

**CITY COUNCIL OF ALEXANDRIA, VIRGINIA**

**Regular Meeting**

**Tuesday, November 28, 2006 - - 7:00 p.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; Mr. Caton, Legislative Director; Mr. Spera, Assistant City Attorney; Police Lt. Uzzell; Ms. Boyd, Director, Citizen Assistance; Mr. Johnson, Director, Office of Management and Budget; Mr. Kincannon, Director, Recreation, Parks and Cultural Activities; Ms. Vosper, Landscape Architect, Recreation, Parks and Cultural Activities; Mr. Baier, Director, Transportation and Environmental Services; Mr. Culpepper, Deputy Director, Transportation and Environmental Services; Mr. Skrabak, Division Chief, Environmental Quality, Transportation and Environmental Services; Mr. McCobb, Transportation and Environmental Services; Ms. Wilson, Transportation and Environmental Services; Mr. Mason, Special Assistant to the City Manager; Mr. Hannigan, Communications Director; Mr. Argust, Organizational Development Coordinator, City Manager's Office; Mr. Josephson, Acting Director, Planning and Zoning; Ms. Beeton, Planning and Zoning; Mr. Farner, Planning and Zoning; Ms. Peterson, Planning and Zoning; Ms. Davis, Director, Office of Housing; Ms. McIlvane, Deputy Director, Office of Housing; Fire Chief Mesaris; Mr. Herway, Director, Information Technology; Mr. Fifer, E-Government Manager, Information Technology; Dr. Konigsberg, Health Department Director; and Mr. Lloyd.

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

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City Council met in a work session from 6:00 to 6:45 with the City's General Assembly Delegation.

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**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. Moment of Silence and Pledge of Allegiance.

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

- 3. Reading and Acting Upon the Minutes of the Following Meetings of City Council:

- (a) The Regular Meeting Minutes of November 14, 2006; and
- (b) The Public Hearing Meeting Minutes of November 18, 2006.

**WHEREUPON**, upon motion by Councilman Gaines, seconded by Vice Mayor Macdonald and carried unanimously, City Council approved the regular meeting minutes of November 14, 2006 and the public hearing meeting minutes of November 18, 2006. The voting was as follows:

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

**RECOGNITION OF YOUTH BY MEMBERS OF CITY COUNCIL**

None.

**PROCLAMATIONS**

- 4. Presentation of a Proclamation Recognizing the Tenth Anniversary of the Alexandria Tutoring Consortium.

(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. 4; 11/28/06, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Gaines, seconded by Vice Mayor Macdonald and carried unanimously, City Council endorsed the proclamation. The voting was as follows:

Gaines	"aye"	Krupicka	"aye"
Macdonald	"aye"	Lovain	"aye"

Euille	"aye"	Pepper	"aye"
	Smedberg	"aye"	

5. Viewing of a Video from the Alexandria Seaport Foundation.

City Council viewed the video from the Alexandria Seaport Foundation and acknowledged the work of Joe Youcha of the Alexandria Seaport Foundation.

6. Presentation of a Proclamation Declaring December 1, 2006, as World AIDS Day.

(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; 11/28/06, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilmember Lovain, seconded by Councilman Gaines and carried unanimously, City Council endorsed the proclamation. The voting was as follows:

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

**REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER**

**CONSENT CALENDAR (7-17)**

**(Resignations and Uncontested Appointments)**

7. Receipt of the Following Resignations From Members of Boards, Commissions and Committees:

(a) Alexandria Commission for the Arts  
Patti North-Rudin

(b) Alexandria Commission on Employment  
Lynda Noggle

(A copy of the above resignations is on file in the Office of the City Clerk and Clerk of Council, marked collectively Exhibit No. 1 of Item No. 7(a-b); 11/28/06, and is incorporated as part of this record by reference.)

8. Uncontested Appointments to Boards, Commissions and Committees:

(a) Alexandria Commission for the Arts

1 Member Who Represents the Public-at-Large As An  
Arts Consumer and Participant

- (b) Alexandria Commission on Information Technology  
1 Member Representing the Alexandria City Library Board
- (c) Alexandria Convention and Visitors Association Board of Governors  
1 Hotel Owner/Manager
- (d) Alexandria Emergency Medical Services Council  
1 Representative of the Alexandria Federation of Civic  
Associations
- (e) Historic Alexandria Resources Commission  
1 Representative From the Old Presbyterian Meeting House
- (f) Alexandria Sister Cities Committee  
2 Citizen Members
- (g) Alexandria Social Services Advisory Board  
1 Citizen Member
- (h) Alexandria Youth Policy Commission  
1 School Board Member

(A copy of 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 No. 8(a-h); 11/28/06, and is incorporated as part of this record by reference.)

