

**INTERVIEWS, PUBLIC HEARING, SPECIAL SESSION, WORKSESSION
AND CLOSED SESSION
OF THE CITY COUNCIL**

Tuesday, September 7, 1999

Closed Session 7/26/99 - Moved by Rubin; seconded by Stewart. Council voted unanimously to convene in Closed Session at 9:20 p.m. in the Conference Room. OFFICIALS PRESENT: Porter, Elrich, Hawkins, Rubin, Stewart. OFFICIAL ABSENT: Chavez, Williams. STAFF PRESENT: Finn, Sartoph, Silber (item #2 only). (1) The Council and City Administrator discussed minor modifications to the proposed Employment Contract for the City Administrator, and agreed to concepts. (2) The Council received a briefing from Corporation Counsel on the City Charter amendment process. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(i) and (7)).

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

The City Council convened at 7:34 p.m. in the Council Chambers of the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland.

COUNCIL ANNOUNCEMENTS

Mayor Porter commented on an extremely important issue regarding transportation of students to the middle school, and asked for the Council's indulgence to hear information on this issue. She recognized that there is no citizen comment period on this evening's agenda, but said that this is an important issue and people came this evening to speak on the issue.

Debra Stohl (Longbranch Sligo Citizens Neighborhood Association), explained that residents have discovered that we were not afforded appropriate bus transportation to the new middle school. A number of residents signed a statement in opposition to the lack of transportation, but have not been satisfied with the county's response. Parents are concerned about having children cross too many streets, and feel that they have been handled with a rather cavalier attitude regarding their children's safety. We found out when we asked for a copy of the bus schedule that our neighborhoods were not on the route. The City had not been otherwise informed. She noted a similar situation which is being experienced by other students, and urged the Council to support residents on this issue in some appropriate manner which will lead to a resolution to this problem. Ms. Stohl commented that children are not to be left alone until the age of 12 years in the State of Maryland, but they are being expected to walk some distances from bus stops to their homes in the dark.

Ms. Porter confirmed that the assumption that the City was not notified is correct. Staff has discussed this issue. The Police Chief and other staff have contacted the school system with little response. She commented on a letter that is being prepared for her signature that will go to the Board of Education, but said that she is not sure what kind of response to expect.

Ms. Stohl commented on a history of lack of communication from the Board of Education, and encouraged better communication.

Councilmember Elrich noted that there are some parents who also have a similar concern about another school where students have to walk a little over a mile to the bus stop. He suggested that we write a letter and then go from there.

Councilmember Rubin asked whether there was bus service before the new school was built.

Ms. Stohl explained that she resides in the annexation area and consequently, does not have that past experience.

Mr. Rubin said that he has had a lot of people in his ward complain about the same thing. There are some areas where children walk 3/4 to 1 mile because there is no transportation.

Ms. Stohl stated that it is a 1.5 mile walk in her area.

Councilmember Stewart asked whether we have been able to strategically place our crossing guards in response to the problem.

City Administrator Finn responded that he has approved, on a temporary basis, more time for the crossing guards to cover these areas.

Ms. Porter remarked that this is being done prior to having any assurance from the county regarding reimbursement. We had to fill in where there was a need, and will have to pursue this

issue with the county.

INTERVIEWS

1. Commission on Landlord Tenant Affairs (COLTA). The Council interviewed Mary Stover and Jill Kennedy who have both expressed interest in reappointment to the Commission.

COUNCIL ANNOUNCEMENTS (Continued)

Ms. Porter stated that in the short term, the City will try and have crossing guards cover the intersections, and in the longer term will be working with the Board of Education on a solution to the transportation concerns.

Kim Tedrow, Houston Court, noted a letter that she sent to the Council. She explained that she has been driving her daughter to school (at no point is the route less than 1.5 miles) in the absence of better bus transportation. She commented on the necessary walking route and intersections along the way, and noted another route that is 1.8 miles. Based on the distance alone, she urged that students deserve a bus in their neighborhood.

Ms. Porter thanked her for her comments, and restated that this is something that we will continue to work on.

PUBLIC HEARING

2. Residential Permit Parking Request - Upper Block Pine Avenue. Ms. Porter introduced the discussion, noting that she understands from Councilmember Williams that there are individuals who have other proposals. She offered Mr. Williams, Therese Gibson and Tom Anastasio the opportunity to present the different proposals so that persons can comment on the various proposals.

Councilmember Williams said that he wants to be sure that everyone has the chance to comment on all of these proposals. It is more helpful to have comments at the hearing than to hear them later. He suggested consideration of a proposal to change the regulation to allow for 2-hour parking by non-permit holders, allowing people to park who would like to go to the businesses, but to prohibit Metro parkers. If the Council decides to consider this option, he said it would have to be decided whether it would be implemented for this area only, or a possibility for other areas (those in existence and those that have not yet come forward).

Ms. Porter suggested that it be considered for this area only in tonight's discussion. The Council

would need to talk about the broader implications at a later time.

Mr. Williams stated that another proposal would be to restrict parking in the area that has been petitioned with the exception of the spaces in front of Crossings.

Therese Gibson, Pine Avenue, noted that this issue has been discussed going on about 18 months. Through each turn in the process, residents have tried to do what the City has required. Although the original petition met requirements, there was a lot of disagreement on lower Pine. So, the petition went forward with its focus on the upper block of Pine. As we all know, the City's ordinance was problematic. An Administrative Regulation was adopted to clarify the process. Now, residents have again gone through the process. She noted her memo where she addresses the various requirements of the regulation. It comes down to an issue of people not agreeing with the idea of limiting access to public space, which in this case is public space abused by persons who wish to avoid paying Metro parking. Over the years (5 years she has observed) it has consistently been a problem. Ms. Gibson recognized the concern that has been voiced by residents on adjacent streets about inheriting the problem should Pine Avenue become a permit parking area. She noted that in July 1998, she tried to go around to area streets and get them involved in the petition process. Unfortunately, a lot of people were not home; however, of those who were home, there was a strong sentiment in support of the petition. She offered to support the efforts of other streets that might wish to go through the petition process, concluding that she can understand their concerns.

Ms. Gibson commented on Mr. Williams' suggestion about a 2-hour parking restriction. People were supportive with the caveat that all of the other permit areas around the commercial area should have the same provision. Otherwise, residents think that people will take advantage of the Pine Avenue area and the ability to park and shop. This could just add to our problems and not resolve them. Unless all of the neighborhoods around downtown, including those with permit parking currently in place, undertook the same 2-hour restriction, it would cause more problems for Pine Avenue. She said that she would be supportive of Mr. Williams' second proposal to exempt the three spaces in front of Crossings (corner of Pine and Columbia).

Tom Anastasio, 32 Columbia Avenue, said that while he has philosophical problems with this request, the Council seems to now be looking at this from the point of view of the community. He congratulated them on this approach. He noted that the ordinance and regulation list factors that should be taken into account in the consideration process. Roughly half of the factors relate to the adequacy of on-street parking for residents. He agreed with this factor. The petitioners did a survey some time ago. Mr. Anastasio congratulated them on trying to provide some facts to substantiate their concern, and commented on the survey findings. None of the license plates belonged to residents of Pine Avenue; however, there were open spaces. If there is a need for on-street parking and there are available spaces, residents should be parking in these spaces. He noted that he did an informal survey, and that Mr. Williams' also did an informal survey. Mr. Anastasio remarked about the number of open spaces along the street over the past week (observations around 9:00 a.m. in the morning). Most of the empty spaces are down at the lower

end of the street, near Montgomery, making them not terribly convenient.

Mr. Anastasio explained his proposal. There are 2-3 empty spaces that are not being used. He suggested that the Pine Avenue residents be guaranteed four empty spaces reserved in a convenient location (e.g., in front of 9 Pine Avenue where driveway is shared). They would not need more, since there are already more spaces on average than they actually need or use. This would not cause an overburden on neighboring streets, nor does it cause a zoning problem for Savory as related to its parking waiver. He urged the Council and residents to consider this approach. He noted that Corporation Counsel has already ruled that the City can make the petition area smaller without going back through the petition process, and suggested that this proposal would fall under the same flexibility. Since this block has been characterized as an extension of Westmoreland area, he suspected that if the 2-hour rule went into effect for Pine Avenue then it would also have to apply to the entire area.

Bruce Hutton, Pine Avenue, read from a written statement prepared by his wife (attached). He said that they were not opposed to the Metro when they moved to the area, and commented that surveys may have been conducted but were not done during the times when residents are trying to park. He said that Mr. Williams' 2-hour proposal is not unreasonable, but that it is not the best. He added that he surveyed the parking on Pine this morning at 8:30 a.m., and all spaces were filled with the exception of a few empty spaces on lower Pine. Mr. Hutton questioned his block should bear the brunt of this when other areas have obtained restricted parking.

Benjamin Onyeneke, Maple Avenue (Generation X), commented on the remarks that have been made about safety. There has been little attention given to handicapped persons. He remarked about his experience in traveling the streets in his handicapped scooter, and said that everyone here is selfish in wanting to reserve their parking. Mr. Onyeneke urged the City to study the architecture of Pine Avenue, and said that permit parking will allow residents to discriminate against non-residents (of the street) who want to park on the street. He suggested that the City construct a parking lot to accommodate vehicles. Many people complain about cars being stolen, but this is just another way of giving in to insurance fraud.

Anne Sergeant, 5 Pine Avenue, addressed the point that residential parking is not supportive of local businesses. Restrictive parking would actually be more supportive of local businesses because businesses would apply for their business permits. They would then be ensured spaces for their employees. There was another survey taken today, a couple of times, that shows there were only two cars in front and two cars in back of Savory (11:30 a.m. and 3:00 p.m.). So, it really depends on the time of day that the survey is conducted. From living in this area, she observed that spaces do not last long. In terms of the survey taken this week, one Pine Avenue car was stolen and two cars have been in the shop (amounting to three cars that were not available to be parked on the street). Ms. Sergeant noted that last year this time, the parking seemed light. Maybe, people take vacation at this time of the year. She supported her neighbors' concerns about child safety and parking needs.

Milford Sprecher, 24 Pine Avenue, noted the historical photo on the Chambers' wall which does not illustrate a parking problem. He expressed opposition to the permit parking request, referring to his written statement, and commented on safety issues. Parked cars will slow traffic on the street. There is not much extra parking on the lower part of Pine Avenue. There are a number of multi-family dwellings and people are required to park on the street. If restrictions are put in place on the upper block, it will negatively affect the lower block. He expressed sympathy for the residents who share a driveway.

Tim Dowd, 28 Hickory Avenue, said he is sympathetic to the issues that have been explained. However, he expressed concern that parking problems will continue to "flex" to neighboring streets. The issues related to businesses (employee and patron parking) are important. Pine Avenue is a prime area for businesses. He recognized that there may be a problem with Metro parking, so suggested that the Council consider the 2-hour parking restriction or reservation of only 4 spaces opposite Crossings.

Ferd Heffner, 22 Montgomery Avenue, opposed the proposal. The Council needs to consider whether we want to contribute to environmental concerns by not encouraging use of Metro. The problem will only continue to spread.

Maureen Taft Morales, 10 Pine Avenue, stated that many of the objections raised about Pine Avenue permit parking are issues that apply to permit parking in general. It seems that this is a different issue, and perhaps the whole idea of permit parking should be examined. However, at the present time, the City does have provisions for permit parking and Pine Avenue should not be held to a different standard than other streets that have permit parking. She noted that she once lived on Birch Avenue where there is permit parking and commented that there were many available spaces during the restricted hours. She commented on the support of the residents of the block for the permit parking. She remarked about an instance where a car blocked her driveway for three weeks, and that she could not get the police or anyone else to tow the car, so had to tear down her fence to allow a contractor access to her property.

Bob Gibson, 9 Pine Avenue, supported the petition. Unfortunately, Pine Avenue is the focal point for the issue of Metro parkers looking for a place to park for free. He said he does not have a lot of sympathy for the idea that we should create spaces for people who want to drive to Takoma Park to park. The City should take steps to increase the use of Metro, but should not provide parking spaces for Metro users within residential neighborhoods. There are legitimate points from all sides, but the reality is that there is a problem on Pine Avenue. He noted that people on neighboring streets have expressed similar concerns, and pointed out that there is some relief for businesses by the provision which affords them 3 business permits to park in adjacent restricted areas. Maybe, Pine Avenue permit parking will push a few motorists over into adjacent areas, but he said he would still ask that the Council honor the petition which meets the requirements of the Administrative Regulation.

Nancy O'Donnell, 8 Pine Avenue, remarked that the petitioners followed the rules. She said that

she understands her husband's frustration when he cannot get out of the driveway. She remarked that there are Metro and auto clinic parkers using Pine Avenue. On Saturday and Sunday, there are Savory parkers on the block. She commented that the back lot of Crossings may be a place for Savory parkers. Ms. O'Donnell supported the alternatives, but asked whether there would be City enforcement in the case of 2-hour parking. She remarked about child safety, and encouraged the Council to think about the people who live on the street. We followed the rules.

Adam Finkel, 20 Columbia Avenue, opposed to the petition, adding that he was approached last year about joining this petition. Mr. Finkel explained that he moved here from the District where there was permit parking, and said that he did not support it there either. The City needs to think about the larger issue, about how much this problem will spread. Permit parking has spread pretty far from the Metro, and it should be decided at some point that the City has carved out a large enough area.

Wayne Harvey, upper Pine, supported Mr. Williams' survey results, and remarked about the available spaces on the block. He said that a couple of cars may move during the day, but for the most part, the cars remain parked all day.

Virginia Jenkins, 32 Columbia Avenue, opposed to permit parking request, and said that she finds it to be a real burden on the people who live on the street, as well as their guests. We should not create a "gated" community. The streets should be available for those people who wish to use the resources of the City. She commented that she does not think that we should have as much permit parking as we have now.

David Loren, Elm Avenue, opposed to the petition, noting that he is a commuter and parks on Pine Avenue. He said that Mr. Anastasio's suggestion about limited restricted parking spaces is good. He remarked that he is probably not the only Takoma Park resident who parks in this area, and commented that this is about the only feasible parking area for local commuters.

Ms. Porter noted that there is a parking area set aside for residents (Area B) and another block away, there is free commuter parking.

Mr. Onyeneke said that Takoma Park residents should have the freedom to park where they would like to park, and urged the Council to find a way to have a significant parking lot for residents. He remarked that restrictive parking is bringing a genocide to the City.

The Public Hearing was closed at 8:30 p.m.

SPECIAL SESSION

3. 1st Reading Ordinance re: Nominating Caucus and Election. Ms. Porter explained the ordinance. Moved by Chavez; seconded by Stewart.

Ordinance #1999-33 was accepted unanimously at first reading (VOTING FOR: Porter, Chavez, Elrich, Rubin, Stewart, Williams; ABSENT: Hawkins).

**ORDINANCE #1999-33
(Attached)**

City Clerk Sartoph conducted a random drawing of Ward numbers to set the order of nominations for the evening of the Nominating Caucus (Tuesday, September 28, 1999)--Mayor, Ward 6, Ward 3, Ward 5, Ward 2, Ward 4, Ward 1.

4. Single Reading Ordinance re: Actuarial Services. Assistant City Administrator Hobbs explained the ordinance and the objective of an actuarial study. He commented on the proposals for this contract, and asked that the Council give him the authority to negotiate with the two lowest bidders (same quote of \$12,000).

Ms. Porter added that the Council needs to take up this item this evening to get the study moving if we are going to get the information to make a decision about the state program by the end of this year. This does not predispose any decision. Options are still open.

Moved by Stewart; seconded by Elrich.

Benjamin Onyeneke, Maple Avenue, asked why the City is considering withdrawing from the state retirement system.

Ms. Porter responded that the purpose of this study is to get comparative information (numbers) to determine whether it would be best to stay with the state system or set up our own system.

Mr. Onyeneke remarked about the county's efforts to effect a living wage, and urged that the City needs to thoroughly examine the state plan (what is working about it; what is not), before spending money on this study.

Ms. Porter commented that Mr. Hobbs has spent a lot of time analyzing information about retirement plans for City employees. At this point, we need more information to make a decision.

Mr. Onyeneke reiterated that we should further read about the state system before removing ourselves.

Mr. Hobbs noted that the state did a study of its own benefits a couple of years ago and found that their program is one of the worst.

Ms. Porter recalled the presentation on this subject from the State Retirement Agency, when they

offered a modified plan.

Ordinance #1999-34 was adopted unanimously (VOTING FOR: Porter, Chavez, Elrich, Stewart, Williams; ABSENT: Hawkins, Rubin).

**ORDINANCE #1999-34
(Attached)**

5. Single Reading Ordinance re: Supervisory Training. Ms. Porter explained the ordinance, noting that it is part of the commitment to better supervisory skills of employees.

Mr. Hobbs offered further comments on the ordinance, noting the two bids that were received. He said that staff did not spend a lot of time reviewing the first firm's proposal (noted the high bid); however, staff does feel that the second firm's proposal is what we are looking for. A number of references on Professional Management Consulting (Michael J. Liebman) were contacted. The contract works out to each individual receiving 6 hours of training on each of 6 days over a number of months--a little over \$400 per employee.

Ms. Porter asked for clarification about whether this is the comprehensive training originally desired or a more focused segment.

Mr. Hobbs responded that this is the more comprehensive training track, explaining that he had considered the alternative approach but felt this was a good proposal to meet the broader need.

Councilmember Chavez questioned whether diversity skills are included in the training.

Mr. Hobbs responded that diversity training for all employees is on the general training plan for this year.

Moved by Chavez; seconded by Williams.

Benjamin Onyeneke, Maple Avenue, asked what impact this training has on Police officers who are defined by rank. He commented that some of these firms are not qualified to train, especially in the area of police services. Mr. Onyeneke congratulated staff on their work, but cautioned that consultants know little about policing and are not qualified as consultants in this area.

Mr. Hobbs responded that one of the qualifications in the RFP was that the consultant have experience working with police. Mr. Liebman has considerable experience in this regard.

Ordinance #1999-35 was adopted unanimously (VOTING FOR: Porter, Chavez, Rubin, Stewart, Williams; ABSENT: Elrich, Hawkins).

**ORDINANCE #1999-35
(Attached)**

WORKSESSION / ADJOURNMENT / CLOSED SESSION

The Council moved into Worksession at 8:48 p.m. and later convened in Closed Session at 11:42 p.m. Following the Closed Session, the Council adjourned for the evening.

Closed Session 9/7/99 - Moved by Hawkins; seconded by Stewart. Council voted unanimously to convene in Closed Session at 11:41 p.m. in the Conference Room. OFFICIALS PRESENT: Porter, Chavez, Elrich, Hawkins, Rubin, Stewart, Williams. STAFF PRESENT: Finn, Sartoph, Silber. The Council discussed the legal implications to the City of the proposed ballot measure to ban handguns. Direction was given to City staff to resolve legality of ballot measure. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(7)).

Introduced by: Councilmember Chavez
(Drafted by: C. Sartoph)

1st Reading: 9/7/99
2nd Reading:
Effective:

ORDINANCE #1999-33

1999 TAKOMA PARK CITY ELECTION

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

SECTION 1. THAT the City Clerk shall call a Nominating Caucus of the citizens for the nomination of candidates for Mayor and Councilmembers on Tuesday, September 28, 1999, at 7:30 p.m., in the Council Chambers at the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland; the said Nominating Caucus shall be conducted as follows:

- a. on September 7, 1999, the City Clerk shall select by random drawing, ward numbers one through six to determine the order in which Ward nominations are received; and
- b. nominations for Mayor shall immediately precede all six ward nominations;
AND

SECTION 2. THAT a City Election shall be held at the Municipal Building on Tuesday, November 2, 1999, between the hours of 7:00 a.m. and 8:00 p.m. for the purpose of electing a Mayor and six Councilmembers, as follows:

- a. The Mayor shall be elected at large, and one Councilmember from each ward shall be elected by the voters of that ward only; and
- b. The election shall be conducted by voting machines; and
- c. Absentee voting shall be available as set forth in Chapter 4D (Elections), Article 5 (Absentee Voting) of the Takoma Park Code; AND

SECTION 3. THAT the City Clerk shall arrange with the Supervisors of Elections of Prince George's County for the use of voting machines at the said election:

- a. no fewer than two machines for use by voters of each of the six wards; a minimum of twelve machines; and
- b. machine(s) for use in the event of malfunction.

The City Clerk shall place the names of the candidates nominated for Councilmember at the Nominating Caucus on separate ward voting machines, with each machine displaying the names of candidates for one ward only, and shall place the names of persons nominated for the office of Mayor on all voting machines; all of the names of candidates nominated during the Nominating Caucus shall be so placed, except any

who within three days thereafter may have filed in writing with the City Clerk a declination of candidacy; AND

SECTION 4. THAT if any person registers as a write-in candidate for Mayor or Councilmember in accordance with Section 704.1 of the City Charter, then the City Clerk shall arrange to have her/his name posted in the appropriate voting booth(s) for the purpose of identifying her/him as a candidate for office; AND

SECTION 5. THAT the City Clerk shall arrange for a space on the voting machines for write-in votes; AND

SECTION 6. THAT notice of the Citizens' Meeting/Nominating Caucus and the City Election shall be inserted at least once in the Montgomery County Journal during the two weeks prior to September 28, 1999. In addition, the Clerk shall have inserted in the Montgomery County Journal, during the week preceding the election, a facsimile of the arrangements of the candidates' names and wards which will appear on the voting machines; AND

SECTION 7. THAT voter authority cards and lists shall be prepared for each ward separately, bearing the names, addresses, and election wards of all eligible voters as certified by the Board of Supervisors of Election for Montgomery County, and supplied to the Judges of Election on election day. The voter registration information for all eligible non-U.S. Citizens (names, addresses, and election wards) who have registered with the City Clerk's office to vote in Takoma Park municipal elections will be incorporated with the respective County/ward lists, and a voter authority card will be prepared for each eligible non-U.S. Citizen voter and interfiled with the respective County voter authority cards, and supplied to the Judges of Election on election day; AND

SECTION 8. THAT the City Clerk shall recommend to the City Council the names of persons for designation by the Council as Judges of Election on election day; AND

SECTION 9. THAT the Judges of Election shall meet in the Municipal building as a Board of Election at 7:00 p.m., Wednesday, November 3, 1999, and shall determine and certify the results of the election, as provided in the City Charter; AND

SECTION 10. THAT the City Council shall meet in Special Session at 7:30 p.m., Wednesday, November 3, 1999, to receive the certification of election from the Judges; AND

SECTION 11. THAT this Ordinance becomes effective upon adoption.

Adopted this _____ day of September, 1999, by roll call vote as follows:

AYE:

NAY:

ABSTAIN:

ABSENT:

**ORDINANCE #1999-34
Award of Contract for Actuarial Services**

WHEREAS, the City of Takoma Park desires to obtain professional actuarial services for a Feasibility Study to determine if the City should establish its own retirement system; **AND**

WHEREAS, proposals were solicited and have been received from three Actuary Firms; **AND**

WHEREAS, all three proposals are from established, recognized actuarial firms who have worked with government entities in similar projects; **AND**

WHEREAS, the proposal from William Mercer Consulting and the proposal from Bolton Offut Donovan, Inc. are essentially the same and are the low bidders at \$12,000 each.

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

SECTION 1 **THAT** the City Administrator or designee is authorized to negotiate and enter into a contract with either William Mercer Consulting or Bolton Offut Donovan, Inc. to provide actuarial services for a Feasibility Study concerning possible Retirement Plans for City employees; **AND**

SECTION 2. **THAT** the funds to cover this contract shall not exceed Twelve Thousand Dollars (\$12,000); **AND**

SECTION 3. **THAT** this Ordinance shall be effective immediately.

ADOPTED this 7th day of September, 1999.

AYE: Porter, Chavez, Elrich, Stewart, Williams

NAY: None

ABSTAIN: None

ABSENT: Hawkins, Rubin

Introduced by: Councilmember Chavez

Single Reading: 9/7/99

ORDINANCE # 1999-35
Award of Contract For Supervisory Training

WHEREAS, the City of Takoma Park desires to obtain professional services to provide supervisory training for City staff; **AND**

WHEREAS, appropriate advertising of the Request for Proposals was placed in the Washington Post; **AND**

WHEREAS, proposals were received from *The Roberts Company of Rockville, Maryland and from Professional Management Consulting of Pikesville, Maryland*; **AND**

WHEREAS, based on selection criteria and in consideration of other qualifications and responsiveness to the objectives listed in the Request for Proposals, staff recommends award of the contract to *Professional Management Consulting of Pikesville, Maryland*; **AND**

WHEREAS, there are sufficient funds allocated for this training project.

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

SECTION 1. **THAT** the City Administrator or designee is authorized to negotiate and enter into a contract with *Professional Management Consulting of Pikesville, Maryland* for Supervisory Training of City Staff; **AND**

SECTION 2. **THAT** the funds to cover this contract shall not exceed Twenty Thousand Dollars (\$20,000) and shall be charged to Account 9000-7050; **AND**

SECTION 3. **THAT** this Ordinance shall be effective immediately.

ADOPTED this 7th day of September, 1999

AYE: Porter, Chavez, Rubin, Stewart, Williams

NAY: None

ABSTAIN: None

ABSENT: Elrich, Hawkins

CITY OF TAKOMA PARK, MARYLAND (FINAL 11/29/99)

PRESENTATION, PUBLIC HEARING, REGULAR MEETING AND CLOSED SESSION
OF THE CITY COUNCIL

Monday, September 13, 1999

Closed Session 9/7/99 - Moved by Hawkins; seconded by Stewart. Council voted unanimously to convene in Closed Session at 11:41 p.m. in the Conference Room. OFFICIALS PRESENT: Porter, Chavez, Elrich, Hawkins, Rubin, Stewart, Williams. STAFF PRESENT: Finn, Sartoph, Silber. The Council discussed the legal implications to the City of the proposed ballot measure to ban handguns. Direction was given to City staff to resolve legality of ballot measure. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(7)).

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

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 the agenda has been revised since it was published on Friday in response to public and press interest in the handgun item. The handgun item has been moved to the first item under the Regular Meeting agenda. She explained the re-ordering, and apologized for the fact that persons may have to wait for items to come up on the agenda for discussion.

Councilmember Williams announced that there will be a walking tour on Sunday, September 19 from 2:30 - 6:00 p.m. in Ward 3. The new issue of the City *Newsletter* will have a description of

the route. He urged people to come and participate.

Councilmember Stewart noted that she received a call today about large oak trees being taken down on Chaney Drive. People were upset about the tree removals. She said that she does not presume to know the condition of the trees or the expertise of the Forester, but suggested that the Council look at the waiver process and notification requirements. The people who are affected by the loss of trees should not be made aware of the removals at the time they hear the chain saw.

Ms. Porter said that the discussion will be put on a future agenda. She again noted the change to the order of the agenda, and pointed out that copies of the revised agenda are in the rack. She announced that Councilmember Elrich is testifying this evening before the Planning Board on behalf of the City, and has asked that the issue of the handgun petition not be discussed until he arrives. She stated that she will hold the discussion until his arrival.

CITIZENS' COMMENTS

Benjamin Onyeneke, Maple Avenue (Generation X), commented on a Smithsonian event for film producers. He stated that Generation X represents the female, and that black unity is a focus of attitudes.

Andrew Busby, 703 Chaney, said he is a survivor of today's Chaney Drive chain saw massacre. A 166 and a 186 year old tree were removed today. The applicant for removal made application for the waiver prior to even owning the house. Mr. Busby said that the trees were in fairly good shape, contrary to the Arborist's opinion. He commented that he has grave doubts about whether the Arborist even inspected the trees, and suspected that a second application was never filed. There was no opportunity for citizen comment. No opportunity for tenants to comment. The place looks like a dessert. What was on the application was not that the trees were ill or failing, but that they were causing cracks in the foundation. The cracks have been stabilized for some time. The facts in the case raise questions about the City's response to this application. This is very typical of Takoma Park. Mr. Busby remarked that he was literally awakened by chain saws this morning. He said that he tried to get in touch with the Council over the weekend, but was only able to reach Councilmember Elrich who did not provide any assistance. The City needs to change this law. There should be posting for waivers also. An emergency waiver might be different, but this was not an emergency waiver situation. This removal was done with unnecessary haste. Mr. Busby commented on the time that was put into the Ghoul Tree case, and concluded with the thought that the greatest threat to tree health right now is Todd Nelson and soil compaction.

Sidonie Rupe, 703 Chaney Drive, said that the house in which she is a tenant was recently purchased by someone who obviously wants to turn the area into a Gaithersburg suburb. The trees are the only reason that she moved to the City. She questioned the application process and the inspection done by Todd Nelson, speculating that Mr. Nelson first set foot on the property

today. Ms. Rupe said that he never inspected the foundation of the house, inside or out. The cracks have been there for 30 years and have been covered over and have not spread. What occurred today was truly a crime. She said that she picked up as many acorns as she could today after the tree came down, and encouraged everyone to take one and plant a tree.

(Gentleman) Columbia Avenue, remarked about the list serve conversation today. Nancy O'Donnell predicted that something would happen in this area today. There needs to be better notice. The Council needs to review the ordinance and have a long hearing devoted to this subject.

Linda Rabben, Chair of Y2K Citizens Advisory Committee, thanked the City officials who attended the citizens conversation last week regarding Y2K issues. It turned out quite well. She noted that tonight's public hearing only covers the compliance plan and not the contingency plan, and said she hopes there will be opportunities for the public to comment on the contingency plan as well.

City Administrator Finn responded that staff is still in the process of completing the other plan.

Ms. Porter said she would be happy to accept comments on both plans.

PRESENTATION

1. Resolution of Appreciation -- The Steve Francis Foundation, Inc.

Recreation Director Bluford stated that the Recreation Department is very appreciative of the funds donated by the Foundation, and said that there are a few program participants who want to speak this evening. She introduced Mrs. Mabel Wilson, Steve's grandmother (to accept the resolution) and Tenecia Howard representing the Foundation.

Moved by Hawkins; seconded by Williams.

Miguel Scott, thanked the Foundation for donating the money, and commented on his involvement in the Young Entrepreneur Program.

