

CITY COUNCIL OF ALEXANDRIA, VIRGINIA

Public Hearing Meeting
Saturday, June 16, 2007 - - 9:30 a.m.

Present: Mayor William D. Euille, Vice Mayor Redella S. Pepper, Members of Council Ludwig P. Gaines, K. Rob Krupicka, Timothy B. Lovain, 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 Captain Aden; 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; Ms. Peterson, Planning and Zoning; Mr. Smith, Planning and Zoning; Mr. Milone, Planning and Zoning; Mr. Kincannon, Director, Recreation, Parks and Cultural Activities; Mr. Blakeley, Deputy Director, Recreation, Parks and Cultural Activities; Ms. Durham, Recreation, Parks and Cultural Activities; Ms. Triggs, Acting Director, Finance Department; Mr. Culpepper, Deputy Director, Transportation and Environmental Services; Mr. Lambert, Bicycle Coordinator, Transportation and Environmental Services; Mr. Catlet, Director, Code Enforcement; Mr. Page, Deputy Director, Real Estate Assessments; 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 Council were present.

2. Public Discussion Period.

(a) Joyce Woodson, 1407 Wayne Street, spoke about the recent behavior of the elected Alexandria School Board and noted that process is important, and it is not just that they vote, but that they vote for people who understand there are laws and those laws come all the way down to the lowest level possible, which includes citizens and elected bodies. She said there are several elements of the vote the School Board

took that leave question. She asked Council to demonstrate its leadership and to do something. Ms. Woodson read from an editorial by Colbert King in the *Washington Post* about the D.C. Schools and what is right with the D.C. Schools: "With all due respect to Ms. Rhee, community commitment to children and public education is everything." She said that is why she is here today and why so many members of the community are standing up against what is going on.

Mayor Euille said throughout the whole process, he and the Council have been very cautious about what they try to say and intervene in the School Board, however, he has had more than one conversation with the Chairman, Vice Chair and another board member and have stressed the fact that the process is of issue of concern and needs to be followed.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

ACTION CONSENT CALENDAR¹ (3-7)

Planning Commission

3. SPECIAL USE PERMIT #2007-0031
822 SOUTH PICKETT STREET (Parcel Address: 820 South Pickett Street)
GOLDEN LILLY FOOD CORP
Public Hearing and Consideration of a request to amend a special use permit to allow seating at a restaurant: zoned I/Industrial. Applicant: Golden Lilly Food Corp by Cam T Luu

PLANNING COMMISSION ACTION: Recommend Approval 5-0

(A copy of the Planning Commission report dated June 5, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3, 6/16/07, and is incorporated as part of this record by reference.)

4. SPECIAL USE PERMIT #2007-0028
2281 EISENHOWER AVENUE (Parcel Address: 2251 Eisenhower Avenue)
UPTOWN MARKET AND CAFE
Public Hearing and Consideration of a request to operate a restaurant and convenience store; zoned CDD-2/Coordinated Development District. Applicant: Tae Paul Park

PLANNING COMMISSION ACTION: Recommend Approval 5-0

(A copy of the Planning Commission report dated June 5, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4, 6/16/07, and is incorporated as part of this record by reference.)

5. SPECIAL USE PERMIT #2007-0035

155 WESMOND DRIVE
CHILD CARE HOME

Public Hearing and Consideration of a request to operate a child care home;
zoned RB/Residential. Applicant: Sharon Ridley

PLANNING COMMISSION ACTION: Recommend Approval 5-0

(A copy of the Planning Commission report dated June 5, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5, 6/16/07, and is incorporated as part of this record by reference.)

6. SPECIAL USE PERMIT #2007-0036

2504 OAKVILLE AVENUE
ALEXANDRIA BOXING CLUB

Public Hearing and Consideration of a request to operate a recreational boxing club; zoned I/Industrial. Applicant: Judy Wrench

PLANNING COMMISSION ACTION: Recommend Approval 5-0

(A copy of the Planning Commission report dated June 5, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6, 6/16/07, and is incorporated as part of this record by reference.)

7. SPECIAL USE PERMIT #2007-0032

2600 BUSINESS CENTER DRIVE
TEMPORARY PARKING LOT

Public Hearing and Consideration of a request to use the subject property as a temporary parking lot for employees and City vehicles; zoned I/Industrial. Applicant: City of Alexandria, General Services by Jeremy McPike

PLANNING COMMISSION ACTION: Recommend Approval 5-0

(A copy of the Planning Commission report dated June 5, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7, 6/16/07, and is incorporated as part of this record by reference.)

END OF ACTION CONSENT CALENDAR

WHEREUPON, upon motion by Councilman Gaines, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the action consent calendar, with the removal of item #3, which was considered under separate motion, as follows:

4. City Council approved the Planning Commission recommendation.
5. City Council approved the Planning Commission recommendation.

- 6. City Council approved the Planning Commission recommendation.
- 7. 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 #2007-0031
822 SOUTH PICKETT STREET (Parcel Address: 820 South Pickett Street)
GOLDEN LILLY FOOD CORP
Public Hearing and Consideration of a request to amend a special use permit to allow seating at a restaurant: zoned I/Industrial. Applicant: Golden Lilly Food Corp by Cam T Luu

PLANNING COMMISSION ACTION: Recommend Approval 5-0

(A copy of the Planning Commission report dated June 5, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3, 6/16/07, and is incorporated as part of this record by reference.)

Councilman Smedberg asked questions with regard to the trash collection, which was answered by Deputy Director of Planning and Zoning Josephson.

WHEREUPON, upon motion by Councilman Smedberg, seconded by Vice Mayor 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)

- 8. 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
(Deferred from the May 12, 2007 City Council Meeting)

(A copy of the Planning Commission report dated June 5, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8, 6/16/07, and is incorporated as part of this record by reference.)

Mayor Euille stated that while this is a public hearing, he said he was hopeful that it will be done in such a way that it is also a discussion, because no one is of the mindset that they need to do something irrationally, that impacts any business, and particularly the restaurant business, as it is one of their largest industries. Mayor Euille noted that while he will be voting and participating in the discussion, he has personally over the years been a minority interest investor in at least four restaurants in the City and currently has interest in two restaurants.

Deputy Director of Planning and Zoning made a presentation of the staff report and he, along with City Attorney Pessoa, responded to questions of Council.

Mayor Euille highlighted the fact that the reenactment clause as currently revised in the draft ordinance says that the provision of this section, Section 7-2200, shall not become effective unless reenacted by the City Council during the legislative session commencing in September 2007. Effectively, Council is in recess for July and August, so when it comes back in September, that triggers the next session of Council, so at any point in time from September 1, 2007 until June 30, 2008, Council can bring the matter back for consideration. Failure to do so means it does not become law and nothing happens. The hope is that the State will do something in the meantime.

City Attorney Pessoa said that on May 25, the Centers for Disease Control published a study that shows the number of households who have elected, within the household, to establish smoke-free rules, and it shows the change between 1992 and 2003, and in Virginia, there was an 85 percent increase in smoke-free households in Virginia, and he passed that out to City Council.

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

- (a) Robert Keelin, 3817 Jay Avenue, spoke in favor of the text amendment.
- (b) Rick Dorman, 2724 Kenwood Avenue, City resident, representing the Alexandria Chamber of Commerce, spoke in opposition to the special use permit process to ban smoking.
- (c) Charlotte Hall, City resident, 205 The Strand, vice president of Potomac Riverboat Company, representing the Alexandria Chamber of Commerce, spoke in

opposition to the special use permit to ban smoking.

(d) Cathy Puskar, 2200 Clarendon Blvd., Arlington, City resident, speaking on behalf of the Alexandria Chamber of Commerce, spoke in opposition to the smoking ban.

(e) Scott McGeary, 6801 Industrial Road, Springfield, vice chair of government relations, Alexandria Chamber of Commerce, spoke in opposition to the special use permit to ban smoking.

(f) Terry Hargrove, 9221 Forest Hill Avenue, Richmond, director of community relations, American Lung Association of Virginia, spoke in favor of the text amendment.

(g) Lonnie Rich, 1199 N. Fairfax Street, City resident and business owner, representing the Alexandria Chamber of Commerce, spoke in opposition to the special use permit to ban smoking.

(h) Cathleen Smith Grzesiek, 4217 Park Place Court, Glen Allen, director of advocacy for the American Heart Association, spoke in favor of the text amendment.

(i) Victoria Wells, 1875 Connecticut Avenue, Suite 730, Washington, D.C., government relations director for the District of Columbia American Cancer Society, spoke in favor of the text amendment.

(j) Annabelle Fisher, 5001 Seminary Road, spoke in opposition to the smoking ban.

(k) Ross Little, 1200 First Street, Apt. 1329, City resident, representing the Northern Virginia Building Industry Association, spoke in opposition to the smoking ban.

(l) Patricia MacEwan, 2600 Cabin Creek Road, #204, City resident, spoke in favor of the smoking ban.

(m) Vernon Grandgeorge, 3432 Washington Drive, Falls Church, representing Joe Theissman's Restaurant, spoke in opposition to the smoking ban.

(n) Roger Fons, 815 1/2 King Street, spoke in opposition to the smoking ban.

(o) Marianne Van Landingham, 1100 Cameron Street, chair of the Partnership for a Healthier Alexandria, spoke in favor of the smoking ban.

(p) Lisa Harter, 4538 Shoal Creek Court, spoke in favor of the smoking ban.

(q) Amy Bursell, City resident, spoke in opposition to the smoking ban.

(r) David Martin, 1400 King Street, business owner and president of Old Town Business and Professional Association, spoke in opposition to the smoking ban.

(s) Karen Kimberling, 4612 4th Road, N., Arlington, spoke in opposition to the smoking ban.

(t) Karen Cassady, 1300 South Arlington Ridge Road, Arlington, spoke in opposition to the smoking ban.

(u) Franco Landini, 115 King Street, owner of a business in Old Town and resident in Old Town, spoke in opposition to the smoking ban.

(v) Pat Troy, 310 Wolfe Street, spoke in opposition to the smoking ban.

(w) Bert Ely, 200 S. Pitt Street, old town resident, spoke in opposition to the smoking ban.

(x) Hillevi "Dusty" Einseln, spoke about an air purifier to reduce cigarette smoke as an alternative to the smoking ban and said she is against the ban, as there is a solution.

(y) Sheila Pollak, South St. Asaph Street, spoke in opposition to the smoking ban.

(z) William Utz, 4612 4th Road, North, Arlington, spoke in opposition to the smoking ban.

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

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

WHEREUPON, upon motion by Councilman Gaines, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the Planning Commission recommendation, to include the separate and independent HVAC system and the reenactment clause provision, along with the following amendments: 1. This be made a Council Legislative item for: (a) asking the General Assembly for a state-wide smoking ban; or (b) giving local jurisdictions the power to ban smoking; 2. The no-smoking area is to be in the public right-of-way (sidewalks); and 3. The City Attorney will consult with legal staffs of surrounding jurisdictions to determine if they would support similar legislation in those jurisdictions. The voting was as follows:

Gaines	"aye"	Krupicka	"aye"
--------	-------	----------	-------

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

The following two items were taken out of turn:

19. Introduction and First Reading. Consideration. Passage on First Reading of an Ordinance to Provide for Smoke-Free Restaurants.

(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. 19; 6/16/07, 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. 19; 6/16/07, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Gaines, seconded by Vice Mayor Pepper and carried unanimously, City Council passed the ordinance on first reading and set the public hearing for June 26, 2007. The voting was as follows:

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

13. ENCROACHMENT #2007-0002
711-717 GIBBON STREET
Public Hearing and Consideration of a request for an encroachment into the public right-of-way for gas meters; zoned CL/Commercial Low. Applicant: Ellis Denning Construction, LLC by Mary Catherine Gibbs, attorney

PLANNING COMMISSION ACTION: Recommend Approval 5-0

(A copy of the Planning Commission report dated June 5, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 13, 6/16/07, and is incorporated as part of this record by reference.)

