

REGULAR MEETING, WORKSESSION AND CLOSED SESSION
OF THE CITY COUNCIL

Monday, October 11, 1999

Closed Session 10/4/99 - Moved by Rubin; seconded by Stewart. Council voted unanimously to convene in Closed Session at 10:25 p.m. in the Conference Room. OFFICIALS PRESENT: Porter, Elrich, Hawkins, Rubin, Stewart, Williams. OFFICIAL ABSENT: Chavez. STAFF PRESENT: Finn, Hobbs, Sartoph, Silber. (1) The Council received a briefing regarding a personnel matter; no action was taken. (2) The Council received a briefing on the status of union negotiations with AFSCME; no action was taken. (3) The Council discussed legal issues remaining around the handgun ban proposal, and decided how to deal with these legal issues. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(i), (9) and (7)).

OFFICIALS PRESENT:

Mayor Porter
Councilmember Elrich
Councilmember Rubin
Councilmember Stewart
Councilmember Williams

City Administrator Finn
Assistant City Administrator Hobbs
City Clerk Sartoph
Police Chief Anderson
Treasurer McKenzie
Recreation Program Coor. Corley
Senior Planner George
Community Development Coor. Sickle
Construction Specialist Kowaluk
Assistant Corporation Counsel Perlman

OFFICIALS ABSENT:

Councilmember Chavez
Councilmember Hawkins

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

COUNCIL COMMENTS

Mayor Porter stated that Councilmember Hawkins asked that it be announced that she is ill and will not be attending this evening's meeting. Ms. Porter said that she hopes Councilmembers Chavez and Elrich will join us later this evening.

PRESENTATION

Proclamation declaring October 17th as Mainstream's Annual Walk-a-thon, "Celebrating Working Parents with Disabilities" Day.

Ms. Porter read the Proclamation for the record, and then invited Mr. David Pichette to come forward and receive the Proclamation. Ms. Porter presented the Proclamation to Mr. Pichette.

David Pichette, Executive Director of Mainstream, thanked the Council for this recognition and the community for its warm embrace for Mainstream's work. He invited the Council, City Administrator, staff, persons in the audience and those watching on television to take part in the Walk-a-thon. Mr. Pichette remarked about the importance of providing work opportunities for persons with disabilities, enabling them to be examples to their families and communities. He asked if a member of the Council could be present for the opening ceremony at 1:00 p.m. to read the Proclamation on Sunday, October 17, 1999. He described the walking route as beginning right across from the Adventist Hospital.

Councilmember Williams said that he will be happy to attend.

ADDITIONAL AGENDA ITEMS

None.

CITIZENS' COMMENTS

Benjamin Onyeneke, Maple Avenue (Generation X), recalled his testimony a couple of weeks ago regarding the ceremony of the Native American Indians that he attended. He commented on disasters around the world that signify the power of the Gods, and remarked about community oriented policing. He said that children in the City enjoy watching and taking part in sporting activities, and citing an incident, he questioned what type of community oriented police we have who would tell children not to watch sports. He described circumstances surrounding an Indian election process.

Terry Seamens, Ward 4, recalled that about a year ago he raised a concern about the tree trimming done by the public utilities. Mr. Seamens said that he is a member of the Public Safety Citizens Advisory Committee, and that he heard comments from the community about safety concerns following the Council's recent Walking Town Meeting. He noted that some people suggested that the utility companies should be asked to clear vegetation around street lights, and cautioned on this approach.

Ms. Porter said that she and Councilmember Elrich recently conducted a walk through areas along Flower Avenue (Ward 5) in response to some residents' concerns about safety, and that they heard from these residents the desire to have trees trimmed to provide better lighting. She

recalled the Council's many discussions and concerns regarding haphazard tree trimming and cutting by utility companies and noted the Memorandum of Understanding that resulted. She assured that the Council maintains an interest in the way that trees are trimmed and cut.

REGULAR MEETING

1. 2nd Reading Ordinance re: Facade/Sign Ordinance.

Senior Planner George explained the ordinance, and noted one change that was intended to be made to the ordinance since first reading (i.e., page 7(2)(F)1d. Should read ".....or other materials may be considered").

Ms. Porter confirmed that the determination would be at the discretion of the committee, supporting the sense that the intention was to make this permission on the committee's part, not as a choice of the owner.

Ms. George agreed. She noted changes that have been made to the ordinance since first reading: (1) page 2 - the second-to-last Whereas clause; in the first line "preservation" changed to "area"; (2) page 7 - 1d, in the first line added "...and material"; (3) page 7 - move down to Maintenance 2b, the third line should say "...added or replaced in kind"; and (4) on page 10 - 2(K)b, add "Takoma Park".

Moved by Rubin (with the amendments); seconded by Stewart.

Ms. Porter said that she does not think that any of the changes that have been made change the tenor of the ordinance.

Councilmember Rubin thanked the committee for the work put into this document.

Ms. Porter echoed the "thanks". She said this sign/facade ordinance will be an important element in our economic development strategy (a Council priority), particularly since the Council has been told that to the extent our economic areas look attractive, they will be more attractive sites for businesses to locate.

Benjamin Onyeneke, Maple Avenue, said that he visited the site of the sign which was the subject of a complaint presented by a citizen who commented a couple of weeks ago. He described the placement of the gas station sign next door to the barber shop, and urged that the sign should be raised. He stated that the City should address this concern.

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

ORDINANCE #1999-43
(Attached)

2. 2nd Reading Ordinance re: Housing Code. Ms. Porter described the ordinance. Moved by Elrich; seconded by Rubin.

Marty Ellman, owner of Takoma Park rental property, commented that he currently owns three buildings in the City, and urged the Council to reconsider the ordinance for numerous reasons, not the least of which is that the ordinance is unrealistic and likely to be counter productive to its stated goals. It puts the burden of an additional inspection on the seller, and makes the selling process much more difficult and time consuming. It will slow down the process, making it more expensive and difficult, and will not benefit the seller. The ordinance states that it will be of benefit to tenants; however, a small number of tenants reside in the buildings which will be affected by this ordinance. Consequently, a very small percentage of overall units will be affected. He said that it will actually be unsettling to tenants--a detriment. It will require that scheduling be set for an inspection, putting the burden on the tenant to make an apartment available for inspection and potentially more visits if repairs are required. There is already a process by which tenants can call the City and request an inspection. This ordinance only adds additional inspection(s) which will add burdens. He remarked that almost every buyer hires a professional inspector to conduct an inspection prior to entering into a contract. The purchaser cannot rely on the City's inspection because it will not be "guaranteed." He challenged the Council to check with Realtors and find that property values in the City are actually lower than those of buildings located even immediately outside the City limits. Rather than improve the value of properties, this ordinance will make the properties lower in value. The tax base will be decreased, putting more burden on single family property owners. This ordinance penalizes sellers. It does not distinguish between responsible and irresponsible property owners. It applies the "burden" consistently. He remarked that even owners who are on the biennial inspection program are going to be held to this requirement. The worse part of the ordinance is the provision that the inspection report must be dated within 6 months prior to settlement. He commented on the time it takes to go to settlement. He related information from an analysis of the 11 sales of property which have occurred over the past few years (ranging from a low of 13 months to a high of 10 years to complete settlement)--an average of 5 years to complete the selling process. The selling cycle is a long cycle. If the City is going to require an inspection every six months, it will be very costly to a property owner. Because the selling process is difficult, by requiring the point-of-sale inspection prior to contract, the process will be clouded. It would make more sense to have the inspection report available prior to transfer of rental license. It deters buyers which will ultimately lower property values. The only benefit is that it provides full employment for the City's Code Enforcement staff. He urged the Council to seriously reconsider the ordinance. (Statement attached)

