a good bid? Are we requesting something unreasonable in terms of horsepower--the reason other bidders did not respond?

Mr. Shafer responded that the specifications are not unreasonable. He explained the testing that was done in setting the horsepower requirement. Mr. Shafer said, however, that he cannot be sure about the fairness of the bid amount.

Mr. Rubin asked whether the Council discussed repair versus purchase at the time the \$75,000 was set aside for this piece of equipment.

Ms. Habada responded in the affirmative, noting that there was a discussion about why it would not be cost effective to rehabilitate the current piece of equipment.

Ms. Porter remarked that the fact that monies were allocated does not mean that the purchase is automatically approved. Each item has to be considered individually.

Ms. Stewart questioned the life expectancy of the backhoe.

Mr. Shafer said that it should have a life of 5,000 operating hours. This piece of equipment has exceeded that limit. Depending on the use of the equipment, its operating hours may expire more quickly.

Ms. Habada remarked that we had hoped to get ten years of use out of the backhoe, but that we have been putting a lot of money into repairs.

Mr. Shafer noted that \$18,000 was spent last year on repairs.

Ms. Habada recognized the Council's discomfort over the single bid, and suggested that the Council revisit this item in Worksession at a later date with information from other jurisdictions on pricing and possible joint purchasing options.

Mr. Williams asked whether the repairs on the existing machine are mechanical and hydraulic or more structural in nature.

Mr. Shafer said that the repairs have not been structural, and added that we have had to put a lot of money into rental machines when our machine has been undergoing repairs. This needs to be factored into the decision (approximately \$700-800/week for rental). He noted that we are quickly coming into leaf season when the machine is used daily.

The Council reached a consensus to continue the discussion in Worksession at a later date.

6. Single Reading Ordinance re: Leaf Vacuum.

Mr. Shafer remarked about buying two machines last year--one from ODB and one from another company. The one from ODB was significantly better.

Ms. Porter asked what was the cost last year.

Mr. Shafer said that it was approximately \$15,000.

Ms. Stewart stated that she is more comfortable with this purchase, as opposed to the backhoe. It is not as expensive. She commented that since we are coming into leaf season, she would not want to slow the process.

Ms. Porter agreed that it makes more sense for this purchase to go forward, since we have had recent experience with purchasing this equipment. The bid price was similar to last year's, and the vendor has provided good service in the past.

Moved by Williams; seconded by Stewart.

Single Reading Ordinance #1998-36 was adopted unanimously, authorizing purchase of one leaf vacuum for Public Works Parks Department from Old Dominion Brush (ODB) in the amount of \$14,200 (VOTING FOR: Porter, Chavez, Elrich, Hawkins, Rubin, Stewart, Williams.)

ORDINANCE #1998-36
(Attached)

7. Resolution re: Community Development Block Grant (CDBG) Recommendations.

Moved by Elrich; seconded by Williams.

Ms. Porter described the resolution, noting the recommended projects and dollar allocations for each.

Mr. Rubin pointed out that the Council has discussed the recommendations on several occasions. He supported adoption of the resolution.

Resolution #1998-42 was adopted unanimously, adopting the recommendations of the Community Advisory Committee regarding funding proposals to Montgomery County for Program Year 25 and to authorize staff to submit proposal applications (VOTING FOR: Porter, Chavez, Elrich, Hawkins, Rubin, Stewart, Williams.)

RESOLUTION #1998-42
(Attached)

8. Resolution re: PILOT -- 7611 Maple Avenue Co-op.

Ms. Porter commented that she has had contact with several Councilmembers since last week's discussion of this item, and noted that there are concerns about where we are in the discussion at this point.

Mr. Williams said that it struck him that we are ending up with a short-coming of our own by not having an affordable housing plan. At one time in the past, there was a committee and staff assigned to focus on affordable housing, but Council has also fallen short in this area. A plan would have served us well in this regard.

Mr. Elrich responded that he and the former Mayor begged and pleaded with the Council to come up with an affordable plan. He expressed his continued support for a plan.

Mr. Williams said that the case before the Council (7611 Maple Avenue) makes it obvious that we are suffering from not having a plan.

Ms. Stewart questioned how to start the process of formulating a plan.

Ms. Porter recalled that there have been a number of conversations in the past by City Councils about affordable housing, but that the discussions did not come close to reaching a decision on a plan. She agreed that the City needs to come to a point where it is more specific about initiatives related to affordable housing.

Mr. Williams suggested that Council examine the things that we already do, what we can afford, how these things fit into the current budget, and what more can be afforded. One question that came up last week was how much revenue we already lose through the City's tax credit program. We need to look at the relative merits of the different things that are available, so that we can prioritize.

Ms. Stewart stated that she is not comfortable with the proposed PILOT, but that she is also uncomfortable doing nothing to help the Co-op. She remarked that she would like to figure out a way that we can help them without affecting the tax base.

Ms. Hawkins commented that she was under the impression that we had figured out how to help them without affecting the tax base, but recognized that a PILOT necessarily affects the tax base. In the end, it sounds like an issue of doing something or nothing.

Mr. Elrich stated that we cannot do anything that will not affect the tax base. Even saying that we are not going to pass the cost along, by finding other savings, is not the solution. Staff should always be looking for savings. A PILOT will have a cost. The questions are: what will be the cost, how much will we bear, and in what form. He noted that the City spent \$300,000+ over the past seven years through the tax credit program. The idea that we should not consider the PILOT request because it is going to cost us some money to provide relief to unit owners of 7611 Maple Avenue is untenable. He said that he has a problem saying it is okay to provide relief to homeowners through the tax credit program, but saying "no" to this request. The City will be spending four times as much on homeowners as it would spent on the unit owners of 7611 Maple Avenue.

Mr. Williams agreed, but stated that we need to consider what we are currently spending and evaluate whether we can afford an additional cost. This is not an issue of merits.

Ms. Porter observed that a cost analysis, as suggested by Mr. Williams, might lead to a discussion of priorities.

Ms. Stewart asked whether we could use the funds from the revolving loan fund.

Mr. Elrich commented that the purpose of the revolving loan fund was for rehabilitation projects for multi-family dwellings. Would it be possible to use some of that money toward this request?

Ms. Porter requested clarification about whether the suggestion is to give the Cooperative the money or loan it to them.

Ms. Stewart suggested that the Council make a decision.

Ms. Porter noted that the Cooperative needs some relief from a portion of their property taxes.

Ms. Stewart proposed that the revolving loan fund monies be used toward the balance.

Ms. Porter clarified that the suggestion is to provide the Cooperative with a grant out of the revolving loan fund.

Community Development Coordinator Sickle said that the City could provide a deferred payment loan, which as long as the owner-occupant remains on the property, repayment would not be required. In similar situations in the past, there have been special circumstances where there was complete forgiveness of a loan over a period of time. She cautioned the Council to keep in mind that the State has a concern about the Cooperative's ability to cover operating costs. The allocation of these funds may not, over the long run, be sufficient for them to maintain their payment of the operating costs. Using the loan fund in this way would be balancing one use against another, and would raise the question about which use is considered to have the most value to the community. If the Council decides to use the Revolving Loan Fund monies, we will not have money for other needs. She reminded the Council that they have talked about using these monies for a multi-family assistance program.

Ms. Porter stated that she is uncomfortable at the last minute making a decision about the loan fund without further analysis. She recognized that we could potentially risk forgoing other important initiatives if we choose to use the money in this way.

Ms. Stewart responded that there is the same risk if we grant a PILOT.

