

M E M O R A N D U M

TO: THE HONORABLE MAYOR AND
MEMBERS OF CITY COUNCIL

FROM: IGNACIO B. PESSOA *IBP*
CITY ATTORNEY

DATE: OCTOBER 6, 2006

SUBJECT: RESOLUTION ENDORSING VIRGINIA AIR POLLUTION CONTROL
BOARD ACTION CONCERNING THE MIRANT PLANT

ISSUE: Consideration of resolution to endorse the actions of the Virginia Air Pollution Control Board taken on September 25, 2006, with respect to controlling the ongoing adverse public health and environmental impacts due to the operations of the Mirant Potomac River Generating Station.

RECOMMENDATION: That City Council adopt the attached resolution.

DISCUSSION: As you are aware, on September 25, 2006, William Skrabak, the City's Environmental Quality Division Chief, in conjunction with the City's litigation counsel and many concerned residents, made a presentation to the Virginia Air Pollution Control Board ("Board") outlining the ongoing adverse public health and environmental impacts due to the operations of the Mirant Potomac River Generating Station, and requesting that the Board take appropriate remedial action.

At that time, the Board unanimously decided to take direct control of the permit process vis-a-vis Mirant's Potomac River Generating Station -- meaning that in future the Board will take final action on Mirant applications, rather than delegate that authority to the Director of the Virginia Department of Environmental Quality (VDEQ) and his staff -- and to require a "transparent" process for dealing with Mirant PRGS. The board also asked VDEQ staff to advise it on the best way to accomplish this and to ensure that VDEQ's authority to act in an emergency or other appropriate situation is not affected.

In addition, the Board decided to consider the following remedial measures which were requested by the City:

1. Order the PRGS as of July 1, 2007 to cease and desist from causing or contributing to air pollution episodes or any violation of ambient air quality standards, including for PM 2.5, and significant ambient air concentration guidelines for toxic pollutants; and

2. Require the PRGS to submit an application for a construction permit and impose a comprehensive and vigorous review for air pollution impacts and pollutant control technology consistent with provisions of Article 9 of the Board's regulations, 9 VAC 5-80-2000, et seq.,

including, but not limited to, the submission by the PRGS of plans, specifications and data as set out in 9 VAC 5-80-2020 and -2040; and

3. Establish a local air pollution control district comprising affected areas of Alexandria City and a local air pollution control committee to monitor and report to the Board the activities and compliance of the PRGS with the Board's regulations and orders.

These measures, if ultimately adopted by the Board, will establish the most rigorous state-level review of the plant and its operations, and can be tailored to address the specific harmful characteristics of the plant on its environs.

The proposed resolution formally endorses and commends the Board for these actions, and, in addition, confirms that the City expects to work collaboratively with the Board and VDEQ to protect fully the health, safety and welfare of the City's residents.

City staff and I will be pleased to answer any questions on Tuesday night.

RESOLUTION NO. _____

WHEREAS, the City of Alexandria ("City") is concerned with the ongoing adverse public health and environmental impacts due to the operations of the Mirant Potomac River Generating Station ("Mirant PRGS") in Alexandria; and

WHEREAS, Alexandria is located in the Ozone Transport Region and a nonattainment area for ozone and PM_{2.5}; and

WHEREAS, recent scientific and technical studies have shown conclusively the acute and widespread adverse health impacts of pollutant emissions, particularly increased mortality and morbidity due to both short- and long-term exposure to emissions of fine particles ("PM_{2.5}"); conversely these studies have shown that an overall reduction in PM_{2.5} levels results in reduced long-term mortality risk; and

WHEREAS, the Mirant PRGS has undergone major modifications and is proposing additional modifications that constitute a physical and operational change and warrant a full analysis under the Virginia Air Pollution Control Board's ("Board") revised new source review ("NSR") permit program for major modifications in prevention of significant deterioration and nonattainment areas; and

WHEREAS, the Board should mandate that the Mirant PRGS be subject to comprehensive review and analysis of all air quality impacts and the lowest achievable emission technology to reduce further the PRGS's emissions of all pollutants, in particular PM_{2.5}; and

WHEREAS, on September 25, 2006, the City requested the Board to issue an Order pursuant to its jurisdiction under Virginia Code § 10.1-1300 *et seq.*, to:

1. Order the Mirant PRGS as of July 1, 2007 to cease and desist from causing or contributing to air pollution episodes or any violation of ambient air quality standards, including for PM_{2.5}, and significant ambient air concentration guidelines for toxic pollutants; and
2. Require the Mirant PRGS to submit an application for a construction permit and impose a comprehensive and rigorous review for air pollution impacts and pollutant control technology consistent with provisions of Article 9 of the Board's regulations, 9 VAC 5-80-2000, *et seq.*, including, but not limited to, the submission by the PRGS of plans, specifications and data as set out in 9 VAC 5-80-2020 and -2040; and
3. Establish a local air pollution control district comprising affected areas of Alexandria City and a local air pollution control committee to monitor and report to the Board the activities and compliance of the Mirant PRGS with the Board's regulations and orders; and

