

3A
5-27-03

CITY COUNCIL OF ALEXANDRIA, VIRGINIA

Regular Meeting

Tuesday, May 13, 2003 - - 7:30 p.m.

Present: Mayor Kerry J. Donley, Vice Mayor William C. Cleveland, Members of Council Claire M. Eberwein, William D. Euille, Redella S. Pepper, and Joyce Woodson.

Absent: Councilman David G. Speck.

Also Present: Mr. Sunderland, City Manager; Mr. Pessoa, City Attorney; Mr. Jinks, Assistant City Manager; Public Information Officer Gordon; Mr. Baier, Director of Transportation and Environmental Services; Mr. Neckel, Director of Finance; Ms. Ross, Deputy Director of Planning and Zoning; Ms. Boyd, Director of Citizen Assistance; Ms. Fogarty, Director of Planning and Zoning; Affirmative Action Officer Mason; Ms. Davis, Director of Housing; Mr. Eiffert, Deputy Director of Housing; Ms. Whitmore, Director of Recreation, Parks and Cultural Activities; Ms. Steele, Interim Director of Human Services; Code Enforcement Director Dahlberg; and Police Lieutenant Uzzell.

Recorded by: Mrs. Beverly I. Jett, City Clerk and Clerk of Council.

At 6:00 p.m., in the Council Workroom, there was a work session to discuss the Strategic Master Plan for Open Space.

Director of Recreation, Parks and Cultural Activities Whitmore provided Council with an overview of the strategic plan.

Members of Council, City Manager Sunderland, Planning and Zoning Deputy Director Ross and Planning and Zoning Director Fogarty participated in the discussion with Ms. Whitmore who also responded to questions posed by the Members.

Councilwoman Pepper noted that she plans to meet with various groups that have been promoting a multi-generational center at Ben Brenman Park at the approximately 2.5-acre site that has been set aside at the park for this purpose. Councilwoman Pepper would like to meet with staff, Ralph Thompson and other seniors to see if there is some kind of resolution that can be reached. The issue of parking in Ben Brenman Park needs to be examined if the 2.5-acre site is used for other uses.

Planning and Zoning Deputy Director Ross provided Council with an overview of the open space plan and responded to queries asked by the Members of Council. Deputy Director of Recreation, Parks and Cultural Activities Kincannon, Ms. Whitmore, City Manager Sunderland and Assistant City Manager Jinks also participated in the discussion.

The work session was concluded at 7:35 p.m.

(Material pertaining to the above work session is on file in the office of the City Clerk and Clerk of Council and is incorporated herewith as part of the record.)

OPENING

The Meeting was called to Order by Mayor Donley, and the City Clerk called the Roll; all Members of City Council were present except Councilman Speck.

City Council observed a moment of silence and then recited the Pledge of Allegiance.

3. **THERE BEING NO DISCUSSION**, upon motion by Councilman Euille, seconded by Vice Mayor Cleveland and carried unanimously by all those present, City Council approved the following Minutes for (a) the Public Hearing Meeting of April 12, 2003; (b) the Regular Meeting of April 22, 2003; and (c) the Special Meeting of April 29, 2003, as submitted. The voting was as follows:

Euille	"aye"	Eberwein	"aye"
Cleveland	"aye"	Pepper	"aye"
Donley	"aye"	Speck	absent
		Woodson	"aye"

4. **THERE BEING NO DISCUSSION**, upon motion by Vice Mayor Cleveland, seconded by Councilwoman Pepper and carried unanimously by all those present, City Council received the Report of the City Clerk dated May 5, 2003, a copy of which is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 5/13/03, and is incorporated herewith as part of this record by reference. The voting was as follows:

Cleveland	"aye"	Eberwein	"aye"
Pepper	"aye"	Euille	"aye"
Donley	"aye"	Speck	absent
		Woodson	"aye"

RECOGNITION OF YOUTH BY MEMBERS OF CITY COUNCIL

5. Recognition of the T.C. Williams Boys' Basketball Team.

Councilman Euille welcomed and introduced the representatives of the T.C. Williams Boys' Basketball Team.

City Council recognized the Members of the T.C. Williams Boys' Basketball Team.