**(Reports and Recommendations of the City Manager)**

- 9. Receipt of the 2006 Annual Report and Plant Survey From Comcast Cable Communications, Inc.

(A copy of the City Manager's memorandum dated November 16, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 11/28/06, and is incorporated as part of this record by reference.)

- 10. Receipt of the 2006 Comcast Cable Communications, Inc. Annual Subscriber Survey Report.

(A copy of the City Manager's memorandum dated November 16, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 11/28/06, and is incorporated as part of this record by reference.)

- 11. Consideration of the Monthly Financial Report for the Period Ending October 31,

2006.

(A copy of the City Manager's memorandum dated November 16, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11; 11/28/06, and is incorporated as part of this record by reference.)

12. Consideration of Authorization to Apply for a Grant to Fund a Youth Mentoring Program Administered by the Alexandria Court Service Unit.

(A copy of the City Manager's memorandum dated November 15, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 12; 11/28/06, and is incorporated as part of this record by reference.)

13. Consideration of Authorization of Recommended Capital Project Allocations and Planned Expenditures.

(A copy of the City Manager's memorandum dated November 16, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 13; 11/28/06, and is incorporated as part of this record by reference.)

14. Consideration of a Funding Application from Community Lodgings, Inc., (CLI) for Monies From the Housing Opportunities Fund to Support Multi-Family Housing Rehabilitation.

(A copy of the City Manager's memorandum dated November 16, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 14; 11/28/06, and is incorporated as part of this record by reference.)

15. Consideration of City Participation in the Development of a Regional Water Supply Plan, Virginia Water Supply Planning Regulation.

(A copy of the City Manager's memorandum dated November 16, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 15; 11/28/06, and is incorporated as part of this record by reference.)

16. Consideration of Initiating an Amendment to the Master Plan for the Proposed Fire Station Affordable Housing Project at Potomac Yard.

(A copy of the City Manager's memorandum dated November 22, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 16; 11/28/06, and is incorporated as part of this record by reference.)

**(Ordinances for Introduction)**

17. Introduction and First Reading. Consideration. Passage on First Reading of an Ordinance to Grant a Citywide Wireless Internet Service Franchise.

(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. 17; 11/28/06, 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. 17; 11/28/06, 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. 17; 11/28/06, and is incorporated as part of this record by reference.)

## **END OF CONSENT CALENDAR**

**WHEREUPON**, upon motion by Vice Mayor Macdonald, seconded by Councilman Gaines and carried unanimously, City Council approved the consent calendar, with the removal of items #9 and 17, which were considered under separate motions. The City Manager's recommendations were as follows:

7. City Council accepted the following resignations with regret: (a) Patti North-Rudin, Alexandria Commission for the Arts; and (b) Lynda Noggle, Alexandria Commission on Employment.

8. City Council made the following appointments: (a) reappointed Barbara Boehm as the one member who represents the public-at-large as an arts consumer and participant to the Alexandria Commission for the Arts; (b) reappointed Patrick O'Brien as the one member representing the Alexandria City Library Board to the Alexandria Commission on Information Technology; (c) waived the residency requirement and appointed Kevin Brockway as the one hotel owner/manager to the Alexandria Convention and Visitors Association Board of Governors (ACVA); (d) appointed R. Burke Wilson as the one representative of the Alexandria Federation of Civic Associations to the Alexandria Emergency Medical Services Council; (e) reappointed Althea Burns as the one representative from the Old Presbyterian Meeting House to the Historic Alexandria Resources Commission; (f) reappointed Carlos Davila and Frederica Dunn as the two citizen members to the Alexandria Sister Cities Committee; (g) appointed Kimberly Neill as the one parent member to the Alexandria Social Services Advisory Board; and (h) appointed Eileen Rivera as the one School Board member to the Alexandria Youth Policy Commission.

10. City Council received the 2006 Annual Subscriber Survey Report from Comcast.

11. City Council received the Monthly Financial Report for the period ending October 31, 2006.

12. City Council: (1) authorized the submission of the grant application in the amount of \$23,520; and (2) authorized the City Manager to execute the necessary documents.

13. City Council authorized the capital project allocations and planned expenditures for the capital projects as detailed in the Capital Improvement Expenditure Summary.

14. City Council approved funding of \$42,500 from the General Fund portion of the Housing Opportunities Fund, as follows: (1) \$37,500 as a grant to replace windows at 3908, 3912 and 3916 Elbert Avenue and 607 and 612 Notabene Drive; and (2) \$5,000 as a loan for a Capital Needs Assessment of CLI's current portfolio, to be repaid as part of any subsequent loan for items identified in the needs assessment.