Ms. Porter commented that in regards to a PILOT, it would be more general in terms of coming out of the tax base. However, if the money is taken out of the revolving loan fund, it would cut

into certain programs.

Mr. Williams pointed out that the original request from the Cooperative essentially boiled down to an average 60% PILOT over a period of time, and noted that the proposal on the table is a 70% PILOT.

Ms. Porter explained that the percentage is not likely to be higher than what we would actually do. Past history would indicate that the Cooperative will come back after the 10 years and request a continuance of the PILOT at the 100% or 80% level.

Mr. Williams remarked that he would like to see language in the Agreement say that the PILOT would not go forward after 10 years unless there is a Council assessment at 10 years.

An "unidentified" gentleman from the audience commented on the importance of all pieces coming together regarding the different financing sources.

Ms. Sickle said that in discussions with Gary Hildbrant from the State, he has commented several times about the precarious nature of the Cooperative's future. The various agencies involved in this process are trying to put pieces together to make a viable deal. Any aspect that makes it questionable, weakens the deal. She recalled that there was concern expressed before the last discussion about the 10 year review. This could be a problem, because there would be no way of guaranteeing anything beyond the 10 year period.

Mr. Williams remarked that with the 10 year requirement (optional review), the Council would essentially be consenting to a 25-year deal.

Ms. Porter clarified that she intended that a review be conducted in year ten. She disagreed with the view that the 10 year requirement is "fiction."

Ms. Stewart said that if her proposal to use the revolving loan fund money is not feasible and does not warrant any discussion, then the Council will need to go with the percentage approach. She suggested that the level be set at 50%.

Ms. Porter questioned the time frame for completion of this discussion.

Ms. Sickle explained that the timing is driven by the State, and that it is her understanding that additional material from the Cooperative is to be submitted to the State by September 16. She added that the State would surely like to have all of the necessary information as soon as possible.

Ms. Porter asked what would be the impact if the Council does not make a decision until September 28.

Ms. Sickle responded that it should not be a big problem, but that she would caution extending

the discussion too far into the future.

Ms. Hawkins noted that she will not be here on September 28, and that she would like to be present for the discussion.

Ms. Porter commented that she is proposing to continue the discussion at a later date, because there are a number of proposals which have been presented this evening and have not been discussed fully. She said that she would like time to get more information on the proposal regarding the use of revolving loan fund money.

Mr. Elrich asked what are the range of interest rates on loans that the Cooperative is seeking.

The "unidentified" gentleman said that the Cooperative is currently in the process of trying to refinance some debt and take on some new debt. The overall interest rate will be approximately 2%.

Ms. Porter commented that some money is being arranged through the State.

Mr. Elrich asked what is the total amount of money the Cooperative is financing.

The gentleman replied that he is most familiar with the cost of the current renovation, and that he is not certain about any other information.

Mr. Elrich proposed that the Council consider a "mixture"--e.g., take \$40,000 out of the multi-family rehabilitation loan fund and reduce the PILOT by the same amount--such that the net effect would stay the same.

Ms. Stewart asked what kind of PILOT would we need in this case.

Ms. Porter commented that \$40,000 probably, would not offset the PILOT by much.

Mr. Elrich proposed that the \$40,000 be given as a 0% interest, forgivable loan for as long as the Cooperative remains low income and a limited equity housing project. We still have to figure out how this scenario would benefit the Cooperative and over what period of time.

Ms. Porter said that we still have the matter of priorities to discuss.

Mr. Elrich requested an analysis of the effect of a \$40,000 loan (from the loan fund) combined with a PILOT at a lower level. What will it take to keep the Cooperative in a safe position with its proposal to the State.

The Council agreed to continue the discussion next week.

Mr. Rubin questioned where the money will come from. Is there some way that we might use, for example, funds that we are getting from the State (matching funds) for something that is already in the budget to free-up money for this request? He noted that the Council has a budget, and asked whether individual Councilmembers would be willing to take on some of the costs otherwise funded out of the Council budget. For example, Councilmembers might pay their own conference fees. He concluded that there simply is no "fat" in the City's budget.

Mr. Elrich said that money for 7611 Maple Avenue could have been included in the CDBG recommendations--i.e., an allocation toward the multi-family rehabilitation fund. He said that if having money available in the rehabilitation fund is a priority, then it would make sense to set these funds aside. He added that he would be willing to knock \$5,000 out of Items #5 and #6 from the CDBG recommendations (adopted earlier tonight) to put money in a rehabilitation fund. The Council needs to approach this matter as a conscious decision.

Ms. Stewart agreed, commenting that it sounds suspiciously like a plan.

Mr. Williams also favored the approach. In the past, the Council did set aside \$50,000 for the housing rehabilitation fund.

Mr. Rubin questioned whether there is a way of setting CDBG funds aside next year that could help in this situation.

Mr. Elrich explained the CDBG funding cycle, noting that we are talking about monies that we will not get for two years. He restated that he would be willing to revisit the earlier agenda item and pull funds from a couple of projects to provide money for the rehabilitation fund.

Ms. Porter noted that the point was made last week that we reprogram CDBG funds quite frequently, and suggested that the Council might postpone a decision to replenish the fund until we have a definite plan to use the money in the fund.

Ms. Hawkins emphasized that she does not want to hold the Cooperative responsible for the Council's lack of foresight, and said that the Council should commit to making a decision next week.

Ms. Porter questioned how \$10,000 of CDBG funds would refill a \$40,000 hole in the rehabilitation loan fund.

Mr. Elrich acknowledged that it would not completely replenish the fund, but that it would be a beginning. The next budget season is coming up. Taking this step would be a commitment toward funding the initiative.

Ms. Porter said that if the concern is taking the money out of the rehabilitation fund, this is not the answer to the concern.

Mr. Williams put things in perspective by pointing out that the relative costs (dollar amounts) associated with a PILOT and/or loans for the city and county are greatly different.

Mr. Elrich remarked that in the long run, if the City is going to have a successful rehabilitation program, it will need assistance from the county. We need an indication of our commitment. There is value in saying that this is something that we need to do.

Ms. Porter suggested that the Council postpone the decision on the PILOT until next week, to allow time for consideration of the new proposal--i.e., use of rehabilitation loan monies to offset the PILOT. Councilmembers making the proposals should discuss their ideas with staff so that an assessment can be made for inclusion in the agenda package.

Mr. Williams said that he wants to know the implication of the 70% rate over 25 years with a mandatory review in the tenth year at which time extension to the full 25-year term will be decided.

Mr. Elrich clarified that it was not his intent to blind side anyone by contributing to the new proposals this evening. He said that he was attempting to reach a consensus with other Councilmembers.

Ms. Stewart noted that she also had discussions with some people prior to this evening's meeting about her proposal.

Ms. Porter urged the Councilmembers to further discussion their ideas with staff prior to next week's discussion.

9. Single Reading Ordinance re: Copy Machines.

Ms. Porter explained the proposed ordinance.

Administration Clerk/Typist Lee Vidal explained that since the Council's last discussion of this proposal, he has negotiated a fixed rate with no increases over the five-year lease of the equipment. He also clarified that the proposal is for "digital" copiers which can serve multiple purposes (e.g., scanners, printers, copiers, etc.). He remarked about the increased benefits of digital copiers.

Ms. Porter asked about the length of the agreement.

Mr. Vidal responded that the lease would be for five years.

Mr. Williams asked if the expanded capabilities would be an added benefit for all machines.

Mr. Vidal stated that only the large copier, which we will be keeping, will not be digital.

Mr. Williams confirmed that the copiers could be hooked into the City's computer network.