OPENING (continued)

6. Presentation of Proclamation Declaring the Month of May as Adolescent Pregnancy Prevention Awareness Month in the City of Alexandria.

(A copy of the proclamation is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6; 5/13/03, and is incorporated herewith as part of this record by reference.)

Mayor Donley presented the proclamation.

WHEREUPON, upon motion by Vice Mayor Cleveland, seconded by Councilwoman Eberwein and carried unanimously by all those present, City Council endorsed the proclamation. The voting was as follows:

Cleveland	"aye"	Euille	"aye"
Eberwein	"aye"	Pepper	"aye"
Donley	"aye"	Speck	absent
		Woodson	"aye"

7. Presentation of Proclamation Proclaiming the Month of May as Asian Pacific American Heritage Month in the City of Alexandria.

(A copy of the proclamation is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 5/13/03, and is incorporated herewith as part of this record by reference.)

Councilwoman Woodson presented the proclamation.

WHEREUPON, upon motion by Councilwoman Woodson, seconded by Councilman Euille and carried unanimously by all those present, City Council endorsed the proclamation. The voting was as follows:

Woodson	"aye"	Cleveland	"aye"
Euille	"aye"	Eberwein	"aye"
Donley	"aye"	Pepper	"aye"
		Speck	absent

8. Presentation of Proclamation Recognizing the 70th Anniversary of Twig.

(A copy of the proclamation is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8; 5/13/03, and is incorporated herewith as part of this record by reference.)

Councilwoman Pepper presented the proclamation.

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Vice Mayor Cleveland and carried unanimously by all those present, City Council endorsed the proclamation. The voting was as follows:

Pepper	"aye"	Eberwein	"aye"
Cleveland	"aye"	Euille	"aye"
Donley	"aye"	Speck	absent
		Woodson	"aye"

9. Presentation of Proclamation Proclaiming Saturday, May 17, 2003, as Armenia Day in the City of Alexandria.

(A copy of the proclamation is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 5/13/03, and is incorporated herewith as part of this record by reference.)

Vice Mayor Cleveland presented the proclamation.

WHEREUPON, upon motion by Vice Mayor Cleveland, seconded by Councilwoman Pepper and carried unanimously by all those present, City Council endorsed the proclamation. The voting was as follows:

Cleveland	"aye"	Eberwein	"aye"
Pepper	"aye"	Euille	"aye"
Donley	"aye"	Speck	absent
		Woodson	"aye"

10. Presentation to Mayor Kerry J. Donley by the Alexandria Commission for Women.

Members of the Alexandria Commission for Women presented Mayor Donley with a plaque in recognition of his unending support to the programs and services for the women of Alexandria and for his contributions that have led to Alexandria's continued ranking by the *Ladies Home Journal* as one of the best cities for women in the United States.

11. (a) Receipt of Letter of Retirement from the City Clerk and Clerk of Council.

(A copy of the City Clerk's letter dated May 1, 2003, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11(a); 5/13/03, and is incorporated herewith as part of this record by reference.)

(b) Appointment of the New City Clerk and Clerk of Council.

WHEREUPON, upon motion by Councilman Euille, seconded by Councilwoman Woodson and carried unanimously by all those present, with regret, City Council formally accepted the letter of retirement [effective 7/1/03] from City Clerk Beverly Jett and thanked her for her many years of dedicated service and commitment to the City and wished her well. Also, Council recommended the appointment of Jackie Henderson as the new City Clerk and Clerk of Council [effective 6/2/03]. The voting was as follows:

Euille	"aye"	Cleveland	"aye"
Woodson	"aye"	Eberwein	"aye"
Donley	"aye"	Pepper	"aye"
		Speck	absent

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

CONSENT CALENDAR (12-15) (19-22)

12. Receipt of the Following Resignations From Members of Boards, Commissions and Committee

- (a) Alexandria Commission on Persons With Disabilities
David Kaszowicz
- (b) Alexandria Economic Opportunities Commission
Angie Godfrey
- (c) Alexandria Human Rights Commission
Angie Godfrey

- (d) Alexandria Redevelopment and Housing Authority
Board of Commissioners
Antoine P. Cobb

(A copy of the above resignations is on file in the office of the City Clerk and Clerk of Council, marked collectively as Exhibit No. 1 of Item No. 12(a-d); 5/13/03, and is incorporated herewith as part of this record by reference.)