15. City Council authorized the City Manager to: (1) designate the Department of Transportation and Environmental Services (T&ES) as the agent of the City of Alexandria responsible for the development of the Water Supply Plan in accordance with 9 VAC25-780-10, and authorize the Director, T&ES, to appoint City staff to the regional working group which will develop the Northern Virginia long-range Regional Water Supply Plan; (2) authorize T&ES to participate in the development of a Regional Water Supply Plan for the City of Alexandria and direct the T&ES Director to notify the Virginia Department of Environmental Quality (DEQ) that the City will be part of a regional plan submission; (3) designate the Northern Virginia Regional Commission as the lead agency for the City of Alexandria to develop a Regional Water Supply Plan for Northern Virginia (Fairfax, Arlington, Fauquier, Loudoun, Prince William Counties, and Cities of Alexandria, Fairfax, Herndon, Vienna, Leesburg, Falls Church, Manassas Park, Clifton, Dumfries, Haymarket, Occoquan, Quantico, Hamilton, Hillsboro, Lovettsville, Middleburg, Purcellville, Round Hill); and (4) authorized the City Manager to execute a Memorandum of Understanding regarding the development of a Regional Water Supply Plan and to approve a study project budget.

16. City Council initiated the process for a Master Plan Amendment to the Potomac Yard/Potomac Greens Small Area Plan to allow a fire station as a permitted land use, and to permit 64 additional residential units over the maximum allowed by the CDD Concept Plan for Potomac Yard for the affordable housing above the fire station.

The voting was as follows:

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

9. Receipt of the 2006 Annual Report and Plant Survey From Comcast Cable Communications, Inc.

(A copy of the City Manager's memorandum dated November 16, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 11/28/06, and is incorporated as part of this record by reference.)

Mayor Euille asked questions about the franchise fee and fiscal impact, which was answered by Director of Citizen Assistance Boyd.

**WHEREUPON**, upon motion by Councilwoman Pepper, seconded by Councilman Gaines and carried unanimously, City Council received the Comcast 2006 Annual Report and Plant Survey. The voting was as follows:

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

17. Introduction and First Reading. Consideration. Passage on First Reading of an Ordinance to Grant a Citywide Wireless Internet Service Franchise.

(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. 17; 11/28/06, 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. 17; 11/28/06, 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. 17; 11/28/06, and is incorporated as part of this record by reference.)

E-Government Manager Fifer responded to questions from Council regarding the franchise awardee, locations, wireless accounts and EarthLink.

**WHEREUPON**, upon motion by Councilwoman Pepper, seconded by Vice Mayor Macdonald and carried unanimously, City Council: (1) passed the wireless franchise ordinance on first reading and scheduled it for public hearing, second reading and final passage on Saturday, December 16, 2006. The voting was as follows:

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

**CONTESTED APPOINTMENTS**

- 18. Alexandria Commission for the Arts  
1 Member Who Has Expertise in the Arts Either As A Practitioner  
of Various Art Disciplines or As A Professional Administrator

(The following persons volunteered for appointment to the above Commission:)

NAME: ENDORSED BY:

Len Garon  
Lynn O'Connell

(Material pertaining to the above appointment is on file in the Office of the City Clerk and Clerk of Council, marked collectively as Exhibit No. 1 of Item No. 18; 11/28/06, and is incorporated as part of this record by reference.)

**WHEREUPON**, ballots were distributed, tellers were appointed and the ballots tallied with the following results: City Council waived the residency requirement and reappointed Lynn O'Connell as the one member who has expertise in the arts either as a practitioner of various art disciplines or as a professional administrator to the Alexandria Commission for the Arts. The voting was as follows:

Euille	-	O'Connell
Macdonald	-	Garon
Gaines	-	O'Connell
Krupicka	-	O'Connell
Lovain	-	O'Connell
Pepper	-	O'Connell
Smedberg	-	O'Connell

- 19. Alexandria Commission on Information Technology  
5 Citizens-at-Large

(The following persons volunteered for appointment to the above Commission:)

NAME: ENDORSED BY:

Noble Ackerson  
Daniel Brooks  
Brian Hunt  
Kostas Liopiros  
R. Heather Planey  
Scott Price

(Material pertaining to the above appointment is on file in the Office of the City

Clerk and Clerk of Council, marked collectively as Exhibit No. 1 of Item No. 19; 11/28/06, and is incorporated as part of this record by reference.)