Moved by Rubin; seconded by Stewart.

Ordinance #1998-37 was adopted unanimously, authorizing the City Administrator to enter into a lease agreement with Xerox Corporation for replacement of seven copiers for a lease price of \$3,664.60/month, for five years (VOTING FOR: Porter, Chavez, Rubin, Stewart, Williams; ABSENT: Elrich, Hawkins).

ORDINANCE #1998-37
(Attached)

10. 2nd Reading Ordinance re: Ball Playing. Ms. Porter described the ordinance. Moved by Rubin; seconded by Stewart.

Mr. Williams reiterated his strong opposition to this ordinance, explaining that he would not ever give support to the idea of anyone playing in the street. It is dangerous.

Councilmember Chavez questioned whether the issue of liability is sufficiently addressed in this ordinance.

Ms. Porter recalled that there is more liability in having a law that is not enforced.

Mr. Rubin added that this proposal limits liability.

Mr. Chavez asked whether someone could still sue the City.

Ms. Porter stated that a person would not be able to sue the City for not enforcing an ordinance. She agreed with Mr. Williams' concern about ensuring safety, and said that the ordinance addresses safety in some aspects but not to the satisfaction of Mr. Williams'. She said that she will reluctantly support this ordinance, because she thinks it goes in the right direction. Ms. Porter described Council's original discussion about a process for determining the placement of hoops. Following a public hearing, the Council terminated consideration of a process. Ms. Porter said that the decision to not have a process was a mistake. This ordinance sets up a potentially unfair process. Individuals with concerns have to affirmatively come forward and complain. If a neighbor does object, the ordinance allows the City to stop play. However, it would have been better to not put people in the position of having to complain.

Ordinance #1998-31 was adopted, repealing and re-enacting limited restrictions on ball playing in public areas and prohibiting ball playing after sunset and before sunrise (VOTING FOR: Porter,

Chavez, Elrich, Hawkins, Rubin, Stewart; NAY: Williams).

ORDINANCE #1998-31
(Attached)

11. 2nd Reading Ordinance re: Licensing and Inspection Fee. Ms. Porter explained the ordinance. Moved by Elrich; seconded by Hawkins.

Ordinance #1998-32 was adopted unanimously, increasing the current fee of \$62.00/licensing term to \$68.00/licensing term, imposing a late payment penalty charge, and imposing a \$60.00 fee for repeated re-inspections (VOTING FOR: Porter, Chavez, Elrich, Hawkins, Rubin, Stewart, Williams).

ORDINANCE #1998-32
(Attached)

12. 2nd Reading Ordinance re: Pringle Property. Moved by Elrich; seconded by Williams.

Mr. Elrich described the ordinance. He said that he is thrilled that this discussion has come to an end and to this resolve. The ordinance will approve acquisition of the four interior lots of the Pringle Property.

Ms. Porter explained that the ordinance also states that the purchase is contingent upon approval by the State Board of Public Works for funding of acquisition.

Ordinance #1998-30 was adopted unanimously, authorizing the City of Takoma Park to purchase Lots 29, 30, 31 and 32 of the Pringle Property for the purpose of preserving this property as open space (VOTING FOR: Porter, Chavez, Elrich, Hawkins, Rubin, Stewart, Williams).

ORDINANCE #1998-30
(Attached)

13. 2nd Reading Ordinance re: Search Firm Contract. Assistant City Administrator Hobbs explained that he has been negotiating with Slavin and has gotten the cost down to \$13,130.

Mr. Elrich questioned what the City spent on the last search firm contract for a City Administrator.

Mr. Hobbs guessed that it was in the range of \$9,000, eight years ago. He pointed out that the last contract was more inclusive.

Ms. Porter asked whether it included expenses.

Mr. Hobbs stated that he would have to research the question.

Ms. Porter questioned what has been changed from the original proposal.

Mr. Hobbs explained that a lot of administrative expenses have been deleted, and that there have been changes to the first couple of steps in the proposal (e.g., review of the profile).

Ms. Porter asked who will be reviewing and making the first cut of the resumes.

Mr. Hobbs stated that the selection team will be doing the review. Slavin will be recruiting, and wants to talk to the Council and some staff to get better feel for what type of administrator everyone wants. Slavin will take the recommendations of the Committee and do intensive interviews and background/reference checks on the candidates. A presentation will be made to the Council. Then Slavin will assist the Council with final interviews, make visits to the finalists, and help formulate the final employment agreement with the selected candidate. As a final step, Slavin will meet with the Council and the new City Administrator within 60 days of his/her appointment to set-up performance objectives which will be evaluated at the end of the first year.

Moved by Elrich; seconded by Chavez.

Ordinance #1998-35 was adopted unanimously, authorizing the City Administrator to negotiate and enter into a contract with Slavin Management for assistance in the selection of a new City Administrator, said contract not to exceed \$15,652 (VOTING FOR: Porter, Chavez, Elrich, Hawkins, Rubin, Stewart, Williams).

**ORDINANCE #1998-35
(Attached)**

ADJOURNMENT

The City Council adjourned for the evening at 10:50 p.m.

Introduced by: Councilmember Elrich

1st Reading: 07/13/98

2nd Reading:

ORDINANCE NO. 1998 -30

An Ordinance Authorizing the City of Takoma Park to Purchase of Lots 29, 30, 31, and 32 of the Pringle Property for the Purpose of Preserving this Property as Open Space

- WHEREAS,** preserving open space is important to the residents of the City of Takoma Park; and
- WHEREAS,** the property assessed as 1.28 acres, Map 4, Grid 9-E, Block 57, known as 8503 Sligo Creek Parkway, Takoma Park, MD 20912 (hereinafter referred to as "the Pringle property") is undeveloped with mature forest cover; and
- WHEREAS,** on or about June 16, 1997, the Council adopted Resolution No. 1997-39 amending the City's Open Space Plan to recommend the acquisition of the Pringle property; and
- WHEREAS,** Scott R. Stinson, the contract purchaser of the property assessed as 1.28 acres, Map 4, Grid 9-E, Block 57, known as 8503 Sligo Creek Parkway, Takoma Park, MD 20912, is willing to sell this property to the City for the sum of \$126,667; and
- WHEREAS,** the purchase can be funded with money from the State of Maryland Open Space Program; and
- WHEREAS,** the price for Lots 29, 30, 31, and 32 of the Pringle property is consistent with the appraisals of the property obtained by the City; and
- WHEREAS,** the City declares that the acquisition of Lots 29, 30, 31, and 32 of the Pringle property promotes a public purpose by preserving an undeveloped area of significant recreational and environmental value to the community.

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT the City of Takoma Park shall purchase the property assessed 1.28 acres, Map 4, Grid 9-E, Block 57, known as 8503 Sligo Creek Parkway, Takoma Park, MD 20912, from Scott R. Stinson for \$126,667.

BE IT FURTHER RESOLVED THAT the City Administrator is authorized to enter into a contract with Scott R. Stinson, to purchase the property assessed as 1.28 acres, Map 4, Grid 9-E, Block 57, Lots 29, 30, 31, and 32, known as 8503 Sligo Creek Parkway, Takoma Park, MD 20912, for the sum of \$126, 667 and to take all actions deemed necessary to accomplish the purchase and settlement on the purchase of this property.

THIS ORDINANCE IS ADOPTED THIS ____ DAY OF _____, 1998 AND TAKES EFFECT UPON ADOPTION.

