

**CITY COUNCIL OF ALEXANDRIA, VIRGINIA**

**Public Hearing Meeting**  
**Saturday, December 16, 2006 - - 9:30 a.m.**

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Present: Mayor William D. Euille, Vice Mayor Andrew H. Macdonald, Members of Council Ludwig P. Gaines, K. Rob Krupicka, Timothy B. Lovain, Redella S. Pepper and Paul C. Smedberg.

Absent: None.

Also Present: Mr. Hartmann, City Manager; Mr. Pessoa, City Attorney; Ms. Evans, Deputy City Manager; Mr. Jinks, Deputy City Manager; Police Lt. Uzzell; Ms. Snow, Assistant City Attorney; Mr. Baier, Director, Transportation and Environmental Services; Mr. Hannigan, Communications Director, City Manager's Office; Mr. Neckel, Director, Finance Department; Mr. Pitzer, Purchasing Agent, Finance Department; Mr. Josephson, Acting Director, Planning and Zoning; Mr. Farner, Planning and Zoning; Mr. Malone, Planning and Zoning; Mr. Hunt, Planning and Zoning; Mr. Wagner, Planning and Zoning; Ms. Sun, Planning and Zoning; Ms. Mitten, Planning and Zoning; Ms. Davis, Director, Office of Housing; Ms. McIlvane, Deputy Director, Office of Housing; Mr. Beckley, Housing Analyst, Office of Housing; Mr. Noelle, Arborist, Parks, Recreation and Cultural Activities; Mr. Fifer, E-Government Manager; and Mr. Lloyd.

Recorded by: Jacqueline M. Henderson, City Clerk and Clerk of Council

**OPENING**

1. Calling the Roll.

The meeting was called to order by Mayor Euille, and the City Clerk called the Roll; all the Members of City Council were present.

2. Public Discussion Period.

(a) Bert Ely, 200 S. Pitt Street, spoke about the George Mason post office relocation and noted that the postal service issued a solicitation for proposals for space in which to relocate the post office. He said that while the solicitation expresses a preference for a new location close to the present George Mason post office, the potential area within which it could be located is quite large - King Street on the north, the Potomac on the east, the Beltway on the south and Telegraph Road on the west,

and includes Carlyle. He said not only would a relocation remove an important pedestrian oriented retail facility from Old Town, but it would worsen traffic within and around Old Town, further damage Old Town as a commercial and business center and add to Carlyle's traffic woes, and relocating it to the fringes of Old Town would add to the local traffic congestion. He noted that the postal service has expressed a desire for a site of 2,200 square feet where there would be an availability of parking. Mr. Ely encouraged Council to monitor the relocation as the present lease expires in three and a half months to ensure that the post office stays within downtown Old Town, and he urged Congressman Moran to continue to monitor the situation.

Mayor Euille said the request for continued monitoring will happen and he said he would suggest at some point that the City attempt to have a meeting with the postal service again and have Congressman Moran at that meeting. Mayor Euille said a lot of what is taking place is outside the parameters of the local Alexandria postmaster.

(b) Charlotte Landis, 433 N. Patrick Street, spoke about the Braddock Road Metro Small Area Plan work session that will be held on Monday. She said that as Council reviews the Plan, despite the desire to develop the Metro area, she asked that Council consider that the neighborhood cannot support the proposed density, as it lacks the infrastructure. She said the proposal remains a series of developing sites, maybe some design guidelines and that is it. She said that most disappointing was staff's inability to answer straight forward questions. Ms. Landis said that given the number of questions, particularly at the recent presentation at Jefferson Houston on traffic, rapid transit, air quality and density, where every answer was vague and non-specific, one must conclude that the plan had not been thought out in depth nor taken into consideration the concerns of residents in the area. She said the traffic study is poorly done, the Route 1 analysis is unacceptable and the neighborhood cannot absorb the near or mid term projects under consideration. She said they must solve the north south traffic situation, particularly on Route 1, before they aggravate the situation further given the proposed density.

Mayor Euille said Council will make a determination after the work session on whether it proceeds to the Planning Commission and then back to City Council for Council's consideration.

## **REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)**

### **Planning Commission (continued)**

3. SPECIAL USE PERMIT #2006-0096  
917 PRINCESS STREET  
CHILD CARE CENTER  
Public Hearing and Consideration of a request to operate a child care center within a church; zoned RB/Residential. Applicant: Maria Bustinza

**PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 5-0**

(A copy of the Planning Commission report dated December 5, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 3, 12/16/06, and is incorporated as part of this record by reference.)

Mr. Josephson, Acting Planning Director, made a presentation of the staff report and responded to questions by Council about parking, drop-off and pick-up times, and number of students.

The following persons participated in the public hearing on this item:

(a) Tim Anderson, 911 Princess Street, expressed concern over the 85 projected maximum children, on-site parking for pick-up and drop-off and handling of cars, and parking in the lot and where the parents will turn their vehicles around. He noted that he is not totally against the idea of having kids there, but parking needs to be addressed.

In response to a question from Mayor Euille, Mr. Anderson said that if the parking issues were resolved, he would have no objections, as the issue is the bottleneck.

(b) Maria Bustinza, 917 Princess Street, said that on limiting the number of children on the playground, she had no problems with that and were calculating at full capacity having a maximum of 20 children at any one time. She noted that the church presently has two classes of Sunday School, so there are a lot of children coming to the church currently. She noted that the drop-off and pick-up times do not take more than 10 minutes, so she didn't think the parking situation to be a problem, and they will recommend to staff that they take public transportation and will provide incentives for the staff to take. She said there will also be part-time services, so children will be picked up at noon as well.

(c) Carol Edwards, 909 Princess Street, echoed the comments of the first speaker on concerns about the parking. She said Princess Street is often a bottleneck anyway and the entrance to the parking lot is a one in, one out and there is no way to circulate in and out.

**WHEREUPON**, upon motion by Vice Mayor Macdonald, seconded by Councilwoman Pepper and carried unanimously, City Council closed the public hearing. The voting was as follows:

Macdonald	"aye"	Gaines	"aye"
Pepper	"aye"	Krupicka	"aye"
Euille	"aye"	Lovain	"aye"
	Smedberg	"aye"	

Additional questions were asked by Council on pick-up and drop-off areas, the

number of children allowed at the site, and parking problems, which were answered by Mr. Josephson.

Mayor Euille requested that Council defer this matter until January 9, 2007, to allow the parties and staff to get together to work out the parking plan.