Vincent Abel, Property Manager at Parkview Towers on Maple Avenue, distributed a written

statement (an outline of the purpose of the proposed ordinance and objections)(attached). He stated that the ordinance fails for several reasons. He remarked about the potential for a need to order several inspections over the period of a sale process. The simplest and best way to approach this is to attach a copy of the annual inspection report so that the new owner has it. Maybe, the seller could be required to provide reports that go back over a few years to demonstrate history. This would accomplish full disclosure. In some instances there are properties like The Edinburgh. In similar cases, how would the City require a seller to correct all violations prior to sale. He said that he understands what the Council is trying to accomplish, but a lot of time it is not going to work. He commented on the transfer of 7777 Maple Avenue, and said that if it had been required to be Code-free prior to sale, the sale and renovations which followed would not have happened. The ordinance will be an impediment to correction of problems in a lot of cases. The ordinance is not really going to help many existing tenants. He concluded that the real intent is to require that a property be well maintained and that there be full disclosure at the time of sale.

Ms. Porter noted that this ordinance would not apply to foreclosures. It is not the same system.

Mr. Abel remarked that in the case of 7777 Maple Avenue, the property went through the foreclosure process and the bank took over the property. The bank would have been restricted from selling until corrections were made under this ordinance.

Councilmember Elrich read from the ordinance. The title could be transferred and the new owner would be given time to make the repairs. If good cause were shown for a need to have more time to make corrections, an extension could be granted. The idea that the new owner could not make repairs is not true, nor is the point that the transfer could not take place true.

Mr. Abel again expressed concern about the potential for needing repeated inspections during the sale process.

Mr. Elrich commented that the inspection report helps a purchaser to actually know what a property is worth.

Mr. Abel questioned what is different about the annual inspections and point-of-sale inspections.

Mr. Elrich responded. He noted the point that has been raised about the 6-month timing and stated that the Council will talk about this point.

Mr. Abel remarked that if an inspection could be good for a year, it would effectively be the same as an annual inspection. He commented on the result of an inspection--a list of things to do (detailed list of needed corrections per apartment with deadlines for completion). If the intent is to give the purchaser as much knowledge as possible so that he does not walk into a mine field, then the City should require that a history of inspection reports be provided.

Ms. Porter said that the time period is definitely something that the Council will reconsider.

Mr. Elrich questioned how long before settlement the parties are made aware of the settlement date.

Mr. Abel responded that the advance notice is usually in the range of 60-90 days, during which contingencies (e.g. environmental reports) are handled. On a large property if there were a contract today, it may not sell for another year. There will almost always be a financing contingency. It may be 6 months before one knows whether the parties have a loan commitment. Usually after one has a commitment, settlement occurs within 60 days.

Mr. Ellman countered that once the financing is approved, it could go to settlement in a matter of days.

Mr. Abel explained how the size of the building can cause the timing to vary.

Barry Wortley, President of Vista Management Company, asked if the \$70 fee the same for the point-of-sale and regular annual inspections, and requested clarification regarding Section 6 (136)(c) regarding the transfer of licenses and the applicable exemptions.

Ms. Porter provided clarification regarding the exemptions. To get a rental license, a person would still have to meet the requirements. Exemptions would remain in place in terms of the point-of-sale inspections. The fee would be the same for point-of-sale and regular annual inspections (i.e. \$70).

Mr. Wortley said that he does not understand the ordinance, although he understands what the two previous speakers and Councilmember Elrich have said. He questioned why do away with the "buyer beware" process. If the purpose is to provide greater enforcement of the annual inspections, then why not just increase the frequency of inspections? This is not the role for the Council. If the Council wants the tenants to be more involved and wants to justify the salaries of inspectors, then increase the frequency of inspections. It is true that properties sell for less in the City; one reason is because of rent control. Currently, there is a cap of 1% on the allowable rent increase which does not even keep pace with inflation. He emphasized that the Council should stay away from the sale of property. It is none of the City's business.

Benjamin Onyeneke, Maple Avenue, supported the ordinance, and urged that it be amended to exclude sales of single family rental units as proposed by Corporation Counsel. He remarked about what he pays for a one-bedroom apartment (\$650), speculating that it could soon go up to \$700. He asked about the warranties on the buildings in the City, and remarked about the need for new modern buildings in some cases. He referred to the Corporation Counsel memo which suggests an amendment to the ordinance for single family rental facilities. Tenants are the ones who will suffer, especially those who are living on disability and worker's compensation, as well as the elderly.

Suzanne McCoy, stated that she has had an ownership interest in 23 buildings over the past years, and that she is certain that the Council's intent is to try to make the apartments as well maintained as possible. However, she seconded the earlier comment about the buying/selling process. The ordinance will not accomplish a lot of things, but will muddy a lot of the process. She urged the Council to search and think about the fact that there are a lot of owners who do the right thing for their tenants, and added that she would be happy to work with the Council to explore other solutions.

Terry Seamens, Ritchie Avenue, said that Ellen Ensel called him this evening and asked that he make some comments. In her case, both the buyer and tenants would have saved a great deal of money had this ordinance been in place when her building was transferred. It was not until after closing and the new owner had the building that he became aware of the problems and the fact that he would need to make the improvements. Mr. Seamens said that Ms. Ensel ended with the observation that this ordinance is a win-win solution for tenants and landlords. For himself, Mr. Seamens questioned in response to the "buyer beware" concept, who is ultimately hurt. The tenant, buyer or tenant.

Mr. Abel noted that the ordinance also increases the licensing fee. The fee should be tied to the increase allowed for rent increases. The City should not put additional burdens on properties, nor should licensing fees increase at a faster rate than what is allowed for increases in rental fees. One of the simpler ways would be to tie the rent increases to what is required to run the City (comparison to the fiscal budget).

Councilmember Williams commented on his recollection that when the Council increased the inspection fee a year ago, it did try to go back and relate the increase to the rent rate increases. There had not been a licensing fee increase in several years.

Mr. Abel commented that the licensing fee rate has increased at a faster rate than allowable rent increases. He recalled that at one time there was a sliding scale for the fee.

Mr. Williams responded that this may well be, but that he wanted to make the point that the Council discussed this issue last year when a decision was made to raise the licensing fee.

