

CITY COUNCIL OF ALEXANDRIA, VIRGINIA

Public Hearing Meeting
Saturday, May 12, 2007 - - 9:30 a.m.

Present: Mayor William D. Euille, 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; Mr. Mason, Special Assistant to the City Manager; Ms. Triggs, Acting Director, Finance Office; Ms. Hamer, Director, Planning and Zoning; Mr. Josephson, Deputy Director, Planning and Zoning; Mr. Hunt, Planning and Zoning; Mr. Farner, Planning and Zoning; Mr. Kincannon, Director, Recreation, Parks and Cultural Activities; Mr. McCobb, Transportation and Environmental Services; 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) Robert McClellan, 400 Madison Street, said he has seen the bike population grow and expand, and it also has changed from recreational bikers to commuters, and with that change has come a change in attitude. He said the bicyclists are now off the bike paths and routinely using Fairfax, Pitt and Royal Streets as commuting areas. He said bicycles are vehicles and can kill or injure a human or a pet. Mr. McClellan read an excerpt from a *Washington Post* article about how the person, as a bicyclist, refuses to stop for stop signs. Mr. McClellan said he has yet to see a Police Officer stop a bicyclist when they see them going through stop signs and he said he would like to see a concerted effort to ticket the bicyclists along Fairfax, Pitt and Royal Streets who are running stop signs. He requested Council to speak to the Police and tell them to apply the laws equally to all before someone is seriously injured or killed.

Mayor Euille said they would apprise the Police and ask them to be more vigilant in patrolling. He also noted that next Friday is National Bike Day in Market Square and he would make sure that is part of the program, to re-emphasize safety, speeding and watching out for pedestrians.

Councilman Smedberg said that several months ago, he inquired about getting signs up along the bike trail, indicating that a good section of the trail is closed, and in a very key area, there are hand-written signs. He said he has seen several near misses of people being hit.

Mayor Euille asked Councilman Smedberg to note that to the bike coordinator. He said it was also raised at the Woodrow Wilson Bridge Task Force and just last week, he saw the new signs.

Councilman Gaines asked, after the Police respond, that they provide Council with a summary of the report and incidents from the Police Department.

(b) Donna Posey, 1530 Princess Street, Apt. 102, spoke of the Alexandria Court system and legal systems in regard to child custody cases. She asked why certain codes that are implemented in Alexandria are not recognized in the court system, with regard to custodial interference.

Mayor Euille suggested that she make contact with City Attorney Pessoa, as he can provide assistance and guidance to her.

(c) Gary Carr, 216 Aspen Street, spoke about running tracks and the lack thereof. The running tracks at Hammond and George Washington Middle Schools are in deplorable condition and they have been that way for several years. The track at T.C. Williams has been unavailable for several years and has recently been slated for restoration, but it is underfunded to bring it in full compliance with the Alexandria City Public Schools Master Plan. He said they have allocated \$200,000 to restore the track at the High School. There is a \$20 million sports complex and there is no track and a \$22 million comprehensive field plan, but no tracks. He said a running track can serve 100 people, 24 hours a day, 365 days a year.

(d) Jerry Drake, 3300 Elmore Drive, said he wished to propose an amendment to the Code, Title 6, Chapter 2, Article B, Section 6-2-24, dangerous trees, shrubs, etc., declared nuisance, trimming or removal. Specifically, he asked Council to amend the Code to include any trees on private property which pose an immediate and serious danger to any other private property or person. He said his neighbor has two large, 80-foot oak trees that sit within two feet of his property boundary, combined weight to be estimated at 25 tons. He said a registered arborist, as well as City Arborist John Noelle, have declared that the one tree is dead and the other is nearly dead, but the owner will not remove the trees because she believes they are not dead and she cannot afford to have them removed.

Councilmember Lovain said he would appreciate it if staff could respond to what is the recourse a citizen has in a situation like this.

City Attorney Pessoa said there is a private remedy. If trees on an adjacent property are in danger of falling, it is a private nuisance and the affected property owner can maintain a legal action to compel the adjacent owner to remove the trees. Mr. Drake is asking for a public law remedy to be added to that and there is already such a provision for trees on private property which threaten or damage public property. He said that opens a whole new area of City involvement and regulation in what has before been private property disputes between adjacent owners.

After discussion, Mayor Euille suggested that both the City Attorney and the Director of Parks and Recreation coordinate with Virginia Power and have a meeting to talk about any special circumstances, as it is an eminent danger and harm, as they collaborate to find a way to move the trees. He suggested that Mr. Drake get in touch with his civic association in Beverley Hills for them to weigh in on it.

Councilwoman Pepper asked if there was a way to give financial support to the neighbor, to help her get those trees down.

Mr. Kincannon, Director, Recreation, Parks and Cultural Activities, said they do not currently have a program like that.

Councilwoman Pepper asked that it be explored when they meet with Virginia Power.

