CITY OF TAKOMA PARK, MARYLAND
(Adopted April 25, 2005)

PRESENTATION, REGULAR MEETING & WORKSESSION
OF THE CITY COUNCIL

Monday, October 25, 2004

OFFICIALS PRESENT:

Mayor Porter
Councilmember Austin-Lane
Councilmember Barry
Councilmember Elrich
Councilmember Seamens
Councilmember Williams

City Manager Matthews
City Clerk / Treasurer Waters
Community & Government Liaison Ludlow
ECD Director Daines
Planner Thompson
Senior Planner Inerfeld
Arborist Linkletter

OFFICIAL ABSENT:

Councilmember Mizeur

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

Ms. Porter announced that Councilmember Mizeur may not be able to attend the meeting.

Mr. Seamens announced that the Electric Maid is conducting a haunted house on Wednesday to Sunday, beginning at 6:00 p.m.

Mr. Williams commented on the MML Conference in Cumberland. There was an excellent presentation on the Maryland Main Street Program; most interesting were the presentations from the Cumberland representatives who have had good experiences with the program for their arts district. Some of us were able to go on a tour and have discussed the possibilities for further tours, including representatives from our Arts and Humanities Commission.

Ms. Austin-Lane noted a Gateway Wayfinding meeting tomorrow evening at Montgomery College which will be an excellent opportunity for community discussion. She also remarked about hazardous materials transport on our rail lines. She wants Council to weigh in. She noted the actions that are being planned by DC elected officials. We need to take a stand and reach out to other legislative bodies on this issue.

Ms. Porter announced that members of the Nuclear-Free Committee are on next week's agenda to discuss that topic. They will make a presentation. It is a very complicated issue. Has very serious legal issues.

Mr. Seamens asked Mr. Williams to check on other COG perspectives on this issue

Ms. Porter remarked about the three priorities recommended by the MML Legislative Committee. The committee recommended a bill regarding municipal aggregation of electricity. However, there was a proposal from the floor that there be an amendment to make it a study. Said that she proposed an amendment to sustain the original recommendation. Her amendment passed (29-27 vote for a bill). The controversy had more to do with strategy. Last Wednesday, she had an opportunity to participate in National Disability Transportation Day. On another topic, Ms. Porter mentioned that she had a visit last week from Mrs. Bevell (wife of former Mayor Bevell). She is pleased to have met her.

ADDITIONAL AGENDA ITEMS

None.

ADOPTION OF MINUTES - 7/26/04, 9/7/04, 9/13/04

Motion by Williams; second by Barry.

Mr. Seamens noted the last set of minutes adopted; he wonders if there are sets that are missing for finalization.

Mr. Matthews responded that staff is working to bring current the minutes. More will be coming.

The minute were adopted (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Seamens, Williams; ABSENT: Mizeur).

PUBLIC COMMENT PERIOD

Andy Keleman, Chair of PSCAC, commented on the hazardous waste transportation issue. The PSCAC has discussed it in the context of emergency management. It seems that this is an opportunity for the city to divide the issue (i.e., legal side and pubic education campaign, including neighboring jurisdictions). This is not on its own. There is a broader community interest.

Lorraine Pearsall, Historic Takoma, Inc., recommended that a committee be appointed to work with the Montgomery College on their expansion plans. Dialogue is important. She commented on the Metropolitan Branch Trail, noting that she is very much against using the $80,000 for the asphalt of the trail. After the very difficult discussion about protecting the trees, we picked those trees for protection. If there is additional paving, there will be damage to the trees. The money should be used to construct a retaining wall. She spoke in support of staff finding the resources for the boardwalk to meet the original desire.

Francis Phipps, 7210 Holly Avenue, said she is a 34-year resident and a city planner. She commented on the Metropolitan Branch Trail. It was undersigned and oversized for our community. The $80,000 should be spent on other needs in the community.

PRESENTATIONS

1. Resolution re: Contributions of Paul MacLardy.

Motion by Austin-Lane; second by Williams.

Ms. Austin-Lane thanked Mr. MacLardy for his hard work in the past few years on the Old Takoma Business Association, noting that he continues to work in a variety of capacities, including work on National Cherry Blossom Committee. He has worked well with the community, Council and staff.

Ms. Porter added thanks to his efforts in heading up the Old Takoma Business Association. It is a particularly difficult task to keep an organization of this kind together and make it stronger. It is a valuable asset to the community.

Mr. Elrich commented on Mr. MacLardy's long investment in the community. He has put in a lot of time and energy.

Penny Jones-Napier remarked that Mr. MacLardy helped to build a coalition and bridge the common goals that both the Maryland and DC sides seek. He has been instrumental in making this a place where people want to come.

Resolution #2004-52 was adopted (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Seamens, Williams; ABSENT: Mizeur).

Resolution #2004-52
(Attached)

Ms. Porter and Ms. Austin-Lane presented the resolution.

Mr. MacLardy thanked the Council. He said it is very nice that the Council does not lose sight of the business community–a lot of small businesses. It has helped the community to grow.