Marcus Scott, added his appreciation, and remarked about the YES Program - Basketball League.

Theresa Williams, thanked the Foundation for making the program "Mission on Making a Difference" a possibility. Without the donation there likely not be a program of this kind which helps to keep youth off drugs and away from violence.

Shantelle Lewis, said that she takes part in the Takoma Poms program, and thanked the Foundation for the donation.

Ms. Bluford added that most of the money went to programs organized by Steve Ellis, Outreach Coordinator.

Ms. Porter remarked that this is a very important thing for our community, and that the donation got spread amongst a lot of wonderful kids. The donation was for \$10,000 that went toward Recreation programs. She read from the resolution, and presented it to Ms. Wilson.

Resolution #1999-41 was adopted unanimously (VOTING FOR: Porter, Chavez, Hawkins, Rubin, Stewart, Williams; ABSENT: Elrich).

**RESOLUTION #1999-41
(Attached)**

Tenecia Howard, on behalf of Steve Francis, his grandmother and the Foundation, thanked the Council for the resolution. Steve Francis had a lot of dreams while growing up. This community has a lot of programs to encourage growing minds and talents, the kinds of endeavors supported by the Foundation. Steve is thankful to do his part for this community, and the Foundation looks forward to continuing to work with the City to provide educational and recreational opportunities.

PUBLIC HEARING

2. City's Y2K Compliance Plan.

The public hearing was called to order at 8:00 p.m.

Terry Seamens, Ritchie Avenue, remarked that the City has done an excellent job of moving forward with getting the City computers checked and getting the Y2K problems solved. Although the City got a late start in producing a contingency plan, work on that plan is underway. The Y2K Committee appreciates having been involved in this process and looks forward to seeing a completed plan in the near future.

Benjamin Onyeneke, Maple Avenue, said he was skeptical because few people signed up to speak this evening. He commented that a good plan has been proposed. There will be issues to be addressed with Y2K. We have bugs in us, which are "attitudes." Y2K is not about computers, it is about who will control the 21st Century and marketing. All we are trying to do now is bring out a "shamble feedback." We should instead be prepared for the worst.

Nellie Moxley, Eastern Avenue, said that the City does not want to end up like the schools this week that experienced computer failures. She commented that Soviet Union has now joined us in our positioning against missiles. Ms. Moxley encouraged continued work on the contingency plan.

Ms. Porter noted that copies of the compliance plan are available from the Administration Office.

The public hearing was closed.

REGULAR MEETING

Ms. Porter commented that she will temporarily postpone the handgun item until Councilmember Elrich arrives. She called for the discussion of the Master Plan resolution. If citizens who wanted to speak to this issue have not arrived, the Council may have to move on to another issue.

Mr. Finn stated that we are waiting to see if Community and Economic Development Coordinator Ludlow has returned yet from the Planning Board Hearing.

Councilmember Rubin commented on the *Washington Post* article regarding the handgun petition and the headline "Enclave Divided." He said that we are not an enclave. We are a small town in America. We represent the best in "community", meaning that we bring forth issues, talk about issues and often have a divided opinion. This does not mean that we are "divided." He commented that since this is Takoma Park he believes that we will, on this issue as we have with other issues, work out something that we can all accept. This is the sentiment of those here this evening.

Ms. Porter called for the discussion on the Spring Park Ball Field.

7. Single Reading Ordinance re: Spring Park Ball Field.

Public Works Team Leader Shafer explained the bid process. Four bids were received. Alpine was the low bid, and references have been checked. Alpine has great references, and staff recommends that we proceed with project. It is a Program Open Space (POS) project, and funds are available.

Ms. Porter described the ordinance. Moved by Chavez; seconded by Williams.

Mr. Rubin noted that several people have recently said that there should be a plaque erected to explain the bas relief over the spring.

Mr. Shafer stated that this is part of the next phase of the project, and that he would be happy to explain the project to Mr. Rubin. He confirmed that the suggestion is to provide an explanation of the history of the Indian that is depicted.

Councilmember Williams said that this is part one in a three-part renovation project. Council will be discussing the projects during the walking tour on Sunday.

Benjamin Onyeneke, Maple Avenue, asked what kind of ballfield is being discussed.

Ms. Porter responded that it is a softball field.

Mr. Onyeneke noted that there is a soccer field planned for the Silver Spring area, and asked what will this ball field signify. Is there any drainage system planned?

Ordinance #1999-36 was adopted unanimously (VOTING FOR: Porter, Chavez, Hawkins, Rubin, Stewart, Williams; ABSENT: Elrich).

**ORDINANCE #1999-36
(Attached)**

Ms. Porter recognized that Ms. Ludlow is now in the audience, but that other people were to be here to comment on the Master Plan. She noted that Councilmember Elrich also just walked in, so she decided to proceed with the handgun issue. Ms. Porter apologized to Ms. Ludlow for calling her in and now postponing the discussion.

Councilmember Elrich explained his eye wear—underwent eye surgery today and is actually not supposed to be out of bed. However, he said that he attended the Park and Planning Hearing to provide testimony on behalf of the City, and wanted to be here for this discussion.

3. Handgun Issue.

Ms. Porter explained the order of the items to be dealt with on this issue.

A. Handgun Referendum Briefing.

Corporation Counsel Silber commented on everyone's frustration to control violence in the community. She agreed with Councilmember Rubin that this is the kind of community that will work to find ways to deal with these concerns. However, she commented that she is here this evening as the City's attorney (in addition to being a mother and resident of the community) to speak to the legal issues of the proposed referendum. The petition sounds great, on the face, that we would ban handguns. What people may not realize is that what sounds great is in direct conflict with State law. The law could not be more explicit. It says that no municipality can regulate in this way. It is not subject to interpretation, nor is it a "grey" area. So, this Council is faced with a difficult situation. On the one hand, it must honor the Charter and put the question on the ballot, yet on the other hand, the Council is very aware that the Charter amendment would be illegal and unenforceable. In a way, it has an effect that is contrary to the spirit in which the petitioners put forward the question. It is a false promise. People will vote thinking they are banning handguns in Takoma Park, but in fact, that will not be the effect. If the vote were to be

successful and this provision were to be put in the Charter, if an officer were to fine someone in violation of the law, once the case would get to court, the case would be dismissed. She said that this realization troubles her deeply.

Why is it illegal? Municipalities in the State have a great deal of authority (home rule authority). The Charter is like our constitution--spells out the most basic principles about how we will exercise that power. Preemption is something that limits the powers. Ms. Silber explained how preemption occurs. She remarked about the cigarette vending machine case, and noted her legal briefing and the attached State statute that constrains what we can do in this area. The statute could not be more explicit and definitive.

The petitioners have argued that it is "okay" that the law is black and white. By taking this on, they feel we can prove that Takoma Park can legislate in this way. She noted the case that is being cited as precedent. However, that was a whole different legal situation. Illinois does not specifically pre-empt this authority from its municipalities. If we go into this type of litigation, all we might prove is that we will lose against a powerful gun lobby.

Ms. Silber commented on her work with the City in formulating laws governing Takoma Park as a sanctuary City, providing for benefits for domestic partners, and setting forth the nuclear-free legislation which sets purchasing restrictions. In all of those cases, there were legal defenses--good strong legal arguments that allowed us to push the envelope. She said that she still thinks we were right in the cigarette vending machine case which went all the way to the court. In this case however, although a strong expression of public sentiment, we do not have the legal argument.

She explained why the petition cannot be withdrawn. The petitioners cannot withdraw the question. The question will be on the ballot unless a court says that it cannot go on the ballot. So, this Council is faced with some tough choices: (1) put the question on the ballot and see what the court does, or (2) don't put it on the ballot since it is clearly against state law and flies in the face of their oath of office (sworn to uphold the State constitution and laws of the country). It is a tough decision, and in no way reflects whether they feel that the spirit of the petition is right or wrong. The question as it appeared on the petition is worded in way that it is illegal and unenforceable.

Ms. Silber remarked about the Montgomery County case where it was realized that a question would be illegal. The Court said that it was not the correct position to just leave an illegal and unenforceable provision in the Charter. The Courts in Maryland prefer to see that it be taken out of consideration, rather than waiting until it gets on the ballot.

There is a lot of discussion in the *Washington Post* about the cost for litigation. She commented on LGIT's insurance coverage and how LGIT provided coverage for the City's defense in the cigarette vending machine litigation. We would hope that LGIT would help in this case. However, the Council and community need to know that we cannot rely on that coverage. There

were very special things that allowed them to provide insurance in the cigarette vending machine case. Any decision made about the handgun issue should be based on the assumption that litigation expenses will come out of the City's general fund budget. The decision will be made on both principal and financial realities.

She summarized her closing remarks from the memorandum, emphasizing that she would love to see the City enact handgun legislation that conforms with State law. She said she would like to see the City take an active approach to seeing changes to State law where it comes to authority for municipalities in this area, would like to see the State appoint a task force (possibly including the petitioners and representatives from the City) to explore this issue, and would love to see us sue gun manufacturers as many people around the country are doing. These efforts would be better use of City funds as opposed to proceeding with a Charter provision that is indefensible.

B. Resolution re: "Advisory" Ballot Question.

Ms. Porter explained the proposed resolution, and called attention to the various suggestions for wording of an advisory question.

Mr. Elrich proposed a two-part ballot question which would advise on two levels—i.e., where do voters want us to go in terms of putting pressure on the State to change law, and if State law were amended, where should we go in terms of City law. He remarked about how the Charter Amendment Referendum could be taken off the ballot by a judge's ruling if it is legally challenged. If the proposed petition question goes on the ballot and people realize that it is illegal and would jeopardize the City in potential resulting litigation, people might vote against the question and send the "message" that citizens rejected legislation that would have permitted the regulation of guns. This would in effect be translated into a victory for the gun lobby. The proposal for advisory questions allows people who feel strongly about this issue to express their opinions. Without these questions on the ballot, if the other question is removed by a judge, there would be no other question for people to express their sentiment on this issue. These questions would give us the assurance of an opportunity to comment.

Mr. Rubin recalled that some four years ago, a petition was presented to the Council, almost identical to the referendum petition. It was through that petition (organized in Ward 1), that he first learned about the State preemption. Delegate Franchot was asked by the City how to respond, and he suggested that we ask our state delegates to try to get the law changed, which we did. The City is on record by resolution asking the State to change law to allow municipalities to regulate in this area. The problem that came up at that time was whether we really want municipalities to have ultimate control over gun regulation. Wouldn't many communities take the opposite position? He suggested a slight change to the proposed resolution, and remarked about abilities of municipalities to pass laws stronger than State laws, but not weaker.

Ms. Porter noted the language for the questions that was suggested by Corporation Counsel, and

proposed a combination of that with Mr. Elrich's proposal.

Assistant Corporation Counsel Linda Perlman agreed with the suggested language for Part A (question #1).

Ms. Porter asked for legal response to Part B about the use of "advisory".

Mr. Williams questioned whether "straw polls" are permitted.

Ms. Porter responded in the affirmative, suggesting that the first sentence be deleted.

Mr. Elrich said that he would be comfortable with the change.

Ms. Porter said that she does not think that putting this question on the ballot will be the end of our involvement in this issue. She spoke in favor of many of the suggestions made by Corporation Counsel, and seconded all of the remarks made in recognition of the sentiment expressed by the petitioners. People would like to take action to have a real impact on the regulation of handguns. She stated her appreciation for the sincerity and efforts of persons who have brought this issue forward.

Mr. Rubin said that when the Council passed the resolution four years ago, we pledged to try to organize other municipalities in Maryland (especially through MML) to join us to try to get the law changed, to take out the preemption in State law. One of the important things about having this question (advisory question) on the ballot is that it gives us credibility with other municipalities. We can later cite the election results. We can also propose that other communities would probably express the same sentiment. The two questions are intertwined.

Councilmember Hawkins stated her preference to strike the first sentence in Part B, since it is implicit and weakens the question if left in the language.

Ms. Porter suggested a two-part ballot question, and read Part A and Part B as discussed.

Moved by Elrich; seconded by Rubin.

Robert Lanza, Cedar Avenue, supported the discussion this evening about trying to put something to referendum that complies with state law and still allows for expression of public sentiment. The proposed language is workable. The Council should be aware that we do not want to start anything that allows people in Annapolis to use this effort to somehow weaken state law.

Byrne Kelly, Circle Avenue, commended the Council for coming up with what was just suggested as a compromise. It is unfortunate that such great efforts have taken place, but were misdirected in terms of what is legal. It is fortunate that the City would not be put in jeopardy by the suggested questions. He urged the Council to put best efforts towards correcting the laws of the

land and to overcome the NRA. He thanked the Council for coming up with a middle ground that keeps us from law suits.

Ms. Porter noted that the Council will be taking up the Charter amendment as proposed by petition later in the evening.

(Gentleman), said that he rolled his eyes when the City tried to send rats to Virginia and ban the use of barbeques, and that he is now very concerned about the City trying to regulate guns, noting that he has a gun. He remarked about the fatal fire on Flower Avenue a couple of years ago and the 45 minute emergency response time, and suggested that the Council focus efforts in other areas.

Alice Dick, 7402 Maple Avenue, commented that she has lived here for 35 years and is a mother, grandmother and great-grandmother. She commented on her community service, noting that she has not had a ticket, does not drink and does not smoke, but legally carries a 357 magnum gun. Who would have guessed? We live in different times; times have changed. Criminals have the weapons and are doing the killing. We have adequate gun laws and controls in the State, but need judges who will enforce the laws. She said that banning guns in the City will not disarm criminals, and that law abiding citizens will not give up their rights to own guns and neither will she.

Lloyd Johnson, Holton Lane, said he has been a resident for almost 15 years, once served as a Councilmember and is now a retired prosecutor. It was his responsibility to prosecute the person responsible for murdering the two people in Hampshire Motor Inn. Mr. Johnson remarked that he has spent almost all of his professional career observing the ravages of handguns in the hands of the wrong people. All too often we seek a solution in search of a problem. This was the intent of the original proposal which was well intentioned, but may be a solution to a problem that is in fact no where near as serious as we might think. The fact is that crime has dropped in the state, in Montgomery County and in Takoma Park. To suggest that banning handguns, which if the Council were not taking a more moderate approach, would be the same type of statement that the past Council made (standing on principal) because of a single cigarette vending machine. We were ready to take on the tobacco industry, and we lost. He noted that people in his household signed the gun ban petition, and that he does not have a problem with that. Mr. Johnson said, however, that there are a lot of people of good will and intention who simply did not have the facts in front of them. He applauded the Council for proposing the advisory question approach.

John Emler, remarked that he has been a resident for 42 years, and a gun owner for all of that time. He commented on his experience with guns (i.e., competitive shooter, hunter, had neighbor who was a gun dealer--never a problem). There is not a problem with gun owners who own, respect and know how to use guns and keep them locked and away from children. The problem is that government does not put away criminals for long enough. The proposed Charter Amendment will make criminals out of a lot of residents in the City, and would be a useless effort.

Benjamin Onyeneke, Maple Avenue, remarked that charity begins at home, and asked why gun

owners feel a need to keep guns in their homes. Only cowards carried guns in the past; things have changed in today's society. He remarked about a murder in the City where handguns were involved. Mr. Onyeneke suggested alternatives to the use of a gun, stating that "he who uses a gun, dies by a gun." He commented on the connections between the NRA and state legislators.

John Guernsey, Citizens Against Handguns, recognized the uphill fight on this issue, but said that he is glad the petitioners were able to get gun control back on the Takoma Park agenda. The advisory questions that are being proposed are good and should be put on the ballot along with the proposed Charter Amendment.

Betsy Taylor, Willow Avenue, remarked that she has lived in the City for 12 years, and said that this is not about demagogues or in-fighting in "political" park. It is about a group of people who got together and felt that we should step out on an issue that is getting out of control. She cited incidents in the past year, shared facts from Hopkins Study on Gun Control (gun statistics), and remarked about firearm violence, providing more statistics (i.e., deaths contributed to suicides and homicides, and firearm death rates). Ms. Taylor encouraged the City to take leadership on this issue. We cannot take this on alone, but there are now communities across the nation that want to address the issue. The City cannot step back and say that we cannot do anything about it. She urged the Council's help in exerting the leadership to do something more than "symbolic." She said that she appreciates the advisory questions, but not as a substitute to the proposed Charter Amendment. Ms. Taylor thanked the Council for the hard work that has gone into this issue already.

Richard Joy, Westmoreland Avenue, noted that he has been a resident for 31 years, and that he finds it interesting that a lot of posturing is going on. A gun, no matter where produced, has never killed an individual on its own. We have a tremendous number of laws on the books that we either chose not to enforce or that otherwise are not enforced. If passed, the gun ban would instantly make some people "illegal." If a person owns a gun, he should be responsible for managing and safekeeping it. Mr. Joy commented on the difficulty of enforcement with the proposed law. To think that this legislation would make everyone feel good, may be fine; however, it will not prevent the bad guys from getting guns. The law abiding residents would be the ones subject to the law. He said that he has been shot at, and that he understands the danger of handguns. Mr. Joy noted possible legal costs associated with defending a City law to ban handguns, and asked what will be done to enforce such a law?

Kathy Breckbill, Woodland Avenue, said that she has been a resident for 20 years, and that she signed the petition in favor of the referendum. The issue tonight is the political process. By having a verified petition, residents have tried to deal with the issue in the format that is workable in an effort to change the system. She applauded the Council's advisory questions, but stated her belief that the original question should go on the petition. This issue should be brought forth to all voters in the City.

Tom Mooney, Elm Avenue, remarked that he has lived here for 27 years, and was active in the

legislature for a period of time (Prince George's County representative). He commented on his experience with Takoma Park issues--always a good battle. The issue here is "what is healthy for the City." He suggested that the Council put the advisory and the petition questions on the ballot. Mr. Mooney remarked about how he met Mr. Guernsey. In response to the talk about the City pushing the envelope on this issue, he contended that we have no choice but to push the envelope. Nothing is wrong with this. Any great constitutional right was a result of pushing the envelope. Let's look at the right to choose which evolved over a period of time. Incrementally, the issue was pushed. It evolved over brave people willing to go out and risk their political and legal futures. Mr. Mooney said that he is willing to assist Mr. Guernsey in keeping the question on the ballot, adding that he believes that there are loop holes in the State law which allow municipalities to regulate in regards to children. He observed that there is no way to protect/regulate when it comes to children unless adults can be regulated. He said that does primarily criminal law in his practice, and that under the exceptions in State law, there is a legal case that can be made. Mr. Mooney said that he will argue in Circuit Court to keep the Charter Amendment Referendum question on the ballot.

Russ Greenberg, commented that he did not come here tonight to hear a debate of heartfelt people, but instead came to hear more about the process. He admitted that he is a non-player in this issue, and only got involved because he walked into a business and signed a petition, wanting an opportunity to vote on the referendum question. Things have been explained about the legal situation, but the question should remain on the ballot. The opportunity needs to be made available for residents to vote on this issue. He referred to Corporation Counsel's briefing and questioned whether proposed referendums can be substituted or replaced. It was suggested that the members of the Council would actually be under some professional, personal risk in terms of their oaths. Is this true or not? He said that as a citizen, he would like to see the referendum that he signed onto go forward.

Ms. Porter stated that Corporation Counsel will hold responses until the end of the comments.

Stacey Gurian-Sherman, commented on community involvement, adding that she is a lawyer. She remarked that her father owned a gun, and commented on her recollections of other situations arising from gun tragedies. She said she has witnessed gun violence victims, describing a case that involved young people. The issue is not about whether law abiding citizens have guns; the issue is what happens when children get hold of guns. She provided some statistics. The issue is not prosecution; it is access. Ms. Gurian-Sherman expressed concern about the process. There are people in this room who had an opportunity to provide input, but didn't and are now explaining why the referendum cannot be put forward. She remarked about the position that the Council is now put in, and described her understanding of the process, concluding that the question should be put on the ballot, especially since there are people in this room who gave advice about this initiative and did not discourage it.

Corporation Counsel Silber addressed some of the legal issues that have come up in comments. She explained that the advisory questions being discussed for this resolution would not amend the

Charter. These are more of a polling mechanism—a way to show the state the will of the community. The result of the vote on these advisory questions would not change the law or go into the Charter. There is not time to effect a Charter amendment prior to the November election.

Ms. Hawkins asked Ms. Silber to speak to the issue of the Council's duties as officers of the State.

Ms. Silber explained that there is a section in the Charter that speaks to the oath of office, and since the oath speaks to upholding the State law and the proposed petition question is contrary to that law, there is a conflict. She said that she is not disagreeing with the interpretation that since the petition is valid, the question should go on the ballot. The Council will have to make a decision regarding how to proceed.

Mr. Rubin remarked that he meant no disrespect to the profession of law, and that he has the utmost respect for Ms. Gurian-Sherman and her practice. He suggested that if the original question goes on the ballot, people should vote "no." However, the Council, at this point in time, is discussing whether the City Council should put advisory questions (as an opinion survey) on the ballot to get public opinion on the issues. He said that he does not think that the persons who are against gun control are against people expressing their opinion.

Mr. Elrich clarified that he is not proposing the advisory questions as a substitute for the proposed Charter Amendment referendum. He said that he does not feel the Council has the legal authority to make the decision to propose that the question should be taken off the ballot, noting that he has seen one opinion on this point and would be open to other opinions. However, this remains something for a court to decide. If the question is removed from the ballot in court, then there will be nothing on the ballot for people to vote on their gun views. The intent is not to short circuit the public process. The Council wants to ensure that the questions that have been raised get before the public in November (one way or another). He said he is reminded about the debate on the NFZ Ordinance (recalled the two sides on the issue), and that he would hope that in the process of this debate, people will recognize that there is some measure of truth on both sides of the debate. There are valid reasons why people feel protected and safe. This is a very serious societal issue. As we talk about this, we should focus on the purpose of the effort and what it accomplishes, rather than drawing a line to divide "good" versus "bad". He urged that the debate continues in a constructive way.

Ms. Porter seconded Mr. Elrich's remarks, adding that she is impressed that people are trying to be very thoughtful and explanatory about their positions. If the advisory questions are put on the ballot, they will give voters an opportunity to express their opinions. This is an extremely important issue, and many people have strong feelings on this subject. Takoma Park has never shied away from these types of issues. This will become an intense discussion this November. She encouraged respect for neighbors and differing opinions on this issue, and expressed appreciation to persons who spoke this evening.

Ms. Hawkins said she will vote in favor of this resolution. As an attorney, she said that she cannot in good conscience put what was originally proposed on the ballot, but that she would like to honor the work that has been put into the petition. She commented that she is open to a different interpretation, but that she will wait to hear a court opinion. As an officer of the state and an attorney, she concluded that she will vote for this resolution and likely against the next issue.

Ms. Porter confirmed that the proposed language is "...the City Council will place on the ballot for November 2, 1999, the following two questions:"

Ms. Perlman suggested that the language should include "advisory" prior to "questions."

Ms. Porter accepted the addition, and read the proposed questions.

Resolution #1999-42 was adopted unanimously.

C. Resolution re: Charter Amendment Petition (Handgun Prohibition).

Moved by Elrich; seconded by Chavez.

Mr. Elrich stated that he has legal reservations about this question on the one hand, but recognizes the work that has gone into this effort. It ought to move in the direction of going on the ballot, leaving the decision regarding whether the question should remain on the ballot to a Judge. He commented that he is not comfortable acting as a Judge to make a decision to remove the question from the ballot.

Mr. Williams agreed.

Mr. Rubin said that he was hoping to hear from Mr. Mooney and others who had alternative positions.

Mr. Elrich asked Corporation Counsel what a person would have to do to generate a court ruling (challenge the question).

Ms. Silber responded that a tax payer of Takoma Park would be able to bring a challenge to this question in their own right as a tax payer. It would probably be very easy to challenge if a person were to have some legal assistance. This is such a black and white issue, that it would not be an expensive law suit, and could likely be handled through the summary judgement process.

Ms. Stewart asked what position the City will be in if no one comes forward and challenges the question and it goes to ballot.

Ms. Silber explained that the amendment wording would go in the Charter. In terms of next steps, the Council would have to pass an ordinance to address the provision, or at that point seek some court opinion. Another alternative would be for a City official (like the City Administrator) who is responsible for seeing that laws are enforced, to challenge the law.

Benjamin Onyeneke, Maple Avenue, suggested that the Council pass a resolution calling on the State to ban handguns. He remarked about the threats of handguns, and urged the Council to send this message. He supported putting the question on the ballot.

John Guernsey, noted Ms. Silber's statement that the petitioners knew that the language of the petition wording was illegal, but he countered that he and Ms. Silber hammered out the wording over the phone together. He said that Councilmember Davenport in 1996 introduced a resolution in support of comprehensive gun control, which included a provision that the City would educate the residents about gun control. What specifically has the Council done to educate the public about gun control?

Ms. Silber summarized her conversations with Mr. Guernsey, explaining that she has tried to "teach" through each discussion regarding state law preemption and that he would respond "great, then there would be a law suit and we would get the attention to change the law." Ms. Silber said that it is not true that she said that this would be the correct language. Instead, she had suggested that the language be framed to be within legal limits of the law. She noted that she did suggest that it include an exception for law enforcement officials and that Council would implement the law. She emphasized that she does not want there to be a misunderstanding that she held back in any way explaining to him the problem with state preemption. This was explained time and time again. Mr. Guernsey chose to galvanize things by not taking that advice. She said that she did her best to provide counsel.

Tom Mooney said that it seems there is an assumption that somehow or another, this is preempted. Albeit, it will be an uphill battle, there are provisions under Article 27, 36(h)(1) which provide an argument, emphasizing that he does not support frivolous law suits. Mr. Mooney said that *Rowe v. Wade* was an example in pushing the envelope. Sometimes a little hole can become a gaping hole with a little effort. He repeated his statement about the contribution of adults to making guns accessible to minors. The legislative intent was to hold minors as a special class of persons; the obvious intent is to protect youth. It leaves that protection to municipal bodies such as the Council. It seems that an argument can be made that since there is such a disproportionate effect on youth, there is more latitude.

Mr. Elrich referred to the state statute being referred to by Mr. Mooney and asked for clarification.

Mr. Mooney said that the law needs to be looked at in its entirety.

Betsy Taylor stated that it is important to identify what we want, and to take the time to make

sure that the democratic process is being upheld and that the legal analysis is done. She said that people have been told that the Council would seek an injunction to prevent this question from going on the ballot, and asked that the Council not take that action. She urged lawyers in the City to come together (including Ms. Silber) to explore the legal questions. The petitioners want the Council on their side, helping in this issue, and want more information about the “money” concern (i.e., costs associated with legal defense). We need to have the facts on this point. Is a costly law suit a real threat? What is really at risk? She encouraged the City to look at its resources through the trust fund. Is money available? We want to know as much as possible before rendering a final decision. If this referendum were challenged and removed from the ballot, and the advisory questions remained, then fine. However, the Council should take action on the issue--convene a meeting of Mayors (and their lawyers) from around the state to discuss how to change State law. She asked people to not forget the victims of handgun violence, and reminded the audience of the two Spicknal children who died last week.

Ms. Porter asked what Ms. Taylor is recommending Council do about the item before them this evening.

Ms. Taylor said that their attorney feels there is a legal case for keeping this question on the ballot. She asked that Ms. Silber meet with Mr. Mooney and possibly Jamie Raskin and discuss how to make this work. She commented that petitioners have investigated the trust fund and found out that there is about \$50,000 available. What has Council found out? She urged that the question be put on the ballot.

(Female speaker) commented that if there is a creative way to look at this (because of the loop holes related to youth) then the City should explore the options. We need to explore creative ways to defend this question. She supported the idea of getting together a group of attorneys and others to explore whether the question can be put on the ballot and whether it is practical to do so. It needs further consideration.

Catherine Tunis, Larch Avenue, said that prior to signing the petition, she asked the petitioner whether we had the authority to go forward with the petition question and whether we have the resources to pursue the question. It is appropriate for legislators to shirk at this issue. It needs to be addressed on the federal level. Another alternative would be to put a question on the ballot to allow voters to express an opinion about control on a state and federal level.

Michael Cohen, Manor Circle, opposed the statement on gun control. The Constitution is pretty clear on this issue. Regarding the issue this evening, he asked who is going to come to our rescue when we get into a legal battle? As to whether a citizen can challenge the question, he said that he will find a lawyer and challenge the question.

Ellen Ensel, President of Between the Creeks Neighborhood Association, commented on crime in her neighborhood. She repeated the question about what the City has done in the last few years to educate citizens on gun control, and asked Mr. Rubin to respond since he made an earlier

remark about the 1996 legislation.

Mr. Rubin responded that in regards to education, he has been on several panels and involved in several debates on this issue. In rallying other communities, some of us have proceeded through discussions with municipal colleagues, especially at Municipal League events. In terms of rallying state legislators, he noted the efforts that were made at the state level.

Terry Seamens, Ritchie Avenue, sympathized with the difficult position that the Council is faced with over this issue. When you look around the City, you do not see a lot of problems with handguns—not to say that it couldn't happen. It is an important issue for us to deal with. We have heard the pros and cons of gun control. He reminded that we are Takoma Park and we do have some problems that we have struggled with (adequate pay for employees, retirement benefits for Police Officers, and other issues) which should be included in the consideration to keep all things in perspective. He encouraged the Council to look at the entire issue and make a decision.

Stacey Gurian-Sherman remarked that one of the purposes of this initiative was to challenge state law by saying to the State that it is preventing us from doing what we should be doing. This would raise the question about whether the State law should be changed. The Council should have made more effort to express the concerns and legal problems with the petition. It had the means and resources by which to inform the public, but did not use them to educate the public. It appears that the Council sat inactive on the issue up to this point, and should not now tell 2400 people that the question cannot go forward.

Nellie Moxley said that the Council could take all kinds of actions. She urged the audience to consider how long it has been since a handgun incident has occurred in the City. Why not require that guns be made visible? Some of the problems fall back on ourselves. Homes should look inward. Ms. Moxley said that she does not agree or disagree with either side, but that there are easier and nicer ways to address this issue. If a ban is put on guns, it just encourages the concealment of guns. She concluded that this is the way that the District got into trouble.