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

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

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman

Gaines and carried unanimously, City Council approved the Planning Commission recommendation. The voting was as follows:

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

* * * * *

City Council took a 15 minute recess.

* * * * *

9. TEXT AMENDMENT #2007-0004
OUTDOOR DINING

Public Hearing and Consideration of 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: Recommend Approval 5-0

(A copy of the Planning Commission report dated June 5, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9, 6/16/07, and is incorporated as part of this record by reference.)

Ms. Peterson, Planning and Zoning, made a presentation of the staff report and she, along with Mr. Josephson, responded to questions of City Council.

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

(a) Van Van Fleet, 26 Wolfe Street, president, Old Town Civic Association, representing Old Town Civic Association, said they endorse old town dining but had concerns about the five foot walkways being enforced, curbside dining enforcement and storage of furniture. Mr. Van Fleet said most of the violations occur on the weekend and Code Enforcement doesn't work on the weekend.

(b) Poul Hertel, 1217 Michigan Court, spoke of the meandering walkway that posed a detrimental walking experience, and he said it is important to remember that it is public space they are giving to the restaurateurs. He said it should give thorough investigation on the effect on the retail, as they have taken window-shopping away. Mr. Hertel said he supported having no smoking on the public spaces.

(c) Franco Landini, 115 King Street, noted the success of the program, but spoke about the perimeter and the lines being continuous. He noted that he also added a grate at his own expense at the base of the tree for looks and to give more space for walking. Mr. Landini said he didn't see a problem with the umbrella's being a

couple of inches outside the perimeter of the area.

(d) Pat Troy, 310 Wolfe Street, said he was on the King Street Task Force four years ago and was one of the people who suggested outdoor dining. He said only about two restaurants have abided by the rules and enforcement has been zero on those who have not.

(e) Julie Crenshaw Van Fleet, 26 Wolfe Street, said that today, she was passing by O'Connell's and they have people sitting in the outdoor dining with dogs in their laps, they have plants on the street, and they stop in the middle while they seat their people. She said she has spoken to the management about having the dogs in the space. She said there is no enforcement of the laws and safety regulations and it is difficult to find someone to speak to on the weekend when violations occur.

(f) Sheila Pollak, South St. Asaph Street, said the City ordinance on riding a bicycle on the sidewalk is not enforced, so there are people riding bicycles on the sidewalk, women with strollers and pedestrians walking. She noted the biggest problem is where there is a tree within the five feet, which gives a smaller opening of about one to two feet, and she noted numerous businesses that have the outdoor seating.

(g) Charlotte Hall, 205 The Strand, vice president, Potomac Riverboat Company, past-president of the Old Town Business Association, encouraged Council to seriously consider whether the \$100-150 is an appropriate fee and encouraged Council to increase the fee, whether other communities with fees have a business improvement district, and whether the guidelines for outdoor dining are for every single restaurant and cafe' and is anyone grandfathered.

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

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

Mayor Euille suggested deferring action until June 26, so that staff can reflect on the few restaurants that are under the encroachment special use permit process that they need to bring in line.

Councilman Smedberg said some of the things they want to see are some statistics about how many people and where they are in terms of their square footage in the outside of their dining space; what kind of recommended fee, in addition to a square footage charge; getting clarification on the whole standards issue, particularly as it relates to barstools or bar height stools and tables, making sure they are clear in how spaces are defined; to get a much better grasp and understand where tables are located up against the curbs; and there are locations where dogs are sitting at the

tables.

Councilman Krupicka said that he agreed with the curbside enforcement, and on the standards issue, he didn't have a problem with different colored seating, as long as it is good quality and is consistent in the look and feel.

Vice Mayor Pepper said she wanted to hear about those establishments that couldn't have anything unless it has the curbside dining; she also asked for an idea on the fee about what breaking even would be; and would there be a straight telephone number to someone to get help for citizens.

Councilman Krupicka said it would be good to get a specific update from staff on how it will deal with weekend enforcement, and a comment was made on the tree wells and the mulch washing away, so it would be good to explore alternatives and different ways of treating the tree wells.

Councilman Smedberg said it had a report on the collaborative, and there are a lot of other issues, such as selling food items, people parking commercial trucks doing business without permits, taking up public parking spaces, and there are other issues that people are taking advantage of.

WHEREUPON, upon motion by Councilman Smedberg, seconded by Vice Mayor Pepper and carried unanimously, City Council deferred action until the June 26, 2007 City Council meeting, along with docketing an emergency ordinance for June 26. The voting was as follows:

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

At the request of Mayor Euille, City Manager Hartmann explained the former "All Eyes" program to encourage City employees to report a variety of problems in the City, and staff has resurrected it into a "My City" program, but is still an internal program. He said they have promoted the nuisance abatement 24-hour hotline, which goes directly to the Fire dispatch center. He noted that in the future, they are also looking at the possibility of a 311 system to make it easier for anyone to report problems.

10. **MASTER PLAN AMENDMENT #2007-0001**

Public Hearing and Consideration of a request for a revision of the transportation chapter of the City's Master Plan to designate the location of a dedicated transit-bus rapid transit lane(s) north of the Route 1 - Monroe Avenue bridge to be within the central landscaped median. Staff: Departments of Planning and Zoning and Transportation and Environmental Services.

PLANNING COMMISSION ACTION: Resolution Adopted and Recommended
5-0

(A copy of the Planning Commission report dated June 5, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10, 6/16/07, and is incorporated as part of this record by reference.)

Mr. Culpepper, Deputy Director of Transportation and Environmental Services, along with Mr. Farnier, Planning and Zoning, and Mr. Lambert, Pedestrian and Bicycle Coordinator, made a presentation of the report and responded to questions of Council.

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

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

WHEREUPON, upon motion by Vice Mayor Pepper and seconded by Councilman Krupicka, City Council approved the Planning Commission recommendation and to designate the median area as the location for the dedicated transit lanes.

Councilman Smedberg said he would like to see broader community input and consideration into the project, as it is not just a neighborhood project.

Councilman Krupicka said he would like the opportunity for the staff's and elected bodies of Arlington and Alexandria to talk about and endorse the larger transportation connectivity between the two communities, in order to come away with a clear understanding as to where they want to go and how they want to get there.

The motion carried unanimously and the voting was as follows:

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

11. SPECIAL USE PERMIT #2007-0027
1225 POWHATAN STREET
VASO'S KITCHEN

Public Hearing and Consideration of a request to amend a special use permit to increase seating, add alcohol service and a request for a parking reduction; zoned RB/Residential. Applicant: Vasiliki Voiliotis and Efthalia Dhana

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

(A copy of the Planning Commission report dated June 5, 2007, is on file in the

Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11, 6/16/07, and is incorporated as part of this record by reference.)

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

(a) Sylvia Sibrover, 915 Second Street, spoke about the parking and the noise and noted that they hope the additional nine spaces provided at Caffi's Plumbing will be used by the diners and staff, and she asked Council to include a provision that Vaso's provide appropriate signage to patrons about the outside parking. She said the noise issue includes hours of operation for the outside seating, and it was generally agreed at the association meeting that all outside seating would stop at 9 p.m. Ms. Sibrover asked that condition 33 be modified to include "and with consultation with the North East Citizens' Association" regarding the Dixie Pig sign.

(b) Mariella Posey, 915 Second Street, president, the North East Citizens' Association, spoke of the support for outside seating by the Association, and noted that their concerns with regard to parking, the hours of operation for the outside seating and the design of the retaining fence have all been addressed by the applicant. She said the neighbors are happy to have Vaso's in the neighborhood and support the addition of the outside seating with the conditions from the Planning Commission and the recommendations of their neighbors.

(c) Poul Hertel, 1217 Michigan Court, said that after the meeting with Vaso's, they support the issues of the non-conforming proximity to the neighborhood, parking, noise and the conditions put forth by the Planning Commission. He said there are two handicapped ramps at the end of the street that poses a problem and there is a sign in the middle of the sidewalk on Powhatan Street which could cause a problem.

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

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

WHEREUPON, upon motion by Councilman Smedberg, seconded by Councilman Gaines and carried unanimously, City Council approved the Planning Commission recommendation, with an amendment to condition #33 to add that it is in consultation with the North East Citizens' Association. The voting was as follows:

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

12. SPECIAL USE PERMIT #2007-0033

719 KING STREET
RESTAURANT

Public Hearing and Consideration of a request to amend a special use permit for a restaurant to allow delivery service, increased seating, extended hours, and live entertainment; zoned CD/Commercial Downtown. Applicant: Hayman Rajamani

PLANNING COMMISSION ACTION: Recommend Approval 5-0

(A copy of the Planning Commission report dated June 5, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 12, 6/16/07, and is incorporated as part of this record by reference.)

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

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

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried unanimously, City Council approved the Planning Commission recommendation, with the deletion of the request for increased seating, since there is no request for that. The voting was as follows:

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

Councilman Smedberg said he noticed in the picture there is an awning and a banner hanging from it, and he asked for clarification on standards for that.

14. DEVELOPMENT SPECIAL USE PERMIT #2006-0023(A)
SPECIAL USE PERMIT (TMP) #2007-0018 (B)
VACATION #2007-0001 (C)
1703, 1705, 1707 DUKE STREET, 206 REINEKERS LANE, 1710 AND 1708
PRINCE STREET
EDMUNDSON PLAZA
Public Hearing and Consideration of a request for approval of: 1) a development special use permit, with site plan and modifications, for an office building with ground-floor retail and underground parking, a request for increased height and floor area, and a request to operate a restaurant and a health club; 2) a special use permit for a Transportation Management Plan; and 3) a vacation of a portion of the public right-of-way on Reinekera Lane; zoned OCH/Office Commercial High. Applicant: Carr Properties by Jonathan Rak, attorney.

PLANNING COMMISSION ACTION: Recommend Approval w/amendment 5-0

(A copy of the Planning Commission report dated June 5, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 14, 6/16/07, and is incorporated as part of this record by reference.)

Mr. Farner made a presentation of the staff report and responded to questions of Council.

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

(a) Jonathan Rak, 1750 Tysons Boulevard, McLean, attorney representing the applicant, spoke in favor of the request, and he submitted for the record a letter with conditions as recommended by the Upper King Street Neighborhood Association. Mr. Rak also noted the history of the property.

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

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

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilman Gaines and carried unanimously, City Council approved the Planning Commission recommendation, with the changes to conditions #2, 5, 50, 97 and 98 as listed in the letter of June 16, 2007 from Jonathan Rak from McGuire Woods, with an additional condition to allow the opportunity, with the approval of the Planning Director, a child care facility to be a potential use on the ground floor, with the intent that it is subject to conditions deemed necessary by the Director of Planning. The voting was as follows:

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

Mayor Euille appointed Dennis Jones (chair), Bill Brandon and Tom Welsh as the viewers for this property.

15. VACATION #2006-0004
10 RUSSELL ROAD
Public Hearing and Consideration of a request to vacate public right-of-way; zoned R-5/Residential. Applicant: Earnest Baucom and Vi Jaramillo

PLANNING COMMISSION ACTION: Recommend Denial 7-0

(A copy of the Planning Commission report dated June 5, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 15, 6/16/07, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Gaines, seconded by Councilmember Lovain and carried 5-0, City Council closed the public hearing and approved the Planning Commission recommendation for denial. The voting was as follows:

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

Board of Architectural Review

16. Public Hearing and Consideration of an Appeal of the Board of Architectural Review's decision denying a request for demolition/encapsulation at 219 N. Royal Street, zoned RM Residential. APPLICANT AND APPELLANT: David Canfield

(A copy of the Planning Department report dated June 16, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 16; 6/16/07, as well as a copy of the appeal, also marked Exhibit No. 1, and both are incorporated as part of this record by reference.)