Richard Levine said that he is a prospective investor in real estate in this area and has been looking at property in the City and adjacent areas. He expressed concern about the ordinance. For all of the good reasons that have been raised by other speakers, certainly if this kind of ordinance is approved without amendment and collaboration with those who will be affected, it will have a negative effect on purchasers like himself.

Mr. Elrich remarked that "buyer beware" is nice, but that the transfer of a rental building is not like the purchase of a car or other item. This situation involves the tenants. If this were a one-on-one relationship between purchaser and seller, it should be left to the "buyer beware". However, this situation involves people who have no say in the matter. Mr. Elrich noted that some good

points have been raised this evening and that he would be agreeable to seeing the ordinance go back to Worksession for more discussion. He said he likes the suggestion about inclusion of a provision regarding single family dwelling unit, and is willing to look at the idea of moving the inspection time to "prior to the transfer." Also, the suggestion to treat properties on the biennial program with preference should be considered. We want to reward people who have had a good track record. The point-of-sale inspections allow the City to stay on top of potentially changing situations. He respectfully disagreed with the comments about rent stabilization, but said that he appreciated the comments that seem to be working toward a reasonable solution. He emphasized a desire to formulate an ordinance that will accomplish stated goals, and said that he is willing to play with the date for the inspection.

Mr. Williams suggested that as Council considers how to make this work, it might want to consider the difference between annual and biennial inspection properties. Maybe, the biennial inspection properties could be exempted altogether.

Mr. Elrich commented that he likes the suggestion about providing a history of reports.

Ms. Porter agreed that there have been a lot of good comments made this evening, and noted that the Council has also received a number of written comments that she would like time to read and discuss with the Council. She suggested that a continued discussion be added to next week's Worksession agenda and that the ordinance be rescheduled for second reading in two weeks.

Mr. Rubin asked whether it would be possible by next week to have a tentative proposal for discussion.

Ms. Porter proposed that Mr. Elrich discuss the points raised with Assistant Corporation Counsel Linda Perlman.

Mr. Elrich expressed a desire to outline some specific points now to determine whether the Council agrees on specific directions.

Ms. Porter said that she thought Mr. Elrich could work with Counsel in putting together some conceptual ideas for discussion next week.

Councilmember Stewart asked when the minutes of the meeting will be available.

City Clerk Sartoph stated that they will be in Friday's Council Agenda package.

Ms. Porter suggested that the Council take this set of minutes out of order for the purpose of the pending discussion.

Mr. Williams asked when the discussion will come up on next week's agenda.

Ms. Porter instructed that the discussion be Item #3 (somewhere between 8:15 and 8:30).

Mr. Williams moved to table the ordinance for two weeks; seconded by Rubin (VOTING FOR: Porter, Elrich, Rubin, Stewart, Williams; ABSENT: Chavez, Hawkins).

Ms. Porter - understanding is that will be discussed in Worksession next week and taken up for consideration again in two weeks.

3. Single Reading Ordinance re: Lee Jordan Athletic Field. Recreation Program Coordinator Corley noted that he is present to respond to any questions.

Ms. Porter explained the ordinance.

Moved by Rubin; seconded by Stewart.

Benjamin Onyeneke, Maple Avenue, supported the ordinance. He noted that children wanted to have water while watching the game this weekend, and that he listened to their voices and provided rain in excess. He encouraged that a water fountain be placed on the field.

Ms. Porter responded that a water fountain is not included under this contract.

Mr. Corley commented on the water sources that have been brought down to the field (sprinkler system and non-potable water). He said that he only knows of water fountains in the school itself. Many of the sports leagues bring their own water.

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

**ORDINANCE #1999-45
(Attached)**

4. 1st Reading Ordinance re: FY00 Budget Amendment. Moved by Williams; seconded by Stewart. Ms. Porter explained the ordinance, noting the various items covered by the ordinance.

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

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

5. 2nd Reading Ordinance re: Election Judges. Ms. Porter explained the ordinance.

Mr. Williams confirmed that this is the greatest number of judges in recent elections.

Ms. Sartoph added that this year's judges also presents the greatest mix of new and experienced judges.

Moved by Rubin; seconded by Williams.

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

**ORDINANCE #1999-44
(Attached)**

6. Resolution re: Tree Commission. Ms. Porter explained the resolution. Moved by Stewart; seconded by Williams.

Resolution #1999- 49 was adopted unanimously (VOTING FOR: Porter, Rubin, Stewart, Williams; ABSENT: Chavez, Elrich, Hawkins).

**RESOLUTION #1999-49
(Attached)**

7. Resolution re: Public Safety Citizens Advisory Committee. Ms. Porter explained the resolution. Moved by Rubin; seconded by Stewart.

Ms. Porter noted that many members of the committee are Councilmember Rubin's constituents and together with the other members have all served well on the committee.

Wolfgang Mergner, noted that there are at least two more positions to be filled on this committee, and asked for the Council's assistance in identifying persons who might be interested.

Resolution #1999-50 was adopted unanimously (VOTING FOR: Porter, Elrich, Rubin, Stewart, Williams; ABSENT: Chavez, Hawkins).

**RESOLUTION #1999-50
(Attached)**

WORKSESSION / ADJOURNMENT / CLOSED SESSION

The Council moved into Worksession at 9:05 p.m. and later adjourned at 9:43 p.m. to convene in Closed Session. Following the Closed Session, the Council adjourned for the evening.

Closed Session 10/11/99 - Moved by Rubin; seconded by Stewart. Council voted unanimously to convene in Closed Session at 9:40 p.m. in the Conference Room. OFFICIALS PRESENT: Porter, Elrich, Rubin, Stewart, Williams. OFFICIALS ABSENT: Chavez, Hawkins. STAFF PRESENT: Finn, Hobbs, Sartoph, Anderson. The Council received a briefing regarding a personnel matter; no action was taken. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(i)).

MAYORAL PROCLAMATION

**MAINSTREAM'S ANNUAL WALK-A-THON
"CELEBRATING WORKING PARENTS WITH DISABILITIES" DAY**

WHEREAS, Mainstream is a local non-profit organization dedicated to improving employment opportunities for people with disabilities; **AND**

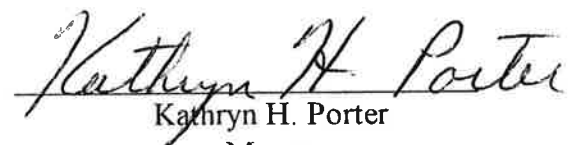
WHEREAS, the current unemployment rate in America for people with disabilities is 70 percent; **AND**

WHEREAS, from its offices located in Takoma Park, the organization provides employment services throughout the Washington, D.C. metropolitan area; **AND**

WHEREAS, Mainstream will hold its Second Annual Walk-A-Thon, a two-mile course through Sligo Creek Park on Sunday, October 17, 1999 from 1 to 5 p.m.

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 proclaim October 17th as Mainstream's Annual Walk-A-Thon, "Celebrating Working Parents with Disabilities," Day, and encourage residents to take part in the walk to bring more support for Mainstream's work of assisting people with disabilities to gain employment.

DATED this 11th day of October, 1999.