**WHEREUPON**, upon motion by Councilwoman Pepper, seconded by Vice Mayor Macdonald and carried unanimously, City Council deferred action on this item until January 9, 2007. The voting was as follows:

Pepper	"aye"	Gaines	"aye"
Macdonald	"aye"	Krupicka	"aye"
Euille	"aye"	Lovain	"aye"
	Smedberg	"aye"	

- 4. CDD CONCEPT PLAN #2006-0003 (A)  
 DEVELOPMENT SPECIAL USE PERMIT #2006-0012(B)  
 SPECIAL USE PERMIT (TMP) #2006-0012 (C)  
 ENCROACHMENT #2006-0006 (D)  
 310 HOOFFS RUN DRIVE  
 CARLYLE CENTRE (BLOCK 27)

Public Hearing and Consideration of a request for: 1) approval of a concept design plan for block 27 of the EESAP; 2) approval of a development special use permit, with site plan for a residential building with underground parking; 3) approval of a special use permit for a transportation management plan; and 4) approval of an encroachment into the public right-of-way for canopies zoned CDD #11/Coordinated Development District. Applicant: Carlyle Centre, LLC by Jonathan Rak, attorney

**PLANNING COMMISSION ACTION:**  
 CDD 2006-0003 RECOMMEND APPROVAL 5-0  
 DSUP 2006-0012 RECOMMEND APPROVAL 5-0  
 SUP 2006-0012 RECOMMEND APPROVAL 5-0  
 ENC 2006-0006 RECOMMEND APPROVAL 5-0

(A copy of the Planning Commission report dated December 5, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 4, 12/16/06, and is incorporated as part of this record by reference.)

Mr. Farnier made a presentation of the staff report and responded to questions of Council about the public art component, the disclosure statements to homeowners, sidewalks, the urban squares and open space, the sewage treatment plant, green building elements, recycling, and on-site affordable housing.

The following person participated in the public hearing on this item:

(a) Joanna Frizzell, attorney representing the applicant, 1750 Tysons Boulevard, Suite 1800, McLean, spoke in favor of the application, noting that in addition to the residential building, they are providing contributions such as street dedication blocks, they have made a contribution to open space, both in the park and as a monetary contribution, and have made an affordable housing contribution consistent with the City's policy. Ms. Frizzell responded to questions from Council concerning height, housing, and stormwater management.

**WHEREUPON**, upon motion by Councilwoman Pepper, seconded by Councilman Gaines and carried unanimously, City Council closed the public hearing. The voting was as follows:

Pepper	"aye"	Macdonald	"aye"
Gaines	"aye"	Krupicka	"aye"
Euille	"aye"	Lovain	"aye"
	Smedberg	"aye"	

**WHEREUPON**, upon motion by Councilwoman Pepper, seconded by Councilman Gaines and carried unanimously, City Council approved the Planning Commission recommendation, to include the following changes and amendments to the conditions:

44. Prior to the release of the first certificate of occupancy for the project, the City shall review and approve the language of the Homeowner's Agreement to ensure that it conveys to future homeowners the requirements of this development special use permit, including the restrictions listed below and other restrictions deemed necessary by the City Attorney. The applicant shall present a disclosure statement to potential buyers disclosing the following conditions to the satisfaction of the Directors of P&Z, T&ES and the City Attorney. The language shall establish and clearly explain that these conditions cannot be changed except by an amendment to this development special use permit approved by City Council.

a. Neighboring uses surrounding the site include the Beltway, Eisenhower Avenue, Virginia Concrete, the Alexandria Public Safety Center, and the Alexandria Sanitation Authority, and that these uses, streets, and traffic volumes, including truck traffic, are permitted to continue indefinitely and may intensify, unless otherwise required by the Planning Commission and/or City Council. In particular:

i. A heavy industrial use, Virginia Concrete, a concrete batch plant, is located next to this project. This use will generate truck traffic, noise and dust.

ii. Eisenhower Avenue is a major four-lane arterial and that future traffic is expected to increase significantly as development along Eisenhower Avenue continues.

iii. This project is in the vicinity of I-495 (beltway) and will have noise impact from it.

iv. This project is in the vicinity of Alexandria Sanitation Authority, a sewage treatment plant, and because of its proximity may have odor impact from it. Additionally, this use may be expanded in the future as need arises.

b. The Homeowners Association documents shall disclose to all prospective

buyer(s) through the sales literature and documents, sales contracts etc. that the areas subject to public access easements will be owned and maintained by the HOA, and the open space dedicated to the City is accessible to the residents of the community and general public.

c. Prior history of the Eisenhower East area indicates environmental conditions, related studies and past or on-going remediation efforts.

d. Vehicles shall not be permitted to park on sidewalks or on any emergency vehicle easement. The Homeowners Association shall maintain a contract with a private towing company to immediately remove any vehicles violating this condition.

e. Exterior changes or additions to the building shall not be permitted without approval of City Council or the Director of P&Z, as determined by the Director.

f. All landscaping, irrigation and screening shown on the final landscape plan shall be maintained in good condition and the amount and location, type of plantings and topography on the landscape plan shall not be altered, reduced or revised without approval of City Council or the Director of P&Z, as determined by the Director.

g. If the City establishes a special taxing district for this area for a transit improvement project to raise funds to finance transit capital projects or transit operating programs and services, which would serve all owners of property within this development, the Homeowners Association shall be required to participate in the district. (P&Z) (City Council)

The voting was as follows:

Pepper	"aye"	Macdonald	"aye"
Gaines	"aye"	Krupicka	"aye"
Euille	"aye"	Lovain	"aye"
	Smedberg	"aye"	

5. CDD CONCEPT PLAN #2006-0001(A)  
 DEVELOPMENT SPECIAL USE PERMIT #2005-0041(B)  
 3015-3111 MOUNT VERNON AVENUE; 3026 COMMONWEALTH AVENUE  
 MOUNT VERNON COMMONS (TRIANGLE PROPERTY)  
 Public Hearing and Consideration of a request for: 1) approval of a concept design plan and approval of an increase in floor area ratio with the provision of affordable housing; and 2) approval of a development special use permit, with site plan, to construct a residential building with ground floor uses, as well as approval of an FAR increase and for a reduction in the parking and loading space requirement; zoned CDD#13/Coordinated Development District. Applicant: Carr Homes, LLC by J. Howard Middleton, attorney

PLANNING COMMISSION ACTION:  
 CDD2006-0001 RECOMMEND APPROVAL 5-0  
 DSUP2005-0041 RECOMMEND APPROVAL AS AMENDED 5-0

(A copy of the Planning Commission report dated December 5, 2006, is on file in

the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 5, 12/16/06, and is incorporated as part of this record by reference.)