Vice Mayor Pepper noted for the record that the applicant and appellant in this case represents another party to a real estate transaction involving property she and her husband own. Although the City Attorney has advised her that this fact represents no legal conflict of interest, she believed it would be preferable if she did not participate in hearing or deciding the case and she would recuse herself. (Vice Mayor Pepper left the dais at this time.)

Mr. Milone, Planning and Zoning, made a presentation of the staff report and responded to questions of City Council.

Ms. Neihardt, member of the Board of Architectural Review, noted the Board's position on the request

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

(a) David Canfield, 219 N. Royal Street, applicant and appellant, spoke in favor of the project, showing photographs of the house.

(b) Charles L. Trozzo, 209 Duke Street, spoke in support of the staff recommendation and BAR decision.

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

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

WHEREUPON, upon motion by Councilman Smedberg, seconded by Councilman Gaines and carried unanimously, City Council upheld the Board of Architectural Review's decision. The voting was as follows:

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

* * * * *

Vice Mayor Pepper returned to the dais.

* * * * *

(The following two items were heard together:)

- 17. Public Hearing and Consideration of an Appeal of the Board of Architectural Review's decision approving a request for demolition as amended at 200 Commerce Street, zoned CL Commercial. APPLICANT AND APPELLANT: Boyd Walker
- 18. Public Hearing and Consideration of an Appeal of the Board of Architectural Review's decision approving a request for alterations as amended at 200 Commerce Street, zoned CL Commercial. APPLICANT AND APPELLANT: Boyd Walker

(A copy of the Planning Department report dated June 16, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 17 and 18; 6/16/07, as well as a copy of the appeal, also marked Exhibit No. 1, and both are incorporated as part of this record by reference.)

Mr. Milone, Planning and Zoning, made a presentation of the staff report and responded to questions of City Council.

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

- (a) Arthur Keleher, 208 N. Royal Street, member of the Board of Architectural Review, explained the Board's positions and feelings on after the fact applications and the fine that was levied.

(b) Boyd Walker, 220 E. Bellefonte Avenue, applicant and appellant, spoke in favor of the appeal and asked that the fine be reduced to \$1,500 for taking down the canopy, and if it is more than that, that it be enforced only if he does not replace the canopy within six months.

(c) Julie Crenshaw Van Fleet, 26 Wolfe Street, spoke about the poor treatment Mr. Walker received from the BAR and staff and said he doesn't deserve the fine because of the way he was treated.

(d) Sheila Pollak, South St. Asaph Street, spoke about the BAR's authority and said Mr. Walker should not be fined.

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

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

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried 5-1, City Council allowed the after the fact demolition, but that it be a \$6,500 fine and if construction of the canopy is not accomplished within six months from Monday, June 18 (when the certificate of appropriateness is issued) that it revert to the \$25,000 fine, minus the \$6,500 fine. The voting was as follows:

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

Councilman Krupicka noted that one distinction between this and other appeals is that in this case, the applicant has full intention of restoring the building, and in other after-the-fact approvals, the applicants did not want to turn the building back to the original, and he asked the BAR to think of that distinction when it deals with these type of cases.

ORDINANCES AND RESOLUTIONS

20. Public Hearing, Second Reading and Final Passage of an Ordinance Making Supplemental Appropriations For FY 2007. (#12, 6/12/07) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated June 1, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 20; 6/16/07, 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. 20; 6/16/07, 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. 20; 6/16/07, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Gaines, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council passed an ordinance, as amended to accommodate the Aaron Brown settlement, making supplemental appropriations for FY 2007. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4485

AN ORDINANCE making supplemental appropriations for the support of the government of the City of Alexandria, Virginia, for fiscal year 2007.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the funds hereafter named the amounts hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2007, the source of such amount being external grant awards for which revenues were authorized and adjusted after July 1, 2006, but not appropriated, and further that the Council does hereby allot the amount so appropriated to the several city departments for fiscal year 2007, as follows:

SPECIAL REVENUE FUND

ESTIMATED REVENUE:

Office on Women	\$(7,212)
Commonwealth Attorney	(14,326)
Fire	(230,793)
Housing	2,227,310
Mental Health/Mental Retardation/Substance Abuse	225,716
Human Service	3,428,675

Historic Alexandria	18,500
Non Departmental	<u>152,065</u>
Total Estimated Revenue	<u>\$ 5,799,935</u>

APPROPRIATION:

Office on Women	\$ (7,212)
Commonwealth Attorney	(14,326)
Fire	(230,793)
Housing	2,227,310
Mental Health/Mental Retardation/Substance Abuse	225,716
Human Services	3,428,675
Historic Alexandria	18,500
Non Departmental	<u>152,065</u>
Total Appropriation	<u>\$ 5,799,935</u>

Section 2. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2007, the source of such amount being Capital Project Fund revenue, and further that the Council does hereby allot the amount so appropriated for fiscal year 2007, as follows:

CAPITAL PROJECTS
ESTIMATED REVENUE:

Capital Projects	<u>\$1,524,084</u>
Total Estimated Revenue	<u>\$1,524,084</u>

APPROPRIATION:

Capital Projects	<u>\$1,524,084</u>
Total Appropriation	<u>\$1,524,084</u>

Section 3. That the Council of the City of Alexandria, Virginia, does hereby authorize the transfer from the General Fund (Designated General Fund Balance) to the Capital Projects Fund (Reserved Capital Project Fund Balance), and does make provision for and appropriate to the latter fund, the amount hereafter stated that is required to defray certain expenditures and liabilities for the city in fiscal year 2007, and further, that the Council does hereby allot the amount so appropriated as

follows: (i) to capital projects which are included in the city's government fiscal year 2007 - 2012 capital improvement program, adopted by Council April 24, 2006.

GENERAL FUND
FINANCING USE:

Transfer Out to Capital Project Fund	<u>\$ 7,353,288</u>
Total Transfer Out	<u>\$ 7,353,288</u>

CAPITAL PROJECT FUND
ESTIMATED REVENUE:

Transfer In from General Fund	<u>\$ 7,353,288</u>
Total Financing Source	<u>\$ 7,353,288</u>

APPROPRIATION:

Capital Projects	<u>\$ 7,353,288</u>
Total Appropriation	<u>\$ 7,353,288</u>

Section 4. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter stated the amount hereafter stated that are required to defray certain expenditures and liabilities of the city in fiscal year 2007, the source of such amount being Equipment Replacement Retained Earnings, and further, that the Council does hereby allot the amount so appropriated to the various city departments for fiscal year 2007, as follows:

EQUIPMENT REPLACEMENT FUND
APPROPRIATION:

Sheriff	\$ 120,000
Fire	300,000
Recreation	<u>350,000</u>
Total Appropriation	<u>\$ 770,000</u>

Section 5. That the Council of the City of Alexandria, Virginia, does

hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures of the city for fiscal year 2007, the source of such amount being Component Unit - School Fund Balance, and further, that the Council does hereby allot the amount so appropriated, as follows:

COMPONENT UNIT
APPROPRIATION:

Component Unit - Schools	<u>\$1,487,560</u>
Total Appropriation	<u>\$1,487,560</u>

Section 6. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that are required to defray certain expenditures and liabilities of the city for fiscal year 2007, the source of such amount being Charges for Services revenues and further, that the Council does hereby allot the amount so appropriated for fiscal year 2007 as follows:

SPECIAL REVENUE FUND
ESTIMATED REVENUE:

Charges for Services	<u>\$126,000</u>
Total Estimated Revenues	<u>\$126,000</u>

APPROPRIATION:

Transportation and Environmental Services	<u>\$126,000</u>
Total Appropriation	<u>\$126,000</u>

Section 7. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city in fiscal year 2007, the source of such amounts being Transfer In from General Fund, and further, that the Council does hereby allot the amount so appropriated for fiscal year 2007, as follows:

SPECIAL REVENUE FUND
ESTIMATED REVENUE:

Transfer In From General Fund	<u>\$105,100</u>
Total Estimated Revenue	<u>\$105,100</u>

APPROPRIATION:

Law Library	\$ 1,600
Library	<u>103,500</u>

Total Appropriation	<u>\$105,100</u>
---------------------	------------------

Section 8. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amounts hereafter stated that are required to defray certain expenditures and liabilities of the city for fiscal year 2007, the source of such amounts being Designated General Fund Balance, and further, that the Council does hereby allot the amounts so appropriated, as follows:

GENERAL FUND

ESTIMATED REVENUE:

Designated General Fund Balance	<u>\$333,467</u>
Total Estimated Revenue	<u>\$333,467</u>

APPROPRIATION:

Fire	\$ 53,565
Police	<u>279,902</u>
Total Appropriation	<u>\$333,467</u>

Section 9. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amounts hereafter stated that are required to defray certain expenditures and liabilities of the city for fiscal year 2007, the source of such amounts being the proceeds of refunding city bonds which are authorized but not appropriated by Council, and further, that the Council does hereby allot the amounts so appropriated, as follows:

GENERAL FUND

ESTIMATED REVENUE:

Other Financing Sources – Proceeds of Refunding Bonds	<u>\$24,263,072</u>
Total Estimated Revenue	<u>\$24,263,072</u>

APPROPRIATION:

Other Financing Uses – Payment to Refunded Bond Escrow Agent	\$24,105,018
	<u>158,054</u>
Bond Issuance Costs	
Total Appropriation	<u>\$4,263,072</u>

Section 10. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amounts hereafter stated that are required to defray certain expenditures and liabilities of the city

for fiscal year 2007, the source of such amounts being general property tax revenues, and further, that the Council does hereby allot the amounts so appropriated, as follows:

GENERAL FUND
ESTIMATED REVENUE

General Property Taxes	<u>\$ 1,100,000</u>
Total Estimated Revenue	<u>\$ 1,100,000</u>

APPROPRIATION

Non Departmental	<u>\$ 1,100,000</u>
Total Appropriation	<u>\$ 1,100,000</u>

Section 11. That this ordinance shall become effective upon the date and time at the time of its final passage.

- 21. Public Hearing, Second Reading and Final Passage of an Ordinance Making Appropriations for FY 2008. (#13, 6/12/07) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated May 29, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 21; 6/16/07, 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. 21; 6/16/07, 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. 21; 6/16/07, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilman Gaines and carried unanimously by roll-call vote, City Council passed an ordinance making appropriations for FY 2008. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4486

AN ORDINANCE making appropriations for the support of the government of the City of Alexandria, Virginia, for fiscal year 2008.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That, pursuant to section 6.07 of the city charter, the sum of \$680,221,408 be, and the same hereby is, appropriated for the support of the government of the City of Alexandria in the fiscal year beginning on the first day of July 2007 and ending on the thirtieth day of June 2008.