Kathryn H. Porter
Mayor

ATTEST:


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

Introduced by: Councilmember Stewart

RESOLUTION #1999 - 49

**APPOINTING MEMBERS TO THE
CITY OF TAKOMA PARK TREE COMMISSION**

WHEREAS, Ordinance #2674, as amended, adopted by the Takoma Park City Council on June 27, 1983, established the Tree Commission for the purpose of preserving, protecting, and promoting the urban forest of Takoma Park; **AND**

WHEREAS, the Commission is composed of five citizens appointed by the Council; **AND**

WHEREAS, there are currently two expired terms on the Commission; **AND**

WHEREAS, Pat Howell and Deborah Bonsack, whose terms expired on September 30, 1999, have expressed interest in being reappointed to the Commission and have been interviewed by the Council;

NOW, THEREFORE, BE IT RESOLVED THAT the following individuals are hereby reappointed, effective immediately, to serve on the Takoma Park Tree Commission:

Pat Howell of 7410 Aspen Avenue (Term Expires 9/30/02); and

Deborah Bonsack of 909 Sligo Creek Parkway (Term Expires 9/30/02).

ADOPTED this 11 day of October, 1999.

ATTEST:

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

Introduced by: Councilmember Rubin

RESOLUTION #1999-50

EFFECTING NEW APPOINTMENTS AND REAPPOINTMENTS TO THE
PUBLIC SAFETY CITIZENS ADVISORY COMMITTEE

- WHEREAS,** in 1996, the City Council established a permanent Public Safety Citizens Advisory Committee (PSCAC) (Resolution #1996-66) to provide input and advice to the Council and the City's public safety agencies about how the City can better meet the ongoing needs and concerns of residents in the area of police services and public safety; **AND**
- WHEREAS,** desiring to better enable the committee to address the broad charter outlined in Resolution #1996-66, the Council adopted Resolution #1997-15 on March 24, 1997, expanding the membership of the committee to a membership which shall not exceed twelve members, appointed by Council; **AND**
- WHEREAS,** Council later adopted Ordinance #1998-12 amending the Code to add the PSCAC as a statutory Council-appointed committee, with member terms beginning on October 1 and expiring on September 30; **AND**
- WHEREAS,** currently, there are six members with expired terms, two of whom are seeking reappointment; **AND**
- WHEREAS,** the Council has interviewed two persons who have expressed interest in first-time appointments.

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

NAME	ADDRESS	TERM EXPIRATION
Wolfgang Mergner	104 Tulip Avenue	9/30/01
Thirkield Cravens	7051 Carroll Avenue #217	9/30/01
Glenn Baly	8308 Flower Avenue	9/30/01
Stacey Gurian-Sherman	527 Albany Avenue	9/30/01

BE IT FURTHER RESOLVED THAT the appointments shall be effective immediately.

ADOPTED this 11th day of October, 1999.

ATTEST:


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

Introduced by: Councilmember Williams

1st Reading : 9/27/99

2nd Reading : 10/11/99

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 finds 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 finds 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 finds 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 Area 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 will 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. 1999-43 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.
6. The FAB shall meet at least every six (6) months to evaluate process.

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 in the gentlest manner possible, 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 if used, 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 in kind.
- 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 material 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 considered.
- 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 in kind. 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.
- 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

7. 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 11:00 pm.
- b. Continuous internal security/police surveillance night lighting is recommended for all street level businesses.

21. 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 City of Takoma Park notes that 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:
 - o Include a legal description or the street address of the property.
 - o Include a detailed description of the violation.
 - o State a reasonable time for the property owner to abate the violation.
- d. Notices of Violation shall be deemed to have been property 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 forth 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 11, 1999.

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

TAKOMA PARK COMMERCIAL DISTRICT FACADE ORDINANCE

INTRODUCTION

The commercial areas of Takoma Old Town and Takoma Junction are located within the Takoma Park Historic district, as designated on the master Plan for Historic Preservation of Montgomery county. All proposals for changes and alterations on the exterior of properties shall be reviewed and approved by the Historic Preservation Commission prior to undertaking the work. Ordinary maintenance may be undertaken without Montgomery County Historic Preservation Commission approval. Ordinary Maintenance is defined as work “which does not alter in any way the exterior features of the subject property, including the architectural style, design, and general arrangement of the exterior, as well as the nature, texture, details, and dimensions of building materials, windows, doors, siding, etc.” (Historic Preservation Commission Rules, Guidelines, and Procedures, Regulation # 27-97, 1.1(f) Replacement of original materials, including original windows, requires Montgomery County Historic Preservation Commission prior approval. Maintenance work undertaken at properties located within the Takoma Park Historic district may qualify for local (10%), state (25%), and federal (20%) tax credits. For additional information, please call Montgomery County’s Historic Preservation Section at (301) 563 - 3400.

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
- (23) Nikolai Vishnevsky, 6 Valley View Avenue
- (24) Joyce C. Malachi, 6723 Poplar Avenue
- (25) John Weimer, 8213 Sligo Creek Parkway
- (26) Xiomara Jova, 7404 New Hampshire Avenue

SECTION 2. THAT this Ordinance becomes effective upon adoption.

ADOPTED this 11th day of October, 1999 by Roll Call Vote as follows:

AYES: Porter, Rubin, Stewart, Williams

NAYS: None

ABSTAIN: None

ABSENT: Chavez, Elrich, Hawkins

Editorial Note: Underlined text has been added since first reading.

Introduced by: Councilmember Rubin

**ORDINANCE NO. 1999- 45
FIELD MAINTENANCE - LEE JORDAN FIELD**

- WHEREAS,** the FY 00 budget provides funding for the Maintenance of Lee Jordan Field; AND
- WHEREAS,** in accordance with City procurement procedures, bids were solicited from twelve (12) qualified vendors and advertised in the Washington Post on 9/5/99; AND
- WHEREAS,** bids were received and publicly opened at 2:00 p.m. on September 28, 1999 with three (3) no bids and one (1) bid being received; AND
- WHEREAS,** Opti - Gro submitting the only bid in the amount of \$21,775; AND
- WHEREAS,** the Recreation Team has determined that this bid is both responsive and responsible; AND
- WHEREAS,** sufficient funds are available to award a contract to the bidder.

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

- SECTION 1:** THAT the bid received from Opti - Gro in the amount of \$21,775 Be accepted; AND
- SECTION 2:** THAT funds to cover this work in the amount of \$21,775 be charged to the Lee Jordan Field Maintenance Account # 5400-6140

Adopted this 11th day of October, 1999

AYE: Porter, Elrich, Rubin, Stewart, Williams

NAY: None

ABSTAIN: None

ABSENT: Chavez, Hawkins

Introduced by: Councilmember Williams

First Reading: 10/11/99
Second Reading:

**ORDINANCE NO. 1999-46
FY 00 BUDGET AMENDMENT NO. 1**

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

SECTION 1. The Fiscal Year 2000 Budget be amended as follows:

General Fund - Transfers

1. Transfer \$91,500 from unreserved, undesignated fund balance to the following accounts:
 - \$7,500 to Special Revenue Fund Transfer, Account 9200-8100, to match Open Space funds to be received for renovation work at the Spring Park Ballfield.
 - \$9,000 to Account 9000-7050 for Supervisor Training.
 - \$60,000 to Account 9100-8000 for police dispatch renovations.
 - \$15,000 to Account 1140-6122 for Re-Codification of City Charter and Code.