Mr. Farner made a presentation of the staff report and he, along with Housing Director Davis, responded to questions from Council about the project.

The following persons participated in the public hearing on this item:

(a) Amy Slack, 2307 E. Randolph Avenue, co-chair Del Ray Citizens Land Use Committee, referenced a letter sent to Council yesterday that lays out the position taken by the Del Ray Citizens Association. She said because it is such a large footprint, there need to be ways to break up the footprint and staff and the applicant have worked toward that. She said the management should maintain open spaces. She spoke about the arrangement of the trees where they are planted in tandem with street trees and would like to see it broken up. She said the Mt. Vernon Avenue Workgroup has not addressed the project, but she knew they had been talking about the lighting aspect and Virginia Power is the problem, since they determine what they can and cannot have. She said they had not considered the historic sign, but the paving for the project could be an art project itself, and historic signs could add to that artistic aspect by being imbedded in the sidewalk, which would then help to bring the pedestrian scale down and help to detract from the mass of the entire project. She said they agreed with the staff analysis of the retail parking reduction. She noted that disclosure statements must be in the condo owners documents.

(b) Howard Middleton, attorney representing the applicant, 3110 Fairview Park Drive, Falls Church, noted that Tom Jordan, president of Carr Homes, is present, along with Tara Craven, with Carr Homes, and he spoke in favor of the application. Mr. Middleton spoke to conformity with the City's Mt. Vernon Avenue Business Plan and the principles in the Plan, the affordable housing component, and he noted the involvement of the community and staff. He said over the 100 conditions, there was one that came up since the Planning Commission meeting, and there is a letter from him dated December 15, which amends condition #A.1.h, which was an attempt to satisfy Virginia Power's needs and the visual impact of the transformer and staff has agreed with the amended condition. He noted that they are agreeable to working with the staff and the City's architect for the punctuation of the buildings.

(c) Julie Crenshaw Van Fleet, 26 Wolfe Street, referred to her comments at the Planning Commission meeting. She mentioned two process items that apply here and to further applications. First is the contaminated soils, as there is no contaminated soils report, and Council and staff need to have the report in reports such as this earlier in the process. She noted the second process concern relates to those who are affected by this development and its location. Mt. Vernon Square was listed and a woman spoke at the Planning Commission meeting who noted a lot of things that should be looked at, and that was the only group that was mentioned in the staff report. She said Auburn Village, Mount Jefferson and Lynhaven are affected by this project and Warwick Village was mentioned. She noted that she attended a meeting for

Auburn Village that had other groups there, and they had significant concerns and questions and she mentioned it at the Federation, and the Planning staff person there, when she asked if he addressed their concerns, asked what were their concerns, and she said that is inappropriate. She said staff needs to have a list of concerns and questions of the civic association and they need to be listed.

(d) Carlene Bahler, 3302 Elmore Drive, said she is a board member of the Vernon Square Office Condominium Association, representing the Vernon Square Office Condominium Association, spoke in support of development of the site, so long as it would not create or cause any additional water or sewer problems in the area. She said the two main concerns are underground streams and sewage back-up, and she explained the current situation with the underground stream and the leaky sewer pipes. She said their concern is what impact the new development will have on the existing challenges property owners currently experience. Ms. Bahler asked Council to ensure that the issues are addressed before proceeding with approval of the project.

(e) William D. Breneman, 3150 Commonwealth Avenue, said he has an office building at 3150 Commonwealth Avenue, and the City put a back-flow preventer in and he has put all kinds of money into the building to prevent the back-up of water and sewage. He said he is against this development because of its massiveness. He noted that he has a stream that runs through his building that is 30 feet wide and deep that fills with water.

**WHEREUPON**, upon motion by Councilman Macdonald, seconded by Councilman Krupicka and carried unanimously, City Council closed the public hearing. The voting was as follows:

Macdonald	"aye"	Gaines	"aye"
Krupicka	"aye"	Lovain	"aye"
Euille	"aye"	Pepper	"aye"
	Smedberg	"aye"	

Director of Transportation and Environmental Services Baier responded to questions from Council concerning stormwater and sanitary sewer issues.

**WHEREUPON**, upon motion by Councilwoman Pepper, seconded by Councilman Krupicka and carried unanimously, City Council approved the Planning Commission recommendations, to include the amended condition #A.1.h. regarding the transformers, as requested by the applicant, as well as to the following amendments:

- 1.c. Street lighting for Mount Vernon Avenue shall be single acorn luminaries (VA Power standard acorn fixture) or single colonial light fixture to replace the existing cobra head lights as determined by the lighting plan developed for Mount Vernon Avenue by the directors of T&ES and P&Z in consultation with the community.

- 1.h. Proposed and existing transformers shall be undergrounded or relocated to a place satisfactory to the Directors of P&Z . Transformers shall not be located within or adjacent to the triangular open spaces areas on the northern and southern portions of the site, except that the transformer at the southern end of the property shall be moved to the south side of the garage entrance a location as shown generally on Attachment #5 and shall be screened with an opaque metal gate and brick wall. The gate and the wall shall be the same height. and shall be no higher than approximately the height of the wall.
- 1.p. To create interest and ornamentation at the pedestrian level, different colors of brick pavers, textures, and materials shall be used to incorporate public art into the sidewalk along Mount Vernon Avenue, with historical markers set into the design, to the satisfaction of the Departments of P&Z and T&ES.
- 7.a. A perpetual public access easement shall be granted for the open space to enable the area to serve as public open space. The easement and reservations shall be depicted on the plat of consolidation and shall be approved by the City prior to the release of the final site plan. The public access easement shall permit public art to be located within the open space.
- 16.r. Provide a significant amount of additional variation in the roofline and articulation in the buildings along Mount Vernon Avenue to the satisfaction of the Director of P&Z.

The voting was as follows:

Pepper	"aye"	Macdonald	"aye"
Krupicka	"aye"	Gaines	"aye"
Euille	"aye"	Lovain	"aye"
	Smedberg	"aye"	

The following items were heard together:

6. TEXT AMENDMENT #2006-0004  
INFILL REGULATIONS

Public Hearing and Consideration of a request for a text amendment to extend the interim regulations on threshold height and the subdivision criteria. Staff: Department of Planning and Zoning

PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 5-0

8.1 Introduction and First Reading. Consideration. Passage on First Reading of an Ordinance to Extend Temporarily the Interim Residential Infill Development Regulations Adopted June 27, 2006.