Councilman Krupicka asked that the Urban Forestry Committee look at this as part of its policy question, and he asked for clarification on whether there is a legal remedy available to the property owners now.

Mr. Pessoa said that is correct. There is the ability for one neighbor to file a lawsuit against the other neighbor, to declare the trees a nuisance and to have the court order the other neighbor to remove the trees.

(e) Pat Troy, 310 Wolfe Street, said this weekend is law enforcement week, where thousands of law enforcement officers come in from all over the country, and it is a sad occasion to see all the people that come in to honor the fallen heroes that serve in law enforcement. He asked that when one sees a police officer, to shake his hand and say thanks for all they do in the community. Mr. Troy asked everyone to remember the moms on Mothers Day. Lastly, he said, he wondered if citizens realize how hard the Councilmembers work. He said Vice Mayor Macdonald has retired, served the community and Council for four years, and he did his best for his community and best for the City. He said personal issues are more important than anything else and it was not an easy issue for him to walk away from this.

(f) Jim Snyder, 1907 Commonwealth Avenue, on behalf of the Del Ray

Citizens Association, presented a study done by the Virginia Tech Graduate Planning and Landscape Architecture Studios, sponsored by the Del Ray Citizens Association last spring, which looked at Commonwealth Avenue from the Metro Station to Four Mile Run, to advance the City's policy statement of creating and recreating Commonwealth Avenue into a special street that would have transportation, park-like and other kinds of qualities. He presented the report to Council.

Mayor Euille said he spent the past couple of weekends walking lower King Street and was out last night observing, as he has been getting complaints from citizens about the lack of a Police visibility, particularly at the intersection of Union and King Streets, with cars, bicycles, motorcycles and pedestrians, and it is very chaotic. Without having a Police Officer there to slow down traffic and direct cars, it creates a bottleneck. He said it needs to be looked into.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

ACTION CONSENT CALENDAR (3-5)

Planning Commission

3. SPECIAL USE PERMIT #2007-0009
2214 MOUNT VERNON AVENUE
MASSAGE THERAPY
Public Hearing and Consideration of a request to operate a massage therapy establishment; zoned CL/Commercial Low. Applicant: Sara VanderGoot

PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated May 1, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 3, 5/12/07, and is incorporated as part of this record by reference.)

4. SPECIAL USE PERMIT #2007-0022
3846 KING STREET
COMPUTER CORE
Public Hearing and Consideration of a request to operate a private school within an existing church building; zoned RA/Residential. Applicant: Computer CORE by Katherine Morrison

PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated May 1, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 4, 5/12/07, and is incorporated as part of this record by reference.)

5. SPECIAL USE PERMIT #2007-0025

119 SOUTH ROYAL STREET
RESTAURANT

Public Hearing and Consideration of a request for a change of ownership, change of hours and increased seating at a restaurant; zoned CD/Commercial Downtown. Applicant: Fontaine, Inc. by Kyong R Yi

PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated May 1, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 5, 5/12/07, and is incorporated as part of this record by reference.)

END OF ACTION CONSENT CALENDAR

WHEREUPON, upon motion by Councilman Gaines, seconded by Councilwoman Pepper and carried unanimously, City Council approved the action consent calendar, with the removal of items 3 and 5, which were considered under separate motion, as follows:

4. City Council approved the Planning Commission recommendation.

The voting was as follows:

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

3. SPECIAL USE PERMIT #2007-0009
2214 MOUNT VERNON AVENUE
MASSAGE THERAPY
Public Hearing and Consideration of a request to operate a massage therapy establishment; zoned CL/Commercial Low. Applicant: Sara VanderGoot

PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated May 1, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 3, 5/12/07, and is incorporated as part of this record by reference.)

Councilman Smedberg said there was a discussion a month ago about trash receptacles and the amount of money for them, and he didn't recall Council receiving a follow-up on the issue, as people were being charged \$500 or \$1,000.

Deputy Director of Planning and Zoning Josephson said they have spoken with the T&ES people and the policy is that if there is a trash receptacle present in the vicinity of the use, the City requests \$500 to go toward the beautification fund to provide

receptacles in places T&ES identifies as a need for additional receptacles. If there is no litter receptacle present, then the recommendation is to request \$1,000 for the purchase of the standard receptacle.

Transportation and Environmental Services Deputy Director for Operations McCobb said that has been the policy that's been in effect for over a year.