Special Revenue Fund Revenues

1. Appropriate \$22,500 to account 0010-3713, for Program Open Space funding for Spring Park Ballfield.
2. Increase account 0010-3385, General Fund Transfer, by \$7,500 to account for matching funds for Spring Park Ballfield.
3. Appropriate \$137,120 to account 0010-3728 for funding from Montgomery County for renovation of Lee Jordan Ball Fields.
4. To properly account for the loan proceeds from Montgomery County for street improvements in the Pinecrest area; decrease account 0010-3728, Pinecrest, by \$455,000 and appropriate \$455,000 to account 0010-3606, Loan Proceeds.

Special Revenue Fund - Expenditures

1. Appropriate \$30,000 to Account 0010-7160, for Spring Park Ballfield.
2. Appropriate \$137,120 to Account 0010-7177, for Lee Jordan Ball Fields.

SECTION 2. THAT this Ordinance shall become effective upon adoption

Adopted this ____ of _____, by Roll Call vote as follows:

AYE:
NAY:
ABSTAIN:
ABSENT:

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

**REGULAR MEETING AND CLOSED SESSION
OF THE CITY COUNCIL**

Monday, October 25, 1999

Closed Session 10/11/99 - Moved by Rubin; seconded by Stewart. Council voted unanimously to convene in Closed Session at 9:40 p.m. in the Conference Room. **OFFICIALS PRESENT:** Porter, Elrich, Rubin, Stewart, Williams. **OFFICIALS ABSENT:** Chavez, Hawkins. **STAFF PRESENT:** Finn, Hobbs, Sartoph, Anderson. The Council received a briefing regarding a personnel matter; no action was taken. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(i)).

Closed Session 10/18/99 - Moved by Stewart; seconded by Chavez. Council voted unanimously to convene in Closed Session at 10:35 p.m. in the Conference Room. **OFFICIALS PRESENT:** Porter, Chavez, Hawkins, Rubin, Stewart, Williams. **OFFICIAL ABSENT:** Elrich. **STAFF PRESENT:** Finn, Sartoph, Silber, Wortman (Item #2 only). (1) The Council discussed a potential early retirement program and directed the City Administrator to proceed. (2) The Council received a briefing and discussed matters raised in the briefing. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(i)).

OFFICIALS PRESENT:

Mayor Porter

Councilmember Elrich

Councilmember Hawkins

Councilmember Rubin

Councilmember Stewart

Councilmember Williams

City Administrator Finn

City Clerk Sartoph

Corporation Counsel Silber

Treasurer McKenzie

ECD Director Ludlow

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, Maryland.

COUNCIL COMMENTS

Councilmember Hawkins apologized for her absence for the last few weeks while she has been struggling with chronic bronchitis.

Councilmember Williams commented that he enjoyed going to the Mainstream Walk-a-Thon which was held in Sligo Creek Park this past weekend to assist working parents with disabilities. It turned out very well. He noted that he will be a little late for tomorrow evening's community forum, since he will be testifying in Montgomery County regarding domestic partnership legislation.

Mayor Porter noted that Councilmember Elrich will also be a little late to tomorrow's forum.

Councilmember Stewart stated that she plans to be on time.

Ms. Porter said that she too will be there on time. She further explained that the City is being sued by a couple of City residents in regards to the Charter Amendment Referendum which has been placed on the November election ballot. We think that the hearing will be as early as tomorrow. The Council will discuss the legal strategy later in closed session. She said that she wants to make sure that everyone is aware of this latest development.

PRESENTATION

Mayoral Proclamation - Recognizing Fifth Annual Montgomery County Diversity Day on Wednesday, October 27, 1999.

Ms. Porter read the Proclamation for the record.

Mr. Williams noted that he will be taking the Proclamation to Rockville later in the week and making the formal presentation on Wednesday.

ADDITIONAL AGENDA ITEMS

None.

ADOPTION OF MINUTES - 7/26, 9/07 AND 10/11

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

CITIZENS' COMMENTS

Benjamin Onyeneke, Maple Avenue, recalled his remarks from a few weeks ago about Native American Indians taking over the efforts in drug enforcement. He encouraged attention to his remarks.

Ellen Ensel, noted that Councilmember Elrich will be speaking at the Between the Creeks Neighborhood Association meeting tomorrow evening (causing him to be late to the forum) about the work that the Council has been doing on the amendments to the Housing Code.

John Guernsy, noted the passing of Senator John Chafee of Rhode Island who tried to do the same gun control effort in 1983.

Edward Sharp, Glaizewood Court, remarked that he was on Maple Avenue recently and noticed furniture and people sitting out on the curb. It looked like it was a curb-side eviction that had taken place. He recalled that when he was Councilmember for Ward 7, there was an eviction of a woman when she was in the hospital, and that by the time she got out of the hospital, her property was taken. As a result of that incident, he had discussed the issue with our State representative at the time and was urged to talk to the Prince George's County Sheriff's Office to explore a better system to deal with that type of thing. Mr. Sharp emphasized that he is not opposed to landlords collecting their rent—they should be able to. However, there should not be a tenant at risk of losing everything that he owns. At that time he had discussions with the Sheriff's Office, we worked out an arrangement whereby landlords would notify the City of upcoming evictions. He said that he would like to encourage the Council to resurrect that issue and talk to the appropriate authorities (e.g., Sheriff's office) about alternatives. He questioned why it is that landlords assume that it is okay for them to put property out on the street (in the public right-of-way) where it gets picked over then remains for the City to clean up. It seems that this is a private cost that ought to be borne by the landlord. He noted that when he was once a landlord, he took the responsibility of paying to put property in storage for some period of time. Mr. Sharp suggested that the Council take up the issue of community oriented sheriffing.

Ms. Stewart noted that there was a proposed legislative action request submitted to MML this year which was similar to this suggestion. This is something that the MML did not take up, but certainly something that we might take up from the City.

Hank Prensky, 818 Maple Avenue (representative of Citizens Against Handguns), said that recently in a front page article about the gun issue, the Montgomery Journal deceived the public by saying that the lawsuit could cost millions. There was a Journal correction to say that it should have said "thousands", but the correction did not appear on the front page. He noted that Jamin Raskin, during the citizens forum, clarified some important issues, one being that there will never be a situation where any local gun issue will be ruled on at the federal level. The City could only be sued on the State level. It is a fantasy that this case could ever be appealed higher than the State level. He remarked about comments on the state law regarding handguns. If the Charter

Amendment referendum is successful, there are provisions in the state law that allow for local legislation. He quoted from the state law which would allow for regulation in approximately 65% of the land in the City, and provided justification for including public side walks as public areas. This argument could withstand court argument. Mr. Prensky noted Joseph Curran's recent comments on banning handguns throughout the state, and quoted from the *Washington Post's* response to States Attorney J. Curran. Later in the week, Mr. Curran addressed the City's efforts in this issue. Mr. Prensky again quoted from a written statement which applauds the self determination of the residents of the City.

