

**CITY OF TAKOMA PARK, MARYLAND**

**(FINAL 3/15/99)**

**REGULAR MEETING & WORKSESSION  
OF THE CITY COUNCIL**

**Monday, February 22, 1999**

**OFFICIALS PRESENT**

Mayor Porter  
Councilmember Chavez  
Councilmember Elrich  
Councilmember Hawkins  
Councilmember Rubin  
Councilmember Stewart  
Councilmember Williams

City Administrator Finn  
Assistant City Administrator Hobbs  
City Clerk Sartoph  
Corporation Counsel Silber  
Recreation Director Bluford  
Police Chief Anderson  
Telecommunications Manager Moffett

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

**COUNCIL COMMENTS**

Councilmember Rubin marked the untimely passing of one of the most popular residents of his Ward, one who brought joy to many residents and was the subject of local and national news articles. Mr. Rubin remarked about the contributions of Roscoe the Rooster. The true and genuine Roscoe spent his days around the apartment buildings along Carroll Avenue. On the morning of February 15, he was struck by a motorist. "May God rest your little urban soul," Mr. Rubin said, and to the person who ran him down, "we in Takoma Park consider your action to be a deed most fowl."

Mayor Porter noted a letter that the Mayor and Council recently received from Clerk/Treasurer Glenda Ingham from Garrett Park, thanking the Council for the efforts and work of City Clerk Sartoph in planning the IIMC Region II Conference. Ms. Porter noted that Ms. Sartoph is currently serving as the President of the Maryland Municipal Clerks Association, and that we are proud to have our clerk so well respected and representing the City. She thanked Ms. Sartoph for her work.

Ms. Porter announced that John Roth, who served for many years as the Mayor of Takoma Park, passed away last Friday. He was residing in Annapolis. She said that the Council wants to extend to his wife Mary and friends our condolences, and that we will be preparing something more

formal (e.g., resolution of condolence) for consideration at a later date.

## **ADDITIONAL AGENDA ITEMS**

Ms. Porter removed agenda item #2 at the request of Councilmember Hawkins.

## **ADOPTION OF MINUTES -- 2/08**

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

## **CITIZEN COMMENTS**

Benjamin Onyeneke, Maple Avenue (Generation X), supported the nomination of First Lady Hillary Rodham-Clinton for Senate candidacy. He remarked about discrimination and acts of racial violence. He said that he is proud of his Native American Indian heritage. Mr. Onyeneke supported the efforts of the Public Safety Citizens Advisory Committee.

## **REGULAR MEETING**

### **1. Resolution re: Lee Jordan Field Leasing Rights.**

Ms. Porter described the resolution. The Memorandum of Understanding (MOU) was discussed last week. It would enable the City to have control of after school and weekend reservations on the field in exchange for the City doing the renovations on the field with money from the county.

Recreation Director Bluford further explained that the resolution would authorize the City Administrator to sign-off on the MOU. We have been negotiating with Montgomery County, the Schools and ICB for several months to get to this point.

Moved by Rubin; seconded by Chavez.

Resolution #1999-7 was adopted unanimously, approving a MOU between the City and the Montgomery County School Board for the use of Lee Jordan Field (VOTING FOR: Porter, Chavez, Elrich, Hawkins, Rubin, Stewart, Williams).

**RESOLUTION #1999-7  
(Attached)**

## **2. Resolution re: Diversity in Cable TV Programming.**

Item was removed from agenda and postponed for consideration at a later meeting.

## **3. 1st Reading Ordinance re: Amendment to Tree Ordinance.**

Corporation Counsel Silber described the ordinance. For any application for a tree permit, if it is part and parcel of some construction initiative that will require permits from some other level of government, the City will have the authority to make sure the other permits have already been granted (or are likely to be granted) prior to allowing the trees to be cut down.

Councilmember Stewart said that this is a good idea. To eliminate any possibility of misunderstanding by having a precise ordinance is a good idea.

Councilmember Williams commented in favor of the City, wherever possible, issuing permits with the stipulation that the work on trees cannot be done until the needed permits from the higher levels of government are granted.

Ms. Porter clarified that this would be a conditional permit.

Ms. Silber remarked that if the project might appear to be unlikely to ever proceed, we do not want staff to have to spend the hours processing the application. Also, we can choose not to review the application if the project is not feasible.

Mr. Williams remarked that he wants to make sure that we do not give an applicant the permit at some point prior to them having their actual building permit in hand. We do not want to grant a permit that would enable a builder to bring down trees before all other permits are in place.