Ayes:
Nays:
Abstain:
Absent:

Introduced By:
Councilmember Rubin

First Reading: 7/27/98
Second Reading: 9/14/98
Effective Date: 9/14/98

ORDINANCE NO. 1998- 31

(Repealing and re-enacting limited restrictions on ball playing in public areas and prohibiting ball playing after sunset and before sunrise.)

WHEREAS, the use of public right of ways for ball playing has been generally prohibited because of issues of public safety; and

WHEREAS, the supervision of children is ultimately the responsibility of a parent, guardian, or other responsible adult; and

WHEREAS, the City has determined that the placement on residential streets of temporary basketball hoops and/or temporary goal nets which are properly supervised by parents and other adults will not substantially interfere with the safe and orderly movement of vehicular traffic; and

WHEREAS, placement of temporary basketball hoops on residential streets facilitates family, neighborhood, and community cohesion, abates crime, promotes positive use of neighborhood streets, and encourages parents, children and neighbors to play together; and

WHEREAS, "children at play" signs may be provided upon notification to the City of the placement of a temporary basketball hoop and/or temporary goal nets on residential streets; and,

WHEREAS, the temporary basketball hoops and/or temporary goal nets shall be subject to such requirements and conditions as the City in its sole discretion deems necessary for protection of public health, safety and welfare in the City's right-of-way and the construction of permanent hoops will not be permitted.

WHEREAS, in the event that the temporary basketball hoops and/or temporary goal nets are improperly placed or used, cause a dangerous condition on City streets, are used at night, or the use cause excessive noise in the neighborhood, the City reserves the right to abate any nuisance and stop ball playing in the street,

WHEREAS, in the event that the temporary basketball hoops and/or temporary goal nets, impair the health, welfare, and safety of the public, or unreasonably interferes with vehicular or pedestrian traffic or access to property, interferes with proper fire and police protection, or causes substantial inconvenience to an immediate neighbor, the City also reserves the right to abate any nuisance or stop ball playing in the street.

WHEREAS, this Ordinance shall apply to any temporary basketball hoops and/or temporary goal nets or other temporary ball playing equipment erected, placed or maintained on or after the effective date of this ordinance, even though it may have been erected, placed or maintained prior to the effective date of this ordinance.

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

SECTION 1. Chapter 8, Morals and Conduct, Article 3, Division 3, Section 39, the *Takoma Park Code*, is repealed and a new Section 8-39 is enacted as follows:

CHAPTER 8. MORALS AND CONDUCT.

ARTICLE 3. OFFENSES AGAINST PUBLIC PLACES.

Division 3. Prohibited Activities

Sec. 8-39. Ball playing in public areas.

- (a.) No parent, or person responsible shall permit his or her child to play or utilize basketball hoops, goal nets or other temporary ball playing equipment on the streets, avenues, alleys or highways of the City between the hours of sunset and sunrise.
- (b.) Failure to comply with the terms and conditions of this section is a Class C offense.

SECTION 2. This Ordinance shall be effective immediately.

Adopted this 14th day of September, 1998 by roll-call vote as follows:

Aye: Porter, Chavez, Elrich, Hawkins, Rubin, Stewart
Nay: Williams
Absent: None
Abstain: None

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Introduced by: Councilmember Elrich

1st Reading: 7/27/98

2nd Reading: 9/14/98

Effective: 9/14/98

ORDINANCE #1998-32

**ORDINANCE TO AMEND THE TAKOMA PARK CODE, CHAPTER 6, ARTICLE 9,
SEC. 6-126(a) (1), LICENSING AND INSPECTION FEES**

WHEREAS, Section 6-126 (a) (1) of the Takoma Park Code currently requires the payment of \$62.00 by rental property owners for the license and inspection fee; **AND**

WHEREAS, there has been no increase in this fee since 1993.

NOW, THEREFORE, BE IT ORDAINED THAT the City shall increase the current fee of \$62.00 per licensing term to \$68.00 per licensing term, impose a late payment penalty charge, and impose a \$60.00 fee for repeated re-inspections; **AND**

BE IT FURTHER ORDAINED THAT Section 6-126(a)(1) of the Takoma Park Code shall be amended as follows:

Sec. 6-126. Licensing and inspection fee.

(a) Each rental [property] unit subject to licensing under this Division shall be charged the following fee:

(1) One or more units: [~~\$62.00~~] \$68.00 per licensing term, where such term or duration is specified in Section 6-125 of the Code.

(2) All accounts shall be considered delinquent if not paid within thirty (30) days after the due date. All delinquent accounts are subject to a late penalty charge of ten percent (10%) of the amount due.

(3) The license inspection fee shall include one (1) initial license inspection and one (1) reinspection. Each additional reinspection shall be subject to a \$60 per unit charge.

ADOPTED this 14th day of September, 1998 by roll call vote.

AYE: Porter, Chavez, Elrich, Hawkins, Rubin, Stewart, Williams

NAY: None

ABSTAIN: None

ABSENT: None

NOTE: Language to be deleted is [bracketed]; language to be added is underlined.

Introduced by: Councilmember Williams

First Reading: 9/8/98

Second Reading: 9/14/98

Adopted: 9/14/98

ORDINANCE NO. 1998-35

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

SECTION 1. THAT requests for proposals for hiring an Executive Search Firm to assist in the recruitment, selection and hiring of a new City Administrator were solicited from qualified agencies; AND

SECTION 2. THAT six proposals were received from:

- a. Jensen & Cooper of Bellevue, Washington;
- b. The PAR Group of Chicago, Illinois;
- c. Slavin Management Consultants of Norcross, Georgia;
- d. The Mercer Group, Inc. of Atlanta, Georgia;
- e. David M. Griffith & Associates, LTD. of Rockville, Maryland, and
- f. Bennett Associates of Norwell, Maine.

SECTION 3. THAT after evaluating all of the proposals, it was determined that the proposal submitted by Slavin Management Consultants in the amount of \$11,180.00 plus expenses not to exceed \$4,472.00 is the most responsive proposal; AND

SECTION 4. THEREFORE THAT the Assistant City Administrator is hereby authorized to negotiate and enter into a contract with Slavin Management for assistance in the selection of a new City Administrator, said contract not to exceed \$13,130.

SECTION 5. FURTHER THAT funds to cover this contract in an amount not to exceed Thirteen thousand and one hundred thirty dollars (\$13,130) be charged to Account 1110-7015, Council Expenses.

Adopted this 14th day of September 1998

AYE: Porter, Chavez, Elrich, Hawkins, Rubin, Stewart, Williams

NAY: None

ABSTAIN: None

ABSENT: None

Introduced by: Councilmember Williams

Adopted: 9/14/98
Single Reading

Ordinance No. 1998-36
PURCHASE OF ONE (1) LEAF VACUUM
FOR PUBLIC WORKS PARKS DEPARTMENT

WHEREAS, the Equipment Replacement Reserve has available \$14,500 for the purchase of one (1) Leaf Vacuum for the Public Works Parks Department; AND

WHEREAS, in accordance with City procurement procedures a request for proposals was advertized in the Washington Post on August 23, 1998 and mailed to six (6) interested vendors and manufacturers of this equipment; AND

WHEREAS, bids were received and publicly opened at 2:00 p.m. on September 4, 1998 with one (1) proposal and one "No Bid" being received,; AND

WHEREAS, Old Dominion Brush (O.D.B) has submitted the bid in the amount of \$14,200; AND

WHEREAS, it has been determined that Old Dominion Brush is both responsive and responsible; AND

WHEREAS, sufficient funds are available to award a contract to Old Dominion Brush,

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

SECTION 1. THAT the low bid being received from Old Dominion Brush (O..D.B.) in the amount of FOURTEEN THOUSAND TWO HUNDRED DOLLARS (\$14,200) be accepted; AND

SECTION 2. THAT funds to cover this purchase in the amount of FOURTEEN THOUSAND TWO HUNDRED DOLLARS (\$14,200) be charged to Equipment Replacement Reserve Account 9100-8003.