Ms. Porter stated that she was told by Mr. Curran's office today that he did not intend to support any specific language on the handgun issue.

Terry Seamens, Ritchie Avenue, noted his service on the Master Plan Advisory Group and referred to the recommendation regarding preservation of open space in Pine Crest. As part of the Committee on Saturday, he commented that he was disturbed to see that there were developer stakes in the ground on the Orchard property. There are also postings for removal of trees (with a response date of November 1). If we are really trying to preserve park space, it would seem that we need to move quickly. In regards to the Sligo Mills Property, it is slated for development of town houses. As the Committee reviewed this property there was some question about whether the property is appropriate for development. It looks like over 100 trees have been tagged. It would be good to understand what is going on. The City needs to move fast.

Mr. Williams said that regarding the property on Orchard Avenue, funding for a proposed park is being worked on. Park & Planning has promised that they will try to come up with money by July 1. The City is trying to work with them. The tree posting was out there to gauge objection, and one objection has been filed. We hope to get details worked out to prevent the town home development. Regarding the Sligo Mills property, the developer contracted with an outside developer to tag the trees that would have to come down for development to be possible. The developer is working with the City Arborist. We expect that there will also be objections to removal of trees at this site.

Ms. Porter explained that the City has stepped in to hold the property on Orchard Avenue, so that it is not developed until there is money available for purchase of the park. She agreed with Mr. Williams' remarks regarding the other property. The owner is very anxious to move forward and the City has stepped in.

Nellie Moxley, Eastern Avenue, thanked Mr. Seamens and Councilmember Williams for commenting on these two issues, noting that she has some written statements this evening which she will distribute. She remarked about her letters to the County Executive, Park and Planning and the Montgomery County Council asking that this property be left as open space. The trees on the property are a heritage. It would be a shame to lose the forest and the stream. It is something that we need to address; we need to stop building. There are other spaces that can be used. We need to think about small businesses to get what we need in terms of economic development. She

remarked about her experience running a small business. There are a lot of people who have been sick in the Pine Crest neighborhood for a number of years, possibly related to waste removal that has been done. The environment is at risk here.

Ann Hoffnar, commented that she and others went this weekend to look at some open space sites in the City. She said that she is pleased to hear that the City is already working on the Orchard Avenue property, on which the committee was very interested in saving one tree in particular--a pecan. She suggested additional plantings on the site. In regards to the Sligo Mills property, it would also be good for preservation. There are some good specimen trees on the site. She encouraged the City to act quickly in regards to these sites.

Catherine Tunis (member of both the Committee on the Environment and the reconvened Open Space Committee), agreed that the mature pecan tree referred to by Ms. Hoffnar is quite rare for this area. On November 4, Park and Planning will be considering the Master Plan. There will not be funding for the Orchard Avenue site until next year. Ms. Tunis commented that she talked to Robert Downing about using the Trust for Public Land as a way to secure the property. On the Sligo Mill property, there are parts that may be appropriate for development, but parts that have very nice trees. There is some trash on the property, but it could be cleaned up. There are some incredible specimen trees on the property (e.g., a sassafras tree that is about 5-6 inches in diameter; there are also hickory, oak and pine).

Ms. Porter confirmed that the Open Space Committee will be issuing a formal report.

Ms. Tunis explained that it will be submitted to the Council in early November. She commented on a discussion with Arborist Todd Nelson about permit applications that have been submitted for the property. She recognized that it would be a stretch to ask the City to acquire the Sligo Mill property.

Ms. Porter remarked that the County will not make a commitment on a specific amount of money until an assessment of the Orchard Avenue property is done. Once they get the assessment done, we will know how to proceed. She agreed that the Trust for Public Land may be an option.

John Guernsey follow-up on some earlier comments regarding the Attorney General.

Ms. Porter stated her understanding that Mr. Curran is supportive of the gun ban as a concept, but was not supporting any specific language.

Mr. Guernsey restated the remarks printed in the *Washington Post* from Mr. Curran.

Ms. Porter commented that we are all working in the same accord.

Mr. Guernsey asked that the Council reiterate their positions on the gun ban.

Ms. Porter responded that this was already done during the candidate's forum and is not the business for this evening. There are other items on tonight's agenda.

REGULAR MEETING

1. Resolution re: Gun Violence Task Force. Moved by Rubin; seconded by Williams.

Ms. Porter noted that this item was discussed during last week's Worksession.

Benjamin Onyeneke, Maple Avenue, said that human beings who own guns and keep them in their homes are nothing but criminals. Guns are used for hunting. Maybe, some criminals are keeping guns to wage the next Millennium war. This resolution is a "shamble". He who fights by guns, will fall by guns.

Mike Cohen asked whether the members have been selected.

Ms. Porter responded in the negative. It will be the Council's intention to appoint members at its next Regular Meeting on November 8th. It is important to reiterate that this task force is an initiative that is being put forth by the Council, completely independent of the other efforts that are going on. The Council would like to put together a mechanism to educate the residents of the City on the effects/nature of gun violence and to advise the Council on legal mechanisms that we can use to regulate the sale, use and possession of handguns. This is an independent effort that will continue, regardless.

Councilmember Elrich added that regardless of what comes out of the election, it is clear that we can do more than what we have done already (even under State law). So, we do not need a "yes" vote on any of the questions on November 2nd ballot to look at legislation regarding gun control. He noted that he talked with two members of the Attorney General's staff today, and that both thought that there was area for the municipality to legislate with or without the Charter amendment.

Mr. Williams agreed with Mr. Elrich's comments.

Resolution #1999-51 was adopted unanimously (VOTING FOR: Porter, Elrich, Hawkins, Rubin, Stewart, Williams; ABSENT: Chavez).

RESOLUTION #1999-51 (Attached)

2. 2nd Reading Ordinance re: Housing Code (Point-of-Sale Inspections).

Ms. Porter explained the ordinance. Moved by Elrich; seconded by Hawkins.

Mr. Williams proposed some clarifying language (page 2, Sec. 6-124(I)(1)(A), middle of section) "...all annual computations should be based on the prior non-rounded figures..." He explained his rationale.

Ms. Porter asked whether the Council can do this by "understanding" or whether the language should be amended.

Assistant Corporation Counsel Perlman advised putting the language in the ordinance, suggesting deletion of "...rounded to the nearest dollar..."

Ms. Porter confirmed that this is not Mr. Williams' intent. He is saying that the figure should be based on a rounded figure.

Ms. Perlman acknowledged, but said that by using a figure rounded to the nearest dollar, it would be easier to do publicity to landlords (i.e., advertise that the fee is going up by "x").

Mr. Williams noted that the original proposal last week was not a rounded figure.

Ms. Perlman remarked that she is trying to make it consistent.