John Guernsey said that in the last four years there have been 6 murders in Takoma Park by handguns, and 152 robberies in which handguns were involved.

Ms. Hawkins asked Mr. Elrich to withdraw his motion to consider the Resolution, to allow one week for exploration of putting this question through the minority loophole. She moved to table the discussion until Tuesday, September 21. (Seconded by Stewart).

Mr. Rubin confirmed that the resolution being considered is to put the Charter Amendment question on the ballot, and confirmed that if the Council were to pass the resolution, then the question would go on the ballot. The wording of the petition question cannot be altered. What is the advantage of tabling the resolution?

Ms. Hawkins explained that she is in a position of not being able to vote on this, but that other

legal arguments have been offered this evening.

Mr. Rubin noted that the Council has been told that as Council, we do not have the power to challenge the viability of the substance. Someone could go forward to a judge to ask for an injunction, and that action could not occur until this resolution goes forward.

Mr. Elrich said that if this is to go forward, it goes forward a lot stronger the less divided the Council is on the issue. It would be more positive in the effort if the legal question is addressed. We want to hear more about whether this question can be defended. He suggested that the Council could make a decision from a stronger position if we have the answer to whether there is a defense. If it does not effect the timing to allow the question to be put on the ballot, then we should allow another week for further consideration. He expressed his preference to see how united we can get in the process of doing this.

Ms. Silber commented that the Charter requires that the Council put the question on the ballot within 60 days of a verified petition being filed with the City Clerk. She suggested that it not be delayed more than one week, because the City Clerk has given some real practical reasons in regards to the timing (i.e., getting absentee ballots printed).

Mr. Rubin asked whether one week is enough time.

Ms. Silber suggested that is will have to work, based on timing issues.

Ms. Porter said that if the Council postpones consideration by one week, it will not disadvantage the referendum from going on the ballot. It gives some time to get some questions that have been raised this evening resolved, and is only being done with the understanding that there will be a process going on over the next week (e.g., Ms. Silber is to meet with other attorneys to get some answers to the questions that have been raised). A motion to table is under consideration.

John Guernsey proposed that the resolution should be tabled to two weeks, taking into account Mr. Mooney's busy schedule.

Ms. Hawkins said that she would like to get back to the issue in one week, adding that she spoke to Mr. Mooney in the hallway and believes that he will be able to consult within the week.

Mr. Rubin asked if it could be postponed for another week if there has not been any discussions by next week.

Mr. Finn pointed out that we would be getting into timing issues regarding preparations for the upcoming election.

Ms. Hawkins added that she took timing into consideration when she made the motion to postpone for only one week.

Mr. Onyeneke questioned Mr. Mooney's identity.

Onyeneke - questioned who "Tom" is in this discussion. More about proposal?

Ms. Hawkins responded that Mr. Mooney is a pro bono counsel who is representing the petitioners and feels that he has a way to challenge whether the petition question blatantly contradicts State law. She said that if he can come forward and convince the Council that we can stand on both feet and fight the legal issue, then she would be willing to consider voting favorably to place the question on the ballot.

There was a unanimous vote to table the resolution for one week.

Ms. Hawkins noted that next week's meeting is on Tuesday, September 21.

4. Resolution re: Master Plan. Community and Economic Development Coordinator Ludlow noted the resolution on the Master Plan, remarked about the hearing on September 23, and noted items distributed this evening (page-by-page staff notes with comments/recommendations to be an attachment to resolution). She explained that the attachments are new—different than what was distributed in the Council agenda packages. Ms. Ludlow noted that Jim Sebastian passed on his written comments, that Katherine Tunis is in the audience, and that she has some additional verbal comments to pass on. She summarized the resolution comments and the various points that are cited for each of the four themes of the plan. She highlighted recommendations pertaining to each, and noted amendments to the resolution since last week (expansion of bus and other mass transit systems through the area). There is a lot of room for improvement along New Hampshire Avenue. Ms. Ludlow commented on regional transportation needs, adding that another major point that was made during the City's public hearing on the plan dealt with bike routes. In general, routes should be on-road although they should be looked at on a case-by-case basis. She encouraged pedestrian routes on Piney Branch Road and a sidewalk for pedestrians to the Sligo Creek trail. She added a suggestion from City staff regarding removal of state highway designation on Flower Avenue after the state completes road repairs and suggested an amendment to the resolved clause "...And are advisory and in nature."

Mr. Rubin thanked Ms. Ludlow for the change regarding parking in Old Town, and complimented her on articulating his concerns.

Jean Craig, Carroll Avenue (7100 block), said that she was contacted in February by Mr. Downing. He met with community and we had a very productive meeting. She said that she has since contacted Senior Planner George to forward concerns about being a "linking" block between Old Town and the Junction. We would like to take apart the two issues regarding the sidewalk and zoning. The biggest concern seems to be the sidewalk. Almost everyone is interested in having the sidewalk improved. She said that she has witnessed seniors stumble on the uneven surface. It is something that needs to be corrected. Ms. Craig said that she lives on the East side of the street—the side with a narrow sidewalk. It is 4 ½ feet wide on her side with no

division from the curb. Across the street the sidewalk is 5 ½ feet wide with some division (it varies). How much of the front yard would we lose to make it a 7 foot sidewalk taking into consideration the plantings in the yards? There is a group very pulled together about not losing their front yards. She commented that Mr. Downing said they could take up to 8+ feet.

Sally Taber, past President of SOSCA, (speaking on behalf of Allison Porter, unable to be here), said they are extremely pleased with the plan's proposal to improve the streets capes along New Hampshire Avenue. We need to see improvements to the Ethan Allen gateway. The neighborhood supports preserving the residential character. Safe pedestrian passage is also desired. We want a sidewalk for Cherry/Colby residents to the Parkway, and also need a sidewalk along Ethan Allen. Children are walking to school, so anything we can do to improve sidewalks is desired. The additional sidewalks along New Hampshire Avenue will encourage more pedestrians and cyclists to patron area businesses. Improving mass transit in the area has been an initiative for the neighborhood. It would be helpful if the Ride-on hours were extended to include weekends. Over last several years, the neighborhood association has spent time discussing and implementing traffic control devices. However, traffic concerns continue to exist. We need solutions to traffic; however, the neighborhood is opposed to widening East West Highway. Residents want to be included in any discussion of the SSC Property.

Scott Gilkson, seconded comments about safety of pedestrian walkways, and referred to the Hayward Avenue extension between Colby (Hayward) and Larch. He commented on the deterioration and lack of lighting. Walkways need to be safe and there needs to be a standard for the types of provisions made for public walkways.

Jack Allen, 700 Block of Colby Avenue, reiterated the importance of a walkway to provide access from the neighborhood to the hiker/biker trail. He agreed with comments about the Hayward Avenue extension. Residents have not been given the access that we were promised. He remarked about child safety concerns, and urged that the access issue be addressed in the plan.

Catherine Tunis, representing the Committee on the Environment, said that she has made extensive comments in the past. She referred to Ms. Ludlow's comments, noting that "sewerage" is a word. She suggested that one of the recommended statements be worded as a declaratory statement rather than a question. She asked for inclusion of references to the City's Tree Ordinance, Open Space, Global Warming Action Plan and Vacant Properties Action Team statement.

Jane Holmes, President of Pine Crest Association, stated that the neighborhood is pleased with the inclusion of support for a neighborhood playground, the preservation of south park, and the change that would support neighborhood wishes and recommendations. She opposed the imposition of the C3 zoning on the Sligo Mill Road property, and provided further reasons for opposing the zoning change (e.g., preservation of vacant lands; whether the proposed buffer is adequate; safety concerns; what is low impact commercial zoning--since proposed develop is significantly large?). She urged the Council to support the neighborhood by opposing the C3

zoning.

Ms. Tunis remembered a second point—the City’s Open Space areas which have been recently purchased are still not reflected on the maps. She asked that the maps be updated.

Ms. Ludlow explained the designation of open lands on the maps and why it is difficult to distinguish these areas when people look at the zoning maps.

Benjamin Onyeneke, Maple Avenue, supported the resolution, and asked for more information about the upcoming public hearing.

Ms. Ludlow responded that the public hearing is before the Planning Board on Thursday, September 23 at 7:30p.m. Persons wishing to speak need to call to sign up.

Mr. Onyeneke commented on the importance of trails for hikers/bikers and accessibility for handicap persons. The plan needs to address the elimination of “blockages” along public rights-of-way. He supported a “fly zone” for helicopters to be included, and expressed support for emergency services.

Terry Seamens, member of Master Plan Advisory Group, said that in regards to the Sligo Mill Road property, it is obvious that there are two sides to the issue (park lands and undeveloped property, and the commercial interests). There is a great need for commercial development in the City. The property abuts New Hampshire Avenue, and as far as the natural make-up goes, it is severely eroded (trees are dying and it is overrun with vines). However, with that said, the City does not have a lot of vacant property and needs to take into consideration this type of resource. It is a large enough property to be viewed as more than one zoning area. Mr. Seamens encouraged protection of the back portion of the property, and suggested that the Council look at the large property, by breaking it up into a couple of pieces. The City then needs to look at something to restore the nature on the back side of the property.

Byrne Kelly, commented on the Poplar Mills Towns. There are several properties in question for the C3 overlay zone. He commented on the proposed development of the storage facility and the lighting and operation hours. He referred to the proposed resolution, and asked for a definition/description of the proposed analysis in light of the budget constraints of this year’s budget. Mr. Kelly described some of the developments of Harvey Maisel as being very fine work, and said that he does not think that Mr. Maisel is being very well represented. Mr. Kelly noted that Mr. Maisel has indicated that he is willing to make a contribution to the needed funds for renovations to Spring Park, and asked whether the Council is being fiscally responsible in consideration of this zoning proposal.

Ellen Ensel thanked Councilmember Elrich and Ms. Ludlow for putting into the plan the concept that Flower Avenue would eventually perhaps not be a state highway. This is a great idea. Is there some type of timetable for state highway repairs to Flower Avenue?

Ms. Ludlow responded that this is a good question and needs to be investigated with state highway. Right now, the State Highway Administration does have money available for sidewalk construction and road improvements.

Ms. Porter asked for a response to the question posed by Byrne Kelly regarding the type of study we are seeking.

Ms. Ludlow said that the annexation area will be studied using the same criteria that was used for the rest of the City in completion of the Open Space Plan. We are trying to get an analysis done in a quick fashion. The Open Space plan is to determine which properties have extraordinary environmental merit that we should seek for acquisition or some environmental merit that would indicate that we should pursue conservation easements. She explained the work on the Economic Development analysis that is being conducted.

Ms. Porter noted that there were a number of very good comments that were made and could be incorporated into the staff comment document. She asked whether there were any comments that could not be included in this fashion.

Ms. Ludlow responded in the negative. These are comments that can be included in staff comments.

Mr. Elrich referred to the Flower Avenue reference in the resolution. The strategic plan, in terms of timing to remove the state highway designation, should be removed from the resolution, and the City should push the state to make improvements. The conditional statement raises a level of ambiguity that we do not want in the resolution.

Ms. Porter asked whether Mr. Elrich would like to move the resolution with that change, in addition to the one suggested by Ms. Ludlow regarding the staff comments (i.e., "...and are editorial or advisory in nature").

Moved by Elrich (as amended); seconded by Williams.

Ms. Porter commented that the public comments have not been contrary to the bigger issues that are outlined in the Council comments, and that these comments should be included in the staff notes and transmitted in that way.

Resolution #1999-43 was adopted unanimously (VOTING FOR: Porter, Chavez, Elrich, Hawkins, Stewart, Williams; ABSENT: Rubin).

**RESOLUTION #1999-43
(Attached)**

5. 1st Reading Ordinance re: Pine Avenue Permit Parking. Mr. Williams moved the ordinance as drafted with a change to the last Whereas clause to add clarification about the three spaces adjacent to Crossings. He explained the area being proposed for designation (Seconded by Elrich).

Mr. Williams asked for clarification about how the Police Department assigns business permits in adjacent residential permit parking areas.

Police Lieutenant Rosenthal remarked that the businesses on the east side of Carroll Avenue are assigned to Area #3 and businesses on the west side are assigned to the area on that side of the street.

Mr. Williams asked how many business permits are currently assigned to Area #3.

Lt. Rosenthal responded that there are approximately 12-13 for the entire area.

Mr. Williams confirmed that if businesses were reminded by this process that they could get permits and this were to cause an overburden of business permits being assigned to any one area, the Police Department might reconsider the assignments.

Lt. Rosenthal suggested that the Council might also be involved in revisiting the assignment process, since the purpose of residential permit parking areas is to preserve parking on residential streets for residents.

Mr. Elrich stated that he had hoped that the Council would designate 7 residential spaces and that the remaining spaces would be left open for businesses. He noted that through discussion with Mr. Williams, he realizes that such an approach would be treating this area differently than others, and that he will therefore support this ordinance with the understanding that if there is any problem at all, he would want to revisit the matter.

Ms. Hawkins seconded Mr. Elrich's comments.

Tom Anastasio, 32 Columbia Avenue, remarked that he does not know how we got to this point. At public hearing, Councilmember Elrich raised the suggestion that 7 spaces be made permanent residential spaces. After that, Councilmember Williams met with him and Mr. Gibson, saying that this seemed like a good compromise and worth doing. Mr. Anastasio commented that he does not recall further discussion on this point in Worksession, and asked where the option to restrict the entire block with the exception of the three spaces was discussed. It was not done in public. He recalled the issue of the Parking Waiver for Savory at which time 16 spaces were identified on Pine Avenue. It has been stated that there are 15 spaces in the upper block of Pine Avenue. So, there are 15-16 spaces on Pine Avenue. The Council is suggesting reserving three spaces from consideration, leaving 12 spaces in question. He noted that the rules require presentation of data, and the petitioners have presented data. The data shows that there are between 2-6 spaces vacant

in that area during peak hours. The process is set forth to provide residents the right amount of permit parking. Suddenly, this approach has disappeared. Mr. Anastasio recalled making proposals regarding this area over a year ago and that they were never heard. Again, they are not being considered. Why take away the “unused” spaces from the general public? The Council should give Pine Avenue the number of spaces they need--four spaces. Councilmembers Elrich and Williams think it should be seven. Mr. Anastasio said he would be agreeable to seven. However, the proposal tonight is for 12 spaces. As far as whether the Council can accept this petition as an extension of the Westmoreland area, it has already moved forward on that premise. The petitioned area is being reduced by three spaces (exemption of spaces adjacent to Crossings). Why not do something that is good for Pine Avenue and the rest of the neighborhood? He asked for an explanation about where the other proposal went.

Benjamin Onyeneke, Maple Avenue, commented on the cost of parking permits for residents, and urged that fees be waived since it is a resident’s right to park. He remarked about the need for additional parking spaces.

Debbie Hutton, 6 Pine Avenue, remarked that she does not know where Mr. Anastasio sees 4-6 vacant spaces on Pine at any time during the day, since this has never been her experience. There is a little bit more parking in August, after Labor Day and during September, there are no extra spaces. In terms of the three spaces being limited to business parking, no one wants those spaces in front of their home. Pine Avenue residents are not in favor of Mr. Anastasio’s proposal, and would like to see a future discussion about 2-hour restrictions but not as part of the current discussion. She urged that the Council address the petition as presented.

Mr. Elrich asked whether seven reserved spaces would be sufficient for the residents of Pine Avenue.

Ms. Hutton responded that she does not know, and commented that when she drove down Tulip the other day, she found 15 spaces not being utilized. Other permit areas have empty spaces.

Councilmember Hawkins said that she too is curious about the 7 spaces issue.

Ms. Hutton questioned whether the 7 spaces would be located, and whether the designation of these spaces would prohibit some people from parking in front their homes.

Mr. Elrich stated that it confuses him that the argument goes from no cars on the street for safety, to having spaces available for parking.

Ms. Hutton remarked that having spaces available makes it easier to park.

Ms. Hawkins commented that vehicles move more slowly down a street that is lined with parked cars.

Therese Gibson, Pine Avenue, said that the residents are not looking for absolutely empty streets, but some easing of congestion. We want better sight lines and more spaces available for residents. Regarding the suggestion about employee parking for businesses at the upper end of Pine, there was not support in the neighborhood. She remarked about the sentiment of residents who stand united urging the Council to adopt the ordinance as stated in the packet tonight. In terms of where the geographical description came from for this ordinance, it comes from the petition that was submitted (has been included in notice and on signs). There may have been some feeling that there was a "deal" on this issue, although her husband walked away feeling that there had been no agreement reached. The residents on the street have compromised quite a bit. Ms. Gibson recalled the history of the petition effort. Originally, the request was for the entire street, Crossings included, but the residents have been willing to compromise on this point. We have tried to accommodate other people's wishes. She recognized that Mr. Anastasio disagrees with the request, but noted that his view differs from that of the residents of upper Pine. She urged approval of the ordinance tonight. The Council is concerned about the opposition that was expressed during the public hearing, some of which was in response to a flyer sent around by Mr. Anastasio. She said that she is not surprised by the response, but pointed out the number of people who did not show up in response. Ms. Gibson commented on her effort to get on the neighborhood associations' agendas. There was approval and positive votes for the petition from both associations. She thanked everyone for their attention to this issue, and asked when second reading of the ordinance is scheduled.

Ms. Porter responded that it will be scheduled again in two weeks.

Anne Sergeant, 5 Pine Avenue, expressed concern with the numbers game regarding the parking spaces in this case. This has not been done in other areas. She encouraged the Council to adopt the proposal as it is stated now. In terms of available spaces, it depends on how the cars are parked and the size of the cars. She counted 10-12 spaces. The proposal for having four spaces was put forth as a solution, but not one that was agreed upon by the residents. The residents do not want a total absence of cars, but do want residents to be able to park and want better sight lines. She said that she went away from the public hearing with an odd feeling in response to comments about supporting Metro parking by allowing parking in front of her house, yet the same residents do not want parking to spill over to in front of their homes.

Mr. Williams remarked that there were no closed-door meetings to come up with the numbers for this discussion. It made sense to him that the three spaces in front of Crossings should be exempted. In terms of additional spaces being removed, there was difficulty in deciding what additional spaces to delete and where to shift parking.

Ms. Porter agreed with Mr. Williams' comments, and recalled last week's direction about the exception of the three spaces.

Ms. Stewart thanked all persons who came forward to comment on this issue during the hearing, both those in favor and those opposed. It is important to hear all views.

Councilmember Chavez supported the democratic process.

Ms. Porter commented that this issue is one on which we have had the most opportunity for public comment. The second reading is two weeks from today.

Ordinance #1999-37 was accepted unanimously (VOTING FOR: Porter, Chavez, Elrich, Hawkins, Stewart, Williams; ABSENT: Rubin).

ORDINANCE #1999-37
(Attached)

6. 1st Reading Ordinance re: Housing Code Revisions. Mr. Elrich remarked that he is happy with the form that this is being presented, and that he looks forward to the addition of language regarding the point-of-sale provisions.

Ms. Porter added that this item was discussed at 2-3 Worksessions, and that the Council has been very interested in public comment. She explained the additional provision that is being drafted, and the intention that this language will be incorporated by second reading.

Moved by Elrich; seconded by Hawkins.

Mr. Williams reiterated points about Actual and Reasonable Interest, noting that he will abstain on issues of this kind which get into areas where we do not have a complete understanding. He spoke in favor of all of the other provisions of the ordinance, but said that he will abstain from voting because of the inclusion of the Actual and Reasonable Interest definition.

Terry Seamens, Ritchie Avenue, thanked Councilmember Elrich for the time he has put into reviewing the Housing Code. He has given a dedicated effort to trying to understand the problems and come up with solutions. This is a very good first step in addressing those problems. When he first introduced this issue, he stated that the affordable housing market in the City needs to be fixed. Mr. Seamens supported taking a step towards fixing it.

Lauren Voloshen, Roanoke, thanked Councilmember Elrich, and said that she hopes that in addition to this, some other changes or affirmation of our Housing Code or Rent Control Laws will follow. The first step is important. Along that idea, she said she would like to draw attention to the idea about notice, citing a recent incident when she had a difficult time getting the 48 hour notice enforced. The issue went before COLTA, and COLTA actually ruled against the City's law as written. She asked for the Mayor's help, but was instead told where to find cheap legal advice. As always, she reported the Councilmember Elrich was very helpful in the resolution. He took information to Corporation Counsel Silber and was advised to appeal and then see whether it is appealable. The question has still not been resolved. She urged the Council to approve the ordinance and supported the enforcement of the current law.

Ellen Ensel (President of Between the Creeks Neighborhood Association), thanked the Council, most of all Councilmember Elrich, for its work in crafting the Housing Code revisions. The Association supports these changes and the other initiatives which Councilmember Elrich has supported in the effort to assure safe and affordable housing.

Benjamin Onyeneke, Maple Avenue, remarked about deferred payments and allowances which should be given to tenants to manage payments. Deferred payments should be extended 3-5 months to better assist tenants.

Ms. Hawkins extended congratulations to Councilmember Elrich.

Mr. Elrich said that the Council is glad to have accomplished as much as we were able to. One of the important pieces to this is related to having COLTA expedite resolutions. He noted other provisions of the ordinance. This is a "first" step. He guessed that other issues will come up and that the Council will consider additional changes. Enforcing the Code is essential. It is a broader community issue, not just a landlord/tenant issue.

Ordinance #1999-38 was accepted (VOTING FOR: Porter, Chavez, Elrich, Stewart; ABSENT: Rubin; ABSTAIN: Williams).

**ORDINANCE #1999-38
(Attached)**

8. 2nd Reading Ordinance re: Nominating Caucus and Election Moved by Williams; seconded by Hawkins.

Ordinance #1999-33 was adopted unanimously (VOTING FOR: Porter, Chavez, Elrich, Hawkins, Stewart, Williams; ABSENT: Rubin).

**ORDINANCE #1999-33
(Attached)**

9. Resolution re: Commission on Landlord Tenant Affairs (COLTA). Moved by Hawkins; seconded by Williams.

Benjamin Onyeneke, Maple Avenue, commented on complaints about the commission. What are their qualifications? They are not doing their jobs once appointed to the commission. They should be confronted by citizens at a public meeting.

Resolution #1999-44 was adopted unanimously (VOTING FOR: Porter, Chavez, Hawkins, Stewart, Williams; ABSENT: Elrich, Rubin).

RESOLUTION #1999-44
(Attached)

10. Resolution re: City Administrator's Contract. Ms. Porter explained the resolution. The proposed agreement attached to the resolution is substantially what the Council agreed to. She commented that she has spoken to Corporation Counsel about a couple of very small changes.

Moved by Hawkins; seconded by Chavez.

Ms. Hawkins remarked that Mr. Finn has exceeded expectations.

Benjamin Onyeneke, Maple Avenue, applauded Mr. Finn, adding that he has done a positive job. The Mayor and Council should approve the contract. He is a man of abilities and understanding. Mr. Onyeneke welcomed him.

Terry Seamens, Ritchie Avenue, commented that he is really impressed that Mr. Finn has been working all of this time without a contract. He has done an excellent job. Mr. Seamens fully supported the resolution, and reminded Mr. Finn that his wife and family do live in town now, pointing out that it is midnight.

Resolution #1999-45 was adopted unanimously (VOTING FOR: Porter, Chavez, Hawkins, Stewart, Williams; ABSENT: Elrich, Rubin).

RESOLUTION #1999-45
(Attached)

ADJOURNMENT / CLOSED SESSION

The Council adjourned and convened in Closed Session at 12:02 a.m.

Closed Session 9/13/99 - Moved by Chavez; seconded by Stewart. Council voted unanimously to convene in Closed Session at 12:02 a.m. in the Conference Room. OFFICIALS PRESENT: Porter, Chavez, Hawkins, Stewart, Williams. OFFICIALS ABSENT: Elrich, Rubin. STAFF PRESENT: Finn, Sartoph, Silber. (1) The Council discussed the legal implications of the handgun petition and directed counsel to pursue further discussions. (2) The Council gave the City Administrator direction on a personnel issue. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(i) and (7)).

**Mayoral Proclamation
Celebrating Hispanic Heritage Month**

WHEREAS, the festival "Latinos in the Millennium" will be held on September 11th and 12th, 1999 at the Montgomery County School Grounds, 850 Hungerford Drive, Rockville, MD.; AND


WHEREAS, the City of Takoma Park has long celebrated and recognized the richness of community diversity through spirit-filled events; AND

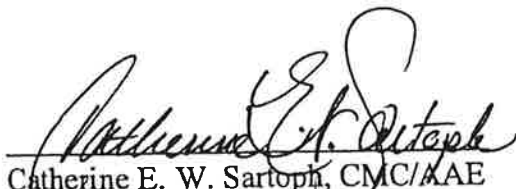
WHEREAS, the City of Takoma Park commends the Hispanic United of Montgomery Inc. on their efforts to develop and coordinate this Hispanic festival.

NOW, THEREFORE, I, KATHRYN H. PORTER, MAYOR OF THE CITY OF TAKOMA PARK, MARYLAND, on behalf of the City Council, staff and residents, do hereby celebrate and recognize the month of September 1999 as Hispanic Heritage Month.

ADOPTED this 11th day of September, 1999.

ATTEST:


Kathryn H. Porter
Mayor


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

RESOLUTION #1999-41

Expressing Appreciation to The Steve Francis Foundation, Inc.

WHEREAS, The Steve Francis Foundation Inc. was established in June 1999 as a non-profit corporation committed to community development and involvement. This commitment is demonstrated by the Foundation's efforts to ensure that educational and recreational programs are available for youth; and

WHEREAS, Steve Francis, founder of The Steve Francis Foundation Inc. and member of the City of Takoma Park community is committed to assisting the City in providing recreational and educational opportunities for its youth; and

WHEREAS, on the morning of Friday, June 18, 1999, as a gesture of good faith and commitment, The Steve Francis Foundation Inc., donated \$10,000.00 to the City of Takoma Park; and

WHEREAS, the funding received from the Foundation is to support specific recreational and educational programs offered through the City's Recreation Department; and

WHEREAS, The Steve Foundation Inc. has pledged to work with the City through the Recreation Department to enhance and expand recreational and educational programs for the residents of the City; and

WHEREAS, The Steve Francis Foundation Inc.'s commitment to the Recreation program and especially to the Takoma Park youth, will help to make a productive difference in their lives and recreational experiences.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of Takoma Park hereby extends to The Steve Francis Foundation Inc. their appreciation and admiration for its valuable contribution and looks forward to a joint partnership in future years.

ADOPTED this 13th day of September, 1999.

ATTEST:

Kathryn H. Porter
Mayor

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

Introduced by: Councilmember Elrich

RESOLUTION #1999-42

ADVISORY BALLOT QUESTIONS REGARDING HANDGUN RESTRICTIONS

WHEREAS, the City Council wishes to gauge the support of Takoma Park's citizens on the questions of (1) whether the State of Maryland law should be changed to permit local governments to regulate and ban the sale, transfer, ownership and possession of handguns, and (2) whether the City should pass legislation to regulate handguns if the State law is changed to permit local governments to legislate regarding handguns.

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

SECTION 1. THE following two advisory referendum questions shall be placed on the ballot of the November 2, 1999, City Election:

For all Takoma Park Voters, the question shall read:

QUESTION 1. SHOULD the State of Maryland law be changed to permit local governments to regulate and ban the sale, transfer, ownership and possession of handguns?

For Against

QUESTION 2. IF the State law is changed to permit local governments to legislate regarding handguns, then the City Council of Takoma Park should pass legislation to prohibit the sale, transfer, ownership and possession of handguns in the City of Takoma Park, Maryland.

For Against


Beneath each of these questions, voting levers shall be labeled "FOR" and "AGAINST".

SECTION 2.

Notice of the advisory referendum question shall be included in the publication of the official ballot which will appear in the Montgomery County Journal during the week preceding the election, and shall also be published in a newspaper of general circulation in the City of Takoma Park during the weeks of October 4 and October 18, 1999.

ADOPTED this 13th day of September, 1999.

ATTEST:


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

9/29/99

Introduced By: Councilmember Elrich

Resolution No. 1999-43

**Resolution Recommending Approval With Conditions
Of the Takoma Park Master Plan**

WHEREAS, the Maryland-National Capital Park and Planning Commission (M-NCPPC) is charged with the preparation of master plans within its jurisdiction, including the City of Takoma Park; AND

WHEREAS, M-NCPPC staff have been working for two years preparing the draft Takoma Park Master Plan, in conjunction with City of Takoma Park staff, the Master Plan Advisory Group (MPAG), and other agencies, organizations and citizens; AND

WHEREAS, the resulting Public Hearing Draft Takoma Park Master Plan contains recommendations that, for the most part, well represent the community's ideals and vision of itself now and for the next twenty years; AND

WHEREAS, it is the responsibility of the Takoma Park City Council to review, comment on, and help implement master plans for the City of Takoma Park; AND

WHEREAS, the City Council may formally object to all or part of a proposed Master Plan and the objection may only be overruled by the vote of a super-majority of both the Planning Board and the County Council when acting on the Master Plan; AND

WHEREAS, the City Council has the following comments and concerns on the Public Hearing Draft Master Plan:

1. The recommendations of Theme One, "Community Preservation, Stability, and Character" are excellent. In particular, we support the proposed adoption of text amendments that permanently grandfather uses that were permitted in Prince George's County but would otherwise become non-conforming or illegal uses on July 1, 2001. We also support the proposed adoption of text amendments allowing apartment buildings in the R-10, R-20 and R-30 zones to be replaced to their current density if they are destroyed, providing parking and building safety requirements can be met.
2. We support most of the recommendations of Theme Two, "Commercial and Institutional Centers," with the following specific comments:
 - The proposed Commercial Revitalization Overlay Zone is a good idea in that it requires site plan review and provides more flexibility in parking requirements. We believe, however, that all

commercially-zoned properties in Takoma Park should be in such a zone. There is little difference between the areas covered and those that are not covered, in terms of desirability of site planning and a reduced need for parking.