2. Update on the Community Center Construction Project.

Ms. Matthews noted the memo regarding several change orders that have been resolved in the past week. She commented on each. Several staff members from the Administration Office have been relocated for the next couple of weeks; additionally, some of the Library materials have been moved to allow for a temporary support wall. Ms. Matthews explained the timing of the decision on the community level construction. Molina Construction has agreed to extend his

bid for an additional few days if this is an option we wish to pursue (i.e., thru April 29 for the same amount as previously quoted for the end of March). If we had certainty that Knott Construction could be guaranteed to finish by mid-March, we would recommend that we hold the Molina bid, but Knott Construction continues to run into issues as the construction proceeds, and there is no guarantee that Molina would be able to begin on May 1. There have been a number of unforeseen circumstances throughout the process. In talking to one of the field personnel, the latest schedule shows a March 15 completion. Barring any unforeseen circumstances, he thinks that they could meet that date; however, he cannot guarantee that things will not occur. Charron Consulting has recommended that we seriously consider re-bidding the community level project.

Mr. Seamens asked about the status of the items removed from the Municipal Building Lobby display.

Ms. Ludlow said staff is working with Historic Takoma to take some of the items of particular significance. The time capsule and sister city items are in storage. We are working to think about how to appropriately display the items in the new building. The stained glass window has been taken back by the designer for safe keeping.

Council discussed the schedule for additional discussion by the Council and opportunities for public comment on proposed bonding for community center completion. A public hearing is scheduled for November 8.

3. Columbia Union College (CUC).

Dr. Randall Wisby, President of Colmbia Union College, briefed the Council on development plans at the College. After describing the history and mission of the campus, Dr. Wisby commented on the proposed new buildings (i.e., learning center/library pavilion, arts center, an existing area that needs to undergo change, change in access to the athletic field by closing Greenwood Avenue). The College owns all of the houses on Greenwood Avenue with the exception of two; we would work closely with the neighbors. We feel it would be helpful to create a safer environment by closing the street; Division Street would also be closed. This would eliminate the cut-through path for motorists. There is more of a commitment to providing a campus center and more learning space. The library and learning center would be available to the public. Dr. Wisby noted the activities that would take place in each of the buildings (e.g., health facility). He identified that most significant thing that could be done would be to put parking underground (approximately 500 spaces)–would maintain most campus building and green space. He displayed some very preliminary drawings of the buildings (e.g., elevation, height perspective, footprints, Georgian design). *(Handout materials attached.)*

Mr. Elrich asked about the order of projects. He noted community concern about the Wellness Facility and the large building at the corner of Carroll.

Dr. Wisby indicated that the library will be first, which will allow the College to move functions

out of the old library. We have no staging issues with the performing arts building on the corner. Right now, that area is occupied by a parking space. We may need to work closely with the hospital in develop of plans in terms of the challenges associated with parking. We would hope that parking would already be in place under the library before beginning on the performing arts building.

Dr. Wisby said he understands the community concerns. He noted these are preliminary drawings. We have recognized the importance of green/buffer space. The elevations may be high, but in part, they are a result of under-grounding the parking. We know that there are height restrictions and limited space available for the expansion. We want to make sure that the appearance along Maplewood is improved.

Mr. Elrich said he thinks it is possible that this can work out well. The College has pretty good capital in working with the community as opposed to the approach taken by the Hospital. He said he thinks is time to reconvene a working group to look at and comment on the design plans.

Ms. Porter also encouraged convening a working group at the appropriate time, when the College is looking at massing or designing buildings. She encouraged Dr. Wisby to keep the Council updated.

Dr. Wisby explained that they are in the stage of raising the funds and do not yet know the timeframe. He said he is happy to continue to work with Ms. Ludlow and come to the Council more often.

Mr. Barry commented that he is interested in the gymnasium and the prospect of resident memberships. He also likes the idea of the performing arts center. He said he appreciates the work with the Crossroads and Montgomery College to get some ESOL training into those areas.

REGULAR MEETING

4. Resolution re: Community Development Block Grant (CDBG) Program.

Ivy Thompson presented the recommendations as proposed at last week's meeting. These would be in addition to the street improvement program that is being funded.

Ms. Porter noted that no more than 15 percent of monies can go toward community service programs.

Motion by Williams; second by Barry.

Resolution #2004-53 was adopted (VOTING FOR: Porter, Barry, Seamens, Williams; ABSENT: A-L, Elrich, Mizeur).

Resolution #2004-53

(Attached)

5. 1st Reading Ordinance re: Capital Improvements Process Contracts.

Ms. Daines commented that this ordinance would authorize execution of contract with K&S Development Consultants, LLC, for construction inspection services. There is money in the budget for this activity.

Motion by Seamens; second by Williams.

Ordinance #2004-30 was accepted unanimously at first reading (VOTING FOR: Porter, Barry, Elrich, Seamens, Williams; ABSENT: A-L, Mizeur).

Ordinance #2004-30
(Attached)

6. Resolution re: Takoma Junction Loan Extension.

Ms. Porter explained that this resolution would authorize the extension of loan that was taken out to purchase the Takoma Junction property.