13. Uncontested Appointments to Boards, Commissions and Committees:

- (a) Alexandria Woodrow Wilson Bridge Neighborhood Task Force
1 Representative From A Civic Association Impacted by the Woodrow
Wilson Bridge Construction
- (b) Alexandria-Gyumri Sister City Committee
1 Citizen Member
- (c) Alexandria Commission for Women
5 Citizen Members
- (d) Alexandria Commission on Aging
1 Citizen Member 60 Years of Age or Older
- (e) Alexandria Commission on Employment
1 Business Representative From Among Recognized Area Businesses,
Including Minority-Owned and Small Businesses

1 Representative From Such Organizations as Educational Agencies,
Organized Labor, Rehabilitation Agencies, Community-Based
Organizations, Economic Development Agencies and the Public
Employment Services
- (f) Alexandria Commission on HIV/AIDS
1 Member From and Representing the Inova Visiting Home Health
Association
- (g) Historic Alexandria Resources Commission
1 Member From and Representing the Northern Virginia Fine Arts
Association
- (h) Alexandria Local Emergency Planning Committee
1 Owner or Operator of A Facility Subject to the Federal Emergency
Planning Requirements of the Super Fund Amendments and
Reauthorization Act of 1986 (SARA)

(Material pertaining to the above appointments is on file in the office of the City Clerk and Clerk of Council, marked collectively as Exhibit No. 1 of Item Nos. 13(a-h); 5/13/03, and is incorporated herewith as part of this record by reference.)

14. Receipt of the Fiscal Year 2002 Annual Report of the Alexandria Human Rights Commission.

(A copy of the City Manager's memorandum dated April 22, 2003, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 14; 5/13/03, and is incorporated herewith as part of this record by reference.)

15. Receipt of a Federal Grant for a Program to Serve Court-Involved Youth.

(A copy of the City Manager's memorandum dated April 24, 2003, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 15; 5/13/03, and is incorporated herewith as part of this record by reference.)

19. Introduction and First Reading. Consideration. Passage on First Reading of an Ordinance to revise the membership and functions of the Alexandria Commission on HIV/AIDS.

(A copy of an Informal Memorandum explaining ordinance is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 19; 5/13/03, and is incorporated herewith as part of this record by reference.)

A copy of the ordinance referred to in the above item, of which each Member of Council present received a copy not less than 24 hours before said introduction, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 19; 5/13/03, and is incorporated herewith as part of this record by reference.)

20. Introduction and First Reading. Consideration. Passage on First Reading of an Ordinance to grant an encroachment into the sidewalk for outdoor seating at the Starbucks Coffee Company, 6 King Street.

(A copy of an Informal Memorandum explaining ordinance is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 20; 5/13/03, and is incorporated herewith as part of this record by reference.)

A copy of the ordinance referred to in the above item, of which each Member of Council present received a copy not less than 24 hours before said introduction, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 20; 5/13/03, and is incorporated herewith as part of this record by reference.)

21. Introduction and First Reading. Consideration. Passage on First Reading of an Ordinance to increase the sewer line maintenance charge imposed by section 5-6-26 of the City Code.

(A copy of the City Manager's memorandum dated May 7, 2003, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 21; 5/13/03, and is incorporated herewith as part of this record by reference.)

A copy of an Informal Memorandum explaining ordinance is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 21; 5/13/03, and is incorporated herewith as part of this record by reference.)

A copy of the ordinance referred to in the above item, of which each Member of Council present received a copy not less than 24 hours before said introduction, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 3 of Item No. 21; 5/13/03, and is incorporated herewith as part of this record by reference.)

22. Introduction and First Reading. Consideration. Passage on First Reading of an Ordinance authorizing the issuance of general obligation bonds by the City of Alexandria in the amount of \$64,700,000.

(A copy of the City Manager's memorandum dated May 8, 2003, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 22; 5/13/03, and is incorporated herewith as part of this record by reference.

A copy of an Informal Memorandum explaining ordinance is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 22; 5/13/03, and is incorporated herewith as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council present received a copy not less than 24 hours before said introduction, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 3 of Item No. 22; 5/13/03, and is incorporated herewith as part of this record by reference.)