Ms. Silber suggested some additional language that would satisfy Mr. Williams' concern. She said that she could draft some language for second reading of the ordinance.

Mr. Rubin proposed that the permit itself be worded "provisional" permit.

Ms. Stewart questioned whether this would require staff to go through all of the work in the beginning--just what we are trying to avoid.

Mr. Williams said that his proposal is to not issue a builder a permit until all other permits are evidenced.

Mr. Rubin agree that this is another way of doing it, but that the county might request a builder to

provide evidence of a City Tree Permit before granting their permits. Unless we have the county call the City about permits in progress, would need to provide the builder with a "provisional" permit.

Mr. Williams remarked that there needs to be a way to tell the county that an applicant has gone through our process, without us giving the applicant our permit until all other permits are obtained.

Mr. Rubin proposed some other administrative form.

Ms. Porter commented that it sounds like this would be adding another step to the process. Do we want to require that of staff?

Mr. Chavez suggested that language be including in the permit explaining that it is contingent upon submission of all other necessary permits.

Mr. Rubin acknowledged the Mayor's point about an additional step in the process.

Ms. Porter stated that we need to come up with a happy medium that may not address all of the concerns. The problems are that we (1) want to prohibit a person from obtaining a tree permit for a project that is unlikely to go forward, but (2) do not want to make the process more burdensome.

Councilmember Elrich said that it would be too much trouble to issue a provisional permit which would require specific documentation before the final permit issuance. He suggested the use of a "check-off" approach.

Mr. Williams commented that he was saying something similar, but was hearing from other Councilmembers the concern of making the applicant go back to Public Works for a final permit.

Ms. Porter noted that a lot of applicants are not professional builders, but are residents wanting to do work on their own trees.

Mr. Williams proposed that an applicant could mail-in copies of documentation and receive their final permit in the mail.

Ms. Porter said that it would be helpful to find out whether Tree Permits are currently being sent by mail. She noted that the proposed Code language (i.e., "may") still provides the flexibility for a permit to be granted without an extensive review of other permits.

Ms. Silber summarized that she will incorporate the suggestions made this evening into a language change for second reading, and that she will also check with Public Works about some of the administrative questions raised this evening.

Moved by Williams; seconded by Stewart

Ordinance #1999-7 was accepted unanimously at first reading, amending the Tree Ordinance to provide that if a tree permit application relates to a property development project, then all County and other permits required for the construction must be granted before tree removal may commence (VOTING FOR: Porter, Chavez, Elrich, Hawkins, Rubin, Stewart, Williams).

**ORDINANCE #1999-7  
(Attached)**

**4. Resolution re: Memorandum of Understanding.**

Chief Anderson said that he is asking the Council to approve a resolution which will allow us to enter into a mutual aid agreement with the MNCPPC (Montgomery County Park Police). He spoke about the importance and benefits of mutual aid agreements. The Maryland Code requires that the governing body of a jurisdiction approve the entry into this type of agreement. It allows us to share resources when an emergency exists. He defined what constitutes an emergency. The agreement outlines the jurisdictional aspects. It does not provide for routine patrol by either agency in the other jurisdiction. It provides protocols, reporting requirements and "who's in charge". It is fairly straightforward. The Park Police are very interested in entering into this agreement. The additional police coverage will be to our benefit. It provides us with a better legal standing if officers are required to act in the other agency's jurisdiction. It is very positive. Mr. Anderson urged the Council to approve the resolution which would permit the Mayor to sign and execute the agreement on behalf of the City.

Mr. Chavez asked whether a Park Police Officer could address speeding motorists.

Mr. Anderson responded in the negative. The agreement would give a park police officer the authority to address serious traffic offenses.

Mr. Rubin supported the resolution, noting that residents and the PSCAC all remark about how we are a border community. This is an excellent step forward. He said that he would be honored to move the resolution.

Mr. Anderson said that about a week ago, the City sponsored a meeting with all of the bordering agencies to discuss public safety issues.

Mr. Williams asked if we have this type of agreement with other neighboring agencies.

Mr. Anderson responded that we have an agreement with Montgomery County, and he described the terms of that agreement.

Mr. Williams recalled that he saw some type of agreement at COG from the Metro Police, but that he is not certain about its provisions.

Mr. Anderson commented that we need to revisit those issues with the other jurisdictions. Metro Police were represented at the meeting. Some time ago, Councilmember Rubin and others were involved in a joint patrol effort with the D.C. Police.