(A copy of the Planning Commission report dated December 5, 2006, is on file in

the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6, 12/16/06, and is incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8.1; 12/16/06, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council 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. 8.1; 12/16/06, and is incorporated as part of this record by reference.)

Acting Director of Planning and Zoning Josephson made a presentation of the staff report and responded to questions of Council.

The following persons participated in the public hearing on this item:

(a) Amy Slack, 2307 E. Randolph Avenue, speaking on a personal level, but as her position as co-chair of the land use committee of the Del Ray Citizens Association, she is the ear to many complaints about large houses being built or historic bungalows being torn down or modified. Ms. Slack said she spoke on the item in June. She suggested that members of the BZA be members of the task force. She spoke in support of the continuation of the measures as amended by staff.

(b) John McClanahan, along with his wife Sue, 4 Ancell Street, spoke in support of the idea behind the infill ordinance, but they are also asking for fairness and explained the impacts of the infill ordinance on the plans for building their home and he went over their plans to build their home and work with staff and how the infill ordinance applied to their home. Mr. McClanahan asked that the amendments apply only to applications submitted after December 31, 2006, and not to a single family home project like theirs that already has an approval and complies with the existing ordinance.

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Councilwoman Pepper and carried unanimously, City Council closed the public hearing. The voting was as follows:

Smedberg	"aye"	Macdonald	"aye"
Pepper	"aye"	Gaines	"aye"
Euille	"aye"	Krupicka	"aye"
	Lovain		"aye"

In response to questions from Council about the interim regulations, City Attorney Pessoa explained that the changes in threshold height language are to codify the interpretation that he and the Planning staff gave to the existing language to reduce uncertainty so nobody in the future would be able to monkey around with the finished

grade, so they are intended to be a clarification of the interpretation, which has been given to the language adopted in June. Mr. Pessoa said on whether they become permanent, they do not need to become permanent and were intended to be interim regulations to deal with a problem that was cropping up. He noted that language can be crafted to exempt the project brought up by Mr. and Mrs. McClanahan.

**WHEREUPON**, upon motion by Vice Mayor Macdonald, seconded by Councilman Gaines and carried 6-1, City Council approved the Planning Commission recommendation on item #6, and to pass the ordinance on first reading and schedule it for public hearing for January 20, 2007 on item #8.1, with an exemption for the noted case. The voting was as follows:

Macdonald	"aye"	Krupicka	"aye"
Gaines	"aye"	Lovain	"aye"
Euille	"aye"	Pepper	"aye"
	Smedberg	"no"	

## **ORDINANCES AND RESOLUTIONS**

7. Public Hearing, Second Reading and Final Passage of an Ordinance to Grant a Citywide Wireless Internet Service Franchise. (#17, 11/28/06) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated November 21, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 12/16/06, and is incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 7; 12/16/06, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council 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. 7; 12/16/06, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper, City Council closed the public hearing and moved adoption of the ordinance to grant a Citywide Wireless Internet Franchise.

E-Government Manager Fifer, along with Deputy City Manager Jinks, responded to questions from Council regarding the wireless service, the subscriber base, support and speed of the network, the school's student laptops, coverage, and costs and fees.

The voting on the motion carried unanimously by roll-call vote and is as follows:

Krupicka	"aye"	Macdonald	"aye"
Pepper	"aye"	Gaines	"aye"
Euille	"aye"	Lovain	"aye"
	Smedberg	"aye"	

The ordinance reads as follows:

**ORDINANCE NO. 4469**

AN ORDINANCE to grant to Earthlink, Inc., its successors and assigns a franchise, under certain conditions, permitting the grantee to use the public right-of-way and on other public property in the City of Alexandria, for the design, construction, maintenance, and operation of a citywide wireless network for internet access and other purposes, for the benefit of residents, businesses and government in the City.

**THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:**

Section 1. That this Franchise is hereby granted to Earthlink, Inc., hereinafter referred to as "Grantee," its successors and assigns, to permit the Grantee to design, construct, maintain, and operate a citywide wireless network for internet access and other purposes, using the public right-of-way and other public property in the City.

Section 2. That the said Franchise is awarded to the Grantee after public notice and invitation for bids, as required by law, pursuant to Section 2 of Ordinance No. 4477, and after the invitation for bids was duly closed and all bids were fully and carefully investigated and evaluated.

Section 3. That the Grantee be, and hereby is, granted a Franchise for eight years to design, construct, maintain, and operate a citywide wireless network for internet access and other purposes, for the benefit of residents, businesses and government in the City. The Grantee shall strictly comply with the terms of this Ordinance and with the Franchise Agreement and Right-of-Way Franchise Agreement attached hereto and incorporated fully herein by reference, together with all applicable laws and regulations of the City of Alexandria, the Commonwealth of Virginia and the United States, and any regulatory agency having jurisdiction, including, without limitation, with the following conditions:

1. Each year an updated map of all facilities within the City, existing and proposed, showing locations, scheduled construction and service dates, and such additional information as the city manager may specify in his reasonable discretion, shall be filed with the City's Department of Transportation and Environmental Services.

2. All necessary permits shall be obtained for each and every excavation or installation, including but not limited to boring in and/or under a public right-of-way or other public place.

3. In the event the relocation, construction, reconstruction, maintenance or repair by the City, the Commonwealth of Virginia or the Washington Metropolitan Area Transit Authority of any facilities or services is necessary or desirable, and it is necessary to alter or relocate, either permanently or temporarily, any of the Grantee's property in the public right-of way or other public property in order to accomplish same, the Grantee will, after reasonable notice, move, alter or relocate its property at its own cost and expense, and should the Grantee fail to comply with such notice, its property may be removed, altered or relocated by the City, state or Washington Metropolitan Area Transit Authority at the cost of the Grantee and without liability for any resulting damage. The Grantee will do everything reasonably necessary, in a timely manner, to prevent any delays in construction projects of the City, the state or the Washington Metropolitan Area Transit Authority.

4. This Franchise may be assigned or transferred; provided, however, that no such assignment or transfer shall be effective without the prior written consent of the City, which consent will not be unreasonably withheld.