END OF CONSENT CALENDAR

WHEREUPON, upon motion by Councilwoman Woodson, seconded by Councilwoman Pepper and carried unanimously by all those present, City Council approved the Consent Calendar as presented. The City Manager's recommendations are as follows:

12. City Council received the following resignations with regret: (a) David Kaszowicz from the Alexandria Commission on Persons With Disabilities; (b) Angie Godfrey from the Alexandria Economic Opportunities Commission; (c) Angie Godfrey from the Alexandria Human Rights Commission; and (d) Antoine P. Cobb from the Alexandria Redevelopment and Housing Authority; requested the Executive Secretary for Boards and Commissions to send the appropriate letters of appreciation and to advertise the vacancies in the usual manner.

13. City Council (a) appointed Lewis Robinson as a Representative from a Civic Association Impacted by the Woodrow Wilson Bridge Construction to the Alexandria Woodrow Wilson Bridge Neighborhood Task Force; (b) waived the residency requirement and appointed Bedros Nersessian as a Citizen Member to the Alexandria-Gyumri Sister City Committee; (c) reappointed Susan Lowell Butler, Sara Donohue, Susan Loyd Gilbert and appointed Donna Kloch and Marian Pegram as Citizen Members to the Alexandria Commission for Women; (d) appointed Lisa Burnard as a Citizen Member 60 Years of Age or Older to the Alexandria Commission on Aging; (e) reappointed Bettie Applewhite as a Business Representative from among recognized area businesses, including minority-owned and small businesses and Kathleen Corr as a Representative from such organizations as Educational Agencies, Organized Labor, Rehabilitation Agencies, Community-based Organizations, Economic Development Agencies and the Public Employment Services to the Alexandria Commission on Employment; (f) appointed Peggy Taylor as a Member from and representing the Inova Visiting Home Health Association to the Alexandria Commission on HIV/AIDS; (g) reappointed Elaine Johnston as a Member from and representing the Northern Virginia Fine Arts Association to the Historic Alexandria Resources Commission; and (h) waived the residency requirement and reappointed Hula Edmonds as a Owner or Operator of a facility subject to the Federal Emergency Planning Requirements of the Super Fund Amendments and Reauthorization Act of 1986 (SARA) to the Alexandria Local Emergency Planning Committee.

14. City Council received the report and thanked the Commission for its work on behalf of the City.

15. City Council approved receipt of federal funding for a program for court-involved youth to be managed by the Court Services Unit.

19. City Council introduced and passed the Ordinance on its First Reading; set it for Public Hearing, Second Reading and Final Passage on Saturday, May 17, 2003.

20. City Council introduced and passed the Ordinance on its First Reading; set it for Public Hearing, Second Reading and Final Passage on Saturday, May 17, 2003.

21. City Council introduced and passed the Ordinance on its First Reading; set it for Public Hearing, Second Reading and Final Passage on Saturday, May 17, 2003.

22. City Council introduced and passed the Ordinance on its First Reading; set it for Public Hearing, Second Reading and Final Passage on Saturday, June 14, 2003.

END OF CONSENT CALENDAR

The voting was as follows:

Woodson	"aye"	Cleveland	"aye"
Pepper	"aye"	Eberwein	"aye"
Donley	"aye"	Euille	"aye"
	Speck		absent

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER (continued)

16. Verbal Report on the Three Corners of Lower King Street.

Assistant City Manager Jinks and Planning and Zoning Deputy Director Ross provided Council with an update on the three corners of lower King Street. Members of Council posed questions to Mr. Jinks and Ms. Ross and participated in the discussion.

17. Consideration of Report from the Martin Luther King, Jr. Work Group on a Permanent Memorial to Dr. King.

(A copy of the City Manager's memorandum dated May 8, 2003, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 17; 5/13/03, and is incorporated herewith as part of this record by reference.)

Councilman Euille and Vice Mayor Cleveland spoke to this item.