WHEREUPON, upon motion by Councilman Smedberg, seconded by Councilwoman Pepper and carried unanimously, City Council approved the Planning Commission recommendation. The voting was as follows:

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

5. **SPECIAL USE PERMIT #2007-0025**
119 SOUTH ROYAL STREET
RESTAURANT

Public Hearing and Consideration of a request for a change of ownership, change of hours and increased seating at a restaurant; zoned CD/Commercial Downtown. Applicant: Fontaine, Inc. by Kyong R Yi

PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated May 1, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 5, 5/12/07, 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 approved the Planning Commission recommendation. The voting was as follows:

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

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

None.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

Planning Commission (continued)

6. **TEXT AMENDMENT #2007-0003**
SMOKE FREE RESTAURANTS

Public Hearing and Consideration of a request for amendments to the Zoning Ordinance to add definitions under new Sections 2-190.1 and 2-193.1, and to add new Section 7-2200 relating to requirements for smoke-free restaurants.
Staff: Department of Planning and Zoning

PLANNING COMMISSION ACTION: Recommend Approval 4-2

THIS ITEM WAS DEFERRED UNTIL THE SATURDAY, JUNE 16 PUBLIC HEARING MEETING.

7. SPECIAL USE PERMIT #2007-0019
1931 BALLENGER AVENUE (Parcel Address 1925 Ballenger Avenue)
ROBEKS
Public Hearing and Consideration of a request to operate restaurant; zoned CDD #1/Coordinated Development District. Applicant: Daniel Garcia

PLANNING COMMISSION ACTION: Recommend Approval w/amendments 5-0-1

(A copy of the Planning Commission report dated May 1, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 7, 5/12/07, 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 and approved the Planning Commission recommendation. The voting was as follows:

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

8. DEVELOPMENT SPECIAL USE PERMIT #2007-0004
2707-2711 MOUNT VERNON AVENUE
Public Hearing and Consideration of a request for a development special use permit, with site plan, to increase the building height, gross square footage and use of the corner unit, and a request for a parking reduction; zoned CL/Commercial Low. Applicant: Gaver Nichols

PLANNING COMMISSION ACTION: Recommend Approval w/amendments 6-0

(A copy of the Planning Commission report dated May 1, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 8, 5/12/07, and is incorporated as part of this record by reference.)

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

(a) Gaver Nichols, architect and co-owner of the property, 319 East Monroe Avenue, spoke in favor of the request and noted the reason for the request.

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

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

ORDINANCES AND RESOLUTIONS

9. Public Hearing, Second Reading and Final Passage of an Ordinance to Extend Indefinitely the Provision Allowing the Purchase of City Decals for Motor Vehicles Kept in Alexandria, in Advance of the Payment of the Personal Property Tax on Such Vehicles. (#15, 05/08/07) **(ROLL-CALL VOTE)**

(A copy of the City Manager's memorandum dated May 2, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 5/8/07, 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. 9; 5/8/07, 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. 9; 5/8/07, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Gaines and carried unanimously by roll-call vote, City Council closed the public hearing and passed an ordinance to extend indefinitely the provision allowing the purchase of City decals for motor vehicles kept in Alexandria, in advance of the payment of the personal property tax on such vehicles. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4479

AN ORDINANCE to amend and reordain Section 3-2-323 (APPLICATION FOR

AND ISSUANCE OF LICENSE; WHEN TAX PAYABLE) and Section 3-2-325 (PAYMENT OF PERSONAL PROPERTY TAXES PRIOR TO ISSUANCE) of Article R (LICENSE TAXES ON MOTOR VEHICLES, TRAILERS AND SEMITRAILERS), Chapter 2 (TAXATION), 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 Section 3-2-323 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 3-2-323 Application for and issuance of license; when tax payable.

(a) Application for the license prescribed by this article shall be made each year not later than October 5 on forms prepared by the director. The license tax covered by section 3-2-321 of this code shall be due and payable to the director not later than October 5 of each license tax year. Upon payment of the license tax, the director of finance shall issue to the applicant an appropriate license plate or license windshield tag for such vehicle; except that decals made of reflective, waterproof material shall be issued for motorcycles, trailers and semitrailers; provided, however, that the director may issue to an applicant, whose prior year license tax and personal property tax have been paid on all vehicles owned by such applicant and subject to such license tax and personal property tax in the City, the appropriate license plate or license windshield tag, and bill the applicant for the current year license tax. The license plate, tag or decal shall remain valid until November 15 of the following calendar year.

(b) At the time of application for the initial city licensing of a motor vehicle, trailer or semitrailer, the applicant shall present his state registration or other proof of ownership. Such initial application and payment of the appropriate license tax shall be made:

(1) upon registering and licensing any motor vehicle, trailer or semitrailer with the Virginia Division of Motor Vehicles when the registration of such a vehicle shows an address in the city;

(2) upon commencement of operation upon the streets of the city of any motor vehicle, trailer or semitrailer which has been in the city for a period of at least 30 days and which is registered and licensed by another state or by the Virginia Division of Motor Vehicles whose records show as an address elsewhere in Virginia; or

(3) upon commencement of operation upon the streets of the city of a motor vehicle, trailer or semitrailer from a place of business within the city, which vehicle is used in the conduct of any business or occupation

within the city.

Section 2. That Section 3-2-325 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 3-2-325 Payment of personal property taxes prior to issuance.