5. The Grantee will obtain liability insurance to the satisfaction of the city attorney, which insurance shall name the City as an additional insured.

6. The Grantee will not use the privileges granted by this Franchise to provide the functional equivalent of a cable system or cable service as defined in sections 9-3-17 and 9-3-18 of the Alexandria City Code.

7. In exchange for the privileges granted by this Franchise, the City shall have free use of the network for municipal governmental purposes.

8. In exchange for the privileges granted by this Franchise, the general public shall have free use of the network for wireless internet access in the outdoor areas and public facilities in the City designated in the Franchise Agreement.

9. At such time as the City may require underground installation of existing, overhead facilities in any area covered by this Franchise, the Grantee will, at its sole cost and expense, relocate its facilities underground in accordance with the provisions of the City's underground utilities ordinance, to the extent underground location of such facilities is technically feasible.

10. The Grantee shall protect all property of the City or any other person during any work of designing, constructing, maintaining, or operating its system in or adjacent to the public right-of-way or other public place, and shall fully restore, in kind, any property damaged or destroyed during any such work. In the event the Grantee and any property owner are unable to agree on a remedy, the Grantee agrees to abide by the determination of the City as to compensation or restoration.

11. That nothing in this Franchise shall be construed to obligate the City

to continue its franchise with any other franchisee who owns or uses the poles to be used by the Grantee, nor shall this Franchise increase or strengthen the rights that other franchisees may have. The City shall have no liability to the Grantee for exercising any rights the City may have in general or under its franchises with other franchisees, regardless of the effect of such exercise on the Grantee.

12. The Grantee shall remove its property at its own expense at the expiration or termination of this Franchise or any extension hereof.

Section 4. That the city manager be and hereby is authorized to execute such documents as may be required to effectuate the Franchise hereby granted.

Section 5. That the city clerk be and hereby is authorized to attest the execution of said documents and to affix thereon the official seal of the City of Alexandria, Virginia.

Section 6. That this ordinance shall become effective on the date and at the time of its final passage.

8. Public Hearing, Second Reading and Final Passage of an Ordinance to Conform the City's Purchasing Regulations to Recent Amendments to the Virginia Public Procurement Act. (#13, 12/12/06) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated December 7, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8; 12/16/06, and is incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 8; 12/16/06, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council 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. 8; 12/16/06, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilwoman Pepper, seconded by Councilman Gaines and carried unanimously, City Council closed the public hearing. The voting was as follows:

Pepper	"aye"	Macdonald	"aye"
Gaines	"aye"	Krupicka	"aye"
Euille	"aye"	Lovain	"aye"
	Smedberg	"aye"	

**WHEREUPON**, upon motion by Councilman Gaines, seconded by

Councilwoman Pepper and carried unanimously by roll-call vote, City Council adopted the ordinance to conform the City's purchasing regulations to recent amendments to the Virginia Public Procurement Act. The voting was as follows:

Gaines	"aye"	Macdonald	"aye"
Pepper	"aye"	Krupicka	"aye"
Euille	"aye"	Lovain	"aye"
	Smedberg	"aye"	

The ordinance reads as follows:

**ORDINANCE NO. 4470**

AN ORDINANCE to amend and reordain Sections 3-3-24, 3-3-39, 3-3-52, 3-3-55, 3-3-62, 3-3-69, 3-3-70, and 3-3-111 of Chapter 3 (PURCHASES AND CONTRACTUAL SERVICES) of Title 3 (FINANCE, TAXATION AND PROCUREMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended

**THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:**

Section 1. That Article C (Cooperative Procurement) of Chapter 3 (Purchases and Contractual Services) of Title 3 (Finance, Taxation and Procurement) of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by enacting an amended Section 3-3-24, to read as follows:

**Sec. 3-3-24 Purchases under contracts competitively entered by other public bodies.**

Notwithstanding any other provision of this chapter to the contrary, except for contracts for architectural and engineering services, the city may purchase from another public body's contract even if the city did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was being conducted on behalf of other public bodies. Prior to any city purchase under a contract entered by another public body, the purchasing agent shall find that the process pursuant to which the contract was entered generally complied with the policies and procedures established by this chapter.

Section 2. That Division 1 (Competitive Sealed Bidding) of Article D (Contract Formation and Methods of Source Selection) of Chapter 3 (Purchases and Contractual Services) of Title 3 (Finance, Taxation and Procurement) of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by enacting amended Sections 3-3-39, 3-3-52, and 3-3-55, to read as follows:

**Sec. 3-3-39 Bid bonds on construction contracts.**

(a) Except in cases of emergency, all bids or proposals for nontransportation-related

construction contracts in excess of \$100,000 or transportation-related projects authorized under section 33.1-12 of the Code of Virginia, 1950, as amended, that are in excess of \$250,000 and partially or wholly funded by the Commonwealth shall be accompanied by a bid bond from a surety company selected by the bidder or offeror which is legally authorized to do business in Virginia, as a guarantee that if the contract is awarded to such bidder or offeror, the bidder will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.

(b) No forfeiture under a bid bond shall exceed the lesser of the difference between the bid or proposal for which the bond was written and the next low bid or proposal or the face amount of the bid bond.

(c) Nothing in this section shall preclude the city from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than \$100,000 for nontransportation-related projects or \$250,000 for transportation-related projects authorized under section 33.1-12 of the Code of Virginia, 1950, as amended, and partially or wholly funded by the Commonwealth.

#### Sec. 3-3-52 Performance and payment bonds.

(a) Upon the award of any (i) public construction contract exceeding \$100,000 to any prime contractor; (ii) construction contract exceeding \$100,000 awarded to any prime contractor requiring the performance of labor or the furnishing of materials for buildings, structures or other improvements to real property owned or leased by a public body; (iii) construction contract exceeding \$100,000 in which the performance of labor or the furnishing of materials will be paid with public funds; or (iv) transportation-related projects exceeding \$250,000 that are partially or wholly funded by the Commonwealth, such contractor shall furnish to the city the following bonds:

(1) A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract.

(2) A payment bond in the sum of the contract amount. Such bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded or to any subcontractors in the prosecution of the work provided for in such contract, and shall be conditioned upon the prompt payment for all such material furnished or labor supplied or performed in the prosecution of the work. Labor or materials shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

(b) Each of such bonds shall be executed by one or more surety companies selected by the contractor which are legally authorized to do business in Virginia.

