

ROUGH DRAFT**CITY COUNCIL OF ALEXANDRIA, VIRGINIA
Regular Meeting — January 22, 2002
Partial Verbatim – Oral Presentation (c)**

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Mayor: Mr. Cleveland.

Cleveland: Mr. Mayor, I would like to bring up an issue that has been bothering me for, for quite awhile, and I would think it would be an issue of, well, since we were talking a little bit earlier about regional involvement and bringing the City of Alexandria, I would think, into compliance with the rest of the region. And this is what I, I would like to make a request in starting the process of an ordinance to prohibit x-rated movie houses in the City of Alexandria, to start that process. The reason why I'm saying, the reason why I'm saying this is because I, I truly believe, and I'd like to see ordinances from other, other areas, from the District of Columbia. I'm almost certain they don't have, they have one. Arlington County, I'm almost certain they have one. Fairfax County, I'm almost certain that they, that they have one. I'd like to see, to see that, but I'd like to see this process started and, and in the way of an ordinance and brought forward and docketed for City Council. This issue was brought up at a, at our Town Meeting when we were over in the west end, and I believe that it would bring the City of Alexandria in compliance with the rest of the region, and I'm asking that this be brought forward. Thank you.

Mayor: Mr. City Attorney, do you want -

Pessoa: Yeah. Mr. Mayor, I'll be happy to, to survey the law in the surrounding jurisdictions and report back to Council on, on what, what they have. With respect to the proposal that, that has been made for Alexandria, the first step would be, as I think we discussed previously, I mean, we can't out and out prohibit these, these uses. We can adopt an ordinance to regulate them and require them to disperse from residential communities and churches

and parks and other incompatible uses like that. If Council wants to proceed down that line, certainly we can do that. The first step though will be to have the Department of Planning map out where these protected uses would be. That's, that's quite an arduous endeavor and, and one that in light of some of our discussions with the owner of the, of the shopping center in question, we thought we might be able to forego. Apparently the theater there has about 15 months on their, on their lease. After that they'll be on a month-to-month basis and it's anticipated by the owner that the shopping center will redevelop sometime in 2004. Any ordinance that Council would, were to adopt, if we were to adopt one, would be several months off, the adoption, and it would have an 18-month or so amortization period in it. So, you know, the, the market forces might very well coincide with the regulatory forces, but, but I'll be glad to report back to Council on what other jurisdictions do.

Cleveland: Mr. Mayor.

Mayor: Mr. Cleveland.

Cleveland: Mr. Mayor, I, I understand that and I still want this process to go forward because it does not prohibit, even if this place would, let's say, cease to exist, it still does not prohibit, and I truly believe, that's why I asked you to, to start the process and to look into the others, that it would not stop another from coming in. So, whether it's a long process, an arduous process, or not, I'd like to see that process go forward.

Pepper: Mr. Mayor.

Mayor: What if -

Cleveland: If Council wants to vote against it -

Mayor: Would a, oh, no, I don't think that's, that's not the, the point, Bill. Just a couple of clarifying questions to, to the City Attorney. If the, the current cinema that we're talking about which is located in Foxchase were to cease and go out of business, would not another movie operator who might go in there require a special use permit?

Pessoa: That, that's correct. Today, movie theaters are classified as amusement enterprises and would require a special use permit.

Mayor: So Council, Council via, via its, its special use permit authority would have control over the second -

Pessoa: Over, over the location of the theater. Certainly not over the content of the films that would be shown there.

Mayor: But we don't have any, we don't have that -

Pessoa: Today.

Mayor: That, that control today over, let's say, AMC or, or Hoyts.

Pessoa: Nor, nor would we under the proposed legislation which was discussed previously.

Mayor: Yeah. My further understanding is that in order for us to adopt this ordinance, I think it's probably a good idea to survey the ordinances as, the various locality ordinances, local ordinances that Mr. Cleveland suggests. But my understanding in, in terms of how we would make one operative here, we would designate within a certain radius of residential areas or community facilities, churches, etc., that these kinds of uses would be prohibited, but would we not also be, by, by prohibiting in, within certain areas, indicating that it's acceptable in others, which is sort of tacit approval.

Pessoa: That would be the inevitable and in fact the required affect of the, of that sort of ordinance.

Mayor: So, so -

Pessoa: So, you in essence establish districts where these theaters are allowed to go in.

Mayor: So, is, does this potentially, does the law potentially fall into a category of be careful what you ask for, you might get it by, by prohibiting certain areas essentially saying it's a permitted use in others.

Pessoa: Well, that, that's the policy call that the Council would have to make if you were to seriously consider adopting such an ordinance.

Mayor: Okay.

Pepper: Mr. Mayor.

Speck: Mr. Mayor.

Mayor: Ms. Pepper and then Mr. Speck.