In particular, the Old Town and Takoma Junction areas should be included in the overlay zone because their vitality and image is largely what residents and visitors picture when they think of Takoma Park. Lots in these areas often have no space for on-site parking, making intensification of any use impossible without a parking waiver. While appearance can be regulated to some extent by the Historic Review process, other site-planning issues may not be addressed. The exclusion of these business areas from the overlay zone may discourage new investment since business owners may interpret non-inclusion as meaning it will be more difficult to obtain a parking waiver. Adding to the difficulty for Old Town is the C-1 zoning which prohibits private development of a parking lot to help serve the area. It may be helpful to modify the zoning or overlay zone provisions to allow for alternative parking arrangements. In addition, while we wish to reduce the burden on property owners for meeting strict parking requirements on site, we also recognize the community responsibility for finding and developing parking to serve the needs of the commercial areas.

- The most controversial proposal of the draft Master Plan is the proposed rezoning of the area along Sligo Mill Road between Orchard and Poplar Avenues to C-3 Highway Commercial. The City Council and City staff are examining the economic development needs of the area as well as evaluating the area using the City's open space preservation criteria. We will be transmitting our comments as soon as possible for discussion during the Planning Board's worksessions. The current zoning of the area is RT-8 townhouse zoning. That zone should remain the sole zone for the area unless and until the results of our analyses recommend otherwise.
- The smaller commercial areas of Takoma Park are zoned a hodge-podge of C1 and C2 zoning. The appropriateness of the zoning needs closer, case-by-case attention. As we identified, C1 zoning constrains the development of a needed parking lot in Old Town. C2 zoning allows for more intensive uses, but those uses may not be onerous to the community given the small size of most of the commercial lots. City staff should work with M-NCPPC staff in re-evaluating the application of these zones and should make recommendations during the worksession discussions.

3. The recommendations of Theme Three, "Community Facilities, Parks, and Environmental Resources," are excellent. We strongly support the acquisition and development by M-NCPPC of a neighborhood playground in the Pine Crest neighborhood. We will need to do further research regarding the proposal that the City purchase the lots at Cockerille and Circle Avenue for open space preservation.

4. The recommendations of Theme Four, "Neighborhood-Friendly Circulation Systems," are very good for the most part. However, we have the following specific comments:

- We must oppose the blanket recommendations for acquisition or easements to meet the "minimum right-of-way" of Major Highways, Arterials and Primary Roadways in Takoma Park, as shown in Table 6. Stronger language should be put in the Master Plan balancing transportation needs with community preservation, on a case-by-case basis. Acquisitions and easements to accommodate pedestrian, bicycle, vehicular, and aesthetic needs should be pursued to those widths that are only minimally necessary to gain important safety and aesthetic benefits.

Philadelphia Avenue, Ethan Allen Avenue, Flower Avenue, Carroll Avenue, Fenton Street/Takoma Avenue, Piney Branch Road, Garland Avenue, Maple Avenue, and Maplewood Avenue all have long sections of right-of-way that is much less than the Minimum Right-of-way identified in Table 6. All of these routes are densely built and unlikely to be widened to the extent cited in Table 6 without significant negative community impacts.

For example, the existing right-of-way on Carroll Avenue between Old Town and Takoma Junction, for example, is 40 feet wide. The distance between several of the homes in this section of the Takoma Park Historic District is only 85 feet. Right-of-way acquisition to 80 feet, as recommended, would be detrimental to the neighborhood no matter how nicely it was designed. Regional transportation needs are not shown to be so great on this route as to require this loss to the community. Minimal widening of right-of-way in this area, however, would allow for a wider sidewalk with brick edging like that found in Old Town. This would yield important safety and aesthetic improvements with little negative impact. This is the kind of case-by-case right-of-way improvement that should be recommended.

- Increased emphasis should be put in the Master Plan on encouraging mass transit development in the area. A surface rail transit line between Silver Spring and College Park along University Boulevard should be strongly encouraged as part of a regional "Purple Line" or similar system. General expansion of bus and other mass transit systems should also be encouraged. Good bus service along New Hampshire Avenue between White Oak and Fort Totten could serve the new Food and Drug Administration site as well as the Takoma Langley and Maryland Gateway areas. Neighborhood bus service to the Takoma Metro through the eastern side of Takoma Park should be expanded and should not be restricted to weekday service only.
- Many of the "off-road" bike routes discussed in this plan are actually wide sidewalks to be shared with pedestrians along a street. Neither bike riders nor pedestrians find this combination desirable. Where possible, bike routes should be on-road or on segregated bike paths. Flexibility in designing bike and pedestrian routes is necessary, recognizing the need for consistency along routes so as to minimize confusion for route users.
- Mississippi Avenue is designated as a major pedestrian route connecting downtown Silver Spring with the Sligo Creek Hiker Biker Trail. However, the Master Plan states that no sidewalk need be built along this road but that more traffic control devices should be installed to allow vehicles and pedestrians to more safely share the road. If Mississippi Avenue is maintained as a major pedestrian route, language should be added to the plan to encourage the development of a sidewalk.
- A recommendation should also be made to install a sidewalk along Sligo Creek Parkway between Cherry and Carroll Avenues to allow for residents and others to have safe access to the Sligo Creek Trail. Access to the trail near Aspen Avenue is very dangerous for residents of Cherry and Colby and for pedestrians coming from Carroll Avenue.
- Flower Avenue between Piney Branch Road and Carroll Avenue should not be a State Highway. The route serves a local population and has a narrow right-of-way. Local control of the road would allow for greater flexibility in the installation of traffic control devices in this neighborhood.

5. Other comments, recommendations and corrections by City staff are attached and are editorial or advisory in nature.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND, THAT the City Council recommends the Planning Board approve the Public Hearing Draft Takoma Park Master Plan as the Final Draft Master Plan provided the following conditions are met:

- 1) that the areas of concern identified in this resolution are addressed to the satisfaction of the Takoma Park City Council, and
- 2) that the Planning Board not change the RT-8 townhouse zoning in the Sligo Mill Road area unless the City Council makes a recommendation to do so.

ADOPTED THIS 13TH DAY OF SEPTEMBER, 1999.

ATTEST:



Catherine E. W. Sartoph, CMCAAE
City Clerk

CITY STAFF NOTES

PUBLIC HEARING DRAFT, TAKOMA PARK MASTER PLAN

Page	Comment
vi	2 nd Para., 2 nd sentence - "...Rural Open Space) and locally adopted plans and policies (such as Takoma Park's Transportation Plan, Open Space Plan, Tree Ordinance, and sustainable development guidelines), they should be..."
4	Add symbol for Takoma Metro to map
6	Apply CROZ to all commercial zones (not just New Hampshire Avenue)
6	Further discussion needed on Sligo Mill Road zoning, as per City Council Resolution
8	2 nd bullet: "...along area roadways should combine to create..."
8	3 rd bullet: we frequently do not have room for "wide" sidewalks
9	We would prefer all commercial areas to have CROZ overlay; may wish to make minor zoning changes in Old Town, Takoma Junction, Sligo Mill Road, and Flower/Piney areas
13	The Smart Growth Box would make more sense if lower on the page. In "Why use Smart Growth?" paragraph, is "sewerage" a word? Rewrite paragraph on "How can it work in Silver Spring/Takoma Park" so that tenses are correct.
14	2 nd Para. "...with discussions between local and state agencies..."
15	4 th line - give Map #
15	Add a map showing Takoma Park with old PG line, areas annexed in 1995 and coverages of the old Master Plans.
18	Incorporate City Council discussions/actions, including possibility of requiring super-majority vote by Planning Board and County Council.
21	1 st Para., last sentence - "a special quality" of what?
21	2 nd Para, last sentence - are they predominantly 1940's homes? Rewrite "amounts of trees".
21	Rewrite "Most parts of Takoma Park are relatively close to..." "...Sligo Creek and Long Branch Parks..."
23	Rename "(1) Flower Avenue Neighborhoods" to "Neighborhoods with Older Multi-Family Dwellings"

Page	Comment
23	The shading in Prince George's County needs to be slanted, rather than horizontal.
Land Use & Zoning Maps 25-51	<p>1) Will need to work with M-NCPPC staff on commercial zoning proposals in all commercial areas except Takoma-Langley. Besides examination of C-3 proposal, will need to examine appropriateness of C-1 and C-2 zoning in the other areas. (In many cases, C-2 may be a better choice than C-1.)</p> <p>2) Should floating zones be shown differently on the zoning maps? How should zones be shown when there is a choice, such as RT-8 or C-3 for the same area?</p> <p>3) Several parcels that the City has acquired for open space preservation (e.g., Glengarry lots and the Pringle property) should be shown as parkland rather than as vacant property.</p> <p>4) Montgomery County should devise a new zone for parkland. Using R-60, RE-2 or other residential zones for parkland implies that the vision for park property is residential development.</p>
52	2 nd bullet - May not need to just specify Pine Crest and Circle Woods.
52	4 th bullet - "apartment buildings by responsible owners, possibly including County government..."
52	Large middle para., 2 nd to last sentence - why call out "including those in downtown Silver Spring"?
52	Next para. - The sentence, "Crime is also a serious concern to many residents and businesses." should not be in the paragraph on diversity.
53	1 st bullet - Mentioning University Boulevard here is confusing. Perhaps change "New Hampshire Avenue" to "Major Highways" then state that this would apply more to New Hampshire Avenue than University Boulevard because "the portion in Takoma Park..."
53	Last bullet - The City also encourages walking, biking, transit use, telecommuting and flexible work schedules.
54	See first note from page 23. It's fine to discuss the importance of Flower Avenue.
55	Map doesn't show R-10, R-20 or R-30 zoned property in area formerly in Prince George's County.
57	2 nd bullet, #3, add "...provided there would be no more units than when the event occurred."

Page	Comment
57	2 nd bullet, #4 - delete "prior to 1949."
58	The City does not cross three government jurisdictions - is this a reference to the historic development of Takoma Park or the City's location at the intersection of two counties and Washington DC?
59	2 nd bullet - please explain/elaborate
59	3 rd bullet - The Carroll Avenue bridge should be specifically mentioned as worthy of historic assessment.
60	It might be helpful to have a box describing what is meant by "public use space."
60	Should consider language allowing the first residentially zoned lot on Flower Avenue in from Piney Branch to be redeveloped as a parking lot to serve adjacent business if lot becomes available.
61	Put Takoma Metro on map.
61	Under Municipal Center - explain "integrated paths uses"
61	Why are the Ethan Allen Avenue Gateway and Maryland Gateway labeled as "highway commercial" and Takoma-Langley is not? Perhaps phrase should not be used at all.
61	What is plan for the Merrimac Center and the other "centers" with no description?
62	2 nd Para., 1 st sentence - "...to the University of Maryland area in Prince George's County."
62	CROZ should be in all commercial areas - especially Takoma Old Town and Takoma Junction.
62	last bullet - include New Hampshire Avenue.
63	1 st Para. under Takoma Old Town, 2 nd sentence - "The strengths of the area include the location near the Takoma Metro and planned Metro Branch Trail... "
63	1 st bullet - rewrite to read "Support the coordinated marketing of businesses to assist in revitalization of the area. Possible themes include the international character of the area, related products, etc.
63	Need to allow for development of a privately-owned parking lot in Old Town - is prohibited by the C-1 zoning.
63	2 nd bullet under recommendations, 2 nd Para., rewrite 2 nd and 3 rd sentences to "Since 1974, the area has established... The vision for the area around the Takoma Metro is for lower density commercial and residential development, using its historic past as a theme." Eliminate the last sentence.

Page	Comment
63	Apply CROZ to Takoma Old Town.
64	The label "Takoma Park, DC" is erroneous. The DC historic district is called "Takoma Park" but the neighborhood is generally called "Takoma".
65	2 nd Para. under Takoma Junction - there are several businesses that serve a market larger than the neighborhood.
65	Apply CROZ to Takoma Junction.
65	Last Para. - "...Piney Branch Elementary School and County indoor pool, ..." and "Takoma-Piney Branch Local Park, the City of Takoma Park Heffner Park, Takoma Park Elementary School and the New School... "
67	References to the possible "recreation" center would be more accurately labeled a "community" center.
67	Last sentence under first Recommendations section - "...There may be interest in providing more neighborhood shops..."
67	Does the NROZ give the same waiver provisions as the CROZ?
68	Elaborate on how a parking district would work at Flower Village and how it will help the Takoma Park quadrant.
68	First Para. under Takoma/Langley Crossroads "...extending from Piney Branch Road to past Riggs Road" or to Adelphi.
68	Last Para. - name is "Hampshire/Langley Shopping Center"
69	In lower right hand corner of map, part of the City is incorrectly labeled as "Prince George's County".
70	Is the shopping area at University and Carroll envisioned to be part of the Takoma Academy site project?
70	It would be helpful to add "to University of Maryland" at right side of map near University Boulevard and "to Wheaton" at other end of possible rail route.
71	Under Recommendations Section - 3 rd bullet - Capitalize "parks" in 4 th line; last para.- fill in table number.
71	2 nd Para. under Sligo Creek Parkway, 2 nd sentence - "...and the other property is being remodeled into a dentist's office... "
71	Apply to CROZ to this area too.
72 & 73	Sometimes the O-M zoning is listed as R-60/O-M zoning indicating it's a floating zone - should be consistent.

Page	Comment
72	Item 1 - "...plus the Spanish Catholic Center."
74	Not sure that "highway commercial" is the vision for this area, especially vis-a-vis Takoma/Langley.
74	Third line under Ethan Allen Avenue - "...traffic, and generally sufficient parking..."
74	3 rd bullet - the public use space is not shown on Map 39.
74	6 th bullet - delete "based on working with owners to implement property improvement plans over time."
74	Last bullet, #2 - "...gateway enhancements for Montgomery..."
76	Item #6 - do <u>all</u> of these properties require special exceptions? Why?
77	1 st Para., last sentence - "...July 1, 2001 sunset provisions..."
77	Why is the Maryland Gateway a "highway commercial" area?
79	2 nd bullet - The public space is not on Map 39.
79	5 th bullet - delete "...based on working with owners to implement property improvement plans over time."
79	3 rd Para. - what types of uses are "low intensity commercial uses (in the C-3 Zone)" and how are they possibly "more marketable"?
80	#7 - is 75 foot wooded buffer the appropriate distance? Errors in #2 Recommended Zoning as general offices not permitted in C-3.
80	#8 - Why is a new building or a parking lot recommended at this site? Is not an O-M zone now; can RT-8 be either a base or floating zone?
80 & 81	#9 - Name is "Pop's N Son".
82	2 nd bullet - "Support expansion within the area identified in the Montgomery College Master Plan... " (or use other official name).
83	Correct name is " Jesup Blair Park".
84	2 nd Para. under Community Facilities, last sentence - "Potentially the City and community could create..."
85	Add Takoma Metro to map.
85	#4 - " Proposed Neighborhood Park"
86	A number of changes are needed to Map 40. See attached photocopy.

Page	Comment
87	It may be appropriate to mention that the Takoma Academy site is not within the Takoma Park City limits.
87	1 st Para. - correct names are Sligo Adventist School and Potomac Adventist Book and Health Food Store. Add "Other nonprofit agencies may wish to share use of the facilities."
87	3 rd bullet - "...Maple Avenue Civic Street" "A new city community center... "
87	5 th bullet - "... the Spanish Catholic Center... "
89	1 st Para. - We should also be working with Prince George's County and the District of Columbia to share and develop new recreation facilities to serve the area.
89	2 nd Para. - Provide more explanation of the open space for public use concept.
89	1 st Para. under "Stream Valley Parks" - all properties are now in public ownership along a trail route. One of them is owned by the City and may be transferred to M-NCPPC. Additional purchases may be recommended to better protect the stream.
89	2 nd bullet under Recommendations - Please provide a copy of the Study to Takoma Park for review.
90	4 th bullet - "...should add facilities... "
91	1 st Para. under City Parks - "...for future open space acquisition and for voluntary conservation easements. "
91	2 nd bullet under Recommendations - the City will need to evaluate this. Perhaps M-NCPPC should buy it.
91	2 nd Para. under Environmental Resources - Infill development could cause additional adverse environmental impact. Move site plan review requirements should be adopted to ensure redevelopment improves the quality of the environment.
94	Change third legend item to show only one tree picture and change title to "Diversity of street trees needed," or make other changes to clarify map.
98	1 st Para. - "...The Plan recommends the installation of the Metropolitan Branch Trail... "
99	Add the Takoma Metro to map. Is the "Transit Station" on Carroll Avenue supposed to be at the Metro? Should a proposed Transit Station be indicated at Takoma-Langley where a bus transit station is being developed? Clarify the symbols for "Major Pedestrian Routes and Transit Routes". Remove the "City of Takoma Park" label from New Hampshire Avenue.

Page	Comment
100	1 st bullet under Recommendations - The City supports the reconstruction of Piney Branch Road as a three-lane section. On item 2, given proposed changes at the Municipal Center, it is too early to know if this recommendation is needed or appropriate.
102	3 rd bullet on page - "...to an Arterial for the section between University..."
102	1 st Para. under Pedestrian System - "The Plan recommends that existing conditions be considered..."
104	See attached photocopy for changes/questions.
105	Changes need to be made based on upcoming work with community. Additional crossings are needed near Takoma Langley. Philadelphia Avenue should be shown as a Major Neighborhood Route. Maple Avenue might be a good Major Sidewalks and Trail route.
106	2 nd bullet - We support the acquisition of the 150-foot standard right-of-way width along University. Minor exceptions could be made when balancing transit need with community impact.
106	Add a recommendation to improve crossings of University Boulevard - especially at new bus transit center.
107	In landscape plans incorporate designs to handle stormwater in innovative ways (wetland areas in the medians, etc.) use of native plants, etc.
108	4 th bullet, item 3 - add Kirklynn Ave.
108	1 st bullet under Piney Branch Road, #1 - We oppose the combined pedestrian and bike path concept; on-street bicycle lanes should be provided. There may be some exceptions in areas of steep hills and narrow rights-of-way. We strongly support the statement on flexible design.
109	Remove the combined pedestrian and bike path concept and build in on-street bike lanes.
110	1 st bullet, #2 - the four-lane section may only be needed from Flower Avenue to New Hampshire Avenue.
110	3 rd bullet - there is no existing tree panel in Old Town to be extended. Acquisition of additional right-of-way will be needed, but should be only a few feet.
110	1 st bullet under Flower Avenue Recommendations. While it might be appropriate to widen the sidewalk by 1-2 feet, installation of a grass panel on the west side is much less important than installation of a safe sidewalk on the east side. Given the narrow right-of-way, perhaps this recommendation should be removed.

Page	Comment
110	1 st bullet under Maple Ave. recommendations, last sentence - "Traffic calming features and bike lanes should also be considered."
111	The streetscape cross section should include possible bike lanes.
111	Is this streetscape concept for Carroll Avenue also?
112	Change title to "Countywide Trails and Bikeways "
112	Re: Mississippi Avenue - if this is to be a major pedestrian route, a sidewalk should be proposed, not just traffic calming measures.
113	As with pedestrian map, changes must be made after consultation with the community. Piney Branch Road, and Carroll Avenue should not be "off-road" bikeways.
114	4 th bullet - Make clear, if true, that Long Branch Trail is not to be paved. The community does not want it to be a paved trail.
114	1 st bullet under Metro Branch Trail - "...continuous off-road trail (if possible) for pedestrians..."
114	Para. following 1 st bullet - "...and a double row of trees, when possible ..." add at end: "Given difficulty of fitting the trail into existing development, emphasize trail continuity by signage."
114	2 nd bullet under the Metro Branch Trail - Recognize the need to protect the historic residential neighborhood when designing the Trail on Takoma Avenue between Buffalo and Piney Branch Road.
116	On-street parking on one side is not as necessary as other elements. The pedestrian route may need to be on other side of the roadway given right-of-way limitations.
119	Add New Hampshire and Eastern Avenues Metrobus routes.
124	It would be nice if the implementation plan were part of the plan to be discussed at the Public Hearing.
127	Under Municipal Annexation, delete first sentence, then start the next sentence with " Municipalities ..." In the 4 th sentence, add "with planning and zoning powers" after "municipalities."
128	2 nd sentence under Right-of-Way - " They are shown ..."

**APPENDIX D: SILVER SPRING/TAKOMA PARK TRANSPORTATION
AND CIRCULATION REPORT**

Page	Comment
19	Why isn't the Capital Crescent/Metropolitan Branch Trail listed as part of the Transit Center?

Introduced by: Councilmember Hawkins

RESOLUTION #1999-44

**REAPPOINTMENTS TO THE
COMMISSION ON LANDLORD-TENANT AFFAIRS (COLTA)**

WHEREAS, Section 6-89 through 6-93 of the City of Takoma Park Housing Article (Takoma Park Code, 1972, as amended) sets forth the provisions for the establishment and duties of the Commission on Landlord-Tenant Affairs (COLTA); **AND**

WHEREAS, COLTA consists of twelve members, all Takoma Park residents; **AND**

WHEREAS, currently, there are eleven members (two commissioners with terms that expired on June 30, 1999) and one vacancy; **AND**

WHEREAS, there are no pending applications to fill the vacancy; **AND**

WHEREAS, both commissioners with expired terms have expressed interest in reappointment and were interviewed by the Council on September 7, 1999.

NOW, THEREFORE, BE IT RESOLVED THAT the following persons are hereby reappointed, effective immediately, to serve on the Commission on Landlord-Tenant Affairs:

Name/Address:	Term Expires:
Jill Kennedy 6608 Cockerille Avenue	6/30/02
Mary Stover 504 Lincoln Avenue	6/30/02

ADOPTED this 13th day of September, 1999.

ATTEST:

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

Introduced by: Councilmember Hawkins

Resolution Date: September 13, 1999

RESOLUTION NO. 1999-45

**(Resolution Approving Employment Agreement between the
City of Takoma Park and Richard M. Finn, as City Administrator,
and Authorizing the Mayor to Execute Such Agreement)**

WHEREAS, the Mayor, Kathy Porter, on behalf of the City Council, on or about December 18, 1998, offered to employ Richard M. Finn as City Administrator and agreed to certain compensation and benefits for Mr. Finn; and

WHEREAS, Richard M. Finn accepted the City's offer of employment and he has been serving as City Administrator of the City of Takoma Park since January 11, 1999; and

WHEREAS, the City of Takoma Park now wishes to enter into a written five-year employment agreement (based on previous agreements) with Richard M. Finn providing for Mr. Finn to be the City Administrator of the City of Takoma Park, Maryland.

NOW, THEREFORE, BE IT RESOLVED THAT the Council of the City of Takoma Park, Maryland, hereby approves the Employment Agreement between the City and Richard M. Finn for Mr. Finn's employment as City Administrator of the City of Takoma Park (the Employment Agreement to be in substantially the form of the agreement attached to this Resolution), and authorizes the Mayor to execute such Employment Agreement on behalf of the City of Takoma Park, Maryland.

THIS RESOLUTION IS ADOPTED THIS 13TH DAY OF SEPTEMBER, 1999.

THIS AGREEMENT is made and entered into this _____ day of _____ 1999, and effective January 11, 1999, by and between the City of Takoma Park, Maryland, a municipal corporation, hereinafter called "Employer", and Richard M. Finn, hereinafter called "Employee".

Section 1. Duties

Employer hereby agrees to employ Richard M. Finn as City Administrator of Employer to perform the functions and duties specified in the City Charter and City Code of the City of Takoma Park, Maryland and to perform other legally permissible and proper duties and functions as the City Council of Takoma Park [hereinafter called the "Council"] shall from time to time assign.

Section 2. Term

A. (1) The term of the Agreement is for five (5) years beginning January 11, 1999, and ending January 10, 2004. Employee agrees to remain in the exclusive employ of Employer until January 11, 2004, and neither to accept other employment nor to become employed by any other employer until said termination date, unless termination date is affected as hereinafter provided.

(2) The term "employed" shall not be construed to include occasional teaching, writing or consulting performed on Employee's time off. The Employee agrees to notify the Mayor of such commitments, in advance.

B. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of the Council to terminate the services of Employee at any time, subject only to the provisions set forth in section 3, paragraphs B and C, of this agreement.

C. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of the Employee to resign at any time from his position with Employer, subject only to the provision set forth in section 3, paragraph D, of this agreement.

D. In the event written notice is not given by either party to this agreement to the other 6 months prior to the termination date as above provided, this agreement shall be automatically extended on the same terms and conditions as herein provided for an additional period of one year. Said agreement shall continue thereafter for one year periods unless either party gives 6 months written notice to the other party that the party does not wish to extend this agreement for an additional one year term.

E. This agreement may be extended during the initial five (5) years period or any extensions by the mutual consent of the parties for an additional period, the duration to be jointly determined by the parties.

Section 3. Suspension, Termination & Severance Pay

A. If the Employee has been criminally charged or it is alleged that the Employee has engaged in conduct detrimental to the City, the Council may, by majority vote, suspend the Employee with full pay and benefits, pending prompt investigation and resolution, if it finds that continuation in his office pending the determination of these charges would compromise the public trust.

B. The Employee serves at the pleasure of the Council. In the event Employee is terminated by the Council before expiration of the aforesaid term of employment and during such time that Employee is willing and able to perform his duties under this agreement, then in that event Employer will give Employee six months notice of that decision before its effective date, or at Council's sole discretion, may pay Employee a lump sum cash payment equal to six (6) months base salary and continuation of all benefits as established in Section 5, Paragraph A, and sections 8, 9, 10, and 11(B); provided, however, that in the event Employee is terminated because of his conviction of any illegal act or a determination of conduct detrimental to the City, then, in that event, Employer shall have no obligation to extend the six months notice or to pay the severance sum designated in this paragraph. Prior to any Council decision to terminate Employee pursuant to this paragraph, Employee will receive notice and an opportunity to be heard.

C. In the event Employer at any time during the term of this agreement reduces the salary or other financial benefits of Employee in a greater percentage than an applicable across-the-board reduction for all employees of Employer, or in the event Employer refuses, following written notice, to comply with any other provision benefitting Employee herein, then, in that event, Employee may, at his option, be deemed to be "terminated" at the date of such reduction or such refusal to comply within the meaning and context of the severance pay provision of paragraph B of this section.

D. (1) In the event that the Employee voluntarily resigns his position with the Employer during the first four years of this Agreement, then the Employee shall give the Employer six months notice in advance. During the fifth year of the Agreement if the Employee voluntarily resigns his employment, he shall provide the Employer with as much advanced notice as possible with a 60 calendar day notice being the minimum amount of said notice.

(2) Both parties by mutual agreement may establish a different notice requirement for the Employee.

Section 4. Disability

If Employee is permanently disabled or is otherwise unable to perform his duties because of sickness accident, injury, mental incapacity or health for a period of four successive

weeks beyond any accrued sick leave, employer shall have the option to terminate this agreement, subject to the severance pay requirements of Section 3, paragraph B. Employee shall also be compensated for any accrued vacation, holidays, and other accrued benefits.

Section 5. Salary

A. Employer agrees to pay Employee for or his services rendered pursuant hereto an annual base salary of \$78,000, payable at the same time as other City employees are paid.

B. Employer agrees to increase said base salary and/or other benefits of Employee in such amounts and to such extent as the Council may determine that it is desirable to do so on the basis of performance reviews of Employee.

Section 6. Performance Evaluation

A. The Council shall review and evaluate the performance of the Employee after his first six months of employment and at least once annually thereafter. The Council shall provide an adequate opportunity for the Employee to discuss his evaluation with the Council.

B. The performance evaluation shall be based on criteria developed by the Council in consultation with the Employee. All performance reviews and items pertaining to the performance of the Employee are to be conducted in Executive Session as provided by State Law. In addition, all discussion pertaining to the Employees' performance of his job duties shall be done in Executive Sessions.

C. Annually, and within 90 days of signing this agreement, the Council, in consultation with the Employee, shall define such goals and performance objectives which the Council determines necessary for the proper operation of the City and in the attainment of the Council's policy objectives.

D. Employer will consider a performance pay increase for the Employee of between 1% and 3% at the end of six months based on his performance evaluation and the City Council's discretion.

Section 7. Outside Activities

Employee shall not spend more than 10 hours per week in teaching, or other non-Employer related business as defined in Section 2, paragraph A.2, without the prior approval of the Council.

Section 8. Vacation and Sick Leave

- A. Employee shall be entitled to accrue sick leave at the same rate as other general employees of Employer as provided for in the City Code.
- B. Employee shall accrue vacation leave at a rate of 3 weeks per year, and shall be eligible to take the accrued leave after he has been employed one year. However, Employee may use 5 days of vacation leave after serving 6 months.
- C. Employer agrees to advance sick leave, if requested, to the full 15 days for the first year.
- D. Subject to the benefits already addressed in this section or elsewhere in this Agreement, the City Administrator shall also be provided with any benefits that are provided by the City for department heads of the City.

Section 9. Disability, Health and Life Insurance

- A. Employer agrees to put into force and to make required payments for Employee for insurance policies for life, accidental death and disability, comparable to policies carried by the City of Takoma Park for other general employees.
- B. Employer agrees to provide hospitalization, surgical and comprehensive medical, dental, and vision insurance for Employee and his dependents, if any, and to pay the premiums thereon at least equal to that which is provided department heads of Employer.
- C. Since the Employee shall not participate in the Maryland State Retirement System, the Employer agrees to contribute up to \$350/year toward the premium for disability insurance through ICMA.

Section 10. Retirement

- A. Employer will contribute six percent (6%) pension contribution into the ICMA deferred compensation program.
- B. Employer will place \$5,000 annually into an ICMA 401a plan with the following vesting schedule: 20% after the completion of one year employment; 40% after the completion of 2 years of employment; 60% after the completion of 3 years of employment; 80% after the completion of 4 years of employment; 100% after the completion of 5 years of employment. Employee will be deemed to have completed 5 years of employment if his employment is terminated involuntarily without cause at any time during this contract term.

Section 11. Moving and Housing Expenses

A. Employee will reimburse Employee for his bona fide moving expenses. Employee agrees to solicit three bids and to retain the moving services of the lowest bid. Employee will be permitted three days of paid administrative leave to move his family from Ohio to Maryland.