**WHEREUPON**, ballots were distributed, tellers were appointed and the ballots tallied with the following results: City Council reappointed Daniel Brooks, Brian Hunt, Kostas Liopiros, R. Heather Planey and appointed Scott Price as the five citizens-at-large to the Alexandria Commission on Information Technology. The voting was as follows:

Euille	-	Brooks, Hunt, Liopiros, Planey, Price
Macdonald	-	Ackerson, Brooks, Liopiros, Planey, Price
Gaines	-	Brooks, Hunt, Liopiros, Planey, Price
Krupicka	-	Brooks, Hunt, Liopiros, Planey, Price
Lovain	-	Brooks, Hunt, Liopiros, Planey, Price
Pepper	-	Ackerson, Brooks, Hunt, Liopiros, Planey
Smedberg	-	Ackerson, Brooks, Hunt, Liopiros, Planey

#### **REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER FOR DISCUSSION**

20. Consideration of Adoption of the City's Legislative Package for the 2007 General Assembly Session. (#14, 10/24/06, #12, 11/14/06)

(A copy of the City Manager's memorandum dated November 20, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 20; 11/28/06, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Councilwoman Pepper and carried unanimously, City Council adopted items 1.A through 1.G, 2.A through 2.U, and 3.A through 3.C as positions in the City's Legislative Package for the 2007 General Assembly Session. The voting was as follows:

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

21. Consideration of Proposed Amendments to the Charter of the City of Alexandria, Virginia, for the 2007 Session of the General Assembly. (#14, 10/24/06, #13, 11/14/06)

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

Smedberg	"aye"	Macdonald	"aye"
Pepper	"aye"	Gaines	"aye"

Euille "aye" Krupicka "aye"  
Lovain "aye"

22. SPECIAL USE PERMIT #2005-0042  
5601 COURTNEY AVENUE; 730 SOUTH VAN DORN STREET; 750 SOUTH VAN DORN STREET; 720 SOUTH VAN DORN STREET  
VIRGINIA PAVING COMPANY  
Consideration of a request for a special use permit amendment to change the hours by which vehicles may exit and enter an existing asphalt plant and to permit a stack height of 20 meters; zoned I/Industrial. Applicant: Virginia Paving Company by Mary Catherine Gibbs, attorney  
PLANNING COMMISSION ACTION: Recommend Approval 6-1 (#5, 10/14/06)

(A copy of the City Manager's memorandum dated November 20, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 22; 11/28/06, and is incorporated as part of this record by reference.)

**WHEREUPON**, a motion was made by Councilmember Lovain and seconded by Councilman Smedberg, to approve the Planning Commission recommendation, with the following amendments to the conditions:

1. Virginia Paving Company (hereinafter, VA Paving) shall limit its hot mix asphalt production to a yearly maximum of 850,000 tons per year until all air pollution controls have been installed as scheduled in this special use permit. Thereafter, the hot mix asphalt production shall be limited to 980,000 tons per year. In addition, Virginia Paving shall limit hot mix asphalt production to 275,000 tons per year during nighttime shifts as defined in Condition No. 4 below.
2. Virginia Paving shall limit its hot asphalt production rate to a maximum of 1,000 tons per hour and 8,000 tons in any daily period, not to exceed 4,000 tons in any one nighttime shift.
3. Virginia Paving shall control odors, smoke and any other air pollution from operations at the site, and prevent them from leaving the property and becoming a nuisance to neighboring properties, as determined by the Department of T&ES, in coordination with the Director of Department of Health.
4. Virginia Paving shall limit its nighttime work to 110 nighttime shifts per calendar year. A record shall be maintained on site for the days/shifts on which nighttime work was conducted. Work conducted from 9 p.m. to 5 a.m. will be considered as nighttime shift. A partial shift work will be counted as one nighttime shift work for the purposes of this condition.
5. All nighttime production at Virginia Paving shall be limited for government customers only (Federal, State transportation agencies or local governments.) Nighttime production for and servicing of non-government entities from this facility is not

permitted.

6. For control of odors, Virginia Paving shall use low-odorous additive or, upon proposal to and approval by Department of T&ES, another equally effective approach such that odors from Virginia Paving is in compliance with condition no. 3 hereto. Since effectiveness of these additives is highly dependent on their usage in manufacturer's recommended quantities, Virginia Paving shall maintain records on site that demonstrates that these additives are being used as per manufacturer's recommendations. The records will include the amount of additive used, compared to production and use of asphalt cement.

9. Virginia Paving shall only utilize low-sulfur No. 2 distillate oil as fuel for the drum dryers on days when the Air Quality Index (AQI) value for Alexandria/Region is predicted to exceed 100 (Codes Orange and Red) for ozone and particulate matter, as identified on MWCOG's website. Additional, Virginia paving shall be limited to a daily production cap of 4000 tons on days when AQI is forecast from 150 to 200 (Code Red) and shall not produce hot mix asphalt on days when AQI is forecast greater than 200 (Codes Purple and Maroon.) A record shall be maintained that documents appropriate fuel usage and compliance with this requirement.