Adopted this 14th day of September, 1998.

AYE: Porter, Chavez, Elrich, Hawkins, Rubin, Stewart, Williams

NAY: None

ABSTAIN: None

ABSENT: None

ORDINANCE NO. 1998 - 37

**An Ordinance Authorizing the City of Takoma Park to Enter a
Lease Agreement for the Replacement of Seven (7) Copiers**

WHEREAS, the City submitted an RFP for the replacement of seven (7) copiers;

WHEREAS, bids were received from four (4) vendors, two of whom are dealers and two, who are manufacturers;

WHEREAS, the City recommends that an agreement be entered with Xerox Corporation, based on the proposed lease agreement and the services provided therein;

WHEREAS, a monthly payment of \$3,664.60 is firm for five years, beginning from the signed date of the lease agreement;

WHEREAS, Xerox Corporation provides a "Total Satisfaction" guarantee which allows the City to replace, at no extra charge an identical model or copying machine with comparable features and capabilities if the City is not satisfied with the equipment, and this guarantee will apply for the duration of the lease;

WHEREAS, all services and supplies except staples and paper will be included in the agreement;

WHEREAS, the purchase of the copiers from Xerox Corporation will provide an introduction to Digital Copiers which includes the capability of serving as copier, printer and scanner, and the advance feature of interacting with networking systems.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT the City of Takoma Park lease seven (7) replacement copiers for the leased price of \$3,664.60/monthly, for five years.

BE IT FURTHER ORDAINED THAT the City Administrator is authorized to enter into a lease agreement with Xerox Corporation, and to take all actions deemed necessary to accomplish this agreement.

BE IT FURTHER ORDAINED THAT the City Treasurer will charge each department accordingly for their copier.

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

Adopted this 14th Day of September, 1998

Ayes: Porter, Chavez, Rubin, Stewart, Williams

Nays: None

Abstain: None

Absent: Elrich, Hawkins

CITY OF TAKOMA PARK, MARYLAND

(FINAL 10/12/98)

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

Monday, September 28, 1998

OFFICIALS PRESENT:

Mayor Porter

Councilmember Chavez

Councilmember Elrich

Councilmember Rubin

Councilmember Stewart

Councilmember Williams

City Administrator Habada

Assistant City Administrator Hobbs

City Clerk Sartoph

Assistant Corporation Counsel Perlman

Program Coordinator Corley

OFFICIAL ABSENT:

Councilmember Hawkins

The City Council convened at 7:40 p.m. in the Council Chambers of the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland.

COUNCIL COMMENTS

Mayor Porter noted that Councilmember Rubin has a conflict this evening, and informed her that he will be arriving later.

ADOPTION OF MINUTES -- 7/27 AND 9/08

Moved by Chavez; seconded by Stewart. The minutes were adopted unanimously (VOTING FOR: Porter, Chavez, Stewart, Williams; ABSENT: Elrich, Hawkins, Rubin).

CITIZENS' COMMENTS

Benjamin Onyeneke, Maple Avenue (Generation X), thanked the Mayor for the certificate in recognition of participation in the Takoma 2010 focus groups. He commented on his role as a "prophet", remarked about the allegations against President Clinton, and called for Mike Tyson's boxing license to be returned. He predicted that China should expect an earthquake, and that the

U.S. should expect a rise in drug usage, dangerous incidents of flash lightening, and violent storms on the eastern shore.

PUBLIC HEARING

1. Speed Hump Request -- Glenside Drive (between Anne and Kingwood).

The public hearing was called to order at 7:48 p.m.

Terry DelaSanta, 7610 Hammond Avenue, said that she has not witnessed excessive vehicular speed on Glenside Drive. She recalled that the neighborhood association once conducted a study of the area and found that speeding motorists were not the problem. The study did indicate that there are no sidewalks which consequently forces pedestrians into the street. The City's money would be better spent on sidewalk installations. Traffic is not a problem in this area.

Benjamin Onyeneke, Maple Avenue, supported the idea of sidewalks in this area. He compared speed humps, as a remedy, to the idea of allowing basketball hoops in the streets. Mr. Onyeneke remarked about the cost of a speed hump, and urged the Council to focus their concern on safety. A lot of traffic does not move in the area of Glenside Drive. He commented about the difficulty police might have if pursuing a motorist down a street that has speed humps. He urged the Council to vote for sidewalks, not speed humps. Mr. Onyeneke closed by noting the referendum which is planned in Montgomery County in opposition to speed humps.

The public hearing was closed at 7:52 p.m.

REGULAR MEETING

2. 1st Reading Ordinance re: Speed Hump. Councilmember Chavez supported the ordinance, noting that 79% of the affected residents petitioned in favor of speed humps, and concluded that it appears that persons in this area support speed humps, including himself. Mr. Chavez remarked about the narrow street which is complicated by on-street parking. Speed humps would alleviate some traffic concerns in this area.

Ms. Porter explained the City's procedure that requires at least 2/3 of eligible households to sign the petition. This petition has well over the minimum required signatures. She stated that she favors sidewalks, but that speed humps do not cost as much and offer some remedy. Regarding the statement about the Montgomery County referendum, she said that she believes that if polled, the citizens of Takoma Park would support keeping speed humps. Ms. Porter noted that Councilmember Chavez has stated that the neighborhood association supports the petition. She asked City Clerk Sartoph whether anything has been received in writing from the association.

Ms. Sartoph responded in the negative.

Mr. Chavez noted that the President and Secretary of the New Hampshire Gardens Citizens Association have stated that the association supports the request, and indicated that a letter would be forthcoming.

Ms. Porter said that it would be important to have the letter as part of the record, since one of the requirements in the process is to get input from the affected neighborhood association(s).

Councilmember Williams commented that it would also be important since there was no one here this evening speaking in support of the proposal.

Moved by Chavez; seconded by Stewart.

Ordinance #1998-38 was accepted unanimously at first reading, authorizing the installation of speed humps on Glenside Drive (between Anne Street and Kingwood Drive) (VOTING FOR: Porter, Chavez, Stewart, Williams; ABSENT: Elrich, Hawkins, Rubin).

ORDINANCE #1998-38
(Attached)

Ms. Porter noted that second reading of the ordinance will be scheduled in two weeks.

Mr. Williams remarked that he would feel more comfortable supporting this ordinance if there were some written or verbal support for this item.

Mr. Chavez said that he would contact the neighborhood association.

3. Resolution re: Tree Trimming and Cutting Memorandum of Understanding (MOU).

Moved by Stewart; seconded by Chavez. Ms. Porter explained the resolution and provided some background. She said that we have come to a resolution that seems to be satisfactory to all parties. Basically, we require written notice to the City before regularly scheduled tree trimming is done. In the case of an emergency, the utility company can take immediate action. Work must be supervised by a certified tree expert and done according to nationally recognized standards. There is also a statement about what will happen if the MOU is not followed. The City wants to protect trees through the process.

Mr. Williams requested clarification on one point from the PEPCO representative. He said that he wants to make sure that with the adoption of the MOU, contractors will continue to give residents postcard notices prior to working on trees.

David Miranda, PEPCO, assured Mr. Williams that this is a practice that will continue. There is no reason to move away from this practice.