- (a) No license plate or windshield tag shall be issued under this article for any motor vehicle, trailer or semitrailer unless and until the applicant for such license shall have produced satisfactory evidence that all prior year license tax and personal property tax upon all motor vehicles, trailers or semitrailers owned by the applicant have been paid which have been properly assessed or are assessable against the applicant.
- (b) A license plate or windshield tag may be issued to an applicant before payment of the current year personal property tax on the vehicle for which application is made, provided that all prior year license tax and personal property tax have been paid on all vehicles owned by such applicant and subject to such license tax and personal property tax in the City.

Section 3. That this ordinance shall become effective upon the date and at the time of its final passage.

- 10. Public Hearing, Second Reading and Final Passage of an Ordinance to Impose Additional Administrative Fees on Delinquent Personal Property Tax Accounts. (#16, 05/08/07) **(ROLL-CALL VOTE)**

(A copy of the City Manager's memorandum dated May 3, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 5/12/07, 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. 10; 5/12/07, 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. 10; 5/12/07, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Smedberg and carried unanimously by roll-call vote, City Council closed the public hearing and passed an ordinance to impose additional administrative fees on delinquent personal property tax accounts. The voting was as follows:

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

The ordinance is as follows:

ORDINANCE NO. 4480

AN ORDINANCE to amend and reordain Section 3-2-230 (WHEN TAXES DUE, DELINQUENT TAXES; PENALTY) of Division 3 (TANGIBLE PERSONAL PROPERTY AND MACHINERY), Article M (LEVY AND COLLECTION OF PROPERTY TAXES), Chapter 2 (TAXATION), 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 Section 3-2-230 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 3-2-230 When taxes due, delinquent taxes; penalty.

(a) The taxes levied on tangible personal property, on machinery and tools, and on mobile homes, motor vehicles, boats and trailers, except those which become subject to said tax after September 5, shall be due and payable to the director on or before October 5 of the year for which they are levied and shall be considered delinquent after that date. To all of said taxes so delinquent there shall be added and collected as a part thereof a penalty of 10 percent or \$10, whichever is greater; provided, however, that for tax year 2002 and subsequent tax years, the penalty for taxes levied on motor vehicles subject to the Personal Property Tax Relief Act of 1998 shall be calculated based solely on the portion of the taxes levied which the taxpayer is required to pay under such Act, and provided further that the penalty shall in no case exceed the amount of tax due from the taxpayer, and provided further that the entitlement to personal property tax relief for qualifying vehicles arising under the provisions of ' 58.1-3524 of the Code of Virginia (1950), as it existed prior to the amendments made in Chapter 1 of the Acts of Assembly, 2004 Special Session I, for tax year 2005 and all prior tax years, shall expire on September 1, 2006, or such date as state funds for reimbursement of the state share of such bills have become unavailable, whichever earlier occurs, for any qualifying vehicle for which personal property tax, penalty, and interest remains due and owing as of September 1, 2006, for tax year 2005 and/or any prior tax years. In addition thereto, interest on the taxes and penalty due from the taxpayer shall commence on the first day following the day such taxes are due and shall continue until all such taxes and penalty are paid. Such interest shall accrue at the rate of 10

percent per annum for the first year such taxes and penalty remain unpaid and thereafter at the rate of five percent per annum. There shall also be due, in addition to all penalties and interest, fees for administrative costs, reasonable attorney's fees, collection agency's fees, Virginia Department of Taxation setoff debt collection fees, and/or Virginia Department of Motor Vehicles registration withholding fees incurred in the collection of such taxes, not to exceed the maximums permitted under sections 46.2-752, 58.1-520.1, and 58.1-3958 of the Code of Virginia (1950), as amended.

(b) The taxes levied on motor vehicles, boats and trailers which become subject to taxation between September 6 and December 31 of any given year shall be due and payable not more than 30 days after they become so subject to taxation. These taxes shall be considered delinquent if not paid on or before the thirtieth day from the date any motor vehicle, boat or trailer becomes subject to taxation. To all taxes so delinquent, there shall be added and collected as a part thereof, a penalty of 10 percent or \$10, whichever is greater; provided, however, that for tax year 2002 and subsequent tax years, the penalty for taxes levied on motor vehicles subject to the Personal Property Tax Relief Act of 1998 shall be calculated based solely on the portion of the taxes levied which the taxpayer is required to pay under such Act, and provided further that the penalty shall in no case exceed the amount of tax due from the taxpayer, and provided further that the entitlement to personal property tax relief for qualifying vehicles arising under the provisions of ' 58.1-3524 of the Code of Virginia (1950), as it existed prior to the amendments made in Chapter 1 of the Acts of Assembly, 2004 Special Session I, for tax year 2005 and all prior tax years, shall expire on September 1, 2006, or such date as state funds for reimbursement of the state share of such bills have become unavailable, whichever earlier occurs, for any qualifying vehicle for which personal property tax, penalty, and interest remains due and owing as of September 1, 2006, for tax year 2005 and/or any prior tax years. In addition thereto, interest on the taxes and penalty due from the taxpayer shall commence on the first day following the day such taxes are due and shall continue until all such taxes and penalty are paid. Such interest shall accrue at the rate of 10 percent per annum for the first year such taxes and penalty remain unpaid and thereafter at the rate of five percent per annum. There shall also be due, in addition to all penalties and interest, fees for administrative costs, reasonable attorney's fees, collection agency's fees, Virginia Department of Taxation setoff debt collection fees, and/or Virginia Department of Motor Vehicles registration withholding fees incurred in the collection of such taxes, not to exceed the maximums permitted under sections 46.2-752, 58.1-520.1, and 58.1-3958 of the Code of Virginia (1950), as amended.