16. All on-site engines, front end loaders, trucks and other diesel equipment owned and operated by Virginia Paving shall install 90 percent efficient particle traps. The installation of particle traps on half (50%) of this equipment shall be completed no later than October 31, 2006, starting with the largest engines, and on the remaining equipment no later than December 31, 2006. In addition, all dump trucks owned and operated by Virginia Paving will be replaced with new trucks that will meet new 2007 Tier III EPA standard for emissions from diesel engines within three years of the approval. Virginia Paving shall replace one third of the existing trucks each year between 2007 and 2009.

74. The hours of operation for the asphalt plant shall be limited to 5:00 a.m. to 9:00 p.m. Monday through Saturday. In addition, when undertaking Federal, State or Local Government roadway projects during the paving season (April 1 to November 1), the facility may also operate from 9:00 p.m. to 5:00 a.m. Sunday through Friday. During nighttime hours, the applicant shall not engage in private paving.

75. Consistency with Eisenhower West Small Area Plan (SAP) and Sunset Provision:

City Council shall review this SUP, conduct a public hearing, and determine if the continued operation of this use is inconsistent with the Eisenhower West Small Area Plan (SAP) and implementing zoning amendments, anticipated for adoption in 2009, and with the ensuing and foreseeable development and redevelopment in the area. Such public hearing shall be held, and determination made, on or about three years after adoption of the SAP. In the event Council does not determine that the continued operation of the use is inconsistent with such SAP, implementing zoning and development or redevelopment, the use may continue, subject to the terms and

conditions of this SUP, including a new or revised sunset date. In the event Council determines that the continued operation of the use is inconsistent with such SAP, implementing zoning and development or redevelopment, the use, and all related and tenant operations on or within the site after expiration of the current lease (which is in 2016), shall terminate at such time as the Council shall determine, which shall not be sooner than seven years after adoption of the SAP nor longer than the applicable amortization period under Zoning Ordinance Section 12-214 as demonstrated by the Applicant. Investments made subsequent to this SUP Amendment will not be included in such an amortization analysis. With the exception of removing a claim of additional vested rights, or a claim for an extension of the amortization period based upon additional investments made, as a result of or subsequent to this amendment to the SUP, this provision is written as a declaration of existing zoning rights on the property. Nothing contained herein is a concession from Virginia Paving that a rezoning of their property is necessary or appropriate under the SAP.

76. The City shall establish a Virginia Paving Liaison Committee, to be appointed by the Mayor, to provide a forum for discussing and monitoring continuing impact and compliance issues arising from the operation of the plant. Members of the Committee shall include citizens and businesses residing near the Virginia Paving Plant, representatives of Virginia Paving, and City staff.

77. Virginia Paving shall be responsible for compliance with all generally applicable SUP terms, codes and ordinances regarding noise, odor, water quality and light for any tenant operations on the property. If any tenant on the property is found by the City of Alexandria to be the cause of a violation of any applicable SUP terms, codes or ordinances regarding noise, odor, water quality and light as referenced above, Virginia Paving shall take such steps as are necessary to modify or cease the tenant's operation until such modifications are made to ensure compliance with the above-referenced SUP terms, codes or ordinances.

78. Virginia Paving shall reimburse the City for the reasonable and proportionate administrative costs associated with the enforcement of this SUP, not to exceed \$126,000 for each of the first two years after approval and not to exceed \$50,000 each year thereafter, including the reasonable and proportionate cost of any additional staff, equipment or consultants determined to be necessary by the City to properly enforce the terms. Such cost shall be determined by the City in consultation with Virginia Paving and billed on a quarterly basis. Each bill will include an itemization of the amount charged. This term applies specifically to the cost of enforcement of the terms set forth in the SUP and shall not operate to shift fees or costs in the event of any subsequent administrative or legal dispute between the parties.

**WHEREUPON**, a substitute motion was made by Vice Mayor Macdonald, seconded by Councilman Gaines and which failed 3-4, to deny the requested special use permit and in so doing, recognize the fact that they would prefer to have most of the paving occur during the daylight hours. The voting was as follows:

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

**WHEREUPON**, an amendment was made by Councilwoman Pepper, seconded by Councilman Gaines, and which failed 3-4, to change condition #1 to read: 1. This special use permit is issued to Virginia Paving Company of Alexandria, Virginia, a division of Lane Construction Corporation, Virginia Paving shall limit its hot mix asphalt production to a yearly maximum of 765,000 tons per year until all air pollution controls have been installed as scheduled in this special use permit. Thereafter, the hot mix asphalt production shall be limited to 900,000 tons per year. In addition, Virginia Paving shall limit nighttime shift production to 150,000 tons per year. The voting was as follows:

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

**WHEREUPON**, an amendment was made by Councilwoman Pepper, seconded by Councilman Gaines, and which failed 3-4, to change condition #4 to read: 4. Virginia Paving shall limit its nighttime work to 45 nighttime shifts per calendar year, excluding emergency work required to maintain public health, safety and welfare, as authorized by the director of transportation and environmental services. A record shall be maintained on site for the days/shifts on which nighttime work was conducted. Worked conducted from 8 p.m. to 5 a.m. will be considered as nighttime shift. A partial shift work will be counted as one nighttime shift work for the purposes of this condition. The voting was as follows:

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

**WHEREUPON**, an amendment was made by Councilwoman Pepper, seconded by Councilman Gaines, and which carried 5-2, to change condition #5 to read: 5. All night time production at Virginia Paving shall be limited to public road, street and highway work for government customers only. Night time production for and servicing of non-government entities from this facility is not permitted. The voting was as follows:

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

**WHEREUPON**, an amendment was made by Councilwoman Pepper, seconded by Councilman Gaines and which failed 3-4, to change condition #9 to read: 9. Virginia Paving shall not operate its plant on days when the air quality index value for Alexandria/Region exceeds 150 (Codes Red, Purple and Maroon) for ozone or particulate matter, as defined on EPA's AIRNow web site. A record shall be maintained that documents compliance with this requirement. The voting was as follows:

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

**WHEREUPON**, an amendment was made by Councilwoman Pepper, seconded by Vice Mayor Macdonald, and which failed 3-4, to change condition #74 to read: 74. The hours of daytime operation for the asphalt plant shall be limited to 5:00 a.m. to 8:00 p.m. Monday through Saturday, provided that no production of asphalt occurs after 4:00 p.m. In addition, when undertaking government projects during the paving season (April 1 to November 1), the facility may also operate from 8:00 p.m. to 5:00 a.m. Sunday through Friday and the prohibition on asphalt production after 4:00 p.m. shall not apply. During nighttime hours, the applicant shall not engage in private paving. The voting was as follows:

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

In response to a question from Councilman Gaines, Mary Catharine Gibbs, attorney for the applicant, stated that they are in agreement with amended language in the new sunset provision, as they worked out the language with the City Attorney.

Councilman Smedberg asked for a friendly amendment on conditions #4 and 74, hours of operation of the asphalt plant, to change the hours from 9:00 p.m. to 8:00 p.m.

In response to a question from Councilmember Lovain, Ms. Gibbs said if it is just that change, that is not a problem.

The amendment was accepted by the maker of the motion.

Mayor Euille asked the applicant if there was a number the applicant could agree with that is less than 110 nighttime shifts per calendar year.

Ms. Gibbs said no, 110 is as low as they can go.

In response to a question from Mayor Euille on whether there is a number

between 110 and zero that the applicant could live with on nighttime shifts, Ms. Gibbs stated that the limit Virginia Paving can accept is 110.

Councilman Krupicka asked the City Manager to reaffirm, for the record, his commitment to enforcing special use permits and that the City is committed to have a clear, appropriate way to manage and enforce all the regulatory requirements put in place for the special use permit.

City Manager Hartmann said they have been moving in that direction as a City team across departments for the last two years when this topic came up and it was pointed out to them that there were serious errors in the way they were enforcing special use permits. He said they gave assurances there and the Planning and Zoning staff and others have been diligently tracking those. He said this sends them through another threshold, however, which Council heard from him earlier about how important it was to be reimbursed for the increased enforcement activity, and that is very important and that will become a model for the future as it gets into more complicated SUP's with other businesses and organizations, especially in environmental terms. He said he will bring Council information which will further strengthen that in the future. He said as far as being able to manage through the 78 conditions, they have had many hours of discussion and debate among staff about how they would accomplish that. This is not just about a new inspector, but it will also be about using staff from other departments that will all have a mindful eye on Virginia Paving. He said it will also require them to build some systems so they can track these things and they can very carefully look at the reporting that is coming out of Virginia Paving, use the consultants when its necessary to assist them in enforcement, and other contractors as necessary, and also make sure they have the appropriate equipment at hand. He said Council has his full commitment to enforcing the provisions, and Council also has the full commitment of the staff.

Councilman Krupicka asked the City Attorney, for the record, if they could shut Virginia Paving down if they are not meeting their requirements under any of the conditions.

City Attorney Pessoa said that is correct. Obviously they don't initiate the revocation proceeding as the first stage in the enforcement, but they can stop them from operating, can suspend the permit until they come into compliance and staff can do that unilaterally without even coming to Council, and then they can proceed from there.

**A MOTION WAS MADE** by Councilman Gaines, seconded by Vice Mayor Macdonald, to defer action until there is an opportunity as a community to consider the comprehensive planning for West End development.