Mr. Williams noted that in the case of the current trimming project, cards were distributed and he sent one in saying that he wanted to be contacted. However, no one ever responded. He explained that he followed-up by calling on several occasions in attempts to reach the contractor. Mr. Williams noted that the trimming was eventually done, and done very satisfactorily. However, in this case, communication did not work well.

Mr. Miranda referred to page 3 of the MOU, and noted a minor correction to change the name of person who will be signing on behalf of PEPCO.

Ms. Porter said that the corrected copy has already been distributed to the Council.

Councilmember Stewart noted the sign which was displayed in the Council Chambers, and asked where it will be placed.

City Administrator Habada responded that the sign will be placed at the entrances to the City. She invited the utility representatives to comment on the wording of the sign, and said that she would like to hear any suggestions from the Council and representatives.

Ms. Porter suggested that a meeting between utility representatives and staff be scheduled.

Don Heath, Bell Atlantic, received clarification from Ms. Habada regarding the proposed locations for the signs.

Ms. Porter expressed concern about the large size of the sign.

Mr. Miranda stated that the representatives would like to discuss the wording of the sign with the City's Public Works Department.

Katherine Tunis, Co-Chair of Takoma Park Committee on the Environment, asked if it would be appropriate to insert something in the MOU to express the wishes of residents that tree trimming be kept to a minimum. She remarked about the various reasons for trimming trees, and said that it can be done in a way that does not scar trees for life. She urged the utilities to keep in mind that we take our trees very seriously.

Ms. Porter commented that she believes this concern was conveyed through Section 6 of the MOU.

Ms. Tunis added that tree trimming is an "art and a science", and said that she will take a closer look at the language of Section 6.

Ms. Porter stated that the conversations that have occurred between the City and the utilities over the past few months should have impressed upon them how seriously we take our trees.

Resolution #1998-43 was adopted unanimously, approving a Memorandum of Understanding (MOU) between the City of Takoma Park and utility companies regarding roadside tree trimming (VOTING FOR: Porter, Chavez, Elrich, Stewart, Williams; ABSENT: Hawkins, Rubin).

**RESOLUTION #1998-43
(Attached)**

4. 1st Reading Ordinance re: Permit Parking Area (Pine Avenue). Ms. Porter explained the ordinance, and outlined the three points of the proposal.

Mr. Williams pointed out a couple of things: (1) the revised ordinance provided this evening (noted the changes to the Whereas clause and Section #3; and (2) it is not addressed who will produce the leaflet and distribute it. He offered to come up with the leaflet in consultation with City staff.

Moved by Williams; seconded by Chavez.

Mr. Elrich asked whether the questions raised by Tom Anastasio have been resolved.

Mr. Williams responded that Corporation Counsel has not had an opportunity to respond to the issues that have been raised. He agreed that the issues should be addressed, and proposed that a response could be provided to Council prior to second reading of the ordinance.

Mr. Elrich stated that it would be important to have a response. It is hard to see how this request fits within the General Rules. He commented on the restricted area being reduced to less than a block, and noted questions related to the "rules" which have not been answered in this case. He said that the City should follow the existing criteria, or do as we did with the Speed Hump Guidelines and revise the "rules."

Ms. Porter remarked that it appears that the rules are associated with the petition process, since they are written on the petition form. However, it is unclear where the rules originated.

City Clerk Sartoph explained that research of City records indicates that the rules were not adopted by legislation or promulgated through the Administrative Regulation process.

Mr. Elrich said, however, that this fact does not address the question.

Ms. Porter remarked that the Council is bound by the law, but that the "rules" themselves, are a different matter. The "rules" are not part of the law. She noted that the Council will be reviewing

the rules and petition process in the near future, and that the result will be to promulgate the process and requirements in the form of an Administrative Regulation.

Mr. Williams noted his understanding that the process has been followed in this case, even though it was followed somewhat loosely. It has been viewed similarly to how we viewed speed hump requests prior to revising the rules.

Ms. Porter questioned what is the most recent example of a request for a residential permit parking area.

Ms. Sartoph referred to the Maple/Maplewood Avenue area, and said that she would have to review the record to determine whether all of the "rules" were followed--e.g., data regarding on-street parking, driveways, etc.

Mr. Elrich remarked that he does not recall whether an analysis was done to satisfy each of the rules listed on the petition form. He said that in the case of Pine Avenue, he finds the violation of Rule #2 most troublesome, since Council has tried to address traffic on an area-basis.

Ms. Porter noted how speed hump petitions are handled, in terms of requiring consent from area streets, and the required notification of the neighborhood association.

Mr. Williams observed that Pine Avenue is on the border of a defunct association.

Mr. Elrich asked whether this area be looked at in terms of neighborhood traffic control.

Ms. Porter commented that this is an awkward situation, explaining that she would like to see the rules promulgated through the Administrative Regulation process. This is going to be the next step. However, this petition was received prior to a review of the process.

Mr. Elrich pointed out that the petition clearly states the rules.

Mr. Williams argued for past practice, explaining that he has gotten the sense that predecessors have somewhat ignored rules.

Mr. Elrich remarked about his recollection of the Maple/Maplewood Avenue request. We knew that the neighbors of the area did not oppose the parking restriction. There were no objections from residents.

Mr. Williams noted that he has visited the area in question and has observed the parking problems on Pine and Columbia Avenues.

Mr. Elrich said that he will not vote against the ordinance, but that he thinks there is data that could help quantify the problem. How many houses do not have two off-street parking spaces?

Does curb occupancy exceed 50%? Do non-residential parkers occupy 50%+ of the spaces during the proposed restricted times? He added that he remains concerned about not addressing this request in the sense of an "area".

Ms. Porter stated that a wider area (similar to that for speed hump requests) of consideration should apply to permit parking areas.

Mr. Elrich recalled the Council's position related to addressing traffic on an area-wide basis.

Ms. Porter stated that the criteria regarding the speed limit (25 mph), as related to the old speed hump process, was important in her mind.

Ms. Stewart explained that she went to the Pine Avenue area this morning (approximately 10:30 a.m.), and observed that the upper part of Pine was parked solid. The lower part of Pine, Montgomery and Columbia had very few cars. It appears that there may be several cars that park in the upper part of Pine, but there is available parking on adjacent streets.

Mr. Elrich asked how many on-street spaces are being considered for the restricted area.

Mr. Williams said that there are approximately 9-11 spaces, depending on the number of cars that can fit between curb cuts.

Tom Anastasio, 32 Columbia Avenue, said that he is delighted that the Council is looking at the facts. This is what he has been asking for. He stated that there seems to be a question about whether the General Rules should be used. The rules were used on this petition. The problem is that Rule #1 is the only one that was used (i.e., a majority in favor of the petition). He commented that there was an opportunity for residents to respond to this request. There were 31 negative responses, including 7 from Pine Avenue--weighted against 10 signatures on the petition.

Mr. Anastasio read his remarks from written testimony (not submitted). He stated that he has been vilified, shouted at and lied to over this matter, and that he does not like this kind of treatment. He reminded the Council that Mr. Williams was supposed to propose a compromise, and that he told Mr. Williams that he would support the following proposal: restriction on 4 spaces on Pine Avenue just below Columbia, across from Crossings. This would help the two houses with the shared driveway without a great impact on the area residents. Mr. Anastasio stated that Mr. Williams said that he offered this proposal as an option at a community meeting, but that it was rejected by the residents. However, residents do not recall this proposal being mentioned. Memory is an odd thing. He noted that Mr. Williams made the proposal on the table tonight at last week's meeting, choosing not to present his original "compromise" proposal.