Section 2. That, pursuant to section 6.07 of the city charter, the sum of \$680,221,408 appropriated in section 1 of this ordinance for the support of the government of the City of Alexandria in the fiscal year beginning on the first day of July 2007 and ending on the thirtieth day of June 2008 be, and the same hereby is, further appropriated to the following city departments, major operating units, component units and major categories of expenditures in the amounts set forth below:

Department/Unit/Component Unit/
Category of Expenditure
Appropriation

18 th Circuit Court	\$ 1,313,294
18 th General District Court	78,572
18 th Juvenile Court	34,327
Citizens Assistance	731,147
City Attorney	3,257,747
City Clerk and Clerk of Council	398,316
City Council	559,524
City Manager	2,131,881
Clerk of Court	1,605,395
Commonwealth's Attorney	2,892,437
Contingent Reserves	375,000
Court Services Unit	1,490,152
Economic Development	2,855,144
Finance	9,548,274
Fire	39,945,844
General Debt Service	30,807,105
General Service	12,694,087
Health	6,852,439

Human Rights	676,800
Human Services	51,083,330
Human Services Contributions	2,324,880
Information Technology Services	8,166,636
Internal Audit	232,632
Law Library	149,455
Mental Health/Mental Retardation/Substance Abuse	29,684,170
Non-Departmental	9,620,447
Office of Historical Alexandria	3,089,242
Office of Housing	5,615,527
Office of Management and Budget	1,193,832
Office on Women	1,821,678
Other Correctional Activities	5,615,527
Other Educational Activities	12,399
Other Health Activities	998,600
Personnel	3,377,739
Planning & Zoning	5,737,228
Police	51,551,689
Real Estate Assessments	1,533,253
Recreation, Parks & Cultural Activities	20,537,218
Registrar of Voters	1,060,361
Sheriff	25,845,613
Transit Subsidies	18,629,930
Transportation and Environmental Services	30,074,812
Capital Projects	66,125,350
Component Unit-Library	7,527,883
Component Unit-Schools	205,470,549
Internal Services	<u>5,385,142</u>
TOTAL APPROPRIATIONS	<u>\$680,221,408</u>

Section 3. That, pursuant to section 6.07 of the city charter, the sum of \$680,221,408 appropriated in section 1 of this ordinance for the support of the City of

Alexandria in the fiscal year beginning on the first day of July 2007 and ending on the thirtieth day of June 2008 be, and the same hereby is, further appropriated to the following principal objects of city expenditures:

Object of Expenditures
Appropriation

Personnel Service	\$ 225,042,755
Non-Personnel Services	159,810,733
Capital Outlay	73,561
Component Unit-Library	7,527,883
Component Unit-Schools	205,470,549
Component Unit-Alexandria Transit Company	10,785,436
Equipment Replacement	5,385,142
Capital Projects	<u>66,125,350</u>
TOTAL APPROPRIATIONS	<u>\$680,221,408</u>

Section 4. That the sum of \$680,221,408 appropriated in section 1 of this ordinance for the support of the government of the City of Alexandria in the fiscal year beginning on the first day of July 2007 and ending on the thirtieth day of June 2008 is estimated to be derived from the following sources of revenue:

<u>Source of Revenue</u>	<u>Amount</u>
General Property Taxes	\$315,934,367
Other Local Taxes	115,930,000
Permits, Fees and Licenses	7,551,959
Fines and Forfeitures	4,722,300
Intergovernmental Revenue	132,208,103
Charges for Services	31,829,003
Revenue from Use of Money and Property	12,314,635
Miscellaneous Revenue	4,745,446
Bond Proceeds - Future Sale	40,890,000
Unreserved Fund Balance - General Fund:	
Subsequent Year's Budget as Designated	4,677,727
Unreserved Fund Balance – Capital Projects Fund:	
Subsequent Year's Budget	1,172,131

Schools' Fund Balance	4,471,367
Retained Earnings - Internal Services	<u>3,774,370</u>
TOTAL ESTIMATED REVENUE	<u>\$ 680,221,408</u>

Section 5. That, pursuant to section 6.14 of the city charter, the sum of \$66,125,370 be, and the same hereby is, appropriated for capital improvement project expenditures of the City of Alexandria and the Alexandria City Public Schools in the fiscal year beginning on the first day of July 2007 and ending on the thirtieth day of June 2008. This sum, which consists of the \$66,125,350 appropriated as Capital Projects in section 2 of this ordinance, is appropriated as follows: (i) \$48,000,552 to capital projects which are included in the city's government fiscal year 2008 - 2012 capital improvement program adopted by City Council on May 7, 2007, \$16,249,275 to the capital projects identified in the Alexandria City Public Schools' capital budget approved by the school board on January 4, 2007 and (iii) \$1,875,523 for the Open Space Trust Fund.

Section 6. That the sum of \$66,125,350 appropriated in section 5 of this ordinance for capital improvement project expenditures of the City of Alexandria and the Alexandria City Public Schools in the fiscal year beginning on the first day of July 2007 and ending on the thirtieth day of June 2008 is estimated to be derived from the following sources of revenue:

<u>Source of Revenue</u>	<u>Amount</u>
Transfer In from General Fund	\$9,765,564
Transfer In from Special Revenue Fund - Sewer	4,531,440
Bond Interest Earnings	2,710,635
Designated General Fund Balance	2,378,177
Designated Capital Projects Fund Balance	1,172,131
Designated School Fund Balance	2,690,000
Bond Premium	1,687,403
Bond Proceeds - Future Sale	<u>40,890,000</u>
TOTAL ESTIMATED REVENUE	<u>\$66,125,350</u>

Section 7. That the sum of \$227,577,949 be, and the same hereby is, authorized to be transferred between the following funds maintained by the city, as set forth below:

<u>From</u>	<u>Amount</u>	<u>To</u>	<u>Amount</u>
General Fund	\$33,461,010	Special Revenue Fund - General	\$33,461,010

Special Revenue Fund - Sewer	1,301,560	General Fund	1,301,560
General Fund	3,632,021	Special Revenue Fund - Affordable Housing	3,632,021
Special Revenue Fund - Sewer	4,531,440	Capital Projects	4,531,440
General Fund	9,765,564	Capital Projects Fund	9,765,564
General Fund	160,239,697	Component Unit-Schools	160,239,697
General Fund	7,525,435	Component Unit-Alexandria Transit Company	7,525,435
General Fund	<u>7,121,222</u>	Component Unit-Library	<u>7,121,222</u>
TOTALS	<u>\$227,577,949</u>	TOTALS	<u>\$227,577,949</u>

Section 8. That the sum of \$680,221,408 appropriated in section 1 of this ordinance for the support of the government of the City of Alexandria in the fiscal year beginning on the first day of July 2007 and ending on the thirtieth day of June 2008 is, for accounting purposes and in accordance with generally accepted accounting principles, attributed, for each city department, major operating unit, component unit and major category of expenditure, to the funds maintained by the city as shown in Table I on the following page of this ordinance.

Section 9. That the sum of \$680,221,408 appropriated in section 1 of this ordinance for the support of the government of the City of Alexandria in the fiscal year beginning on the first day of July 2007 and ending on the thirtieth day of June 2008 is, for accounting purposes and in accordance with generally accepted accounting principles, attributed, for each major source of revenue, to the funds maintained by the city as shown in Table II on the following page of this ordinance.

Section 10. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriation to the funds hereafter named the amounts required to defray the expenditures and liabilities of the city for which commitments were established in the form of encumbrances or otherwise on or before June 30, 2007, but which are payable in fiscal year 2008, and for which amounts were appropriated but not expended in fiscal year 2007, and further that the council does hereby allot the amounts so appropriated to the several city departments for fiscal year 2008, as follows:

GENERAL FUND

Office on Women	\$37,000
Citizen Assistance	16,000
Office of Management and Budget	22,000

Commonwealth's Attorney	36,000
Sheriff	507,000
Other Correctional Activities	23,000
Human Rights	2,000
Internal Audit	1,000
Information and Technology Services	671,000
Finance	989,000
Real Estate Assessment	1,000
Personnel	39,000
Planning and Zoning	560,000
City Attorney	12,000
Registrar Voters	24,000
General Services	727,000
Transportation and Environmental Services	2,463,000
Transit Subsidies	368,000
Fire	374,000
Police	353,000
Health	27,000
Human Services	1,200,000
Office of Historic Alexandria	8,000
Recreation and Cultural Activities	373,000
Non-Departmental	<u>322,000</u>
Total General Fund	<u>\$ 9,155,000</u>

Section 12. That this ordinance shall become effective upon the date and at the time of its final passage.

22. Public Hearing, Second Reading and Final Passage of an Ordinance to Repeal the Hotel Room Tax Exemption For Charges Paid by Government Employees and Reimbursed By Their Government Agency. (#14, 6/12/07) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated May 29, 2007, is on file in the Office of the City Clerk and Clerk of Council marked Exhibit No. 1 of Item No. 22; 6/16/07, 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. 22; 6/16/07, 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. 22; 6/16/07, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded Councilman Gaines and carried unanimously by roll-call vote, City Council passed an ordinance to repeal the hotel room tax exemption for charges paid by government employees and reimbursed by their government agency. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4487

AN ORDINANCE to amend and reordain Section 3-2-143 (EXCEPTIONS) of Article K (TRANSIENT LODGING TAX) of Chapter 2 (TAXATION) of Title 3 (FINANCE, TAXATION AND PROCUREMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 3-2-143 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended to read as follows:

Sec. 3-2-143 Exceptions.

No tax shall be payable hereunder in any of the following instances:

- (1) on room rental paid directly by the federal, state or city government;
- (2) on room rental paid to any hospital, medical clinic, convalescent home or home for aged people; and
- (3) on room rental paid by any person enrolled in and attending full time a school, college or university within the corporate limits of the city.

Section 2. That this ordinance shall become effective on July 1, 2007.

23. Public Hearing, Second Reading and Final Passage of an Ordinance to Increase Certain Motor Vehicle License Fees, in Accordance With the 2007 Transportation Funding Act. (#15, 6/12/07) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated May 29, 2007, is on file in the Office of the City Clerk and Clerk of Council marked Exhibit No. 1 of Item No. 23; 6/16/07, 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. 23; 6/16/07, 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. 23; 6/16/07, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded Councilman Gaines and carried unanimously by roll-call vote, City Council passed an ordinance to increase certain motor vehicle license fees, in accordance with the 2007 Transportation Funding Act. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4488

AN ORDINANCE to amend and reordain Sections 3-2-327, 3-2-329, 3-2-330, and 3-2-331 of Article R (LICENSE TAXES ON MOTOR VEHICLES, TRAILERS AND SEMITRAILERS) of Chapter 2 (TAXATION) of Title 3 (FINANCE, TAXATION AND PROCUREMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article R (License Taxes on Motor Vehicles, Trailers and Semitrailers) of Chapter 2 (Taxation) of Title 3 (Finance, Taxation and Procurement) of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby are, amended by enacting amended Sections 3-2-327, 3-2-329, 3-2-330, and 3-2-331, to read as follows:

Sec. 3-2-327 Tax on vehicles used for transportation of passengers.

(a) The annual license tax on motor vehicles, trailers and semitrailers designed and used for the transportation of passengers shall be as follows:

(1) \$33 for a passenger car or motor home if such passenger car or motor home is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire.

(2) \$0.30 per 100 pounds of weight or major fraction thereof for a private motor vehicle with a normal seating capacity of more than 10 adult persons, including the driver, if such private vehicle is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire; provided, that in no case shall the tax be less than \$23.

(3) \$0.30 per 100 pounds of weight or major fraction thereof for a private school bus; provided, that in no case shall the tax be less than \$23.

(4) \$23 for a trailer or semitrailer designed for use as living quarters for human beings.

(5) \$23 for a taxicab and any other vehicle kept for rent or hire and operated with a chauffeur for the transportation of passengers, which operates or should operate under permits issued by the state corporation commission as required by law, and \$28 for any such vehicle that weighs in excess of 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

(6) \$21 for a motorcycle with or without a sidecar.

(7) \$23 for a bus used exclusively for transportation to and from Sunday school or church for the purpose of religious worship, and \$28 for any such bus which, when empty, weighs in excess of 4,000 pounds.

(8) \$13 in addition to \$0.70 per 100 pounds of weight or major fraction thereof for other passenger-carrying vehicles.

(b) The license tax for passenger vehicles owned by members of the Virginia National Guard shall be one-half of the license tax prescribed in this section, upon presentation of evidence by the registered owners that special Virginia National Guard license plates have been issued to the vehicles as provided in section 46.2-744 of the Code of Virginia (1950), as amended.

Sec. 3-2-329 Tax on vehicles not designed or used for transportation of passengers.