WHEREAS, on September 25, 2006, the Board voted unanimously to take direct control of the Mirant PRGS permit process, such that the Board, rather than the Virginia Department of Environmental Quality ("VDEQ") will take final action on all Mirant PRGS permits, and to require a transparent public process for dealing with the Mirant PRGS, and also asked VDEQ staff to advise it on the best way to accomplish this task and to ensure that VDEQ's authority to act in an emergency or other appropriate situation is not affected; and

WHEREAS, on September 25, 2006, the Board further voted unanimously to consider the three specific remedial actions with respect to the Mirant PRGS, requested by the City and set forth above; and

WHEREAS, the City Council of Alexandria, Virginia, wishes to endorse the recent actions of the Board, commend and thank the Board for its attention to this matter, and confirm that the City expects to work collaboratively with the Board and VDEQ staff as the regulatory process unfolds;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Alexandria, Virginia:

1. That the City Council endorses the actions of the Virginia Air Pollution Control Board taken on September 25, 2006, with respect to controlling the ongoing adverse public health and environmental impacts due to the operations of the Mirant Potomac River Generating Station.
2. That the City Council commends and thanks the Board for the Board's efforts to resolve the ongoing adverse public health and environmental impacts due to the operations of the Mirant Potomac River Generating Station.
3. That the City Council confirms that the City of Alexandria expects to work collaboratively with the Board and Virginia Department of Environmental Quality staff to protect fully the health, safety and welfare of the residents of the City.

ADOPTED:

WILLIAM D. EUILLE, MAYOR

ATTEST:

JACQUILINE M. HENDERSON, CMC, CITY CLERK

RESOLUTION NO. 2206

WHEREAS, the City of Alexandria ("City") is concerned with the ongoing adverse public health and environmental impacts due to the operations of the Mirant Potomac River Generating Station ("Mirant PRGS") in Alexandria; and

WHEREAS, Alexandria is located in the Ozone Transport Region and a nonattainment area for ozone and PM_{2.5}; and

WHEREAS, recent scientific and technical studies have shown conclusively the acute and widespread adverse health impacts of pollutant emissions, particularly increased mortality and morbidity due to both short- and long-term exposure to emissions of fine particles ("PM_{2.5}"); conversely these studies have shown that an overall reduction in PM_{2.5} levels results in reduced long-term mortality risk; and

WHEREAS, the Mirant PRGS has undergone major modifications and is proposing additional modifications that constitute a physical and operational change and warrant a full analysis under the Virginia Air Pollution Control Board's ("Board") revised new source review ("NSR") permit program for major modifications in prevention of significant deterioration and nonattainment areas; and

WHEREAS, the Board should mandate that the Mirant PRGS be subject to comprehensive review and analysis of all air quality impacts and the lowest achievable emission technology to reduce further the PRGS's emissions of all pollutants, in particular PM_{2.5}; and

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3. Establish a local air pollution control district comprising affected areas of Alexandria City and a local air pollution control committee to monitor and report to the Board the activities and compliance of the Mirant PRGS with the Board's regulations and orders; and

WHEREAS, on September 25, 2006, the Board voted unanimously to take direct control of the Mirant PRGS permit process, such that the Board, rather than the Virginia Department of Environmental Quality ("VDEQ") will take final action on all Mirant PRGS permits, and to require a transparent public process for dealing with the Mirant PRGS, and also asked VDEQ staff to advise it on the best way to accomplish this task and to ensure that VDEQ's authority to act

in an emergency or other appropriate situation is not affected; and

WHEREAS, on September 25, 2006, the Board further voted unanimously to consider the three specific remedial actions with respect to the Mirant PRGS, requested by the City and set forth above; and

WHEREAS, the City Council of Alexandria, Virginia, wishes to endorse the recent actions of the Board, commend and thank the Board for its attention to this matter, and confirm that the City expects to work collaboratively with the Board and VDEQ staff as the regulatory process unfolds;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Alexandria, Virginia:

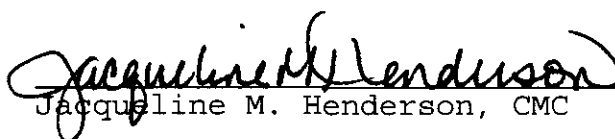
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3. That the City Council confirms that the City of Alexandria expects to work collaboratively with the Board and Virginia Department of Environmental Quality staff to protect fully the health, safety and welfare of the residents of the City.

ADOPTED: October 10, 2006


WILLIAM D. EUILLE

MAYOR

ATTEST:


Jacqueline M. Henderson, CMC City Clerk

RESOLUTION NO. 2206

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WHEREAS, the City Council of Alexandria, Virginia, wishes to endorse the recent actions of the Board, commend and thank the Board for its attention to this matter, and confirm that the City expects to work collaboratively with the Board and VDEQ staff as the regulatory process unfolds;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Alexandria, Virginia:

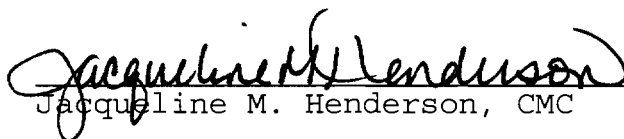
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