B. In recognition of the significant difference in the cost of housing, the Employer will pay the Employee a housing allowance of \$400/month. Employer will also provide a no-interest forgivable loan of \$4,000 to assist generally in the purchase of a home. The loan would be due if Employee voluntarily resigns before the end of this contract term or he is terminated for cause. The amount due to be repaid would be forgiven by 20% for each completed year of employment. The entire loan shall be forgiven if the Employee is terminated without cause by the Employer.

Section 12. Indemnification

Employer shall defend, save harmless and indemnify Employee up to the limits and pursuant to the scope of its Primary Liability Insurance Policy with The Local Government Insurance Trust against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employer's duties as City Administrator. Pursuant to the insurance parameters above, the Employer will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon.

Section 13. Other Benefits

A. City Vehicle: Employer will provide Employee with the use of a City-owned vehicle to be used by the Employee to conduct City business. The Employee is authorized to use the City vehicle to travel to and from work and his home. In addition, the Employee may use the City vehicle for personal use and such use shall be consistent with the City policy that regulates the use of City vehicles by Sworn Police personnel who reside within the City Corporate limits.

B. Training and conferences: Employer shall pay for Employee to attend the annual ICMA conference and the annual Maryland City Managers' conference.

C. Memberships: Employer shall pay for the Employee to participate in the International City/County Management Association, the Maryland City Managers' Association and one local civic organization such as the Rotary Club.

Section 14. Bonding

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 15. Other Terms and Conditions of Employment

The Council, in consultation with the Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this agreement, the Takoma Park City Charter, Code or any other law.

Section 16. Notices

Notices pursuant to this agreement shall be given as follows:

(1)EMPLOYER: Mayor
City of Takoma Park
7500 Maple Avenue
Takoma Park, MD 20912

(2)EMPLOYEE: Richard Finn
1007 Elm Avenue
Takoma Park, MD 20912

Alternatively, notices required pursuant to this agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission by the U.S. Postal Service.

Section 17. Arbitration

Any differences, claims, or matters in dispute arising between the parties out of this agreement or connected herewith shall be submitted by them to arbitration by the American Arbitration Association or its successor and the determination of the American Arbitration Association or its successor shall be final and absolute. The arbitrator shall be governed by the duly promulgated rules and regulations of the American Arbitration Association or its successor, and the pertinent provisions of the laws of the State of Maryland, relating to arbitration. The decision of the arbitrator may be entered as a judgement in any court of the State of Maryland or elsewhere. The expense of such Arbitration shall be paid by the Employer.

Section 18. General Provisions

The text herein shall constitute the entire agreement between the parties. No waiver or modification of this agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith and no evidence of any waiver or modification shall be offered or received in evidence of any proceeding, arbitration, or litigation between the parties hereto arising out of or affecting this agreement, or the rights or obligations of the parties hereunder, unless such waiver or modification is in writing, duly executed as aforesaid, and the parties further agree that the provisions of this section may not be waived except as herein set forth.

IN WITNESS WHEREOF, the City Council of Takoma Park, Maryland has caused this agreement to be signed and executed in its behalf by the Mayor and duly attested by its City Clerk, and the Employee has signed and executed this agreement, both in duplicate, the day and year first above written.

Kathy Porter
Mayor, City of Takoma Park
State of Maryland

ATTEST:

City Clerk

Richard M. Finn, City Administrator
"Employee"

APPROVED AS TO LEGAL FORM:

Susan Silber
Corporation Counsel

F:\WPDOCS\TAKOMA\CONTRACT\ADMCONT2.WPD

Introduced by: Councilmember Chavez
(Drafted by: C. Sartoph)

1st Reading: 9/7/99
2nd Reading: 9/13/99
Effective: 9/13/99

ORDINANCE #1999-33

1999 TAKOMA PARK CITY ELECTION

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

SECTION 1. THAT the City Clerk shall call a Nominating Caucus of the citizens for the nomination of candidates for Mayor and Councilmembers on Tuesday, September 28, 1999, at 7:30 p.m., in the Council Chambers at the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland; the said Nominating Caucus shall be conducted as follows:

- a. on September 7, 1999, the City Clerk shall select by random drawing, ward numbers one through six to determine the order in which Ward nominations are received; and
- b. nominations for Mayor shall immediately precede all six ward nominations;
AND

SECTION 2. THAT a City Election shall be held at the Municipal Building on Tuesday, November 2, 1999, between the hours of 7:00 a.m. and 8:00 p.m. for the purpose of electing a Mayor and six Councilmembers, as follows:

- a. The Mayor shall be elected at large, and one Councilmember from each ward shall be elected by the voters of that ward only; and
- b. The election shall be conducted by voting machines; and
- c. Absentee voting shall be available as set forth in Chapter 4D (Elections), Article 5 (Absentee Voting) of the Takoma Park Code; AND

SECTION 3. THAT the City Clerk shall arrange with the Supervisors of Elections of Prince George's County for the use of voting machines at the said election:

- a. no fewer than two machines for use by voters of each of the six wards; a minimum of twelve machines; and
- b. machine(s) for use in the event of malfunction.

The City Clerk shall place the names of the candidates nominated for Councilmember at the Nominating Caucus on separate ward voting machines, with each machine displaying the names of candidates for one ward only, and shall place the names of persons nominated for the office of Mayor on all voting machines; all of the names of candidates nominated during the Nominating Caucus shall be so placed, except any

who within three days thereafter may have filed in writing with the City Clerk a declination of candidacy; AND

- SECTION 4. THAT if any person registers as a write-in candidate for Mayor or Councilmember in accordance with Section 704.1 of the City Charter, then the City Clerk shall arrange to have her/his name posted in the appropriate voting booth(s) for the purpose of identifying her/him as a candidate for office; AND
- SECTION 5. THAT the City Clerk shall arrange for a space on the voting machines for write-in votes; AND
- SECTION 6. THAT notice of the Citizens' Meeting/Nominating Caucus and the City Election shall be inserted at least once in the Montgomery County Journal during the two weeks prior to September 28, 1999. In addition, the Clerk shall have inserted in the Montgomery County Journal, during the week preceding the election, a facsimile of the arrangements of the candidates' names and wards which will appear on the voting machines; AND
- SECTION 7. THAT voter authority cards and lists shall be prepared for each ward separately, bearing the names, addresses, and election wards of all eligible voters as certified by the Board of Supervisors of Election for Montgomery County, and supplied to the Judges of Election on election day. The voter registration information for all eligible non-U.S. Citizens (names, addresses, and election wards) who have registered with the City Clerk's office to vote in Takoma Park municipal elections will be incorporated with the respective County/ward lists, and a voter authority card will be prepared for each eligible non-U.S. Citizen voter and interfiled with the respective County voter authority cards, and supplied to the Judges of Election on election day; AND
- SECTION 8. THAT the City Clerk shall recommend to the City Council the names of persons for designation by the Council as Judges of Election on election day; AND
- SECTION 9. THAT the Judges of Election shall meet in the Municipal building as a Board of Election at 7:00 p.m., Wednesday, November 3, 1999, and shall determine and certify the results of the election, as provided in the City Charter; AND
- SECTION 10. THAT the City Council shall meet in Special Session at 7:30 p.m., Wednesday, November 3, 1999, to receive the certification of election from the Judges; AND
- SECTION 11. THAT this Ordinance becomes effective upon adoption.

Adopted this 13th day of September, 1999, by roll call vote as follows:

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

NAY: None

ABSTAIN: None

ABSENT: Rubin

Introduced by: Councilmember Chavez

Single Reading: 9/13/99

ORDINANCE NO. 1999-36

Award of Contract for Spring Park Athletic Field Renovation

WHEREAS, the FY99 SRF Account #0010-7196 identified \$30,000 for the Spring Park Athletic Field Renovation; **AND**

WHEREAS, appropriate solicitation of interest through a formally advertized Request for Proposals resulted in the submission of four (4) responsive and responsible proposals; **AND**

WHEREAS, Alpine Services, Inc. has submitted the lowest bid in the amount of \$28,635; **AND**

WHEREAS, sufficient funds are available to award this contract to the lowest bidder.

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

SECTION 1. **THAT** the City Administrator or designee is authorized to negotiate and enter into a contract with Alpine Services, Inc. for the Spring Park Athletic Field Renovation; **AND**

SECTION 2. **THAT** the low bid received from Alpine Services, Inc. in the amount of \$28,635 (TWENTY EIGHT THOUSAND SIX HUNDRED THIRTY FIVE DOLLARS) be accepted; **AND**

SECTION 3. **THAT** the funds to cover this contract award to Alpine Services, Inc. shall not exceed \$30,000 and shall be charged to SRF Account# 0010-7196.

Adopted this 13th day of September, 1999.

AYE: Porter, Chavez, Hawkins, Rubin, Stewart, Williams
NAY: None
ABSTAIN: None
ABSENT: Elrich

Introduced by: Councilmember Williams
(Drafted by: C. Sartoph)

1st Reading: 9/13/99
2nd Reading:

ORDINANCE #1999-37

DESIGNATION OF PERMIT PARKING AREA FOR THE UPPER BLOCK OF PINE AVENUE A RESIDENTIAL PERMIT PARKING AREA

WHEREAS, pursuant to the provisions of Administrative Regulation No. 99-1 (by authority of City Code Chapter 13, Vehicles and Traffic; Article 7, Stopping and Parking; Section 13-63.1 Parking Permit Areas) residents of the upper block of Pine Avenue have petitioned the Council requesting the designation of a permit parking area on the upper block of Pine Avenue (from the corner of Columbia and Pine to immediately past 17 Pine Avenue, at the corner of Montgomery and Pine); **AND**

WHEREAS, the petition, which was certified by the City Clerk as meeting the required percentage (at least 66%) of all signatures from households in the subject area, included signatures from all seven of the households within the area (i.e., 100%); **AND**

WHEREAS, in addition to the certified petition, the petitioners are required to provide evidence to substantiate at least one factor (other than the desire of the residents in the area, demonstrated by signatures on the petition) being used in the evaluation process; **AND**

WHEREAS, petitioners provided statements expressing concerns about (1) excessive, non-resident daily parking, (2) pedestrian safety, especially for children, and (3) lack of on-street parking for residents; **AND**

WHEREAS, the request was discussed at meetings of WACO and B.F. Gilbert Citizens Associations; **AND**

WHEREAS, after proper notification, the City Council conducted a public hearing on Tuesday, September 7, 1999, to receive citizen comments on the request; **AND**

WHEREAS, in addition to the concerns which had already been expressed by the petitioners, residents provided testimony on the importance of making available parking for Metro commuters to encourage use of public transportation, and for patrons and employees of businesses adjacent to residential areas; **AND**

WHEREAS, in an effort to balance the various interests which could be impacted by the designation of a residential permit parking area in this location, the three spaces immediately adjacent to the Crossings property at the corner of Pine and Columbia have been excluded from the area under consideration.

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

SECTION 1. the upper block of Pine Avenue (from the corner of Columbia and Pine to immediately past 17 Pine Avenue, at the corner of Montgomery and Pine, with the exception of three spaces immediately adjacent to the Crossings property) be designated a permit parking area; **AND**

SECTION 2. this area shall be an extension of existing Permit Parking Area #3 (Westmoreland and Walnut); **AND**

SECTION 3. the City Administrator is hereby directed to implement the directives of this Ordinance at the earliest possible date; **AND**

SECTION 4. This Ordinance shall become effective upon adoption.

ADOPTED this _____ day of September, 1999.

AYE:

NAY:

ABSTAIN:

ABSENT:

Introduced by: Councilmember Elrich
Drafted by: Linda Perlman
Asst. Corporation Counsel
Draft date: September 14, 1999

First Reading: September 13, 1999
Second Reading:
Effective Date:

ORDINANCE NO. 1999-38

(Revisions to the City's Landlord-Tenant and Rent Stabilization Law)

WHEREAS, the Council finds that revisions to the City's landlord-tenant and rent stabilization law are needed to make the law work more effectively for the well-being of tenants, landlords, and the wider Takoma Park community.

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

SECTION ONE. Chapter 6, Housing, of the *Takoma Park Code*, is amended as follows:

CHAPTER 6. HOUSING.

ARTICLE 7. LANDLORD-TENANT RELATIONS.

Sec. 6-79. Definitions.

For the purposes of this Article, the following words and phrases shall have the following meanings:

* * * *

(i) *Defective tenancy* shall mean any condition in a rental facility which constitutes a violation of the terms of the lease, of the Property Maintenance Code (Article 2, Chapter 6, of the *Takoma Park Code*, as amended), or of one (1) or more of the following sections of this Article: Section 6-80, Lease requirements; Section 6-80.1, Lease term requirements; Section 6-80.2, Leasing fees; Section 6-80.3, Rent escalator clauses; Section 6-80.4, Occupancy restrictions; Section 6-81, Obligations of tenants and landlords; Section 6-82, Entry; Section 6-85, Utilities transfer; Section 6-86, Notice to vacate; or Section 6-87, Tenant rights of association.

* * * *

Sec. 6-90.4. Complaints of defective tenancy.

* * * *

(c) Remedies.

(1) Where the Commission finds that a landlord has caused a defective tenancy, the complainant tenant may be entitled to one (1) or more of the following remedies as ordered by the Commission:

(A) An award of damages to be paid by the landlord sustained as a result of the defective tenancy; such damages being determined as the actual damage or loss.

- [1] lights;
- [2] locks;
- [3] remote access systems;
- [4] alarm systems;
- [5] smoke detectors; and
- [6] security devices or measures recommended in writing by the Takoma Park Police Department;

* * * *

(5) *Cost of financing.* The cost of financing a capital improvement shall be the actual and reasonable amount of interest and other charges paid to the lender in connection with a loan taken to finance the capital improvement. The "actual and reasonable amount of interest" shall mean the annual percentage rate (APR) based on compounding interest methods using a constant annual percentage rate and a monthly payment schedule over the amortization period.

SECTION TWO. This Ordinance shall be effective immediately.

Adopted this ____ day of _____, 1999, by roll-call vote as follows:

Aye:

Nay:

Absent:

Abstain:

EXPLANATORY NOTE

~~Additions~~ to the existing language of the *Takoma Park Code* are shown by ~~shading~~.

~~Deletions~~ to the existing language of the *Takoma Park Code* are shown by ~~strikeout~~.

* * * * indicates language of the *Takoma Park Code* which is not reproduced in this Ordinance and which is not being changed.

F:\WPDOCS\TAKOMA\ORDINANC\HSG-CODE.ORD

CITY OF TAKOMA PARK, MARYLAND (FINAL 11/29/99)

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

Tuesday, September 21, 1999

Closed Session 9/13/99 - Moved by Chavez; seconded by Stewart. Council voted unanimously to convene in Closed Session at 12:02 a.m. in the Conference Room. OFFICIALS PRESENT: Porter, Chavez, Hawkins, Stewart, Williams. OFFICIALS ABSENT: Elrich, Rubin. STAFF PRESENT: Finn, Sartoph, Silber. (1) The Council discussed the legal implications of the handgun petition and directed counsel to pursue further discussions. (2) The Council gave the City Administrator direction on a personnel issue. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(i) and (7)).

Closed Session 9/21/99 - Moved by Hawkins; seconded by Stewart. Council voted unanimously to convene in Closed Session at 7:40 a.m. in the Conference Room. OFFICIALS PRESENT: Porter, Hawkins, Rubin, Stewart, Williams. OFFICIALS ABSENT: Chavez, Elrich. STAFF PRESENT: Hobbs, Sartoph, Silber. The Council received legal advice regarding the proposed ballot initiative to ban handguns. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(7)).

OFFICIALS PRESENT:

Mayor Porter

Councilmember Elrich

Councilmember Hawkins

Councilmember Rubin

Councilmember Stewart

Councilmember Williams

Deputy City Administrator Hobbs

City Clerk Sartoph

Corporation Counsel Silber

OFFICIAL ABSENT:

Councilmember Chavez

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

Mayor Porter explained that tonight's meeting includes a Worksession and Special Session, and that the first item on the agenda is to consider a proposal to go into Closed Session to receive

legal advice from Corporation Counsel regarding the Special Session item.

Moved by Hawkins; seconded by Stewart. The Council voted unanimously to convene in Closed Session (ABSENT: Chavez, Elrich).

Ms. Porter announced that the Council would return in approximately 30 minutes from the Closed Session.

SPECIAL SESSION

The Council reconvened in Special Session at 8:10 p.m.

ANNOUNCEMENTS

Councilmember Rubin remarked that the Annual Takoma Folk Festival is this Sunday, September 26th on the grounds of the Municipal Building. He encouraged persons in the audience to come and bring the family. There will be six stages with entertainment--something for everyone--and food for all tastes and crafts for all pockets.

Ms. Porter explained the public hearing that has been scheduled for next week. It deals with the possible expenditure of Local Law Enforcement Block Grant Funds for mobile data terminals. On a different note, she commented that she had received a request from a number of people who want to speak on the handgun issue this evening but who are at a meeting at the school next door. They indicated that they would be here by 8:30 p.m. She said that she does not believe that the Council will have completed its discussion by that time, but will allow their comments upon their arrival.

1. Resolution re: Charter Amendment Petition (Handgun Prohibition).

Ms. Porter recalled last week's briefing from Corporation Counsel who spoke about some very serious legal problems with the petition. Maryland law prohibits the banning of handguns except with provisions regarding minors and in the vicinity of public spaces. Corporation Counsel has indicated that the petition does not fall within legal parameters. The Council, however, in recognition of the work of the petitioners tabled consideration of this item last week to allow attorneys to talk and explore legal defenses over the past week. She noted that Council passed a resolution last week to place two advisory questions on the November ballot, and explained the questions. These questions are not a substitute for the citizens' petition. Ms. Porter said that she will vote in favor of putting the petition language on the ballot, although it is not an easy vote for her since the Council has been advised that by doing so, they will be violating their oath of office. However, she explained that she feels that she has obligations to uphold the City's Charter.

Moved by Rubin; seconded by Williams.

Councilmember Williams agreed with the Mayor. The Council is caught between a rock and hard place (i.e., state law and to uphold the Charter). The Charter is very clear. The Council has to put this question on the ballot. Mr. Williams commented that he does not feel that he is a constitutional lawyer, and that a Judge would be in a much better position to determine that the question should not be put on the ballot. He indicated that he will vote in favor of the resolution.

Councilmember Elrich recalled his statement a week ago that he would vote to put this on the ballot. He agreed with the feeling that the Council is not in the position of acting as a Judge to preempt the community process.

Councilmember Stewart remarked that this amendment has put the Council in a very uncomfortable position--violating the Charter or its oath. She said that she hopes everyone who put forth the petition and the voters who will consider it will think very seriously about the question. She concluded that she too will be voting in favor of the resolution with some serious reservations.

Councilmember Hawkins recalled her comment last week that she would not vote in favor of the resolution because of the legal issues and her professional oath to uphold state law. She noted that she was the one who tabled the issue last week. An interpretation that this is not in violation of state law has been raised. Ms. Hawkins commented that she is not sure if it will survive a challenge in court, but that taking this interpretation into consideration with her responsibility to honor the democratic process and desires of constituents, she will vote in favor of the resolution.

Councilmember Rubin said that a good balance has been achieved, and that he is happy to move ahead with this process. If the measure gets on the ballot, everyone should be urged to vote. If no one votes, all of this process and turmoil would have been in vain.

Mike Cohen expressed opposition to this illegal action of the Council in putting this question on the ballot. This amendment is clearly illegal in the State of Maryland as advised by the Corporation Counsel. He urged the Council to reconsider the vote, and save tax payers dollars in light of expensive litigation to come. He reminded the Council and audience of the City's tight fiscal budget.

John Guernsey thanked the Council for the effort put into this issue. Citizens Against Handguns is willing to participate in continued discussions. Thank you for your positive vote on this resolution.

Benjamin Onyeneke said that it is unconstitutional for the State not to take action in this area, and questioned why Montgomery County is not taking similar action. He urged the council to pass a resolution and forward it to the County calling on the County to take action to effect a change to State law.

Lynn Schider, 311 Tulip Avenue, supported the handgun ban. Standing up to the NRA is something that we should do. As adults and parents, this is something that we should do--means handgun free homes and schools. We need to reel in manufacturers of guns and to put better controls in place, to make sure that our children do not kill each other.

Bodil Maloney, Sycamore Avenue, agreed with the Council taking action on this issue. He commented on an incident where his son saw a group of children in Spring Park with a gun, and when reported, the Police arrived after the children had left. Guns get in the hands of children.

Betsy Taylor, Willow Avenue, thanked the Council, recognizing that a lot of people worked hard on this issue. By adopting this resolution, the Council is saying "yes" to the democratic process, but also to the spirit and community of Takoma Park. It is uplifting to see a town come together after a bit of a struggle. She noted that she has been called by people across the nation over the past week thanking the City for taking this initiative. It is time that we challenge the NRA and gun manufacturers.

Nellie Moxley, Eastern Avenue, confirmed the wording of the question, and said that she does not believe in the wording of this question. It is unconstitutional. The Council should stand fast on this issue. Laws regarding handguns need to be passed on the State and Federal levels. The petitioners and other supporters are actually going to bring crime to the City. The worst thing that the City can do is to take action in support of this resolution. We should fight to keep guns from being concealed. Guns will always be around. Proceeding with this question is going to cost the City a lot of money and unnecessary time, instead of thinking in the right terms--fight against concealment of weapons. "Banning guns" says to people that we are easy prey and sissys. She remarked that she cannot believe that the City is buckling under the pressure of this issue. It is illegal and we all know it.

Jim DiLuigi, expressed admiration for the Council's handling of this issue and for the citizens for what they have done to stand up for something they believe in. However, he said that he does not think that the approach is right and would hope that citizens vote against the question. It should be reconstructed. Perhaps it should say that carrying a loaded weapon is unlawful, and that committing a crime with a weapon carries a certain minimal punishment. He remarked that guns themselves are not the problem.

Marie DeFishe, said that she does not think of herself as a "sissy" even though she supports this measure.

Terry Seamens, Ritchie Avenue, observed that this is an emotional issue. No one likes the handgun violence that we see in America. It makes us think about what is broken in America, especially since we do not see so much violence in other areas around the world. He expressed admiration for the Council's work on this issue. However, it is unfortunate that the Council has been put in this position. Mr. Seamens pointed out the City's financial struggles. If this is an issue that the vast majority of Takoma Park voters support, they should look for a way to

preserve the time of Council and staff and save tax payers' dollars. There are other priorities. However, given the position the Council has been put in, there is no other option for action.

Ms. Porter called for any final remarks on the issue before closing the public comment period. There were no more citizen comments.

Mr. Elrich commented that even if this goes through the court challenges and goes on the books, it will not end the violence. A lot of the violence does not occur from people who start out thinking about violence. It starts when some kid picks up a gun from a law abiding parent. Kids are known to search through a parents things. If the only thing that it stops in the City is to keep one child from using a weapon in the wrong way, then we are better off. However, we need to do more serious things to address how children grow up to become the kinds of people who they are becoming. He referred to earlier remarks about the need for a community center. This is an important discussion. There is a discussion going on at the county level about the living wage. Hope that when all of this is done, people continue to work on the fundamental things that affect the way that people look at each other. He said that he hopes the people here are supportive of other Council actions on social initiatives.

Ms. Porter observed that more people are now in the audience who would like to make public comments on the resolution before the vote.

Hank Prensky, 8818 Maple Avenue, pointed out that he was a former member of the Council. The newspaper coverage on this issue has been troubling. The tremendous cost of a potential law suit has been a focus, as compared to the outlawing of tobacco machines. He remarked about the law suits (by people referred to as "butt" heads) surrounding the cigarette vending machine legislation and the process. Mr. Prensky commented that the City was defended through LGIT. The net cost to the City for a defense was very small or non-existent. If the City chooses to ban handguns, then there would be a very good chance of a law suit. He speculated that LGIT would take over the law suit. It would not necessarily mean that it would cost a lot of tax payers dollars to defend this issue.

Ms. Porter noted that Mr. Prensky missed the legal briefing last week, when the attorney said that these are not necessarily parallel issues and that the City cannot count on LGIT to defend on this issue.

Councilmember Hawkins clarified that the Council is making a decision to allow the language of the petition to go on the ballot. The Council is not making a decision about whether to allow or not to allow handguns in the City. She encouraged voters to come out in November to voice their opinions on this question.

Ms. Porter seconded Ms. Hawkins' remarks.

Mr. Williams remarked that whether this question stays on the ballot or not, there is the other pair

of advisory questions which will appear on the ballot. So, there will be questions on this issue one way or another.

Resolution #1999-46 was adopted unanimously (VOTING FOR: Porter, Elrich, Hawkins, Rubin, Stewart, Williams; ABSENT: Chavez).

**RESOLUTION #1999-46
(Attached)**

WORKSESSION / ADJOURNMENT

The Council moved into Worksession at 8:43 p.m., and later adjourned for the evening at 10:45 p.m.

RESOLUTION NO. 1999 - 46

RESOLUTION SETTING THE DAY AND HOURS FOR A REFERENDUM ON THE PETITION TO AMEND THE CHARTER OF THE CITY OF TAKOMA PARK TO BAN THE SALE, POSSESSION, AND OWNERSHIP OF HANDGUNS

WHEREAS, Section 603 of the Municipal Charter of the City of Takoma Park (hereinafter referred to as "Charter") and Article 23A, Section 14 of the Annotated Code of Maryland provide that amendments to the Charter may be proposed by a petition signed by twenty percent (20%) or more of the persons who are qualified to vote in municipal general elections in the City; and

WHEREAS, a petition to amend the Charter to ban the sale, possession, and ownership of handguns has been submitted to the Council; and

WHEREAS, the City Clerk has verified that this petition was signed by more than twenty percent (20%) or more of the persons who are qualified to vote in municipal general elections in the City; and

WHEREAS, the Council hereby finds that the petition complies with the requirements of Section 603 of the Charter and Article 23A, Section 14 of the Annotated Code of Maryland and, therefore, that the question must be submitted to the voters of the City at either the next regular municipal general election or at a special election.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THAT the following amendment to the Charter, as provided for in the petition presented to the Council, shall be placed on the ballot and submitted to the voters of the City at the regular municipal general election on Tuesday, November 2, 1999, from 7:00 a.m. to 8:00 p.m.:

EFFECTIVE UPON THE PASSAGE OF THIS AMENDMENT, THE CITY OF TAKOMA PARK SHALL PROHIBIT THE SALE, POSSESSION, AND OWNERSHIP OF HANDGUNS WITHIN CITY LIMITS, WITH THE EXCEPTION OF LAW ENFORCEMENT OFFICIALS AND MEMBERS OF THE NATIONAL GUARD. THE CITY COUNCIL SHALL ENACT APPROPRIATE ORDINANCES TO IMPLEMENT THIS PROVISION.

BE IT FURTHER RESOLVED THAT in accordance with Section 603 of the Charter and Article 23A, Section 14 of the Annotated Code of Maryland the City Clerk shall give notice by posting and publication of the submission of the proposed Charter amendment to the voters as follows:

1. For not less than four (4) weeks immediately preceding the November 2, 1999, election, a complete and exact copy of the proposed Charter amendment shall be posted at City Hall;

2. Notice of the election, together with a fair summary of the proposed amendment, shall be published in a newspaper of general circulation in the City of Takoma Park, not less than once in each of the four weeks immediately preceding the November 2, 1999, election; and

3. On the day of the election, a complete and exact copy of the proposed Charter amendment shall be posted at the place for voting.

THIS RESOLUTION IS ADOPTED THIS 21st DAY OF SEPTEMBER, 1999.

F:\WPDOCS\TAKOMAHANDGUN\CHARTER.RES

CITY OF TAKOMA PARK, MARYLAND (DRAFT 11/29/99)

**PRESENTATIONS, INTERVIEWS, PUBLIC HEARING AND REGULAR MEETING
OF THE CITY COUNCIL**

Monday, September 27, 1999

Closed Session 9/21/99 - Moved by Hawkins; seconded by Stewart. Council voted unanimously to convene in Closed Session at 7:40 a.m. in the Conference Room. OFFICIALS PRESENT: Porter, Hawkins, Rubin, Stewart, Williams. OFFICIALS ABSENT: Chavez, Elrich. STAFF PRESENT: Hobbs, Sartoph, Silber. The Council received legal advice regarding the proposed ballot initiative to ban handguns. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(7)).

OFFICIALS PRESENT:

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

Assistant City Administrator Hobbs
City Clerk Sartoph
Assistant Corporation Counsel Perlman
Police Chief Anderson
Systems Administrator Castillo
Executive Director COLTA Lee-Bryant
Housing Services Coordinator Walker
Senior Planner George
Public Works Team Leader Shafer
Code Enforcement Supervisor Sanford

OFFICIAL ABSENT:

Councilmember Hawkins

The City Council convened at 7:48 p.m. in the Council Chambers of the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland.

COUNCIL COMMENTS

Councilmember Williams thanked everyone who turned out for the Walking City Council Meeting in Ward 3 on Sunday. The walk took a little over three hours. Mr. Williams stated that he looks forward to conducting another walk next year.

Councilmember Rubin congratulated Lenore Robinson, Chair of the Folk Festival, and the over 200 people who put on yesterday's Folk Festival. There must have been 10,000 people in attendance. As much as we pride ourselves in making creative decisions in making public policy,

this room was filled yesterday with great musicians and artists, and those who were enjoying the entertainment. The Folk Festival was a great success.

Mayor Porter agreed that the creativity in this room yesterday, exceeds what we bring to it on Monday evenings. She announced the Nominating Caucus which will be held tomorrow evening at 7:30 p.m. in the Council Chambers. For more information, persons should call the City Clerk. There is a Caucus Agenda and rules for participation available this evening. Ms. Porter noted that on Friday, 4:00 p.m. at the Takoma Park Middle School there will be a meeting to discuss safety concerns about students getting to and from the school. She invited parents and other interested parties to attend, recalling the discussion on this matter during citizen comment period a few weeks ago. This meeting will focus on the middle school; however, there will be another meeting for the other parents. She noted this is in response to the letter that she wrote to the School Board a few weeks ago.

PRESENTATIONS

- **Mayor Jack A. Gullo, Jr., President of the Maryland Municipal League (MML).** Ms. Porter introduced "Jack" and invited him to make remarks.