(c) With respect to the expiration, set forth in (a) and (b) above, of the entitlement to personal property tax relief for qualifying vehicles arising under the provisions of ' 58.1-3524 of the Code of Virginia (1950), as it existed prior to the amendments made in Chapter 1 of the Acts of Assembly, 2004 Special Session I, for any qualifying vehicle for which personal property tax, penalty, and interest remains due and owing as of September 1, 2006, or such date as state funds for

reimbursement of the state share of such bills have become unavailable, whichever earlier occurs, for tax year 2005 and/or any prior tax years, there shall be due for each such qualifying vehicle a supplemental amount equal to the credit for any reimbursable amount to which such qualifying vehicle would have been entitled pursuant to the provisions of Virginia Code ' 58.1-3524 as it existed prior to the amendments effected by Chapter 1 of the Acts of Assembly of 2004, Special Session I, plus penalty and interest thereon in the amounts provided for in this section. Penalty and interest with respect to bills issued pursuant to this subsection shall be computed on the entire amount of the tax owed. Interest shall be computed at the rates provided in this section from the original due date of the tax.

(d) There is hereby established an amnesty program for payment of delinquent taxes imposed under " 3-2-224 of this Code, for tax years 2004 and prior, the intent of which program being to improve voluntary compliance with the City=s personal property tax ordinances and to increase and to accelerate collections of such taxes owed to the City, as follows:

(1) The program shall be conducted during the period November 1, 2005, through December 31, 2005.

(2) All penalties and interest assessed or assessable, as provided in this section, with respect to the tax imposed under " 3-2-224 of this Code, which are the result of nonpayment, underpayment, nonreporting or underreporting of tax liabilities, shall be waived upon receipt of the payment of the amount of taxes owed, except that no person currently under investigation or prosecution for filing a fraudulent return or failing to file a return with the intent to evade tax shall qualify to participate.

(3) Any taxpayer who defaults upon any agreement to pay tax arising out of a grant of amnesty is subject to reinstatement of the penalty and interest forgiven and any such other penalties as may apply, as though the taxpayer retained the original outstanding balance at the close of the amnesty program.

Section 2. That this ordinance shall become effective upon the date and at the time of its final passage.

11. Public Hearing, Second Reading and Final Passage of an Ordinance to Change the Name of the Alexandria Caen Exchange Committee. (#17, 05/08/07)
(ROLL-CALL VOTE)

(A copy of the City Manager's memorandum dated May 2, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11; 5/12/07, 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. 11; 5/12/07, 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. 11; 5/12/07, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Smedberg, seconded by Councilwoman Pepper and carried unanimously by roll-call vote, City Council passed an ordinance to change the name of the Alexandria Caen Exchange Committee. The voting was as follows:

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

The ordinance is as follows:

ORDINANCE NO. 4481

AN ORDINANCE to amend and reordain Article S (ALEXANDRIA-CAEN EXCHANGE COMMITTEE), Chapter 4 (COMMITTEES, BOARDS AND COMMISSIONS), Title 2 (GENERAL GOVERNMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article S, Chapter 4, Title 2 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same is hereby, amended and reordained to read as follows:

ARTICLE S Alexandria-Caen Sister City Committee

Sec. 2-4-140 Creation, composition, organization and term.

(a) The Alexandria-Caen Exchange Committee, initially established on November 13, 1990, is hereby established by ordinance and designated as a standing committee known as the Alexandria-Caen Sister City Committee.

(b) The members of the committee shall be appointed by the City Council as follows:

- (1) sixteen citizen members; and
- (2) one member representing the Sister Cities Committee.

- (c) The members of the committee shall be appointed in the manner prescribed in title 2, chapter 4, article A of this code. The members shall serve for a term of two years, and such terms shall be staggered.

Sec. 2-4-141 Functions, powers and duties; staff assistance.