Ms. Porter said that she has observed some dangerous instances of motorists along Sligo Creek Parkway, and that it would be helpful if a Park Police Officer would act on unsafe circumstances (e.g., vehicle crossing over center line, etc.).

Mr. Anderson explained that it would have to qualify as a serious safety offense or some instance that would incur criticism if action were not taken before a park police officer could respond.

Motion seconded by Mr. Elrich.

Resolution #1999-8 was adopted unanimously, approving a Police Mutual Aid Agreement between the City and the Maryland-National Capital Park and Planning Commission (VOTING FOR: Porter, Chavez, Elrich, Hawkins, Rubin, Stewart, Williams).

**RESOLUTION #1999-8  
(Attached)**

**5. 2nd Reading Ordinance re: Tree Commission Membership.**

Ms. Porter explained that the ordinance will amend the Code language to conform to other statutory committees' membership requirements.

Moved by Williams; seconded by Stewart.

Ordinance #1999-6 was adopted unanimously at second reading, amending the City Code to change the membership requirement from "citizens" to "residents" for the Tree Commission (VOTING FOR: Porter, Chavez, Elrich, Hawkins, Rubin, Stewart, Williams).

**ORDINANCE #1999-6  
(Attached)**

**6. Resolution re: Nuclear-Free Takoma Park Committee.**

Ms. Porter described the resolution and noted the reappointments.

Moved by Stewart; seconded by Elrich.

Resolution #1999-9 was adopted unanimously, effecting reappointments to the Nuclear-Free Takoma Park Committee (VOTING FOR: Porter, Chavez, Elrich, Hawkins, Rubin, Stewart, Williams).

**RESOLUTION #1999-9  
(Attached)**

**WORKSESSION / ADJOURNMENT**

The City Council moved into Worksession at 8:18 p.m. and later adjourned for the evening at 8:32 p.m.

Introduced By: Councilmember Rubin

Resolution Date: 2/22/99

**RESOLUTION NO.1999- 7**

**(Resolution Approving a Memorandum of Understanding  
Between the City of Takoma Park and the Montgomery  
County School Board for the use of Lee Jordan Field)**

**WHEREAS**, the City of Takoma Park ("City") will facilitate the renovations of the Lee Jordan Field at the Takoma Park Middle School (hereinafter referred to as the "Lee Jordan Field"); and

**WHEREAS**, the cost of the Lee Jordan Field renovations will be funded through a grant provided by the Montgomery County and administered by the City; and

**WHEREAS**, in addition, in consideration of the City performing the Lee Jordan Field Renovations and agreeing to maintain Lee Jordan Field the Montgomery County Office of Community Use of Schools will relinquish its scheduling responsibility for Lee Jordan Field and grant the City exclusive use of Lee Jordan Field subject to terms and conditions set forth in a Memorandum of Understanding; and

**WHEREAS**, entering into a Memorandum of Understanding on the scheduling, use and maintenance of Lee Jordan Field at Takoma Middle School will lead to improved conditions at Lee Jordan Field which will benefit the citizens of the City; and

**WHEREAS**, assuming control over the scheduling and use of Lee Jordan Field will help the City meet the field needs of the Takoma Park neighborhood sports teams and leagues.

**NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT** the City Administrator is Authorized to negotiate and enter into, on behalf of the City , a Memorandum of Understanding with the Montgomery County School Board for the Use of Lee Jordan Field.

**THIS RESOLUTION IS ADOPTED THIS 22nd DAY OF February 1999**



Introduced by: Councilmember Rubin

**RESOLUTION NO. 1999-8**

**(Resolution Approving a Police Mutual Aid Agreement Between the City of Takoma Park, Maryland, and the Maryland-National Capital Park and Planning Commission)**

**WHEREAS**, the Maryland Code provides that the governing body of any municipal corporation or the Maryland-National Capital Park and Planning Commission may enter into reciprocal agreements relating to mutual aid in the form of police and equipment in the event of an emergency as provided in Article 27, Section 602B(a); and

**WHEREAS**, the City of Takoma Park and the Maryland-National Capital Park and Planning Commission enjoy contiguous areas of jurisdiction and police of both the city and the Commission have occasion and necessity to travel through the other's jurisdiction; and

**WHEREAS**, the entering into a Mutual Aid Agreement will allow officers of both jurisdictions to act in the other's jurisdiction in certain circumstances and will prescribe procedures and protocols when such situations arise; and

**WHEREAS**, the entering into this Mutual Aid Agreement strengthens Public Safety and enhances the relationship between the Takoma Park Police Department and the Montgomery County Park Police; and

**WHEREAS**, Public Safety is of great importance to the citizens and the council of the City of Takoma Park; and the sharing of public safety resources between jurisdictions promotes improved public safety to the mutual benefit of both entities.

**NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THAT** the Mayor is authorized to execute a Police Mutual Aid Agreement with the Maryland-National Capital Park and Planning Commission.

**THIS RESOLUTION IS ADOPTED THIS 22d DAY OF February, 1999.**

Introduced by: Councilmember Stewart

**RESOLUTION #1999-9**

**REAPPOINTMENTS TO THE  
NUCLEAR-FREE TAKOMA PARK COMMITTEE**

**WHEREAS,** Takoma Park's Nuclear Free Zone Act established a seven member Nuclear-Free Takoma Park Committee to oversee implementation of and adherence to this Act;  
**AND**

**WHEREAS,** the Committee is composed of seven residents appointed by the Council; **AND**

**WHEREAS,** currently, there are three members whose terms will expire on March 31, 1999, and one additional vacancy on the Committee; **AND**

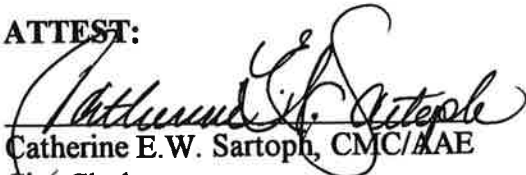
**WHEREAS,** the members with expiring terms have all expressed interest in reappointment to the Committee and have been interviewed by the Council.

**NOW, THEREFORE, BE IT RESOLVED THAT** the following persons are hereby reappointed, effective immediately, to serve on the Nuclear-Free Takoma Park Committee.

<b>Name/Address</b>	<b>Term Expires</b>
Hans G. Furth 7313 Cedar Avenue	3/31/01
Tom Roberts 6741 Eastern Avenue	3/31/01
Carl Smith 632 Kennebec Avenue	3/31/01

**ADOPTED** this 22<sup>nd</sup> day of February, 1999.

**ATTEST:**

  
Catherine E. W. Sartoph, CMC/AE  
City Clerk

Introduced by: Councilmember Williams

1<sup>st</sup> Reading: 2/08/99

2<sup>nd</sup> Reading: 2/22/99

**ORDINANCE #1999-6**

**AMENDING CITY CODE TO CHANGE THE MEMBERSHIP REQUIREMENT FROM "CITIZENS" TO "RESIDENTS" FOR THE TREE COMMISSION**

**WHEREAS**, currently, the City Code (Chapter 2. Administration, Article 6. Boards and Commissions, Division 2. Tree Commission) requires members of the Tree Commission to be "citizens" of the City; **AND**

**WHEREAS**, to remain consistent with other sections of the Code regarding the memberships of statutory committees, the Council desires to change "citizens" to "residents" of the City.

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

Division 2. Tree Commission

Sec. 2-142. Composition.

The Tree Commission shall be composed of five [citizens] City residents appointed by the Council. The five [citizen] members shall serve staggered three-year terms, with initial appointments of one, two and three years. The terms shall begin on October 1 and end on September 30. The members shall elect among themselves a Chair.

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

**ADOPTED** this 22<sup>nd</sup> day of February, 1999, by roll call vote.

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

**NAY:** None

**ABSTAIN:** None

**ABSENT:** None

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

Introduced by: Councilmember Williams

First Reading: 2/22/99

Drafted by: Susan Silber  
Corporation Counsel

Second Reading:

Effective Date:

**ORDINANCE NO. 1999-7**

**(Amending the Tree Ordinance to provide that if a tree permit application relates to a property development project, then all County and other permits required for the construction must be granted before tree removal may commence.)**

**WHEREAS**, the City's Tree Ordinance requires property owners to obtain a tree permit or tree permit waiver before removing or taking other actions that are likely to lead to destruction of an urban forest tree or trees; and

**WHEREAS**, one of the criteria for the granting of a tree permit is that the tree clearing is necessary to achieve proposed development or land use; and

**WHEREAS**, Montgomery County and other governmental units and agencies are responsible for issuing many of the permits and approvals which are required before an owner can begin property development and construction activity on property; and

**WHEREAS**, the City does not want to approve tree permits allowing urban forest trees to be removed from property for purposes of development or construction when all necessary permits and approvals for such development or construction have not been granted--and may never be granted--by Montgomery County and/or by any other governmental units and agencies with jurisdiction over the project; and

**WHEREAS**, providing that the issuance of all necessary permits and approvals for the development or construction is a condition precedent to the approval of a tree permit or to the commencement of tree removal or other actions that are likely to lead to destruction of an urban forest tree or trees will minimize unnecessary loss of the City's urban forest trees.