(a) The annual license tax on all motor vehicles, trailers and semitrailers not designed and used for the transportation of passengers shall be determined by the gross weight of the vehicle or combination of vehicles of which it is a part, when loaded

to maximum capacity for which it is registered and licensed, according to the following schedule:

Gross Weight Groups (Pounds)	Tax
4,000 or less	\$33.00
4,001--10,000	38.00
10,001--12,000	43.00
12,001--15,000	48.00
15,001--18,000	53.00
18,001--20,000	58.00
20,001--22,000	63.00
22,001--24,000	68.00
24,001--26,000	73.00
26,001--40,000	83.00
40,001 and up	98.00

(b) The license tax for pickup trucks and panel trucks owned by members of the Virginia National Guard shall be one-half of the license tax prescribed in this section, upon presentation of evidence by registered owners that special Virginia National Guard license plates have been issued to the vehicles as provided in section 46.2-744 of the Code of Virginia (1950), as amended.

Sec. 3-2-330 Tax on certain trailers.

The annual license tax on a one or two wheel trailer of a cradle, flat bed or open pickup type, with a body length of not more than nine feet and a width not greater than the width of the motor vehicle to which it is attached at any time of operation, which is to be attached to the owner's own motor vehicle and used only for carrying property belonging to the owner of such trailer, which is pulled or towed by a passenger car or station wagon, or a pickup or panel truck having an actual gross vehicle weight not exceeding 5,000 pounds, and which is used for carrying property not exceeding 1,000 pounds at any time, and the annual license tax on a trailer having a body length of not more than 16 feet which is designed and used exclusively for carrying boats, shall be \$14.50. Nothing herein shall be construed as applying to the license taxes for trailers or semitrailers designed for use as living quarters for human beings or to those trailers or semitrailers operated under lease or rental agreement or operated for compensation.

Sec. 3-2-331 Combination of tractor-trucks and semitrailers.

(a) In the case of a combination of a tractor-truck and a semitrailer, each vehicle constituting a part of such combination shall be registered as a separate vehicle, and separate vehicle license plates shall be issued therefor, but, for the purpose of determining the gross weight group into which any such vehicle constitutes a part, shall be considered a unit, and the aggregate gross weight of the entire combination shall determine such gross weight group. The tax for license plates for a

semitrailer constituting a part of such combination shall be \$18 for a vehicle weighing less than 1,501 pounds, \$28.50 for a vehicle weighing at least 1,501 pounds but less than 4,001 pounds, and \$40.00 for a vehicle weighing at least 4,001 pounds.

(b) In determining the tax to be paid for the license plates for a tractor-truck constituting a part of such combination the tax shall be assessed at the total weight and the tax per 1,000 pounds applicable to the gross weight of the combination when loaded to the maximum capacity for which it is registered and licensed. However, there shall be no deduction from this tax for the tax of the semitrailer in combination.

Section 2. That this ordinance shall become effective on July 1, 2007.

24. Public Hearing, Second Reading and Final Passage of an Ordinance to Revise the City's Erosion and Sediment Control Regulations. (#16, 6/12/07)
[ROLL-CALL VOTE]

(A copy of the City Manager's memorandum dated June 1, 2007, is on file in the Office of the City Clerk and Clerk of Council marked Exhibit No. 1 of Item No. 24; 6/16/07, 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. 24; 6/16/07, 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. 24; 6/16/07, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded Councilman Gaines and carried unanimously by roll-call vote, City Council passed an ordinance to revise the City's Erosion and Sediment Control Regulations. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4489

AN ORDINANCE to amend and reordain Chapter 4 (EROSION AND SEDIMENT CONTROL) of Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES), of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 4 of Title 5 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. 5-4-1 Definitions.

As used in this chapter, the following terms shall have the meanings set forth below, unless the context requires a different meaning:

(a) "Agreement in lieu of a plan" means a contract between the city and the owner which specifies conservation measures which must be implemented in the construction or modification of a single-family residence; this contract may be executed by the Director in lieu of an erosion and sediment control plan.

(b) "Applicant" shall mean any person submitting an erosion and sediment control plan or an agreement in lieu of a plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

(c) "Erosion and sediment control plan," "conservation plan" or "plan," shall mean a document containing material for the conservation of soil and water resources of an unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan, inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatments. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.

(d) "Director" shall mean the director of transportation and environmental services, his designee or his duly authorized agent.

(e) "Erosion impact source area" shall mean an area of land not associated with current land-disturbing activity but subject to persistent erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

(f) "Land-disturbing activity" shall mean any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land.

(g) "Natural channel design concepts" means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

(h) "Owner" shall mean the owner or owners of the freehold of the premises or of a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, a receiver, an executor, a trustee, a lessee or another person, firm or corporation in control of a property.

(i) "Peak flow rate" means the maximum instantaneous flow from a given storm condition at a particular location.

(j) "Permittee" shall mean the person to whom the permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

(k) "Person" shall mean any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the commonwealth, interstate body, or other legal entity.

(l) "Plan-approving authority" shall mean the department of transportation and environmental services which shall be responsible for determining the adequacy of a plan submitted for land-disturbing activities on an unit or group of units of lands and for approving plans.

(m) "Runoff volume" means the volume of water that runs off the land development project from a prescribed storm event.

(n) "State waters" shall mean all waters on the surface and or wholly or partially underground that is within or bordering the commonwealth or that is within the jurisdiction of the commonwealth.

(o) "Water Quality Volume" means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

Sec. 5-4-1.1 Approved erosion and sediment control plan required--construction of buildings.

Except as provided in section 5-4-5 of this code, it shall be unlawful for any persons to construct or erect any building or structure on any land within the city unless there is in force an approved erosion and sedimentation control plan issued under the provisions of this chapter.

Sec. 5-4-2 Same--enlargement of buildings.

Except as provided in section 5-4-5 of this code, it shall be unlawful for any person to alter any building or structure on any land within the city in such manner as to change the land area covered by the building or structure unless there is in force an approved erosion and sedimentation control plan issued under the provisions of this chapter.

Sec. 5-4-3 Same--change or disturb terrain.

(a) Except as provided in section 5-4-5 of this code, it shall be unlawful for any person to clear, grade, excavate, fill, remove topsoil from or change the contour of any land in the city unless there is in force an approved erosion and sedimentation control plan issued under the provisions of this chapter.

(b) Except as provided in section 5-4-5 of this code, it shall be unlawful for any person to remove or destroy trees, shrubs, grass, weeds, vegetation, ground cover or other plant life on any land in the city unless there is in force an approved erosion and sedimentation control plan issued under the provisions of this chapter.

Sec. 5-4-3.1 Same--erosion impact source area.

Notwithstanding any contrary provision of this chapter, it shall be unlawful for any property owner to fail, neglect or refuse to implement a conservation plan, approved by the director, and within such reasonable time as the director shall specify, for any land designated by the director as an erosion impact source area

Sec. 5-4-3.2 Wetlands Mitigation Banks

In accordance with the procedure set forth by § 10.1-563(E) of the Code of Virginia which is herein incorporated, any person engaging in the creation and operation of wetland mitigation banks in multiple jurisdictions, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks, pursuant to a permit issued by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specification for wetland mitigation banks annually with the Virginia Soil and Water Conservation Board (Board) for review and approval consistent with guidelines established by the Board.

Sec. 5-4-4 Compliance with approved plan.

(a) It shall be unlawful for any person to construct, erect or alter any building or structure for which an approved erosion and sedimentation control plan is required by this chapter, except in accordance with the approved plan.

(b) It shall be unlawful for any person to clear, grade, excavate, fill, remove topsoil from or change the contour of any land in the city for which an approved erosion and sedimentation control plan is required by this chapter except in accordance with the approved plan.

(c) It shall be unlawful for any person to remove or destroy trees, shrubs, grass, weeds, vegetation, ground cover or other plant life on any land in the city for which an approved erosion and sedimentation control plan is required by this chapter except in accordance with the approved plan.

Sec. 5-4-5 Exceptions.

The provisions of this chapter shall not apply to any construction, reconstruction, repair or alteration of any building or structure when no land is disturbed and no trees, shrubs, grass or vegetation is destroyed or removed, nor to any of the following:

(a) The construction or erection of any building or structure when the disturbed land area of the site is less than 2,500 square feet in size, provided there is no natural or man-made drainage ditch, swale draining in excess of 2,500 square feet, or storm sewer on the disturbed land and no existing or proposed grade on the disturbed land exceeds 10 percent.

(b) The alteration of any building or structure when the disturbed land area of the

site will be less than 2,500 square feet, provided there is no natural or man-made drainage ditch, swale draining in excess of 2,500 square feet, or storm sewer on the disturbed land and no existing or proposed grade on the disturbed land exceeds 10 percent.

(c) The clearing, grading, excavating, filling or changing the contour of, or removing topsoil from, less than 2,500 square feet of land, provided there is no natural or man-made drainage ditch, swale draining in excess of 2,500 square feet, or storm sewer on the disturbed land and no existing or proposed grade on the disturbed land exceeds 10 percent.

(d) The clearing, grading, excavating, filling or changing the contour of, or removing topsoil from, less than 2,500 square feet of land, provided there is no natural or manmade drainage ditch, swale draining in excess of 2,500 square feet or storm sewer on the disturbed land, and further provided the disturbance of the land does not cause sedimentation on land outside the exterior boundaries of the land disturbed.

(e) The removal or destruction of trees, shrubs, grass, weeds, vegetation, ground cover, or other plant life which cover less than 2,500 square feet of land, provided there is no natural or manmade drainage ditch, swale draining in excess of 2,500 square feet, or storm sewer on the disturbed land and no existing or proposed grade on the disturbed land exceeds 10 percent.

(f) The planting, trimming, pruning or removal of trees, shrubs, grass, weeds, vegetation, ground cover or other plant life pursuant to chapter 2 of title 6 of this code.

(g) The removal or destruction of trees, shrubs, grass, weeds, vegetation, ground cover or other plant life which is dead, poisonous or infected with disease or injurious insects or pests.

(h) The gardening and care of lawns.

(i) The removal or destruction of trees, shrubs, grass, weeds, vegetation, ground cover or other plant life from lots of less than 2,500 square feet on which there now exists a dwelling.

(j) The exploration or drilling for oil and gas including the well site, roads, feeder lines and off-site disposal areas.

(k) The repair or rebuilding of the tracts, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company.

(l) Shore erosion control projects on tidal waters when the projects are approved by local wetlands boards, the Marine Resources Commission or the U.S. Army Corps of Engineers and located on tidal waters and within nonvegetated or vegetated wetlands as defined in Title 28.2 of the Code of Virginia. However, any associated land that is disturbed outside of this exempted area shall remain subject to the article and the regulations adopted pursuant thereto.

(m) Emergency work to protect life, limb or property, and emergency repairs; provided, that, if the land-disturbing activity would have required an approved erosion and sediment control plan if the activity were not an emergency, the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan-approving authority.

(n) Individual utility service connections.

(o) Installation, maintenance, or repair of any underground public utility when such activity occurs on an existing hard surfaced road, street, or sidewalk provided the

land-disturbing activity is confined to the area of the road, street, or sidewalk which is hard surfaced.

(p) Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system.

(q) Surface or deep mining.

(r) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation. However, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is forested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of this title or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163.

(s) Agricultural engineering operations including, but not limited, to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, Article 2 (§ 10.1-604 et seq.) of Chapter 6 of the Erosion and Sediment Control Law, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and irrigation.

(t) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles.

Sec. 5-4-6 Permits not to be issued without approved erosion and sedimentation control plan when plan required by chapter.

(a) No permit shall be issued to construct, erect, or alter any building or structure on any land within the city until a plan has been submitted and approved in accordance with the provisions of this chapter and the applicant has certified in writing that the plan will be followed. The person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence to the program authority, as provided by § 10.1-561, who will be in charge of and responsible for carrying out the land disturbing activity. However, any plan-approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan for construction of a single family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by § 10.1-561. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this article.