- (a) The functions, powers and duties of the committee shall be to advise and support the city and the city council as to:
 - (1) economic development and tourism programs, academic/educational student and staff exchanges, arts and cultural program exchanges, and professional health program exchanges, between the City of Alexandria, Virginia and the City of Caen, France, and the residents thereof;
 - (2) to do all things necessary or convenient to carry out the responsibilities expressly given in this subsection; and
 - (3) such other tasks as may be requested by the city council.
- (b) Except as expressly provided in this article, the committee may adopt rules and regulations in regard to procedure and other matters for the conduct of its business, so long as the same are not inconsistent with the city code, including, but not limited to, the establishment of committees through which it may carry on its functions, duties and purpose.
- (c) Subject to the availability of funds and staff, the city manager is authorized to provide such staff or other assistance to the committee as requested.

Section 2. That no provision of this ordinance shall be deemed to affect the appointments or terms of the members of the Alexandria-Caen Exchange Committee in office on the effective date hereof.

Section 3. That this ordinance shall become effective upon the date and at the time of its final passage.

12. Public Hearing, Second Reading and Final Passage of an Ordinance to Expand the Membership of the Arts Commission. (#18, 05/08/07) **(ROLL-CALL VOTE)**

(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. 12; 5/12/07, 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. 12; 5/12/07, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Gaines and carried unanimously by roll-call vote, City Council closed the public hearing and passed an ordinance to expand the membership of the Arts Commission. The voting was as follows:

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

The ordinance is as follows:

ORDINANCE NO. 4482

AN ORDINANCE to amend and reordain Article K (ALEXANDRIA COMMISSION FOR THE ARTS), Chapter 4 (COMMITTEES, BOARDS AND COMMISSIONS), Title 2 (GENERAL GOVERNMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article K, Chapter 4, Title 2 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same is hereby, amended and reordained to read as follows:

ARTICLE K Alexandria Commission for the Arts

Sec. 2-4-90 Creation, composition and organization.

- (a) There is hereby established a standing commission known as the Alexandria Commission for the Arts.
- (b) The commission shall consist of 16 members to be appointed by the city council. The composition of the commission shall be as follows:
 - (1) five members shall have expertise in the arts, either as practitioners of various art disciplines or as professional administrators working in the field;
 - (2) five members shall represent the public at large, as arts consumers and participants;
 - (3) five members shall represent arts, educational or business expertise relative to arts and cultural development, including such perspectives as marketing, finance/funding, tourism promotion and organizational development;

- (4) one member shall be a student who resides in the City and attends a high school located in the City of Alexandria.
- (c) Members of the commission shall be appointed in the manner prescribed by article A of this chapter. The members shall serve for a term of three years, except in the case of an appointment to fill the unexpired portion of a term.

Sec. 2-4-91 Function; powers; duties.

- (a) The functions of the commission shall be as follows:
 - (1) to support the development and expansion of the arts and the expansion of public access to and participation in the arts, in Alexandria;
 - (2) to serve as an advisory body for the arts in Alexandria;
 - (3) to advise the city council concerning appropriate policies that will strengthen the arts and further public access to the arts in Alexandria;
 - (4) to serve as the single funding source for all activities concerning arts which are not conducted as part of the regularly scheduled city program, including:
 - (a) the establishment and periodic review of criteria and standards for grant applications for city funds and accountability for the use of such funds, and
 - (b) the allocation to particular arts activities from such funds as may be appropriated from time to time by the city council for such purpose;
 - (5) to seek national, state and private support on behalf of the arts in Alexandria, and
 - (6) to prepare and submit to city council a cultural plan for the City of Alexandria and revisions thereto.
- (b) The commission is empowered to adopt rules and regulations in regard to procedure and other matters so long as the same are not inconsistent with the city code, including, but not limited to, the establishment of committees through which to carry on its functions and purpose.
- (c) A commission chair, vice-chair and secretary shall be elected annually by the

commission members at the organizational meeting designated in the commission's bylaws.

- (d) The commission shall hold at least 10 regular meetings each year, and as many special meetings as the commission may deem advisable.

Section 2. That no provision of this ordinance shall be deemed to affect the appointments or terms of the members of the Alexandria Commission for the Arts in office on the effective date hereof.

Section 3. That this ordinance shall become effective upon the date and at the time of its final passage.

- 13. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend the Zoning Ordinance to Permit the BZA to Approve By Special Exception Certain Open Porches in Front Yards. (#19, 05/08/07) **(ROLL-CALL VOTE)**

(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. 13; 5/12/07, 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. 13; 5/12/07, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Lovain and carried unanimously by roll-call vote, City Council closed the public hearing and passed an ordinance to amend the Zoning Ordinance to permit the BZA to approve by special exception certain open porches in front yards. The voting was as follows:

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

The ordinance is as follows:

ORDINANCE NO. 4483

AN ORDINANCE to amend and reordain Section 2-100 (DEFINITIONS) of Article 2 (DEFINITIONS); Section 7-202 (PERMITTED OBSTRUCTIONS) under Section 7-200 (PERMITTED STRUCTURES IN REQUIRED YARDS) of Article VII (SUPPLEMENTAL ZONE REGULATIONS), and Section 11-1302 (SPECIAL EXCEPTION ESTABLISHED) of Division C (BOARD OF ZONING APPEALS), Article XI (DEVELOPMENT APPROVAL AND PROCEDURES), all of the City of

Alexandria Zoning Ordinance (TA No. 2007-0001).