- (c) The bonds shall be made payable to the city.
- (d) Each of the bonds shall be filed with the purchasing agent.
- (e) Nothing in this section shall preclude the purchasing agent from requiring payment or performance bonds for construction contracts below \$100,000 for nontransportation-related projects or \$250,000 for transportation-related projects authorized under section 33.1-12 of the Code of Virginia, 1950, as amended, and partially or wholly funded by the Commonwealth.
- (f) Nothing in this section shall preclude such contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts which are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

**Sec. 3-3-55 Alternative forms of security.**

- (a) In lieu of a bid, payment or performance bond, a bidder may furnish a certified check or cash escrow in the face amount required for the bond.
- (b) If approved by the city attorney, a bidder may furnish a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the city equivalent to the corporate surety's bond.
- (c) Purchase of owner-controlled insurance in construction projects.
  - (1) Notwithstanding any other provision of law to the contrary, the city may purchase at its expense an owner-controlled insurance program in connection with any public construction contract where the amount of the contract or combination of contracts is more than \$100 million, provided that no single contract valued at less than \$50 million shall be combined pursuant to this section. The city shall provide notice if it intends to use an owner-controlled insurance program, including the specific coverages of such program, in any request for proposal, invitation to bid, or other applicable procurement documents.
  - (2) The city shall not require a provider of architecture or professional engineering services to participate in the owner-controlled insurance program, except to the extent that the city may elect to secure excess coverage. No contractor or subcontractor shall be required to provide insurance coverage for a construction project if that specified coverage is included in an owner-controlled insurance program in which the contractor or subcontractor is enrolled.

(3) For the purposes of this subsection, "owner-controlled insurance program" means a consolidated insurance program or series of insurance policies issued to the city that may provide for some or all of the following types of insurance coverage for any contractor or subcontractor working on or at a public construction contract or combination of such contracts: general liability, property damage, workers' compensation, employer's liability, pollution or environmental liability, excess or umbrella liability, builder's risk, and excess or contingent professional liability.

Section 3. That Division 2 (Competitive Negotiation) of Article D (Contract Formation and Methods of Source Selection) of Chapter 3 (Purchases and Contractual Services) of Title 3 (Finance, Taxation and Procurement) of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by enacting amended Sections 3-3-62, 3-3-69, and 3-3-70 to read as follows:

Sec. 3-3-62 Conditions for use.

(a) Upon a determination made in advance by the purchasing agent and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, goods, services or insurance may be procured by competitive negotiation. The writing shall document the basis for this determination. Notwithstanding the foregoing, upon a determination made in advance by the purchasing agent that the procurement of insurance by competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed broker or agent selected through competitive negotiation. The basis for this determination shall be documented in writing.

(b) Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances upon a determination made in advance by the purchasing agent and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination:

(1) for the construction, alteration, repair, renovation or demolition of buildings when the contract is expected to equal or be less than \$500,000;

(2) on a fixed price design-build basis or construction management basis under section 2.2-4308 of the Code of Virginia, 1950, as amended, when the contract is not expected to cost more than \$1 million;

(3) the construction of highways, streets and alleys;

(4) the draining, dredging, excavation or grading of, or similar work upon, real property; or

(5) as otherwise provided in section 3-3-70.

Sec. 3-3-69 Contracting for professional services by competitive negotiation.

(a) Professional services shall be procured by competitive negotiation.

(b) The purchasing agent shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence to provide the required services. Repetitive informal interviews shall be permissible. Such offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project and to explore alternative concepts of performance of the contract. The request for proposals shall not seek estimates of person hours or costs for services. However, these discussions may encompass nonbinding estimates of total project costs, including where appropriate design, construction and life cycle costs. Methods to be utilized in arriving at the price for services may also be discussed. Proprietary information from competitive offerors shall not be disclosed to the public or to competitors. At the conclusion of the discussions and on the basis of evaluation factors published in the request for proposals and all information developed in the selection process to this point, the purchasing agent shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the city can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations shall be conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the request for proposal, the city may award contracts to more than one offeror. If, at the conclusion of the discussions, the purchasing agent determines in writing and in his sole discretion that only one offeror is fully qualified or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror. Once formally terminated, negotiations may not be reopened with any offeror.

(c) With respect to the procurement of legal services, the duties and responsibilities imposed upon the purchasing agent in subsection (b) above shall devolve upon the city attorney.

(d) A contract for architectural or professional engineering services relating to construction projects may be negotiated by the purchasing agent, for multiple projects provided (i) the projects require similar experience and expertise, (ii) the nature of the projects is clearly identified in the request for proposals, and (iii) the contract term is limited to one year or when the cumulative total project fees reach the maximum cost authorized in this paragraph, whichever occurs first. Such contract may be renewable for two additional term one-year terms at the option of the city, as exercised by the purchasing agent. Under such contract, (a) the fair and reasonable prices, as negotiated, shall be used in determining the cost of each project performed; (b) the sum

of all projects performed in one contract term shall not exceed one million dollars; and (c) the project fee of any single project shall not exceed \$200,000. Any unused amounts from one contract term shall not be carried forward to a successive term. Competitive negotiations for such contracts may result in awards to more than one offeror provided (1) the request for proposals so states, and (2) the purchasing agent has established procedures for distributing multiple projects among the selected contractors during the contract term.

(e) Multiphase professional services contracts satisfactory and advantageous to the city may be negotiated and awarded based on a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases.

#### Sec. 3-3-70 Design-build and construction management contracts.

(a) While the competitive sealed bid process remains the preferred method of construction procurement for the city, the city may enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis, provided the city either complies with the requirements of this section and has obtained the approval of the Commonwealth of Virginia Design-Build/Construction Management Review Board (the Review Board) pursuant to section 2.2-2406 of the Code of Virginia (1950), as amended, or the Review Board has made a one-time determination that the city has the personnel, procedures, and expertise to enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis. Provided, however, that projects undertaken pursuant to subdivision D 2 of section 2.2-4303 of the Code of Virginia (1950), as amended, shall be exempt from approval of the review board.

(b) Prior to making a determination as to the use of design-build or construction management for a specific construction project, the city shall employ or contract with a licensed architect or engineer with professional competence appropriate to the project to advise the city regarding the use of design-build or construction management for that project and to assist in the preparation of the request for qualifications and the request for proposals and the evaluation of such proposals.