Mr. Anastasio made several points. (1) There has been no petition addressing this ordinance. The proposal in this ordinance was initiated by a Councilmember's proposal. (2) The petition was not correctly certified by the City Administrator. He referred to violations of rules #2, 4 and 6.

The City Administrator has not revealed the criteria under which the petition was certified. Was the petition certified under the basis of principles which are open to public view? Mr. Anastasio said that he believes not. The "General Rules" seem to be the only guidelines. Have there been citizens who have not submitted a petition because they could not follow the rules on the bottom of the petition form? He noted that Mr. Williams remarked that the General Rules have not been strictly followed, and that the City is moving forward to promulgate Administrative Regulations which would include any rules and the petition process requirements. Until the new rules are written, the "General Rules" should apply. (3) There has been no public hearing on this ordinance. There was a public hearing on the original request. He cited from the Code how notice is to be given regarding public hearings. Notice was sent to residents of Columbia, Hickory, Montgomery, Elm and Pine, and was advertised in the Takoma Park Newsletter, regarding the July 13th hearing. He described, however, the deficiencies in the notice, and added that he was not aware of any posting done in the area. Mr. Anastasio stated that the prior hearing was not conducted in accordance with the City Code, and said that the hearing must be repeated. He noted that the county-wide notice would imply that the City holds permit matters, which affect motorists, very important.

Mr. Anastasio summarized his remarks by saying that no valid petition was certified, the public hearing was not properly advertised, and the current ordinance is from the initiation of a Councilmember. The proposal that would be most acceptable was rejected "out-of-hand." This ordinance ignores the significant negative consequences it will have on the neighborhood. There is a solution. He pointed out that Pine Avenue could be interpreted as a single block. Mr. Anastasio expressed his dismay that the Council can do whatever it wants. The Council is ignoring the general rules, notification requirements, residents concerns, and is using ad hoc procedures that are dangerously subject to corruption. He appealed to the Council to act in strict compliance with the law, and to consider the impacts on the adjacent area.

Ms. Porter called for additional citizen comments.

Mr. Williams stated that he is sufficiently troubled by the questions raised about the public hearing and whether the process was legal. On those reservations, he withdrew his motion to consider the ordinance, and moved to table the ordinance for two weeks.

Mr. Elrich questioned how long it will take for Corporation Counsel to respond to the questions.

Assistant Corporation Counsel Perlman said that she just received Mr. Anastasio's letter today, and requested two weeks to allow for proper consideration.

Mr. Elrich suggested that the petitioners be advised to petition the smaller section of Pine Avenue which is not being discussed.

Ms. Porter disagreed, stating her opinion that the Council can reduce the area from what was initially proposed. It would not seem correct that the original petition would be invalid just

because the area has now been narrowed.

Mr. Elrich said that this process is different than the speed hump process.

Ms. Stewart urged that the Council should have firm answers to the questions before requiring the residents to do any further work on this petition.

Ms. Porter noted that the item is tabled until October 12th (VOTING FOR: Porter, Chavez, Elrich, Stewart, Williams; ABSENT: Hawkins, Rubin).

Mr. Elrich questioned who will be working on the Administrative Regulation.

Ms. Sartoph responded that she will be drafting something for Council's discussion at a future Worksession.

5. Resolution re: NFZ List. Ms. Porter explained the resolution. Moved by Williams; Seconded by Chavez.

Carl Smith, member of the Nuclear-Free Takoma Park Committee, stated that the committee has no objections to the list, but suggested that the Council might consider ways of updating the list more frequently. The information is available on-line.

Ms. Habada noted that the City's source for the list is Nuclear Free America, and commented that our understanding is that they provide updates once a year.

Mr. Smith suggested that it seems there should be a better way. Presumably, the list is being updated daily.

Ms. Habada commented on the procedure for the annual review and adoption of the NFZ list, and said that she will check the City Code to determine how more frequent updates can be effected.

Mr. Smith proposed that the Council could still, once a year, re-affirm that they trust the Nuclear Free America list and direct staff to keep in touch with whatever the current list might be.

Mr. Elrich asked whether the list is available on the web.

Ms. Habada said that after Nuclear Free America moved their office from Baltimore to the west coast, it was difficult to locate them. She remarked that she will check to see if they have a web site, but questioned how they would get any revenue from the listing if it were available to anyone via the web site. Currently, the City purchases the list on an annual basis.

Ms. Porter explained that the advantage that she can see for having the list come before the

Council on an annual basis, is that we can publish the list for interested persons whether or not they have access to a computer.

Mr. Smith stated that having a more up-to-date copy is another issue.

Mr. Williams suggested that staff look into both issues: (1) access to an on-line, current list, and (2) adopting/publishing the list at a certain time.

Ms. Porter explained that the Council needs to go ahead and adopt this list and look into the suggestions for future consideration.

Resolution #1998-44 was adopted unanimously, adopting the Fiscal Year 1996 Nuclear Free America listing of "Parent Companies of U.S. Departments of Defense and Energy Nuclear Weapons Contractors" (VOTING FOR: Porter, Chavez, Elrich, Stewart, Williams; ABSENT: Hawkins, Rubin).

RESOLUTION #1998-44
(Attached)

6. Single Reading Ordinance re: Ed Wilhelm Athletic Field.

Program Coordinator Matt Corley explained that ten bid packages were sent out. Four responses were received. He noted the date and time of the bid opening and cited the bids. The bid submitted by Opti-Gro meets all of the requirements set by the City and was the lowest bid. Money is set aside in the budget for this contract. He stated that information is in the package materials addressing the concerns about the use of herbicides and pesticides. Mr. Corley summarized the response from Opti-Gro on this matter.

Ms. Porter noted that Opti-Gro uses integrated pest management, a process she first became aware of through a personal experience. It uses other methods (e.g., making the grass stronger) to deter weed growth and pest infestations. She described her understanding of the process. This option is being pushed by companies more interested in natural methods of pest management.

Moved by Elrich; seconded by Williams.

Single Ordinance #1998-39 was adopted unanimously, awarding a contract to Opti-Gro in the amount of \$16,900 for the maintenance of Ed Wilhelm Athletic Field (VOTING FOR: Porter, Chavez, Elrich, Stewart, Williams; ABSENT: Hawkins, Rubin).

ORDINANCE #1998-39
(Attached)

7. Resolution re: Municipal Gym. Ms. Porter explained the resolution and the City's desire to terminate the use of the gym because of safety concerns. Moved by Stewart; seconded by Chavez.

Mr. Williams stated that he is sorry to see it go.

Ms. Porter commented on the condition of the gym, and concluded that it was a matter of either putting a lot of money into renovations or discontinue use of the space.

Mr. Williams agreed, and added that he is glad that we have the relatively new facility on New Hampshire Avenue (Takoma Park Community Center).

Resolution #1998-45 was adopted unanimously, terminating the lease agreement for the Municipal Gym at the Firehouse (VOTING FOR: Porter, Chavez, Elrich, Stewart, Williams; ABSENT: Hawkins, Rubin).

**RESOLUTION #1998-45
(Attached)**

8. 1st Reading Ordinance re: Budget Amendment. Ms. Porter explained the ordinance. Moved by Stewart; seconded by Elrich.

Ms. Porter remarked that most of the amendments are fairly routine in the moving of money from one fiscal year to another. She noted that this item was discussed at last week's Worksession.

Mr. Williams referred to the information in the cover sheet.