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

**SECTION 1.** Chapter 12, Trees and Vegetation, Article 3, Urban Forest, Sec. 12-29, Tree permit applications; waivers, and Sec. 12-32, Criteria for permit decisions, of the *Takoma Park Code*, are amended as follows:

**CHAPTER 12. TREES AND VEGETATION.**

**Article 3. Urban Forest.**

**Sec. 12-29. Tree permit applications; waivers.**

- (a) An owner may apply for a tree permit or tree permit waiver covering action relating to

an urban forest tree or trees on the owner's property. The application shall be made under procedures specified by the City Administrator.

(1) In the case of an applicant who requests a tree permit for the purpose of constructing on or developing property, the City Administrator may require the applicant to submit copies of all permits, licenses, and approvals which are required for the construction or development to take place. This may include, but is not limited to, county building permit, builder's license, grading permit, sediment control permit, stormwater management permit, and zoning variance, or special exception or site plan review.

(2) If all necessary permits, licenses, and approvals have not been granted as of the date the application is filed, then the City Administrator, in his or her sole discretion, may accept other satisfactory evidence that all necessary permits and approvals for the construction or development will be granted or may impose conditions on the issuance of the tree permit requiring that all necessary permits and approvals for the construction or development be granted and submitted to the City Administrator for review and approval before the tree removal or other action for which a tree permit is required (see Section 12-28) may commence.

\* \* \* \*

(g) If the City Administrator determines that the applicant is entitled to a tree permit, the City Administrator shall notify the applicant that the city has granted preliminary approval for a tree permit. Within two (2) working days of this notification, the Department shall post notice of the preliminary approval, on the property in question, in plain view from the public right-of-way. A copy of the notice shall be posted on a bulletin board at the Municipal Building. The notice must describe the procedure and time limit for filing an appeal from the preliminary approval for a tree permit. If no appeal is filed within fifteen (15) days after the notice has been posted, the City Administrator shall issue the a provisional or final tree permit. If an appeal from the preliminary approval for a tree permit is filed in accordance with Section 12-31, then no tree permit (either provisional or final) shall be issued until the appeal has been decided,

(1) If the applicant has requested a tree permit for the purpose of constructing on or developing property, then the City Administrator may issue a provisional permit. The provisional permit shall state that a final tree permit will be issued upon the submission to the City by the applicant of all necessary County and other permits and approvals required for the construction or development to take place. No tree removal or other action for which a tree permit is required (see Section 12-28) may occur under a provisional permit.

(2) A final tree permit allows the applicant to proceed with the tree removal or other action for which the permit is granted.

#### **Sec. 12-32. Criteria for permit decisions.**

(a) The City Administrator or, upon appeal, the Tree Commission shall approve an application for a permit if so indicated by the factors set forth in Subsection (b). Upon appeal, the

Tree Commission shall, taking into account the factors set forth in Subsection (b), approve the permit, disapprove the permit, or approve the permit with modifications and/or conditions. In the case of an applicant who requests a tree permit for the purpose of constructing on or developing property, the Tree Commission may approve a provisional permit requiring these conditions may include a requirement that all necessary County and other permits and approvals required for the construction or development be submitted to the City Administrator for review and approval before a final permit allowing the tree removal or other action for which a permit is required (see Section 12-28) to occur is issued.

\* \* \* \*

**SECTION 2.** This Ordinance shall be effective immediately and shall apply to all pending applications.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 1999, by roll-call vote as follows:

Aye:

Nay:

Absent:

Abstain:

**EXPLANATORY NOTE**

1. Additions to the existing language of the *Takoma Park Code* are shown by shading.
2. Deletions to the existing language of the *Takoma Park Code* are shown by ~~strikeout~~.
3. All changes made to this Ordinance after 1<sup>st</sup> reading on 2/22/99 are shown by underlining.
4. \* \* \* \* denotes language of the *Takoma Park Code* that is not reproduced in this Ordinance.

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