(c) The following procedures shall be followed in the selection and evaluation of offerors and award of design-build and construction management contracts:

(1) Prior to the issuance of a request for qualifications, the purchasing agent shall determine that a design-build or construction management contract is more advantageous for the construction project than a competitive sealed bid construction contract, that there is benefit to the city in using a design-build or construction management contract, and that competitive sealed bidding is not practical or fiscally advantageous. The basis for this determination shall be documented in writing.

(2) The purchasing agent shall appoint an evaluation committee of not less than

three members, one of whom shall be the architect or professional engineer employed by or under contract with the city pursuant to subsection (b).

(3) Prequalification of potential offerors:

(i) The purchasing agent shall issue a notice of request for qualifications from potential offerors by posting on a public bulletin board and advertising in a newspaper of general circulation in the city at least 10 days preceding the last day set for the receipt of qualifications. In addition, qualifications may be solicited directly from potential offerors. The request for qualifications shall indicate in general terms that which is sought to be procured, specifying the criteria which will be used in evaluating the potential offerors' qualifications, and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of offerors. The request for qualifications shall request of potential offerors only such information as is appropriate for an objective evaluation of all potential offerors pursuant to such criteria. The purchasing agent shall receive and consider comments concerning specifications or other provisions in the request for qualifications, prior to the time set for receipt of qualifications.

(ii) The evaluation committee shall evaluate each responding potential offeror's qualifications submittal and any other relevant information, and shall select a minimum of two offerors deemed fully qualified and best suited on the basis of the criteria contained in the request for qualifications. An offeror may be denied prequalification only upon those grounds specified in section 2.2-4317 of the Code of Virginia (1950), as amended. At least 30 days prior to the date established for the submission of proposals, the purchasing agent shall advise in writing each potential offeror whether that offeror has been selected. In the event that a potential offeror is not selected, the written notification to such potential offeror shall state the reasons there for.

(4) Request for proposals.

(i) The purchasing agent shall issue a request for proposals to the selected offerors at least 10 days prior to the date set for receipt of proposals. The request for proposals shall include and define the requirements of the specific construction project in areas such as site plans, floor plans, exterior elevations, basic building envelope materials, fire protection information plans, structural, mechanical (HVAC) and electrical systems, and special telecommunications. The request for proposals may also define such other requirements as the purchasing agent deems appropriate for the construction project. In the case of a construction management contract, the request for proposals shall also define the pre-design, design phase, bid phase and/or construction phase services to be performed by the construction manager. The request for proposals shall specify the evaluation criteria to be used by the evaluation committee to evaluate proposals. The purchasing agent shall receive and consider comments concerning specifications or other provisions in the request for proposals, prior to the time set for receipt of proposals.

(ii) Each selected offeror shall submit a cost proposal and a technical proposal. Cost proposals shall be sealed separately from technical proposals and, in the case of a construction management contract, shall include the offeror's lump sum price for all requested pre-construction phase services. A lump sum price or guaranteed maximum price shall be established for all requested construction services. Upon receipt of an offeror's technical and cost proposals, the offeror's cost proposal shall be secured by the purchasing agent and kept sealed until evaluation of all technical proposals is completed.

(iii) The evaluation committee shall evaluate each technical proposal based on the criteria set forth in the request for proposals. As a part of the evaluation process, the evaluation committee shall grant each of the offerors an equal opportunity for direct and private communication with the evaluation committee. Each offeror shall be allotted the same fixed amount of time. In its conversations with offerors, the evaluation committee shall exercise care to discuss the same owner information with all offerors. In addition, the evaluation committee shall not disclose any trade secret or proprietary information for which the offeror has invoked protection pursuant to section 2.2-4342 F of the Code of Virginia. Based upon its review of each offeror's technical proposal, the evaluation committee shall determine whether any changes to the request for proposals should be made to correct errors or omissions or to clarify ambiguities in the request for proposals, or to incorporate project improvements or additional details identified by the committee during its review. Any such changes shall be set out in an addendum to the request for proposals. Each offeror shall be provided an opportunity to amend or supplement its technical proposal to address the changes.

(iv) Based on final technical proposals, the evaluation committee shall conduct negotiations with the offerors. After negotiations have been conducted, offerors may submit sealed additive and/or deductive modifications to their cost proposals.

(v) Following receipt of the cost proposal modifications, the evaluation committee shall publicly open, read aloud and tabulate the cost proposals including any modifications submitted by an offeror.

(5) Final selection of design-builder.

(i) Following opening of cost proposals, the evaluation committee shall make its recommendation to the purchasing agent based upon its evaluation and negotiations.

(ii) Following receipt of the recommendation of the evaluation committee, the purchasing agent shall award the contract to the fully qualified offeror who submits an acceptable proposal determined to be the best value in response to the Request for Proposal.

(6) Final selection of construction manager.

(i) Following the opening of cost proposals, the evaluation committee shall make its

recommendation to the purchasing agent based on its evaluation and negotiations. In making its recommendation, price shall be considered, but need not be the sole determining factor.

(ii) Following receipt of the recommendation of the evaluation committee, the purchasing agent shall select the offeror which, in the opinion of the purchasing agent, has made the best proposal, and shall award the contract to that offeror. Should the purchasing agent determine in writing that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the other offerors under consideration, a contract may be negotiated and awarded to that offeror.

(iii) For any guaranteed maximum price construction management contract, the contract shall provide that not more than 10 percent of the construction work (measured by the cost of the work) shall be performed by the construction manager with its own forces, that the remaining 90 percent of the construction work shall be performed by subcontractors of the construction manager, and that the construction manager shall procure such work by competitive sealed bidding or competitive negotiation.

(7) Trade secrets or proprietary information provided by an offeror in response to a request for qualifications or a request for proposals shall not be disclosed to the public or to competitors, provided the offeror has invoked protection pursuant to section 3-3-33.

(8) The city shall submit information for post-project evaluation when requested by the review board.

(d) Subject to the approval of the city manager, the purchasing agent may promulgate such additional procedures, not inconsistent with the provisions of this section or the applicable rules and regulations of the review board, and consistent with the procedures for the procurement of nonprofessional services through competitive negotiation, as he deems necessary and appropriate to effect the selection and evaluation of offerors and the award of design-build and construction management contracts.

Section 4. That Article H (Assistance to Small and Disadvantaged Businesses) of Chapter 3 (Purchases and Contractual Services) of Title 3 (Finance, Taxation and Procurement) of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by enacting an amended Section 3-3-111 to read as follows:

Sec. 3-3-111 Participation of small businesses and businesses owned by women and minorities.