Pepper: I would just like to note that I have been working with all of the civic associations that are around this particular area, Brookville, Seminary Valley. I must say I've working through the Holmes Run Committee so I haven't actually talked to them, but others I have, and the feeling is that in, in regard to their concerns, they have also met with the owner or the management, real estate management for the shopping center, and they are convinced that the, that the movie theater will be soon no more as the Foxchase Center is upgraded. And the question is do we really want to deploy our police to do police surveillance there? Is this how we want to use our police force? There is concern about just why proceed with this if it's going to take care of itself automatically without our doing anything. They really do feel that that's probably the best way to go. We do not have an outcry in the neighborhood. We do not have problems. It's not like there is a lot of police activity needed there. The, it's not raided regularly because there's just, there haven't been complaints so the feeling has been that at least as of now it would, if we were to pass this ordinance, it would take us a couple of months and then we would have to allow them 18 months to wind down their business, and by that time what happens is they have already lost their lease. So, you know, why go through all of this? So, for that reason I'm not anxious to pursue the resolution; however, I don't know why we couldn't pursue it in some other way, perhaps just so that the principle is endorsed so that what we don't have are any more of these kinds of theaters springing up somewhere. That's what I would like to see.

Mayor: Mr. Speck:

Speck: I didn't know this was coming up, Mr. Mayor. There is no reason I had to, but, so I, I want to make

some comments and just try to express very carefully. I, I certainly have no objection to determining what other jurisdictions are doing regarding ordinances of, for any topic. It's always helpful to know what the surrounding community is, is doing. I'm very uncomfortable with the way this issue has been raised, and that is our desire to regulate a certain kind of movie. I, I'm not a screaming civil libertarian, but I, but I have a deep and abiding passion in the Constitutional rights of, among other things, free speech. And to identify this issue as a desire to regulate a certain kind of movie clearly leads in a direction of regulating other kinds of movies, other kinds of books, other kinds of films, other kinds of pictures, other kinds of things that we choose not to like. There's no question that, that the market forces are going to have an affect here. There's a reason that there aren't adult movie theaters in proliferation and that is that particular form of entertainment is readily available in other forms, in other, in other vehicles other than going to the movies, including on cable. It's not something that, that I, that I attend but, but I understand that there are those that do and they pay for it and they are protected under certain circumstances as others are. If you had raised the issue as this is a particular form of entertainment that leads to problems, behavioral problems in the shopping center or related issues, I would support you in wanting to consider it. The last time this came up though I was curious about it and I asked the police if they would do, do a quick run on calls for service, to do a 12-month comparison between the Foxchase theater and the Potomac Yard theater and during the, the trailing 12 months, and this goes back about 6 or 8 months now, I think that the, as I recall, there were 6 calls for service at Foxchase and 88 calls for service at Potomac Yard, of a variety of types. I'm willing to support your request to see what other jurisdictions are doing, but I don't want that to be in any way interpreted as a support of leading to some ordinance or regulation on something that I think that is not the proper purview of this Council, and a dangerous precedent to start.

Cleveland: Mr. Mayor.

Mayor: Mr. Cleveland.

Cleveland: It's not the idea of a dangerous precedent for us to start. I'm not asking to prohibit movies for, from tv or to prohibit the movies from, from the, you know, video store. I'm just talking about in particular you will find that there are none in the Washington metropolitan area, and so I just asked myself that question. If there's none in D.C. and there's none anywhere else, there should be none in the City of Alexandria, and all I'm asking for us to do is to come into compliance or be like the rest of the community, and why do we have to be different. That's all.

Speck: Well, we may find that it wasn't regulated.

Cleveland: And I'm not stopping about any, stopping anyone from regulating anyone, from regulating -

Speck: Well, we'll find out.

Cleveland: Looking at x-rated movies. This is not about x-rated movies, and you see when you, when we talk about calls for service or police, that's not the idea of doing that because, see, there's also a, I believe, with the City Attorney has investigated into it and say it goes a little bit deeper than that. He's gone there. He's looked at the place, but not only that, there is a web site that, that picks this particular place and there is a particular park in the west end that really, really gets on the minds of some of the people there. So, I am trying to get to get to the crux of -

Mayor: Well, what, and I think what we should do -

Cleveland: Thank you.

Mayor: I think what we should do, is, is the City Attorney will survey some of the other jurisdictions and then get with you specifically about, about how an ordinance might be introduced and the timing and all of those various factors. We have asked that, Mrs. Pepper and I have worked on this issue a little bit. We have asked that the City Attorney look at, at some other methods of regulatory compliance, i.e., compliance with the Americans with Disabilities Act, for example and other code provisions that, you know, building codes and safety codes that, that may be a more effective and immediate enforcement tool rather than an ordinance that might take us two or three years to, to pass. Why don't you go ahead and

work with, with Councilman Cleveland. Go through the, the local ordinances and then get with him and then, and then he can -

Speck: Mr. Mayor.

Mayor: Potentially pursue it.

Pessoa: Very fine, Mr. Mayor.

Speck: Just a final thought, Mr. Mayor.

Mayor: Sure. If it's final, fine.

Speck: The, I think one of the reasons, and I think you, Mr. Mayor spoke to this that we're not seeing that type theater in, generally in this area is economic pressures as opposed to regulatory. We'll find out if there are regulatory issues. I just, your comments about other things going on are legitimate concerns to raise. Just point out that you, you brought the subject up by saying you wanted to prohibit a certain kind of movie theater in Alexandria, and that's what I reacted to, and I think that's a dangerous direction to take if it's postured in that form. If there are other issues, let's address them.

Cleveland: Yeah, and all I want you to do is to note that we have the, I want you to, all I would like you to do is to know is that we have the only one. There is none other in existence.

Mayor: Okay. Mr. Euille.

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