Mr. Gullo thanked the Council for allowing him time to visit the City this evening as it is very important to be allowed to visit member municipalities. He explained that he will be visiting 63 municipalities over the next few months, to say thank you for their participation on committees and in League activities. He said that he would like to make the Council aware of changes that may be taking place in the year to come. The League can be "everything" in things reasonable to most municipalities. In regards to the Legislative Conference, he noted that the City submitted two initiatives for consideration. He provided an update on the Police Chief Association's approach to the technology funding initiative and the in-house study group that will be formed to follow the Telecommunications issue over the next year. The League will be calling on the City to take part in the study effort. At the Legislative Conference we will see some things done a little differently this year. He described the proposed legislative focus on Smart Codes initiatives. During the first couple of weeks in May, there will be an unveiling of the Municipal Book in Annapolis. Mr. Gullo provided further comment on the book project which has cost a substantial amount of money. The book will go to schools and libraries across the state. There will be a reception in Annapolis at the State House with the Governor to unveil the book. This will be our "Millennium" Party (in May).

Mr. Gullo recognized that many people donate their time to make the League's committees work. He noted the three MML standing committees (i.e., Legislative, Communications and Convention Planning). There are other committees which he has established this year in an effort to get more people involved. He remarked about the Elections Committee, noting that Councilmember Hawkins serves on the committee. Mr. Gullo produced a framed MML President's Merit Award and asked that it be passed on to Ms. Hawkins. He thanked her for her work on the committee.

He then presented a Merit Award to City Clerk Sartoph for her involvement on the MML Board of Directors, Legislative Committee and as President of the Maryland Municipal Clerks Association.

Ms. Porter presented Mr. Gullo with a basket of Takoma Park mementoes, noting the significance of each item in the which will always serve as reminders of his visit to Takoma Park.

Mr. Gullo presented Year 2000 MML pins to the Council, and thanked them for their hospitality.

Mr. Rubin jokingly said that he understands that a truck of Takoma Park Nuclear-Free Mulch is waiting outside.

Ms. Porter thanked Mr. Gullo for the presentations and for coming out to Takoma Park.

- Proclamation in Recognition of Hometown Video Festival Award (Mark Cohen).

Ms. Porter noted the award received by Mr. Cohen, producer of Takoma Coffee House. She read excerpts from the Proclamation and presented it to Mr. Cohen.

Mr. Cohen thanked the Council for the really kind gesture, saying that it is much appreciated by him and everyone involved in the television show. He remarked that the Mayor is probably right, that everyone in the City has probably been on the show. Mr. Cohen clarified that he actually does not direct the show, but has other people who are very talented in this area. He produces the show. He remarked about how he got involved in the show years ago, beginning with a meeting with Councilmember Rubin, and said that he continues to work with Deputy Administrator Hobbs and Telecommunications Manager Moffet to keep this program alive. It is truly an asset to this community.

- Proclamation in Recognition of Community Involvement (Mary Kay LeFevour).

Ms. Porter read excerpts from the Proclamation, noting Ms. LeFevour's involvement with the PSCAC and the Mediation Program. She presented the Proclamation.

Ms. LeFevour stated that it has not just been one person doing all of this work. She thanked staff members Linda Walker and Danita Lee-Bryant for helping to form the Mediation Board, and thanked Wolfgang Mergner of the PSCAC (a wonderful asset to the community). Working with Mr. Mergner has been an absolute delight, and working with Takoma Park citizens was a great honor.

Ms. Porter expressed her appreciation for all of Ms. LeFevour's work.

- **Proclamation in Celebration of Hispanic Heritage Month.** Ms. Porter read the Proclamation for the record, noting that she also read the Proclamation at the at the festival.

ADDITIONAL AGENDA ITEMS

Ms. Porter noted that there is a change in the timing of one of the interviews. One person has been delayed, but is expected to arrive later. The Council will interview her upon her arrival.

CITIZEN COMMENTS

Benjamin Onyeneke, Maple Avenue (Generation X), remarked about storms, mosquitos, etc. He urged the people in North and South Carolina to go home, adding that he has everything under control. This is the time that we want to gather ourselves in one harmony; we want to gather together in one union with the Native American Indians.

Roland Dawes, said that he has a barber shop on Carroll Avenue, and has lived in the city all of his life. It seems, however, that he is not known at all and that he is not being recognized like he should be by the people of Takoma Park. He has been a business man since the age of 25 years old. Mr. Dawes commented on business hardships and challenges that he has faced and assisted the City with resolving. He noted that he once gave the City the use of his trash trucks until they could get their trucks running. He commented that he has been a barber all of his live, and that there are people in the City who have not even been in his shop and possibly do not know that it exists. There are Councilmembers who have not been in the shop. Mr. Dawes remarked about his life accomplishments and family history, and said that he feels like he is being neglected.

He described a problem he has with a sign at 7218 Carroll Avenue (the gas station) next door to his barber shop, the location he has been in since 1965. Someone has put up a sign that blocks all of his view. There is a mount for a pole that is about 10 feet tall. When the station changed hands from Texaco to Citgo, the City gave them rights over him to place a sign that blocks his view. He recalled complaining to the City, beginning about 3-4 years ago. The sign, however, has never been moved or put up on the existing pole. Mr. Dawes said that he called the County and was informed that the Citgo has a permit for the placement of this sign. He told the County that he wanted the sign to be removed, and was told that the City would have to move the sign. He urged the City to take this matter in hand and do something to resolve this problem.

Ms. Porter thanked him for bringing this concern to the Council's attention, noting that the Council will be discussing an ordinance later this evening that will address signs in Takoma Junction. She remarked that it has been very difficult for us to enforce the sign ordinance. She expressed appreciation to Mr. Dawes for his long-term commitment to the City, one of the longest standing business persons in the Junction.

Sidonie Rupe, said that last December when she went to get her new Driver's License, she filled out the paper work to have her address changed. She commented that she was told to call and see whether her address had been changed, but when she called the Board of Elections she discovered that her paperwork had been lost. Ms. Rupe reported that she called the City to change her address, came down to the City offices to fill-out the necessary forms, and found out that the City only registers non-U.S. citizens. She questioned why the City cannot register U.S. citizens.

Ms. Porter explained that the Counties in the State of Maryland handle voter registration. The City has a special provision that allows for non-U.S. citizens to vote, and since the County does not allow non-U.S. citizens to vote, the City must maintain that register.

Ms. Rupe commented that the gentleman who she spoke with this afternoon told her that if she gets her registration in to the Montgomery County Election Office tomorrow that she would be eligible to participate in the Caucus.

Ms. Porter noted that there was a voter registration booth yesterday at the Folk Festival and that there may be a booth next weekend at the Street Festival.

Ms. Rupe confirmed that quickest way to get a change to her voter registration processed would be to go to the Board of Elections Office.

Ms. Porter explained that for persons who do not or cannot participate in the Nominating Caucus (sets the ballot of candidates running for office), they can still run for office through the write-in candidate process.

Andrew Busby said that the City Code gives a date and not a time for the close of the registration list prior to the Nominating Caucus. The Code clearly indicates that only qualified voters of the City can participate in the Caucus as a nominator or seconder. He said that he will encourage Sid to sue the City to enjoin the election if she is not permitted to participate in the Caucus if she has filed her change of registration with the Board of Elections prior to the Caucus. He explained that Ms. Rupe is interested in running for the office Mayor. Mr. Busby commented that the City has done very little to encourage voter registration. The Council ought to think about this.

Ms. Porter responded that staff will look into this issue.

Terry Seamens, Ward 4, announced that Wednesday night (7:30 p.m.) there will be a meeting of the Green Team here at the Municipal Building to discuss the Takoma Woods, and urged the audience to come and hear from States Attorney Gansler about Community Prosecution on Thursday night.

INTERVIEWS

1. Tree Commission - Deborah Bonsack.

The Council interviewed Ms. Bonsack.

Mr. Rubin thanked her for her participation on the Commission.

Ms. Porter explained that since the Council interviewed her so recently, that she would just like to see her continue on the committee.

2. Public Safety Citizens Advisory Committee.

Ms. Porter said that she is pleased that Mr. Baly is interested in this committee.

Glenn Baly commented that he moved to the City about four years ago. He learned from talking to people that in Takoma Park, unlike in other communities, when you have a concern you do not really complain about it, you join a commission to help the City work on the concern. Mr. Baly said that the area around Flower and Piney Branch does have a problem with crime and in regards to public safety, issues related to lack of stop lights and absence of code enforcement. He said that he is a recent member of the Flower Avenue neighborhood patrol, and wants to join the committee to help work on crime issues. He remarked about the importance of citizen participation in helping to frame and establish policy in certain areas.

Ms. Porter thanked Mr. Baly, adding that it sounds like he will be exactly the kind of assistance that we are looking for.

Mr. Rubin welcomed Mr. Baly's interest in serving on this committee, and asked whether he would consider continuing on the Ethics Commission.

Mr. Baly responded that he really cannot serve on both because of time constraints.

Councilmember Stewart asked whether the neighborhood patrol is successful.

Mr. Baly explained that the patrol just started in September. He said that he went out with his wife and Ellen Ensel and noted young people hanging out. When the young people saw the patrol vests they recognized the presence of the patrol.

Ms. Stewart commented that patrols bring about a sense of neighborhood as well as a sense of safety.

Ms. Baly said that we need to convey that we are trying to bring the neighborhood back, not to act as vigilantes.

Councilmember Elrich thanked Mr. Baly for his continued interest in working with the City, noting the work of his wife Laura Meisner.

Ms. Porter thanked them for their work in organizing a walking tour of the Flower Avenue corridor. She seconded Mr. Rubin's comments about wanting Mr. Baly to consider continued service on the Ethics Commission, but said that she would be very happy to welcome him on the PSCAC.

She that the two Ethics Commissioners who have expiring terms have decided not to seek reappointment. So, there will not be interviews for the Ethics Commission this evening.

PUBLIC HEARING

4. Expenditure of Local Law Enforcement Block Grant Funds.

Police Chief Anderson commented on the federal program, explaining that the City has been getting approximately \$37,000 annually through this program. Some time ago we made the decision with Council's concurrence that we would earmark these monies for helping us to upgrade technology (a part in the large bill that we are facing to cover technology upgrades). This money runs out after two years, and cannot be left unspent. We are coming up on two years on this particular grant. He explained that we are proposing, through an arrangement with the Montgomery County Park Police, to purchase three mobile data systems to go in our cruisers. We will have two choices in regards to these systems—we can continue with them for a long period of time, or at some time in the future when Montgomery County systems come on board, we could convert fairly inexpensively to those systems. This is a great opportunity for us to go ahead and get started, since we are not absolutely certain when we will be able to get in this business through the Montgomery County process. Having the equipment will give officers the opportunity to get acclimated to this system. Hopefully, we will be able to detect a number of stolen cars while using this equipment. Secondly, we want to upgrade our speed enforcement equipment which we can also do with this same grant. He noted the Ordinance later on the which would approve the purchase of the described equipment. As part of the process, we are required to hold a public hearing to receive citizen comments on the expenditure of these funds. Later this week, we will have an opportunity to discuss our proposal to move in this direction with the PSCAC.

The public hearing was opened at 8:40 p.m.

Benjamin Onyeneke, Maple Avenue, supported the proposal. Everything in our police department needs to be upgraded. The Montgomery County Park Police do not have comparable equipment to the State Park Police. He urged the City to explore all equipment being used by the Park Police. He spoke in favor of upgrading out standards for detectives. We focus too much on cars. We should provide detectives with more upgrades in technology. Mr. Onyeneke said that

he looks forward to seeing the Justice Department take a more pro-active approach to dealing with crime.

With no further citizen comments, the public hearing was closed at 8:45 p.m.

REGULAR MEETING

5. Single Reading Ordinance re: Law Enforcement Block Grant Funds.

Moved by Chavez; seconded by Williams.

Ms. Porter explained the ordinance.

Chief Anderson stated his understanding that the prices of the radar units was under the threshold which requires an ordinance.

Ms. Porter confirmed, however, that they will be included in the purchases with these funds. She said that this will fit in with a larger purchase of technology that is planned with Montgomery County, and commented on the use of these computers to get information needed on the spot by officers in the field (e.g., in tracking/id of stolen cars).

Councilmember Chavez asked for further clarification regarding the equipment.

Chief Anderson responded that the units will be installed in individual cruisers (marked cruisers in the un-assigned fleet).

Ms. Porter asked whether the anticipation is that they will all be on the street most of the time.

Chief Anderson responded that these cruisers will be on the street most of the time, but there will certainly be time needed for generally maintenance.

Benjamin Onyeneke, said that this is a very positive ordinance. The City is upgrading its technology--a stepping stone until Montgomery County and the Justice Department is ready to address some of the street crimes. This upgrade in technology will benefit officers in their cruisers. He thanked the Chief for his proposal, and urged adoption of the ordinance.

Ordinance #1999-39 was adopted unanimously (VOTING FOR: Porter, Chavez, Elrich, Rubin, Stewart, Williams; ABSENT: Hawkins).

**ORDINANCE #1999-39
(Attached)**

6. 2nd Reading Ordinance re: Housing Code. Moved by Elrich; seconded by Rubin.

Ms. Porter noted that this is the same issue that the Council has discussed at a number of Worksessions, and is now taking up for the second time in a session where people can make comments (although people have had numerous opportunities to make informal comments on several occasions). This ordinance is a bit different than it was presented at first reading. It has the addition of language regarding point-of-sale inspections. She said that she was informed by staff that they did not have time to provide sufficient notice to landlords who might want to speak to this issue prior to first reading. Rather than holding up the ordinance which was accepted at first reading, Council will proceed with the ordinance as was passed at first reading and consider the additional language as a second ordinance.

Mr. Williams made a motion to “split” the proposed ordinance into two parts, removing the language regarding “cost of financing”.

Assistant Corporation Counsel Perlman said that the Council would need to divide this ordinance into two ordinances and then either vote “up” or “down” on each of the two ordinances, individually.

Ms. Porter noted that the Council has read the ordinance in its entirety at first reading, and is now talking about dividing the ordinance into two separate ordinances.

Mr. Williams suggested taking the Whereas and Therefore clauses from the beginning and pair them with the language regarding “Cost of financing” to make the second ordinance.

Ms. Porter said from her recollection of *Roberts Rules of Order* a division of the question has to be approved by a vote of the body.

Ms. Stewart questioned the purpose of dividing the ordinance.

Mr. Elrich explained that he thinks the first part of the ordinance is crucial and having a unanimous vote on that part is important in expressing the “message” from this Council. Councilmember Williams has indicated that he will not vote on the issue of “Cost of Financing.”

Mr. Williams agreed that the enforcement issues are very important. He restated his motion to divide the question (seconded by Elrich).

Ms. Porter stated that she will ask for public comments on each section separately.

The Council voted to divide the ordinance (VOTING FOR: Porter, Chavez, Elrich, Rubin, Stewart, Williams; ABSENT: Hawkins).

Ms. Porter instructed that the Council will now take up the first portion of the ordinance (thru the four little stars on page #3).

Mr. Williams pointed out that Section 2 of the original ordinance should be in both of the ordinances.

Ms. Porter clarified that in the divided ordinance approach, both ordinances will now include Section 2 from the original ordinance.

Andrew Busby, stated that from the tenant's point of view, most of this is innocuous, and that in general, tenants favor the ordinance. It could be stronger. He commented on the definition of "Landlord". He said that tenants are going through a major situation at 703 Chaney Drive, and that he foresees that this may be misconstrued in the future. The ordinance should have a very strong statement that this only applies to rent increase petitions. It is rather difficult to see why tenants have to go through a COLTA hearing for someone who might not purchase the property. This process could alter the value of the property, and the right of first refusal could be affected. The ordinance is not well crafted and should be rewritten.

Ellen Ensel, President of Between the Creeks Neighborhood Association, expressed support for the legislation, and said that she would like to hear any response the Council might have to Mr. Busby's comments. She remarked that she thinks she understands Mr. Elrich's reason for agreeing to split the original ordinance, and strongly supports the adoption of this ordinance.

Mr. Elrich said that this ordinance only changes the definition of one part of the law as it relates to the landlord in rent increase petitions. This is the only place in the law where it is referenced in this way. He said he is concerned about both the costs of the ultimate repairs to the tenants and also, about landlords who may be attracted to the City but uncertain about the affect of the rent increase petition process. All of us are interested in protecting the housing stock in the City. The good that comes out of this is far greater than the possible unforeseen consequences. No increase can be made until the repairs are done. It encourages more responsible ownership.

Laura Meisner, member of Flower Avenue Task Force and COLTA Commissioner, spoke in support of Councilmember Elrich's ordinances. The ordinances represent really good ideas for several reasons. She said that one involves her role as a COLTA Commissioner. A lot of cases that come forward deal with defective tenancy. The provision that would allow tenants to correct or remedy situations on their own, alleviates a lot of the cases that come before COLTA and gives a tenant the opportunity to address problems. This brings in another point, that we need to be more stringent with Code Enforcement. It is a real issue in the City. Code Enforcement is greatly lacking, and we wouldn't need quite so many ordinances if Code Enforcement was doing its job.

Benjamin Onyeneke, Maple Avenue, supported Mr. Busby's comments, and remarked about the negative impacts that rent increases have on tenants.

Terry Seamens, Ritchie Avenue, Candidate for Council Ward 4, said that this new ordinance isn't merely about the improvement of rental housing, but about the continued viability of the City. He commented on the assets in the community and some of the concerns (e.g., decreasing tax base and some run down neighborhoods). This ordinance is really about rent control. The question is whether our City supports rent control. In other cities across the nation, rent control has been abandoned. He asked whether the community should do away with rent control. Many years ago, residents passed this law, feeling it was their duty. Mr. Seamens remarked on where we are now. Outside of Takoma Park where there is no rent control, we see the same situations as exist in the City. He noted statistics on low income renters. The economy has done little to relieve the chronic problems of low income housing. He commented on funding for renters, noting that it seems that we are facing an affordable housing crisis in this nation. He advocated working to correct the ills of affordable housing. Mr. Seamens said that the question this evening is this ordinance, and based on the Council's discussion of this ordinance and his understanding of the issue, he supports passage. However, we need to take a larger community look at the issue of rent control. To allow our rental housing to implode under the weight of rent control law is just as irresponsible as exploding it.

Ms. Porter commented, to correct one mis-impression, that the City's property tax base is not declining. It is not increasing as fast as has been in past years. She explained the 3-year assessment cycle.

Mr. Elrich remarked that there has been a lot of talk about how Montgomery County handles affordable housing. He read from newspaper articles, and commented on provision of affordable housing units (by Montgomery County and the HOC). Mr. Elrich commented on the projected loss of affordable housing in the County (e.g., Section 8 units), and noted that a representative of the Montgomery County Housing Commission said that there is not enough money in the fund to buy buildings. The affordable housing problem is real; it is a county and nation-wide problem. He agreed with Mr. Seamens that we cannot turn our backs on our neighborhoods, and said that he views setting a policy that would diminish affordable housing as irresponsible on the City's part.

Mr. Rubin stated that not only is our tax base not going down, and not only are our property values going up, he is convinced that we have a diverse community and are doing everything we can do to preserve that community. One of the "diverse" characteristics is rent stabilization. If we were to destroy the unique nature of our community, property values would go down.

Ms. Porter remarked that when we talk about affordable housing, it is important to recognize it as a very important housing concept. In Takoma Park, this discussion has to do with preserving the kind of community that we have. Our rent control ordinance maintains the diversity in our housing stock. Without some measure to maintain that diversity, we will not remain the Takoma Park that we are today. She agreed that people want to be members of this community and want to maintain the characteristics of the community. We want to maintain the income diversity of the community by maintaining diversity in housing. Also, we want to encourage owners to maintain

decent affordable housing. This ordinance supports both of those issues.

Mr. Williams said that he is glad to have split the original ordinance into two separate questions, and urged the Council to vote unanimously on the first ordinance. He said that he has been concerned about affordable housing for many years, recalling when he served on the Affordable Housing Committee in the early 1990's.

Mr. Elrich thanked the Council for their indulgence in discussing the housing issues, and thanked the staff in the City's Housing Department for taking a list of suggestions and putting them into the form of a coherent ordinance. He named a number of community members who have taken an active part in the discussions. Many people took part in shaping this ordinance. The Council has heard from a pretty broad sector of the community, and the legislation came out better as a result of the process.

Ordinance #1999-38 was adopted unanimously (VOTING FOR: Porter, Chavez, Elrich, Rubin, Stewart, Williams; ABSENT: Hawkins).

ORDINANCE #1999-38
(Attached)

Ms. Porter instructed that the Council is now considering the second part of the ordinance which includes the language regarding "cost of financing."

Moved by Rubin; seconded by Elrich.

Ms. Porter explained that this ordinance deals only with actual and reasonable interest.

Mr. Elrich noted that this proposal came from the rents analyst. There has been a lingering question that did not get resolved when changes were last made to this section of the law. The Council considered a number of options, but came back to this proposal. He explained the approach being proposed. It is about as smooth as this is going to get.

Mr. Williams said that he is going to abstain from voting on this ordinance because he doesn't feel that the Council fully understands all of the issues with this definition. People who have talked to us about this, have pointed out that there may be different kinds of problems.

Ms. Porter commented that unless the Council decides to stop giving landlords the cost of financing as part of the increase petition, we will have to deal with interest. This actually simplifies things, by making things more logical in the sense that things are more clear. She said that she does not suspect that it will make everyone happy, and would be willing to hear other proposals.

Glenn Baly, stated that he believes the proposed definition makes the law much easier to

understand, and that he does not see what the problems will be associated with this. The ordinance overall, prior to it being split, requires a landlord to keep up the property and to receive the benefits (allows for recoup of extra costs). It is a good ordinance.

Benjamin Onyeneke, Maple Avenue, said he come to the City because the Great Spirit sent him to the City. This is the “Dove” for him. He questioned whether the City is passing provisions that benefit the common people in the City.

Lauren Voloshen, said that she appreciates what Terry Seamens had to say about rent control in this ordinance. His remarks were well informed. The City has rent control, and we have to reckon with it. It is a reality. This ordinance represents some fine tuning that benefits the landlords. Speaking to Councilmember Williams, she said that it seems that his maneuvers to first abstain, and now to divide the ordinance, are not for any real purpose, except to make some type of frustrated statement. She expressed disappointment in that kind of politics, and hoped that the rest of the Council will vote for this measure. She urged that rent control and code enforcement go hand-in-hand.

Andrew Busby, said that he is a candidate for Council, and noted his earlier statement that the ordinance is badly constructed. Maryland law has elaborate provisions. It is probably a good idea that the Council passed the first part of the ordinance, as it serves more good than ill. But, in response to Ms. Velocian’s comments about Mr. Williams’ position, he has pointed out an objection based on a poor writing of the ordinance. It is not fair to assume that he is objecting to the principal. It may well not be clear in certain circumstances. He agreed with Mr. Elrich’s thought that there ought to be a clear rule about how interest is handled.

Mr. Williams clarified that he is not voting against the ordinance, but that he is abstaining.

Mr. Elrich responded to the comment that this makes it easier for landlords to get larger increases. This ordinance does not have that intent. He explained how this provision affects a rent increase. It takes away some of the front-end loading of the interest costs. It is something that needs to be addressed. The rents analyst has to make decisions; he needs some guidance that is clear.

Mr. Williams explained that his only concern is that we still won’t have a case where what is recovered is the actual interest.

Mr. Elrich expressed frustration with this argument, adding that he has heard the argument and asked for some cases where this proposal would not work.

Ordinance #1999-40 was adopted (VOTING FOR: Porter, Chavez, Elrich, Rubin, Stewart; ABSENT: Hawkins; ABSTAIN: Williams).

ORDINANCE #1999-40

(Attached)

INTERVIEW

- Public Safety Citizens Advisory Committee - Stacey Gurian-Sherman

The Council interviewed Ms. Gurian-Sherman.

Ms. Sherman thanked the Council for taking her out of order. This is a great community in which to take a part at the grass roots level. It is almost impossible to live in this community and not be involved from the grass roots level. She urged mentoring programs for children, and expressed her strong interest in public safety. She thanked Mr. Mergner for pursuing her and being patient, since she could not submit name earlier because of too many existing commitments. She asked that the Council consider her application.

Ms. Porter said that Ms. Gurian-Sherman would make a fine addition to the committee, recognizing that she has been very involved in the community. Ms. Porter noted the many things from her letter/resume.

Mr. Rubin asked Ms. Gurian-Sherman about her ideal of community oriented policing.

Ms. Sherman responded that she likes what came out of the PSCAC recommendations. The City will define COP for itself. Also, COP is not just the responsibility of the police department. The police are at the hub, and other organizations/agencies, neighborhood associations and communities (e.g., children, seniors, etc.) are involved. It is a holistic approach. Public safety is a lot more than just police, criminal justice and the state's attorneys. She said that from personal experience as a public defender, some of the most natural allies have been police. COP is defined as an outreaching, but also constantly listening. She expressed hope that the PSCAC focus group process will be ongoing. The approach they took is very important in getting responses from different communities. It serves as a great model.

Mr. Rubin noted that he has worked with Stacey on many, many projects, and has always found her to be energetic, creative and very responsible. He said he is thrilled that she is interested in joining "the most important" citizens committee.

Ms. Gurian-Sherman said that she is very flattered by the comments.

Ms. Stewart stated that she really enjoyed reading about some of her involvement with youth in the community, in addition to her professional expertise. Ms. Gurian-Sherman appears very well grounded.

Ms. Gurian-Sherman remarked about the importance of making an impression on children.

Mr. Elrich remarked that he likes the comment about keeping Takoma Park well grounded, and that he is also pleased that she is an applicant to the committee.

REGULAR MEETING

- Ordinance re: "Point-of-Sale" Inspections.

Ms. Porter explained that this ordinance will be considered as an amendment to the Housing Code as a separate ordinance.

Moved by Elrich; seconded by Stewart.

Mr. Elrich commented on the Cleveland Heights model for point-of-sale inspections, and said that this is another piece of the puzzle, of a list of things that we need to do to ensure that housing is properly maintained. He said that he is happy that staff could take the model and craft something within city and state law.

Mr. Williams confirmed that this is the first reading of the ordinance, and stated that it would be good to get comments from landlords prior to considering the ordinance at final reading.

Ms. Porter explained that this is why it is being considered as a separate ordinance.

Ordinance #1999-41 was accepted unanimously (VOTING FOR: Porter, Chavez, Elrich, Rubin, Stewart, Williams; ABSENT: Hawkins).

ORDINANCE #1999-41 (Attached)

7. 2nd Reading Ordinance re: Pine Avenue Permit Parking. Moved by Williams; seconded by Stewart.

Ms. Porter explained the ordinance. This is an issue that the Council has been discussing for over a year. There have been a lot of discussions and numerous opportunities for public comment, even as late as two weeks ago.

Ordinance #1999-37 was adopted unanimously (VOTING FOR: Porter, Chavez, Elrich, Rubin, Stewart, Williams; ABSENT: Hawkins).

ORDINANCE #1999-37 (Attached)

8. Resolution re: Y2K Compliance Plan.

Mayor Porter explained the resolution, noting that the Council has held several public discussions and a public hearing on this plan. She remarked that the Y2K Citizens Advisory Committee has reviewed the plan and provided input, and that there have been a lot of opportunities for people to comment. In addition to this plan, there will be a Contingency Plan which is nearly completed. It will be ready for public comment in the near future.

Moved by Chavez; seconded by Elrich.

Councilmember Rubin recalled that, in regards to the Contingency Plan, the Council discussed the preparation of a chart to simplify the information in the draft plan for citizens (e.g., in case of “x”, we will do “y” and residents should do “z”). He asked whether anything has been prepared at this point. Has anything been done on that point?

Systems Administrator Castillo responded that there has been no further discussion, but that staff plans to follow-up on this request.

Councilmember Williams asked whether Mr. Castillo has gotten involved in any discussion which might have been a follow-up to the request received from COG regarding contact persons for Y2K related issues. Mr. Williams noted that he gave some information to the City Administrator a week ago and believes that we need to get names to COG by the end of this week.

Mr. Castillo stated that he is not aware of this request, but that he will check on the status.

Benjamin Onyeneke, Maple Avenue, said that one of the main purposes of adopting this plan is to attempt to run away from liability. He commented on the need for a “stabilizing box” for computers that will safe keep every kind of electrical current so that computers are not damaged by possible Y2K eventualities. The “box” would also automatically install the necessary upgrades and protections to prevent computer failure. A large monopoly effort is at the root of the Y2K problem.

Resolution #1999-47 was adopted unanimously (VOTING FOR: Porter, Chavez, Elrich, Rubin, Stewart, Williams; ABSENT: Hawkins).

**RESOLUTION #1999-47
(Attached)**

9. Single Reading Ordinance re: Leaf Vacuum. Public Works Team Leader Shafer explained

the ordinance and the need to replace a leaf vacuum. Staff is recommending use of last year's vendor and prices, because we think we can save money by not having to go back out to bid for this item. Funds are available in the ERR fund.

Ms. Porter asked whether staff has confirmed that it will not be a problem to re-use the bid from last year.

Mr. Shafer responded that the Contract Specialist asked this question of Corporation Counsel, but that he will double check. He stated that he would assume that she received approval before drafting the ordinance.

Ms. Porter asked whether the new vacuum will arrive prior to leaf season.

Mr. Shafer stated that it should arrive in November.

Ordinance #1999-42 was adopted unanimously (VOTING FOR: Porter, Chavez, Elrich, Rubin, Stewart, Williams; ABSENT: Hawkins).

**ORDINANCE #1999-42
(Attached)**

10. 1st Reading Ordinance re: Facade/Sign Ordinance. Ms. Porter explained the ordinance, noting that the Council heard from the CAC last week on this ordinance and recalled the discussion of its impact on development in commercial areas.

Mr. Williams noted that he did not see inclusion of the point regarding the requirement that FAB shall meet at least every six months.

Senior Planner George stated that this will be added.

Moved by Williams; seconded by Stewart.