(b) No permit shall be issued to clear, grade, excavate, fill, remove topsoil from or change the contour of any land within the city until a plan has been submitted and approved in accordance with the provisions of this chapter and the applicant has certified in writing that the plan will be followed.

Sec. 5-4-7 Minimum criteria; city handbook.

(a) The director shall administer and enforce the provisions of this chapter.

(b) This chapter, the erosion and sediment control regulations of the Department of Conservation and Recreation Division of Soil and Water Conservation (VR 625-02-00) effective March 22, 1995, [4 VAC 50-30-10 et seq.], and the "Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, which are incorporated herein by reference, shall be an integral part of the city's erosion and sediment control program and shall comprise the city's "Erosion and Sediment Control Handbook." The text of these regulations is on file in the office of the director.

(c) In addition to the minimum requirements for controlling erosion and sedimentation for land-disturbing activities which are contained in VR 625-02-00 '4 [4 VAC 50-30-40], the following additional minimum requirements shall apply:

(1) Protection of adjacent properties.

a. Properties adjacent to the site of a land disturbance shall be protected from sediment deposition. This may be accomplished by preserving a well-vegetated buffer strip around the lower perimeter of the land disturbance, by installing perimeter controls such as sediment barriers, filters, dikes, sediment basins or by a combination of such measures.

b. Vegetated buffer strips may be used alone only where runoff in sheet flow is expected. Buffer strips should be at least 20 feet in width. If at any time it is found that a vegetated buffer strip alone is ineffective in stopping sediment movement onto adjacent property, additional perimeter controls must be provided.

(2) The director may require sediment basins or traps for smaller disturbed areas where deemed necessary. The sediment basin requirement may also be waived if the director agrees that site conditions do not warrant its construction.

(3) Cut and fill slopes. Cut and fill slopes must be designed and constructed in a manner which will minimize erosion. Consideration must be given to the length and steepness of the slope, the soil type, upslope drainage area, groundwater conditions and other applicable factors. Slopes which are found to be eroding excessively within one year of construction must be provided with additional slope-stabilizing measures until the problem is corrected. The following guidelines are provided to aid site planners and plan reviewers in developing an adequate design.

a. Roughened soil surfaces are generally preferred to smooth surfaces on slopes.

b. Diversions should be constructed at the top of long, steep slopes which have significant drainage areas above the slope. Diversions or terraces may also be used to reduce slope length.

(4) The following additional stormwater management criteria shall apply:

a. A stormwater management plan shall be developed so that, from the site, the postdevelopment peak runoff rate from a two-year and a 10-year storm, considered individually, shall not exceed their respective predevelopment rates. The predevelopment and postdevelopment peak runoff rates must be verified by engineering calculations. Within the Four Mile Run Watershed, postdevelopment peak runoff during a 100-year frequency storm shall not increase the peak runoff of the Four

Mile Run Flood Control Channel as required by the city's contract with the United States Army Corp of Engineers.

b. 1. Concentrated stormwater runoff leaving a development site must be discharged directly into an adequate channel. If there is no adequate channel one must be constructed to convey stormwater to the nearest adequate channel. Newly constructed channels and conduits carrying a flow of 1,000 or more cubic feet per second shall be designed for a 100-year storm frequency and newly constructed channels and conduits carrying a flow of less than 1,000 cubic feet per second shall be designed for a 10-year storm frequency.

2. An "adequate channel" shall be defined as a natural or man-made channel or pipe which is capable of conveying the runoff from a two-year storm or a 10-year storm, considered individually, without overtopping its banks or eroding after development of the site in question. A receiving channel may also be considered adequate at any point where the total contributing drainage area is at least 100 times greater than the drainage area of the development site in question or, where it can be shown that the peak rate of runoff from the site for a two-year and a 10-year storm, considered individually, will not be increased after development.

3. In accordance with, §10.1-561 of the Code of Virginia, stream restoration and relocation projects that incorporate natural channel design concepts are not man-made channels and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels.

4. In accordance with §10.1-561 of the Code of Virginia, any land disturbing activity that provides for stormwater management intended to address any flow rate capacity and velocity requirements for natural or manmade channels shall satisfy the flow rate capacity and velocity requirements for natural or manmade channels if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or manmade channels.

5. Runoff rate and channel adequacy must be verified with engineering calculations to the satisfaction of the director.

c. All channel improvements or modifications must comply with all applicable laws and regulations.

d. If the applicant chooses an option which includes stormwater detention, he must provide the city with a plan for maintenance of the detention facilities. The plan shall set forth the maintenance requirements of the facility and the party responsible for performing the maintenance. The responsible party may be an individual, organization or the city, whichever has consented to carry out the maintenance. If the designated maintenance responsibility is with an individual or organization other than the city, a maintenance agreement should be executed between the responsible party and the city.

e. The owner or developer may continue to discharge stormwater that has not been concentrated (sheet flow) onto lower-lying property if:

1. the peak flow rate for a 10-year frequency storm after development does not exceed the predevelopment peak flow rate;

2. the increase in total volumes of runoff caused by the development will not have an adverse impact on the lower-lying property; and

3. there will be no exacerbation of existing drainage problems on the lower-lying or other downhill property.

(5) Stabilization of waterways and outlets. All on-site stormwater conveyance channels shall be designed and constructed to withstand the expected velocity of flow from a 10-year frequency storm without erosion. Stabilization adequate to prevent erosion must also be provided at the outlets of all pipes and paved channels. Energy dissipators shall be installed as required by the director.

(6) Working in or crossing watercourses. Construction vehicles should be kept out of watercourses to the extent possible. Where in-channel work is necessary, precautions must be taken to stabilize the work area during construction to minimize erosion. The channel (including bed and banks) must always be restabilized immediately after in-channel work is completed.

(7) Underground utility lines shall be installed in accordance with the following standard in addition to other applicable criteria: no more than 100 feet of trench are to be opened at one time.

(8) Maintenance. All temporary and permanent erosion and sediment control practices must be maintained and repaired as specified in VR 625-02-00 § 6 [4 VAC 50-30-60].

(9) Submission of an Erosion and Sediment Control Plan to the city is a grant of unlimited right of entry to the property to officials or agents of the city for the purposes of determining adequacy of the proposed plan and inspection of land-disturbing activities for compliance with the approved plan.

(d) The "Virginia Erosion and Sediment Control Handbook, Third Edition, 1992" and the tree planting and preservation regulations authorized by § 11-410(CC)(1) of the Zoning Ordinance of the City of Alexandria, and known as the city's Landscape Guidelines, shall be used by any applicant making a submittal under this chapter and by the director in his or her review and consideration of the adequacy of any erosion and sediment control plan submitted.

Sec. 5-4-8 Erosion and sediment control plans.

(a) Applications for approved erosion and sediment control plans shall be submitted to and filed with the director, on forms prepared by the city, prior to the time any work subject to this chapter is begun on land. Fees for reviewing erosion and sediment control plans, plot plans and performing field inspections for all new structures, exterior alteration, plumbing, electrical, or mechanical building permits where more than two thousand five hundred (2,500) square feet are disturbed shall be required, the fee to be determined by the Director of Transportation and Environmental Services. Five (5) copies of an erosion and sediment control plan or plot plan must accompany any application, parts of which shall also be on forms prepared by the city.

Upon receipt of an application and plans, the director shall consider the plan in light of the provisions of this chapter and promptly approve the plan, disapprove the plan or approve the plan with modifications, noting thereon any changes that will be required. The director shall promptly notify the applicant of his or her decision on a plan. Any approved plan shall be issued, dated, and bear the manual signature of the director of the department of transportation and environmental services or his or her deputy.

(b) An application shall show the following:

- (1) The name, address and telephone number of the applicant.
- (2) The name, address and telephone number of the owner of record.
- (3) The name, address and telephone number of the person preparing the

plan.

(4) The location of the site, including lot number and tax map page number.

(5) The total land area, area being disturbed and proposed amount of previous and impervious area.

(6) Soil types by AASHO classification (or other classifications used by soil engineers), if available.

(7) Method for collecting and depositing stormwater.

(8) Test boring and soil test results when:

a. the site is in an area of the city known or suspected by the director to have soil problems or unstable soil;

b. any proposed slope on the site exceeds a grade of 20 percent;

c. the presence of ground water in substantial amounts is known or suspected by the director to be on the site; or

d. unstable soil is known or suspected by the director to be on the site.

(9) Methods for control of contamination of land when the site is in an area found by the director to be contaminated by a toxic substance and hazardous to the public health, safety and welfare. Said methods shall comply and be in accordance with the "Administrative Procedures for Control of Contaminated Land, Alexandria, Virginia," dated October 30, 1976, that were promulgated by the city manager and adopted by the city council on November 23, 1976, by ordinance number 2145. These administrative procedures may be amended or revised from time to time by the city manager with the approval of the city council by motion.

(10) A general description of existing trees, shrubs, grass, weeds, vegetation, ground cover and other plant life.

(11) Any other pertinent information the director may require.

(c) An erosion and sediment control plan shall follow the format of map number 4, plate 6-4 of chapter 6 of the city's erosion and sediment control handbook. The plan shall also include appropriate title blocks, scales and a vicinity map.

(d) Where land-disturbing activities involve lands under the jurisdiction of more than one local control program an erosion and sediment control plan may, at the option of the applicant, be submitted to the Virginia Soil and Water Conservation Board for review and approval rather than to each jurisdiction concerned.

(e) When land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission and approval of an erosion control plan shall be the responsibility of the owner.

Sec. 5-4-9 Regulations and restrictions generally.

All erosion and sediment control practices shall be in accordance with the city's erosion and sediment control handbook.

Sec. 5-4-10 Failure of director of transportation and environmental services to act.

Failure of the director to act on any erosion and sedimentation control plan within 45 days after it has been properly filed, unless otherwise agreed with the applicant, should be deemed to constitute approval of the plan.

Sec. 5-4-11 Inspections and amendments of plans.

(a) Periodic inspections are required on all projects by the program authority. The program authority shall either: Provide for an inspection during or immediately following initial installation of erosion and sediment controls, at least once in every two-week period, within 48 hours following any runoff producing storm event, and at the completion of the project prior to the release of any performance bonds; or establish an alternative inspection program which ensures compliance with the approved erosion and sediment control plan. Any alternative inspection program shall be:

- (1) Approved by the Board prior to implementation;
- (2) Established in writing;
- (3) Based upon a system of priorities that, at a minimum, address the amount of disturbed project area, site conditions and stage of construction; and
- (4) Documented by inspection records.

The owner, occupier or operator shall be notified of the inspection. If the plan-approving or permit-issuing authority determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities. Where the plan-approving authority serves such a notice, a copy of the notice shall be sent to the permit-issuing authority. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon receipt of a sworn complaint of a substantial violation of this chapter from the designated enforcement officer, or if land-disturbing activities have commenced without an approved plan, the director may issue an order requiring that all or part of the land-disturbing activity on the site be stopped until the specified corrective measures have been taken. Where the identified non-compliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the commonwealth, drainage systems discharging into such waters, or lower-lying property, or where the land-disturbing activities have commenced without an approved plan or any required permits, a stop-work order may be issued whether or not the permittee has been issued a notice to comply. Otherwise, such an order may be

issued only after the permittee has failed to comply with a notice to comply. The order shall be served in the same manner as a notice to comply, and shall remain in effect for seven days from the date of service pending application by the enforcing authority or alleged violator for appropriate relief to the circuit court. If the alleged violator has not obtained an approved plan or all of the required permits within seven days from the date of service of the order, the director may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Upon completion and acceptance of the corrective action, or obtaining an approved plan or any required permits the order shall be immediately lifted. Upon failure to comply with such measures within the time specified, the permit may be revoked, and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this chapter and upon conviction shall be subject to the penalties provided in section 5-4-18.