WHEREUPON, upon motion by Councilman Euille, seconded by Vice Mayor Cleveland and carried unanimously by all those present, City Council: (1) received the Work Group's report which recommends that: (a) a permanent memorial to Dr. King be established in the City; (b) as part of the planned renovation of Market Square, a bench with a bronze sculpture of Dr. King sitting on the bench be installed in a garden area that is lighted, secure and visible; (c) an interactive historical display which provides in-depth information on Dr. King be installed at the Black History Resource Center; and

(d) this report be distributed to all civic associations and set for public hearing on June 14, and Council action on June 24. The bench would be similar to the one in front of the Printing Industries of America building on Dangerfield Road; and (2) consider providing a small amount of City funds toward this memorial, with the remaining funds being raised by the Work Group which is committed to doing so. The voting was as follows:

Euille	"aye"	Eberwein	"aye"
Cleveland	"aye"	Pepper	"aye"
Donley	"aye"	Speck	absent
		Woodson	"aye"

18. Consideration of the City's One-Year Action Plan for Housing and Community Development for FY 2004. (#3 4/12/03)

(A copy of the City Manager's memorandum dated April 30, 2003, together with the One-Year Action Plan, is on file in the office of the City Clerk and Clerk of Council, marked collectively as Exhibit No. 1 of Item No. 18; 5/13/03, and is incorporated herewith as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Woodson, seconded by Councilwoman Pepper and carried unanimously by all those present, City Council: (1) approved the One-Year Action Plan for Housing and Community Development for FY 2004, which includes the City's application for Federal Fiscal Year 2003 funding for \$1,533,000 in Community Development Block Grant (CDBG) monies and \$909,647 in Home Investment Partnerships Program (HOME) monies; and (2) authorized the City Manager to execute all necessary documents. The voting was as follows:

Woodson	"aye"	Cleveland	"aye"
Pepper	"aye"	Eberwein	"aye"
Donley	"aye"	Euille	"aye"
		Speck	absent

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

None

ORAL PRESENTATIONS BY MEMBERS OF CITY COUNCIL

(a) Councilwoman Pepper noted that she sits on the Information Technology Commission, and she wanted to mention that there is a service that's going to be coming to the City which is "eNews You Can Use." A presentation will be made to the Council at a later meeting.

Councilwoman Woodson indicated that a constituent questioned if there is any possibility for communicating with the citizens on a more regular basis and in a more economic fashion other than the *Annual Report*. She noted that since everyone does not have access to the internet that there is the possibility that information could be included in all City documents.

City Manager Sunderland reported that it has been planned to issue a quarterly newsletter, probably in the fall, which would go to everybody, in addition to "eNews." One part of one issue would have a summary of the news of the year which could relate to the *Annual Report*. The *Annual Report* is difficult to do and there is a fairly significant cost in the printing and the mailing. The City Manager will come back in June to report on these items and tell the Council what the options are.

Councilman Euille asked if the City can take advantage of a little bit more of the Comcast public service station. The City Manager reported what the City is doing in this area.

(b) Councilwoman Woodson indicated that this is a reflection on some of the comments that Ms. Jett made in her retirement letter. There were really fantastic ideas in her letter regarding recommendations for technology advancements. Ms. Woodson encouraged the Manager to take them very seriously and try to incorporate as many as possible into his plans for the future here because they make sense and ultimately will probably prove to be more financially beneficial than a financial drain inasmuch as they may cost money on the front-end.

(c) Councilman Euille announced that on May 6, the Virginia Department of Transportation received formal concurrence from the Federal Highway Administration to proceed with the design and construction of a noise barrier on the Woodrow Wilson Bridge. This is a 1550-linear-foot transparent barrier that will minimize the noise from the traffic crossing the bridge and will provide protection to many of the homes in the historic district.

(d) Mayor Donley reported that Transportation and Environmental Services Director Baier indicated that the snow pile which was down on Roth Street/South Quaker Lane has been reduced from 37 feet to 3 feet. There is still snow there.

REPORT FROM THE CITY MANAGER

(a) City Manager Sunderland spoke to the combined effort that's just been put together by the Office of Women, Department of Mental Health, SCAN, and the Department of Social Services. It's a program called "Safe Families and Healthy Families" which is to address domestic violence, child abuse, parenting and wellness. It will be a weekly support group that will get together for moms and kids who have experienced domestic violence or family violence and may be at risk of more violence. Anybody who might be listening and might want to become a participant can contact the Office of Women at 703-838-5030.