Mr. Williams restated the proposed amendment "...rounded to the nearest dollar, all annual computations shall be based on prior non-rounded figures, only the fee charged can be rounded..."

Ms. Porter stated that the Council can accept this language as a technical amendment.

Ellen Ensel thanked the Council and voiced support for the ordinance. Between the Creeks Neighborhood Association thinks this is very important for public safety. The Association has supported the amendments to the Housing Code and the work that has been done by Councilmember Elrich. She said that from personal experience, this would have saved her landlord and herself a lot of headache had it been in place. She thanked the Council for all of the good work in this effort.

Mike Cohen questioned why not increase fees every 2-3 years on a regular basis rather than this particular formulation. How much money is going to be gathered from this process?

Ms. Porter explained why the Council is taking this approach, rather than the one being proposed by Mr. Cohen (essentially what we have been doing). This is being done to make it a more regular and gradual increase.

Mr. Cohen commented that in regards to the requirement that the property owner provide the last two years of inspection reports, it might be hard for owners to keep up with these documents. He

suggested that the City not make this a requirement. Property transfers are not easy transactions.

Ms. Porter responded that this is a change from what was originally proposed which would be more onerous to sellers. This was to ensure that all parties involved in the transaction be better informed.

Mr. Cohen suggested that the Council might compromise even further.

Benjamin Onyeneke, Maple Avenue supported the ordinance, and thanked the Council for its work on this ordinance. This shows to landlords that management is their responsibility--to maintain the building at their own cost.

Mr. Elrich said that he is happy with how this has wound-up. He commented that his original intentions were to make sure the property were transferred in the best possible condition. He said that "compromise" is not the right word. The Council worked together with persons who had comments and had the prudence to incorporate some of the comments that were provided.

Ms. Porter agreed.

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

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

3. 2nd Reading Ordinance re: FY00 Budget Amendment. Ms. Porter explained the ordinance. Moved by Elrich; seconded by Williams.

Treasurer McKenzie provided a summary of items included in the amendment.

Mr. Williams said that the City ended up with a grant and a loan from the County for the Pine Crest improvements.

Ms. Porter noted that 1.5 million was a grant and approximately .5 million was in the form of a loan.

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

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

Ms. Porter noted the omission of calling for public comment prior to the vote and invited comments. There were no comments.

4. Resolution re: Alcoholic Beverage License. Community and Economic Development Coordinator Ludlow explained the resolution. The new license would be a Beer, Wine and Liquor License (on-site sales only). The license would have stricter requirements regarding the ratio of alcohol to food sales. She explained that if this is granted, we would be down from 4 to 3 “special licenses” from the Unification change over. SOSCA was notified and has not expressed concern, nor have any other concerns been submitted. The Board of License Commissioners meets on November 4; any resolution would be transmitted to them for their consideration.

Ms. Porter noted that the proposed resolution recommends support of this license. The Council is supportive because it wants to promote business in the City, and has not been made aware of any problems caused by the former business at this site which held a similar license. Members of the community were very fond of the former restaurant. She again noted the very strict requirements regarding food and alcohol sales which would prevent the restaurant from turning into a bar. She concluded that she would be very happy to approve this request.

Councilmember Stewart asked whether the restaurant has opened yet.

Solomon Halia (restaurant owner), noted that the restaurant opened last Thursday, and welcomed the Council to visit.

Ms. Porter suggested that the restaurant owners notify residents in the adjacent community of the new business.

Mr. Halia commented that they have arranged to send out flyers.

Ms. Porter noted that they are located in the small shopping center near the corner of New Hampshire Avenue and Rt. 410.

Councilmember Rubin added that it is an Ethiopian restaurant.

Mr. Halia said that the menu features both vegetarian and meat options.

Mr. Rubin wished the owners best of luck.

Benjamin Onyeneke, Maple Avenue, recalled the case last year when a Russian business owner was seeking an alcoholic beverage license for a nearby location and did not receive support from the City. He noted the misfortune of another area Ethiopian restaurant, and expressed opposition to the resolution.

Mr. Halia expressed resentment to some of the statements made by Mr. Onyeneke. He remarked about his profession as a pharmacist, and urged that the Council encourage people to visit the restaurant. New businesses start from encouragement. He invited Mr. Onyeneke to visit the restaurant.

Ms. Porter responded that people are free to speak to the Council on any comment, but that the Council does not necessarily endorse every position stated.

Resolution #1999-52 was adopted unanimously (VOTING FOR: Porter, Elrich, Hawkins, Rubin, Stewart, Williams; ABSENT: Chavez).

**RESOLUTION #1999-52
(Attached)**

ADJOURNMENT / CLOSED SESSION

The Council adjourned at 8:50 p.m. and convened in Closed Session. Following the Closed Session, the Council adjourned for the evening.

Closed Session 10/25/99 - Moved by Stewart; seconded by Rubin. Council voted unanimously to convene in Closed Session at 9:45 p.m. in the Conference Room. OFFICIALS PRESENT: Porter, Elrich, Hawkins, Rubin, Stewart, Williams. OFFICIAL ABSENT: Chavez. STAFF PRESENT: Finn, Sartoph, Silber. The Council discussed the legal issues surrounding the law suit on the ballot questions, and gave Corporation counsel direction on legal strategy. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(7)).

MAYORAL PROCLAMATION


**RECOGNIZING THE FIFTH ANNUAL MONTGOMERY COUNTY DIVERSITY DAY
WEDNESDAY, OCTOBER 27, 1999**

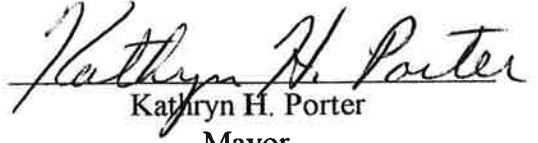
- WHEREAS,** the City of Takoma Park is one of Montgomery County's most diversely populated jurisdictions having at least 101 cultures represented in our more than 18,600 residents; **AND**
- WHEREAS,** Takoma Park celebrates and recognizes the richness of community diversity through spirit-filled cultural events; **AND**
- WHEREAS,** the City recognizes and values the unique strengths of its diverse workforce; **AND**
- WHEREAS,** community and workforce diversity is one of our City's greatest and richest resources; **AND**
- WHEREAS,** diversity is a vital element in sustaining democracy.

NOW, THEREFORE, I, MAYOR KATHRYN H. PORTER, HEREBY PROCLAIM THAT it is the pleasure of the Takoma Park City Council to take note of and recognize Montgomery County's 5th Annual Diversity Day on Wednesday, October 27, 1999.