In response to a question from Councilman Krupicka about the sunset provision, City Attorney Pessoa said there are several ways to preserve the City's flexibility and discretion when it comes to the master plan and rezoning process for the Eisenhower

West Small Area Plan. One way is to defer it, and another way is to approve it with the provision that is in there that says that any investment you make after tonight cannot be counted to extend the life of this use. Mr. Pessoa said he recommended the condition in there because it gets the interim environmental projects and benefits, while the planning process takes place and while the seven year minimum abatement period, assuming the site is rezoned, works itself out. It gets tangible benefits for the City and the citizens and allows the public policy of nighttime paving.

The motion failed 3-4 and is as follows:

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

The voting on the main motion, as amended, carried 4-3 and is as follows:

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

The following items were heard together:

23. Presentation of the Efficiency and Best Practices Study of the Transportation and Environmental Services Department.
24. Presentation of the Efficiency and Best Practices Study of the Administrative Functions of the Fire Department.

(A copy of the City Manager's memorandum dated November 22, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 23; 11/28/06, and is incorporated as part of this record by reference.

A copy of the City Manager's memorandum dated November 22, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 24; 11/28/06, and is incorporated as part of this record by reference.)

City Manager Hartmann, Deputy City Manager Jinks and Deputy City Manager Evans made a presentation of the studies of the Transportation and Environmental Services and Fire Departments and responded to questions from Council.

**WHEREUPON**, upon motion by Councilman Pepper, seconded by Councilman Gaines and carried unanimously, City Council received the implementation plan of the efficiency and best practices study of the Transportation and Environmental Services Department (T&ES) and Council received the implementation plan of efficiency and

best practices of the administrative functions of the Fire Department and scheduled it for discussion at a future Council work session. The voting was as follows:

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

25. Consideration of Council Priorities for Planning Projects to be Undertaken as Part of the Department of Planning and Zoning's FY 2007 and FY 2008 Work Program.

(A copy of the City Manager's memorandum dated November 22, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 25; 11/28/06, and is incorporated as part of this record by reference.)

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

**WHEREUPON**, upon motion by Councilwoman Pepper, seconded by Councilman Gaines and carried unanimously, City Council confirmed the following as planning priorities for FY 2007 and FY 2008 and received the Department's updated workplan:

<u>Planning Area</u>	<u>Anticipated Start Date</u>	<u>Estimated Completion Date</u>
Eisenhower West	February 2007	February 2008
Waterfront	February 2007	June 2008

The voting was as follows:

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

26. Consideration of Proposed City Comments for the Commonwealth Transportation Board Six Year Improvement (FY 2007-2012) Public Hearing.

(A copy of the City Manager's memorandum dated November 22, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 26; 11/28/06, 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: (1) approved the funding recommendations for transportation projects discussed below as the City of Alexandria's request to the Commonwealth Transportation Board for funding in the FY

2008-2013 Six-Year Improvement Program; and (2) requested that staff prepare a letter for the Mayor's signature to convey the City's requests to the Commonwealth Transportation Board. The voting was as follows:

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

## **REPORTS AND RECOMMENDATIONS FROM BOARDS, COMMISSIONS AND COMMITTEES**

**None**

The following item was heard out of turn:

### **OTHER**

27. Consideration of City Council Schedule.

(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. 27; 11/28/06, 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 received the revised calendar which includes: the 30th annual Hanukkah Celebration on Monday, December 18 at 5:30 p.m. in the INOVA Alexandria Hospital Atrium, 4320 Seminary Road; the Community Martin Luther King, Jr. program on Monday, January 15 at 7:30 p.m. at the First Christian Church, 2723 King Street; and the 27th Annual Salute to Women Awards Banquet on Monday, March 26, 2007 at 6:00 p.m. at the Radisson Hotel, 901 North Fairfax Street. The voting was as follows:

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

## **ORAL REPORTS BY MEMBERS OF CITY COUNCIL**

None.

## **ORAL PRESENTATIONS BY MEMBERS OF CITY COUNCIL**

(a) Vice Mayor Macdonald asked what is the current thought on the free parking request during the holidays.

City Manager Hartmann said the cost for doing that in the past was calculated at \$125,000, so it is a significant cost to do that and the decision was made a few years ago to use the proceeds from the parking to do other holiday marketing, so that was the past decision of Council for that.

Mayor Euille said it will be discussed in his meeting with the City Manager this Friday. He said he would like to think there is something they can work out and hopefully be able to come back to Council soon with some suggestions.

(b) Vice Mayor Macdonald said the Ballyshaners and Pat Troy have announced that the grand marshal for the St. Patrick's Day Parade this spring will be Kerry Donley.