(b) The director may authorize amendments consistent with the requirements of this chapter to an approved plan when inspection has revealed that the plan is inadequate to satisfy applicable regulations or when the person responsible for carrying out the plan finds that because of changed circumstances or changed conditions the plan cannot be carried out effectively.

Sec. 5-4-12 Guarantee of performance of plans.

A corporate surety bond, letter of credit, certificate of deposit or similar financial guarantee approved by the city attorney, conditioned upon carrying out all and every part of an approved erosion and sedimentation control plan and upon satisfaction of the guarantee required by section 5-4-13 of this chapter for at least the sum estimated to be the full costs of carrying out the plan and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five percent of the estimated cost of the conservation action, or a cash escrow, upon the same conditions and in the same amount, shall be furnished the city whenever such costs exceed \$500.

Sec. 5-4-13 Acceptance of performance.

Upon completion of adequate stabilization of an approved erosion and sedimentation control plan, the permittee shall notify the director of such completion. The director shall then inspect the work and planting and, upon his determination that they are in compliance with the approved plan, he shall issue a letter of preliminary acceptance. A condition of any such preliminary acceptance shall be that the permittee guarantee all erosion and sedimentation control work for a period of one year from the date of its preliminary acceptance, or for a period of one year from any repair or replanting ordered by the director, or until such time that all control structures and a minimum of 90 percent of all plantings shall have survived for a year without need of further replanting or repair. During the one year period of the guarantee, the director may order in writing such replanting or repair work as shall be deemed necessary to enforce compliance with the approved plan or the guarantee. Such an order shall serve to revoke the preliminary acceptance and shall cause the permittee to renew the

guarantee for an additional one year from the date of replanting or repair. Final acceptance shall occur when preliminary acceptance has remained unrevoked for a period of one year, or when all control structures and a minimum of 90 percent of all plants have survived for a period of one year without need of further replanting or repair. For purposes of this section, normal cleaning of silt basins alone shall not be construed to be repair work.

Sec. 5-4-14 Noncompliance and corrective actions.

(a) In the course of making on-site inspections, should the director determine that active erosion and sediment control measures are not in compliance with the approved plan, he shall verbally notify the responsible contractor to take appropriate corrective measures.

(b) Written confirmation of this notice to comply shall be sent, by certified mail, to the applicant for the erosion and sediment control permit or hand-delivered at the site of the land-disturbing activities to the agent or employee supervising such activities, citing a detailed description of the conservation measures necessary for compliance.

(c) When no action is taken within 48 hours of delivery of notice to comply, the director shall send the applicant, by certified mail, a letter of intent to utilize the performance bond or cash escrow to apply the conservation measures to correct the deficiency if it has not otherwise been corrected by a specified time.

(d) If no action has been taken by the time specified, the director shall proceed to have the deficiency corrected and he shall keep a close account of all related expenses which shall be charged to and paid from the applicant's performance bond or escrow account. If the director takes such conservation action upon such failure by the permittee, the director may collect from the permittee the difference, should the amount of reasonable cost of such action exceed the amount of the security held

Sec. 5-4-14.1 Civil Penalties

(a) A violation of any section or provision of this article may, in addition to and notwithstanding the penalty provided for in subsection (b), be a civil violation that shall be enforced through the levying of a civil penalty, pursuant to section 1-1-11 of this code, of \$500 for a person's first violation and of \$1,000 for each subsequent violation of the same section or provision. However, the civil penalty for commencement of land disturbing activities without an approved plan shall be \$1,000. Each day during which a violation exists shall constitute a separate violation. However, a series of violations arising from the same operative set of facts shall not give rise to the levying of a civil penalty more frequently than once in any 10-day period, and shall not result in civil penalties exceeding a total of \$3,000.

(b) A violation of any section or provision of this article may, in addition to and notwithstanding the penalty provided for in subsection (a), be restrained, prohibited or enjoined by appropriate proceedings in a court of competent jurisdiction.

Sec. 5-4-15 Time of validity of erosion and sediment control plans.

(a) Any approved erosion and sedimentation control plan shall become null and void 180 days after the date of approval and no further work subject to this chapter shall be allowed unless and until an additional or updated erosion and sediment control plan has been submitted and approved in accordance with the provisions of this chapter or unless all requirements of the approved control plan have been completed in less than 180 days in accord with said plan and verified by an on-site inspection by the director.

(b) When no change in conditions has occurred since the date of approval, an update plan shall be approved in accordance with the provisions of this chapter with no additional requirements.

Sec. 5-4-16 Waiver.

The city manager may, for good cause shown, waive the provisions of chapter 4 of this title that require an approved erosion and sediment control plan, provided:

(1) written application is made, and

(2) the director states in writing that such a waiver will not result in increased erosion or sedimentation or violate the general principles of good erosion and sediment control management.

Sec. 5-4-17 Relation of chapter to other laws.

The provisions contained in this chapter shall be considered separate from, supplemental to and additional to the provisions contained in chapter 1 of title 8, elsewhere in this code, in the Zoning Ordinance of the City of Alexandria, or in other city ordinances. Nothing contained in this chapter shall excuse any person from compliance with all other applicable provisions of this code the Zoning Ordinance of the City of Alexandria, or other city ordinances.

Sec. 5-4-18 Administrative appeal.

Final decisions to disapprove an erosion and sedimentation control plan by the director shall be in writing and subject to review by the city manager, provided the applicant or his duty authorized agent files a written notice of appeal with the city manager within 30 days from the date of the written final decision of disapproval.

Sec. 5-4-19 reserved.

Sec. 5-4-19.1 reserved.

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

25. Public Hearing, Second Reading and Final Passage of an Ordinance to Provide For Appeals From Supplemental Real Estate Tax Assessments For Newly Completed Buildings. (#17, 6/12/07) **[ROLL-CALL VOTE]**

(A copy of the City Attorney's memorandum dated June 5, 2007, is on file in the Office of the City Clerk and Clerk of Council marked Exhibit No. 1 of Item No. 25; 6/16/07, 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. 25; 6/16/07, 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. 25; 6/16/07, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded Councilman Gaines and carried unanimously by roll-call vote, City Council passed an ordinance to provide for appeals from supplemental real estate tax assessments for newly completed buildings. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4490

AN ORDINANCE to amend and reordain Sections 3-2-185 (APPEAL OF REAL ESTATE ASSESSMENTS TO BOARD OF EQUALIZATION) and 3-2-187 (ASSESSMENT OF NEW BUILDINGS SUBSTANTIALLY COMPLETED) of Division 1 (REAL ESTATE), of Article M (LEVY AND COLLECTION OF PROPERTY TAXES), of Chapter 2 (TAXATION), of Title 3 (FINANCE, TAXATION AND PROCUREMENT), of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Division 1 (Real Estate), of Article M (Levy and Collection of Property Taxes), of Chapter 2 (Taxation), of Title 3 (Finance, Taxation and Procurement), of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by enacting amended Sections 3-2-185 and 3-2-187 to read as follows:

Sec. 3-2-185 Appeal of real estate tax assessments to board of equalization.

(a) Any owner or lessee of real estate upon which taxes have been levied as provided by section 3-2-181 of this code who seeks to appeal such assessment shall

make application to the board of equalization of the city to correct the assessed valuation on which the taxes were levied upon such real estate, provided any such application is made in writing and filed with the director of real estate assessments or presented to a member of the board of equalization by July 1 of the year in which the taxes are levied with the exception of real estate tax assessments levied after July 1 pursuant to section 58.1-3292.1 of the Code of Virginia, 1950, as amended and section 3-2-187 of this code, or if the assessment is otherwise changed by the director during the tax year subsequent to July 1.

(b) Appeals of real estate tax assessments levied after July 1 pursuant to section 58.1-3292.1 of the Code of Virginia (1950), as amended, and section 3-2-187 of this code, shall be filed with the board of equalization within forty-five days after the notice of assessment is issued.

(c) An appeal from the board of equalization's determination of the appeal may be made to the Circuit Court of the City of Alexandria as provided in the Code of Virginia. Hearing before the board of equalization is a prerequisite to filing of an appeal in that court.

Sec. 3-2-187 Supplemental assessment of new buildings substantially completed.

(a) All new buildings shall be taxed upon the completed portion of the building, which was not complete on January 1 of the year in which taxes are levied, when substantially completed or fit for use and occupancy, regardless of the date of completion or fitness during the tax year, and the director of real estate assessments shall enter in the books the fair full market value of such building.

(b) No partial, supplemental assessment as provided herein shall become effective until information as to the date and amount of such assessment is recorded in the department of real estate assessments and made available for public inspection. The total tax on any such new building for that year shall be the sum of (i) the tax upon the assessment of the completed building, computed according to the ratio which the portion of the year such building is substantially completed or fit for use and occupancy bears to the entire year, and (ii) the tax upon the assessment of such new building as it existed on January 1 of that assessment year, computed according to the ratio which the portion of the year such building was not substantially complete or fit for use and occupancy bears to the entire year.

(c) With respect to any supplemental assessment made under this section after November 1 of any year, no penalty for nonpayment shall be imposed until the last to occur of (i) December 5 of such year or (ii) 30 days following the date of the official billing.

(d) Appeals to the board of equalization of supplemental assessments levied under this section after July 1 shall be filed in accordance with section 3-2-185.

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

26. Public Hearing, Second Reading and Final Passage of an Ordinance to Increase the Courthouse Security Fee Charged to Convicted Criminal and Traffic Case Defendants. (#18, 6/12/07) **[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. 26; 6/16/07, 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. 26; 6/16/07, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded Councilman Gaines and carried unanimously by roll-call vote, City Council passed an ordinance to increase the Courthouse security fee charged to convicted criminal and traffic case defendants. The voting is as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4491

AN ORDINANCE to amend and reordain Section 3-2-52.1 (ASSESSMENT OF FEE FOR COURTHOUSE SECURITY PERSONNEL) of Article E (ASSESSMENT OF COURT COSTS AND FEES), 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 3-2-52.1 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. 3-2-52.1 Assessment of fee for courthouse security personnel.

In addition to any other fee or cost prescribed by law, there is hereby assessed a fee of \$10, for the funding of courthouse security personnel, as part of the fees taxed as costs in each criminal and traffic case in the Alexandria Circuit and General District

Courts, and in each adult criminal and juvenile traffic case in the Juvenile and Domestic Relations District Court, in which the defendant is convicted of a violation of any statute or ordinance.

Section 2. That this ordinance shall become effective on July 1, 2007.

27. Public Hearing, Second Reading and Final Passage of an Ordinance to Reauthorize Red Light Cameras. (#19, 6/12/07) **[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. 27; 6/16/07, 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. 27; 6/16/07, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded Councilman Gaines and carried unanimously by roll-call vote, City Council passed an ordinance to reauthorize red light cameras. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4492

AN ORDINANCE to amend and reordain Section 10-3-833.01 (PHOTO-MONITORING OF TRAFFIC LIGHT SIGNALS) of Chapter 3 (OPERATION OF VEHICLES), Title 10 (MOTOR VEHICLES AND TRAFFIC) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 10-3-833.01 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. 10-3-833.01 Photo-monitoring of traffic light signals.

(a) It shall be unlawful for the operator of a motor vehicle to fail to stop or remain stopped when directed to do so by a steady red traffic light signal.

(b) For the purposes of this section, the following words shall have the meanings set out below:

(1) "System" means a traffic light signal violation-monitoring System that operates by means of a vehicle sensor installed to work in conjunction with a traffic light that automatically produces two or more photographs, two or more microphotographs, a videotape or other recorded images of a vehicle at the time that the operator of the vehicle fails to stop or remain stopped at a steady red traffic light signal in violation of this section. For each such vehicle, at least one recorded image shall be of the vehicle before it has illegally entered the intersection, and at least one recorded image shall be of the same vehicle after it has illegally entered the intersection.