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2007-0001, the planning commission initiated on its own motion a text amendment to permit the BZA to approve by special exception certain open porches in required front yards, and

2. The City Council has approved the adoption of Text Amendment No. 2007-0001, and

3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 2-100 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended by adding thereto the following new sections:

- 2-199.1 Awning or canopy. A small roof projection without columns made of fabric or solid material, usually suspended or cantilevered from the building wall entrance(s) and/or windows.
- 2-148.1 Front Porch. A covered landing attached to the exterior of a residential building and generally extending along a portion of or the entire length of the front building wall.
- 2-183.2 Portico. A small roof projection with or without columns or brackets above an open landing, attached to the exterior of the primary front entrance of a residential building.
- 2-205.1 Yard, front primary. The front yard of a corner lot which contains a building's main architectural entrance and is identified by the building's street address and number.
- 2-205.2 Yard, front secondary. The other front yard of a corner lot facing a street, which may include an entrance but not a building's main architectural entrance.

Section 2. That section 7-202 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

7-202 Permitted obstructions. The following obstructions shall be permitted when located in a required yard and placed so as not to obstruct light and ventilation and when otherwise permitted by law:

(A) In all yards:

- (1) Open fences which do not exceed three and one-half feet in height.
- (2) Awnings or canopies provided they do not project more than five feet in depth from the existing building face.
- (3) Bay or display windows, projecting 20 inches or less into the yard and gutters, eaves, cornices or window sills projecting 12 inches or less into the yard.
- (4) Chimneys projecting 30 inches or less into the yard, provided that such projection does not reduce the width of the remaining side or rear yard to less than five feet.
- (5) Arbors and trellises.
- (6) Flag poles which do not exceed 15 feet in height.
- (7) Open stairs, provided that the stairs do not reduce a side or rear yard to less than five feet.
- (8) Ramps and similar structures necessary to provide access for the handicapped.
- (9) Porticos, provided that they do not extend more than six feet from the main building wall, do not extend more than and nine feet in length, which dimensions include any roof overhang, and provided further that they remain open.

(B) In any yard except a front yard:

- (1) Sandboxes, swings and other small items of childrens' play equipment.
- (2) Clotheslines.
- (3) Open and closed fences which do not exceed six feet in height.
- (4) Small sheds, doghouses, dollhouses and structures used for storage, provided
 - (a) On land zoned R-20, R-12, R-8, R-5 or R-2-5 and used for single-family dwellings, such structures may not exceed 80 square feet in floor area in the aggregate and eight feet in height when measured at the structure's highest point.

(b) On land zoned and used for semi-detached or townhouse dwellings, such structures may only be placed in the rear yard at the rear property line, may not exceed 50 square feet of floor area in the aggregate and seven feet in height when measured at the structure's highest point.

(5) Freestanding air conditioning machinery, provided it can be demonstrated to the director that it will not exceed a noise level of 55 decibels (55 dB(A)) when measured at any property line of the lot, and provided it is placed in a location which has the least adverse impacts to adjoining lots of those locations available.

(6) Open terraces and decks not over two feet above the average level of the adjoining ground and two feet above ground at any property line of the lot but not including a roofed-over terrace or porch.

(C) In the Old and Historic Alexandria and the Parker-Gray Districts, the requirement of sections 7-202(A)(1) and 7-202(B)(3) may be waived or modified by the board of architectural review where the board finds that a proposed fence would be architecturally appropriate and consistent with the character of the district.

(D) In any residential zone a ground level covered open front porch is permitted to project a maximum of eight feet from the front building wall into the required front yard, or primary front yard if a corner lot, of a single-family, semi-detached, duplex or townhouse dwelling; provided that a special exception under section 11-1302 of this ordinance is approved.

Section 3. That Section 11-1302 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

11-1302 Special exception established. A lot in a single family, two family or townhouse zone may be the subject of a special exception from the following zoning requirements pursuant to this Section 11-1300:

(A) fences on corner lots.

(B) yard and setback requirements for enlargement of a dwelling, as follows:

(1) Yard and setback requirements applicable to the extension or enlargement of a single family, two family or townhouse dwelling only, within any one noncomplying plane of such dwelling.

(2) As used in this subsection, the term noncomplying plane means the vertical plane established by a wall, one story or more in height, of a main

building which wall:

(a) does not comply with the yard or setback requirements of this ordinance,

(b) existed prior to the effective date of any change to the yard or setback regulations or restrictions applicable to such wall, and

(c) extends for more than 50% of the length of the building along the side containing such wall.

(3) The term noncomplying plane does not include any plane established in whole or in part by entrances, steps or other projections into a required yard.