(c) Councilwoman Pepper said Council received a letter from Samuel Bodman, the Secretary of Energy, and they are extending the emergency categorization such that Mirant will be allowed to continue to function. She said they have been given one more extension, which was to have expired the end of 2006 and can now continue to February 1, 2007. She said she talked to the Director of Transportation and Environmental Services to see if the monitoring group shouldn't be discussing the issue, as well as the fact that they have also issued for them a special environmental analysis and there was some question about some of the procedures, the way they are measuring things, that make it possible for Mirant to qualify for meeting standards.

Councilman Smedberg said the monitoring group should meet, as there is a lot that it has to be updated on. The letter symbolizes that Mirant is doing everything it can to take it to the Federal level where they are on a much friendlier playing field and the City needs to respond.

City Attorney Pessoa said the Secretary's letter also says that the special environmental assessment is subject to public comment until January 7, so staff is reviewing it and will prepare comments to submit critiquing the special environmental assessment. He said it does acknowledge that with the completion of the new 230 KV lines in the District, which is scheduled for June 2007, that the emergency will have been justified, the intervention will have ended, and they intend to do everything they can to see that no new emergency is found by those who favor the Federal forum for regulating the antiquated powerplant.

Mayor Euille said he met with the City Attorney this afternoon and suggested that the Mirant monitoring group meet soon to actually discuss it, reflect on it and some other matters.

#### **ORAL REPORT FROM THE CITY MANAGER**

None.

**ORDINANCES AND RESOLUTIONS**

None.

**NEW BUSINESS ITEM NO. 1: Executive Session.**

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried unanimously, at 10:28 p.m., City Council convened in executive session, pursuant to Section 2.2-3711(A)(3) of the *Code of Virginia*, for the purpose of discussing the acquisition of real property for public park and recreation purposes. The voting was as follows:

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

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried unanimously, at 10:42 p.m., City Council reconvened the meeting. The voting was as follows:

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

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried unanimously, City Council authorized the City Manager and City Attorney to acquire the real property as discussed in the executive session. The voting was as follows:

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

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried unanimously by roll-call vote, City Council adopted the resolution pertaining to the Executive Session. The voting was as follows:

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

The resolution reads as follows:

RESOLUTION NO. 2212

WHEREAS, the Alexandria City Council has this 28th day of November 2006, recessed into executive session pursuant to a motion made and adopted in accordance with the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by the city council that such executive session was conducted in accordance with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the city council does hereby certify that, to the best of each member's knowledge, only public business matters that were identified in the motion by which the executive session was convened, and that are lawfully exempted by the Freedom of Information Act from the Act's open meeting requirements, were heard, discussed or considered by council during the executive session.

\* \* \* \* \*

**THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED**, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried unanimously, the regular City Council meeting of November 28, 2006, was adjourned at 10:44 p.m. The voting was as follows:

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

APPROVED BY:

WILLIAM D. EUILLE    MAYOR

ATTEST:

Jacqueline M. Henderson, CMC, City Clerk

22  
11-28-06



Valerie Peterson/Alex  
12/22/2006 11:32 AM

To Jackie Henderson/Alex@Alex  
cc Christopher Spera/Alex@Alex, Lalit Sharma/Alex@Alex, Stephen Milone/Alex@ALEX, Kendra Jacobs/Alex@Alex  
bcc

Subject VA Paving Conditions

Hi Jackie,

As per our conversation this week, Condition #35 of SUP#2005-0042 needs to be updated with respect to the hours, to be consistent with Conditions #4 and #74 that were amended by Council at its November 28 meeting. The hours of operation in Conditions #4 and #74 were amended by Council to reflect the nighttime hours as being 8:00 p.m. to 5:00 a.m. The hours referenced in Condition #35 should be updated to be consistent. Condition #35 should now read:

VA Paving shall limit its night time operations to only one dryer unit, one loader, one skid steer and one mobile crane, and trucks as needed between the hours of ~~9pm~~ 8 pm and ~~6am~~ 5 am.  
(T&ES)

(New language is underlined, old language stricken.)

In addition to this condition, we found a type-o in Condition #24. The last sentence of the condition states: "The records as required by this annual inspection shall be submitted to the City every six months, first submittal no later than April 30, 2007". This sentence is intended to provide the frequency of submitting the record keeping documents described earlier in the condition. The reference to the "annual inspection" is not a logical reference here, so should read as follows:

The records as required by this ~~annual inspection~~ condition shall be submitted to the City every six months, first submittal no later than April 30, 2007.

With those two changes, the document looks to be final. Let me know if you can note these changes to the official record, then we'll update the document for final release to the applicant and on our web site.

Thanks and Happy Holidays!

Valerie