(2) "Owner" means the registered owner of a vehicle on record with the Department of Motor Vehicles.

(c) The city manager or the manager's designee may install and operate a System at no more than one intersection for every ten thousand (10,000) residents within the city, for the purpose of imposing monetary liability on the operator of a motor vehicle for failure to stop or remain stopped at a steady red traffic light signal.

(d) Proof of violation; presumption.

(1) Proof of a violation of this section shall be evidenced by information obtained from the System. A certificate, or a facsimile thereof, sworn to or affirmed by a law-enforcement officer employed by the city, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by the System, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate liability for a violation of this section.

(2) Prima facie evidence that the vehicle described in the summons issued pursuant to subsection (f) was operated in violation of this section, together with proof that the defendant was at the time of such violation the owner, lessee or renter of the vehicle, shall constitute in evidence a rebuttable presumption that the defendant was the person who committed the violation. This presumption shall be rebutted (i) if the owner, lessee or renter of the vehicle either files an affidavit by regular mail with the clerk of the general district court, stating that he was not the operator of the vehicle at the time of the alleged violation, or testifies in open court under oath that he was not the operator of the vehicle at the time of alleged violation, or (ii) if a certified copy of a police report, showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation, is filed with the clerk of general district court prior to the return date established on the summons issued pursuant to subsection (f).

(e) The operator of a vehicle shall be liable for a monetary penalty of up to \$50 if the operator is found, as evidenced by information obtained from the System, to have

failed to comply with a steady red traffic light signal. No monetary penalty imposed under this section shall include court costs. Imposition of a penalty under this section shall not be deemed a conviction as an operator, and shall not be made part of the operating record of the person upon whom such liability is imposed; nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

(f) A summons for a violation of this section may be executed pursuant to section 19.2-76.2 of the Code of Virginia (1950), as amended. Notwithstanding the provisions of section 19.2-76 of the Virginia Code, a summons for a violation of this section may be executed by mailing by first-class mail a copy of the summons to the address of the owner, lessee or renter of the vehicle as shown, in the case of vehicle owners, in the records of the Department of Motor Vehicles or, in the case of vehicle lessees or renters, in the records of the vehicle lessor or rentor. Every such mailing shall include, in addition to the summons, a notice of:

- (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection (d)(2), above; and
- (ii) instructions for filing such an affidavit, including the address to which the affidavit is to be sent.

If the summoned person fails to appear on the date of return set out in the mailed summons, the summons shall be executed in the manner set out in section 19.2-76.3 of the Virginia Code. No proceedings for the contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed for a violation of this section shall provide to the person summoned at least sixty (60) business days from the mailing of the summons to inspect information collected by the System in connection with the violation.

(g) Information collected by the System shall be limited exclusively to information that is necessary for the enforcement of traffic light violations. No private entity may obtain from the city or its System records regarding the registered owners of vehicles that fail to comply with traffic light signals. Notwithstanding any other provision of law, all photographs, microphotographs, electronic images or other personal information collected by the System shall be used exclusively for enforcing traffic light violations, and shall not:

- (i) be open to the public;
- (ii) be sold or used for sales, solicitation or marketing purposes;
- (iii) be disclosed to any other entity except as may be necessary for the enforcement of a traffic light violation or to a vehicle owner or operator as part of a challenge to the violation; or

(iv) be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of section 46.2-833, section 46.2-835 or section 46.2-836 of the Virginia Code.

(h) Information collected by the System with regard to a specific violation shall be purged and not retained later than sixty (60) days after the collection of any civil penalties. If the city does not execute a summons for a violation of this section within ten (10) business days of the occurrence of the violation, all information collected that pertains to said suspected violation shall be purged within twelve (12) business days of the of the suspected violation.

(i) The city manager, or the city manager's designee, shall annually certify compliance with section 15.2-968.1 of the Virginia Code, and shall make all records pertaining to the System available for inspection and audit by the Commonwealth Transportation Commissioner or the Commissioner of the Department of Motor Vehicles or his designee.

(j) Any person who discloses personal information in violation of the provisions of subsections (h) or (i) shall be subject to a civil penalty of \$1,000.

(k) A private entity may enter into an agreement with the city to be compensated for providing the System or equipment, and all related support services, to include consulting, operations and administration. The city shall not enter into any such agreement in which compensation of the private entity is based upon the number of violations or monetary penalties imposed.

(l) When selecting potential intersections for installation of System equipment, the following factors shall be considered:

(i) the accident rate for the intersection;

(ii) the rate of red light violations occurring at the intersection, as measured by the number of violations per number of vehicles using the intersection;

(iii) the difficulty experienced by law-enforcement officers in patrol cars or on foot in apprehending violators;

(iv) the ability of law-enforcement officers to apprehend violators safely within a reasonable distance from the violations; and

(v) if applicable, the risk to pedestrians.

A list of intersections to be included in the System shall be submitted to the Virginia Department of Transportation for final approval.

(m) Before the implementation of a System at an intersection, the city shall

complete an engineering safety analysis that addresses signal timing and other location-specific safety features. The length of the yellow phase shall be established based upon the recommended methodology of the Institute of Transportation Engineers. The System shall provide a minimum 0.5-second grace period between the time that the signal turns red and the time that the first violation is recorded. If recommended by the engineering safety analysis, the city shall make reasonable location-specific safety improvements, including signs and pavement markings.

(n) The city shall evaluate the System on a monthly basis, to ensure that all cameras and traffic signals are functioning properly. Evaluation results shall be made available to the public.

(o) Conspicuous signs shall be placed within five hundred (500) feet of the intersection approach of any intersection at which the System is used. There shall be a rebuttable presumption that such signs were in place at the time of the commission of the traffic light signal violation.

(p) Prior to, or coincident with, the implementation or expansion of the System, the city shall conduct a public awareness program, advising the public that the System is being implemented or expanded.

Section 2. That this ordinance shall become effective on July 1, 2007.

28. Public Hearing, Second Reading and Final Passage of an Ordinance to Codify the 2006 Change in Funding Level of the Open Space Trust Fund Account at One Percent of the Total Real Estate Tax Assessment in the City. (#20, 6/12/07) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated June 5, 2007 is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 28; 6/16/07, 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. 28; 6/16/07, 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. 28; 6/16/07, and is incorporated as part of this record by reference.)

Councilman Smedberg said he recalled a request about having a small percentage of this money go toward the maintenance of a park or other assets that it purchases through the fund. Councilman Smedberg said he would like clarification on how those funds could be used for capital improvements.

WHEREUPON, upon motion by Councilman Smedberg, seconded by Councilman Krupicka and carried unanimously, City Council deferred this item to the June 26, 2007 Council meeting. The voting was as follows:

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

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

DEFERRAL/WITHDRAWAL CONSENT CALENDAR (29-30)

Planning Commission (continued)

29. SPECIAL USE PERMIT #2007-0029
625 BURNSIDE PLACE
ALEXANDRIA WASTE RECOVERY FACILITY
Public Hearing and Consideration of a request to amend a special use permit to increase the allowed daily tonnage at a waste recycling facility; zoned I/Industrial.
Applicant: Sandra Crippen

PLANNING COMMISSION ACTION: Deferred

30. DEVELOPMENT SITE PLAN #2005-0012
5325 POLK AVENUE
POLK AVENUE
Public Hearing and Consideration of a request for a development site plan, with modifications, to construct multi-family buildings with townhouse-style condominium units on a portion of the site; zoned R-A/Residential.

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 Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously, the City Council public hearing meeting of June 16, 2007, was adjourned at 5:06 p.m. The voting was as follows:

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

APPROVED BY:

WILLIAM D. EUILLE MAYOR

ATTEST:

Jacqueline M. Henderson, CMC, City Clerk

3b
6-26-07



Jackie Henderson/Alex
06/26/2007 10:35 AM

To alexvamayor@aol.com, councilmangaines@aol.com,
timothylovain@aol.com, delpepper@aol.com,
paulcsmedberg@aol.com, council@krupicka.com
cc Ignacio Pessoa/Alex, Michele Evans/Alex, Jim Hartmann/Alex,
bcc

Subject correction to docket item #3b (June 16 minutes)

Councilman Krupicka has made a correction for docket item #3b, the approval of the June 16, 2007 minutes. The correction is for #8, the smoke free restaurant text amendment, and in particular, the motion wording.

I have attached the corrected page with this email, but will also put a hard copy at your places this evening. The corrected wording is in bold. (I have only included the one page of the minutes that are being corrected, as opposed to the entire set of minutes.)



june 16 2007 minutes change.doc

Jackie M. Henderson
City Clerk and Clerk of Council
City of Alexandria, Virginia

8. 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
(Deferred from the May 12, 2007 City Council Meeting)

* * * * *

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

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

WHEREUPON, upon motion by Councilman Gaines, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the Planning Commission recommendation, to include the separate and independent HVAC system and the reenactment clause provision, along with the following amendments: ~~1. This be made a Council Legislative item for: (a) asking the General Assembly for a state-wide smoking ban; or (b) giving local jurisdictions the power to ban smoking; 2. The no smoking area is to be in the public right of way (sidewalks); and 3. The City Attorney will consult with legal staffs of surrounding jurisdictions to determine if they would support similar legislation in these jurisdictions.~~ **1. The Council include in its legislative package support for a state-wide smoking ban or, instead, to give localities the right to ban smoking; 2. The smoking prohibition shall extend into any outdoor dining area that utilizes the public right of way; and 3. That the City Attorney seek third party legal opinions regarding the use of the zoning process to prohibit smoking.** The voting was as follows:

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



"Rob Krupicka"
<Rob@Krupicka.com>
06/25/2007 09:31 PM

To <Jackie.Henderson@alexandriava.gov>
cc <Ignacio.Pessoa@alexandriava.gov>, "Bill Euille"
<alexvamayor@aol.com>
bcc

Subject RE: Link to the June 26 2007 Council Docket

I think the minutes to the June public hearing don't adequately reflect the three points made when I brought them up.

- 1) The council include in its legislative package support for a state-wide smoking ban or, instead, to give localities the right to ban smoking.
- 2) The smoking prohibition shall extend into any outdoor dining are that utilizes the public right of way.
- 3) That the City Attorney seek third party legal opinions regarding the use of the zoning process to prohibit smoking.

I think this more correctly gets to what was discussed. Can you have this ready as an amendment to the minutes for Tuesday night?

Thank you,

Rob

From: Jackie.Henderson@alexandriava.gov [mailto:Jackie.Henderson@alexandriava.gov]
Sent: Friday, June 22, 2007 5:26 PM
To: council@krupicka.com; Beth.Temple@alexandriava.gov; CLAUDIAC@COMCAST.NET; hubler@erols.com; krupickaaide@COMCAST.NET; Harlene.Clayton@alexandriava.gov; Joanne.Pyle@alexandriava.gov; nanella@aol.com
Cc: alexvamayor@aol.com; councilmangaines@aol.com; timothylovain@aol.com; delpepper@aol.com; paulcsmedberg@aol.com
Subject: Link to the June 26 2007 Council Docket

<http://dockets.alexandriava.gov/dsr/fy07dock.nsf/536ee1fcf306fd108525704b0064fc94/509732d3976ddd658525730000621375?OpenDocument>

Above is the link to the June 26 Council docket. Items 3a, 3b, 23, 28, 29, 34, 34.1 (supplemental docket) and 40 have been sent today.

The City Attorney will email you separately this evening the emergency ordinance for #24, the Outdoor Dining Regulations.

The City Attorney will also hand out to you at the meeting #37, the open space trust fund account.