Ordinance #1999-43 was accepted unanimously (VOTING FOR: Porter, Chavez, Elrich, Rubin, Stewart, Williams; ABSENT: Hawkins).

**ORDINANCE #1999-43
(Attached)**

Mr. Williams commented that he will submit other minor corrections to Ms. George.

Ms. Porter stated that the additional corrections will be adopted by consent at second reading.

11. Resolution re: Allegheny Avenue. Ms. Porter explained the resolution. Moved by Williams; seconded by Stewart.

Ms. Porter remarked that this is a side lot to a property on Allegheny Avenue. The property owners offered the City an easement. Councilmembers saw the property while on the walking tour. She noted that she and Councilmember Williams also toured the property at an earlier date.

Resolution #1999-48 was adopted unanimously (VOTING FOR: Porter, Chavez, Elrich, Rubin, Stewart, Williams; ABSENT: Hawkins).

**RESOLUTION #1999-48
(Attached)**

12. 1st Reading Ordinance re: Election Judges. Ms. Porter said that she is happy to see a number of repeat judges on the list of appointments.

Moved by Rubin; seconded by Elrich.

Mr. Rubin thanked residents of Takoma Towers for their involvement.

City Clerk Sartoph commented on the number of judges, noting that there are still some applications expected to be submitted. She pointed out a number of new names on the list which contribute to more of a balance of experienced City election judges and new judges. The Council may see some additions at second reading.

ADJOURNMENT

The Council adjourned for the evening at 10:08 p.m.

ORDINANCE NO. 1999-39

AN ORDINANCE TO PURCHASE THREE DATALUX MOBILE DATA TERMINALS

WHEREAS, the City submitted a federal law enforcement block grant application which has been approved by the U. S. Department of Justice in the amount of \$36,835 for technology; AND

WHEREAS, part of the approved grant would be for the purchase of Datalux Mobile Data Terminals; AND

WHEREAS, these terminals would be installed in three marked police vehicles; AND

WHEREAS, a competitive bid was issued by the Montgomery County Park Police and they included a COG rider under contract 9912A624B; AND

WHEREAS, it has been determined that this vendor complies with the City's Nuclear Free Zone and Burma Free Acts.

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

SECTION 1. THAT the quotation from DATALUX for mobile data terminal hardware item F10-CV11 system F w/ 48 MB Dram be accepted in the amount of \$4,795 each or a total of \$14,385.00 for three units; AND

SECTION 2. THAT the City Administrator is authorized to execute all necessary agreements.

Adopted this 27th day of September, 1999, by Roll Call Vote as follows:

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

NAYS: None

ABSTENTIONS: None

ABSENT: Hawkins

Introduced by: Councilmember Elrich

First Reading: September 13, 1999

Second Reading: September 27, 1999

Effective Date: September 27, 1999

ORDINANCE NO. 1999-40

(Revisions to the City's Rent Stabilization Law)

WHEREAS, the Council finds that revisions to the City's landlord-tenant and rent stabilization law are needed to make the law work more effectively for the well-being of tenants, landlords, and the wider Takoma Park community.

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

SECTION ONE. Chapter 6, Housing, of the *Takoma Park Code*, is amended as follows:

CHAPTER 6. HOUSING.

ARTICLE 7. LANDLORD-TENANT RELATIONS.

Sec. 6-91. Rent increase petitions.

* * * *

(d) *Petitions for rent increases for capital improvements.*

* * * *

(5) *Cost of financing.* The cost of financing a capital improvement shall be the actual and reasonable amount of interest and other charges paid to the lender in connection with a loan taken to finance the capital improvement. The "actual and reasonable amount of interest" shall mean the annual percentage rate (APR) based on compounding interest methods using a constant annual percentage rate and a monthly payment schedule over the amortization period.

* * * *

SECTION TWO. This Ordinance shall be effective immediately.

Adopted this 27th day of September, 1999, by roll-call vote as follows:

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

EXPLANATORY NOTE

Additions to the existing language of the *Takoma Park Code* are shown by **shading**.

Deletions to the existing language of the *Takoma Park Code* are shown by **strikeout**.

* * * * indicates language of the *Takoma Park Code* which is not reproduced in this Ordinance and which is not being changed.

F:\WPDOCS\TAKOMA\ORDINANCE\HSG-INTE.ORD

S I L B E R &

MEMO

P E R L M A N

To: Cathy Sartoph
City Clerk, City of Takoma Park

From: Linda S. Perlman *LSP*
Asst. Corporation Counsel

Subject: Ordinance No. 1999-41 - Point of Sale Inspections, Etc.

Date: October 29, 1999

Enclosed please find Ordinance No. 1999-41. I have done two versions of Ordinance No. 1999-41. The first version includes all of the ~~strikeouts~~, underlining, CAPITALIZATIONS, etc. I used to show changes and amendments made by the Council from one meeting or worksession to the next during the consideration of this Ordinance. Please note that the Effective Date of the Ordinance is January 1, 2000 (not October 25, 1999, the date the Ordinance passed at 2nd reading)-- see Section Two of the Ordinance. Per your request, Councilmember Bruce Williams' copy, showing the amendment he proposed at 2nd reading, is enclosed.

The second version of the "final, as passed" Ordinance, I think, is much easier to read and to follow. The intermediate Council changes to the Ordinance are not shown. Additions to the existing language of the *Takoma Park Code* are underlined and ~~deletions~~ are shown by ~~strikeout~~. *Takoma Park Code* language which is not set forth in the Ordinance (and which is not being changed) is shown by * * * *

For your convenience, I am giving you a computer disk with both versions of Ordinance No. 1999-41 on it.

Introduced by: Councilmember Elrich

First Reading: September 27, 1999

Drafted by: Linda Perlman

Second Reading: October 25, 1999

Asst. Corporation Counsel

Effective Date: January 1, 2000

Draft date: October 20, 1999

ORDINANCE NO. 1999-41

**(SALE OF Rental Housing - DISCLOSURE AND Point-of-Sale Inspection REQUIREMENTS,
and PROVISION FOR CPI INCREASES IN THE Rental License/Inspection Fees)**

WHEREAS, the Council finds that requiring sellers of rental property in the City to DELIVER TO A PROSPECTIVE PURCHASER OF THE PROPERTY, AT OR BEFORE THE TIME A SALES CONTRACT IS ENTERED INTO, COPIES OF ALL CITY RENTAL LICENSING INSPECTION REPORTS OF THE PROPERTY FOR THE LAST TWO YEARS ~~obtain a "point of sale" inspection report of the rental property and of all apartments in the property and to deliver such report to the prospective purchaser before a sales contract to the rental property is entered into~~ will disclose important information to the purchaser about the condition of the rental property and the apartments therein; and

WHEREAS, the SE point of sale inspection report~~S~~ will disclose whether there are violations of the City's property maintenance code which could prevent or delay the rental housing license for the property from being transferred or issued to a purchaser of the property; and

WHEREAS, requiring A POINT OF SALE REINSPECTION OF THE RENTAL PROPERTY, AND OF ALL APARTMENTS IN THE PROPERTY, IF TRANSFER OF TITLE TO THE RENTAL FACILITY IS TO OCCUR MORE THAN SIX MONTHS AFTER AN ANNUAL RENTAL LICENSE INSPECTION (OR MORE THAN EIGHTEEN MONTHS AFTER A BIENNIAL RENTAL LICENSE INSPECTION) ~~that all property maintenance code violations be identified and corrected before a rental housing license may be issued or transferred to a new owner~~ should HELP improve the maintenance and condition of rental properties in the City; and

WHEREAS, improved maintenance of rental property will benefit tenants and also may help to maintain or increase the property value of rental housing in the City; and

WHEREAS, INCREASING THE PRESENT RENTAL LICENSE AND INSPECTION FEE BY THE CONSUMER PRICE INDEX EACH YEAR ~~imposing an inspection fee of \$70 per rental unit in the rental facility~~ is necessary and reasonable to cover the City's costs of performing housing code inspections and reinspections.

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

SECTION ONE. Chapter 6, Housing, of the *Takoma Park Code*, is amended as follows:

CHAPTER 6. HOUSING.

ARTICLE 9. LICENSING OF RENTAL UNITS.

Division 1. Licensing.

Sec. 6-120. Definitions.

The words in this ~~Division~~ Article shall be given their usual and ordinary meaning except as expressly provided as follows:

* * * *

Sec. 6-124. Licensing procedures.

* * * *

(i) Fees.

(1) Each rental facility subject to licensing under this Division shall pay a RENTAL license and inspection fee of \$70.00 \$68.00 per rental unit in the rental facility. Fees shall be as prescribed by the Director with the approval of the Mayor and Council.

(A) EFFECTIVE ON JANUARY 1 OF EACH YEAR, BEGINNING WITH JANUARY 1, 2000, THE RENTAL LICENSE AND INSPECTION FEE SHALL INCREASE BY AN AMOUNT EQUAL TO THE PERCENT CHANGE IN THE CONSUMER PRICE INDEX, ALL URBAN CONSUMERS, DC-MD-VA, ALL ITEMS, 1982-84 = 100 ("CPI-U"), OR ANY SUCCESSOR OR REPLACEMENT TO THIS CPI, ROUNDED TO THE NEAREST DOLLAR. ALL ANNUAL COMPUTATIONS SHALL BE BASED ON THE PRIOR NON-ROUNDED FIGURES; ONLY THE FEE CHARGED SHALL BE ROUNDED. THE PERCENT CHANGE IN THE CPI-U SHALL BE COMPUTED FOR THE 12-MONTH PERIOD ENDING IN SEPTEMBER OF EACH YEAR FROM THE AVERAGE CPI-U FOR THE 12-MONTH PERIOD ENDING IN SEPTEMBER OF THE PREVIOUS YEAR. IF THERE IS NO INCREASE IN THE CPI-U, THEN THE RENTAL LICENSE AND INSPECTION FEE SHALL REMAIN THE SAME.

(B) Fees shall not be increased for the holder of a rental license during the time that license is valid, but nothing contained herein shall be construed to limit the amount of any fee due and payable at the time of renewal or reinstatement. ~~Fees shall be uniformly assessed on the basis of the number of rental units contained in the rental facility to be licensed.~~

(2) ~~A copy of the schedule of fees shall be made available without cost to anyone requesting such. If the number of persons to whom rooms are to be rented or the number of units rented during the license term is increased over the number specified in the application, then, within fifteen (15)~~

working days of such increase, the rental license application shall be amended and any additional amount of RENTAL license and inspection fee required by reason of such increase shall be paid.

Sec. 6-126. Licensing and inspection fee:

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

(1) — One or more units: \$62 per licensing term, where such term or duration is specified in Section 6-125 of the Code.

(b) — Upon payment of the prescribed fee, the applicant shall be given an official license.

(c) — In case the number of persons to whom rooms are to be rented or the number of family units rented during the calendar year is increased over the number specified in the application, the application shall, within five days of such increase, be amended, such amended application being accompanied by any additional amount of license and inspection fee required by reason of such increase.

* * * *

Division 2. Sanitary Maintenance:

Sec. 6-131. General requirement:

No person shall operate a rooming house or let to another for occupancy any rooming unit in any rooming house, except in compliance with the provisions of this Division:

Sec. 6-132. Registration; certificate display:

No person shall operate a rooming house unless it is registered under the provisions of Division 1 of this Article. The certificate of registration under Division 1 shall be displayed in a conspicuous place within the rooming house at all times. A violation of this section is a Class C offense.

Sec. 6-133. Toilet facilities requirements:

(a) — At least one (1) flush water closet, lavatory basin and bathtub or shower, properly connected with an approved water and sewer system and in good working condition, shall be supplied for each six (6) persons residing within a rooming house, including members of the operator's family, wherever they share the use of the facilities:

(b) — All such facilities shall be so located within the dwelling as to be reasonable accessible through a common hall or passageway to all persons sharing such facilities:

(c) — Every lavatory basin and bathtub or shower shall be supplied with hot water at all times:

(d) — In a rooming house where rooms are let only to males, flush urinals may be substituted for not more than one-half (½) the required number of water closets.

Sec. 6-134. Linen requirements:

The operator of every rooming house shall change supplied bed linen and towels at least once each week and prior to the letting of any room to any occupant. All linen supplied shall be clean and sanitary. A violation of this section is a Class C offense.

Sec. 6-135. Egress from rooming unit:

Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by the laws of the state and this Code. Any violation of this section is a Class C misdemeanor offense unless such violation poses a clear and imminent danger to health and safety or a substantial hardship to the occupant. Then, such a violation shall be a Class A offense.

Sec. 6-136. Sanitary maintenance required from operator:

(a) — The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings and for maintenance of a sanitary condition in every other part of the rooming house.

(b) — He shall be responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the operator.

Sec. 6-137. Requirements of Division applicable to hotels; exception:

Any provision of this Division which applies to rooming houses shall apply also to hotels, except to the extent that such provision may be in conflict with the laws of the state or with regulations lawfully made thereunder.

**Division 2. Point of Sale SALE OF RENTAL FACILITIES;
DISCLOSURE AND Inspections REQUIREMENTS.**

Sec. 6-131. Point of Sale DISCLOSURE OF CITY Inspection ReportS Required.

(a) An owner or agent of a rental facility entering into a contract for the sale of the rental facility shall PROVIDE obtain a point of sale inspection report of the rental facility from the City's code enforcement office and deliver such report, or an exact copy thereof, to the prospective purchaser WITH COPIES OF ALL CITY RENTAL LICENSING INSPECTION REPORTS OF THE RENTAL FACILITY ("CITY INSPECTION REPORTS") FOR THE PREVIOUS TWO (2) YEARS on or before entering into a contract for the sale of the rental facility.

(b) At the time the point of sale CITY Inspection ReportS ARE is delivered, each purchaser shall sign and date a written acknowledgment of receipt, which shall be included in or attached to the contract of sale.

(c) A purchaser who receives the point of sale CITY inspection reportS on or before entering into the contract of sale for rental facility does not have the right to rescind the contract of sale based upon the information contained in the point of sale CITY inspection reportS of the rental facility.

(d) A purchaser who does not receive the point of sale CITY inspection reportS on or before entering into the contract of sale for rental facility has the right, upon written notice to the seller or the seller's agent:

(1) To rescind the contract of sale at any time before the receipt of the point of sale CITY inspection reportS or within five (5) days following receipt of the point of sale CITY inspection reportS of the rental facility; and

(2) To the immediate return of any deposits made on account of the contract of sale.

(e) Waiver of purchaser's rights.

(1) The rights of a purchaser under this section may not be waived in the contract of sale and any attempted waiver is void.

(2) Any rights of the purchaser to terminate the contract of sale for the rental facility provided by this section are waived conclusively if not exercised before settlement on the transfer of title to the purchaser.

(f) Each contract of sale for a rental facility shall include a notice advising the purchaser of the purchaser's rights as set forth in this DIVISION section.

(g) The point of sale DISCLOSURE AND inspection requirementS established by this section does DIVISION DO not apply to:

(1) A sheriff's sale, tax sale, deed in lieu of foreclosure, or sale by foreclosure, partition, or by court-appointed trustee;

(2) A transfer of the rental facility by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust; or

(3) A transfer of the rental facility, or any interest therein, to a spouse, former spouse, domestic partner, former domestic partner, parent, sibling, child, or grandchild; OR

(4) A TRANSFER OF A SINGLE-FAMILY RENTAL FACILITY TO A PURCHASER WHO STIPULATES IN THE CONTRACT OF SALE THAT THE PROPERTY WILL

NOT BE USED FOR RENTAL PURPOSES. IT WILL BE THE RESPONSIBILITY OF THE SELLER OF THE SINGLE-FAMILY RENTAL FACILITY TO NOTIFY THE CITY, WITHIN FIFTEEN (15) WORKING DAYS AFTER TRANSFER OF TITLE TO THE PROPERTY, OF THE DISCONTINUANCE OF USE OF THE PROPERTY AS A RENTAL FACILITY.

Sec. 6-132. POINT OF SALE REINSPECTION REQUIREMENT. ~~Application and Issuance:~~

(a) IN THE EVENT THAT SETTLEMENT ON THE TRANSFER OF THE TITLE TO THE RENTAL FACILITY HAS NOT OCCURRED WITHIN SIX (6) MONTHS AFTER THE DATE OF THE LAST CITY INSPECTION REPORT FOR RENTAL FACILITIES ON THE ANNUAL INSPECTION PROGRAM, OR WITHIN EIGHTEEN (18) MONTHS AFTER THE DATE OF THE LAST CITY INSPECTION REPORT FOR RENTAL FACILITIES ON THE BIENNIAL INSPECTION PROGRAM, THEN THE OWNER OR AGENT SHALL OBTAIN A POINT OF SALE INSPECTION OF THE RENTAL FACILITY. THE POINT OF SALE INSPECTION REPORT SHALL BE DELIVERED TO THE PROSPECTIVE PURCHASER BEFORE TITLE TO THE RENTAL FACILITY IS TRANSFERRED TO THE PURCHASER. Application for a point of sale inspection report OF THE RENTAL FACILITY shall be made by the owner, or an agent for the owner, upon forms provided by the City's code enforcement office.

(b) THE FEE FOR A POINT OF SALE INSPECTION UNDER THIS DIVISION SHALL BE THE SAME AS THE RENTAL LICENSE AND INSPECTION FEE ESTABLISHED BY SEC. 6-124(i). THE FEE SHALL BE PAID AT THE TIME THE APPLICATION FOR A POINT OF SALE INSPECTION OF THE RENTAL FACILITY IS FILED WITH THE CITY.

(c) The following schedule for issuing a point of sale inspection report shall be followed, except where a longer period is required because of the number of rental units in the rental facility or other causes beyond the reasonable control of the City:

(1) Within fifteen (15) working days after receipt of the completed application form and required inspection fee, a point of sale inspection of the rental facility and premises and all rental units therein shall be made and an inspection report issued. If entry to the rental facility is denied or access to interior non-public interior areas is restricted so as to limit or impair an inspection, then the time for issuing the point of sale inspection report shall be extended by such reasonable time as is needed in order for permission for entry to be obtained or a warrant authorizing entry to be procured.

(2) The point of sale inspection report shall include the name and address of the property owner, the license number for the rental facility, the street address or other description of the rental facility sufficient for identification, and shall list all known violations of the Property Maintenance Code (Chapter 6, Article 2 of the *Takoma Park Code*, as amended from time-to-time) based on the code enforcement officer's visual inspection of the rental facility and premises and all rental units in the facility. The point of sale inspection report also shall include a correction order allowing a reasonable time for the performance of the repairs and improvements necessary to bring the rental facility into compliance with the provisions of the Property Maintenance Code. The provisions of the City's Property Maintenance

Code, including the violations and penalties provisions thereof, as amended from time-to-time, shall apply to point of sale inspections under this Division.

(c) If the property owner does not correct all Property Maintenance Code violations listed on the point of sale inspection report prior to the time title to the rental facility is transferred to the purchaser, then the purchaser of the rental facility shall be required to correct the violations contained in the inspection report within the time given in the correction order on the inspection report given to the prior owner as that time may be extended by the City's code enforcement office for good cause shown.

(d) Nothing in this Division shall be construed as limiting or restricting the City, at any time, from proceeding against the owner of the rental facility to require the correction of Property Maintenance Code and any other violations existing at the rental facility or to issue and enforce citations for violations of City and any other applicable laws and regulations.

Sec. 6-133. Inspection Fee; Period of Validity of Point of Sale Inspection Report.

— (a) — The fee for a point of sale inspection report under this Division shall be \$70.00 per rental unit in the rental facility. The fee shall be paid at the time the application for a point of sale inspection is filed with the City.

— (b) — A point of sale inspection report shall be valid for a period of six months from the date of issuance. In the event that settlement on the transfer of the title to the rental facility has not occurred within six months of the date of the point of sale inspection report, then the owner or agent shall obtain a new point of sale inspection report before transferring title to the rental facility to a purchaser.

— (c) — If a rental licensing inspection report of the rental facility has been issued within six months of the date title to the rental facility is transferred, then such licensing inspection report may be used to satisfy the point of sale inspection report requirement under this Division.

Sec. 6-133. -134 Compliance Documents.

(a) At the request of the owner or agent of a rental facility, the City may issue a letter or other written document stating that the violations listed on a specific CITY OR point of sale inspection report have been corrected to the City's satisfaction, when, in fact, all such violations have been corrected.

(b) At the request of the owner or agent of a rental facility, the City may issue a letter or other written document stating that some, but not all, of the violations listed on a specific CITY OR point of sale inspection report have been corrected to the City's satisfaction.

Sec. 6-134. -135 Reliance on Point of Sale CITY OR POINT OF SALE Inspection ReportS and Compliance Documents.

(a) The CITY AND point of sale inspectionS ARE is-a visual checkS of the rental facility based on the City's Property Maintenance Code. In issuing a CITY OR point of sale inspection report,

the City does not represent, insure, warrant, or guarantee to the owner or agent of the rental facility, or to any purchaser, agent, attorney, lender, title or property insurer of the facility, or to any of their respective heirs, successors or assigns, that such inspection report includes all of the violations of the City's Property Maintenance Code existing in the rental facility at the time of inspection. The City's failure to list a violation on an inspection report is not a warranty or guarantee that the violation does not or did not exist at the rental facility.

(b) In issuing a compliance letter or document under the provisions of this Division, the City does not thereby insure, warrant or guarantee the quality of the repair or the standard of the work completed in the correction of any violations listed on a CITY OR POINT OF SALE inspection report. Such compliance letter or document should be construed only as a statement by the City that some or all of the violations listed on the CITY OR point of sale inspection report have been corrected to the City's satisfaction as of the date of the compliance letter or document.

Sec. 6-135. ~~136~~ Transfer of Rental License.

(a) A purchaser, transferee, or owner of a rental facility shall apply to the City for a rental license, or for the transfer of the existing rental license, for the rental facility within fifteen (15) working days after acquiring title to the rental facility. The procedures and requirements for rental licenses are set forth in Chapter 6, Article 9 of the *Takoma Park Code*, as amended from time-to-time.

(b) — In addition to all other licensing requirements, no rental license shall be issued, and no transfer of an existing rental license shall be approved, until a point of sale inspection or a rental licensing inspection of the rental facility has been performed and all violations noted on such inspection report have been corrected to the satisfaction of the City.

— (c) — The requirements of this section shall apply to all sales and other transfers of title to a rental facility, including sales and transfers which are exempt from the point of sale inspection requirements pursuant to Section 6-131(g) of this Division.

Sec. 6-136. ~~137~~ Penalties.

A violation of any provision of this Division is a Class C municipal infraction offense.

SECTION TWO. This Ordinance shall be effective on January 1, 2000.

Adopted this 25th day of October, 1999, by roll-call vote as follows:

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

EXPLANATORY NOTE

1. Additions to the existing language of the *Takoma Park Code* are shown by underlining.
2. ~~Deletions~~ to the existing language of the *Takoma Park Code* are shown by ~~strikeout~~.
3. ADDITIONS to the provisions of this Ordinance made after the Council Worksession discussion on October 18, 1999 are shown by UNDERLINING AND ALL CAPITAL LETTERS.
4. ~~Deletions~~ to the provisions of this Ordinance made after the Council Worksession discussion on October 18, 1999 are shown by underlining and strikeout.
5. * * * * indicates language of the *Takoma Park Code* which is not reproduced in this Ordinance and which is not being changed.
6. FURTHER ADDITIONS to the provisions of this Ordinance made at 2nd Reading on October 25, 1999 are shown by BOLD, UNDERLINING, AND ALL CAPITAL LETTERS.

F:\WPDOCS\TAKOMA\ORDINANC\HSG2-POS.ORD

Introduced by: Mayor Porter

Adopted: 9/27/99
Single Reading

Ordinance No. 1999-42
PURCHASE OF ONE (1) LEAF VACUUM
FOR PUBLIC WORKS DEPARTMENT

WHEREAS, the Equipment Replacement Reserve (ERR) has available \$15,000 for the purchase of one (1) Leaf Vacuum for the Public Works Department; AND

WHEREAS, in accordance with City procurement procedures, bids were received and a contract was awarded to Old Dominion Brush as the responsive and responsible bidder for a leaf collection vacuum in FY-99; AND

WHEREAS, Old Dominion Brush has agreed to extend the FY99 bid price of \$14,200 for a rear-load leaf collection vacuum to the City in FY00; AND

WHEREAS, Old Dominion has supplied the City with quality equipment for many years; AND

WHEREAS, sufficient funds are available in the ERR 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 bid price received in FY99 and extended to FY00 from Old Dominion Brush 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 the Equipment Replacement Reserve Account 9100-8003.

Adopted this 27th day of September 1999.

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

NAY: None

ABSTAIN: None

ABSENT: Hawkins

**ORDINANCE #1999-43
TAKOMA PARK
COMMERCIAL DISTRICT FACADE ORDINANCE**

- WHEREAS,** the City Council of Takoma Park, MD has recognized that the areas known as Takoma Old Town and Takoma Junction are Commercial Revitalization Areas located in the Takoma Park Historic District of Montgomery County; **AND**
- WHEREAS,** the City Council of Takoma Park, MD has recognized that other Commercial Revitalization Areas within the City are not in the Takoma Park Historic District of Montgomery County; **AND**
- WHEREAS,** the City Council of Takoma Park adopted the following four (4) facade ordinances covering three (3) commercial districts between 1981 and 1987:
Facade Ordinance No. 2592 and Facade Ordinance No. 2701 for Takoma Old Town,
Facade Ordinance No. 1985-30 for Takoma Junction, and
Facade Ordinance No. 1987-28 for Erie/Flower and Flower/Piney Branch commercial districts; **AND**
- WHEREAS,** The Sign Ordinance, Article 59-F of the Montgomery County Code and the BOCA - Property Maintenance Code is required to be enforced in all commercial areas in the City of Takoma Park; **AND**
- WHEREAS,** the City Council find that the existing City facade ordinances for the areas known as Takoma Old Town and Takoma Junction should be consolidated and coordinated with the Montgomery County regulations; **AND**
- WHEREAS,** the City Council find that there is a need to enhance the process for achieving and maintaining design and a visual quality and expediting permit approval process in the commercial areas of Takoma Park; **AND**
- WHEREAS,** the City Council find a need to establish a Facade Advisory Board to provide design and historic advisory assistance for building and business owners located in the commercial areas of Takoma Park and to provide recommendations to the Montgomery County Historic Preservation Commission regarding permit applications; **AND**
- WHEREAS,** building and business owners applying for a Historic Preservation Work Permit for facade modifications, signs, and new construction in the commercial areas of Takoma Park are encouraged to consult with the Facade Advisory Board; **AND**
- WHEREAS,** the City Council would appoint the members of the Facade Advisory Board and direct the City Administrator to appoint a City staff person to coordinate, facilitate and support the Facade Advisory Board; **AND**

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT: Facade Ordinances No. 2592, No. 2701, No. 1987-28, and No. 1985-30 are hereby repealed.

BE IT FURTHER ORDAINED THAT FACADE ORDINANCE No. _____ BE ADOPTED AS FOLLOWS:

SECTION 1: Establishment of Facade Advisory Board

1A. Purpose

1. The Facade Advisory Board (FAB) is established as an advisory panel to:
 - a. Help ensure that facade designs and their maintenance are harmonious and consistent with the intended quality and character of the commercial areas of Takoma Park.
 - b. Provide guidance and assistance to commercial building and business owners seeking permits for facade alterations, signs, and new construction work.
 - c. Coordinate with and advise the City of Takoma Park Code Enforcement Department.
 - d. Inform citizens and business owners of the historic district benefits and requirements and to continue coordinating with the Montgomery County Historic Preservation Commission and the Montgomery County Department of Fire and Rescue Services - Code Enforcement (MCFD) regarding necessary approvals.

1B. Members

1. The FAB shall consist of six (6) voting members.
 - a. four (4) members shall be professionals such as architects, planners, and historians
 - b. two (2) members shall be building or business owners
2. Members shall be nominated and appointed by the City Council to serve a 3-year term and no more than 2 consecutive terms.
 - a. Terms shall be staggered so as not to replace more than 3 members in any 12-month period.
3. The initial term of a member appointed to replace a member who cannot complete his/her term shall be for the remainder of that member's term.
4. A member, whose term expires, may upon a majority vote of the remaining members, continue as a voting member on pending cases which were ongoing prior to the completion of their term.
5. The City Administrator may remove a member before their term has expired if the member has become incapacitated, has failed to reasonably perform his/her duties, or has missed 3 consecutive meetings.
6. The FAB shall elect a Chairperson and a Vice Chairperson.

1C. Support Staff

1. The City Administrator shall assign City staff familiar with building code and

historic preservation policies and procedures in Takoma Park, Montgomery County, and the State of Maryland to support the FAB.

1D. Meetings

1. The FAB shall convene as frequently as may be reasonably required to perform its duties and may operate under a quorum of at least three (3) voting members.
2. The FAB shall establish a regular monthly meeting date, time and place which shall be published, along with the name and phone number of the City staff person to contact for placing items on the agenda.
3. The City staff will consult with the Chairperson and prepare and distribute an agenda and supporting materials to the members at least seven (7) days in advance of each regularly scheduled meeting date.
4. If there are no agenda items, the Chairperson may cancel the regularly scheduled meeting and have the City staff person (s) notify the Board members.
5. An emergency meeting may be convened by the Chairperson by providing written notice to each member at least seven (7) days prior with supporting materials and an explanation of the nature and need of the meeting.

1E. Duties

1. The FAB shall advise commercial building and business owners of the provisions of this Ordinance and available financial resources.
2. The FAB may make recommendations to Montgomery County Historic Preservation Commission regarding facade, sign, and similar architectural and planning related issues.
3. The City Administrator (or his/her appointed designee), in conjunction and with the FAB, shall implement, enforce and routinely update the City Standards described in Section 2 of this Ordinance.
4. Members may advise and comment on, but shall recuse themselves from voting, issues affecting properties in which they have any direct financial interest.
5. The City staff will be responsible for managing administrative functions of the FAB, assisting applicants in preparing presentations to the FAB, preparing agendas, and preparing reports for the FAB.