Ms. Waters explained the history of the loan and terms. In response to questions, she indicated that the remaining principal is $216,833.32.

Ms. Porter asked if there is a penalty for payment before three years?

Ms. Matthews responded referred to the terms of the document. There is no prepayment penalty.

Mr. Elrich urged that the City revisit discussions with the Co-op about their interest in purchasing the property and to otherwise explore other development options. He noted the fire station relocation on the site and commented on the possible sale of the back residential lot.

Mr. Barry asked when will appraisal on the property be completed?

Ms. Matthews said she would provide that information to the Council.

Motion by Williams; second by Elrich.

Resolution #2004-54 was adopted unanimously (VOTING FOR: Porter, Barry, Elrich, Seamens, Williams; ABSENT: Austin-Lane, Mizeur).

Resolution #2004-54
(Attached)

BREAK

The Council recessed for a scheduled break at 9:40 p.m. and reconvened in Worksession at 9:56 p.m.

WORKSESSION

7. Air Conditioning in Rental Housing Facilities.

Ms. Daines explained that Council had previously considered Option A, amending the Property Maintenance Code related to a single receptacle in a sleeping room with certain requirements. In talking with staff, Option B was developed to address the issue by amending Chapter 6 of the City Code. She explained the provisions of the option. By changing the "Obligations of the Landlord" in the law, we could ensure that receptacles in excess of the "one" be maintained. Remarked about the change to the "Lease Requirements" law and what would have to be stipulated at the time of an agreement between tenant and landlord. This language change would also assist in resolution of COLTA cases, in terms of who is responsible.

Mr. Elrich commented that, in part, this sounds like it becomes a subject of negotiation.

Ms. Daines clarified. This would not allow for a reduction in service. If the provision of air conditioning is not addressed in the lease and the tenant decides to provide air conditioning on his own, since not stated in the lease, there is an unspoken agreement to allow the installation. If Code Enforcement comes through and finds the unit, the landlord could not require the tenant to remove the unit, but would rather have to upgrade the unit to accommodate the air conditioning unit.

Ms. Porter noted the issue around a "silent" lease. Would the landlord have an option to write in a new lease a provision to prohibit a unit?

Ms. Daines said she talked to Assistant City Attorney Ken Sigman when drafting language. The language is intended to cover air conditioning that exists, whether covered as part of lease or put in by the tenant.

Ms. Porter asked if you have a new entity renting out units (in case of building being sold), would the new landlord be held to same standards as previous landlord?

Ms. Daines responded in the affirmative.

Mr. Seamens asked could a tenant's rent increase to compensate for a landlord having to install the upgrade?

Ms. Daines said it could qualify as a capital improvement. It is not covered in this language.

Mr. Seamens asked about the language about a “reasonable increase in fees”....is this how it applies?

Ms. Daines said it recognizes that there are some fees being assessed by landlords for these types of amenities.

Mr. Seamens asked can a landlord issue a directive prohibiting use of air conditioning units in their building?

Ms. Daines said they would have to include that in the lease prior to adoption of this ordinance. If otherwise not in a lease, it would be an implied consent.

Ms. Porter said she has seen leases that state that “no air conditioning is provided” as more of a disclosure.

Ms. Daines said she has not seen any leases that specifically state a prohibition. She referred to Option B, item “p” language proposed for inclusion in lease.

Mr. Elrich remarked about concern with the construction of the language and whether it leaves an opening for a landlord to refuse an air conditioning upgrade for tenants.

Ms. Porter said she thinks that the only place where this would be an issue is when new tenants come in and a new lease is drawn-up, but that it would limit ability to rent the unit. It would have an impact on the landlord and might be an incentive for the landlord to upgrade the unit.

Mr. Elrich said he would suggest a field study/survey of tenants to determine “who” is using air conditioning units, to establish a baseline.

Council discussed option B at length. Staff was directed to obtain additional information about rental facilities with between two and 12 units which have been cited for inadequate electrical service.

8. Update on Metropolitan Branch Trail.

Senior Planner Rob Inerfeld and City Arborist Brett Linkletter were present for the discussion. Mr. Inerfeld described the status of the trail. Staff is recommending that the City work with Montgomery County to complete the Takoma Park portion of the trail by constructing an eight foot wide asphalt trail with a railing to separate the trail from the street. Mr. Inerfeld commented on the public input received.

In response to questions, Mr. Linkletter said that when the work was originally done, there was unintentional damage to some trees in the area of the boardwalk section. He does not think that the increase in the damage would be that much if the contractor did not get any closer to the trees than where damage has already occurred.

Council discussed the proposal for the asphalt trail, the original proposal for a boardwalk trail, the potential for damage to the trees, staff interactions with the public, and related issues at length. Members of the advisory committee commented on the recommendation.

Staff was directed to do go back to the advisory committee for further discussion and to explore the flexibility of use of the funds from Montgomery County.

ADJOURN

The Council adjourned for the evening at 12:01 a.m.