Ms. Habada confirmed that the items in the ordinance are items that the Council has already agreed to fund, and said that she should have changed the statement on the cover sheet.

Ordinance #1998-40 was accepted unanimously, authorizing FY99 Budget Amendment No. 1 (VOTING FOR: Porter, Chavez, Elrich, Stewart, Williams; ABSENT: Hawkins, Rubin).

**ORDINANCE #1998-40
(Attached)**

9. Resolution re: Ethics Commission. Ms. Porter explained the resolution, and noted that each of the appointees were interviewed at the last Worksession. Moved by Williams; seconded by Chavez.

Ms. Williams asked whether there is something that needs to be changed at a future date which would allow the Council the flexibility to appoint persons who are not residents of the City to

statutory committees.

City Clerk Sartoph responded in the affirmative.

Ms. Porter recalled last week's discussion when the Council agreed that appointees should be residents or City business owners.

Mr. Williams commented on the "extended connections" that are permissible.

Ms. Porter instructed the City Clerk to schedule this issue for discussion on an upcoming Worksession agenda.

Resolution #1998-46 was adopted unanimously, effecting three reappointments to the Takoma Park Ethics Commission (VOTING FOR: Porter, Chavez, Elrich, Stewart, Williams; ABSENT: Hawkins, Rubin).

**RESOLUTION #1998-46
(Attached)**

WORKSESSION / EXECUTIVE SESSION / ADJOURNMENT

The Council moved into Worksession at 9:05 p.m. and later convened in Executive Session at 10:00 p.m. Following the Executive Session, the Council adjourned for the evening.

Executive Session 9/28/98 - Moved by Williams; seconded by Chavez. Council voted unanimously to convene in Executive Session at 10:00 p.m. in the Conference Room. OFFICIALS PRESENT: Porter, Chavez, Elrich, Rubin, Stewart, Williams. OFFICIAL ABSENT: Hawkins. STAFF PRESENT: Habada, Hobbs, Sartoph, Anderson, Gowin. The Council received a briefing and discussed personnel issues in the Police Department (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(ii)).

Introduced by: Councilmember Chavez

**1st Reading: 9/28/98
2nd Reading: 10/12/98**

ORDINANCE #1998-38

**SPEED HUMP PETITION
GLENSIDE DRIVE**

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

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

That speed hump installations, as defined in Sec. 13-2(a)(14.2) of the Code of Takoma Park, Maryland, 1972, as amended, be effected at the following locations:

Glenside Drive (between Anne Street and Kingwood Drive), exact number and location of speed humps shall be at the discretion of the City Administrator; AND

SECTION 2. THAT this Ordinance becomes effective upon adoption.

ADOPTED this 12th day of October, 1998.

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

NAY: None

ABSTAIN: None

ABSENT: Hawkins

Introduced by: Councilmember Stewart

First Reading: 9/28/98
Second Reading: 10/12/98

**ORDINANCE NO. 1998-40
FY 99 BUDGET AMENDMENT NO. 1**

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

SECTION 1. The Fiscal Year 1999 Budget be amended as follows:

Technical amendment

The total General Fund expenditures listed in Budget Ordinance 1998-16 Section 3., is amended to read \$11,029,158 instead of \$10,999,158.

General Fund Transfer to Special Revenue Fund

- a. Transfer \$15,000 from General Fund Capital Budget to Account 9200-8100, Special Revenue Fund Transfer as matching funds to State funds received from the Governor's Crime Prevention Commission.

General Fund - Revenues

- a. Increase revenue account 0001-3605, Bond proceeds, by \$38,000 for bond funded projects carried over into FY 99.
- b. Appropriate \$3,300 into account 0001-3686, Takoma Foundation, for grant revenues received.
- c. Increase appropriation from Equipment Replacement Reserve by \$52,000 as carryover of FY 98 capital budget projects for completion of two roof projects – Library roof replacement and Public Works Maintenance roof replacement.
- d. Appropriate \$26,000 from prior years surplus/unappropriated reserve to fund capital and operating budget projects that were not completed in FY 98 (\$16,000 for PW operating budget to install dehumidifier to service all of the basement area of the police department, \$10,000 for PW operating budget for street sweeping).
- e.
- f.

General Fund - Expenditures

- a. Increase Capital Budget, Account 9100-8004, by \$38,000 to fund carryover bond projects as follows:
 - 1) \$23,000 for replacement of public works radios.
 - 2) \$15,000 for Public Works building renovation.

- b. Appropriate \$2,000 to Landlord Tenant Account 5200-6153, Takoma Foundation grant funds for the costs of Community Mediation Volunteer training.
- c. Appropriate \$1,300 to Recreation Account 4100-6153, Takoma Foundation grant funds for recreation programs including the Vector jazz concert and the Dungeons and Dragons program.
- d. Appropriate \$26,000 to the following accounts:
 - \$10,000 to account 3600-6145 for street sweeping
 - \$16,000 to capital budget account 9100-8000 for installation of a dehumidifier in the police department - basement area

Special Revenue Fund - Revenues

- a. Appropriate \$36,000 to Account 0010-3394, for street lighting improvements grant funds received from the Governor's Crime Prevention Commission
- b. Increase General Fund transfer, Account 0010-3385, by \$15,000, to account for transfer of funds from the General Fund capital budget as matching funds to state grant funds received for street light improvements.
- c. Appropriate \$5,000 to new account 0010-3720, for Edge Community initiative.

Special Revenue Fund - Expenditures

- a. Appropriate \$51,000 to Account 0010-7242, for street lighting improvements in the City.
- b. Appropriate \$5,000 to Account 0010-6830, for Edge Community initiative (CDBG) to provide services for tenant organizing by CASA de Maryland.
- c.

General Fund - Transfers to Expenditure Accounts

- a. Transfer \$221,007 from Non-departmental Account # 9000-8200, to the following departmental salary accounts for FY 99 salary increases:
 - 1. \$15,223 to Govt. Admin. Account 1120-4010;
 - 2. \$9,158 to Finance, Account 1130-4010 and 1150-4010
 - 3. \$7,974 to Police - Office of the Chief, Account 2100-4010
 - 4. \$13,418 to Police - Special Enforcement Unit, Account 2200-4010
 - 5. \$47,753 to Police - Patrol, Account 2300-4010
 - 6. \$9,040 to Police - CID, Account 2400-4010
 - 7. \$7,379 to Police Administration, Account 2500-4010
 - 8. \$5,044 to Public Works Administration, Account 3100-4010
 - 9. \$5,452 to Public Works Building Maintenance, Account 3200-4010

10. \$5,048 to Public Works Equipment Maintenance, Account 3300-4010
11. \$9,650 to Public Works Parks, Account 3400-4010
12. \$17,095 to Public Works Solid Waste, Account 3500-4010
13. \$12,514 to Public Works Streets, Account 3600-4010
14. \$16,536 to Recreation accounts 4100-4010, 4200-4010, 4300-4010, 4400-4010, 4500-4010, 4100-4015, 4200-4015, 4300-4015, 4400, 4015
15. \$24,622 to Housing & Community Development accounts 5100-4010, 5200-4010, 5300-4010, 5400-4010, 5500-4010
16. \$1,202 to Media, Account 6000-4010
17. \$13,899 to Library, Account 7000-4010

SECTION 2. THAT this Ordinance shall become effective upon adoption

Adopted this 12th day of October, by Roll Call vote as follows:

AYE: Porter, Elrich, Rubin, Stewart, Williams

NAY: None

ABSTAIN: None

ABSENT: Chavez, Hawkins

o-99ba1