DATED this 25th day October, 1999

ATTEST:


Catherine E. W. Sartoph, CMC/A&E
City Clerk


Kathryn H. Porter
Mayor

RESOLUTION NO. 1999-51

(Establishment of Taskforce on Gun Violence in the Community)

WHEREAS, on November 2, 1999, City voters will vote on an amendment to the City Charter which provides for the City Council to enact appropriate ordinances to implement a ban on the sale, possession, and ownership of handguns in the City; and

WHEREAS, the petition to amend the City Charter was signed by more than 20% of the persons qualified to vote in general elections in the City; and

WHEREAS, the ballot for the November 2, 1999, City general election also will include two non-binding advisory questions designed to gauge the extent of City voter support (a) for changing Maryland state law to allow local governments to regulate handguns, and (b) if state law were changed, for banning the private possession of handguns; and

WHEREAS, although Maryland law prohibits municipalities from enacting general gun control legislation, there are specified exceptions:

WHEREAS, the Council desires to establish a taskforce, comprised of members with differing viewpoints on the issue of gun control, to study the issue of gun violence in the City, to make recommendations for local programs and initiatives to reduce gun violence in the City within the parameters of current state law, and to explore the desirability and feasibility of expanding the regulatory authority of the City by amending the Maryland law on state preemption of weapons and ammunition regulations.

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT, within 30 days of the date of this Resolution, the Council shall appoint a City Taskforce on Gun Violence comprised of up to eleven members who are residents of the City. The Taskforce shall appoint its own chair and establish such rules as it deems necessary.

BE IT FURTHER RESOLVED THAT the Committee shall have the following duties and responsibilities; based on a timetable to be determine by Council:

- a. To educate Takoma Park residents about the nature, extent and effects of gun violence.
- b. To develop a strategy for the City of Takoma Park, based on the results of the November 2, 1999, vote on the two advisory ballot questions.

- c. To collect laws, materials, and information from other Maryland local governments which regulate the sale, possession, and transfer of handguns pursuant to the *Annotated Code of Maryland*, Art. 27, § 36H(b).
- d. To recommend ordinances and other programmatic approaches and initiatives relating to gun violence and handguns as appropriate.
- e. To report to the City Council on a periodic basis, and make recommendations, as needed.
- f. To conduct such other activities as the Taskforce deems necessary to further the above duties and responsibilities.

BE IT FURTHER RESOLVED THAT the term of the City Taskforce on Gun Violence shall be until January 30th, 2000, unless said term is extended by the Council.

THIS RESOLUTION IS ADOPTED THIS 25TH DAY OF OCTOBER, 1999.

F:\WPDOCS\TAKOMA\HANDGUN\COMMITTE.RES

Introduced By: Mayor Kathy Porter

Resolution No. 1999-52

**Resolution Recommending Approval of An Alcoholic Beverage License
For the Shebele Restaurant, 6846 New Hampshire Avenue**

- WHEREAS, a request for a Beer, Wine & Liquor License (Class B, Hotel/Restaurant, On Sale Only) has been made to the Montgomery County Board of License Commissioners by the owners of the Shebele Restaurant, 6846 New Hampshire Avenue in Takoma Park; AND
- WHEREAS, the license is a standard license available to Takoma Park restaurants and requires strict and monitored restrictions of the food-to-alcohol ratio of sales at the restaurant; AND
- WHEREAS, no negative public safety or community impacts are expected with the granting of the license; AND
- WHEREAS, the City of Takoma Park supports full-service restaurants in our commercial districts for enjoyment by our community and visitors; AND
- WHEREAS, the City wishes to help businesses succeed, provided the impact of the business on the community is, on balance, positive; AND
- WHEREAS, the previous business located at the site was a restaurant with one of the four special Unification-related "TP" alcoholic beverage licenses and allowed for on-site consumption of beer and wine, with similar regulations as to permitted hours of operation, but without food-to-alcohol ratio regulations; AND
- WHEREAS, if the owners of the Shebele Restaurant obtain the Beer, Wine & Liquor License for which they have applied, the Board of License Commissioners will inform the State of Maryland that the previous license (Beer & Wine, Class HBTP, On Sale Only) is permanently discontinued, leaving only three "TP" alcoholic beverage licenses available in Takoma Park, AND
- WHEREAS, elimination of one of the "TP" licenses is a move towards having similar laws for all of the City of Takoma Park, the point of unification into Montgomery County;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND, THAT the City Council recommends that the Montgomery County Board of License Commissioners approve the alcoholic beverage license application for the Shebele Restaurant at 6846 New Hampshire Avenue.

ADOPTED THIS 25TH DAY OF OCTOBER, 1999.

Introduced by: Councilmember Elrich

First Reading: September 27, 1999

Second Reading: October 25, 1999

Effective Date: January 1, 2000

ORDINANCE NO. 1999-41

**(Sale of Rental Housing - Disclosure and 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 will disclose important information to the purchaser about the condition of the rental property and the apartments therein; and

WHEREAS, these inspection reports 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) 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 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 \$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 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 (1/2) 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. Sale of Rental Facilities; Disclosure and Inspection Requirements.

Sec. 6-131. 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 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 City Inspection Reports are 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 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 City Inspection Reports of the rental facility.

(d) A purchaser who does not receive the 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 City Inspection Reports or within five (5) days following receipt of the 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.

(g) The disclosure and inspection requirements established by this 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;

(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.

(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 of the rental facility shall be made by the owner, or an agent for the owner, on 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. 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. Reliance on City or Point of Sale Inspection Reports and Compliance Documents.

(a) City and point of sale inspections are 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. Transfer of Rental License.

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.

Sec. 6-136. 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. * * * * indicates language of the *Takoma Park Code* which is not reproduced in this Ordinance and which is not being changed.

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Introduced by: Councilmember Williams

First Reading: 10/11/99
Second Reading: 10/25/99

**ORDINANCE NO. 1999-46
FY 00 BUDGET AMENDMENT NO. 1**

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

SECTION 1. The Fiscal Year 2000 Budget be amended as follows:

General Fund - Transfers

1. Transfer \$91,500 from unreserved, undesignated fund balance to the following accounts:
 - \$7,500 to Special Revenue Fund Transfer, Account 9200-8100, to match Open Space funds to be received for renovation work at the Spring Park Ballfield.
 - \$9,000 to Account 9000-7050 for Supervisor Training.
 - \$60,000 to Account 9100-8000 for police dispatch renovations.
 - \$15,000 to Account 1140-6122 for Re-Codification of City Charter and Code.

Special Revenue Fund Revenues

1. Appropriate \$22,500 to account 0010-3713, for Program Open Space funding for Spring Park Ballfield.
2. Increase account 0010-3385, General Fund Transfer, by \$7,500 to account for matching funds for Spring Park Ballfield.
3. Appropriate \$137,120 to account 0010-3728 for funding from Montgomery County for renovation of Lee Jordan Ball Fields.
4. To properly account for the loan proceeds from Montgomery County for street improvements in the Pinecrest area; decrease account 0010-3728, Pinecrest, by \$455,000 and appropriate \$455,000 to account 0010-3606, Loan Proceeds.

Special Revenue Fund - Expenditures

1. Appropriate \$30,000 to Account 0010-7160, for Spring Park Ballfield.
2. Appropriate \$137,120 to Account 0010-7177, for Lee Jordan Ball Fields.

SECTION 2. THAT this Ordinance shall become effective upon adoption

Adopted this 25th of October, by Roll Call vote as follows:

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