(4) Nothing in this subsection shall be deemed to authorize the extension or enlargement of a single family, two family or townhouse dwelling beyond the height or floor area ratio permitted by the zone in which such dwelling is located, nor to authorize the approval of more than one special exception per dwelling under the provisions of this subsection.

(C) yard and setback requirements for a ground level, single story, covered front porch, limited to the main architectural entrance of a dwelling, facing a front yard, or primary front yard if a corner lot, and subject to the following requirements:

(1) Limitation on yard and setback reductions:

(a) the porch deck shall project a maximum of eight feet from the front building wall plane.

(b) the front building wall plane shall be established by the wall of the dwelling which extends for more than 50 percent of the length of the building, and faces the front yard, or primary front yard if a corner lot.

(c) the front yard, or primary front yard if a corner lot, shall not be reduced to less than fifteen feet from the front property line.

(2) The applicant for a ground level covered front porch shall demonstrate by clear and convincing evidence that the proposed porch is compatible with the existing building architecture, neighboring properties and neighborhood character, and will comply with the following requirements:

(a) no portion of the porch shall extend beyond the end of the walls of the front building facade, except where the resulting lot and

structure retain a side or front yard which complies with the zone requirements.

(b) the roof line of the porch shall be in scale with the existing building architecture.

(c) no second floor balcony, deck, or enclosed construction shall be permitted above the front porch.

(d) a ground level covered front porch shall remain open, and shall at no time be enclosed with building walls, glass or screens; provided that railings, no higher than the minimum height required by the building code, and with balusters evenly spaced so as to leave at least 50 percent of the perimeter length of the railings open, shall be permitted.

(3) Nothing in this subsection shall be deemed to authorize the extension or enlargement of a single family, two family or townhouse dwelling beyond the height or floor area ratio permitted by the zone in which such dwelling is located, nor to authorize the approval of more than one special exception per dwelling under the provisions of this subsection.

Section 4. That Sections 2-100, 7-202, and 11-1302 of the City of Alexandria Zoning Ordinance be, and the same hereby are, reordained as part of the City of Alexandria Zoning Ordinance.

Section 5. That this ordinance shall become effective on the date and at the time of its final passage, and shall apply to all applications for land use, land development or subdivision approval provided for under the City of Alexandria Zoning Ordinance which are pending before any city department, agency or board, or before city council, shall apply to all such applications which may be filed after such date, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance, except as may be provided in Article XII of the Zoning Ordinance.

14. Public Hearing, Second Reading and Final Passage of an Ordinance to Approve an Encroachment For a Marquee at 1101 Queen Street. (#20, 05/08/07)
(ROLL-CALL VOTE)

(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. 14; 5/12/07, 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. 14;

5/12/07, and is incorporated as part of this record by reference.)

WHEREUPON, a motion was made by Councilwoman Pepper, seconded by Councilman Gaines, to close the public hearing.

Mr. Josephson responded to questions about the height of the marquee, an awning versus a marquee, and lighting/illumination of the sign.

Councilwoman Pepper withdrew her original motion.

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Smedberg and carried unanimously, City Council deferred this item until it can get a clearer picture about the marquee. The voting was as follows:

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

REPORTS OF BOARDS, COMMISSION AND COMMITTEES (continued)

- 15. CITY CHARTER SECTION 9.06 #2007-0003
1201 NORTH BEAUREGARD STREET
Consideration of a proposal by the City of Alexandria to accept as a gift the property at 1201 North Beauregard Street, pursuant to the provisions of Section 9.06 of the City Charter. Staff: Department of Planning and Zoning and the Department of Recreation, Parks and Cultural Activities

PLANNING COMMISSION ACTION: Approved 6-0

(THIS ITEM IS NOT SET FOR PUBLIC HEARING BUT IS FOR CITY COUNCIL'S INFORMATION ONLY - NO APPROVAL IS NECESSARY.)

Council received the report.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

DEFERRAL/WITHDRAWAL CONSENT CALENDAR (16-17)

Planning Commission (continued)

- 16. VACATION #2006-0003
3100 COMMONWEALTH AVENUE
Public Hearing and Consideration of a request to vacate a public right-of-way; zoned CL/Commercial Low. Applicant: Commonwealth Terrace, LLC, by David Chamowitz, attorney

PLANNING COMMISSION ACTION: Deferred

17. TEXT AMENDMENT #2007-0004
OUTDOOR DINING

Public Hearing and Consideration of a request to amend Section 6-800 of the Zoning Ordinance, the King Street Outdoor Dining Overlay Zone. Staff: Department of Planning and Zoning

PLANNING COMMISSION ACTION: Deferred

END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR

City Council noted the deferrals.

THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED, upon motion by Councilwoman Pepper, seconded by Councilman Gaines and carried unanimously, the public hearing meeting of May 12, 2007, was adjourned at 10:38 a.m. The voting was as follows:

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

APPROVED BY:

WILLIAM D. EUILLE MAYOR

ATTEST:

Jacqueline M. Henderson, CMC, City Clerk