(b) The City Manager reported that the Office of Historic Alexandria is doing something interesting in connection with the Folklife Festival this year. The theme is Scotland, and we have been asked to do an exhibit on Alexandria and our historic trappings and ties to Scotland. We're going to do it in the Smithsonian Arts and Industries building right adjacent to where the festival is held. This will be in the building starting in June.

(c) Mr. Sunderland announced that the official groundbreaking for the work on the Durant Center, 1605 Cameron Street, will be at 8:30 a.m. this Saturday morning, May 17.

(d) The City Manager provided Council with a brief overview of the Affordable Housing Meeting which was held on May 12.

ORDINANCES AND RESOLUTIONS (continued)

23. Introduction and First Reading. Consideration. Passage on First and Second Reading of an Ordinance to adopt Supplement 69 to the City Code. **[ROLL-CALL VOTE]**

The City Clerk read the docket item.

WHEREUPON, upon motion by Councilman Euille, seconded by Councilwoman Pepper and carried on a ROLL-CALL vote of 6-to-0, City Council introduced and finally passed the Ordinance on its First and Second Reading. The voting was as follows:

Euille	"aye"	Cleveland	"aye"
Pepper	"aye"	Eberwein	"aye"
Donley	"aye"	Speck	absent
	Woodson	"aye"	

The ordinance finally passed reads as follows:

ORDINANCE NO. 4298

AN ORDINANCE adopting supplemental pages for The Code of the City of Alexandria, Virginia, 1981, as amended, and providing for the repeal of ordinances not included therein, except those saved from repeal by this ordinance, and for other purposes.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the sections and portions thereof set forth in the supplemental and replacement pages for The Code of the City of Alexandria, Virginia, 1981, each of which pages is identified in the lower left-hand corner by the notation "Supp. No. 69," are hereby adopted as and shall constitute "The Sixty-Ninth Supplement to The Code of the City of Alexandria, Virginia, 1981."

Section 2. That the sections and portions thereof set forth in "The Sixty-Ninth Supplement to The Code of the City of Alexandria, Virginia, 1981" shall be in force and effect on and after the effective date of this ordinance, and all ordinances of a general and permanent nature which were adopted between November 17, 2002 through March 15, 2003, inclusive, and which are not included in such supplement or in The Code of the City of Alexandria, Virginia, 1981, as amended, are hereby repealed, except as otherwise provided in section 3 of this ordinance.

Section 3. That the repeal provided for in section 2 of this ordinance shall not affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract established or accruing prior to the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to said date; nor shall it affect any ordinance adopted after November 17, 2002, which amends the Zoning Ordinance of the City of Alexandria, Virginia, 1992, as amended; nor shall it affect any ordinance saved from repeal by Ordinance No. 1250; nor shall it affect any ordinance listed in appendices A through J, both inclusive, of The Code of the City of Alexandria, Virginia, 1981, or any pages supplemental to such appendices; nor shall it affect any provision of any ordinance adopted between November 17, 2002 through March 15, 2003, inclusive, and which is inadvertently omitted from or erroneously incorporated into "The Sixty-Ninth Supplement to The Code of the City of Alexandria, Virginia, 1981," or any other supplement to the code; nor shall it affect any ordinance adopted after the effective date of this ordinance.

Section 4. That one complete set of pages comprising "The Sixty-Ninth Supplement to The Code of the City of Alexandria, Virginia, 1981," shall be stapled or otherwise permanently fastened together, shall be manually signed on the front sheet by the mayor and the city clerk, and shall be filed in the office of the city clerk and made available to any person desiring to inspect the same. In addition, one complete set of the supplemental and replacement pages of such supplement shall be properly inserted into the copy of The Code of the City of Alexandria, Virginia, 1981, which bears the manual signatures of the mayor and the city clerk, and such code, as amended and supplemented, shall be kept on file in the office of the city clerk and be made available to any person desiring to inspect the same.

Section 5. This ordinance shall become effective upon the date and at the time of its final passage.