(a) The purchasing agent shall establish programs consistent with all provisions of this chapter to facilitate the participation of small businesses and businesses owned by women and minorities in procurement transactions. Such programs shall comply with

the provisions of any enhancement or remedial measures authorized by the city manager pursuant to section 15.2-965.1 of the Code of Virginia, 1950, as amended, and shall include specific plans to achieve any goals established therein. A small, women- or minority-owned business that is certified by the Virginia Department of Minority Business Enterprises pursuant to section 2.2-1403 of the Code of Virginia, 1950, as amended, shall not be required by any locality to obtain any additional certification to participate in any program designed to enhance the participation of such businesses as vendors or to remedy any documented disparity.

(b) As used in this section:

“Minority individual” means an individual who is a citizen of the United States or a non-citizen who is in full compliance with United States immigration law and who satisfies one or more of the following definitions:

1. “African American” means a person having origins in any of the original peoples of Africa and who is regarded as such by the community of which this person claims to be a part.

2. “Asian American” means a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Marianas, the Philippines, a U.S. territory of the Pacific, India, Pakistan, Bangladesh, or Sri Lanka and who is regarded as such by the community of which this person claims to be a part.

3. “Hispanic American” means a person having origins in any of the Spanish-speaking peoples of Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who is regarded as such by the community of which this person claims to be a part.

4. “Native American” means a person having origins in any of the original peoples of North America and who is regarded as such by the community of which this person claims to be a part or who is recognized by a tribal organization.

“Minority-owned business” means a business concern that is at least 51% owned by one or more minority individuals or in the case of a corporation, partnership, or limited liability company or other entity, at least 51% of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals and both the management and daily business operations are controlled by one or more minority individuals.

“Small business” means an independently owned and operated business which, together with affiliates, has 250 or fewer employees, or average annual gross receipts of \$10 million or less averaged over the previous three years.

"State agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government. "State agency" shall not include any county, city, or town.

"Women-owned business" means a business concern that is at least 51% owned by one or more women who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51% of the equity ownership interest is owned by one or more women who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, and both the management and daily business operations are controlled by one or more women who are citizens of the United States or non-citizens who are in full compliance with United States immigration law.

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

**OTHER**

- 9. Consideration of Request from the Alexandria Redevelopment and Housing Authority for a City Housing Fund Loans in Connection with the Refinancing of 60 Housing Units at Quaker Hill. (#17, 12/12/06)

(A copy of the City Manager's memorandum dated December 8, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 12/16/06, and is incorporated as part of this record by reference.)

Housing Director Davis and Mr. Jinks made a presentation of the staff report and responded to questions from Council relating to the real estate tax and the loan figures.

**WHEREUPON**, upon motion by Councilwoman Pepper, seconded by Councilman Gaines and carried unanimously, City Council (1) approved the continuation of the current outstanding \$1.2 million City loan to ARHA for Quaker Hill; (2) approved an additional loan of up to \$3.5 million for ARHA's acquisition and rehabilitation of Quaker Hill; (3) approved the general terms and conditions as listed on attachment 1; and (4) authorized the City Manager and City Attorney to execute the necessary loan documents and related agreements, as described in attachment 1, and as deemed appropriate to protect the City's investment. The voting was as follows:

Pepper	"aye"	Macdonald	"aye"
Gaines	"aye"	Krupicka	"aye"
Euille	"aye"	Lovain	"aye"
	Smedberg	"aye"	

**REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)**

## **DEFERRAL/WITHDRAWAL CONSENT CALENDAR (10)**

### **Planning Commission (continued)**

10. SPECIAL USE PERMIT #2006-0098  
520 JOHN CARLYLE STREET - UNIT 150  
JERRY'S SUBS AND PIZZA RESTAURANT  
Public Hearing and Consideration of a request to operate a restaurant; zoned CDD #1/Coordinated Development District. Applicant: Jerry's Systems, Inc. by Jay Ryan

PLANNING COMMISSION ACTION: DEFERRED 5-0

### **END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR**

City Council noted the deferral.

### **New Business Item No. 1:**

#### **Consideration of City Council Schedule (deferred from December 12, 2006.)**

(A copy of the City Manager's memorandum dated December 7, 2006, and revised as of December 15, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of New Business Item No. 1; 12/16/06, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried unanimously, City Council: (1) scheduled a work session with the DASH Board on Thursday, January 18 at 7:00 p.m. in the Council workroom; (2) scheduled a work session on the Fire Department and Transportation and Environmental Services efficiency study reports on Monday, January 29 at 7:00 p.m. in the Sister Cities Conference Room (Room 1101); (3) adopted the following schedule for the proposed FY 2008 budget following budget presentation at Council's Tuesday, February 13 legislative meeting: Thursday, February 15, 7:00 p.m. work session; Wednesday, February 21, 7:00 p.m. work session; Monday, March 5, 7:00 p.m. work session; Monday, March 12, 7:00 p.m. work session; Monday, March 19, 7:00 p.m. work session; Thursday, March 29, 7:00 p.m. work session; Monday, April 9, 4:00 p.m. budget public hearing; Wednesday, April 11, 7:00 p.m. joint work session with the School Board; Monday, April 16, 7:00 p.m. work session wrap up; Monday, April 23, 7:00 p.m. work session; Monday, April 30, 7:00 p.m. work session on preliminary add/delete list review; and Monday, May 7, 6:00 p.m. work session on finalization of add/delete list and 7:00 p.m., budget and tax rate adoption special Council meeting; and (4) received the revised calendar which includes the Mayor's Annual State of the City Breakfast on Friday, February 23 at 7:30 a.m., at the Holiday Inn Hotel and Suites, 625 First Street. The voting was as follows:

Krupicka	"aye"	Macdonald	"aye"
Pepper	"aye"	Gaines	"aye"
Euille	"aye"	Lovain	"aye"
	Smedberg	"aye"	

**THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED**, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried unanimously, the public hearing meeting of December 16, 2006, was adjourned at 2:20 p.m. The voting was as follows:

Krupicka	"aye"	Macdonald	"aye"
Pepper	"aye"	Gaines	"aye"
Euille	"aye"	Lovain	"aye"
	Smedberg	"aye"	

APPROVED BY:

\_\_\_\_\_  
WILLIAM D. EUILLE    MAYOR

ATTEST:

\_\_\_\_\_  
Jacqueline M. Henderson, CMC, City Clerk