SECTION 2: Standards

2A. County Regulations

1. Montgomery County standards and regulations shall apply within all commercial areas of Takoma Park including:
 - a. Building Code regulations (latest version).
 - b. Sign Ordinance Article 59-F of the Montgomery County Code (latest version).
2. The following Takoma Park City Codes shall apply: Sections 6-4 PM 100.2, 6-4 PM 301.1, 6-4 PM 301.4, 6-4 PM 301.7, 6-4 PM 302.3-302.9, 6-7, 6-12, 10-23

2B. City Standards

1. The City Standards for design set forth in 2C and in subsequent sections shall apply to the following areas upon adoption of such Standards by the Montgomery County Historic Preservation Commission:
 - a. Takoma Old Town - All commercial properties located on Laurel Avenue and Carroll Avenue (MD 195), between Eastern Avenue and Columbia Avenue.
 - b. Takoma Junction - All commercial properties located on Carroll Avenue (MD 195) and Ethan Allen Avenue (MD 410) between Philadelphia Avenue (MD 410), Lee Avenue, and Sycamore Avenue.
 - c. All other commercial properties in the City of Takoma Park on a voluntary basis only.
2. The City Standards for maintenance set forth in 2C and in subsequent sections shall apply to all commercial properties in Takoma Park

2C. General Standards

1. These City Standards are intended to promote and enhance the unique character of Takoma Park; to help provide and maintain economically viable, attractive and convenient business districts; to protect and enhance property values; to cultivate and maintain a positive visual image; to assist in disseminating knowledge regarding redevelopment funds; and to promote the public welfare.
2. The City Standards shall to the maximum practical extent, clearly differentiate between issues such as maintenance/new construction/alterations, historic/non-historic, requirements/recommendations, and city/county permits.
3. The City Standards should be reviewed and updated, as necessary, through a public hearing process at least once every 3 years by the City Council w/the advice and assistance of the FAB.

2D. Roofs

1. Design (Materials/Modifications):
 - a. Roof shapes, materials and colors shall be compatible with the historic nature (if applicable) and character of the building and neighborhood.

- b. Skylights and solar collectors (if used) shall be aesthetically integrated into the roof profile and coordinated with roofing materials and finishes.
- c. Rooftop mechanical equipment, antennas, satellite dishes and similar elements shall not be permitted to be in view of the public right of way. When it is necessary to be located within a viewable area, such items shall be screened in a manner that is compatible with the roof profile and materials.
- d. Extraneous and unused elements, including but not limited to signs, equipment, and billboards, shall be prohibited.

2. Maintenance

- a. Roofing materials, chimneys and other auxiliary structures shall be kept in a good state of repair and appearance.

2E. Exterior Walls

1. Design (Modifications/Replacement)

- a. All elements of building facades shall be compatible with the original materials and construction of the building.
- b. Brick, stone, and other masonry surfaces shall be cleaned, repaired, and repointed as required and preserved in their original color and texture.
- c. Stucco surfaces shall have a similar texture to the original or remaining existing surfaces.
- d. Exterior finishes and colors shall be compatible with neighboring structures.
- e. Plywood and/or asphalt shingle siding shall not be permitted.
- f. Window/through-wall type air-conditioning units shall be prohibited, but if approved, shall be harmonious with the facade and shall not interfere with or be hazardous to pedestrian circulation and shall not drain to the sidewalk.
- g. Vinyl gutter and down spouts are permitted.
- h. Miscellaneous elements which are not of historic value such as empty electrical boxes, conduits, pipes, unused sign brackets, and alarm units shall be removed.

2. Maintenance

- a. All exterior facade materials shall be maintained in sound and attractive condition.
- b. Rotten, broken, or otherwise deteriorated materials shall be repaired or replaced.
- c. Peeling and/or chalking painted surfaces shall be repainted or otherwise refinished in a manner aesthetically compatible with their location.
- d. Gutters and down spouts shall be kept securely attached.

2F. Architectural Details

1. Design (Modifications/Replacement)

- a. Cornices shall be restored or replaced to be compatible with their original historic design of the building as part of any substantial facade renovation

work.

- b. Signs covering building cornices shall be removed and the cornice repaired and restored.
- c. Lintels, arch work, and sills over windows shall be preserved, restored or replaced in a style compatible with the original construction.
- d. Windows shall be of matching or otherwise compatible design and shall be of the same height and width as existed in the original construction. Vinyl-clad wood or metal or other weather resistant materials may be used.
- e. Ornamental window grilles or balconettes may be incorporated as decorative or security devices.
- f. Boarding or filling in windows on street front and side facades shall be prohibited.
- g. Windows facing alleys or yards may be closed with materials and a design that matches or are compatible with the surrounding materials and finishes.
- h. Textured or colored glass and ribbed or patterned metal shall not be permitted as replacement materials for shopfront windows.
- i. Non-metal security grilles, screens, and mesh wire shall be prohibited.
- j. Public entry doors, including stoops and approaches shall be accessible to persons with disabilities to the maximum extent practical without being detrimental to the historical value of the property.
- k. Doorway steps, stoops, or ramps shall be compatible with the original design of the building. Where there are more than two risers, railings shall be installed.
- l. Rigid fixed awnings, canopies, and similar overhangs for weather protection and compatible with the building design are permitted over the first floor and on upper floor windows and entrances. Wooden shingle mansard type awnings are prohibited. Cloth awnings shall be made with fire retardant material.
- m. First floor awnings shall terminate not higher than six inches (6") below the second floor window sill. The front valance of awnings shall not exceed one foot (1'-0") in depth. Signs, symbols or other designs compatible with the facade and in conformance with sign requirements are permitted on awnings.

2. Maintenance

- a. Cornices shall be structurally sound. Rotted or weakened portions shall be repaired or replaced. All exposed wood shall be painted or otherwise finished.
- b. Windows must be tight fitting. Rotted, broken, loose or otherwise deteriorated or damaged sashes, window panes, mullions, and muntins shall be repaired or replaced. All exposed wood shall be painted or otherwise finished.
- c. Faded, peeling or similarly deteriorated awnings shall be removed, replaced, or repaired.
- d. Extraneous and/or unused hardware, signs, and equipment shall be removed.
- e. Broken, rotten, or damaged elements shall be removed, replaced or repaired.
- f. Security grilles shall be free of rust, peeling paint or other unsightly appearance and shall be kept open during the normal daylight business hours.
- g. Solid or other similarly permanently enclosed, covered or painted shopfront windows shall not be permitted.
- h. Vending machines located within 25 feet of the sidewalk shall be screened from view.

2G. Signs

1. Design (Modifications/Replacement)

- a. Signs must be compatible with or complementary to the character of the facade.
- b. Sign materials shall be easily maintained and may include treated fabric, natural or painted wood, metal, and metal, wood, plastic or painted numbers and letters.
- c. Signs may not exceed a maximum of thirty inches (30") high nor project more than eight inches (8") from the building facade.
- d. The maximum allowable sign area in square feet shall not exceed two times the frontage width of the building in feet. Sign area is the entire portion that can be enclosed within a single, continuous rectangle around the extreme limits of the letters, figures, designs, and illumination, plus any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or building structure against which it is placed.
- e. Lettering applied to windows or entrance doors may not exceed twelve inches (12") in height and the text shall be limited to the street number and/or name of the business.
- f. Signs at the rear of the building may not exceed six square feet (6 sf) in size and may not be luminous.
- g. Signs painted on the facade or on the inside of windows shall be no greater than eight inches (8") in height, except if they are the only identifying sign for the property, in which case they may be a maximum of twelve inches (12") in height.
- h. The size of signs on shopfront windows may not exceed twenty percent (20%) of the glass area.
- i. Non-illuminated secondary signs shall be permitted for the identification of commercial tenants occupying the upper floors of a building, but shall not project above the building ground floor entry door lintel.
- j. Signs shall be placed in the shop window, above the shop window, and below the sill of the second floor window or on a fixed awning.
- k. Exterior wall mounted signs may not be luminous but may be illuminated as described in Section H - Lighting section.
- l. Neon signs are permitted inside the store window. Flashing or moving signs (other than barber poles) are not permitted.
- m. Rooftop signs, above the parapet of the building, billboards, or outdoor advertising signs painted or mounted on the buildings are not permitted.
- n. Signs mounted at right angles to the face of the building are not permitted.
- o. Signs painted on buildings are not permitted.
- p. Billboards other than those identifying the general shopping area are not permitted.
- q. Decorative neon lights are permitted on the front facades of the building.

2. Maintenance

- a. Temporary signs of all types may not occupy more than twenty percent (20%) of the window area and may not be left in place for more than thirty (30) consecutive days.

- b. Abandoned or outdated signs, billboards and related posts and structures shall be removed within thirty (30) days of disuse.

2H. Lighting

1. Design (Modifications/Replacement)

- a. Exterior lighting may be installed to illuminate the building facade and entry. Lighting fixtures must be located, aimed and shielded so that the light is directed only onto the building and not toward adjacent roads.
- b. Lighting fixtures shall be compatible with the design of the building and may not project more than twenty-four inches (24") from the face of the building.
- c. Maximum facade illumination shall not exceed an average of 5 foot candles.
- d. The following lighting sources are permitted:
 - Fully recessed down lights with a bulb not visible at pedestrian eye level.
 - Wall washers in projecting metal box or goose neck fixtures with a diffuser or reflector fully shielded light sources, not visible at pedestrian eye level.
 - Individually lit letters internally or backlit.
- e. The following lighting methods are not permitted:
 - Exposed (visible) fluorescent, quartz or mercury vapor lamps.
 - Exposed incandescent lamps other than low wattage, decorative type fixtures lighting.
 - Flood lights which create glares to vehicles, or occupants of buildings.
 - Low pressure sodium.
 - Lights which blink, black out, flash, or create a motion effect.
- f. Electrical elements such as wires, conduits, junction boxes, transformers, ballasts, switch, and panel boxes shall be concealed from view.

2. Maintenance

- a. Low level facade lighting is recommended to be operational to 11:00pm.
- b. Continuous internal security/police surveillance night lighting is recommended for all street level businesses.

2I. Rear and Side Yards

1. Design (Modifications/Replacement)

- a. Paved rear yards may be used for parking or loading.
- b. Storage or trash containers shall be screened from public view.
- c. Parking areas shall be screened from adjoining residential property.
- d. Refuse and storage areas shall be screened from the view of adjacent properties and public rights-of-way. Screening may consist of masonry walls or durable wooden fences not less than four feet (4') nor more than six feet (6') high, or compact dense evergreen hedges not less than four feet (4') high at time of installation.

2. Maintenance

- a. Yards shall be maintained to provide a neat appearance and not detract from the building or surrounding neighborhood.
- b. Refuse and storage areas must be maintained and kept neat in appearance at all times.

2J. New Buildings

1. Design

- a. Facades must be compatible with and enhance the character of the adjacent areas and approved by the Montgomery County Historic Preservation Commission.

2K. Compliance Procedures

1. Reviews and Approvals

- a. Design plans are required to be reviewed and approved by Montgomery County before proceeding with work.
- b. The Montgomery County Historic Preservation Commission may refuse to approve drawings, plans, or specifications that are not suitable or desirable for aesthetic or functional reasons; and shall have the right to take into consideration issues such as, but not limited to, the suitability of the site plan, architectural treatment, plans, elevations, materials and color, construction details, streets, sidewalks, and the harmony of the plans with the surrounding area.
- c. All demolition applications are subject to review and approval by the Montgomery County Historic Preservation Commission as stipulated under Chapter 24-A of the Montgomery County Code.
- d. To help facilitate approval, it is recommended that plans also be reviewed and submitted to the County with an endorsement/comment report by the FAB.

2. Enforcement

- a. Within five (5) months of the date of adoption of this ordinance the City shall provide training to the staff of the Office of Code Enforcement, and distribute information materials to affected building and business owners.
- b. Not sooner than eight (8) months following the date of adoption of the City Standards by Montgomery County Historic Preservation Commission, the Facade Advisory Board shall notify the owners of properties determined not to be in compliance the City Standards set forth in Section 2C. Notice shall be in writing and shall include a statement of the suggested corrective action and a notice that the FAB is available to provide assistance by appointment.
- c. Should the Office of Code Enforcement identify a property which is not in compliance with the City Standards set forth in Section 2C, Code Enforcement may issue a written Notice of Violation to the property owner which shall:
 - Include a legal description or the street address of the property.
 - Include a detailed description of the violation.
 - State a reasonable time for the property owner to abate the violation.

- d. Notices of Violation shall be deemed to have been properly served by personal delivery, or by first class mail to the property owner's last known address, or by any other method authorized by the laws of the State of Maryland and the City.
- e. If a property owner does not abate the violation within the time allowed for correction, the maintenance provisions of the City Standards set for in Section 2C, then a citation for a class C municipal infraction may be issued to the property owner or other responsible party.

ADOPTED BY THE MAYOR AND CITY COUNCIL OF TAKOMA PARK, MARYLAND, ON OCTOBER_, 1999.

Introduced by: Councilmember Rubin
(Drafted by: C. Sartoph)

1st Reading: 9/27/99
2nd Reading:

ORDINANCE #1999-44

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

SECTION 1. THAT the persons named below, all registered voters of the City of Takoma Park, are hereby designated as Judges to serve as a Board of Election for the November 2, 1999 City Election:

- (1) Claire B. Kozel, 7804 Wildwood Drive
- (2) Pearl Blacksin, 652 Kennebec Avenue
- (3) June A. Aloï, 14 Sherman Avenue
- (4) Harold Alston, 7710 Maple Avenue, #105
- (5) Verne Wilson, 907 Davis Avenue
- (6) Billie M. Dyhouse, 7051 Carroll Avenue, #617
- (7) Virginia S. Jenkins, 32 Columbia Avenue
- (8) Martin Morse Wooster, 8624 Flower Avenue, #101
- (9) Valerie Dant, 7406 Carroll Avenue
- (10) Joan N. Sidell, 606 Boston Avenue
- (11) Charles Johnson, 7051 Carroll Avenue #208
- (12) Howard F. Miller, 7725 Carroll Avenue
- (13) Doretha Elmore, 7800 Wildwood Drive
- (14) Paul Weisbord, 6753 Eastern Avenue
- (15) Elizabeth Carrington, 310 Philadelphia Avenue
- (16) Charlie T. Branch, 7520 Piney Branch Road
- (17) Ruth Abbott, 7416 Holly Avenue
- (18) Patricia Shaw, 7051 Carroll Avenue #1103
- (19) April LeGrand, 7710 Maple Avenue #209
- (20) Alan R. Centa, 504 Ethan Allen Avenue
- (21) Estella B. Hendrickson, 7400 Baltimore Avenue
- (22) Leonard M. Hendrickson, 7400 Baltimore Avenue

SECTION 2. THAT this Ordinance becomes effective upon adoption.

ADOPTED this _____ day of October, 1999 by Roll Call Vote as follows:

AYES:

NAYS:

ABSTAIN:

ABSENT:

Introduced by: Councilmember Elrich

First Reading: September 13, 1999

Second Reading: September 27, 1999

Effective Date: September 27, 1999

ORDINANCE NO. 1999-38

(Revisions to the City's Landlord-Tenant and Rent Stabilization Law)

WHEREAS, the Council finds that revisions to the City's landlord-tenant and rent stabilization law are needed to make the law work more effectively for the well-being of tenants, landlords, and the wider Takoma Park community.

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

SECTION ONE. Chapter 6, Housing, of the *Takoma Park Code*, is amended as follows:

CHAPTER 6. HOUSING.

ARTICLE 7. LANDLORD-TENANT RELATIONS.

Sec. 6-79. Definitions.

For the purposes of this Article, the following words and phrases shall have the following meanings:

* * * *

(i) *Defective tenancy* shall mean any condition in a rental facility which constitutes a violation of the terms of the lease, of the Property Maintenance Code (Article 2, Chapter 6, of the *Takoma Park Code*, as amended), or of one (1) or more of the following sections of this Article: Section 6-80, Lease requirements; Section 6-80.1, Lease term requirements; Section 6-80.2, Leasing fees; Section 6-80.3, Rent escalator clauses; Section 6-80.4, Occupancy restrictions; Section 6-81, Obligations of tenants and landlords; Section 6-82, Entry; Section 6-85, Utilities transfer; Section 6-86, Notice to vacate; or Section 6-87, Tenant rights of association.

* * * *

Sec. 6-90.4. Complaints of defective tenancy.

* * * *

(c) Remedies.

(1) Where the Commission finds that a landlord has caused a defective tenancy, the complainant tenant may be entitled to one (1) or more of the following remedies as ordered by the Commission:

(A) An award of damages to be paid by the landlord sustained as a result of the defective tenancy; such damages being determined as the actual damage or loss.

(B) An amount to be paid by the landlord equivalent to a reasonable expenditure adequate for the tenant to obtain temporary substitute rental housing in the area.

(C) Correction of the defective tenancy by the landlord.
(D) An order to the landlord to perform other remedial action as the Commission deems appropriate.

(E) An order permitting the tenant to correct or remedy the condition in the rental unit which constitutes the defective tenancy and abatement of all or part of the tenant's rent for the rental unit equivalent to the reasonable cost for the tenant to correct or remedy the condition.

* * * *

Sec. 6-82. Entry.

(a) *Emergency entry.* * * * *

(b) *Routine entry.*

* * * * *

(3) * * * *

(A) Provide the tenant with the notice of entry as prescribed below in Subsection (c) of this section; and

(c) *Entry for City annual or biennial property maintenance code inspection ("license inspections").* The landlord or other person authorized by the landlord to act on the landlord's behalf shall provide the tenant with at least forty-eight (48) hours' prior written notice of all scheduled City property maintenance code inspections of the rental unit. The notice shall be in the form and given in the manner prescribed by Department regulations.

(c) (d) *Notice of entry.* * * * *

(d) (e) *Lock boxes.* * * * *

Sec. 6-91. Rent increase petitions.

(a) *Definitions.* In addition to the definitions set forth in Section 6-79 of this Article, the following words and phrases shall have the following meanings:

* * * *

(7) *Landlord* shall include a contract-purchaser of a rental facility.

* * * *

(d) *Petitions for rent increases for capital improvements.*

(1) *Purpose.* * * * *

(2) *Definition of capital improvements.*

(A) *Regular capital improvement.* A "regular capital improvement" shall be any improvement to a rental unit or rental facility, whether labor or materials, which has a useful life of more than one (1) year, which is not annually recurring in nature and which has a direct cost of two hundred dollars (\$200.) per unit affected or (\$2,500.) per rental facility, whichever is less.

(B) *Security related capital improvement.* A "security-related capital improvement" shall be any physical improvement or upgrade to a rental unit or rental facility, whether labor or materials, which enhances the security of a rental unit or rental facility, regardless of cost, and which is not annually recurring in nature. The following are examples of security-related capital improvements:

[1] lights;

[2] locks;

[3] remote access systems;

[4] alarm systems;
[5] smoke detectors; and
[6] security devices or measures recommended in writing by the
Takoma Park Police Department.

* * * *

SECTION TWO. This Ordinance shall be effective immediately.

Adopted this 27th day of September, 1999, by roll-call vote as follows:

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

EXPLANATORY NOTE

Additions to the existing language of the *Takoma Park Code* are shown by shading.
Deletions to the existing language of the *Takoma Park Code* are shown by ~~strikeout~~.
* * * * indicates language of the *Takoma Park Code* which is not reproduced in this Ordinance
and which is not being changed.

F:\WPDOCS\TAKOMA\ORDINANC\HSG-CODE.ORD

MAYORAL PROCLAMATION

**COMMUNITY SERVICE RECOGNITION
MARY KAY LEFEVOUR**

WHEREAS, Takoma Park resident Mary Kay LeFevour is recognized as a professional mediator and facilitator; **AND**

WHEREAS, since January 1998, she has volunteered her time and talent in working with the Public Safety Citizens' Advisory Committee to formulate the focus group effort and conduct 19 focus groups; **AND**

WHEREAS, she facilitated focus groups in various neighborhoods, with the Takoma Park Police and with youth and senior citizens; **AND**

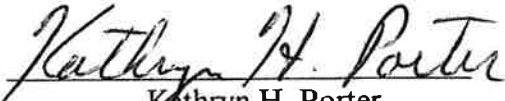
WHEREAS, her balanced approach and insightful advise to the Public Safety Citizens' Advisory Committee is reflected in the final report of the Committee which was presented to the Council during the Summer of 1999; **AND**

WHEREAS, Mary Kay LeFevour continues to generously give of her professional expertise and time as a consultant, mediator, facilitator and board member of the Takoma Park Mediation Program; **AND**

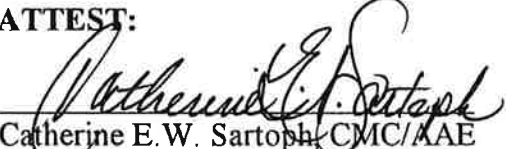
WHEREAS, she is also interested in furthering positive landlord and tenant relationships in the City and actively serves as a Commissioner on the Commission on Landlord-Tenant Affairs.

NOW, THEREFORE, I, KATHRYN H. PORTER, MAYOR OF THE CITY OF TAKOMA PARK, MARYLAND, on behalf of the Council, Public Safety Citizens' Advisory Committee, citizens and staff of the City, do hereby express gratitude to Mary K. LeFevour for her dedication and service to the community.

DATED this 27th day of September, 1999.


Kathryn H. Porter
Mayor

ATTEST:


Catherine E. W. Sartoph, CMC/A&E
City Clerk

MAYORAL PROCLAMATION

**HOMETOWN VIDEO FESTIVAL AWARD RECOGNITION
MARK COHEN**

WHEREAS, Silver Spring resident and producer Mark Cohen was recently recognized when "Takoma Coffee House," a local magazine program won this year's Hometown Video Festival for Best Magazine Show, standing out from more than 1,600 entries in the annual Festival; **AND**

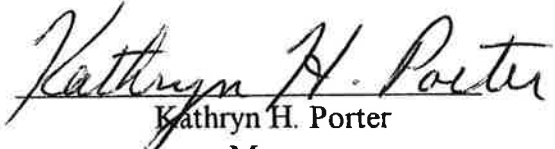
WHEREAS, since its first airing in 1996 from the Takoma Park Municipal Building, Mark has produced and directed the monthly, hour-long cable television show which includes segments on public affairs, literature, health and sports, and features film reviews, dance, poetry and live music performances; **AND**

WHEREAS, now produced at Montgomery Community Television in Rockville, Maryland, the "Takoma Coffee House" airs approximately 80 times a month on eight cable channels in the Greater Washington, D.C. and Baltimore; **AND**


WHEREAS, Mark Cohen produces a creative venue which offers residents an opportunity to be engaged in issues, and celebrates their diversity and the richness of their talents in arts and music.

NOW, THEREFORE, I, KATHRYN H. PORTER, MAYOR OF THE CITY OF TAKOMA PARK, MARYLAND, on behalf of the Council, citizens and staff of the City, do hereby extend congratulations and express gratitude to Mark Cohen for his continued efforts in the production and direction of "Takoma Coffee House."

DATED this 27th day of September, 1999.


Kathryn H. Porter
Mayor

ATTEST:


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

Introduced by: Councilmember Chavez

RESOLUTION NO. 1999-47

Resolution Concerning City's Y2K Compliance Plan

WHEREAS, the Y2K issue refers to an anticipated set of computer problems associated with the changing millennium;

WHEREAS, the City officials recognized in 1998 the year 2000 problem had the potential to affect Takoma Park government operations and therefore appropriated funds to begin updating mission-critical systems;

WHEREAS, House Bill 901 provides certain immunities for local governments once specific criteria are met which includes the development of a compliance plan;

WHEREAS, the City's insurance company - Local Government Insurance Trust provides limited coverage if provisions of House Bill 901 are followed;

WHEREAS, the City seeks to participate in the above programs available that adequately address Y2K-related issues;

WHEREAS, the City wants to ensure its citizenship that prudent/conscientious steps to prepare for Y2K related issues have been taken;

WHEREAS, the elements of the compliance plan include:

- Publishing a compliance plan and making it available for public comment;
- Adopting a compliance plan before October 1, 1999; and
- Completing the following items in the compliance prior to December 31, 1999;
 - (i) Inventory information technology systems and products to assess whether they are Y2K compliant;
 - (ii) Identifying critical information technology systems and products;
 - (iii) Assessing potential Y2K date data problems;
 - (iv) Initiating efforts to remediate Y2K date data problems in information technology systems and products; and
 - (v) Developing a contingency plan if remediation fails or is not completed by December 31, 1999.

WHEREAS, the City staff has worked diligently to accomplish and complete these elements in a timely matter to meet deadlines as follows:

- Published compliance plan and made it available for public comments - September 1, 1999;

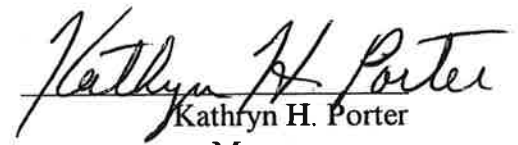
- Conducted Public Hearing - September 13;
- Met with City Council at a Worksession to discuss and make changes to the compliance plan - September 21, 1999;

WHEREAS, the City staff in cooperation with the Y2K Citizens' Advisory Committee has prepared the attached compliance plan for adoption.

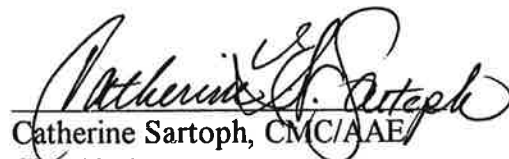
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Takoma Park, Maryland that the attached document be adopted as the City's Y2K Compliance plan.

BE IT FURTHER RESOLVED THAT per the Mayor's request, City staff and City Council will meet to discuss contingency plans as they become operationalized.

ADOPTED THIS 28th DAY of SEPTEMBER, 1999.


Kathryn H. Porter
Mayor

ATTEST:


Catherine Sartoph, CMC/AAE
City Clerk

Introduced By: Councilmember Williams

Resolution No. 1999-48

Resolution Amending the 1994 Adopted Open Space Plan

WHEREAS, in 1994, the City Council of Takoma Park adopted the City of Takoma Park Open Space Plan, Part I: Vacant Land Policy and Recommendations; AND

WHEREAS, the Council now wishes to amend the adopted Open Space Plan by adding the following property to the "Sites recommended for recorded easements":

Lot 19 at 6504 Allegheny Avenue

This is a privately-owned lot between a lot with a house and the undeveloped Takoma Park South Neighborhood Park. The steep slope and higher elevation of the lot provides a natural buffer between the densely developed neighborhood north along Allegheny Avenue and the wooded parkland. Construction of a building on this lot would visually encroach on the parkland.

WHEREAS, a map showing the location of the property is attached.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT the City Council hereby amends the 1994 adopted Open Space Plan to recommend the addition of Lot 19 at 6504 Allegheny Avenue as a site for recorded easement.

AND BE IT FURTHER RESOLVED THAT the City Administrator is directed to work with the property owner to prepare, approve and record such easement.

ADOPTED THIS 27TH DAY OF SEPTEMBER, 1999.



- A6-B6
 - B7-C8
 - E3-F1
 - I9-J9
 - G5-G6
 - H6
 - H4-I4
- A**
- Albany Avenue
 - Alfred Drive
 - Allegany Avenue
 - Anne Street
 - Aspen Avenue
 - Aspen Court
 - Auburn Street
- B**
- Baltimore Avenue
 - Barclay Avenue
 - Barron Street
 - Beach Avenue
- B5-B6
 - C5
 - I9
 - F4

Lot 19

Introduced by: Councilmember Williams
(Drafted by: C. Sartoph)

1st Reading: 9/13/99
2nd Reading: 9/27/99

ORDINANCE #1999-37

DESIGNATION OF PERMIT PARKING AREA FOR THE UPPER BLOCK OF PINE AVENUE A RESIDENTIAL PERMIT PARKING AREA

WHEREAS, pursuant to the provisions of Administrative Regulation No. 99-1 (by authority of City Code Chapter 13, Vehicles and Traffic; Article 7, Stopping and Parking; Section 13-63.1 Parking Permit Areas) residents of the upper block of Pine Avenue have petitioned the Council requesting the designation of a permit parking area on the upper block of Pine Avenue (from the corner of Columbia and Pine to immediately past 17 Pine Avenue, at the corner of Montgomery and Pine); **AND**

WHEREAS, the petition, which was certified by the City Clerk as meeting the required percentage (at least 66%) of all signatures from households in the subject area, included signatures from all seven of the households within the area (i.e., 100%); **AND**

WHEREAS, in addition to the certified petition, the petitioners are required to provide evidence to substantiate at least one factor (other than the desire of the residents in the area, demonstrated by signatures on the petition) being used in the evaluation process; **AND**

WHEREAS, petitioners provided statements expressing concerns about (1) excessive, non-resident daily parking, (2) pedestrian safety, especially for children, and (3) lack of on-street parking for residents; **AND**

WHEREAS, the request was discussed at meetings of WACO and B.F. Gilbert Citizens Associations; **AND**

WHEREAS, after proper notification, the City Council conducted a public hearing on Tuesday, September 7, 1999, to receive citizen comments on the request; **AND**

WHEREAS, in addition to the concerns which had already been expressed by the petitioners, residents provided testimony on the importance of making available parking for Metro commuters to encourage use of public transportation, and for patrons and employees of businesses adjacent to residential areas; **AND**

WHEREAS, in an effort to balance the various interests which could be impacted by the designation of a residential permit parking area in this location, the three spaces immediately adjacent to the Crossings property at the corner of Pine and Columbia have been excluded from the area under consideration.

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

- SECTION 1.** the upper block of Pine Avenue (from the corner of Columbia and Pine to immediately past 17 Pine Avenue, at the corner of Montgomery and Pine, with the exception of three spaces immediately adjacent to the Crossings property) be designated a permit parking area; **AND**
- SECTION 2.** this area shall be an extension of existing Permit Parking Area #3 (Westmoreland and Walnut); **AND**
- SECTION 3.** the City Administrator is hereby directed to implement the directives of this Ordinance at the earliest possible date; **AND**
- SECTION 4.** This Ordinance shall become effective upon adoption.

ADOPTED this 27th day of September, 1999.

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

NAY: None

ABSTAIN: None

ABSENT: Hawkins