KERRY J. DONLEY
Mayor

Introduction: May 13, 2003
First Reading: May 13, 2003
Second Reading: May 13, 2003
Final Passage: May 13, 2003

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24. Consideration of Resolution to Amend City of Alexandria Pension Plan for Firefighters and Police Officers to Eliminate the Income Offset from Gainful Employment for Those on Partial Disability. **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated May 8, 2003, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 24; 5/13/03, and is incorporated herewith as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Eberwein, seconded by Councilwoman Woodson and carried on a ROLL-CALL vote of 6-to-0, City Council adopted the resolution which amends the Pension Plan for Fire Fighters and Police Officers to eliminate the income offset from gainful employment for those on partial disability. The voting was as follows:

Eberwein	"aye"	Cleveland	"aye"
Woodson	"aye"	Euille	"aye"
Donley	"aye"	Pepper	"aye"
	Speck	absent	

The resolution reads as follows:

RESOLUTION NO. 2070

WHEREAS, the City of Alexandria maintains the **City of Alexandria Pension Plan For Firefighters and Police Officers** (the "Plan"); and

WHEREAS, the City of Alexandria desires to incorporate an amendment to the Plan as set forth in the "First Amendment to the City of Alexandria Pension Plan for Firefighters and Police Officers" (the "Plan Amendment") attached hereto; and

WHEREAS, the Plan Amendment is intended to remove the income offset from any disability payment made after July 1, 2002.

NOW, THEREFORE, BE IT RESOLVED, that the Alexandria City Council does hereby recognize, adopt, and approve the Plan Amendment attached hereto and incorporated fully herein by reference; and

BE IT FURTHER RESOLVED, that this Resolution shall be effective immediately; provided, however, that the amendment hereby approved shall be effective as stated in the Plan Amendment.

* * * * *

The Plan Amendment is as follows:

**FIRST AMENDMENT TO
THE CITY OF ALEXANDRIA PENSION PLAN
FOR FIREFIGHTERS AND POLICE OFFICERS**

Pursuant to the powers of amendment reserved under Article XII, Section A, Paragraph 1 of the City of Alexandria Pension Plan for Firefighters and Police Officers, as amended and restated effective as of December 31, 2002 (the "Plan"), said Plan shall be and the same is hereby further amended by the City of Alexandria (the "Employer") effective as of July 1, 2002 as follows:

FIRST CHANGE

Paragraphs 3 and 4 of Article VI, Section F are hereby deleted and the following new Paragraphs 3 and 4 inserted in lieu thereof:

- "3. The annual amount of disability benefit payable to a Participant in accordance with Section C, above, will be equal to the greater of 66 2/3% of the Participant's Final Average Earnings or his accrued benefit as determined in Sections A and E of Article IV, reduced by the annual amount of periodic payments payable under the Workmen's Compensation Act of the Commonwealth of Virginia. Such reduction shall be applied on a monthly basis in an amount equal to 1/12 of the yearly amount so determined.
4. The annual amount of disability benefit payable to a Participant in accordance with Section D, above, will be equal to the greater of 50% of the Participant's Final Average Earnings or his accrued benefit as determined in Sections A and E of Article IV."

SECOND CHANGE

Paragraph 5 of Article VI, Section F, is hereby deleted in its entirety.

THIRD CHANGE

Section G of Article VI is hereby deleted and the following new Section G inserted in lieu thereof:

Section G: Gainful Employment

1. Effective For Disability Retirement Dates On or After May 24, 1983.
Notwithstanding any other provision of this Plan, any Participant receiving benefits or eligible to receive benefits under this Plan as a result of a disability shall be required to accept employment in any position offered by an employer for which the Participant is qualified or for which the City is willing to assume the costs for the retraining and rehabilitation necessary to enable the Participant to qualify, if the City, in its sole judgment, determines that such employment is appropriate under the

circumstances and if the locus of employment is suitable to the Participant's residence.

The provisions of the preceding paragraph shall be subject to the following conditions:

- (a) Prior to any action to provide such alternative employment,
 - (i) the Personnel Department shall present a detailed job description to an independent physician selected by the City (who shall be the treating physician if the disability was covered by the Workmen's Compensation Act) for review and a determination that the Participant is medically able to undertake such employment;
 - (ii) the Personnel Department shall notify the Participant of the particulars of the alternative employment (including the job location and a copy of the job description) and a copy of the physician's determination that the Participant is able to undertake the offered employment;
 - (iii) if the Participant believes he has just cause to refuse to accept such alternate employment, he shall notify the Personnel Department in writing of such reason or reasons for refusal, no later than ten (10) days from receipt of the notification required by the preceding subparagraph;
 - (iv) should the Personnel Director, after reviewing the Participant's written statement, still believe the alternative employment is appropriate and suitable, he shall respond in writing to the Participant, stating the reasons supporting the determination of appropriateness and suitability, particularly responding to the Participant's written statement of reasons;
 - (v) should the Participant continue to refuse to accept the alternate employment, the issue shall be determined in accordance with the procedures of paragraph (b)(i) or (ii).
- (b)
 - (i) In the event the Participant who refuses employment is, in addition, entitled to receive benefits under the Workmen's Compensation Act, the decision as to whether his refusal is justifiable shall be presented to the Industrial Commission of Virginia for determination under the provisions of Section 65.1-63, Code of Virginia, and the decision of the Industrial Commission shall also be binding on the question of termination of disability retirement benefits, as set forth in Article VI, Section H, Paragraphs 2(e) and 3(d). If the Industrial Commission should fail or refuse to act on this question, then the determination shall be made pursuant to sub-paragraph (ii) below.
 - (ii) If a Participant entitled to disability benefits under this Plan is not entitled to receive benefits under the Workmen's Compensation Act of the Commonwealth of Virginia, the decision as to whether his refusal of alternative employment is justifiable shall be presented to the City Attorney who shall act as an impartial arbitrator, based upon the entire record, under the standards

utilized by the Industrial Commission under the provisions of Section 65.1-63, Code of Virginia. The City Attorney shall issue a written opinion specifying his reasoning and precedential support, if any, for his decision. The City Attorney may request either the Participant or the Personnel Director, or both, to present additional information prior to rendering his decision.

FOURTH CHANGE

Subsection (c) of Article VI, Section H, Paragraph 3 is hereby deleted in its entirety and former Subsections (d) and (e) shall be renumbered as Subsections (c) and (d).

The foregoing changes shall only apply to disability benefits paid on or after July 1, 2002.

The City of Alexandria Pension Plan for Firefighters and Police Officers, as amended and restated effective as of December 31, 2002, and as amended by the foregoing changes is hereby ratified and confirmed in all respects.

IN WITNESS WHEREOF, the Employer has caused this First Amendment to be executed on this _____ day of _____, 2003.

THE CITY OF ALEXANDRIA

By: _____
Philip Sunderland, City Manager

OTHER

25. Consideration of City Council Schedule.

(A copy of the City Manager's memorandum dated May 8, 2003, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 25; 5/13/03, and is incorporated herewith as part of this record by reference.)

City Attorney Pessoa requested that a meeting of the Members of the Corporation of the Capital Development Foundation be added as a separate meeting at 7:20 p.m. on May 27, 2003, in order to elect the initial Directors.

WHEREUPON, upon motion by Councilman Euille, seconded by Vice Mayor Cleveland and carried unanimously by all those present, City Council received the revised schedule which includes: (a) the traditional farewell dinner for the 2000-2003 Mayor and Members of City Council on Wednesday, June 18, at 6:00 p.m. at Landini Brothers Restaurant, 115 King Street; and (b) the City Council installation ceremony on Tuesday, July 1, at 7:30 p.m. in the John C. Albohm Auditorium at T.C. Williams High

School, followed by a reception in the cafeteria immediately following the ceremony, and (c) added the meeting of the Members of the Corporation of the Capital Development Foundation as a separate meeting to elect the initial directors at 7:20 p.m. on May 27. The voting was as follows:

Euille	"aye"	Eberwein	"aye"
Cleveland	"aye"	Pepper	"aye"
Donley	"aye"	Speck	absent
		Woodson	"aye"

CONTESTED APPOINTMENTS

None

THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED, upon motion by Vice Mayor Cleveland, seconded by Councilwoman Pepper and carried unanimously, at 9:20 p.m., the Regular Meeting of May 13, 2003, was adjourned. The voting was as follows:

Cleveland	"aye"	Eberwein	"aye"
Pepper	"aye"	Euille	"aye"
Donley	"aye"	Speck	absent
		Woodson	"aye"

APPROVED BY:

KERRY J. DONLEY

MAYOR

ATTEST:

Beverly I. Jett, CMC

City Clerk